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WHAT IS OMB'S RECORD IN SMALL BUSINESS PAPERWORK RELIEF?

JOINT HEARING

BEFORE THE

SUBCOMMITTEE ON ENERGY POLICY, NATURAL RESOURCES AND REGULATORY AFFAIRS

OF THE

COMMITTEE ON GOVERNMENT REFORM

AND THE

SUBCOMMITTEE ON REGULATORY REFORM AND OVERSIGHT

OF THE

COMMITTEE ON SMALL BUSINESS

HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTH CONGRESS

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WHAT IS OMB'S RECORD IN SMALL BUSINESS PAPERWORK RELIEF?

FRIDAY, JULY 18, 2003

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

Washington, DC.

The subcommittees met, pursuant to notice, at 10 a.m., in room 2154, Rayburn House Office Building, Hon. Doug Ose (chairman of the Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs) presiding.

Present from the Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs: Representatives Ose, Sullivan, and Tierney.

Present from the Subcommittee on Regulatory Reform and Oversight: Representatives Schrock, Kelly, Franks, and Gonzalez.

Staff present: Dan Skopec, staff director; Barbara Kahlow, deputy staff director; Melanie Tory, Rosario Palmieri, and Tim Slattery, professional staff members; Yier Shi, press secretary; Krista Boyd, minority counsel; and Cecelia Morton, minority office manager.

Mr. OSE. Good morning. Welcome to today's hearing of the Government Reform Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs, and actually it is a joint hearing between our subcommittee and the Small Business Subcommittee on Regulatory Reform and Oversight. I am pleased to welcome my colleague Ed Schrock of Virginia, who is the chairman of the Small Business Subcommittee on Regulatory Reform and Oversight for today's hearing.

Today, the subcommittees, represented by Congressman Schrock, me, and the others who will join us, will examine the track record of the Office of Management and Budget over the past 2½ years in paperwork reduction to benefit small businesses. Since many small businesses are not connected to the Internet, the hearing focus will be on the accomplishments, not including either electronic filing opportunities or other e-government initiatives.

OMB estimates the Federal paperwork burden on the public at 8.2 billion hours. The IRS accounts for over 80 percent of that total. In April 2003, OMB estimated that the price tag for all paperwork imposed on the public is $320 billion a year. $320 billion a year. This is a huge burden especially on small businesses.

In 1980, Congress passed the Paperwork Reduction Act and established an Office of Information and Regulatory Affairs. We are going to refer to that as OIRA from now on within OMB. OIRA's principal responsibility is paperwork reduction. In 1995, 1998, 2000 and 2002, Congress enacted additional legislation with the objective of decreasing paperwork burden. Also, last July, Congress directed OMB to identify and review proposed and existing IRS paperwork. Nonetheless, paperwork has increased in each of the last 7 years, with the largest increases in the last 2 years. And, OMB continues to devote less than one full-time equivalent staff position to IRS paperwork reduction.

In its 2003 draft annual regulatory accounting report, OMB did not present an analysis of impacts on small business, as required by law. And, its final 2002 annual regulatory accounting report included a less than one page analysis of impacts on small business. In addition, in May 2003, OMB only identified e-government initiatives to reduce burden on small businesses; that is, instead of identifying any paperwork reduction initiatives to reduce frequency of small business reporting, introduce thresholds below which reporting is not required, use sampling versus universe reporting, create short forms for small businesses, etc.

The Small Business Paperwork Relief Act of 2002, which is Public Law 107–198, required OMB to take certain actions by June 28, 2003, including publishing the first annual list of all compliance assistance resources available to small businesses, having each agency establish one point of contact to act as a liaison between small businesses and the agency regarding paperwork requirements, and report to Congress on the findings of an interagency task force chaired by OMB.

On May 9, 2003, OMB published its draft task force report. On May 21st, four chairmen, Senate subcommittee chairman, Senator George Voinovich, House chairman, Congressman Donald Manzullo, House subcommittee chairman, Congressman Ed Schrock, and I submitted a joint comment letter to OMB. It criticized OMB's draft, including its initial faulty assumption that existing paperwork is both minimal and necessary and its unacceptable conclusion that OMB could not organize a listing of paperwork applicable to small business that would fully meet small business needs.

On June 27th, OMB published two documents. Both were unsatisfactory. The first was an incomplete listing of compliance assistance resources and contact information for agency single points of contact, and I would refer you to that chart there leaning against the wall, the long vertical one. The second notice was a notice of availability of its final task report. The task report was largely nonresponsive to congressional intent.

The bottom line is that OMB has not fully complied with this new law. And, OMB's track record in small business paperwork reduction to date has been dismal. As a former owner of various small businesses, I am disappointed to say the least. I do not understand how OMB could pick and choose which laws to fully implement. Congress wants and America's small businesses deserve results, fewer hours spent on government paperwork and lower compliance costs to increase productivity and job creation.

Now, I am pleased, as I said, to welcome my good friend from Virginia, Mr. Schrock, and I would yield the floor to him.

[The prepared statement of Hon. Doug Ose follows:]

Chairman Doug Ose
Opening Statement
What is OMB's Record in Small Business Paperwork Relief?
July 18, 2003

Today, the Subcommittees will examine the track record of the Office of Management and Budget (OMB) over the past 2 ½ years in paperwork reduction to benefit small businesses. Since many small businesses are not connected to the Internet, the hearing focus will be on accomplishments not including either electronic filing opportunities or other e-government initiatives.

OMB estimates the Federal paperwork burden on the public at 8.2 billion hours. The Internal Revenue Service (IRS) accounts for over 80 percent of the total. In April 2003, OMB estimated that the price tag for all paperwork imposed on the public is $320 billion a year. This is a huge burden, especially on small businesses.

In 1980, Congress passed the Paperwork Reduction Act (PRA) and established an Office of Information and Regulatory Affairs (OIRA) in OMB. OIRA's principal responsibility is paperwork reduction. In 1995, 1998, 2000, and 2002, Congress enacted additional legislation with the objective of decreasing paperwork burden. Also, last July, Congress directed OMB to "identify and review proposed and existing IRS paperwork." Nonetheless, paperwork has increased in each of the last seven years, with the largest increases in the last two years. And, OMB continues to devote less than 1 full-time equivalent staff to IRS paperwork reduction.

In its 2003 draft annual regulatory accounting report, OMB did not present an analysis of impacts on small business, as required by law. And, its final 2002 annual regulatory accounting report included a less than 1-page analysis of impacts on small business. In addition, in May 2003, OMB only identified e-government initiatives to reduce burden on small businesses, i.e., instead of identifying any paperwork reduction initiatives to reduce frequency of small business reporting, introduce thresholds below which reporting is not required, use sampling versus universe reporting, create short forms for small businesses, etc.

The Small Business Paperwork Relief Act of 2002 (P.L. 107-198) required OMB to take certain actions by June 28, 2003, including to: (a) publish the first annual list of all compliance assistance resources available to small businesses; (b) have each agency establish one point of contact to act as a liaison between small businesses and the agency regarding paperwork requirements; and, (c) report to Congress on the findings of an interagency task force, chaired by OMB.

Among other duties, the task force was asked to examine: (a) the feasibility of requiring the agencies to consolidate reporting requirements so that each small business could submit all information required by the agency to one point of contact at the agency, in a single format or using a single electronic reporting system, and with synchronized reporting; and, (b) the feasibility and benefits of publishing a list of paperwork applicable to small business. This list would be organized (1) by North American Industry Classification System (NAICS) codes, (2)

by industrial sector description, or (3) or in another manner by which small business concerns can more easily identify applicable requirements.

On May 9, 2003, OMB published its draft task force report. On May 21st, four Chairmen – Senate Subcommittee Chairman George Voinovich, House Chairman Donald Manzullo, House Subcommittee Chairman Edward Schrock and I - submitted a joint comment letter to OMB. It criticized OMB's draft, including its initial faulty assumption that existing paperwork is both minimal and necessary, and its unacceptable conclusion that OMB could not organize a listing of paperwork applicable to small business that "would fully meet small business needs."

On June 27th, OMB published two documents. Both were unsatisfactory. The first was an incomplete listing of compliance assistance resources and contact information for agency single points of contact (see the chart on display). The document included only some of the Federal agencies that impose paperwork on small businesses (e.g., the General Services Administration was missing) and it included no single points of contact for some agencies (e.g., the Department of Labor), or multiple offices to contact for other agencies (e.g., for the Federal Trade Commission).

The second document was a notice of availability of its final task force report. The task force report was largely nonresponsive to Congressional intent. For example, it recommended against a list organized by NAICS codes, by industrial sector description, or in another manner by which small business concerns can more easily identify applicable requirements. Instead, it recommended a new electronic system with the burden on each individual small business "to self-identify applicable criteria that profile their business" and "to self-identify a comprehensive list of applicable requirements."

The bottom line is that OMB has not fully complied with this new law. And, OMB's track record in small business paperwork reduction is dismal. As a former owner of various small businesses, I am especially disappointed. I do not understand how OMB can pick and choose which laws to fully implement. Congress wants and America's small businesses deserve results – fewer hours spent on government paperwork and lower compliance costs to increase productivity and job creation.

I want to welcome our witnesses today. They include: Senator George V. Voinovich, Chairman, Senate Governmental Affairs Subcommittee on Oversight of Government Management, The Federal Workforce and The District of Columbia; Representative Donald A. Manzullo, Chairman, House Small Business Committee; Dr. John D. Graham, Administrator, OIRA, OMB; Karen Kerrigan, Chairman, Small Business Survival Committee; and, Andrew Langer, Manager, Regulatory Policy, National Federation of Independent Business.

OMB'S LISTING OF SINGLE POINTS OF CONTACT FOR AGENCIES WITH APPROVED PAPERWORK[1]

DEPARTMENT/AGENCY	# OF SINGLE POINTS OF CONTACT	COMMENT
Departments		
Agriculture	1	
Commerce	1	
Defense	1	
Education	1	
Energy	1	
Health & Human Services	1	
Homeland Security	1	
Housing & Urban Development	NONE	2 names
Interior	1	
Justice	1	
Labor	NONE	2 names
State	1	
Transportation	1	
Treasury	2	Treasury & IRS
Veterans Affairs	1	
Independ. Exec. Br. Agencies		
AID	1	
CNCS	MISSING	
EPA	1	
EEOC	1	
EOP	MISSING	
Export-Import Bank of the US	1	
FMCS	MISSING	
GSA	MISSING	
IMS	MISSING	
MSPB	1	
NASA	1 office but without contact name	1 ombudsman
NARA	1	
NEA	MISSING	
NEH	1	
Nat. Mediation Board	1	
NTSB	MISSING	
NSF	MISSING	
OGE	MISSING	
OMB	MISSING	
ONDCP	MISSING	
OPM	1	
Office of Special Counsel	MISSING	
OPIC	MISSING	
Peace Corps	1	
PBGC	1	as last resort only
RRB	1	
SSS	1	
SBA	1	
SSA	1	
Surface Transportation Board	1	
TVA	1	
USITC	MISSING	
USTR	MISSING	
Indep. Regulatory & Banking		
CFTC	1	
CPSC	1	
FCC	1 office but without contact name	
FDIC	1	
FERC	1	
Fed. Housing Finance Board	MISSING	
FMC	1	
Fed. Reserve Board	1	
FTC	NONE	no contact names
NCUA	NONE	many examiners
NRC	1	
SEC	1	
Small & Misc. Organizations		
Appraisal Subcomm. of FFIEC	MISSING	
Comm. Purchase Blind/Hand.	MISSING	
Emerg. Oil & Gas Guar. Loan	MISSING	
Emerg. Steel Guar. Loan Board	MISSING	
Federal Acquisition Regulation	MISSING	
Harry S Truman Scholarship	MISSING	
Interagency Council Homeless	MISSING	
M.K. Udall Found. for Envir.	MISSING	
Nat. Comm. on Libraries & Info	1	
Nat. Indian Gaming Comm.	NONE	name if problem
Nat. Institute for Literacy	MISSING	

[1] OMB's published listing also includes single points of contact for (a) DC Court Services & Offender Supervision, (b) National Labor Relations Board, and (c) US Access Board, all of which have no OMB approved paperwork requirements.

Prepared for Congressman Doug Ose

Congress of the United States

Washington, DC 20515

July 11, 2003

MEMORANDUM FOR MEMBERS OF THE GOVERNMENT REFORM SUBCOMMITTEE ON ENERGY POLICY, NATURAL RESOURCES AND REGULATORY AFFAIRS AND THE SMALL BUSINESS SUBCOMMITTEE ON REGULATORY REFORM AND OVERSIGHT

FROM: Doug Ose and Ed Schrock

SUBJECT: Briefing Memorandum for July 18, 2003 Hearing, "What is OMB's Record in Small Business Paperwork Relief?"

On Friday, July 18, 2003, at 10:00 a.m., in Room 2154 Rayburn House Office Building, the Government Reform Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs will hold a joint hearing with the Small Business Subcommittee on Regulatory Reform and Oversight on paperwork reduction for small businesses. The hearing is entitled, "What is OMB's Record in Small Business Paperwork Relief?"

Congressional Action on Paperwork Reduction

In **1942**, to reduce paperwork imposed on the public, Congress established a centralized review function for proposed paperwork. The Federal Reports Act (FRA) required the Bureau of the Budget (which became the Office of Management and Budget (OMB)) to review and approve each agency paperwork proposal. In **1980**, the Paperwork Reduction Act (PRA) replaced the FRA and established an Office of Information and Regulatory Affairs (OIRA) in OMB, whose principal responsibility is paperwork reduction.

In **1995**, Congress reauthorized the PRA and set government-wide paperwork burden reduction goals for Fiscal Years (FYs) 1996 to 2001. In **1998**, after annual increases in paperwork, instead of decreases, Congress, in a provision in the 1999 Treasury-Postal Appropriations Act, required OMB to issue a report identifying specific expected paperwork reduction accomplishments in FYs 1999 and 2000. In **2000**, Congress, in a provision in the 2001 Treasury-Postal Appropriations Act, required OMB to issue a report evaluating paperwork imposed by agency regulations ("regulatory paperwork"), including each major rule imposing over 10 million hours of burden, and identifying specific expected reductions in regulatory paperwork in FYs 2001 and 2002. The Internal Revenue Service (IRS) accounts for over 80 percent of all paperwork burden imposed on the public. In July **2002**, after six years of increases in paperwork burden, the Appropriations Committee included a directive to OMB in House Report 107-575, which accompanied its 2003 Treasury-Postal Appropriations bill, to focus more of OMB staff attention on reducing IRS paperwork.

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OMB Attention to Small Business Paperwork Reduction

In its February 2003 draft annual regulatory accounting report, OMB did not present an impacts analysis on small business, as required by law. At the Government Reform Subcommittee's annual regulatory accounting hearing on March 11th, OMB pointed out that its final 2002 annual regulatory accounting report included an impacts analysis on small business; in fact, this "analysis" was less than 1-page (pp. 43-4). In post-hearing questions after the Government Reform Subcommittee's annual paperwork reduction hearing on April 11th, OMB confirmed that it continues to devote less than 1 full-time equivalent (FTE) to IRS paperwork burden reduction. In addition, OMB only identified e-government initiatives to reduce burden on small businesses, i.e., instead of any paperwork reduction initiatives to reduce frequency of small business reporting, introduce thresholds below which reporting is not required, use sampling versus universe reporting, create short forms for small businesses, etc.

When the PRA became effective, OMB included various information items in its database for each approved information collection, which could be useful in efforts to reduce paperwork burden on small businesses. For example, OMB's database included 3-digit Budget function code (e.g., air transportation, pollution control and abatement), which OMB uses to produce tables in the fiscal Budget of the United States, such as Budget Authority by Function, and Outlays by Function. And, OMB's database included the precursor to the North American Industry Classification System (NAICS) code system: Standard Industrial Classification (SIC) codes. In a prior Administration, OMB reduced its 2-page form for agencies to request OMB PRA approval to 1-page and eliminated these key information items in its database. In addition, when the PRA became effective, OMB had an on-line query capability for its database so that multiple key variables could be sorted simultaneously to identify opportunities for paperwork reduction. Now, OMB plans to redesign its database to re-create this query capability.

Congressional Action on Small Business Paperwork Reduction

In June **2002**, the President signed the "Small Business Paperwork Relief Act of 2002" (P.L. 107-198). This Congressional initiative required OMB to do the following by June 28, 2003: (a) publish the first annual list in the Federal Register and on OMB's website of all compliance assistance resources available to small businesses; (b) have each agency establish one point of contact to act as a liaison between small businesses and the agency regarding paperwork requirements and the control of paperwork; and, (c) report to Congress on the findings of an interagency task force, chaired by OMB.

The task force was charged with: (a) identifying ways to integrate the collection of information across Federal agencies and programs; (b) examining the feasibility of requiring the agencies to consolidate reporting requirements in order that each small business may submit all information required by the agency to one point of contact at the agency, in a single format or using a single electronic reporting system, and with synchronized reporting; and, (c) examining the feasibility and benefits of publishing a list of paperwork applicable to small business. This list would be organized (1) by NAICS codes, (2) by industrial sector description, or (3) "in

another manner by which small business concerns can more easily identify requirements with which those small business concerns are expected to comply."

The law also requires three more OMB reports to Congress by December 2003, June 2004, and December 2004. The two December reports relate to enforcement actions in which civil penalties were assessed for violations of paperwork requirements.

OMB's Implementation of P.L. 107-198

On May 9, 2003, OMB published its draft task force report. On May 21st, four Chairmen – House Government Reform Subcommittee Chairman Doug Ose, Senate Governmental Affairs Subcommittee Chairman George Voinovich, House Small Business Committee Chairman Donald Manzullo, and House Small Business Subcommittee Chairman Edward Schrock - submitted a joint comment letter to OMB (attached). On June 27th, OMB published two documents in the Federal Register. The first was a listing of compliance assistance resources and contact information for agency single points of contact. The document included only some of the Federal agencies that impose paperwork on small businesses; for example, the General Services Administration (GSA) was not included. And, the document included no single points of contact for some agencies, or multiple offices to contact for other agencies, like for the Federal Trade Commission (FTC). In addition, information posted the same day on the Small Business Administration's (SBA's) website was not identical. For example, the OMB and SBA listings included different information for the Department of Housing and Urban Development (HUD).

OMB's second June 27th document was a notice of availability of its final task force report. This document was also flawed. For example, the final report did not address the feasibility of requiring the agencies to consolidate reporting requirements in order that each small business may submit all information required by the agency to one point of contact at the agency, in a single format or using a single electronic reporting system. And, it recommended against a list organized (1) by NAICS codes, (2) by industrial sector description, or (3) "in another manner by which small business concerns can more easily identify requirements with which those small business concerns are expected to comply." Instead, it recommended a new electronic system with the burden on each individual small business "to self-identify applicable criteria that profile their business" and "to self-identify a comprehensive list of applicable requirements."

Witnesses

The invited witnesses for the July 18, 2003 hearing are: Senator George V. Voinovich, Chairman, Senate Governmental Affairs Subcommittee on Oversight of Government Management, The Federal Workforce and The District of Columbia; Representative Donald A. Manzullo, Chairman, House Small Business Committee; Dr. John D. Graham, Administrator, OIRA, OMB; Karen Kerrigan, Chairman, Small Business Survival Committee; and, Andrew Langer, Manager, Regulatory Policy, National Federation of Independent Business.

Attachment

Congress of the United States
Washington, DC 20515

May 21, 2003

BY FACSIMILE
The Honorable Mitch Daniels
Director
Office of Management and Budget
Washington, DC 20503

Dear Director Daniels:

This letter provides our comments on the "Draft Report of the Small Business Paperwork Relief Task Force," which was published on May 9, 2003, by the Office of Management and Budget (OMB) for less than 30 days of public comments. The Small Business Paperwork Relief Act of 2002 (Pub. L. 107-198) established an interagency task force, chaired by OMB, to study the feasibility of streamlining reporting requirements for small businesses and required OMB to submit reports on the task force's analysis to Congress by June 28, 2003 and June 28, 2004.

Besides the work of the task force, this law requires: (a) OMB to publish by June 28, 2003, its first annual list in the Federal Register and on its website of the compliance assistance resources available to small businesses; (b) each department and independent agency to establish by June 28, 2003, one point of contact for small businesses; (c) each agency to make further efforts to reduce paperwork for small businesses with fewer than 25 employees; and (d) two reports (each with data for a one-year period) from each department and independent agency on enforcement actions in which a civil penalty was assessed and the penalty amounts reduced or waived for small businesses.

With respect to requirement (a), the Draft Report does not clearly state that the annual list is required to be published by OMB and on its website. Congress specifically designated OMB because the Paperwork Reduction Act requires OMB approval for all agency information collections. The Draft Report mischaracterizes requirement (b) above by stating, "agencies should identify a person or group of persons to serve as the single point of contact" (68 FR 25173). In fact, a group of persons would be inconsistent with both the law and Congressional intent. The Draft Report includes a simple mention of requirement (c) (68 FR 25166) but no mention whatsoever of requirement (d).

The introductory section of the Draft Report states, "the Task Force assumed that Federal agencies collect the minimum information necessary to fulfill statutory or programmatic responsibilities, consistent with the Paperwork Reduction Act. The recommendations concentrate on ways to minimize the burden associated with existing requirements, rather than eliminate requirements" (68 FR 25171). We believe that this initial assumption is faulty.

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As a first task, the law requires the task force to examine integration and consolidation of paperwork requirements within and across agencies so that small businesses "may submit all information required by the agency – (A) to 1 point of contact in the agency; (B) in a single format, such as a single electronic reporting system, with respect to the agency; and (C) with synchronized reporting for submissions having the same frequency." The Draft Report states, "Our review indicates that while each of these options outlined in the law may be desirable and feasible under the appropriate circumstances, there are several barriers that need to be addressed" (68 FR 25172). This statement and the following discussion are disappointing. Congressional intent is clear. As a consequence, we ask you to remove such barriers, as needed, and move ahead with the needed simplification for small businesses.

As a second task, the law requires the task force to examine the feasibility and benefits to small businesses of OMB's publishing a list of small business paperwork "organized – (A) by North American Industry Classification System code; (B) by industrial sector description; or (C) in another manner by which small business concerns can more easily identify requirements with which those small business concerns are expected to comply." The Draft Report discusses a variety of technical issues and concludes by stating, "Neither approach – a listing by NAICS code or a listing using multiple categories [e.g., an industry sector identification] – would fully meet small business needs" (68 FR 25174). This statement and the accompanying discussion are also disappointing. Congressional intent is also clear here. As a consequence, we ask you to find an organization for OMB's listing to assist small business compliance.

The Draft Report states that OMB's electronic Reports Management System (RMS) "is not accessible by other agencies" (68 FR 25173). RMS, which was implemented in 1981 when the 1980 Paperwork Reduction Act became effective, was originally accessible by the agencies. It also included information for each information collection that is no longer in RMS, such as a 3-digit budget function code, 3-digit Standard Industrial Classification (SIC) codes, and a Catalog of Federal Domestic Assistance Program Number (if applicable). And, RMS originally had an on-line query capability, which allowed searches by multiple variables simultaneously. When and why did OMB remove this accessibility, additional information, and on-line search capability?

We have a few additional implementation questions about matters not specifically discussed in the Draft Report. In OMB's upcoming annual list of the compliance assistance resources available to small businesses, will OMB include links to the text of each agency's approved information collection requirements? What other content will be included in OMB's annual list? And, will each of the 70 departments and independent agencies with one or more OMB-approved information collections have single points of contacts for small businesses? If not, which will not and why?

If you have any questions about this letter, please contact Barbara Kahlow at 226-3058. Thank you for your attention to this request.

Sincerely,

Doug Ose
Chairman
Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs
House Committee on Government Reform

George V. Voinovich
Chairman
Subcommittee on Oversight of Government Management, The Federal Workforce and The District of Columbia
Senate Committee on Governmental Affairs

Donald A. Manzullo
Chairman
House Committee on Small Business

Edward K. Schrock
Chairman
Subcommittee on Regulatory Reform and Oversight
House Committee on Small Business

cc: The Honorable Tom Davis
The Honorable Nydia M. Velazquez
The Honorable John Tierney
The Honorable Charles A. Gonzalez
The Honorable Susan M. Collins
The Honorable Richard J. Durbin

Mr. SCHROCK. Thank you very much, Mr. Chairman, and good morning to all of you. I want to start by saying how pleased I am to be co-chairing this hearing this morning with my good friend from California, Doug Ose. Doug is a small businessman himself, has long been a champion of these issues for a very long time, and it is a pleasure to be sitting up here with him today addressing these issues.

Our hearing today addresses the Office of Management and Budget's final task force report on the Small Business Paperwork Relief Act. You will hear from many of our witnesses today about their disappointment at a missed opportunity. We think that this task force had the potential to make some great strides in eliminating unnecessary paperwork burdens for small businesses. Instead, the task force decided that initiatives, such as the Small Business Administration's Business Compliance One-Stop, were enough already. They just need to make a few changes to satisfy the letter of the law, no matter that we are 5 years or more away from it being a comprehensive tool.

Federal agency paperwork continues to increase Congress and the executive branch can share in the blame. No question about that. But, it doesn't excuse us from making every effort possible to reduce the burden to small businesses. I hope that everyone recognizes what a great drain on the creative resources of our entrepreneurs this burden has become, all those hours and all that money spent on doing things that have nothing to do with creating jobs or making a better life for that citizen and his or her family. What a great waste of our natural resources.

One recent example of unnecessary paperwork burden comes from the Environmental Protection Agency. EPA's TRI lead rule now requires thousands of small businesses to spend time and money filling out paperwork only to tell the EPA they have zero releases. EPA's compliance cost estimates for this rule was $7,000 per business. Understand that, $7,000 per business. In this reporting year, over 3,000 businesses reported nothing. Small businesses pay $21 million—that may not be real money to some people, but to small businesses that's real money—to comply with the rule that provided no information and no public health benefit.

It is very disheartening to see our citizens subjected to this kind of regulatory buffoonery. Small businesses continue to be the leader in restoring our country to better economic growth. In economic times like these I hope that we will make sure that small businesses face the minimum burden necessary to accomplish worthy governmental goals.

As I have said many times and I say every place I go when I am talking about business, government creates nothing, absolutely nothing. They just get in the way of those people who try to create business, and we need to get off their backs. Small business is clearly the backbone of this country. There is no question about that. Every time we create a new regulation we make it more and more difficult for them.

My question is why all the paperwork? Why all the paperwork? To justify the existence of agencies downtown? Maybe. But, if that's the case, we need to put a stop to it because, if we don't, we are

going to ruin businesses in this country forever and we will never get them back to where they were before.

So, Mr. Chairman, I am delighted to be here and, believe me, I look forward to the testimony of every person here today. Thank you.

[The prepared statement of Hon. Edward L. Schrock follows:]

Statement of Ed Schrock
Chairman
Subcommittee on Regulatory Reform and Oversight
Committee on Small Business
United States House of Representatives
Washington, DC
July 18, 2003

Good morning, ladies and gentlemen. I want to start by saying how pleased I am to be co-chairing this hearing with Congressman Doug Ose. Doug, as a small businessman himself, has been a champion of these issues for a long time and it is a pleasure to be sitting alongside him. Our hearing today addresses the Office of Management and Budget's final task force report on the Small Business Paperwork Relief Act. You'll hear from many of our witnesses today their disappointment at a missed opportunity. We think that this task force had the potential to make some great strides in eliminating unnecessary paperwork burdens on small businesses. Instead, the task force decided that initiatives such as the Small Business Administration's Business Compliance One Stop were enough already. They just needed to make a few changes to satisfy the letter of the new law. No matter that we are 5 years or more away from its being a comprehensive tool.

Federal agency paperwork continues to increase. Congress and the Executive Branch can share in the blame for that, but it doesn't excuse us from making every effort possible to reduce the burden to small businesses. I hope that everyone recognizes what a great drain on the creative resources of our entrepreneurs this burden has become. All those hours and all that money spent on doing things that have nothing to do with creating jobs or making a better life for that citizen and his or her family. What a great waste of our national resources.

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Small business continues to be a leader in restoring our country to better economic growth. In economic times like these, I hope that we'll make sure that small businesses face the minimum burden necessary to accomplish worthy governmental goals. I look forward to the testimony of our witnesses today.

Mr. OSE. I thank the gentleman. We are also joined by the ranking member of the Small Business Subcommittee, Mr. Gonzalez, who I am pleased to recognize for an opening statement.

Mr. GONZALEZ. Thank you very much, Mr. Chairman, and I will be real brief and I guess just start with a general observation in what we always seek and seem not to ever accomplish. But, I am one that believes in regulation as long as it's reasonable because it does serve a public purpose. It is about integrity. It's about leveling the playing field. Governmental regulation is about accountability and responsibility and duty. The problem is when it becomes burdensome and inefficient. But, we don't do away with regulation, reasonable regulation. And, I think we all can agree on that, whether you're Republican or a Democrat. So, we seek solutions on doing away with that which is not necessary and being efficient with that which is necessary.

Unfortunately, I don't think we have ever accomplished that. This is only my 5th year in Congress and I guess we could do this just about every other year. Hopefully, we will make some real progress. My sense of it will always be there is no consequence to an agency or a department or any mandate that is charged with the responsibility of executing the desires of Congress. It's simply not done. We'll have a hearing. We'll hear about the efforts and how they fall short and nothing happens. I am hoping that will change and I do believe there should be consequences, and with that I look forward to the testimony and again thank you, Mr. Chairman.

Mr. OSE. I thank the gentleman. I'd also like to welcome the gentleman from Oklahoma, Mr. Sullivan. I understand he does not have an opening statement and any time you want to come to this committee without an opening statement you are always definitely welcome. All right. We had scheduled here the appearance of Senator Voinovich, who has been called away. He has submitted testimony in writing and we are going to submit that testimony for the record. Without objection, so ordered.

[The prepared statement of Hon. George Voinovich follows:]

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COMMITTEE ON
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WASHINGTON, DC 20510-6250

STATEMENT OF SENATOR GEORGE V. VOINOVICH
HOUSE SUBCOMMITTEE ON ENERGY POLICY, NATURAL RESOURCES AND REGULATORY AFFAIRS AND THE SMALL BUSINESS SUBCOMMITTEE ON REGULATORY REFORM AND OVERSIGHT
"WHAT IS OMB'S RECORD IN SMALL BUSINESS PAPERWORK RELIEF"
JULY 18, 2003

Chairman Ose and Chairman Schrock, thank you for the opportunity to testify before your joint hearing regarding the Office of Management and Budget's (OMB) record on small business paperwork relief. I commend you both for dedicating time, energy, and resources to provide the small business community with the tools to build a stronger nation.

America's small business owners across our county best exemplify our nation's entrepreneurial spirit. When we discuss factors that drive our economy, analysts and experts often mention large corporations, the stock market, and Wall Street. However, one only has to take brief look at the statistics to realize that it is the small businesses on America's Main Streets that serve as the foundation and backbone of our economy.

According to the Small Business Administration (SBA), there were 22.9 million small businesses in America last year, which equates to 99.7 percent of our Nation's employers. Moreover, small businesses provide nearly 75 percent of the net new jobs added to our economy, and in 2001, small businesses accounted for 39.1 percent of the jobs in high technology sectors.

I have always had an interest in easing the regulatory burdens imposed on small businesses. As Mayor of Cleveland and Governor of Ohio, I witnessed first hand the positive impact small businesses have on revitalizing a community. As the Buckeye State's Chief Executive, I pushed Congress to pass the *Unfunded Mandates Reform Act*, which established a Congressional decision-making process to determine the appropriateness of federal mandates. During my first term as Senator, I was an original cosponsor of the *Regulatory Improvement Act* in the 106th Congress. In 2000, I worked to help pass the *Congressional Accountability for Regulatory Information Act* and the *Regulatory Right to Know Act*.

Legislating policy changes to ease the burden of cumbersome paperwork requirements is vital to maintaining the livelihood of our small business owners. According to OMB, businesses are required to spend an estimated 7.2 billion hours every year to meet federal paperwork requirements at an estimated cost of $190 billion annually. SBA estimates that the cost to small businesses is a staggering $5,100 per employee. While many of these requirements are important and necessary, the high costs of understanding them and complying with them can sometimes prevent small businesses from being able to expand or even stay afloat, and in some cases, this burden can deter entrepreneurs from opening in the first place.

Thankfully, Congress provided necessary relief to ease the paperwork burden on the small business community. As the original Senate sponsor of the *Small Business Paperwork Reduction Act* (PL 107-198), I was pleased when President Bush signed this bill into law in June of 2002. This law contains many provisions to help small business owners understand and comply with federal regulations and paperwork mandates.

The law requires: (1) OMB to annually publish in the Federal Register and on the Internet a list of the compliance assistance resources available to small businesses; (2) each federal agency to establish a "one stop shop," a single point of contact to help small businesses fill out forms and comply with federal regulations (we did this in Ohio and it really helped small businesses); and (3) each agency to make further efforts to reduce paperwork for small businesses with fewer than 25 employees.

In addition, the law established an interagency task force, chaired by OMB, to examine the feasibility of streamlining reporting requirements for small businesses. The law required OMB to submit reports on the task force's analysis to Congress by June 28, 2003 and June 28, 2004. To this end, OMB issued a draft report on May 9, 2003 and a final initial report on June 27, 2003.

