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PAPERWORK REDUCTION ACT

Burden Increases and Violations Persist

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Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today to discuss the implementation of the Paperwork Reduction Act of 1995 (PRA). As you requested, I will discuss changes in federal paperwork burden during the past year, with a particular focus on the Internal Revenue Service (IRS). I will also revisit an issue that we have discussed during previous hearings—violations of the PRA in which information collection authorizations from the Office of Management and Budget (OMB) either expired or were otherwise inconsistent with the act's provisions.

In brief, the data indicate that federal paperwork increased by almost 290 million burden hours during fiscal year 2001—the largest 1-year increase since the PRA was amended and recodified in 1995. As was the case in previous years, this record increase is largely attributable to IRS, which increased its paperwork estimate by about 250 million burden hours during the year. Most of the increases that IRS described involved changes that had been made at the initiation of the agency—not because of new statutes.

Federal agencies providing information to OMB identified more than 400 violations of the PRA that occurred during fiscal year 2001. Those same agencies identified only slightly fewer violations than last year, indicating that the overall decline in the number of violations during the past 2 years has stopped. Some of these PRA violations have been going on for years, and they collectively represent substantial opportunity costs. As we have said for the past several years, we believe that OMB can do more to ensure that agencies do not use information collections without proper clearance.

We also believe that OMB can do a better job in reporting information to Congress and the public about major activities under the PRA. Specifically, we believe that OMB should provide burden-hour estimates and information on PRA violations for all of the agencies with significant amounts of paperwork, not just selected agencies. In addition, we believe that OMB can be more transparent in the information that it provides, more clearly delineating the causes of changes in agencies' burden-hour estimates.

Background

Before discussing these issues in detail, it is important to recognize that a large amount of federal paperwork is necessary and serves a useful purpose. Information collection is one way that agencies carry out their missions. For example, IRS needs to collect information from taxpayers

and their employers to know the amount of taxes owed. The Bureau of the Census collects information that was used to reapportion congressional representation and is being used for a myriad of other purposes. The events of September 11 have demonstrated the importance of accurate, timely information. On several occasions, we have recommended that agencies collect certain data to improve operations and evaluate their effectiveness.¹

However, under the PRA, federal agencies are required to minimize the paperwork burden they impose. The original PRA of 1980 established the Office of Information and Regulatory Affairs (OIRA) within OMB to provide central agency leadership and oversight of governmentwide efforts to reduce unnecessary paperwork and improve the management of information resources. Currently, the act requires OIRA to develop and maintain a governmentwide strategic information resources management (IRM) plan, and in recent years OIRA has designated the Chief Information Officers Council's strategic plan as the principal means of meeting this requirement. In February of this year we issued a report concluding that this document does not constitute an effective and comprehensive strategic vision.² Specifically, we said that the goals in the plan were not linked to expected improvements in agency and program performance, and did not address such issues as records management or the collection and control of paperwork. Other documents that OIRA provided also did not, either individually or collectively, meet the PRA's requirement for a governmentwide strategic IRM plan. However, the president's budget for 2003, released in February of this year, contains many (but not all) of the required elements, and therefore represents credible progress toward developing a governmentwide IRM plan.

¹See, for example, U.S. General Accounting Office, *Veterans' Health Care: VA Needs Better Data on Extent and Causes of Waiting Times*, GAO/HEHS-00-90 (Washington, D.C.: May 31, 2000) and U.S. General Accounting Office, *Public Housing: HUD Needs Better Information on Housing Agencies' Management Performance*, GAO-01-94 (Washington, D.C.: Nov. 9, 2000).

²U.S. General Accounting Office, *Information Resources Management: Comprehensive Strategic Plan Needed to Address Mounting Challenges*, GAO-02-292 (Washington, D.C.: Feb. 22, 2002). Our conclusions in this report were similar to those in a report issued several years earlier. See U. S. General Accounting Office, *Regulatory Management: Implementation of Selected OMB Responsibilities Under the Paperwork Reduction Act*, GAO/GGD-98-120 (Washington, D.C.: July 9, 1998).

OIRA also has overall responsibility for determining whether agencies' proposals for collecting information comply with the act.³ Agencies must receive OIRA approval for each information collection request before it is implemented. Section 3514(a) of the PRA requires OIRA to keep Congress "fully and currently informed" of the major activities under the act, and must submit a report to Congress at least annually on those activities. The report must include, among other things, a list of all PRA violations and a list of any increases in burden. To satisfy this reporting requirement, OIRA develops an Information Collection Budget (ICB) by gathering data from executive branch agencies. In October 2001, the OMB director sent a bulletin to the heads of executive departments and agencies requesting information to be used in preparation for the fiscal year 2002 ICB (reporting on actions during fiscal year 2001). However, that bulletin differed from its predecessors in several respects. For example, the agencies that the director asked to provide information did not include 12 noncabinet-level agencies and organizations that had previously provided ICB information (e.g., the Federal Communications Commission, the Federal Trade Commission, the Social Security Administration, and the Securities and Exchange Commission). The only independent agency asked to provide information to OMB was the Environmental Protection Agency (EPA). Also, the covered agencies were asked to provide less information than before. For example, the agencies were asked to provide detailed information only for "significant" burden reductions and increases, not on each change in burden estimates. The OMB director said in the October 2001 bulletin that the amount of information requested had been significantly reduced "in the interest of reducing burden on the agencies."

