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EXECUTIVE OFFICE OF THE PRESIDENT OF THE UNITED STATES

BEFORE THE
SUBCOMMITTEE ON ENERGY POLICY, NATURAL RESOURCES, AND
REGULATORY AFFAIRS
COMMITTEE ON GOVERNMENT REFORM
AND THE SUBCOMMITTEE ON REGULATORY REFORM AND OVERSIGHT
COMMITTEE ON SMALL BUSINESS
UNITED STATES HOUSE OF REPRESENTATIVES

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Good afternoon, Messrs. Chairmen and Members of these Subcommittees. I am John D. Graham, Ph. D., Administrator, Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB). Thank you for inviting me today to discuss implementation of the Small Business Paperwork Relief Act of 2002 (the Act). I have enjoyed working with you and the Subcommittees to reduce the paperwork burden that Federal requirements impose on small businesses.

By way of introduction, the Act imposes two specific requirements on OMB. First, in consultation with the Small Business Administration, OMB must publish in the Federal Register and make available on the Internet, on an annual basis, a list of compliance assistance resources available to small businesses. Second, OMB must convene and chair a task force to study the feasibility of streamlining requirements with respect to small business concerns regarding collections of information and strengthening dissemination of information.

In addition, the Act also requires certain Federal agencies to establish one point of contact to act as liaison between the agency and small businesses; submit an initial regulatory enforcement report to Congress by December 31, 2003, and a final report to Congress by December 31, 2004; and make efforts to further reduce the information collection burden for small businesses with fewer than 25 employees.

In my testimony today, I will provide a status report on these SBPRA requirements, with emphasis on the final Task Force report and our annual list of compliance assistance information, both of which were issued on June 28, 2004.

Task Force Reports

The Act requires OMB to convene and chair an interagency task force, which must issue two reports addressing a total of five specific issues. Each report must be published in draft form in the Federal Register to allow public comment. The first report was due by June 28, 2003, and the second report was due by June 28, 2004.

In the first report, which was delivered to the Congress on June 26, 2003, the Task Force found that reducing small business paperwork burden is a challenge that raises both regulatory and information technology issues. The Task Force concluded that the presidential e-government initiatives, such as the Business Compliance One-Stop Initiative, represent the best opportunity for reducing the paperwork burden on small

businesses. Since the first Task Force report was released, the Business Compliance One-Stop Initiative has been renamed the Business Gateway initiative.

For the second Task Force report, the Act requires the Task Force (1) to make recommendations to improve the electronic dissemination of information collected under Federal requirements, and (2) to recommend a plan for the development of an interactive Government-wide system, available through the Internet, to allow each small business to better understand which Federal requirements regarding collection of information apply to that particular business, and more easily comply with those Federal requirements.

Earlier this year, the SBA Office of Advocacy convened a meeting for the small business community to provide comment and input on each of the two issues to be addressed in the second Task Force report. That meeting was held on Monday, February 9, 2004. The input from that meeting was used by the Task Force to write the draft report, which was published for comment in the Federal Register on May 5, 2004.

On June 28, 2004, OMB published a Federal Register notice announcing the availability of the final report. The report can be accessed through the OMB website at: <http://www.whitehouse.gov/omb/inforeg/sbpr2004.pdf>.

With respect to improving the first task regarding electronic dissemination of information, the Task Force makes several recommendations to agencies:

- augment small business outreach plans,
- improve the organization and classification of information,
- improve outreach to small businesses,
- broaden and improve partnerships among agencies with similar or overlapping information collections,
- use the e-government cross-agency initiatives to improve dissemination of information,
- determine customer needs,
- explore public/private partnerships with web services companies, and
- don't forget the human interface

The report includes several examples of cross-agency initiatives that embody these recommendations. Such cross-agency initiatives leverage the knowledge of leading agencies in an efficient and effective manner.