Prior to the issuance of the final report, I co-signed a letter with Representatives Ose, Manzullo, and Schrock expressing concerns over the direction of OMB's draft report. In our letter we addressed specific areas where the draft report mischaracterized the intent of the legislation. For instance, the draft report stated: "agencies should identify a person or group of persons to serve as the single point of contact." However, the law explicitly requires each department and independent agency to establish one point of contact for small businesses.

I was pleased, therefore, to see that OMB resolved the issue surrounding the single agency point of contact, with a few minor exceptions, in their final report of June 27. I expect OMB to remedy the discrepancies at the Federal Trade Commission and the General Services Administration in the near future. I firmly believe a single point of contact is beneficial over multiple points of contact to alleviate any confusion from the small business community. Furthermore, in their final report, OMB mentioned the possibility of developing a well designed Web site listing more details on each agency's single point of contact. This idea definitely warrants further consideration and I encourage OMB to fully explore the option of designing such a Web page.

However, there are still a few unresolved issues regarding the implementation of the *Small Business Paperwork Reduction Act* and I would like to see them resolved as soon as possible. For example, the issue of addressing the feasibility of requiring federal agencies to consolidate reporting requirements into a single format using a single electronic reporting system, was left unresolved. I strongly encourage OMB to develop ways to make it easier for small businesses to provide information to, and obtain information from, the federal government. The success of a system of this magnitude depends on the federal government's ability to incorporate the needs of the small business community, and I trust OMB will include this key constituency throughout the process.

It is imperative for Congress to ensure that the *Small Business Paperwork Reduction Act* is implemented within the letter and spirit of the law. By holding this hearing, Congressman Ose and Schrock are conducting their oversight responsibilities with due diligence and I appreciate your efforts and your leadership. I hope this hearing sends a message to OMB that we are watching the way they implement this important legislation. We will not be deterred and we will not tire in our efforts to protect the small business owners from cumbersome federal paperwork requirements.

Congressman Ose and Congressman Schrock, thank you for inviting me to testify before your joint hearing this morning.

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Mr. OSE. We have three panels here. Our first panel is going to be with Congressman Manzullo, the chairman of the Small Business Committee. Our next panel will be Dr. Graham, and our third panel will be Ms. Kerrigan and Mr. Langer.

So, Mr. Chairman, this is your show. We are most grateful for your attendance. We'll give you a moment to collect your thoughts.

STATEMENT OF HON. DONALD MANZULLO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. MANZULLO. Well, thank you very much.

Mr. OSE. I want to welcome the chairman of the Small Business Committee.

Mr. MANZULLO. Thank you. Before I begin my testimony, we have a distinguished visitor here from the European Parliament, from the Birmingham area of England, Malcolm Hargrove. Malcolm, do you want to stand up? Malcolm is involved with the Small Business Committee in England and, rather, with the European Parliament, and I think we should all give him a big American welcome for visiting us. Obviously he was thrilled by the speech yesterday by the Prime Minister.

Chairman Ose and Chairman Schrock, I want to thank you for holding this hearing today. A full 13 months ago President George Bush signed the Small Business Paperwork Relief Act of 2002. This legislation was supposed to be the starting point to make communication between small businesses and agencies easier. It was also supposed to be the start of a new kind of dialog between Federal agencies. It was supposed to be the moment where individual agencies began to understand that they are not alone in creating paperwork requirements for small businesses.

It reminds me of my children's complaints about teachers and homework. Each teacher is in his or her own world when it comes to assigning students homework and deadlines. And, so, unless those teachers talk to each other, they may never realize how their one small project is just one-fifth or one-sixth of all the work that's been assigned to that student. In the case of government, agencies don't realize that their individual requirements are often one-twentieth of the total burden that the government places on small businesses.

I fear that the momentum we tried to create with the Small Business Paperwork Relief Act has passed us by. Chairman Ose made note of the fact that even something as simple as producing a list of compliance assistance resources and single points of contact for agencies was produced haphazardly and without much attention to detail. It is my hope that the Office of Management and Budget would take this task more seriously. I think most people would be shocked that it actually took a law to get the government to produce this unified list.

Previously a small business would have to make telephone calls to each agency, speak with local Small Business Administration representatives for help, speak with their Congressman's office or just wait for an agency to contact them for noncompliance.

The National Federation of Independent Business regularly reports on their surveys that many small businesses just bump into regulations and paperwork requirements in the course of doing

business or they find out when an agency attempts to find them. My hope is that this list of resources for small businesses will be approved and distributed widely. Another problem with the report is its overreliance on e-government solutions to this problem. I'm a fan of e-government and its possibilities. It can produce significant cost savings for both government and the private sector. But its use as the primary weapon against unnecessary burdens on small business is short-sighted. I want to cite a few examples of what I mean.

The EPA proposed a rule on electronic reporting 2 years ago. This supposed e-government innovation was to finally allow businesses to submit forms electronically to the EPA. However, they couldn't make it simple. They attached the recordkeeping requirement for any document produced on the computer that would require every facility to retrofit its systems to accommodate these regulations. Thousands of facilities, including many small manufacturers which are dealing with the toughest economic circumstances already, would have had to pay $40,000 up front to make this work and another $17,000 per year to maintain it. The other choice of course was to get rid of all the computers so they wouldn't have to comply with the so-called voluntary rule. Thanks to the many businesses who fought this along with the SBA's Office of Advocacy, American manufacturers were spared $18 billion in additional costs last year.

Another recent example comes from the Department of Transportation. In the wake of the Firestone-Bridgestone tire catastrophe, DOT created an early warning report regulation. In its attempt to make reporting easier, the agency decided to require that all of these reports be filed electronically. As is often the case, regulators missed an important detail and that is that they included 2000 small manufacturers of trailers under 26,000 pounds. According to SBA's size standards, 96 percent of these are small businesses. DOT produced estimates of the cost of gearing up to comply with this rule at $230,000 per company. No wonder companies go to China. That figure right there will put most of those manufacturers out of business.

These are just a couple of the brilliant and innovative e-government initiatives to reduce the paperwork burden. This task force is unable to break from the mindset that many in government have, which is risk averse, without creativity, and without true sensitivity to the plight of small businesses across the country.

Finally, in our work with Chairman Ose on this bill last year, we stressed several points in our colloquy: One, that it was expected that OMB would provide not only a list of compliance assistance resources but also links to those agencies and their sections on paperwork. It was expected that this task force would seriously consider reducing the frequency of paperwork reporting or aligning deadlines of different paperwork requirements and three, that OMB and the task force would do more than just consider using NAICS or other industrial codes to help small business determine what paperwork requirements they had to comply with. I am disappointed that each of these items was only given a cursory reference and summarily dismissed as not practical for OMB implementation.

A small business which wants nothing more than to fully comply with rules and regulations has no way to sift through every regulatory and paperwork requirement to figure out which ones apply. It should be the responsibility of each agency to provide small business with that information and to do it in a way that is simple. The added benefit of using NAICS codes is that we could truly begin to determine the compliance burden for individual industry sectors.

Let me give you an example of what happened to my brother. Frank runs the family restaurant, 13 tables, 13 bar stools. The restaurant is open just on weekends. About 6 years ago, when the bar was full on a Friday evening and he was selling his catfish and lasagna and under the unpretentious name of Manzullo's Famous Foods, in walked a government man and in the midst of this crowded barroom of perhaps 15 to 20 people, he spoke to my brother over the bar and he said where is your sign that says pregnant women should not drink? My brother looked at him and said who the hell are you? And, there he was. He was some Federal liquor license inspector showing up. My brother said what are you talking about? Don't you know you have to have a sign posted that says pregnant women can be injured if they drink alcohol?

Now, my brother has a high school education, did time in the service, got involved with the family restaurant when he was 20 years old. He's 60 years old now. Spent an entire lifetime in that restaurant. He worked 6 to 7 days a week, 18 to 20 hours a week trying to put out a good product and comply with all the laws. Why didn't this guy come in and say, Frank, there's a law? Here, let me give you a sign. You know what he did? He fined him $50. And, for years you can go in my brother's restaurant and he had a handmade sign, scribbled with a black pen that was an attestation to the stupidity of the Federal Government in the manner in which it treats small businesses, and it said if you're pregnant, don't drink. Finally, somebody got him a regular sign and so he put the sign on the bar on one of the walls of the barroom. The problem is that only the people on the left side of the bar can see the sign and those on the right side can't. So, I imagine that guy's going to come back and say you should have a sign that says pregnant women sit on the left side so you can see the sign, and, if you are not pregnant, you can sit on the right side.

But, this is just a very homely indication of the tremendous pressures that people like Frank Manzullo, Jr., are under. And, that's my brother. I have tremendous respect for him. He's one little guy among hundreds of thousands of millions of entrepreneurs in this country lost in a sea of regulation. And, some clown comes up with a regulation and says you have to comply by e-mail. My brother just went up on the computer. I don't even know if he knows how to access these Federal agencies. Why not have one source—why not have the government say look, appoint one person such as a personal banker when you go to a larger bank, one person within the Federal Government that can be the access point for the Frank Manzullo, Jr.'s out there across the country. That would be too simple. The agencies would have to work together. So maybe what we should do is this. Maybe we should sunset every law and every regulation and say, unless by such and such a time there is a workable framework that the little guys in America can follow, we are

just going to nullify all of these laws. Look at this. Use this. OMB. Listing of single points of contact for agencies with approved paperwork. Look at this. Must be 50 on there.

Mr. SCHROCK. Actually 71.

Mr. MANZULLO. 71 agencies on here. Which is the one that perforates the paper? I mean, this is absolutely outrageous. And, then you wonder why are small businesses crumbling? Why do small manufacturers go to China? Do you know why? Do you know why we lose—one of the reasons we lose 54,000 manufacturing jobs each year? These guys just give up. We had a neighbor up the street, Wendell Smith, was making counter tops. Some guy from OSHA came in and said, oh, your employees can't sit on that makeshift balcony that you have to have their lunch unless you put an elevator in. And, it's one thing after the other. This long parade of Federal officials that come in and all these regulatory agencies.

Look at this. What type of service are they doing to America's small businesses? That concludes my testimony.

[The prepared statement of Mr. Manzullo follows:]

DONALD A. MANZULLO, ILLINOIS
CHAIRMAN

NYDIA M. VELÁZQUEZ, NEW YORK

Congress of the United States
House of Representatives
108th Congress
Committee on Small Business
2361 Rayburn House Office Building
Washington, DC 20515-6315

Testimony before the Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs of the House Committee on Government Reform and the Subcommittee on Regulatory Reform & Oversight of the House Committee on Small Business

"What is OMB's Record on Small Business Paperwork Relief?"
July 18, 2003

Prepared Remarks of Congressman Donald Manzullo (R-IL)

Chairman Ose and Chairman Schrock, I want to thank you for holding this hearing today. A full 13 months ago, President George W. Bush signed Public Law 107-198, the Small Business Paperwork Relief Act of 2002. This legislation was supposed to be the starting point to make communication between small businesses and agencies easier. It was also supposed to be the start of a new kind of dialogue between Federal agencies. It was supposed to be the moment where individual agencies began to understand that they are not alone in creating paperwork requirements for small businesses. It reminds me of my children's complaints about teachers and homework. Each teacher is in his/her own world when it comes to assigning students homework and deadlines. And, so, unless those teachers talk to each other, they may never realize how

their one small project is just one-fifth or one-sixth of all the work that has been assigned to that student. In the case of the government, agencies don't realize that their individual requirements are often one-twentieth of the total burden that the government places on small businesses. I fear that this moment we tried to create with the Small Business Paperwork Relief Act has passed us by.

Chairman Ose made note of the fact that even something as simple as producing a list of compliance assistance resources and single points of contact for agencies was produced haphazardly and without much attention to detail. It was my hope that the Office of Management and Budget would take this task more seriously. I think most people would be shocked that it actually took a law to get the government to produce this unified list. Previously, a small business would have to make telephone calls to each agency, speak with local Small Business Administration (SBA) representatives for help, speak with their Congressman's office, or just wait for an agency to contact them for non-compliance. The National Federation of Independent Business regularly reports in their surveys that many small businesses just bump into regulations and paperwork requirements in the course of doing business or they find out when an agency attempts to fine them. My hope is that this list of resources for small businesses will be improved and distributed widely.

The task force report itself was very disappointing. The first draft included this statement, "the Task Force assumed that Federal agencies collect the minimum information necessary to fulfill statutory or programmatic responsibilities consistent with the Paperwork Reduction Act. The recommendations concentrate on ways to minimize the burden associated with existing requirements, rather than eliminate requirements."

Any small business will tell you that they both report the same information to multiple agencies and that they endure unnecessary requirements to gather useless information. It was my hope, along with most of the other sponsors, that the task force would make some attempts to eliminate unnecessary paperwork.

Another problem of the report is its over reliance on e-government solutions to this problem. I am a fan of e-government and its possibilities. It can produce significant cost savings for both government and the private sector alike. But, its use as the primary weapon against unnecessary burdens on small business is shortsighted. I want to cite a few examples of what I mean.

The Environmental Protection Agency (EPA) proposed a rule in August of 2001 known as the Cross Media Electronic Reporting and Recordkeeping Rule or CROMERRR. This supposed e-government innovation was supposed to finally allow businesses to submit forms electronically to the EPA. However, they couldn't make it simple. They attached a recordkeeping requirement for any document produced on a computer that would require every facility to retrofit its systems to accommodate these regulations. Thousands of facilities including many small manufacturers, which are dealing with the toughest economic circumstances already, would have had to pay $40,000 up front to make this work and another $17,000 per year to maintain it. Their other choice, of course, was to get rid of all their computers so they wouldn't have to comply with this "voluntary rule." Thanks to the many businesses who fought this along with SBA's Office of Advocacy, American manufacturers were spared $18 billion in additional costs last year.

Another recent example comes from the National Highway Traffic Safety Administration (NHTSA). In the wake of the Firestone/Bridgestone tire catastrophe, Congress passed the TREAD act. It was meant to require large manufacturers of automobiles and large commercial semi-trailers to deliver Early Warning Reports about product defects and accidents among other things. In its attempt to make reporting easier, NHTSA decided to require that all of these reports be filed electronically to the Department of Transportation. As is often the case, the regulators missed an important detail. And, that is, they included 2,000 small manufacturers of trailers under 26,000 lbs. According to SBA's size standards 96% of these are small businesses. NHTSA produced estimates of the cost of gearing up to comply with this rule at $237,000 per company. That figure right there will put most of those manufacturers out of business.

These are just a couple of the brilliant and innovative e-government initiatives to reduce paperwork burden. This task force report is unable to break from the mindset that many in government have which is risk averse, without creativity, and without true sensitivity to the plight of small businesses across this country.

Finally, in my work with Chairman Ose on this bill last year we stressed several points in our colloquy: 1) that it was expected that OMB would provide not only a list of compliance assistance resources but also links to those agencies and their sections on paperwork; 2) it was expected that the task force would seriously consider reducing the frequency of paperwork reporting or aligning deadlines of different paperwork requirements; and 3) that OMB and the task force would do more than just consider using NAICS or other industrial codes to help small businesses determine what paperwork requirements they had to comply with. I am disappointed that each of these items were

only given a cursory reference and summarily dismissed as not practical for OMB implementation. A small business, which wants nothing more than to full comply with rules and regulations, has no way to sift through every regulatory and paperwork requirement to figure out which ones apply. It should be the responsibility of each agency to provide small businesses with that information and to do it in a way that is simple. The added benefit of using NAICS codes is that we could truly begin to determine the compliance burden for individual industry sectors.

Chairman Ose, Chairman Schrock, and other distinguished members of these subcommittees, I pledge my continuing support to you in your efforts to improve the conditions for small businesses to grow and flourish in this country. Thank you for inviting me to participate today.

Mr. SCHROCK [presiding]. Thank you, Mr. Chairman. I have shared with you some of the stories I have experienced with constituents of mine and they are very similar to what your brother Frank is going through, and it's pretty bad.

Mr. Tierney from Massachusetts was here. And I welcome him and he does have a statement that he's going to put in the record. And, I want to welcome Congresswoman Sue Kelly from New York, who has joined us as well.

[The prepared statement of Hon. John F. Tierney follows:]

Opening Statement
Representative John F. Tierney
Hearing on Implementation of the
Small Business Paperwork Relief Act

July 18, 2003

Chairman Ose and Chairman Schrock, thank you for holding this hearing. Small businesses are the backbone of the economy and are the source of many new jobs. Approximately 98% of businesses in Massachusetts are small businesses. It is imperative that the federal government address their needs and concerns.

Information collection is important in allowing the government to enforce the law but in order to provide the proper information to the government, small businesses have to be able to understand what is even required of them. I supported the Small Business Paperwork Relief Act as a step toward helping small businesses understand what information they are required to provide to the government and as a step in addressing ways to simplify and streamline the paperwork process.

The task force required by the Small Business Paperwork Relief Act recently released the first of two reports. The task force's report makes recommendations that now need follow up from OMB, federal agencies and Congress. I certainly agree with the task force's recommendations that information technology, including e-government initiatives, should be a focus in streamlining the information collection process. As noted by the task

force, electronic submissions of information offer cost savings for small businesses as well as the government. I am interested to hear how the availability of information technology to small businesses can be improved.

The bottom line for the task force and for the federal government, including Congress, is how can we help the real day-to-day challenges of small businesses in accessing information and complying with regulatory requirements. As is pointed out by the task force in its report, focusing on the listing of paperwork requirements by statistical code is not useful for small businesses. Any listing of paperwork requirements should be designed in a manner to actually help small businesses. A user-friendly interactive database is a good starting point to provide comprehensive information to small businesses as long as small businesses can easily find what applies to their individual business.

A comprehensive and cooperative effort is needed across the federal government to continue to identify and implement ways to assist small businesses with information collection. It is essential that as the task force moves forward with preparing its second report and as OMB, federal agencies and Congress move forward with evaluating the recommendations and concerns of the task force, that the input of small businesses continue to be included every step of the way.

Thank you, Chairmen.

Mr. SCHROCK. Mr. Chairman, since OMB has clearly failed to publish a complete list of agency single points of contact, which is that list you have there, do you believe they should be asked promptly to produce such a list that you are going to be able to get through so you don't get an answering machine? I called a couple of those numbers yesterday and got nothing but answering machines.

Mr. MANZULLO. You know, Dr. Graham has done a phenomenal job at OIRA. I mean, this man, he has great credentials for that position. He dislikes government, which is wonderful because he understands the fact that the attitude is that Members of Congress are here to serve the individuals that we represent, and the purpose of government is also to complement that. But, perhaps, OMB has been given a task that it can't complete. Perhaps, there are so many agencies and there's so much work that for the single point of contact that it's a task that can't be completed, because I know a lot of people at OMB. I know they work very hard over there. Maybe it's just something that they can't do.

And, then what do you do with this? Post this on the wall of a bar? You know, if you slip, you know, go to this one here. If you drink too much, go to this one here. If you get hit by a car outside the restaurant, go to this agency. You know, if you ingest this chemical, go to this one.

I know it's an attempt and we are trying to do all types of stuff, but, maybe it is an assignment that they working as hard and diligent as they can and in good faith simply cannot accomplish.

Mr. SCHROCK. But why?

Mr. MANZULLO. There's too much government. I mean, surely can't there be some way that the Frank Manzullos of this world can just pick up a phone and access one government agency that coordinates all of these things and tell him what's expected of him?

Mr. SCHROCK. That would sound pretty reasonable. What kind of training would you recommend that OMB promptly provide to all agency single points of contact? And, do you think the small businesses or their representatives and their associations should assist in that training?

Mr. MANZULLO. I don't know, Congressman Schrock. I mean, there is such a chasm between small businesses today and the government. You know, if you're a large corporation you have a government compliance officer. And, sure it is a pain in the neck. But, at least they have one person totally dedicated to that who understands that and that's why the cost per employee of regulation for small business is extraordinarily high compared to that of the larger businesses.

But, I don't know if this is a problem that can be solved unless we take a look at why we have all these regulations. Now, I mean there are lot of regulations that are good. Frank, for example, appreciates the Winnebago County Department of Health that puts on a school from time to time to teach safety in the kitchen and the different things that you can do. It is a 4-hour school. It's preventive. It teaches them what to do on it.

I don't know if there is a solution to this. I don't know what training OMB or any other agency can do. And, besides that, when you are working in the kitchen for 16, 18 hours a day, when you

are working in the shop, trying to keep that going, when you are under ferocious competition just to keep your doors open, do you have time to attend seminars on regulatory compliance, 72 of them?

Mr. SCHROCK. Mr. Gonzalez.

Mr. GONZALEZ. Thank you very much. First of all, I don't believe that anyone leaves our domestic shores because of the regulatory burden. I think that's a contributing factor, but I think they go to China because you can hire somebody there at 12 years of age, work them for 80 hours, pay them $2 an hour, don't provide any benefits, and you don't have to worry about safety or health standards or any kind of benefits. That's a whole separate problem, Mr. Chairman.

But, I do agree with you in principle and in essence. You are saying let's look at the regulatory scheme and do away with that which is not necessary. And, we attempt to do that accordingly, I think, and I always talk about that. We are here today to figure out, OK, well, what do we do with what we have in place. And, we are looking at a central point of contact, a clearinghouse. Surely there is something we can do to improve on the system as we go through there and try to cull the regulatory scheme and what is truly necessary to accomplish the legitimate governmental role which is just burdensome, inefficient and overkill. And, I think we are of like mind on that. My fear of course is that we always look at it and say, well, let's just do away with all regulation, and then we get into the philosophical and the partisan end of it.

Mr. MANZULLO. It's a safety issue.

Mr. GONZALEZ. Right. It has very legitimate reasons. But, where do we start?

Mr. MANZULLO. Well, let me give you one example. The National Restaurant Association—Frank doesn't belong to that, perhaps he should—has a Web site and if you key into that, it has a good core set of regulations that you're supposed to follow. And, first, as to any small business and then as to the restaurant business in particular, and the manual is quite thick and the National Restaurant Association has done a very commendable job on trying to have a one-stop shop for their members. I mean, that is one way to look at it.

But the problem that we have is when the regulators issue these regulations without reference to other regulations in place. I mean, there are situations in this country today where companies are caught with conflicting regulations. You know, one was just issued this past week on raising the level of water. I can't remember in which river, but one agency said you have to do this and then another agency said you can't do that. And then the court got involved and these people just had no idea what to do. I think what we have to do is perhaps take a look and say as to every regulation, we need to have strict enforcement of the Regulatory Flexibility Act and SBREFA. I think we need a few good lawsuits. I think we need to empower—and I have said this for years. We need to empower the Office of Advocacy within the SBA to bring class action lawsuits against government agencies, because the little guys out there can't afford to do it. And, you know, here's a conservative

Republican talking about bringing lawsuits, but sometimes that's the only way in order to do something.

We've got a situation going on now with HUD. They came out with these massive RESPA requirements—you're on that committee—and it is a $9 billion hit to small businesses. Their Regulatory Flexibility Act analysis was about 160 pages, absolutely totally inefficient. It just did not list all the problems.

I mean there has to be a way to hold those agencies accountable to follow the laws over which our two committees have exclusive jurisdiction. And, maybe we should find a way to penalize HUD for doing that. You know, but I like the idea of empowering Tom Sullivan, who is a real tiger at Office of Advocacy, to begin a lawsuit on behalf of small businesses. Perhaps, you know, that would do something.

Mr. GONZALEZ. Well, again I think we all know the buck really does stop at the committees and, unfortunately, we really don't do anything. We definitely empower individuals and mandate certain agencies and departments to comply with what the intent of our laws are, but they are not doing it and there is no consequence. And, I don't know if it is a lawsuit—and I am a lawyer by training and such, and I still don't encourage litigation. But, I think we need to really start being more aggressive about it and we haven't been. The 5 years I have been here I think we just talked a heck of a good game. But, we don't do anything and I think the agencies and the departments know us well and they're going to wear us out and they're going to wait us out and it seems to me that the bureaucracy continues to win the battle.

Mr. MANZULLO. I think one of the things that may help is to give the committees the jurisdiction, the authority to stop the enforcement of regulations. I know there is a Constitutional problem in there, but surely this body that oversees the organic law that looks at the regulations, that passes the Regulatory Flexibility Act and SBREFA for its enforcement in courts, maybe we should bring before the committee on a periodic basis every time a regulation comes out. You know, sometimes just exposing people to the light to say you're not doing your job has a therapeutic effect. But that's not a long-term solution.

Mr. SCHROCK. Mr. Chairman, I wonder too, when they create these regulations do the folks downtown go to middle America somewhere, Rockford, IL for instance, and ask the business person whose going to be impacted by that proposed regulation what's going to be the impact on you? Because, I think, if they did they'd either kill the regulation or word it in such a way where it isn't going to have an unintended consequence or impact on people. I think that's a real problem and I don't know how——

Mr. MANZULLO. The problem starts with us. We passed organic laws and the people who do the regulations really are just doing their job.

Mr. SCHROCK. I will tell you I think my friend Mr. Gonzalez is absolutely correct. We do all these wonderful things. We put this Paperwork Reduction Act into law and then we go off and do a million other things. Are we watching what's going on? No. But I think we are going to have to start doing that or this situation is

going to get worse and worse and worse. Mrs. Kelly, who herself is a small businesswoman, a florist as I recall——

Mr. MANZULLO. A florist. She knows about this stuff.

Mrs. KELLY. Not just a florist. I've had three small businesses. Thank you very much.

Mr. Manzullo, one of the problems that I think we are experiencing here with this very long list, which I can imagine every business wants to post in a prominent spot, since there is so much information on it—I'm saying that facetiously. It seems to me that one of our problems is that the agencies of government are promulgating a great many rules and regulations that are not clearly disseminated to the people that they are passing these rules and regulations to and about. Is that true?

Mr. MANZULLO. I would say so. I mean, you know, as a florist I'm sure you didn't get up in the morning, have your cup of coffee and read the Federal Register. And yet——

Ms. KELLY. Well, actually it's the kind of thing I imagine every florist in this Nation probably reads as bedtime reading. It is a good snore. I think that in all honesty, it's not just florists. It is every small business person in the United States of America. It is my husband, who is a small businessman. It is my son, who is a small businessman. It is one after another of people just like my family, me, my husband, my children, we are all small business entrepreneurs. We drive 80 percent of the U.S. economy and, yet, we are dragged down by experiencing about—from what I understand, I was just reading here somewhere it's something like 50 percent of the regulations come up from these agencies and hit us. We need obviously good points of contact, but we also need more information. Wouldn't you agree?

Mr. MANZULLO. We do. I just got paged. I've got an amendment on the floor. I agree entirely, Congresswoman Kelly. You know, I have stayed at your home there with your husband and your boys and know that the construction business and all the small businesses in which you're involved and you know what's going on, and you are as frustrated as everybody else and you do a great job on trying to cut through with these things. And, you know, maybe we need—I don't want to call a summit. Once in a while we have the White House Conference on Small Business, but somebody's got to do something to say small businesses can only do so much.

Mrs. KELLY. Mr. Manzullo, do you know of any place besides this committee or your own committee where someone is looking at the vast rules and regulations that are being disseminated? From what I understand it's about 4,000 every year or two. Do you know of any place where someone is looking at the vast body of these for any kind of a cost-benefit analysis or redundancy or overlap?

Mr. MANZULLO. No, I don't, aside from the Office of Advocacy, which has, you know, an in-house law firm, and our oversight committees. And, of course the oversight committees, we have a hearing when somebody expresses to us that there's a problem. So, by the time we get involved, oftentimes it's too late to help out the individual.

I do have to run to the floor for an amendment, and thank you so much. Appreciate it. Thanks for the opportunity to be here.

Mr. OSE [presiding]. Thank you, Mr. Chairman. Ms. Kelly, do you wish to add anything else?

Mrs. KELLY. I only want to say, Mr. Chairman, that several years ago a bill that I wrote called the Truth in Regulating Act was passed by this Congress. It was signed into law by President Clinton. Unfortunately, I was unable to get the small amount of money that was needed to establish what that bill required, which was an office in the General Accounting Office that would examine all of the agency's rules and regulations as they affected small business and it would look at them for a cost-benefit analysis and redundancy and overlap and would allow the GAO to come back with a report to Congress on these rules and regulations. Any requested rule and regulation we would be able to request that information for. It would give us a chance to affect what the rules and regulations that are affecting small businesses. We would have a chance to do something about that before they hit small business and be able to perhaps have an economic, a strong economic impact on this enormous body of regulation that is hitting our small businesses. I was unable to get the funding for it. Perhaps with our combined committees working together, we could reestablish that as law since it is now sunset, and I am going to have that law written again. I am going to drop it and I hope perhaps you all will help me sponsor that bill and help me get the money so we can get that office there. Small businesses, small business people really need the help.

I yield back.

Mr. OSE. I appreciate the gentlelady's observations. On Tuesday of next week we will be having a hearing on H.R. 2432, which would make that particular office a permanent part of the GAO. It is a bipartisan bill. Again the number is 2432 and the hearing is on Tuesday.

Mrs. KELLY. If the gentleman will yield.

Mr. OSE. Certainly.

Mrs. KELLY. It would be wonderful to have a permanent office, but we have to fund it. We can't do it without the funding. And so, I'm hopeful that if we establish—I'll be glad to work with you on this because I want that to be a permanent office. Small business people need this. But, we also need the funding to make sure that the GAO has the funding available to set this office up. Several years ago when we looked at it, it was a $5 million bill. And, that in terms of our entire budget for the U.S. Government is a small bit to drop into the pockets of helping our small businesses of this Nation. So, if we can get that money allocated to make this office permanent, I would be delighted to work with you and I hope that perhaps you will let me sit in on that hearing.

Mr. OSE. You're always welcome, Mrs. Kelly. You know that.

Mrs. KELLY. Thank you.

Mr. OSE. I'd also like to recognize the gentleman from Arizona, Mr. Franks. If he wishes to make an opening statement he'd certainly be welcome to.

Mr. FRANKS. Well, Mr. Chairman, freshmen always do that. Mr. Chairman, I just want to suggest that this committee is well placed in doing what it can to reduce the regulation on business, and to not only help that reduction but also help in the compliance. You

know I have been privileged to work in different countries of the world, and sometimes, depending on the scheme of the regulation itself, it is not always just the litany and the rules, but it is the cooperation of the bureaucracies that enforce those rules, I hope that this committee can continue to do what it can to improve the productivity of small business. Certainly, all of us understand the vital needs to do that, and I thank the chairman.

Mr. OSE. I thank the gentleman. OK. Chairman Manzullo has departed and Senator Voinovich was not able to join us today for other reasons. So panel one is finished. I would now like to invite to the witness table Dr. John Graham, who is the administrator of the Office of Information and Regulatory Affairs with the Office of Management and Budget. Dr. Graham, as you know, this committee has a practice of swearing in every single witness, so if you'd rise.

[Witness sworn.]

Mr. OSE. Let the record show the witness answered in the affirmative. Dr. Graham joins us for what seems to be a regular series of hearings. He is, as I said the Administrator for the Office of Information and Regulatory Affairs at the Office of Management and Budget. We refer to that as OIRA at OMB. Dr. Graham, welcome. Please proceed.

STATEMENT OF DR. JOHN D. GRAHAM, ADMINISTRATOR, OFFICE OF INFORMATION AND REGULATORY AFFAIRS, OFFICE OF MANAGEMENT AND BUDGET

Dr. GRAHAM. Thank you very much, Chairman Ose, and other members of the committees. A special thanks also to Chairman Schrock for cochairing and expressing a strong interest in these issues of small business and regulation. Let me start by saying that we at OMB and in the Bush administration generally are open to your suggestions from this committee on how to do our job better to reduce the burden of regulation and paperwork on the small business community. We at OMB do not profess to have all of the answers to this question and indeed the modest report that we have produced under this task force is just that, a modest effort to try to move the ball in the right direction.

Let me start with a few general observations about how we think we can make progress in this area. The good news is we have a goal that I think is widely shared and bipartisan in nature—that is to reduce the needless paperwork burdens on small businesses. So, if the goal is so consensual, what are the possible strategies to achieve it? The first possible strategy is to pursue the electronic government strategy. This is a key element of the President's' management agenda on the theory that, for the majority of small businesses that do use electronic technology and are involved in the Internet, the eletronic government strategy will help them better access and understand the requirements they face and will reduce the burdens on them to comply. So, clearly there is an important part of the small business community for which we should invest energies to move the agenda of electronic government.

It has, of course, a very serious limitation, this strategy, and that is that some small businesses are not currently active in the electronic world. Moreover, just moving on technology by itself doesn't

necessarily reduce the total number of requirements out there that businesses face. And, a cynic might argue it just makes it easier for the government to create more requirements because now they can do it more efficiently and electronically. So, it's not a complete answer by itself. But it is one part of a portfolio of strategies.

Second of all, there is regulatory reform, which is also a possible strategy for dealing with this problem. I think few people realize how many of those paperwork burdens are directly tied to specific Federal regulation. At the Office of Information and Regulatory Affairs, we are not specialists in small business. We rely heavily on our partner, particularly Tom Sullivan at the Office of Advocacy in the Small Business Administration, to identify for us what are those key regulations, whether new ones being developed or existing ones that impose a substantial burden on small business and are questionable in their necessity. We rely on SBA Advocacy to be our expert in this area. We would believe better regulations, smarter regulations can increase effectiveness and reduce compliance costs and paperwork burdens simultaneously.

