

Authority: 42 U.S.C. 7401 *et seq.*

Dated: July 28, 2000.

Felicia Marcus,

Regional Administrator, Region IX.

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GENERAL SERVICES ADMINISTRATION

41 CFR Parts 101-11, 102-193, 102-194, and 102-195

[FPMR Amendment B-]

RIN 3090-AG02

Federal Records Management Program, Interagency Reports Management Program, and Standard and Optional Forms Management Program

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Proposed rule.

SUMMARY: The General Services Administration (GSA) is revising the Federal Property Management Regulations (FPMR) by moving coverage on creation, maintenance, and use of records into the Federal Management Regulation (FMR). A cross-reference is added to the FPMR to direct readers to the coverage in the FMR. The FMR coverage is written in plain language to provide agencies with updated regulatory material that is easy to read and understand.

DATES: Comments must be submitted October 10, 2000 to be considered in the formulation of a final rule.

ADDRESSES: Written comments should be sent to: Ms. Shari Kiser, Regulatory Secretariat (MVR), General Services Administration, 1800 F Street, NW., Washington, DC 20405. E-mail comments may be sent to *RIN.3090-AG02@gsa.gov*.

FOR FURTHER INFORMATION CONTACT: R. Stewart Randall, Emerging IT Policy Division (MKE), telephone 202-501-4469.

SUPPLEMENTARY INFORMATION:

A. Background

This proposed rule encourages Federal agencies to conduct business electronically. Part 102-193, Creation, Maintenance, and Use of Records, is being added to the FMR to provide a foundation for GSA programs that help address problems in the management of contemporary records. Both the General Services Administration (GSA) and the National Archives Records

Administration (NARA) have responsibilities for records management. This proposed rule references appropriate NARA regulations.

This proposed rule also makes changes in the operation of the Standard and Optional Forms Program. The Federal Government is moving toward greater use of information technology to allow improved customer service and Governmental efficiency. The Government Paperwork Elimination Act requires agencies to adopt electronic transactions of information by October, 2003, when practicable. This vision contemplates widespread use of the Internet, with Federal agencies transacting business electronically as commercial enterprises are doing. Members of the public who want to do business this way can avoid traveling to Government offices, waiting in line, or mailing paper forms. The Federal Government can also save significant time and money by transacting business electronically.

Therefore, this proposed rule is intended to facilitate the movement of the Federal Government toward greater automation of the information exchanged using standard and optional forms. This proposed rule also addresses management of standard and optional forms (in either paper or electronic form) and defines standard and optional automated formats. Normally, the most efficient exchange of information is done using automated forms. Thus, this proposed rule encourages agencies, where appropriate, to use automated formats.

Often, an important intermediate step in the Federal Government's evolution to transacting business electronically is the development and use of electronic standard and optional forms. Such forms, while not fully electronic business transactions, can make paper-based information exchanges substantially easier and introduce significant efficiencies for the Federal Government. The proposed part on standard and optional forms encourages the use of electronic forms by Federal agencies to facilitate paper-based transactions, pending their automation. To do that, this proposed rule establishes the policy that agencies should promote the use of electronic standard forms whenever practicable. To assist agencies assessing practicability, GSA is proposing that paper transactions continue when standard forms are for specialized use (*e.g.*, labels), when there are special security or integrity concerns (*e.g.*, classification cover sheets), and when there are unusual production costs (*e.g.*, special envelopes). The "Standard and

Optional Forms Procedural Handbook" includes a list of those forms that have been exempted from the policy in accordance with these criteria.

This proposed rule also makes changes to the Interagency Reports Management Program to shorten the time between when an agency determines a need for interagency information and when the agency can initiate an interagency report to obtain that information. Agencies will no longer have to get GSA's approval before initiating an interagency report. This change lets agencies take advantage of information technology to get the information they need to accomplish their missions.

When authorized by law and regulation, agencies are encouraged to share information, particularly as an alternative to collecting additional information from the public. This change is intended to facilitate agencies sharing needed information.