With respect to the development of a plan for an interactive Government-wide system, available through the Internet, to allow each small business to better understand and comply with Federal requirements, the Task Force recommended the development of the Business Gateway. This initiative is designed specifically to meet the Act's objective of reducing the paperwork burden on America's small businesses. The initiative, directed by an interagency governance board led by SBA, accomplishes this by:

- providing a single Web point of access for relevant regulatory information and Federal government forms that involve businesses and citizens, and
- harmonizing industry-specific information collection requirements to collect information once and use it many times and reduce the overall number of forms to be completed.

The Business Gateway, using the Internet as a service delivery channel, will assist citizens and small businesses in their compliance with government regulations, and save them millions of dollars which can be reinvested in the growth of our economy.

Compliance Assistance Information

The Act requires OMB to publish, on an annual basis, a list of compliance assistance resources available to small business. Because we thought it would be helpful for the public to have the list of agency contacts along with the list of compliance assistance resources, OMB published these lists together. These lists were published in the Federal Register on June 28, 2004, and are also available on the OMB website (<http://www.whitehouse.gov/omb/inforeg/infocoll.html#sbpra>). (There are slight differences in format between the Federal Register notice and the list posted on the OMB website, but the information is the same.)

Compilation of the list of compliance assistance resources would have been impossible were it not for the efforts of each Federal agency in developing the summaries, descriptions, and lists of resources. Federal agencies have established numerous programs to assist small businesses, and the list on the OMB website is testimony to their long-standing interest in this issue.

The SBA's National Ombudsman significantly aided OMB in the compilation of the initial list of compliance assistance resources and points of contact available to small businesses. SBA went beyond consultation by helping with the collection of compliance assistance summaries from the Federal executive branch and identifying agency points of contact.

In your letter of invitation, you asked me to provide a reason for each agency that does not have compliance assistance resource information on the consolidated OMB listing. Since we received your letter, OMB has asked each agency without any listed compliance assistance information to provide us with an explanation (the explanation could be that the agency does not impose any requirements on small businesses, and therefore the agency has not developed any compliance assistance resources). Once we receive and compile this information, we will provide it to the Subcommittees.

Point of Contact Information

The Act requires each covered agency to designate an appropriate person to serve as its point of contact. OMB, working in conjunction with the Small Business Administration, has incorporated the list of points of contact into the list of compliance assistance resources. Although such a consolidation is not required by the Act, we believe there are advantages in doing so: (1) it makes it easier for small businesses to find, (2) it provides us with an annual mechanism to ask agencies to review and update their point of contact information, and (3) it allows for public comment on the list of points of contact.

In my memorandum of October 28, 2003, to the President's Management Council (PMC), I informed agencies where the list of points of contact can be found. This list of agency points of contact has been available on the OMB website since June 28, 2003, and is also available on the SBA website. I also informed agencies how they can effect changes to their point of contact information. We have updated the list to reflect agency changes to their point of contact information, and we will continue to do so.

The Subcommittees have, in the past, raised concerns about the accuracy, completeness, and accessibility of this list. OMB responded to these concerns. For example, we re-posted our compliance assistance list and point of contact list in HTML format, which facilitates quicker access. In addition, we carefully reviewed the November 2003 status report developed by the Subcommittee on Energy Policy, Natural Resources, and Regulatory Affairs, showing which agencies still need points of contact.

This status report prompted us to generate our own list of agencies that have one or more currently approved information collections that may affect small businesses. When we compared the results to our list of points of contact, we were able to verify that, in a few cases, we needed to add an agency contact to our list. In a few other cases, our list included agencies that do not currently impose paperwork burden on small businesses. We removed from our list those agencies that do not currently have any approved information collections that affect small businesses, and added points of contact information for those agencies that were missing.

OMB updates the point of contact information upon notification from an agency. We want this list to remain timely and accurate to ensure that small businesses can obtain information quickly and easily.