This strategy, regulatory reform, also has limitations. To change regulations that already exist is complex, it's time consuming and it's controversial. You know in this administration we have not been reluctant to face controversy on regulatory matters. But, that controversy slows the process down and makes it longer until we can get to a point where we can remove some of these unnecessary burdens.

A third strategy is to try to slash these paperwork burdens directly by using the discretion that the agencies have for how much burden they include in a questionnaire without necessarily changing the regulation itself. This is the model and vision of the Paperwork Reduction Act, where agencies slash away the unnecessary paperwork requirements but maintain those requirements that are necessary for government to function. This involves line-by-line review of each information collection to identify question 4, question 12, knock this one out, knock that one out. It is a promising strategy and it can work in some circumstances.

But, this third strategy has some important limitations. Most paperwork burdens in fact are mandated either by statute, by the Congress, or they are embedded in regulation. So in order to get rid of question 14, an agency may in some cases have to go back and change the regulation. So, it feeds back to the need for regulatory reform.

To give you a sense of how the small business community feels the priorities are in this area, consider the President's request to the small business community through our office for nominating regulations, guidance documents, and paperwork requirements for reform. We received over 1,700 comments and 300 nominations. They were almost all in the areas of rules and guidance documents. The few paperwork burdens that were mentioned were paperwork burdens that were required by regulation.

The final strategy is statutory reform. Simplify the Tax Code, exempt small businesses from certain laws that are unnecessary for being applied to them, and so forth. I do not need to explain to this committee the difficulty in passing new legislation.

So, in conclusion, we have four strategies. The task force report before you, issued by me and my colleague Mark Forman, makes a modest and constructive step forward in the area of Internet technology as a vehicle for providing businesses one place to go to get answers. It will take time and money to implement this solution, and I look forward to the questions that you may have.

Thank you very much.

[The prepared statement of Dr. Graham follows:]

STATEMENT OF JOHN D. GRAHAM, PH.D.
ADMINISTRATOR
OFFICE OF INFORMATION AND REGULATORY AFFAIRS
OFFICE OF MANAGEMENT AND BUDGET
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

July 18, 2003

Good Morning, 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 the implementation of the Small Business Paperwork Relief Act by OMB. You asked me to testify about specific reductions in reporting and recordkeeping requirements of at least 100,000 hours accomplished or planned in 2003 for small businesses. I appreciate this opportunity to discuss OMB's responsibilities under the Small Business Paperwork Relief Act (SBPRA) and our efforts to alleviate the paperwork burden on small business owners.

Before discussing them, I want to reiterate for the Subcommittees OMB's deep commitment to reducing the regulatory and paperwork burdens that America's small businesses deal with every day. Both the SBPRA and the Paperwork Reduction Act (PRA) are vitally important to efforts by OMB and the Small Business Administration (SBA) to eliminate unnecessary compliance burdens on small businesses. Furthermore, e-government is increasingly becoming the principal means by which citizens and businesses engage with their government. The President sees Expanding Electronic Government as a means by which the Federal government can reduce paperwork burden on citizens and businesses. The Expanding E-Government initiative in the President's Management Agenda is bringing more services to the American citizen and businesses over the Internet and is using IT to improve management throughout the Executive Branch. Federal investments in IT, through the President's e-government initiatives, can reduce the Federal government's burden on citizens and businesses.

The Paperwork Reduction Act directs OMB to work with Chief Information Officers – the officials designated by the PRA to manage information resources at their agencies – to reduce information collection burdens on the public that "represent[s] the maximum practicable opportunity in each agency" and improve "agency management of the process for review of collections of information."

For all information collections subject to the Paperwork Reduction Act, agencies must obtain OMB approval before the collection. OIRA is particularly sensitive to collections targeted at small businesses. OIRA continually seeks to ensure that the paperwork burdens are justified by the usefulness and timeliness of the information to the government. The Paperwork Reduction Act itself directs agencies to reduce the burdens that information collection imposes on small businesses. The PRA's statement of purposes expressly identifies minimizing paperwork burden on small businesses as one of the PRA's goals. Moreover, the 1995 recodification of the PRA requires an agency to certify, when it submits a proposed collection to OMB for review, that the collection "reduces to the extent practicable and appropriate the burden"on small businesses and other small entities.

I should note that Congress last year in SBPRA reinforced the PRA's focus on minimizing the paperwork burden that the Federal government imposes on small businesses. Congress specifically amended the PRA, directing agencies to "make efforts to further reduce the information collection burden for small business concerns with fewer than 25 employees" (44 U.S.C. 3506(c)(4)).

The Small Business Paperwork Relief Act

The Small Business Paperwork Relief Act of 2002 (SBPRA) created "a task force to study the feasibility of streamlining requirements with respect to small business concerns regarding collection of information and strengthening dissemination of information" (44 U.S.C. 3520(a)). The SBPRA also required OMB to "publish in the *Federal Register* and make available on the Internet (in consultation with the Small Business Administration) on an annual basis a list of the compliance assistance resources available to small businesses ..." (44 U.S.C. 3504(c)(6)). In addition, under another SBPRA provision, "each agency shall, with respect to the collection of information and the control of paperwork, establish 1 point of contact in the agency to act as a liaison between the agency and small business concerns ..." (44 U.S.C. 3506(i)(1)).

In compliance with SBPRA, the Small Business Paperwork Relief Task Force gave notice in the *Federal Register* (68 Fed. Reg. 38405) of the availability of its Final Report on June 27, 2003. This Final Report is available on OMB's web site at http://www.whitehouse.gov/omb/inforeg/infocoll.html#sbp as well as at the SBA website at http://www.businesslaw.gov/. In addition, on June 27, 2003, OMB published in the *Federal Register* (68 Fed. Reg. 38526) a "list of the compliance assistance resources available to small businesses" and a list of the points of contacts in agencies "to act as a liaison between the agency and small business concerns" with respect to the collection of information and the control of paperwork. These lists are also available on OMB's web site at http://www.whitehouse.gov/omb/inforeg/infocoll.html#sbp and the SBA National Ombudsman's web site at http://www.sba.gov/ombudsman/compliance/complianceassist.html.

Legislative Background

The publication of these lists is part of a more comprehensive effort to assist small businesses. This initiative began several years ago with enactment of the "Small Business Regulatory Enforcement Fairness Act of 1996" (P.L.104-121, Title II) (SBREFA). SBREFA calls on agencies to "publish one or more guides to assist small entities in complying" with certain regulations (Section 212), and "to answer inquiries by small entities concerning information on, and advice about, compliance" with regulatory statutes (Section 213). In other words, Federal regulatory agencies are to develop small entity compliance guides, answer inquiries, and provide advice about regulatory compliance.

In addition, SBREFA created within the Small Business Administration the office of the "Small Business and Agriculture Enforcement Ombudsman" (Section 222). The SBA National Ombudsman's responsibilities are to work "with each agency having regulatory authority over small businesses to ensure that small business concerns [involving the agency's implementation and enforcement of that authority] are provided with a means to comment on the enforcement activity" conducted by the agency. The SBA National Ombudsman monitors and report annually to Congress on the enforcement practices of Federal regulatory agencies.

SBREFA was followed by the Small Business Paperwork Relief Act of 2002 (P.L. 107-198) (SBPRA). SBPRA established the Small Business Paperwork Relief Task Force. It requires OMB to publish compliance assistance resources for small businesses and directs agencies to establish a single point of contact with respect to the collection and control of Federal paperwork.

SBREFA and SBPRA are closely related. SBREFA focuses on helping small businesses understand how to comply with Federal regulations. SBPRA focuses on helping small businesses understand how to comply with Federal collections of information – that is, filling out forms, reporting information, and keeping certain records. These two types of requirements are related because, as the Small Business Paperwork Relief Task Force report noted, agencies generally collect information, or require those regulated to keep records, as part of regulatory provisions. The information-related provisions are designed to help the agency ensure compliance with the rule.

The close functional linkage between compliance with Federal regulations and with Federal reporting and recordkeeping requirements makes it important to coordinate these legislative initiatives designed to assist small businesses. It is also the reason that the development of the list of compliance assistance resources available to small businesses should be viewed in the context of the recommendations developed by the Small Business Paperwork Relief Task Force.

The list of compliance assistance resources describes what is now available from Federal agencies. The Small Business Paperwork Relief Task Force made recommendations on how to develop an interactive Government-wide Internet program

to identify applicable information collections and facilitate compliance. Thus, the Task Force is giving recommendations on various ways to help small businesses find the compliance assistance resources available from Federal agencies.

The Small Business Paperwork Relief Task Force

SBPRA charged the Director of OMB to convene the Small Business Paperwork Relief Task Force "to study the feasibility of streamlining requirements with respect to small business concerns regarding collection of information and strengthening dissemination of information" (44 U.S.C. 3520). The Director appointed Mark Forman, OMB's Administrator for E-Government and Information Technology, and me to co-chair the Small Business Paperwork Relief Task Force. The Task Force included representatives from the following agencies:

Department of Labor (including the Bureau of Labor Statistics and the Occupational Safety and Health Administration)
Environmental Protection Agency
Department of Transportation
Small Business Administration's Office of Advocacy
Small Business Administration
Department of Commerce
Internal Revenue Service
Department of Health and Human Services
Department of Agriculture
Department of Interior
General Services Administration

The Task Force proposed recommendations that will reduce the paperwork burden on small businesses and make it easier to find, understand and comply with government collections of information. Specifically, SBPRA charged the Task Force to examine five ways to reduce the information collection burden placed by government on small business concerns:

1) Examine the feasibility and desirability of consolidating information collection requirements within and across Federal agencies and programs, and identify ways of doing so.

2) Examine the feasibility and benefits to small businesses of having OMB publish a list of information collections organized in a manner by which they can more easily identify requirements with which they are expected to comply.

3) Examine the savings and develop recommendations for implementing electronic submissions of information to the Federal government with immediate feedback to the submitter.

4) Make recommendations to improve the electronic dissemination of information collected under Federal requirements.

5) Recommend a plan to develop an interactive Government-wide Internet program to identify applicable collections and facilitate compliance.

After the Small Business Paperwork Relief Task Force began its work, SBA's Office of Advocacy held a public meeting on March 4, 2003 to solicit views of interested persons regarding the SBPRA. A Draft Report of findings and recommendations for the first three ways to reduce burden was published in the *Federal Register* for Public Comments on May 9, 2003 (68 Fed. Reg. 25166). The comment period ended June 4, 2003, after which the comments were compiled and incorporated into the Final Report. The Final Report was delivered to Congress on June 26, 2003 and a Notice of Availability was published in the Federal Register June 27, 2003. The Small Business Paperwork Relief Task Force will address the remaining two ways to reduce paperwork burden in a report to Congress by June 2004.

The Small Business Paperwork Relief Task Force found that reducing small business paperwork burden is a challenge fraught with both regulatory and information technology issues. They also found that the Presidential E-Government Initiatives, such as the Business Compliance One Stop (BCOS) Initiative, and Expanding Electronic Tax Products for Businesses should help to overcome the technology and policy barriers involved with consolidating information collection requirements, publishing an organized searchable list of data collections, and implementing electronic submissions.

In fact, based on the Small Business Paperwork Relief Task Force recommendations, the Business Compliance One Stop Initiative changed its focus more specifically to reducing paperwork burden on businesses. The BCOS Initiative supports the goal of the set of initiatives that comprise the Government-to-Business, E-Government Portfolio: reducing the paperwork burden on businesses by adopting processes that enable collecting data once for multiple uses. Accordingly, BCOS will seek to reduce paperwork burden on businesses by consolidating and harmonizing Federal paperwork requirements with similar data elements across the Federal government. The first milestone will create an integrated e-forms solution (referred to as the "Business Gateway"), allowing businesses to find the forms and information collection requirements that apply to them and then submit information electronically to the Federal government one time. Once the information is submitted, the information could be shared securely across Federal agencies.

By undertaking this new focus, BCOS would help to meet the goals of the Government Paperwork Elimination Act, PRA, SBPRA, and the E-Government Act. The Task Force Report examined some of the challenges to reducing burden specifically on small businesses and laid out many issues that will need to be addressed as the BCOS Initiative takes on a paperwork burden reduction focus through an integrated e-forms solution.

The Government Paperwork Elimination Act seeks to have Federal agencies provide the option for electronic filing and electronic signature capabilities for the full range of government activities by October 21, 2003. This "Business Gateway" should help increase Federal agencies' GPEA compliance. The development of a Business Gateway should also be beneficial to businesses and citizens by providing the foundation to consolidate information collections and reduce redundant data and reduce the number of Federal forms.

Some have expressed a concern that the Task Force Report does not accomplish the intent of the SBPRA. However, the Act did not instruct the Task Force to reach any particular conclusion. Rather, for topic 2, for example, the Act directed the Task Force to "**examine the feasibility and benefits** to small businesses of publishing a list by the Director of the collections of information applicable to small business concerns ... organized – (A) by [NAICS] code; (B) by industrial sector description; **or** (C) in another manner ...." Consistent with the Act, the Task Force examined the feasibility of producing a list of information collections applicable to small businesses, but found that the information is not collected from agencies in a way that can classify what affects small businesses. Instead of going down a path of using inaccurate data, the Task Force proposed a recommendation that would change the direction of the Business Compliance One Stop project, so that information collections could be organized in a meaningful way.

In order to be useful to a business, the system must provide the user with a comprehensive list of the recordkeeping and reporting requirements for which the business is responsible. However, there is no Federal guidance that addresses how agencies should specify reporting and recordkeeping requirements applicable to a particular business size or sector.

Businesses may often be described by industry characteristics (e.g., dry cleaning, painting, furniture manufacturing). However, such classification systems, such as North American Industry Classification System codes (NAICS codes), do not indicate the applicability of particular Federal regulatory or information collection requirements to specific small business sectors. For example, OMB estimates that approximately 70% of information collections apply to many, or all, NAICS codes, e.g., all businesses are subject to requirements for reporting taxes to the IRS. Many businesses' activities are characterized by multiple NAICS codes. A list of reporting and recordkeeping requirements listed by NAICS codes alone would require many businesses to review multiple requirements listed under several NAICS codes. Such listings likely would include duplicative requirements.

Size is also a factor to be considered. Some statutes and regulations differentiate among businesses based on the size of the business; the agencies, in general, use different criteria to determine what is a large or a small business. In addition, agencies separate businesses using other criteria, for example, organizational structure (a sole proprietorship or a corporation), status within a business life cycle (e.g. a new business,

employer), or other unique criteria. As a result of the different descriptors used by agencies, no single criteria can be used to identify all of the reporting and recordkeeping requirements with which a single business must comply, and thus the Task Force did not recommend grouping information collections by a single firm size criterion

There have also been questions as to why the Task Force Report did not address the feasibility of requiring agencies to consolidate reporting requirements so that a small business can submit all information required to one point of contact at the agency in a single format or using a single electronic reporting system. The Task Force did examine consolidated reporting options, and found that there is an opportunity for improved consolidation of similar information collections and reporting requirements across the Federal government. However, they also found that given the diversity of Federal government activities, no one method or template for reporting would fit all information collections. Seemingly duplicative information collections may not be appropriate for consolidation due to the nature or utility of the data collected. For example, definitions across similar data collections may not be harmonized due to differences across industries or underlying statutes. Consolidation of such reporting requirements may lead to confusion, rather than simplification.

The use of electronic systems to collect and disperse information to the appropriate agencies is the easiest approach for the consolidation of information collections. More than simply converting forms to an electronic format, they offer the opportunity for re-engineering the entire information process, encouraging synchronized reporting and harmonized definitions. Electronic systems can also mitigate the issue of increased workload in short time frames raised by small business. Based on the Task Force's findings, the Business Compliance One Stop Project is now working to consolidate requirements by eliminating redundant data elements.

There has also been a question that the Final Report recommended a cumbersome approach that requires small businesses to self-identify applicable criteria that profile their business, and self-identify a comprehensive list of applicable requirements. The process in fact will be simple – the Business Compliance One Stop Initiative will create a system that allows businesses to find applicable requirements based on a very brief firm profile. For example, if you tell the system that you are a trucker in Boston, then you will get the requirements and associated forms that you need to submit to the Federal government. Therefore, the new Business Gateway will only require businesses to tell the system who it is at a very broad level, after which the system will figure out the applicable requirements.

A critical success factor in reducing paperwork burden on small businesses is a serious commitment from Federal agencies to collaborate with other agencies, stakeholders, state governments, and the business sector. This effort will also require a governance structure, resources, and technology to create the integrated e-forms solution.

In addition to E-Government opportunities for reducing burden, the Task Force recommended that Federal agencies continue to examine such opportunities for small businesses through partnerships within Federal agencies, across the government, and with stakeholders. Further, the Task Force recommendations encourage Federal agencies to improve outreach to small businesses, and use partnerships to identify streamlining opportunities.

Compliance Assistance Resources and Points of Contact Available to Small Businesses

OMB, with the active assistance and support of the SBA National Ombudsman, assembled a list of the compliance assistance resources available to small businesses. Because we thought it is helpful to the public to have the list of agency contacts together with the list of compliance assistance resources, OMB published these lists together. 15 Cabinet Agencies submitted information to the compliance assistance list. 35 non-Cabinet Agencies also submitted information for the list, which is a good comprehensive start to help small businesses.

The SBA's National Ombudsman significantly aided OMB in the compilation of the 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.

SBA realized the potential for the summaries to help small businesses with a comprehensive reference work that will reduce the hit-and-miss surfing from website to website, browsing this or that pamphlet, or phoning the limited number of federal agency contacts that local phone directories list.

SBA also organized the initial drafts of the compliance assistance summaries, and continued to help thereafter. SBA put out reminders, called individual agencies, facilitated a meeting on June 13 to distribute the compliance summary information received by that date, and worked right up to our internal deadlines for publication to round up information from as many agencies as possible.

Having aided OMB in making this first-ever compliance summary reference work a reality, SBA is looking already at ways to improve the accessibility of this information by conceiving a search-engine for small business inquirers who go to the SBA web site.

I am pleased that we published these lists, and thank Committee on Small Business Chairman Manzullo, who issued a press release praising the Small Business Administration and OMB for their diligent work in protecting small businesses. "Breaking down the regulatory burdens on our small businesses will benefit us all considering small business is the largest employer of Americans." Chairman Manzullo added, "with their list of resources and contacts in each agency, I feel we are well on our way to have small business better understand how to comply with and begin to change

federal government regulations and paperwork requirements and thereby, provide additional jobs."

On the other hand, I should also stress that our publication of the compliance assistance resources and points of contact available to small businesses is only a start of our effort. By placing this material on our and the SBA National Ombudsman's web sites, we can now update and improve this material (which we are required to do at least annually). With the cooperation and help of SBA, we will seek to include pertinent agencies that were not included originally. While we sought, as we neared the statutory deadline, to assure that the materials posted on our and the SBA National Ombudsman's web sites was identical, it appears that we made a few changes to our *Federal Register* submission after sharing our draft materials with the SBA National Ombudsman. We will both be correcting our respective website postings in the near future.

It has also been noted that, by our inclusion of the single points of contact in our compilation of compliance assistance resources, that small businesses were given a number of different contacts in various agencies to which they could seek assistance. Some agencies wanted to designate several points of contact in their major components for the sake of helping small business owners be able to identify as immediately as possible the most appropriate contacts in the agency. Neither we nor SBA wanted to inhibit agency efforts to fulfill the intention of Congress, and viewed it as better to give the most complete information as possible this first time instead of doing the minimum. We, SBA, and the agencies all assume that the next edition of this reference work with be better because it will be informed by our initial experience. The prevailing spirit was to include as much useful information as seemed appropriate, with the intent of making the succeeding editions increasingly useful to small business owners – in effect to have more information on which we could further refine this material, even as we continue to seek to include any additional information that was inadvertently excluded.

Reducing Paperwork Burdens on Small Business Concerns

In your letter of invitation, you requested that I provide information on specific reporting and recordkeeping reductions, exclusive of electronic filing, of at least 100,000 hours accomplished or planned in 2003 for small businesses.

I am happy to provide several examples of burden reduction for small businesses, both in the non-electronic and in the electronic arena. While the burden hour magnitude of these efforts may not be certain or reach 100,000 hours, these projects have substantial burden reduction potential.

The Department of Interior plans to reduce the burden on coal mining operators, many of which are small businesses, by streamlining how operators submit excise tax information. Specifically, the Office of Surface Mining is working with the Mine Safety and Health Administration and the Internal Revenue Service to consolidate various forms that collect similar information. This information is used to develop various quarterly

statistics on coal sales. In addition, individual reclamation fee liability is based on this information. If implemented, this initiative should reduce the paperwork burden and improve the accuracy of coal industry statistics.

The Department of Labor's (DOL) effort to revise the Report on Employment, Wages, and Hours collection is another example of non-electronic burden reductions for small businesses. As part of this collection, various monthly statistics on employment, hours, and earnings by industry are collected from businesses, including a large number of small businesses. These statistics are fundamental inputs in economic processes at all levels of government, private enterprise, and organized labor. DOL plans to reduce burden on businesses by phasing in a probability sample design, which will reduce the overall number of reports.

In addition to these non-electronic examples, we believe several e-government initiatives, which are described in greater detail below, will significantly reduce burden on small businesses. As you know, using the Internet to reduce burden on businesses is one of the four focuses of the Bush Administration's E-Government Strategy. We believe several e-government initiatives, which are described in greater detail below, will significantly reduce burden on small businesses. While some might think that many small businesses do not use or have computer access or Internet connectivity, this is simply not true. A Federal Reserve Board study found that over 70 percent of small and medium-sized firms use computers in their businesses. Moreover, over 75 percent of manufacturing plants with between 20-49 employees reported having Internet access.[1] As these numbers demonstrate, many small businesses already have computers and Internet access. The number of small firms with computers and Internet access is only likely to increase, not decrease. Therefore, to continue achieving meaningful burden reduction for small businesses, the Federal government's commitment and focus on using the Internet to facilitate a more efficient means of doing business with the government is extremely important.

The Business Compliance One Stop (discussed above), has developed a website, Businesslaw.gov, that has over a million visitors a month, more than 20,000 links, many referral points for businesses, and more than 17 compliance assistance areas. While, this is not associated with direct burden reduction in hours for businesses, it significantly aids them in understanding Federal requirements. In addition, the Business Compliance One Stop team has developed a proof of concept for harmonizing coal mine reporting, where information is collected once and used several times, which is estimated to cut the reporting burden by approximately 30 percent, from 50,000 hours annually to 35,000 hours.

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[1] *Main Street in the Digital Age: How Small and Medium-Sized Businesses are Using the Tools of the New Economy*, Department of Commerce, Economics and Statistics Administration, February 2002.

The Internal Revenue Service and Small Business Administration share responsibilities for the assigning and reusing an Employee Identification Number (EIN). Integrating the EIN application between these agencies shows great potential for burden reduction. Given IRS estimates that 2.4 million businesses annually apply for an Employee Identification Number (EIN), this application will reduce approximately 1 burden hour per EIN application resulting in a estimated cost savings of nearly $100 million per year. The initiative will streamline, harmonize, and automate the EIN process and use three strategies to accomplish this, including: reducing the information required from businesses through analyzing the need for the information; assessing whether definitions in different forms and forms in different agencies can be harmonized to reduce overlap; and increasing the effectiveness of data collections processes by collecting once and sharing data among programs and agencies. This initiative also represents the first Web service that fulfills both a state and a federal regulatory requirement at the same time.

Another related e-government project that is expected to significantly reduce the burden on businesses is the Expanding Electronic Tax Products for Businesses (EETPB) initiative. The objective of the EETPB is to reduce the tax-reporting burden on businesses while improving the efficiency and effectiveness of government operations. The initiative is comprised of seven projects that will deliver benefits by reducing the number of tax-related forms that businesses must file, providing timely and accurate tax information to businesses, increasing the availability of electronic tax filing, and modeling simplified Federal and state tax employment laws. These projects include Form 94x Series, Form 1120/1120S, Form 8850, Internet EIN, and the Standardized EIN.

That concludes my prepared testimony. I would be happy to answer any questions you may have.

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Mr. OSE. Thank you, Dr. Graham. Before I start my questions, let me just preface my remarks. This committee typically goes through witness testimony and then Member questions, and I presume that's the way, Mr. Schrock, you run your committee. Everybody is allocated 5 minutes. The manner in which we are going to go today is I will start and then Mr. Schrock and then Mr. Gonzalez and then we'll come back over to this side for questions. Each person will get 5 minutes. If people want a second round, we'll go another round of 5 minutes. The record will be left open for 10 days for folks to submit questions in writing for our witnesses to respond to. That's our typical procedure, and that's what we'll do today.

Now, I am going to take the first 5 minutes. I learned a lesson on Tuesday in Financial Services. I was witness to the excellent chairing of a committee with an absolute time imposition of 5 minutes by the Chairlady from New York, and I am going to hope to emulate her success at that hearing this morning, so the gavel will be heavy at 5 minutes. So, start the clock.

Dr. Graham, my first question is, every information request that an agency puts out has to be vetted through OMB and has to have an OMB control number, and, if the information request lacks the number that indicates it hasn't been vetted and therefore it's not required to be responded to. That's my understanding of previous hearings that we have had.

Dr. GRAHAM. Yes, sir.

Mr. OSE. So, if there is no OMB control number, is that an indication that the document is not a binding document. Is that an accurate statement?

Dr. GRAHAM. Well, you're asking a nonlawyer that question, but that is my understanding. It is an unenforceable collection if it doesn't have an OMB control number.

Mr. OSE. All right. I always like to get that on the record, just kind of ground rule No. 1. Now, I want to go to the chart over here that's leaning against the wall, the one that's got the purple, blue, red and white on it. That is a chart of every agency which interacts with the public for which there is a paperwork requirement and for which we were seeking, under the law passed, a single point of contact and a single phone number for which the public could contact. Now, some of the agencies have not responded or maybe they have responded and have said they don't have anyone. I just want to go through the ones that are noted on that chart as either none or missing, and get that on the record. Do you have a copy? You have a copy of that?

Dr. GRAHAM. Yes, I have a copy right here, sir.

Mr. OSE. OK. Now, Housing and Urban Development, number of single points of contact, that chart notes none. Did HUD respond? Did they just ignore your request? Do you have any recollection of that? I'm just going to go down the list here.

Dr. GRAHAM. Well, I'm aware that for three of these departments we could not in the final analysis get them to identify only one. That's not because we didn't try. Your data says two. I trust you. I knew there were a couple of them that have multiple contact names.

Mr. OSE. OK. I see that Treasury has multiple contact names.

Dr. GRAHAM. Right.

Mr. OSE. But, we're specifically referring to Housing and Urban Development and Labor. They have provided no single point of contact in accordance with the law that mandates this information.

Dr. GRAHAM. Meaning they have supplied more than one. There may have been one that didn't supply any, but my understanding, our problem in this territory was predominantly that we had some that didn't want to pick just one.

Mr. OSE. Well, did they submit any?

Dr. GRAHAM. Some of them did, yes, submit more than one.

Mr. OSE. Did some submit none?

Dr. GRAHAM. I don't remember. There may be some. Are you talking about just the departments at the top?

Mr. OSE. I'm talking about——

Dr. GRAHAM. Or are you talking about the whole list? For some of them we didn't get any response at all.

Mr. OSE. Well, that's part of my question there. But, in turquoise you will see on that chart there are eight lines outlined in turquoise, the first of which is Housing and Urban Development, which notes that as a single point of contact, none.

Dr. GRAHAM. I'll check for you if you want whether that means they didn't supply anything or whether they supplied more than one. I don't remember.

Mr. OSE. OK. That's also the same response for the Department of Labor?

Dr. GRAHAM. Oh, I know Labor supplied us information. They weren't nonresponsive. They were active. They just didn't want to pick one.

Mr. OSE. Well, that begs the question. I mean, the law is very specific.

Dr. GRAHAM. They were well aware of the law. We read them the law.

Mr. OSE. OK. Let's delve into this a little bit. Who at the Department of Labor is making the determination as to who shall be the single point of contact? Who makes that determination?

Dr. GRAHAM. I don't know that in a formal sense. I can tell you that for those agencies, including Labor, that did not provide a single contact and instead provided more than one, I can try to explain to you from their perspective why they chose to respond that way if that would be helpful.

Mr. OSE. Well, I think that would be helpful, yes.

Dr. GRAHAM. Well, a number of these agencies, particularly cabinet agencies, have different units within the agency that have distinct statutory and regulatory responsibility, and they felt it would be more useful for the small business community to have the point of contact be at the level of a subagency rather than the agency as a whole. That was one form of their concern.

Mr. OSE. All right. I have to drop the hammer on myself.

Dr. GRAHAM. All right.

Mr. OSE. Mr. Schrock for 5 minutes.

Mr. SCHROCK. Thank you, Mr. Chairman. I'm puzzled by a couple of words you said, Doctor. You talked about how you're generally open to getting hold of some of these regulations. Generally open means to me you're not really going to do so. In your opening state-

ment, you said generally open, you and the administration are generally open to doing some of the things that we have tasked you to do. Do you remember saying that?

Dr. GRAHAM. Oh, absolutely, sir.

Mr. SCHROCK. What do you mean, generally? I would think you would be totally open to that.

Dr. GRAHAM. Well, Mr. Ose has never asked for anything unreasonable so I would never have applied that restriction to him. But in your case, I have to be very careful.

Mr. SCHROCK. OK. You talk about electronic strategy and I understand that. But I think, as I recall, and somebody will correct me if I'm wrong, I think 43 percent of small business didn't really have access to this. My guess is the Frank Manzullos of the world don't, and we seem to be starting off with that, and it seems like we're trying to put the roof on before we build the basement and I wonder how we get around that. Because the Frank Manzullos of the world are going to have to have some way to access these agencies, and is he going to want to spend a lot of time on the phone calling them when he doesn't know who he's calling? How do we help these people with that? And, while I'm on that, why don't we have 800 or 888 numbers on there? Why should some guy in Rockford, IL or Keokuk, IA have to call and probably get put on hold for 5 minutes, as happened to me yesterday, and be transferred from this person to that person? That's just another expense that small businesses don't need. I notice some agencies do and I wonder why the others don't.

Dr. GRAHAM. I think that's a great question, and I am going to leave this hearing and ask and find the answer, and, if there is not a good answer, then we are going to have 800 numbers on there.

As to the first part of your question, just briefly I want to point out that the data that we are seeing on small business access to computers and Internet is more optimistic than I think some of the other data that's been referred to. According to the latest Dunn & Bradstreet study, we have 80 percent and increasing at about 5 percent per year. So, I think we should keep in mind there are a lot of small businesses out there which are very active with the Internet and which would like to have an ability to interface with the government electronically in a consolidated way, as intended by the statute.

Mr. SCHROCK. OK. I can tell you, from a personal standpoint, when I ran for the Virginia State Senate the first time, I honest to God did not know how to turn on a computer. I didn't. Boy, have I learned. And, it is people like the people behind me who have taught me. But, I have some time to do that.

If Frank Manzullo is frying fish all day long, I am not sure that he is going to have a lot of time to do it. I worry about those who don't do it, that they will be left out in the cold.

Dr. GRAHAM. I agree. We should worry about those.

Mr. SCHROCK. You talked about paperwork limitations. Expand. You said there were limitations on what you could do.

Dr. GRAHAM. Yes. The Paperwork Reduction Act, as it is designed, calls for the review of each paperwork or information collection request. But, it doesn't simply call on agencies to eliminate these paperwork burdens. It says the agency needs to analyze them

to see whether the information that is going to be collected is important or useful to the government program that is going to collect the information.

That requires, then, a judgment call as to whether that information that is being collected is, in fact, really necessary for the conduct of that program. And, that is a line-by-line evaluation in terms of the paperwork. So, it is a very intensive job for an agency to develop its paperwork and for us to do paperwork review.

Mr. SCHROCK. An example of that, during the Census, my wife and I got volumes of stuff they sent you in the mail. And, frankly, they asked information that was nobody's business. Nobody's business. And, I just wrote such on there. Of course, I didn't get fined and I am not in jail, but what gall. I mean, why do they do this sort of thing? Why don't they just ask, who is living there, what your ages are, your birth dates, and let it go at that?

Why do they have to ask what kind of peanut butter I use, and they did ask crazy things like that.

That is just one regulation. There are probably thousands and thousands of other regulations that do the same thing. And, when a lot of businesses know that, if they don't answer some of these regulations, they are going to get fined—I think businesses said, if they didn't answer them, they were going to get a $500 fine—God, why do we permit that kind of stuff? Why don't we just stop that altogether?

Dr. GRAHAM. I like the specificity of your question. If you give me the specific questions in the Census which you do not think need to be included, send them to me, and I will try to learn if the Census has good and sensible reasons to include them.

Mr. SCHROCK. Well, I already sent it back to them, told them what they could do with it. So, I don't have it. But, I mean, everybody probably got that sort of thing.

Dr. GRAHAM. The reason I ask is, it is a big fight each time around on which questions to include in that form. That is not an easy thing to do, to include a question on that form.

Mr. SCHROCK. Why do they have to do it in the first place? Why do they need to know what kind of peanut butter or pajamas I wear? Give me a break.