As a general rule, it is more efficient for agencies to share information in electronic form. While paper-based reporting, including electronic forms, may still be used, it is preferable that interagency reports be provided electronically between agencies. Agencies, however, are asked to give GSA information such as the name and the cost of each of their interagency reporting requirements. This information will be placed on our web site at *www.itpolicy.gsa.gov* and made available to Federal agencies.

B. Executive Order 12866

This proposed rule is not a significant regulatory action for the purposes of Executive Order 12866 of September 30, 1993.

C. Regulatory Flexibility Act

A regulatory flexibility analysis is not required under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because there is no requirement that this proposed rule be published in the **Federal Register** for notice and comment.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this proposed rule does not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget (OMB) under 44 U.S.C. 3501, *et seq.*

E. Small Business Regulatory Enforcement Fairness Act

This proposed rule is exempt from congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

List of Subjects in 41 CFR Parts 101–11, 102–193, 102–194, and 102–195

Archives and records, Computer technology, Government property management.

For the reasons set forth in the preamble, it is proposed that 41 CFR Chapters 101 and 102 be amended as follows:

CHAPTER 101—[AMENDED]

1. Part 101–11 is revised to read as follows:

PART 101–11—FEDERAL RECORDS, INTERAGENCY REPORTS, AND STANDARD AND OPTIONAL FORMS

Authority: 40 U.S.C. 486(c).

§ 101–11.0 Cross-reference to the Federal Management Regulation (FMR) (41 CFR Chapter 102, parts 1 through 220).

For information on records, interagency reports, and standard and optional forms, see FMR parts 102–193, 102–194, and 102–195 (41 CFR parts 102–193, 102–194, and 102–195).

CHAPTER 102—[AMENDED]

2. Parts 102–193, 102–194, and 102–195 are added to Subchapter G to read as follows:

PART 102–193—CREATION, MAINTENANCE, AND USE OF RECORDS

Sec.

102–193.5 What does this part cover?

102–193.10 What are the goals of the Federal Records Management Program?

102–193.15 What are the records management responsibilities of the Administrator of General Services (the Administrator), the Archivist of the United States (the Archivist), and the heads of Federal agencies?

102–193.20 What are the specific agency responsibilities for records management?

102–193.25 What type of records management business process improvements should my agency strive to achieve?

Authority: 40 U.S.C. 486(c).

§ 102–193.5 What does this part cover?

This part prescribes policies and procedures related to the General Service Administration's (GSA) role to provide guidance on economic and effective records management for creation, maintenance and use of Federal agencies' records. The National Archives and Records Administration

Act of 1984 (the Act)(44 U.S.C. chapter 29) amended the records management statutes to divide records management responsibilities between GSA and the National Archives and Records Administration (NARA). Under the Act, GSA is responsible for the economy and efficiency in records management and NARA is responsible for adequate documentation and records disposition. GSA regulations are codified in this part and NARA regulations are codified in 36 CFR Chapter XII. The policies and procedures of this part apply to all records, regardless of medium (*e.g.*, paper or electronic), unless otherwise noted.

§ 102–193.10 What are the goals of the Federal Records Management Program?

The statutory goals of the Federal Records Management Program are:

(a) Accurate and complete documentation of the policies and transactions of the Federal Government.

(b) Control of the quantity and quality of records produced by the Federal Government.

(c) Establishment and maintenance of management controls that prevent the creation of unnecessary records and will promote effective and economical agency operations.

(d) Simplification of the activities, systems, and processes of records creation, maintenance, and use.

(e) Judicious preservation and disposal of records.

(f) Direction of continuing attention on records from initial creation to final disposition, with particular emphasis on the prevention of unnecessary Federal paperwork.

§ 102–193.15 What are the records management responsibilities of the Administrator of General Services (the Administrator), the Archivist of the United States (the Archivist), and the Heads of Federal agencies?

(a) The Administrator provides guidance and assistance to Federal agencies to ensure economical and effective records management. Records management policies and guidance established by GSA are contained in this part and in parts 102–194 and 102–195 of this title, records management handbooks, and other publications issued by GSA.

(b) The Archivist provides guidance and assistance to Federal agencies to ensure adequate and proper documentation of the policies and transactions of the Federal Government and to ensure proper records disposition. Records management policies and guidance established by the Archivist are contained in 36 CFR Chapter XII and in bulletins and

handbooks issued by the National Archives and Records Administration (NARA).