OIRA published its ICB for fiscal year 2001 (showing changes in agencies' burden-hour estimates during fiscal year 2000) in August 2001. OIRA officials told us that they did not expect to publish the ICB for fiscal year 2002 until today's hearing. Therefore, we obtained unpublished data from OIRA to identify changes in governmentwide and agency-specific "burden-hour" estimates during fiscal year 2001. However, because the OIRA data does not include burden-hour estimates from any independent agencies other than EPA, we also obtained data from the Regulatory Information

³The act requires the director of OMB to delegate the authority to administer all functions under the act to the administrator of OIRA but does not relieve the OMB director of responsibility for the administration of those functions. Approvals are made on behalf of the OMB director. In this testimony, we generally refer to OIRA or the OIRA administrator wherever the act assigns responsibilities to OMB or the director.

Service Center (RISC) for the independent agencies that OIRA did not cover.⁴ We then compared both the OIRA and the RISC data to agencies' burden-hour estimates in previous ICBs to determine changes in those estimates over time.

“Burden hours” has been the principal unit of measure of paperwork burden for more than 50 years and has been accepted by agencies and the public because it is a clear, easy-to-understand concept. However, it is important to recognize that these estimates have limitations. Estimating the amount of time it will take for an individual to collect and provide information or how many individuals an information collection will affect is not a simple matter.⁵ Therefore, the degree to which agency burden-hour estimates reflect real burden is unclear. Nevertheless, these are the best indicators of paperwork burden available, and we believe they can be useful as long as their limitations are kept in mind.

Governmentwide Paperwork Burden Estimate Has Increased

Federal agencies estimated that their information collections imposed about 7 billion burden hours on the public at the end of fiscal year 1995—just before the PRA of 1995 took effect. The PRA made several changes in federal paperwork reduction requirements. One such change required OIRA to set a goal of at least a 10-percent reduction in the governmentwide burden-hour estimate for each of fiscal years 1996 and 1997, a 5 percent governmentwide burden reduction goal in each of the next 4 fiscal years, and annual agency goals that reduce burden to the “maximum practicable opportunity.” Therefore, if federal agencies had been able to meet each of these goals, the 7-billion burden-hour estimate in 1995 would have fallen to about 4.6 billion hours by September 30, 2001.

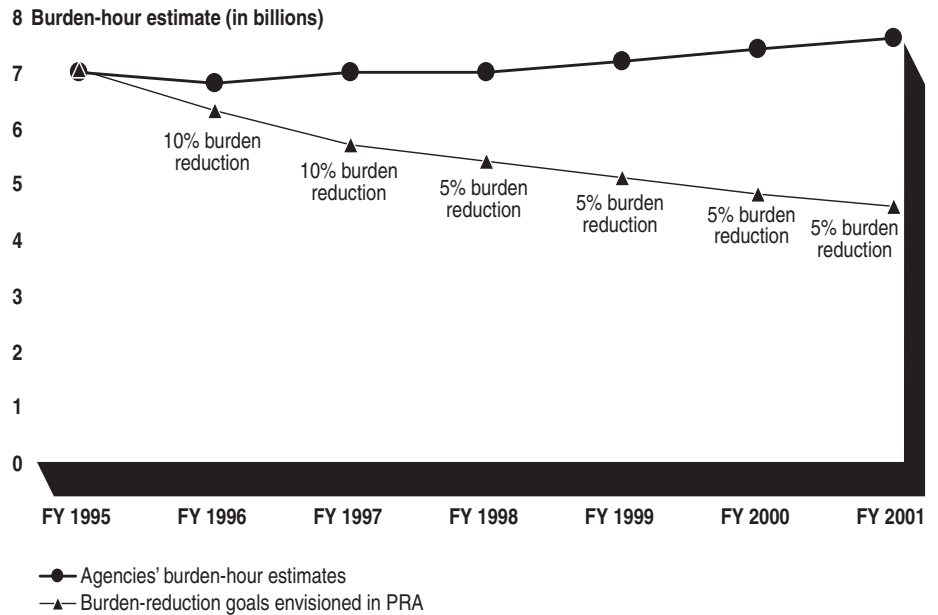
However, as figure 1 shows, this anticipated reduction in paperwork burden did not occur. In fact, the data we obtained from OIRA show that the governmentwide burden-hour estimate *increased* by about 9 percent during this period and stood at more than 7.6 billion hours as of September 30, 2001. During fiscal year 2001 alone, the governmentwide

⁴RISC is part of the General Services Administration but works closely with OMB to provide information to the president, Congress, and the public about federal regulations. RISC maintains a database that includes information on all regulatory actions and all information collection review actions by OIRA.

⁵See U.S. General Accounting Office, *EPA Paperwork: Burden Estimate Increasing Despite Reduction Claims*, GAO/GGD-00-59 (Washington, D.C.: Mar. 16, 2000) for how one agency estimates paperwork burden.

estimate increased by nearly 290 million hours—the largest 1-year increase since the PRA was amended and recodified in 1995.

