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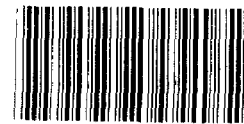
BY THE U.S. GENERAL ACCOUNTING OFFICE

**Report To The Director,
Office Of Management And Budget**

**More Guidance And Controls Needed Over
Federal Recordkeeping Requirements
Imposed On The Public**

The Paperwork Reduction Act of 1980 assigns the Office of Management and Budget responsibilities for controlling recordkeeping requirements imposed on the public. Although OMB has taken preliminary steps to implement these responsibilities, it has made little progress developing standards to control the records that businesses and others must keep for the Federal Government.

GAO recommends several steps which OMB should take to make sure that recordkeeping requirements are reasonable and that individuals, businesses, and State and local governments can readily identify pertinent requirements.



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UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

GENERAL GOVERNMENT
DIVISION

B-180224

The Honorable David A. Stockman
Director, Office of Management and Budget

Dear Mr. Stockman:

The Congress recognized the need for Federal record retention standards when it passed the Paperwork Reduction Act of 1980 (Public Law 96-511). The act requires that the Office of Management and Budget (OMB), with the assistance of the General Services Administration (GSA), conduct studies and develop standards relating to federally imposed record retention requirements. We reviewed the compliance with this provision of the act to determine whether the Government has acted to reduce the impact of Federal record retention requirements.

For many years businesses have been concerned about the impact of Federal record retention requirements. We found that some businesses are confused about the length of time they must keep records for the Federal Government. This confusion, and the fear of not keeping records long enough, can cause these businesses to retain records longer than they have to. This, in turn, can increase their paperwork burden.

We also found that some businesses have a difficult time identifying and interpreting Federal recordkeeping requirements. These businesses believe this burden could be minimized if the Government would provide them with a dependable guide to identify the Federal recordkeeping requirements that pertain to them. We believe that OMB should develop such a guide as part of its responsibility under the Paperwork Reduction Act.

We talked with officials from OMB, GSA, the Small Business Administration, 11 businesses, 3 national professional organizations, 7 governmental entities, and 1 educational institution. We did not evaluate retention periods set for specific categories of records. We also did not determine the extent to which specific Federal retention requirements exceed those which normal business practices would require or determine their impact on specific types or sizes of businesses. Our work was performed in accordance with generally accepted Government auditing standards.

We provided you with a draft of this report for review and comment. The December 28, 1982, comments (see appendix) provided by the Administrator of the Office of Information and Regulatory Affairs (OIRA)--the office in charge of OMB's Paperwork Act responsibilities--were considered in preparing this final report.

THE PAPERWORK REDUCTION ACT
ADDRESSES THE CONTINUING NEED
FOR RECORD RETENTION STANDARDS

The Federal Government has long recognized the need to control the growth of its own internal records. Under the Records Disposal Act of 1943 and the Federal Records Act of 1950, GSA is responsible for the Federal records disposition program, including the establishment of retention standards. In response to complaints from businesses, industry associations, and State and local governments that many Federal record retention requirements were unrealistic or unclear, the Paperwork Reduction Act established similar controls over requirements imposed on the public. The act requires OMB to review and approve agencies' record retention requirements and establish applicable standards. The act also requires GSA, because of its extensive experience in managing Federal records, to assist OMB in its standards development activities.

GSA issues General Records Schedules for the retention and disposal of records which are common to several or all Federal agencies. Because of the availability of General Records Schedules, agencies have to establish separate control schedules only for their unique program records. OMB and GSA could develop similar record retention schedules for Federal record retention requirements levied on the public. Such schedules would provide businesses and other affected parties with more definitive and more comprehensive guidance. They would also eliminate the need for agencies to establish retention requirements for common records.

Although the Paperwork Reduction Act became effective in 1981, requirements placed on the public are not being adequately controlled. Business officials told us that many records they must keep for the Federal Government continue to have vague or unspecified retention periods. Thus, they find it difficult to determine how long they must keep specific records. The following examples of Federal regulatory requirements illustrate the problem.

- The Federal Highway Administration requires that State highway agencies keep Equal Employment Opportunity contract compliance review reports. The retention period is not specified.
- The Department of Health and Human Services requires that persons holding approved new drug applications "maintain records necessary to facilitate a determination whether there may be grounds for invoking section 505(e) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 355(e)) to suspend or withdraw approval of the application." The retention period is not specified.

