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REPORT TO THE COMMITTEE ON
GOVERNMENT OPERATIONS
UNITED STATES SENATE

090381

RELEASED

Case Study Of
Department Of Labor And
Office Of Management And Budget
Activities Under The
Federal Reports Act

BY THE COMPTROLLER GENERAL
OF THE UNITED STATES

GGD-75-85

JULY 24, 1975

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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-158552

01+ The Honorable Abraham Ribicoff
Chairman, Committee on Government
Operations
United States Senate

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Dear Mr. Chairman:

This report summarizes the problems we found in the Office of Management and Budget's and the Department of Labor's fulfillment of their responsibilities under the Federal Reports Act of 1942 (44 U.S.C. 3501).

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As requested, we did not obtain written comments from the Department of Labor or the Office of Management and Budget. However, we informally discussed with officials of both agencies the facts contained in the report, and we considered their comments in finalizing the report.

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We are sending a copy of this report to Senator Sam Nunn.

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We want to invite your attention to the fact that this report contains recommendations to the Director of the Office of Management and Budget and the Secretary of Labor. As you know, section 236 of the Legislative Reorganization Act of 1970 requires the head of a Federal agency to submit a written statement on actions he has taken on our recommendations to your Committee and the House Committee on Government Operations not later than 60 days after the date of the report and to the Senate and House Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of the report.

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When you agree to release the report, we will make it available to the Director, the Secretary, and the other three Committees to set in motion the requirements of section 236.

Sincerely yours,

James B. Atch

Comptroller General
of the United States

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ABBREVIATIONS

GAO	General Accounting Office
HEW	Department of Health, Education, and Welfare
OMB	Office of Management and Budget
SPD	Statistical Policy Division

COMPTROLLER GENERAL'S
REPORT TO THE COMMITTEE ON
GOVERNMENT OPERATIONS
UNITED STATES SENATE

CASE STUDY OF
DEPARTMENT OF LABOR AND
OFFICE OF MANAGEMENT AND BUDGET
ACTIVITIES UNDER THE
FEDERAL REPORTS ACT

D I G E S T

The Chairman's request

GAO was asked to undertake a pilot study of one executive agency's forms and the Office of Management and Budget's administration of the Federal Reports Act as it related to that agency. GAO selected the Department of Labor.

Proposed action by the Congress

As an aid for identifying and eliminating duplication, the appropriate congressional committees should consider requiring the establishment of a compendium of the types of information collected from the public by Federal agencies. As a minimum, the compendium should identify the general categories of information collected and the collecting agency or agencies.

The compendium could be used for several other functions, including use by the Congress to locate needed information in the Federal Government. (See pp. 21 and 22 and app. IV.)

At the request of the Committee, GAO considered several possible alternatives for placement of the Federal Reports Act responsibility. GAO

concluded that, in view of OMB's overall responsibility for effective management of the executive branch, OMB represents a logical choice. Responsibility should not be given to GAO because it is an executive branch function inconsistent with GAO's basic oversight and monitoring responsibilities. Responsibility for the regulatory agencies presently vested in GAO should be removed for the same reasons. (See pp. 64 to 66.)

Actions by the executive branch

GAO identified a number of opportunities for improvements. The Director of the Office of Management and Budget should take numerous actions to improve administration of the Office's responsibilities under the Federal Reports Act. (See pp. 13, 18, 31, 37, and 47.) Fourteen recommendations generally deal with the Office's organization, operations, and requirements for agency guidance.

The Secretary of Labor should also take numerous actions. (See pp. 54, 57, 59, and 63.) Seven recommendations deal with Labor's program management related to paperwork and to its clearance procedures.

Findings and conclusions

Weaknesses and problems exist in the Office of Management and Budget's organizational structure, its procedures for forms clearance, and its enforcement of the provisions of the Federal Reports Act. Accordingly:

- The Clearance Officer should be at a level high enough to exercise control over forms clearance activities. (See pp. 10 to 13.)
- The Office's Director should determine whether agencies need the desired information to properly perform their functions. (See pp. 14 to 18.)
- The Office could improve its enforcement by establishing a small investigative group and by insuring that respondents are notified they do not have to respond to forms violating the act. (See pp. 26 to 31.)

Problems exist in the requirements of the Office's Circular A-40 and instructions for completing the requests for forms clearance. Also, the Office

should periodically review certain forms waived from the clearance requirements. (See pp. 32 to 48.)

Certain weaknesses and problems exist in Labor's clearance procedures and the exchange of information. GAO said:

- Reviews should, as a minimum, insure that forms and individual questions are needed, not duplicative, and within Labor's legal authority and policy guidelines, and Labor should see that the appropriate requirements and criteria are incorporated into its manual. (See pp. 51 to 54.)
- Labor should insure that its programs are implemented and that Office of Management and Budget approval of its forms is obtained. (See pp. 54 to 57.)
- Labor should insure that its employees abide by the clearance requirements. (See pp. 57 to 59.)
- Labor could reduce the burden it imposes on respondents through greater information exchange. (See pp. 59 to 63.)

CHAPTER 1

INTRODUCTION

BACKGROUND

The reporting and recordkeeping requirements which the Federal Government imposes on the public have been studied periodically over the years. These requirements have been recently described by terms such as "paperwork burden," "pollution," "jungle," "blizzard," and "avalanche."

One action proposed to help alleviate this burden was to transfer the responsibility for administering the Federal Reports Act of 1942 (44 U.S.C. 3501, see app. III) from the Director of the Office of Management and Budget (OMB) to the Comptroller General of the United States. S. 1812, 93d Congress, was introduced on May 15, 1973, to accomplish this transfer.

GAO officials testified in September 1973, before the Senate Committee on Government Operations, on S. 1812. As a result of the hearings, we were to provide the Committee with alternative plans for reviewing Federal public-use forms.

We provided several alternatives to the Committee on October 19, 1973. (See app. II.) We suggested that a pilot study be performed of one executive agency's forms management and of OMB's administration of the Federal Reports Act as it related to the agency. The Committee Chairman requested, by letter dated November 1, 1973, that we perform the pilot study. (See app. I.) In addition, at the request of the Committee, we considered several alternatives for the placement of the Federal Reports Act responsibility.

We selected the Department of Labor for the pilot study, and the Committee approved this selection. According to OMB's list (see pp. 19 to 21) of public-use forms as of February 28, 1975, Labor was using 301¹ different public-use forms to

¹This figure represents the unique OMB numbers assigned to OMB-approved, public-use forms. OMB may approve a single form or a series of forms under one number.

collect information. Labor estimated that respondents completed 44.8 million of its public-use forms annually--requiring 17.2 million hours of effort. This same list shows that executive branch departments and agencies (including Labor) use 5,695¹ different public-use forms. The departments and agencies estimated that respondents completed 424.8 million of their forms annually--requiring 127.7 million hours of effort.

The above estimates are presented to compare the number of forms used by Labor and those used by the executive branch departments and agencies and do not represent (in part, because of the coverage of the act) the total paperwork burden imposed by the Federal Government on the public.

OMB RESPONSIBILITIES

Under the Federal Reports Act, the Director of OMB is to review public-use forms proposed by the departments and agencies in the executive branch of Government.² Public-use

¹This figure represents the unique OMB numbers assigned to OMB-approved, public-use forms. OMB may approve a single form or a series of forms under one number.

²The Federal Reports Act does not apply to the legislative and judicial branches of Government or to the governments of the District of Columbia and of the territories and possessions of the United States and their various subdivisions. Within the executive branch the act does not apply to the Internal Revenue Service, the Comptroller of the Currency, the Bureau of the Public Debt, the Office of Foreign Exchange Operations, and the Bureau of Government Financial Operations of the Treasury Department or to Federal bank supervisory agencies in the performance of their supervisory functions. OMB has determined that the Bureau of Alcohol, Tobacco, and Firearms of the Treasury Department is also exempt from the act. However, OMB has determined that forms used by the Federal Reserve Board, Farm Credit Administration, and Federal Home Loan Bank Board to collect information for general financial and economic statistics are subject to the act.

Under an amendment (44 U.S.C. 3512) to the act, GAO was assigned the responsibility to review public-use forms used

forms are (1) forms used to collect identical information from 10 or more persons or agencies other than Federal agencies or employees or (2) forms used to collect from Federal agencies or employees information which is to be used for statistical compilations of general public interest. Plans for information collection and requirements for respondents to maintain records are also subject to OMB review. (The forms, information collection plans, and recordkeeping and reporting requirements will hereinafter be referred to as "forms.")

The agencies are not to collect the information unless the Director of OMB advises them that "he does not disapprove the proposed collection of information" ("not disapprove" will hereinafter be referred to as "approve").

The Director is responsible for insuring that the Government's policy established by the act is carried out. That policy is for the agencies to obtain needed information while insuring that (1) the burden on respondents and the cost to the Government to collect the information are minimized, (2) unnecessary collection of duplicate information is eliminated, and (3) the information is collected and tabulated so as to maximize its usefulness to the agency collecting the information as well as to other Federal agencies and the public.

OMB is to evaluate and determine whether an agency needs the information to perform its functions properly.

In cases where OMB believes the information needs of two or more agencies will be adequately served by a single collecting agency, OMB is to hold a hearing to obtain comments from the agencies and other interested parties and then may designate a collecting agency.

by independent Federal regulatory agencies. For purposes of the act, these agencies are: Civil Aeronautics Board, Consumer Product Safety Commission, Equal Employment Opportunity Commission, Federal Communications Commission, Federal Energy Administration, Federal Maritime Commission, Federal Power Commission, Federal Trade Commission, Interstate Commerce Commission, National Labor Relations Board, Nuclear Regulatory Commission, and Securities and Exchange Commission.

OMB may also direct agencies to exchange information. The act directs all agencies to cooperate to the fullest practicable extent at all times in making information available to other agencies.

The responsibilities of the OMB Director under the act have been delegated to the OMB Clearance Officer within the Statistical Policy Division (SPD). Personnel assigned to SPD or one of OMB's program divisions (see p. 5) review public-use forms. In certain cases forms are reviewed jointly by SPD and a program division. The reviewers make recommendations to the Clearance Officer, who either approves or disapproves the use of a form by a Federal agency.

LABOR DEPARTMENT RESPONSIBILITIES

Labor is charged, among other things, with administering and enforcing statutes designed to advance the public interest by promoting the welfare of the wage earners of the United States, improving their working conditions, and advancing their opportunities for profitable employment. Five major departmental agencies (administrations) have been established within Labor to carry out its mission. (See p. 6.) Each administration generates forms and has an Agency Reports Management Officer (clearance officer) for forms review.

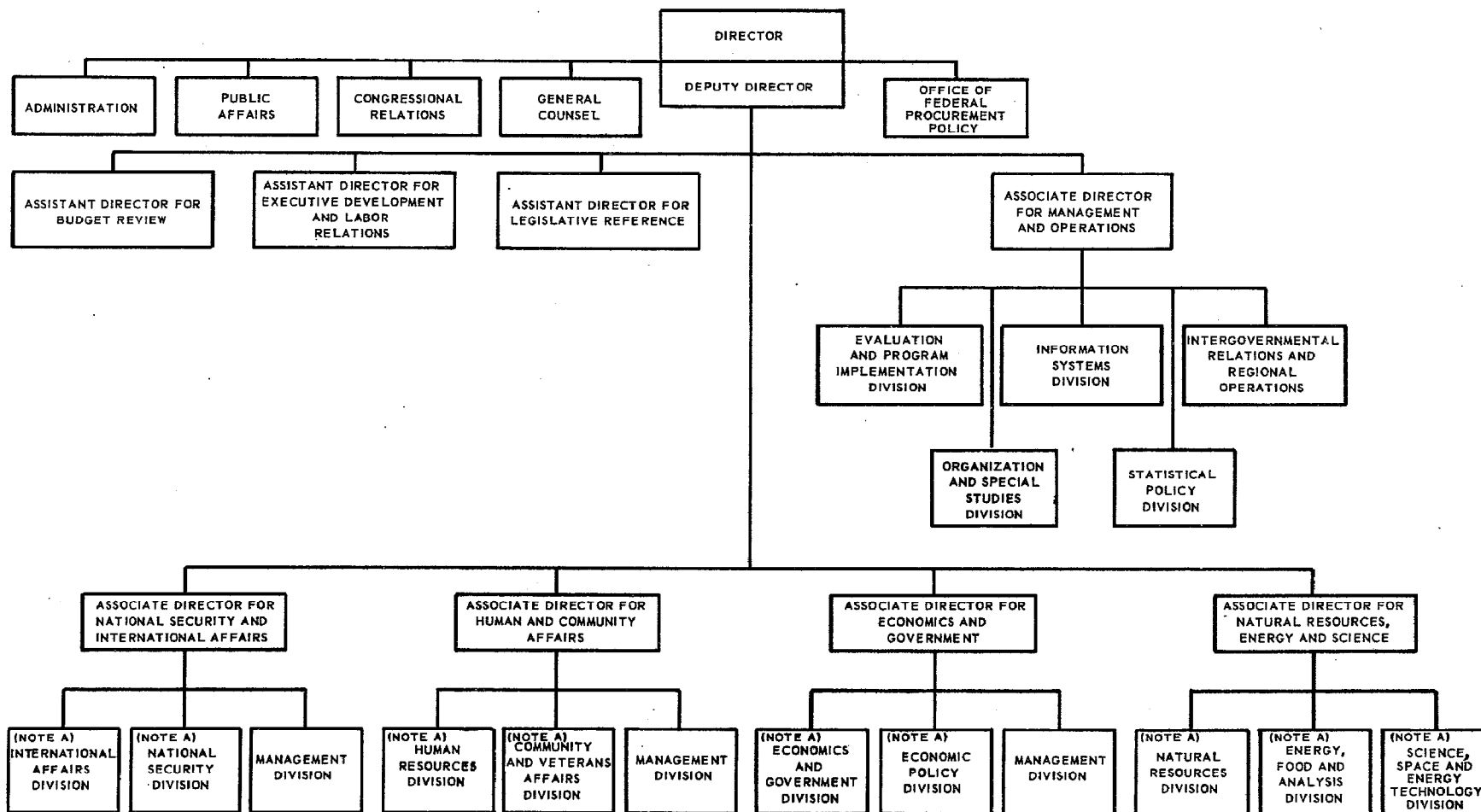
OMB has prescribed its requirements under the act in its Circular A-40 (see pp. 32 and 33). From OMB's viewpoint, an agency is responsible for submitting to OMB the best possible form following an adequate review within the agency.

LABOR DEPARTMENT CLEARANCE PROCEDURE

The essential steps (which are keyed by number to schematic on p. 9) in the forms clearance procedure in Labor are:

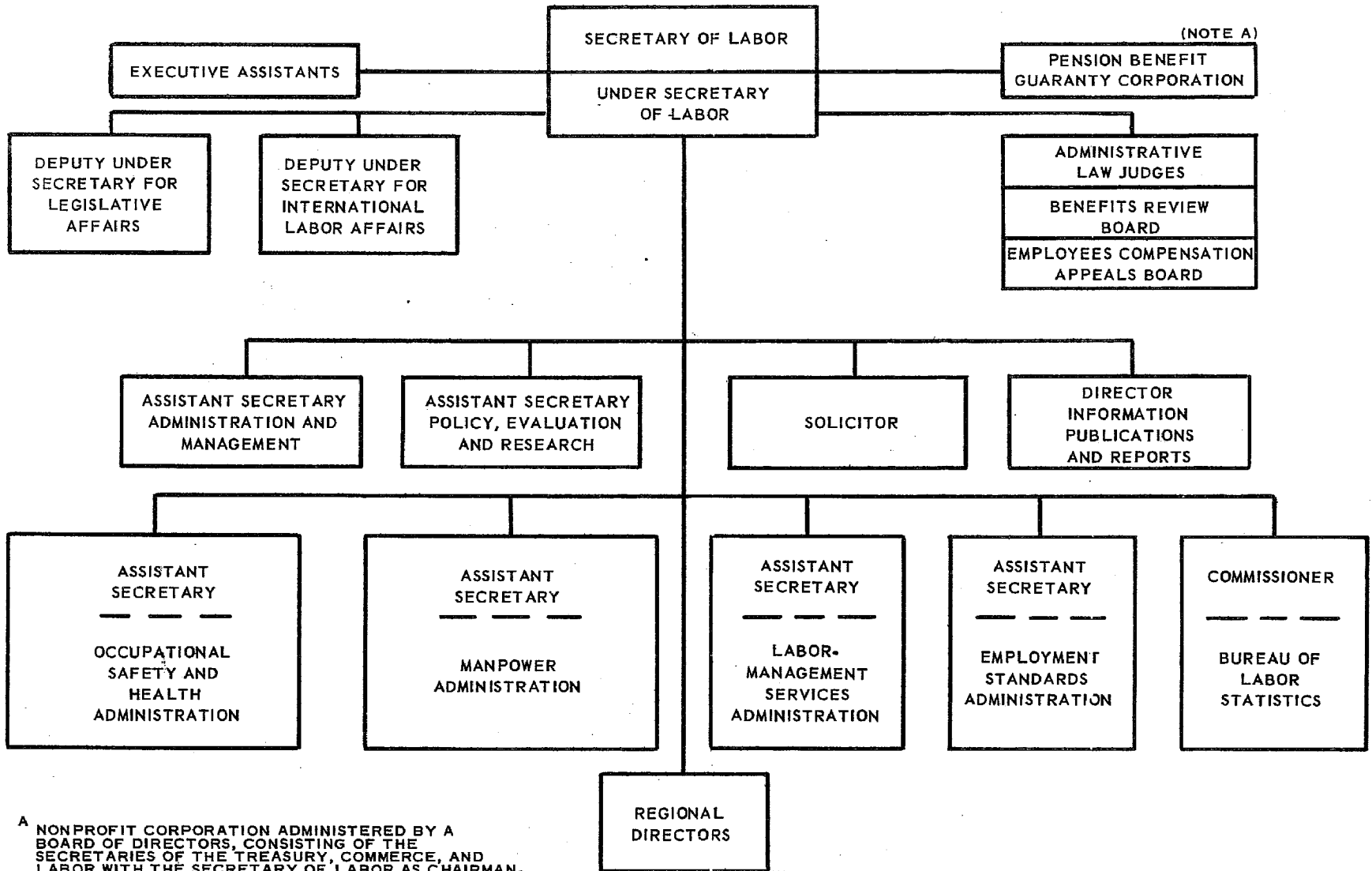
- (1) The originating office establishes its information needs and prepares a draft of the proposed form.

**EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET**



^A OMB PROGRAM DIVISION

DEPARTMENT OF LABOR



^A NONPROFIT CORPORATION ADMINISTERED BY A BOARD OF DIRECTORS, CONSISTING OF THE SECRETARIES OF THE TREASURY, COMMERCE, AND LABOR WITH THE SECRETARY OF LABOR AS CHAIRMAN.

(2) The administration clearance officer reviews the proposed form and determines whether OMB clearance is required.

(3) If OMB clearance is required, a Standard Form 83, "Clearance Request and Notice of Action," and supporting statement (justification) or Standard Form 83B, "Clearance Request and Notice of Action (Extension-No Change)," are prepared.

(4) If the form is proposed as a Standard or Optional Form, a Standard Form 152, "Request for Clearance and Procurement - Standard and Optional Forms," is also prepared.

(5) The clearance package is forwarded to the department clearance officer who forwards it to those people indicated on the schematic.

(6) After reviewing the comments received, the department clearance officer either approves or disapproves the proposed form.

(7) If approved, the department clearance officer forwards the package to OMB for clearance. (If the form is proposed as a Standard or Optional Form, it is sent to OMB through the General Services Administration.)

OMB CLEARANCE PROCEDURE

The essential steps (which are keyed by number to schematic on p. 9) in the clearance procedure in OMB are:

(8) Requests for approval of a proposed form are submitted to the OMB Clearance Officer. (A list of all requests is published daily in the Federal Register.)

(9) A docket worksheet is prepared and added to the clearance package. (This document is used to control the submission and, as appropriate, summarize the review made.)

