

May 2005

PAPERWORK
REDUCTION ACT

New Approach May Be
Needed to Reduce
Government Burden
on Public



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Highlights of [GAO-05-424](#), a report to congressional requesters

PAPERWORK REDUCTION ACT

New Approach May Be Needed to Reduce Government Burden on Public

Why GAO Did This Study

Americans spend billions of hours each year providing information to federal agencies by filling out information collections (forms, surveys, or questionnaires). A major aim of the Paperwork Reduction Act (PRA) is to balance the burden of these collections with their public benefit. Under the act, agencies' Chief Information Officers (CIO) are responsible for reviewing information collections before they are submitted to the Office of Management and Budget (OMB) for approval. As part of this review, CIOs must certify that the collections meet 10 standards set forth in the act (see table).

GAO was asked to assess, among other things, this review and certification process, including agencies' efforts to consult with the public. To do this, GAO reviewed a governmentwide sample of collections, reviewed processes and collections at four agencies that account for a large proportion of burden, and performed case studies of 12 approved collections.

What GAO Recommends

GAO recommends that OMB and the agencies take steps to improve review processes and compliance with the act. Also, the Congress may wish to consider mandating pilot projects to target some collections for rigorous analysis that includes public outreach. In commenting on a draft of this report, OMB and the agencies agreed with parts of the report and disagreed with others.

www.gao.gov/cgi-bin/getrpt?GAO-05-424.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Linda Koontz at (202) 512-6240 or koontzl@gao.gov.

What GAO Found

Governmentwide, agency CIOs generally reviewed information collections and certified that they met the standards in the act. However, GAO's analysis of 12 case studies at the Internal Revenue Service (IRS) and the Departments of Veterans Affairs, Housing and Urban Development, and Labor showed that CIOs certified collections even though support was often missing or partial (see table). For example, in nine of the case studies, agencies did not provide support, as the law requires, for the standard that the collection was developed by an office with a plan and resources to use the information effectively. Because OMB instructions do not ask explicitly for this support, agencies generally did not address it. Further, although the law requires agencies both to publish notices in the *Federal Register* and to otherwise consult with the public, agencies governmentwide generally limited consultation to the publication of notices, which generated little public comment. Without appropriate support and public consultation, agencies have reduced assurance that collections satisfy the standards in the act.

Processes outside the PRA review process, which are more rigorous and involve greater public outreach, have been set up by IRS and the Environmental Protection Agency (EPA), whose missions involve numerous information collections and whose management is focused on minimizing burden. For example, each year, IRS subjects a few forms to highly detailed, in-depth analyses, including extensive outreach to the public affected and the information users. IRS reports that this process—performed on forms that have undergone CIO review and received OMB approval—has reduced burden by over 200 million hours since 2002. In contrast, for the 12 case studies, the CIO review process did not reduce burden. Without rigorous evaluative processes, agencies are unlikely to achieve the PRA goal of minimizing burden while maximizing utility.

Support Provided by Agencies for Paperwork Reduction Act Standards in 12 Case Studies

Standards: The information collection—	Total ^a	Support provided		
		Yes	Partial	No
Is necessary for the proper performance of agency functions.	12	6	6	0
Avoids unnecessary duplication.	11	2	2	7
Reduces burden on the public, including small entities.	12	5	7	0
Uses language that is understandable to respondents.	12	1	0	11
Will be compatible with respondents' recordkeeping practices.	12	3	0	9
Indicates period for which records must be retained.	6	3	3	0
Gives required information (e.g., whether response is mandatory).	12	4	8	0
Was developed by an office with necessary plan and resources.	11	2	0	9
Uses appropriate statistical survey methodology (if applicable).	1	1	0	0
Makes appropriate use of information technology.	12	8	4	0
Total	101	35	30	36

Source: Paperwork Reduction Act, Pub. L. 104-13, 109 Stat. 173-4, sec. 3506(c)(3).

^aThe total is not always 12 because not all certifications applied to all collections.

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Abbreviations

CIO	Chief Information Officer
EPA	Environmental Protection Agency
HUD	Department of Housing and Urban Development
IRS	Internal Revenue Service
OIRA	Office of Information and Regulatory Affairs
OMB	Office of Management and Budget
PRA	Paperwork Reduction Act
VA	Department of Veterans Affairs

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United States Government Accountability Office
Washington, D.C. 20548

May 20, 2005

The Honorable Tom Davis
Chairman, Committee on Government Reform
House of Representatives

The Honorable Candice S. Miller
Chair, Subcommittee on Regulatory Affairs
Committee on Government Reform
House of Representatives

Each year, nearly every adult American and every business fills out at least one federally sponsored form, survey, or questionnaire that agencies need to carry out their missions. For example, the Internal Revenue Service (IRS) uses forms to collect information from citizens and their employers to determine taxes owed. Based on governmentwide estimates of paperwork burden,¹ the public spent about 8.1 billion hours in 2003 responding to or complying with information requirements—a 50 percent increase since 1989, when burden was estimated at 5.4 billion hours.²

Under the Paperwork Reduction Act (PRA),³ agencies are required to minimize the paperwork burden they impose on the public to carry out their missions⁴ and to maximize the practical utility of the information they collect. Under PRA, agencies are required to submit all proposed information collections to the Office of Management and Budget (OMB) for approval. Governmentwide, agencies maintain about 8,000 information

¹Paperwork burden is defined as the time spent reading and understanding a request for information, as well as the time spent developing, compiling, recording, reviewing, and providing the information.

²In 1989, the Internal Revenue Service changed its formula for calculating burden hours, resulting in major changes to its estimates.

³The Paperwork Reduction Act was originally enacted into law in 1980 (Pub. L. 96-511, Dec. 11, 1980). It was reauthorized with minor amendments in 1986 (Pub. L. 99-591, Oct. 30, 1986) and was reauthorized a second time with more significant amendments in 1995 (Pub. L. 104-13, May 22, 1995).

⁴The act also provides a framework for management of information activities and information technology.

collections covered by the act. Each year, agencies submit about 3,000 of these to be approved or reapproved by OMB.⁵

In an effort to strengthen the act, the Congress amended the act in 1995 to establish, among other things, more detailed agency clearance requirements. One of these requirements is that before an information collection is submitted to OMB for approval, it must be reviewed by the agency's Chief Information Officer (CIO).⁶ The CIO is to certify that the collection meets 10 standards (see table 1) that are set forth in the act and to provide support for these certifications.

Table 1: Standards for Information Collections Set by the Paperwork Reduction Act

Standards

The collection is necessary for the proper performance of agency functions.

The collection avoids unnecessary duplication.

The collection reduces burden on the public, including small entities, to the extent practicable and appropriate.

The collection uses plain, coherent, and unambiguous language that is understandable to respondents.

The collection will be consistent and compatible with respondents' current reporting and recordkeeping practices to the maximum extent practicable.

The collection indicates the retention period for any recordkeeping requirements for respondents.

The collection informs respondents of the information they need to exercise scrutiny of agency collections information (the reasons the information is collected; the way it is used; an estimate of the burden; whether responses are voluntary, required to obtain a benefit, or mandatory; and a statement that no person is required to respond unless a valid OMB control number is displayed).

The collection was developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected.

The collection uses effective and efficient statistical survey methodology (if applicable).

The collection uses information technology to the maximum extent practicable to reduce burden and improve data quality, agency efficiency, and responsiveness to the public.

Source: Paperwork Reduction Act, Pub. L. 104-13, 109 Stat. 173-4, sec. 3506(c)(3).

⁵OMB can approve an information collection for no longer than 3 years.

⁶The 1995 amendments used the phrase "senior official," which was later changed to Chief Information Officer in the Clinger-Cohen Act (Pub. L. 104-106, Feb. 10, 1996; Pub. L. 104-208, Sept. 30, 1996).

Agency compliance with these requirements is governed by OMB regulation (5 C.F.R. 1320; see app. I).

Among the other requirements of the act is that agencies are to consult with the public and affected agencies on various issues, including ways to minimize burden, and provide a 60-day period for the public to comment on collections.

The CIO review and public consultation requirements were intended to improve the quality of the information collection proposals, with the ultimate aim of furthering the goals of the PRA: primarily, to minimize the paperwork burden on the public while maximizing the public benefit and utility of information collections.

The Congress is planning to reexamine the legislative framework for managing information resources, including the PRA. To help the Congress assess whether the act is achieving its purposes and provide information to help the Congress in considering reauthorization, you asked us to assess

- the extent to which, before information collections are submitted to OMB for approval, agencies have (1) established effective processes for CIOs to review information collections and certify that the 10 standards in the act were met and (2) complied with the requirements to consult with the public on such collections;
- the extent to which agencies ensure that collection forms on agency Web sites are properly approved by OMB and included in an inventory of approved collections; and
- the extent to which agencies ensure that collection forms on agency Web sites disclose certain information that the public needs to exercise scrutiny of agency activities, as required by the act.

To determine the extent to which agencies have established effective processes, we performed detailed reviews of paperwork clearance processes and collections at four agencies: the Department of Veterans Affairs (VA), the Department of Housing and Urban Development (HUD), the Department of Labor, and IRS. Together, these four agencies represent a broad range of paperwork burdens, and in 2003, they accounted for about 83 percent of the 8.1 billion hours that is the estimated paperwork burden for all federal agencies. Of this total, IRS alone accounted for over 80 percent.⁷ We also selected 12 approved collections as case studies (three at each of the four agencies) to determine how effective agency processes were.

In addition, we analyzed a random sample (343) of all OMB-approved collections governmentwide as of May 2004 (8,211 collections at 68 agencies) to determine compliance with the act's requirements that the agency (1) certify to OMB that the 10 standards in the act had been met, (2) provide a 60-day public comment period in the *Federal Register*, and (3) consult with the public and affected agencies on ways to minimize burden and other issues associated with information collections. We designed the random sample of 343 collections so that we could determine compliance levels at the four agencies and governmentwide. We also examined documents showing burden reductions from separate processes established at (1) IRS's Office of Taxpayer Burden Reduction and (2) the Environmental Protection Agency (EPA) and interviewed responsible officials.

To determine the extent to which agencies ensure that information collection forms on their Web sites are approved, are included in an inventory, and disclose required information, we first searched the four agencies' Web sites to identify those forms and related collections that were subject to PRA.⁸ Next, we determined whether these forms had been reviewed and included in OMB's inventory of approved collections. For approved forms, we examined whether they displayed certain required information. For example, forms are required to display a valid OMB

⁷Although IRS accounts for 80 percent of burden, it does not account for 80 percent of collections: it accounted for 808 out of the total 8,211 collections governmentwide as of May 2004.

⁸Because of the design of agencies' Web sites, it is possible that we did not identify all forms subject to PRA. At two agencies (IRS and HUD), we selected random samples of the population of forms on their Web sites.

control number to indicate that the agency is authorized to collect the information requested. Finally, we asked appropriate agency officials to verify these results.

Further details on our scope and methodology are provided in appendix II. We conducted our review from May 2004 to March 2005, in accordance with generally accepted government auditing standards.

Results in Brief

Governmentwide, agency CIOs generally reviewed information collections before they were submitted to OMB and certified that the 10 standards in the act were met. However, in our 12 case studies, CIOs provided these certifications despite often missing or partial support from the program offices sponsoring the collections. Further, although the law requires CIOs to provide support for certifications, agency files contained little evidence that CIO reviewers had made efforts to improve the support offered by program offices. In addition, to obtain comments from potential respondents regarding collections, agency efforts were generally limited to publication of notices in the *Federal Register* and did not include other types of public consultation, as the act requires. Further, these notices elicited little comment, and as a result, agencies did not obtain extensive insight into respondents' views on such matters as the quality, utility, and clarity of the information to be collected. Numerous factors have contributed to these compliance problems, including a lack of management support and weaknesses in OMB guidance. Without appropriate support and public consultation, agencies have reduced assurance that collections satisfy the standards in the act.

In contrast, IRS and EPA have used additional evaluative processes that focus on reducing burden and that involve potential respondents to a much greater extent. According to these agencies, their processes led to significant reductions in burden on the public while maximizing the utility of the information collections.

The four agencies generally ensured that information collection forms on Web sites were approved and inventoried, with some exceptions: an estimated 5 percent of forms were not approved by OMB or included in an inventory of approved forms. In nearly all cases, agency officials maintained that these forms were not subject to the PRA; however, the forms in question were, in fact, information collections subject to the act. Collections that are not approved may not be necessary or useful and may result in unnecessary burden on the public. In addition, an estimated

1 percent of forms were expired collections, for which OMB's approval had lapsed.

The four agencies did not consistently ensure that collection forms on agency Web sites included the public scrutiny information required by PRA. Specifically, an estimated 41 percent of forms (497 of 1,203 forms with current OMB approval) on the four agencies' Web sites—ranging from 13 percent at VA to 55 percent at HUD—contained one or more violations (leaving out one or more of the notices that the act requires, such as a statement indicating the reason for the collection and how the information will be used). These cases of noncompliance are primarily attributable to lapses in attention to established processes or the absence of such processes. As a result, the public may be asked to respond to information collections without being informed of the reasons for the collections or other relevant information.

We discuss issues that the Congress may want to consider in its deliberations on reauthorizing the act (including mandating pilot projects to test and review alternative approaches to achieving PRA goals), and we also make recommendations to the Director of OMB and the heads of the four agencies to improve agency compliance with the act's provisions.

In providing written comments on a draft of this report, one agency agreed with our recommendations, and four agencies partially agreed and partially disagreed with our findings, conclusions, and recommendations. (EPA also provided technical comments via e-mail, which we have incorporated into this report as appropriate.) We have reproduced the written comments in appendixes III to VII.

Specifically, OMB agreed with most of our recommendations and stated that the office intends to change its instructions to align more closely with the PRA standards and considers that our research has identified potential procedural weaknesses warranting further review and possible correction. Labor and HUD agreed with many and VA with all of our recommendations and described actions taken to correct PRA deficiencies that we identified.

However, OMB, the Treasury, Labor, and HUD disagreed with our position that the PRA requires agencies both to publish a *Federal Register* notice and to otherwise consult with the public; these agencies do not believe that the requirement to otherwise consult applies to all collections, and they indicate that complying with this requirement for all collections would be burdensome and in some cases unnecessary. Despite the agencies' disagreement, we consider the PRA requirement regarding public consultation in addition to the 60-day *Federal Register* notice to be unambiguous: both requirements are introduced together, with no distinction between them: agencies shall "provide 60-day notice in the *Federal Register*, and otherwise consult with members of the public and affected agencies concerning each proposed collection..."⁹ We believe that agencies should comply with current law. However, we are also concerned that public consultation be efficient and effective; accordingly, among the matters that we propose for congressional consideration is the mandating of pilot projects to test and review alternative approaches to achieving the PRA's goals.

OMB and the Treasury also disagreed with aspects of our finding concerning support for certifications of the 10 PRA standards. Concerning our conclusion in the draft that without appropriate support and public consultation, agencies have little assurance that collections satisfy the standards, OMB disagreed on the grounds that we do not provide specific examples showing that lack of support or consultation resulted in a collection lacking practical utility or imposing unnecessary burden. The Treasury CIO disagreed with our findings concerning IRS's support for standards (particularly those involving the elimination of unnecessary duplication, reducing burdens on small business, and its ability to effectively use the information collected), stating that IRS achieves these goals through other means.

We believe that without improved compliance on the act's major provisions, which require adequate support for certifications and public consultation on all collections, the government cannot have adequate assurance that the goals of the act will be achieved. Our review was aimed at examining compliance with these provisions, which the Congress enacted as part of an overall framework to minimize public burden and maximize utility. Accordingly, we believe that agencies' not complying reduces the assurance that these goals have been met. Analyzing specific

⁹Pub. L. 104-13, 109 Stat. 173, 44 U.S.C. 3506(c)(2).

collections for their burden and utility or for compliance with the standards was not part of the scope of our work.

