

GAO

Testimony

Before the Subcommittee on Energy, Policy, Natural
Resources and Regulatory Affairs, Committee on
Government Reform, House of Representatives

For Release on Delivery
Expected at 10 a.m. EDT
Friday, April 11, 2003

PAPERWORK REDUCTION ACT

Record Increase in Agencies' Burden Estimates

Statement of Victor S. Rezendes, Managing Director
Strategic Issues Team





Highlights of [GAO-03-691T](#), testimony before the Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs, Committee on Government Reform, House of Representatives

Why GAO Did This Study

The Paperwork Reduction Act requires federal agencies to minimize the paperwork burden they impose on the public. The act also requires agencies to obtain approval from the Office of Management and Budget (OMB) before collecting covered information. At the Subcommittee's request, GAO examined changes during the past fiscal year in federal agencies' paperwork burden estimates and their causes, focusing on the Internal Revenue Service (IRS). GAO also examined changes in the number of violations of the Paperwork Reduction Act.

What GAO Recommends

GAO is not making any recommendations. However, because IRS accounts for most federal paperwork and for most of the increase in the governmentwide estimate, OMB could focus more of its burden reduction efforts on that agency. Also, OMB and the agencies could do more to reduce violations. For example, OMB could promote the use of "best practices" used in agencies with good compliance records.

PAPERWORK REDUCTION ACT

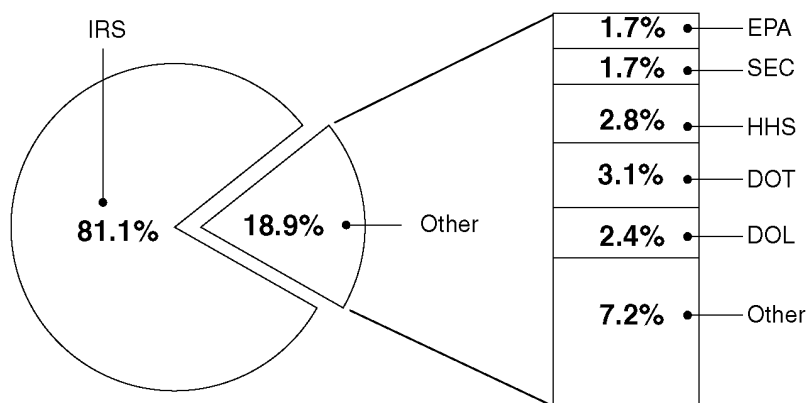
Record Increase in Agencies' Burden Estimates

What GAO Found

As of September 30, 2002, federal agencies estimated that there was about 8.2 billion "burden hours" of paperwork governmentwide. IRS accounted for about 6.7 billion burden hours (81 percent) of this estimate. The federal paperwork estimate increased by about 570 million burden hours during fiscal year 2002—nearly double the previous record increase for a 1-year period. IRS and the Department of Transportation (DOT) accounted for almost 90 percent of the increase. IRS increased its paperwork estimate by about 330 million burden hours during fiscal year 2002, which the agency said was primarily caused by growth in the number of taxpayers using Form 1040. DOT's burden estimate rose by about 165 million burden hours, an increase that the department said was almost entirely attributable to the reintroduction and reestimation of one information collection.

Federal agencies identified 244 violations of the PRA during fiscal year 2002—a significant reduction from the number of violations reported during the previous fiscal year. OMB deserves a great deal of credit for this decrease in violations. However, 244 violations of the law during a single fiscal year are still troubling and should not be tolerated. Also, although some longstanding violations have been resolved, others remained open at the end of the fiscal year and, in some cases, had been open for 2 years or more. OMB has not taken some of the actions that we previously recommended to improve compliance with PRA.

IRS Accounted for More than 80 Percent of the Estimated 8.2 Billion Hours of Federal Paperwork Burden as of September 30, 2002)



Source: OMB and the Department of the Treasury.

www.gao.gov/cgi-bin/getrpt?GAO-03-691T.

To view the full report, including the scope and methodology, click on the link above. For more information, contact Victor Rezendes at (202) 512-6806 or rezendesv@gao.gov.

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today to discuss the implementation of the Paperwork Reduction Act of 1995 (PRA). As you requested, I will discuss changes in federal paperwork burden during the past year and their causes, with a particular focus on the Internal Revenue Service (IRS). I will also revisit an issue that we have discussed during previous hearings before this Committee—violations of the PRA in which information collections were either not authorized by the Office of Management and Budget (OMB) or those authorizations had expired.