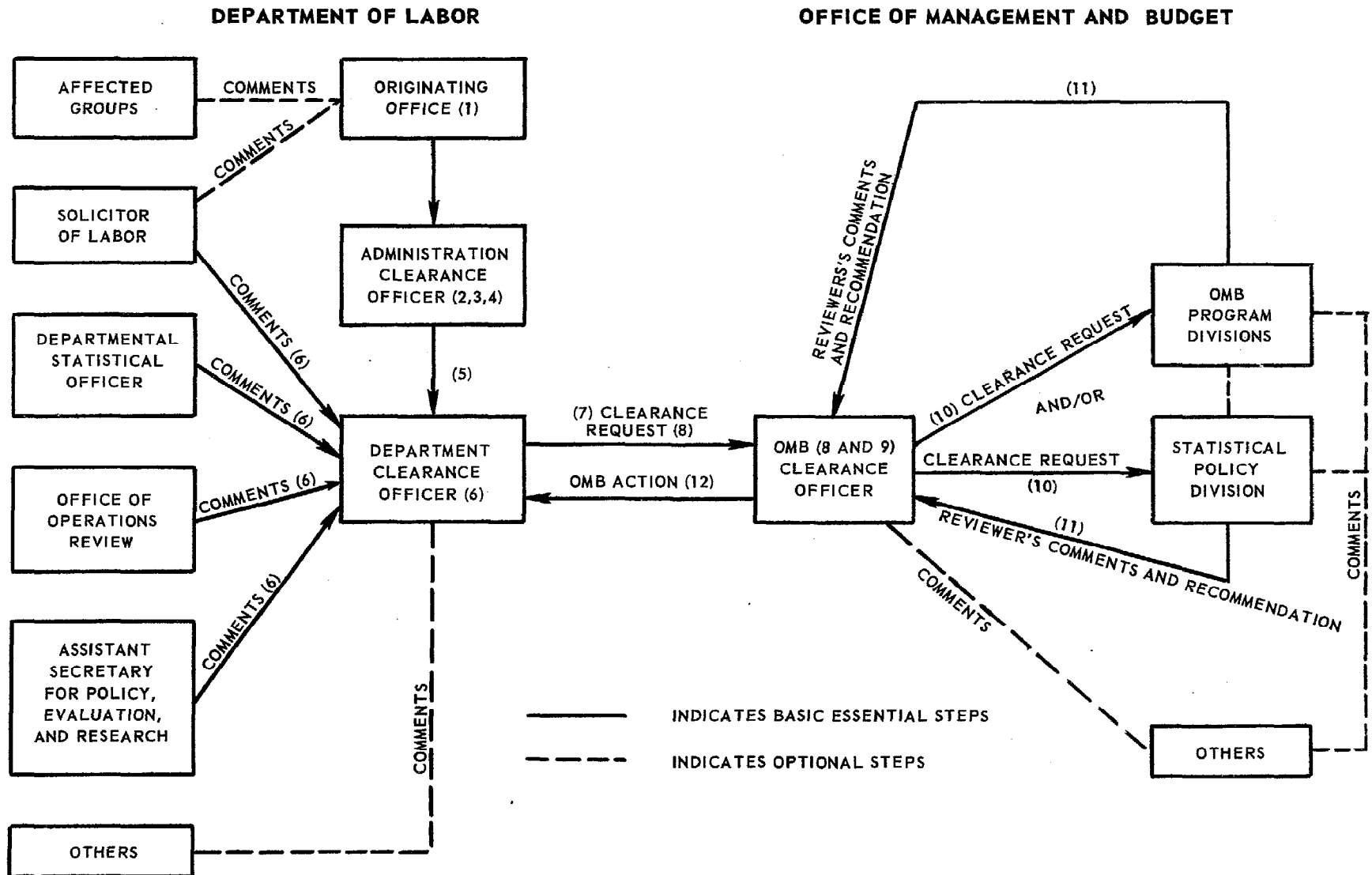
(10) The Clearance Office sends the package to a person in SPD or a program division (or both) for review.

(11) The reviewers evaluate the proposed form and provide recommendations to the Clearance Officer. (Comments may be received from other interested parties either within or outside of OMB for the reviewers' consideration.)

(12) The OMB Clearance Officer takes appropriate action on the proposed form and returns it to the submitting agency.

On September 30, 1974, OMB awarded a contract for a study of its clearance procedures to determine what changes, if any, should be made. The study is aimed at (1) developing procedures which insure that the Government's need for information is met without imposing an unnecessary burden on small businesses and (2) measuring the total governmental (Federal, State, and local) reporting burden on small businesses.

FORMS CLEARANCE PROCEDURE



CHAPTER 2

OMB ADMINISTRATION OF

THE FEDERAL REPORTS ACT

OMB has established a procedure for reviewing and approving forms which agencies use to collect information from the public. However, certain weaknesses and problems exist in OMB's organizational structure, clearance procedure, and enforcement of the Federal Reports Act. As a result, OMB has not, in several instances, performed adequate and timely reviews of forms and has done little to enforce the act's requirements to insure the burden imposed on respondents and the cost to the Government to collect information are minimized.

OMB ORGANIZATIONAL STRUCTURE

The OMB Clearance Officer has been delegated the responsibilities of the OMB Director for reviewing and approving forms under the act. Personnel assigned to SPD or to one of OMB's program divisions (see p. 5) review the forms and make recommendations to the Clearance Officer. However, the Clearance Officer does not have control over the personnel he has to rely on to review the forms and make recommendations to him.

In addition to reviewing and approving forms, SPD is responsible for developing programs for preparing statistical information by executive branch agencies, establishing and maintaining statistical standards, and publishing a number of documents. In addition to assisting SPD in reviewing forms, the OMB program divisions are responsible for examining agency programs, budget requests, and management activities. The program divisions also study proposed changes in agency functions and assist agencies in improving their operations.

The Clearance Officer determines the division which will serve as primary reviewer of a particular form. However, the Clearance Officer stated that he could exercise control over the reviewers only through the heads of the program divisions or SPD. As shown on the SPD organization chart (see p. 12),

the Clearance Office is essentially on the same organizational level as the forms reviewers in SPD. The Clearance Officer's position is the same in relation to program division reviewers. One result of the Clearance Officer's lack of control over a program division reviewer has been the delay in the approval of a handbook and related forms which have been under review by OMB for over 2 years. This illustrates that organization is one problem in the clearance process.

Disaster unemployment handbook

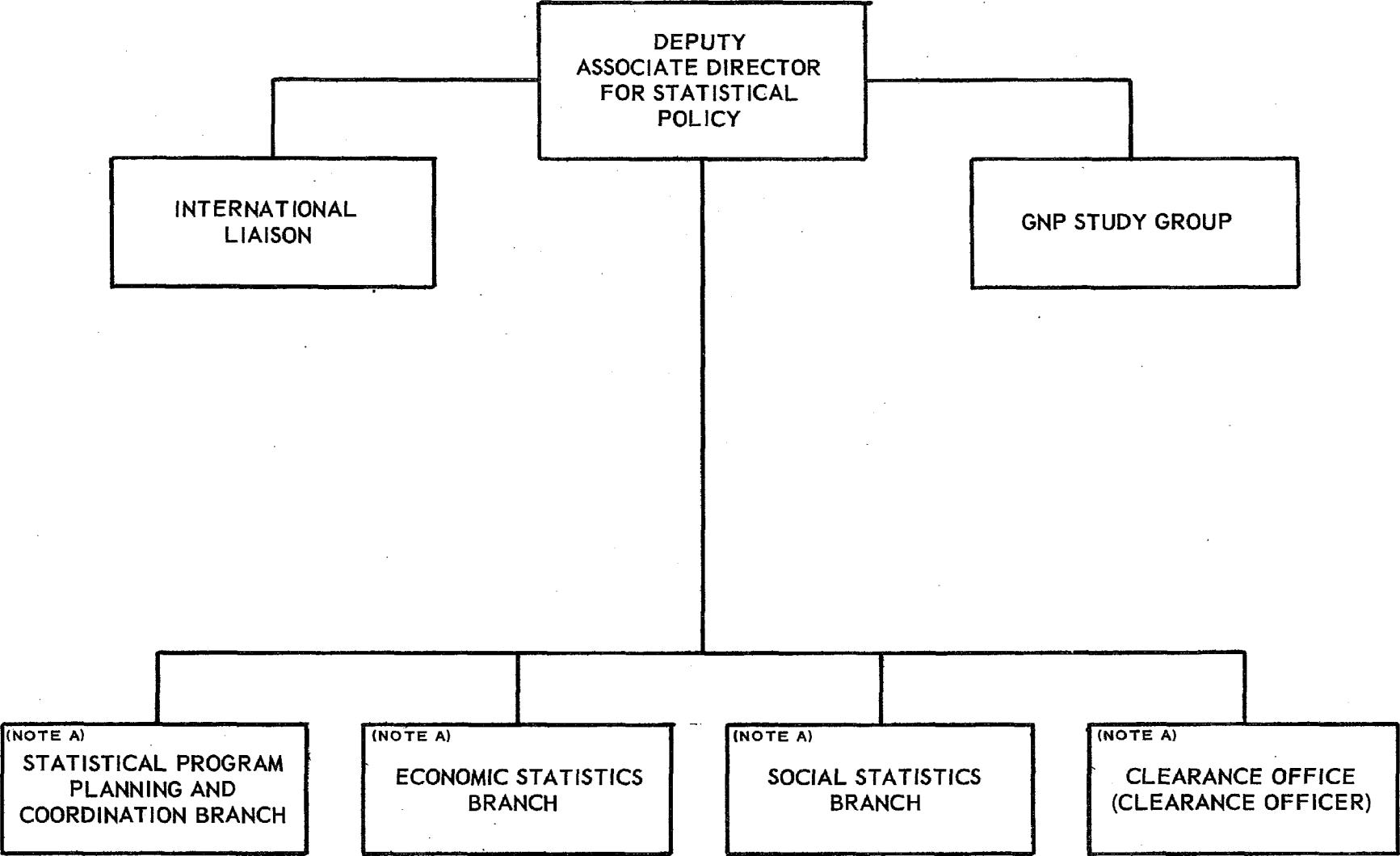
Labor's Manpower Administration developed a handbook, including forms and instructions, to provide guidance to the State employment security agencies which process claims for unemployment benefits under the Disaster Unemployment Assistance Program. OMB approved the handbook and forms through June 30, 1972. Labor requested an extension of OMB's approval of the handbook on June 15, 1972, but as of July 30, 1974, OMB had not acted on the request.

The OMB Clearance Officer told us that he had talked to the OMB program division reviewer, the forms review liaison officer, and the division head to learn the basis for any objections to the handbook. The Clearance Officer advised us on July 30, 1974, that he had exhausted all appeals to get information from the reviewer necessary for reaching a decision to approve or disapprove the handbook.

Since the submission date Labor personnel made numerous attempts to ascertain the reasons for the delayed decision on the handbook. The Labor program chief stated that OMB never contacted him concerning the handbook.

The State agencies have continued to use the expired handbook and forms, even though using the forms violates the Federal Reports Act. Information from the forms is needed to complete two reports to Manpower Administration headquarters. The two reports are approved by OMB (under a different OMB number) for use through December 1975. Therefore, State agencies have continued to use expired forms to meet an approved reporting requirement.

STATISTICAL POLICY DIVISION



^A INDICATES OFFICES INVOLVED IN REVIEWING FORMS.

Changes in the law were passed while the handbook was under review by OMB. The Disaster Relief Act of 1974 (Public Law 93-288) was passed May 22, 1974, and superseded the Disaster Relief Act of 1970 (42 U.S.C. 4401) under which the handbook and related forms had been prescribed. The handbook is being rewritten to comply with the 1974 act and will be submitted to OMB for approval.

Conclusions

To avoid forcing an agency to either (1) violate the Federal Reports Act by using unapproved forms or (2) halt its program operations until forms are properly approved by OMB, the OMB Clearance Officer should be situated in the organization at a level which will enable him to exercise adequate control over the forms clearance process.

As it now stands, the Clearance Officer lacks control over the SPD reviewers. He also has little or no control over the reviewers in the program divisions who are responsible for, among other things, reviewing the budget. These responsibilities constitute the primary responsibilities assigned to the program division personnel while their forms review work constitutes a secondary responsibility. Because of this lack of control over the reviewers, the Clearance Officer cannot assure the appropriate and timely clearance of public-use forms.

Recommendation

We recommend the Director of OMB delegate his forms clearance responsibilities to an individual situated at a high enough level in OMB to exert the necessary control over the forms clearance process.

OMB CLEARANCE PROCEDURE

An adequate review of forms is required to accomplish the policy set forth in the Federal Reports Act. OMB should thoroughly evaluate and determine the agency's initial and continued need for information. If the information is needed, then the reviewer should ascertain whether it, at that time, duplicates information being collected by the proposing agency or other agencies. However, we found

several cases which illustrate that OMB's determination of Labor's need for information and OMB's review for possible unnecessary duplicate collection of information were inadequate. OMB lacks a basic management system to identify cases of duplicate information collection. We suggest that a compendium be established to fulfill this need.

Determination of agency
need for information

According to the Federal Reports Act, the OMB Director is to evaluate whether the collection of information is necessary for the proper performance of an agency's functions. If the Director determines that the information is unnecessary, for any reason, the agency is not to collect the information. However, we believe OMB has not carried out this responsibility in several cases but has left the determination of need to the agency.

OMB has imposed the following requirement on the agencies concerning the need for information:

"To minimize the reporting burden on respondents and to improve governmental efficiency, each Federal agency will consider and determine, in connection with each plan or report form submitted, whether the proposed plan or report form exceeds the limits of reasonable need or practical utility, either with respect to number of respondents, frequency of collection, or number and difficulty of the items, and whether all of the items of information to be furnished or recorded are essential to the central purpose of such plan or report form." (Underscoring supplied)

In requesting OMB approval of a new form or other document, an agency is to provide a supporting statement for the form. The statement is to include a full and detailed explanation of the circumstances which make the information necessary and indicate how, by whom, and for what purpose the information would be used.

According to the OMB Clearance Officer, OMB evaluates whether an agency needs the information as part of the normal forms clearance process. OMB officials stated that

occasionally OMB has caused an agency to reevaluate its needs concerning proposed forms. OMB recognizes there are different ways to manage a program and the nature and type of information collected can vary considerably according to the selected management style.

However, according to the Clearance Officer, it is an agency's prerogative to manage its program and OMB will not overrule the agency's selected management style. By taking this position, OMB allows the agency to make the final decision on the nature and type of information to be collected and therefore determine whether the information is needed.

Our pilot study revealed several examples where considerable doubt existed concerning OMB's determination of Labor's need for information. In one of these cases, however, OMB is now requiring Labor to justify its need for each data element.

Coal mine forms CM-981 and CM-983

Labor requested approval of several coal mine forms on June 26, 1973, for use in the Black Lung Program. Among them were forms CM-981, "Certification by School Official," and CM-983, "Student's Statement Regarding School Attendance."

The CM-981 and CM-983 were to be used to obtain information concerning the school attendance of a coal miner's dependent in determining eligibility for dependent's benefits. The OMB Clearance Officer approved both forms on June 29, 1973.

On September 24, 1974, however, an Employment Standards Administration official said that CM-981 had been used in the Black Lung Program but that CM-983 had not. (OMB's approval of the CM-983 expired June 30, 1974.) Because it was never used by Labor, it is apparent that the CM-983 was not needed to administer the program and therefore should not have been submitted. The case of the CM-983 raises a serious question concerning OMB's determination of need for this form.

Form renewals and
no-change extensions

The act requires OMB to periodically determine an agency's continued need for information. OMB, however, does not always require an agency to submit a justification. As a result, OMB does not always have the necessary information to evaluate the agency's continued need for information.

In cases where an agency uses a Standard Form 83 to request approval of a revised edition of an existing form or for a no-change extension, OMB permits the agency to submit copies of the earlier supporting statement in lieu of a new statement. Although the earlier supporting statement is to be updated, this does not necessarily include a justification of the continued need for the information or an explanation of how the information previously collected was used.

In cases where an agency uses a Standard Form 83B to request an extension of OMB's approval of two or more forms which have not changed, OMB does not require any justification for the forms.

Labor has requested approval of several forms using the Standard Form 83B. It appears from the clearance documents that OMB did not properly determine the need for these forms because no justification for the forms was submitted.

Employment Security
Automated Reporting System

The Employment Security Automated Reporting System was initiated by the Manpower Administration on a test basis in three States in July 1968. During discussions of the system between OMB and Administration personnel in January 1969, the question of need for some of the output tables used by the States to report to the Administration was raised by the OMB personnel. We were unable to determine whether this question of need was resolved; however, OMB approved the system on February 26, 1969.

Labor implemented the system in all 50 States, the District of Columbia, and Puerto Rico. On June 3, 1974, Labor requested an extension of OMB's approval.

The OMB Clearance Officer, by letter dated July 8, 1974, approved the system--subject to several stipulations--through June 30, 1975. One of the stipulations was that specific justification be given for each data element collected with specific reference to the actual or planned uses at national and State levels for policy making and managerial decisions.

Labor was to submit the output tables, its justification, and the other clearance documents, following the incorporation of modifications to comply with OMB's stipulations, no later than February 1, 1975, to provide adequate time for OMB to review the system before expiration.

The Administration informally submitted its justification for the data elements to OMB on January 27, 1975. An Administration official advised us on April 1, 1975, that the formal submission requesting approval of the system beyond June 30, 1975, would be made at a later date. (See app. V.)

Conclusions

OMB in several cases has not carried out its responsibility to evaluate the need for information. We recognize that if OMB were to carry out this responsibility it would exercise a great deal of influence over the agency programs. However, given OMB's responsibilities for the effective management of the executive branch, OMB should consider the effect of the forms proposed by the agencies on program operations and assure itself that the Government's cost is minimized.

Under the instructions for requesting OMB's approval of forms, the agencies may not have to justify their continued need for information because OMB allows the agencies to submit an earlier supporting statement or requires no supporting statement. At a minimum the OMB reviewer should assure himself there (1) is a continued need for the information and (2) were no changes in the program which would

require changes in the forms. In order to make this determination, OMB should require the agencies to submit a complete supporting statement with each clearance request justifying their continued need for the information. Since the agencies are to consider whether all the items of information are essential, the justification should be sufficient to provide a basis for OMB's reviewers to evaluate the agency's need for each data element.

Because of the necessity for agency justifications for OMB to evaluate the need for information, Standard Form 83B should be eliminated from use in requesting the clearance of forms.

Recommendations

We recommend the Director of OMB:

- Require the agencies to submit sufficient documentation to serve as a basis for evaluating the initial and continued need for each data element to be collected from the public.
- Evaluate the agencies' justifications of need for information.
- Eliminate Standard Form 83B, "Clearance Request and Notice of Action (Extension - No Change)," from use in requesting forms approvals.

Elimination of unnecessary duplication

Under the Federal Reports Act, "unnecessary duplication" of efforts in obtaining information is to be eliminated. OMB's main technique for eliminating unnecessary duplication is its reliance on the reviewers' memories. However, certain factors detract from the ability of the reviewers to rely on their memories to identify and eliminate duplication. These factors include (1) the sheer volume of public-use forms and (2) personnel turnover. In addition, OMB lacks a working definition of "duplication." As a result, OMB lacks the basic tools for identifying and eliminating unnecessary duplication.

Procedure for eliminating unnecessary duplication

Each OMB staff member involved in forms review is responsible for being aware of all the information collected by agencies in his assigned field, according to OMB testimony before the Senate Committee on Government Operations. The staff reviewers have access to a list of approved public-use forms and individual (by OMB number) files on the forms. Barring a search of the entire list to locate related forms, a reviewer would have to remember the departmental unit prescribing the form or the OMB approval number before he could obtain the files of related forms for his use in a form review. Thus, OMB principally relies on a reviewer's memory for eliminating unnecessary duplication. We consider this inadequate for the intended purpose.

The reviewer also has to recall events taking place between submissions which have an effect on a particular form. Recalling these events becomes exceedingly difficult because of the dynamic nature of Federal programs, increased involvement in new areas, and the length of OMB approvals.

The OMB Clearance Officer told us that the circumstances determined the length of approval assigned a particular form. A new form would be given a 1-year approval if the OMB reviewer was not sure how the program would operate. If a new form looked reasonable, OMB would assign a 3-year approval. The Clearance Officer said that, for forms used in ongoing programs where OMB had encountered no problems, he would assign a 5-year approval. The Clearance Officer said, however, that an approval for a certain period did not preclude the Director of OMB from reviewing the case before expiration.

OMB list of public-use forms--OMB maintains a list of approved public-use forms. If the reviewer identifies the OMB approval numbers of related forms from the list, he can obtain the files maintained on the particular forms from the docket room to check for duplication.

There are problems for a reviewer in using OMB's list of public-use forms to identify related forms. The list

contains, among other things, the title or abbreviated title, respondent type, and reporting frequency of the approved forms. However, the list contains little information to aid the reviewer in determining what data elements are being collected on the forms. In addition the volume of the list is substantial--as of February 28, 1975, it included 5,695 individual titles shown by agency, organizational unit within the agency, and OMB approval number within the organizational unit.

Depending on how OMB approves a form or forms, several different forms may be listed under a single title (a single OMB number) or essentially the same form may be listed under several titles (several OMB numbers).

Under the title "Employment Security Automated Reporting System ESARS--ES 209 and Other Reports," there were four forms¹ used by local employment security agencies in reporting to the State agencies. In turn, the State agencies reported the information from the 4 forms on 61 different output tables to Manpower Administration headquarters and regional offices. Although this was the largest example in terms of the overall quantity of Labor forms and reports being approved under a single OMB number and thus being listed under a single title, we noted numerous other examples.

The reverse is also true in that essentially the same form has been approved under different OMB numbers and listed under different titles. For example, the BLS 1150 series of forms consists of seven similar forms used to collect information on wages and wage rates. Each form is designed to collect the information from a different industry except two of the forms which collect information from the building trades. These forms were, as of June 30, 1974, approved under three different approval numbers and titles.

¹ The Manpower Administration is converting the system for keyed input of information from two operating forms resulting in the elimination of these four forms which served as coding sheets.

Furthermore, forms which we believe are public-use forms and subject to the clearance requirements of the act have either been waived from these requirements or given indefinite expiration dates by OMB (see pp. 38 to 48). These forms are not included on OMB's list.

Because of these factors, OMB's list is not a good management tool for identifying unnecessary duplication.

Personnel turnover--Although OMB attempts to assign a form to the same reviewer who previously reviewed the form, this is not always possible due to personnel changes. For example, between August 1972 and July 1974, 11 professional personnel departed from and 7 were added to the SPD staff. The OMB Clearance Officer said that in case of a change in personnel he assigned the form to the person's replacement or another reviewer in the same field. We recognize this is the best the Clearance Officer can do in view of the circumstances, but it severely hinders relying on an individual reviewer's memory to identify duplication.

Conclusions--Because of the size of the Federal Government, personnel in and out of Government are unaware of all the information collected by Federal agencies. It is difficult for OMB reviewers to be aware of all the information collected by the various Federal agencies because of (1) the above cited problems and (2) the dynamic nature of existing Federal programs and Federal involvement in new areas which result in the generation of additional forms.

