



**SMALL BUSINESS DEVELOPMENT CORPORATION
OF WESTERN AUSTRALIA**

**Submission to the
Commonwealth Regulation Taskforce**

November 2005

TABLE OF CONTENTS

Section		Page
1.	Introduction	1
1.1	Impact of Commonwealth regulations on the small business sector	1
1.2	Consultations with the small business sector	2
2.	Business Taxation Issues	3
2.1	GST Reporting and the Activity Statement	3
2.1.1	Annual GST reporting	3
2.1.2	Eligibility for paying GST in instalments	4
2.1.3	Low GST amounts	4
2.1.4	PAYG Instalments	5
2.1.5	Lodging original Activity Statement	5
2.2	Simplified Tax System	5
2.3	Capital Gains Tax – Small Business Concessions	6
2.3.1	Ownership structures	6
2.3.2	Maximum Net Asset Value Threshold	7
2.3.3	Anti-avoidance provisions	7
2.4	Fringe Benefits Tax	7
2.4.1	Reportable fringe benefits	7
2.4.2	Reportable fringe benefits threshold	8
2.4.3	FBT reporting of GST	9
2.4.4	Threshold for minor and infrequent benefits	9
2.4.5	Election to group	9
2.4.6	FBT reporting period	9
2.5	Superannuation	9
2.6	Failure to Lodge Penalty	10

TABLE OF CONTENTS (cont.)

Section		Page
3.	Related Matters	10
3.1	Definitional Issues	10
3.2	Efficacy of Small Business Time Boxes	11
3.3	Business Migration Visas – Provision of Professional, Technical or Trade Services Criteria	11
4.	Government Regulatory Processes	11
4.1	Regulation Impact Statement and Sunset Clauses	12
4.2	Office of Regulatory Reform	12
5.	Conclusion	13

1. Introduction

The Small Business Development Corporation (SBDC) welcomes the opportunity to provide comments to the Regulation Taskforce on reducing the regulatory burden on business. At the same time, the SBDC and its Board of independent small business owners and operators has been disappointed by the limited public consultation period and considers this short timeframe to have been insufficient to enable full consultation with small businesses and their representatives and to conduct thorough analysis of meaningful options for regulatory reform in this important area of small business concern.

The SBDC is an independent statutory authority established to assist and promote the growth and viability of the small business sector in Western Australia.

One of the key roles of the SBDC is to work with small businesses and their representatives to identify, monitor and respond to issues affecting the small business sector in Western Australia. As such, the SBDC provides input into reviews of policies and processes to minimise unnecessary regulation and enable small businesses to pursue growth opportunities.

1.1 Impact of Commonwealth regulations on the small business sector

As at June 2004, there were approximately 296,000 small businesses in Western Australia¹. Small businesses account for 97% of all businesses in the State, and the majority of these (around 76%) were non-employing.

The level of Commonwealth regulation and the complexity of the existing regulatory system in Australia is a particular concern to the Western Australian small business sector. Excessive regulation imposes a significant, and disproportionate, compliance cost on small business compared to their larger competitors.

Typically, small businesses are less likely than larger businesses to have ready access to expert taxation and regulation advice to deal with the compliance and administrative burdens of the regulatory system, and as such the costs of compliance fall disproportionately on the sector. In particular, given the complexity of regulations, and associated time demands, most small businesses rely on the paid advice of accountants and tax experts, which further contributes to their compliance and time costs.

This finding is supported by various surveys of business confidence which have repeatedly found that among the major factors constraining business investment in Australia are business taxes and charges – resulting from Commonwealth Government regulations – and non-wage labour costs. There is thus impetus for regulation reform to reduce the burden on business and encourage productivity and sustained economic growth.

¹ “Counts of Businesses, June 2004” (Cat. No. 8161.0.55.001), Australian Bureau of Statistics (ABS). For statistical purposes, the ABS defines small businesses as businesses that employ less than 20 employees.

