

Tracking Regulatory Activity through Trends in Federal Budgets

By: Mark Febrizio | November 13, 2019

Measuring regulation is a frequently tried but challenging task. Academic studies have used both [page counts](#) and [restrictive word counts](#) in the *Code of Federal Regulations* (CFR) to approximate the amount of regulation. Our [Reg Stats](#) page documents additional options for assessing the quantity of regulation.

One valuable measure is the annual [Regulators' Budget report](#), which examines the *Budget of the United States Government* to identify federal agency spending and personnel devoted to developing, administering, and enforcing regulation. The [most recent edition](#) of the report is based on the fiscal year (FY) 2020 budget; the product is a joint effort of the GW Regulatory Studies Center and the [Weidenbaum Center on the Economy, Government, and Public Policy](#) at Washington University in St. Louis.

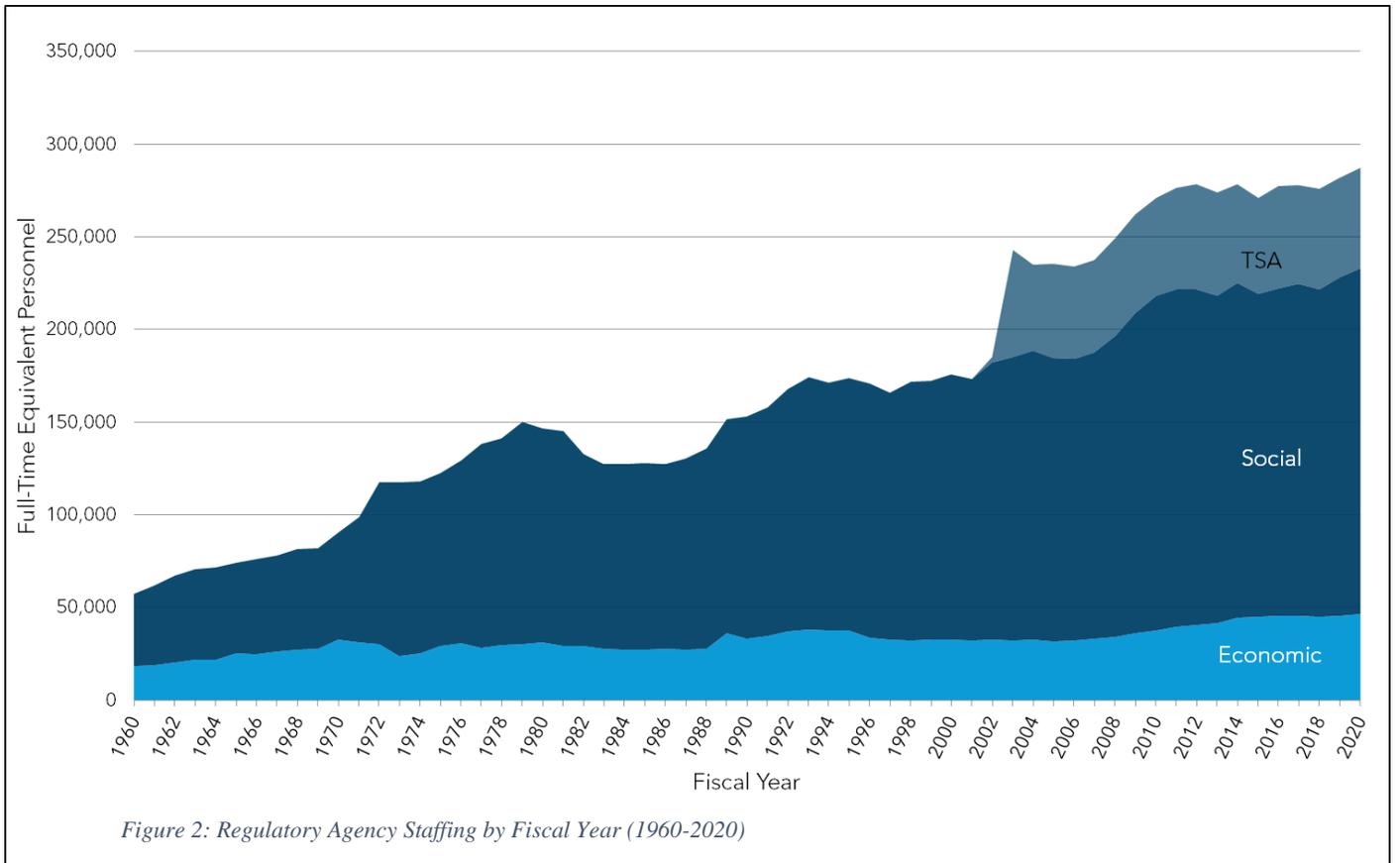
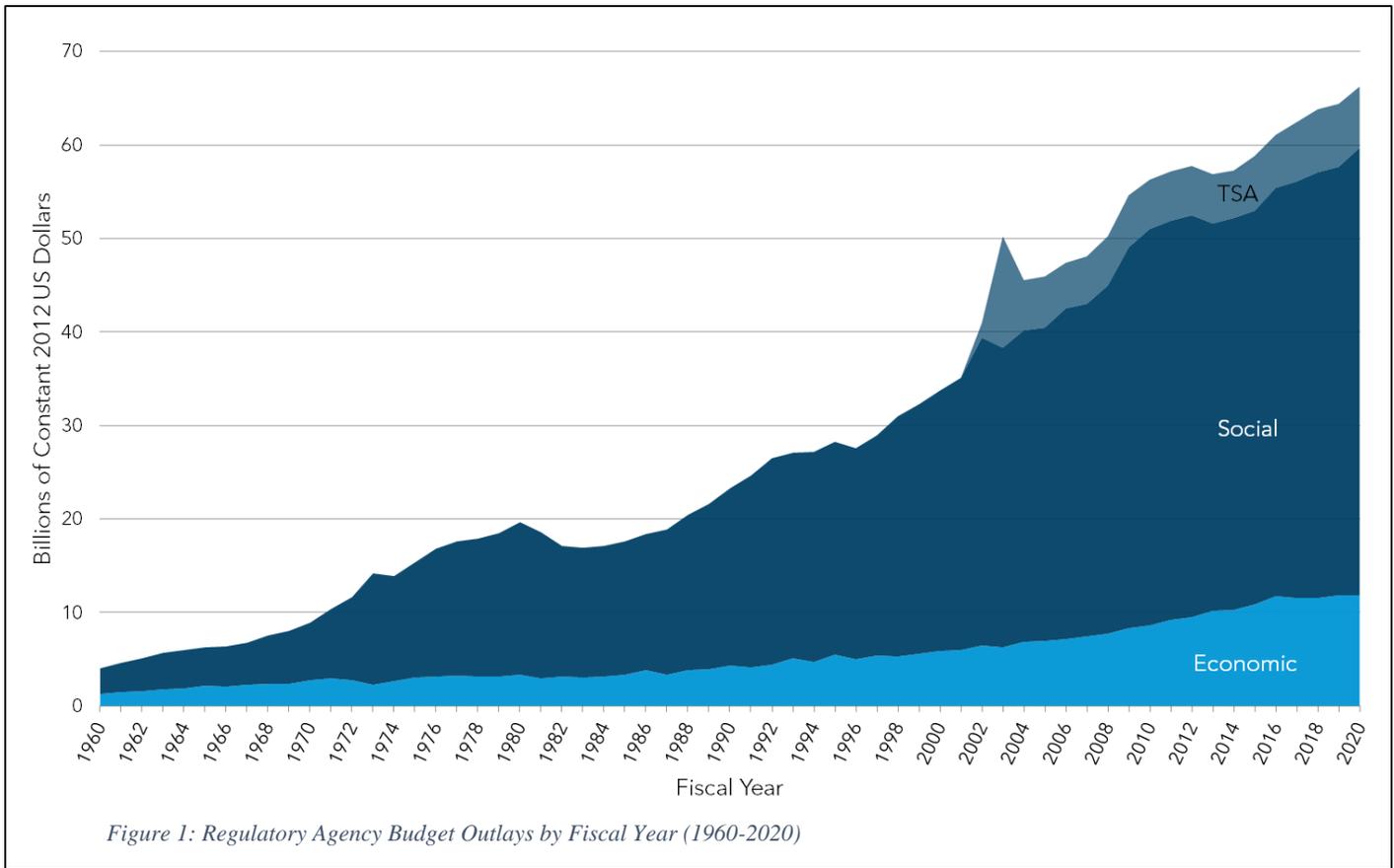
The Regulators' Budget data have a few key benefits: 1) they cover a lengthy span of time (61 years); 2) they track two distinct, but related, measures of activity within agencies (spending and staffing on regulatory activities); and 3) in addition to topline figures, they detail these measures by category of regulation and by agency. This commentary first highlights the key findings from the [FY 2020 report](#), and then analyzes trends over the three budget requests from the Trump administration.

