

U.S. SMALL BUSINESS ADMINISTRATION

OFFICE OF ADVOCACY

SMALL BUSINESS PAPERWORK RELIEF ACT OF 2002

PUBLIC OUTREACH MEETING

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Small Business Administration
Eisenhower Conference Room
409 Third Street, S.W.
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P R O C E E D I N G S

[9:30 a.m.]

MR. SULLIVAN: If we could, let's get started. Good morning. My name's Tom Sullivan and I run the Office of Advocacy. Welcome to everyone who is participating this morning.

Before I get into my introductory comments, which will be brief, which is probably the best news that you'll hear today, let me make sure that we know that this is a public meeting and it is being transcribed by a court reporter to my right. So not only are your comments public but they will be transcribed and hopefully included as a written appendix to whatever report comes out of this roundtable.

As I said before, my name is Tom Sullivan. Happy Fat Tuesday. That usually wakes people up and I'll explain a little bit more about the appropriateness of Fat Tuesday and the Mardi Gras season toward the end of my comments but welcome here to SBA. Welcome to a roundtable hosted by my office, the Office of Advocacy.

For those of you who are less familiar with what we do at the Office of Advocacy, we have all you ever needed to know on our website, sba.gov/advo. That's sba.gov/advo. And for those of you who are on our listserve, you would have been the first folks in your cubicle row this morning to get our March newsletter.

Everyone else has to wait two weeks until it goes in the mail but for those of you who have signed up to our e-mail listserve, which is accessible on that website, sba.gov/advo, you would have woken up bright and early this morning, grabbed a cup of coffee, logged onto your home computer and bang, there it is, our newsletter.

The Office of Advocacy is an independent voice for small business within the federal government and we pursue small business's agenda, most of the agendas of the folks who are represented here today. We do it through research. We put out as much research as possible to document the value of small business to the economy.

We also pursue a small business agenda through regulatory work. We have a team of attorneys whom many of you know that work with government agencies to filter out regulations that may impose an unfair burden on small business. And before we weigh in on the small business agenda we have to figure out what that agenda is, and that's what brings us here this morning. Whenever we prioritize, my first question to our team in Advocacy is what small businesses want us to get involved? Why are these issues important to small business and we convene roundtables. We have a roundtable pretty much on anything any small business group or group of small business tell us to convene a

roundtable on and we try to soak in as much information from those roundtables as possible so that you, the small business groups, can help prioritize the small business agenda that we're supposed to be following.

These roundtables that we have on a host of issues, whether it is IRS issues, OSHA issues, or EPA issues, generally are an open and frank discussion. It's rare that we have these discussions transcribed but since there is a report that may be affiliated with this roundtable, we are having a transcription service. But these roundtables, all of our roundtables are a frank and candid discussion on what is happening to Main Street small business and I would encourage that same level of candor and frankness, with the caveat that your frankness will be transcribed at this type of roundtable this morning.

The primary reason for us to have a roundtable, as is generally the business of the Office of Advocacy, to solicit input from small business, is the Small Business Paperwork Relief Act of 2002. Keith is going to actually summarize. Keith Holman in my office, who's an attorney who's in the regulatory section of my office, has been the point person for our office on trying to distill our tasks ahead of us under the Small Business Paperwork Relief Act of 2002.

Keith will summarize the law and what mandates come out of that from a reporting perspective but before Keith does, let me give you a brief state of regulation, and that's where I think it is appropriate that this is Fat Tuesday because Fat Tuesday is the last day of excess before going into a Lenten season of fasting. And from a season of excess or a state of excess, it might be helpful to give a broad parameter, at least a snapshot of what the regulatory morass or mass is from the from the government.

A set of regulatory experts described it in the following way. In 2001, 64,431 pages of rules and announcements published in the Federal Register. That translates into two people working full-time reading the Federal Register at about four pages a minute an entire year to read the whole compendium. That's the bad news. The good news is that was 13 percent less than the year 2000, so we're on the right track but I think it's an acknowledgement that there's still a lot of work to do to trim down the rules, procedures, announcements and other materials that are contained in the Federal Register.

With that said, every member of the federal government, my colleagues, is here to listen--listen to suggestions and comments from small business owners and small business representatives and the public who are all invited to participate today.

My introduction and Keith's explanation will really be the limited time where the federal officials who are gathered around today will talk at you and instead we'll then shift to a listen and facilitate mode so that we can encourage discussion and comments about how we can continue to try to trim down the rules, regulations and paperwork that may unnecessarily burden small businesses.

Keith?

MR. HOLMAN: Thank you, Tom.

We appreciate your being here today. We know there are other things that you'd rather be doing probably than small business paperwork relief, although this is an important issues and I think we see this as an opportunity that doesn't come along that often to actually tell federal people what you think about the paperwork requirements and suggest possible recommendations for how that burden can be reduced.

Congress last year passed a law that was many years coming. Some people would say many iterations of small business paperwork relief had come up and had failed in prior years and what we got last summer was in many ways a compromise. Having said that, we still have an opportunity here to have some input, some potential for reform and relief for small businesses. Part of the

reason we're here today is, as Tom said, not to talk but to listen, to find out what really the paperwork burden is.

The act calls for particular strategies to be investigated by the task force that's created.

Let me stop for a second and make sure, has everybody got a copy of, number one, the agenda for today's meeting, which is over on the table? If not, we can get a copy to you. Number two, we have a copy of the Small Business Paperwork Relief Act of 2002. Anybody who needs that, raise your hand and we'll get a copy to you.

The key thing that's in this paper, the reason why we're here today, Congress in setting up this act basically established tasks for the task force that the Office of Advocacy is a member of, led by the OMB basically. We, as essentially the group that reaches out to small businesses in our role as advocates, were the logical choice to reach out and try to get some feedback from business, to get some hard information on what is the burden that small businesses face in terms of paperwork now?

What types of paperwork burdens are there? Beyond actually filling out forms, thinking about what you have to do to fill out forms--gathering the resources and getting the people together to get information to the government.

Once you've filled out paperwork, the retention requirements that small businesses have. In some cases you've got documents that have to be kept for 20 years or more. And doing things like attempting to get licenses and permits, people you have to hire to pull together information that goes into paperwork collection, information collection. Those are the kinds of things that we're interested in getting. As opposed to anecdotes of things that are far removed, we want to get more real examples of what those burdens are.

And then, more importantly, Congress has established tasks for us as members of the task force to consider ways that there can be relief and reforms and we need to get some real feedback in terms of are those things that are going to be useful to small businesses, or are there things that we should be putting more of our attention on and other things that are perhaps less important? Those are the kinds of things we need to know.

In terms of looking at the act, you'll see on the second page the establishment of the task force. There's information on who's on the task force and many of the task force members are here today. The various federal agencies are represented so this is the opportunity to have their ear.

On the third page you can see that there are a number of specific things that the task force is charged with considering and it's fair to say that the task force, which has been constituted now for several months, has been looking down these avenues. For example, identify ways to integrate the collection of information across federal agencies and programs, examine the feasibility and desirability of requiring agencies to consolidate requirements, the so-called harmonization and one-stop basically where instead of having to try to figure out who within a given agency like IRS, what different groups would have to receive paperwork, information collection requests, that essentially you'd have one person within the agency.

These ideas are not something that's entirely radical in 2003. To some extent they've been tried by agencies and to some extent there's been success. So we're not trying to completely reinvent the wheel here.

There are other tasks, which you'll see on page 3, which are basically the things that we're going to talk about today. Are these good ideas? Are they going to work? How would they work? So that's essentially why we're here.

One point of contact. Some ideas have come up about would it be a good idea to have federal information collection be due at the same time every year or

quarterly reports essentially would come through at the same time every year, so there would be predictability? You know you're coming up on a date. Like most people think of April 15, you know taxes are going to be due; it makes it easier to sort of structure what you're going to be doing in preparation for that.

This idea of integrating the information collection, eliminating redundancies. In other words, to the extent that you're not reporting the same information to different parts of the same agency or the same information to different agencies when, in fact, you basically only need to send it to the government one time. Now that sounds like a very simple thing and obviously it's a very difficult thing for the government because oftentimes the same information is used for different purposes by different agencies, but perhaps there would be situations where at least within one agency, there really only needs to be one point of contact for particular information that then can be disseminated within the agency for the various purposes.