Regulatory Enforcement Reports

The Act requires each agency to develop two regulatory enforcement reports for submission to congressional committees and the Small Business and Agriculture Regulatory Enforcement Ombudsman. The initial regulatory enforcement report is to include information with respect to the one-year period beginning October 1, 2002. The final report is to include information with respect to the one-year period beginning October 1, 2003. Each report is to include information on

- (A) the number of enforcement actions in which a civil penalty is assessed,
- (B) the number of enforcement actions in which a civil penalty is assessed against a small entity,
- (C) the number of enforcement actions described under subparagraphs (A) and (B) in which the civil penalty is reduced or waived, and
- (D) the total monetary amount of the reductions or waivers referred to under subparagraph (C).

In my October 28, 2003 memorandum to the President's Management Council (PMC), I noted that Section 223 of the 1996 "Small Business Regulatory Enforcement Fairness Act of 1996" (P.L. 104-121), entitled "Rights of Small Entities in Enforcement Actions," required each agency by the spring of 1997 to "establish a policy or program . . . for the reduction, and under appropriate circumstances for the waiver, of civil penalties for violations of a statutory or regulatory requirement by a small entity." In addition, I noted to the PMC that Section 223 also required each agency to report to Congress by the spring of 1998 "on the scope of their program or policy, the number of enforcement actions against small entities that qualified or failed to qualify for the program or policy, and the total amount of penalty reductions and waivers."

In addition to the October 28, 2003 PMC memorandum, OMB used other forums to communicate to agencies about their obligation to submit a regulatory enforcement report. On November 19, 2003, agencies were reminded of this obligation at the SBA Ombudsman's semi-annual interagency meeting. At that meeting, OMB staff told

participants that the first regulatory enforcement report is due by December 31, 2003, and that information in this report should be consistent with agency information reported under the authority of the IG Act and the CFO Act. In the first week of December 2003, OMB desk officers sent e-mail reminders to all cabinet-level agencies to reiterate that (1) OMB expects agencies to submit their regulatory enforcement reports on time, and that (2) the information contained in these reports should be consistent with agency reports submitted pursuant to the IG Act and the CFO Act.

Even though the deadline for the initial regulatory enforcement report has passed, OMB continues to take advantage of opportunities to remind agencies of their SBPRA obligations. On March 18, 2004, I attended the SBA Ombudsman's interagency meeting to underscore the Administration's commitment to small business paperwork reduction and SBPRA implementation. I thanked the agencies in attendance for their hard work in implementing the Act, and urged them to continue their efforts. My staff used that occasion to remind delinquent agencies to submit their initial regulatory enforcement reports, and urged all agencies to begin work on their final regulatory enforcement reports.

On July 2, 2004, OMB reminded each agency by e-mail of its obligation to submit a final regulatory enforcement report by December 31, 2004. Because this statutory requirement may involve changes to current agency recordkeeping practices, we sent this reminder to agencies six months in advance of the statutory deadline, in order to ensure

ample time for compliance. We made clear to each agency that figures presented in the report should be consistent with agency reporting under the CFO Act and the IG Act.

In your letter of invitation, you asked me to provide the reason for each agency that did not submit a regulatory enforcement report. As stated in my previous testimony, OMB has not required that agencies submit to us a copy of their reports to Congress, and our efforts to date have focused on ensuring submission by the major regulatory agencies. Nevertheless, since receiving your letter, OMB has requested that each agency that has not submitted a regulatory enforcement report provide us with an explanation (the explanation could be that the agency does not have any regulatory enforcement activities). Once we receive and compile this information, we will provide it to the Subcommittees.

Agency Efforts to Reduce Burden on Very Small Businesses

The Act directs agencies to “make efforts to further reduce the information collection burden for small business concerns with fewer than 25 employees.” For the purposes of our annual information collection budget (ICB), OMB last Fall issued a bulletin to agencies requesting information on initiatives to reduce paperwork burden for small business concerns, with particular focus on businesses with fewer than 25 employees (see OMB Bulletin 04-01, December 3, 2003). As a result of this request, the FY 2004 Information Collection Budget included a chapter describing efforts by OMB

and agencies to implement the Act. That chapter included planned or ongoing initiatives identified by agencies to reduce the paperwork burden on a substantial number of small businesses.

