

# Regulatory Reform/Paperwork Reduction

*Small businesses need reprieve from the relentless onslaught of regulations and paperwork*

Although progress has been made, oppressive federal regulations and paperwork continue to plague small businesses across the country. In Fiscal Year (FY) 2009, the American public spent \$1.75 trillion complying with federal regulations. This crushing burden must be lifted from the backs of the small-business owners who disproportionately bear it.

Unlike big corporations—which have legions of accountants, benefits coordinators, attorneys, personnel administrators, etc. at their disposal—small businesses often are at a loss to keep up with, implement, or afford the overwhelming regulatory and paperwork demands of the federal government. A recent report from the U.S. Small Business Administration (SBA) found that, since 2005, the per-employee cost for all regulations for the smallest businesses (those with fewer than 20 employees) increased from \$7,647 to \$10,585. For large companies, the increase was less dramatic, from \$5,282 to \$7,755. This accounts to a 36 percent higher cost per-employee for small firms than large firms.

Despite the efforts of SBA's Office of Advocacy, which estimates that its interventions resulted in foregone, first-year regulatory cost savings of \$7 billion in FY 2009 and \$745 million in annually recurring savings, the federal regulatory and paperwork burden has ballooned and continues to grow. The status quo of increasing regulatory and paperwork burden is untenable.

The federal regulatory framework is broken. Therefore, NSBA proposes the following solutions:

*Economic Impact:* The largest loophole in the federal regulatory framework is that agencies are only required to consider the direct impact of proposed regulations. This must change—the indirect economic impact of proposed regulations also must be considered. Additionally, each Initial Regulatory Flexibility Analysis required under the *Regulatory Flexibility Act* also should contain detailed alternatives, which would minimize any significant adverse impact.

More Regulatory Flexibility Analyses also must be performed. According to the Mercatus Center at George Mason University, federal agencies are conducting fewer economic analyses and the *Office of Information and Regulatory Affairs (OIRA)* has reduced its oversight: “Compared to 2007, in which every single economically significant regulation had a Regulatory Impact Analysis; in 2009 one of five had no analysis. Meanwhile, OIRA has reduced the amount of time they are spending on reviewing individual regulations - down about 35 percent in 2009 from the previous two years. And finally, after having reviewed 900 regulations [in the last two years]... , they have decided that not one rule needs to be returned to the agencies.”

*Small-Business Assistance:* Federal agencies must do more to provide compliance assistance, including publishing plain-language compliance guides for small businesses. Agencies must simplify their regulations, instructions, and compliance processes. NSBA also urges agencies to take full advantage of the opportunities presented by *Business.gov*, which is an e-government initiative aimed at providing a single access point for governmental information—including forms and compliance resources and tools.

*Increased Flexibility and Exemptions:* Federal agencies must be permitted increased enforcement flexibility and the ability to grant common-sense exemptions for first-time offenders.

*Streamlined Paperwork:* Agencies must seek ways to consolidate forms and eliminate the duplication of paperwork, harmonize data, and coordinate due dates.

*Cost-Benefit Analysis:* Federal agencies should be required to perform and submit a cost-benefit analysis on proposed regulations and paperwork. This is a routine business practice that federal agencies would be well-served to emulate.

*Improved Information Collection:* The Paperwork Reduction Act requirement that agencies' chief information officers review and certify information collection requests is ineffective. This provision should be strengthened or OIRA should develop stricter criteria for approval. If all else fails, Congress should consider limiting the number of information requests an agency can issue each year.