

Congress of the United States

Washington, DC 20515

July 23, 2004

BY FACSIMILE

Mr. Jesus Delgado-Jenkins
Acting Assistant Secretary for Management
and Budget & Chief Financial Officer
Department of the Treasury
1500 Pennsylvania Avenue, N.W.
Washington, DC 20220

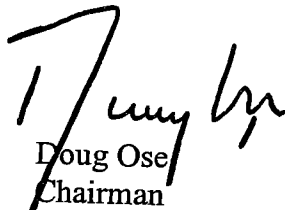
Dear Mr. Delgado-Jenkins:

This letter follows up on the July 20, 2004 joint hearing of the Government Reform Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs and the Small Business Subcommittee on Regulatory Reform and Oversight, entitled "What is OMB's Record in Small Business Paperwork Relief? - Part II." As discussed during the hearing, please respond to the enclosed followup questions for the record.

Please hand-deliver the agency's response to the Subcommittee majority staff in B-377 and B-363 Rayburn House Office Building and the minority staff in B-350A and B-343C Rayburn House Office Building not later than August 13, 2004. If you have any questions about this request, please call Barbara Kahlow on 226-3058.

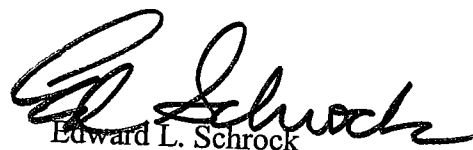
Thank you for your attention to this request.

Sincerely,



Doug Ose
Chairman

Subcommittee on Energy Policy, Natural
Resources and Regulatory Affairs



Edward L. Schrock
Chairman

Subcommittee on Regulatory
Reform and Oversight

Enclosure

cc The Honorable Tom Davis
The Honorable John Tierney

The Honorable Donald A. Manzullo
The Honorable Charles A. Gonzalez

Q1. Enforcement & Waiver/Reduction Policies for First-Time Violations by Small Business. The Small Business Paperwork Relief Act (SBPRA) required each agency to submit its first enforcement report to Congress by December 31, 2003. Treasury submitted its report in two pieces: January 12, 2004 for the Internal Revenue Service (IRS) and March 5th for the rest of the Department.

- a. What is Treasury's policy for first-time violations by small business that do not have the potential to cause serious harm to the public?
- b. Has Treasury's policy changed since the June 2002 enactment of SBPRA? If so, how? If not, did your agency's policy change after the 1996 enactment of the Small Business Regulatory Enforcement Fairness Act (SBREFA), which required agencies to develop plans for waiving and/or reducing fines, as appropriate, on small business. If so, how? If not, why not?
- c. Does Treasury have different policies for first-time violations by small business of paperwork requirements vs. first-time violations by small business of regulatory requirements? If so, please explain.
- d. Does Treasury track first-time violations by small business of either paperwork requirements or regulatory requirements or both? If not, will you begin to do so?
- e. Your testimony stated, "the reason more penalties were not waived is due to the fact that the taxpayer did not request a waiver, or the taxpayer could not demonstrate reasonable cause" (p. 5).
 - Does this fully explain why the Alcohol and Tobacco Tax and Trade Bureau (TTB) waived or reduced only 7 percent of the 16,203 penalties it levied on small business in FY 03? If not, what other reason(s) apply?
 - What reasons apply to why the IRS waived or reduced only 12 percent of the 15.2 million enforcement assessments it levied on small business in this period?
 - Has your office or another office within the Office of the Secretary reviewed these practices for consistency with the President's policies?

Q2. IRS's Enforcement Report. IRS accounts for 81 percent of all paperwork levied on the public and the lion's share of Federal enforcement fines and penalties levied on small business. IRS's enforcement report shows that it directs 66 percent of its enforcement actions against small business and it has only reduced or waived 12 percent of its fines and penalties levied on small business. In contrast, the Departments of Labor and Transportation (DOT) and the Environmental Protection Agency (EPA) have special policies for small business. As a result, last year, EPA only took 11 percent of its

enforcement actions against small entities, and reduced or waived 44 percent, and DOT reduced or waived 34 percent of its assessed penalties against small entities. What can Treasury do to be more sensitive to the special burdens facing small business?

- Q3. Enforcement Data Systems. When did Treasury begin to adjust its existing data systems to collect the enforcement data required by the June 2002 SBPRA law to be initially reported to Congress on December 31, 2003?
- Q4. Compliance Assistance Resources. The Office of Management and Budget's (OMB) June 2004 listing includes compliance assistance resources information for only part of the Treasury Department (e.g., there is no information for TTB, which has 116 OMB-approved paperwork requirements and which took 16,203 enforcement actions in Fiscal Year 2003 against small entities). Your testimony stated that Treasury is "currently assembling information on those resources" for TTB (pp. 5-6).

When will Treasury provide all of the missing information? What is the reason for this noncompliance?

- Q5. Single Point of Contact. Treasury's Single Point of Contact (SPOC) reports to you.
- How many calls has Treasury's SPOC received from small business?
 - What topics did they cover?
 - Was Treasury's SPOC able to answer all questions posed? If not, how were they handled? And, was the response complete and timely?
 - Did OMB, the Small Business Administration, or anyone else train your agency's SPOC? If not, do you think that training would help?

PAPERWORK REDUCTION INITIATIVES/RESULTS

- Q6. Reduced Frequency for Form 941. The US tax code provides discretion to the Treasury Department to issue a regulation to establish the frequency of employer reporting about wages paid to employees. IRS regulations establish a quarterly reporting requirement, which is embodied in the Form 941, "Employer's Quarterly Federal Tax Return." For individuals with a household employee (maid), the tax code requires only an annual vs. quarterly Form 941 to be filed if wages are below a certain threshold.

In April 2004 testimony before the Ose Subcommittee, IRS Commissioner Everson stated that IRS "is studying a proposal that would allow taxpayers to file an annual [Form 941] filing option. By extending this option to taxpayers who have demonstrated compliant behavior in filing returns and payment of taxes for at least 8 quarters, and who less than \$2,500 per quarter in tax liability, the initiative could affect approximately 691,000 small business taxpayers" (p. 17). OMB's April paperwork reduction report says that January 2006 is the target date for a decision on this 344 billion hour paperwork burden? Why not sooner?