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MEMORANDUM FOR MEMBERS OF THE SUBCOMMITTEE ON ENERGY POLICY, NATURAL RESOURCES AND REGULATORY AFFAIRS

FROM: Doug Ose 

SUBJECT: Briefing Memorandum for April 20, 2004 Hearing, "What is the Bush Administration's Economic Growth Plan Component for Paperwork Reduction?"

On Tuesday, April 20, 2004, at 2:00 p.m., in Room 2154 Rayburn House Office Building, the Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs will hold its annual hearing on paperwork reduction. The hearing is entitled, "What is the Bush Administration's Economic Growth Plan Component for Paperwork Reduction?"

The President's February 2, 2004 Fiscal Year 2005 Budget of the U.S. Government outlines the President's Six-Point Economic Growth Plan. Point #4 is "[s]treamlining regulations and reporting requirements" (p. 10). Since the Internal Revenue Service (IRS) imposes over 80 percent of all paperwork burden levied on the public (including both individuals and businesses), this year's hearing will especially focus on the Administration's accomplishments since last April's hearing and its plan for future IRS paperwork reduction.

Paperwork Reduction Legislation

To reduce paperwork imposed on the public, in 1942, 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 the Office of Information and Regulatory Affairs (OIRA) in OMB, whose principal responsibility is paperwork reduction. The PRA was principally intended to "minimize the paperwork burden for individuals, small businesses, educational and nonprofit institutions, Federal contractors, State, local and tribal governments, and persons resulting from the collection of information by or for the Federal Government."

Attached is a chart that shows actions by Congress on paperwork reduction from 1995 to 2002, and the dates of OMB's responses to these Congressional mandates. In 1995, Congress reauthorized the PRA and set government-wide paperwork burden reduction goals for Fiscal

Years (FYs) 1996 to 2001. After annual increases in paperwork, instead of decreases, in 1998, 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. OMB's 1999 report only identified a limited number of specific expected reductions. For example, IRS identified no specific expected reductions in tax paperwork in FY 2000.

As a consequence, in 2000, Congress, in Section 518 of 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. OMB's August 2001 report did not fully respond to the statutory requirements. In fact, OMB limited its evaluation to only two major rules -- both from the Department of Labor (DOL) -- issued since March 1996. The statute did not include a March 1996 starting date for covered major rules. In fact, the Subcommittee identified an additional 15 non-IRS and 40 IRS covered major rules, which each impose more than 10 million hours of burden. These rules were issued by an additional seven agencies.

After OMB's April 2002 Information Collection Budget (ICB) for FY 2002 revealed another year of increases, instead of decreases, in paperwork and did not identify sufficient accomplishments and initiatives to reduce IRS paperwork, in July 2002, 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.

Paperwork Reduction Oversight

Annually, since 1999, proximate to the Federal tax return filing deadlines, the Subcommittee reviews agency progress during the last FY in reducing paperwork burden and agency plans for the current FY (which is nearly half over) to reduce paperwork. The record evidences a limited number of actual paperwork reduction accomplishments and a limited number of specific paperwork reduction initiatives. In fact paperwork increased, not decreased, in each year from 1996 to 2003.

During and after last year's hearing, the Subcommittee asked IRS to identify all paperwork thresholds within the Administrator's discretionary authority to set. On May 2, 2003, IRS responded that it

is conducting an extensive review of the Internal Revenue Code to identify all the Code Sections that provide for 'thresholds' ... [IRS] is reviewing the regulations and all administrative provisions to identify such thresholds, elections, tolerances, etc. that could be adjusted, without requiring legislation, to reduce unnecessary taxpayer burden while maintaining appropriate levels of compliance.

From April 2001 to February 2004, the Subcommittee sent 14 oversight letters to OMB critical of its paperwork reduction performance, including about its lead role in implementation

of the 2002 Small Business Paperwork Relief Act (SBPRA). One question the Subcommittee posed was if OMB would disclose its role in paperwork reviews, similar to OMB's disclosures relating to its regulatory reviews. In addition, the Subcommittee wrote, "The number of specific paperwork reduction initiatives, especially for information collections imposing huge burdens, is disappointing and the number of unresolved Paperwork Reduction Act (PRA) violations (including one dating back to 1978 and two from the 1980s) is of significant concern." The Subcommittee asked OMB to provide an expected resolution date for each outstanding PRA violation.

Also included in these letters were requests for OMB to work jointly with: (a) the Departments of Agriculture and Interior to reduce farm paperwork; (b) DOL to focus on matters described in April 2002 testimony before the Subcommittee by the business community about specifically burdensome DOL paperwork and on the 38 DOL requirements each imposing over 500,000 hours on the public; and, (c) the Centers for Medicare and Medicaid Services in the Department of Health and Human Services to correct continuing violations of the PRA.

ICB submissions from the 27 agencies on last FY's paperwork reduction successes and this FY's initiatives were due to OMB on January 16, 2003. In its December 2, 2003 OMB Bulletin to the agencies for the FY 2004 ICB, OMB stated, "we are asking agencies to propose or identify **at least one new initiative** to improve program performance by enhancing the efficiency of information collections and reducing burden on small businesses (particularly those with fewer than 25 employees), farmers, or manufacturers" (emphasis added, pp. 3-4). The Subcommittee has requested that OMB's FY 2004 ICB report (for the FY ending September 30, 2004) be provided 48 hours before the hearing.

The invited witnesses for the April 20, 2004 hearing are: IRS Commissioner Mark W. Everson; OMB's OIRA Administrator John D. Graham; Patricia A. Dalton, Director, Strategic Issues, GAO; Daniel Clifton, Federal Affairs Manager, Americans for Tax Reform; Paul Hense, President, Paul A. Hense CPA, P.C., on behalf of the National Small Business Association; and, Raymond J. Keating, Chief Economist, Small Business Survival Committee.

Attachment

CONGRESSIONAL MANDATES ON PAPERWORK REDUCTION: 1995-2002

Date of Law/Report	Congressional Mandate
1995 Paperwork Reduction Act	"annual Governmentwide goal for the reduction of information collection burdens by at least 10% during each of FYs 1996 & 1997 and 5% during each of FYs 1998, 1999, 2000, & 2001 "
1998 FY 99 Treasury-Postal Appropriations Act	"submit a report by 3/31/99 ... that (1) identifies specific paperwork reduction accomplishments expected, constituting annual 5% reductions in paperwork expected in FY 1999 & FY 2000 "
2000 FY 01 Treasury-Postal Appropriations Act (Sec. 518)	"Not later than 7/1/01 ... submit a report ... that (1) evaluates, for each agency, the extent to which implementation of [the PRA] has reduced burden imposed by rules issued by the agency, including the burden imposed by each major rule issued by the agency; (2) ... evaluates the burden imposed by each major rule that imposes more than 10 million hours of burden, and identifies specific reductions expected to be achieved in each of FYs 2001 & 2002 in the burden imposed by all rules issued by each agency that issued such a major rule"
2002 FY 03 Treasury-Postal Appropriations House Report 107-575	"The Office of Management and Budget has reported that paperwork burdens on Americans have increased in each of the last six years. Since the Internal Revenue Service imposes over 80 percent of these paperwork burdens, the Committee believes that OMB should work to identify and review proposed and existing IRS paperwork."

Abbreviations

FY = Fiscal Year

IRS = Internal Revenue Service

OMB = Office of Management and Budget

PRA = Paperwork Reduction Act

Prepared for Congressman Doug Ose