Although a reviewer can rely on his memory and has certain tools--the OMB list and docket files--to use in reviewing an agency's proposed form, these are inadequate for identifying duplication and thereafter eliminating duplication which is unnecessary. (See pp. 23 to 26.)

A compendium should be established as a basic management tool to minimize duplication. It should contain a list of data elements collected by Federal agencies with references to the forms and the collecting agencies. The compendium should list the types of information collected

(such as hours worked by employees or wages paid) and not the actual information provided by individual respondents. We believe it would provide the reviewers with a detailed reference on the agencies, forms, and data elements being collected and should improve the forms review process. (Development of the compendium is discussed in more detail in app. IV.)

Matter for consideration by congressional committees--
The appropriate committees of the Congress should consider requiring OMB or another designated agency to develop and maintain a compendium of the types of information collected from the public by Federal agencies.

Working definition
of duplication

OMB lacks a working definition of "duplication" to be used by the forms reviewers. As a result, the identification of duplication would be subject to each reviewer's interpretation and therefore there could be some inconsistency in actions taken in approving forms.

The term "unnecessary duplication" was defined in OMB's Circular A-40, dated May 25, 1962, (in effect between May 25, 1962, and May 3, 1973), as follows:

"'Unnecessary duplication' is deemed to exist in the collection of information if the duplicating activities involve either identical information or similar information which is adequate for the intended use."

The present (May 3, 1973) edition of the circular does not define what OMB considers to be unnecessary duplication. Although he did not know the reason for eliminating the definition from the circular, the OMB Clearance Officer advised us that OMB did not have a working definition of duplication and that he did not believe a definition was necessary. He said that on the basis of the reviewers' recommendations he determined whether duplication existed on a case by case basis and then determined whether such duplication was unnecessary.

We believe a broad definition would be useful to the OMB reviewers as a guideline--that duplication exists in cases where programs or agencies are (1) collecting the same or similar data element regardless of the manner in which the information is detailed or summarized or (2) collecting information which could serve the same purpose.

The definition should not be used to automatically preclude an agency from obtaining information but should be a starting point for judging individual cases. In cases where duplication is deemed to exist by OMB, we believe OMB should get the agency personnel together, as envisioned under section 3(b) of the act, to see if a single form could serve the information needs of the groups.

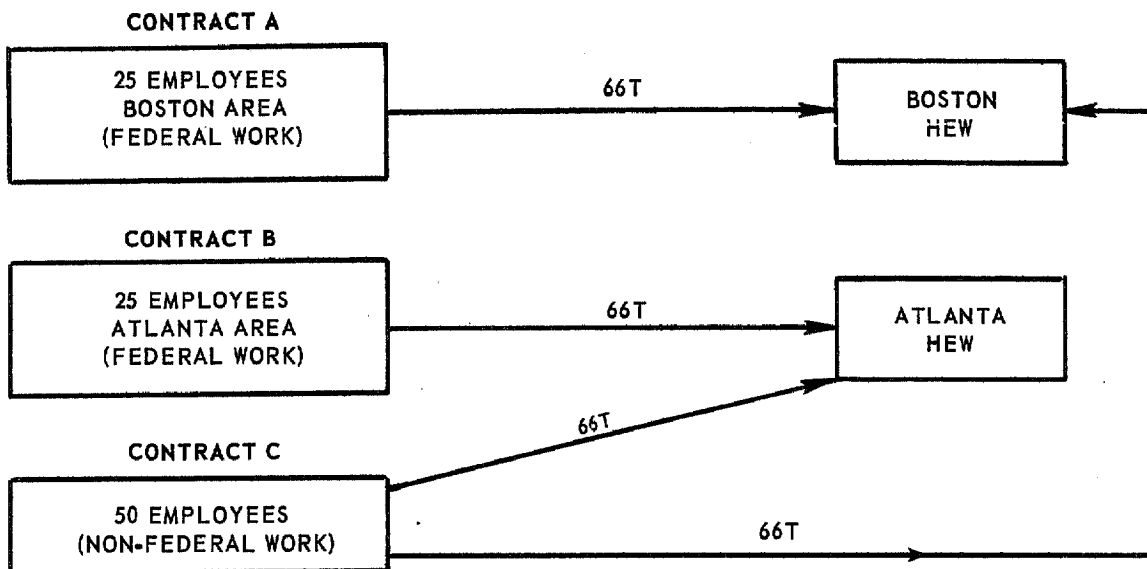
Illustrations of duplication

We found the following examples which we believe constitute unnecessary duplication. OMB should have taken steps to eliminate the duplication.

Optional Form 66T--In the case of Optional Form 66T, "Manpower Utilization Report," the instructions for the form required each prime or general contractor or subcontractor reporting on Federal or federally assisted construction contracts to also report information on his employees working on non-Federal projects providing the bid on the non-Federal project was made after receiving a Federal award. The instructions further required:

"Reports for all non-Federal or private construction projects must be filed with each Federal agency (or their designee) providing financial assistance."
(Underscoring supplied)

In practice, a contractor holding more than one Federal contract was required to report the same information on his employees working on non-Federal work to all the Federal agencies for which he was doing work. For example, a contractor that employed 25 persons on each of 2 contracts (A and B) in different geographic areas with the Department of Health, Education and Welfare (HEW) and employed 50 other employees on non-Federal work (contract C) filed 4 reports, as illustrated in the following chart.



Reports covering the employees on each of the two Federal contracts were prepared and filed with the respective contracting groups in HEW. Two additional identical reports covering the 50 employees on the non-Federal work were prepared by the contractor with 1 going to each of the HEW groups. This double reporting of information on the 50 employees was duplication. (See app. IX.)

The OMB Clearance Officer agreed this requirement was duplication but stated that this condition could not be rectified under authority of the Federal Reports Act. He stated that OMB could approve or disapprove a form under the act but had no authority to evaluate the administrative procedures concerning the use of a form.

However, in our opinion, this duplicate reporting is governed by the act. The basic provision requiring an agency to submit its forms for approval (44 U.S.C. 3509) requires the agency to submit for review the plans or forms, pertinent regulations, and other related materials as the OMB Director specifies. Documents requiring approval (according to the clearance request instructions) include

"* * *orders, regulations or other directives which include requirements for respondents to provide information or maintain records to be used or made available for use in the collection of information * * *."

OSHA-120--The State agency responsible for administering the State's occupational safety and health program under its Labor-approved plan provides information quarterly on its inspection activities. Labor, however, requires the State agency to provide on an OSHA-120 the information in detail by 2-digit Standard Industrial Classification code and then summarized by major industrial groups (a consolidation of two or more Standard Industrial Classification codes). Thus, both summary and detailed information are required from the respondent.

CM-981 and CM-983--The coal mine forms CM-981 and CM-983 (see p. 15) also meet our definition of duplication. The two forms were to be required from different respondents--the coal miner's dependent or survivor for the CM-983 and a school official for the CM-981--but the information on both forms concerned the school attendance of a coal miner's dependent to be used by Labor in determining eligibility for dependent's benefits. Although the CM-983 was never used, approval of this form indicates OMB gave no consideration to duplication during its review.

Other examples--Four other cases which we believe involve duplication are discussed in appendixes VII through X.

In our opinion, the above examples illustrate that duplication exists and show the need for OMB to take steps to eliminate these duplicate reporting requirements.

FEDERAL REPORTS ACT ENFORCEMENT

OMB has not aggressively enforced the Federal Reports Act clearance requirements; rather it has generally reacted to complaints or questions from respondents. OMB should take a more active role in enforcing the act by insuring that respondents are notified of act violations and by establishing a small investigative group. In addition, OMB should require more information to be printed on the forms to give the respondents information on the status of the forms. By taking these actions OMB would have greater assurance of agency adherence to the clearance requirements resulting in a minimum burden being imposed on respondents.

OMB role in enforcement

OMB's enforcement of the clearance requirements has generally been restricted to the Clearance Officer writing letters citing an agency for violations of the act. OMB should insure that respondents are notified of act violations and establish a small investigative group to investigate such violations. In addition, OMB should insure that respondents are provided with more information on the status of a form by (1) requiring forms not subject to the act to be identified and (2) requiring the expiration date to be printed on all forms subject to the act.

Enforcement of the act's requirements is difficult because of the lack of penalties prescribed in the act for violations. Without penalties the agency program officials have little incentive to abide by the clearance requirements. They place greater importance on carrying out their program responsibilities. (See pp. 54 to 57.) A second difficulty is caused by the vast amounts of information collected by the Federal Government.

The OMB Clearance Officer, upon learning of alleged act violations, writes the agency involved and requests that the agency investigate the allegation and report back to OMB. The Clearance Officer advised us that this was the extent to which he could enforce the act. Some examples of Labor violations of the act are discussed below.

In implementing its Employment Security Automated Reporting System, the Manpower Administration requested OMB approval on May 8, 1968, for test reporting by employment security agencies in three States. Without waiting for approval, the Administration initiated the test reporting. The OMB Clearance Officer, by letter dated September 13, 1968, advised Labor that:

"This incident suggests that there may be, among the personnel responsible, some misunderstanding of the nature and requirements of the review procedure.

"* * *We request that you take whatever steps are necessary to avoid any future occurrence of this nature."

In this case Labor did not meet the act requirement of obtaining OMB approval before obtaining the information. (See app. V.)

A second example involves the forms for the Comprehensive Employment and Training Act which were formally submitted to OMB on May 16, 1974. However, the Manpower Administration initiated program operations before the approval of the forms by OMB. The OMB Clearance Officer, by letter dated July 10, 1974, commented on this situation as follows:

"Two problems have arisen in connection with the review of the proposed reports. The first, and more serious, of these is an apparent violation of the Federal Reports Act. This Office has been given to understand by Manpower Administration representatives that the reports are currently in use and have been in use for some time. If this information is correct, there has been a violation

of the Federal Reports Act. While it is understandable that the CETA [Comprehensive Employment and Training Act] program required some reporting procedures in order to get underway, there appears to be no reason why the Manpower Administration should not have submitted a request for clearance for the necessary reports. The pressure of time is not an acceptable reason for failing to comply with the Federal Reports Act. Other Federal agencies, operating under the most extreme time constraints in emergency situations, have presented requests for clearance and have had them acted upon expeditiously. If the information which has been received from the Manpower Administration is correct, it appears that the Department [Labor] needs to take some action to avoid a repetition of this unfortunate circumstance." (Underscoring supplied)

In approving the forms on November 15, 1974, OMB further commented on the violation as follows:

"These reporting requirements were introduced without prior clearance in violation of the Federal Reports Act. They are inconsistent with the uniform grant reporting procedures set forth in OMB Circular A-102. They are approved for use only through June 30, 1975 and will not be extended. Agency will submit a request for revisions to these reporting requirements to make them more fully compatible with A-102 as agreed to in discussions involving DOL [Labor], GSA [General Services Administration], and OMB. Revisions will be submitted for clearance in time to be introduced into use on or before July 1, 1975."

Other violations of the act are discussed on pp. 55 to 57.

OMB should, upon learning of act violations, insure that respondents are notified of the violations and informed that they do not have to return the form to the requesting agency.

In addition, OMB should establish a small investigative group to assist in act enforcement. Establishment of this

group would, in effect, provide OMB with a mechanism for implementing section 3(a) of the act (44 U.S.C. 3503) which requires the Director to periodically (1) investigate the information needs of the agencies and (2) investigate the methods used by the agencies in obtaining information. These investigations should serve as the basis for OMB suggestions to the Congress for changes to the act.

The first duty of this group should be to review and approve the agencies' structure and procedures for forms management. (See pp. 33 to 38.) By reviewing the general information gathering practices of the agencies, the group could identify and investigate possible violations of the act and review OMB's action on forms exempted under Circular A-40 to determine whether the exemptions should remain in force.

Enforcement of the act generally is initiated because of complaints or questions by respondents. However, the respondents are not always in the best position to identify violations. For instance, a person asked to complete a form and return it to a Federal agency may not know if that agency is subject to the act. OMB assigns approval numbers which are to be printed on the approved forms. However, the lack of an approval number could represent either an exempted form, an act violation, or a form used by an agency which is not subject to the act.

In addition, for those agencies whose forms are subject to the act, the respondent may be unaware of whether a form is currently approved because OMB approvals periodically expire and OMB requires the expiration date to be printed on the form only in certain cases. The OMB Clearance Officer advised us that, in his opinion, the requirement that expiration dates be shown on the form would not help enforcement but might create the problem of a respondent holding a form until after the expiration date and then refusing to complete and return the form to the requesting agency. However, we concluded that printing the expiration date has certain advantages, as discussed on p. 31.

Coordination with respondents

The policy of the act is for agencies to obtain needed information but at a minimum cost to the Government and in a manner which places a minimum burden on the respondents. The fulfillment of the policy of the act requires coordination between OMB, the agencies, and the respondents. If coordination were improved the enforcement of the act's clearance requirements could be improved, thereby reducing the respondents' burden.

A respondent may comment on a form or proposed form. In some cases an agency requests comments from potential respondents in developing a new form or revising an existing form. In addition, OMB publishes daily in the Federal Register a list of forms submitted to it for review and approval to provide respondents an opportunity to comment on the forms while they are under review.

Individual respondents, however, generally do not have the resources to obtain and screen the daily lists but could work through their organizations. The Business Advisory Council on Federal Reports was established at OMB's request to provide comments from the business community on proposed forms. Other organizations representing respondents to federally prescribed forms could also provide comments.

Conclusions

OMB has not aggressively enforced the Federal Reports Act. Although there are difficulties in enforcement, OMB should assume a more active role to preclude act violations. By insuring that respondents are notified of act violations and by establishing a small investigative group, OMB could better assure that the respondent burden is minimized. OMB would also be in a better position to advise the Congress of needed changes in legislation.

Because act enforcement is oriented to action initiated by the respondent, certain steps can and should be taken to provide the respondent with information on the status of a form.

For those forms used to collect information from the public but not subject to the Federal Reports Act, a

statement that the form is not subject to the act should be required on the form.

For those forms subject to clearance under the act, both the OMB approval number and the form expiration date should be printed on the form. The expiration date will enable the respondent to know whether the form is currently approved and whether he has to respond to the agency. It will also give the respondent the approximate time the agency will be submitting the form to OMB for approval giving him an opportunity to comment on the form during OMB's review.

The OMB Clearance Officer has taken the position that the expiration date should not be printed on the form; however, the requirement would help the respondent identify the status of a form. The respondent would therefore be in a better position to identify possible act violations and call them to OMB's attention, thereby improving enforcement of the act. By printing the expiration date on the form, the agencies will be encouraged to obtain the required approval--particularly if they recognize that respondents do not have to respond to an expired form.

Recommendations

We recommend the Director of OMB:

- Assume a more active role in Federal Reports Act enforcement by insuring that respondents are notified of act violations and by establishing a small investigative group to assist in enforcement.
- Require agencies of the executive branch to appropriately identify for respondents those forms which are not subject to the clearance requirements of the act.
- Require the expiration date to be printed on all OMB-approved forms.

CHAPTER 3

REQUIREMENTS PRESCRIBED

FOR DEPARTMENTS AND AGENCIES

OMB prescribes written requirements for the agencies under the Federal Reports Act. However, we noted a conflict in one of these requirements. We also identified areas where OMB has not provided written guidelines for the agencies. In addition, OMB has waived the clearance requirements for certain Labor forms and has assigned indefinite expiration dates to other forms. As a result, OMB has not effectively guided the agencies in the management of their public reporting requirements. Also, there is a serious question of whether OMB has effectively controlled and minimized the burden on respondents and the cost to the Government to collect information.

OMB REQUIREMENTS

Prescribed requirements

Under the 1962 edition of OMB Circular A-40,¹ the agencies were responsible for (1) obtaining clearance of their public-use forms, following determinations that each form did not exceed the "limits of reasonable need or practical utility," and (2) maintaining records concerning the status and use of each form. In addition, when sponsoring the collection of information, agencies were to inform the collector of the clearance requirements of the circular, insure the required submittal was made to OMB, and insure the plan or report form was not used without prior OMB approval.

On May 3, 1973, OMB issued a revised circular. The responsibilities of the agencies are the same except for

¹The problems discussed in this report generally involve a period covered by the last two editions of the circular, dated May 25, 1962, and May 3, 1973.

broader responsibilities for establishing procedures for managing, and developing Government cost estimates for, their forms.

These requirements are spelled out in more detail in the instructions for completing the requests for clearance --Standard Forms 83 and 83B.

Conflict in written requirements

The requirement for preparing Government cost estimates is described differently in the circular and in the instructions for completing the requests for clearance. It needs to be clarified to provide effective guidance to the agencies.

In 1971 (based on the Government Printing Office print date) OMB issued a new Standard Form 83 and Standard Form 83A, "Instructions for Requesting OMB Approval under the Federal Reports Act." The instructions call for preparing Government cost estimates for statistical or program evaluation forms. It specifically exempts preparing cost estimates for "application forms, other management reports, and recordkeeping requirements." Should the data have several uses, one of which is statistical, only the incremental costs attributable to the statistical use are to be calculated.

However, in 1973 when the circular was revised, OMB included the requirement that the agencies were to develop cost estimates for their reporting requirements. The circular generally requires the preparation of cost estimates and, therefore, can be interpreted as requiring them for all forms and reporting requirements. The Standard Form 83A limits the preparation of the cost estimates to two types of forms and documents subject to clearance under the Federal Reports Act; therefore, the requirement needs to be clarified.

Unwritten requirements

In at least three areas, OMB has not provided guidance to the agencies. In congressional testimony OMB stated it had imposed two requirements on the agencies,

but the requirements are not spelled out in OMB Circular A-40. The third area also is not covered in the circular.

The OMB Acting Deputy Assistant Director for Statistical Policy, during hearings held September 12, 1973, by the Senate Committee on Government Operations, elaborated on the forms management responsibility of the agencies by stating:

"We have been fairly vigorous in imposing on the various agencies in the Government, central responsibility for the consideration of reporting proposal[s] before they ever get out of the agency."

* * * * *

"We look to those people right within the agencies to carry out their responsibility to make comments and hold up the submission of many forms which might otherwise come over if they were not subject to that kind of centralized control within the agencies themselves."

Although OMB indicated there was a requirement for establishing central responsibility in the agencies, it is not spelled out in either the old or the current circular. A list of agency clearance officers obtained from OMB shows that several agencies have not established a central point for forms management.

For example, Labor, in January 1974, was decentralized in this management responsibility. It had six designated clearance officers and had not established a strong central focal point for forms management. Labor had established a clearance procedure through its Manual of Administration but the procedure had not been vigorously enforced. As a result, the prescribed clearance procedure was occasionally circumvented and the required clearances were not obtained. (See pp. 57 to 59.)

Although the agencies are to review the forms, OMB does not prescribe in its circular the type of reviews which the agencies should perform before submitting the forms to

OMB for approval. It would be good management for an agency to insure that its public-use forms were consistent with its policies and legal requirements; however, the Labor manual in effect when we initiated our review required only a policy review. This review was to insure that the questions on the forms were within Labor guidelines. When the clearance procedure was circumvented, the policy review frequently was not performed.

The OMB Clearance Officer advised us that he hoped the agencies would be "more effective" in meeting their clearance responsibilities. He said that he had problems with a number of agencies, including Labor, in determining whether the forms submitted for clearance were consistent with the agencies' policies and legal requirements. In such cases the Clearance Officer stated that he had to check back with the agencies.

Labor assigned central responsibility for forms management to the department clearance officer as head of the Office of Records Management under the Assistant Secretary for Administration and Management on April 30, 1974. Labor has also rewritten its manual prescribing a revised clearance procedure which requires submission of public-use forms to OMB by the Office of Records Management effective November 1, 1974. The department clearance officer has advised us that all Labor forms will be automatically submitted to the appropriate organizations for policy and legal reviews.

The circular does not address the issue of the quantity of public-use forms to be printed by the agencies. It also does not establish the timing for printing stocks of public-use forms. If a large quantity of forms has been prepared, OMB may be placed in a position of (1) approving forms which should be revised so the available quantities of the forms will not be wasted or (2) requiring the agency to dispose of large quantities of unused forms should OMB consider changes to the forms necessary. In addition, if the form is printed before approval, OMB may feel compelled to approve the form rather than require necessary changes identified during its review.

We believe the guideline which should be followed in determining the maximum quantity of public-use forms to be printed should be to print only enough to cover the anticipated usage during the period for which the form is approved by OMB. The forms should therefore not be printed until after OMB approval has been obtained. Several cases which illustrate the need for this guideline follow.

One of the major purposes of periodically resubmitting a form to OMB for approval is to get the agency to reconsider its need for the information being collected and to make any necessary changes in the form. The agency's stock of forms on hand should be nearly exhausted at the time OMB approval expires. However, OMB approved the continued use of seven Labor forms due to, at least in part, the quantity of blank forms which Labor had on hand at the time of the form review. Labor had about 10 years' supply of one form on hand and 8 to 10 years' supply of another form.

In five of the seven cases discussed above, changes had been suggested in the forms but OMB agreed at that time to hold off making the changes until the forms were reprinted. The Labor program office typed corrections on one of these forms before sending it to the respondents. This form had not been reprinted again due to the quantity ("several hundred") of blank forms on hand, although Labor was requesting a time extension for using the form. Labor used 16 copies of this form during the year preceding its renewal request indicating that several years' supply was on hand.

Also, in implementing the Comprehensive Employment and Training Act, the Manpower Administration developed a "Forms Preparation Handbook" containing facsimiles of forms and reports to be used by the grant recipients. The Administration had the handbook printed before submission and approval by either the department clearance officer or OMB. The printing of the handbook before OMB's approval represents a poor management decision due to the inability of the Administration to insure that no changes would be necessitated by the appropriate reviews.

Conclusions

Because of the difference in the wording of the requirement for preparing cost estimates in Circular A-40 with that in Standard Form 83A, the requirement is unclear.