Implementation of Task Force Recommendations

There are a number of recommendations contained in the initial and final Task Force reports. To ensure that these recommendations are being implemented and managed, the Administration is undertaking various interagency efforts. The Administration believes that existing interagency efforts represent the best means to achieve the goals developed by the Task Force. For example, the Task Force recommendation of Business Gateway is being implemented through a government-wide electronic government initiative led by a governance board chaired by the Small Business Administration. Many of the Task Force's recommendations relating to information dissemination are being addressed by the Interagency Committee on Government Information, an interagency group, co-chaired by the Department of Commerce and OMB.

In your letter of invitation, you requested specific paperwork reduction accomplishments resulting from the two Task Force reports. It is important to note that the Task Force recommendations are incremental to current ongoing efforts by agencies to reduce paperwork burden. It is also important to note that the Task Force

recommendations relate to process changes that will be implemented over time. For these reasons, it is not possible to accurately attribute specific paperwork burden reduction accomplishments to recommendations in the Task Force reports. Changes in paperwork burden reflect a confluence of factors, including statutory requirements, agency initiatives, and Administration oversight.

Specific Reductions in Paperwork Burden

In your letter of invitation, you asked for specific reductions in reporting and recordkeeping requirements of at least 100,000 hours accomplished since January 28, 2004, or planned for 2004 for small business. To respond to this request, I refer the Subcommittee to the OMB fiscal year 2004 report, *Managing Information Collection: Information Collection Budget of the United States Government*. That report identified specific agency initiatives that are designed to reduce paperwork burden. Many of these initiatives represent multi-year efforts, and some can be expected to reduce burden for small business in 2004. For example, the following initiatives—taken from our 2004 report—may result in actions to reduce small business paperwork burden:

- The Environmental Protection Agency plans to significantly reduce the paperwork burden imposed under the Resource Conservation and Recovery Act (RCRA). EPA wants to ensure that only the information actually needed to run the RCRA program is collected. EPA estimates that the initiative will reduce

burden by 929,000 hours and save \$120 million annually. A proposed rule was published in 2002, and public comment was solicited on new burden reduction items in 2003.

- OSHA plans to revise a number of health provisions in its standards for general industry, shipyard employment, and construction that are outdated, duplicative, unnecessary, or inconsistent. The Agency expects to publish a final rule in the second quarter of 2004.

We expect to receive updates on these initiatives for inclusion in our 2005 report to Congress. In addition, other examples from the 2004 ICB might also meet your criteria.

In addition to agency initiatives planned for 2004, OMB has taken action on Information Collection Requests that result in reduction in burden for small businesses. For example, OMB recently approved an information collection request in which the Department of Health and Human Services reduced, by 406,780 hours, the paperwork burden imposed on clinical laboratories. This reduction was achieved through modification of existing regulations governing the certification of clinical laboratories.

When these efforts are considered in addition to the various e-government initiatives agencies have underway, agencies appear to be making a substantial effort to reduce burden on small business. As part of this effort, we continue to push agencies to

include the PRA as an integral part of their management strategies. We want agencies to continue reducing burden on small businesses as efficiently as possible, regardless of whether these reductions are realized in the electronic or non-electronic realm.

Conclusions

In conclusion, SBPRA implementation is on schedule. OMB has fulfilled its statutory requirement to issue two Task Force reports and to publish an annual list of compliance assistance resources. Agencies have established single points of contact, and the major regulatory enforcement agencies have submitted their initial regulatory enforcement reports to Congress.

Task Force recommendations are being implemented through several inter-agency efforts, such as the Business Gateway Initiative, managed by SBA, and the Interagency Committee for Government Information, co-chaired by the Department of Commerce and OMB.

The Administration has and will continue its efforts to ensure the accuracy and completeness of agency SBPRA information. We have used a variety of methods to remind agencies of their obligations under the Act; we have taken, and will continue to take, steps to ensure that our list of agency points of contact and compliance assistance

resources is complete and accurate; and we have asked agencies to identify their efforts to further reduce the paperwork burden on small businesses with fewer than 25 employees.