Dr. GRAHAM. If you have examples like that you would like me to look into, I am happy to do it, sir.

Mr. SCHROCK. I am going to be gaveled out of here real quick, so I yield back.

Mr. OSE. The gentleman's time has expired.

The gentleman from Texas.

Mr. GONZALEZ. Thank you, Mr. Chairman.

Dr. Graham, in the scheme of things and what we attempted to do here through legislation back then by passing on the responsibility to the individual agencies, what if an agency doesn't really review the impact on small businesses of any proposed regulation, anything that they are—back, second, they don't review to cull through the unnecessary, to streamline, which we have mandated that they do both, in essence, but they don't do it. They never do it.

How do we get their attention? What should be the consequence? What are the tools available to us? Because, as long as things are

aspirational, nothing ever gets done. I mean, I think that is a good rule in D.C., or anywhere else.

So what would be an effective tool for this committee to look to to implement when it comes to these individuals and these agencies that obviously aren't really looking at those regs, the consequences, and how to streamline?

Dr. GRAHAM. Well, let me first say that I think that part of the responsibility to make sure that agencies are looking at small business impacts resides in our office, within OMB, in collaboration with the Advocacy Office of the Small Business Administration. And, when there are small businesses which feel that those analyses are being done poorly or not being done at all, when that happens, then they should feel comfortable coming to OMB and making that case; and, we will look into it and see why that isn't being done and how it can be fixed. And, we do have the authority to ask an agency to reconsider a regulation that they are developing if they have not looked carefully at small business impacts.

Now, if your question is, what can be done outside the executive branch, I think that is a much bigger question in terms of, for example, what types of avenues should there be in the judicial system for small businesses to seek protection in the event that their interests are not considered carefully. That, I think, is a much bigger question, and frankly I don't know the legal aspects now, that well, to give you a firm answer to that.

Mr. GONZALEZ. I am looking at agency behavior, and I know that it is trite, but to say a bureaucracy environment, or culture, how do we enter that and make a difference, how do we say that we really mean business? We want you to look at the regulatory impact of your regulatory scheme before you create anything new in the way of proposals. We also want you to look where you have been and what you have on the books now that truly doesn't make any sense.

How many complaints do we have to get for you guys to understand that surely some things are no longer relevant, but are still out there and, once in a while, are enforced with no practical effect or benefit? How do we do that? How do we enter that culture? How do we get people's attention?

Dr. GRAHAM. Well, one thing we've noticed in the task force that we worked with for the last year is that the representatives from the various agencies that came into the task force, by interest and orientation, did tend to have an interest in small business impacts. But, that is, by no means, fully representative of the agencies that they represent.

There are a lot of people in the agencies who have many different interests and much different agendas than concerns about small business. That says to me that the committee needs to find ways—and we can work with you on this—to build units within these agencies that are designed with a mandate to care about the impact on small business.

Mr. GONZALEZ. And, you bring out a very good point, because it doesn't matter if you have a very dedicated person within that agency who sincerely wants to see all of these things bear fruit. But, the truth is, at the very top, if it is not encouraged, endorsed

and embraced by real decisionmakers within the agency, it goes nowhere.

The other day we had a hearing on contract bundling. There is not a department or agency out there that gets a passing grade on it. And, so, someone was saying, what is a consequence to them if they continue to bundle, ignore the 8(a) Program in the small business sector? There is no consequence. Unless, we started saying to them, all right, if you don't meet your percentages that are realistic, then maybe you shouldn't be able to bundle. You get to bundle fewer contracts.

What could we do with agencies today that just aren't meeting the responsibility when they promulgate regulations and when they basically enforce or when there is a lack of efficiency and streamlining? I mean, I know what you are telling me, but I am just saying, as a practical aspect, I know there is some sort of—we can try some sort of incentive, reward.

But, what about the other end that is the opposite of the reward, and that is some negative consequence for inaction? What is it? What form would it take? Do you have any suggestion?

Dr. GRAHAM. I don't claim to have the answer to your question, which I think is a sensible one and a reasonable one. But, I think looking at the end of the pipeline for what you do when things go wrong is only part of the solution.

I think we need to build in the agencies the equivalent of the Advocacy Office of Small Business, the one we have now. We need to build that kind of orientation and perspective into these different regulatory agencies. I don't think it is realistic to think that we can do it without building that capability into the bureaucracy itself.

And, some will say that is just adding to the bureaucracy, and that is a reasonable point as well. But, until you get that perspective guilt into the fabric of those regulatory agencies, it is going to be very hard to change.

Mr. GONZALEZ. Thank you.

Mr. OSE. The gentleman's time has expired.

The gentlelady from New York.

Mrs. KELLY. Thank you, Mr. Chairman.

Dr. Graham, I would like to ask you a couple of questions about your June 27th report. You recommended that there be a new electronic system, and, as you have heard this morning, there are many people in business who can't turn on a computer. They don't own a computer because of the cost. While it may be time-saving for you, people have other things to do with the money that they have as profits, because the profit margin on small business is quite small for many people, and they don't put it into computers.

So, when you recommended electronic reporting, you also recommended that these small businesses self-identify applicable criteria that profile their business and self-identify a comprehensive list of applicable requirements. How the heck are they supposed to do that if they haven't read the Federal Register and don't know what is out there? I don't understand how that is supposed to work.

It seems to me, given the state of technology today, we have telephones that are pretty good. It seems to me that most of us, while

we hate them, can sit and listen to a telephone menu and punch the right numbers to get through.

But, I would be at a loss to self-identify in one of my businesses for instance—say the florist business that I was in, I would be at a loss to self-identify. I know what I am trying to ask, but I don't know what pew it belongs in. So I have the church music, but I don't know where to sit and what pew.

And, you are telling me that I have to do that? It seems to me we need another way around that. Have you got another answer to that?

Dr. GRAHAM. Well, I think your diagnosis of a problem is correct, which is, in order for the electronic interactive solution to work, either the small businessperson has to be able to describe its business sufficiently accurately so that the underlying software can then identify the appropriate requirements, OK? Or you have to have very well-designed software to take very limited information from the small businessperson.

But, I agree with the premise of your question that it can't be that the answer is a small businessperson knows all of the applicable paperwork and business requirements first, and then they tell the business gateway system that is what they are. That is not going to work. I don't think that is the intention.

Mrs. KELLY. But, that was in your final report.

Dr. GRAHAM. I would have to go and read the exact provisions you are talking about.

My understanding, based upon the briefing that I had, is the idea that the florist—and I don't know that business at all—would say a few basic things about the business, information that any florist would know about the business, and then the underlying software structure has to be able to say, that means this agency, this paperwork requirement, that regulation. That is quite an engine that has to be within that software in order to accomplish that.

Mrs. KELLY. Would you give me—the fact that it might be just as easy and possibly faster, because, in small business, time is money. It costs me money to call down here to Washington, it costs me time to sit on the telephone; and, if I am running a small business, I don't need to sit on that phone and spend a lot of time trying to punch buttons, trying to get my way through.

There has to be a way that the OMB can help us help small business, first of all, know what the regulations are and get to a warm body that can answer some of the questions, because you cannot do it electronically. We need warm bodies with brains who know what is going on.

The other thing is that, in your final report, you didn't address the feasibility of requiring the agencies to consolidate reporting requirements in order that every small business can submit all of the information required by the agency to one point. You didn't really address that.

That is part of what my bill would have done, if we had done the thing at the GAO.

So, I am wanting to—what I really guess I am saying is, would you work with us to try to help us help small business understand the rules and regulations, get a single point of contact where at least they will get a menu that they can scroll down through, or

they can punch down through, so they can get the answers to—getting into the right pew so they can sit with the choir and sing the same music and figure out what their problems are?

Can you work with us? Because this is your final report, and I don't think it is adequate enough to suffice to help small business.

Dr. GRAHAM. Yes. We are happy to work with you and the small business community. And, this was just the first, as I understand it, of a 2-year project. We have another task force report coming a year from now. And, if you have specific issues that you would like us to make sure that we turn our attention to, we are happy to talk with you and do the best we can.

Mrs. KELLY. Just to followup, and I realize I've got a red light here, but I just want to followup and say we need this now, and the sooner we can get it—waiting for yet another report, we can study this thing to death. We've got to get it under way, because our small businesses are hurting.

They form our economy. We need to support them, and the sooner the better.

Thank you very much, though, for appearing here today.

Mr. OSE. The gentleman from Arizona.

Mr. FRANKS. Mr. Chairman, Dr. Graham, I know you have a very difficult job, especially when there is a lot of frustration; and there are a lot of former business people on this committee, and I happen to be one of them.

It is not hyperbole to say that, in the course of our business, we sincerely spent probably 30 to 40 percent of the total office time and the total energies of our in-office—not in the field, but in the office, complying with or trying to navigate some type of regulatory scheme. And, I am just, of the opinion that the primary concern of the public is to prevent business from either endangering the public or from directly and demonstrably defrauding the public.

But it occurs to me that if regulatory agencies were required, No. 1, to make those regulations—to say that any particular regulation, that they had to make in writing the statement to the Congress, that this regulation is absolutely mandated by statute, for all of those that are, so that we would know what was our fault.

And, second, if the agencies were required that every regulation that they promulgated outside of a statutory mandate, that they had to meet a criteria of about three things. No. 1, that this was critically necessary to prevent demonstrable fraud or endangerment to the public; No. 2, that they said in writing, that this was absolutely necessary; and No. 3, that they had consulted with the other agencies to ascertain ways to give businesses the easiest possible road to compliance.

Now, I know I have thrown a lot at you right there. But part of the challenge is, sometimes these regulations accumulate to the point that, when everyone just takes a look at the obvious and sees the type of regulation that small business faces, they are astonished. And, I am just wondering if any of those, or if you could respond to any of that?

I realize it is kind of a conglomerate to respond to.

Dr. GRAHAM. There is a lot of constructive thought underlying the question, and a lot of good ideas in it. And, we do have some responsibility at OMB to be doing some of those things that you are

talking about now, for example, making sure that multiple agencies within the government have a say in a regulation before it is adopted, rather than relying on one particular agency's perspective to dominate the view of the Federal Government.

But, some of the other things that you mentioned, we don't currently have as part of our daily practice at OMB. We are eager to meet with you and talk with you about the practicality and the sensibility of those approaches.

Mr. FRANKS. Just a last question, Dr. Graham. I am just wondering, do you think that it would be in the interest of small business and just the challenges that you face for some type of very simplified criteria that would be put forth by the Congress that would simply say that all regulation either has to be directly mandated by statute, or it has to meet one or two or three or four or five simple criteria, to where we all kind of are on the same page; and that the regulatory genesis, or the impulse for regulation all came from the same agreed-upon consensus or foundation?

Do you think that some type of bill like that, I am sure that the gentlelady from New York has aimed in that direction already. But do you think that there is any efficacy in trying to pursue something like that in a new and a fresh way?

Dr. GRAHAM. Well, I certainly am going to go back and check the gentlelady from New York's bill, that I remember seeing a couple of years ago, but I don't remember it that well. But, I am going to look at that, particularly on the integrated point that you made in your comments.

On those specific ideas, the basic idea that Congress would take steps through procedure or law to assume more accountability for regulations that are adopted in the Federal Government, I think, is a basic principle that is a great idea. Now, the specifics of how that would be implemented we would have to look at pretty carefully.

There are some lawyers in the administration that would look at that pretty carefully too. But, I think that the basic thrust of your question is, shouldn't we find a way, not just for OMB to assume more accountability, but for Congress to assume more accountability in this area? I think that is a great idea.

Mr. FRANKS. Thank you, Dr. Graham, Mr. Chairman.

Mr. OSE. The gentleman's time has expired.

We have been called for votes. There are five votes. The scheduled time on those votes is 45 minutes.

So, Dr. Graham, we are constrained to be, as usual, respectful of your time. We are going to submit our questions to you in writing and ask for a prompt and timely response, as usual.

We will go over for the votes, come back for the third panel. I know that Chairman Schrock is planning on coming back. I am certainly planning on coming back. That is the 10-minute bell.

Is everybody OK with that?

Mr. GONZALEZ. That is fine.

Mr. OSE. OK. I am going to go ahead and ask two questions of Dr. Graham.

On this list over here, it has 71 agencies, listing the compliance assistance person and the single point-of-contact person. You have

heard everybody up here talk about making sure that list is up to date with 800 numbers and all of that sort of stuff.

Will OMB be publishing a revised document to include points of contact for all of the agencies?

Dr. GRAHAM. Given the premise of the chairman's question, we will be working hard on that.

Mr. OSE. When do you think that can be accomplished by?

Dr. GRAHAM. I need to get a better feel, particularly for the independent agencies which are on your list, how realistic is it for us to accomplish that. I need to talk to my colleagues about that.

Mr. OSE. Would you please remind them that it is the law?

Dr. GRAHAM. Yes, sir.

Mr. OSE. If you could just do me a favor, those who balk, could you just drop me a note, you know, like their name and their phone number, and I can probably visit with them here. And we could ask them directly, why is it that you haven't provided this single point of contact to OIRA? I will be your bad cop.

Dr. GRAHAM. That will help me get the job done.

Mr. OSE. I will be happy to do that, because it is the law. I would like to do it sooner rather than later.

The other question I have is that we did something kind of entrepreneurial around here. We contacted some of the indicated single points of contact.

Dr. GRAHAM. I find that interesting. What did you learn?

Mr. OSE. Well, we had mixed results, Dr. Graham. Some with whom we talked, who were identified on this list as the single point of contact, said, they didn't know anything about it. Some whom we talked with weren't able to answer our questions, which brings us to the heart of the matter.

Has OMB done any training for those people who are answering these questions on paperwork for small business, or does OMB intend to provide any training, or the agencies provide any training and the like?

I mean, there is a certain level of competence that has to be embedded in the responsive party. I am trying to get at how we get that into that person, and then how do we measure its effectiveness?

Dr. GRAHAM. I guess I think of it as a question of priority and importance that is an OMB role. If it is a training question, I have a feeling that we probably should have SBA or SBA Advocacy in the training role with us participating in collaboration with them.

Mr. OSE. It seems to me that the only way we can get a consistent level of performance is to define what our expectations are from these single points of contact, and then make sure that level of expectation is met.

The question really that I am trying to get at is, when will that training take place? How do we set the standard, whether it is a guidance or interagency communication, or whatever; and then how does that training get done?

Dr. GRAHAM. I would say, one useful standard would be, if you do a little bit of that sampling of phone calls a year from now, after we go through another round of this, it will be interesting to have those results. We will try to get you in much shorter order than that updated list.

Mr. OSE. It won't be a year from now. It is likely to be next week or we might even do it tomorrow. Our purpose is to shine a spotlight on this thing, because we are intent on the law being followed.

Dr. GRAHAM. Will you share with us the calls that you have made so far, so we have a sense of where the soft spots are?

Mr. OSE. Actually, you have a list of our calls here.

Dr. GRAHAM. Did any of them work, even a single one?

Mr. OSE. Well, some people say, yes, some people say, no. But we were able to identify, as you see on that chart, single points of contact.

And, then on another chart we have a list of the names and the phone numbers. But, again, that second chart of names and phone numbers mirrors the first chart in terms of some where we got a response of, we don't have someone yet; or, it is not us; or, it is missing, or the like. We will be happy to give you a list or a copy of this list.

Dr. GRAHAM. That would be useful.

Mr. OSE. I think you may have it already. It looks like this. Can you see that from there? All of the fine print. Right?

[The information referred to follows:]

NAMES & TELEPHONE NUMBERS FOR SINGLE POINTS OF CONTACT

DEPARTMENT/AGENCY	NAME	TELEPHONE NUMBER
Departments		
Agriculture	Jacquelyn Chandler	202-720-1516
Commerce	Tom Pike	202-482-4797
Defense	Robert Cushing	703-604-6269
Education	Angela Arrington	202-260-6871
Energy	Theresa Speake	202-586-8383
Health & Human Services	Robert Polson	202-260-0040
Homeland Security	Elizabeth Callaway	202-282-8484
Housing & Urban Development	NONE	
Interior	John Strylowski	202-208-3071
Justice	Joseph Bryan	202-616-0521
Labor	NONE	
State	Gregory Davis	202-312-9603
Transportation	Daniel Matthews	202-366-9201
Treasury	2: Jody Falvey & Michael Chesman	202- 622-2826 & 283-7673
Veterans Affairs	Ramsey Alexander	**800-949-8156**
Independ. Exec. Br. Agencies		
AID	Marilyn Marton	202-712-1500
CNCS	MISSING	
EPA	Karen Brown	202-566-2816
EEOC	Laura Hinton	202-663-4811
EOP	MISSING	
Export-Import Bank of the US	Letitia Kress	202-565-3613
FMCS	MISSING	
GSA	MISSING	
IMS	MISSING	
MSPB	Richard Dorr	202-653-6772 x1113
NASA	office w/o contact name	202-358-2088
NARA	Adrienne Thomas	301-837-3050
NEA	MISSING	
NEH	Susan Daisey	202-606-8494
Nat. Mediation Board	Denise Vines	202-692-5010
NTSB	MISSING	
NSF	MISSING	
OGE	MISSING	
OMB	MISSING	
ONDCP	MISSING	
OPM	Henry Wong	202-606-2240
Office of Special Counsel	MISSING	
OPIC	MISSING	
Peace Corps	Judy Dawes	**800-424-8580**
PBGC	Diane Morstein	**800-736-2444** x4136
RRB	Ronald Hodapp	312-751-3366
SSS	Calvin Montgomery	703-605-4038
SBA	Jacqueline White	202-205-7044
SSA	Liz Davidson	410-965-0454
Surface Transportation Board	Anne Quinlan	202-565-1727
TVA	Philip McMullan	615-232-6227
USITC	MISSING	
USTR	MISSING	
Indep. Regulatory & Banking		
CFTC	Terry Arbit	202-418-5257
CPSC	Thomas Murr	301-504-7907
FCC	office w/o contact name	202-418-0990
FDIC	Edward Gerber	202-942-3869
FERC	Thomas Russo	202-502-8004
Fed. Housing Finance Board	MISSING	
FMC	Joseph Farrell	202-523-5807
Fed. Reserve Board	Cindy Ayouch	202-452-3829
FTC	NONE	
NCUA	NONE	
NRC	Brenda Shelton	301-415-7233
SEC	Gerald LaPorte	202-942-2950
Small & Misc. Organizations		
Appraisal Subcomm. of FFIEC	MISSING	
Comm. Purchase Blind/Hand.	MISSING	
Emerg. Oil & Gas Guar. Loan	MISSING	
Emerg. Steel Guar. Loan Board	MISSING	
Federal Acquisition Regulation	MISSING	
Harry S Truman Scholarship	MISSING	
Interagency Council Homeless	MISSING	
M.K. Udall Found. for Envir.	MISSING	
Nat. Comm. on Libraries & Info	Robert Willard	202-606-9204
Nat. Indian Gaming Comm.	NONE	
Nat. Institute for Literacy	MISSING	

Mr. OSE. So, anyway, so we will be monitoring that in our unique way. So I would hope that it doesn't take a year to contact these folks and get them on the stick here so that we can get this stuff resolved.

Now, again, I want to thank you for coming. We will direct our questions to you in writing. Obviously, we appreciate your time and response, which you have always done in the past.

I have 4 minutes to get over to vote, so we are going to go into recess. We will reconvene at 12:30 for the benefit of the third panel.

Dr. Graham, thank you for appearing.

Dr. GRAHAM. Thank you very much.

[Recess.]

Mr. OSE. The committee will reconvene. I want to welcome our second panel to the witness table. And, as you heard me with Dr. Graham, we swear everybody in here. So, if you all would raise and raise your right hands.

[Witnesses sworn.]

Mr. OSE. Let the record show that the witnesses answered in the affirmative. We welcome today to our third panel Ms. Karen Kerrigan, chairman of the Small Business Survival Committee, and Mr. Andrew Langer, manager of regulatory policy for the National Federation of Independent Business.

Now, before you start, let me just share with you that we have received your written submittals. We have reviewed them. We are going to give you 5 minutes each to summarize. I will forewarn you that the other hearing that I am running back and forth to has had the same difficulty we have had.

So, I may step out for a moment, in which case Mr. Schrock will take the Chair.

Ms. Kerrigan, you are recognized for 5 minutes.

STATEMENTS OF KAREN KERRIGAN, CHAIRMAN AND FOUNDER, SMALL BUSINESS SURVIVAL COMMITTEE; AND ANDREW M. LANGER, MANAGER, REGULATORY POLICY, NATIONAL FEDERATION OF INDEPENDENT BUSINESS

Ms. KERRIGAN. Thank you, Chairman Ose and Chairman Schrock. It is an honor to be part of this hearing today, and, on behalf of the Small Business Survival Committee and our membership, we appreciate being invited to present our views.

First, let me thank you, both of you, for your leadership on this issue and for your interest in this issue. Government paperwork certainly is not the most riveting of topics in the political world or on Capitol Hill these days. Yet, excessive paperwork requirements and the burden imposed on small businesses remain a challenge and a key issue of concern for our sector.

Again, my name is Karen Kerrigan. I am chairman of the Small Business Survival Committee, a nonpartisan nonprofit small business advocacy organization with more than 70,000 members nationwide. Modernizing the regulatory structures and processes in government is a central objective of our organization, and we have been engaged and certainly supportive of legislative solutions over the years to reduce the burden of regulation and paperwork requirements in the small business and entrepreneurial sector.

Again, we applaud the hosting of these oversight hearings today, as we believe persistent and rigorous oversight by the Congress is the key to accomplishing the objectives of not only paperwork reduction, but so many other reform measures signed into law to improve our system of government. Certainly with respect to the Paperwork Relief Act of 2002, the ongoing interest and oversight of Congress, as well as the commitment of the administration and OMB, are central to seeing meaningful activity and changes within the agencies. And, let me add that our organization and members stand ready to assist and constructively participate in that process.

With respect to where we stand today in the implementation of the act of 2002, the OMB's progress to date is decidedly mixed. Now, in fairness to the current administration and OMB, it has inherited a longstanding and very complex challenge. I believe the small business community has realistic expectations in what is and what is not accomplishable in a year's time. However, certain benchmarks were established by the act, and we find there is room for improvement in many areas.

I do applaud their plans and progress to date for integrating technology to better inform and help small businesses with their paperwork obligations. Indeed, technology is an important tool to help the OMB strive to achieve PRA goals, as well as complementary ones established by the administration's e-gov initiative.

Let me add, however, that these efforts should not supersede the central objective of paperwork reduction, which is actually to reduce paperwork. The essence and intent of the act captures many of the chief concerns and the needs of small businesses in regards to the complexity of accessing, understanding and complying with the Federal paperwork requirements. Therefore, progress in key areas would be very helpful, specifically, a single small business point of contact within each agency.

The OMB's work in this initiative is unfinished. In reviewing the listing on the Federal Register, we found that for some agencies, there are multiple points of contact and for others none exist. From our perspective, it seems to make sense to have a consistent department across agencies be responsible for being the single small business point of contact.

Such consistency could encourage both formal and informal dialog and coordination between agencies in regards to successfully performing this function, and I believe small businesses would receive more consistent direction.

I also believe it would lead to a more productive and structured relationship with the small business community in conducting outreach and seeking input in developing and implementing measures to help small businesses understand and comply with paperwork rules, as well as identifying opportunities for reduction.

It has been suggested by some in the small business community that each agency's single point of contact report directly to the Chief Information Officer, the rationale being that the CIO is the natural fit, due to its information collection responsibility. Our standard is that the single point of contact be able to consistently, quickly and accurately provide the small business owner with the information he or she needs to properly comply with Federal regulations or direct them to a knowledgeable person who can.

Second, small businesses in the small business community have regularly requested that the Federal Government develop a central repository of all regulations and paperwork that they are required to comply with. It only makes sense that the government provide such a tool if they are serious about compliance. There simply has to be a way that the Federal Government can organize this information in one place, both in electronic and hard copy format. I can only emphasize what a useful resource a central listing or portal would be for small businesses.

It could also serve as a potential pool for identifying opportunities for consolidation or reduction in paperwork. Putting all of those requirements under one roof or on one list will allow agencies, affected parties and the public the opportunity to not only understand the scope of the challenge but also may help to generate solutions from these parties.

Let me just end by saying, the integration, the consolidation, and the frequency and redundancy of paperwork reporting truly is the larger objective; and in its recommendations, OMB went over certain steps and procedures to make that happen in terms of making agencies come up with a plan of action for reporting to the OMB on what their plan is.

The bottom line is that there has to be a hammer somewhere. OMB has to follow through on this if something is to happen.

Again, I thank you. There is the hammer right there. And, I see it coming this way if I don't close.

But, again, we thank you for your oversight. As Mr. Gonzalez had mentioned, the bureaucracy is winning, and they know how to win if Congress doesn't play an active role in making sure that the objectives of the Paperwork Reduction Act are not achieved.

So, again, I look forward to working with you. We look forward to working with OMB and the administration in making that happen. Thank you.

[The prepared statement of Ms. Kerrigan follows:]

"Implementation of the Small Business Paperwork Relief Act (P.L. 107-198) by the Office of Management and Budget (OMB)"

Testimony by

Karen Kerrigan
Chairman & Founder
Small Business Survival Committee

Before the

Government Reform Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs

With the
Small Business Subcommittee on Regulatory Reform

United States House of Representatives
July 18, 2003

Doug Ose, Chairman
Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs
Committee on Government Reform

Edward L. Schrock, Chairman
Subcommittee on Regulatory Reform and Oversight
Committee on Small Business

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Introduction

On behalf of the Small Business Survival Committee (SBSC) and its nationwide membership, I wish to thank Chairman Ose and Chairman Schrock for hosting this joint committee hearing on an issue of continued significance for the small business and entrepreneurial sector of the economy. Indeed, the paperwork burden imposed by government remains a challenging aspect of running a small business.

SBSC applauds the leadership of the respective subcommittees for reviewing the progress of the Small Business Paperwork Relief Act of 2002, the purpose of which is to identify and implement specific measures to reduce federal government paperwork on small businesses.

My name is Karen Kerrigan, Chairman of SBSC, a nonprofit, nonpartisan small business advocacy organization headquartered in Washington, D.C.. We are pleased to be a part of this hearing today, and look forward to an ongoing dialog with members of the committees and the Office of Management and Budget (OMB) to provide constructive input from the small business community to ensure that progress is made in reducing and streamlining federal government paperwork.

Accompanying the passage of the Small Business Paperwork Relief Act of 2002 were generally high expectations that a serious effort would be undertaken to review the information sought and/or required by the federal government from small businesses, which will ultimately lead to a reduction in paperwork and a more streamlined and efficient approach for small businesses to report, comply with and learn about their paperwork reporting requirements.

Reducing the federal paperwork burden has, historically, remained a challenge. As Committee members are well aware, the PRA of 2002 is the latest in many attempts to implore and encourage federal agencies to reduce and/or streamline federal paperwork requirements. We are pleased to see that Congress is providing rigorous oversight of the Office of Management and Budget (OMB) with respect to the goals of the PRA. Continued oversight by the Congress will help to support momentum that will lead to meaningful action within the agencies. After all, paperwork reduction is not the most "sexy" of issues on Capitol Hill these days, nor in the past. Yet, continued interest by the Congress through regular oversight is necessary to ensure that meaningful processes are implemented and progress is made on the paperwork reduction front.

The OMB's record in implementing the Small Business Paperwork Relief Act of 2002 (P.L. 107-198) is mixed, yet the current Administration has inherited a long-standing and complex challenge. I applaud their plans for integrating technology to better inform small businesses about their paperwork obligations, allowing them to more broadly use the Internet to conduct business with government, while learning about compliance assistance efforts offered by federal agencies. While technology is an important tool to help the OMB strive to achieve PRA goals and complimentary ones established by the Administration's laudable e-Gov initiative, it should not, however, supersede the central objective of the PRA, which is to actually reduce paperwork.

The Needs of Small Business & Implementation of the PRA

Time and again, we have heard from small businesses about their desire to have a more simplified approach to filing and complying with federal regulations and their paperwork

requirements. The intent of the PRA 2002 reflected those chief and long-standing concerns, which continue to be expressed by small businesses to this day. Therefore, if it important that the OMB continue to proceed and make progress on these specific actions in order to make measurable inroads on paperwork reduction:

Establishing a single, small business point of contact within each federal agency. The OMB's progress in this area, based upon a review of information published in the Federal Register, appears to be incomplete. For some agencies there are multiple points of contact and for others none yet exists. There is little consistency in terms of which departments across agencies have responsibility for this important function.

From our perspective, it would make sense to have a consistent department within each agency be responsible for being the single, small business point of contact. Such consistency, we believe, would encourage both formal and informal dialog and coordination between agencies in regards to successfully performing this function. It would also lead to a more productive and structured relationship with the small business community in conducting outreach and seeking input in developing and implementing measures to help small businesses understand and comply with paperwork rules.

Increased communication and idea sharing across agencies and with the small business community, could also lead to the identification of prospective paperwork requirements to be integrated, consolidated or eliminated – a key objective of the PRA.

It has been suggested by some in the small business community that each agency's single point of contact report directly to the Chief Information Office (CIO's) within each

agency. The rationale being that the CIO is highly accountable in that they have a visible and measurable role in effectively responding to the public. However, it has also been noted that the CIO's concept of managing information resources must take into account "public burden" in order to become fully effective in housing this important small business information function.

The bottom-line concern from the small business perspective is that a single point of contact be established, and the point of contact have the ability to quickly and accurately provide the small business owner with the information he or she needs to properly comply with federal regulations, or direct them to a knowledgeable person who can. The widespread publicizing of this single point of contact would be an important component of successfully implementing the objective. In addition to agency websites highlighting this information on their individual home pages, and other agency and government websites doing the same (for example, the Small Business Administration, OMB and the various e-gov websites established for the purpose of assisting the public and businesses connect with the federal government) we must also keep in mind that many small businesses have yet to adopt or embrace technology into their businesses. In other words, web-based solutions or electronic options for submitting paperwork are not always options for some small businesses. Therefore, the single, small business point of contact in each agency must be well publicized and listed in appropriate government resources in hard copy format. In addition, agency personnel responsible for answering general phone lines would ideally be educated and informed about this distinct point of contact in each agency.

A catalog of small business regulations and paperwork requirements: The Paperwork Portal. Small businesses and the small business community have regularly requested that the federal government develop a central repository of all regulations and paperwork that they are required to comply with. It only makes sense that the government provide such a tool if they are serious about compliance. There simply has to be a way that the federal government can organize this information in one place, both in electronic and hard-copy format. This central "paperwork portal" (to use electronic terminology) summarizing paperwork requirements and forms would be of immense benefit to small businesses. I also believe that the actual exercise of publishing a list of small business paperwork requirements (as well as their forms) and putting this information online (the paperwork portal) and in catalog format will spark ideas and recommendations for integrating and consolidating paperwork requirements within and across agencies.

The report of the OMB task force spelled out some of the technical barriers to using current classifications to adequately meet small business needs. Though not experts in government information systems or their history of use, we are aware of a previous system – OMB's Reports Management System (RMS) – that used Standard Industrial Classification (SIC) codes as well as budget function codes, accessible by federal agencies, which, from a very basic level, appear to be useful in collecting and sorting information to identify opportunities for paperwork consolidation and reduction. Can this system, or database, be used or updated with certain query information to develop a small business listing of paperwork requirements? If tight or inadequate resources are an obstacle to OMB developing the small business paperwork requirement list, re-engineering the RMS may be an option for review.

Again, I can only emphasize what a useful resource a central listing or portal would be for small businesses throughout the country. This listing or resource has been requested by small businesses for many years. I emphasize again that it could act as a potential tool for identifying opportunities for consolidation or reduction in paperwork. Putting all these requirements "under one roof" or on one list will allow agencies to fully review the scope of the challenge, but also help to generate solutions from the agencies themselves and the small business community effected by paperwork requirements.

Integration, consolidation, and reducing the frequency and redundancy of paperwork reporting. In a nutshell, this objective is the big challenge at hand. Indeed, as OMB reports in its task force, there are obstacles – some enormous – that *seem* insurmountable to real reductions in paperwork requirements on small business. We know, however, that progress is possible as we've recently witnessed at the Internal Revenue Service (IRS).

With approximately 80 percent of the paperwork burden on business coming from the IRS, it is heartening to see some progress being made. With a three-person office dedicated to paperwork burden reduction (which, by the way, does not seem proportional to the size of the agency or the task at hand), the IRS eliminated requirements for schedules L and M, and recently reminded employers on July 14 that they've eliminated Schedule F and modified Form 5500 (pure fringe benefit plans now have no IRS filing requirements). The reminder came from the IRS as the agency still received over 70,000 unnecessary 5500/Schedule F returns representing over 100,000 hours of filing burden. So progress is being made, albeit slowly, at the IRS.

The OMB's devotion of less than one full-time equivalent towards the reduction of IRS

paperwork burden also seems disproportionate to the large share of paperwork burden this one agency generates. SBSC recognizes the fine work of OMB in respect to e-Gov initiatives that aim to expand the number of electronic tax products for small businesses. We are especially interested in harmonized wage reporting, and the opportunities that may exist for revisiting the Simplified Tax and Wage Reporting System (STAWRS), the goal of which was to enable employers to file a single return providing payroll and tax information electronically (or, on one hard copy sheet of paper that can be zeroxed) eliminating the need to file multiple reports with state and federal agencies requiring the same data. This system was making some progress with two states on board but was suddenly abandoned several years ago.

