

**Testimony
of
Jere W. Glover
Chief Counsel for Advocacy
U.S. Small Business Administration
before the
Committee on Governmental Affairs
United States Senate**

October 19, 1999

Good morning, Mr. Chairman and Members of the Committee. My name is Jere W. Glover. I am Chief Counsel for Advocacy with the U. S. Small Business Administration.

The Office of Advocacy was established by Congress 20 years ago as an independent entity to be a spokesperson for small business in the formulation of public policy. The Chief Counsel is, by law, appointed by the President from the private sector and confirmed by the Senate.

I am pleased to appear before this Committee to discuss an issue of extreme significance to small business, namely, regulatory paperwork and reports, and the burdens such mandates impose on small business. Before proceeding, however, please note that my comments are my own and do not necessarily reflect the views of the Administration or the Small Business Administration.

First, let me say that I endorse the concepts incorporated in the legislative proposal sponsored by Senator Voinovich and Senator Lincoln – S. 1378. It is very similar to that which I supported in testimony on March 5, 1998 before the Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs of the House Committee on Government Reform and Oversight. The current proposal would require:

- annual publication of paperwork and reporting requirements imposed on small business;
- waiver of civil fines for first paperwork/reporting violations if corrected within a specified time period, except in certain circumstances where there is an overriding public interest concern; and
- the formation of a task force to study the feasibility of streamlining information collection from small business.

Why do I endorse these concepts? Paperwork and reporting requirements are a major cost problem for small businesses. Small companies do not have specific staff to complete the myriad of reports required by government. Often it is the owner or the CEO who must take on this task, making it a very high cost activity for small business, diverting a valuable resource from running the business to an activity that does not generate revenue or contribute to the firm's output. Despite reduction goals established for federal agencies by the Paperwork Reduction Act, the problem and the burden persist.

There is a "perception" problem, as well as a real one. I think it is fair to say that small businesses live in fear that an inspector or auditor will walk through their doors and find them in violation of some law, imposing penalties that will bankrupt them and wipe out life savings invested in their businesses. Reality? I do not know. The fear, however, is real. This gives added importance to the civil penalty waiver provision in the proposal. Significantly, it would implement a recommendation of the 1995 White House Conference on Small Business to the effect that agencies should not assess civil penalties for first time violators, where the violation is corrected within a reasonable time. S. 1378 adopts this approach for paperwork and reporting requirements that do not involve serious health and safety risks and contains other limited exceptions that address overriding public policy concerns. The proposal recognizes an implicit truism, namely that small

businesses do not have the resources to track all paperwork requirements and are likely to learn of their legal obligations for the first time when an investigator walks in their door. Since compliance should be our regulatory objective, a waiver for first time violations makes eminent sense, and, if enacted, it should go a long way toward mitigating current fears.

As for the balance of the proposal, let me review some events, which I believe will be helpful to the Subcommittee's deliberations.

Let me start with the 1995 White House Conference on Small Business to which I referred in the preceding discussion of the civil penalty waiver.

About 1800 small business delegates participated in that conference and voted on 60 policy recommendations for administrative and/or legislative action. One of those recommendations, edited here in the interests of brevity, urged that Congress enact legislation that would require agencies to:

- simplify language and forms;
- sunset and reevaluate all regulations every five years with the goal of reducing the paperwork burden by at least 5 percent each year for the next five years;
- assemble information through a single source on all small business reporting; and
- eliminate duplicate regulations from multiple government agencies.

If I were permitted editorial license, I would substitute the word "reporting" for the word "regulations" in the last item, an issue I will address later in my testimony. As evidence of the pernicious nature of this issue, I need only remind you that paperwork burdens were also an

issue addressed by the 1980 and 1986 White House Conferences on Small Business.

Clearly the proposed legislation addresses almost all the concerns detailed in this recommendation of the White House Conference on Small Business. Moreover, there is statistical information to justify the recommendation.