OMB should specify the requirement for a centralized clearance responsibility in its circular so the requirement is clear to the agencies. Labor established a central point of responsibility for forms management. However, several agencies have not centralized this responsibility. We also believe OMB should specify in its circular the types of reviews (particularly policy and legal reviews) it expects the agencies to conduct during the agencies' clearance of a form before submission to OMB. To insure that agencies establish an appropriate management structure and procedures for their forms management, OMB should review and approve them. These steps seem particularly important in view of the importance OMB attaches to the agencies' clearance function.

Although an agency might achieve some economies by printing large quantities of its public-use forms at one time, the maximum quantity printed should only cover the anticipated usage during the period for which approval is granted by OMB. To print a greater quantity tends to force continued use of the forms or disposal of large quantities of unused forms. Quantity and timing guidelines should be prescribed by OMB in conjunction with the requirement for printing the expiration dates on forms. (See pp. 30 and 31.)

Recommendations

We recommend the Director of OMB:

- Revise the wording of the requirement for preparing cost estimates to eliminate the differences between Standard Form 83A and OMB Circular A-40.
- Specify in Circular A-40 the requirements for agencies in terms of the management structure and types of reviews expected to be performed during forms clearance.

- Review and approve the agencies' structure and procedures for forms management and periodically re-evaluate them to insure they are adequate.
- Establish quantity and timing guidelines for printing public-use forms.

OMB ACTIONS RELATING TO CLEARANCE REQUIREMENTS

The Federal Reports Act requires agencies to submit their public-use forms to OMB for approval. However, OMB has assigned indefinite expiration dates to certain forms and waived other forms from the clearance requirements.

These OMB actions have resulted in the duplicate collection of some information and in information being required without OMB approval. In addition, OMB's treatment of these forms has created some confusion on the part of Labor personnel concerning which forms are subject to the clearance requirements.

An agency subject to the act may not conduct or sponsor the collection of identical information from 10 or more persons without submitting its forms to the Director of OMB and receiving approval. The act excludes those forms used by agencies for requesting information from nine or fewer persons and information of a nonstatistical nature collected from Federal agencies and employees.

In addition to these exclusions, OMB has exempted certain types of forms, including certifications, from the clearance requirements. We generally agree with the present exemption of certifications; however, we found instances which showed some laxity by OMB in applying its criteria. We also disagree with OMB's assignment of an indefinite approval date to a group of forms and the waiver of other forms from the clearance requirements.

OMB administration of certification exemption

Certifications where the respondent is asked only to provide name, address, and sometimes one or two other

identifying items are exempt under OMB Circular A-40. If a respondent certifies on a particular form that information otherwise provided is accurate and complete, we believe the form could be exempted from the clearance requirements. However, should the certification require the respondent to furnish information other than identifying items, we believe it should be periodically reviewed by OMB.

We identified two examples, the WH-348 and DD-879 forms, which OMB has determined to be certifications and has waived from the clearance requirements. However, because of the questions asked in addition to the certification, these forms should be subject to the clearance requirements. Otherwise, OMB loses control over the amount of information collected.

OMB received on October 13, 1972, the WH-348, "Statement of Compliance," for reinstatement. The OMB reviewer initially assigned to review the form explored the possibility of converting the form to a Standard Form for Government-wide use. Following the reviewer's departure from OMB, the form was assigned to a new reviewer who determined that it was not advisable to convert the form to a Standard Form.

The new reviewer concluded that the WH-348 was a certification and therefore was not subject to review. He cited as the basis for his conclusion the OMB action taken November 2, 1955, on the form DD-879, "Statement of Compliance." The DD-879 was identical to the WH-348 except that it contained three additional questions relating to the payroll and contract numbers not included on the WH-348.

The WH-348 requires information in addition to identifying information from the respondent. In addition to certifying compliance with the Davis-Bacon Act (40 U.S.C. 276a) on the WH-348, the respondent is required to list permissible deductions made from the employees' wages under Federal regulations (29 C.F.R. 3.5). The respondent also checks one of two blocks showing that fringe benefits are paid either to the individual employees or to a plan, fund, or program for employees. Depending on the block checked,

the respondent lists the trades excluded from the payment method indicated.

The OMB Clearance Officer returned the WH-348 to Labor on August 7, 1974, noting that the form was considered to be a certification and not subject to review.

Indefinite approval of forms used
in the interstate claims process

OMB assigned an indefinite expiration date to the forms used in the interstate claims process. Since that time, however, the Manpower Administration created new forms which have not been approved by OMB.

The States entered into various wage-combining plans to protect the benefit rights of an unemployment insurance claimant who moves from a State where he earned wage credits to another State. Participation in the different plans was voluntary and affected the eligibility for and amount of benefit payments to interstate workers. The Administration devised a series of forms for use by the States to record or transfer the necessary information between the State employment security agencies.

OMB assigned an indefinite expiration date on December 9, 1959, to 14 forms cleared under the heading of "Interstate claims and related forms." The group of forms was approved under a single OMB approval number. The OMB Clearance Officer stated that these forms need only be resubmitted for approval "when major changes in substance are proposed."

The Employment Security Amendments of 1970 (26 U.S.C. 3304), however, require mandatory cooperation by all States to

"* * *participate in any arrangements for the payment of compensation on the basis of combining an individual's wages and employment covered under the State law with his wages and employment covered under the unemployment compensation law of other States * * * to assure the prompt and full payment of compensation * * *."

As of August 26, 1974, there were still 14 forms in use by the Administration; however, there have been changes in both the information obtained and use of the forms. Three new forms were added after the indefinite approval was granted. Also, two forms were eliminated and two other forms were consolidated into one.

In addition, State participation in the wage-combining plans was voluntary when the indefinite approval was granted by OMB but was made mandatory as of January 1, 1972. Therefore, the Administration presently oversees a revised program with revised information being obtained from the respondents.

An Administration official informed us that OMB had not been advised of these changes in the forms. According to this official, the Administration considers the indefinite approval to mean that OMB is no longer requiring clearance of these forms.

Waiver of forms
from the clearance requirements

OMB waived certain forms from the submission requirements. As a result, OMB has lost its control over the respondent burden imposed by these forms, which we believe are subject to the requirements.

The Employment Security Program, covering both the employment service and the unemployment insurance functions, is operated as a Federal-State cooperative venture under the Manpower Administration. The primary responsibilities of the Administration

"* * *relate to the conformity of State laws and administration with Federal requirements, and to the allocation of monies appropriated by Congress to the individual States for the administration of State laws."

The Administration prescribes certain reporting requirements for participating State employment security agencies.

OMB states in its Clearance Office Manual (for use by the OMB reviewers) the following criteria:

"Forms used in Federal-State cooperative programs, such as the employment security program of the Department of Labor * * * are subject to review if they are issued or sponsored by the Federal agency involved."

The OMB Clearance Officer, however, said OMB viewed the State agencies as an extension of the Federal Government because the Government paid for the administrative costs of the program. Therefore the forms used by the State agencies to report to Labor are considered internal forms and are waived from the clearance requirements. The Clearance Officer pointed out, however, that forms used to report statistical information to Labor were subject to clearance.

OMB's argument for waiving these forms from the clearance requirements because of the involvement of Federal funds is questionable. Since State agencies are the respondents, these forms should be subject to the requirements.

Unemployment insurance forms

Under the unemployment insurance function of the Employment Security Program, the forms are divided into three broad categories: program, financial, and administrative and management. These forms are used to collect statistics

"* * * to provide information to management at many different levels and areas of responsibility for the purpose of assessing performance, planning, and redirecting action."

We identified, from a list obtained from the Manpower Administration, at least seven unemployment insurance forms which have been waived by OMB. An Administration official informed us that the waiver constituted a determination by OMB that these particular forms no longer were subject to

the clearance requirements. These forms had been periodically cleared before June 10, 1960.

The purpose of the program forms, both waived and approved, is to help measure program accomplishments. All of these forms are sent by the State employment security agencies to the Administration at a specified frequency. The form to use, or the procedure to follow, is specifically detailed in appropriate sections of the Employment Security Manual or other directives which are issued to the State agencies.

The Administration made material changes (as defined by OMB) in at least one form, the ES-207, "Nonmonetary Determination Activities." This form was waived on June 10, 1960. The manual description of the ES-207 has not changed substantively since the waiver occurred. The manual states, in part, that:

"Such information is needed in the budgetary process, in the appraisal of the adequacy and effectiveness of State nonmonetary determination procedures, and in other evaluations of the results and effectiveness of statutory disqualifications."

The ES-207 in existence at the time of the waiver is shown on p. 44; the present form is shown on p. 45. A comparison of the two forms shows that the present form requires a substantially more detailed breakdown of nonmonetary determination activities. In addition, the ES-207 is now required monthly instead of quarterly as it was at the time of the waiver.

In addition to the program forms waived by OMB, several financial forms have also been waived. These financial forms are required, and the procedures associated with them are prescribed in the manual issued to the State agencies. One of the financial forms which was waived was the ES-191, "Statement of Expenditures and Financial Condition of Federal Funds for Unemployment Compensation for Federal Employees, Ex-Servicemen and Veterans."

Waived Edition of

Form ES-207, Nonmonetary Determination Activities

U. S. DEPARTMENT OF LABOR
Bureau of Employment Security
Form ES-207 (/59)

Budget Bureau No. _____
State _____
Quarter ended _____

NONMONETARY DETERMINATION ACTIVITIES

Due date: This report is due in Washington on the 5th day of the 2nd month following the quarter to which it relates.

Section A. State UI workload items

Item	Number of single-claimant decisions	
	I	II
1. State unemployment insurance--total.....	_____	_____
a. Determinations--Total.....	_____	_____
(1) Involving separations.....	_____	_____
(2) Other.....	_____	_____
b. Redeterminations.....	_____	_____

Section B. Disqualifications by issue

Issue	State UI	UCFE, no UI	UCX only	UCV only
I	II	III	IV	V
2. Total.....	_____	_____	_____	_____
a. Not able and not available.....	_____	_____	_____	_____
b. Voluntary quit.....	_____	_____	_____	_____
c. Misconduct.....	_____	_____	_____	_____
d. Refusal of suitable work.....	_____	_____	_____	_____
e. Personal obligations.....	_____	_____	_____	_____
f. Pregnancy.....	_____	_____	_____	_____
g. Reporting requirements.....	_____	_____	_____	_____
h. _____	_____	_____	_____	_____
i. _____	_____	_____	_____	_____
j. _____	_____	_____	_____	_____

Signature _____ Title _____

Current Edition of
Form ES-207, Nonmonetary Determination Activities

U. S. DEPARTMENT OF LABOR
Bureau of Employment Security
Form BES-207 (Rev. 1-67)

NONMONETARY DETERMINATION ACTIVITIES

A. REPORT PERIOD ENDED (Month, day, and year)	B. REGION CODE	C. STATE CODE	D. STATE
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ITEM		LINE NO.	SINGLE-CLAIMANT TOTALS			MULTICLAIMANT TOTALS		
			TOTAL DETERMINATIONS AND REDETERMINATIONS (Sum of cols 2 & 3) 1	TOTAL DETERMINATIONS (Sum of cols. 7, 17, & 27) 2	TOTAL REDETERMINATIONS 3	TOTAL MULTICLAIMANT DETERMINATIONS (Sum of cols. 5 & 6) 4	LABOR DISPUTE 5	OTHER 6
STATE-UI	DETERMINATIONS	101						
	DENIALS	102						
UCX ONLY	DETERMINATIONS	103						
	DENIALS	104						
UCFE-NO UI	DETERMINATIONS	105						
	DENIALS	106						

ITEM		LINE NO.	DETERMINATIONS INVOLVING SEPARATION ISSUES, SINGLE-CLAIMANT										
			TOTAL SEPARATION ISSUES (Sum of cols. 8 thru 10) 7	VOLUNTARY LEAVING - REGULAR 8	MIS-CONDUCT - REGULAR 9	TOTAL SPECIAL STATUTORY REQUIREMENTS (Sum of cols. 11, 15, & 16) 10	SPECIAL STATUTORY REQUIREMENTS BASED UPON A LEAVING				DISCHARGE FOR "GROSS" OR "AGGRAVATED" MIS-CONDUCT 15	OTHER 16	
						TOTAL BASED UPON A LEAVING (Sum of cols. 12 thru 14) 11	PREGNANCY 12	MARITAL, PARENTAL, FILIAL OR OTHER PERSONAL OBLIGATIONS 13	ATTENDANCE AT SCHOOL; TRAINING PROGRAM 14				
STATE-UI	DETERMINATIONS	201											
	DENIALS	202											
UCFE-NO UI	DETERMINATIONS	203											
	DENIALS	204											

ITEM		LINE NO.	DETERMINATIONS INVOLVING OTHER ISSUES, SINGLE-CLAIMANT											
			TOTAL OTHER ISSUES (Sum of cols. 18, 19, & 24 thru 26) 17	ABLE, AVAILABLE, & ACTIVELY SEEKING WORK - REGULAR 18	TOTAL ABLE AND AVAILABLE - SPECIAL (Sum of cols. 20 thru 23) 19	PREGNANCY 20	MARITAL, PARENTAL, FILIAL OR OTHER PERSONAL OBLIGATIONS 21	ATTENDANCE AT SCHOOL; TRAINING PROGRAM 22	OTHER 23	DISQUALIFYING OR DEDUCTIBLE INCOME 24	REFUSAL OF SUITABLE WORK 25	MISCELLANEOUS 26		
STATE-UI	DETERMINATIONS	301												
	DENIALS	302												

ITEM		LINE NO.	DETERMINATIONS INVOLVING ISSUES NOT ELSEWHERE CLASSIFIED, SINGLE-CLAIMANT			
			TOTAL (Sum of cols. 28 thru 30) 27	28	29	30
STATE-UI	DETERMINATIONS	401				
	DENIALS	402				

Comments itemized by A. Administrative; B. Legal; and C. Economic factors. (Continue on reverse or additional sheets of paper if necessary. Include Agency identification on all sheets.)

SIGNATURE	TITLE
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While discussing a program form, the ES-213, "Claims and Payment Activities," with an Administration official, we were informed that various data elements collected on this program form were also collected on the ES-191 financial form. We later verified that information in section B of the ES-213 was directly related to the information in part A of the ES-191.

Both the ES-213 and the ES-191 are submitted monthly by the State agencies to two different groups within the Administration. While the information is sent at the same frequency, it is not shared by the two groups. One group uses the information from one form (approved by OMB) and the other group uses the same information from the other form (waived by OMB).

Conclusions

The major effect of indefinite approvals and waivers is that OMB loses control over the Federal reporting burden. A secondary effect of OMB's inconsistent treatment of forms is the confusion created concerning which forms are subject to clearance.

Although we generally agree with the exemption of certifications as identified by OMB in Circular A-40, we do not believe such forms should be exempted if the respondent has to provide information supplemental to the main purpose of the form. In the case of the WH-348 and the DD-879, supplemental information is required; therefore, these forms should be subject to periodic clearance.

The indefinite approval granted forms used in the interstate claims process enabled Labor to create several new forms which have not been approved by OMB. The waiver of the ES-207 has added to the burden of the respondents without OMB knowledge. The waiver of the ES-191 has contributed to the continued unnecessary duplicate collection of information between a waived and a cleared form.

In terms of the assigned expiration date, the OMB Clearance Office Manual provides that only in very exceptional cases should approval be given for longer than 5 years. OMB presumes the continued need for a form should be examined by the agency and OMB at least every 5 years. We believe 5 years should be the maximum period that a form should be approved for use. The assignment of indefinite expiration dates does not meet the Federal Reports Act's intent to periodically review forms for purposes of minimizing the burden on respondents.

The waiver of the unemployment insurance forms from the clearance requirements is, we believe, a misinterpretation of the act. The act defines a form which is subject to review as one requesting information from "ten or more persons." The act defines "person" as "a State or territorial government or branch."

We believe the State employment security agencies clearly qualify as State organizations. The funding arrangements should not be the controlling factor in determining whether an organization is Federal or State for purposes of the act. The forms submitted by these State agencies to the Manpower Administration should be subject to the clearance requirements under the act.

In addition, the forms used by the State agencies to exchange information in the interstate claims process are prescribed by the Administration. The forms appear therefore to have been sponsored by the Administration and are subject to clearance under the act.

Recommendations

We recommend the Director of OMB:

--Adhere to the existing criteria applied to certifications to assure that forms which require the respondent to furnish supplemental information are subject to the clearance requirements and require resubmission for clearance of forms which do not meet existing criteria.

- Revise the treatment of forms used in Federal-State cooperative programs, such as the Employment Security Program, to require the forms to be submitted in accordance with the Federal Reports Act.

- Survey the agencies to identify public-use forms which have been granted indefinite approvals and have been waived from the clearance requirements and require the periodic resubmission of these forms for clearance.

CHAPTER 4

DEPARTMENT OF LABOR OPERATIONS UNDER

THE FEDERAL REPORTS ACT

Labor has established procedures for managing its public-use forms. However, certain weaknesses exist in Labor's clearance and information exchanging procedures. These weaknesses, discussed in the following sections, have resulted in Labor's inability to adequately review forms, detect unnecessary duplication, and comply with the Federal Reports Act.

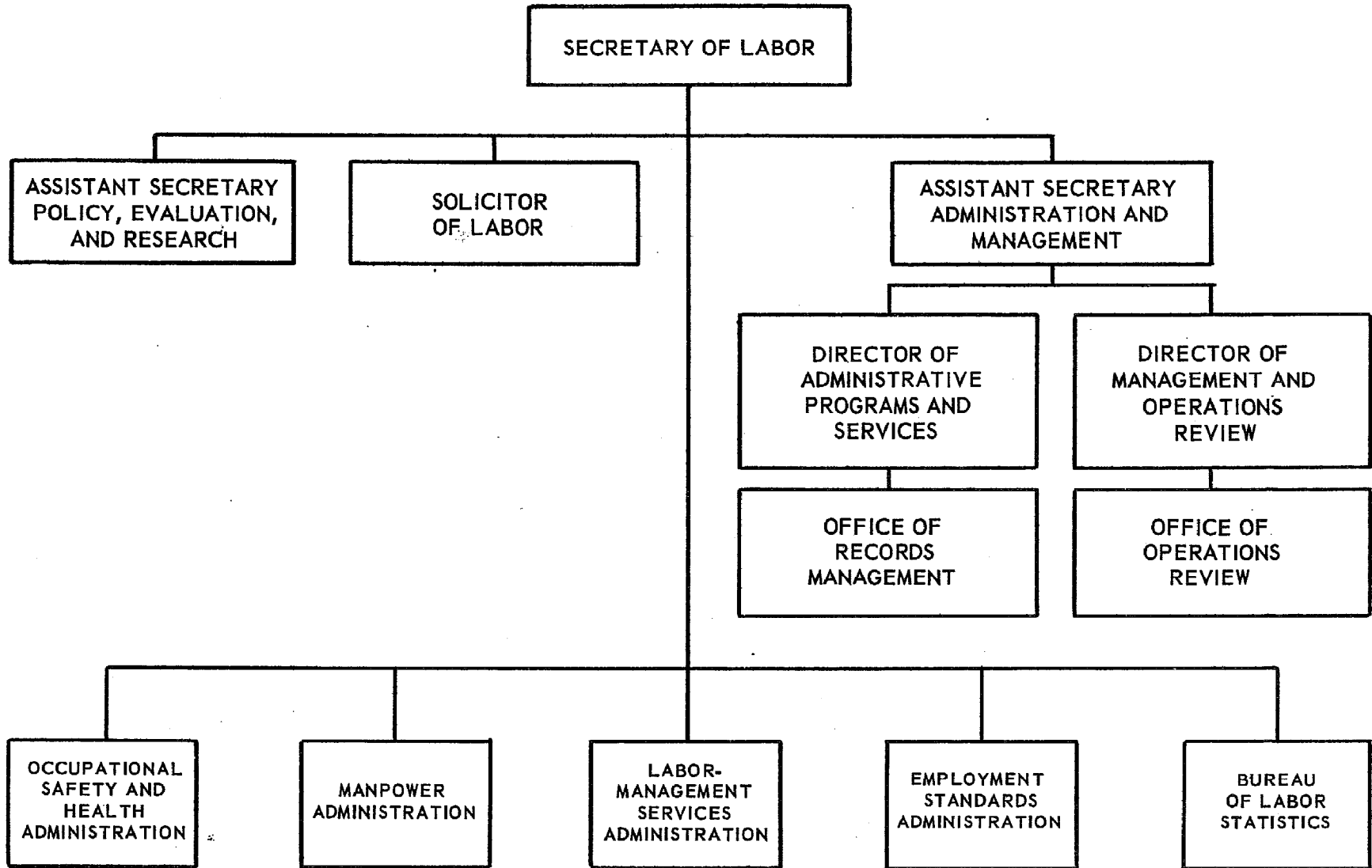
LABOR ORGANIZATION FOR FORMS CLEARANCE

Labor has given the clearance function and the clearance officer more visibility by establishing the Office of Records Management as a separate organizational unit under the Assistant Secretary for Administration and Management. This was accomplished in a reorganization effective April 30, 1974. In addition, the April 1964 Manual of Administration, which describes forms management in Labor, has recently been revised to provide for, among other things, central control over submissions to OMB.

There are five major administrations which generate forms--Bureau of Labor Statistics, Employment Standards Administration, Labor-Management Services Administration, Manpower Administration, and Occupational Safety and Health Administration. In addition, each administration is involved in the forms clearance process, and each has a clearance officer. (See the partial organization chart on p. 50 showing the principal units involved in the forms generation and clearance process.)