The continued need of businesses and others for record retention standards, or for uniform retention periods, was recognized by three pieces of proposed legislation introduced in 1981. H.R. 316, S. 961, and S. 1792 specified, with certain exceptions, that Federal agencies cannot require any person to maintain records for more than 4, 5, and 3 years, respectively. Hearings were held on H.R. 316 and the Association of Records Managers and Administrators testified in favor of the bill. The Association's testimony cited 1,364 readily identifiable record retention requirements in the Code of Federal Regulations. Of these, 342 indicated no retention period and 388 others specified "indefinite" as the retention period. Thus, more than 50 percent of the identified retention requirements did not include meaningful retention periods. Others who testified in favor of H.R. 316 included representatives from the National Federation of Independent Businesses and the Independent Petroleum Association of America. Notwithstanding such support, none of the proposed pieces of legislation were passed.

Our Office testified against H.R. 316 because we believe full implementation of the Paperwork Reduction Act will eliminate the need for separate legislation establishing uniform retention periods. OMB also testified that its actions under the Paperwork Reduction Act will address the concerns of supporters of H.R. 316.

OMB HAS TAKEN STEPS TO
ESTABLISH STANDARDS BUT
HAS MADE LITTLE PROGRESS

Effective control of Federal recordkeeping requirements requires that OMB establish reasonable retention standards for agencies to follow and that it ensure that agencies follow them. OMB has taken preliminary steps toward establishing standards; however, these steps have been done piecemeal and

have been given a low priority. Consequently, little progress has been made toward developing useful record retention standards. OMB needs to develop a systematic plan to integrate its efforts and make sufficient resources available for implementing the plan.

OMB's initial approach to establishing record retention standards was to collect data on retention periods specified in agency recordkeeping requirements submitted for its review on Standard Form 83. OMB's automated Reports Management System is a centralized repository of information on all approved reporting and recordkeeping requirements. In its first annual report on the Paperwork Reduction Act, issued in April 1982, OMB said it had modified the Reports Management System to collect this data and that the data should provide the basis for establishing uniform record retention standards.

This approach has significant drawbacks, however. OMB officials told us that agencies are not required to specifically identify the retention period when submitting a recordkeeping requirement (Standard Form 83) for review. In comments on our draft report, the OIRA Administrator stated that record retention periods generally appear in the submission supporting material or in the attached regulation which imposes the recordkeeping requirement. He also stated that OIRA has more than 50 analysts examining submissions to ensure conformance with applicable criteria. The Administrator did not provide assurance, however, that the retention period information is located by OMB reviewers and then entered into the Reports Management System for subsequent analysis. Also, as we noted previously, many recordkeeping requirements do not provide any specified retention period. Therefore, a data base developed from such limited information may not provide a suitable basis for standards development.

OMB officials told us that this approach probably would not result in the development of standards for at least 3 years. The length of time required was attributed to (1) the 3-year cycle for reviewing all agencies' reporting and recordkeeping requirements under the act and (2) the low priority assigned to record retention standards development.

OMB officials told us that, on the basis of their experience in preparing testimony on H.R. 316 (see p. 3), they decided to take an additional step toward establishing record retention standards. This step was to include a 4-year retention period guideline in OMB's proposed regulation for implementing the paperwork control provisions of the Paperwork Reduction Act. The draft regulation provided that Federal agencies may not require respondents to retain records--other

than health and medical records--for more than 4 years unless the agency can demonstrate that the information is necessary to satisfy a statutory requirement or other reasonable need.

The OIRA Administrator's comments on our draft report and our discussions with OIRA officials emphasized that the 4-year retention period was intended as a baseline from which OMB could work with the agencies on a case-by-case basis whenever an agency requested a retention period longer than 4 years. OMB officials also emphasized to us that they viewed the establishment of the 4-year retention guideline only as a starting point in the process of developing retention standards. The officials indicated that a considerable period of time would be required to gain experience with the 4-year retention guideline and to carefully think through the nature of whatever retention standards are ultimately established.

OMB issued its regulation on implementing the paperwork control provisions of the Paperwork Act on March 31, 1983. The guideline for agencies' retention requirements was reduced from 4 to 3 years. OMB's comments on the regulation indicate that this change was made because 3 years is more consistent with legal requirements and agency practices. OMB also added tax records to its exemption from the 3-year guideline because statutory requirements for these records exceed 3 years.