(c) The Heads of Federal agencies must comply with the policies and guidance provided by the Administrator and the Archivist.

§ 102–193.20 What are the specific agency responsibilities for records management?

You must follow both GSA regulations in this part and NARA regulations in 36 CFR Chapter XII to carry out your records management responsibilities. To meet the requirements of this part, you must take the following actions to establish and maintain the agency's records management program:

(a) Assign specific responsibility to develop and implement agencywide records management programs to an office of the agency and to a qualified records manager.

(b) Follow the guidance contained in GSA handbooks and bulletins and comply with NARA regulations in 36 CFR Chapter XII when establishing and implementing agency records management programs.

(c) Issue a directive establishing program objectives, responsibilities, authorities, standards, guidelines, and instructions for a records management program.

(d) Apply appropriate records management practices to all records, irrespective of the medium (*e.g.*, paper, electronic, or other).

(e) Control the creation, maintenance, and use of agency records and the collection and dissemination of information to ensure that the agency:

(1) Does not accumulate unnecessary records while ensuring compliance with NARA regulations for adequate and proper documentation and records disposition in 36 CFR parts 1220 and 1228.

(2) Does not create forms and reports that collect information inefficiently or unnecessarily.

(3) Reviews all existing forms and reports (both those originated by the agency and those responded to by the agency but originated by another agency or branch of Government) periodically to determine if they can be improved or canceled.

(4) Maintains records economically and in a way that allows them to be retrieved quickly and reliably.

(5) Keeps mailing and copying costs to a minimum.

(f) Establish standard stationery formats and styles.

(g) Establish standards for correspondence to use in official agency communications, and necessary copies

required, and their distribution and purpose.

§ 102–193.25 What type of records management business process improvements should my agency strive to achieve?

Your agency should strive to:

- (a) Improve the quality, tone, clarity, and responsiveness of correspondence;
- (b) Design forms that are easy to fill-in, read, transmit, process, and retrieve, and reduce forms reproduction costs;
- (c) Provide agency managers with the means to convey written instructions to users and document agency policies and procedures through effective directives management;
- (d) Provide agency personnel with the information needed in the right place, at the right time, and in a useful format;
- (e) Eliminate unnecessary reports and design necessary reports for ease of use;
- (f) Provide rapid handling and accurate delivery of mail at minimum cost; and
- (g) Organize agency files in a logical order so that needed records can be found rapidly to conduct agency business, to ensure that records are complete, and to facilitate the identification and retention of permanent records and the prompt disposal of temporary records. Retention and disposal of records is governed by NARA regulations in 36 CFR Chapter XII.

PART 102–194—STANDARD AND OPTIONAL FORMS MANAGEMENT PROGRAM

Sec.

- 102–194.5 What is the Standard and Optional Forms Management Program?
- 102–194.10 What is a Standard form?
- 102–194.15 What is an Optional form?
- 102–194.20 What is an electronic Standard or Optional form?
- 102–194.21 What is an automated Standard or Optional format?
- 102–194.25 What role does my agency play in the Standard and Optional Forms Management Program?
- 102–194.30 Should I create electronic Standard or Optional forms?
- 102–194.35 For what Standard or Optional forms should an electronic version not be made available?
- 102–194.40 Who should I contact about Standard and Optional forms?

Authority: 40 U.S.C. 486 (c).

§ 102–194.5 What is the Standard and Optional Forms Management Program?

The Standard and Optional Forms Management Program is a Governmentwide program that promotes economies and efficiencies through the development, maintenance and use of common forms. The General Services Administration (GSA) provides

additional guidance on the Standard and Optional Forms Management Program through an external handbook called Standard and Optional Forms Procedural Handbook. You may obtain a copy of the handbook from:

Standard and Optional Forms Management Office, General Services Administration (Forms-XR), 1800 F Street, NW; Room 7126, Washington, DC 20405–0002, (202) 501–0581

§ 102–194.10 What is a Standard form?

A Standard form is a fixed or sequential order of data elements, prescribed by a Federal agency through regulation, approved by GSA for mandatory use, and assigned a Standard form number. This criteria is the same whether the form resides on paper or purely electronic.