Figure 1: Governmentwide Burden-Reduction Goals Are Not Being Met

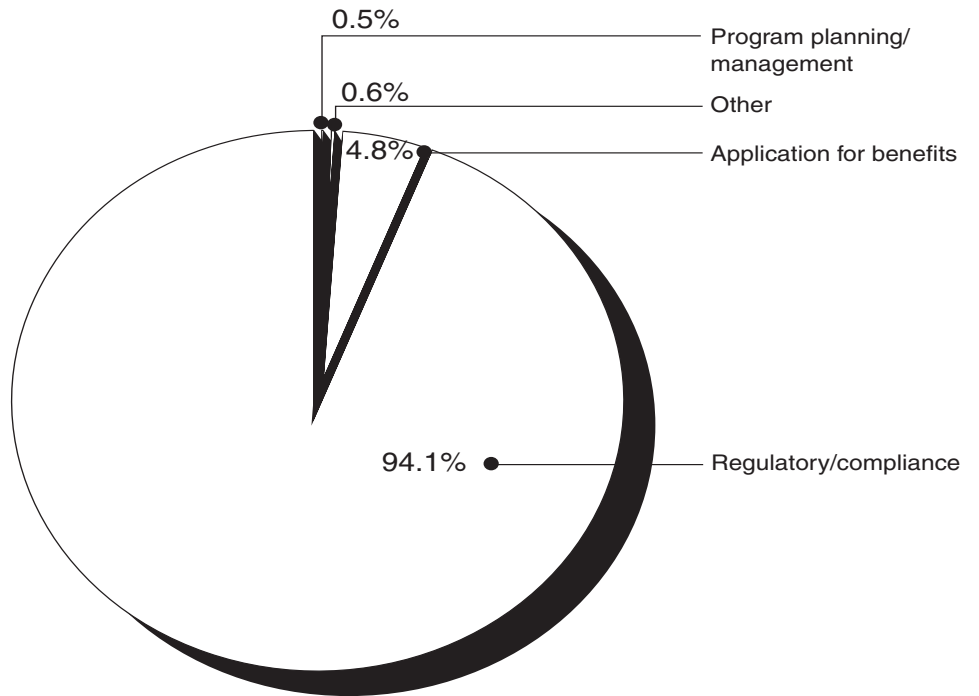


Note: Data are as of the end of each fiscal year. The governmentwide burden-hour estimate as of September 30, 2001, was about 7,651.4 million hours.

Sources: OMB and agencies' ICB submissions.

It is also important to understand how the most recent estimate of federal paperwork is allocated by the purpose of the collections, by type of respondent, and by agency. As figure 2 shows, RISC data indicates that almost 95 percent of the more than 7.6 billion hours of estimated paperwork burden in place governmentwide as of September 30, 2001, was being collected primarily for the purpose of regulatory compliance. Less than 5 percent was being collected as part of applications for benefits, and about 1 percent was collected for other purposes.

Figure 2: As of September 30, 2001, Most Federal Paperwork Was Primarily Collected for Regulatory Compliance

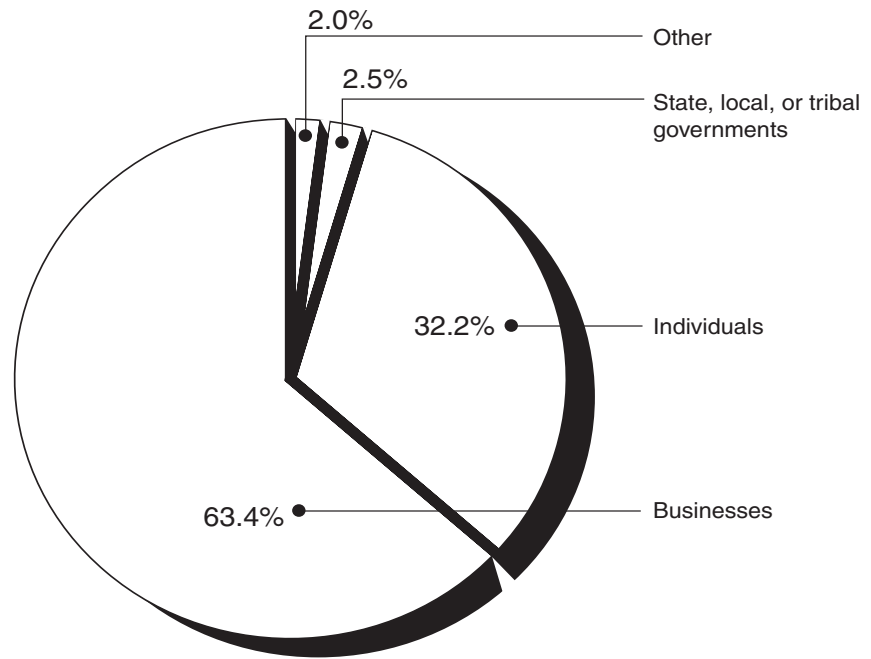


Note: The governmentwide burden-hour estimate as of September 30, 2001, was about 7,651.4 million hours. The “other” category includes program evaluation, general purpose statistics, audit, and research.

Sources: OMB and RISC.

Figure 3 shows that almost two-thirds of the governmentwide burden estimate was primarily directed toward businesses. Slightly less than one-third of the burden was primarily on individuals, and less than 3 percent was on state, local, or tribal governments.