The department clearance officer primarily uses personnel from four groups for department-level reviews. The first group--the Office of Operations Review--is to review the forms to insure the program office's request for information is consistent with the program objectives. Second, the Assistant Secretary for Policy, Evaluation, and

**LABOR ORGANIZATION FOR FORMS
GENERATION AND CLEARANCE**



Research is to insure the information requested is consistent with Labor policy. Third, the Solicitor of Labor is to determine the legality of requesting the information on the form. Finally, the Departmental Statistical Officer is to insure the adequacy of statistical reporting forms and plans.

CLEARANCE PROCEDURE PROBLEMS

Several problem areas exist in the clearance procedures at Labor. These problems concern (1) the adequacy of forms review, (2) the submission of forms for review, and (3) the enforcement of Labor's clearance requirements.

Adequacy of forms review

The Labor Manual of Administration provides for department-level review but does not require the participation of certain persons needed to insure an adequate review of forms. In addition, written guidelines and criteria have not been established for the guidance of individuals involved in the development and clearance of forms at the various levels. The manual should clearly establish who should be involved in the review of forms, the determinations to be made, criteria for making the determinations, and the reviewers' authority. Otherwise, Labor cannot insure its forms are adequately reviewed, and the reporting burden on respondents and the cost to the Government for obtaining the information may not be minimized.

According to the manual, the Labor administrations, in their review of a form, are responsible for determining whether the form is needed and within Labor's legal authority and policy guidelines. However, there is no clear assignment of the responsibility for determining whether duplication exists. In addition, the reviewers are not given certain criteria for making the necessary determinations.

The manual also provides for a department-level review of a form. The proposed form is to be sent to the department clearance officer, who will send it to interested offices. The department clearance officer indicated that she intended to continue requesting comments from the Office

of Operations Review; the Solicitor of Labor; the Assistant Secretary for Policy, Evaluation, and Research; and the Departmental Statistical Officer during the department-level review of a form. However, except for the review by the Departmental Statistical Officer, who reviews for statistical adequacy, none of these department-level reviews are required, nor are the personnel performing them given any guidance concerning what their reviews are to encompass or criteria for making the necessary determinations. Furthermore, there is no assurance that this practice will continue in the future.

The manual does not clearly explain the authority of the various reviewers in making their determinations, including rejections of inadequate forms.

We believe program office personnel, administration reviewers, and the department-level reviewers should share the responsibility of insuring the form and its questions are (1) needed, (2) not unnecessarily duplicative of questions on other forms, (3) within the guidelines established through departmental policy, and (4) within Labor's legal authority. The first two of these four criteria are required by the Federal Reports Act.

The detection and prevention of unnecessary duplication ultimately rest with OMB; however, we believe a cooperative effort is needed to eliminate unnecessary duplication. The program office should refer to the functional file (see p. 61) maintained by Labor's clearance personnel in developing its information requirements to insure that, at a minimum, duplicate information is not unnecessarily collected within Labor. The administration and department-level reviewers should insure that this has been done.

If Labor uses the above steps to prevent unnecessary duplication, the minimum benefit may only be to preclude the printing of two similar forms to serve the same basic purpose.

The responsibility for determining need, while resting first with Labor, ultimately rests with OMB. In the preparation of the supporting statement, the program office

should justify the need for the form and each question. Reviewers in Labor and OMB, in evaluating the need for either the form or its questions, would then have a basis for making a determination.

As previously mentioned, we found several cases where inadequate consideration was given to the need for information or the form used to collect information and cases which illustrate that duplication occurred.

In addition, the OMB Clearance Officer informed us that, when reviewing forms prescribed by Labor, he was not always sure the questions were within departmental policy or legal authority.

These examples indicate problems in the review performed within Labor before submitting the forms to OMB for review.

Conclusions

Labor does not require certain persons needed to insure an adequate department-level review of forms to participate in such reviews. In addition, Labor has not provided all its reviewers with written guidelines and criteria for reviewing a form. Guidelines should require, at a minimum, determinations that a form and its questions are (1) needed, (2) not duplicative, (3) within Labor's legal authority, and (4) within Labor's policy guidelines. Criteria should be provided to assist the reviewers in making these determinations. Without such guidance, the individual reviewers perform whatever type of review they want to perform.

The reviews, guidelines, and criteria, if established and properly implemented at all levels within Labor, should enable it to provide a consistently high quality form for review, as expected by OMB, thereby minimizing the respondent burden and the cost to the Government. Also, the program offices, administration reviewers, and the department-level reviewers should share the responsibility for insuring that the four determinations are properly made.

Recommendations

We recommend the Secretary of Labor:

- Formalize the department-level review procedure to require the participation of all persons needed to insure an adequate review of forms.
- Establish written guidelines and criteria for personnel at all levels to insure a form and its questions are needed, not unnecessarily duplicative, and within Labor's legal authority and policy guidelines.

Submission of forms for clearance

Labor is responsible for implementing and operating programs assigned by the Congress and meeting the requirements of the Federal Reports Act. However, in fulfilling these responsibilities, Labor tends to give priority to implementing program operations rather than to developing and clearing forms. Labor needs to assure that both responsibilities are fulfilled.

In some cases Labor requested clearance of new forms less than 30 days before the forms were to go into use. Therefore, the program office risked violating the act or delaying program operations. In addition, Labor requested an extension of OMB's approval for some forms after they had expired. The use of these expired forms violates the Federal Reports Act.

By the enactment of laws, the Congress authorizes and imposes responsibilities on Federal agencies to implement and operate Federal programs. Program implementation, including planning and forms approval, should be properly scheduled. Otherwise, the fulfillment of the requirements under the Federal Reports Act could impede the timely implementation of congressionally approved programs. The alternative is beginning program operations using unapproved forms.

Labor's April 1964 Manual of Administration suggested a 45-day leadtime--permitting 15 days for Labor action and 30 days for OMB action--in obtaining clearance of a form. However, this was changed in August 1974. The new manual establishes two guidelines for submitting forms. For new forms the guideline is:

"* * * Requests for clearance should be made in time to allow for adequate review and adoption of any necessary alternatives (including coordination or integration with other plans and report forms) without delaying the operating program to which the plan or report form relates."
(Underscoring supplied)

The manual states that a minimum of 45 days would be needed to adhere to this guideline. In the case of extensions, a Labor administration is to initiate a request at least 30 days before expiration of the form.

Labor did not meet the applicable requirement when it requested OMB approval of several new forms less than 30 days before the forms were to go into use. For example, the responsibility for paying black lung benefits to miners under the Federal Coal Mine Health and Safety Act of 1969 was originally vested in HEW but was transferred to Labor effective July 1, 1973. Labor had 13 months before the effective date to prepare its forms and get them approved. However, Labor submitted 14 forms on June 15, 1973, and 15 forms on June 26, 1973, used for this program.

Three application forms to be used, beginning January 1, 1974, by the wife, children, or relatives of a deceased coal miner to apply for benefits were also submitted less than 30 days before they were to go into use. These forms were submitted on December 10, 1973, and approved December 20, 1973.

Following are examples of where Labor did not request extensions of OMB approval of the forms before their expiration.

The WH-347, "Payroll," and WH-348, "Statement of Compliance," were formally approved on June 26, 1970, for

use through December 1970. OMB gave Labor an informal extension through August 31, 1971. OMB received the forms for reinstatement in October 1972--13 months after they expired. Labor continued to use these forms during the 13-month period which represents a violation of the act since the requirements for submission to OMB and obtaining the OMB Director's approval were not met.

A second example involves the ES-203, "Characteristics of the Insured Unemployed." This form is used by State employment security agencies to report the characteristics of unemployment insurance claimants. The ES-203 expired on December 31, 1972, and was submitted to OMB on January 2, 1973. However, OMB did not approve the use of this form until May 24, 1974--17 months after the form expired. Labor's continued use of the ES-203 violates the act. Although Labor had submitted the form to OMB, it did not have OMB's approval to obtain the information.

A final example is the OSHA-120 series of forms, "Quarterly Report of State Compliance/Standards Activity," which expired December 31, 1973. The forms were not submitted to OMB until January 14, 1974, and OMB approved them on February 14, 1974. If the forms were used between the December 1973 expiration date and February 14, 1974, it was a violation of the act. It is likely the form was used during this period since the quarterly report is due at Labor no later than 10 calendar days after the close of the quarter.

Conclusions

The Labor administrations did not always adhere to the guidelines provided in the manual concerning timely submission of forms, thereby risking either violations of the Federal Reports Act or delays in programs. As can be seen in the examples cited, the administrations tended to violate the act rather than delay program operations.

Federal agencies, including Labor, are responsible for meeting the objectives of their programs and the requirements of the Federal Reports Act. As part of the process of implementing and operating programs, the agencies should

assure the timely development and clearance of their forms to preclude violations of the act.

Recommendation

We recommend the Secretary of Labor insure the timely development of both program plans and forms to preclude delays in program implementation and violations of the Federal Reports Act.

Enforcement of clearance requirements

Labor's clearance requirements were not strictly enforced. We found examples where (1) Labor collected information from respondents on forms never submitted to OMB, (2) forms were submitted simultaneously for department-level and OMB review, (3) department-level review was bypassed, and (4) Labor's requirements for department-level review were effectively circumvented. Therefore, respondent burden and the cost to the Government for collecting information may not be minimized.

These four problems are illustrated by the following examples. First, the initial forms used in the interstate claims process were given an indefinite approval by letter dated December 9, 1959, from OMB. However, subsequently several new forms were added to the group of forms and were not approved by OMB. In the above cited letter, the OMB Clearance Officer stated that the the forms given an indefinite approval need not be resubmitted unless major changes were proposed. A Manpower Administration official informed us that OMB was not advised of these changes. According to this official, the Administration considers this indefinite approval to mean that OMB is no longer requiring clearance of these forms.

The use of these forms represents not only a deviation from the conditions of the OMB clearance but a violation of the Federal Reports Act since OMB has neither seen the forms nor approved them. This was caused, at least in part, by the misinterpretation of the OMB clearance for the forms.

Second, on 15 occasions forms were submitted to OMB and the department clearance officer on the same day. Ten times OMB approved the forms before the department clearance officer. Although on the remaining 5 occasions the forms were submitted simultaneously, Labor acted on the forms before OMB.

Third, according to Labor officials, Optional Form 66T did not go through the departmental clearance procedure but was forwarded by the program office directly to OMB for approval.

Fourth, the Office of Federal Contract Compliance's recordkeeping and reporting requirement, known as "Revised Order 14," was submitted for departmental clearance; however, the departmental clearance was rendered moot. The former Under Secretary of Labor had indicated his approval before submission of Order 14 to the department clearance officer. We were informed by Labor officials that the departmental review was effectively circumvented due to the Under Secretary's approval.

We recognize the desirability of having top management involved in making program management decisions. However, when dealing with a decision which will affect the public reporting burden, they should assure themselves that the proper reviews of public-use forms have been performed.

Recently, Labor has taken certain actions which, if properly implemented, should correct the second and third problems discussed above. Labor appointed a single clearance officer and reached an agreement with OMB which should insure department-level approval of forms before their submission to OMB.

Conclusion

The problems of (1) using forms never seen by OMB, (2) simultaneously requesting department-level and OMB clearance, (3) bypassing departmental clearance, and (4) effectively circumventing the departmental clearance show that Labor's clearance requirements have not been strictly enforced. Labor needs to enforce these requirements to insure the

respondent burden and the cost to the Government for collecting and processing information are minimized.

Recommendations

We recommend the Secretary of Labor:

- In conjunction with the Director of OMB, identify and submit for approval those forms subject to clearance under the Federal Reports Act.
- Insure that departmental clearance requirements are enforced.

INFORMATION EXCHANGE

The intent of the Federal Reports Act is to minimize the respondent burden, at least partially through the use of information exchange. However, several impediments to information exchange have developed.

Legal authority

The act contains several provisions dealing with the exchange of information between Federal agencies. Some of these provisions require (1) the tabulation of the information to maximize its usefulness to all agencies (44 U.S.C. 3501) and (2) cooperation by all agencies to the fullest practical extent in making information available to other agencies (44 U.S.C. 3507). In addition, the OMB Director may (1) designate a single agency to act as a collection agent (44 U.S.C. 3504) and (2) require an agency to make its information available to other agencies (44 U.S.C. 3507).

The act provides general guidelines for exchanging information collected from respondents (44 U.S.C. 3508(b)). Information may be provided another agency only (1) in the form of statistical totals or summaries, (2) if the collecting agency had not pledged to hold the information confidential at the time of its collection, (3) if the respondent consents to its release, or (4) if the receiving

agency has the authority to collect the information and the respondent is subject to criminal penalties for failure to supply the information.

The act provides that, if information obtained under a pledge of confidentiality is released to other agencies, the provisions of law, including penalties for unlawful disclosure of the information, apply to personnel of the receiving agency along with personnel of the transferring agency (44 U.S.C. 3508(a)).

The Privacy Act of 1974 (Public Law 93-579) establishes conditions under which agencies may disclose information collected about individuals and requires agencies to develop procedures for using and exchanging such information.

Impediments to information exchange

Although we found some cases of information exchange, we believe a greater effort should be made in this area. Some information, such as information collected by the Internal Revenue Service, is precluded by law from being exchanged between agencies. However, there are other impediments to information exchange which have developed.

First, some program offices are unwilling to use another program office's information. For example, the ES-210, "Weekly Report of Claims-Taking Activities," and the MA 5-39, "Extended Benefit Data," are collected by different program offices in the Manpower Administration.

An Administration official said that initially the ES-210 information was used by the program office presently using the MA 5-39. A reason given for creating the MA 5-39 was the inconvenience and delay in obtaining the information from the program office receiving the ES-210. (See app. VII.)

A factor contributing to this first impediment is that, in considering its need for information, Labor does not always first determine whether the information is available in the Government or whether it can be collected using existing forms. For example, in developing the forms

to be used for the coal mine program, Labor did not consider any related information systems, including forms, which may have been similar to those for the coal mine program. In fact, an agency official informed us that he was instructed to not consider other information systems but rather to just add a new system to the existing ones. As a result, there are forms used in the coal mine program which gather similar information to forms used in other programs in Labor. (See app. X.)

Second, it is difficult to get offices to identify and agree on the basic data elements needed to operate their programs and make program decisions. For example, in discussing our proposed consolidation of the WH-347 form and the Optional Form 66 with an official of the Office of Federal Contract Compliance, we were informed the detail in which the Wage and Hour Division collected information on the WH-347 was not suitable for the Office of Federal Contract Compliance. However, in our opinion, the Office of Federal Contract Compliance could use the detailed information, which could be summarized as needed, to make the same basic decisions as it presently makes on the basis of summary information obtained on the Optional Form 66. (See app. IX.)

OMB officials pointed out a contributing factor to this impediment; namely, that the information collected on forms reflected the management style of the person or persons responsible for managing the program. Therefore, when consolidating forms, management styles need to be weighed and the better style adopted, providing both programs get sufficient information to meet their needs.

Third, Labor had not established a "functional" file. The Manual of Administration issued in 1964 required the establishment of "numerical" and functional files. The numerical files were generally established; however, the functional file was not.

The functional file was to assist in general studies to improve Labor's operations, to eliminate duplication, and to identify forms for potential consolidation. It was to contain a copy of each form, except form letters,

divided into related groups. The functional file was to be maintained by the department clearance officer for all forms used in Labor. However, according to the department clearance officer, a functional file had not been established, but the department clearance officer expressed an intent to establish and maintain one.

During the course of our review, we grouped Labor's forms according to the information collected. We provided a list of our groups to the department clearance officer as an aid in establishing the functional file. We understand that Labor used this list to establish a functional list for the use of forms clearance personnel.

The numerical file was to contain all the information pertinent to furnishing a complete history of a form. This file should be one of the tools used to evaluate the continued need for a form.

Last is the treatment of the pledge of confidentiality. In Labor when a pledge of confidentiality is given to the respondents, the program offices do not exchange the detailed information even within Labor.

For example, on September 27, 1973, OMB approved a survey to be performed by the Bureau of Labor Statistics for the Office of Federal Contract Compliance--also in Labor. The stated purpose of the survey was to "assist in evaluating equal employment compliance programs." The Bureau was to collect employment and earnings information from selected Federal construction contractors. In requesting OMB approval, the Bureau pledged confidentiality by stating:

"* * * Responses will be held in strict confidence by the Bureau and the results of the survey will be provided the OFCC [Office of Federal Contract Compliance] only in a form that will not reveal the identity of individual respondents."

Bureau personnel said their use of the pledge of confidentiality generally was to insure that requested information was received and that it was of good quality.

Conclusions

Although the goal of exchanging information is desirable, the impediments described above hinder the accomplishment of this goal. However, the agencies should recognize their responsibility to exchange information under the Federal Reports Act to minimize the respondent's burden.

In addition, Federal program offices and managers should be willing to negotiate what information and what level of detail is to be obtained from respondents provided that program decisions can be logically based on the information.

In considering its needs for information, Labor should determine whether the information is already available internally. The functional file should assist in making this determination. In addition, Labor, with the assistance of OMB, should determine whether the information is available within the Government. Additionally, Labor should consolidate forms and information systems to the extent possible.

Recommendations

We recommend the Secretary of Labor:

- Identify potential users of information collected by Labor and coordinate collection efforts to increase information exchange.
- Identify existing forms for potential consolidation or elimination using the functional and numerical files.

CHAPTER 5

ALTERNATIVES FOR PLACEMENT OF

FEDERAL REPORTS ACT RESPONSIBILITY

At the request of the Committee we considered several alternatives for the placement of the Federal Reports Act responsibility.

One suggestion has been that the responsibility be vested in GAO; however, we believe it is an executive branch function and it would adversely affect our ability to perform independent audits of the activities of the executive branch departments and agencies. The present Federal Reports Act responsibilities should be removed from GAO for the same reasons.

Regardless of where the responsibility is placed, the responsible agency should be granted the necessary powers and authority over the agencies subject to the act. This should include the authority to determine an agency's need for information and to decline forms inadequately justified. The responsible agency should be staffed with qualified personnel in the necessary disciplines, including program administration, management, and statistics.

A Commission on Federal Paperwork was established by Public Law 93-556. We endorsed the concept of a commission to address the problems involved in Federal reporting requirements in the Government. This report discusses several problems which show the need for a study of this type. One area which it would be appropriate for the commission to address is the placement of the Federal Reports Act responsibility.

RETAINING RESPONSIBILITY IN OMB

The Federal Reports Act responsibility could remain with OMB. An OMB representative, in testifying on S. 1812 before the Senate Committee on Government Operations, stated

"* * * the authority now vested in OMB under [the Federal Reports Act] * * * is a vital adjunct to the basic responsibility with which the Office is charged for assisting the President in the effective management of the executive branch. Withdrawal of that authority would seriously impair ability of the President to discharge his managerial responsibilities."

In view of this overall responsibility for effective management of the executive branch, OMB represents a logical choice for the Federal Reports Act responsibility-- providing that certain changes, as discussed in chapters 2 and 3, are made.

The review and approval of public-use forms represents an appropriate mechanism for initiating improvements in agencies' operations, already a function of OMB's program divisions and SPD.

TRANSFERRING RESPONSIBILITY TO AN EXISTING AGENCY

Within the executive branch the General Services Administration possesses certain responsibilities related to the management of public-use forms. It is to review and approve all public-use forms proposed as Standard or Optional Forms for the use of more than one agency. However, the final approval remains with OMB.

Also, under the Federal Records Act (44 U.S.C. 3102), the General Services Administration prescribes regulations and standards for the management of interagency reporting by executive branch agencies. It is to provide (under OMB Circular A-40, attachment B) assistance to agencies in defining and assessing reporting needs associated with the initiation of new programs and major policy changes. It also reviews and approves interagency reporting requirements.

The General Services Administration has developed several manuals on forms and reports management and design and conducts training sessions for Federal agency employees. It is also responsible for evaluating the records management activities of the Federal agencies.

Other executive branch agencies could be considered for the Federal Reports Act responsibility, but no other agency presently has related responsibilities.

CREATING A NEW AGENCY

A new independent agency, created in either the executive or legislative branch, could be assigned the Federal Reports Act responsibility. Other related responsibilities for paperwork management could remain with the present organizations or could also be assigned the new agency.

CHAPTER 6

SCOPE OF REVIEW

The objectives of this pilot study were to develop overall recommendations for improving forms management by Labor and OMB and to suggest ways in which specific forms could be either eliminated, consolidated, or simplified to reduce the burden imposed on respondents.

In Labor we reviewed the personnel assignments, organizational structure, and procedures for forms clearance at the department level and in four of the five major administrations. We obtained from Labor a copy and set of instructions for each of its public-use forms listed on the November 1973 list prepared by OMB.

Based on a cursory review of the forms, we divided them into 20 groups collecting similar or related information. We selected 108¹ forms for examination. In addition, we reviewed specific problems pertaining to several other forms. We traced the clearance of the forms through Labor and OMB. We discussed procedures and the clearance of certain forms with department-level and administration personnel and we questioned the cognizant program office concerning its use of certain information collected. Appendixes V through X represent potential consolidations and eliminations of forms developed from the examinations.

Within OMB we reviewed the procedures for forms clearance and the actions taken by OMB in reviewing and approving the forms selected. We also discussed the clearance of certain forms with the OMB Clearance Officer.

We examined the organizational structure, staffing levels, and the training and experience of most of the SPD personnel involved in forms clearance. We also identified other responsibilities held by SPD and program division personnel.

¹This figure represents the unique OMB numbers assigned to OMB-approved, public-use forms.

In addition, we considered several possible alternatives for the placement of the Federal Reports Act responsibility.