OMB and the Treasury also disagreed with our finding that IRS's citation on its forms of "the Internal Revenue laws of the United States" does not comply with OMB's requirement that agencies cite the applicable law on certain forms. We continue to believe that the IRS wording does not comply with OMB's regulation, which states that agencies are to cite the specific legal authority whenever the collection of information is required to obtain or retain a benefit or is mandatory. OMB's guidance explains the reason for this requirement as follows: "This should ensure a higher response rate and help the respondent understand the benefit and/or need to respond in an accurate, complete manner." If OMB determines that IRS's circumstances are such that the requirement should be modified in this case, it may decide to alter its regulation.

In addition, OMB, the Treasury, and HUD disagreed with specific details of our findings that were based on how we interpreted OMB regulations; we provide details of these disagreements and our response later in this report and in appendixes III to VII.

Background

Agencies of the U.S. government collect a wide variety of information from many sources to carry out their missions. As we mentioned earlier, the IRS collects information from individuals and their employers to calculate the correct amount of taxes owed. The Census Bureau collects information through the decennial census and other surveys that is used to reapportion congressional representation, calculate federal funding formulas, and for other purposes. Regulatory agencies, such as EPA, collect information to ensure compliance with regulations, to evaluate the effectiveness of programs, to determine eligibility for program benefits, and for other purposes.¹⁰

While such information collection activities are important for the fulfillment of agency missions, they can impose significant burdens on the individuals, businesses, not-for-profit organizations, and other entities that

¹⁰GAO, *Paperwork Reduction Act: Agencies' Burden Estimates Due to Federal Actions Continue to Increase*, [GAO-04-676T](#) (Washington, D.C.: Apr. 20, 2004), p. 2; *EPA Paperwork: Burden Estimate Increasing Despite Reduction Claims*, [GAO/GGD-00-59](#) (Washington, D.C.: Mar. 16, 2000), p. 1.

are called upon to produce the information for the federal government. Research, recordkeeping, and time to read instructions—all can result in the devotion of considerable time and expense. As mentioned earlier, agency estimates indicated that the public spent about 8.1 billion hours in 2003 responding to requests for information from the federal government.

The Origins of the Paperwork Reduction Act

The federal government has long recognized the tension between the benefits and costs of information collection and the need to reduce information collection burdens. The Federal Reports Act of 1942¹¹ first established a review process whereby the Bureau of the Budget—which became OMB in 1970—determined whether the collection of information by a federal agency was necessary for the agency’s proper performance or for any other proper purpose.

In 1977, the Commission on Federal Paperwork reported that notwithstanding the Federal Reports Act process, the federal paperwork burden had continued to grow and that legislative exemptions over the years had exempted as much as 80 percent of the federal paperwork burden from the 1942 act’s clearance process. The Commission recommended reform of the old paperwork clearance process, along with addressing information collection as part of a broader approach to federal information resources management (IRM). In 1980, the Congress enacted the Paperwork Reduction Act, which largely followed the Commission’s recommendations. The act supplanted the Federal Reports Act, made virtually all federal agency information collection activities subject to OMB review, and established broad objectives for OMB oversight of the management of federal information resources. To achieve these objectives, the 1980 act established the Office of Information and Regulatory Affairs (OIRA) within OMB and gave this office a variety of oversight responsibilities over federal information functions, including general information policy, reduction of paperwork burden, federal statistical policy, records management, information privacy, disclosure and security, and the acquisition and use of information technology (then described as automatic data processing and telecommunications functions).¹²

¹¹Ch. 811, 56 Stat. 1078 (Dec. 24, 1942).

¹²Pub. L. 96-511, 94 Stat. 2815-6.

Paperwork Reduction under the Act

The Paperwork Reduction Act of 1980 had three major purposes with regard to information collection:

- minimize the federal paperwork burden for individuals, small businesses, state and local governments, and other persons;
- minimize the cost to the federal government of collecting, maintaining, using, and disseminating information; and
- maximize the usefulness of information collected by the federal government.¹³

To achieve these purposes, the 1980 act required that federal agencies not conduct or sponsor the collection of information unless approved by OMB.¹⁴ Under the law, OMB is required to determine that the agency collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.¹⁵ Consistent with the act's requirements, OMB established a process whereby its OIRA desk officers review proposals by executive branch agencies, including independent regulatory agencies, to collect information from 10 or more persons, whether the collections are voluntary or mandatory. The act gave OMB 60 days to approve or disapprove any collection request. If it approves the collection, OMB assigns a control number and an expiration date, which is limited to no more than 3 years.¹⁶

¹³Pub. L. 96-511, 94 Stat. 2812.

¹⁴Such collections may have a range of purposes: applications for government benefits, program evaluation, general purpose statistics, audit, program planning or management, research, and regulatory or compliance reviews, all of which may occur in a variety of forms, including questionnaires and telephone surveys.

¹⁵Pub. L. 96-511, 94 Stat 2819-21.

¹⁶In addition to the review of individual information collections, the act included provisions for OMB to designate agencies to collect information for other agencies in order to reduce duplication, set goals for the reduction of the burdens of federal information collection activities, and report annually to the Congress regarding paperwork reduction.

To assist agencies in fulfilling their responsibilities under the act, OMB took various steps. It issued a regulation,¹⁷ and it also provided agencies with instructions on filling out a standard form for submissions and providing supporting statements. Further, it developed guidance, which, while remaining in draft, is widely used as a handbook for agencies on compliance with the law, according to OMB officials. For example, the Department of Labor cited the handbook in responding to our questions about its PRA collections.

Finally, in addition to the agency and OMB clearance process, the act encouraged public participation by requiring the solicitation of public comment on proposed collections and, through its “public protection clause,” by providing that individuals could not be penalized for failing to respond to an information collection request that either does not display a valid OMB control number or does not state that the request is exempt from the act.

Implementation of the Paperwork Reduction Act has not been without controversy. Congressional hearings and reports, as well as our reports, have identified issues of concern, including the following:

- *Reduction of paperwork burdens.* Despite the act’s requirements, including specific percentage paperwork reduction goals, the federal paperwork burden has not declined over the life of the act but has generally continued to increase.¹⁸
- *Regulatory review.* OMB’s conduct of paperwork clearance in close alignment with its review of agency regulations under presidential executive orders has periodically raised questions about the extent to which OMB review should affect the policies and substantive requirements of agency decisions.¹⁹

¹⁷5 C.F.R. Part 1320.

¹⁸We have documented this trend in previous work: for example, GAO, *Paperwork Reduction: Little Real Burden Change in Recent Years*, GAO/PEMD-89-19FS (Washington, D.C.: June 14, 1989); *Paperwork Reduction Act: Burden Increases and Violations Persist*, GAO-02-598T (Washington, D.C.: Apr. 11, 2002); GAO, *Paperwork Reduction Act: Record Increase in Agencies’ Burden Estimates*, GAO-03-619T (Washington, D.C.: April 11, 2003).

¹⁹S. Report 104-8 (Feb. 14, 1995), pp. 10, 21; S. Hearing 103-1030 (May 19, 1994); S. Hearing 101-588 (Feb. 21 and 22, 1990).

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- *Public participation.* The ability of the public to contribute to and be informed about agency and OMB paperwork clearance decisions has been a concern of those who questioned the extent to which the process affects the substance of agency program decisions, as well as those who argued that the process has not been sensitive enough to the burdens placed on respondents.²⁰
 - *Information resources management.* OMB and agencies have been criticized for inadequate attention to the other information resources management requirements of the act, ranging from overall IRM strategic planning to specific functions such as information security and the management of information technology.²¹

The Congress addressed these and other issues when reauthorizing the act in 1986 and 1995. The 1986 reauthorization included relatively minor amendments. The 1995 reauthorization, however, included significant revisions in the paperwork reduction provisions, as well as new provisions regarding information dissemination, statistical policy, and information technology management. With regard to paperwork reduction, the legislation's drafters stated that the intention was to revise the act to make a more thorough and open agency paperwork clearance process to improve the quality of paperwork reviews and public confidence in government decision making.

²⁰For example, organizations such as the Children's Defense Fund and United Auto Workers that were critical of OMB's role in reviewing agency information collection proposals asked the Congress to provide "greater and stronger public participation," saying that the "more sunshine in the process, the more open and accountable OMB will be." S. Hearing 101-588 (Feb. 21 and 22, 1990), p. 800. On the other hand, a representative of a Paperwork Reduction Act Coalition, which included the U. S. Chamber of Commerce, testified to Congress that "the more we can involve the public, the better off we are [in improving paperwork reduction efforts]." S. Hearing 103-1030 (May 19, 1994), p. 50.

²¹See, for example, S. Report 104-8 (Feb. 14, 1995), pp. 15-19; H. Report 104-37 (Feb. 15, 1995), pp. 17-21; and our previous reports: GAO, *Information Technology Management: Governmentwide Strategic Planning, Performance Measurement, and Investment Management Can Be Further Improved*, [GAO-04-49](#) (Washington, D.C.: Jan. 12, 2004); *Information Resources Management: Comprehensive Strategic Plan Needed to Address Mounting Challenges*, [GAO-02-292](#) (Washington, D.C.: Feb. 22, 2002); *Information Security: Serious Weaknesses Place Critical Federal Operations and Assets at Risk*, [GAO/AIMD-98-92](#) (Washington, D.C.: Sept. 23, 1998); *Information Security: Opportunities for Improved OMB Oversight of Agency Practices*, [GAO/AIMD-96-110](#) (Washington, D.C.: Sept. 24, 1996); *Information Technology Investment: A Governmentwide Overview*, [GAO/AIMD-95-208](#) (Washington, D.C.: July 31, 1995).

1995 Amendments Increase Requirements for Clearance of Information Collections

The 1995 amendments to the act established detailed paperwork clearance requirements for agencies before OMB review. The 1995 law required every agency to establish a process under the official responsible for the act's implementation, now the agency's CIO,²² to review program offices' proposed collections. This official is to be sufficiently independent of program responsibility to evaluate fairly whether information collections should be approved. Under the law, the CIO is to review each collection of information before submission to OMB, including reviewing the program office's evaluation of the need for the collection and its plan for the efficient and effective management and use of the information to be collected, including necessary resources.²³

As part of that review, the agency CIO must ensure that each information collection instrument (form, survey, or questionnaire) complies with the act. For example, the instrument must explain the reasons for the collection and provide an estimate of the burden of the collection. In addition, the agency is to provide an initial 60-day notice period (in addition to the notice period that was already required after the collection is forwarded to OMB for approval) and otherwise consult with members of the public and affected agencies to solicit comments on (1) whether the proposed collection is necessary for the proper performance of the agency's functions, (2) the accuracy of the agency's burden estimate, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) ways to minimize the burden on respondents, including through the use of automated collection techniques or other forms of information technology.²⁴ Finally, according to the act, the CIO must certify that each proposed collection submitted to OMB for review meets the act's 10 standards (presented in table 1) and provide support for these certifications.

²²The 1995 amendments used the 1980 act's reference to the agency "senior official" responsible for implementation of the act. A year later, Congress gave that official the title of agency Chief Information Officer (the Information Technology Management Reform Act, Pub. L. 104-106, Feb. 10, 1996, which was subsequently renamed the Clinger-Cohen Act, Pub. L. 104-208, Sept. 30, 1996).

²³Pub. L. 104-13, 109 Stat. 172, 44 U.S.C. 3506(c)(1)(A).

²⁴Pub. L. 104-13, 109 Stat. 173-4, 44 U.S.C. 3506(c)(2).

Following satisfaction of these requirements, an agency may submit for OMB review its proposed collections, whether for new collections or reapproval of existing collections. The 1995 amendments, as under the original 1980 act, then rely on OMB to determine whether each agency information collection is necessary for the proper performance of the agency's functions. While not significantly altering OMB authorities, the 1995 amendments did modify the OMB provisions: for example, they shortened the public comment period while information collection submissions are under review at OMB from 60 days to 30 days (having added the 60-day initial comment period that agencies are required to provide before they submit collections to OMB).²⁵ In addition, the amendments required OMB to make its clearance decisions publicly available;²⁶ they specifically addressed extensions of current collections;²⁷ and they clarified procedures for review of information collections required by a regulation.²⁸

Current Paperwork Clearance Process

Under the act as amended in 1995, and as currently required by OMB regulations and guidance, the paperwork clearance process takes place in two stages. First, as required by the act, the agency CIO must review each proposed information collection. During this review, the public must be given a 60-day period in which to submit comments, and the agency is to otherwise consult with interested or affected parties about the proposed collection. At the conclusion of the agency review, the CIO submits the proposal to OMB for review for the second stage in the clearance process. The agency submissions to OMB typically include a copy of the data collection instrument (e.g., a form or survey) and a Paperwork Reduction Act Submission (Standard Form 83-I). The 83-I requires agencies to answer questions, and provide supporting documentation, about the proposed information collection, such as why the collection is necessary, whether it is new or an extension of a currently approved collection, whether it is voluntary or mandatory, and the estimated burden hours. Further, the CIO or the CIO's designee must sign the 83-I to certify, as required by the act,

²⁵Pub. L. 104-13, 109 Stat. 173, 44 U.S.C. 3507(b).

²⁶Pub. L. 104-13, 109 Stat. 178, 44 U.S.C. .3507(e).

²⁷Pub. L. 104-13, 109 Stat. 178, 44 U.S.C. 3507(h).

²⁸Pub. L. 104-13, 109 Stat. 177, 44 U.S.C. 3507(d).

that the collection satisfies the 10 standards of the act (described in table 1).

Following the OMB review, which includes an additional 30-day period for soliciting public comment and may involve consultation between OMB and agency staff, OMB makes its review decision. It informs the agency, and maintains on its Web site a list of all approved collections and their currently valid control numbers, including the form numbers approved under each collection.

Agency Review Processes Were Not Rigorous, and Public Consultation Was Limited

Governmentwide, agency CIOs generally reviewed information collections before they were submitted to OMB and certified that the 10 standards in the act were met. However, in our 12 case studies, CIOs provided these certifications despite often missing or partial support from the program offices sponsoring the collections. Further, although the law requires CIOs to provide support for certifications, agency files contained little evidence that CIO reviewers had made efforts to improve the support offered by program offices. In addition, to obtain comments from potential respondents regarding collections, agency efforts were generally limited to publication of notices in the *Federal Register* and did not include other types of public consultation, as the act requires. Numerous factors have contributed to these conditions, including a lack of management support and weaknesses in OMB guidance. Without appropriate support and public consultation, agencies have reduced assurance that collections satisfy the standards in the act.

In contrast, IRS and EPA have used additional evaluative processes that focus on reducing burden and that involve potential respondents to a much greater extent. According to these agencies, their processes led to significant reductions in burden on the public while maximizing the utility of the information collections.

Support for Certifications Was Often Missing or Partial, Despite CIO Reviews

The 1995 amendments required agencies to establish centralized processes for reviewing proposed information collections within the CIO's office. Among other things, the CIO's office is to certify, for each collection, that the 10 standards in the act have been met, and the CIO is to provide a record supporting these certifications.

The four agencies in our review had written directives that implemented the review requirements in the act, including the requirement for CIOs to certify that the 10 standards in the act were met. The estimated certification rate ranged from 100 percent at IRS and HUD to 92 percent at VA. Governmentwide, agencies certified that the act's 10 standards had been met on an estimated 98 percent of the 8,211 collections.

However, in the 12 case studies that we reviewed, this CIO certification occurred despite a lack of rigorous support that all standards were met. Specifically, the support that was provided for certifying the 10 standards in the act was missing or partial on 65 percent (66 of 101) of the certifications.²⁹ Table 2 shows the result of our analysis of the case studies.

²⁹The total number of certifications does not total 120 (12 cases times 10 standards) because some standards did not apply to some cases.

