

Former OMB official sees broader support for OIRA flowing from Trump's regulatory budget

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White House efforts to establish a first-time “regulatory budget” would be assisted by the development of a cross-sector, “national constituency” in support of regulatory reviews conducted by the Office of Management and Budget, according to a former OMB official.

The development of a regulatory budget is a key component of President Trump's deregulation agenda, and the emergence of a cross-sector approach would support OMB's efforts and effectiveness going forward, the former official said.

OMB's Office of Information and Regulatory Affairs will require cross-sector support “as OIRA expands its product line from the review of individual regulations to the implementation of a regulatory budget and possibly review of the regulations issued by independent agencies,” writes Jim Tozzi in a **Jan. 3 blog post for the Yale Journal on Regulation**.

Tozzi served as a regulatory official in five consecutive administrations from Presidents Johnson to Reagan, and currently heads the Center for Regulatory Effectiveness. Tozzi was deputy administrator of OIRA when he left the Reagan administration in 1983.

He argues that an effective OIRA is helpful regardless of whether the sitting administration is pushing a pro- or anti-regulation agenda. “It allows the elected president to implement his agenda,” Tozzi said in an interview with Inside Washington Publishers.

Tozzi said a centralized regulatory review process under OIRA eliminates overlapping efforts by various agencies, ensures regulations are beneficial based on a cost-benefit review, and promotes compliance with statutory requirements.

“[C]entralized regulatory review would not have survived for nearly a half century without a cadre, however small, of individuals who were willing to place their career on the line because the mere existence of centralized regulatory review was at that time repugnant to a number of the leaders of the administrative state who frequently advocated retaliatory measures,” Tozzi writes.

“OMB, including OIRA, has the responsibility to advise the presidency of the impact of their planned actions but once a decision is made OMB has the responsibility to ensure the decisions are implemented in accordance with prevailing statutes. Fortunately, over the last half century, OIRA and its predecessors were, and presently are, supported by a bipartisan base,” according to Tozzi. Nonetheless, a “national constituency” for OIRA “would be a great help,” he says.

President Trump's call for OMB and OIRA to develop a “regulatory budget,” is unprecedented according to Tozzi, who supports the move, saying “it's a huge institutional change” in “decreasing the rate of growth of the administrative state.”

He said the specifics of the president's requirements for no-net-increase in costs shape an implementation tool for the broader goal of setting a regulatory budget to address accumulative impacts – an organizing principle that has been around for some time.

Trump issued an executive order 10 days after taking office that requires federal agencies to eliminate two existing regulations for each new rule to be issued, and to establish a regulatory budget that would cap and eventually reduce compliance costs for industry.

“I was glad to see the president embrace the regulatory budget idea,” Tozzi said, while acknowledging that the details of how OMB will develop a policy for all federal agencies are still in the works.

The OMB director is tasked with developing guidance on how to implement a first-time regulatory budget.

“Such guidance shall address, among other things, processes for standardizing the measurement and estimation of regulatory costs; standards for determining what qualifies as new and offsetting regulations; standards for determining the costs of existing regulations that are considered for elimination; processes for accounting for costs in different fiscal years; methods to oversee the issuance of rules with costs offset by savings at different times or different agencies; and emergencies and other circumstances that might justify individual waivers of the requirements of this section,” according to Trump's **Executive Order 13771** signed on Jan. 30, 2017.

OMB issued **implementing guidance in April** and agencies are still working through how they will develop their regulatory budgets. Those agency plans are expected to feed into a broader federal strategy that will be coordinated and eventually issued by the White House budget office.

Initially, the Trump White House suspended the effective date of pending Obama-era rules. The President also signed off on the repeal of more than a dozen recently issued regulations that were disapproved by Congress under the Congressional Review Act. But the heavier lift will be in issuing proposals to withdraw long-standing regulations that will have to follow the notice-and-comment process laid out by the Administrative Procedure Act, according to sources on both sides of the deregulation debate.

“They'll have to follow the letter of the APA if they want” those deregulation efforts to survive legal challenges, according to Tozzi, who referred to the administration's initial repeal of rules “as just a day's work for them.”

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