

Presidential Documents

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Title 3--  
The President

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Executive Order 13272 of August 13, 2002

Proper Consideration of Small Entities in Agency  
Rulemaking

By the authority vested in me as President by the  
Constitution and the laws of the United States of  
America, it is hereby ordered as follows:

Section 1. General Requirements. Each agency shall  
establish procedures and policies to promote compliance  
with the Regulatory Flexibility Act, as amended (5  
U.S.C. 601 et seq.) (the ``Act''). Agencies shall  
thoroughly review draft rules to assess and take  
appropriate account of the potential impact on small  
businesses, small governmental jurisdictions, and small  
organizations, as provided by the Act. The Chief  
Counsel for Advocacy of the Small Business  
Administration (Advocacy) shall remain available to  
advise agencies in performing that review consistent  
with the provisions of the Act.

Sec. 2. Responsibilities of Advocacy. Consistent with  
the requirements of the Act, other applicable law, and  
Executive Order 12866 of September 30, 1993, as  
amended, Advocacy:

(a) shall notify agency heads from time to time of  
the requirements of the Act, including by issuing  
notifications with respect to the basic requirements of  
the Act within 90 days of the date of this order;

(b) shall provide training to agencies on  
compliance with the Act; and

(c) may provide comment on draft rules to the  
agency that has proposed or intends to propose the  
rules and to the Office of Information and Regulatory  
Affairs of the Office of Management and Budget (OIRA).

Sec. 3. Responsibilities of Federal Agencies.  
Consistent with the requirements of the Act and  
applicable law, agencies shall:

(a) Within 180 days of the date of this order,

issue written procedures and policies, consistent with the Act, to ensure that the potential impacts of agencies' draft rules on small businesses, small governmental jurisdictions, and small organizations are properly considered during the rulemaking process. Agency heads shall submit, no later than 90 days from the date of this order, their written procedures and policies to Advocacy for comment. Prior to issuing final procedures and policies, agencies shall consider any such comments received within 60 days from the date of the submission of the agencies' procedures and policies to Advocacy. Except to the extent otherwise specifically provided by statute or Executive Order, agencies shall make the final procedures and policies available to the public through the Internet or other easily accessible means;

(b) Notify Advocacy of any draft rules that may have a significant economic impact on a substantial number of small entities under the Act. Such notifications shall be made (i) when the agency submits a draft rule to OIRA under Executive Order 12866 if that order requires such submission, or (ii) if no submission to OIRA is so required, at a reasonable time prior to publication of the rule by the agency; and

(c) Give every appropriate consideration to any comments provided by Advocacy regarding a draft rule. Consistent with applicable law and appropriate protection of executive deliberations and legal privileges, an agency shall include, in any explanation or discussion accompanying publication in the Federal Register of a final rule, the agency's response to any written comments submitted by Advocacy on the proposed rule that preceded the

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final rule; provided, however, that such inclusion is not required if the head of the agency certifies that the public interest is not served thereby.

Agencies and Advocacy may, to the extent permitted by law, engage in an exchange of data and research, as appropriate, to foster the purposes of the Act.

Sec. 4. Definitions. Terms defined in section 601 of title 5, United States Code, including the term ``agency,' ' shall have the same meaning in this order.

Sec. 5. Preservation of Authority. Nothing in this order shall be construed to impair or affect the authority of the Administrator of the Small Business Administration to supervise the Small Business Administration as provided in the first sentence of section 2(b)(1) of Public Law 85-09536 (15 U.S.C. 633(b)(1)).

Sec. 6. Reporting. For the purpose of promoting compliance with this order, Advocacy shall submit a report not less than annually to the Director of the Office of Management and Budget on the extent of compliance with this order by agencies.

Sec. 7. Confidentiality. Consistent with existing law, Advocacy may publicly disclose information that it

receives from the agencies in the course of carrying out this order only to the extent that such information already has been lawfully and publicly disclosed by OIRA or the relevant rulemaking agency.

Sec. 8. Judicial Review. This order is intended only to improve the internal management of the Federal Government. This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or equity, against the United States, its departments, agencies, or other entities, its officers or employees, or any other person.

(Presidential Sig.)B

THE WHITE HOUSE,

August 13, 2002.

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