Figure 3: As of September 30, 2001, Most Federal Paperwork Was Primarily Directed at Businesses

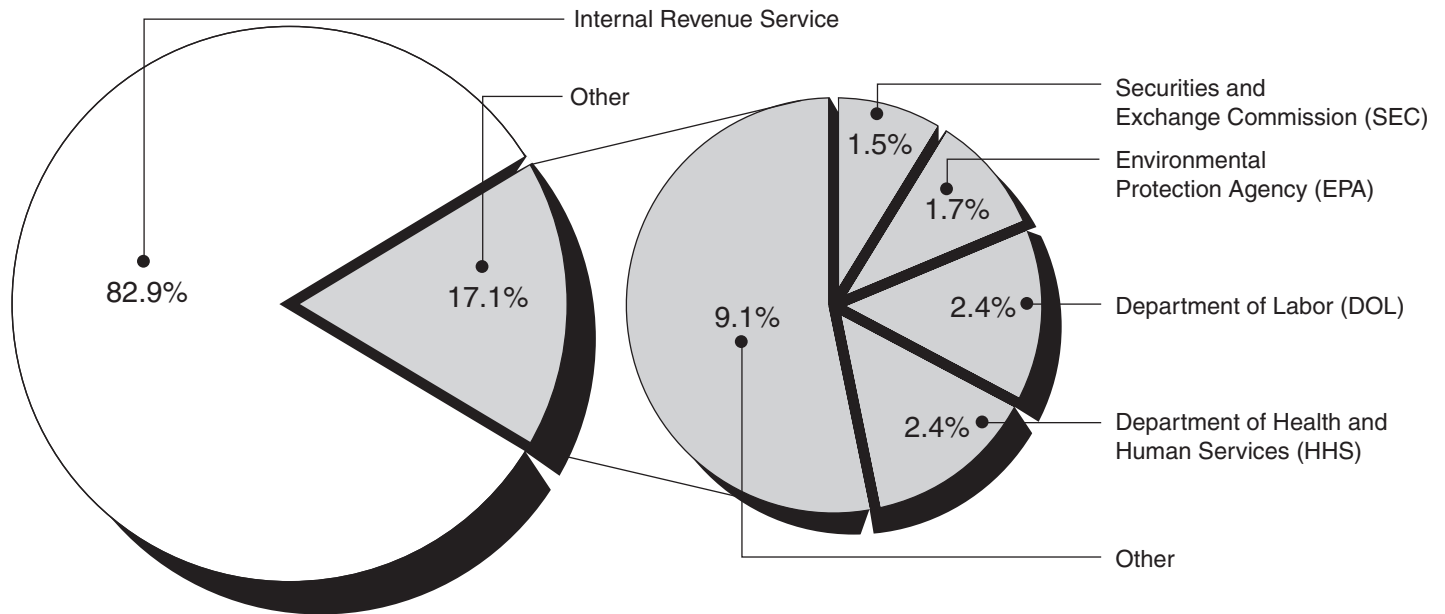


Note: The governmentwide burden-hour estimate as of September 30, 2001, was about 7,651.4 million hours. The “other” category includes farms, nonprofits, and the federal government.

Sources: OMB and RISC.

As figure 4 shows, as of September 30, 2001, IRS accounted for about 83 percent of the governmentwide burden-hour estimate (up from about 75 percent in September 1995). Other agencies with burden-hour estimates of 100 million hours or more as of that date were the departments of Labor (DOL) and Health and Human Services (HHS), EPA, and the Securities and Exchange Commission (SEC). Because IRS constitutes such a significant portion of the governmentwide burden-hour estimate, changes in IRS’ estimate can have a significant—and even determinative—effect on the governmentwide estimate.

Figure 4: IRS Accounted for Most of the Federal Paperwork Burden-Hour Estimate as of September 30, 2001



Note: The governmentwide burden-hour estimate as of September 30, 2001, was about 7,651.4 million hours.

Sources: OMB and the Department of the Treasury.

Changes in Individual Agencies' Estimates During Fiscal Year 2001

As table 1 shows, some agencies' paperwork burden estimates decreased sharply during fiscal year 2001, most notably those of the departments of Commerce and Transportation (DOT). However, other agencies (e.g., the department of the Treasury and the SEC) indicated that their paperwork burdens had increased. The reasons behind some of these changes are clear. For example, the sharp decrease in the Department of Commerce's estimate (from more than 38 million hours to about 10 million hours) appears to be almost entirely attributable to the completion of the decennial census. The reasons for other changes are less immediately apparent. As I will discuss later, the sharp decrease in the DOT estimate was caused by the expiration (and subsequent PRA violation) of a single information collection.