Table 2: Support Provided by Agencies for Paperwork Reduction Act Standards in 12 Case Studies

Standards	Support provided			
	Total ^a	Yes	Partial	No
The collection is necessary for the proper performance of agency functions.	12	6	6	0
The collection avoids unnecessary duplication.	11	2	2	7
The collection reduces burden on the public, including small entities, to the extent practicable and appropriate.	12	5	7	0
The collection uses plain, coherent, and unambiguous language that is understandable to respondents.	12	1	0	11
The collection will be consistent and compatible with respondents' current reporting and recordkeeping practices to the maximum extent practicable.	12	3	0	9
The collection indicates the retention period for any recordkeeping requirements for respondents. ^b	6	3	3	0
The collection informs respondents of the information they need to exercise scrutiny of agency collections (i.e., the reasons the information is collected; the way it is used; an estimate of the burden; whether responses are voluntary, required to obtain a benefit, or mandatory; and a statement that no person is required to respond unless a valid OMB control number is displayed). ^b	12	4	8	0
The collection was developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected.	11	2	0	9
The collection uses effective and efficient statistical survey methodology (if applicable).	1	1	0	0
The collection uses information technology to the maximum extent practicable to reduce burden and improve data quality, agency efficiency, and responsiveness to the public.	12	8	4	0
Total	101	35	30	36

Source: Paperwork Reduction Act.

^aThe total number of certifications is not always 12 because not all certifications applied to all collections.

^bFor these two standards, the presence on the forms of the information indicated was categorized as support, the absence of some elements was categorized as partial support, and the absence of all elements was categorized as no support.

As shown in table 2, certifications concerning avoiding unnecessary duplication, reducing burden on the public, and ensuring that an agency has a plan and resources for using the information collected—which are critical to achieving the objectives of the act—were among those that frequently lacked complete support. We discuss each of these examples below.

Support for Certifications Concerning Duplication Was Often Missing or Partial

Under the act, CIOs are required to certify that each information collection is not unnecessarily duplicative. According to OMB instructions, agencies are to (1) describe efforts to identify duplication and (2) show specifically

why any similar information already available cannot be used or modified for the purpose described.

In 2 of 11 cases, agencies provided the description requested; for example:

Program reviews were conducted to identify potential areas of duplication; however, none were found to exist. There is no known Department or Agency which maintains the necessary information, nor is it available from other sources within our Department.

However, support for these certifications was missing in 7 cases. An example is the following statement, used on all three IRS collections:

We have attempted to eliminate duplication within the agency wherever possible.

This assertion provides no information on what efforts were made to identify duplication or perspective on why similar information, if any, could not be used. Further, the files contained no evidence that the CIO reviewers challenged the adequacy of this support or provided support of their own to justify their certification.

In an additional 2 cases, partial support was provided. An example is the following, provided by Labor:

[The Employer Assistance Referral Network (EARN)] is a new, nationwide service that does not duplicate any single existing service that attempts to match employers with providers who refer job candidates with disabilities. While similar job-referral services exist at the state level, and some nation-wide disability organizations offer similar services to people with certain disabilities, we are not aware of any existing survey that would duplicate the scope or content of the proposed data collection. Furthermore, because this information collection involves only providers and employers interested in participating in the EARN service, and because this is a new service, a duplicate data set does not exist.

While this example shows that the agency attempted to identify duplicative sources, it does not discuss why information from state and other disability organizations could not be aggregated and used, at least in part, to satisfy the needs of this collection.

The lack of support for these certifications appears to be influenced by a variety of factors. IRS officials, for example, told us that (1) tax data, by its very nature, is not collected by other agencies so there is no need for IRS to contact them about proposed collections and (2) IRS has an effective internal process for coordinating proposed forms among the various IRS organizations that may have similar information. As a result, these officials said that IRS does not need to further justify that its collections are not

duplicative. Nonetheless, the law and instructions require support for these assertions, which was not provided.

In addition, agency reviewers told us that management assigns a relatively low priority and few resources to reviewing information collections. Further, program offices have little knowledge of and appreciation for the requirements of the PRA. As a result of these conditions and a lack of detailed program knowledge, reviewers often have insufficient leverage with program offices to encourage them to improve their justifications.

Without support for these certifications, neither the agency nor the public has adequate assurance that sufficient action has been taken to identify and avoid unnecessary duplication—and reporting burden—in their information collections.

Support for Certifications on Reducing Burden Was Often Incomplete or Inaccurate

The PRA also requires CIOs to certify that the collection reduces burden on the public to the extent practicable and appropriate, including small entities.³⁰ OMB guidance emphasizes that agencies are to demonstrate that they have taken every reasonable step to ensure that the collection of information is the least burdensome necessary for the proper performance of the agency functions, so that it can comply with legal requirements and achieve program objectives. In addition, OMB instructions and guidance direct agencies to provide specific information and justifications: (1) estimates of the hour and cost burden of the collections and (2) justifications for any collection that requires respondents to report more often than quarterly, respond in fewer than 30 days, or provide more than an original and 2 copies of documentation.

³⁰OMB's instructions to agencies state that a small entity may be (1) a small business, which is deemed to be one that is independently owned and operated and that is not dominant in its field of operation; (2) a small organization, which is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field; or (3) a small government jurisdiction, which is a government of a city, county, town, township, school district, or special district with a population of less than 50,000.

In regard to small entities, OMB guidance states that the standard emphasizes such entities because these often have limited resources to comply with information collections.³¹ The act cites various techniques for reducing burden on these small entities,³² and the guidance includes techniques that might be used to simplify requirements for small entities, such as asking fewer questions, taking smaller samples than for larger entities, and requiring small entities to provide information less frequently. However, according to OMB instructions, agencies are required to describe any methods used to reduce burden only if the collection of information has a “significant economic impact on a substantial number of small entities,” rather than requiring such information for all small entities, as the act requires.

For the first part of the certification, which focuses on reducing burden on the public, the case examples generally contained the specific information and justifications called for in the guidance. However, none of the case examples contained support that addressed how the agency ensured that the collection was the least burdensome necessary. According to agency CIO officials, the primary cause for this absence of support is that OMB instructions and guidance do not direct agencies to provide this information explicitly as part of the approval package.

For the part of the certification that focuses on small businesses, our governmentwide sample included reports from agencies of their undertaking various activities that are consistent with this standard:

- Labor officials exempted 6 million small businesses from filing an annual report; telephoned small businesses and other small entities to assist them in completing a questionnaire; reduced the number of small businesses surveyed; and scheduled fewer compliance evaluations on small contractors.

³¹“Particularly for small businesses, paperwork burdens can force the redirection of resources away from business activities that might otherwise lead to new and better products and services, and to more and better jobs. Accordingly, the Federal Government owes the public an ongoing commitment to scrutinize its information requirements to ensure the imposition of only those necessary for the proper performance of an agency’s functions.” H. Report 104-37 (Feb. 15, 1995) p. 23.

³²These include (a) establishing different compliance or reporting requirements or timetables for respondents with fewer available resources; (b) clarifying, consolidating, or simplifying compliance and reporting requirements; and (c) exempting certain respondents from coverage of all or part of the collection.

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- VA officials conducted fewer compliance reviews of small businesses and allowed small businesses to use commercially available claim forms instead of the VA claim form.
 - Interior officials equipped local offices with computers, copying facilities, and materials to aid small businesses in reporting mining operations.

For four of our case studies, however, complete information that would support certification of this part of the standard was not available. Seven of the 12 case studies involved collections that were reported to impact businesses or other for-profit entities, but for 4 of the 7, the files did not explain either why small businesses were not affected or that burden could or could not be reduced even though such businesses were affected. Referring to methods used to minimize burden on small business, the files included statements such as “not applicable.” Because OMB instructions refer to “significant economic impact on a substantial number of small entities,” these statements do not inform the reviewer whether there was an effort made to reduce burden on small entities or not. When we asked agencies about these four cases, they indicated that the collections did, in fact, affect small business.

- A HUD proposal showed that the collection would primarily impact businesses and other for-profit entities. However, the supporting statement said simply, “This information does not impact small businesses or other small entities.” It did not explain what steps the agency had taken to support its conclusion that small businesses were not impacted. When we asked for support for this conclusion, a HUD official acknowledged that the conclusion was incorrect; according to this official, the collection does impact small businesses, but it might not be possible to reduce burden for them.
- Another HUD proposal was identified as impacting businesses and other for-profit entities, and supporting material stated that “This collection of information does not have an impact on small businesses or other small entities.” When we asked for support for this conclusion, program officials acknowledged that some respondents to the *Federal Register* notice had raised concerns about the impact on small entities. Moreover, the supporting statement sent to OMB did not discuss these *Federal Register* comments, as required by OMB instructions.

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- Similarly, in an IRS collection involving a tax credit, the proposal indicated that the collection would impact businesses. However, the supporting statement with regard to small entities said only “not applicable.” When we asked for the support, an IRS official acknowledged the mistake and said that small businesses probably were impacted.

OMB’s instruction does not appropriately reflect the act’s requirements concerning small business: the act requires that the CIO certify that the information collection reduces burden on small entities in general, to the extent practical and appropriate, and provides no thresholds for the level of economic impact or the number of small entities affected. OMB officials acknowledged that their instruction is an “artifact” from a previous form and more properly focuses on rulemaking rather than the information collection process.

Without information in the supporting statement to explain actions taken to minimize burden on the public, including small entities, decision makers and the public would have reduced assurance that a proposed collection satisfied this standard or that small entities are not unduly burdened.

Support for Certifications Concerning the Use of Collected Information Was Often Missing

Under the PRA, CIOs must certify that each collection of information submitted to OMB has been developed by an office that has planned and allocated resources for the efficient and effective management and use of the information, including processing it so as to enhance the utility of the information to agencies and the public.³³ OMB’s guidance³⁴ to agencies states that this certification is intended to ensure that the collection of information will have “practical utility,” as defined in the PRA.³⁵ That is, the CIO is to have carried out the required review of the proposed collection, including ensuring that there is a plan for the management and use of the

³³44 U.S.C. 3506(c)(3)(H).

³⁴OMB Office of Information and Regulatory Affairs, *The Paperwork Reduction Act of 1995: Implementing Guidance for OMB Review of Agency Information Collection*, Draft (Aug. 16, 1999). Although this guidance is still officially in draft, OMB officials stated that agencies are generally aware of the guidance and are expected to follow it.

³⁵44 U.S.C. 3502(11).

information to be collected, as well as identification of necessary resources.³⁶ Necessary resources include personnel, as well as supporting equipment and other technological means to use the information in a timely and useful fashion.³⁷

In our case studies, however, we determined that 9 of 11 submissions did not discuss such a plan or assert that adequate resources would be available to enhance the utility of the information to agencies and the public. The likely cause for these omissions is that OMB's instructions to agencies on preparing information collection submissions are silent on how agencies are to satisfy this standard. As a result, few program offices (only those that look beyond these instructions to the guidance or the law) are likely to address this issue.

Without information in the submission describing the plan and resources for the information collection, decision makers and the public would lack adequate assurance that a proposed collection satisfied this standard and thus that the information would be used in a timely and useful fashion.

Agency Efforts to Seek Public Comment Were Limited

The 1995 amendments to the PRA specifically require agencies to consult with the public on each proposed collection of information when the proposal for approval or reapproval is being developed. According to the act, such consultation is to take two forms: (1) publishing proposed information collections in the *Federal Register* for a 60-day comment period³⁸ and (2) otherwise consulting with potential respondents to information collections. (Examples of other means of consultation used in our case studies include individually contacting up to nine potential respondents,³⁹ meetings held with professional groups, and publishing notices on Web sites.) However, OMB guidance gives agencies discretion to consult the public and others (other than through publication in the

³⁶44 U.S.C. 3506(c)(1)(A); S. Report 104-8 (Feb. 14, 1995), pp. 45-46 ; H. Report 104-37 (Feb. 15, 1995), pp. 43-44.

³⁷44 U.S.C. 3502(11).

³⁸The act requires agencies to publish two notices of proposed collections in the *Federal Register*: an initial 60-day notice when the proposal is first developed and a second 30-day notice when the proposal is submitted to OMB.

³⁹More than nine individuals would trigger the PRA requirement to develop and obtain approval for a formal information collection.

Federal Register) on only those collections that “deserve such effort.” This guidance, however, is contrary to the act, which requires consultations on each collection to solicit comments on

- whether the collection is necessary;
- the accuracy of the agency’s estimate of the burden imposed by the collection;
- ways to enhance the quality, utility, and clarity of the information to be collected; and
- ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques.

For an estimated 89 percent of collections governmentwide, agencies provided the required initial 60-day notice in the *Federal Register* requesting public comments on proposed collections. However, according to our governmentwide sample, agencies did not generally use other means to consult with the public and affected agencies, as required by the act, performing these consultations for only an estimated 37 percent of all collections. At the four agencies, the estimated consultation rate for all collections ranged from 49 percent at IRS to 13 percent at VA. For the 12 collections that we reviewed, agencies performed these consultations for less than half (5 of 12).

When agencies did make efforts to actively consult with potential respondents, some reported that these efforts led to improvements to the proposed collections. For example, VA officials stated that they obtained valuable information through consulting with patient focus groups and with experts in survey methods and data processing for a nationwide survey on customer satisfaction.

The low levels of other types of consultation are particularly significant in view of the sparse responses to the 60-day notices in the *Federal Register*. An estimated 7 percent of notices of collections received one or more comments. According to our sample of all collections at the four agencies reviewed, the number of notices receiving at least one comment ranged from an estimated 15 percent at Labor to an estimated 6 percent at IRS.

A key reason that agencies do not comply with the PRA requirement to “otherwise consult” is the OMB guidance giving agencies discretion not to

consult with the public other than through the *Federal Register*. Other means of consultation may also require additional time and effort, and agency PRA reviewers indicated that program offices are often interested in minimizing the time required for PRA approvals.

If agencies do not actively consult with the public, they limit their ability to determine whether proposed collections adequately satisfy the act's standards that focus on impact on potential respondents, such as the standards on burden, clarity, and recordkeeping. If information collections do not satisfy these standards, they may be unnecessarily burdensome because of lack of clarity, onerous recordkeeping requirements, or other reasons.

Two Agencies Have Developed Processes to Reduce Burden Associated with Information Collections

IRS and EPA have supplemented the standard PRA review process with additional processes aimed at reducing burden while maximizing utility. These agencies' missions require them both to deal extensively with information collections, and their management has made reduction of burden a priority.⁴⁰

In January 2002, the IRS Commissioner established an Office of Taxpayer Burden Reduction, which includes both permanently assigned staff and staff temporarily detailed from program offices that are responsible for particular information collections. This office chooses a few forms each year that are judged to have the greatest potential for burden reduction (these forms have already been reviewed and approved through the conventional PRA process). The office evaluates and prioritizes burden reduction initiatives by

- determining the number of taxpayers impacted;
- quantifying the total time and out-of-pocket savings for taxpayers;
- evaluating any adverse impact on IRS's voluntary compliance efforts;

⁴⁰"IRS is committed to reducing taxpayer burden and established the Office of Taxpayer Burden Reduction (OTBR) in January 2002 to lead its efforts." Congressional testimony by the IRS Commissioner, April 20, 2004, before the Subcommittee on Energy Policy, Natural Resources, and Regulatory Affairs, House Committee on Government Reform.

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- assessing the feasibility of the initiative, given IRS resource limitations; and
 - tying the initiative into IRS objectives.

Once the forms are chosen, the office performs highly detailed, in-depth analyses, including extensive outreach to the public affected, the users of the information within and outside the agency, and other stakeholders. This analysis includes an examination of the need for each data element requested. In addition, the office thoroughly reviews form design.⁴¹

The office's Director reports to the IRS Commissioner for the Small Business and Self-Employed Division. The Director also heads a Taxpayer Burden Reduction Council, which serves as a forum for achieving taxpayer burden reduction throughout IRS. The work of the council may involve all IRS divisions and functions, as well as outside stakeholders, including other federal agencies, state agencies, tax practitioner groups, taxpayer advocacy panels, and groups representing the small business community. IRS reports that as many as 100 staff across IRS and other agencies can be involved in burden reduction initiatives.

The council directs its efforts in five major areas:

- simplifying forms and publications;
- streamlining internal policies, processes, and procedures;
- promoting consideration of burden reductions in rulings, regulations, and laws;
- assisting in the development of burden reduction measurement methodology; and
- partnering with internal and external stakeholders to identify areas of potential burden reduction.

⁴¹In congressional testimony, the IRS Commissioner stated that OMB had referred another agency to IRS's Office of Taxpayer Burden Reduction as an example of a "best practice" in burden reduction in government.

