Reducing Administrative Burdens: Prospects and Challenges Ahead

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EXECUTIVE SUMMARY

- The Biden Administration recently released a memo directing agencies to reassess, and hopefully reform, the level of paperwork burdens involved in applying for and receiving social benefits programs.
- For all the memo's conceptual merits, it represents a limited policy action that mostly serves to highlight how intransigent the issue of administrative burdens can be.
- Given the difficulties involved in addressing this issue, the administration will need to bring more resources to bear or help set up a legislative framework—preferably on a bipartisan basis—if it wants to truly effect substantive change.

INTRODUCTION

Over the past decade, the total cumulative paperwork burden imposed by the federal government has ranged from 8.7–11.7 billion hours; it currently stands at roughly 10.5 billion hours (per data from the Office of Information and Regulatory Affairs (OIRA). The government's stated cost estimate of this time burden regularly lands in the hundreds of billions of dollars – although, as previous American Action Forum (AAF) analysis has shown, that calculation woefully underestimates the true burden. For an issue of such scale—and one that receives at least consistent rhetorical appeals to "cut the red tape"—substantive policy reform remains frustratingly elusive.

A recent memo from the Biden Administration seeking to reform the administrative burdens associated with public benefits programs is the latest nominal attempt to address at least a portion of the overarching issue. While the overall orientation of the memo is a helpful one, it provides only a preliminary, conceptual framework for federal agencies that is unlikely to effect significant changes in the near term or establish lasting policy. Nevertheless, examining the memo's goals and limitations is a useful exercise in further understanding the broad challenges to reform in this area—as well as potential solutions.

RECENT MEMO

On April 13, 2022, the Office of Management and Budget (OMB) released a memo directed toward federal agencies entitled "Improving Access to Public Benefits Programs Through the Paperwork Reduction Act." This represents one of the most notable steps thus far in the administration implementing President Biden's Executive Order (EO) 14,058 on "Transforming Federal Customer Experience and Service Delivery To Rebuild

Trust in Government." The two main directives to federal agencies in the memo are: first, to reassess the factors that go into their paperwork burden estimates, and second, to devote more attention toward reducing said burdens.

The first section of the memo focuses on identifying previously underappreciated aspects of "paperwork burden" beyond merely calculating the time and money involved in filling out the forms in question. Some of the key considerations highlighted here include:

- associated burdens in organizing supporting documentation and travel time;
- psychological costs, "such as the cognitive load, discomfort, stress, or anxiety a respondent may experience" in responding to an information collection; and
- the "learning costs" faced by respondents in either understanding a given form's instructions or effectively communicating the required information.

The second section provides agencies a series of suggested best practices to help mitigate some of the issues presented in the first. Beyond a broad, generic directive to "simplify the request for information," the core items here include:

- taking a more proactive approach in providing greater "communication, navigation, and outreach tools" to respondents;
- addressing "disproportionate barriers" presented by such items as language fluency or disability-related communication impediments; and
- implementing ongoing evaluation tools such as A/B testing to keep track of program effectiveness.

NOTABLE CHALLENGES

The memo's most direct request to agencies is "to ensure that burdens are fully accounted for in ICRs [Information Collection Requests] and to minimize those burdens wherever possible." While the memo's overall goals and concepts have a great deal of merit, it is unclear how effective the document itself will be in effecting change. This hardly makes it novel in the realm of bureaucratic memos, of course. In fact, the relative lack of implementation information (at least at this moment) helps point toward the broader barriers in addressing administrative burdens writ large. These challenges generally fall into the following categories: coherently addressing the sheer amount of data involved, overcoming apparent institutional inertia, and navigating political concerns in order to establish long-standing reforms.

Practical Impediments

As noted above, the scale of the nation's federal paperwork load is quite substantial, with billions of hours costing (at least) hundreds of billions of dollars. There are currently more than 9,800 active paperwork requirements across the various agencies. Moreover, there is a daily churn of either new requirements officially becoming "active" or older ones "expiring," and a comprehensive review of each of these items becomes a complicated affair that would require significant amounts of time and other resources.

Even zeroing in on particular areas of reform could be cumbersome without a robust, dedicated effort. Two key reform suggestions put forward in the memo—and often echoed in paperwork reduction discussions elsewhere—are to: 1) Examine the potential for digitizing paperwork requirements that are currently only

available or submittable in hard copy form; and 2) consolidate requirements that collect the same data across multiple agencies into "common forms" that respondents must only fill out once. There are potential statutory barriers to both approaches, especially in areas with significant privacy concerns.

The main practical challenge to addressing these potential avenues for reform, however, comes in the amount of work still left to do for each. In terms of digitization, roughly 38 percent of the 9,800-something paperwork requirements are only available in hard-copy form and only about half of all collections can be submitted to the relevant agency electronically. Common forms comprise only 111 out of the roughly 9,800 collections—essentially one percent. While having 99 percent of the overall stock of requirements potentially available for such reform represents a tremendous opportunity, it also represents a daunting challenge that would require significant commitment.

