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EXECUTIVE OFFICE OF THE PRESIDENT OF THE UNITED STATES

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

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Good 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 will 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.<sup>1</sup> 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](http://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.

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

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<sup>1</sup>*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.

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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