IRS reports that this targeted, resource-intensive process has achieved significant reductions in burden: over 200 million burden hours since 2002. For example, it reports that about 95 million hours of taxpayer burden were reduced through increases in the income-reporting threshold on various IRS schedules.⁴² Another burden reduction initiative includes a review of the forms that 15 million taxpayers use to request an extension to the date for filing their tax returns.

(We did not verify the accuracy of IRS's reported burden hour savings. We have previously reported that the estimation model that IRS uses for compliance burden ignores important components of burden and has limited capabilities for analyzing the determinants of burden.⁴³ Moreover, IRS has an effort under way to revise the methodology used to compute burden. That new methodology, when completed, may result in different estimates of reduced burden hours.)

Similarly, EPA officials stated that they have established processes for reviewing information collections that supplement the standard PRA review process. These processes are highly detailed and evaluative, with a focus on burden reduction, avoiding duplication, and ensuring compliance with PRA. According to EPA officials, the impetus for establishing these processes was the high visibility of the agency's information collections and the recognition, among other things, that the success of EPA's enforcement mission depended on information collections being properly justified and approved: in the words of one official, information collections are the "life blood" of the agency.

⁴²In addition, the office reports that IRS staff positions could be freed up through its efforts to raise the reporting threshold on various tax forms and schedules. Fewer IRS positions are needed when there are fewer tax forms and schedules to be reviewed.

⁴³GAO, *Tax Administration: IRS Is Working to Improve Its Estimates of Compliance Burden*, [GAO/GGD-00-11](#) (Washington, D.C.: May 22, 2000).

According to these officials, the CIO staff are not generally closely involved in burden reduction initiatives, because they do not have sufficient technical program expertise and cannot devote the extensive time required.⁴⁴ Instead, these officials said that the CIO staff's focus is on fostering high awareness within the agency of the requirements associated with information collections, educating and training the program office staff on the need to minimize burden and the impact on respondents, providing an agencywide perspective on information collections to help avoid duplication, managing the clearance process for agency information collections, and acting as liaison between program offices and OMB during the clearance process. To help program offices consider PRA requirements such as burden reduction and avoiding duplication as they are developing new information collections or working on reauthorizing existing collections, the CIO staff also developed a handbook⁴⁵ to help program staff understand what they need to do to comply with PRA and gain OMB approval.

In addition, program offices at EPA have taken on burden reduction initiatives that are highly detailed and lengthy (sometimes lasting years) and that involve extensive consultation with stakeholders (including entities that supply the information, citizens groups, information users and technical experts in the agency and elsewhere, and state and local governments). For example, EPA reports that it amended its regulations to reduce the paperwork burden imposed under the Resource Conservation and Recovery Act. One burden reduction method EPA used was to establish higher thresholds for small businesses to report information required under the act. EPA estimates that the initiative will reduce burden by 350,000 hours and save \$22 million annually. Another EPA program office reports that it is proposing a significant reduction in burden for its Toxic Release Inventory program.⁴⁶

⁴⁴These officials added that in exceptional circumstances the CIO office has had staff available to perform such projects, but generally in collaboration with program offices.

⁴⁵EPA Office of Environmental Information, Collection Strategies Division, *ICR Handbook: EPA's Guide to Writing Information Collection Requests Under the Paperwork Reduction Act of 1995*, draft (revised March 2005).

⁴⁶We did not verify the accuracy of EPA's burden reduction estimates.

Overall, EPA and IRS reported that they produced significant reductions in burden by making a commitment to this goal and dedicating resources to it. In contrast, for the 12 information collections we examined, the CIO review process resulted in no reduction in burden. Further, the Department of Labor reported that its PRA reviews of 175 proposed collections over nearly 2 years did not reduce burden.⁴⁷ Similarly, both IRS and EPA addressed information collections that had undergone CIO review and received OMB approval and nonetheless found significant opportunities to reduce burden.

Four Agencies Generally Ensure That Collection Forms on Web Sites Are Approved and Inventoried

The PRA and related regulations provide requirements for agencies to obtain OMB approval for all information collections and to include all collections in an inventory. OMB approval is indicated on associated forms by a control number and a date indicating when the approval to collect the information is to expire.⁴⁸ OMB refers to collections that it has not approved as “bootleg” collections.

In general, the four agencies had ensured that collections were approved and inventoried. However, there were some exceptions:

- an estimated 61 forms (5 percent) were not approved by OMB or included in an inventory of approved forms.
- an estimated 8 forms (1 percent) were expired collections, where OMB’s approval to collect the information had lapsed.

Table 3 shows these results for each agency.

⁴⁷These reviews did result in a 1.3 percent reduction in calculated burden by correcting mathematical errors in program offices’ submissions.

⁴⁸After the expiration date, the public cannot be penalized for not responding (unless the collection is required by statute).

Table 3: Estimated Rates of Unapproved and Expired Forms at Four Agencies

Agency	Number of forms	Not OMB-approved	Approval expired	Total
VA	208	15 (7%)	1 (1%)	16 (8%)
HUD ^a	423	26 (6%)	6 (1%)	32 (7%)
Labor	149	2 (1%)	1 (1%)	3 (2%)
IRS ^a	492	18 (4%)	0 (0%)	18 (4%)
Total^a	1,272	61 (5%)	8 (1%)	69 (5%)

Source: GAO.

Note: Totals may not add because of rounding.

^aFor HUD and IRS, we followed a probability procedure based on random selections. Since each sample could have provided a different estimate, we express our confidence in the precision of our particular sample results as a 95 percent confidence interval. This is the interval that would contain the actual population value for 95 percent of the samples we could have drawn. All percentage estimates for HUD, IRS, and the total row have margins of error of plus or minus 10 percentage points or less.

The lack of OMB approval for nearly all of these forms is attributable to disagreement concerning what collections are covered by PRA. For example, IRS’s position was that the forms in question were in a category of inquiry that does not fall under PRA. This category of inquiry, which is considered routine and not burdensome to the respondent, includes affidavits, oaths, affirmations, certifications, receipts, change of address, consents, and acknowledgments. According to OMB’s regulation, this category is limited to those disclosures that require persons to provide or display only facts necessary to identify themselves, e.g., they entail no burden other than that necessary to identify the respondent, the date, the respondent’s address, and the nature of the instrument.⁴⁹ Because the agency considered the forms to fall into this category, it did not submit these forms for PRA review.

However, we determined that the forms in question entailed significant burden, often requiring multiple signatures and the need to read and understand extensive narrative explanations, including references to various Internal Revenue Code sections or publications that the

⁴⁹According to OMB’s guidance, the phrase “nature of the instrument” refers to a respondent’s request for material, such as publications or other information, from an agency. In these cases, agencies may ask requesters to describe the material or information in sufficient detail for the agency to respond appropriately.

respondents were expected to understand and follow. Accordingly, these forms are covered by the act.

The eight expired collections, where OMB's approval to collect the information had lapsed, can be attributed to agencies not following established processes for obtaining OMB reapproval of existing collections.

Information collections that are unapproved may not be necessary or useful and may result in unnecessary burden on the public.

Four Agencies Did Not Always Ensure that Forms on Web Sites Displayed Public Scrutiny Information Required by the Act

The PRA and related regulations provide requirements for agencies to display certain information on federal forms or their instructions, including the following:

- the reason for collecting the information and a description of how the information will be used;
- an estimated time to complete the form (which gives the public an opportunity to comment on the accuracy of the estimated burden);
- a statement informing the public whether responses are voluntary, mandatory (citing the authority), or required to obtain a benefit (citing the authority);
- a currently valid OMB control number (indicating that the agency has been authorized to collect the information);
- a date indicating when OMB's approval to collect the information is to expire (after which the public cannot be penalized for not responding); and
- a statement that the public has a right not to respond to the request for information if a valid OMB control number is not displayed.⁵⁰

⁵⁰The requirements for this statement and the OMB number are together known as the "public protection provision," in that a person cannot be penalized for not responding if either the control number or the statement is absent. However, the public protection provision may not apply if the collection is mandated by statute (e.g., the requirement to file a tax return).

Agencies that fully comply with these requirements are considered to be providing the public with an opportunity to hold agency officials accountable. As stated in the applicable regulation (5 C.F.R. 1320.12), the absence of an OMB control number on a collection will alert the public that either the agency has failed to comply with applicable legal requirements for the collection of information or the portion of the rule containing the collection of information has no legal force and effect.

However, collection forms on the four agencies' Web sites did not consistently include required information. Specifically, an estimated 41 percent of forms (487 of 1,179 total forms, excluding bootleg and expired forms) on the four agencies' Web sites—ranging from 13 percent at VA to 55 percent at HUD—contained one or more violations. As shown in table 4, at the four departments and agencies, we estimate that in the population of 1,179 forms,

- 105 (9 percent) did not properly display a currently valid OMB control number (this number does not include the forms that OMB had not approved, discussed earlier);
- 122 forms (10 percent) did not properly display the expiration date (this number does not include the estimated 8 forms for which OMB's approval had lapsed, discussed earlier); and
- 327 forms (27 percent) did not inform respondents of one or more of the required public notifications described above.

Table 4: Estimated Rates That Approved and Unexpired Forms on Agency Web Sites Did Not Include All Information

Agency	Number of approved forms	OMB control number missing or incorrect	Expiration date missing	Missing one or more notices	Overall noncompliance
VA	192	8 (4%)	0 (0%)	18 (9%)	24 (13%)
HUD ^a	391	83 (21%)	89 (23%)	87 (22%)	214 (55%)
Labor	146	14 (10%)	33 (23%)	20 (14%)	57 (39%)
IRS ^a	474	0 (0%)	0 (0%)	202 (43%)	202 (43%)
Total^a	1,203	105 (9%)	122 (10%)	327 (27%)	497 (41%)

Source: GAO.

Note: Totals may not add because of rounding. In determining overall compliance, a form was counted as noncompliant if it contained one or more violations of the provisions shown on this table.

^aFor HUD and IRS, we followed a probability procedure based on random selections. Since each sample could have provided a different estimate, we express our confidence in the precision of our particular sample results as a 95 percent confidence interval. This is the interval that would contain the actual population value for 95 percent of the samples we could have drawn. All percentage estimates for these two agencies and the total row have margins of error of plus or minus 10 percentage points or less.

These levels of noncompliance can be attributed to multiple causes. VA and HUD lacked established processes to monitor forms on agency Web sites. At the Department of Labor, however, noncompliance can be attributed to lapses in attention to established processes. Specifically, Labor’s Departmental Clearance Officer, along with each agency clearance officer, is to check each month forms that are to be made available on the Internet to ensure that the proper PRA disclosures are included before and after posting. However, for 57 forms at Labor, including two of the three case study collections, this was not done.

Labor officials reported that efforts are under way to provide a central point of accountability for ensuring that all Web content is PRA-compliant. This will be done by centralizing the administration and management of the department’s Web site content under the Office of Public Affairs. As part of this effort, Labor reports that the CIO will work closely with the Office of Public Affairs to ensure that all items posted on Web sites are fully PRA-compliant.

Unless agencies closely monitor their Web sites to determine whether the required PRA information is included in forms presented to respondents, there is reduced assurance that agencies’ established processes will be followed.

In the case of IRS, most of the agency's noncompliance resulted from forms that did not cite the tax law that requires the information to be collected. OMB regulations and guidance state that agencies are to cite the law or other authority whenever the collection of information is required to obtain or retain a benefit (such as a passport or Social Security payment) or is mandatory (with civil or criminal sanctions imposed for failure to respond).⁵¹ However, the following typical PRA notice on IRS forms omits the required reference to the law:

We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

When we discussed with IRS officials why the specific tax law requiring information to be reported was missing in one of our case studies, the IRS Reports Clearance Officer stated that IRS's burden estimation methodology increases the burden estimate when a specific law is mentioned in order to include the time required to read the law. Further, IRS officials told us that citing the "Internal Revenue laws of the United States" provided adequate disclosure and that on many forms, it would be impractical to cite a specific law authorizing the collection. Nonetheless, the regulations require citation of the law so that respondents are fully informed. Until IRS corrects this language on the forms, respondents may not know what law is associated with the information requested.

If information collections do not comply with the PRA requirements described, the public may be asked to provide information without appropriate disclosure of the information that would allow the public to exercise scrutiny of agencies' collections.

Conclusions

The primary goal of the PRA—to minimize paperwork burden on the public while maximizing the public benefit and utility of government information collections—was the impetus for both the CIO review and public consultation requirements of the act. However, as these processes are

⁵¹"If the collection is required to obtain or retain a benefit or mandatory, the agency should cite the legal authority therefore as part of the notice to the respondents. This should ensure a higher response rate and help the respondent understand the benefit and/or need to respond in an accurate, complete manner." OIRA, *The Paperwork Reduction Act of 1995: Implementing Guidance for OMB Review of Agency Information Collection*, draft (Aug. 16, 1999), Ch. V, section D.4.

currently implemented, they have limited effect on the quality of support provided for information collections. CIO reviews appear to be lacking the rigor that the Congress envisioned. The additional comment period added in 1995 appears to have had limited effectiveness in obtaining the views of the public, and agencies are not directly consulting with affected parties as the act requires. Many factors have contributed to the current state of agency review processes, including lack of management support, weaknesses in OMB guidance, and insufficient agency attention to the requirements of the PRA and related guidance. Until these factors are addressed, OMB, federal agencies, and the public lack adequate assurance that government information collections are necessary and that they appropriately balance the resulting burden with the benefits of using the information collected.

The targeted approaches to burden reduction used by IRS and EPA represent a promising alternative to the current process outlined in the PRA. However, the agency's experience also suggests that to make such an approach successful requires top-level executive commitment, extensive involvement of program office staff with appropriate expertise, and aggressive outreach to stakeholders. Indications are that such an approach would also be more resource-intensive than the current process. Moreover, such an approach may not be warranted at agencies that do not have the level of paperwork issues that face IRS and similar agencies. Consequently, it is critical that any efforts to expand the use of the IRS and EPA models consider these factors.

Finally, agencies are generally ensuring (with some exceptions) that forms available on their Web sites are approved, but deficiencies remain in providing the public with all information required by the PRA. Agencies have not established or consistently followed processes for monitoring forms on their Web sites. Without such processes, the PRA goals regarding the public scrutiny of information collections will not be met.

Matters for Congressional Consideration

Given the identified weaknesses in current processes and the possibility of achieving significant paperwork reduction through other initiatives, the Congress may wish to consider mandating the development of pilot projects to test and review the value of approaches such as those used by IRS and EPA. In structuring these pilots, the Congress may wish to consider requiring

-
- the Director, OMB, to issue guidance to agencies on implementing this approach, including criteria for assessing collections along the lines of the process currently employed by IRS and
 - agencies participating in pilots to submit to OMB and publish on their Web sites (or through other means) an annual plan on the collections targeted for review, specific burden reduction goals for those collections, and a report on reductions achieved to date.

In addition, in view of the few comments these notices elicit, the Congress may wish to consider eliminating the requirement to publish the initial 60-day notice in the *Federal Register* requesting public comments on proposed collections.

Recommendations for Executive Action

We recommend that the Director, OMB, take five actions. First, we recommend that the Director alter OMB's current guidance to all federal agencies to

- emphasize the importance of information collection requirements and the need for management support;
- clarify the kinds of support it asks agency CIOs to provide for certifications, including that agencies have taken steps to
 - reduce burden on those providing the information,
 - determine whether small entities are affected by the collection and to reduce reporting burden on these entities, and
 - establish a plan for the management and use of information to be collected and identify necessary resources;
- direct agencies to consult with potential respondents beyond the publication of *Federal Register* notices; and
- require agencies to periodically review Web sites to (1) identify any forms that may not have been approved by OMB and (2) ensure that all approved forms include required information.

In addition, to help ensure that program office staff, as well as CIO staff, is fully aware of the requirements and importance of the information process,

we recommend that the Director make the revised guidance available to all agency personnel.