In brief, the agencies' estimate of federal paperwork at the end of fiscal year 2002 stood at about 8.2 billion burden hours. The paperwork estimate increased by about 570 million burden hours from last year—nearly double the previous record increase for a 1-year period that I reported last year. Two agencies—IRS and the Department of Transportation (DOT)—accounted for almost 90 percent of the increase. IRS increased its paperwork estimate by about 330 million burden hours, most of which involved adjustments to the agency's burden-hour estimate for Form 1040. DOT's burden estimate rose by about 165 million burden hours, an increase that was almost entirely attributable to the reintroduction and reestimation of one information collection.

Also, federal agencies identified 244 violations of the PRA that occurred during fiscal year 2002—a more than 40 percent reduction in the number of violations that were reported during the previous fiscal year and about one-fourth the number reported for fiscal year 1998. Some agencies reported fewer violations in each of the last 3 fiscal years, but other agencies reported increases in 1 or more of those years. Although some longstanding violations were resolved, others remained open at the end of the fiscal year and had been in violation for 2 years or more at that point. OMB has taken several actions to address PRA violations since last year's hearing—and deserves a lot of credit for the reductions that have occurred in the past year. However, 244 violations of the law during a single year are still troubling and should not be tolerated. We continue to believe that OMB and the agencies can do more to ensure that the PRA is not violated and that long-standing violations are resolved.

Background

Before discussing these issues in detail, it is important to recognize that a large amount of federal paperwork is necessary and serves a useful purpose. Information collection is one way that agencies carry out their missions. For example, IRS needs to collect information from taxpayers and their employers to know the correct amount of taxes owed. The Bureau of the Census collects information that was used to reapportion congressional representation and is being used for a myriad of other purposes. The events of September 11, 2001, have demonstrated the importance of accurate, timely information. On several occasions, we have recommended that agencies collect certain data to improve operations and evaluate their effectiveness.¹

However, under the PRA, federal agencies are required to minimize the paperwork burden they impose. The original PRA of 1980 established the Office of Information and Regulatory Affairs (OIRA) within OMB to provide central agency leadership and oversight of governmentwide efforts to reduce unnecessary paperwork and improve the management of information resources. Currently, the act requires OIRA to develop and maintain a governmentwide strategic information resources management (IRM) plan. In February 2002, we reported that OMB had not fully developed and implemented a strategic IRM plan that articulated a comprehensive federal vision and plan for all aspects of government information, including reducing information burdens, and we recommended that the agency develop such a plan.² During the past year OMB has taken a number of actions that demonstrate progress in fulfilling the PRA's requirement of providing a unifying IRM vision with a focus on burden reduction. For example, OMB's *E-Government Strategy* outlines the federal government's action plan for electronic government. One focus of that strategy is implementing initiatives that will reduce burden on

¹See, for example, U.S. General Accounting Office, *Veterans' Health Care: VA Needs Better Data on Extent and Causes of Waiting Times*, [GAO/HEHS-00-90](#) (Washington, D.C.: May 31, 2000); *Public Housing: HUD Needs Better Information on Housing Agencies' Management Performance*, [GAO-01-94](#) (Washington, D.C.: Nov. 9, 2000); and *Environmental Information: EPA Needs Better Information to Manage Risks and Measure Results*, [GAO-01-97T](#) (Washington, D.C.: Oct. 3, 2000).

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

businesses by reducing redundant data collection and providing one-stop streamlined support. In addition, the *Federal Enterprise Architecture Business Reference Model* provides an integrated view of the federal government's activities, thereby allowing agencies to look at federal business operations and understand the gaps, overlaps, and opportunities for consolidation. Although OMB's strategies and models are promising, their ability to reduce paperwork burden and accomplish other objectives depends on how OMB implements them.

OIRA also has overall responsibility for determining whether agencies' proposals for collecting information comply with the PRA.³ Agencies must receive OIRA approval for each information collection request before it is implemented. Section 3514(a) of the PRA requires OIRA to keep Congress "fully and currently informed" of the major activities under the act, and to submit a report to Congress at least annually on those activities. The report must include, among other things, a list of all PRA violations and a list of any increases in burden. To satisfy this reporting requirement, OIRA develops an Information Collection Budget (ICB) by gathering data from executive branch agencies. In November 2002, the OMB director sent a bulletin to the heads of executive departments and agencies requesting information to be used in preparation for the fiscal year 2003 ICB (reporting on actions during fiscal year 2002).

OIRA published its ICB for fiscal year 2002 (showing changes in agencies' burden-hour estimates during fiscal year 2001) in April 2002. OIRA officials told us that they did not expect to publish the ICB for fiscal year 2003 until today's hearing. Therefore, we obtained unpublished data from OIRA to identify changes in governmentwide and agency-specific "burden-hour" estimates and PRA violations during fiscal year 2002. We then compared the data to agencies' burden-hour estimates and violations in previous ICBs to determine changes in the data over time.

