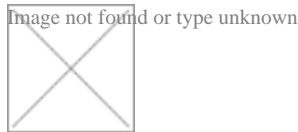# The Intersection of Immigration and Regulation

SAM BATKINS | APRIL 4, 2013

The debate over immigration, processing new arrivals and addressing millions of undocumented immigrants, receives plenty of political attention, but few focus on the bureaucratic apparatus that surrounds our current immigration system.

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The American Action Forum (AAF) analyzed more than 150 immigration-related regulations and found just how complex and burdensome the process is for millions of current citizens and immigrants. Currently, seven different cabinet agencies receive more than half a billion annual responses from nonresident aliens, immigrants, and current U.S. citizens. This translates into 98.8 million paperwork burden hours, and approximately $30 billion in costs to individuals and businesses, more than the Gross Domestic Product of Jamaica.

Many have highlighted America's complicated system, and this complexity has generated 234 different government forms related to immigration. The Department of Homeland Security (DHS) alone, which houses Citizenship and Immigration Services, has more than 100 forms for current or aspiring U.S. citizens, and imposes 81 million hours of paperwork, at a cost of $26.9 billion.

RED TAPE FACING A HYPOTHETICAL IMMIGRANT

For skilled immigrants, admitted with H-1B visas, the path to naturalization involves at least 16 forms, roughly 18 hours of paperwork, and approximately $2,500 in direct costs. Here is a sample of what a skilled immigrant, and their prospective employer, might encounter during the process:

- Application to the Department of Labor for H-1B Visa: $135 and three forms;
- Petition to DHS to work in the U.S.: $371 and one form;
- Application to DHS for employment authorization: $200 and two forms;
- Application to the Department of State for a visa: $140 and four forms;
- Verification of employment by DHS (I-9): $31 and three forms;
- Green Card application to DHS for permanent residency: $1,000 and two forms; and
- Application for Naturalization: $680 and one form.

The maze of forms, agencies, and costs makes the current immigration system anything but efficient. This is but one possible path for potential American citizens, and other experiences could impose more red tape and far higher costs.

Department	Hours	Costs (in millions)	Forms
Homeland Security	81,567,749	$26.9 billion	116
State	12,421,050	$1.6 billion	38
Treasury	1,901,099	$718 million	11
Education	791,761	$292 million	7
Labor	1,883,673	$160 million	35
Health and Human Services	238,972	$86 million	21
Justice	41,767	$15 million	6
Totals	**98.8 million**	**$29.8 billion**	**234**

On costs, the burdens above represent only what the agencies have listed as the associated dollar value of completing government forms. However, of the 151 listed immigration regulations, just 31 provided monetized burdens. This totaled $2.9 billion in direct paperwork compliance costs, but when AAF applied the per hour average ($378) to all regulations, the total cost increased to $29.8 billion.

DEPARTMENT OF HOMELAND SECURITY REGULATORY COSTS

It is perhaps no surprise that DHS imposes the highest costs and collects 116 forms. The agency administers the

"Application for Naturalization," which imposes 4.2 million hours of paperwork. The application, Form N-400, is ten pages, contains 14 parts, and 39 questions. According to government estimates, it should take approximately six hours to complete, and each application costs immigrants $680.

DHS's immigration website for Citizenship and Immigration Services lists a parade of forms and their associated filing fees, but that is hardly the universe of immigration regulations. The burdens and costs associated with the compliance are sobering. The agency estimates each information collection takes 100 minutes, and can cost up to $3,500 an hour. The average hourly burden is equally absurd: $608.

The most burdensome hourly component is perhaps most common to every employee in the U.S., not just aspiring citizens, the I-9 Form. Combined, U.S. residents and their employers spend 40.6 million hours completing the required documents. DHS failed to list a total cost of compliance for the form, but based on the average hourly cost for other immigration related rules, the burden approaches $15.3 billion.