Those are the kinds of things that we're looking at, as well as ideas that have come up over and over again. Maybe there should be a way that businesses can look and find out, based on their SIC code or the new NAICS code, that they can figure out exactly what

paperwork requirements will apply to them by looking at some sort of catalogue. Or indeed that there is a catalogue that shows all of the paperwork requirements from the federal government, putting aside the state and local government burden. There is some hope that this kind of thing can be done.

Within this office back in 1979 we commissioned a catalogue of all of the existing federal paperwork information collection requirements by industry and that's a document that's easily half a foot thick and nowadays would probably be four times larger but one of the things that the task force is charged with doing is trying to figure out a way to do just that again, to basically catalogue all of the federal information requirements by industry types or by some meaningful sectors of the economy so that people can have an idea--I'm in this industry; these are the kinds of things I deal with. What are the information requirements that I have to be aware of, the paperwork requirements, and what do I have to be doing?

So it's actually fairly straightforward. This is a fairly short piece of law, legislation. In many ways it's fairly straightforward. The devil is in trying to actually figure out how to do some of these reforms and I think the first thing we need to do is to get the views of you people, the people you represent, on where

the burdens really are. I think it's clear that there's some sense in Congress that there are certain burdens and we need to figure out is that true? So I think without further ado, that's where we should go.

MR. SULLIVAN: As a practical matter, because this is being transcribed, I'd like to suggest a way that we can probably recognize and then make sure that your name is appropriately written in the record. When you would like to be called on I would ask that you just take your table tent or crumple up a piece of paper or whatever the case is, simply put it up like this. So we'll try to get at the different folks in the order where there table tent is put up like this.

I would ask your patience for the microphone to then be brought around to you prior to opening your statement but at the beginning of the statement, I know we're all anxious to dive right into paperwork examples but at the beginning of the statement if you could simply make sure that you do state your name and the small business or public interest which you do represent, it might be very helpful for the transcription process.

Who's going to be the brave soul to start out first and answer really what is first on our agenda? That is your view, small business's views on current paperwork burdens. And if that isn't appropriate to your

particular agenda, that's okay, too, and tell us what small business thinks and what small business wants.

MR. HOLMAN: Anybody who's got any examples? Great, Giovanni.

MR. CORATOLO: I'm Giovanni Coratolo with the U.S. Chamber of Commerce, director of small business policy.

What I hear most from my members is the paperwork burdens of the IRS. In fact, it is IRS that generally accounts for 80 percent of the paperwork burdens on small business. Obviously they are kind of the big beast that we try to control. In trying to examine what they've done, certainly they've made strides in that area. They have an Office of Paperwork Burden Reduction. Unfortunately, they only have three people that man that office and out of the thousands of people within the IRS, it seems to be kind of disproportionate that they would only have three people that man an office that controls so much of the burden of paperwork on small business.

Part of the problem with understanding paperwork on small business is not so much how much time it takes to kind of fill in the form or read the question but it's the recordkeeping, it's the amount of time that they have to spend in collecting the data that back those forms for that data, and certainly retaining that data in a manner

in which they're able to replicate it for organizations like the IRS.

Now OMB, who also has jurisdiction over paperwork, has a half a man dedicated or a half a position dedicated to the oversight of paperwork for IRS. That, to me, doesn't seem proportional, either. At one time it was one position.

So we really, as a task force, we really have to look at what the agencies are spending and dedicating their efforts to the IRS or to all agencies. I know we have a Section 610 under SBREFA that asks agencies to review rules. Why shouldn't there be a 610 for paperwork, where they actually have to review the paperwork requirements every so often within the agency? And this should be under the guise of OMB to enforce this.

So these are some of the opening thoughts that I have that I'll throw out on the table.

MR. HOLMAN: Are there other suggestions that your members would make for IRS reform? Giovanni?

MR. CORATOLO: I'm sorry?

MR. HOLMAN: Are there other recommendations that your members would make for IRS reform specifically, besides 610?

MR. CORATOLO: Well, certainly adding more resources to the Office of Paperwork. With the IRS, one

area that I thought was very good that had some momentum behind it was the SARS program, where the IRS eliminated the duplication of submissions to the IRS and the states and from what I understand, that program's completely-- not only has it not gone forward, it is completely erased. There's no momentum at all behind it right now. That's an area that not only within an agency but drilling down to the states and local government.

This was a terrific program and it's died because of lack of effort on the part of the small business community or, you know, all of us, we haven't pushed enough and the states are clamoring for more money and this is something that would have eliminated a lot of duplication, a lot of just redoing things for states, as well as the federal government when it comes to 941 submissions.

MR. HOLMAN: Thank you.

MR. SULLIVAN: Chris?

MR. TAMPIO: Thank you, Tom.

Giovanni, I like your point of having people there to answer questions.

MR. SULLIVAN: Chris, can you introduce yourself?

MR. TAMPIO: Chris Tampio with the National Association of Manufacturers.

I think small business people, they want to comply with regulations and paperwork and stuff but the biggest problem they have is compliance assistance. In all the agencies, in IRS, in OSHA, at the Department of Labor, in Wage and Hour and everywhere, I think having more people there to help with compliance assistance is a key that these people want. I know small business people would rather have less paperwork and we don't have a lot of actual specific examples, but where there is paperwork that has to be done, we need assistance in doing that. That's the biggest thing where maybe funding or help can be put in for all the agencies across the board in the federal government.

So that's one thing that we get from our small business folks all the time, is we just need help in filling out the forms and if we've got questions, we need someone to call. They feel like they're going blind in filling out some of these forms in some cases, so that's one of the biggest things.

I know one group, I do a lot of OSHA issues and I know OSHA last year had put forward a proposal as part of the Paperwork Reduction Act to get rid of a lot of duplicative and excessively redundant stuff. I think that's a good start they've done, which they need to be commended for doing that. But they also, in the same turn, have done stuff like they redid the

recordkeeping, which is fine, their OSHA laws, but in doing that they wanted to create some separate columns in that. They created separate columns for hearing loss. They thought about creating a separate column for ergonomics injuries. In doing that you start to create separate columns for--you know, why don't you have a separate column for amputations or slips and falls? That's just so much more paperwork when you create all these separate columns. You don't want to say that hearing loss isn't a bad problem or something but how far are you going to go with the recordkeeping for injuries? Would you go on and on and have a separate column for every single thing and keep track of it that way?

So they seem to be doing a good job in updating the OSHA laws but with a lot of their separate columns they might have gone a little bit overboard.

MR. HOLMAN: Speaking from the federal perspective, it seems unlikely any time soon that we're going to be seeing tremendous new resources for new personnel, so it sounds like what you're suggesting is--

MR. TAMPIO: I think it would be--again, as I say, I do a lot of OSHA issues and instead of having so many people that are there playing gotcha for a manufacturer that might have a paperwork violation, why not instead have someone go there and try to assist them

in not just the recordkeeping but trying to make it a safer workplace instead of giving them a violation for not having their material safety data sheets updated or something like that?

So I know we don't want to have a larger federal government but maybe let's take some of the resources from a lot of their heavy-handed enforcement to compliance assistance.

MR. HOLMAN: Very briefly, do you see examples of this that work on, say, the state level?

MR. TAMPIO: Right now I can't think of a specific example. I think one thing that might be helpful for us to get more information to you folks on would be where we could maybe get a little bit of a summary of the Paperwork Reduction Act and kind of asking our folks what they--we need to do a better job probably in the association role of asking our members about this stuff but when we send them just the law itself and stuff, they see all the--we need a better job of summarizing it and you may be able to help us with that, so then we can send it out to our members and they give us the stuff and then we could comment back to you again. Does that kind of help?

MR. SULLIVAN: Actually, Chris, it does help and it's a good point to recognize the

follow-up aspect of today's meeting. Not only are the comments welcome and transcribed from today but we do have follow-up requests that if any of this discussion prompts your ideas or your members' ideas on information that would be helpful to this dialogue, in the next seven days, so a week from today we have the time to get all of those comments by e-mail so that they can become part of this record.

So if any of the discussion today prompts idea that you can follow up with from an e-mail, please do so. Keith's e-mail is keith.holman@sba.gov. That's keith.holman@sba.gov.

You actually get more than one bite at the apple on this. You have today's opportunity to share your views in this dialogue. You have a follow-up opportunity through e-mail. Then once this report goes out, it is, as you will see in the law, subject to notice and comment. So sometimes this dialogue prompts new thoughts and the transparency of it all is certainly something that we encourage and we'll prompt more and more comment to end up with a good set of recommendations coming from the task force.