Table 1: Changes in Federal Agencies' Burden-Hour Estimates From Fiscal Years 2000 to 2001

Burden hours (in millions)	FY 2000 estimate	Program changes	Adjustments	Total change	FY 2001 estimate
Governmentwide	7,361.7			289.7	7,651.4
Departments					
Agriculture	75.2	5.8	5.9	11.5	86.7
Commerce	38.6	(28.6)	0.5	(28.3)	10.3
Defense	93.6	(0.7)	(0.2)	(1.6)	92.1
Education	42.0	(1.5)	(0.0)	(1.5)	40.5
Energy	2.9	1.0	(0.0)	0.9	3.9
Health and Human Services	173.7	2.2	10.9	12.9	186.6
Housing and Urban Development	12.5	(0.5)	0.0	(0.4)	12.1
Interior	5.6	1.9	(0.2)	1.9	7.6
Justice	36.8	0.3	3.5	3.7	40.5
Labor	181.6	(0.0)	4.7	4.5	186.1
State	29.2	(0.1)	(13.8)	(12.6)	16.6
Transportation	117.7	(42.4)	5.1	(37.3)	80.3
Treasury	6,156.8	214.2	44.8	259.1	6,415.9
Veterans Affairs	6.0	(0.0)	(0.7)	(0.7)	5.3
Agencies					
Environmental Protection Agency	128.8	0.9	1.2	2.0	130.8
Federal Acquisition Regulations	23.3	0.5	–	0.5	23.8
Federal Communication Commission	29.0	11.7	(0.6)	11.1	40.1
Federal Deposit Insurance Corporation	8.3	2.1	0.1	2.3	10.5
Federal Emergency Management Agency	5.2	0.4	0.0	0.4	5.5
Federal Energy Regulatory Commission	4.1	0.3	–	0.3	4.4
Federal Trade Commission	73.8	0.1	(1.3)	(1.2)	72.6
National Aeronautics and Space Administration	7.2	(0.1)	(0.2)	(0.3)	6.9
National Science Foundation	4.8	0.0	(0.0)	0.0	4.8
Nuclear Regulatory Commission	9.5	(0.8)	(0.6)	(1.4)	8.2
Securities and Exchange Commission	71.8	(1.8)	44.3	42.5	114.3
Small Business Administration	2.2	(0.2)	(0.0)	(0.2)	1.9
Social Security Administration	22.2	1.3	0.7	2.0	24.2

Note: OIRA did not provide us with reliable data on the program changes and adjustments governmentwide. Data on the Federal Acquisition Regulations were submitted by the General Services Administration. Data from the 27 departments and agencies may not equal the governmentwide figure because smaller agencies' requirements are also included. Cells with "0.0" values were non-zero values rounded to zero. Cells with "–" entries were zero values. Addition of individual elements may not equal totals due to rounding.

Sources: OMB (cabinet departments and EPA) and RISC (other agencies).

However, changes in agencies' bottom-line burden-hour estimates do not tell the whole story, and can be misleading. It is also important to

understand *how* the agencies accomplished these results. OIRA classifies modifications in agencies' burden-hour estimates as either "program changes" or "adjustments." Program changes are the result of deliberate federal government action (e.g., the addition or deletion of questions on a form), and can occur as a result of new statutory requirements, agency-initiated actions, or through the expiration or reinstatement of OIRA-approved collections. Adjustments are not the result of deliberate federal government action, but rather are caused by factors such as changes in the population responding to a requirement or agency reestimates of the burden associated with a collection of information. For example, if the economy declines and more people complete applications for food stamps, the resultant increase in the Department of Agriculture's (USDA) paperwork estimate is considered an adjustment because it is not the result of deliberate federal action.

In recent ICBs, OIRA has indicated whether fluctuations in agencies' burden-hour estimates were caused by program changes or adjustments. The fiscal year 2001 burden estimates that we obtained from OIRA and RISC in preparation for this hearing also contained those two categories and are presented in table 1. Analysis of those data helps explain what drove the changes in agencies' bottom-line burden-hour estimates. For example, almost all of the marked decline in the Department of State's estimate was due to adjustments. Also, the more than 40 million burden-hour increase in the SEC estimate was primarily driven by adjustments. Therefore, the Department of State cannot claim credit for having proactively reduced the paperwork burden that it imposes on the public, and the SEC may not be responsible for the increase that it reported. In contrast, table 1 shows that the more than 37 million burden-hour decrease in DOT's bottom-line paperwork estimate was entirely driven by a more than 40 million-hour program change reduction. However, the table does not indicate what specific type of action precipitated this or any other program change—new statutes, agency actions, or reinstated/expired collections. Although DOT's ICB submission did not provide further clarification, OIRA staff told us that the reduction was caused by the expiration (and subsequent PRA violation) of the agency's "hours of service" information collection.

Last year, the data that OIRA obtained from the agencies allowed us to separate the program changes in our table into the new statutes, agency actions, and reinstate/expired subcategories. However, as I noted previously, OIRA did not request such detailed data from the agencies for the fiscal year 2002 ICB except for certain "significant" collections.

Therefore, our table this year does not break down the program changes into these subcategories.

For the past 2 years, OIRA indicated in separate columns of the ICB summary table whether the program changes made during each fiscal year were due to agency action or new statutes. OIRA officials told us that the ICB that the agency was releasing today would present both statutory and agency action-based program changes during fiscal year 2001 in *one* column. As a result, they said, Congress and the public could calculate the amount of program change that was attributable to violations or reinstatements by subtracting the amount of the new statutes/agency actions from the total program changes.

We believe that this approach has at least two problems. First, combining the statutory and agency-initiated program changes into one column prevents Congress and the public from knowing why the agencies' paperwork estimates changed. Presentation of this information in separate columns—as has been done in previous years—allows the public to know whether Congress or the agencies are responsible for increases or decreases in an agency's paperwork estimate. Second, not providing this information and requiring Congress and the public to calculate the amount of change in burden caused by violations or the reinstatement of violations seems to run counter to the administrator's stated goal of increasing the transparency of OIRA's operations. OIRA has such data, for it listed expirations and reinstatements were separately listed in the raw data provided to us in preparation for this hearing, and OIRA used the data to calculate the amount of the program changes that were due to agency actions or new statutes.