OMB's regulation states that, in order to gain approval of a retention requirement of more than 3 years, agencies must show that the longer retention period is necessary to satisfy a statutory requirement or other substantial need. We agree that agencies should demonstrate the need for such lengthy retention periods. However, we believe agencies should also have adequate justification for retention requirements of 3 years or less. The 1981 Guide to Record Retention Requirements--the last such guide issued by GSA--contained about 1,000 retention requirements of 3 years or less. Of these requirements, about half were for less than 3 years. Therefore, since agencies may not need to require that the public keep certain records for 3 years, 3 years should not become a de facto retention standard.

OMB has also held discussions with GSA officials regarding the development of record retention standards. We were advised that no arrangements have yet been made for GSA's participation. This is due, at least in part, to a recent reorganization and reduction in staffing of the GSA unit involved. OMB officials told us that, because of these factors, GSA may not be able to provide much assistance for some time. GSA officials we contacted, however, expressed a willingness to help OMB develop standards.

OMB officials also reiterated that other Paperwork Act responsibilities continue to take priority over development of record retention standards. They cited the heavy workload of reporting and recordkeeping requirement reviews, the need to complete work on the regulation referred to on page 5, and unanticipated problems arising from a Department of Justice Office of Legal Counsel decision affecting the scope of OMB's authority to review recordkeeping requirements contained in regulations.

OMB's efforts to meet the Paperwork Act's requirements for retention standards have not yet resulted in meaningful standards. Before proceeding further, it should develop a comprehensive plan for compliance. OMB can then use this plan to manage and guide its standards development and enforcement activities. Also, to ensure that the plan provides adequate control over Federal recordkeeping requirements, OMB needs to place greater priority on carrying it out.

OMB SHOULD PUBLISH A GUIDE TO HELP
BUSINESSES IDENTIFY FEDERAL
RECORDKEEPING REQUIREMENTS

Some businesses told us they have problems identifying and interpreting Federal recordkeeping requirements. They stated that searching through the Federal Register and other sources for Federal recordkeeping requirements is a time-consuming effort and, even after checking these sources, they cannot be sure they have located all the requirements. Some businesses use trade association guides, published to assist their members in identifying recordkeeping requirements. Relatively few associations, however, publish guides and these are often not definitive.

Until fiscal year 1982, GSA published and sold an annual guide to record retention requirements. Businesses we talked with said that this was the most useful guide for identifying recordkeeping requirements. When budget cuts caused personnel reductions in the office that had been compiling and editing the guide--GSA's Office of the Federal Register--GSA stopped publishing it.

According to users we contacted, although the GSA guide was useful, it was deficient. The guide organized recordkeeping requirements by the Federal agencies imposing them rather than by the industries affected. Businesses found it tedious to have to read the entire guide to locate pertinent requirements. In addition, the guide did not include all retention requirements.

We showed businesses a guide to record retention requirements which the Canadian Government publishes for Canadian businesses. The guide organizes record retention requirements by industry. The U.S. businesses we talked with preferred the format of the Canadian guide.

OMB stated in its first annual report to the Congress on the Paperwork Reduction Act that information dissemination was one of the responsibilities assigned by the act. In light of this responsibility, OMB officials told us they believe a guide to Federal recordkeeping requirements would be useful. They stated that on two occasions in the past year they met with GSA officials and discussed the prospect of publishing a new guide. They stressed that if OMB were to publish a guide, OMB would place major emphasis on full cost recovery and would require that the guide be sold to the public at cost rather than funded through an increase in either OMB's or GSA's budget.

OMB's Reports Management System
may be useful in compiling a
record retention guide

The OMB Reports Management System could be a useful tool in compiling information for a guide on recordkeeping requirements. The system currently has some data on standard industrial classification codes and could be programmed to identify recordkeeping requirements by this means. The classifications were developed for use within the Government for statistical purposes, but are now used by many businesses and other organizations for purposes such as market research. The codes classify establishments by type of activity in which engaged and cover the entire field of economic activity. Therefore, businesses could use the codes to identify recordkeeping requirements which affect them. The Reports Management System does not currently identify all industries to which information collection requests apply but has the capacity to be expanded to identify all industries by classification code.

OMB requests standard industrial classification code data for each reporting or recordkeeping requirement submitted by the agencies for review. However, as with the data on record retention periods, inclusion of the industrial classification code is not a requirement for obtaining OMB approval. Therefore, the Reports Management System currently cannot be relied upon to develop accurate recordkeeping data by industry category.