Questionable Institutional Commitment

There is ample reason to be suspect of the executive branch's commitment, or at least its capacity, to implement reforms in this area. Take, for instance, the history of the Paperwork Reduction Act (PRA) – the law invoked by this recent memo. Under the PRA, OMB is required to produce an "Information Collection Budget" (ICB) detailing the federal paperwork load in a given fiscal year (FY). Going back to FY 2002, the government-wide paperwork burden was 8.22 billion hours. Ten years ago, in FY 2012, it was at 9.1 billion hours. As noted earlier, it currently stands at roughly 10.5 billion hours. While there have been modest fluctuations either upward or downward from year-to-year, the general trend over at least the past two decades has been a steady increase in federal paperwork requirements. Assuming the PRA's core objective is right there in its title, it has failed to achieve said objective.

Furthermore, it is not simply the substantive data included in these ICB reports that cast doubt on the current ability to constrain paperwork in a meaningful way, but also the recent history of these reports' very publication. The most recent ICB currently posted was released in December 2020 and detailed PRA activity for FY 2017. There has not even been an official request for input on the subject since August 2018. If the executive branch cannot produce a baseline report on its activities over such a span, it calls into question whether it has the wherewithal to take on the substantive task of examining and reforming its paperwork practices.

Beyond the publication lags of the ostensibly annual ICR reports, there is additional evidence that suggests reforms under the PRA have not been and are not currently a priority of the executive branch. In this recent memo's second footnote, OMB notes that:

> OIRA has released numerous documents over the years, including memoranda, frequently asked questions, guidance to agencies, and similar products, clarifying and streamlining the application of the PRA. For a complete collection of OIRA memos, see
> https://www.whitehouse.gov/omb/information-regulatory-affairs/federal-collection-information/

In reviewing the linked site, however, one finds a similar lag in recent activity on this front. The most recent standalone document posted (aside from the recent memo in question) is from October 2018, a one-page memo on data collection practices for the 2020 Census. The most recent document under the "Improving Implementation of the Paperwork Reduction Act" section dates back to July 2016. If past is prologue, this paucity of recent work on at least the public-facing side does not bode well for future substantive efforts on paperwork reduction.

Political Considerations

As others have noted, while political debates surrounding "red tape" have typically been centered around business concerns, there are considerable individual costs—often with a high degree of regressivity—in the paperwork involved in applying for and receiving funds from social benefit programs. This current memo aims its efforts in that direction by primarily addressing paperwork burdens in "Public Benefits Programs." While reducing unnecessarily regressive paperwork burdens is a broadly admirable goal, having that goal as its primary focus opens the effort up to political headwinds in terms of long-term efficacy.

Paperwork requirements for public benefit programs are generally meant to combat waste, fraud, and abuse in such programs. Republicans have historically sought to make such requirements more rigorous. One of the more notable recent examples in the regulatory realm of this goal came in a Trump Administration rulemaking that sought to tighten the requirements for those seeking "Supplemental Nutrition Assistance Program (SNAP)" benefits.

The current administration is, of course, in charge through at least January 20, 2025, so this memo's mission is presumably operable through that point. Its status as a purely administrative action, however, leaves it open to rescission under a Republican administration. Additionally, if Republicans take either chamber of Congress in this year's elections, this memo's efforts could potentially become an item of increased political scrutiny going forward.

POTENTIAL SOLUTIONS

Making substantive headway on administrative burdens requires addressing the challenges described above in kind. For the practical concerns and institutional inertia issues, an efficacious reform program requires either a much more robust, structural administrative effort than the OMB memo currently demands, or—barring that—further action on the legislative front. The memo's goals will also require a far more robust emphasis from the administration itself. Additionally, for any effort to have real staying power, it will require building political consensus that the problem of excessive administrative burdens must be meaningfully addressed.

As it stands now, however, there is merely the memo itself and a blog post announcing its release. Contrast that with the kind of administrative build-out of the Trump Administration's "regulatory budget" program. Granted, reducing administrative burdens in public benefit programs has never been as much of a political priority for the Biden Administration as regulatory budgeting was for Trump's, but until there is broader, more sustained action across the current administration, this recent memo is unlikely to have any real impact.

Barring strong action from the executive side, a legislatively driven reform program could mandate improvement. Congressional action has the merits of: 1) withstanding the whims of changing administrations; and 2) the ability to marshal greater resources outside of the executive branch to this issue. While there have not been many recent legislative proposals on this issue, one can envision potential programs based on broader regulatory reform frameworks. If a full-on legislative "regulatory budget" or rule-scrubbing committee is a bridge too far politically due to concerns of constraining agency power, then perhaps paring such legislation's scope back to merely addressing paperwork burdens represents an attractive alternative.

The primary hurdle to legislative reform, as is all too apparent to those following Congress these days, is Congress itself and the lack of political will to do much of anything. There is, however, a potential deal to be

had on administrative burdens. "Cutting red tape" for businesses has long been a conservative priority. This memo signals at least some interest from the left in addressing excessive burdens on the individual level. While neither side is especially keen to address the other's area of priority in a vacuum, reaching a consensus approach that comprehensively examines and updates paperwork burdens writ large (for businesses and individuals, alike) could make progress in both directions and could thus stand as a more durable policy framework.

CONCLUSION

The Biden Administration's recent memo on reducing administrative burdens associated with social benefits has some useful concepts at its core. It is, however, a rather limited policy action on its own. Perhaps its most useful function at this juncture is that it provides a case study to further determine why it is so difficult to make headway on reducing unnecessary and duplicative paperwork requirements. While it represents a promising first step from this administration, it will require a far greater amount of buy-in from the relevant agencies—if not congressional action—to establish lasting change in this sphere.