

## Regulatory Streamlining Task Force Report – Final Copy 12/6/02

This report describes preliminary steps taken by the Department of Administrative Services to evaluate the impact of state government regulation on the economic climate of Oregon. In addition, the report proposes immediate and longer-term measures to ensure that regulatory agencies avoid imposing excessive burdens on businesses and the public while still achieving their statutory responsibilities.

### I. Purpose and Scope

DAS Director Mike Greenfield convened a task force of state agency directors to address this issue as a result of commitments he made to the Senate Special Committee on Economic and Job Stimulus during the 2001 session of the Oregon Legislature. The task force and key DAS staff members interviewed business leaders and other governmental service users to obtain feedback on what agencies do well, what they do badly, and what they could do differently to improve service.

These interviews were grounded on an understanding that:

1. The task force was to focus on regulatory activity within existing statutes. While there may be legitimate questions about individual statutes or the overall statutory framework for regulatory systems, the charge given to the task force members was to consider *how* they do their jobs, not *what* the legislature has told them to do.
2. Regulatory programs, by their nature, sometimes involve making businesses, other organizations, and individuals do specified things – or restricting them from doing specified things – because the legislature has determined that the best interests of Oregon society as a whole require it. Consequently, these programs sometimes face unusual hurdles in trying to make their “customers” happy. There are occasions when regulatory agencies have a statutory obligation to say “no” and the businesses or individuals at the receiving end are not pleased. In this context, the customer is sometimes unsatisfied with the service received.
3. Despite the above, regulatory agencies need to respect the fact that they exist to support and protect the people of Oregon and the specific industries or activities they regulate – not the other way around. Their activities should, in balance, promote both economic success and environmental well-being.

With these factors in mind, the informal purpose of the group quickly became:

*“Find shortcuts to achieve the goals, not shortcuts that compromise the goals”*

In the course of this work it became clear that many of the important issues identified by citizens and businesses cross multiple governmental jurisdictions. In addition to state requirements, local and federal government regulations and processes clearly

contribute to the issues and concerns business leaders and other users have with “government services.” This report does not address these multi-jurisdictional issues, but as the recommendations of this report are implemented additional effort must be invested to address concerns with both federal and local government regulations, as well as the interplay between different levels of government.

## **II. Methodology**

Directors and staff of the participating agencies interviewed individuals, business people, and other organizations that interact with the state agencies. Particular attention was paid to issues that affect a customer’s ability to accomplish whatever it was each customer set out to do – such as building a home, establishing a new business or industrial facility, replacing a septic system, obtaining a critical permit, and so forth.

At the same time, the task force chair and a senior DAS executive conducted interviews with legislators and business people who were not directly engaged with any particular agency. Questions placed an emphasis on identifying specific examples or incidents that demonstrate government “getting in the way” of business or individuals. The responsible agencies then investigated the examples.

Agencies organized their findings into thematic areas corresponding to the jurisdiction responsible for implementation of statutes or rules. Categories used were:

- Individual agency
- Department of Administrative Services
- Oregon Legislature
- Local / federal government
- Business / citizen.

As the task force compared the findings of individual agencies, general themes became apparent and were discussed in problem-solving sessions. The task force formed conclusions and recommendations from these sessions.

## **III. Findings**

During the course of the interviews, it became apparent to the task force that the survey group, and to a larger extent the general public, have experienced several specific and recurring problem areas that they believe government should address. Those problem areas or recurring themes are as follows:

- The application of regulations on a statewide basis is at times not consistent nor predictable.
- There should be added flexibility for users to meet regulatory standards.
- Overlapping regulations between state agencies should be coordinated and clearly communicated to the user.
- The permitting and approval process should be timely and fair.

- Regulatory processes need to be clarified so that the requirements are “user friendly.”
- Work force attitudes and cultures should be facilitative and collaborative.

There is general agreement among those interviewed that protecting our way of life – our quality of life – is valued highly. A good business climate and a sound economy work in conjunction with a quality education system, public safety, human services, a quality environment, and well-planned growth to make Oregon an attractive place for people to live and to work. Few argue with Oregon’s overall approach to government and regulatory issues within this context.

It is also important to note that because the purpose of this review was to find ways to improve operations, the interviews emphasized problems with regulatory systems and specific examples that illustrate those problems. Interviewers did not focus on examples of agency successes that might justify current practices, but the problems raised in this report must still be viewed in the context of a regulatory environment where thousands of positive, productive interactions occur each day between individual citizens, businesses, and government agencies.