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

“Burden hours” has been the principal unit of measure of paperwork burden for more than 50 years and has been accepted by agencies and the public because it is a clear, easy-to-understand concept. However, it is important to recognize that these estimates have limitations. Estimating the amount of time it will take for an individual to collect and provide information or how many individuals an information collection will affect is not a simple matter.⁴ Therefore, the degree to which agency burden-hour estimates reflect real burden is unclear. Nevertheless, these are the best indicators of paperwork burden available, and we believe they can be useful as long as their limitations are kept in mind.

Governmentwide Paperwork Burden Estimate Has Increased

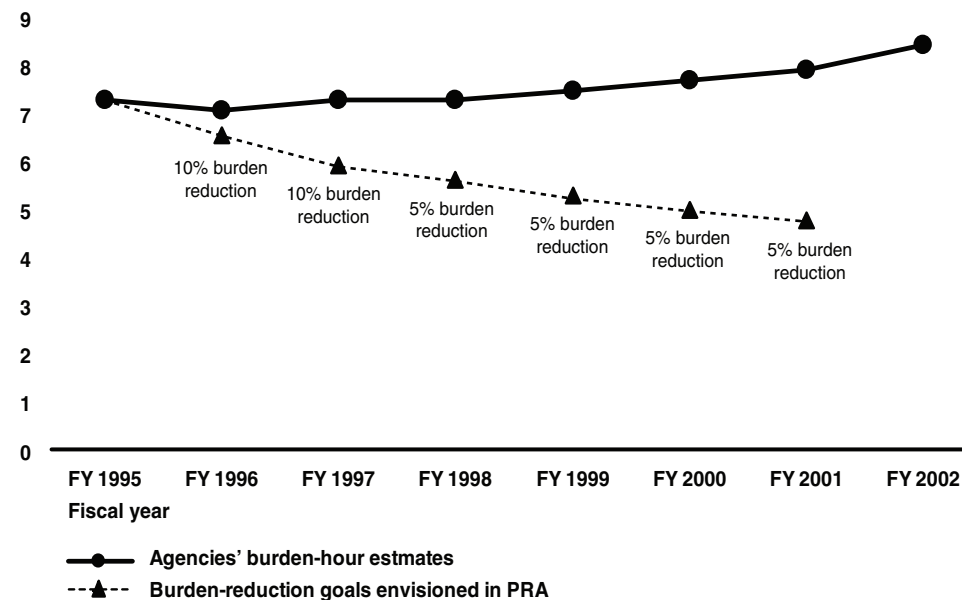
At the end of fiscal year 1995—just before the PRA of 1995 took effect—federal agencies estimated that their information collections imposed about 7 billion burden hours on the public. The amendment and recodification of the PRA that year made several changes in federal paperwork reduction requirements. One such change required OIRA to set a goal of at least a 10-percent reduction in the governmentwide burden-hour estimate for each of fiscal years 1996 and 1997, a 5 percent governmentwide burden reduction goal in each of the next 4 fiscal years, and annual agency goals that reduce burden to the “maximum practicable opportunity.” Therefore, if federal agencies had been able to meet each of these goals, the 7-billion burden-hour estimate in 1995 would have decreased about 35 percent to about 4.6 billion hours by September 30, 2001.

However, as figure 1 shows, this anticipated reduction in paperwork burden did not occur. In fact, the data we obtained from OIRA show that the governmentwide burden-hour estimate stood at more than 8.2 billion hours as of September 30, 2002—about a 1.2 billion hour (17 percent) *increase* since the PRA of 1995 took effect. Nearly half of that increase (about 570 million hours) occurred during fiscal year 2002 alone, and about 70 percent (about 860 million hours) occurred during the last 2 fiscal years.

⁴See U.S. General Accounting Office, *EPA Paperwork: Burden Estimate Increasing Despite Reduction Claims*, [GAO/GGD-00-59](#) (Washington, D.C.: Mar. 16, 2000) for how one agency estimates paperwork burden.