§ 102–194.15 What is an Optional form?

An Optional form is approved by GSA for nonmandatory Governmentwide use and is used by two or more agencies. This criteria is the same whether the form resides on paper or purely electronic.

§ 102–194.20 What is an electronic Standard or Optional form?

An electronic Standard or Optional form is an officially prescribed set of data residing in an electronic medium that is used to produce a mirror-like image or as near to a mirror-like image as the creation software will allow of the officially prescribed form.

§ 102–194.21 What is an automated Standard or Optional format?

An automated Standard or Optional format is an electronic version of the officially prescribed form containing the same data elements and used for the electronic transaction of information in lieu of using a Standard or Optional form.

§ 102–194.25 What role does my agency play in the Standard and Optional Forms Management Program?

Your agency head or designee's role is to:

- (a) Designate an agency-level Standard and Optional Forms Liaison representative and alternate, and notify GSA, in writing, of their names, titles, mailing addresses, telephone numbers, fax numbers, and e-mail addresses within 30 days of the designation or redesignation.
- (b) Promulgate Governmentwide Standard forms under the agency's statutory or regulatory authority in the **Federal Register**, and issue procedures on the mandatory use, revision, or cancellation of these forms.
- (c) Ensure that the agency complies with the provisions of the Government

Paperwork Elimination Act (GPEA) (Public Law 105–277, 112 Stat. 2681) and OMB implementing guidance. In particular, agencies should allow the submission of Standard and Optional forms in an electronic/automated version unless the form is specifically exempted by § 102–194.35.

(d) Issue Governmentwide Optional forms when needed by two or more agencies and announce the availability, revision, or cancellation of these forms. Forms prescribed through a regulation for use by the Federal Government must be issued as a Standard form.

(e) Obtain GSA approval for each new, revised or canceled Standard and Optional form, 60 days prior to planned implementation. Certify that the forms comply with all applicable laws and regulations. Provide an electronic form unless exempted by § 102–194.35.

Revised forms not approved by GSA will result in cancellation of the form.

(f) Provide GSA with both an electronic (unless exempted by § 102–194.35) and paper version of the official image of the Standard or Optional form prior to implementation.

(g) Obtain the prescribing agency's approval for exceptions to Standard and Optional forms, including electronic forms or automated formats prior to implementation.

(h) Review annually agency prescribed Standard and Optional forms, including exceptions, for improvement, consolidation, cancellation, or possible automation. The review must include approved electronic versions of the forms.

(i) Coordinate all health-care related Standard and Optional forms through GSA for the approval of the Interagency Committee on Medical Records (ICMR).

(j) Promote the use of electronic forms within the agency by following what the Government Paperwork Elimination Act (GPEA) prescribes and all guidance issued by the Office of Management and Budget and other responsible agencies. This guidance will promote the use of electronic transactions and electronic signatures.

(k) Notify GSA of the replacement of any Standard or Optional form by an automated format or electronic form, and its impact on the need to stock the paper form. GSA's approval is not necessary for this change, but a one-time notification should be made.

(l) Follow the specific instructions in the Standard and Optional Forms Procedural Handbook.

§ 102–194.30 Should I create electronic Standard or Optional forms?

Yes you should create electronic Standard or Optional forms, especially

when forms are used to collect information from the public. GSA will not approve a new or revision to a Standard or Optional form unless an electronic form is being made available. Only forms covered by § 102–194.35 are exempt from this requirement.

§ 102–194.35 For what Standard or Optional forms should an electronic version not be made available?

All forms should include an electronic version unless it is not practicable to do so. Areas where it may not be practicable include where the form has construction features for specialized use (e.g., labels), to prevent unauthorized use or could otherwise risk a security violation, (e.g., classification cover sheets), or require unusual production costs (e.g., specialized paper or envelopes). Such forms can be made available as an electronic form only if the originating agency approves an exception to do so. (See the Standard and Optional Forms Procedural Handbook for procedures and a list of these forms).

§ 102–194.40 Who should I contact about Standard and Optional forms?