With considerably more resources being devoted to enforcement activities at the IRS, we hope that efforts to search for ways to reduce paperwork requirements do not go by the way side. OMB's leadership, guidance and perseverance in helping to find solutions for integrating and consolidating forms and paperwork at the IRS is truly needed to maintain and increase progress that has been made within the agency.

I think it would be helpful for the Congress, and certainly the small business community, to fully understand the qualitative and quantitative individual agency resources devoted to reviewing paperwork requirements and forms, as well as the procedures that exist (if any) for meaningful input into their review after a certain number of years. Are the agencies asking the right questions? Are they asking any questions? Do they conduct outreach to small businesses and entities impacted by paperwork requirements during the paperwork/form review process? We know the government does seek public comment

when paperwork requirements are put up for review – how does the small business community meaningfully participate in this? Many times we simply don't know the comment seeking period is underway. Do the participatory mechanisms need to be altered?

OMB must be the watchdog and enforcer to make paperwork reduction a priority of the agency. Again, I see the single, small business points of contact at each agency – possibly working in concert with the CIO – as playing an important role in identifying areas for reduction, consolidation and integration. As front-line participants in listening, routing and documenting calls from small businesses these critical personnel could be one of the best sources for constructive ideas. We all know that our nation's finest CEOs and business leaders regularly listen to their front-line people for innovative ideas and solutions. The single, small business point of contact will, by the nature of their work, serve this function.

In OMB's task force report, obstacles to paperwork reduction and integration through cross-agency and inter-agency collaboration seemed to dominate their findings. There simply must be some opportunities for paperwork reduction. SBSC stands ready to help with the very important undertaking of finding such opportunities to integrate, consolidate and reduce the frequency and redundancy of paperwork reporting.
A structured and meaningful opportunity to provide input and ideas would be welcomed by our organization and those we serve.

Compliance assistance. The small business community is encouraged by efforts

underway at certain agencies to help them comply with regulations and their paperwork requirements. With respect to compliance assistance, the one thing we hear from small businesses is the need to keep the assistance simple. In other words, guides or directories that sometimes reach a couple of hundred of pages in length work against the twin objectives of paperwork reduction and simplicity. OMB's listing of such compliance assistance will be helpful, and if they could play a role in encouraging brevity without short-cutting substance I believe such assistance will be more appreciated and utilized by small businesses.

Of equal importance to helping small businesses with guidance, whether provided through a "hot line" or a guidance document, is that it be accurate. As Committee members are aware, small businesses are still fined for paperwork violations regardless of whether the information and guidance they received from the government was accurate. Such occurrences, as well as first-time infractions involving paperwork, continue to further SBSC's support of legislation to waive financial penalties for first-time paperwork offenders.

Conclusion. The time has come for the federal government to make measurable progress on reducing the paperwork burden on small business. Technology is an important tool to help the federal government reach that objective. The utilization of technology to develop consumer-centered systems in government to improve communications and transactions with the public is an important goal. Certainly as it applies to paperwork reduction, small businesses do applaud efforts that make these communications and transactions easier. As the OMB works to meet the requirements of implementing the

PRA, we encourage the office to consistently review whether the results of planned activities lead to measurable paperwork reduction for small businesses.

Whether small businesses submit paperwork electronically or through traditional hard copy means, filling out forms is often the "easy" part. The more painstaking process involves regular data collection in order to support the information provided to and required by federal agencies. Therein lies the true paperwork burden for small businesses.

Furthermore, many small businesses have yet to fully embrace or invest in technology. Web-based solutions may therefore be meaningless to these small businesses. Even small firms that consider themselves "technologically savvy" may have computers or modems that are not conducive to downloading forms and their accompanying large and wordy instructional and/or compliance manuals. For the time being, the government must continue to produce materials and information that is both web-based and in hard copy form in order to similarly and fairly serve all small businesses.

As I wrote in my introduction, paperwork reduction is neither the easiest nor most riveting issue to follow or advocate on behalf of in the halls of power. Tenacity on behalf of a few members of Congress, and determination and commitment by the OMB can make a big difference in the day-to-day operations of small businesses if goal-oriented procedures and personnel are put into place and adopted by federal agencies to address paperwork reduction.

The Chairmen of our host committees' today have the commitment of our organization and its individual members to help identify opportunities to reduce paperwork

requirements on small businesses. SBSC stands ready to assist OMB and the agencies in this regard as well. I believe the small business community is looking for an opportunity to meaningfully participate in the process and be a part of the solution in reducing paperwork. Again, I thank Chairman Ose and Chairman Schrock for their leadership and look forward to answering any questions you may have.

Mr. SCHROCK [presiding]. Thank you, Karen.

When I was reading your testimony last night, I looked at the cover sheet, and it said, "Karen Kerrigan, Chairman and Founder, Small Business Survival Committee" and I thought, isn't it a shame we have to have a title like that.

Ms. KERRIGAN. Yes it is.

Mr. SCHROCK. If not for government, we would not have to have that sort of thing.

Andrew, welcome back. Last time I saw you, your wife was getting ready to go to Iraq, but she didn't, right?

Mr. LANGER. Thankfully, she didn't have to go. She is back on the bubble, though, between now and December. So we are just kind of waiting expectantly. I appreciate you asking.

Chairman Schrock, it is really a pleasure to be here. And, Mr. Gonzalez, thank you for having me. I am here representing the National Federation of Independent Business, the Nation's largest organization of small business owners, and I would like to highlight a few key points of my written testimony.

Unreasonable government regulation, especially onerous paperwork burdens, continues to be a top concern for small businesses. Regulatory costs per employee are highest for small firms.

NFIB continues to push for the lowering of this burden, and had high hopes that the efforts of the Office of Management and Budget would produce measurable results and a marked improvement. Unfortunately, the efforts of the Paperwork Task Force fell short of that mark.

While recognizing that changes cannot be brought overnight, we had hoped that the task force would move far beyond where they were, begin cataloging the current burden and identify key areas where Federal agencies could begin reduction, laying out an agenda, and setting responsible parties on that agenda's path.

As to the issue of single points of contact, I am going to draw on an example in a moment of my own problems recently with that. First, I would like to shed light on a question raised by Congresswoman Kelly earlier regarding comprehensive review of the overall burden faced by small businesses and businesses in general in the regulatory state.

Paul Rosenszweig of the Heritage Foundation has been contacting the General Accounting Office and others to ask for an accounting, a full accounting, of just how many criminal laws, how many statutes carry criminal penalties for businesses and individuals that are on the books today. To this date, as far as I know, they have been unable to give him an answer. We don't even know how many laws are out there affecting people. There is something fundamentally wrong with that.

I would like to take this time, though, to point out two examples of particularly onerous paperwork that were included in my written remarks, both unfortunately having to do with the EPA. Next to the burdens associated with tax preparation, paperwork associated with environmental and public health and safety rules remain the most troublesome to small businesses.

Now up on the screen, as included in my written testimony, I would like to call your attention to my appendix A, what is called

an "Individual Ability to Pay Claim Financial Data Request Form." That is the form that is up there.

If you have it in front of you, you will note that there is no OMB number on this form, which I and others have found rather puzzling. This is where I get to the points-of-contact issue. I spent most of yesterday afternoon trying to track down just what this document was. It came to me from one of our members.

I am a professional in the regulatory community. I spend my days figuring out what it is that government is doing, what they are regulating and why and how. I have been in D.C. for the better part of 10 years, and it took me over a dozen calls and several hours of my afternoon's time to figure out just where this form came from, who was putting it out.

I'll tell you a little bit about it. I contacted Kathleen West, Associate Regional Counsel of EPA Region 4, because that is where this member had gotten the document from. She didn't know where it came from and why there was no OMB number on it. I then, in my checking, began to do the search through the EPA.

Eventually, I came upon the Office of Site Remediation and Enforcement in the Office of Enforcement and Compliance Assurance and asked the person in charge of site remediation, the person I spoke to, Tracy Gibson—I don't know if she is in charge of it—why there is no indication of OMB approval. Her explanation was that, because the form is sent out in individual cases to individuals, OMB approval for the form is not required.

Well, that is just plain wrong as far as I know and as far as I am concerned. I note that under the relevant CFR section the law is clear. Because the same form is sent out to more than 10 people, OMB approval for this form is required regardless of whether or not it is only sent out to individuals.

Now, if we can just turn to page 2 of this form. Right at the top and in the middle of the form itself, this is an especially intrusive form asking for, among other things, the amount of money earned by children in a household. This information is then processed by an EPA-hired financial analyst who calculates the potentially responsible party's ability to pay.

I find it particularly galling that the EPA considers itself even possibly entitled to the earnings of a child who has nothing do with Superfund liability. As far as I am concerned, the fact that OMB had no control over this form not only makes the form's intrusiveness all the more egregious, it underscores that OMB and others engaged in paperwork burden reduction have their work cut out for them in assessing what is currently being imposed.

Next, I would like to turn to the——

Mr. SCHROCK. Can I interrupt you a minute?

From the time you picked up the phone the first time until you got this thing answered, how long was it?

Mr. LANGER. Two hours——

Mr. SCHROCK. But how about the cost to the businessman or businessperson who is trying to keep a business going?

Mr. LANGER. The fact is, that the businessperson looking for it wouldn't know where to go. I mean, I contacted friends and friends of friends. And, I knew where to go and it still took me quite a while.

I would like to turn the committee's attention to a continuing problem that our small businesses are facing with burden reduction for lead under the toxics release inventory.

The regulated community warned that the justification for a more strict standard for Lead TRI was unwarranted and that the paperwork was going to be overly burdensome. Nevertheless, the Environmental Protection Agency continued to press the regulated community to be expanded.

EPA's own statements regarding our paperwork burden painted a bleak picture for first-time filers, and we know now that burden was terribly underestimated. How bleak was the picture? Roughly 100 hours, by EPA's own estimates, to figure out if you needed to do the paperwork and then to complete the paperwork itself.

Two and a half weeks for one regulation of one small business's employee's or owner's time. And, over 40 percent of those reporting reported no emissions of lead whatsoever, which means that, within the Nation's small business community, again by EPA's own estimates, approximately 227,500 hours were spent doing paperwork which added nothing to the Nation's overall environmental health knowledge. That is over a century of man-years.

Mr. SCHROCK. And the penalty for not filling it out?

Mr. LANGER. Well, I belive it is $2,000 per day per violation is generally what they do. At least that is as far as I know.

We can only ask again that OMB and Congress take a look at this burden, especially in light of the other paperwork burdens faced by small businesses.

As I have said before to both this committee and others, regulation is like death by 1,000 pin pricks. In the content of paperwork violations, however, perhaps it is more accurate to say that it is death by 1,000 papercuts.

Once again, I appreciate the opportunity to testify today, and I look forward to any questions that you or Congressman Gonzalez or other members of the committee have.

[The prepared statement of Mr. Langer follows:]

Testimony before the United States Congress on behalf of the

Testimony of

Andrew M. Langer
Manager, Regulatory Policy

before a joint hearing of

The House Government Reform Committee
Subcommittee on Energy Policy, Natural Resources, and Regulatory Affairs
and
The House Small Business Committee
Subcommittee on Regulatory Reform and Oversight

on the date of

July 18, 2003

on the subject of

THE IMPLEMENTATION OF SMALL BUSINESS PAPERWORK RELIEF
BY THE OFFICE OF MANAGEMENT AND BUDGET

Chairman Ose, Chairman Schrock and Members of the Committees:

It is my pleasure to appear before you today to offer the National Federation of Independent Business' assessment of the Office of Management and Budget's (OMB) implementation of the Small Business Paperwork Relief Act (SBPRA, P.L. 107-198). I am here representing the National Federation of Independent Business, the nation's largest organization of small business owners. NFIB has 600,000 members, and is represented in each of the fifty states. NFIB represents small employers who typically have about five employees and report gross sales of around $350,000 per year. Our average member nets $40,000 to $50,000 annually.

I believe it is important to distinguish the type and size of businesses NFIB represents. Too often, federal policy makers view the business community as a monolithic enterprise that is capable of passing taxes and regulatory costs onto consumers, without suffering negative consequences. For small business, this is not the case. NFIB members are not publicly traded corporations; they are independently owned and operated. They do not have payroll departments, tax departments or attorneys on staff.

Being a small business owner means, more times than not, you are responsible for everything—taking out the garbage, ordering inventory, hiring employees, and dealing with the mandates imposed upon your business by the federal, state and local governments. That is why simple government regulations, particularly when it comes to the paperwork they generate, are so important. The less time our members spend with "government overhead," the more they can spend growing their business and employing more people.

Growing businesses lead to job creation, which is one of the major roles small business plays in our national economy. Small business is the leader in job creation. Small firms with fewer than 500 employees employ 52 percent of the non-farm private sector work force as of 1998, and are responsible for 51 percent of the private sector business share of the nation's gross domestic product.

From 1994 to 1998, about 11.1 million new jobs were added to the economy. Small businesses with 1-4 employees generated 60.2 percent of the net new jobs over this period and firms with 5-19 employees created another 18.3 percent. It is because small businesses have such deep impact on employment and the national economy that it is so critical that the policies you shape account for the impact the law will have on small business.

As you hopefully know, unreasonable government regulation, especially onerous paperwork burdens, continues to be a top concern for small businesses. Regulatory costs per employee are highest for small firms, and our members consistently rank those costs

as one of the most important issues that NFIB ought to work to change. The Office of Advocacy, whose Chief Counsel has been such a good friend to small businesses, estimates that the regulatory compliance costs for firms with fewer than 20 employees is nearly $7,000 per employee, per year.[1]

This means that for one of NFIB's average members, with five employees, those costs total approximately $35,000. For a business operating on a shoestring, such costs can be devastating.

The Paperwork Task Force Report—Disappointing

NFIB had high hopes for the implementation of the SBPRA, but unfortunately our expectations have not been met. The OMB created a Paperwork Reduction Task Force, and after studying the issue, that Task Force released a draft report (hereafter referred to as the "Draft Report"). Though the Draft Report noted concerns that our members have expressed regarding the burdens they face, they apparently didn't feel that those concerns were serious enough to warrant immediate attention.

For instance, in both oral and written testimony submitted to the Small Business Administration's Office of Advocacy, NFIB has discussed the importance of a single point of contact within federal agencies regarding paperwork issues. The SBPRA made this issue established law, requiring each department and agency of the federal government to establish such a single point of contact by June 28, 2003. The Draft Report itself reiterates this requirement and states that it is "feasible and desirable."[2]

But the Draft Report then weakens this requirement, instead saying, "agencies ***should*** identify a person or ***group of persons*** to serve as the single point of contact."[3] We believe that the SBPRA requires the agencies to identify a person. Furthermore, allowing the possibility that the agency can dedicate a "group of persons," undermines the entire purpose of having a mandated single point of contact: after all, the reason for this requirement is to reduce the "wild goose chase" that so often accompanies a quest to have a question answered by a federal regulator or to lodge a concern or complaint with one.

Another area of concern to us is that of a catalog (or "catalogue," as termed in the Draft Report) of paperwork requirements. While NFIB once again appreciates OMB's recognition of this as an important issue, We are troubled by the Draft Report's effort to gloss over possible solutions. The Draft Report spends a great deal of time underscoring the difficulty OMB would have in tailoring its existing systems to such a purpose. One

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[1] Report for the SBA Office of Advocacy, *The Impact of Regulatory Costs on Small Firms*, Crain and Hopkins, 2001 (http://www.sba.gov/advo/research/rs207tot.pdf)
[2] Draft Report at 17.
[3] Id at 19.

possible solution offered, the Business Compliance One-Stop system (BCOS), an effort in which we have actively participated and support, is unfortunately still years away from being an effective tool.

Frankly, small business owners do not understand why it is so difficult for the federal government to keep track and "catalogue" in one place their own paperwork requirements. OMB must address this issue, offer more concrete recommendations, and see that they are undertaken expeditiously. Given that NFIB's members consider the regulatory regimes overseen by OSHA and HHS to be the most confusing and burdensome[4], perhaps consideration ought to be given to these two agencies as a good start.

We regret that OMB does not consider "synchronized reporting" to be a feasible, practicable, or even desirable option to reduce paperwork burden.[5] We continue to hope that individual task force members would look within their own departments and see if their sub-agencies are requiring duplicative paperwork that could be submitted all at one time. Clearly, even paperwork reduction that results in small gains for some businesses is still helpful in moving towards the overall goal.

A Faulty Assumption: Three Examples of The Problem

Of particular concern and frustration is an assumption made by the Task Force in the introduction to their draft report: "the Task Force assumed that Federal agencies collect the minimum information necessary to fulfill statutory or programmatic responsibilities."[6] A statement such as that underscores the fundamental problem with the federal bureaucracies and their attitudes towards paperwork burden reduction—it makes it clear that they simply don't get it!

At the very least, this is an issue that the Task Force should have endeavored to answer as a part of its inquiry, as many of us who deal with paperwork requirements can point to a number of examples within the entire universe of regulatory paperwork where more information is asked of a small business than is actually required. We further believe that the assumptions made by agencies (and OMB) as to the time required to complete paperwork are grossly underestimated.

We offer three examples. The first example recapitulates testimony given by NFIB member Frank Fillmore before the Committee on Government Reform's Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs on April 11, 2003 regarding the 2002 Economic Census documents. The second example discusses what WE see as

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[4] Source: Informal survey of NFIB members, March 2003.
[5] Draft Report. at 17.
[6] Id at 12.

intrusive requirements arising out of Superfund liability documentation. My final example discusses the continuing problem of EPA's reluctance to address burden reductions for reporting lead usage under the Toxics Release Inventory.

The 2002 Economic Census

In January and February of this year, many small businesses received a questionnaire from the Commerce Department's Bureau of the Census, a 2002 Economic Census form, asking a wide range of questions regarding their businesses, including duplicative information that these businesses would normally be required to submit to other agencies (such as the IRS). These forms ranged between twelve and fifteen pages, and were estimated to take roughly an hour to complete[7].

NFIB quickly began receiving questions and complaints from members throughout the country—members who were taking sometimes eight and ***fourteen*** hours to complete these forms. Clearly, there is a world of difference between a single hour and fourteen hours, especially given the detail and accuracy these forms required (there are penalties for not only failing to submit such paperwork, but also for providing inaccurate [i.e., estimated] information on these forms).

In the case of NFIB member Frank Fillmore, the forms were estimated by him to take somewhat less time—but nevertheless presented a tremendous burden. As he testified in April, 2003, "This particular census form would probably take between four and eight hours to accurately complete. Four hours may not seem like much, but multiplied dozens of times with requirements from federal, state, and local governmental agencies, the drain on the finite number of hours I have to sell my "inventory" becomes enormous."[8]

But time burdens weren't the only concern that this member had. It was also the intrusiveness of the information requested:

> Often government forms require the disclosure of information that I consider proprietary and sensitive in nature. In particular, the census form requires financial data on sales and revenue. The Fillmore Group is privately held, and we do not publish financial statements. The only two entities that receive that information today are the IRS and my banker. The form further requires that I split that revenue, either via dollar amounts or on a percentage basis, into 52 different categories and subcategories. While that might seem reasonable to a methodical analyst at the Department of Commerce, that's a far greater level of detail than we have ever used to manage the business.[9]

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[7] Based upon conversations with Census officials.
[8] Testimony of Frank C. Fillmore, Jr. before the House Government Reform Committee, Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs, April 11, 2003 at 3
[9] Id.

Other members echoed Mr. Fillmore's concerns. All were seriously frustrated that in addition to the myriad paperwork requirements they faced, that the Census Bureau would add in such a sudden and heavy-handed fashion.

Superfund Ability to Pay Claims

This is an issue that was recently brought to my attention by one of NFIB's members. Faced with the possibility of being a "potentially responsible party" under the nation's Superfund cleanup laws, this member was sent an "Individual Ability to Pay Claim" form. The form itself is comprised of eight pages, and asks for detailed financial information, on par with what one might have to fill out if one were applying for a mortgage.

A copy of the form is attached as Appendix A, but to highlight some of the more intrusive requests, the form asks for the following:

- All utility costs, including costs for wood for fireplaces;
- Food costs per week, month, quarter or year;
- Amounts spent on clothing;
- Tuition expenses;
- The market value of family automobiles;
- Description of the primary residence and its value;
- A listing of all family property with a value greater than $500.

The form, at its start, requests information as to which members of the family within a household are employed, and then asks for their salary information. One presumes that because the EPA is asking about the salary of an in-the-household child, the EPA sees that child's salary as something that it might be entitled to. I personally find it particularly galling that the EPA sees itself as entitled to the salary of some teenager who has spent his or her summer vacation learning about having a good work ethic and contributing to the economy.

There is something fundamentally wrong with that, and with a form that asks for such information.

Lead TRI

Finally, of continued concern is the burdensome requirements imposed by EPA for reporting usage of lead under the Toxics Release Inventory (TRI). TRI is, above all else, a paperwork law—one that hits small business particularly hard, given that their size makes it unlikely that they have the experts on staff who can easily complete the required forms. Two years ago, EPA changed the threshold for reporting, ratcheting it down from 10,000 lbs of lead used in a year to 100 lbs, a mere 1% of what it was before.

Regardless of the scientific justification for such a change, which is currently a subject of intense scrutiny by EPA's own Scientific Advisory Board, it was a radical change, one that all agreed would produce an additional burden on those smaller entities who would now have to file reports. But those pressing for it at EPA and elsewhere apparently hoped it would produce a better idea of how and where lead was being used and released into the general population.

NFIB and others said at the outset that this burden would be a tremendous one, and strangely enough it was EPA's own estimates that made real these beliefs. EPA stated that it would take first-time filers sixty hours to complete the paperwork, in addition to forty hours required to determine if filing the paperwork would be necessary. Incidentally, we believe that EPA's estimates of the amount of time needed to complete this paperwork to be wildly off. We have heard from some small businesses that have had to take an additional thirty or fifty hours to do what EPA has asked on lead TRI.

To put it in perspective, using only EPA's own numbers, this would mean that, in addition to filling out ***ALL*** of the other paperwork associated with their business (tax paperwork, OSHA paperwork, Wage and Hour paperwork for the Department of Labor, a 2002 Economic Census form, etc), that a small business owner would be spending one and a half to two and a half ***WEEKS*** of his or her time devoted entirely to lead TRI. Time and time again this issue was raised with EPA, and time and time again their efforts to reduce this burden have been minimal.

The question, of course, is one of justification. The purpose of TRI is to track releases of substances into the environment from one entity to the next, and EPA presumably had a reason from lowering the threshold for reporting from 10,000 lbs. down to 100 lbs., a scant 1% of the amount required formerly. EPA apparently believed that such a dramatic reduction would "capture" a tremendous amount of new releases, and thus justify their move. So was EPA justified?

The answer, in a nutshell, is no. Several weeks ago EPA released their report on filings under lead TRI. Of the new reporters, 41%, or 2275, reported no releases of lead whatsoever.

Using EPA's own estimated paperwork time for first time filers, we come to the following conclusions.

At 100 hours for first time filers to both figure out **AND** complete the required paperwork, we are looking at 227,500 man hours spent. Assuming 2000 hours for an average "man work year", and you come to roughly 113 man **years**... ***for no releases of lead reported!***

These three examples represent just a few of the egregious paperwork burdens faced by our members. But they plainly illustrate that the Task Force was just plain wrong in its assumption that the Federal Government requires the minimum that is necessary to get the job done.

Conclusion

Overall, NFIB is disappointed with the Task Force's recently concluded efforts. Because paperwork represents such a tremendous burden for our members, and for small businesses in general, we had hoped and expected that OMB would have done more to alleviate this burden. It is my hope, Chairman Ose and Chairman Schrock, that you and the members of your committees will hold OMB and the Paperwork Reduction Task Force to the standards Congress enunciated last year. American small businesses deserve nothing less.

NFIB appreciates the opportunity to share its concerns with Congress. With the cost of regulation being such a high priority for our 600,000 members, we are happy to share their concerns with you.

Thank you once again, and I look forward to any questions you might have.

NFIB CORE VALUES

We believe deeply that:

Small business is essential to America.

Free enterprise is essential to the start-up and expansion of small business.

Small business is threatened by government intervention.

An informed, educated, concerned and involved public is the ultimate safeguard.

Members determine the public policy positions of the organization.

Our employees, collectively and individually, determine the success of the NFIB's endeavors, and each person has a valued contribution to make.

Honesty, integrity, and respect for human and spiritual values are important in all aspects of life, and are essential to a sustaining work environment.

1201 F Street NW, Suite 200
Washington, DC 20004
202-554-9000

APPENDIX A

INDIVIDUAL ABILITY TO PAY CLAIM
FINANCIAL DATA REQUEST FORM

INDIVIDUAL ABILITY TO PAY CLAIM

Financial Data Request Form

ıis form requests information regarding your financial status. The data will be used to evaluate your ability to pay for environmental clean-up or penalties. If there is not enough space for your answers, please use additional sheets of paper. Note that we may request further documentation of any of your responses. We welcome any other information you wish to provide supporting your case, particularly if you feel your situation is not adequately described through the information requested here.

Certification

Under penalties of perjury, I declare that this statement of assets, liabilities, and other information is true, correct, and complete to the best of my knowledge and belief. I further understand that I will be subject to prosecution by the Environmental Protection Agency to the fullest extent possible under the law should I provide any information that is not true, correct, and complete to the best of my knowledge.

Signature _____ Date _____

Name:
Spouse's Name:
Address:
County of Residence:

1. MEMBERS OF HOUSEHOLD (List the head of the household and all persons living with you)

Name	Age	Relationship to Head of Household	Currently Employed?

2. EMPLOYMENT (List all jobs held by persons in household)

Name	Employer	Length of Employment	Annual Salary

3. INCOME (List all income earned by persons in household. If members of the household other than the applicant ıd spouse earn income, please itemize on separate page.

	Gross (Pre-Tax)		Period of Payment (check one)			
Source	Applicant	Spouse	Weekly	Monthly	Quarterly	Yearly
Wages/Salaries						
Sales Commissions						
Investment Income (interest, dividends, capital gains, etc.)						
Net Business Income						
Rental Income						
Retirement Income (Pension, Social Security, etc.)						
Child Support						
Alimony						
Other Income						
(please itemize)						

PART II. CURRENT LIVING EXPENSES

Please list personal living expenses which were typical during the last year and indicate if any of these values are likely to ange significantly in the current year. Please do not include business expenses. If you are the owner of an operating usiness, please attach any available financial statements.

		Period of Payment (check one)			
Expense	**Amount**	**Weekly**	**Monthly**	**Quarterly**	**Yearly**
A. Living Expenses					
1. Rent					
2. Home maintenance					
3. Auto fuel maint./other transp.					
4. Utilities					
a. Fuel (gas,oil,wood,propane)					
b. Electric					
c. Water/sewer					
d. Telephone					
5. Food					
6. Clothing, personal care					
7. Medical costs					
B. Insurance					
1. Household insurance					
2. Life insurance					
3. Automobile insurance					
4. Medical insurance					
C. Debt Payments					
1. Mortgage payments					
2. Car payments					
3. Credit card payments					
4. Educational loan payments					
5. Other (itemize on separate page if necessary)					
D. Taxes					
1. Property taxes					
2. Federal income taxes					
3. State income taxes					
4. FICA					
E. Other Expenses					
1. Childcare					
2. Current School tuition/expenses					
3. Legal or professional services					
4. Other (itemize on separate page if necessary)					

PART III. NET WORTH

Please provide the following information to the best of your ability. Data should be as current as possible. Estimates are acceptable. Please note such items with an "E."

If you are the sole proprietor of a business, please list business assets and liabilities, in addition to personal assets and liabilities. Please mark these entries with a "B" to identify them as business assets and liabilities.

1. BANK ACCOUNTS (Checking, NOW, Savings, Money Market, CDs, etc.)

Name of Bank or Credit Union	Type of Account	Current Balance

2. INVESTMENTS (Stocks, Bonds, Mutual Funds, Options, Futures, Real Estate Investment Trusts (REIT), etc.)

Investment	Number of Shares or Units	Current Market Value

3. RETIREMENT FUNDS AND ACCOUNTS (IRA, 401(k), Keough, vested interest in company retirement fund, etc.)

Description of Account	Estimated Market Value

4. LIFE INSURANCE POLICIES (Whole Life, Universal Life, etc.)

Policy Holder	Issuing Company	Policy Value	Cash Value

5a. VEHICLES USED FOR COMMUTING PURPOSES (Cars, Trucks, Motorcycles, etc.
Only list up to two vehicles used for commuting purposes.)

Model	Year	Estimated Market Value

5b. OTHER VEHICLES (Cars, Trucks, Motorcycles, Recreational Vehicles, Motor Homes, Boats, Airplanes, etc.)

Model	Year	Estimated Market Value

6. VEHICLE LOANS (Cars, Trucks, Motorcycles, Recreation Vehicles, Motor Homes, Boats, Airplanes, etc.)

Vehicle (Model and Year)	Owed To	Balance Due	Start Date	End Date

7a. REAL ESTATE -- PRIMARY RESIDENCE (Home -- List only one such residence)

Location	Description of Property	Estimated Market Value

7b. OTHER REAL ESTATE (Land, Buildings, Land with Buildings)

Location	Description of Property	Estimated Market Value

8. MORTGAGES AND REAL ESTATE LOANS

Type of Loan	Owed To	Property Secured Against	Balance Due	Start Date	End Date

9. PERSONAL PROPERTY (Household Goods and Furniture, Jewelry, Art, Antiques, Collections, Precious Metals, etc. Only list items with a value greater than $500.00)

Type of Property	Estimated Market Value

10. FURNITURE AND HOUSEHOLD GOODS LOANS

List Item	Owed To	Balance Due	Start Date	End Date

11. OTHER ASSETS

Type of Asset	Estimated Market Value

12. CREDIT CARDS AND LINES OF CREDIT

Credit Card/Line of Credit (Type)	Owed To	Balance Due

13. OTHER DEBT (Amounts due to individuals, Fixed obligations, Taxes Owed, Overdue Alimony or Child Support, etc.)

Type of Debt	Owed To	Balance Due	Start Date	End Date

PART IV. ADDITIONAL INFORMATION

ase respond to the following questions. For any question that you answer "yes," please provide additional information on arate pages or at the bottom of this page.

QUESTION	YES	NO
Do you have any reason to believe that your financial situation will change during the next year?		
Are you currently selling or purchasing any real estate?		
Is anyone (or any entity) holding real or personal property on your behalf (e.g. a trust)?		
Are you a party in any pending lawsuit?		
Have any of your belongings been repossessed in the last three years?		
Are you a Trustee, Executor, or Administrator?		
Are you a participant or beneficiary of an estate or profit sharing plan?		
Have you declared bankruptcy in the last seven years?		
Do you receive any type of federal aid or public assistance?		

Mr. SCHROCK. Thank you.

My very alert counsel said it is $10,000, which is 500 times worse—or five times worse than we thought it was.

Thank you both for coming here today. I am going to ask—the question I am going to ask, I am going to ask it of both of you.

You have heard the testimony. You have had an opportunity to hear Dr. Graham testify about the task force. Are you convinced that the task force has fully implemented the new law?

Karen.

Ms. KERRIGAN. Certainly there has been an effort, but they are struggling. I mean, if you just look at the benchmarks in terms of what the OMB was supposed to hit or what they were supposed to reach just with the basic things, the single point of contact, they have been unsuccessful in doing that. I think there is sincerity on their part.

I think they are probably working hard. But, if you look at the bottom line, there is not—they are not complying with what the law requires.

Mr. SCHROCK. Why? Why do you think that is?

Ms. KERRIGAN. I go back to Mr. Gonzalez's statement, maybe the bureaucracy is winning. That is what he said before.

But, you know, I don't know how bureaucracies work. I really don't want to know how bureaucracies work. But, it would seem to me that a simple thing such as putting together a small business point of contact is not unreasonable. And, someone at the OMB has got to get out the hammer in terms of contacting the agencies and say, look, this is not a suggestion that you put together a small business point of contact, a regulatory information officer, whatever you want to call them, inside the agencies; this is the law.

Mr. SCHROCK. It sounds to me like they need to stop saying, pretty please, will you give it to us, and say, this is when we are demanding it, date certain.

They certainly have the law behind them to take that kind of action.

Mr. LANGER. Except there isn't much that they are able to do, enforcement-wise, to get these agencies to comply. That is where oversight—and that is why hearings like this are so important in keeping the pressure on.

I mean, the fact is that, if an agency is not willing to identify that one person, or as you guys have noted already, the points of contact don't even know that they are points of contact—I mean, there is something very fundamentally wrong, something endemic to the culture right now.

I hate to think that we are all getting burdened down by this overwhelming noise. But I think, one tends to take a look at the hugeness of the problem, and you get overwhelmed by it.

The problem, of course, is that you can't just pick at this thing on the margins and try to go for the easy win. You have to focus on the fundamentals, where you reducing 227,000 hours of paperwork in one instance. I mean, things have to be addressed.

I wish that they had gone further, instead of pointing out what to me is obvious, which is that an assessment needs to be done—and I am paraphrasing what was in the final report—set an agen-

da, let us know when you are going to make that assessment and stick to it, and then tell us what you are going to do about it.