Regulation reform is therefore an important objective to help reduce the red tape burden on business and to improve future regulation decision-making. The initiative of the Commonwealth Government to establish a Taskforce to consider options to reduce the regulatory burden on business is very strongly supported by the SBDC. Important reforms will lead to small businesses spending less time and money complying with regulations and will allow them to concentrate on running their business, improving productivity and employing more Australians.

1.2 Consultations with the small business sector

To identify key areas of regulatory burden, the SBDC sought feedback directly from small businesses and their industry representatives. This included conducting a survey of the SBDC's Ready Response Network (RRN) over the period 10 November to 16 November 2005.

The RRN is an email-based network that provides small business operators in Western Australia with the opportunity to have their say on issues that affect their business. This feedback provides the SBDC with a useful insight into the underlying attitudes and opinions of Western Australia's small business sector.

A total of 63 RRN respondents provided feedback on the impact of Commonwealth regulation on their business and how it could be reduced or improved. The survey found that:

- 84% of small business operators found Commonwealth Government forms or processes to be **too complicated**. The top five forms or processes that were identified as being complicated (in order) are:
 - income tax forms
 - superannuation forms and processes
 - the Business Activity Statement
 - Centrelink forms and requirements
 - company tax forms
- 82% of small business operators found Commonwealth Government forms or processes to be **overly time consuming** to complete. The top five forms or processes that were identified as being too time consuming (in order) are:
 - the Business Activity Statement
 - income tax forms
 - company tax forms
 - superannuation forms and processes
 - Centrelink forms and requirements
- 52% of small business operators experienced **difficulties in meeting deadlines** imposed by Commonwealth agencies. The top three deadline problems (in order) were experienced in the following:
 - the Business Activity Statement
 - income tax forms
 - superannuation forms and processes

Based on the results of this survey, and from the feedback received from Western Australian small business representatives, the SBDC has made a number of recommendations to improve the equity, efficiency and competitiveness of the various Commonwealth Government regulations identified as contributing to the compliance burden of small business.

2. Business Taxation Issues

The SBDC believes that the amount of information currently being collected from small businesses by the Australian Taxation Office (ATO) is excessive. There are a number of processes that urgently need to be reviewed and streamlined to reduce the compliance costs on small businesses and their advisers.

2.1. GST Reporting and the Activity Statement

2.1.1 Annual GST reporting

Generally, a business can elect to report GST annually if it is not required to register for GST. For this to be the case, the annual turnover of the business must not exceed \$50,000 per annum. A business underneath this threshold may still choose to register for the GST in order to charge GST and claim GST credits.

However, this threshold was set at the introduction of The New Tax System in 2000 and has not been revised since. Given that the Australian economy has grown at unprecedented levels over the past five years, and by proxy business activity and turnover has also surged, this threshold level should be reviewed.

The SBDC is of the opinion that the GST registration threshold for small business is too low to support the initiative's original objective of providing relief to very small businesses from the burden of GST reporting. Too many very small businesses, with limited turnover, are subject to reporting GST monthly or quarterly.

As a point of comparison, the Average Weekly Ordinary Time Earnings (AWOTE) for Australia is \$1,022.00², which equates to an annual income of over \$53,000. Clearly, a \$50,000 threshold for small business's entire turnover is unlikely to provide compliance relief to many serious small businesses.

A higher threshold will not only benefit small businesses but also provide cost and administration savings for the ATO. Presently, the ATO incurs substantial costs in maintaining registration for a high volume of small entities, especially those that alternate between being above and below the threshold, with little if any return to the Government's tax take.

The SBDC therefore recommends that the threshold for annual turnover be raised to, say, \$75,000 to alleviate the need to be in the GST reporting system for very small businesses. Thereafter, the threshold should be subject to regular review to avoid inflationary creep.

² "Economic Trends: 17 November 2005", Chamber of Commerce and Industry Western Australia.

2.1.2 Eligibility for paying GST in instalments

An unnecessary cost to small business occurs when they are required to re-establish annual eligibility for paying GST in instalments. This option is available to small businesses with an annual turnover of \$2 million or less (subject to satisfying other eligibility requirements). GST instalment payers are required to make an election to use the instalment method at the beginning of each financial year, and eligibility must then be re-elected annually.