As I mentioned previously, the PRA requires OIRA to keep Congress and congressional committees "fully and currently informed" of the major activities under the act. It specifically says that OIRA's annual report must identify "any increase in the collection of information burden." We do not believe that the information OIRA is releasing today fully satisfies this PRA requirement in that it includes only some of the agencies with estimated burden-hour increases and substantial information collection requirements. In fact, some of the independent agencies that OIRA indicated that it planned to exclude from this year's ICB (e.g., the SEC, the Federal Trade Commission, and the Federal Communication Commission) had higher estimated burden than some of the cabinet departments for which information was provided (e.g., the departments of Energy, Interior, and Veterans Affairs). Also, to facilitate transparency and increase Congress' and the public's understanding of paperwork burden, we believe

that OIRA should separately identify each of the specific types of program changes in the ICB—changes due to agency action, changes due to new statutes, changes due to violations, and changes due to reinstatements.

Reasons for Changes in IRS Burden Estimates

Although changes in non-IRS departments and agencies' burden-hour estimates are notable and important, they pale in comparison to the size of the changes at IRS. The increase in the IRS burden-hour estimate during fiscal year 2001 (about 250 million burden hours) was more than six times as much as the rest of the government combined. Therefore, although all agencies must ensure that their information collections impose the least amount of burden possible, it is clear that the key to controlling federal paperwork governmentwide lies in understanding and controlling the increases at IRS.

As table 1 shows, more than 80 percent of the 259 million burden-hour increase in the Department of the Treasury paperwork estimate during fiscal year 2001 was attributed to program changes. IRS accounted for about 250 million (about 97 percent) of the departmental increase. In the Department of the Treasury's ICB submission to OMB describing changes during fiscal year 2001, IRS identified a number of significant program change increases that it said were a function of the underlying statutes. For example, IRS said that it added nearly 28 million burden hours to its estimate because the FSC Repeal and Extraterritorial Income Exclusion Act of 2000 added a section to the Internal Revenue Code, resulting in a new Form 8873.⁶

However, about two-thirds of the program change increases that IRS identified in the ICB submission for fiscal year 2001 involved changes made at the initiation of the agency—not because of new statutes. For example:

- IRS said that 14 lines and 23 Code sections were added to Form 1065 (“U.S. Return of Partnership Income”), and accompanying schedules and instructions at the request of the agency, resulting in an estimated increase of more than 75 million burden hours.
- IRS said that changes made at the agency's request to Form 1120S (“U.S. Income Tax Return for an S Corporation”) and accompanying schedules

⁶IRS said the section “provides for an exclusion from gross income for certainty transaction (sic) occurring after September 30, 2000, with respect to foreign trading gross receipts.”

and instructions resulted in an estimated increase of more than 22 million burden hours.

- IRS said that changes at the request of the agency to Form 1120 (“U.S. Corporation Income Tax Return”) and related schedules and instructions resulted in a more than 7 million-hour increase in the form’s estimated burden.

Because IRS attributed most of the increase in its burden-hour estimate during fiscal year 2001 to program changes, and because most of the program changes during that period were made at the agency’s initiative, IRS cannot claim (as it has in the past) that statutory changes primarily caused the increase in its burden-hour estimates.

IRS also indicated in the ICB submission that it had taken a number of actions intended to reduce paperwork burden. For example, IRS said it (1) had conducted a series of focus groups consisting of taxpayers who file Schedule D to explore their preferences for presenting and reporting information to compute gains and losses and any tax due, (2) was working with a contractor to redesign Form 941, “Employer’s Quarterly Federal Tax Return,” and the accompanying instructions, and (3) was continuing its initiative to encourage taxpayers to file the simplest tax return for their tax situation. With regard to small corporations, IRS said it had proposed that corporate filers with assets of less than \$250,000 be exempted from certain reporting requirements, which would—if implemented—save 39 million burden hours.

Two Strategies for Controlling Paperwork

In summary, the agencies’ information collection estimates for the ICB being released today indicate that federal paperwork continues to increase, and that changes initiated by IRS accounted for most of the record 1-year increase during fiscal year 2001. As we indicated in our February report on information resources management, OIRA and the agencies lack a unifying vision for how those resources will facilitate the government’s agenda. Also, the risk is increased that duplicative initiatives will be undertaken, and that opportunities for data sharing will be missed. The PRA requires that OIRA develop such a plan, one element of which must be a proposal for reducing information burdens. Also, because IRS constitutes such a significant portion of the governmentwide burden-hour estimate, another strategy to address increases in federal paperwork could be to focus OIRA’s burden-reduction efforts on that agency. Just as increases in IRS’s burden estimates have had a determinative effect on the governmentwide estimates, reduction in the IRS estimates can have an equally determinative effect.