That said, there were certainly concerns about how state government implements laws to protect our quality of life and promote a sound economy. These concerns centered on the complex structure of various laws and regulations as well as the limited perspective sometimes held by the people who administer the statutes. Although they are not the norm, in the worst cases the combination of structural complexity and rigid implementation can produce regulatory systems that are, or appear to be, arcane, ambiguous, or unfriendly to the user. Results can be slow in coming, unpredictable, and confusing. Many interviewees felt that while well intentioned, some of Oregon’s regulatory delivery systems could use a tune up.

#### Integration and Coordination:

Regulatory systems have evolved over time. Often this has occurred without analysis to eliminate old or outmoded statutes, regulations, or procedures when new ones are instituted. In addition, Oregon has always been a strong “local control” state. As a result we have many jurisdictions and levels of government that overlap and contribute to confusion about who is ultimately responsible for enforcing a particular aspect of the law or providing a service to citizens. Compounding this complexity, systems at different agencies and different levels of government sometimes conflict, forcing people in one direction and then another as they move through various stages of a regulatory process.

#### Process Clarity:

In addition to structural issues, organizational processes and staff interaction with the public affect how service from government is perceived. Typically, citizens and businesses come to an agency because they want to accomplish some specific purpose that is subject to public regulation. They may make contact with the

expectation that the agency will actively help them achieve their goal, or they may merely view the agency as a necessary stop along the way. In either case, they become frustrated when requirements are unclear, especially when they find themselves obliged to interact with agency employees who believe that their success or failure is immaterial, so long as the procedures are enforced. Many citizens in these circumstances conclude – rightly or wrongly – that government is simply an impediment.

### Customer Service:

The legislature creates and funds agencies in order to protect the public interest by enforcing specific statutes. Over time, agencies develop systems, rules and cultures to implement the statutes for which they are responsible. As with any human organization, these systems and cultures require constant attention to ensure that they do not lose track of their fundamental goals and become unresponsive to the needs of citizens. Agency leadership can be remiss in setting expectations and training employees to understand that customer service to citizens is a critical part of every agency's mission, no matter what its specific statutory responsibilities. If this occurs, the goals of the citizens and the goals of the agencies can become disconnected, even when all parties agree on the need for regulation.

Customer service disconnects and resulting negative interactions with the public can come about in various ways. The clearest example occurs when an entire agency develops a culture of unyielding defense of its mission and processes. In this situation, successful employees are expected to demonstrate only that the law is being enforced regardless of the service provided. Flexibility and problem solving are not encouraged or rewarded, and employees begin to act as though most citizens' motivations are suspect.

### Flexibility:

Those interviewed by the task force also recognized that regulatory processes may create an organizational culture of intransigence. Typically, regulations allow interpretation by individuals using their best professional judgment. This practice can serve the public well in that it allows for situation-specific analysis and interpretation of events and circumstances. However, in the absence of clearly articulated agency values and guidelines, employees may use their personal value systems to interpret the gray areas. Where an employee puts an emphasis on intelligent flexibility to achieve statutory goals, agency customers may be pleasantly surprised. But where institutional processes create a rigid environment in which "the process" is more important than the outcome and employees are not encouraged to be flexible, then the users of the regulatory system and the citizens of Oregon are unlikely to see benefit in our statutory goals.

### Attitude:

Most public employees want to provide good service and be responsive to customers needs. Many stakeholders described positive encounters with employees and did not universally characterize agencies as single-track enforcers. The interviews, however, illustrate that unsatisfactory public employee experiences do occur and that some citizens believe that they are far too common, if not the norm. We are all aware that some employees are able to say “no” when it is appropriate and then help the customer find other ways to accomplish his/her goal. Others are not. There is clearly potential to better harmonize the public interest and customer service aspects of agency operations.

### Specific Examples:

To address specific and recurring examples in which the survey group believes government acts as an obstacle, the Task force proposes immediate review and action by each agency. Additionally, a broader effort is also necessary to provide centralized leadership and oversight of the longer-term recommendations contained within this report. The following “problem-areas” demand *immediate* review by the participating state agencies:

- Access management: the permitting of connections to new state highways.
- Wastewater: the permitting of septic and wastewater systems.
- Building Code Approval: Address issues of statewide consistency.
- Land Use: address the timeliness of state agency involvement in local land use decisions and appeals.
- Wetlands: conflicts and mitigation strategies in industrial areas

## **V. Task Force Recommendations**

The task force found that many agencies have recognized and already begun to address some of the issues raised during the interviews. What has been lacking, however, is a coordinated executive branch effort to make state government more responsive and “user friendly “ by addressing the themes identified by the task force.

### **Governor**

The task force recommends continued support for current efforts to streamline regulations and that the governor endorse both the spirit and the specifics of this report by issuing an executive order stating that it is the policy of the State of Oregon to help residents and businesses find solutions to regulatory problems so that they

can achieve their goals, not just to administer programs. The Department of Administrative Services should be directed to provide leadership and oversight in the implementation of the recommendations included in this report.