We recommend that the Secretaries of Housing and Urban Development, Labor, the Treasury, and Veterans Affairs direct responsible CIOs to

- strengthen agency support for CIO certifications, including with regard to the necessity of collection, burden reduction efforts, and plans for the use of information collected;
- ensure that consultation with potential respondents occurs beyond the publication of *Federal Register* notices;
- remove all forms from agency Web sites that have not been approved by OMB until such approval is obtained;
- add required information to all forms on Web sites that we identified as lacking this information; and
- improve oversight by periodically reviewing the Web sites of agencies and their agents to ensure that all forms are approved and contain information required by PRA.

Agency Comments and Our Evaluation

We provided a draft of this report to OMB, the four agencies we reviewed, and EPA for review and comment. Five agencies provided written comments, which varied in scope and detail (EPA provided technical comments by e-mail, which have been included in the report as appropriate). The five letters received are reproduced in appendixes III through VII, along with our detailed responses. Of the five agencies, one agreed with our recommendations, and the remaining four agreed with some recommendations but disagreed with certain aspects of our findings, conclusions, or recommendations.

The comments provided by the five agencies included the following points of agreement with our report:

- The Administrator of OMB's Office of Information and Regulatory Affairs expressed OMB's agreement with most of the recommendations and stated that the office is considering changing OMB instructions to align them more closely to the 10 standards in the act and is exploring alternative approaches to advising agencies on their PRA

responsibilities. The OIRA Administrator also stated that the report is a useful first step that has identified potential procedural weaknesses that warrant further review and possible corrective action. The Administrator further agreed with us that targeted approaches to burden reduction of the types used by IRS and EPA may not be warranted at all agencies, depending on their paperwork issues.

- The CIO of HUD stated that the department has begun correcting PRA deficiencies by removing unapproved forms from the department's Web site, strengthening controls over forms on the Web site, and improving standards for certification.
- The CIO of the Department of Labor stated that the department has taken action to implement some of our recommendations by consolidating production of all Labor Web sites to ensure that Labor's posting of forms is aligned with the department's PRA process.
- The Secretary of Veterans Affairs concurred with all of our recommendations and described the actions to be taken to comply with PRA.

However, four of the five agencies expressed disagreement with one or more specific points in our report.

- OMB, the Treasury, Labor, and HUD disagreed with our recommendation to ensure that public consultation occurs on each collection in addition to the act's required 60-day *Federal Register* notice; OMB also disagreed with our related recommendation that it alter its guidance to direct agencies to consult with potential respondents beyond publication of the *Federal Register* notices. The OIRA Administrator stated that the office interprets publication in the *Federal Register* as the "principal means of agency consultation with the public," and that PRA notices on forms "provide an opportunity for further public input." According to the Administrator, OMB believes that on those collections that are particularly important, additional consulting should occur. The Treasury CIO stated that the PRA does not specify when agencies are to consult and that the notices on IRS's forms satisfy the requirement to consult (these are the standard PRA notices that, among other things, solicit public comments). The Department of Labor's CIO stated that publication of the *Federal Register* notice is sufficient (particularly for routine renewals of collections), that to do more would not be a good use of agency resources, and that the

rulemaking process involves “give and take” with the regulated community that “meets the practical purposes intended by the PRA requirements for consultation.” The CIO of HUD agreed that more efforts could be made to seek public comment, but stated that extensive public outreach on all information collection submissions is impracticable (particularly for approval renewals and for small and short-term collections).

We disagree with the agencies’ positions on public consultation. The language of the act clearly requires consultation to occur on every collection: agencies shall “provide 60-day notice in the *Federal Register*, and otherwise consult with members of the public and affected agencies concerning each proposed collection...”⁵² Given this unambiguous statutory language, we believe that OMB should direct agencies to consult on every collection, as the law requires. However, we are also concerned that public consultation be efficient and effective; accordingly, among the matters that we propose for congressional consideration is the mandating of pilot projects to test and review alternative approaches to achieving the PRA’s goals. We disagree with the position of OMB and the Treasury that asking the public to comment on approved forms satisfies the law’s requirement. OMB’s regulation requires that forms include a request that the public direct to the agency any comments concerning the accuracy of burden estimates and suggestions for reducing burden. This requirement, however, is separate from the PRA requirement that agencies consult with the public. We also disagree with the Treasury that the act does not specify when agencies are to consult. The act states that an agency “shall not conduct or sponsor the collection of information unless in advance of the adoption or revision of the collection of information (1) the agency has ... evaluated the public comments received under section 3506(c)(2),” which is the section establishing the public consultation requirement cited above. We disagree with the Labor CIO that the give and take of the rulemaking process with the regulated community meets the purposes intended by the PRA’s consultation requirement. Although some information collections are associated with rulemaking, many are not. The act’s requirements for consultation apply to all information collections.

- OMB, the Treasury, and HUD disagreed with our finding that certain forms have been improperly treated as certifications and elections that are not subject to the PRA.

⁵²Pub. L. 104-13, 109 Stat. 173, 44 U.S.C. 3506(c)(2).

We continue to believe that the forms in question do not properly fall into this category, because they entail significant burden. OMB's regulation states that the certifications and elections exemption only applies "provided that [forms] entail no burden other than that necessary to identify the respondent, the date, the respondent's address, and the nature of the instrument..."⁵³ In contrast, these forms contain multiple requirements that go beyond this threshold. For example, the IRS forms include requirements for respondents to report income or expense information, apply for a Social Security number if needed, read various IRS publications, submit additional IRS forms, obtain multiple signatures, become familiar with various Internal Revenue Code sections, submit copies of the completed forms to various IRS offices, and retain a copy for their records.

- OMB and the Treasury disagreed with our position that IRS's reference to "the Internal Revenue laws of the United States" on its forms does not satisfy OMB's regulation requiring the specific legal authority to be cited. In addition, the Treasury CIO stated that the references in instructions and other IRS information products to specific sections of the tax code are sufficient to provide taxpayers with the knowledge of what law requires them to report their information.

OMB's regulation states that agencies are to cite the specific legal authority whenever the collection of information is required to obtain or retain a benefit or is mandatory. OMB's guidance explains the reason for this requirement as follows: "This should ensure a higher response rate and help the respondent understand the benefit and/or need to respond in an accurate, complete manner." If OMB determines that IRS's circumstances are such that the requirement should be modified in this case, it may decide to alter its regulation. We also disagree that references in instructions and information products to specific sections of the tax code serve to provide taxpayers with the knowledge of what law requires them to report their information; many of these references are not related to the law requiring persons to report the specific information asked for on the form, but rather explain how to fill out the form.

⁵³According to OMB's guidance, the phrase "nature of the instrument" refers to a respondent's request for material, such as publications or other information, from an agency. In these cases, agencies may ask requesters to describe the material or information in sufficient detail for the agency to respond appropriately.

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- OMB disagreed with our conclusion, stated in various forms throughout the draft report, that without appropriate support and public consultation, agencies have little assurance that collections satisfy the standards in the act. According to the OIRA Administrator, this conclusion is not justified because the draft report does not provide specific examples showing that lack of support or consultation resulted in a collection lacking practical utility or imposing unnecessary burden.

We disagree with OMB's overall comment that the information in the draft report does not support our conclusion. Our review was aimed at examining compliance with the overall framework the Congress enacted to minimize public burden and maximize utility. Accordingly, we believe that agencies' not complying with that framework reduces the assurance that these goals have been met. Analyzing specific collections for their burden and utility was not part of the scope of our work.

- The Treasury CIO disagrees with the "implied conclusion" in our draft report that CIO and OMB reviews were inadequate because they did not produce reductions in burden similar to those of IRS's Office of Taxpayer Burden Reduction (OTBR). OMB similarly disagrees with our conclusion that "the standard PRA review process resulted in no reduction in burden" in the 12 case studies, because we did not demonstrate that burden reduction would have been feasible if the CIO review of these collections had been more rigorous. According to the Treasury CIO, it is unrealistic to expect the Treasury CIO (or OMB) to have the resources and expertise to undertake complex burden reduction initiatives, as OTBR does, involving as many as 100 staff, and that charging an agency's CIO with carrying out PRA responsibilities is not particularly suited for an agency with separate bureaus with distinct missions, like the Treasury. The CIO suggests that burden reduction reviews may benefit from responsibility being transferred to an organizational level with the requisite program knowledge and expertise.

We make no such "implied conclusion." Instead, our report concludes that CIO reviews were inadequate because they were not fully compliant with the requirements of the PRA. In addition, the report describes how CIO reviews, as currently implemented by agencies, are not yielding the level of reductions reported by the OTBR process. Consequently, our report highlights the OTBR process—as well as a similar EPA effort—as promising alternatives to the current process.

Our statement that the review process resulted in no reduction in burden is a factual statement, rather than a conclusion. Furthermore, the reported success of OTBR reviews suggests the feasibility of further burden reduction. However, we are unable to determine whether the current process could achieve similar reductions because none of the agencies we reviewed had a process that was fully compliant with PRA requirements. As a result, we are recommending that OMB and agencies improve the current process and suggesting that the Congress consider exploring promising alternative approaches.

- The Treasury CIO takes issue with our finding that IRS's support was often absent or incomplete in certifying that the 10 standards in PRA had been met (particularly those involving the elimination of unnecessary duplication, reducing burdens on small business, and its ability to effectively use the information collected). With respect to eliminating unnecessary duplication, for example, the CIO stated that no other agency collects tax information collected by the IRS. Moreover, the development and review of all tax forms is centralized within one IRS office, which eliminates the possibility that one IRS office might develop an information collection that overlaps with one developed by another office.

We continue to believe that IRS's support was often absent or incomplete in certifying that the 10 standards in PRA had been met. PRA requires agencies to have support for its certifications (similar to the support that IRS requires of taxpayers' deductions), and we examined whether the support that IRS provided for certification of the act's 10 standards (including the elimination of unnecessary duplication) was adequate, not whether IRS was in compliance with the standards. We found that such support was often absent or incomplete in the IRS collections we reviewed.

As agreed with your offices, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from the date of this letter. At that time, we will send copies of this report to the Director of OMB, the Secretary of Housing and Urban Development, the Secretary of Labor, the Secretary of Veterans Affairs, the Secretary of the Treasury, the Administrator of the Environmental Protection Agency, and interested congressional committees. We will also provide copies to others on request. In addition, the report will be available at no charge on the GAO Web site at <http://www.gao.gov>.

Should you have any questions about this report, please contact me at (202) 512-6240 or Al Stapleton, Assistant Director, at (202) 512-3418. We can also be reached by e-mail at koontzl@gao.gov and stapletona@gao.gov, respectively. Other key contributors to this report included Barbara Collier, David Plocher, Theresa Roberson, and Warren Smith.



Linda D. Koontz
Director, Information Management Issues

Standards That Must Be Certified in Paperwork Reduction Act Submissions

The 1995 amendments to the Paperwork Reduction Act established detailed paperwork clearance requirements for agencies before information collections are proposed to the Office of Management and Budget (OMB) for review. The 1995 law required every agency to establish a process under the official responsible for the act's implementation, now the agency Chief Information Officer,¹ to review program offices' proposed collections and certify that they meet 10 standards. These standards are codified at 5 C.F.R. 1320.9. The standards read as follows:

“As part of the agency submission to OMB of a proposed collection of information, the agency (through the head of the agency, the Senior Official, or their designee) shall certify (and provide a record supporting such certification) that the proposed collection of information—

“(a) is necessary for the proper performance of the functions of the agency, including that the information to be collected will have practical utility;

“(b) is not unnecessarily duplicative of information otherwise reasonably accessible to the agency;

“(c) reduces to the extent practicable and appropriate the burden on persons who shall provide information to or for the agency, including with respect to small entities, as defined in the Regulatory Flexibility Act (5 U.S.C. § 601(6)), the use of such techniques as:

“(1) establishing differing compliance or reporting requirements or timetables that take into account the resources available to those who are to respond;

“(2) the clarification, consolidation, or simplification of compliance and reporting requirements; or collections of information; or

“(3) an exemption from coverage of the collection of information, or any part thereof;

¹The 1995 amendments used the 1980 act's reference to the agency “senior official” responsible for implementation of the act. A year later, Congress gave that official the title of agency Chief Information Officer (the Information Technology Management Reform Act, Pub. L. 104-106, Feb. 10, 1996, which was subsequently renamed the Clinger-Cohen Act, Pub. L. 104-208, Sept. 30, 1996).

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“(d) is written using plain, coherent, and unambiguous terminology and is understandable to those who are to respond;

“(e) is to be implemented in ways consistent and compatible, to the maximum extent practicable, with the existing reporting and recordkeeping practices of those who are to respond;

“(f) indicates for each recordkeeping requirement the length of time persons are required to maintain the records specified;

“(g) informs potential respondents of the information called for under §1320.8(b)(3);”

[5 C.F.R. 1320.8(b)(3) requires that each collection of information

“informs and provides reasonable notice to the potential persons to whom the collection of information is addressed of:

“(i) the reasons the information is planned to be and/or has been collected;

“(ii) the way such information is planned to be and/or has been used to further the proper performance of the functions of the agency;

“(iii) an estimate, to the extent practicable, the average burden of the collection (together with a request that the public direct to the agency any comments concerning the accuracy of this burden estimate and any suggestions for reducing this burden);

“(iv) whether responses to the collection of information are voluntary, required to obtain or retain a benefit (citing authority) or mandatory (citing authority);

“(v) the nature and extent of confidentiality to be provided, if any (citing authority); and

“(vi) the fact that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.”]

“(h) has been developed by an office that has planned and allocated resources for the efficient and effective management and use of the

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information to be collected, including the processing of the information in a manner which shall enhance, where appropriate, the utility of the information to agencies and the public;

- “(i) uses effective and efficient statistical survey methodology appropriate to the purpose for which the information is to be collected; and
- “(j) to the maximum extent practicable, uses appropriate information technology to reduce burden and improve data quality, agency efficiency and responsiveness to the public.”

Objectives, Scope, and Methodology

Our objectives were to assess

- the extent to which, before information collections are submitted to the Office of Management and Budget (OMB) for approval, agencies have (1) established effective processes for Chief Information Officers (CIO) to review information collections and certify that the 10 standards in the act were met and (2) complied with the requirements to consult with the public on such collections;
- the extent to which agencies ensure that collection forms on agency Web sites are properly approved by OMB and included in an inventory of approved collections; and
- the extent to which agencies ensure that collection forms on agency Web sites disclose certain required information that the public needs to exercise scrutiny of agency activities.

To determine the extent that federal agencies have established effective processes to review proposed information collections, we performed two levels of work: (1) a governmentwide analysis of collections from OMB's database of over 8,200 approved collections and (2) detailed audit work including case study reviews and applicable internal controls at four agencies that represented about 83 percent of the PRA burden hours at 68 agencies governmentwide.

At the governmentwide level, we selected a stratified random probability sample of 343 collections from a population of 8,211 OMB-approved collections as of May 2004 to estimate the percentage of collections in compliance with the act's requirements

- to issue a notice in the *Federal Register* providing a 60-day public comment period;
- for the CIO to certify that the 10 information management standards in the act had been met; and
- for the agency to consult with the public and affected agencies on ways to minimize burden.

We stratified the population into five groups by defining a stratum for each of the four agencies included in the case study and a fifth stratum for all other agencies. Disposition of sampled collections is provided in table 5.

With this probability sample, each collection in the population had a known and nonzero probability of being selected. Each sampled collection was subsequently weighted in the analysis to account statistically for all the members of the population, including those that were not selected.

Table 5: Disposition of Sampled Collections

Definition of strata	Number in population	Number selected in sample
HUD	257	60
Labor	401	62
Treasury/IRS	808	67
VA	230	60
All other agencies	6,515	94
Total	8,211	343

Source: GAO.

Because we followed a probability procedure based on random selections, each sample is only one of a large number of samples that we might have drawn. Since each sample could have provided a different estimate, we express our confidence in the precision of our particular sample results as a 95 percent confidence interval. This is the interval that would contain the actual population value for 95 percent of the samples we could have drawn. As a result, we are 95 percent confident that each of the confidence intervals in this report will include the true values in the sample population.