Removing this administrative requirement for small businesses electing to pay GST in instalments would reduce their compliance burden. It is understood that the Tax Commissioner has previously elected to administratively waive a similar legislative requirement for taxpayers paying PAYG in instalments.

An alternative to waiving this requirement in its entirety would be to require an election to be lodged only when circumstances have changed. This would have a similar effect as above in that it would reduce the compliance burden on small businesses having to continually report the same information to the ATO.

2.1.3 Low GST Amounts

Businesses registered for the GST are required to submit Activity Statements quarterly or monthly together with payment of their GST returns. This requirement, however, adds to the compliance cost of those small businesses that have very low GST amounts to report, some less than \$10, as they are required to take the time to transfer their returns to the ATO via the appropriate methods (sometimes the cost of the cheque used to pay the liability is worth more than the return). This also adds to the administrative costs of the ATO of processing such small returns.

The SBDC proposes that small businesses with an annual turnover of less than \$100,000 should be able to elect to pay their GST liability on an annual basis if:

- they report monthly and their GST reported amounts are less than, on average, \$50 per return; or
- they report quarterly and their GST reported amounts are less than, on average, \$150 per return.

In other words, small businesses incurring less than \$600 per annum in GST liability should have the ability to decide whether to pay the entirety of their annual GST debt when they remit their final Activity Statement at the end of the financial year, or to continue to pay either monthly or quarterly.

A similar option could be provided to small businesses with a GST claim from the ATO of less than \$600 per annum. These businesses could be allowed to elect whether to continue to receive their GST claim (some as low as \$1) either monthly or quarterly when they lodge their Activity Statement or to be paid an annual return at the end of the financial year (like a Personal Income Tax return). This would reduce the administrative cost to the ATO as well as the costs to the business of processing such little amounts.

2.1.4 PAYG Instalments

PAYG instalments are generally paid quarterly, with instalments due on 28 October, 28 February, 28 April and 28 July. However, if a business elects to pay GST monthly, PAYG instalments are due 21 days after the end of each month.

These due dates (for lodging Activity Statements and paying amounts owing) are not consistent with other reporting methods. This increases taxpayer confusion and leads to administrative problems in trying to comply with different reporting periods. The ATO should look to standardise lodgement dates to reduce the compliance burden on small businesses of having to meet incongruent reporting deadlines.

2.1.5 Lodging Original Activity Statement

All businesses registered for the GST must lodge the original activity statement sent to them by the ATO. As such, businesses are not able to remit a copy of the original or a version generated by a commercial software package.

This means that GST-registered businesses must input the relevant information *manually* into the activity statement, thereby contributing to compliance time problems. This requirement should be reviewed, as the requirements are different for other taxation related returns. For instance, Personal Income Tax returns generated by a software program can be lodged with the ATO.

2.2 Simplified Tax System

The ATO introduced the Simplified Tax System (STS) from 1 July 2001 in an attempt to simplify the tax burden experienced by small business. It provides an alternative method of determining taxable income for eligible small businesses with straightforward financial affairs, and provides a number of potential benefits including more generous, simpler depreciation for many assets and relief from having to perform stocktake each year.

To date, however, the STS has not been widely adopted by small business, with ATO reports suggesting that approximately 20% of eligible small businesses have taken advantage of the STS. A number of factors contribute to this poor adoption rate, including the lack of perceived value in adopting the simplified regime and the complexity of some eligibility rules, such as the complex grouping provisions.

The ATO should be applauded for resolving one of the biggest issues with the STS, by removing the requirement from 1 July 2005 that a small business using the STS must use the STS accounting method (or cash-based accounting). STS businesses are now able to calculate their taxable income using the most appropriate accounting method for their circumstances. This obviates a real compliance issue for businesses using the regime, as they are no longer required to keep a cash set of books to meet the STS requirements in addition to the accrual accounting method typically employed by small business.