Figure 1: Governmentwide Paperwork Burden-Hour Estimate Continues to Grow

10 Burden hour estimate (in billions)



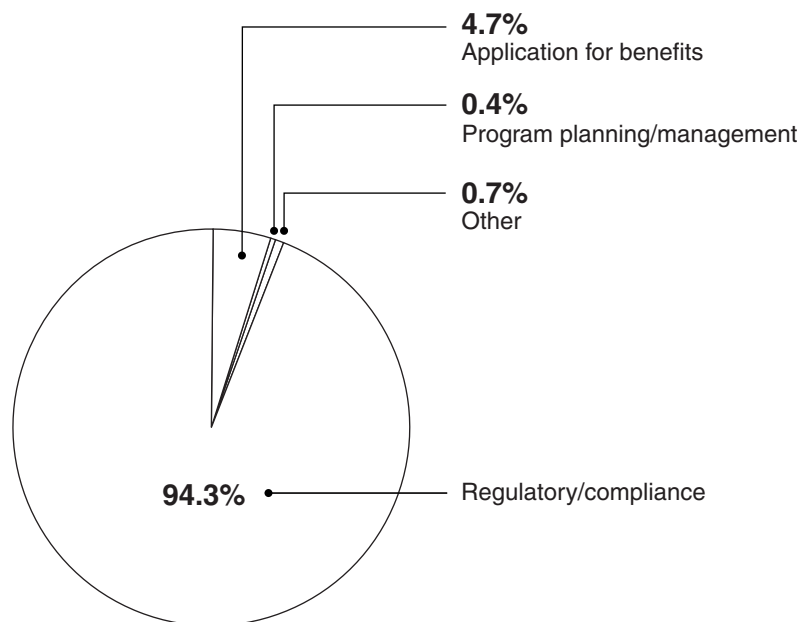
Source: OMB and agencies' ICB submissions.

Note: Data are as of the end of each fiscal year. The governmentwide burden-hour estimate as of September 30, 2002, was about 8.2 billion hours.

It is also important to understand how the most recent estimate of federal paperwork is allocated by the purpose of the collections. As figure 2 shows, data that we obtained from the Regulatory Information Service Center (RISC) indicate that almost 95 percent of the 8.2 billion hours of estimated paperwork burden in place governmentwide as of September 30, 2002, was being collected primarily for the purpose of regulatory compliance.⁵ Less than 5 percent was being collected as part of applications for benefits, and about 1 percent was collected for other purposes.

⁵RISC is part of the General Services Administration but works closely with OIRA to provide information to the President, Congress, and the public about federal regulations. It maintains a database that includes information on all information collection review actions by OIRA.

Figure 2: As of September 30, 2002, Most Federal Paperwork Was Primarily Collected for Regulatory Compliance

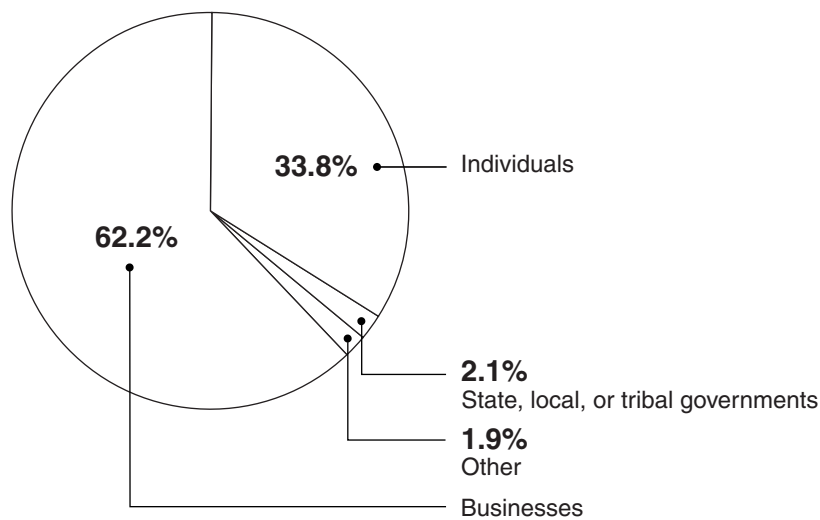


Source: OMB and RISC.

Note: The governmentwide burden-hour estimate as of September 30, 2002, was about 8.2 billion hours. The “other” category includes program evaluation, general purpose statistics, audit, and research. Addition of individual elements does not total 100 percent due to rounding.

Figure 3 shows that more than 60 percent of the governmentwide burden estimate was primarily directed toward businesses or other for-profit organizations. About one-third of the burden was primarily on individuals or households, and less than 3 percent was on state, local, or tribal governments.