Regulatory Spending and Staffing Continue to Rise

Despite the [deregulatory rhetoric](#) of the Trump administration, the Regulators' Budget has continued to grow both in terms of real (inflation-adjusted) spending and personnel dedicated to regulatory activities. If the president's FY 2020 request is appropriated by Congress, overall regulatory spending would increase by 2.9 percent in real terms over estimated FY 2019 levels. Similarly, staffing in terms of full-time equivalent (FTE) employment would rise in FY 2020 by 1.9 percent. The following two figures from the [FY 2020 report](#) convey these movements (note the data for 1960 to 2018 represent actual outlays and staffing, while the numbers for 2019 and 2020 reflect estimates based on the ongoing and upcoming fiscal year):

In brief...

A key trend across the three recent annual Regulators' Budget reports is an increased emphasis on homeland security and reduced focus on environment and energy. Comparing numbers across reports reveals how a president's regulatory priorities remain subject to congressional action.



Exploring the Composition across Categories of Regulation

While the trend of aggregate outlays and personnel is important, the composition of regulatory spending and staffing provides additional insight into specific regulatory priorities. The overall trends may hide changes in the trajectories for different categories of regulation and certain agencies. Economists broadly [categorize](#) regulation into two main types: 1) economic regulation, which uses economic controls like entry and exit restrictions and often focuses on specific industries; and 2) social regulation, which focuses on issues like health, security, and environmental quality.

During the Trump administration, the trends within social regulation—which includes the subcategories *consumer safety and health*, *homeland security*, *transportation*, *workplace*, and *environment and energy*—have been particularly noticeable. After falling by 1.8 percent between 2018 and 2019, the FY 2020 *Budget* [requests](#) a large increase in regulatory spending on *homeland security* (9.2 percent in real terms). These surges are especially directed at Customs and Border Protection (6.3 percent), Immigration and Customs Enforcement (22.2 percent), and the U.S. Coast Guard (24.9 percent).

In contrast, the rest of the categories of social regulation would be cut relative to estimated FY 2019 levels. Notably, regulators focused on *environment and energy* face the [largest proposed cuts](#) among all categories (-9.0 percent in real terms). In particular, requested regulatory funding for the Department of Energy (-31.8 percent) and the Environmental Protection Agency (-5.1 percent) is significantly below 2019 levels in real terms. Regulatory staffing shows trends similar to spending for *homeland security* (a requested increase in personnel of 5.6 percent) and *environment and energy* (a requested decrease in personnel of 14 percent).

Regulatory Priorities and Politics

Comparing numbers across annual Regulators' Budget reports reveals how an administration's regulatory priorities remain subject to, or even dependent on, external political forces. Similar to how [rulemaking](#) is typically based on statutory authority from acts of Congress, the resources required for federal agencies to conduct regulatory activity is contingent on congressional appropriations. While the president's proposed budget might request stark changes in spending and staffing, the actual outlays and personnel approved by Congress often look much different.

Budget documentation [explains](#) the different meanings of data for the budget year (requested appropriations), the current year (estimates of transactions and balances for the ongoing fiscal year), and the past year (actual spending by agencies). As a result, the actual budget outlays for different regulatory agencies may be very different from the president's request reported in the budget for the upcoming fiscal year.

To illustrate this concept, Table 1 documents how the percent change in real outlays between FY 2017 and FY 2018 for *homeland security* and *environment and energy* differ across the three Regulators' Budget reports during the Trump administration: [Report 39](#) (FY 2018 budget), [Report 40](#) (FY 2019 budget), and [Report 41](#) (FY 2020 budget).

Table 1: Comparing Requested, Estimated, and Actual Regulatory Outlays

Percent Change in Real Outlays (FY 2017-2018)			
Category	Requested (Report 39)	Estimated (Report 40)	Actual (Report 41)
Homeland Security	11.7%	8.6%	7.0%
Environment and Energy	-19.0%	-4.1%	-4.8%

Examining the percent change between two fiscal years across different fiscal budget reports demonstrates how regulatory activity depends on what Congress actually approves. While the trend for each category remains consistent for these examples, the actual changes are much less dramatic than the requested changes. The president’s FY 2018 budget requested a boost of almost 12 percent in regulatory outlays for *homeland security*, but the FY 2020 budget indicates that they only rose by 7 percent. Instead of a nearly 20 percent cut in spending on regulatory activity in the environment and energy category, the actual reduction was less than 5 percent.

Conclusion

There is no foolproof way to quantify federal regulation in the United States. All measures of regulation have drawbacks, limitations, or capture different realities about the regulatory system. But even with imperfect measures, trends over time often convey important information, especially by assisting with tracking the amount, growth rate, and composition of regulatory activity. The annual Regulators’ Budget report not only focuses on requested outlays and personnel on regulatory activities for the upcoming fiscal year, but it also records long-term trends in actual spending and staffing back to 1960. Making comparisons across the annual reports provides a way to analyze administrations’ regulatory priorities and assess the extent to which they are realized.