Fern?

MS. ABRAMS: Fern Abrams, the Association of Connecting Electronic Industries. Our members

manufacture electronic components, namely, circuit boards.

I wasn't going to talk right away because I hadn't really come with preplanned things to say but then as you said, Tom, I listened to Chris and that made me think because I hear primarily complaints about the Environmental Protection Agency and I also work with OSHA issues, although not as closely as Chris, and I actually view OSHA as much more of an outreach and helpful to small businesses and the like, and I'd like to see EPA go more that way, that OSHA actually has programs where they reach out and help businesses comply and don't--maybe I'm wrong but I hear less about enforcement actions from OSHA than I do from EPA.

I hear a lot about duplicative reporting about EPA. There are four different media offices. They all ask the same questions in different ways and people end up reporting the same data with a slightly different twist and I don't know if this report can address that because many, many of those requirements are statutory, so I don't know if that's within the scope of this law's examination.

The second thing I was going to say is our members really do need help with some of this paperwork. A lot of times it's very--I mean you get down to environmental reporting on very technical issues and

they're very specific and what they really need is simplification. They don't need more long written guides or helpful compliance guides where instead of now having 20 pages of forms with 200 pages of directions, we now have 300 pages of guidance on top of that, which is often more regulatory interpretation instead of really being helpful.

And the second thing I hear about a lot and I saw hotlines on your list is there's a lot of problems with contractor-staffed hotlines where the people answering the questions don't really know the answers. They're making stuff up. And then the agencies, and I believe this is true of the IRS, as well, don't have to be held to the advice that is given out by their hotline. So someone can get advice, take it, and still be slapped later with an enforcement violation.

So those are my thoughts for the moment.

MR. HOLMAN: Thank you.

Susan?

MS. ECKERLY: I'm Susan Eckerly and I work with the National Federal of Independent Business.

We're very happy that this small business paperwork bill got passed and this process has been set up but having said that, to date myself, and there are others in this room--I'm looking at one of them--who've

worked on paperwork issues much longer than I have, but having worked on them for about 15 years and not always at NFIB, I'm a little hesitant to tell our membership about the fact that this bill was passed and that we worked on it. And not to minimize the bill at all, but if you tell small business owners, particularly ones who've been around for a long time, that you're trying to reduce paperwork, they'll sort of laugh at you.

Unfortunately, as we address this problem you sort of look at the history of the Paperwork Reduction Act and the scope of what that's been trying to achieve and what we're trying to achieve with this task force and it's all laudable goals but sort of looking at from a historical standpoint, I mean paperwork just keeps growing and we're all trying to find different mechanisms to try and reduce it, to find a coordination point in the agencies, which we've already set this mechanism up; there should be a paperwork officer in each of the agencies already. We're already trying to set up these mechanisms.

So as we discuss this and as I'm thinking about this problem, I'm trying to think of what's changed now in the year 2003 that can help us try and get a handle on this problem we've been trying to pass laws and establish task forces and have roundtables to deal with for years and years and years.

I think a couple of things that we have that help us that we haven't had in the past are technology-- obviously the Web and some electronic reporting. Obviously I'll be the first to say our members are way behind in that. The average size of our membership, as many of you have heard me say over and over, is very small, less than 10, and a lot of these people are now having computers but they don't use their computers necessarily to be on the Web, so they're not going to get on EPA's website and all of a sudden have one magic form and fill all that out.

So while I think technology's a tool and it should be something that we increasingly use and hopefully use and maybe that's something that can shift the debate or the paradigm, the way we have been looking at these issues and help.

Another tool that's happened that hopefully we can think about in all this, too, and I forget the acronym but what was it? GPRA? That's passed and unfortunately before I got here I didn't have a chance to review how much they take into account an agency's paperwork compliance in terms of an agency's performance, but I think that's something that we should look at, as well, that that's another factor.

I thought Giovanni's mention of 610, I

mean that's been around for a long time but breathing new life into that, as has been done with the SBREFA legislation. That's another. It may be a new spin on an old tool that we can use, too.

So as we debate and get into the solutions, that's another part of this forum today but maybe we can sort of think of new ways, new tools that we might have now that can implement, better implement an old law.

In terms of the burdens that NFIB members face, I echo the comments with regard to the IRS. Those are clearly what our members state as the overall problem.

Let me step back, though, and say when our members look at regulation, it's not so much that we find from our survey work the fact that they have to comply with the regulation; it's more the extra paperwork required from the regulation. So paperwork is a definite problem; they say it's a hassle. As from the IRS, it really depends after that sort of what business they're in. Some of them complain mostly about OSHA and Wage and Hour.

Some complain about HHS. Some complain about EPA. Our members are across the spectrum I can't identify one particular agency. It's probably health and safety and then environmental rules, after IRS, the burdens they most have to comply with.

I would also add that one thing that I know has been mentioned here today that we may want to add to the discussion between 10:45 and 11:30 is recordkeeping in terms of how long folks have to keep these records. I mean I know it varies whether it's 30 years, by agency, but shoot, I would love to know the compliance rate on that in terms of folks. I think that's something that also needs to be looked at. With that, I'll put my card down.

MR. HOLMAN: I know there's been some concern about longevity of the requirements on recordkeeping, especially in areas like RCRA facilities and that kind of thing, and there's reasons why you have long retention periods, but one of the things that OMB has proposed as a reform for EPA is to shorten those time periods.

Are there any people who have specific situations that have come up where they've had complaints about I could have done something different but I had to spend money to hire people to do paperwork compliance, rather than hiring like a new salesperson or a new person to do the manufacturing? Does anybody have stories like that? Actually, Giovanni, you've got your tent up.

MR. CORATOLO: I just wanted to qualify one thing. When I mentioned 610 I want to make it clear I recommend that this task force have some sort of

recommendation of a 610-like provision where agencies could have a certain period of time where they would have to review their forms. I think paperwork reforms generally take on a life of their own and in many cases their usefulness tends to wane over time and those agencies should be required to examine not only the burdens of filling those forms out or the paperwork requirements but also the usefulness of the information.

So when I refer to 610 I'm not referring to 610 out of SBREFA but something similar that would be recommended by this task force to the agencies that every so often they would have to review these forms and have certain assets dedicated to examine whether this information is useful or not or is being used.

I know with the IRS, they just deleted the requirements of filling out Schedule L and M and when they examined it they found out it was not used. Here were millions of hours of paperwork that was being required, plus the data collection by small businesses, and they weren't being used.

MS. DRUMMOND: This is sort of a follow-on to the 610 comment.

MR. HOLMAN: Could you introduce yourself?

MS. DRUMMOND: I'm sorry. I'm Anita Drummond with Associated Builders and Contractors.

This is a follow-on to the 610 comment. The other thing that's underutilized and I'm sorry I was late and this may have already been said, is information collection requests reviews that the agencies are required to do under the Paperwork Reduction Act. Unfortunately we are all notorious for never commenting. After the paperwork requirement's put in place it comes back up for review and no one comments when the OMB puts out the notice or when the agency puts out the notice.

So we do have mechanisms in place and we're guilty of not commenting on them. I try to comment on them. I recently commented on one on OSHA. I know it falls by the wayside, but we did put a mechanism in place and we underutilize it. So that's one thing. And I think it needs to be incorporated in our thought process with 610. It's all the same concept, although 610 obviously gets to the underlying requirements of the rulemaking.

The other thing, and Bruce may have already mentioned this under the Data Quality Act, the aspect of applying the Data Quality Act to the ICR reviews. So when you have an information collection request and the agency comes out and says you've been doing this for 15 years and it only takes you two hours a year to comply

with this paperwork requirement, well, what's the underlying data that supports this assertion by the agency? They need to be in compliance with the Data Quality Act.

So there's actually three pieces of legislation right there that all could be working together in paperwork review.

MR. HOLMAN: Jim?

MR. TOZZI: I just have one little comment.

MR. HOLMAN: Jim, can you introduce yourself?

MR. TOZZI: I'm Jim Tozzi with the Center for Regulatory Effectiveness or whoever I'm with today.