SAM J. ERVIN, JR., N.C., CHAIRMAN

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CHIEF COUNSEL AND STAFF DIRECTOR

United States Senate

COMMITTEE ON
GOVERNMENT OPERATIONS
WASHINGTON, D.C. 20510

November 1, 1973

The Honorable Elmer B. Staats
Comptroller General of the United States
General Accounting Office
441 G Street
Washington, D. C.

Dear Mr. Staats:

Reference is made to your letter of October 19, 1973, proposing alternative actions regarding the Federal paperwork management problem, in response to a request by Senator Sam Nunn, Acting Chairman of the Committee during hearings on S. 200 and S. 1812 on September 11, 1973.

Pursuant to discussions between the Committee staff and Mr. Roger Sperry of your office, you are requested to proceed with the pilot study referred to in the first full paragraph on page 2 of your letter. Should we find it necessary to request the assignment of GAO staff to assist the Committee further, as proposed in the final paragraph on page 2, we will advise you.

With all kind wishes, I am

Sincerely yours,

Sam J. Ervin, Jr.
Sam J. Ervin, Jr.
Chairman



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

E-158552

OCT 19 1973

The Honorable Sam J. Ervin, Jr.
Chairman, Committee on Government
Operations
United States Senata

Dear Mr. Chairman:

On September 11, 1973, representatives of the General Accounting Office testified before your Committee on S. 1812, a bill to improve the coordination of Federal reporting services. During the hearings, the Acting Chairman indicated that he wanted the General Accounting Office to undertake a comprehensive analysis of Federal forms and recommend to the Congress, through the media of a General Accounting Office report or reports, ways to consolidate these forms and eliminate excessive paperwork.

The Acting Chairman requested that we provide for the record our best estimate of how long it would take us to perform such a review and the staff resources needed. He suggested that it might be advisable for us to provide the Committee with a series of reports so that the Committee could take immediate action rather than waiting for one final report. The Chairman further suggested that we provide the Committee with alternative plans to review the area of public use forms.

We believe that any work in this area should address itself to two factors. First, a review of how the individual executive agencies generating public use forms are organized and operate in the area of reducing the number of such forms, simplifying them, and avoiding duplication; second, a review of the related activities of the Office of Management and Budget's Statistical Policy Division. Such review should include an examination into such matters as the agencies' and Office of Management and Budget's procedures to simplify, eliminate, or reduce the paperwork burden, the adequacy of their staffs to deal with the problem, and their efforts to coordinate with other executive agencies to see if comparable data is already being compiled.

Unfortunately, a review of this scope, if undertaken for all executive agencies and involving about 6000 forms, would require a

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very substantial amount of time, effort, and money. We estimate it would take approximately 100 man-years of audit effort and about 2 years to complete. An alternative would be to limit the review to the three agencies--Health, Education, and Welfare; Agriculture; and Commerce--having the largest number of approved forms currently in use. Even this type of review would be a major undertaking in that it would require about 50 man-years of effort and take about 1 year to complete. Both of these alternatives, in our opinion, would require the hiring of additional staff if undertaken by the General Accounting Office.

Another alternative, and one which we consider to be more practical, would be for the General Accounting Office to review, on a pilot study basis, the internal organization of one executive agency and the Office of Management and Budget's enforcement of the Federal Reports Act of 1942 with regard to this one agency. Such a review could probably be handled with existing General Accounting Office staff capability, and be done within a 4-month period. Upon conclusion of such a pilot study, we could, at the Committee's option, examine into the operations of other executive agencies and the related efforts of the Office of Management and Budget to monitor the Federal reports system. These reviews could be undertaken one at a time and result in a series of reports to the Committee. Another advantage of this alternative would be that upon completion of the pilot study (or subsequent studies) we would be in a position to consult with the Committee and to change the direction and scope of following reviews to be closely responsive to the Committee's interests.

If the Committee wishes, however, the General Accounting Office could, as another alternative, assign staff members to the Committee to work under the direction and control of the Committee in accomplishing the particular work desired.

A copy of this letter is being furnished to Senator Nunn.

Sincerely yours,

R.F.KELLER

Deputy Comptroller General
of the United States

FEDERAL REPORTS ACT OF 1942, AS AMENDED

- Sec.
3501. Information for Federal agencies.
3502. Definitions.
3503. Duties of Director of the Bureau of the Budget.
3504. Designation of central collection agency.
3505. Independent collection by an agency prohibited.
3506. Determination of necessity for information; hearing.
3507. Cooperation of agencies in making information available.
3508. Unlawful disclosure of information; penalties; release of information to other agencies.
3509. Plans or forms for collecting information; submission to Director; approval.
3510. Rules and regulations.
3511. Penalty for failure to furnish information.
3512. Information for independent regulatory agencies

§ 3501. Information for Federal agencies.

Information needed by Federal agencies shall be obtained with a minimum burden upon business enterprises, especially small business enterprises, and other persons required to furnish the information, and at a minimum cost to the Government. Unnecessary duplication of efforts in obtaining information through the use of reports, questionnaires, and other methods shall be eliminated as rapidly as practicable. Information collected and tabulated by a Federal agency shall, as far as is expedient, be tabulated in a manner to maximize the usefulness of the information to other Federal agencies and the public.

§ 3502. Definitions.

As used in this chapter—

“Federal agency” means an executive department, commission, independent establishment, corporation owned or controlled by the United States, board, bureau, division, service, office, authority, or administration in the executive branch of the Government; but does not include the General Accounting Office, independent Federal regulatory agencies, nor the governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions;

“person” means an individual, partnership, association, corporation, business trust, or legal representative, an organized group of persons, a State or territorial government or branch, or a political subdivision of a State or territory or a branch of a political subdivision;

“information” means facts obtained or solicited by the use of written report forms, application forms, schedules, questionnaires, or other similar methods calling either for answers to identical questions from ten or more persons other than agencies, instrumentalities, or employees of the United States or for answers to questions from agencies, instrumentalities, or employees of the United States which are to be used for statistical compilations of general public interest.

§ 3503. Duties of Director of the Bureau of the Budget.

With a view to carrying out the policy of this chapter, the Director of the Bureau of the Budget from time to time shall—

(1) investigate the needs of the various Federal agencies for information from business enterprises, from other persons, and from other Federal agencies;

(2) investigate the methods used by agencies in obtaining information; and

(3) coordinate as rapidly as possible the information-collecting services of all agencies with a view to reducing the cost to the Government of obtaining information and minimizing the burden upon business enterprises and other persons, and using, as far as practicable, for continuing organization, files of information and existing facilities of the established Federal agencies.

§ 3504. Designation of central collection agency.

When, after investigation, the Director of the Bureau of the Budget is of the opinion that the needs of two or more Federal agencies for information from business enterprises and other persons will be adequately served by a single collecting agency, he shall fix a time and place for a hearing at which the agencies concerned and other interested persons may have an opportunity to present their views. After the hearing, the Director may issue an order designating a collecting agency to obtain information for two or more of the agencies concerned, and prescribing (with reference to the collection of information) the duties and functions of the collecting agency so designated and the Federal agencies for which it is to act as agent. The Director may modify the order from time to time as circumstances require, but modification may not be made except after investigation and hearing.

§ 3505. Independent collection by an agency prohibited.

While an order or modified order is in effect, a Federal agency covered by it may not obtain for itself information which it is the duty of the collecting agency designated by the order to obtain.

§ 3506. Determination of necessity for information; hearing.

Upon the request of a party having a substantial interest, or upon his own motion, the Director of the Bureau of the Budget may determine whether or not the collection of information by a Federal agency is necessary for the proper performance of the functions of the agency or for any other proper purpose. Before making a determination, he may give the agency and other interested persons an opportunity to be heard or to submit statements in writing. To the extent, if any, that the Director

determines the collection of information by the agency is unnecessary, for any reason, the agency may not engage in the collection of the information.

§ 3507. Cooperation of agencies in making information available.

For the purposes of this chapter, the Director of the Bureau of the Budget may require a Federal agency to make available to another Federal agency information obtained from any person after December 24, 1942, and all agencies are directed to cooperate to the fullest practicable extent at all times in making information available to other agencies.

This chapter does not apply to the obtaining or releasing of information by the Internal Revenue Service, the Comptroller of the Currency, the Bureau of the Public Debt, the Bureau of Accounts, and the Division of Foreign Funds Control of the Treasury Department, nor to the obtaining by a Federal bank supervisory agency of reports and information from banks as authorized by law and in the proper performance of the agency's functions in its supervisory capacity.

§ 3508. Unlawful disclosure of information; penalties; release of information to other agencies.

(a) If information obtained in confidence by a Federal agency is released by that agency to another Federal agency, all the provisions of law including penalties which relate to the unlawful disclosure of information apply to the officers and employees of the agency to which information is released to the same extent and in the same manner as the provisions apply to the officers and employees of the agency which originally obtained the information. The officers and employees of the agency to which the information is released, in addition, shall be subject to the same provisions of law, including penalties, relating to the unlawful disclosure of information as if the information had been collected directly by that agency.

(b) Information obtained by a Federal agency from a person under this chapter may be released to another Federal agency only—

- (1) in the form of statistical totals or summaries; or
- (2) if the information as supplied by persons to a Federal agency had not, at the time of collection, been declared by that agency or by a superior authority to be confidential; or
- (3) when the persons supplying the information consent to the release of it to a second agency by the agency to which the information was originally supplied; or

(4) when the Federal agency to which another Federal agency releases the information has authority to collect the information itself and the authority is supported by legal provision for criminal penalties against persons failing to supply the information.

§ 3509. Plans or forms for collecting information; submission to Director; approval.

A Federal agency may not conduct or sponsor the collection of information upon identical items, from ten or more persons, other than Federal employees, unless, in advance of adoption or revision of any plans or forms to be used in the collection—

(1) the agency has submitted to the Director the plans or forms, together with copies of pertinent regulations and of other related materials as the Director of the Bureau of the Budget has specified; and

(2) the Director has stated that he does not disapprove the proposed collection of information.

§ 3510. Rules and regulations.

The Director of the Bureau of the Budget may promulgate rules and regulations necessary to carry out sections 3501—3511 of this title.

§ 3511. Penalty for failure to furnish information.

A person failing to furnish information required by an agency shall be subject to penalties specifically prescribed by law, and no other penalty may be imposed either by way of fine or imprisonment or by the withdrawal or denial of a right, privilege, priority, allotment, or immunity, except when the right, privilege, priority, allotment, or immunity is legally conditioned on facts which would be revealed by the information requested.

§ 3512. Information for independent regulatory agencies.

(a) The Comptroller General of the United States shall review the collection of information required by independent Federal regulatory agencies described in section 3502 of this chapter to assure that information required by such agencies is obtained with a minimum burden upon business enterprises, especially small business enterprises, and other persons required to furnish the information. Unnecessary duplication of efforts in obtaining information already filed with other Federal agencies or departments through the use of reports, questionnaires, and other methods shall be eliminated as rapidly as practicable. Information collected and tabulated by an independent regulatory agency shall, as far as is expedient, be tabulated in a manner to maximize the usefulness of the information to other Federal agencies and the public.

(b) In carrying out the policy of this section, the Comptroller General shall review all existing information gathering practices of independent regulatory agencies as well as requests for additional information with a view toward—

- (1) avoiding duplication of effort by independent regulatory agencies, and
- (2) minimizing the compliance burden on business enterprises and other persons.

(c) In complying with this section, an independent regulatory agency shall not conduct or spon-

sor the collection of information upon an identical item from ten or more persons, other than Federal employees, unless, in advance of adoption or revision of any plans or forms to be used in the collection—

(1) the agency submitted to the Comptroller General the plans or forms, together with the copies of pertinent regulations and of other related materials as the Comptroller General has specified; and

(2) the Comptroller General has advised that the information is not presently available to the independent agency from another source within the Federal Government and has determined that the proposed plans or forms are consistent with the provision of this section. The Comptroller General shall maintain facilities for carrying out the purposes of this section and shall render such advice to the requestive independent regulatory agency within forty-five days.

(d) While the Comptroller General shall determine the availability from other Federal sources of the information sought and the appropriateness of the forms for the collection of such information, the independent regulatory agency shall make the final determination as to the necessity of the information in carrying out its statutory responsibilities and whether to collect such information. If no advice is received from the Comptroller General within forty-five days, the independent regulatory agency may immediately proceed to obtain such information.

(e) Section 3508(a) of this chapter dealing with unlawful disclosure of information shall apply to the use of information by independent regulatory agencies.

(f) The Comptroller General may promulgate rules and regulations necessary to carry out this chapter.

CHANGE OF NAME

The Bureau of the Budget was designated the Office of Management and Budget and the offices of Director of the Bureau of the Budget, Deputy Director of the Bureau of the Budget, and Assistant Directors of the Bureau of the Budget were designated Director of the Office of Management and Budget, Deputy Director of the Office of Management and Budget, and Assistant Directors of the Office of Management and Budget, respectively, by Reorg. Plan No. 2 of 1970, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. —, set out in the Appendix to Title 5, Government Organization and Employees, which also transferred all records, property, personnel, and funds of the Bureau to the Office of Management and Budget.

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A COMPENDIUM AS A MANAGEMENT TOOL

As stated previously we believe the appropriate committees of the Congress should consider requiring the establishment of a compendium showing the data elements collected on the forms. This compendium should, at a minimum, show the basic data elements collected, regardless of the degree of detail, cross-referenced to the form on which they are collected and the agency collecting them. The compendium would serve as a basic management tool in minimizing duplication.

There are other advantages to developing the compendium. Most importantly, the compendium could serve as a reference for the Congress and all Federal agencies as to potential sources of information. It could be helpful to the Congress in considering new or revised legislation to know what information is available. It could also be helpful to the agencies in managing their assigned responsibilities.

The compendium would help reduce and minimize the duplicate collection of information. We believe a beneficial effect of a compendium would be a reduction in the number of forms requesting the same or similar information, thereby reducing the total respondent burden and Government costs of collecting information and printing and stocking forms. Further, Government activities should become more efficient because of increased lines of communication and information exchange between agencies.

We recognize there would be problems involved in creating the compendium. First, an undertaking of this magnitude would take time to complete. Second, the cost could be substantial--depending on the manner in which the compendium is established. Third, there would be overlapping and "oddball" categories which would affect the size and complexity of the compendium. However, we do not believe these problems are insurmountable, and the potential benefits greatly outweigh the problems.

The following list shows possible items which it may be desirable to have in the compendium and potential sources of the needed information.

Compendium Items

Forms information:

Data elements
 Use of information (i.e. regulatory, statistical,
 program administration, etc.)
 Expiration date
 Respondent group
 Respondent burden
 Indication of voluntary or mandatory responses
 (if mandatory a reference to the requirement)
 Users of the data (program office)

Program information:

Objective and goals
 Authorizing legislation references
 Forms used
 Agency and major subdivision responsible for
 the program

Sources of Information

Forms

OMB's docket files (i.e., Standard Form 83, justifica-
 tion statements, docket worksheets, etc.)
 Agency form files
 Budget of the United States
 Internal budget material
 Agency annual reports
 Public laws
 Executive orders
 Code of Federal Regulations

In considering the compendium we believe some of the issues which should be addressed are the manner of its development, the assignment of responsibility for its development and maintenance, and the question of access.

Manner of development

There are several alternative ways to establish the compendium. One alternative is a pilot approach using

one agency to aid in developing such items as the data element categories, computer programs, and output formats. After the pilot project has developed the necessary tools, the complete compendium can be established.

A second alternative would be to develop the complete compendium by adding information on the programs and forms as the forms are submitted for OMB's or GAO's approval. It would take approximately 5 years to have all the programs collecting information from the public added to the compendium. This is due to OMB's practice of approving a form for up to 5 years. Additionally, a special effort will have to be made to incorporate those forms and programs which have been exempted--including those waived or given indefinite approval--and to incorporate those forms and programs of the agencies excluded from the Federal Reports Act to provide a complete compendium.

A third alternative method for developing the compendium would be to compile the compendium information on the programs and forms at one time. This may be the quickest method to establish a complete compendium. However, this would magnify the startup problems involved because all of the agencies and their forms would have to be dealt with at once.

Responsibility for development and maintenance

In considering the question of who should develop the compendium, the agency responsible for approving forms under the Federal Reports Act would be the most appropriate. In considering the maintenance of the compendium, a minimal number of agencies should be permitted to make changes in the data base. This would include the agency charged with the responsibility for the Federal Reports Act and those agencies excluded from the act. Permitting all agencies to make changes in the compendium could result in the loss of control over data accuracy and destroy the compendium's usefulness.

Question of access

With the development of the compendium, a single reference point for information collected by the Government would exist. Since the compendium would enable persons to identify those agencies which collect information involving certain groups or individuals, the compendium should clearly indicate those items collected under a pledge of confidentiality. Therefore, the question of access should be addressed as it relates to the potential encroachment on an individual's right of privacy.

MANPOWER ADMINISTRATIONEMPLOYMENT SECURITYAUTOMATED REPORTING SYSTEM

In our review of the forms and reporting requirements used in the development and implementation of the Manpower Administration's Employment Security Automated Reporting System and OMB's review of the system, we noted (1) a violation of the Federal Reports Act and (2) an apparent failure by OMB to determine the true need for information obtained by the system.

The system is a computer-based system used by the Administration to gather statistical information on employment security activities. This system gathers information on the characteristics of individuals who are provided services by the local employment security agencies and on the services provided. The system, begun in 1968, is fully implemented in all States and operates at an estimated cost of \$6.6 million.

Violation of the Federal Reports Act

Under the Federal Reports Act, the Director of OMB is to approve public-use forms before their use by the agencies in the executive branch.

On May 8, 1968, Labor submitted a guide to OMB for approval. This guide contained, according to the supporting statement, procedures to be used by local agencies in implementing a test of the system in three States beginning in July 1968. However, before receiving OMB approval, the Administration began conducting the test in the three States.

OMB, in a letter dated September 13, 1968, to an Administration official, requested that he "take whatever steps are necessary to avoid any future occurrence of this nature." In responding to OMB the official stated, in part, that

"* * *due to our attempts to maintain our schedule for this project and due to the internal momentum

built into a project of this size, it was not possible to adhere to the letter of the review procedure."

The OMB reviewer, in summarizing the review of the guide, noted that no OMB action was necessary and that the Administration instituted the test before OMB completed its review.

Although the OMB Clearance Officer did not specifically cite Labor for a violation, Labor violated the Federal Reports Act when it conducted the test before formal OMB approval.

OMB evaluation of need

OMB's review of the forms used by the system is to include a determination of the true need for the information. The question of Labor's need for some information has been raised by OMB on several occasions. OMB apparently did not resolve this question in fulfilling its forms review responsibility. However, OMB, while assisting Labor in developing and implementing the system, requested that information be included in the system to serve the needs of OMB.

SPD is responsible for carrying out the duties of the Director of OMB under section 103 of the Budget and Procedures Act of 1950 (31 U.S.C. 18b) which, in part, authorizes and directs the Director

"* * * to develop programs and to issue regulations and orders for the improved gathering, compiling, analyzing, publishing, and disseminating of statistical information for any purpose by the various agencies in the executive branch of the Government."

Under Executive Order 10253, dated June 11, 1951,
the Director

"* * *shall maintain a continuing study for the improvement of the statistical work of the agencies in the executive branch of the Federal Government with a view to obtaining the maximum benefit from the funds and facilities available for such work. * * *The Director, either upon his own initiative or upon the request of any such agency, shall provide for the interchange of information, calculated to improve statistical work * * * [and] assist the agencies, by other means, to improve their statistical work."

In our review of OMB's file on the system, we found correspondence detailing discussions and meetings between SPD and Labor before and after submission of Labor's request for approval of the system. This correspondence, as summarized below, sets forth OMB's involvement in developing the information to be collected by the system to serve its needs.

--In the September 13, 1968, letter referred to above concerning the pretest, OMB refers to a June 1968 meeting between OMB and Labor to

"* * *discuss proposed modification of the pretest to make the data to be collected more useful to the Bureau of the Budget for program evaluation purposes."

--In a September 1968 memorandum, Labor advised OMB that it concurred with the OMB-proposed additions to the system presented at a recent meeting.

--In another meeting between OMB and Labor discussing the system output tables, an OMB representative commented that:

"BES [Manpower Administration] requested guidance on size, content and scope of this report, taking position that it is being undertaken to satisfy Budget Bureau [OMB] needs. We agreed to canvass our needs."

As previously mentioned, the question of Labor's need for some information was raised by OMB. For example, during discussions of the system between representatives of OMB and Labor in January 1969, OMB raised the question of need for some output tables. In summarizing the reaction by a Labor representative to the possibilities of obtaining national information by sampling, an OMB representative commented that:

"It became apparent that there is no clearcut analysis of data needs related to decision-making at various levels against which output tables were constructed." (Underscoring supplied)

Labor submitted the system forms on June 3, 1974, requesting an extension of OMB's approval. The OMB Clearance Officer approved the forms for use through June 1975 with stipulations for future approval which included:

"That specific justification be given for each of the data elements collected with specific reference to the actual or planned uses at the National and State level for policy-making and managerial decisions; * * *

That a target be set of a significant reduction (30%) of the data elements to be reported after July 1, 1975; * * *

That a listing be prepared and a sample provided of all other Manpower Administration reporting system formats which collect the same or similar data with recommendations for elimination of unnecessary duplication."

- - - -

Labor violated the Federal Reports Act when it conducted a test of the system before formal OMB approval.

We acknowledge that OMB has the dual responsibilities of assisting Labor in improving the system and approving the forms used to gather information. However, OMB should have determined the true need for each data element when the initial request for approval was submitted. OMB apparently failed to resolve this issue in view of the stipulations imposed at its June 1974 review. The system was implemented and is operating at an estimated cost of \$6.6 million although a true need for obtaining the information had not been established.