OMB officials said they were reluctant to require that this data be provided because of other priorities and the

concern that this step would slow down the review and approval process. They agreed, however, that changing the approval process to obtain standard industrial classification data would, over time, create the capability to develop a more useful guide to Federal recordkeeping requirements.

In his comments on our draft report, the OIRA Administrator expressed concern that if the Reports Management System is relied on as the key to developing a guide to Federal recordkeeping requirements, its primary function of managing the information collection review process could be compromised. The Administrator did not suggest alternatives to the Reports Management System, although he stated that efforts to work with GSA on this issue were being intensified.

CONCLUSIONS

OMB has taken several preliminary steps to implement its responsibilities for controlling Federal recordkeeping requirements imposed on the public. However, these steps have not produced meaningful retention standards. To ensure the effectiveness of future OMB efforts, they need to be integrated into a systematic plan. This plan should include more aggressive action than OMB has taken to date.

If properly enforced, the 3-year record retention period guideline in OMB's regulation may be a useful starting point. The other actions OMB has taken--collecting data on record retention periods for individual recordkeeping requirements and holding discussions with GSA--do not appear to have produced substantive results. Also, although the GSA officials we talked with indicated a willingness to assist in OMB's efforts, OMB must take the lead in establishing a role for GSA.

We believe that OMB should give a higher priority to developing record retention standards. In its plan, OMB should include steps to ensure that agencies provide specific retention periods and that this information is systematically entered into the Reports Management System. Decisions need to be made on how to capture and analyze the agencies' justifications for deviations from the 3-year record retention guideline in OMB's regulation. GSA's role needs to be worked out and agreements reached on resources and timetables.

We recognize and understand the low priority given this area. However, we believe OMB should address this issue now and take the action necessary to meet its statutory responsibility for developing standards to control the length of time records must be retained for the Federal Government.

OMB recognizes that a guide to Federal recordkeeping requirements organized by industry category would be useful to businesses. It has not, however, taken the action necessary to develop the data base needed to achieve this goal.

We believe OMB should take two actions in this regard. First, because the earlier guide published by GSA proved useful, OMB should work with GSA to reestablish its publication. Second, to facilitate compiling the guide, OMB should revise the information collection request review process to obtain industrial classification data on Federal recordkeeping requirements and then capture this data in the Reports Management System. If OMB determines that the Reports Management System would be overtaxed by providing input to the guide, other alternatives should be explored.

RECOMMENDATIONS TO THE DIRECTOR,
OFFICE OF MANAGEMENT AND BUDGET

To ensure that reasonable record retention requirements are placed on the public and that these requirements are readily identifiable, we recommend that you direct the OIRA Administrator to

- develop and place a higher priority on implementing a plan to establish and enforce record retention standards for recordkeeping requirements levied by agencies on businesses, individuals, and State and local governments;
- work with GSA in developing this plan, including assigning tasks and providing resources needed to accomplish these tasks;
- require that agencies specify proposed retention periods and standard industrial classification data for all recordkeeping requirements submitted for review;
- ensure that the retention periods and standard industrial classification data are entered into the Reports Management System for future analysis; and
- work with GSA to reinstate publication of a guide to Federal recordkeeping requirements.


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As you know, 31 U.S.C. §720 requires the head of a Federal agency to submit a written statement on actions taken

on our recommendations to the Senate Committee on Governmental Affairs and the House Committee on Government Operations not later than 60 days after the date of the report and to the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of the report.

Copies of this report are being sent to the Chairmen, House Committee on Government Operations, Senate Committee on Governmental Affairs, and the House and Senate Committees on Appropriations; the Administrator of General Services; and other interested parties.

Sincerely yours,



for William J. Anderson
Director



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

DEC 28 1982

Mr. William J. Anderson
Director, General Government
Division
General Accounting Office
Washington, D.C. 20548

Dear Mr. Anderson:

Thank you for the opportunity to review the draft of your proposed report entitled "Need for Improved Guidance and Control over Federal Recordkeeping Requirements Imposed on the Public."

As you point out in the report, this is an area in which we have specific responsibilities under the Paperwork Reduction Act. For that reason, we welcome information that sheds light on the problems associated with the establishment of Federal recordkeeping requirements for the non-Federal sector. We found your report interesting and look forward to continuing a dialogue on this subject with your staff.