The SBDC believes that small business take-up of the STS could be further improved if the ATO reviewed the complex rules of the regime. Generally, these rules (such as

for grouping, asset depreciation and capital allowances) differ from the general tax system, which creates further confusion and time costs. These rules should be closer aligned to the general tax system to encourage more small businesses to move into the STS, without requiring substantial changes to the way the business accounts.

An obvious benefit to a more simplified STS would be the cost savings to small business if they require less assistance from their tax adviser/accountant.

2.3 Capital Gains Tax – Small Business Concessions

The SBDC contends that the burden of Capital Gains Tax (CGT) should be reduced more generally for small business. The complexity of the existing small business CGT concessions is alienating the sector as the concessions are difficult to apply and more often than not require the guidance of a tax expert, contributing to compliance costs.

From a small business perspective, the SBDC is primarily concerned about access to the CGT concessions and the applicable thresholds for eligibility.

2.3.1 Ownership Structures

The existing concessions do not apply to small businesses operating through a number of ownership structures, largely due to the operation of the “controlling individual” requirement (particularly in the case of the retirement exemptions). Under the present rules, a company or trust satisfies the controlling individual test if it had at least one controlling individual just before the CGT event.

The application of the controlling individual test is inequitable in certain situations, particularly for companies owned by discretionary trusts and unit trusts with more than two unit holders. For example, a company with three equal owners is at an unfair disadvantage compared to a business with a 60% majority owner and two other minority owners. This is unjust as the former company is denied access to the small business concessions on the basis that they do not have a controlling individual.

In addition, within the particular small business CGT reliefs, a controlling individual is only required in some instances. A controlling individual is required for the purposes of the 15-year exemption and the small business retirement exemption, however, a controlling individual is not a requirement for the general 50% reduction or for the purposes of the small business rollover. This inconsistency of application complicates the rules and adds confusion and complexity to the use of the CGT concessions by small businesses.

In the interests of equity and fairness, the SBDC supports the similar treatment of different business entities under the CGT small business concessions and recommends the removal of the controlling individual test.

Alternatively, if this is not possible, the controlling individual percentage should be reduced from the existing 50% to 40% (or lower). This would enable different small business ownership structures to access the concessions.

2.3.2 Maximum Net Asset Value Threshold

To qualify for the small business concessions, the small business (and its connected entities and related affiliates) must satisfy the maximum net asset value test whereby the total net value of CGT assets does not exceed \$5 million just before the CGT event. This basic condition for the small business relief is not indexed for inflation.

In addition, the asset threshold is different from other thresholds (such as the STS threshold) which adds to taxpayer confusion and complexity.

The SBDC recommends that the maximum net asset value threshold be subject to regular review and appropriately adjusted taking into consideration current market conditions (particularly the increase in property values over the past five years) and henceforth be indexed on an annual basis. This will ensure that the net value of small business CGT assets is not subject to inflationary creep.

2.3.3 Anti-Avoidance Provisions

The anti-avoidance rules contained within the CGT concessions add complexity to the exemptions, which are already unnecessarily complicated. These include the definition of “active asset” and rollover provisions which are particularly restrictive and onerous. For many small businesses, this could act as a disincentive to use the provisions.

The SBDC contends that the anti-avoidance provisions should be reviewed with a view to reducing and simplifying the rules. Although required to stop abuse of tax concessions, very complex anti-avoidance rules may make the concession unworkable and thus inaccessible to many small businesses.

2.4 Fringe Benefits Tax

The compliance burden that Fringe Benefits Tax (FBT) places on business is complex and costly. Since its introduction in 1986, the FBT legislation has been repeatedly amended to rectify flaws in the original legislation, which places significant compliance burdens on business and their tax advisers. The FBT reporting provisions, coupled with complex definitions and difficult rules, have resulted in a compliance nightmare for small business and has added substantial costs in meeting their obligations.

The rules are difficult to apply and inappropriate in some cases. The following options for reform should be considered.