I have nothing but respect and admiration for John Graham. I understand all too well the burden that he is facing. But someone needs to step up to the plate and say, I am going to do this and here is when.

Ms. KERRIGAN. My sense is that, based on this hearing and your oversight, we are going to get a single point of contact at each agency. I just have that sense, but I think what it demonstrates is that ongoing and consistent oversight by the Congress and the committees is necessary to get some of this stuff done.

Mr. SCHROCK. As much respect as you might have for Dr. Graham, the fact is the buck stops at his desk, and he is in charge.

What I would like to do—my staff has a fit every time I mention this; I got this from an Admiral friend of mine—I would like to get in the car one morning with one of my staff and say, what agency are we going to pull up in front of today? Walk in and say, I want to see the Secretary. Say, I want to know who your person is.

Admiral Bob Natter, Commander in Chief of the Atlantic Fleet does that. Once a week when his aide and his driver picks him up, he says, OK, what ship are we going to this morning? You can't believe the results he gets. It works. It is called management by walking around. And, that is exactly what we need to do.

I swear, some day I am going to be doing that. Because that is the only way we are going to get those numbers correct up here.

Now, let me ask you—my time is running out. Let me yield to Mr. Gonzalez for a few minutes.

Mr. GONZALEZ. Go ahead.

Mr. SCHROCK. OK. You talked about the single point of contact. Will businesses be best served by having one contact or a series of people who, and, if you dial person No. 1 and they not are not there, it just cycles to the next person, next person, until you get the person you are supposed to talk to? Because I don't see how one agency can have one person.

You know, if they have one person at the IRS, or even two, how in the name of common sense are they ever going to be able to deal with that?

Ms. KERRIGAN. I don't necessarily think that a single point of contact may mean one person. Certainly, I think that we are looking for a single gateway to get into that regulatory information office, if you will, that a small businessperson can go to; and then that person, or that contact, will be able to tell the small businessperson—the expert advise. They are basically the gateway, then they get delivered or get sent to the right person, based upon the expert advice that small business owner needs. I do think it is important that we have that single point of contact.

The Paperwork Relief Act of 2002 recognized, and rightly so, that burden is not just the filling out of the form. The burden was defined much more broadly than that, including all of the research, all of the work, all of the time, all of the resources that go into complying, maintaining, data collection, and then reporting to the Federal Government.

So, if you can get from point A to point B much quicker in terms of that single point of contact, in fact, you are reducing burden.

Mr. LANGER. If I can just quickly say, that is perhaps the most frustrating thing in dealing with a regulatory agency, having to get someone's voice mail and not getting an answer and not getting a person.

Yesterday this was the problem—my jumping around from person to person. I called this person, oh, well, you know, I talked to somebody who said, "All right, call ABC." ABC would not be at his or her desk. And, I was preparing for this hearing; I needed to get an answer.

You have small businesses who are under a lot more of a gun. They have a financial incentive. So getting them to talk to somebody is the most important thing.

But, I think it should be one number. I don't think that they should have to have access to the Federal Yellow Book on line, like I do, to just draw down a list of numbers that they can call. They don't have that.

Mr. SCHROCK. And, as I said, before I leave for a few minutes, they need to have 800 numbers or 888 numbers. These businesses that are on the far West Coast should not have to sit on hold for 2 hours like you did. Because I bet that would be their profits for the week.

Thank you.

Mr. OSE [presiding]. The gentleman from Texas.

Mr. GONZALEZ. Thank you very much.

You are wondering why bureaucracies work that way and why government—because it is human nature, adverse to change for whatever reason. We have to recognize that, but not live with it.

I think what you are all pointing out is going to be important. I recognize the big picture. The big picture is, we want reasonable and necessary regulation, and we need to do away with some that is out there that is totally useless, as you already pointed out, Mr. Langer. By the same token, you know that it serves a useful purpose, and we want to deal with that.

I don't believe an agency or department even recognizes what is unnecessary that they have already promulgated years ago, that they enforce haphazardly, that presents problems. I think if you do have a point of contact, a gatekeeper, a clearinghouse, whatever you want to call it, in each one, I think it is going to be an education in and of itself to those individuals of what a mess they have in-house, and it will spur them on to clean it up, because it will make their jobs easier.

But, I think what you are pointing out, Ms. Kerrigan—and my frustration has always been, the Admiral can go in there and say, who is your point person here, or whatever it is; and, if they don't find one, do you know what happens? Something goes in the personnel file. Something happens with—whether someone gets promoted or not.

In government, there is no consequence. I think Ed and I can walk in there and say these things, and maybe for a week there will be some sort of change. But, then what is going to happen as a consequence of these guys being unhappy? Nothing. And, I think we do need to come up with something.

It is unfortunately, you know, there is always—rewards work. But, the other thing, too, is the penalty or the unpleasant con-

sequence of it. There has to be an unpleasant consequence for people's inaction and ignoring what is the obvious. And, OMB has to get tough, and we have to somehow arm people, supply whatever the mechanism is to make these people responsible.

I share your frustration. I mean, the point is, these departments, agencies and individuals will be there way after we are gone. They do wait us out, and they wear us out because we have limited staff; we can't deal with it. They know you guys surely can't. But, they even know that the committee cannot.

And, there is a way of making it work.

So, I don't really have any particular question. I think we have identified the problem. Everybody here knows what it is. We have identified some simple solutions that we can attempt to institute immediately, and then work from that place. It is a matter of doing it. And, you know—but any comments based on what I just rattled off, stuff based on my own frustration?

Mr. LANGER. I will tell you that it is frustration in the sort of bureaucracy inertia.

But, one of our big concerns is, when an agency makes a decision, and is wedded to that decision regardless of overwhelming evidence to the contrary. This is the problem that we face with lead TRI. We have told EPA—and I understand why EPA wouldn't want to take our advice beforehand. We are an association representing small businesses. They are solely in the business of protecting public health and safety and the environment.

But, the fact is, once the evidence was coming in, the facts that are in my written testimony all came out of EPA's report on lead TRI that was just released. Yet EPA is still working around the edges in terms of reducing the paperwork burden.

I sat in meetings with senior officials at EPA to discuss how to better implement the reg as it was when we didn't know what the outcome was going to be. And, I got reluctance and hesitation and opposition to even putting together a simple guidance document that wasn't 150, 200 pages long, that had a summary at the beginning which told people what they needed to do to comply.

I think it is inertia. But, I think that there are people who are out there who see things done a particular way. There is a big problem with not wanting to change their mindset when mistakes have been made. And, I am not sure who is the best person to sort of enforce that. But, I think that these are sort of two halves of the same whole.

Ms. KERRIGAN. I would only make a comment to your point about the folks in the agency. You are right. I don't think that they know the information that they are collecting, whether it is useful or not. But, I do believe, as you say, that having a single point of contact or an entity that is on the front line, that is listening to small business owners and somehow being able to catalog this type of stuff, will be very useful.

And, you know, the best business leaders and CEOs in this country listen to their frontline people. That is where innovation comes from. That is where the best ideas come from.

So, I think the single point of contact in terms of being able to get information from business owners, mark it down, even the questions: Why do we have to—when a business owner has a ques-

tion, why do I have to fill out this certain piece of data? Well, that is something that the bureaucracy should also be asking, too.

Why do they have to fill this out? Is this really important? Is this really useful? So, having that single point of contact serves that role.

But also, I do think that you need to have consistency across agencies in terms of where this function is housed. And, I just keep pointing to the CIO, the Chief Information Officer, because they deal with these types of information collection issues. And, having it in house and giving it some structure, I do believe will help these single points of contact communicate with each other more. It will create a structure where they can more easily and more readily communicate and do outreach to the small business community.

There is just some structure to it that we can get our hands around in terms of helping them identify ways to reduce, integrate, consolidate paperwork for the constituency that we serve.

Mr. GONZALEZ. Thank you.

Mr. OSE. Thank you.

OK, I missed the testimony that Mr. Langer put forward about the thing I want to followup on. I want to make sure that I understand.

There is a form that is attached to the back of your testimony?

Mr. LANGER. Yes, the appendix.

Mr. OSE. Is that the form that accompanied the lead TRI deal?

Mr. LANGER. No. This is a form that was given to a company that was involved in a Superfund remediation issue.

Mr. OSE. They were a contractor.

Mr. LANGER. No. No. This was a company that was a potentially responsible party, a PRP, as it is called in Superfund parlance.

I received the letter from one of our members. I got a letter along with the form this week. He has been having problems with the EPA. I won't even get into the specifics of his issue. But, in looking at the form, I noted how intrusive the questions were, the things that were requested. Things like how much a household spends on wood in the wintertime to heat their homes. And, as I said in my oral presentation, how much money a child makes during a summer vacation, working as a camp counselor and learning the values of a good economy. These are the sorts of questions that are being asked. And, it was pointed out to me by someone else, "Hey there's no OMB number on this." So I did some checking, and as I said earlier, I had to make over a dozen phone calls to various EPA-associated agencies in order to get an answer on this form. I called Region 4, which is where the form originated; was told by——

Mr. OSE. Region four is what part of the country?

Mr. LANGER. That's the South. This was someone in Atlanta, GA.

Mr. OSE. So the office is based in Atlanta, GA?

Mr. LANGER. The EPA Region 4 Office based in Atlanta, GA. This particular form was being used for a site remediation, I believe, in Arkansas.

Mr. OSE. OK.

Mr. LANGER. And I was told by the Associate Regional Counsel that she didn't know why the form didn't have an OMB number, but that it was used throughout the EPA.

Mr. OSE. Did the Associate Regional Counsel say that the form was going to continue to be used?

Mr. LANGER. Yes.

Mr. OSE. OK. What was her name?

Mr. LANGER. I believe her name is Kathleen West.

Mr. OSE. I would like to confirm that, because I'd hate to have her put forward legal counsel that's not legal.

Mr. LANGER. Well, it is not. The thing is, this is not specific to Region 4. That was the point that I was going to make, is that this form is used throughout the EPA. And, that's what sort of set me on my journey of making over a dozen phone calls to the EPA, because I didn't know which office this came out of, and I eventually found out that it came out of the Office of Site Remediation and Enforcement, which is a division of the Office of Enforcement and Compliance Assurance.

Mr. OSE. Where is that located?

Mr. LANGER. That is here, Washington, DC.

Mr. OSE. OK. I mean this is quite a document. There certainly must be some pride of authorship. Were you able to track it down?

Mr. LANGER. I was not able to find the author. I was able to find someone in the office who was able to speak with me, Tracy Gibson.

Mr. OSE. Were they able to cite any statutory basis for this form?

Mr. LANGER. I believe that it had to do with the various laws written under Superfund. You know, this form is used when people want to settle claims with the Environmental Protection Agency. They are asked to fill out this Ability-to-Pay Claim Form. I asked the person in the Office of Site Remediation Enforcement why this form did not have an OMB number, and she said quite plainly that it was her opinion that it didn't need an OMB number because this is not an information request that's governed by the relevant Code of Federal Regulations section——

Mr. OSE. So we don't need OMB review and approval?

Mr. LANGER. We don't need to have it approved by anybody, because in their opinion, it is only sent out to individuals. It is not sent out to groups of individuals. And, at that point, I just——

Mr. OSE. Individuals, as in citizens subject to the law of the United States?

Mr. LANGER. Yes. But as I said in my testimony, and I had actually written it out, but I edited my oral testimony because I was going long, the relevant CFR says quite plainly that, if it's a form that is—it doesn't matter if it's sent out to individuals, if it's sent out to multiple individuals, the same form requesting the same information, then it's governed, and then the PRA governs it.

Mr. OSE. Well, it's my understanding that if the form is sent out containing the same questions to 10 or more persons, it is subject to the PRA and to the OMB review requirements.

Mr. LANGER. I agree with you 100 percent. That is my interpretation of the regs as well. I believe EPA is wrong.

Mr. OSE. I just want to go through this form here.

Mr. LANGER. Please. I'll be happy to.

Mr. OSE. First of all, we are going to enter the entire form into the record, if you haven't already done so.

Mr. LANGER. I have done so.

Mr. OSE. Now, the statement is made under penalty of perjury. It asks for the name of the person filling it out, their signature, the name of their spouse, their address and their county of residence, and they have to date it. Then, it goes to the next page, and it asks for members of household. List the head of the household and all persons living with you. So for instance, let's say my mother-in-law stays with me. Would I have to list her on this?

Mr. LANGER. Yes.

Mr. OSE. Would my minor children in third grade have to be listed on this?

Mr. LANGER. It is my belief, yes.

Mr. OSE. For what purpose?

Mr. LANGER. Well, the EPA, I believe, believes that it is entitled to the wages of whomever is living in your household to be calculated into your ability to pay for Superfund remediation.

Mr. OSE. Because they live with me?

Mr. LANGER. Yes.

Mr. OSE. Then it asks for the employment. So potentially my mother-in-law, who is employed, in some unrelated activity would have to disclose on this form who her employer is. No, I would have to disclose on this form, or kick her out of my house, who her employer was, the length of her employment and her annual salary?

Mr. LANGER. Yes, sir. Yes. As I say, if your 14 or 15-year-old son or daughter is working in summer camp and is making $700 for that summer, according to this form, you have to list that.

Mr. OSE. OK. The next question asks for a list of all income earned by persons in the household. If members of the household other than the applicant and spouse earn income, please itemize on separate pages. Then, it has a list—wages, salary, sales commission, investment income, meaning interest dividends, capital gains, net business income, rental income, retirement income, including pension and Social Security, child support, alimony, other income, please itemize. Then it has columns, applicant, spouse. Then to the right of the applicant and spouse, it has period of payment, check one: weekly, monthly, quarterly, yearly. Now, apparently, I would have to obtain from my mother-in-law, a break down of everything that she's receiving in income, simply because she resides with me. Is that the way you read this form?

Mr. LANGER. Yes. That's the way I read the form.

Mr. OSE. Ms. Kerrigan are you familiar with this form?

Ms. KERRIGAN. I am not, no.

Mr. OSE. OK.

Mr. LANGER. Again, I wasn't familiar with this form until earlier this week, until one of our members notified me about it.

Mr. OSE. OK. Then we get to page 3. Current living expenses. Please list personal living expenses which were typical during the last year and indicate if any of these values are likely to change significantly in the current year. Please do not include business expenses. If you are the owner of an operating business, please attach any available financial statements. Living expenses: rent, home maintenance, auto, fuel maintenance, other transportation utilities, such as fuel, electricity, water sewer, telephone, and, under fuel, if it's gas, oil, fire wood, propane, food, clothing, personal care, medi-

cal costs. So this form requires the person filling it out to disclose under the EPA's requirement their medical expenses?

Mr. LANGER. Yes.

Mr. OSE. Wow.

Mr. LANGER. Now, I don't know if that implicates HIPPA at all, but that's something to consider.

Mr. OSE. Well, it does occur to me to ask about that since that's over on another committee I sit on. Then it goes to insurance, household insurance, life insurance, automobile insurance, medical insurance. Now, presumably the collection of these data have some connection to the EPA's interests in the Superfund site and the recovery of cost. What would medical insurance expenses have to do with that?

Mr. LANGER. Well, I think EPA wants to be able to squeeze whatever dollars and cents they can out of you if they believe you're a potentially responsible party. See they want to know exactly how much you can pay, and then they are going, to put it indelicately, to force you to cough it up.

Mr. OSE. Well, let's just step through that. So apparently, you would list a number on here and EPA would in its wisdom, under this scenario, make a judgment as to whether or not you were buying too much medical insurance for your family. So, they would make some determination that, well, you don't need quite that much. You need a policy of something less?

Mr. LANGER. Yes.

Mr. OSE. And, you need to reduce your expenditures here? And, the same for automobile insurance without regard to your driving record and your life insurance and whether or not you have adequate coverage for your household, property and casualty exposures. The next line is debt payments: mortgage payments, car payments, credit card payments, educational loan payments, and other. So apparently, the EPA is maneuvering itself into the position of collecting information and then deciding that you're paying too much of a mortgage payment?

Mr. LANGER. Well, again, I don't know if they analyze the end result of what you're paying out and they figure that if you make $50,000 and you spend $49,999, that they're going to be entitled to that last dollar, or if they're not, they're going to make you reduce your expenses. In other words, I don't know offhand. But that's one way to look at it, I suppose.

Mr. OSE. OK. Then it goes down here to taxes, meaning property taxes, Federal income taxes, State income taxes, Social Security income taxes. Is the EPA going to tell me I'm paying too much in taxes?

Mr. LANGER. Possibly.

Mr. OSE. Oh, that'd be sweet. Then it goes to other expenses, child care, current school tuition expenses, legal and professional services, other. Now, I thought information including compensation to your attorney was a privileged item?

Mr. LANGER. That I don't know. I can't answer that question.

Mr. OSE. All right.

Mr. LANGER. I certainly know that the filling out of this form, if you're anybody involved in Superfund liability, certainly, your legal expenses are going to go up as a result of this form.

Mr. OSE. This is fascinating to me. I've got another five pages I'd like to go through. The substance of this thing, I mean this is a very intrusive——

Mr. LANGER. Chairman Ose, if I could just turn your attention, just really quickly, to page 6, item No. 9——

Mr. OSE. Page 6, personal property.

Mr. LANGER. Household goods and furniture, jewelry, art antiques collections, precious metals, etc., only list items with a value greater than $500.

Mr. OSE. Amazing. So presumably, I could have received a watch that my great grandfather gave to his son and then he gave it to his son and then he gave it to me, and presumably, it would be relatively old, it'd be an antique, and, under the scenario that's apparently represented by this form, EPA would think that is something subject to its attachment?

Mr. LANGER. Yes.

Mr. OSE. Now, let me ask the question. This is all fascinating, but I don't see any OMB number on this.

Mr. LANGER. No. There is not one.

Mr. OSE. Do you know anybody who has filled this out?

Mr. LANGER. Yes. I know that at least one of my members has filled it out. I don't know offhand of anybody else.

Mr. OSE. You know, without an OMB number, you heard Dr. Graham, I asked this question straight out today. No OMB number; it's not binding.

Mr. LANGER. Yes.

Mr. OSE. He said that is correct.

Mr. LANGER. And, I think EPA's position would be in the end that, if you wanted to settle this, that they are requiring you to fill it out. I don't——

Mr. OSE. That's not what the law says.

Mr. LANGER. I understand that.

Mr. OSE. The law says that's not part of the process.

Mr. LANGER. Yes.

Mr. OSE. But, you don't know who came up with this form—I mean this is quite a thing.

Mr. LANGER. I don't know who the author is. I just know the office that it's issued from. I know I spoke to Tracy Gibson over at the Office of Site Remediation.

Mr. OSE. We do want to followup and have them cite the statute and what have you that underlies EPA's ability to collect this information.

Now, Ms. Kerrigan, over at the Small Business Survival Committee, your members basically struggle, rather significantly with paperwork and all this other stuff that gets dumped on them. Have your members seen any meaningful reductions in the paperwork burden placed on them by the Federal Government during the Bush administration?

Ms. KERRIGAN. I would say probably not. There has been small progress made over at the IRS in terms of some of the schedules that they had originally required, that they've gotten rid of some of those, Schedule L, Schedule M, Schedule F, and my understanding is in looking at a press release from the IRS just this week,

that businesses continue to still file Schedule F, which is about 100,000 hours in wasted time from a business perspective.

Mr. OSE. Before we leave that point, is it accurate to say that the requirement of those forms wasn't eliminated, but that the threshold above which people were subject to the reporting was actually raised?

Ms. KERRIGAN. Yes.

Mr. OSE. So there were people who were within the threshold, then the threshold was raised and they were taken out?

Ms. KERRIGAN. Right. Right.

Mr. OSE. OK.

Ms. KERRIGAN. I guess at SBSC and being with the group now for 10 years, how we've come to measure progress has been, are we seeing any moderation, and it's unfortunate, and we have to change how we think, and that's why we are very hopeful about this legislation. Has there been an increase in the regulatory and the paperwork burden? Thankfully, there's some pieces of legislation, for example, the Ergonomics piece that was rejected and the Office of Advocacy over at the SBA is doing a pretty decent job, a really good job, at letting the agencies know what their requirements are under SBREFA, the Small Business Regulatory Enforcement Fairness Act. But, in large part, and I can't really say for sure that perhaps through some of these electronic or E-Gov initiatives perhaps there has been some type of burden reduction in terms of more efficiency. I don't know. By and large, when I talked to a lot of my members this week and last week informing them that I would be up on the Hill on this issue, and asked do they have any ideas, on working on paperwork reduction, they laughed. So that is sort of the anecdotal information that I can give you. There really has not been a serious reduction in paperwork, and, under the current administration, I still think we're hopeful, and I think oversight by the Congress, I think this hearing today, we will begin to see some action over at the OMB. I think we're going to get the single point of contact and we're hopeful.

Mr. OSE. Well, at the single-point-of-contact level, I can tell you we were discussing this when Mr. Schrock was asking questions, and you know one of the great things about summer in America is there are a lot of young people who want to work on Capitol Hill. I have lots of people who want to work in my subcommittee for obvious reasons. They share our concerns about regulatory intrusion and the like. We have decided that we are just going to have a daily drill. That one of the things our interns are going to do, is we are going to go at these agencies one by one, and they're going to call on my behalf saying: This is so and so; I'm an intern for Congressman Ose. With whom may I speak regarding the single point of contact for Paperwork Reduction? And we are just going to go one by one, day after day after day after day after day after day.

Mr. LANGER. I don't know if there are enough days in the summer for that, Congressman.

Mr. OSE. I've got a lot of interns. I've got a lot of interns. So now——

Ms. KERRIGAN. To answer your question, from a bottom line perspective, a lot more work needs to be done, and we know that, so——

Mr. OSE. Now, one other question, that begs the question—I mean, I just feel like you have teed this baby up. Where would you suggest OMB look for those opportunities for paperwork reduction to benefit small businesses?

Ms. KERRIGAN. Well, certainly, if you want to reduce the paperwork, you go where the paperwork is, and 80 percent of that comes out of the IRS. So I still believe there is a lot of opportunity for paperwork reduction at the IRS. Another place where they could look, where I think there's a lot of opportunity, is at the GSA in terms of the procurement process. A lot of small businesses just don't want to do business with the government. They want to, but the paperwork in terms of getting on the GSA schedule in terms of solicitation, is a major barrier to small businesses competing for government contracts. And, we need small businesses to get into that in order to benefit the taxpayers to the best extent that we can.

Mr. OSE. Well, the GSA is on the chart we have over there—maybe we'll just make them the first call. The point of contact on that form outlined in turquoise, there is no point of contact.

Ms. KERRIGAN. And, we need a point of contact. There is a lot of opportunity at the GSA, at the IRS. I think, you know certainly, as Andrew pointed out, from this form there's opportunity at the EPA immediately.

Mr. LANGER. Absolutely.

Ms. KERRIGAN. But, in all the agencies, there is an opportunity. If you want to go where the majority of the paperwork comes from, I mean it's generated at the IRS, and I think there's a huge opportunity to go there. In fact, Congressman Ose, I think it makes sense for the Office of Management and Budget to collaborate with the Taxpayer Advocacy Office at the IRS.

I am 1 of 100 citizens that serves on the Taxpayer Advocacy Panel who were appointed by the Treasury Department, and we listen to taxpayers every day. There's ideas coming in every day. There's questions that come in every day. Why do we have to do this? Why do we have to—basically, the questions are the type of questions that we need to be sending over to the IRS, the information collection people that they ask. In terms of reviewing the forms and the paperwork—which small businesses are on the receiving end.

Mr. OSE. Before we leave that point, this is an appointment from the executive branch to serve on this 100-person group?

Ms. KERRIGAN. Yes.

Mr. OSE. Would it be appropriate to ask you to forward to us the most meritorious of those suggestions, and let us work it from the legislative side?

Ms. KERRIGAN. It may be, yes.

Mr. OSE. I would appreciate a discussion to that effect within this advisory panel, and hopefully, we can resolve that. That would be great.

Ms. KERRIGAN. We have our regional working groups in terms of listening to the grassroots in Virginia. I'm a resident of Virginia,

and we also have our national working groups. I happen to serve on the small business self-employed compliance area because they want to bring more small businesses into compliance. How do we reach out to them? Obviously, this makes sense. And, there's also other working groups. There may be a working group that you may want to suggest or the OMB may want to suggest to Nina Olson, the Taxpayer Advocate, on Paperwork Reduction. I think that they would get a lot of good ideas from around the country, from the tax-paying public, as well as practitioners, because there are practitioners that serve on this advisory panel.

Mr. OSE. From sitting here right now, are there specific regulations or agencies that you can identify that we specifically ought to look at?

Ms. KERRIGAN. The GSA. I keep thinking about that. Because I know you had a hearing back in April, I believe, where a small business member, a woman business owner just talked about her experiences in terms of getting on the GSA schedule. She did business with the Ohio government. Now, the State governments are requiring that in many cases they also get on the GSA schedule. And, she walked through the hundreds and hundreds of pages that she had to go through, the time, the expense just to read that thing and do it accurately. I just don't think doing business with the Federal Government should be that burdensome and difficult. I just, I think there's a lot of room for modernization and streamlining over there. I think it has just a lot of potential in terms of specific regulations. I guess we can go back into our files for members and stuff that we have sent over to Congress and to the OMB and to other agencies and provide you with that type of information. And, I'd be more than happy to—we want to work with on you this because it's important to our membership.

Mr. Schrock. Mr. Schrock has no further questions, but we haven't resolved this yet.

Mr. SCHROCK. I am sitting here figuring out how many drop-ins I'm going to do in the next couple of weeks, and I think I'm going to do that, you know. You look here, you talk about GSA. They're MIA, they're missing in action. No number. I mean it just makes no sense. And, you know, what I'd like to do is go to the IRS and have the security guard say: You don't have an appointment; you can't get in. God forbid if they do. But, I mean, we need to—that would show me what the average citizen, the average business person, that is the problem they're having. They can't get in either, front door or on the phone. And, I think, if we do that a couple of times and the word gets around, that character from Virginia is dropping in and asking some tough questions, they might get their act together and try to do something. I mean nothing else has worked. Why not?

Ms. KERRIGAN. I just don't see why the—a single list, whether that's in a hard copy catalog——

Mr. SCHROCK. Why is that so hard?

Ms. KERRIGAN [continuing]. Or a portal cannot be developed that lets businesses know their checklists of regulations that apply to them and then the compliance assistance that can be available. That has to be done. I mean, current businesses want that. There's 3 to 4 million new businesses that startup every year that are look-

ing for that type of information. If we want to create a culture of compliance, we've got to provide businesses with the tools to comply.

Mr. SCHROCK. I look at this list. Actually, it's in color here, the one over there, I wonder how they got these names and these numbers? Did OMB send out a letter to each agency and say, send me the name and the number if somebody—so they said, let's just throw this guy to the wolves and here's a number? Or, did OMB talk to a living breathing being and say, yes, this is the person and here they are?

Ms. KERRIGAN. Congressman, in that process, I really think the OMB has to be more deliberate, in terms of working with the agencies, of who that point of contact is. It has to be consistent across agencies. I think if you are going to make this work, if small businesses are going to get consistent regulatory information from the agencies, and I'll say it again. That the CIO Office, I think would be a great place to house this because of their information collection responsibilities. The only thing that they have to be aware of and that they have to sort of build in to how they run that operation is the whole concept of public burden that we are doing this for a purpose. As opposed to information, just information management.

Mr. SCHROCK. The OMB has just got to be dogged and determined and very aggressive, and they're just not doing that. You know, it's incumbent on people like Mr. Ose and me to do that, and we simply have to do it. We simply can't keep having hearings and hearings and hearings and have nothing done. Somebody's feet need to be held to the fire because if we don't, then they need to be replaced.

Ms. KERRIGAN. In looking at that list, as I said, the consistency, I'm concerned that it's the OSDBU, the Office of Small and Disadvantaged Business Utilization, in one office where they largely deal with procurement issues and contract issues, and then in others it's the CIO. It's very haphazardly done. So, as I said, there has to be some structure to that, some thought behind it, if you're going to make this whole thing work.

Mr. SCHROCK. It is OSDBU at HUD?

Ms. KERRIGAN. OK. All right.

Mr. SCHROCK. Thank you.

Mr. OSE. Mr. Langer.

Mr. LANGER. Yes, sir.

Mr. OSE. Do you have any suggestions where OMB might look for significant opportunities for paperwork reduction?

Mr. LANGER. Well, I can't answer that question any better than Karen Kerrigan just did.

I mean the fact is with IRS, again, accounting for 80 percent of the paperwork burden, that's really where we need to go. You know, I think having two full-time equivalents there is a good first step. It's something that we have talked about in our shop for quite some time about finding a way to get around OMB's reluctance to take a deep look at how to improve things over at the IRS.

Again, ditto on the GSA Schedule issue. I handled the contracting panel at NFIB's small business summit last year, and that was the single issue that our members brought to me, the onerous bur-

den they face every time they have to do paperwork to figure out if they can just do business with the Federal Government itself.

In terms of specific regulatory schemes, I can only stress that looking at paperwork issues, at places like the EPA, those regulations that deal entirely with the filling out of paper, things having to do not only with the Toxics Release inventory but examining duplicative and conflicting regulatory schemes within the Clean Water Act and the Safe Drinking Water Act and things like that. And again, it's not one single reg that does it. It really is the combined regulatory state. But the biggest offender of that is the IRS to say the least.

Mr. OSE. Let me just followup. This form that we just walked through from the EPA, which hasn't been approved by anybody, it's just kind of out there, it's not been legally approved?

Mr. LANGER. Yes.

Mr. OSE. Now, if you all don't fill it out, what happens?

Mr. LANGER. I think that, if you don't fill it out, from what I understand from my conversations with the EPA, they will not settle a case with you. They will not settle your Superfund claim payments.

Mr. OSE. So they break the law by putting out a form that hasn't been approved. And, I'm not saying the forms not good. I'm just saying it hasn't been approved; that the law requires it to be approved before it goes out. They break the law, send the form out, put a burden on the taxpayer or consumer or the business or the individual or the mother-in-law or whatever, according to the form, and then, if you don't fill it out, you're given, you know, chapter and verse, they say, sorry.

Mr. LANGER. Yes. "We're not going to settle with you," and then I assume that they proceed with an enforcement action at that point. I'm not sure. I'm not an environmental lawyer, I'm not a Superfund lawyer. So it's an offhand guess. If I could just touch on something that Chairman Schrock mentioned, which is the issue of business compliance and gateways. A lot of what OMB has talked about is this Business Compliance One-Stop, which is a project whose idea I do support. I've sat in some meetings on it and have been pleased with the concept, and more to the point, pleased with the personnel from the various agencies who are participating in the effort who really understand that there's a huge burden out there for small businesses.

I watched as a woman from the Department of Transportation, a career civil servant, stood up and asked, "why is there this burden?" I mean it was an inappropriate forum in which to raise that question, but I pulled her aside afterwards and said, "thank you, somebody in the government understands this." The most major concern that I have, is the time line. Waiting 5 years for it is too long. And, my big fear is that, once we get it into place, that it will become mandatory. The fact is, yes, right now, we have 80 percent of businesses, small businesses that are on the Web, that are using computers all the time. But, there will always be small businesses that are not on the computer and that don't have time to go down to the library to use the computer or won't know how to use it period. So, we have to stay away from mandating using electronic filing. We have to give businesses the opportunity to do it them-

selves, to have a choice in the matter. I do think, in the interim, that somebody at OMB or wherever has to start coming up with a central repository of the regulatory burden enumerating exactly what is required of the business. We can't wait 5 years for that.

Mr. OSE. Mr. Schrock.

Mr. SCHROCK. I asked Dr. Graham a question, and I'm not sure I got the answer to it. I asked him when agencies are creating regulations or all this paperwork and these forms, do they bring small businesses in from various sectors to look at this stuff, and I don't know what he said. My guess is I don't know because they probably don't do it.

Mr. LANGER. They do to an extent. Some of them do some of the time.

You know, I'd like to point to the new Acting Administrator of the EPA, Marianne L. Horinko, who has been very good at engaging in outreach to both, frankly, both environmental groups and the regulated community on issues. The fact is that the best agency for advocating within the Federal Government has been the Office of Advocacy at SBA. NFIB itself has a research foundation, and we run econometric models on the cost of regulations. We have a hard time figuring out all the inputs for it, but in a lot of cases, like with the increased postal rates last year, we are able to spit out a final cost to small business. I think we're the only business group which has that sort of capability. Chief Counsel Sullivan's gone on the record in terms of talking about how he's put various regional advocates in—using them to put the regulated, community-specific members of the regulated community in touch with regulatory agencies. So, for example, on the Off-Road Diesel Rule, Chief Counsel Sullivan's office put a farmer in touch with the EPA and the farmer point blank told them that unless there—I guess it was a John Deere engineer who told them that, unless they changed the actual hood configuration of a tractor, they couldn't fit the clean air equipment that was necessary on there. And, the fact is, nobody from EPA even thought about what could go under the hood of a tractor engine. But, Chief Counsel Sullivan is, as someone else has mentioned, he is dogged, he is ravenous. If we have another Chief Counsel who wasn't so ravenous of getting small businesses involved, then these sorts of things wouldn't happen.

