From Fragility to Agility: The Future of Regulation

In brief

The National Academy of Public Administration offers an agile regulatory framework to enhance government responsiveness to current and future challenges. The report includes tenets and practices that can improve public management and regulatory outcomes.

By: Layvon Washington | June 23, 2022

On June 21, 2022, the National Academy of Public Administration (the Academy) released a white paper on *Agile Regulation: Gateway to the Future*. The Academy is a non-profit, non-partisan, and independent organization that examines public management challenges throughout the US. The paper examines how a more agile paradigm can help government be more responsive to current and future challenges. It offers an agile regulatory framework that encompasses nine tenets and practices that can improve public management in agencies and regulatory outcomes. These are summarized below. The Academy expects that "by implementing the proposed agile tenets and practices, … federal agencies will become more anticipatory and forward looking, innovative and experimental, data driven, responsive, and transparent."

The Academy's work reflects a growing interest in more agile governance. In April of 2022, the GW Regulatory Studies Center co-hosted a Public Symposium, *Agile Governance for Our Future: Reimagining Regulation to Support Innovation*, at the Kennedy Center's REACH Pavilion. The symposium provided a forum to support high-impact dialogue on agile governance opportunities. Leaders from government, business, academia, and civil society discussed how we can reimage regulation to address current and future social, economic, environmental, and technological challenges. Our co-hosts included the Organisation for Economic Co-operation & Development, Google, Business at OECD, World Economic Forum, and U.S. Council on International Business.

As the regulatory environment adjusts to current and future challenges, federal agencies can implement agile practices that will increase stakeholder engagement, ensure social equity, and optimize performance. The Academy's tenets are listed below and are separated into the following categories: Public Need, Regulatory Design, Internal Processes, and Continuous Learning.

Public Need

1. **Understand changing external conditions and evolving societal, economic, and environmental needs.**
   1.1. Adopt an agile mindset that embraces needed change and adapts quickly to emerging conditions.
   1.2. Conduct environmental scans and scenario planning to identify and understand emerging issues.
   1.3. Remain culturally sensitive to the impact of regulations and regulatory design on marginalized communities.

Regulatory Design

2. **Think comprehensively about how best to meet the agency's regulatory goals.**
   2.1. Explore a wide range of types of regulatory interventions.
   2.2. Pilot regulations first to learn lessons before applying them more broadly.
   2.3. Incorporate flexibility into the regulations themselves as appropriate.
3. **Incorporate innovative methods that address economic, environmental, and societal needs.**
   3.1. Harness the opportunities offered by digital technologies and big data to develop metrics while focusing on more innovative and outcome-focused regulatory approaches.
   3.2. Enable greater experimentation, testing, and trials to stimulate innovation under regulatory supervision.
   3.3. Innovate to provide user-friendly regulatory compliance mechanisms.
4. **Collaborate early and often during regulatory development.**
   4.1. Actively engage stakeholders during the regulation design phase.
   4.2. Strengthen collaboration and cooperation across departments and independent agencies to ensure a sound and concise set of rules.

Internal Processes

5. **Construct small yet inclusive teams to manage the regulatory development process.**
   5.1. Develop empowered, highly skilled, cross-functional teams with the skills and resources required to complete their mission.
   5.2. Clearly communicate the desired outcome and map the business process to understand the required way of working process.
   5.3. Manage and improve processes based on lessons learned while remaining flexible and responsive to the team.
6. **Make the agency's work and workflows visible as regulations are developed.**
   6.1. Use plain language.
   6.2. Adopt task boards to manage and communicate the work of the team.
   6.3. Regularly update an agency's regulatory agenda.
7. **Automate processes and use modern technological tools.**
   7.1. Adopt Artificial Intelligence-based tools such as natural language processing to quickly process large volumes of information and analyze evolving information.

    7.2. Adopt tools such as digital/eSignature technologies to support signoffs during the rule writing process and the resulting compliance process.

    7.3. Invest in enterprise modernization strategies to replace or enhance existing, antiquated systems with modern technology.

    7.4. Employ social-media platforms, where appropriate, to reach out to a broader audience.

8. Conduct parallel processing of internal activities.

    8.1. Identify where an agency has the discretion to conduct parallel processing of its internal activities.

    8.2. Sequence steps to produce the best outcome most efficiently and effectively.

Continuous Learning

9. Foster continuous learning about regulatory impacts and internal processes.

    9.1. Collect feedback on current regulations to identify lessons learned and inform future development.

    9.2. Create adaptive, iterative, and flexible assessment cycles.

    9.3. Adopt assessment strategies such as objectives and key results or goal-question metric to drive improvement.

You can view the Academy's full report here: Agile Regulation Framework Report.