Agencies Again Identified Hundreds of Violations

I would now like to turn to the other main topic you asked us to address—PRA violations. The PRA prohibits an agency from conducting or sponsoring a collection of information unless (1) the agency has submitted the proposed collection and other documents to OIRA, (2) OIRA has approved the proposed collection, and (3) the agency displays an OMB control number on the collection. The act also requires agencies to establish a process to ensure that each information collection is in compliance with these clearance requirements. OIRA is required to submit an annual report to Congress that includes a list of all violations. The PRA says no one can be penalized for failing to comply with a collection of information subject to the act if the collection does not display a valid OMB control number. OIRA may not approve a collection of information for more than 3 years, and there are about 7,000 approved collections at any one time.

In the ICB for fiscal year 1999, OIRA identified a total of 872 violations of the PRA during fiscal year 1998. In our testimony before this Committee 3 years ago, we noted that some agencies—USDA, HHS, and the Department of Veterans Affairs (VA)—had each identified more than 100 violations.⁷ We also said that OIRA had taken little action to address those violations and suggested a number of ways that OIRA could improve its performance. For example, we said that OIRA could use its database to identify information collections for which authorizations had expired, contact the collecting agency, and determine whether the agency was continuing to collect the information. We also said that OIRA could publicly announce that the agency is out of compliance with the PRA in meetings of the Chief Information Officers Council and the President’s Management Council.

During the past 2 years, the number of violations that OMB reported has declined steadily.

- Two years ago we testified that the number of violations had declined from 872 during fiscal year 1998 to 710 during fiscal year 1999.⁸

⁷U.S. General Accounting Office, *Paperwork Reduction Act: Burden Increases and Unauthorized Information Collections*, GAO/T-GGD-99-78 (Washington, D.C.: Apr. 15, 1999).

⁸U.S. General Accounting Office, *Paperwork Reduction Act: Burden Increases at IRS and Other Agencies*, GAO/T-GGD-00-114 (Washington, D.C.: Apr. 12, 2000).

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- Last year, we testified that the number of violations had declined even further—from 710 to 487 during fiscal year 2000.⁹

Each year, a few agencies—most consistently USDA and HUD, but occasionally the Department of Justice and VA—have accounted for a disproportionate share of the violations. Each year we concluded that, although OIRA had taken several actions to address PRA violations, the OMB and the agencies responsible for the collections could do more to ensure compliance.

Table 2 shows the number of violations that the covered agencies reported (and that OIRA agreed were violations) during fiscal year 2001. As noted previously, noncabinet-level agencies other than EPA were not required to report this information to OIRA in preparation for this year’s ICB, so we could not provide information for those agencies in our table. Therefore, comparison of the total number of violations during fiscal year 2001 to previous years can be done only for those agencies reporting in all relevant time frames.

The cabinet departments and EPA reported 648 PRA violations during fiscal year 1999 and 423 violations during fiscal year 2000. Those agencies identified a total of 402 violations during fiscal year 2001—only slightly fewer than the year before. Therefore, the substantial decline in the number of PRA violations that has occurred in these agencies appears to have stopped. As was the case in previous years, HUD, USDA, and VA reported the most violations during fiscal year 2001—112, 67, and 64, respectively. The number of violations at USDA decreased between fiscal years 2000 and 2001 (from 96 to 67), but the numbers at HUD and VA went up (from 99 to 112, and from 40 to 64, respectively). Overall, the number of violations decreased in 8 of the 15 agencies reporting data in both years, increased in 6 agencies, and stayed the same in 1 agency.

⁹U.S. General Accounting Office, *Paperwork Reduction Act: Burden Estimates Continue to Increase*, GAO-01-648T (Washington, D.C.: Apr. 24, 2001).

Table 2: Reported Violations of the PRA During Fiscal Year 2001

	FY 2001 expired information collections	FY 2001 other violations	Total FY 2001 violations
Department of Agriculture	61	6	67
Department of Commerce	22	0	22
Department of Defense	7	0	7
Department of Education	4	0	4
Department of Energy	6	0	6
Department of Health and Human Services	29	7	36
Department of Housing and Urban Development	112	0	112
Department of the Interior	11	5	16
Department of Justice	16	5	21
Department of Labor	4	4	8
Department of State	11	0	11
Department of Transportation	12	0	12
Department of the Treasury	14	0	14
Department of Veterans Affairs	64	0	64
Environmental Protection Agency	1	1	2
Rest of government	Unknown	Unknown	Unknown
Total	374	28	402

Note: In contrast to previous years, OIRA did not collect information on PRA violations from any noncabinet-level agency other than EPA. Therefore, the total in each column would be greater if the data on violations for those agencies were available.

Source: OMB (expired collections) and agencies' ICB submissions (other violations).

Many of the 402 violations that occurred during fiscal year 2001 were new and had been resolved by the end of the fiscal year. However, about 40 percent of the violations were listed in last year's ICB, and many had been occurring for years. For example, as of the end of fiscal year 2001,

- USDA indicated that 13 of its collections had been in violation for more than 2 years, and 10 had been in violation for at least 3 years,
- HUD indicated that 10 of its collections had been in violation for at least 2 years, and 6 had been in violation for at least 4 years,
- the Department of the Interior indicated that 9 collections had been in violation for at least 2 years, and 4 had been in violation for at least 7 years, and
- VA indicated that 25 of its collections had been in violation for at least 2 years, and 15 had been in violation for at least 4 years.