2.4.1 Reportable Fringe Benefits

The SBDC contends that reportable fringe benefits should be confined to remuneration benefits only. For small businesses, there is a substantial cost involved in tracking certain benefits to particular employees for reporting purposes. In some cases, this can be burdensome and complex, especially when additional recording systems have to be put in place to monitor these benefits as they are generally not captured by an employer’s accounting system. This results in added compliance costs

involved in implementing an alternative system and keeping this information up-to-date.

The amount of work an employer has to undertake to monitor and record their employee's fringe benefits is often excessive, particularly given the complex rules of certain benefits. It is questionable whether the return to the ATO is worth the effort some employers have to undergo. A more balanced approach to reportable fringe benefits should therefore be considered.

A good starting point would be to clarify and simplify certain fringe benefits that are difficult to apply and/or apportion. This would include consideration of the tax treatment of certain "fringe benefits" that don't actually provide a personal benefit to the employee. A notable example would be clarification and simplification of the treatment of the use by an employee of a company car, in particular in relation to the employee taking the vehicle home but only for express business use (i.e. no non-work related use). Refining the rules governing the use of work cars and "tool-of-trade" vehicles would reduce the compliance burden on small businesses.

Similarly, current FBT reporting requires recreation expenditure (such as engaging an entertainer for a social function and tickets to a movie or sporting event) to be subject to FBT, however, from a practical perspective this creates an excessive compliance burden for businesses having to apportion each item of recreation expenditure to employees. Under this rule, employers are required to determine the amount of recreation expenditure, identify each employee in attendance and then allocate the total taxable value of the recreation expenditure to the employees.

This is an unreasonable situation and as such, a strong case exists for excluding recreation expenditure from the FBT reporting requirements. It is noted that current exclusions exist for meal entertainment expenditure and entertainment facility leasing expenses, so it is not without precedent for other forms of recreation expenditure to likewise be omitted from FBT without opening the floodgates for abuse.

2.4.2 Reportable Fringe Benefits Threshold

Under the reportable fringe benefits requirements, employers are required to record every benefit received by each employee who receives benefits over the \$1,000 threshold. The reporting of such relatively small amounts contributes greatly to the compliance costs of small business.

The SBDC would therefore support increasing the threshold to a more appropriate and realistic amount, such as \$3,000. This would reduce the compliance burden for many small business operators who provide incremental benefits to attract and retain quality employees.

There is also benefit in indexing this threshold annually to alleviate cost pressures associated with the cost of fringe benefits increasing each year.

2.4.3 FBT Reporting of GST

For FBT purposes, fringe benefits are reported as the GST-inclusive value. This requirement adds to the compliance burden of small business as their accounting systems generally record the GST-exclusive values (because the GST component is coded to the GST account). Employers are then required to determine which values need to be grossed-up to their GST-inclusive values and which items did not include GST to begin with (i.e. because they were GST-free or input taxed purchases), which adds unnecessary complexity and costs to the calculations.

The SBDC therefore recommends that FBT recording should be GST-exclusive.

2.4.4 Threshold for Minor and Infrequent Benefits

The current threshold for minor and infrequent benefits of \$100 is considered to be too low and this value has not been reviewed since its introduction in 1986. The SBDC recommends that the threshold should be raised to \$300 initially, and then indexed annually.

2.4.5 Election to Group

Companies that are part of a group are not presently allowed to elect to group their FBT obligations. This is incongruous to other tax legislation, such as GST grouping, which allows companies in a group to consolidate their reporting. This inconsistency across taxes leads to increased confusion and compliance costs to those small businesses that are structured as a group of companies.

The SBDC therefore recommends that companies should be able to elect to group their FBT obligations. This would enable the company to lodge just one FBT return, further reducing their compliance burden.

2.4.6 FBT Reporting Period

FBT is payable by employers and is assessed on the value of the fringe benefits provided to employees or their associates for the reporting period 1 April to 31 March. The annual FBT return is then due by 21 May.

The SBDC supports the view that Australian businesses would favour the alignment of the fringe benefits and income tax years (i.e. with the due date for the annual FBT return being shifted from 21 May to 31 October). This would reduce compliance costs associated with reconciling figures for different reporting periods. It would also reduce duplication associated with reviewing and recording overlapping information in various tax forms.