The questions of need and duplication raised by the stipulations imposed at the time of the last system approval should have been resolved during the last review. Such determinations are essential for a proper review of each submission.

EMPLOYMENT STANDARDS ADMINISTRATIONFORM WH-31

Labor is responsible for insuring compliance with various Federal labor laws. One of the forms used by Labor in carrying out its responsibilities under these laws is the WH-31, "Employee Personal Interview Statement." However, inadequate consideration was given to the need for this form. The form appears to have been developed more for the convenience of the investigator than to serve an agency need.

In justifying its need for the WH-31 (formerly FO-31) in the March 1950 submission for OMB approval, Labor stated, in part:

"There has been a demand for some time past for an employee interview form which can be used by the investigator in the plant (establishment) at the time of investigation. Plant interviews are made principally for the purpose of verifying the employer's records or for determining whether violations have occurred when the records are incomplete or all of the required records have not been maintained."

This justification statement is based on the use of the form rather than the need for it. However, OMB approved this form on April 7, 1950, and periodically thereafter.

In submitting the form in April 1972 for renewal of OMB's approval, Labor stated, in part:

"(1) Form WH-31 is in essence the old Form FO-31, approved April 7, 1950 (copy attached). Since then the form number has changed and there has been updating of the form without any change of substance. The WH-31, Employee Personal Interview Statement, is used by the Compliance Officer during his investigation of an establishment, to determine compliance with the several laws that he enforces. These laws include Age Discrimination in Employment Act, Consumer Credit Protection Act, Contract Work Hours and Safety Standards Act,

Davis-Bacon and related Acts, Equal Pay Act, Fair Labor Standards Act, Walsh-Healey Public Contracts Act, and Service Contract Act.

"(2) These interviews are made principally for the purpose of verifying the employer's records or for determining whether violations have occurred when the records are incomplete or all of the required records have not been maintained."

This statement represents the justification of need for the form; it infers that since the form has previously been approved no reevaluation of the need for the form is necessary. OMB approved the use of the form through April 1977.

The form itself provides labeled spaces for a minimal amount of identifying information (related to the employee and place of employment) with the remainder of the form being a ruled piece of paper. (See pp. 87 and 88.) However, we do not believe the identifying information needs to be labeled for a reader to understand what it represents.

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Judging from the supporting statements prepared by Labor, insufficient justification has been given for the WH-31. Because only a minimal amount of identifying information is labeled, we believe a ruled tablet would adequately serve the investigators' needs. In our opinion this would be less costly than printing specially ruled paper to serve the same purpose.

Should Labor believe the information provided at the top of the form needs to be labeled, a rubber stamp could be provided to its investigators for use on a ruled sheet of paper. The information could thus be identified without printing a specific form.

While the use to be made of a form may be partial justification of need, it should never be the sole basis-- as appears to have happened in the original approval of the WH-31. In addition, the 1972 justification infers that because the form was approved earlier Labor does not have to justify the continued need for the form. The fact that

a form was approved for the agency's use previously should not bear on the decision to approve or disapprove the continued use of the form.

In addition, the approval by OMB of this type of form gives open-ended authority for an agency to collect as little or as much information as it desires. Serious questions, therefore, are raised as to why this form was approved without reviewing the questions to be asked the respondents.

Form approved
Budget Bureau No. 44-R0836

U. S. DEPARTMENT OF LABOR
EMPLOYMENT STANDARDS ADMINISTRATION
Office Of Fair Labor Standards
EMPLOYEE PERSONAL INTERVIEW STATEMENT

(Date)

(Place of interview)

Mr.
I, Miss
Mrs.

(Name of employee)

, of

(Number, street, apt. no.)

(City or town)

State

ZIP code

(Telephone number)

years of age, (^{was} have been) employed by

(Establishment)

(Location of establishment)

for the approximate period from

to

(If still employed
state "present")

as

(Occupation or description of duties)

Statement:

(If additional space is needed continue on reverse)

Form WH-31 (Rev. 5/72)
B-

MANPOWER ADMINISTRATION FORMSES-213, ES-210, AND MA 5-39

Some data elements collected on several Manpower Administration forms are duplicative because (1) information is collected on a weekly form and is summarized and reported on a monthly form and (2) information is required on one form which can be derived from information reported on other forms. The reporting of this duplicate information increases the reporting burden on the respondent and the cost to the Government.

The Unemployment Insurance Program operates through a Federal-State partnership in which the States establish and operate their own programs while the Federal Government finances the administrative cost. The Administration, which administers the Federal part of the program, prescribes, in its Employment Security Manual, forms to be used to gather information on activities under the State and Federal unemployment insurance laws.

Following is a discussion of three of these forms submitted by the State employment security agencies.

ES-213 "Claims and Payment Activities"

The Administration prescribes the ES-213 to collect monthly information on claims-taking activities and on the number and amount of benefit payments under State and Federal unemployment insurance laws. This form summarizes certain data elements which are collected weekly on the ES-210, "Weekly Report of Claims-Taking Activities." According to the manual which describes the ES-213 reporting requirement, the information is used in budgetary and administrative planning, in program evaluation, and in reports to the public and the Congress.

The information collected on the ES-213 is published monthly in the publication "Unemployment Insurance Statistics."

In addition to reporting on the basic program, a State submits a separate ES-213 to report activities under the

jointly funded Federal-State Extended Compensation Program or the State-financed Extended Additional Compensation Program. Claims-taking and payment activity under these programs are reported separately from the basic activities.

ES-210 "Weekly Report of Claims-Taking Activities"

According to the manual, the claims information reported on the weekly ES-210 is used to analyze unemployment trends in the Nation, States, and major labor areas. Administration officials said that the telegraphic ES-210 was collected mainly to provide unemployment insurance information for general public use.

The information is published weekly in the publication "Unemployment Insurance Claims." An Administration official told us that the amount of time between the official receipt date of the information and publication was about 7 days.

Approximately 2,000 copies of the publication are printed each week; 528 are distributed according to a prescribed mailing list, 100 go to the Administration regional offices, and approximately 200 go to the State agencies. The remainder, approximately 1,170 copies, are either held at the printing office or sent to Labor's library to answer requests for publications.

An Administration official stated that other organizations inside and outside of Labor requested the information which was published in their own publications. He stressed that the ES-210 was mainly used as an economic report and was not program oriented. He stated that the principal source of program information was the ES-213, which summarized the ES-210 information for the month.

MA 5-39 "Extended Benefit Data"

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304), enacted August 10, 1970, provides that all States are to establish permanent programs which will automatically extend the duration of benefits of workers who have exhausted all rights to regular compensation when the rate of insured unemployment rises above a specified level. Payment of the Federal-State extended

benefits (jointly funded by the Federal Government and the State or States involved) may be initiated either on a national or State level.

The payment of benefits nationally is initiated by a national "on" indicator if, in each of 3 consecutive calendar months, the rate of insured unemployment (seasonally adjusted) for all States equals or exceeds 4.5 percent. A national "off" indicator is triggered when the rate of insured unemployment (seasonally adjusted) for all States is less than 4.5 percent for each of 3 consecutive calendar months.

The payment of benefits within a single State is initiated by a State "on" indicator when the rate of insured unemployment (not seasonally adjusted) in the State for a consecutive 13-week period is not less than 4 percent. A State "off" indicator is triggered in the last week of a moving 13-week period when the rate of insured unemployment in the State falls below 4 percent.

The act gives the Secretary of Labor the responsibility for determining if the national rate of insured unemployment is sufficiently high to cause the beginning or ending of a national extended benefit period. The Secretary is to publish a notice in the Federal Register when a determination has been made that a State or national extended benefit period is beginning or ending.

The Administration justified the weekly telegraphic MA 5-39 to (1) provide the information necessary for the Secretary to determine whether the national conditions have been met and (2) serve as formal notice from the head of the State agency that the State conditions have been met. In addition to the MA 5-39, the State agency head submits a confirmation letter to the Administration stating the date of the beginning or ending of a State extended benefit period.

However, according to an Administration official, information from the ES-210 and Bureau of Labor Statistics' ES-202, "Employment, Wages, and Contributions Report," is used to compute the national "on" indicator. According to

this official, when the extended benefits program was initiated, the program office was located in Silver Spring, Maryland. In order for the Silver Spring program office to obtain the information needed from the ES-210 and ES-202, which were collected by program offices in the District of Columbia, it had to call the program offices or send a messenger to get the information. This situation created a delay; therefore, a new form (the MA 5-39) was developed to collect the information directly from the State agencies. The Administration official said this provided quicker collection of the information. In addition, he said the State agencies were often untimely in submitting the ES-210. The offices collecting the ES-210 and the MA 5-39 are now located in the same building in the District of Columbia.

According to the official, all State agencies are presently submitting the MA 5-39 and related worksheets (used to compute the items reported on the MA 5-39) each week. Using this information he publishes a weekly trigger notice showing the 13-week unemployment insurance rate of each State and the States currently paying extended benefits.

The official informed us the monthly ES-213 could be used to compute the national "on" indicator if it were more timely. He said State agencies were often late in submitting the ES-213 to the Administration because they often had to correct or adjust information already submitted on the weekly ES-210.

An Administration official said on April 28, 1975, that the Administration was considering a consolidation of the ES-210 and MA 5-39.

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Some data elements collected by these forms are duplicative. In addition, information is collected on the weekly ES-210 and is summarized and reported on the monthly ES-213. This duplicate reporting of information increases the burden on the State agencies and the cost to the Government.

Although the Administration is considering a consolidation of the ES-210 and MA 5-39, a timely ES-213 should

sufficiently serve the needs of the programs in lieu of both forms.

Furthermore, the MA 5-39 is not needed to meet either of its stated purposes. One of the purposes is that it contains the information necessary for the Secretary to determine whether the conditions are met for a national trigger. However, the Administration presently uses the information from the ES-210 and ES-202 to compute the national trigger.

In meeting the second purpose, a letter from the head of the State agency confirming that State conditions are met and indicating the date of the beginning or ending of a State extended benefit period should adequately serve this purpose. After such notice is published in the Federal Register, each State agency should be aware of which States are paying extended benefits, thus precluding the need for the weekly trigger notice.

EMPLOYMENT STANDARDS ADMINISTRATIONFORMS WH-3, WH-32, WH-42, AND WH-352

The Wage and Hour Division of the Employment Standards Administration has developed four forms (WH-3, WH-32, WH-42, and WH-352) to obtain information from employees concerning their employer's compliance with selected Federal labor laws.¹ These laws prescribe requirements for employer payments to employees of minimum wages and overtime after a specific number of hours worked. The laws also deal with subjects such as payment of certain fringe benefits; equal pay for equal work; and the employment of child labor, apprentices, and handicapped persons.

The WH-3 is initiated generally upon a complaint by an employee who believes he is not being paid in accordance with the laws. The WH-32, WH-42, and WH-352 are used by the Wage and Hour Division investigators to survey employees concerning their pay to identify violations of the laws. The following chart shows general information concerning the reporting frequency, respondent, number of annual responses, and burden estimates for the four forms.

¹Fair Labor Standards Act of 1938, as amended,
(29 U.S.C. 201)
Walsh-Healy Public Contracts Act (41 U.S.C. 35)
Davis-Bacon (40 U.S.C. 276a) and related acts as shown
at 29 C.F.R. 1--Appendix A
Work Hours Act of 1962 (40 U.S.C. 327)
Service Contract Act of 1965 (41 U.S.C. 351)
Consumer Credit Protection Act (15 U.S.C. 1671)
Age Discrimination in Employment Act of 1967 (29 U.S.C. 621)

Agency form number	WH-352	WH-3	WH-32	WH-42
Frequency	Occasional	Occasional	Occasional	Occasional
Respondent	A construction worker	An individual that makes a complaint	An individual supplies the information for Labor screening.	
Number of responses per year from the OMB listing of 6/74.	3,000	28,000	7,500	105,000
Time per response, computed from the OMB listing.	30 min.	20 min.	25 min.	20 min.

Because of similarities in the forms and the use of the forms, we compared them as to the information requested from the respondents. The following chart shows the essential information collected (indicated by an X) on each of the four forms.

Data Element Comparison of
Complaint and Survey Forms

OMB number	44R-1118	44R-0304	44R-0391	44R-0370
Agency number	WH-352	WH-3	WH-32	WH-42
Information requested:				
Individual name and address	X	X	X	X
Establishment name and address	X	X	X	X
Period employed	X	X	X	X
Job title and descrip- tion	X	X	X	X
Rate and method of payment	X	X	X	X
Hours worked	X	X	X	X
Date of birth	X	X		X
Overtime paid for	X		X	X
Nature of complaint	X	X		
Work location	X			X
Apprenticeship	X			
Deductions other than social security and withholding taxes	X			
Verifying witnesses	X			
Number of employees and nature of busi- ness		X		
Supervisor			X	

As shown on the chart, the forms are used to collect similar information. Although the same individual may not be asked to complete more than one of the forms, we believe the similarities are such that the four forms should be consolidated into a single form to meet the particular information needs of the Wage and Hour Division. We proposed that Labor consolidate the four forms.

Labor comments

The Acting Chief, Division of Management Systems and Organization, Employment Standards Administration, advised us by letter dated July 23, 1974, that the Administration did not believe the WH-3 should be included in the consolidation of the forms because of its use by a person to allege noncompliance with certain Federal labor laws by an employer. The Administration agreed that the proposal to consolidate the remaining forms (WH-32, WH-42, and WH-352) had merit and said it would consider consolidating them.

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After considering the comments received from Labor, we still believe that the four forms should be consolidated into a single form. Our analysis of the forms shows the similarity in the information being collected. An opportune time to consolidate these forms would have been when the WH-32 expired in October 1974; however, Labor requested an extension of OMB's approval of the form. OMB approved the form for use through October 1979.

REPORTING REQUIREMENTS FOR THEDAVIS-BACON ACT AND EXECUTIVE ORDER 11246

To assure compliance with the Davis-Bacon Act and Executive Order 11246, Labor prescribes two similar reporting requirements. The Wage and Hour Division requires contractors on Federal or federally assisted construction projects to submit a copy of their payrolls (including employee's name, trade, and hours worked) to determine whether the employees have been properly paid. The Office of Federal Contract Compliance requires contractors on Federal or federally assisted construction projects to submit information (including number of persons, trade, and hours worked) on their employees to determine their use of minorities. Therefore, the contractors subject to these requirements are reporting similar information about the same employees resulting in an unnecessary reporting burden. The following forms have been prescribed under these requirements.

WH-347 and WH-348

The Davis-Bacon Act (40 U.S.C. 276a) states that a construction contractor on a Federal project over \$2,000 must pay a minimum wage as determined by the Secretary of Labor. The Copeland Act (40 U.S.C. 276c) provides:

"The Secretary of Labor shall make reasonable regulations for contractors and subcontractors engaged in the construction, prosecution, completion or repair of public buildings, public works or buildings or works financed in whole or in part by loans or grants from the United States, including a provision that each contractor and subcontractor shall furnish weekly a statement with respect to the wages paid each employee during the preceding week."

The Wage and Hour Division requires that a WH-348, "Statement of Compliance," (or a statement with identical wording) accompany a copy of the contractor's payroll. The payroll information can be submitted by the contractors in their own format or on a WH-347, "Payroll," (see

p. 110) or similar form¹ developed by another Federal agency.

The statements of compliance and payroll are submitted to the contracting authority (the Federal or State agency which contracts for the project). The Wage and Hour Division uses the contracting authority which acts as the compliance agency (the agency responsible for assuring compliance with the labor clause required to be inserted into the contract by 29 C.F.R. 5.5). The payrolls are normally retained by the regional office of the Federal agency involved.

According to a Labor official, the compliance agencies submit a semiannual report on their compliance activities showing the number of investigations and other statistics.

On May 16, 1969, in response to a question from the Deputy Administrator, Wage and Hour Division, the Acting Deputy Solicitor interpreted the reporting requirements stating:

"The inclusion in the regulations of a requirement for submission of weekly payrolls [WH-347] is authorized, but not required, by the Copeland Act and Reorganization Plan No. 14 of 1950. This requirement is to be distinguished from that for submission of a weekly statement [WH-348] with respect to the wages paid each employee, which is required to be included in the Secretary's regulations by express terms of the Copeland Act."

In December 1969 OMB approved the WH-347 and WH-348 for use through June 1970. Labor requested clearance of

¹The agencies can use the WH-347 and WH-348 in their enforcement effort or may develop their own forms. For example, the Department of Commerce's Economic Development Administration has devised forms EDA-110, "Payroll," and EDA-162, "Statement of Compliance." The Economic Development Administration forms are approved by OMB.

the WH-347 and WH-348 in May 1970 and was granted approval to use the forms through December 1970 with the understanding that it would consider revising its regulations so that the submission of payrolls would be optional with the contracting agency. However, OMB gave Labor an informal extension through August 31, 1971.

OMB received the WH-347 and WH-348 for reinstatement on October 13, 1972, approximately 13 months after OMB approval expired on August 31, 1971. On August 7, 1974, OMB exempted the WH-348 from the approval requirement as a certification as defined in OMB Circular A-40. As of November 1, 1974, OMB had not taken action on the WH-347.

The regulations for the Davis-Bacon reporting requirements (sections 3.3, 3.4, and 5.5 of 29 C.F.R., parts 3 and 5) are also subject to OMB clearance under the Federal Reports Act. In obtaining clearance of these regulations, Labor has submitted its regulations separate from the reporting forms, WH-347 and WH-348. OMB last approved the regulations through September 30, 1979.

Optional Forms 66 and 66T

On September 24, 1965, the President issued Executive Order 11246 which states, as amended, that Federal contractors are not to discriminate in their employment practices on the basis of race, color, religion, sex, or national origin. The Secretary of Labor is responsible for overseeing the administration of the Executive order and prescribes the reporting formats. This responsibility has been delegated to the Office of Federal Contract Compliance.

Optional Form 66, "Monthly Manpower Utilization Report," was initially approved by OMB on November 5, 1969. A revised form (see p. 108) was submitted by the Office of Federal Contract Compliance in early 1971 and was approved by OMB for use through January 31, 1976.

The form was initially for use in the Philadelphia area, but its use has been extended to approximately 70 areas of the country for which "plans" have been established.

These plans cite minimum minority utilization goals either imposed by Labor or the court or voluntarily agreed to by the construction contractors, minority groups, and Labor.

Under the Executive order, the Federal contractors file information on their manpower utilization with the compliance agencies (the financially involved Federal agencies). These agencies are responsible for determining whether the contractors are complying with area plan requirements.

In turn, the compliance agencies report to the Office of Federal Contract Compliance headquarters on two forms known as Attachments "A" and "B." "A" is completed from the agency's contract records and essentially shows contract information. "B" is completed from the Optional Form 66 filed by the contractors and the agency's analysis of the information.

Office of Federal Contract Compliance guidelines require the compliance agency to transfer most of the information from the Optional Form 66 to "B," presenting it in a slightly different format. The compliance agency also indicates on "B" whether the contractor is in compliance. One "A" and one "B" are to be prepared for each Federal construction project and sent monthly to the Office of Federal Contract Compliance.

The compliance agencies' dissatisfaction with the Optional Form 66 led to the development of the Optional Form 66T, "Manpower Utilization Report" (see p. 109). A task force of compliance agency and Office of Federal Contract Compliance personnel developed the Optional Form 66T and HEW volunteered to test the form. There were no interagency reporting requirements established for the Optional Form 66T.

OMB approved Optional Form 66T on March 16, 1973, for use in a 2-month test during April and May 1973. However, OMB assigned the form the same expiration date (January 31, 1976) and OMB number (44R-1396) as was given the Optional Form 66.

Upon approval, HEW introduced the Optional Form 66T into use in Regions I (Boston, New Haven, and Rhode Island plan areas) and IV (Atlanta, Charlotte, Cincinnati, Louisville, and Miami plan areas). HEW sent a preliminary progress report to the Office of Federal Contract Compliance on June 12, 1973, and recommended that, because of limited test results, the test of the form be continued through fiscal year 1974. HEW proposed to use the form on its federally assisted projects in Regions I and IV through July 1973 and thereafter to add other regions so as to have the form used nationwide by the end of fiscal year 1974. Following a June 20, 1973, meeting between HEW and Office of Federal Contract Compliance personnel, HEW began using the form in 3 additional regions.

The OMB Clearance Officer wrote the Office of Federal Contract Compliance Director on August 2, 1973, stating his understanding that the test results and its appraisal of the test were to be transmitted to OMB. The Clearance Officer formally requested the information and advised the Director that OMB's approval of the Optional Form 66T was limited and further clearance was needed before introducing it into more general use.

The Office of Federal Contract Compliance Director, by letter of August 14, 1973, requested that HEW discontinue use of the Optional Form 66T until further notice. Although HEW did not introduce it in additional regions, HEW used the form in the five regions where it had been introduced before the Director's letter until February 1975, when it was discontinued. HEW's basis for continuing to use the form was to prevent confusion on the part of contractor and HEW personnel.

HEW furnished a second preliminary report on the Optional Form 66T to the Office of Federal Contract Compliance on October 25, 1973. HEW recommended further testing of the form and requested that the Office of Federal Contract Compliance obtain OMB approval for an extension of the test period. We found no indication the extension was requested.

On March 7, 1974, the OMB Clearance Officer again requested the test results from the Office of Federal Contract Compliance and further stated:

"* * *We have also heard that the Department of Health, Education and Welfare is continuing to use the pilot test form even though the period for which it was approved has expired. If the pilot test report is, infact [sic], still being used by HEW, such use is in violation of the Federal Reports Act.

"If it is intended that the test period be prolonged or that the pilot test form be introduced into more general use, a further clearance is necessary."