### **Executive Branch**

The task force recommends that the Department of Administrative Services implement this report and the governor's executive order by several means:

- Create an ongoing partnership, in the form of an advisory panel, between business and state government leaders:

This group will articulate a shared vision of how business and government should work together, monitor performance against that vision and provide advice and guidance to the director of DAS. Specifically, this group will have project oversight responsibility for the customer service initiative and smart permitting pilot projects described below. This group will also be responsible for educating its respective communities about mutual responsibilities for achieving their shared vision.

This partnership should also help state agencies establish ways to measure and improve performance in the area of service and responsiveness. This group could also help state agencies and the private sector measure the effectiveness of state processes in meeting the overall program goals and objectives defined in law or rule.

- Direct the Community Solutions Office (CSO) to adopt, as a primary purpose, the proactive resolution of situations where the implementation of government regulation has the effect of impeding community goals:

The CSO should take a leadership role in troubleshooting and implementing the recommendations of the advisory panel. This may include options such as removing barriers instead of erecting them; providing explanations instead of citing regulations; and clearly defining standards.

The CSO should be directed to begin immediately to prioritize the issues and develop a process to review and address the issues. Specifically, resolving the wetlands/industrial land issue and improving coordination and effectiveness of state agency review/comment on local land-use decisions should be of highest priority. The CSO should work with all regulatory agencies to further develop and produce informational tools in a variety of formats that help citizens understand agency processes and requirements. These documents would build on and complement products currently produced by ODFW, the Department of Forestry, DEQ and the Division of State Lands that help their constituents understand the processes they must follow to get results.

- Implement a customer service initiative throughout the executive branch, with direction from DAS.

The customer service initiative should include training for agency directors, senior management staff and select board and commission members in the principles of customer service and in the governor's expectations relating to those principles. This training should be provided for existing directors and board/commission members, and become a part of orientation for new appointees.

The task force further recommends that the governor and the DAS director hold agency directors accountable for carrying out this initiative by making customer service a mandatory item of discussion at their performance reviews. Similar training should ultimately be provided to all employees who interact with the public. This training could be developed centrally and provided at the agency level.

- Use technology to “speed-up” processes and clarify regulatory information.

Develop a “smart permitting” pilot project to address the structural complexities currently inherent in our regulatory system. Permitting and regulatory process information needs to be mapped, clarified and coordinated with key state agencies with the goal of streamlining and automating processes. Technology and information should be used to coordinate regulatory processes, serve as a clearinghouse for permitting and process information and provide a single point of entry for users to gain information about key state services. Ultimately, this project should also begin to address the multi-jurisdictional issues mentioned earlier in this report through the sharing of information and technology.

- Feedback mechanisms should be established through DAS with the help of the public/private partnership advisory panel and the CSO, for use by Oregonians receiving state services.

These feedback mechanisms should be developed to measure effectiveness, efficiency and customer satisfaction with our services and programs. Results should be compiled on a regular basis and reported to the governor, the partnership and the legislature.

To address specific issues identified in this report, the Department of Administrative Services should instruct the appropriate agencies to cooperate fully with the CSO in reaching early resolution.

### **Legislative Branch**

The task force recommends that the legislature favorably consider these recommendations, particularly those such as the smart-permitting pilot project that will require the approval of program option packages, as well as other efforts that may require statutory change.

In addition, the legislature should recognize and support the work of the public/private partnership advisory panel by requiring periodic reports on the group’s work, especially in the area of customer service success measurements.

### **Businesses and Citizens**

The legislature has given agencies various statutes to administer. The agencies are responsible for conducting due diligence in administering these laws. As citizens and businesses begin planning projects subject to public regulation, it is important that they engage with the appropriate agencies early in the process so that both parties can reach a satisfactory conclusion in a timely manner.

## **Local Jurisdictions**

The issues discussed in this report also apply to local government. Many of the issues and concerns that have surfaced over the course of this effort have highlighted the interplay between all government jurisdictions. It is clear that local government must be part of the solution.

It is important that local governments participate in this process as both customer/stakeholders and as partners. Participation on the public/private partnership advisory panel and the problem-solving and process improvement work that flows from this report will be critical to the effort's long term success.

### **VI. Task Force Members**

The group was chaired by State Forester Jim Brown, and included:

Lindsay Ball, Director  
Department of Fish and Wildlife

Katy Coba, Interim Director  
Department of Economic and Community Development

Paul Cleary, Director  
Water Resources Department

Stephanie Hallock, Director  
Department of Environmental Quality

Ann Hanus, Director  
Department of State Lands

Mary Neidig, Director  
Department of Consumer and Business Services

Bruce Warner, Director  
Oregon Department of Transportation

Paul Curcio, Director  
Land Conservation and Development Department