2.5 Superannuation

The requirements of the superannuation guarantee for small business employers are onerous as they involve a high cost in terms of complexity and paperwork. As such, the superannuation requirements are a disincentive for small businesses looking to expand their operations and act as a barrier to employment.

Employers are required to make superannuation guarantee contributions on behalf of their eligible employees at least once each quarter. The details of these contributions must be provided to eligible employees at least every quarter. The information required includes the amount of superannuation contributed, the name of the superannuation fund and, if known, the employee's account number.

This creates a large and unnecessary administration and paperwork cost for small business employers. The situation has been made worse with the advent of Choice of Superannuation Fund from 1 July 2005 as superannuation contributions could be paid out to as many different superannuation funds as there are employees. The requirement increases compliance costs, particularly for those small businesses that employ itinerant workers, while duplicating existing obligations which are generally sufficient to inform employees (such as the annual income tax group certificate).

The SBDC recommends that for businesses employing less than five staff that the reporting of superannuation contributions to employees should be made annually rather than quarterly, and should be able to be included as part of annual group certificate reporting.

2.6 Failure to Lodge Penalty

The ATO imposes a Failure to Lodge (FTL) penalty of \$110 for each period of 28 days that a notice or a document (which includes activity statements, income tax returns, fringe benefit tax returns, annual GST returns and PAYG withholding annual reports) is overdue. This penalty is excessive in some cases, particularly when this amount is well above the debt owed by the taxpayer (such as a GST amount of \$10), or when it cuts into the refund owed to the taxpayer.

It is understood that a series of filters have been built into the automated penalty system to exclude certain one-off or isolated cases of late lodgement from penalty application. Generally, the FTL penalty does not apply if the lodged document represents a low level of risk and the failure to lodge on time is an isolated occurrence. The SBDC supports the continuation of this evaluation of the taxpayer's circumstances.

However, the SBDC contends that the FTL penalty, while capped at \$110, should then scale down commensurate with the amount of taxation outstanding. For instance, if a taxpayer owes less than \$50 then the taxpayer should be charged a maximum of \$50.

3. Related Matters

3.1 Definitional Issues

Different definitions between various Commonwealth agencies make adhering to regulations complex and costly for small businesses. Although their status remains constant, small businesses are treated differently by different regulatory authorities. For example, the basic definition of a small business by the ABS is based on number

of employees whereas for taxation purposes, the size of a business is determined by its annual turnover.

This is an area that requires further examination by the Commonwealth Government. Wherever possible, definitions across agencies and within different legislative areas should be more closely aligned or standardised to reduce confusion and anomalies in the treatment of small businesses, wherever this is practical. The SBDC recommends that concerted work be undertaken in this area to reduce confusion and the impact of compliance on small business.

3.2 Efficacy of Small Business Time Boxes

The SBDC is concerned about the integrity and efficacy of the time boxes included on Commonwealth forms which request small businesses to estimate the time taken to complete the form. Anecdotal evidence from small business representatives suggest that small business operators don't respond to this request rigorously.

The SBDC therefore questions the intended use of these time boxes. How is this information used? Is it assisting in identifying and reducing the red tape burden on business? Are the majority of small businesses completing this request?

It is timely that an assessment be made of what practical benefit results from the collation of this information and whether an alternative approach would return better results.

3.3 Business Migration Visas – Provision of Professional, Technical or Trade Services Criteria

The Business Owner Visas (subclass 160 and 163) allow applicants who have a business background and meet certain business attributes to apply for a visa to Australia to engage in a business. However, there is a requirement that the applicant has not been engaged in a business where the provision of professional, technical or trade services took up more than 50% of their time. This criterion is overly restrictive as it disqualifies a range of business operators from qualifying for a business visa.

The SBDC therefore supports a relaxation of this requirement to enable a greater number of suitable applicants to migrate to Australia, particularly in this climate of skills shortages.