An Office of Federal Contract Compliance official advised us the contractors were unhappy with the Optional Form 66T and therefore the Office of Federal Contract Compliance was developing a new form to replace the Optional Forms 66 and 66T.

Reporting requirements

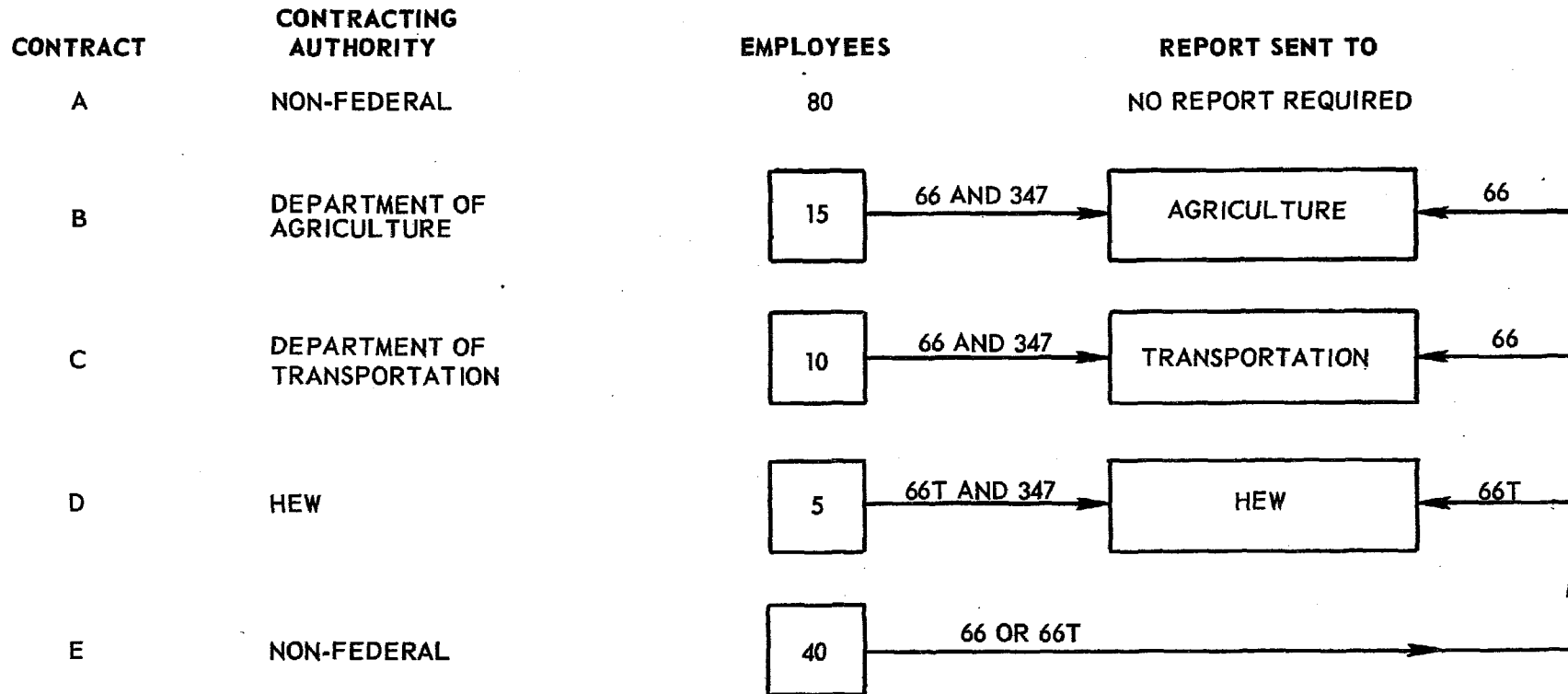
Neither the Office of Federal Contract Compliance nor the Wage and Hour Division receive the completed forms directly from the contractors. The forms go to a compliance agency. In the case of the Office of Federal Contract Compliance the compliance agency is the Federal agency which funds the project. The Wage and Hour Division, however, uses the contracting authority (which may be a Federal or State agency) as the compliance agency.

The following example is to illustrate the reporting of the WH-347 and Optional Forms 66 and 66T for a contractor performing work in the Boston plan area. The contractor employs 150 construction workers on 5 contracts, each exceeding \$10,000, (A is the oldest and E is the most recent) with the contracting authority indicated (see p. 104).

**EXAMPLE OF CONTRACTOR REPORTING UNDER
DAVIS-BACON AND RELATED ACTS AND EXECUTIVE ORDER 11246**

APPENDIX IX

APPENDIX IX



LEGEND

66-OPTIONAL FORM 66
66T-OPTIONAL FORM 66T
347-WH-347

In the example, the contractor is not required under the reporting requirements to submit information for contract A to the Federal agencies.

In fulfilling the requirements of the Office of Federal Contract Compliance, the contractor reported monthly--12 reports per year--on Optional Form 66 on contracts B and C to the Departments of Agriculture and Transportation, respectively. However, he reported on contract D to HEW once every 4 weeks--13 reports per year--on Optional Form 66T. The contractor reported on his employees on contract E to all three Federal agencies which report the information to the Office of Federal Contract Compliance.

The contractor must report payroll information for each Federal contract (B, C, and D) to the respective contracting authority once a week--52 times a year--under the Davis-Bacon reporting requirements. The WH-347 is not used to collect information on the contractor's non-Federal projects.

Information comparison

Because of the similarities in the respondent group affected, the form handling, and the manner of enforcement, we compared these forms as to the information collected (indicated by an X).

Data Element Comparison of
Manpower Utilization and Payroll Forms

OMB number	44R-1396	44R-1396	44R-1496
Agency number	OF66	OF66T	WH-347
Information requested:			
Name and address of contractor	X	X	X
Project identification	X	X	X
Reporting period date	X	X	X
Number of persons ¹	X	X	X
Trade	X	X	X
Skill level	X	X	X
Hours worked	X	X	X
Construction dates and percent completed by trade	X	X	
Ethnic group	X	X	
Other computed percentages	X		
Contract type		X	X
Date hired and/or terminated		X	
Wage rate			X
Wages and deductions			X
Work location			X

¹Optional Form 66 provides the number of employees and Optional Form 66T and WH-347 provide a list of employees.

As shown on the chart, we identified 15 principal categories of data, of which 7 are common to all 3 forms. Six of the 15 categories--number of persons, trade, skill level, hours worked, ethnic group, and wages and deductions--are major categories used in determining compliance. Only ethnic group is not presently included on the WH-347.

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Because of the similarities in the information required by the form WH-347 and Optional Forms 66 and 66T, the reporting requirements should be consolidated into a single requirement to meet the information needs of the Wage and Hour Division and the Office of Federal Contract Compliance. The consolidation would result in the information needed by both groups for determining contractor compliance being provided on one form.

One method of accomplishing this consolidation is to designate minority status on the payroll and eliminate the Optional Forms 66 and 66T. We have discussed the possibility of consolidating these two reporting requirements with a representative of a contractors' association. He expressed no reservations concerning the addition to the payroll of designators for minority status after checking with association members.

OPTIONAL FORM 66 Revised April 1971 As prescribed by the Dept. of Labor (OFCC)				MONTHLY MANPOWER UTILIZATION REPORT (See reverse for instructions)						
To: (Name and location of Compliance Agency)				From: (Name and location of prime contractor)						
1. Name of Project				2. Reporting Period (mo. yr.)		3. Project				
						a. Number		b. Percent Completed		c. Date Completed
4. Company's Name (I. D.)	5. Percent of work completed	6. Trade	7. Classification (see reverse)	8. Man-hours of Employment					9. Total No. of minority employees	10. Total Number of Employees
				a. Total	b. Negro	c. Span-Amer.	d. Amer-Indian	e. Oriental		
			J							
			H							
			Ap							
			Tr							
			J							
			H							
			Ap							
			Tr							
			J							
			H							
			Ap							
			Tr							
			J							
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			Ap							
			Tr							
			J							
			H							
			Ap							
			Tr							
			J							
			H							
			Ap							
			Tr							
11. Company Official's Signature and Title				12. Date Signed			13. Telephone No.			

MANPOWER UTILIZATION REPORT

Please type or print clearly

(See Reverse for Instructions)

OMB Approval No. 44-R1398

Form No. 66-T March 1973 As prescribed by the Dept. of Labor (OFCC)			1. CONTRACTOR'S NAME, ADDRESS, CITY, STATE, ZIP 1 _____ 2 _____					2. CONTRACT TYPE PRIME <input type="checkbox"/> SUB <input type="checkbox"/>									
3. PROJECT-IDENTIFIER		4. EMPLOYER'S IRS NUMBER	5. AWARD DATE OF YOUR FIRST CONTRACT ON THIS PROJECT		6. DATE YOUR WORK BEGAN ON THIS PROJECT		12. ETHNIC GROUP			13. TRADE	14. TRADE LEVEL	7. REPORT PERIOD ENDING DATE					
			MONTH DAY YEAR		MONTH DAY YEAR		Negro _____ Span.-Surnamed _____ Amer. Indian _____ Oriental-Amer. _____ Other _____				Journeyman _____ Apprentice _____ Trainee _____ Helper _____	MONTH DAY YEAR					
8. NAME OF EMPLOYEE		9. SOCIAL SECURITY NUMBER	10. DATE HIRED		11. DATE TERMINATED							15. FOUR WEEK PERIOD					
			MO DA YR		MO DA YR							1	2	3	4		

EMPLOYMENT STANDARDS ADMINISTRATIONFORMS LS-271 AND CM-920,LS-272 AND CM-932, AND LS-273 AND CM-923

The Office of Workers' Compensation Programs, Employment Standards Administration, has prescribed three pairs of forms related to employers becoming self-insurers under section 32 (a) (2) (33 U.S.C. 932(a) (2)) of the Longshoremen's and Harbor Workers' Compensation Act¹ and section 423 (30 U.S.C. 933) of the Federal Coal Mine Health and Safety Act of 1969, as amended. These laws provide for the payment of compensation benefits to certain groups of employees or their survivors for disability or death arising out of and in the course of employment. Although the respondent burden may not be affected, the consolidation of these pairs of forms should minimize the Government's cost.

The first pair of forms (LS-271 and CM-920) are applications for self-insurance used by an applicant to provide information to enable the program office to assess the applicant's ability to pay compensation benefits. The second pair of forms (LS-272 and CM-932) are used to provide financial information. The third pair of forms (LS-273 and CM-923) are agreements executed by certain businesses or coal mine operators to secure the potential liability for compensation benefits through an indemnity bond or securities.

The following chart shows general information concerning the reporting frequency, respondents, number of annual responses, and burden estimates for these forms.

¹The provisions of this act have been extended to cover additional workers under the following acts:

- Defense Base Act (42 U.S.C. 1651)
- Outer Continental Shelf Lands Act (43 U.S.C. 1333)
- District of Columbia Workmen's Compensation Act (36 D.C.C. 501)

Basic Information for Self-Insurance Forms

	Applications		Financial statements		Agreement and undertaking self-insured employers	
	OMB number	44R-0882	44R-1544	44R-1219	44R-1541	44R-1235
Agency number	LS-271	CM-920	LS-272	CM-932	LS-273	CM-923
Frequency	Annual	Occasional	Annual	Annual	Occasional	Occasional
Respondent	Business applying to be self-insured under the Longshoremen's Act.	Coal mine operator applying to be self-insured.	Business applying to be self-insured or replying to request for updated information under the Longshoremen's Act.	Coal mine operator applying to be self-insured.	Business agreeing to deposit securities under the Longshoremen's Act.	Coal mine operator agreeing to deposit securities.
Responses ¹	50	100	50	100	20	100
Time ²	1 hour	8 hours	1 hour	8 hours	1 hour	1/2 hour

¹ Number of responses per year from the OMB list of June 30, 1974.

² Estimated burden (time) per response computed from the OMB list.

Because of the similarities in the pairs of forms and the purposes for which they are used, we compared the pairs of forms as to the information collected. The following chart compares the information collected (indicated by an X) on the LS-271 and CM-920 application forms.

Data Element Comparison of
Applications for Self-Insurance

OMB number	44R-0882	44R-1544
Agency number	LS-271	CM-920
Information requested:		
Pertinent act	X	(only Federal Coal Mine)
Applicant name and address	X	X
Nature of operations	X	X
Workplaces and locations	X	X
Number of employees (by workplace)	X	X
Insurance carriers' names and addresses--last 5 years	X	X
State and amount of indemnity bond and securities if self-insurer under State workers' compensation programs	X	X
Deposit election if application is granted	X	X
Name and address of insurance organization for self-insurance program	X	X
Corporate officers	X	X
Date and State of incorporation	X	X
Date of establishing business	X	X
Maintain hospital or dispensary	X	
Accident experience previous years:		
Deaths	X	
Permanent total disability	X	
Permanent partial disability	X	
Injuries	X	
Catastrophic loss coverage	X	
Excess insurance policy		X
Parent company and subsidiary companies		X
Prior owners and operators		X

As shown on the chart, the LS-271 and CM-920, for the most part, collect similar information.

The LS-272 asks for asset, liability, and net worth information. The CM-932 asks for the same type of information as the LS-272 but in somewhat more detail. The CM-932 also asks for a mine operator's income and expense information.

The agreement forms LS-273 and CM-923 (see pp. 116 to 119) require almost the same information and, at an initial glance, an observer might think he is looking at the same form. However, the forms are separate forms, both approved by OMB.

In view of the similarities of the information requested and purpose of the three pairs of forms discussed above, we believe that each pair of forms should be consolidated into a single form. The amount of detail requested on the coal mine forms differs from that requested on the longshoremen's forms and therefore the need for the information should be carefully evaluated when consolidating the pairs of forms.

FORM APPROVED: BUDGET BUREAU NO. 44-R1238

**U.S. DEPARTMENT OF LABOR
EMPLOYMENT STANDARDS ADMINISTRATION
OFFICE OF WORKMEN'S COMPENSATION PROGRAMS**

AGREEMENT AND UNDERTAKING

NAME AND MAILING ADDRESS OF SELF-INSURER	COVERAGE UNDER <input type="checkbox"/> Longshoremen's and Harbor Workers' Compensation Act (33 USC 901) <input type="checkbox"/> District of Columbia Workmen's Compensation Act (36 DCC 501) <input type="checkbox"/> Defense Base Act (42 USC 1651) <input type="checkbox"/> Outer Continental Shelf Lands Act (43 USC 1333) <input type="checkbox"/>
TYPE OF BUSINESS	

Having applied to the Office of Workmen's Compensation Programs for the privilege of giving security for the payment of compensation by furnishing satisfactory proof to the Office of our financial ability to pay such compensation for ourselves, which application has been granted,

WE DO HEREBY UNDERTAKE AND AGREE AS A CONDITION PRECEDENT TO SUCH GRANT TAKING EFFECT THAT:

1. We will, and hereby do, make an initial deposit to secure our liability to pay compensation provided in the act of the indemnity bond or securities cited below.

TOTAL VALUE OF SECURITIES DEPOSITED \$	OR	AMOUNT OF INDEMNITY BOND \$
WHERE DEPOSITED		NAME OF SURETY COMPANY

Par Value of Securities	Deposit Value of Securities	Issued By	Rate of Interest	Due Date	Number of Certificate
\$	\$				
TOTAL →		XXXXXXXXXXXXXXXXXXXX	XXXXXX	XXXXXXXXXX	XXXXXXXXXXXX

Such securities, as well as any others hereafter deposited, are to be held subject to the order of the Office, with power to collect the interest and the principal as the same become due, to sell the securities or any of them as may be required and to apply the proceeds to the payment of any compensation for which we may become liable under the act specified in the payment of which, in the opinion of the Office, we may be in default. In the absence of default the interest collected by the depository bank upon securities deposited by us shall be paid to us by the bank.

2. We will comply with the rules for self-insurers adopted by the Office, including such modifications thereof as the Office may make from time to time.

3. We will comply with all orders of the Office requiring the deposit of additional indemnity bond or securities, proof of our financial condition and the verification thereof, statements of our accident experience and payroll exposure and in any other way pertaining to the exercise by us of the privilege of self-insurance, within the time specified in any notice mailed to us by the Office at our last given post office address, failing which we consent that this privilege to pay compensation without insuring may forthwith be revoked.

FORM LS-273
REV. SEPT. 1972

[Reverse of LS-273]

The foregoing deposits and promises are hereby tendered to the Office as fulfillment on our part of the conditions under which the Office has permitted us to give security for the payment of compensation by furnishing satisfactory proof of our financial ability to pay such compensation without insuring.

Signed at _____

this _____ day of _____, 19____

WITNESS:

By _____

IF THE EMPLOYER IS A CORPORATION USE THIS FORM OF ACKNOWLEDGMENT

State of _____

County of _____

On this the _____ day of _____, 19____, before me, _____, the undersigned officer, personally appeared _____, who acknowledged himself to be the _____ of _____, a corporation, and that he, as such _____, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as _____

In witness whereof I hereunto set my hand and official seal.

(NOTARY PUBLIC)

IF THE EMPLOYER IS AN INDIVIDUAL USE THIS FORM OF ACKNOWLEDGMENT

State of _____

County of _____

On this the _____ day of _____, 19____, before me, _____, the undersigned officer, personally appeared _____ known to me (or satisfactorily proven) to be the person whose name _____ subscribed to the within instrument and acknowledged that _____ he _____ executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

(NOTARY PUBLIC)

IF THE EMPLOYER IS A PARTNERSHIP USE THIS FORM OF ACKNOWLEDGMENT

State of _____

County of _____

On this the _____ day of _____, 19____, before me, _____, the undersigned officer, personally appeared _____, who acknowledged himself to be a full partner of _____, a partnership and that he as such _____, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the partnership by himself as _____

In witness whereof I hereunto set my hand and official seal.

(NOTARY PUBLIC)

OMB Approval No. 44-R1536

U.S. DEPARTMENT OF LABOR Employment Standards Administration Office of Workmen's Compensation Programs			AGREEMENT AND UNDERTAKING <i>(Federal Coal Mine Health and Safety Act of 1969, as amended)</i>			
NAME AND MAILING ADDRESS OF SELF-INSURER						
TYPE OF BUSINESS						
Having applied to the Office of Workmen's Compensation Programs for the privilege of giving security for the payment of benefits by furnishing satisfactory proof to the Office of our financial ability to pay such benefits for ourselves, which application has been granted,						
WE DO HEREBY UNDERTAKE AND AGREE AS A CONDITION PRECEDENT TO SUCH GRANT TAKING EFFECT THAT:						
1. We will, and hereby do, make an initial deposit to secure our liability to pay benefits provided in the act of the indemnity bond or securities cited below.						
TOTAL VALUE OF SECURITIES DEPOSITED \$			OR	AMOUNT OF INDEMNITY BOND \$		
WHERE DEPOSITED			NAME OF SURETY COMPANY			
PAR VALUE OF SECURITIES	DEPOSIT VALUE OF SECURITIES	ISSUED BY	RATE OF INTEREST	DUE DATE	NUMBER OF CERTIFICATE	
\$	\$					
TOTAL →		XXXXXXXXXXXXXXXXXXXXXX	XXXXXXX	XXXXXXXXXXXXX	XXXXXXXXXXXXXXXXXX	
Such securities, as well as any others hereafter deposited, are to be held subject to the order of the Office, with power to collect the interest and the principal as the same become due, to sell the securities or any of them as may be required and to apply the proceeds to the payment of any benefits for which we may become liable under the act specified in the payment of which, in the opinion of the Office, we may be in default. In the absence of default the interest collected by the depository bank upon securities deposited by us shall be paid to us by the bank.						
2. We will comply with the rules for self-insurers adopted by the Office, including such modifications thereof as the Office may make from time to time.						
3. We will comply with the orders of the Office requiring the deposit of additional indemnity bond or securities, proof of our financial condition and the verification thereof, statements of our disability experience and payroll exposure and in any other way pertaining to the exercise by us of the privilege of self-insurance, within the time specified in any notice mailed to us by the Office at our last given post office address, failing which we consent that this privilege to pay benefits without insuring may forthwith be revoked by the Office.						

Form CM-923
July 1973

[Reverse of CM-923]

4. We further agree to the following special conditions:

The foregoing deposits and promises are hereby tendered to the Office as fulfillment on our part of the conditions under which the Office has permitted us to give security for the payment of benefits by furnishing satisfactory proof of our financial ability to pay such benefits without insuring.

Signed at _____

this _____ day of _____, 19 _____

WITNESS: _____

By _____

(President or other officer)

IF THE OPERATOR IS A CORPORATION USE THIS FORM OF ACKNOWLEDGMENT

STATE OF _____

COUNTY OF _____

On the _____ day of _____, in the year 19 _____, before me personally came _____, to me known, who being by me duly sworn did depose and say that he resides in _____; that he is the _____ of _____ the corporation

(President of other officer)

(Name of corporation)

described in and which executed the above instrument; that he knows the seal of said corporation, that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation and that he signed his name thereto by like authority.

Notary Public (SEAL)

IF THE OPERATOR IS AN INDIVIDUAL USE THIS FORM OF ACKNOWLEDGMENT

STATE OF _____

COUNTY OF _____

On the _____ day of _____, in the year 19 _____, before me personally came _____, to me known and known to me to be the person described in and who executed the above instrument and acknowledged to me that he executed the same.

Notary Public (SEAL)

IF THE OPERATOR IS A PARTNERSHIP USE THIS FORM OF ACKNOWLEDGMENT

STATE OF _____

COUNTY OF _____

On the _____ day of _____, in the year 19 _____, before me personally came _____, a member of the firm of _____, described in the foregoing instrument to me known and known to me to be a member of the said firm and the person who executed said instrument and acknowledged to me that he executed the same on behalf of said firm.

Notary Public (SEAL)