Violations and Opportunity Costs

In our testimony in previous years, we provided an estimate of the monetary cost associated with certain PRA violations. To estimate that cost, we multiplied the number of burden hours associated with the violations by an OMB estimate of the “opportunity costs” associated with each hour of IRS paperwork. Although the ICBs list the information collections that were in violation during the previous year, and the dates of expiration and any reinstatement, they do not provide information on the number of burden hours associated with each of the violations. Therefore, we obtained data from OIRA on the estimated number of burden hours for 340 of the 402 information collections that were in violation of the PRA during fiscal year 2001.¹⁰

As in previous years, the data suggest that these PRA violations may constitute significant opportunity costs for those required to provide the related information. We estimate that the 340 violations involved about 58 million burden hours of paperwork, or about \$1.6 billion in opportunity costs. A small percentage of the collections accounted for the bulk of those costs. For example, 60 of the collections involved estimated opportunity costs of at least \$1 million each, for a total of more than \$1.5 billion. Just three of the collections (two from USDA and one from VA) accounted for more than \$1 billion in estimated opportunity costs.

Many of the information collections that were in violation of the PRA were being administered for regulatory purposes, so if the respondents knew the collections were not valid they might not have completed the required forms. However, other violations involved collections in which individuals or businesses were applying for benefits such as loans or subsidies. Therefore, it is not clear whether these individuals and businesses would have refused to complete the required forms if they knew that the collections were being conducted in violation of the PRA.

OIRA Can Do More to Address Violations

As I indicated earlier, OIRA has taken some steps to encourage agencies to comply with the PRA, and those steps previously appeared to have been paying off in terms of fewer reported violations overall and within particular agencies. However, particularly because the number of violations did not decline during fiscal year 2001, we believe that OIRA can do more. For example, 2 years ago OIRA added information to its Internet

¹⁰OIRA said it did not have burden hour estimates for some of the violations because they had never been approved under the PRA.

home page about information collections that expired in the previous month. As a result, potential respondents are able to review the list of recent expirations and inform the collecting agency, OIRA, and Congress of the need for the agency to either obtain reinstatement of OIRA approval or discontinue the collection.

Although notifying the public about unauthorized information collections is a step in the right direction, OIRA's approach places the burden of responsibility to detect unauthorized collections on the public. It is *OIRA*, not the public, which has the statutory responsibility to review and approve agencies' collections of information and identify all PRA violations. Therefore, we believe that OIRA should not simply rely on the public to identify these violations. For example, OIRA desk officers could use the agency's database to identify information collections for which authorizations had expired, contact the collecting agency, and determine whether the agency is continuing to collect the information. The desk officers could also use the database to identify information collection authorizations that are about to expire, and therefore perhaps *prevent* violations of the act. At a minimum, OIRA could post on its Internet home page the *complete* list of collections that it believes are in violation of the PRA—not just those collections that expired during the previous month and that may or may not constitute violations.

OIRA officials and staff previously told us that they have no authority to do much more than publish the list of violations in the ICB and inform the agencies directly that they are out of compliance with the act. We do not agree that OIRA is as powerless as this explanation would suggest. First of all, OIRA could publish the number of violations for all of the agencies covered by the PRA in the ICB. Section 3514(a) of the act specifically requires OIRA to include in its annual report a "list of all violations," not just the cabinet departments plus EPA. Therefore, we do not believe that the information that OIRA is releasing today fully satisfies this requirement. Also, if an agency does not respond to an OIRA notice that one of its information collections is out of compliance with the PRA, the administrator could take any number of actions to encourage compliance, including any or all of the following:

- Publicly announce that the agency is out of compliance with the PRA in meetings of the Chief Information Officers Council.
- Notify the "budget" side of OMB that the agency is collecting information in violation of the PRA and encourage the appropriate resource management office to use its influence to bring the agency into compliance.

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- Place a notice in the *Federal Register* notifying the affected public that they need not provide the agency with the information requested in any expired collection.

OIRA could also notify agencies that the PRA requires them to establish a process to ensure that each information collection complies with the act's clearance requirements. Agencies that continue to collect information without OIRA approval or after the approval has expired are clearly not complying with this requirement. Some agencies do not appear to have established sound clearance processes. Just three agencies—USDA, HUD, and VA—accounted for about 60 percent of all reported violations.

We recognize that some, and perhaps many, of the information collections that violate the PRA's requirements represent important agency data gathering efforts. As I indicated previously, information collection is one way that agencies accomplish their missions and protect public health and safety. Nevertheless, we do not believe that the goals of information collection and compliance with the PRA's requirements are inconsistent. In fact, the more clearly agencies can demonstrate the value of those collections, the easier it should be for them to obtain OIRA approval. Also, the vast majority of PRA violations are ultimately reauthorized by OIRA, therefore indicating that this is more of a management problem than a substantive issue of rogue information collections.

We also recognize the limitations that OIRA faces, with an ever-increasing workload and limited resources. However, we do not believe that the kinds of actions we are suggesting would require significant additional resources. Primarily, the actions require a commitment to improve the operation of the current paperwork clearance process. Also, OIRA cannot eliminate PRA violations by itself. Federal agencies committing these violations need to evidence a similar level of resolve.

Mr. Chairman, this completes my prepared statement. I would be pleased to answer any questions.