The question I have is that I think we have an issue on paperwork, but the problem is I think the biggest problem is that people in this room, including me, I have the Center for Regulatory Effectiveness get thousands of hits a day, 40,000 or 50,000 hits a day on the site, we get numerous people writing and we can't handle all the requests, and a number of them are small businesses asking questions about an IRS rule or complaining about something.

The problem is I don't think Washington takes paperwork as very sexy. It kills small business but big business have other fish to fry and small businesses are drowning in this. Bob Coakley can go back, as old as he

is, in the early days of the act. There's not been a big push for this.

And I agree with you, Ms. Drummond, that we've got ample amounts of control. The Paperwork Act has three-year extensions. You know, I've lost some regulatory issues in this town but I've never lost a paperwork issue.

So all you have to do is scream and the rocks come down pretty fast. We have this long process where agencies put it out for comment and then OMB does. Did you ever go to OMB's docket to see how many people comment on paperwork? Not very many. How many go running over to OMB and complain about it? As bad as the IRS is, I go to IRS and they're very hospitable. I mean if I ask for some changes, they just want to know, get some documentation.

So I don't think it's a problem with the government. I think the problem is that all of us have a sense of priority and paperwork isn't very high on it. And to the extent we don't take it more seriously and other people we work with, the government's not going to take it seriously. How many trade associations have paperwork on their Monday meetings? I go to a bazillion trade associations--there's NSR, BSR, a thousand other issues.

So I think the problem's us; I don't think it's the government. If we don't give a high priority on the existing systems that are in there, I don't think nothing's going to change. Thank you.

MR. SULLIVAN: Thank you, Jim.

Actually we're going to go a little bit outside of the agenda and actually build on the comments that just came out. Not only has it come out that there are some tools in place that can help not only raise the issue of paperwork inside the Beltway for some change, but also give reinforcement to some of the efforts to change that we talk about along the edges.

Not only do we have that kind of comment; we actually have in the room a number of folks who helped write and pass and exercise oversight in their capacities in the small business and trade community, as well as their congressional community, on those laws. We have data quality, we have paperwork reduction, we have the Regulatory Flexibility Act amended by the Small Business Regulatory Enforcement Fairness Act. All of those present some opportunity and I think it's safe to say that there are a number of tools on the books that if followed perfectly, may help turn the tide on some regulatory burden.

Let's open this up for discussion from some of the folks that do have experience not only in the intent of these tools, these laws, but how they may be implemented or quite frankly, how they might be implemented better from a small business owner's perspective. I'd like to open that up for discussion. Bob Coakley?

MR. COAKLEY: Thank you, Tom.

I'm a small business person now but I'm also a veteran of the legislative battles and the executive branch battles. I have lost some paperwork battles in my time and some of them, the winner was Tozzi and not me.

I would like to make a couple of brief comments, one of which is I see this act as a strategic opportunity to build on the legislative legacy that we have before this. This act amends 3502(4)(c), 3506(c) of the Paperwork Act, which basically is a strong symbol that it builds on the 1941 Reports Act.

Now if you look at our legislative legacy that you, Tom, and others are now going to try to package together in a set of recommendations, you can take all these legislative enactments and I want to make a point about them because they're all related. I think we have a number of our witnesses, folks here today, who've been saying that.

The '42 Reports Act, the '73 amendments, the '80 Paperwork Reduction Act, the '80 Regulatory Flexibility Act, which created your office, the Paperwork Act created OIRA. Do we have an OIRA representative here today? Well, if we don't, Tom, I think that's the number one recommendation. If they're not a part of this process of what you're doing, I, for one, consider that an outrage and the president is ill served.

MR. SULLIVAN: Bob, actually OIRA is co-chairing the task force. While they're not in the room today, that's primarily because they know that this is kind of a roundtable discussion to give us direction. But I can assure you from a discussion I had with John Graham this morning, they're very involved and will take very seriously the comments from the small business interests represented here today.

MR. COAKLEY: Terrific. I stand corrected and I'm glad to hear that. I think it's vitally important.

The '86, the '95 Paperwork Act followed that and then we had SBREFA. This is a legislative legacy that this Small Business Paperwork Reduction Act of 2002 builds on. It's a strategic opportunity to build on it. There's one thing in common to all those acts. They speak to the whole community but they wouldn't be possible without the political support of the small business community.

I was a chair to the coalition that included almost every organization represented here. We passed that act in 1995 on roll-call votes in the Senate and the House in a very partisan Congress. We passed that act as an item on the Contract with America without a single dissenting vote in either house in either party. It's the only item that got that kind of support and it wouldn't have happened if it had not been for the hard work of the small business community.

So what we have here in the 2002 act is another example of the small business community coming to the fore and saying let's give this act together and let's do something. Same questions.

How do we do it? Where is the burden?

I beg to quarrel with my good friend Jim Tozzi that the problem isn't the federal government, that the problem is that we don't participate enough here in the small business community. I think the overwhelming theme that is behind that small business support for this legislative legacy, which we have an opportunity to build on with this act, is a frustration. It's a frustration that we successfully get the leaders, the political leaders, to say what ought to be done. It is incredible the tools we have put in law that are basically being neglected by the executive branch and it's the small

business community that again expressed this frustration in the 2002 act.

And we have the opportunity with a new administration that came on board, came on board and campaigned to a not de minimis extent on the principle that I'm going to be a little bit more mindful of the laws of the land and I'm going to respect the laws of the land and that the small business community is going to have a role in that. The small business community is frustrated that what we put into place doesn't get done and that's largely an executive branch problem.

Now Jim points to, you know, there's a need for better participation, but let's talk about the why. Susan is right on point on this and I see a lot of folks that can relate to this and say this all the time. Why doesn't small business participate more? Well, because there's a lack of integrity in the procedural process that we've created. We've got participatory mechanisms galore in the Reg Flex Act, in the Paperwork Reduction Act, in SBREFA. We've got them galore.

We even have in the Paperwork Act two things that came up in our discussion today. We have in the Paperwork Act an opportunity to petition the director of OMB on whether the law's being followed and he's got a statutory requirement to follow up in 60 days. The

history of that practice, to those who know about it in the first place, is that the executive branch and OIRA basically do not respond to those things.

I guess that's what I see as the context that you're in. The mantra of the small business community is we don't need new laws, we don't even need new administrative initiatives; what we need is an executive branch to follow up on the laws that exist so that we give integrity to the regulatory process and we can participate meaningfully instead of participating and having it just ignored. We need to get rid of the benign neglect and that'll take political leadership and I hope, Tom, you can recommend some things that would maybe lead to that.

Let me make two specific suggestions which I think are critical, one of which is to capture the attention of the Executive Office of the President. It's worth being mindful of the executive order on regulations. The Bush administration chose very forthrightly to follow the Clinton administration's executive order 11286. At the time of that executive order before it was issued, the entire small business community got together--NFIB, NAM, the Chamber, I was present as a part of this coalition exercise, the National Small Business United--the entire small business community got together

with the Clinton administration and got a preview of what the executive order would read like and we made one request. They were asking our support. The meeting was with Bob Rubin, Sally Katzen and Vice President Gore's counsel. They asked for our support. They felt it was the last time to really get on board and would we support it?

We looked at that executive order, all of us, and felt like there were some problems with it but there were some opportunities and we asked for one thing. It was the age-old mantra that's as relevant today as it was then. We need the president to ask the agencies to make it a priority to follow the procedural requirements of law that we already have won and put in place and that ought to be done. The integrity of the process.

And they agreed and they made that manifest in Section 6-3 of the executive order that President Bush has now said I want to be the basic document in my regulatory program. It reads that "In addition to adhering to its own rules and procedures and to the requirements of the Administrative Procedures Act, the Regulatory Flexibility Act and the Paperwork Reduction Act and other applicable law"--this preceded passage of SBREFA and the amendments to the Paperwork Act and Reg Flex--"each agency."

But anyway, the point is that that directive from the president to the agencies to please follow the law is this administration's executive order, as well, and I think it ought to be a part of your thinking when you take the strategic opportunity to pursue this legislative legacy in the present Small Business Act.

One other specific comment. When we got that grand political consensus in 1980 we did a couple of things and I would like your observation on this, Jim, and others who were there. Jim was the executive branch civil servant who was basically the key to the passage of the Paperwork Act. But we agreed on a structure, an overarching structure of how to manage regulations and information, the burden which we statutorily defined, and that structure had leadership at the top in the Executive Office of the President and that structure had single agency officials that Susan alluded to, which in today's time we call chief information officers, right?