In the fall of 1995, the Office of Advocacy submitted to Congress: [*The Changing Burden of Regulation, Paperwork and Tax Compliance on Small Business: A Report to Congress*](#). A major resource for that study was another report commissioned by Advocacy: *A Survey of Regulatory Burdens*, (Research Summary attached), authored by Thomas D. Hopkins, Rochester Institute of Technology, a leading researcher in quantifying the impacts of regulations on business, especially small business. In brief, Advocacy reported to Congress that the total regulatory cost projected for 1999 would be \$709 billion, with one-third of this cost attributed to "process" costs - primarily paperwork. Advocacy further reported that the average annual cost of regulation, paperwork and tax compliance to small business is 50% higher than for large business - actual dollar costs amounting to about \$5,000 per employee per year. Keep in mind, however, that this cost is for all regulations, not just paperwork and reporting.

Unlike capital costs, which involve a one-time expenditure, process costs (paperwork) do not go away. They never disappear from the books.

The significance of this annual 50% cost differential is that it produces an inequitable cost allocation between small and large firms. This differential gives larger firms a competitive advantage in the marketplace, a result at odds with the national interest in maintaining a viable, dynamic and progressive role for small business in the economy. The information about the cost differential in both of these studies should also put to rest the canard that efforts to lessen the burden on

small business are tantamount to "special treatment" and, ergo, unfair. Not so. Such efforts merely level the playing field and are sound public policy.

The Paperwork Reduction Act, which in and of itself was a good first start, did not focus on the disproportionate burdens that *mandated* reports impose on small business. The current proposal provides precisely that focus; the disproportionate costs to small business justify consideration of its provisions. Advocacy's research furnishes a rationale for mandating an analysis of how to simplify paperwork and reporting burdens on small business without sacrificing public policy objectives.

The first step toward simplification and the elimination of duplication is the compilation of the reports small businesses must file. This has never been done. Publication of this information in one place is likely to be a revealing eye-opener. The 1995 White House Conference on Small Business specifically recommended that the Federal government publish an inventory of all small business paperwork requirements. Such a publication would achieve two purposes. First, small businesses would be able to find, in one place, a description of all the paperwork requirements they must satisfy. This would be a vast improvement over the current state of affairs, where ignorance of regulations is a significant factor behind small business' first time violations. It should also help promote compliance, that is, if it is comprehensible and not overwhelming. Second, and perhaps most important, policymakers, both inside and outside the Federal government would have the opportunity to review this inventory and make informed decisions (1) about imposing new requirements, (2) about revising existing requirements or (3) about eliminating duplicative and unnecessary requirements.

The compilation should also help distinguish between requirements imposed by *regulation* and those imposed by *congressional mandate*. As you know, this distinction has been an issue

in determining how well agencies are doing in achieving the paperwork reduction goals set by the Paperwork Reduction Act. The Administrator of the Office of Information & Regulatory Affairs (OIRA) has testified, as has the Government Accounting Office, in earlier congressional hearings that a factor contributing to the failure of agencies to reach goals has been added congressional requirements. The compilation will be a valuable tool for the work of the proposed task force and help focus discussions on ways to simplify and reduce reporting requirements.

One benefit likely to emerge from such a compilation is better identification of duplication and overlap in reporting. Policy makers will be better able to identify where duplication exists, and, given the right kind of analysis, where there is overlap with other reports. As you know, Advocacy reviews regulatory proposals to assess their impact on small business and to evaluate agency compliance with the [Regulatory Flexibility Act](#). One of its tasks is to comment on the value and usefulness of proposed recordkeeping and reports. We have raised questions about how records will be used either by firms or by the agencies, the frequency of agency review of the data reported, and what decisions will be based on the information collected. On this point, I would like to share with you a very specific example of how regulatory reporting can be "off the mark" in achieving a stated policy objective. I believe the following example will underscore the value of the effort you are considering.

“Old Forms Die Hard”

Under the Emergency Planning and Community Right-to-Know Act, communities are entitled to information about the storage of hazardous materials in their communities. This information is useful in the event of accidents, for example, so that local officials will know how to deal with such incidents, the nature of the hazards with which they may have to deal, and what precautions to take. The reports mandated by regulation under this law required gas stations with 10,000 pounds of gasoline in underground storage tanks to file reports that they, in fact,

store gasoline on their premises. It had never been clear to me how these reports enhance the community's knowledge. Particularly ironic is the fact that the estimated 200,000 gas stations—almost all small businesses—had to submit similar reports to three other state and local entities—800,000 pieces of paper annually, at a minimum, advising public officials that the gas stations have gasoline on their premises! And when they did not, they presumably put out signs saying: "No gas today." Clearly this regulation did not save any trees nor tell the public anything it did not already know.