4. Government Regulatory Processes

Businesses and their advisers operate in an increasingly complex regulatory environment. The increased complexity of regulations only increases the costs of compliance for all businesses, with small business being hardest hit as they are less likely to be able to afford tax advice on a regular basis.

It is therefore imperative that if it is deemed necessary to introduce a new regulation to cover a certain aspect of business activity, it be done with the minimal level of intervention consistent with being effective. This applies not only to the regulation

itself and the resulting compliance costs to business, but also to the costs of administration and compliance imposed upon the regulating agency.

The regulation decision making process must therefore be transparent, fair and accessible to community consultation to ensure that it remains relevant and responsive to the needs of business and the wider public. There are two aspects to government regulatory processes; firstly, improving the quality of new regulations (and reviewing existing regulations), and secondly, strengthening the role of the Commonwealth Government's regulatory review authorities.

4.1 Regulation Impact Statement and Sunset Clauses

The groups likely to be significantly affected by a regulatory initiative should be separately identified in the Regulation Impact Statement (RIS) prior to its introduction. These groups should be broken down into sub-groups where the initiative will have different effects on those sub-groups. For instance, within the business category, distinctions should be made between a regulation's impact on big, medium and small businesses. In other words, the RIS should explicitly state the anticipated effects on small business of proposed new and amended legislation and any other regulation.

As part of its assessment of the estimated costs to business of the regulatory initiative, the RIS should further identify the likely "paperwork burden" or administrative costs to the different sized businesses associated with complying with and/or reporting on particular regulatory requirements. This should include an assessment of the impact of each regulatory option on small business compliance costs; that is, the RIS should include estimates of the time and money that business would need to spend on complying with the regulation. Ways to minimise compliance and paper burden costs to business should be discussed.

As part of this review of the regulation making process, the Commonwealth Government should also consider examining the use of sunset clauses in its legislation to ensure that they in fact act in the best interests of business. At the Commonwealth Government level, legislative instruments typically sunset after 10 years. However, from a small business perspective this period is a very long time, particular if the regulation imposes a significant burden on them. This period should be reassessed in terms of maintaining an appropriate balance between the red tape burden on small business and the return to government.

The SBDC supports reviewing the use of these sunset clauses with a view to reducing the 10 year period to, say, six years, unless there is apposite justification for the Commonwealth Government to keep the legislative instrument for a longer term.

4.2 Office of Regulatory Reform

Given the importance of the Office of Regulatory Reform (ORR) in terms of ensuring a comprehensive and continuous review approach across jurisdictions, and its whole of government responsibilities, the ORR should be better resourced and put in a higher profile agency such as the Department of the Prime Minister and Cabinet.

This will provide greater recognition within Commonwealth agencies of the importance of good practice regulation making, particularly given the role of the Council of Australian Governments (COAG) in developing the “Principles and Guidelines for National Standard Setting and Regulatory Action by Ministerial Councils and Standard-Setting Bodies”.

While the Commonwealth Government has introduced a number of measures to reduce the compliance burden of regulations on small business in recent years, these have been ad hoc amendments which have only provided marginal relief. In reality, the overall compliance burden on small business still remains disproportionately large. There is thus a continued need for sustained and comprehensive reform to the regulatory system.

Though the establishment of the Regulation Taskforce to identify practical options for alleviating the compliance burden on business from government regulation is supported by the SBDC, the limited tenure of the Taskforce is a concern. The SBDC questions the efficacy of such a short timeframe and in particular queries whether the Taskforce, given such a short reporting period, will have sufficient time and impetus to achieve real results by 31 January 2006.

The SBDC sees a real opportunity for the Commonwealth Government to push ahead with reforms to reduce the red tape impact on small business and therefore supports giving the ORR greater carriage for continuing the work of the Taskforce in implementing its reform options on an ongoing basis.

5. Conclusion

The SBDC appreciates the opportunity to make a submission to the Regulation Taskforce, given the importance of red tape issues to the small business sector in Western Australia. Should you require further information in relation to the issues contained in this submission, please contact Ms Juliet Gisbourne, Director, Policy and Business Liaison, on (08) 9220 0241.