The chief information officer's responsibility and what tied that structure together to the policy responsibilities and to the clearance processes, such as the reports clearance process, privacy, and the rest, was over a concept. The concept was information resources management. That was the basis for the consensus that we put together, everybody, and that has been the concept

that has been the basis for the consensus almost to this day, except for today we've forgotten that we statutorily defined it.

Let me just quickly read the statutory definition because that's my point. We put public burden in that definition. The term information resources management means, and this is the law of the land today, the process of managing information resources to accomplish agency missions, to improve agency performance, including through the reduction of information collection burdens on the public. Small business made that politically possible to drive that concept. We've got a strategic opportunity to remind everybody.

Chief information officers today have a concept of information resources management that I don't believe includes public burden. Their statutory mandate, also now found in 3506 which this Business Act amends, the first line, the chief information officer's authority and responsibility, see to it information resources management is followed in this agency.

You've got to understand that concept. All the things we put in Reg Flex, SBREFA and PRA in terms of tools, requirements, we've got a

three-year sunset on all information requirements, including records management requirements, in the law and we've almost established it as a civil right in the public protection section. But my recommendation to you, Tom, if you want to make recommendations, you've got to read the law, see what small business has put in place here, understand how IRM was used as the overarching integrating concept. We've got single agency contacts.

If we create a series of single agency contacts outside the rubric of these chief information officers and their statutory authority and responsibilities, how can we expect them to work? It's either got to be them, a point Susan alluded to, or it's got to be somebody to them. Then the CIOs have to understand that IRM includes public burden and small business. And if they think about it and if they follow what the president, I suspect, wants done, small business would be pretty high on that list and we will begin to see an ability to attack these problems. Thanks.

MR. HOLMAN: Thank you, Bob.

Does someone want to respond to that?

MR. SULLIVAN: I think Rosario had his hand up in the back. And Bob, thank you for your comments.

Rosario, if you could introduce yourself for the transcriber, that would be great.

MR. PALMERI: Rosario Palmeri with the House Committee on Small Business. I just had a couple of quick ones for you. Many of those are just ones that I learned from folks in this room.

I just wanted to start with Giovanni's point on the IRS. One example of, I think, the mindset at the IRS that's important for Keith and Tom and others to be able to share with agencies in this task force is that I sat through an IRS paperwork reduction meeting. It was part of their normal review of forms and instructions. This one happened to be on taxes filed by small farmers and they devoted, I think, about 25 minutes in their eight-hour session on this particular set of forms to paperwork reduction and that was the portion of the meeting I came to. I came a little bit early, so got to hear about farm equipment depreciation and some other fascinating things.

But what we found is that the IRS, in figuring out who to put together in terms of a meeting to talk about paperwork reduction, they didn't have a single farmer, they didn't have a single representative from a farm trade or any other small group. They put together a group of practitioners who essentially were accountants or folks who work for extension agencies that help farmers put together their work, but they start with the assumption that no small business and no farm is actually

going to fill out their own taxes, that they're going to hire someone to do it or they're going to use another service to do it. And when they start from that basic assumption, they assume that the types of corrections and the types of things that they want to do or make clarifications to are from a practitioner's standpoint rather than from the individual standpoint.

So I think part of that issue is just a paradigm problem. The way that they're looking at burden reduction is from the wrong point of view.

One I just want to mention that I've learned many times over from Fern Abrams in this room is that often whether it's OMB or it's agencies beginning to talk about burden reduction or paperwork reduction, they see a great opportunity in making everything electronic, that somehow this is going to achieve the greatest type of reduction and it's also perhaps the most cost-efficient for an agency, but the reality of small business, the reality of those that actually have to go through this if they're going to fill out their own forms, more often than not the electronic option isn't available to them.

So although this is often the main way, I think, in which agencies choose to reduce their overall burden numbers by suggesting while so many have been able to file electronically now, it still isn't taking care of

those who have the toughest part of the burden, which is those that are still filling out paper.

And then the last is just something I've learned from associate administrators of some of these agencies who are in charge of different pieces of this is that they're desperate for an easy way to help but more often than not they lack political cover or they lack the tools to be able to fight the entrenched forces in their agencies to actually be able to do some of this work.

So I've seen them beg for ways or opportunities to do some of these things and they just don't feel like they have the tools to make it easy. So no matter how many times we have a series of rules or regulations that are supposed to assist in this process, I think they're happy to consistently have more opportunities for that.

MR. SULLIVAN: Thank you, Rosario.

Brad?

MR. FRISBY: Hi. I'm Bradford Frisby with the National Mining Association. I wanted to make a couple of comments about things I've observed over the last 10 years of working on these issues.

I'm an attorney and I have an economics background, so that tends to be the way that I view these types of things. My association files a lot of comments on regulations. We get information from our members because the regulations will have a big impact on

their operations, so they're willing to spend the time to provide us with information so that we can therefore provide it to the agencies and hopefully the agencies will review our comments and change the regulations so that they can accomplish the goal but do so without hurting our members.

Of course, if we feel that the agency is violating the law, we can take them to court and sue them under the APA and we do that quite often and with quite a bit of success.

But in terms of some of these other issues, like small business and paperwork issues, I'm reminded of a comment my brother made. My brother works for the Federal Trade Commission and he was reviewing a regulation one time with one of his colleagues and his colleague--this was before SBREFA was passed, by the way--he said, well, what about this Reg Flex review? He said, "Don't worry about that. It's not enforceable anyway, so we don't have to do that." I think unfortunately that's the attitude of a lot of federal officials, not all of them certainly, but many of them.

When SBREFA was passed and judicial review was instituted I think that you'll agree that that made a tremendous difference in terms of agencies' willingness to look at the small business requirements under the RFA.

We've had numerous cases where we've dealt with agencies on that from the Interior Department, Labor Department, and many others.

In terms of paperwork, I'm a great fan of what Bob has done in terms of getting the Paperwork Act of '95 amendments passed. I think there's a lot of good things in there. We've gone to OMB. We have filed comments on information collection requests. Unfortunately, we haven't won any of our battles in that arena and I think part of the problem is as well-meaning as everyone is in terms of OMB and other agencies, there's really no requirement that they have to do anything. Yeah, they have to review it but ultimately if they decide to not act, there's no recourse.

So I think if I was going to make a recommendation for your task force I would suggest that you look at ways to implement the paperwork requirements that go beyond simply having them review them. Maybe some type of judicial review or maybe you need to create some kind of incentive from the agency's perspective. We're relying on small business to spend their time looking at these paperwork burdens and 99 times out of 100 it's going to be easier for them to just fill out the paperwork than it is for them to spend 40 hours looking at it and telling us how to fix it. It's easier for them to just go with it, even though it's a burden.

Maybe if you could create some kind of budget for federal agencies that say they get 50 million hours of paperwork and let the agency figure how which ones are the most important. Right now the agencies have an insatiable appetite for information. There's no down side to them.

Each time they institute a new paperwork requirement, they keep adding them on and adding them on and maybe if there's some sort of limit on what they're allowed to collect in terms of an overall sense, you could make the agency be a check on itself to decide which ones are the most important and to get rid of the ones that are no longer necessary.

MR. HOLMAN: Would you be in favor of public shaming of the recalcitrants? Just kidding.

Andrew Langer?

MR. LANGER: Yes, I'm Andrew Langer. I'm also with the National Federation of Independent Business.

I'd like to add to something that my colleague from the National Mining Association said. I think that there's an even more fundamental problem at issue here and that's that I don't think the agencies fundamentally understand what it is to be in the shoes of our members, and that may be a problem that just may not be able to be fixed.

I was talking with somebody who's on the EPA's Compliance Assistance Advisory Committee in the last couple of days and this is a mindset that he found basically throughout a number of different agencies of the federal government. I'm not sure how we can go about putting these agencies in our shoes, in our members' shoes, but there's got to be some way. We ought to be exploring opportunities to do that.

This is something I've just been thinking about again in the last few days. As agency personnel are being taught to, for instance, do sensitivity training and the various sorts of training they have to go through to be good co-workers with their workers--sexual harassment training, things like that--I think opportunities exist as they are trained and retrained to sort of find a way to put them in the shoes of our members, whether it be to do something like have somebody from the EPA take a look at a reg from DOL's Wage and Hour Division and have to discern what that reg says and means and be tested on this. If they fail, they could see just how long it takes them to figure it out.