At the detailed agency audit level, we compared the act's requirements with the paperwork clearance processes used at three departments and one agency: the Departments of Veterans Affairs (VA), Housing and Urban Development (HUD), and Labor, as well as the Internal Revenue Service (IRS) in the Department of the Treasury. Together, these departments and agencies represented a broad range of paperwork collections and accounted for about 83 percent of all 68 agencies' 8.1 billion hours of paperwork burden in 2003—with IRS alone accounting for over 80 percent. In addition, these agencies represent a mixture of regulatory agencies (IRS and Labor) and benefit-focused agencies (HUD and VA). We also examined these agencies' written directives and orders for reviewing proposed collections for compliance with the act's requirements.

We also selected for detailed case reviews 12 OMB-approved collections (3 at each agency) using the following criteria: a mixture of new and existing collections, burden hours that exceeded 4,000 hours, and collections that originated in more than one agency program office. For example, at VA, we examined collections from both the benefit and health program offices. We compared the agencies' processes and practices in these case studies with the (1) act's requirements, (2) OMB's regulation and draft guidance to agencies, and (3) agencies' written directives and orders. For each of the 10 certifications, we determined the extent to which the support provided in the case study files met each of these requirements and classified them as meeting all elements of the requirement (yes), not meeting any of the elements of the requirement (no), or meeting some but not all elements of the requirement (partial). Finally, we interviewed agency officials about their processes to review proposed information collections.

To determine the extent to which the four agencies ensure that all collections were reviewed, included in an inventory, and disclose required information, we first identified the population of forms available via the agency's Web site that were subject to PRA. Because of the design of agencies' Web sites, it is possible that we did not identify all forms subject to PRA. Conversely, some forms we initially had identified as subject to PRA were subsequently removed from our review when agencies provided additional information that showed the forms were exempt under the act. Next, we examined for compliance all of the forms that we could locate on the VA and Labor Web sites and examined a stratified random probability sample of forms on the IRS and HUD Web sites. We randomly selected 119 forms from the 492 on the IRS Web site and selected a stratified random sample of 253 forms from the 423 on the HUD Web site. With these probability samples, each form in the population had a known and nonzero probability of being selected. Each sampled form was subsequently weighted in the analysis to account statistically for all the members of the population, including those that were not selected.

We used the results of our analyses to estimate the percentages of the following five categories of PRA violations:¹

¹We did not determine whether the Web site forms properly described the nature and extent of confidentiality provided to respondents' information, because it would not have been practical for us to attempt to determine in each case whether there was a law authorizing the confidentiality.

- collections that had never been sent to OMB for approval (these were in total violation of the act's paperwork clearance requirements, including the requirement to issue a *Federal Register* notice providing a 60-day comment period);²
- expired collections, where OMB's approval had lapsed;
- collections that did not properly display the expiration date (which indicates when OMB's approval to collect the information ends);
- collections that did not properly display the OMB control number, which indicates that the agency has been authorized to collect the information (this category includes forms that were not on the agency's inventory of approved collections that OMB maintains on its Web site); and
- collections that did not inform respondents of one or more of the five required notifications (e.g., the right not to respond if a valid OMB control number is not displayed).

We did not analyze the information collections or the rate of violations based on the different purposes for which the information is requested (e.g., program planning, research).

Finally, we asked agencies to confirm or refute our findings. This included sending each of the four agencies a listing of those collections that we identified as having PRA violations that fell into one or more of the five categories noted above and requesting that the agencies indicate whether or not they concurred with our determination. When warranted by the agency material provided in response to our request, we revised our determination that a collection was in violation of the PRA.

All percentage estimates from the samples have margins of error of plus or minus 10 percent or less, unless otherwise noted.

After updating our review records as a result of agency responses, we checked the reliability of our review determinations and data entry by having a second reviewer check random samples of records drawn from

²IRS forms with multiple schedules and attachments were counted as one form. Our analyses of the sample of forms from IRS's Web site is limited to a determination of whether the required PRA information was disclosed (not whether the form was approved by OMB).

the data sets we created to contain our review results. A second reviewer checked 25 percent of the records from our sample of 343 collections drawn from OMB's approved collections database and 10 percent of the records from our four agency Web site forms data set. In both data sets, individual data element errors were around 1 percent of all data elements examined, and all identified errors were corrected. We also performed automated error checks and analyses to detect problems with the data. We determined that the data were sufficiently reliable for the purposes of this report.

In accordance with generally accepted government auditing standards, we also determined that the computer-generated data in OMB's database of information collections that we relied on for this report was sufficiently accurate and complete for our purposes. Specifically:

- We randomly selected 60 active collections in the database population of 8,211 for all 68 agencies as shown on OMB's Web site as of May 2004.
- Next, we compared the information in the database with the information on the source documents—i.e., agencies' Standard Form 83s submitted to OMB as well as OMB's memoranda on its decision whether to approve the proposed collection. Based on sample results, in which we found no errors, we can conclude with 95 percent confidence that the information was accurately recorded in OMB's database.

Finally, we randomly selected 90 collections from the population of all active collections governmentwide stored in folders at OMB as of July 2004 and found all 90 were recorded in the database. Based on the sample results, in which we found no errors, we can conclude with 95 percent confidence that OMB's database of information collections was complete. We also determined from the OMB official responsible for receiving and storing agencies' submittals what steps OMB takes to ensure that all agency submissions are received and recorded in the database.

Comments from the Office of Management and Budget

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

ADMINISTRATOR
OFFICE OF
INFORMATION AND
REGULATORY AFFAIRS

APR 20 2005

Mr. Alan Stapleton
Assistant Director
Information Management Issues
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Mr. Stapleton:

Thank you for providing the Office of Management and Budget (OMB) an opportunity to comment on the draft GAO report on Executive Branch compliance with the Paperwork Reduction Act ("Paperwork Reduction Act: New Approach May Be Needed to Reduce Government Burden on Public").

Since it was created by the Paperwork Reduction Act of 1980 (PRA), OMB's Office of Information and Regulatory Affairs (OIRA) has devoted itself to reducing unnecessary reporting burdens imposed on the public, maximizing the practical utility of the information that agencies collect, and overseeing agency compliance with the Act. In recent years, through our "zero tolerance" policy regarding PRA violations, OMB and the agencies have eliminated hundreds of past violations – and prevented hundreds of new violations that would otherwise have occurred – with respect to agencies continuing to collect information (which OMB had once approved) without going through the Act's public comment and OMB approval procedures for renewing OMB's approval of the collection (which the Act requires at least once every three years). Our efforts in this area have benefited from external critiques that produce cogent, pertinent suggestions to improve our implementation of the PRA.

The draft report responds to a congressional request that GAO assess the extent to which agencies (1) ensure that chief information officers (CIOs) adequately review information collections and certify that the PRA's standards have been met and (2) meet the PRA's requirements to consult with the public. GAO was also asked to assess agency performance in ensuring that collections of information on agency websites are properly approved by OMB, included in their inventories of approved collections, and disclose required information to the public. These are important issues that relate directly to the core purposes of the PRA. The 1995 reauthorization of the PRA explicitly made agencies primarily responsible for ensuring that their proposed collections comply with the Act's requirements (including that the collection maximizes practical utility and minimizes respondent burden), and the PRA's public consultation and disclosure requirements help OMB in its oversight role.

Based on a review of 343 agency information collections (randomly selected from all 8,211 collections) and 12 case studies at four agencies, the draft report concludes that agency evaluative processes and public consultations did not, in GAO's view, comply fully with the Act's requirements in the two areas studied. OMB appreciates the work that GAO has done, and we believe that GAO's research has identified potential procedural weaknesses that warrant further review and, where necessary, appropriate corrective action. However, we would need to see additional evidence before we could agree with the draft report's statement that, "[w]ithout appropriate support and public consultation, agencies have little assurance that collections satisfy the standards in the [PRA]," a statement that appears, in various forms, at several points throughout the draft report (i.e., in the Highlights section, and at pp. 5, 14, 17, 21, 22, 24, and 33-34). GAO's draft report does not provide specific examples of how the perceived deficiencies in documentary support and public consultation have led to more burden and/or less useful information (in fact, the draft report states (at p. 35) that, "in view of the few comments these notices elicit, the Congress may wish to consider eliminating the requirement to publish the initial 60-day notice in the *Federal Register* requesting public comments on proposed collections," a public consultation requirement that was added to the Act in the 1995 amendments).

See comment 1.

See comment 2.

See comment 3.

While we do not believe that the draft report's broad conclusions can be justifiably drawn from this limited study, OMB believes the draft report is a useful first step, and OMB commends GAO for conducting the 12 case studies. To address some of the issues raised in the draft report, we have already begun to consider making changes to OMB instructions to agencies that respond to some of the report's draft findings.

See comment 4.

In considering alternative approaches to reducing paperwork burden, OMB agrees with GAO on the need for proportionality. Specifically, GAO noted (at p. 34) that the "targeted approaches to burden reduction used by IRS and EPA . . . may not be warranted at all agencies that do not have the level of paperwork issues that face IRS and similar agencies. Consequently, it is critical that any efforts to expand the use of the IRS and EPA models consider these factors." OMB appreciates the practicality of this sentiment and believes that proportionality needs to be considered at the level of an individual collection, not just at the agency level.

OMB has also concluded that OMB's draft PRA guidance to agencies, which was released in draft form in August 1999, has become outmoded. In noting agencies' reliance on OMB's draft guidance, the draft report concludes that, in several instances, this may have resulted in less than complete agency compliance with PRA procedural requirements. We would note that OMB developed this draft guidance to aid staff in agency CIO offices and to foster a dialogue with agencies seeking OMB approval of information collection requests. This guidance was never intended to establish requirements or procedures that agencies were required or expected to follow. The PRA itself, along with OMB's PRA implementing regulations (5 CFR 1320) and instructions for completing the Form 83-I and Supporting Statement for Paperwork Reduction Act submissions (attached), outline agency responsibilities. The draft report has persuaded us

that OMB's draft PRA guidance does not serve its intended purpose, and we will explore alternative approaches to advising agencies on their PRA responsibilities.

See comment 5.

The draft GAO report found that, in its case studies of 12 information collections, agencies sometimes provided inadequate documentary support for some elements in the certifications that agencies made in their requests for OMB approval. OMB was neither surprised nor concerned that GAO found varying degrees of detail in the information provided by agencies. We would note that the requirement for a certification by a senior agency official reflects the 1995 PRA's clear mandate that agencies—not OMB—are ultimately responsible for ensuring that their collections maximize practical utility and minimize the burden imposed on the public. Moreover, requiring that agencies certify that PRA standards have been met (as opposed to mandating specific amounts of supporting documentation) allows agencies to calibrate the level of detail they provide with the relative policy significance and/or paperwork burden of a given collection. The fact that OMB has approved an agency's information collection request, taking into account the certification and the information provided by agencies in their 83-I Supporting Statements—as well as information obtained through conversations and meetings with agencies—reflects a judgment that OMB has sufficient evidence that an information collection meets the standards of the PRA.

See comment 6.

In any event, even were we to agree with the draft report that agencies did not provide adequate documentation to support the CIO certifications that the PRA standards were met, we would still not concur with the conclusion (which the draft report offers) that “the standard PRA review process resulted in no reduction in burden” in the 12 case studies (p. 28). The draft report does not demonstrate that burden reduction would have been feasible had the CIO review processes in these 12 cases been more rigorous. As the draft report's examination of IRS' targeted approach to reducing burden illustrated, it is often the program office, not the CIO, that has the expertise to identify burden reduction opportunities. OMB does believe, however, that the instructions for completing Paperwork Reduction Act Submissions could be revised to align more closely with the ten standards that are certified to by agencies.

See comment 7.

In considering whether or not agencies are adequately consulting with the public, GAO calculated a “consultation rate” that measured the degree to which agencies both publish the required notices in the *Federal Register* seeking public comment for 60 days and otherwise consult with potential respondents. OMB has consistently interpreted the PRA's consultation language to require that, for each and every collection, agencies publish *Federal Register* notices that seek public comment on the need for the collection, the accuracy of the agency's burden estimate, ways to improve the practical utility of the collection, and ways to reduce the collection's burden. Any comments that agencies receive in response to these *Federal Register* notices are summarized in agency information collection requests submitted to OMB for review. OMB thus views these notices as the principal means of agency consultation with the public. In addition, the PRA notices that agencies include on forms provide an opportunity for further public input. OMB does not believe, however, that the PRA requires agencies to “otherwise consult” on each and every information collection. For those collections that are

particularly important, agencies should and do make efforts to obtain additional public feedback (e.g., public meetings and surveys). OMB believes this approach ensures that (1) the public is given an adequate opportunity to provide feedback to agencies on information collections and the burden they impose and (2) agencies take appropriate steps to obtain additional input on collections that are particularly burdensome and important.

We also would note that more proactive approaches to seeking public comments are themselves burdensome for the public. It takes time for public respondents to provide additional comments on agency information collections. OMB would thus assess the need for agency outreach by determining if the “practical utility” of the comments the agency is likely to receive would justify the reporting burden entailed with providing the comments. Finally, given its limited scope, the draft report does not provide concrete evidence, with respect to individual collections of information, that an agency’s decision not to “otherwise consult” on a particular collection has in fact resulted in a collection that lacks practical utility or imposes unnecessary burden. Indeed, we note that the draft report suggests (p. 35) that Congress consider eliminating the requirement that agencies publish 60-day notices in the *Federal Register* requesting public comment on proposed information collections.

See comment 8.

See comment 9.

GAO also assessed the degree to which four selected agencies ensured the forms on their websites were approved by OMB and provided the required public disclosures. OMB agrees that agency compliance with these PRA requirements is very important. OMB does not, however, agree with the draft report that all of the agency practices cited in the draft report do not comply with the PRA. For example, the draft report attributes most of IRS’ noncompliance to “forms that did not cite the tax law that requires the information to be collected” (p. 32). OMB has reviewed draft IRS collections over the years, and we are familiar with the IRS practice of citing the Internal Revenue Laws to inform taxpayers that they are required to respond. We do not believe that a more detailed notice is required, and disagree with the draft report (p. 33) that, “[u]ntil IRS corrects this language on the forms, respondents will not know what law is associated with the information requested, as is their right.” In the absence of information that taxpayers are confused by the current IRS notice and are not sure if their responses are mandatory, we are not persuaded that revising this disclosure is warranted.

See comment 10.

OMB has, however, taken steps to resolve and prevent actual violations of the PRA—those that involve use by agencies of forms without the necessary OMB approvals. In fact, over the past several years, OMB has adopted a policy of “zero tolerance” of PRA violations. To help the public and the agencies monitor compliance with the information collection provisions of the PRA, OMB publishes a list of violations in the annual Information Collection Budget (ICB). OMB has devoted a great deal of effort toward resolving all agency PRA violations prior to publication of the forthcoming FY 2004 ICB, and we are pleased to report that agencies have reduced outstanding violations (at the time OMB submits to ICB to Congress) from 325 in FY 1998 to 0 in FY 2004. While we do not necessarily agree with GAO’s conclusions about unapproved and expired forms—OMB, for example, agrees with Treasury that 15 of the 18 reported IRS

See comment 11.

Appendix III
Comments from the Office of Management
and Budget

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“bootlegs” were certifications and elections that are not subject to the PRA, and that another collection at issue is no longer in use—we do appreciate GAO’s attention to this issue.*

With respect to GAO’s recommendations to alter OMB’s guidance to agencies, we agree that improvements can be made. OMB is already developing modernized guidance on surveys conducted under the PRA, and we will make a determination as to whether one or several additional guidance statements are appropriate. We will also consider making changes to the instructions for Paperwork Reduction Act Submissions to address the findings in the draft report. In light of the very small sample of collections examined in the draft report, OMB would not support implementing, at this point, the draft report’s other recommendations until additional evidence has been developed that modifying agency PRA review and consultation procedures would be cost-effective (e.g., such modifications could require agencies to divert their scarce resources away from ongoing burden reduction initiatives, such as those described in OMB’s annual ICB, and such a redirection of agency resources could thereby have the unintended consequence of actually increasing respondent burden).

Thank you again for this opportunity to comment on the draft report.