One immigration regulation, "Application for Advance Permission to Enter as Nonimmigrant," listed per hour costs of $1,170 (10,271 hours and $12 million in costs), while other forms listed costs as low as $3 an hour: "Electronic Application for Immigrant Visa and Alien Registration." The electronic application form alone is 72 pages and contains dozens of questions. According to government records, immigrants submitted 585,000 responses, generating 1.1 million hours of paperwork. This means the government estimates that it takes applicants two hours to complete the questions.

DEPARTMENT OF STATE REGULATORY COSTS

Another cost driver, the Department of State, imposes $1.6 billion in costs and 38 forms. The biggest regulatory burden is the agency's "Online Application for Nonimmigrant Visa." Alone, it contains five forms, imposes 8.1 million hours and $910 million in costs. The required forms are more than 100 pages, and based on government calculations, cost $140 per application.

PAPERWORK HOURS IN CONTEXT: $5.9 BILLION IN LOST PRODUCTIVITY ANNUALLY

Although the concept of $30 billion in paperwork might be easy to understand, 98.8 million hours is perhaps more abstract. Equating full-time equivalent employees (FTEs) to aggregate paperwork hours yields roughly 49,423 FTEs working year-round to complete government forms (assuming 2,000 hours a year).

There are also lost opportunity costs by filling out paperwork, because employees could spend their time devoted to traditional productive functions of work. According to the Bureau of Labor Statistics, the Gross Domestic Product per hour worked is $60.59. Thus, immigration paperwork saps approximately $5.9 billion from U.S. productivity annually.

IMPACT ON IMMIGRANT BUSINESSES

U.S. Census data reports that Hispanics own roughly 8.5 percent of all businesses in the U.S., Asian Americans own 6 percent, and many are small to medium-sized businesses. Like many industries, the regulatory burden

generally falls disproportionately on smaller firms. A larger firm can usually absorb a regulation that imposes several thousands of hours of paperwork per business. However, small businesses are often faced with the choice of laying off staff, hiring new employees dedicated solely to federal compliance, or reorganization.

What does a small business impact mean? The Regulatory Flexibility Act, the law designed to address small business regulatory burdens, defines it as a rule that imposes "a significant economic impact on a substantial number of small entities." This qualitative statement generally lacks quantitative guidance but Health and Human Services states that a significant impact would reduce revenue or raise costs by three to five percent. In other words, for small businesses, these regulations act as a regulatory tax of up to five percent, far higher than the recent tax increase.

Below are a few impacts of current federal regulatory policy on immigrant-owned small businesses:

- Affordable Care Act: $275 million in costs and 1.6 million paperwork burden hours;
- Dodd Frank: $965 million and 987,526 hours;
- Other Recent Regulatory Impacts: $300 million and 1.7 million hours;
- Total: $1.5 billion in costs and 4.4 million paperwork burden hours.

Not surprisingly, the Affordable Care Act (ACA) imposes the highest number of paperwork burden hours. Many of these regulations affect hospitals, doctors, small restaurants, and grocery stores. Due to the sheer size of the ACA's regulatory burden, many of its regulations eventually affect patients and consumers as well.

At 111 million total hours, the ACA continues to add regulatory hurdles to businesses of all sizes. However, for this sample, AAF used only paperwork hours from rules that the administration admitted would impose a "significant economic impact on a substantial number of small entities." The ACA has imposed 11.3 million hours of paperwork on small businesses, compared to Dodd-Frank's 6.8 million hours.

These burdens do not represent the aggregate regulatory burden on immigrants, but only the policies implemented during the past four years. At $1.5 billion and 4.4 million paperwork burden hours (2,200 FTEs), the affect is not trivial and it is only increasing. Indeed, the White House admits there are 128 active "economically significant" rulemakings (impact of $100 million or more) currently in the regulatory process.

CONCLUSION

Few doubt that our current immigration system is in need of reform. Thankfully, many agree that our regulatory state needs an overhaul as well. With seven different agencies administering 234 forms, and imposing $30 billion in economic burdens on immigrants, the costs of neglecting regulatory immigration reform are already too high.