But I don't think that they have the foggiest idea when they are writing the regs or when they're interpreting the regs just how it is for someone who may

be a practitioner in the particular field being regulated but someone who has no training in regulatory interpretation to have to figure out what it is they need to do.

I was going to say something after Chris had spoken about compliance guides and creating more simple compliance issues. This is something that we dealt with in the lead TRI issue, which I'm sure many people in this room are familiar with, and the reluctance on the part of a particular federal agency to create a much simpler compliance guide in that instance.

There are some very fundamental problems. I think we have to, if you guys are going to make recommendations, the agencies have got to explore a way to get their people in the heads of the small business community for them to understand that boy, it's just not that simple.

MR. SULLIVAN: Thank you, Andrew.

We come now to the second part of our program, and that is talking about some of the things that are kind of on the table already as far as tools that may be able to get at some of the regulatory complexity.

In the Office of Advocacy every year we have awards. We actually give awards to small business owners around the country to commend them on their advocacy on small business issues, their volunteerism largely to make

the business environment better for the next generation of entrepreneurs.

This exercise that we're in today about discussing regulatory burden and paperwork burden really is no different. There are snapshots throughout the government of examples of what can be done to try to get at the complexity. Some of those are listed on the agenda. One-stop reporting, for instance. SBA is certainly a leader in this regard and is very proud of building a record of providing a one-stop electronic compliance shop. Actually the Mining Association, Brad, deserves certainly a lot of credit in that regard.

We see the electronic filing taxpayer system of IRS that has inserts in your Sunday newspapers that says--it doesn't say you, small business owner, have to file electronically. It says hey, you can save money if you file electronically and lo and behold, more small business owners are filing electronically because instead of the government telling someone to file, they're saying you can save money doing it electronically and there is a burden reduction and complexity dynamic or a lack of complexity dynamic built into those types of initiatives.

So I think there's an opportunity for a comment to my left and then after that I think we'll launch right into your working relationship with different tools that

are on the books that we can highlight or perhaps new ideas of compliance tools and interactive tools and burden reduction tools to highlight in the report so that we can provide examples, leadership by example, on certain examples that may be able to be adopted by different agencies of the government or, quite frankly, government-wide to reduce the paperwork burden.

MS. PUGH: Thank you, Tom. I'm Theresa Pugh with the American Public Power Association. We're local government and also small business, state and city utilities. If it's okay I'll try to say what I was going to say in the context of what you just outlined.

I think we've come a long way with EPA, and largely thanks to SBA's presence in the last 15 years. We still have a long way to go but when I hear about some of the excesses at the other agencies, I think perhaps we've made the biggest inroad in EPA. Perhaps we still have a tremendous hurdle and I just wanted to outline if I could a couple of success areas and a couple of areas where the tools perhaps don't yet work correctly, if that helps.

I think there's a big difference in EPA between the Air and the Water Office. I find the Water Office much more appreciative of small business impact, perhaps of the age of the water program, perhaps because of

management; I don't know. But I find them more receptive and in not in a fashion of trying to carve out exemptions but in trying to be creative and come up with creative solutions and deal with paperwork issues, as well as data collection.

That's not universal. I also have found that some folks in the Waste Office have had the same attitude, and this is for a number of years; this is not necessarily this administration. I think particular examples of that are the effluent guidelines review, the Section 304(m) review that was done about a year and a half ago.

I think that there are still some very large holes on unfunded mandates in EPA and I know that's not your responsibility. I just wanted to point that out. I think there's a large difference between unfunded mandates compliance and acknowledgment and SBREFA and EPA still across several offices.

I think there's still very large problems with the e-docket. I think it was a tool that was established to try to help small business, as well as the hotlines, the waste and water, the air hotlines. I think the e-docket is still a problem for a lot of small business. I don't know if anybody else in here has tried to use it. I even find it complicated and I've done this for 15

years. I get lost in it. I can't find some of the e-docket materials that EPA says are on the various dockets.

Also, I think if there's a way that SBA could participate in advising the agency or--I'm not a lawyer so I don't know how this would work, but in making recommendations to the agency in response to court orders or for court-ordered deadlines. I don't know about all of the other agencies but at least in EPA they are starting to see 30- and 45-day deadlines on a regular basis, especially in this last year. When you go back to the agency and ask for an extension, 30 days is awfully fast and they acknowledge, well, gee, it's so fast, it's too fast for us even. But as a matter of fact, this is all court-ordered. I don't know if SBA would have the ability to weigh in on that but 30 days is awfully fast. My friends at FERC say that they're running into 14-day deadlines.

And lastly, I like this gentleman's idea. Are you from NMA?

I liked your idea. If there were some way we could come up with a clever way of rewarding employees in various agencies, not on an individual basis; I don't mean any of us would give the rewards, but if there was a way that the regulatory agencies, in conjunction with SBA or other appropriate bodies, would recognize the

leadership of employees for taking a creative approach in trying to reduce regulatory burden in a responsible way without looking like some kind of silly award or that it's an inappropriate award. I don't know how that would be and obviously I don't think it should be financial but if there could be some sort of recognition of that employee.

I know we ran into this about a year and a half ago on a water program I thought the employee really should be commended. There was no way to do it other than to write a letter and hope that it was put in the person's personnel file. Thank you for letting me speak.

MR. HOLMAN: Thank you, Theresa.

Other things that we could consider--one of the things we keep coming back to is the single point of contact within an agency and I guess an issue that has repeatedly come up is well, most agencies have at least one ombudsman that deals with small business issues and perhaps as many as three. Just the idea that you have a single point of contact within an agency by itself may not be that meaningful. What would be ways to make that meaningful? I don't know if people have ideas about that.

I would also further open this up for ideas that people have about using existing authorities, you know, whether that's more efficacious.

Does somebody have an idea on the one contact, one point of contact within an agency?

MS. ECKERLY: Susan Eckerly at NFIB.

Can I throw this question back to you, Tom and Keith?

MR. HOLMAN: Sure.

MS. ECKERLY: Because I think different departments have different set-ups, so I'm curious. I know that SBA, not to put you on the spot, has been in trouble for paperwork reduction, I mean paperwork violations, and how is SBA structured? Do they have one paperwork compliance officer or do you have an office?

MR. SULLIVAN: I don't know but I can assure you that we will know by this time a week from now so that we can report on it in the transcript. Although Susan does raise an interesting point and actually I'd like to ask Bob Coakley--this is like a pass the hot potato--if I could ask Bob Coakley where were some of the intentions of the underlying laws, the legacy of kind of tools that are in place to try to get a handle on paperwork or information collection?

Because there are, for instance, I'm the chief counsel for advocacy. We have actually a distinguished member of the president's team, Michael Berrera, who is the national small business ombudsman, who is in charge of soliciting examples where regulatory enforcement

officials may exceed their authority to the detriment of small business all around the country. Michael Berrera has different counterparts within different government agencies.

There are also government agency officials that head office of disadvantaged and small business utilization having to do with small business contracting.

So in each different agency there are folks that have different parts of the same puzzle and I'm wondering if Bob Coakley or others could shed some light on which of these individuals were intended to grapple with information collection and regulatory paperwork.

MR. COAKLEY: Well, I'm Bob Coakley. Let me respond. There are a number of veterans of a lot of that legislative legacy that I spoke to here and I'd welcome their reaction to the argument I would make, which is those who shaped these laws were often the same set of political actors and we were very much motivated by the political resources that the small business community put in our hands. And the essential point that we sought to achieve was that all these things would be integrated and related, not conflict.

Chief advocacy and OIRA are to work together. APA and the processes of the Paperwork Act very explicitly were written into law to run concurrently and

Congress repeatedly has advocated that the administrative processes be done together because the overall concept was information resources management, which as I mentioned has this notion of public burden.

Now on the structure and at single agency point, I made this point previously and I would strongly now that the people that wrote the Small Business Reduction Act of 2002 were very, very mindful of this point I'm making. I'm talking about the sponsorship of David McIntosh, Doug Ose. I'm talking about Barbara Kahlow, who is a major staff person there. Extremely mindful of this past history and legacy, and the 2002 act was written, I would venture to guess, very much with the idea that this has to fit into a whole and this requirement of single agency contacts for small business activities, all of which fall under this rubric of IRM that are listed in the act, has to be, in my mind, put in context of the structure that we created, which was president, staffed by agency in his own office, delegated authority from the Congress, I might add, to go along with his constitutional authority, single agency officials, now called chief information officers, all level 5s, like chief counsel. These guys have got the same IRM.