We have one general comment to make about the report. We thought it would be helpful if you could cite specifics to support the conclusions you have reached. For example, you state that businesses are confused about the length of time they must keep records. Did you find this to be true across the board, or are there variances for types and sizes of businesses? In general, are the retention periods substantially longer than those that would obtain even in the absence of a Federal requirement, i.e., in the normal course of doing business?

[GAO COMMENT: We did not evaluate specific retention periods. Limitations in the scope of our work are discussed on page 1. Examples of problem retention periods are shown on page 3.]

In response to your recommendations, we offer the following:

Recommendation: OMB should "place a higher priority on establishing record retention standards for agencies to follow in setting retention periods for records they require businesses to retain."

OMB Comment: As you note, we have taken steps to do so by creating in OMB Circular No. A-40 a 4 year period as an agency standard. Our intent was to establish this period as a base line from which deviations could be taken as specific needs dictated. We find your discussion of this effort on page 4 of your draft somewhat misleading. The point of the conversation between OMB and GAO on this subject was not that there isn't a "need for establishing standards for business records that are as comprehensive as those GSA has established [in the Federal Records Schedule]...", nor that "standards as comprehensive as GSA's would be too restrictive on the agencies...." Rather, the

point was that any arbitrary government-wide single standard is likely to run into statutory and programmatic considerations unique to individual agencies. That is the reason for OMB preferring to "work with an agency on a case-by-case basis whenever the agency requests retention periods longer than 4 years." It is quite possible that in the process of building a schedule that takes into consideration both the congruent and incongruent requirements of the agencies that the ultimate product could indeed be as comprehensive as GSA's schedule.

[GAO COMMENT: This recommendation has been reworded. Our reference to comprehensive standards has been deleted. Other specific points raised by OMB are covered on page 5.]

Recommendation: OMB should "require that agencies specify proposed retention periods and standard industrial classification codes on all information requests submitted...for approval."

OMB Comment: This recommendation is apparently supported in the body of the report by language discussing OMB's use of Standard Form 83, the ADP input form used to feed the Reports Management System (RMS). The language of the report notes that OMB does not routinely return SF 83's when retention periods for recordkeeping requirements are not annotated. The report goes on to conclude that "obtaining data on record retention periods should be an integral part of the clearance process." It should be noted that even if this information does not appear on the clearance form, it will generally appear in the supporting statement that is attached to the form, and will invariably appear in the proposed regulation which imposes the recordkeeping requirement, also attached to the SF 83. Our major concern at this point is more with making sure that agencies clear all of their recordkeeping requirements through this process than with where the data appears in the submission.

[GAO COMMENT: This recommendation was reworded to reflect our concern that retention periods and classification codes are specified for all recordkeeping requirements. The discussion of this matter, including the above OMB concerns, appears on page 4.]

Recommendation: OMB should "assure that agencies' deviations from OMB's retention standards are justified."

OMB Comment: We would note that OIRA has a staff of over 50 analysts examining these submissions to insure conformance with applicable criteria.

[GAO COMMENT: This recommendation was deleted. OMB's point on its staffing is discussed on page 4. Our main concern was that, as suggested by OMB, agency submissions include conforming retention periods. However, as pointed out in the report, standards do not yet exist.]

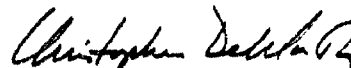
Recommendation: OMB should "work with GSA to compile and publish a guide to Federal recordkeeping requirements to be sold on a cost recovery basis; and...begin steps to modify the Reports Management System so that it can identify recordkeeping requirements by industry."

OMB Comment: We agree that some document in which businesses could find all of the agencies' recordkeeping requirements would be useful. Arranging such a guide along the lines of the Canadian model, e.g., arranging it by Standard Industrial Code, could be one approach. Our concern is that if the RMS system is looked upon as the only tool capable of performing this task, its primary function, management of the clearance process, may be compromised. The more tasks a system is required to perform, the more the chance for inaccuracies. In any case we are intensifying our efforts to work with GSA in this area.

[GAO COMMENT: OMB's concerns are reflected on pages 7, 8, and 9. This recommendation was changed and modification of the reports management system is no longer recommended.]

My staff has found its meetings with the GAO representatives associated with this report most helpful in terms of analyzing the elements of the problem. I hope you find our comments helpful to you in completing your draft.

Sincerely yours,



Christopher DeMuth
Administrator for Information
and Regulatory Affairs

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