For Standard and Optional forms, you should contact the:

Standard and Optional Forms Management Office, General Services Administration (Forms-XR), 1800 F Street, NW; Room 7126, Washington, DC 20405–0002, (202) 501–0581

PART 102–195—INTERAGENCY REPORTS MANAGEMENT PROGRAM

Sec.

102–195.5 What is the Interagency Reports Management Program and what is its purpose?

102–195.10 What is an interagency report?

102–195.15 What must an agency do to implement the Interagency Reports Management Program?

102–195.20 Are any interagency reports exempt from this program?

Authority: 40 U.S.C. 486(c).

§ 102–195.5 What is the Interagency Reports Management Program and what is its purpose?

The Interagency Reports Management Program managed by GSA ensures that interagency reports and recordkeeping requirements are necessary, cost-effective, and comply with applicable laws and regulations.

§ 102–195.10 What is an interagency report?

An interagency report is a repetitive reporting requirement imposed by an agency on one or more other agencies.

§ 102–195.15 What must an agency do to implement the Interagency Reports Management Program?

To implement the Interagency Reports Management Program an agency must:

(a) Annually review all interagency reporting requirements imposed on other agencies to assure that they remain necessary.

(b) Consistent with law and regulation, seek information that other agencies have already obtained from the public rather than asking the public to provide the information again.

(c) Every three years beginning February 1, 2001, provide the following information to GSA for each interagency report that will require responding agencies more than 100 hours complying with it:

(1) Title.

(2) Purpose.

(3) Estimate of the reporting costs for the life of the report or for three years, whichever is sooner.

(4) An estimate of the time you will need to collect this information; e.g., six months or six years.

(5) The name, telephone number, and e-mail address for the point of contact for each interagency report.

(6) Whether the report can be provided electronically, and if not, when such submissions will be allowed.

(d) Provide supporting documentation for cost estimates for review by GSA and responding agencies, if requested.

(e) Notify GSA and responding agencies when an interagency report is no longer needed.

(f) Provide responding agencies an opportunity to comment on any new or proposed revision to an interagency reporting requirement.

(g) Send information asked for in paragraphs (c), (d) and (e) of this section, along with any unresolved comments from responding agencies concerning an interagency reporting requirement in accordance with paragraph (d) of this section to:

General Services Administration, Strategic IT Issues Division (MKB), 18th & F Streets, NW., Washington, DC 20405

§ 102–195.20 Are any interagency reports exempt from this program?

Yes, the following interagency reports are exempt from the Interagency Reports Management Program:

(a) Legislative branch reports;

(b) Office of Management and Budget (OMB) and other Executive Office of the President reports;

(c) Judicial branch reports required by court order or decree; and

(d) Reporting requirements for security classified information. However, interagency reporting

requirements for nonsensitive or unclassified sensitive information are not exempt, even if the information is later given a security classification by the requesting agency.

Dated: August 1, 2000.

G. Martin Wagner,

Associate Administrator for Governmentwide Policy.

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BILLING CODE 6820–34–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[WT Docket No. 97–82; FCC 99–384]

Communication Between Applicants in Commission Spectrum Auctions

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; correction.

SUMMARY: The Federal Communications Commission (Commission) published in the **Federal Register** of February 8, 2000, a document concerning communications between applicants in Commission spectrum auctions. This document contains a correction to that proposed rule by adding the Initial Regulatory Flexibility Analysis (IRFA) that was inadvertently omitted. This document also sets forth the deadlines for submitting comments and reply comments on this IRFA. It does not extend the deadlines previously established for submitting comments and reply comments on the rule amendments proposed.

DATES: Comments in response to the IRFA are due on or before August 30, 2000; reply comments are due on or before September 6, 2000.

ADDRESSES: Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, D.C. 20554. See “Filing Instructions.”

FOR FURTHER INFORMATION CONTACT: David Hu, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, at (202) 418–0660.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 8, 2000 (65 FR 6113), the Commission published a summary of its Third Further Notice of Proposed Rulemaking (NPRM) in WT Docket No. 97–82. That document sought comment on proposed amendments that would: (1) Require any auction applicant that makes or receives a prohibited communication regarding bids or bidding strategies to