So if we're going to take this piece and once again try to respond to the fact that small

business gave an opportunity and Congress is trying to say reaffirm that past structure, those past procedure requirements, take the chance, go do it, recommend. We've got a new administration; give it a shot.

I think it has to be functionally within the domain of the chief information officers, if not the chief information officers themselves. My personal thought would be that the president would be well suited if he responded to a recommendation from the task force that he wants chief information officers to understand what IRM is, that small business gave him this political opportunity and public burden is a part of it and as for these specific tasks laid out in the Small Business Reduction Act of 2002, jump on them, guys. Let's really make the integrity of the process real so small business will be able to participate and know it means something.

MR. HOLMAN: Susan?

MS. ECKERLY: Just a follow-up real quickly on that point and the point I was trying to make a little earlier. I'm Susan Eckerly, NFIB.

In looking at the task force that's established, I'd be curious to know--I don't know how many times you have met yet, if each Department of Labor, HHS had the list, not only their chief information officer but all the ombudsmen they have or all the points of contact, that potentially small business would go to, that might

be a useful exercise, to just get all those, everybody's list together in terms of when you try to figure out who should be the single point of contact.

MR. HOLMAN: Thank you. Yes, we actually encourage more examples.

Anita?

MS. DRUMMOND: Anita Drummond with ABC.

This is in response to your question about the ombudsmen and it follows on what Susan was saying. Not only is there a complex web of who is a small business ombudsman, and I'm using that as just a general term, but there's no mechanisms for accountability in a lot of agencies, which fits in nicely with what Bob was saying about putting it under the information collection--you know, whatever we're calling it, the CIOs now. The CIO having some accountability, someone who has a political stake in responding to the public.

So there's been a long-term problem. Department of Labor I'll use. They have--and I don't even know if this position's filled now because I just ignore it--their small business outreach person or ombudsman for the entire department and it's always just this office that they'd say hi, we'll send you a brochure. So it never was very useful.

And what's important on that point, not only is the person accountable but the agency's accountable, and this is a problem that came up during the last administration and I can't remember how it was resolved in the Department of Labor but they put out compliance guides and you could follow the compliance guide but you could still be cited if you follow the compliance guide because there was an error in the guide.

So the agency was not accountable for having accurate assistance materials. So you had two things. The person wasn't accountable, the person or the program wasn't accountable, and the materials, there was no reliability in them. So those are two things to deal with in the context of having a centralized system or I like the idea of having a mechanism where you may have one person who directs you to the specialist in an agency.

MR. HOLMAN: Okay, Giovanni?

MR. CORATOLO: Thank you. Giovanni Coratolo, U.S. Chamber of Commerce.

I'd be remiss in not putting this on the record but the original bill actually had a one-time abatement or a first-time abatement of penalty for incidental paperwork penalties based on nonhealth and safety problems. Certainly it is existing in the law that agencies should have a first-time abatement of

penalties. It's suggested that they do; a lot of times they don't. The law, as originally written by McIntosh, would have required this. I think it's incumbent on the task force to actually strengthen that and recommend that they come out on record as saying that they will have a first-time abatement of penalties based on minor paperwork infractions.

MR. SULLIVAN: Actually, I've noticed as this morning has gone on I'm not sure if it's just because we've all been sitting here or if we're waking up but folks have kind of jumped into the legislation and have seen parts of it that have prompted kind of strong recommendations on what the task force should do.

So in addition to soliciting your views on examples that are working to reduce complexity, whether it be through expert advisers or one-stop compliance shops or electronic reporting or those things, could we open this up to some discussion on what strong recommendations you, as the small business community and public community, would recommend for the task force to make?

MR. HOLMAN: And I would hasten to add not just complexity but other types of burdens, such as paperwork retention requirements and that sort of thing. Jim?

MR. TOZZI: I'm Jim Tozzi.

I think since you have all those federal officials in one room, we ought to ventilate some of the paperwork issues that you brought up and lost. For example, the gentleman from the Mining Congress, I understood you made an articulate argument; it was well documented. I think that group ought to look at some of the issues that people brought up with the documentation and ask them not necessarily--maybe--relief for that item but where in the process--were we wrong? Were you wrong? Was there a lack of attention by the agency? Why weren't those proposals, assuming they were well documented, addressed? Because I think if you see a number of those transactions on the table and if people don't get the relief they ask for, then the task force would have something very real to work with.

And I think what the task force needs is less theory and more real problems that people have had where the small business community tried to get relief and the government sat on it, the government rejected it.

And you know what I think would be a good therapy? How many things the business community really brought real issues up, too. I think it's a two-sided coin. One, how many did the government get and didn't act on and second, how many did we bring and really give a package to they could act on? And I think putting that

up, and I would most certainly volunteer our website to put some of that material on. I'm just wondering how many transactions would be on it.

MR. SULLIVAN: Jim, what is that website?

MR. TOZZI: TheCRE.com. It's read around the world now, 30,000 or 40,000 a day. I would be glad to put on what comes out of that. It's the Center for Regulatory Effectiveness, TheCRE.com. There's a big thing on where, by the way, you will see a new movement to the adoption or establishment of ORA in the EU going on on the web.

I would like to see that, Tom. How many of us brought it in and gave a thing like the Mining Congress did and they didn't act on it? I just wonder how big that data set is. There's a number of big associations around here to work on this data and I think we ought to all look at that data set. Thank you.

MR. HOLMAN: Thank you, Jim.

Susan, I think you're next.

MS. ECKERLY: Susan Eckerly with NFIB. I think Jim makes a great point, being a representative of one of those large associations. And to sort of address Giovanni's point and Jim's, with respect to the--and I noticed David Gray, not to call you on the spot, is here now with the Department of Labor. He used to work for

Senator Voinovich and was very instrumental in working on this bill.

With respect to the waiver for first-time paperwork violations being not in the bill anymore, and David, that was a tough decision, I know, with Voinovich in the Senate to take that out. One of the reasons he had to do that was to get the bill passed at all and that's not saying that it doesn't have merit, but one of the stumbling blocks we faced with regard to that provision was generally members of Congress are going to want to exempt safety and health, certain paperwork violations from that.

So we got into the grass tacks from the small business organizations, well, where are the violations? What are the ones that you would like to be--what are the biggest violations your members face? What are the ones you would like your members to be exempt from for a first-time violation? The problem was that small business organizations, I didn't see any of us, to address Jim's point. We struggled at NFIB and I think you struggled at the Chamber, too, Giovanni, the Farm Bureau did, and we couldn't come up with the paperwork violations we were talking about. It sounds like a great idea but we couldn't document, provide the documentation to people like Senator Voinovich, who wanted to fight for this.

So we're somewhat responsible for that provision not being in the bill. And as a way to address this, and this is sort of outside the task force's purview, there is a section, the last section of the bill, which GAO in looking at this problem recommended that you try to nail down the agencies better with respect to what kind of penalties that they issue and there's a section of the bill that relates to that that I hope we will all make--it's probably outside the purview of what you all are addressing but that our organizations keep on Senator Voinovich and Senator Collins and the new chairman of the House Government Operations Committee to keep the heat on the agencies to present the reports on their civil penalties. That might help us. You know, you've got to take baby steps sometimes. That might help us a few years from now actually get a waiver for first-time paperwork violations.

But, at the same time, our group's got to come up with some better concrete examples or we're not going to be able to get this.

Let me just quickly, some specific recommendations with respect to your agenda that we would come up with. One thing that we, during lobbying for this legislation we consistently argued for is the catalogue of reporting requirements. You

mentioned it earlier, Keith. I'd love to see another stack of that. And I know OIRA's not very happy about having to produce it and on this one I respect John Graham but it's too bad. I think that it doesn't make sense to me that you can't go one place, maybe not every single paperwork requirement but most of them, divided by SIC code. It just doesn't make sense to me that you can't have that.

And if we can have the budget of the federal government, if OMB can put that on line with all the summary tables, historical tables, blah, blah, blah, it makes sense to me that we can have some type of summary of paperwork requirements.