Mr. SCHROCK. What was the bottom line for the Deere thing?

Mr. LANGER. I believe that they're working together to try to get the regulation changed, so that they could fit it under the engine. I think that was very helpful to both parties in the end. There needs to be more of that.

Mr. SCHROCK. Simply things like that.

Mr. LANGER. Absolutely. And, that's just it, picking up the phone and calling. I have done the advocating myself because I enter into a lot of discussions with different groups. I just lectured at the Council on Excellence in Government about how we can create a better compliance-assistance climate.

I gave a similar speech to the EPA Small Business Summit. The fact is, career civil servants are not small business owners, and small business owners are not career civil servants. They have two very different mindsets out there. Frankly, you're right, the people in the government don't understand how things are done. I've had

ideas about how to put them in the mindset and don't want to take up the committee's time with that. I'd be happy to talk to you at length at some other point. But, I've got ideas on how we can sort of bridge that gap by putting them in the shoes of small businesses. It's been suggested for instance that maybe you send out a career civil servant to shadow a small business.

But, as far as I'm concerned, a bureaucrat showing up at a small business saying, "I'm the Federal Government and I'm here to help," you know the small business owner's going to look at them, and say thanks, but no thanks. But, there are other ways to do it without that sort of intrusiveness, and you sort of give them the ideas as to what a small business owner goes through, figuring out a single point of contact, where to go for regulatory information, how to comply with a reg.

Ms. KERRIGAN. Congressman Schrock, if I can just quickly add to that. I think, even in Dr. Graham's report, he noted that really not enough outreach is being done to the small business community. I think he spoke in terms of reviewing these forms. I know this stuff comes up on the Federal Register, and we don't even know when it comes up to comment on it. At that point, when you comment on it, it's sort of too late because the process has already taken place.

So, I think there needs to be more outreach to the small business community and small businesses. It's funny I was reading the transcript of the small business meeting that the Office of Advocacy had convened in terms of paperwork leading up to the Task Force Reduction Report. I forgot who it was that was speaking, but she had said she went to this meeting convened by the IRS because they were reviewing equipment depreciation schedules for farmers. And, it was, she said, it was very interesting. Whe learned a lot about equipment depreciation for farmers. She said, there were accountants in that room. There were bureaucrats in that room. But, guess who wasn't in that room? Farmers. So you know, truly, if you're going to make a difference, small businesses want to be, have to be a part of the process, and I would argue they want to be part of the solution.

Mr. SCHROCK. Outreach needs to be a required part of every agency's regulatory branch, their department because how can they possibly know how things are going to impact like the Deere situation. That's a great example. How would they ever know?

Ms. KERRIGAN. I agree.

Mr. SCHROCK. I really appreciate you all coming here and I've had an opportunity to meet with you all before, and I appreciate what you do. Sometimes you probably feel like you're whistling in the wind. Sometimes I feel like we don't listen well enough. What folks like Doug Ose and Ed Schrock need to do is put people's feet to the fire, and, if we have to, I hate to embarrass people, but sometimes that's the only way to get their attention and do sometimes outrageous things to get their attention like, you know, if I walked up to the door of an agency. Somehow we've got to get this thing moving because it's like grabbing air. What part of it do you grab to make a difference?

I understand Dr. Graham's frustrations. He took over an agency that's just a big mess. But, somehow he's got to put, he's got to get

in there. He's got to get on the phone himself and call the Secretary of the various agencies and say, I'm sick and tired of waiting for your department to give me a name. And, if the Secretary gets that message, he's not going to like it because he's going to be angry at his own people, not Dr. Graham, about why aren't you responding to this guy.

Maybe it takes a little more one-on-one-type relationships to make that happen. To send letters or emails or memos, people ignore those. I do. You know, and I mean, we have just got to get our hands around this now, and you all have got to keep pounding on people like Doug and me just to make sure we get this job done. It's not easy. I'm impatient. I'm old. I'm not going to be here a long time, and I want to see some of this done before I leave here because, if we don't do it now, when? We can talk and study. Whenever people don't know the answer to something, good point; we'll study it. That's a cop-out for I don't have a clue. We've got to change that. So, I appreciate what you do and that you have been here. Please be in touch with us because we want to help solve this thing.

Ms. KERRIGAN. Well, thank you. I would only add that you can ignore memos, but when something is the law, you know, you can't ignore that. I mean, what if it was a small business person sitting here in front of you or in front of an IRS committee or talking to an EPA enforcement person saying maybe I'll get back to you. I don't know when I'll get back, maybe 6 months I'll be able to do that.

Mr. SCHROCK. They'd nail them.

Ms. KERRIGAN. It would be unacceptable.

Mr. SCHROCK. Yes, it would be unacceptable.

Ms. KERRIGAN. So, I just think that it is the law, and certainly we appreciate your help and your tenacity in reminding these folks that it is the law and you're serious about it, because it really it is going to be, I think, the only thing that's going to advance the ball is if you stay involved and engaged.

So thank you, and thank you, Chairman Ose.

Mr. SCHROCK. Thank you for being here.

Mr. OSE. Thank you, Mr. Schrock. I want to thank our witnesses for appearing today. This is highly educational, highly illustrative of the challenges that small business across this country faces.

We heard first from Chairman Manzullo, and we heard from Dr. Graham. You folks have kind of put the icing on the cake. What's clear from everybody's testimony is that we have not been successful at implementing this law. There simply is not any way we can say we've been successful in implementing a single point of contact in accordance with this law, this law, did I say it was a law? It's a law that has been passed by the legislative branch and signed by the executive branch. It is not subject to debate. It is a law.

Now, in that regard, one of the things I always like to do is measure things, measure levels of success or lack of success and the like. And, I learned this from Chairman Horn when he was here. He had one of the more creative things that he did. He actually, as we all experienced in K through 12 and maybe in college,

he provided the agencies with grades. So we have set down over the last couple of days, having received the testimony from folks and the like, and we have thought about what kind of grades, so if the clerk would flip the card over.

[The information referred to follows:]

REPORT CARD
ON OMB'S RECORD IN SMALL BUSINESS PAPERWORK RELIEF

TASK	GRADE
Single Point of Contact for Each Agency	D
Compliance Assistance Resources for Each Agency	D
Responsive Task Force Report	F
Reductions in Paperwork Hours for Small Businesses	F
TOTAL	F

Prepared for Congressman Doug Ose

Mr. OSE. We haven't been very pleased. We believe that the agencies by and large with the degree of missing points of contact or the lack of contact points, we think that the agencies and departments have earned a D on that. As it relates to compliance assistance resources for each agency, that is someone calls in and says, I need your help with this, given the feedback we have had and the testimony you have all entered, we've been so impressed by that we've decided to give those folks a D also. In terms of the Task Force Report, that was due on or before June 28, in terms of its responsiveness to the congressional intent of the legislation in the first place, we're wholly unsatisfied and I've given that an F. And, in terms of the reduction in paperwork hours for small business across this country, in fact, we have had no reduction in paperwork hours for small business across this country. We have failed, and failure means an F.

So, if you look at those, you've got a D, a D, an F, and an F. Now, I once tried to explain to my dad that an F was a one-legged A, and that didn't fly. At the bottom there, you've got an overall grade. That one-legged A at the bottom of that chart over there isn't flying very well with me anymore than my explanation to my old man was. So far on this legislation, on the implementation of this law, we've got an F. Our challenge before us is to fix that.

As I said earlier, I have a lot of interns. We're going to put them to work. I thank the witnesses for their testimony. I thank the chairman from the Small Business Subcommittee on Regulation and the like for joining us today. I look forward to continuing the examination of these issues in the near future. This hearing is adjourned.

[Whereupon, at 2:20 p.m., the subcommittee was adjourned.]

[Additional information submitted for the hearing record follows:]

Congress of the United States
Washington, DC 20515

July 25, 2003

BY FACSIMILE
The Honorable John Graham
Administrator
Office of Information and Regulatory Affairs
Office of Management and Budget
Washington, DC 20503

Dear Dr. Graham:

This letter follows up on the July 18, 2003 joint hearing of the Government Reform Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs and the Small Business Subcommittee on Regulatory Reform and Oversight, entitled "What is OMB's Record in Small Business Paperwork Relief?" As discussed during the hearing, please respond to the enclosed followup questions for the record.

Please hand-deliver the agency's response to the Subcommittee majority staff in B-377 and B-363 Rayburn House Office Building and the minority staff in B-350A and B-343C Rayburn House Office Building not later than August 15, 2003. If you have any questions about this request, please call Barbara Kahlow on 226-3058.

Thank you for your attention to this request.

Sincerely,

Doug Ose
Chairman
Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs

Edward L. Schrock
Chairman
Subcommittee on Regulatory Reform and Oversight

cc The Honorable Tom Davis
The Honorable John Tierney
The Honorable Donald A. Manzullo
The Honorable Charles A. Gonzalez

PRINTED ON RECYCLED PAPER

IMPLEMENTATION OF NEW SMALL BUSINESS PAPERWORK LAW

Q1. Single Points of Contact. On page 10 of your written statement, you state that the Office of Management and Budget's (OMB's) June 27, 2003 publication of compliance assistance resources and points of contact is "only a start" and you intend to provide future updates and corrections.

a. Missing Agencies. In its June 27, 2003 Federal Register publication, why didn't OMB include information for each of the 71 agencies that have OMB-approved paperwork burden on the public? For example, why is compliance assistance and single point of contact information entirely missing for the General Services Administration, which oversees substantial contracting with small businesses?

b. No Points of Contact. In its Federal Register publication, why didn't OMB indicate single points of contact for some agencies that were included in its publication? For example, why doesn't the Department of Labor, which is one of the largest regulatory agencies, have a single point of contact?

c. Multiple Points of Contact. In its Federal Register publication, why did OMB include multiple contact offices for some agencies that were included in its publication? For example, why did OMB allow the Federal Trade Commission to identify multiple offices and not provide any contact names or telephone numbers?

d. Revised List. Will OMB promptly publish a revised document to include both compliance assistance and single point of contact information for all 71 agencies? If so, when?

e. Training. The Subcommittee called some of the OMB-indicated agency single points of contact and had very mixed results, including some who stated that they were actually not their agency's single point of contact. Has OMB trained or does OMB intend to train all of the agency single points of contact? If not, how does OMB expect consistent and responsive performance?

f. Names/Phone Numbers Chart. On July 18, 2003, the Subcommittees gave you a chart with the names and telephone numbers of each of the single points of contact in OMB's June 27th publication. Will OMB promptly publish and post on its website such a separate easy-to-use chart showing the name and contact telephone number for each agency's single point of contact? If so, when? If not, why not?

g. Organizational Location of Single Points of Contact. Has OMB analyzed where the agency single points of contact are organizationally located? For example, how many are under the agency Chief Information Officers? How many are co-located with the agency's paperwork reduction function?

h. Readable Format. Since OMB's publication is posted on its website in PDF format, which many small businesses do not use or which can time-out when downloading off the Internet, will OMB re-post this information in immediately accessible HTML format as well? If so, when? If not, why not?

Q2. Compliance Assistance

a. Different Content. Why are there any differences in the June 27, 2003 compliance assistance information on OMB's website in PDF format and on the Small Business Administration's website in HTML format? For example, why is there different information for the Department of Housing and Urban Development? And, which version should small businesses use?

b. Copies of Forms. Small business too often finds it difficult to locate a copy of the current version of an OMB-approved paperwork form. Will OMB post downloadable copies of each OMB-approved paperwork requirement/form or links to each agency's website with such downloadable copies? If so, when? If not, why not?

Q3. Task Force. The task force was charged with:

- **Integration** – identifying ways to integrate the collection of information across Federal agencies and programs
- **Consolidation** – examining the feasibility of requiring the agencies to consolidate reporting requirements in order that each small business may submit all information required by the agency to one point of contact at the agency ("one place"), in a single format or using a single electronic reporting system ("one report"), and with synchronized reporting due dates ("one/same time")
- **List** – examining the feasibility and benefits of publishing a list of paperwork applicable to small business, which could be organized by North American Industry Classification System (NAICS) codes, by industrial sector description, or "in another matter by which small business concerns can more easily identify requirements with which those small business concerns are expected to comply"

a. **Integration** of Paperwork Across Agencies and Programs.

- Will OMB return to its past practice of requiring agencies to identify the Budget Function Code (such as air transportation, pollution control and abatement) associated with each proposed or approved paperwork requirement – just as OMB uses Budget Function Codes in its fiscal Budget analysis and fiscal Budget publications?

- If not, what other method does OMB consider more effective to meet the statutory requirement to identify ways to integrate the collection of information across Federal agencies and programs?

- If yes, why can't OMB ask the agencies to submit this information for all existing OMB-approved paperwork before the December 2003 startup of OMB's replacement paperwork database instead of on a flow basis until December 2006 *(p. 27)*, i.e., 3 ½ years from now and 4 ½ years after passage of the new law?

b. Small Businesses Without Web Access.
   - On page 11 of your written statement, you mention a Federal Reserve Board study showing that 30 percent of **small and medium**-sized firms do not use computers in their businesses. A National Federation of Independent Business poll found that 43 percent of **small** businesses are not on the Internet. Since many small businesses are not connected to the Internet, why does the OMB-led task force concentrate on e-government initiatives, which will benefit big businesses but which will not benefit many small businesses?

   - How does OMB propose that unconnected small businesses will easily and conveniently access forms?

   - Since many small businesses are not connected to the Internet, why did the OMB-led task force recommend a new electronic system with the burden on each individual small business "to self-identify applicable criteria that profile their business" *(p. 25)* and "to self-identify a comprehensive list of applicable requirements" *(p. 28)*? And, how can you ensure that small businesses providing slightly different firm profiles, will receive identical applicable paperwork listings?

c. **List** - NAICS Codes.
   - Will OMB return to its past practice of requiring agencies to identify up to 10 affected industry codes (or multiple or all) using NAICS codes?

   - If not, what other method does OMB consider more effective to meet the statutory requirement to examine the feasibility of publishing a list of paperwork applicable to small business?

   - If yes, why can't OMB ask the agencies to submit this information for all existing OMB-approved paperwork before the December 2003 startup of OMB's replacement paperwork database instead of on a flow basis until December 2006, i.e., 3 ½ years from now and 4 ½ years after passage of the new law?

d. **Consolidation** - One/One/One. The law required the OMB-led task force to examine requiring agencies to consolidate their small business reporting to one point of submission, in one report, and with one or synchronized due dates. Did the task force consult with small businesses on this task? If not, why not?

PAPERWORK REDUCTION INITIATIVES/RESULTS

Q4. Small Business Paperwork Reduction Initiatives in 2001-2003. On pages 10-11 of your written statement, you provide two examples of non-electronic initiatives each resulting in less than 100,000 hour reductions. What significant paperwork reduction initiatives of at least 100,000 hours (**exclusive of electronic filing**) were accomplished to benefit small businesses since January 20, 2001, and what are planned in the rest of 2003?

a. How many of these initiatives reduce the frequency of small business reporting?

b. How many introduce thresholds below which reporting is not required?

c. How many raise thresholds to reduce reporting for more small businesses?

d. How many introduce sampling instead of requiring universe reporting so fewer small businesses will need to report?

e. How many create short forms for small businesses?

Q5. Tax Burden Reduction for Small Businesses. Drs. Mark Crain and Thomas Hopkins in their August 2001 Report, commissioned by the Small Business Administration, found that small firms (with less than 20 employees) spend twice as much on tax compliance as large firms (with over 500 employees): $1,202 per employee versus $562 per employee. Small businesses face more than 200 Internal Revenue Service (IRS) forms, including more than 8,000 lines, boxes, and data requirements.

What specific paperwork reduction candidates did OMB pursue for tax paperwork since 2001 and will OMB pursue in the rest of 2003 to actually reduce the paperwork burden on small businesses -- i.e., not electronic filing, guidance documents, mediation, fast track settlements, notice simplifications, etc.? What is OMB's estimate for the burden reduction hours associated with these initiatives?

Q6. OMB Actions on Tax Paperwork. In your October 21, 2001 reply to post-hearing questions on paperwork reduction, you cited former IRS Commissioner Rossotti's April 24, 2001 testimony before the Ose Government Reform Subcommittee that "the potential for greater paperwork and burden reduction is enormous. The IRS has barely scratched the surface."

a. As a consequence, since January 2001, how many IRS paperwork proposals has OMB disapproved? And, how many has OMB returned to IRS for reconsideration? Please separately identify each, if any, for the hearing record.

b. Since January 2001, how many IRS paperwork proposals has OMB recommended for use of a threshold that would exempt small businesses from reporting? And, how many thresholds has OMB recommended be raised to exempt additional small businesses from reporting? Please separately identify each, if any, for the hearing record.

c. Since January 2001, how many line items on IRS paperwork proposals has OMB recommended for deletion? Please separately identify each, if any, for the hearing record.

d. What other specific actions has your staff at OMB taken on IRS paperwork proposals to reduce burden on small businesses? Please separately identify each such action, if any, for the hearing record.

Q7. Non-E-Government Initiatives. In your May 22, 2003 post-hearing response to Chairman Ose's April 14th question, "What significant **paperwork reduction initiatives** were accomplished and are planned to reduce burden on ... Small businesses?," you identified less than one page of solely e-government initiatives *(pp. 12-13)*. Is that because there were no significant non-e-government initiatives to reduce burden on small businesses?

Q8. Exclusion of 22% of Paperwork. Why did the task force decide not to focus on "voluntary" reporting, the low-hanging fruit for paperwork reduction, i.e., "where a response is entirely discretionary and has no direct affect on any benefit or privilege for the respondent" *(p. 7)*?

Q9. EPA PRA Violation. The National Federation of Independent Business witness at our July 18, 2003 hearing presented an unapproved Environmental Protection Agency (EPA) 8-page form entitled "Individual Ability to Pay Claim - Financial Data Request Form." How will OMB ensure that EPA immediately discontinues its usage of this form? Please provide for the hearing record EPA's notification to the businesses that this information was erroneously requested and is not required.

Congress of the United States

Washington, DC 20515

August 12, 2003

BY FACSIMILE

The Honorable Joshua B. Bolten
Director
Office of Management and Budget
Washington, DC 20503

Dear Director Bolten:

This letter further follows up on the July 18, 2003 joint hearing of the Government Reform Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs and the Small Business Subcommittee on Regulatory Reform and Oversight, entitled "What is OMB's Record in Small Business Paperwork Relief?" We were disappointed with the Office of Management and Budget's (OMB's) record to date in small business paperwork relief, especially due to OMB's statutory responsibility since 1942 in paperwork reduction.

As a consequence, since the hearing, we have followed up with each of the 71 agencies in OMB's inventory of approved paperwork to determine the status of government-wide implementation of one specific provision in the Small Business Paperwork Relief Act of 2002 (SBPRA), which was signed by President Bush. To ensure government-wide implementation, in SBPRA, Congress designated OMB as the lead agency, including required OMB reports to Congress and OMB chairmanship of an interagency task force.

Among several provisions, the June 2002 law required each agency to designate by June 28, 2003, one Single Point of Contact (SPOC) regarding paperwork for small business. Enclosed with this letter are two charts revealing the results of our followup with the 39 agency SPOCs identified in OMB's June 27th Federal Register Notice with only one SPOC and the 32 agencies not listed in OMB's Notice or listed but without only one SPOC. The first reveals that: (a) 3 of the 39 agencies had identified individuals as SPOCs which were, in fact, not the agency's SPOC; (b) only 3 of the 39 SPOCs reported to the agency's Chief Information Officer (CIO), who is statutorily responsible for paperwork reduction; and (c) many of the agencies were unwilling to provide us with copies of their paperwork for small business. The second reveals that: (a) 6 of the 32 agencies now have a SPOC, even though one of them is a secretary/receptionist; (b) only 1 of the 6 reports to the agency's CIO; and, (c) to date, only 1 of the 6 has agreed to provide us with copies of its paperwork for small business.

In addition, our calls revealed that: (a) many agencies had no knowledge whatsoever about the SBPRA; (b) there has been no government-wide training for SPOCs; (c) some SPOCs were unaware of which agency paperwork applied to small business; and (d) the Small Business Administration (SBA), not OMB, followed up with at least some agencies after our hearing.

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It is our understanding that it has been OMB's practice to send an OMB Memorandum to the agencies soon after enactment of a new government-wide statute and then later to send them OMB guidance to ensure uniform government-wide implementation. We discovered that OMB did neither for SBPRA, which seems especially remarkable because of OMB's lead role for this law. Why? And, is this an isolated case during this Administration?

In addition, Section 4 of SBPRA requires reports to Congress in December 2003 and December 2004 on agency enforcement actions in which civil penalties were assessed for paperwork requirements. When will OMB be providing government-wide implementation guidance to the agencies to ensure uniform government-wide implementation of this Section?

We would like to meet with you or OMB's new Deputy Director for Management Clay Johnson to discuss OMB's plan and timetable to ensure swift and full implementation of SBPRA.

If you have any questions about this letter, please contact Barbara Kahlow at 226-3058. Thank you for your attention to this request.

Sincerely,

Doug Ose
Chairman
Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs
Committee on Government Reform

Edward L. Schrock
Chairman
Subcommittee on Regulatory Reform and Oversight
Committee on Small Business

Enclosures

cc The Honorable Tom Davis
The Honorable John Tierney
The Honorable Donald A. Manzullo
The Honorable Charles A. Gonzalez

FOLLOWUP ON SINGLE POINTS OF CONTACT TO AGENCIES IN OMB'S NOTICE: 8/8/03

DEPARTMENT/AGENCY	DATE	NAME	SPOC?	CIO?	COPIES?
Departments					
Agriculture	7/23/03 8/07/03	Jacquelyn Chandler Jacquelyn Chandler	Y	N	Y, not yet
Commerce	7/24/03 8/05/03	secretary secretary			
Defense	7/24/03	Robert Cushing	Y	N	N
Education	7/24/03	Angela Arrington	**No**	-	-
Energy	7/28/03 8/06/03	secretary voicemail			
Health & Human Services	7/24/03 8/06/03	no voicemail no voicemail			
Homeland Security	7/24/03 8/01/03	Lizzy Callaway voicemail	Y	N	?
Interior	7/24/03	John Strylowski	Y	N	Y, not yet
Justice	8/07/03	Kenneth Bryan	Y	N	N
State	7/24/03	Gregory Davis	Y	N	N
Transportation	7/25/03	Daniel Matthews	**No**	-	-
Treasury (SPOC for Treasury except IRS)	7/28/03	Jody Falvey	Y	N	N
Veterans Affairs	7/30/03 8/07/03	Ramsey Alexander voicemail	Y	N	Y, not yet
Independ. Exec. Br. Agencies					
AID	7/28/03 8/06/03	Marilyn Marton voicemail	Y	N	?
EPA	7/25/03 8/07/03	Karen Brown voicemail	Y	N	Y, not yet
EEOC	7/28/03	Laura Hinton	Y	N	Y - 8/4
Export-Import Bank of the US	7/28/03	Letita Kress	Y	N	N
MSPB	7/28/03	Richard Dorr	Y	N	N
NARA	7/28/03 8/05/03 8/07/03	voicemail voicemail Adrian Thomas	Y	N	N
NEH	8/05/03	Susan Daisey	Y	N	N
Nat. Mediation Board	7/25/03 8/07/03	Denise Vines voicemail	Y	N	Y, not yet
OPM	7/25/03 8/06/03	no voicemail voicemail			
Peace Corps	7/25/03 8/06/03	voicemail voicemail			
PBGC	8/04/03	Diane Morstein	Y	Y	Y - 8/7
RRB	7/25/03	Ronald Hodapp	Y	Y	Y - 8/1
SSS	8/07/03	Calvin Montgomery	Y	N	N
SBA	7/25/03 8/01/03	voicemail voicemail			
SSA	7/25/03 8/07/03	Liz Davidson voicemail	Y	N	Y, not yet
Surface Transportation Board	7/25/03 8/01/03	Anne Quinlan Anne Quinlan	Y	N	Y, not yet
TVA	7/25/03 8/07/03	Phillip McMullan Phillip McMullan	Y	N	Y, not yet
Indep. Regulatory & Banking					
CFTC	7/31/03	Terry Arbit	Y	N	N
CPSC	7/25/03	Thomas Murr	Y	N	N
FDIC	7/25/03	Edward Gerber	Y	N	N
FERC	7/25/03	Thomas Russo	**No**	-	-
FMC	7/25/03 8/04/03	Joseph Farrell voicemail	Y	N	Y, not yet
Fed. Reserve Board	7/28/03 8/07/03	Cindy Ayouch voicemail	Y	N	Y, not yet
NRC	7/25/03	Brenda Shelton	Y	Y	N
SEC	7/28/03 8/06/03	voicemail Gerald LaPorte	Y	N	Y - 8/7
Small & Misc. Organizations					
Nat. Comm. on Libraries & Info	7/25/03	Robert Willard	Y	N	N

AGENCIES w/o a SPOC or w/o 1 SPOC in OMB's FR Notice: 8/8/03

DEPARTMENT/AGENCY	DATE(S)	NAME(S)	SPOC?	CIO?	COPIES?
Departments					
Housing & Urban Development	8/4/03	Vickers Meadow voicemail	**Yes**	N	?
Labor	7/30/03	Barbara Bingham	**Yes** FR in error re inquiries	N	?
Independ. Exec. Br. Agencies					
CNCS	8/6/03	Tom Hanely	?		
EOP	8/5/03	Keith Roberts	?		
FMCS	7/31/03	Dan Funkhouser	N	-	-
GSA	8/4/03	Diane Savoy	? unfamiliar with law		
IMS	8/7/03	voicemail			
NASA	8/7/03	Pat Dunnington	?		
NEA	8/7/03	voicemail			
NTSB	7/30/03	Linda Harradine	N	-	-
NSF	8/7/03	Barbara Jackson			
OGE	8/7/03 8/7/03	Allison Bulderstin Victoria May	**Yes**	N	N
OMB	7/31/03	John Morall	N	-	-
ONDCP	8/7/03	voicemail			
Office of Special Counsel	7/30/03	Wing Leung	N	-	-
OPIC	8/7/03	Rich Westfield	N	-	-
USITC	8/7/03	Stephen McLaughlin	N		
USTR	8/6/03	voicemail			
Indep. Regulatory & Banking					
FCC	8/7/03	voicemail			
Fed. Housing Finance Board	7/30/03	Donald Demitros	N	-	-
FTC	8/7/03	voicemail			
NCUA	8/6/03	Carol Bullock	N	-	-
Small & Misc. Organizations					
Appraisal Subcomm. of FFIEC	8/6/03	voicemail			
Comm. Purchase Blind/Hand.	8/7/03	Sheryl Kennerly	**Yes**	Y	Y , not yet
Emerg. Oil & Gas Guar. Loan	-	-	NA	-	-
Emerg. Steel Guar. Loan Board	8/6/03	voicemail			
Federal Acquisition Regulation	-	-	NA	-	-
Harry S Truman Scholarship	8/6/03	voicemail			
Interagency Council Homeless	8/6/03	secretary			
M.K. Udall Found. for Envir.	8/7/03	Ellen Wheeler	**Yes**	N	N
Nat. Indian Gaming Comm.	8/7/03	Irene Schrader	**Yes** but sec'y Renee Fox	N	?
Nat. Institute for Literacy	7/31/03	Sandra Baxter	N	-	-

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

ADMINISTRATOR
OFFICE OF
INFORMATION AND
REGULATORY AFFAIRS

SEP 11 2003

The Honorable Doug Ose
Chairman, Subcommittee on Energy Policy,
Natural Resources and Regulatory Affairs
Committee on Government Reform
U.S. House of Representatives
B-377 Rayburn Building
Washington, D.C. 20515-6143

Dear Mr. Chairman:

Thank you for your letter of July 25, 2003, enclosing additional questions as a follow-up to your July 18, 2003, joint hearing on small business paperwork relief. I appreciated the opportunity to testify before the Subcommittees and share the Office of Management and Budget's (OMB) views on how we can work with you and the agencies to improve the Federal government's performance in reducing the paperwork burden on small business.

Enclosed are OMB's responses to your follow-up questions. If you would like any additional information, please contact me at your convenience.

Sincerely,

John D. Graham, Ph.D.
Administrator

Enclosure

cc: The Honorable Tom Davis
The Honorable John Tierney
The Honorable Donald A. Manzullo
The Honorable Charles A. Gonzalez

Identical Letter Sent to the Honorable Edward L. Schrock

7/18 Small Business Paperwork Relief Hearing

Q1. Single Points of Contact. On page 10 of your written statement, you state that the Office of Management and Budget's (OMB's) June 27, 2003 publication of compliance assistance resources and points of contact is "only a start" and you intend to provide future updates and corrections.

a. Missing Agencies. In its June 27, 2003 Federal Register publication, why didn't OMB include information for each of the 71 agencies that have OMB-approved paperwork burden on the public? For example, why is compliance assistance and single point of contact information entirely missing for the General Services Administration, which oversees substantial contracting with small businesses?

Answer: In making the effort to assemble information describing agency "compliance assistance resources available to small businesses," we discovered that this information required a significant effort to compile. The fact that the compilations were difficult underscores the value of the SBPRA and the value that such a list, as well as a list of points of contact, could have to small businesses.

We believe we did a good job compiling a list of small business compliance resources. Our initial list covers all 15 of the Cabinet Departments as well as 35 additional Executive Branch agencies, including EPA, SEC, and FTC. The 15 Departments and 35 other agencies represent the vast majority of the regulatory and paperwork burden that the Federal Government imposes on small businesses. This list is not complete, but it is an enormous step forward. As Small Business Committee Chairman Don Manzullo noted, "with their list of resources and contacts in each agency, I feel we are well on our way to have small business better understand how to comply with and begin to change federal government regulations and paperwork requirements…".

We will work with SBA and other agencies to expand its coverage. Since the SBPRA requires that we publish this list annually, we will have the opportunity to make additions and changes to the list over this next, and following, years.

b. No Points of Contact. In its Federal Register publication, why didn't OMB indicate single points of contact for some agencies that were included in its publication? For example, why doesn't the Department of Labor, which is one of the largest regulatory agencies, have a single point of contact?

Answer: The Department of Labor provided more points of contact than requested. A number of agencies, particularly larger regulatory agencies like the Department of Labor, have different units within the agency that have distinct statutory and regulatory responsibility. Some agencies felt that it would be more useful for the small business

contact in their major components for the sake of helping small business owners be able to identify as immediately as possible the most appropriate contacts in the agency. Neither we nor SBA wanted to inhibit agency efforts to fulfill the intention of Congress, and viewed it as better to give the most complete information as possible this first time instead of doing the minimum."

c. Multiple Points of Contact. In its Federal Register publication, why did OMB include multiple contact offices for some agencies that were included in its publication? For example, why did OMB allow the Federal Trade Commission to identify multiple offices and not provide any contact names or telephone numbers?

Answer: See response to question (b).

d. Revised List. Will OMB promptly publish a revised document to include both compliance assistance and single point of contact information for all 71 agencies? If so, when?

Answer: We agree with you on the need to make available to small businesses the information regarding the remaining agencies. As you know, the Small Business Paperwork Relief Act requires OMB and the Small Business Administration to "publish in the Federal Register and make available on the Internet (in consultation with the Small Business Administration) on an annual basis a list of the compliance assistance resources available to small businesses." This is an ongoing process, which we have just begun and will seek to improve over time. We will be updating the information that is available on the Internet, which we believe is the most effective way of disseminating this information to small businesses.

e. Training. The Subcommittee called some of the OMB-indicated agency single points of contact and had very mixed results, including some who stated that they were actually not their agency's single point of contact. Has OMB trained or does OMB intend to train all of the agency single points of contact? If not, how does OMB expect consistent and responsive performance?

Answer: We understand your concerns. When a Federal agency has identified an agency employee as its "point of contact" for the public, that employee of course should be the agency's point of contact and, as such, should be able to assist the public. While it is no excuse, it is the case that, when any new project is implemented on a government-wide basis, short-term transitional problems often arise. We expect the Federal Government's performance in this area to improve shortly and we are happy to follow-up with specific problematic agencies. A project that we expect to help address the problem you described is USA Services. USA Services, one of President Bush's e-government initiatives, will work in coordination with the Small Business Administration to train its staff to answer small business concerns at its toll-free telephone number, 1-800-FED-INFO. Therefore, citizens

and businesses can call either an agency point of contact or-1-800-FED-INFO and get helpful information and answers to their questions. USA Services will work to periodically update the points of contacts and their accuracy.

f. Names/Phone Numbers Chart. On July 18, 2003, the Subcommittees gave you a chart with the names and telephone numbers of each of the single points of contact in OMB's June 27th publication. Will OMB promptly publish and post on its website such a separate easy-to-use chart showing the name and contact telephone number for each agency's single point of contact? If so, when? If not, why not?

Answer: We agree with you that publication of such a list would be helpful to small businesses, and we want to make sure it is published in the right place. We are discussing with SBA where such a list should be published to be most accessible to small businesses. While OMB's website might be one potential site for this information, it is not obvious that a small business looking for assistance would naturally think to search OMB's website for this information (as opposed to, say, going to SBA's website).

g. Organizational Location of Single Points of Contact. Has OMB analyzed where the agency single points of contact are organizationally located? For example, how many are under the agency Chief Information Officers? How many are co-located with the agency's paperwork reduction function?