Sincerely,

Handwritten signature of John D. Graham in black ink, appearing to read "John D. Graham / J.D.G."

John D. Graham, Ph.D.
Administrator

*We do agree with the statement in the draft report (p. 30) that “[i]nformation collections that are *unapproved* may not be necessary or useful and may result in unnecessary burden on the public” (emphasis added). There is a very significant difference, however, between (1) a collection that has not gone through the *Federal Register* comment process, not been certified by the agency’s CIO, and not been reviewed and approved by OMB, and (2) a collection that has been subject to *Federal Register* comment, has been certified by the CIO, and has been reviewed and approved by OMB. The issues that are raised in the draft concern, for the most part, collections that were subject to *Federal Register* comment, were certified by the agency’s CIO, and were reviewed and approved by OMB. Through our implementation of the “zero tolerance” policy, OMB and the agencies over the past four years have succeeded in eliminating hundreds of past PRA violations and in preventing hundreds of new PRA violations that would have otherwise occurred.

See comment 12.

The following are GAO's comments on the Office of Management and Budget's letter dated April 20, 2005.

GAO Comments

1. We disagree with OMB's overall comment that the information in the draft report does not support our conclusion. We continue to believe that without improved compliance on the act's major provisions, the government has reduced assurance that the goals of the act will be achieved. Our review was aimed at examining compliance with these provisions, which the Congress enacted as part of an overall framework to minimize public burden and maximize utility. Accordingly, we believe that agencies' not complying reduces the assurance that these goals have been met.
2. We agree that we did not cite specific examples of increased burden and reduced utility. However, analyzing specific collections for their burden and utility was not part of the scope of our work. See comment 1.
3. We disagree with OMB's implication that our suggestion regarding eliminating the 60-day notice is incongruous with our interest in increasing public consultation. Our suggestion is not aimed at reducing opportunities for public consultation, but rather at recognizing that this approach to consultation appears not to be effective.
4. We disagree with OMB's characterization of our review as a "limited study." We compared the act's requirements with the paperwork clearance processes used at four agencies that, together, represent a broad range of paperwork collections and accounted for about 83 percent of all 68 agencies' 8.1 billion hours of paperwork burden in 2003. We also interviewed agency officials about their processes for reviewing proposed information collections. In addition, for each of the 12 case studies (3 cases at each of the four agencies), we compared the agencies' processes and practices in these case studies with (1) the act's requirements, (2) OMB's regulation and draft guidance to agencies, and (3) agencies' written directives and orders. For each of the act's 10 certifications, we determined the extent to which the support provided in the case-study files met each of these requirements.

In addition to the 12 case studies, we randomly selected 343 cases from over 8,200 collections at 68 agencies that we used to determine

compliance levels at the four agencies and governmentwide with the act's requirements to issue a notice in the *Federal Register* providing a 60-day public comment period; for the CIO to certify that the 10 information management standards in the act had been met; and for the agency to consult with the public and affected agencies on ways to minimize burden.

5. We disagree with OMB's implication that our finding regarding support for certifications is not a matter of concern. The Administrator states that OMB is unsurprised that we found variation in degrees of detail and the volume of documentation, and that OMB is confident that its approvals of collections are based on sufficient evidence. However, our concern is not based on variation in degrees of detail or volume, but on the adequacy of the support provided. The law requires the CIO to provide a record supporting the certifications. Our analysis of these records concluded that the support provided was often missing or partial. We did not review OMB's processes for approving information collections.
6. We disagree with OMB's position that in order to conclude that "the standard PRA review process resulted in no reduction in burden" in the 12 case studies,¹ we would have to demonstrate that burden reduction would have been feasible if the CIO review of these collections had been more rigorous. It is a fact, rather than a conclusion, that we found no burden reduction resulting from any agency's CIO review of the collections in our review; similarly, the Department of Labor found no burden reduction for 175 of its reviews. In addition, OTBR's reported success in reducing burden for collections already approved by both the CIO and OMB suggests that additional reductions are feasible. However, we are unable to determine the magnitude of reductions possible under the current CIO review process because none of the agencies we reviewed have processes that fully comply with PRA requirements. By implementing our recommendations to improve the current review process and make it fully compliant, OMB and agencies—and the Congress—should then have the means to measure the results of this process and compare these with the results of alternative approaches. In addition, we agree that the program offices

¹Although OMB did not raise this point, we have clarified our report to refer to "the CIO review process" rather than "the standard PRA review process" to avoid any ambiguity about the scope of our conclusion.

often have the expertise to identify burden reduction activities—a position wholly consistent with the PRA. Under the act, program offices—rather than the CIO—have the responsibility for justifying their proposed information collections.

7. We disagree with OMB's position on public consultation. The language of the act clearly requires consultation to occur on every collection: agencies shall "provide 60-day notice in the *Federal Register*, and otherwise consult with members of the public and affected agencies concerning each proposed collection..."² Given this unambiguous statutory language, we believe that OMB should direct agencies to consult on every collection, as we recommended. We disagree that asking the public to comment on approved forms satisfies that requirement. OMB's regulation does require that forms include a request that the public direct to the agency any comments concerning the accuracy of burden estimates and suggestions for reducing burden. This requirement, however, is separate from the PRA requirement that agencies consult with the public.
8. We do not agree that our report is of limited scope because it does not provide concrete evidence of unnecessary burden or reduced utility with respect to individual collections. See comment 4.
9. See comment 3.
10. We do not agree with OMB's opinion that IRS forms do not need to cite specific legal authority requiring the information to be collected. OMB's regulation states that agencies are to cite the specific legal authority whenever the collection of information is required to obtain or retain a benefit or is mandatory. OMB's guidance explains the reason for this requirement as follows: "This should ensure a higher response rate and help the respondent understand the benefit and/or need to respond in an accurate, complete manner." If OMB determines that IRS's circumstances are such that the requirement should be modified for IRS, it may decide to alter its regulation.
11. We disagree with OMB's position that the IRS forms we discussed fall into the category of certification and election not subject to the PRA. OMB's regulation states that the certifications and elections exemption

²Pub. L. 104-13, 109 Stat. 173, 44 U.S.C. 3506(c)(2).

only applies “provided that [forms] entail no burden other than that necessary to identify the respondent, the date, the respondent’s address, and the nature of the instrument...”³ In contrast, these forms contain multiple requirements that go beyond this threshold. For example, the IRS forms include requirements for respondents to report income or expense information, apply for a Social Security number if needed, read various IRS publications, submit additional IRS forms, obtain multiple signatures, become familiar with various Internal Revenue Code sections, submit copies of the completed forms to various IRS offices, and retain a copy for their records.

12. We disagree with OMB that before it can determine to implement our recommendation on public consultation, it should wait for additional evidence on its cost-effectiveness. It is our position that the act’s language currently requires consultation to occur on each collection. We do suggest, however, that the Congress may wish to consider mandating the development of pilot projects to test and review the value of alternative approaches to the current process; such pilot projects could help OMB develop evidence regarding the cost-effectiveness of a number of different options for achieving the goals of the PRA.

³According to OMB’s guidance, the phrase “nature of the instrument” refers to a respondent’s request for material, such as publications or other information, from an agency. In these cases, agencies may ask requesters to describe the material or information in sufficient detail for the agency to respond appropriately.

Comments from the Department of Housing and Urban Development

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



CHIEF INFORMATION OFFICER

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410-3000

APR 20 2005

Mr. Al Stapleton, Assistant Director
Information Management Issues
United States Government
Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Mr. Stapleton:

I want to thank you for the opportunity to review and comment on the draft report, "Paperwork Reduction Act: A New Approach May Be Needed to Reduce Government Burden on Public (GAO-05-424)." This Department is actively underway with correcting any Paperwork Reduction Act (PRA) deficiencies. Our comments follow.

Collection Forms on Web Sites Are Approved, Inventoried, and Displayed Public Scrutiny Information Required by the Act. Specifically, all forms identified in GAO's report as not currently approved under the PRA have been removed from HUD's website. We also note that numerous posted forms cited in the GAO Report did not have a PRA approval since they were not in use by the public. In that regard, we have strengthened our internal procedures to ensure that forms not in use by the public cannot be inadvertently left on HUD's website.

We do not agree with GAO's determination that a number of "forms" previously considered exempt under the PRA as certifications should be deemed as imposing a public burden because of their length or the time required to read. The PRA makes no such distinction. Further, this interpretation could encourage breaking one certification into multiple certifications, which could have an impact on information collections. In addition to exempting certifications, we also recommend consideration of additional types of information for exemption under the PRA, such as, contracts and agreements imparting information already approved for collection.

Public Consultation and More Rigorous Reviews. I believe HUD has responsibly sought public input for its information collections. We agree with the conclusion that efforts could be further intensified to seek public comment on our information collection activities. However, we believe extensive public outreach for all information collection submissions is impracticable, particularly for approval renewals and for small and short-term collections. The GAO report states that only about seven percent of *Federal Register* notices soliciting input received a comment. However, the volume of requests for additional information or visits to our website to download files as promoted by those notices is much higher.

See comment 1.


See comment 2.

Appendix IV
Comments from the Department of Housing
and Urban Development

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We continue with efforts to intensify reviews of information collections to improve our standards of certification. However, we will have to address the need for additional resources to place more emphasis in the areas of public consultation and more rigorous reviews. This Department recognizes the importance of the Paperwork Reduction Act and will continue to focus on and support this program. Thank you for considering our comments. Please let me know if you have any questions.

Sincerely,



Lisa Schlosser

The following are GAO's comments on the Department of Housing and Urban Development's letter dated April 20, 2005.

GAO Comments

1. We disagree with HUD's position that certain forms that we identified in our review are certifications not subject to PRA. OMB's regulation states that the certifications and elections exemption only applies "provided that [forms] entail no burden other than that necessary to identify the respondent, the date, the respondent's address, and the nature of the instrument..."¹ HUD's forms require respondents to incur a significant amount of burden that exceeds this threshold.
2. Although the HUD CIO believes that extensive public outreach on all collections is impracticable, PRA clearly requires public consultation to occur on every collection: agencies shall "provide 60-day notice in the *Federal Register*; and otherwise consult with members of the public and affected agencies concerning each proposed collection..."² Approval renewals and small and short-term collections are not exempt from this requirement. We believe that agencies should comply with current law. However, we are also concerned that public consultation be efficient and effective; accordingly, among the matters that we propose for congressional consideration is the mandating of pilot projects to test and review alternative approaches to achieving the PRA's goals.

¹According to OMB's guidance, the phrase "nature of the instrument" refers to a respondent's request for material, such as publications or other information, from an agency. In these cases, agencies may ask requesters to describe the material or information in sufficient detail for the agency to respond appropriately.

²Pub. L. 104-13, 109 Stat. 173, 44 U.S.C. 3506(c)(2).

Comments from the Department of Labor

Note: GAO comments supplementing those in the report text appear at the end of this appendix.

U.S. Department of Labor

Office of the Assistant Secretary
for Administration and Management
Washington, D.C. 20210



APR 21 2005

Linda D. Koontz
Director of Information Management Issues
General Accountability Office

Dear Director Koontz:

Thank you for the opportunity to comment on your draft report "Paperwork Reduction Act: A New Approach May Be Needed to Reduce Government Burden on Public" (GAO-05-424). Since the enactment of the PRA '95, the Department of Labor (DOL) has made considerable progress in reducing the burden of its information collection activities on the American public, while maintaining its mission and fulfilling its responsibilities to the American workforce. Our comments on the draft report follow.

Several of the recommendations in the draft report address forms found on DOL agency web sites. This reflects the fact that the PRA and the processes supporting it were written to address paper forms—before the internet was a common way of distributing forms. To address some of these shortcomings, DOL is already moving to consolidate production of all of our public web sites, and to bring the publication of forms on websites into alignment with the DOL's PRA process.

The draft report also makes a recommendation that agencies consult with potential respondents to paperwork requirements by additional means beyond the publication of Federal Register notices. In our dialogue with GAO staff developing this report, we noted that we do not read the PRA to require more than the publication of Federal Register notices. In particular, investing additional time for consultation on routine paperwork approval renewals is not a good use of agency resources. We have also made the point to your staff that the rulemaking process involves substantial "give and take" with the regulated community when new paperwork requirements are promulgated or existing requirements are updated. In our view, this amply meets the practical purposes intended by the PRA requirements for consultation.

Thank you for the opportunity to participate in this study.

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick Pizzella".

Patrick Pizzella
Assistant Secretary for Administration and Management,
Chief Information Officer

See comment 1.

The following is GAO's comment on the Department of Labor's letter dated April 21, 2005.

GAO Comment

1. We disagree with Labor's interpretation of the act's public consultation provision. The act's language is very specific in requiring consultation on each collection. We disagree that the give and take of the rulemaking process with the regulated community meets the purposes intended by the PRA's consultation requirement. Although some information collections are associated with rulemaking, many are not. The act's requirements for consultation apply to all information collections. We believe that agencies should comply with current law. However, we are also concerned that public consultation be efficient and effective; accordingly, among the matters that we propose for congressional consideration is the mandating of pilot projects to test and review alternative approaches to achieving the PRA's goals.

Comments from the Department of the Treasury

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

APR 19 2005

Ms. Linda D. Koontz
Director, Information Management Issues
United States Government Accountability Office
Washington, D.C. 20548

Dear Ms. Koontz:

This is in reply to your request for the views of the Department of the Treasury on GAO's draft report, *PAPERWORK REDUCTION ACT – New Approach May Be Needed to Reduce Government Burden on Public*.

The Department of the Treasury remains fully committed to complying with the Paperwork Reduction Act (PRA) and strives to minimize, wherever possible, the burdens associated with the paperwork requirements we impose on the public. We appreciate the opportunity to comment on the draft report, and thank you and your staff for taking the time to discuss the PRA and the results of your review on several occasions. However, and as we indicated at our meeting on April 1, 2005, we respectfully disagree with a number of your conclusions and recommendations.

Unapproved Information Collections

The draft report states that GAO identified 18 IRS forms (out of 492 forms examined by GAO) that are subject to the PRA but that were not approved by OMB. We agree that two of these forms are subject to the PRA and should have been approved by OMB. The IRS has submitted these forms to OMB for approval.

A third form was used in connection with the settlement of tax liabilities of taxpayers that participated in an illegal tax-shelter scheme. It is our view that this form is exempt from the PRA pursuant to 44 U.S.C. 3518(c)(1)(B)(i) because the information collection occurred during the course of identifying and settling with the taxpayers involved. We also note that this form was discontinued in June 2004 when the settlement program expired.

It is our view that the remaining 15 forms, which generally are routine certifications and elections, are exempt from the PRA pursuant to OMB's regulations at 5 CFR 1320.3(h)(1) and (10). As we previously indicated, we have discussed each of these forms with OMB, and OMB has advised us that none of these forms is subject to the PRA. GAO's conclusion to the contrary contravenes 25 years of practice under the PRA and fails to accord appropriate deference to OMB's administration of its own regulations.

See comment 1.

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Information Disclosures on Forms

The draft report estimates that the IRS has an overall non-compliance rate of 43 percent with respect to providing the public with required disclosures on its forms, and attributes most of this non-compliance to the failure of the IRS to include specific citations to the tax law that requires the information to be collected. The draft report also states that “[u]ntil the IRS corrects this language on the forms, respondents will not know what law is associated with the information requested.” We disagree.

See comment 2.

We believe the IRS provides the necessary information to taxpayers. Every IRS form subject to the PRA has for many years included a statement that the information is needed both “to carry out the Internal Revenue laws of the United States” and “to ensure that [the taxpayer is] complying with these laws.” It is our view, in which OMB concurs, that the citation to the “Internal Revenue laws of the United States” satisfies OMB’s regulations and guidance concerning the disclosure of the law that requires the information to be collected. We believe that taxpayers fully understand that they are not only required to provide information to the IRS, but that such information must be complete and accurate. Including a specific provision of the Internal Revenue Code would do nothing to ensure a higher response rate or help taxpayers understand the need to be accurate and complete when providing information to the IRS. Because the disclosure of legal authority is solely governed by OMB’s regulations (the PRA does not require such a disclosure), we believe that OMB’s determination that the IRS statement is in compliance with its regulations is dispositive of the issue.