Another thing with regard to the single electronic reporting system or sort of addressing the duplication, we tried to ask our members what agencies are the worst with regard to duplicative paperwork. The anecdotal information we received, they tend to say that duplications within the agencies and it might be useful in the task force meetings--I mean I would love to, if there are two representatives from the Department of Labor, ask them have you ever taken the Wage and Hour paperwork requirements, reporting requirements, matched them up with OSHA? Those are some instances that we hear about. And is there any way you

can try and merge that? That would be a suggestion with respect to that.

And then finally, I addressed this before but recordkeeping. I do think we need to--that's one of the things that we frequently hear about, particularly in the tax area, the burden of having to keep those records. And you've got to remember, as I pointed out earlier, not everybody has an empty CD-ROM of all this, which is probably one good way to store it. A lot of people just have huge--you know, think of a tool and die shop, just huge file folders in a dusty corner of a room with all this stuff in it, or think of a gas station, if they even have it anymore. Just another thing to look at.

MR. HOLMAN: Thank you. Fern?

MS. ABRAMS: Fern Abrams with the Association of Connecting Electronics Industries.

I wanted to combine two of the things Susan had said previously, one on the catalogue of reporting requirements and take that a step further to ask that you look at expert systems so that--and not to replace, because there are a lot of people who are still on paper, especially in the small businesses who don't have computers or worse yet, have computers but they're dial-up computers and they're on one person's desk and when

you start looking at 500 or whatever page things, it could take them hours to download it.

So I think we need to look at the high-tech solutions that we didn't have a few years ago but we're not quite ready to replace the paper.

But in that idea of a catalogue, a nifty electronic edition that be an expert system along the lines of Tax Cut, where you put in your SIC code and start answering very basic questions that would then take you to the regulations that would apply to you.

And I wanted to comment briefly on the same-time reporting option on your list that I haven't heard anyone talk about. I near negative feedback about that. Companies like that things are spaced out through the year so that they can spread the workload over the one or two or three people or however many they have who handle the reporting requirements, and that if it were all due at one time of the year, they couldn't have that one person. Like in June they do this role; in July they do that and they would need more people to handle it.

The last thing, I'd ask if it's within the purview of this task force to look at where state regulations can be synched-up more with federal regulations because there's a lot of duplication there, as well.

MR. HOLMAN: Thank you.

I think Bob is next.

MR. COAKLEY: Let me make two specific points and sort of reinforce the argument I've been trying to make, as well as they're very specific.

The catalogue of reporting requirements. That system of information, that database already exists. It shouldn't be hard. The authors of the Business Paperwork Reduction Act were, in essence, trying to encourage what was then the practice of the Clinton administration to go back to old practices and organize that data and make it publicly available. So it exists. It should not be a task. And, in fact, that's very illustrative of if you know it exists now under law, you can probably go a long way toward meeting what the strategic opportunity of this act is.

I want to follow up on Susan's records management comment because there's another example, the House chairman, of what I'm talking about, the need to just follow up on what we have in place now in the law. The House Small Business chairman in 1995 amended the '95 Paperwork Reduction Act to require that the clearance process and the single agency officials put on every single recordkeeping requirement that exists in the system a record retention requirement. That is a matter of law. It reads in

3506(f) now, for each recordkeeping requirement, the length of time a person's required to retain their records specified.

At the time we put that amendment in it was largely advocated by the small business community again and in particular, an association--Mrs. Meyers was the chairman of the House Small Business Committee then. We negotiated that with the administration and there was general consensus that if, in fact, you would move the existing system to the point where it can--and this can be measured; we can do performance measures on this, agency by agency--if you move the existing system so that when those recordkeeping requirements fulfill what they have to do, become law, they specifically consider what the record retention requirement is.

We would save hundreds of millions of dollars if we could just move to that point. If you have a very procedural requirement that it's easy to see whether agencies are doing it; they have a statutory responsibility to do it; indeed, if you understand the statutory scheme it is illegal, illegal and no one can be punished if they don't do this, and that is to specifically state, consider and state what the record retention requirement is.

I think if you go into the existing inventory today, which exists--you can look at it--and count the

number of times we have recordkeeping requirements established in law that do not express what the record retention requirement is, you would be in the thousands of specific examples, thousands.

Now some would argue why doesn't small business say something? And I just want to lay on the table, having been on that small business side and not only representing a lot of small businesses, I know one of the reasons and I think people ought to speak up, because if you dare do say something, you end up worried about recrimination. There's fear.

One of the reasons you don't speak up when members of Congress ask for it is because you know, if I lay this on the record I'm going to get caught. One telephone call, I'm a dead duck. There is real fear. Every time Congress goes out and holds a hearing in the small business community, it is remarkable. I used to do this in the '70s and then in the '80s and the '90s and everybody here has been associated with it and you know it, Tom. One of the problems with laying out the record here is I've got to be careful; these people have power over me.

That's why we need a chief counsel for advocacy. That's why we need an affirmative responsibility on executive leadership to reveal what the truth is and

that's why it's a problem sometimes of being specific on the small business community's part.

I'll give you two specifics here. The records management and the catalogue. They're there now and thousands of examples amounting to hundreds of millions of dollars in burden.

MR. HOLMAN: Thank you, Bob.

Let's go to Larry for the final comment.

MR. FINERAN: This is Larry Fineran with the National Association of Manufacturers.

Take it all the way back to the beginning, anyway, to make sure that as the task force is making its recommendation, to make it clear what is the ultimate goal of the regulatory system? The ultimate goal is not are all the boxes checked? Or is it in the mail? The ultimate goal is voluntary compliance. Just as the IRS tells everybody, they rely on voluntary compliance by what, 80, 90 percent of the taxpayers, and they don't have to worry about looking at the tax returns.

So to the extent that agencies make it easy to comply, then they are furthering their goal, whether it's a safer workplace or whether it's a better environment, what have you.

So I think that the agency mindset still needs to be that voluntary compliance is their goal, not how

many citations have they made. Certainly not how many citations because somebody forgot to check a box.

And just on the recommendations, I think one of the biggest things to help small businesses on that who don't have the manpower, don't have the people under their employ to navigate through the regulatory maze or the bureaucracies is if they call--imagine being somebody out in Loma Linda, California or whatever, calling Washington, D.C. information and asking for the Department of Labor. They say I'm a small business and I'm trying to comply with the wage and hour laws; who can I talk to?

Well, if the personnel operator, the operator who answers that line, I think that's the key thing right there. Those front-line telephone operators need to be able to direct that person. So no matter who we set up with, whether we have them set up as a full department, an ombudsman, or one-stop call, or whether sometimes the agency--sometimes it may make sense to have HHS, with all their diverse areas like FDA, that it may make more sense for them to have separate people for the agencies but the front-line operators, let's not forget about them, either.

I'd also say with electronic reporting systems, you know, I think we saw this in the previous

administration, about how much paperwork they've saved us because they put it all electronically. What they did not remember was that you still need to collect--need to find out what information you need to pipe into that box that is then further sent. So how many pages did they reduce on the form? It's still what goes behind that form? That is the important thing.

So I'll just conclude that I think everybody's goal here is that we make it easy for companies, especially small businesses, to comply and that everybody will be better off.

MR. HOLMAN: Thank you.

Theresa, did you have a comment? I'll let Teresa be the last word.

MS. PUGH: I'm not sure this is really that significant. I just left something out when I gave a list. I wanted to suggest that the Air Office, at least at EPA and perhaps some other agencies, have a bad habit of establishing databases to indicate both paperwork and actual regulatory compliance costs and on some small business areas it's left blank. If you don't know any better and you read that, it looks like there's no regulatory requirement. It's not per se a paperwork issue but it sort of leads one to believe that they're not being regulated when they will be regulated.

MR. HOLMAN: Thank you.

MR. SULLIVAN: Well, just in closing, thank you all for coming. I don't think there's ever a shortage of comment from you to our office on direction and that's something that I'm grateful for.

So thank you very much for coming. You have seven days to follow up with any type of written comment. When you get back to your office over a nice Mardi Gras meal today and you think oh, shoot, I wish I could have mentioned about this great example of a compliance one-stop or boy, IRS is doing some great things that we want to highlight for other agencies to do or OSHA has some really bad paperwork requirements that should be taken off the books--all of those things, we would encourage for you to e-mail to Keith at Keith.Holman@sba.gov and thank you very much for your attention and frank discussion.

[Whereupon, at 11:32 p.m., the meeting was adjourned.]