Answer: OMB has not analyzed where agency single points of contact are located. The statute did not specify that the points of contact had to be located within any particular office in the agencies. In our view, what is important is that the agencies' points of contact are able to assist small businesses; if they can provide this assistance, we do not think their location within the agency is critical.

h. Readable Format. Since OMB's publication is posted on its website in PDF format, which many small businesses do not use or which can time-out when downloading off the Internet, will OMB re-post this information in immediately accessible HTML format as well? If so, when? If not, why not?

Answer: OMB will be posting an HTML version of the compliance assistance list and point of contact list to its website in the near future.

Q2. Compliance Assistance

a. Different Content. Why are there any differences in the June 27, 2003 compliance assistance information on OMB's website in PDF format and on the Small Business Administration's website in HTML format? For example, why is there different information for the Department of Housing and Urban Development? And, which version should small businesses use?

Answer: While we sought, as we neared the statutory deadline, to assure that the materials posted on our and the SBA National Ombudsman's web sites were identical, it appears that we made a few changes in our Federal Register submission after sharing our draft materials with the SBA Ombudsman. We will both be correcting our respective website postings in the near future.

b. Copies of Forms. Small business too often finds it difficult to locate a copy of the current version of an OMB-approved paperwork form. Will OMB post downloadable copies of each OMB-approved paperwork requirement/form or links to each agency's website with such downloadable copies? If so, when? If not, why not?

Answer: OIRA's new computer system, currently under development, will permit us to collect and disseminate, through a public website, copies of all electronic materials submitted by agencies as part of the PRA review process. OIRA intends this information to include copies of forms when available in an electronic format and URLs for agency websites with the forms or additional information about the forms. We hope to have this capability ready by this fall or winter. This improvement will be part of the upgrade to ROCIS, expected later this year. However, a complete inventory of approved forms will not be available for at least three years. Agencies submit roughly 3000 information clearance requests a year, which builds and maintains an overall inventory of over 6,000 information collection approvals (some of which involve groups of information collections). Given current agency staffing allotted to PRA clearance concerns, it would not be feasible to ask agencies to process their entire existing inventory of information collections at one time.

Q3. Task Force. The task force was charged with:

- **Integration** – identifying ways to integrate the collection of information across Federal agencies and programs

- **Consolidation** – examining the feasibility of requiring the agencies to consolidate reporting requirements in order that each small business may submit all information required by the agency to one point of contact at the agency ("one place"), in a single format or using a single electronic reporting system ("one report"), and with synchronized reporting due dates ("one/same time")

- **List** – examining the feasibility and benefits of publishing a list of paperwork applicable to small business, which could be organized by North American Industry Classification System (NAICS) codes, by industrial sector description, or "in another matter by which small business concerns can more easily identify requirements with which those small business concerns are expected to comply"

a. **Integration** of Paperwork Across Agencies and Programs.

- Will OMB return to its past practice of requiring agencies to identify the Budget Function Code (such as air transportation, pollution control and abatement) associated with each proposed or approved paperwork requirement – just as OMB uses Budget Function Codes in its fiscal Budget analysis and fiscal Budget publications?

- If not, what other method does OMB consider more effective to meet the statutory requirement to identify ways to integrate the collection of information across Federal agencies and programs?

Answer: OMB stopped using the Budget Function Code as part of the paperwork clearance process in the early 1980's. The system based on Budget Function Code proved unworkable and not useful because the function code numbers had to align with the budget preparation numbers, which changed daily. Consequently, OMB will not be using the Budget Function Codes.

Rather, OMB plans to use the business lines listed in the Federal Enterprise Business Reference Model (BRM) to identify opportunities for integrating collections of information across agencies and programs. The BRM has identified 66 subfunctions that identify what types of information the federal government collects. Every information collection request should be identifiable and fit in with one or more of these 66 subfunctions. Moreover, the BRM is already being used in the Budget process to identify areas for consolidation and integration of IT investments. Thus, using this model to integrate and consolidate information collection would be consistent with OMB's IT integration efforts.

- If yes, why can't OMB ask the agencies to submit this information for all existing OMB-approved paperwork before the December 2003 startup of OMB's replacement paperwork database instead of on a flow basis until December 2006 *(p. 27)*, i.e., 3 ½ years from now and 4 ½ years after passage of the new law?

Answer: As noted above, OMB will not be using Budget Function Codes in its PRA reviews.

b. Small Businesses Without Web Access.

- On page 11 of your written statement, you mention a Federal Reserve Board study showing that 30 percent of **small and medium**-sized firms do not use computers in their businesses. A National Federation of Independent Business poll found that 43 percent of **small** businesses are not on the Internet. Since many small businesses are not connected to the Internet, why does the OMB-led task force concentrate on e-government initiatives, which will benefit big businesses but which will not benefit many small businesses?

Answer: I agree with you that we can and should seek ways to reduce paperwork burden for all entities, regardless of the medium in which information is collected, and OMB works with agencies through our PRA reviews and e-government projects to pursue this goal.

In establishing the Task Force, OMB and the agencies had to decide on which paperwork burden reduction initiatives to focus our initial efforts. Early on, we concluded that reducing paperwork burden through information technology should be a major focus of the Task Force's efforts. In this regard, Congress has repeatedly recognized the potential benefits of using information technology, and has helped push the Federal Government to better utilize technology to reduce paperwork burden. As early as 1995, when the PRA was reauthorized, Congress included the use of information technology as an important means for agencies to reduce burden. See 44 U.S.C. 3506(c)(2)(A)(iv) (in developing a collection of information, an agency shall request public comment to "minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology"). More recently, again in with the aim of reducing paperwork burden, Congress in the Government Paperwork Elimination Act of 1998 (P.L. 105-277) required that agencies provide for electronic submission of forms, including electronic signature and proper security. The deadline for GPEA compliance is October 21st of this year, and thus agencies have been highly focused on meeting these goals. In addition, in the Federal Financial Assistance Management Improvement Act of 1999 (P.L. 106-107), Congress directed agencies to develop and implement plans for allowing recipients of federal financial assistance "to electronically apply for, and report on the use of, funds." Last year's E-Government Act (107-347) further codified Congress' focus on using technology to reduce burden by "requiring using Internet-based information technology to enhance citizen access to Government information and services." OMB's experience over the years, in reviewing agency collections of information and in working on e-government projects, has confirmed the view of Congress that increasing the Federal Government's use of information technology can reduce paperwork burden significantly.

Thus, the Task Force -- working with SBA as close participant and partner -- advised that using the power of the Internet and information technology would bring significant benefits to all businesses, including small businesses that comprise the large majority of firms.

In addition, as you know, technology moves at a tremendous pace. According to a more recent survey, Dun & Bradstreet's 21st Annual Small Business Survey, computer and Internet use continues to be on the rise among small businesses. 85 percent of respondents have at least one computer on site for business purposes, as compared with 80 percent in 2001. Additionally, 71 percent of all small businesses have Internet access, compared with 62 percent in 2001. Small businesses understand the value of technology and the power of the Internet. The adoption rate is actually quite high and as survey data show -- growing very quickly.

For small businesses without web access, USA Services, one of President Bush's E-Government Initiatives will work in coordination with the Small Business Administration to provide their 1-800 hotline to provide staff to answer small business concerns. Therefore, citizens and businesses without web access can call either an Agency point of contact or-1-800-FED-INFO and get helpful information and answers to their questions.

- How does OMB propose that unconnected small businesses will easily and conveniently access forms?

Answer: Small businesses that are not connected to the Internet can use existing means to conveniently access forms. A small business can call the USA Services toll-free number, and ask for the forms they need. Alternatively, the toll-free number will connect the small business to the proper small business compliance assistance center, which can provide the forms. Through USA Services, citizens can choose their preferred front door to government: via the Internet and through e-mail at FirstGov.gov; by toll-free telephone through 1-800-FED-INFO; or through print publications from the federal distribution center in Pueblo, Colorado.

- Since many small businesses are not connected to the Internet, why did the OMB-led task force recommend a new electronic system with the burden on each individual small business "to self-identify applicable criteria that profile their business" *(p. 25)* and "to self-identify a comprehensive list of applicable requirements" *(p. 28)*? And, how can you ensure that small businesses providing slightly different firm profiles, will receive identical applicable paperwork listings?

Answer: As I mentioned earlier, OMB focused on an electronic system because we believe this technology will result in significant burden reduction to all businesses, including small businesses that comprise most of firms. In designing this system, now referred to as the business gateway, the project team has been developing a wizard/profiling tool. It is not an approach that places additional burden on small businesses by self-identifying applicable criteria. Rather, it will be based on a proven approach (similar to the Turbo Tax Wizard) that is widely accepted in the private sector -- even with small businesses when filling out their tax returns.

The creation of such a tool will be challenging given the overlapping nature of federal forms. However, the tool will be based on the relationship between the Data Reference Model of the Federal Enterprise Architecture (e.g. the discreet data elements of every federal form) and the Business Reference Model (e.g. the various lines of business that the Federal government conducts). This tool is currently under development but will be implemented in a way to address the concerns that you raise. The self-identifying portion would simply ask a small business some very basic questions such as the name of their business and identification number. These questions would help lead the tool to the applicable criteria, which would not need to be identified.

c. **List** - NAICS Codes.

- Will OMB return to its past practice of requiring agencies to identify up to 10 affected industry codes (or multiple or all) using NAICS codes?

Answer: No. As we explained in the Report, the Task Force concluded that using NAICS codes to identify information collections applicable to small businesses would serve no practical purpose.

As described in the Task Force Report, NAICS codes do not provide a good means of identifying all requirements imposed on a particular small business. Most regulatory requirements are imposed without respect for the NAICS lines between industries that have been drawn for solely statistical purposes. This is because businesses define their industry based on the product they provide to the market, where regulations can be based on much more, such as the business' inputs, its internal workflow and processes, or its byproducts. Therefore, adding a requirement that agencies identify NAICS codes for paperworks would not be an effective means of developing this list and would lead to more confusion among small businesses.

In other words, most mandatory [non-Census or non-tax] reporting or recordkeeping requirements are tied to regulatory compliance/monitoring activities. But regulatory programs are generally not tied to "the activities in which the establishments are primarily engaged." Rather, regulatory programs tend to be directed to more focused parameters – the kinds of chemical waste a small business may have, the kinds of machines which call for specific kinds of safety protection, the number of employees the small business may have. It is these kinds of "regulatory" criteria that the BCOS "intelligent agent" will have to distinguish before a small business concern will be able to learn which regulatory or recordkeeping requirements apply to them.

- If not, what other method does OMB consider more effective to meet the statutory requirement to examine the feasibility of publishing a list of paperwork applicable to small business?

Answer: The Task Force considered a number of classification schemes by which a list of paperwork requirements might be published and determined that none could communicate a comprehensive list to small businesses without engendering additional confusion and jeopardizing the ability of Federal programs to communicate clearly with small businesses.

Therefore, the Task Force focused on ways in which the government could better identify industries where paperwork simplification and consolidation efforts would be most effective. For this reason, OMB is considering using the business lines listed in the Federal Enterprise Business Reference Model (BRM) to identify opportunities for integrating collections of

information across agencies and programs. The BRM, which is being used in the Budget process to identify areas for consolidation and integration of IT investments, could point to similar opportunities with respect to paperwork requirements that affect respondents (in this case, small businesses) across multiple agencies and programs.

As discussed in the Task Force Report, the short-term goal for the project is to create, in collaboration with GSA, a central online repository for Federal forms. This will help the Federal government meet the goals of the Government Paperwork Elimination Act and paperwork burden reduction. The project will also focus on consolidating electronic forms for the following highly regulated industry sectors to reduce burden: trucking, mining, health care, and chemicals.

- If yes, why can't OMB ask the agencies to submit this information for all existing OMB-approved paperwork before the December 2003 startup of OMB's replacement paperwork database instead of on a flow basis until December 2006, i.e., 3 ½ years from now and 4 ½ years after passage of the new law?

Answer: As explained above, OMB will not request NAICS codes.

d. **Consolidation** - One/One/One. The law required the OMB-led task force to examine requiring agencies to consolidate their small business reporting to one point of submission, in one report, and with one or synchronized due dates. Did the task force consult with small businesses on this task? If not, why not?

Answer: The statute requires OMB to examine the feasibility and desirability of consolidating their small business reporting. At OMB's request, the Small Business Advocate held a public meeting on March 4, 2003 to solicit views of industry representatives regarding the SBPRA. The results of the meeting are contained in the Appendix of the report.

PAPERWORK REDUCTION INITIATIVES/RESULTS

Q4. Small Business Paperwork Reduction Initiatives in 2001-2003. On pages 10-11 of your written statement, you provide two examples of non-electronic initiatives each resulting in less than 100,000 hour reductions. What significant paperwork reduction initiatives of at least 100,000 hours (**exclusive of electronic filing**) were accomplished to benefit small businesses since January 20, 2001, and what are planned in the rest of 2003?

a. How many of these initiatives reduce the frequency of small business reporting?

b. How many introduce thresholds below which reporting is not required?

c. How many raise thresholds to reduce reporting for more small businesses?

d. How many introduce sampling instead of requiring universe reporting so fewer small businesses will need to report?

e. How many create short forms for small businesses?

Answer: As we discussed in the written testimony, many small businesses already have computers and Internet access. Moreover, the number of small firms with computers and Internet access is only likely to increase, not decrease. Therefore, to continue achieving meaningful burden reduction for small businesses, the Federal government's commitment and focus on using the Internet to facilitate a more efficient means of doing business with the government is extremely important.

In addition to the e-government burden reduction initiatives mentioned in our testimony, agencies are also making efforts to reduce burden on small businesses in the non-electronic realm. The following examples highlight the Government's effort:

- IRS small business tax exemption- In the 2002 tax year, IRS exempted small businesses with less than $250,000 in assets from completing Schedules L, M-1, & M-2 of Form 1120; Parts III and IV of Form 1120-A; and Schedules L and M-1 of Form 1120S. These changes allowed these small businesses, for example, to use recordkeeping based on their checkbook or cash receipts and disbursements journal, instead of the more complicated double-entry system. IRS estimates that these changes will affect approximately 2.6 million small businesses and reduce their burden by 61 million hours.

- Reduced number of tax forms- In another initiative, IRS decreased the number of tax-related forms that an employer must file while increasing the availability of electronic tax filing and modeling for businesses. This initiative is expected to reduce the burden of tax law compliance for businesses. In the aggregate, small businesses stand to save up to $6.4 billion over six years.

- DOL revision to the Report on Employment, Wages, and Hours collection- As part of this collection, various monthly statistics on employment, hours, and earnings by industry are collected from businesses, including a large number of small businesses. These statistics are fundamental inputs in economic processes at all levels of government, private enterprise, and organized labor. DOL plans to reduce burden on businesses by phasing in a probability sample design, which will reduce the overall number of reports.

- Health standard consolidation- DOL is also undertaking rulemaking to update numerous health standards that are inconsistent, duplicative, and outdated. This effort is expected to reduce burden on businesses of all sizes by over 200,000 hours.

- OSHA certification records review- Another potential DOL effort that will reduce burden on small businesses involves OSHA's review of the requirements associated with certification records. To the extent these requirements can be revoked without jeopardizing worker safety and health, burden hours may be greatly reduced.

- Department of Interior excise tax information consolidation- The Department of Interior also plans to reduce the burden on coal mining operators, many of which are small businesses, by streamlining how operators submit excise tax information. Specifically, the Office of Surface Mining is working with the Mine Safety and Health Administration and the Internal Revenue Service to consolidate various forms that collect similar information. This information is used to develop various quarterly statistics on coal sales. In addition, individual reclamation fee liability is based on this information. If implemented, this initiative should reduce the paperwork burden and improve the accuracy of coal industry statistics.

While the burden hour magnitude of each of these non-electronic efforts may not reach 100,000 hours or greater, these projects are significant. Moreover, when considering these efforts 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.

With respect to the actual number of initiatives that reduced the frequency of reporting, changed thresholds, created short forms, or introduced sampling as opposed to universe reporting, our database of PRA transactions does not keep track of this information.

Q5. Tax Burden Reduction for Small Businesses. Drs. Mark Crain and Thomas Hopkins in their August 2001 Report, commissioned by the Small Business Administration, found that small firms (with less than 20 employees) spend twice as much on tax compliance as large firms (with over 500 employees): $1,202 per employee versus $562 per employee. Small businesses face more than 200 Internal Revenue Service (IRS) forms, including more than 8,000 lines, boxes, and data requirements.

What specific paperwork reduction candidates did OMB pursue for tax paperwork since 2001 and will OMB pursue in the rest of 2003 to actually reduce the paperwork burden on small businesses -- i.e., not electronic filing, guidance documents, mediation, fast track settlements, notice simplifications, etc.? What is OMB's estimate for the burden reduction hours associated with these initiatives?

Answer: In addition to the projects listed above, which OMB fully supports, the Federal

Government has a variety of initiatives underway or planned to reduce the tax paperwork burden on small businesses. Several of these initiatives are briefly described below:

- Electronic Tax Products Projects - The Form 94x Series, Form 1120/1120S, and Form 990 projects will provide an electronic filing capability for filers of business tax returns, reducing burden for all sizes of business, including small business. The Forms 94x Series project will implement a new application to enhance and expand electronic filing options for the 94x family of forms (Employment Tax). The Forms 1120/1120S and 990 projects will enable electronic filing for Forms 1120/1120S (Corporate Income Tax) and 990 (Tax Returns for Charitable Organizations).

- Internet EIN Project - The Internet EIN project will provide a web-based opportunity for employers, tax practitioners and financial institutions to apply for and receive a validated Employer Identification Number (EIN) directly from the Internal Revenue Service (IRS). This is a service-based initiative, which will initially complement, and eventually reduce the number of paper, facsimile and telephonic requests for EINs. Businesses will be able to log onto a secure, government web site from their office, bank or a state agency and file an electronic Form SS-4 (Application for Employer Identification Number).

- Harmonized Wage Reporting - This initiative is designed to reduce the tax and wage-reporting burden on employers and federal and state governments by making employment tax laws more consistent across federal and state codes. The simplification of federal and state laws is expected to result in simplified regulations, instructions, and procedures and reductions in the number of forms processed, and reduced filing schedules. The objective is to make it easier for employers to comply with the federal and state requirements and to increase voluntary compliance. In addition to providing consistency in the definition of "taxable wage," the initiative will impact the state and federal income tax withholding provisions, the state unemployment insurance codes, the Federal Insurance Contributions Act (FICA), and the Federal Unemployment Tax Act (FUTA). The current project objective is to assess the economic and technical impact of proposed IRS recommendations for harmonized tax withholding (due in the spring of 2002) on tax revenues, tax administration, and state and federal agencies. The NCCUSL report and the IRS's recommendations will provide a basis for a survey to collect the required information from the state and federal agencies. The survey results will be used to draft a Decision Paper that will determine future actions for this initiative.

- Standardized EIN project - This initiative aims to reduce the tax and wage-reporting burden on employers by issuing a single Employer Identification Number (EIN) to businesses to be used by both the federal and state governments. Employers will use this number to identify themselves to all State and Federal Government agencies. The number will be issued from a single source that will disseminate and provide validation of the number to the various agencies. The near-term project objective is

to collect information from state agencies regarding current practices of issuing, maintaining, and using their ID numbers, preferences for the development of the standardized number, its issuance, validation, and maintenance, and costs and benefits that would be associated with changing to a Standardized EIN. This information will be used to assess the feasibility of the EIN Standardization project and to determine the next steps for this project.

- Single Point Electronic Filing (SPEF) for Form W-2/3 - This initiative is designed to reduce the tax and wage reporting burden on employers by permitting them to file wage reports as one combined activity. The proposed solution requires that employers electronically file form W-2 with the Social Security Administration (SSA). The SSA will receive and process the data, and make it available to the state tax agencies in an electronic format to support their tax programs. The SSA will also handle validation and corrected submissions on both state and federal data. The near-term objective of the SPEF for Form W-2/3 project is to survey the federal and state agencies to determine the actions that would be required to implement the proposed solution, the costs required for implementation, and the potential savings. An additional survey will be conducted of a sample of business owners and payroll services to estimate the benefits associated with burden reduction. The results of these surveys will be used to define implementation requirements and to assess project feasibility.

The burden hour magnitude of these various projects is not yet available. However, we believe these efforts have significant potential to substantially reduce the tax paperwork burden on small businesses.

Q6. OMB Actions on Tax Paperwork. In your October 21, 2001 reply to post-hearing questions on paperwork reduction, you cited former IRS Commissioner Rossotti's April 24, 2001 testimony before the Ose Government Reform Subcommittee that "the potential for greater paperwork and burden reduction is enormous. The IRS has barely scratched the surface."

a. As a consequence, since January 2001, how many IRS paperwork proposals has OMB disapproved? And, how many has OMB returned to IRS for reconsideration? Please separately identify each, if any, for the hearing record.

b. Since January 2001, how many IRS paperwork proposals has OMB recommended for use of a threshold that would exempt small businesses from reporting? And, how many thresholds has OMB recommended be raised to exempt additional small businesses from reporting? Please separately identify each, if any, for the hearing record.

c. Since January 2001, how many line items on IRS paperwork proposals has OMB recommended for deletion? Please separately identify each, if any, for the hearing record.

d. What other specific actions has your staff at OMB taken on IRS paperwork proposals to reduce burden on small businesses? Please separately identify each such action, if any, for the hearing record.

Answer: In OMB's October 21, 2001, reply to post-hearing questions on paperwork reduction, we did cite former Commissioner Rossotti's testimony at the April 24, 2001, hearing on the Paperwork Reduction Act. For your convenience, here is the complete quote: "The potential for greater paperwork and burden reduction is enormous. The IRS has barely scratched the surface. Through our longer-term modernization efforts that pivot on business systems modernization and a new customer-focused organization, we can provide truly meaningful burden reduction for all types of taxpayers." As we indicated in 2001, OMB supports IRS' modernization goals.

IRS takes its PRA responsibilities seriously, and we are encouraged by the progress that IRS has made in the past two-and-a-half years. During this period, we have reported on specific IRS burden-reductions successes, both in testimony before the Government Reform Subcommittee and in OMB's annual Information Collection Budget.

As for OMB actions on IRS information collection requests, we have not disapproved any IRS requests for OMB approval. With respect to the actual number of reporting thresholds and lines suggested and deleted at OMB's suggestion, our database of PRA transactions does not keep track of this information. Our response to Q.5 provides information on actions taken on IRS paperwork proposals to reduce burden on small businesses.

Q7. Non-E-Government Initiatives. In your May 22, 2003 post-hearing response to Chairman Ose's April 14th question, "What significant **paperwork reduction initiatives** were accomplished and are planned to reduce burden on ... Small businesses?," you identified less than one page of solely e-government initiatives *(pp. 12-13)*. Is that because there were no significant non-e-government initiatives to reduce burden on small businesses?

Answer: See answer to Question 4.

Q8. Exclusion of 22% of Paperwork. Why did the task force decide not to focus on "voluntary" reporting, the low-hanging fruit for paperwork reduction, i.e., "where a response is entirely discretionary and has no direct affect on any benefit or privilege for the respondent" *(p. 7)*?

Answer: In establishing the Task Force, OMB and the agencies had to decide on which paperwork burden reduction initiatives to focus our initial efforts. As you have pointed out, we decided to focus the Task Force's initial efforts on reducing the paperwork burden that is imposed by the Federal Government's mandatory collections rather than the paperwork

burden that is associated with the Federal Government's voluntary collections. We believed that focusing the Task Force's initial efforts on mandatory collections was the most effective way for the Task Force to reduce paperwork burden.

In the case of a mandatory collection, only the Federal Government can reduce the paperwork burden that the collection imposes. By contrast, in the case of a voluntary collection, the public is free to disregard the collection, and if a person does so, then its paperwork burden is effectively avoided. Thus, while mandatory and voluntary collections both involve paperwork burden (and that is why both types of collections are subject to OMB review under the PRA), the public is able to reduce paperwork burden on its own in the case of voluntary collections, but only the Federal Government can reduce the paperwork burden imposed by mandatory collections. That is why we decided that the Task Force should focus its initial efforts on reducing the paperwork burden from mandatory collections.

Q9. EPA PRA Violation. The National Federation of Independent Business witness at our July 18, 2003 hearing presented an unapproved Environmental Protection Agency (EPA) 8-page form entitled "Individual Ability to Pay Claim - Financial Data Request Form." How will OMB ensure that EPA immediately discontinues its usage of this form? Please provide for the hearing record EPA's notification to the businesses that this information was erroneously requested and is not required.

Answer: In the example discussed in the NFIB testimony, the INDIPAY financial data form was apparently used in a case under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Section 122(g)(7) of CERCLA authorizes the agency to enter into settlements based on a party's inability or limited ability to pay response costs. Section 122(g)(7)(C) provides that a party requesting an ability to pay settlement is required to promptly provide "all relevant information needed to determine the ability of the person to pay response costs." An ability to pay settlement under CERCLA may be incorporated into an administrative consent order or a judicial consent decree.

The forms that EPA uses for ability to pay information are exempted from Paperwork Reduction Act coverage because they deal with the collection of information during the conduct of a civil action or an administrative action, investigation, or audit involving an agency against specific individuals or entities. 44 U.S.C. 3518(c)(1) and 5 CFR 1320.4.

Congress of the United States

Washington, DC 20515

September 22, 2003

BY FACSIMILE

The Honorable John Graham
Administrator
Office of Information and Regulatory Affairs
Office of Management and Budget
Washington, DC 20503

Dear Dr. Graham:

This letter follows up on your September 11, 2003 reply to our July 25th followup questions after the joint hearing of the Government Reform Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs and the Small Business Subcommittee on Regulatory Reform and Oversight. The July 18th hearing was entitled "What is OMB's Record in Small Business Paperwork Relief?"

First, we are disappointed with your responses and would like to comment on some of them to ensure that the hearing record is accurate. Our comments are included in an Attachment to this letter. Second, we are disappointed that, to date, the Office of Management and Budget (OMB) has not yet set a meeting date in response to our August 12th request for a meeting with the Director or Deputy Director for Management to discuss OMB's plan and timetable to ensure swift and full implementation of the Small Business Paperwork Relief Act (SBPRA) of 2002.

We believe that the SBPRA, if fully implemented, could provide needed relief for small businesses.

Sincerely,

Doug Ose
Chairman
Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs

Edward L. Schrock
Chairman
Subcommittee on Regulatory Reform and Oversight

Attachment

cc The Honorable Tom Davis
The Honorable John Tierney
The Honorable Donald A. Manzullo
The Honorable Charles A. Gonzalez

PRINTED ON RECYCLED PAPER

IMPLEMENTATION OF NEW SMALL BUSINESS PAPERWORK LAW

Q1. Single Points of Contact.

a. Missing Agencies. In its June 27, 2003 Federal Register publication, why didn't OMB include information for each of the 71 agencies that have OMB-approved paperwork burden on the public? For example, why is compliance assistance and single point of contact information entirely missing for the General Services Administration, which oversees substantial contracting with small businesses?

> OMB answered, "We will work ... to expand its coverage. Since the SBPRA requires that we publish this list annually, we will have the opportunity to make additions and changes to the list over this next, and following, years.

We request that OMB publish a revised and complete listing by November 14th.

b. No Points of Contact. In its Federal Register publication, why didn't OMB indicate single points of contact for some agencies that were included in its publication? For example, why doesn't the Department of Labor, which is one of the largest regulatory agencies, have a single point of contact?

> OMB answered, "Some agencies felt that it would be more useful for the small business contact in their major components ... Neither we nor SBA wanted to inhibit agency efforts."

The SBPRA requires a single point of contact for each Department or independent agency. Please ensure that OMB's revised listing includes no more than one point of contact for each agency.

d. Revised List. Will OMB promptly publish a revised document to include both compliance assistance and single point of contact information for all 71 agencies? If so, when?

> OMB answered, "This is an ongoing process ... We will be updating the information that is available on the Internet."

We request that OMB provide updated information on its webpage by November 14th.

f. Names/Phone Numbers Chart. On July 18, 2003, the Subcommittees gave you a chart with the names and telephone numbers of each of the single points of contact in OMB's June 27th publication. Will OMB promptly publish and post on its website such a separate easy-to-use chart showing the name and contact telephone number for each agency's single point of contact? If so, when? If not, why not?

OMB answered, "We agree with you that publication of such a list would be helpful to small businesses ... We are discussing with SBA where such a list should be published."

The SBPRA requires publication on OMB's website and does not preclude publication on other websites as well.

Q2. Compliance Assistance

b. Copies of Forms. Small business too often finds it difficult to locate a copy of the current version of an OMB-approved paperwork form. Will OMB post downloadable copies of each OMB-approved paperwork requirement/form or links to each agency's website with such downloadable copies? If so, when? If not, why not?

OMB answered, "Given current agency staffing allotted to PRA clearance concerns, it would not be feasible to ask agencies to process their entire existing inventory of information collections at one time.

The SBPRA only addresses paperwork applicable to small businesses, not OMB's entire inventory of information collections. Therefore, we request that OMB identify this subset and make them available first. To assist in this effort, we have called all 71 agencies and asked them to submit to us a copy of their information collections applicable to small businesses.

Q3. Task Force.

a. **Integration** of Paperwork Across Agencies and Programs.

- Will OMB return to its past practice of requiring agencies to identify the Budget Function Code (such as air transportation, pollution control and abatement) associated with each proposed or approved paperwork requirement – just as OMB uses Budget Function Codes in its fiscal Budget analysis and fiscal Budget publications?

- If not, what other method does OMB consider more effective to meet the statutory requirement to identify ways to integrate the collection of information across Federal agencies and programs?

OMB answered, "The system based on Budget Function Code proved unworkable and not useful because the function code numbers had to align with the budget preparation numbers, which changed daily."

OMB's answer confuses two different coding systems. The 3-digit Budget Function Codes rarely change and are extensively used in the analysis and presentation of the President's Budget. The 6-digit Agency/Bureau Number codes do change due to agency reorganizations and, when OMB's computerized Reports Management System was designed, these codes (not the Budget Function Codes) were initialized daily off of

OMB's budget system to ensure that OMB's paperwork system reflected current agency organizational changes. As a consequence, we ask OMB to reconsider its use of Budget Function Codes to help identify ways to integrate the collection of information across Federal agencies and programs.

PAPERWORK REDUCTION INITIATIVES/RESULTS

Q4. Small Business Paperwork Reduction Initiatives in 2001-2003. On pages 10-11 of your written statement, you provide two examples of non-electronic initiatives each resulting in less than 100,000 hour reductions. What significant paperwork reduction initiatives of at least 100,000 hours (**exclusive of electronic filing**) were accomplished to benefit small businesses since January 20, 2001, and what are planned in the rest of 2003?

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c. How many raise thresholds to reduce reporting for more small businesses?

d. How many introduce sampling instead of requiring universe reporting so fewer small businesses will need to report?

e. How many create short forms for small businesses?

OMB answered, "With respect to the actual number of initiatives that reduced the frequency of reporting, changed thresholds, created short forms, or introduced sampling as opposed to universe reporting, our database of PRA transactions does not keep track of this information" and "While the burden hour magnitude of each of these non-electronic efforts may not reach 100,000 hours or greater, these projects are significant."

If each of the 6 cited efforts is significant in terms of paperwork relief, why didn't OMB include burden hour reduction estimates for 4 of them?

Q5. Tax Burden Reduction for Small Businesses. Drs. Mark Crain and Thomas Hopkins in their August 2001 Report, commissioned by the Small Business Administration, found that small firms (with less than 20 employees) spend twice as much on tax compliance as large firms (with over 500 employees): $1,202 per employee versus $562 per employee. Small businesses face more than 200 Internal Revenue Service (IRS) forms, including more than 8,000 lines, boxes, and data requirements.

What specific paperwork reduction candidates did OMB pursue for tax paperwork since 2001 and will OMB pursue in the rest of 2003 to actually reduce the paperwork burden

on small businesses -- i.e., not electronic filing, guidance documents, mediation, fast track settlements, notice simplifications, etc.? What is OMB's estimate for the burden reduction hours associated with these initiatives?

> OMB answered, "The burden hour magnitude of these various projects is not yet available."

When will the burden hour reduction estimates be available for all 5 cited efforts so that we can appreciate their significance?

Q6. OMB Actions on Tax Paperwork. In your October 21, 2001 reply to post-hearing questions on paperwork reduction, you cited former IRS Commissioner Rossotti's April 24, 2001 testimony before the Ose Government Reform Subcommittee that "the potential for greater paperwork and burden reduction is enormous. The IRS has barely scratched the surface."

a. As a consequence, since January 2001, how many IRS paperwork proposals has OMB disapproved? And, how many has OMB returned to IRS for reconsideration? Please separately identify each, if any, for the hearing record.

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d. What other specific actions has your staff at OMB taken on IRS paperwork proposals to reduce burden on small businesses? Please separately identify each such action, if any, for the hearing record.

> OMB answered, "we have not disapproved any IRS requests for OMB approval. With respect to the actual number of reporting thresholds and lines suggested and deleted at OMB's suggestion, our database of PRA transactions does not keep track of this information."

The Government Reform Subcommittee has repeatedly asked OMB to keep this kind of information so that the Subcommittee can conduct oversight over OMB's paperwork reduction efforts. When will OMB be able to report this information?

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