See comment 3.

Finally, with respect to the statement in the draft report that the IRS does not provide taxpayers with information to know what law is associated with tax forms, we note that instructions to tax forms and other information products prepared by the IRS are replete with citations to specific Code sections and IRS regulations when that information would help taxpayers understand their compliance obligations under the law.

Consultation With the Public

With respect to each form subject to the PRA, the PRA generally directs agencies (1) to provide a 60-day notice in the *Federal Register* and (2) to otherwise consult with members of the public to solicit comment on the information collection. 44 U.S.C. 3506(c)(2)(A).

The draft report takes the position that the “otherwise” consult requirement applies “when the proposal for approval . . . is being developed.” On this basis, the draft report then estimates that the IRS only complies with this requirement with respect to 49 percent of its forms. We disagree with this conclusion.

See comment 4.

The PRA does not specify when agencies are to “otherwise” consult. It is our view, in which OMB concurs, that the requirement that agencies “otherwise” consult with members of the public may, but does not necessarily have to, occur when a proposal for

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approval is under development. To satisfy the “otherwise” consult requirement, the IRS publishes on each form subject to the PRA an on-going and open-ended invitation to the public to comment on IRS forms, including the accuracy of the estimated time to complete the form, suggestions on how that burden may be reduced, and how to make the form easier to understand. To the extent comments are received from the public in response to these solicitations, they are taken into account when the proposal for reapproval of the form is being developed. The IRS also publishes drafts of major forms on its website to obtain comments from taxpayers, tax practitioners, and software developers.

See comment 5.

In some cases, it is indeed appropriate to engage in more direct and focused public consultations, and GAO estimates that IRS does this with respect to almost half of its forms. It is our view, in which OMB concurs, that the IRS solicitation of public comments on its forms fully satisfies the requirement that it “otherwise” consult with members of the public, and that the extensive public outreach that the IRS engages in with respect to nearly half of its forms actually exceeds the requirements of the PRA.

See comment 6.

Finally, while we appreciate that the draft report accurately describes the mission and some of the accomplishments of the IRS Office of Taxpayer Burden Reduction, we do not believe that the successes of that office in reducing burden supports the implied conclusion that CIO and OMB reviews were inadequate because they did not produce similar results. We say this for two reasons.

First, burden reduction initiatives in the tax area are highly complex projects requiring intense coordination among multiple IRS components and often other agencies (such as the Bureau of the Census). As correctly noted in the draft report, as many as 100 staff experts from various IRS offices and other agencies can be involved in a single burden reduction initiative, which normally takes months (or even years) to develop and implement. It is simply unrealistic to expect Treasury’s CIO (or OMB) to have the resource levels and staff expertise to undertake initiatives of this nature. Indeed, staffing the Treasury CIO and OMB at such levels would be a needless duplication of the resources available at the IRS.

Second, under the PRA, each agency CIO is charged with carrying out the agency’s responsibilities under the PRA. This assignment of responsibilities is more likely to be effective in an agency with a “monolithic” structure, but does not seem particularly suited for an agency like the Department of the Treasury, which has separate bureaus with distinct -- and often unrelated -- missions. It is simply not realistic to expect the Treasury CIO to have the resources and expertise necessary to perform independent burden reduction reviews across the spectrum of Treasury’s bureaus.

See comment 7.

We are not suggesting that centralized CIO responsibilities are not appropriate for all aspects of the PRA; we do suggest that burden reduction reviews may benefit from transferring that responsibility to the organizational level with the most knowledge and expertise of the programs and operations involved.

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Certifications

See comment 8.

The draft report states that the IRS had a 100 percent compliance rate in certifying that the 10 statutory standards applicable to information collections had been met. The draft report, however, also states that documentary support that many of the standards had been satisfied was often absent or incomplete. For example, the draft report is critical of the IRS for not providing sufficient support for the certifications regarding the elimination of unnecessary duplication, reducing burdens on small businesses, and its ability to effectively use the information collected.

See comment 9.

The IRS has perhaps the most efficient and rigorous paperwork review process in the Federal Government. In contrast to most information collections, which are generally subject to the PRA process every three years, most IRS forms are subject to the PRA process on an annual basis. For example, all annual tax returns (such as IRS Form 1040 and its schedules and attachments) have been reviewed annually under the PRA for the past 25 years. This continuous analysis and review of tax forms over the years has, we believe, resulted in tax forms that comply fully with the 10 statutory standards.

See comment 10.

With respect to the elimination of unnecessary duplication, no other Federal agency collects tax information collected by the IRS. While other Federal agencies may collect income information in order to administer grant, loan, and benefit programs, that information is not tax information. Indeed, other agencies often are required to collect such information because the disclosure of tax information by the IRS is strictly limited by law (*see* 26 U.S.C. 6103). Moreover, the development and review of all tax forms is centralized within one IRS office, which eliminates the possibility that one IRS office might develop an information collection that overlaps with one developed by another office.

The IRS is extremely sensitive to the burdens that the tax laws place on small businesses. Because the Internal Revenue Code generally applies equally to small and large businesses, the opportunities to reduce compliance burdens on small businesses without compromising the principles of sound tax administration are very limited. Where those opportunities exist, however, the IRS has acted aggressively. For example:

- The IRS recently redesigned Form 941, the Employer's Quarterly Federal Tax Return, making it easier for 6.6 million employers.
- The IRS simplified Schedules K-1 (and its instructions), which is used by over 20 million partners and S corporation shareholders, to reduce common errors and burden.
- The IRS increased the deposit threshold for the Federal Unemployment Tax (FUTA) from \$100 to \$500, which reduced burden for 2.6 million taxpayers – most of which are small businesses.

- 5 -

- The IRS increased the business expense threshold allowable on Form 1040 Schedule C-EZ from \$2,500 to \$5,000, which reduced burden for an estimated 500,000 sole proprietorships.

Finally, we believe GAO's criticism of the IRS for not complying with the standard concerning the development and use of the information it collects is misplaced. This standard directs agencies to certify that the information collection:

has been developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected, including the processing of the information in a manner which shall enhance, where appropriate, the utility of the information to agencies and the public.

This standard is appropriate in instances where different offices of an agency independently develop information collections for their respective uses. It does not, however, readily translate to the IRS because of its functional organizational structure -- unless the IRS as a whole is considered an "office," which we believe would be a questionable interpretation of the statute.

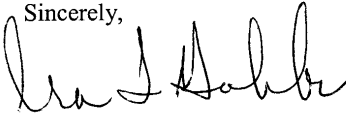
Recommendations

In general, to the extent the recommendations to the Secretary of the Treasury are inconsistent with the views expressed above, we respectfully disagree with those recommendations.

With respect to the recommendation that the Treasury CIO consult with potential respondents to IRS forms, we fail to understand why GAO believes that the Treasury CIO should take over the comprehensive and aggressive public consultation program administered by the IRS.

With respect to recommendation that the IRS remove from its website the two unapproved forms that are pending OMB approval, we believe that doing so would be confusing to taxpayers.

Finally, we note that the reference in the recommendations to the IRS Commissioner should be deleted. The IRS Commissioner does not have authority to provide direction to the Treasury CIO, who is the official responsible for overseeing the Department's implementation of the Paperwork Reduction Act.

Sincerely,

Ira L. Hobbs
Chief Information Officer

See comment 11.

See comment 12.

See comment 13.

See comment 14.

The following are GAO's comments on the Department of the Treasury's letter dated April 19, 2005.

GAO Comments

1. We disagree with the CIO's position that the 15 forms under discussion were properly treated as certifications and elections that are not subject to the PRA. We continue to believe that the forms in question do not properly fall into this category, because they entail significant burden. OMB's regulation states that the certifications and elections exemption only applies "provided that [forms] entail no burden other than that necessary to identify the respondent, the date, the respondent's address, and the nature of the instrument..."¹ In contrast, these forms contain multiple requirements that go beyond this threshold. For example, the IRS forms include requirements for respondents to report income or expense information, apply for a Social Security number if needed, read various IRS publications, submit additional IRS forms, obtain multiple signatures, become familiar with various Internal Revenue Code sections, submit copies of the completed forms to various IRS offices, and retain a copy for their records.
2. We disagree with the CIO's position that IRS's general reference to the Internal Revenue laws of the United States provides enough information for respondents to know what specific law requires their information to be reported. OMB's regulation states that agencies are to cite the specific legal authority whenever the collection of information is required to obtain or retain a benefit or is mandatory. OMB's guidance explains the reason for this requirement as follows: "This should ensure a higher response rate and help the respondent understand the benefit and/or need to respond in an accurate, complete manner." If OMB determines that IRS's circumstances are such that the requirement should be modified for IRS, it may decide to alter its regulation.
3. We disagree that the references in instructions and other IRS information products to specific sections of the tax code are sufficient

¹According to OMB's guidance, the phrase "nature of the instrument" refers to a respondent's request for material, such as publications or other information, from an agency. In these cases, agencies may ask requesters to describe the material or information in sufficient detail for the agency to respond appropriately.

to provide taxpayers with the knowledge of what law requires them to report their information. Many of these references are not related to the law requiring persons to report the specific information asked for on the form, but rather explain how to fill out the form.

4. We disagree with the Treasury CIO's statement that the PRA does not specify when agencies are to consult and that the notices on IRS's forms satisfy the requirement to consult. The act states that an agency "shall not conduct or sponsor the collection of information unless in advance of the adoption or revision of the collection of information (1) the agency has ... evaluated the public comments received under section 3506(c)(2)," which is the section establishing the public consultation requirement. Asking the public to comment on approved forms does not satisfy that requirement. OMB's regulation directs agencies to ask for comments on forms, but this requirement is in addition to the PRA public consultation requirement.
5. We disagree with the position of the Treasury CIO (and OMB) on public consultation. The language of the act clearly requires consultation to occur on every collection: agencies shall "provide 60-day notice in the *Federal Register*, and otherwise consult with members of the public and affected agencies concerning each proposed collection..."² (See also comment 4.) We believe that agencies should comply with current law. However, we are also concerned that public consultation be efficient and effective; accordingly, among the matters that we propose for congressional consideration is the mandating of pilot projects to test and review alternative approaches to achieving the PRA's goals.
6. Our report does not contain the "implied conclusion" cited by the Treasury CIO. Instead, our report concludes that CIO reviews were inadequate because they failed to fully comply with PRA requirements. Further, we are not suggesting that the CIO's office conduct efforts similar to those of OTBR. Instead, our report highlights the OTBR process—as well as an EPA effort—as promising alternatives to the current process.
7. We agree that there may be benefit in having burden reduction initiatives performed by those with the requisite program knowledge and expertise (regardless of who has the ultimate responsibility for

²Pub. L. 104-13, 109 Stat. 173, 44 U.S.C. 3506(c)(2).

these initiatives). This position is consistent with the current process in which program offices, rather than the CIO, have responsibility for justifying their proposed information collections.

8. Regarding the draft report's finding that IRS's support was often absent or incomplete in certifying that the 10 standards in the PRA had been met, our draft report did not conclude that IRS was not in compliance with the act's 10 standards or that any of its collections involved unnecessary duplication, failed to reduce burdens on small business, or did not use the information it collected. Rather, we reported that the PRA requires agencies to have support for its certifications, and we found such support was often absent or incomplete in the IRS collections we reviewed.
9. Although the Treasury CIO indicates that the IRS's information collections do not involve unnecessary duplication, the IRS collections we reviewed did not consistently provide support for the agency's certification of this position. Without information in the submission describing actions taken to avoid unnecessary duplication, decision makers and the public would have reduced assurance that a proposed collection satisfied this standard.
10. The Treasury CIO cites various IRS initiatives that reduced burden on small business, all of which were the result of OTBR efforts. We point out in our report, however, that the standard on reducing burden is not limited to small business and that our review was aimed at determining whether CIO review files on IRS collections provided adequate support for this standard.
11. The act requires the CIO to certify that the collection was developed by an office that has plans to use the information. The Congress did not exempt IRS from this requirement despite its functional organizational structure.
12. We have revised our recommendation to clarify that the Secretary of Treasury should direct the responsible CIO to *ensure* that consulting with potential respondents occurs, as the act requires.
13. The PRA prohibits the head of an agency from collecting information from respondents without prior OMB approval of the collection, taxpayer confusion notwithstanding. Accordingly, IRS should comply with the law.

Appendix VI
Comments from the Department of the
Treasury

14. We have deleted the reference to the IRS Commissioner in the final report recommendations.

Comments from the Department of Veterans Affairs



THE SECRETARY OF VETERANS AFFAIRS
WASHINGTON
April 18, 2005

Ms. Linda D. Koontz
Director, Information Management Issues
U. S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Ms. Koontz:

The Department of Veterans Affairs (VA) has reviewed the Government Accountability Office's (GAO) draft report, **PAPERWORK REDUCTION ACT: New Approach May Be Needed to Reduce Government Burden on Public** (GAO 05-424). VA concurs with GAO's recommendations and provides comments in the enclosure.

VA appreciates the opportunity to comment on your report.

Sincerely yours,

A handwritten signature in black ink, appearing to read "R. James Nicholson".

R. James Nicholson

Enclosure

Enclosure

DEPARTMENT OF VETERANS AFFAIRS (VA) COMMENTS TO
GOVERNMENT ACCOUNTABILITY OFFICE (GAO) DRAFT REPORT,
***PAPERWORK REDUCTION ACT: New Approach May Be Needed
to Reduce Government Burden on Public***
(GAO-05-424)

**We recommend that the Secretaries of Housing and Urban
Development, Labor, the Treasury, and Veterans Affairs and the
Commissioner of IRS direct the responsible CIOs to:**

- **Strengthen agency support for CIO certifications, including with regard to the necessity of collection, burden reduction efforts, and plans for the use of information collected;**

Concur – The Department of Veterans Affairs (VA) plans to increase its review and analysis of submitted business line information collection requests and staff will attend the upcoming Office of Management and Budget (OMB) Paperwork Reduction Act (PRA) training that emphasizes and provides federal agencies with PRA compliance guidance. VA also believes it is fundamental to have the Director of OMB conduct annual review meetings with agencies' desk officers. This reporting requirement would provide agencies the opportunity to align and assess their management of the certification process, identify deficiencies or gaps, and ensure compliance requirements are met.

- **Consult with potential respondents beyond the publication of *Federal Register* notices;**

Concur – VA agrees that additional focus groups should be established. Further, VA believes that the Director of OMB should conduct a federal-wide assessment of how focus groups are used, including the defined value and usefulness. Once standards for establishing focus groups are required; funding strategies and guidance on how agencies should fund the required consultations should be uniform.

- **Remove all forms from agency Web sites that have not been approved by OMB until such approval is obtained;**

Concur – VA will continue to refine and improve the use of its website for information access. VA has over 50 regional offices and over 100 medical centers that may post forms on their websites. VA recently established a governance structure that will manage how information is posted on VA's websites. Approval is required prior to any information being posted, and all unapproved forms will be removed from VA's website.

Enclosure

DEPARTMENT OF VETERANS AFFAIRS (VA) COMMENTS TO
GOVERNMENT ACCOUNTABILITY OFFICE (GAO) DRAFT REPORT,
***PAPERWORK REDUCTION ACT: New Approach May Be Needed
to Reduce Government Burden on Public***
(GAO-05-424)

- **Add required information to all forms on Web sites that we identified as lacking this information; and**

Concur – Prior to posting any VA public use forms to VA websites, VA forms and publication managers, webmasters and program managers are required to ensure that information required by the Paperwork Reduction Act is properly displayed on VA forms. VA's department-wide, Internet/Intranet Directive and Handbook (published 3/15/01) and Forms, Collections of Information, and Reports Management Directive and Handbook (12/1/01) will be updated to reflect the mandatory requirements.

- **Improve oversight by periodically reviewing the Web sites of agencies and their agents to ensure that all forms are approved and contain information required by PRA.**

Concur – VA's forms and publications managers, webmasters, and program managers are responsible for periodically reviewing their organizations' websites for PRA compliance. This official responsibility is being incorporated into VA's department-wide policies.

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