Advocacy first sought repeal of this requirement in 1987. After 2.5 years of my personal involvement, EPA finally repealed this reporting and paperwork requirement in February of this year. As a result of this repeal, Advocacy estimates that small businesses save over 500,000 hours annually—that is significant paperwork reduction and cost savings—not counting the agency paperwork storage costs that will be saved!

The agency is also considering additional paperwork relief under the “right-to-know” rule. EPA is further proposing to eliminate reporting by small sand, gravel and rock salt operations and converting to plain English the remaining reporting requirements applicable to storage of chemicals in excess of 10,000 pounds.

This is a major step forward. EPA's action eliminated duplicative reporting, helped small businesses and did not harm the environment. It is one of the best proposals I have seen. *It was worth the 2.5 year wait.* But we are still waiting for EPA to provide paperwork relief for small sand, gravel and rock salt operations!

This brings me to my final issue. It is a topic that I think the proposed task force will be able to address, particularly when armed with the information on the number and kind of reports small businesses must file. As the task force looks to the question of simplification and consolidation of reports, the compilation will demonstrate that some of

the same information is repeatedly requested by federal agencies— whether it is IRS, Census, Labor, EPA, or other agencies. However, while each of these agencies may be asking for this information only one time, the small businesses responding to these requests have to provide the same information over and over again to different agencies. With Internet and other new technologies, there is a better way for a small business to provide government agencies with the information they want with minimal burden on the business.

What I envision is a simple electronic form, which I call “Form 1,” that a small business would complete online just one time. The company would input all of its basic essential information there, and then whenever an agency requests information, the business would submit the already-prepared information to the requesting agency through the Internet. Or even better, the business could submit this information a single time to a centralized database, and then, if an agency needs this information, the agency could access the database directly, rather than burden the company again with another request. As I said earlier, most agencies seek very similar, if not the exact same information from companies over and over again. This could be standardized. For agencies requiring additional information not already provided, the company can go ahead and send information without having to submit the entire set of basic company information again by simply attaching the additional information onto the electronic form that already contains the standard information.

As a prototype on the feasibility of this concept, we are currently working with the Office of Federal Procurement Policy on an initiative to consolidate various paper forms used in seeking government procurement onto a centralized electronic database. With this program, we hope to be able to demonstrate how an electronic process can save both small businesses and government contracting officers valuable time and resources while promoting active participation of small businesses in the federal procurement system.

The concept I laid out is an option that should be explored by the task force. It is within the realm of feasibility, thanks to the availability of advancing Internet technology and the fact that more and more small businesses are utilizing the Internet. This is an idea I have had for some time and I am now convinced that the time is ripe for its implementation. The technology is here, but we need the commitment to make it happen.

In closing I want to emphasize that the proposal you are considering is conceptually sound and "right on the money." I cannot address the difficulty or cost of compiling the annual list of reports. If you are told that it will be difficult—that it will be costly—and—that it will be burdensome on agencies - this will surely be very clear and demonstrative evidence of the need for this compilation. Such arguments, rather than providing evidence to “deep-six” the proposal, gives you even more justification for determining exactly what reports small businesses must file with which agencies. However, this is not my expertise and I am sure others will address that issue. What I do know is that paperwork reduction is no one's priority except small business. Success will come when agencies fully realize how disproportionately small business is burdened by paperwork and reporting requirements and how anti-competitive the costs can be. There are often less burdensome alternatives to help agencies achieve their public policy objectives.

One promising item, the new Administrator of OIRA, John S. Spotila, is someone who knows the small business community well. As former general counsel at SBA he significantly reduced paperwork and SBA's regulations. His recent addition of Ronald Matzner to focus on paperwork reduction exclusively should yield significant results. I am optimistic that real progress can be made and I intend to work closely with them.

I want to thank the Committee for holding this hearing; it seems that every time we focus on a small business issue, things get better.