Figure 3: As of September 30, 2002, Most Federal Paperwork Was Primarily Directed at Businesses

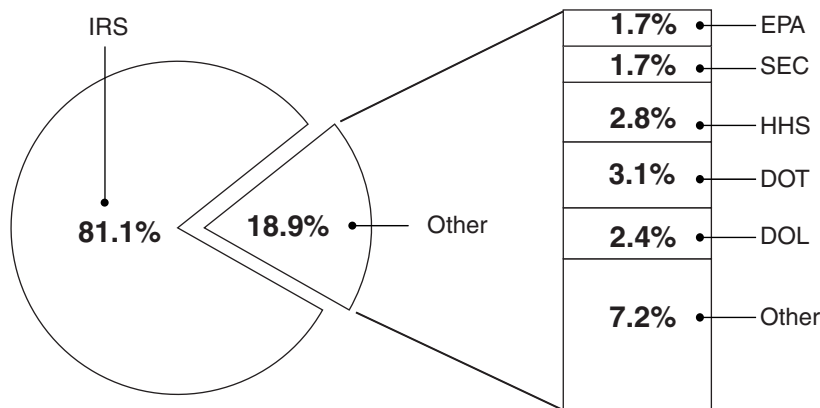


Source: OMB and RISC.

Note: The governmentwide burden-hour estimate as of September 30, 2002, was about 8.2 billion hours. The “other” category includes farms, nonprofit organizations, and the federal government.

As of September 20, 2002, IRS accounted for about 99 percent of the Department of the Treasury’s burden-hour estimate—nearly 6.7 billion burden hours. In fact, as figure 4 shows, IRS accounted for about 81 percent of the governmentwide burden-hour estimate (up from about 75 percent in September 1995). Other agencies with burden-hour estimates of 100 million hours or more as of that date were the departments of Health and Human Services (HHS) and Labor (DOL), DOT, the Environmental Protection Agency (EPA), and the Securities and Exchange Commission (SEC). Because IRS constitutes such a significant portion of the governmentwide burden-hour estimate, changes in IRS’ estimate can have a significant—and even determinative—effect on the governmentwide estimate.

Figure 4: IRS Accounted for Most of the Federal Paperwork Burden-Hour Estimate as of September 30, 2002



Source: OMB and the Department of the Treasury.

Note: The governmentwide burden-hour estimate as of September 30, 2002, was about 8.2 billion hours.

Changes in Individual Agencies' Estimates During Fiscal Year 2002

As table 1 shows, only a few agencies' paperwork burden estimates decreased during fiscal year 2002, most notably the Federal Communications Commission (FCC)—from more than 40 million hours to less than 27 million hours. Other agencies, most notably the Department of the Treasury (including IRS), DOT, HHS, and SEC, significantly increased their burden hour estimates. Still other agencies with relatively small burden-hour totals experienced large percentage increases in their estimates—most notably the Department of Housing and Urban Development (HUD) (an 81 percent increase) and the Department of State (a 76 percent increase).

Table 1: Changes in Federal Agencies' Burden-Hour Estimates During Fiscal Year 2002

Burden hours in millions

	FY 2001 estimate	Program changes				Adjustments	Total change	FY 2002 estimate
		New statutes	Lapses in OMB approval	Agency action	Total			
Governmentwide	7,651.4						570.5	8,221.7
Non-Treasury	1,235.6						236.3	1,471.8
Departments								
Agriculture	86.7	1.5	0.5	(0.3)	1.8	0.0	1.8	88.5
Commerce	10.3	0.2	0.0	1.2	1.3	(0.5)	0.9	11.2
Defense	92.1	–	0.5	0.6	1.0	(0.7)	0.3	92.4
Education	40.5	0.2	(0.1)	(3.2)	(3.1)	1.0	(2.1)	38.4
Energy	3.9	–	–	0.1	0.1	(0.2)	(0.1)	3.8
Health and Human Services	186.6	35.9	1.4	(2.0)	35.3	1.9	37.2	223.8
Housing and Urban Development	12.1	0.0	9.9	0.0	9.9	(0.1)	9.8	21.9
Interior	7.6	0.1	0.1	0.3	0.4	(0.3)	0.1	7.7
Justice	40.5	5.1	(0.0)	0.8	5.9	0.2	6.1	46.6
Labor	186.1	0.1	–	2.4	2.5	0.7	3.1	189.2
State	16.6	12.1	0.4	–	12.5	0.1	12.6	29.2
Transportation	80.3	0.8	–	163.2	164.0	1.2	165.2	245.5
Treasury	6,415.9	64.1	(0.1)	(9.5)	54.6	279.6	334.2	6,750.0
Veterans Affairs	5.3	–	0.3	–	0.3	1.8	2.1	7.4
Agencies								
Environmental Protection Agency	130.8	0.1	–	0.6	0.7	9.0	9.7	140.5
Federal Acquisition Regulatory Council	23.8	–	–	0.7	0.7	–	0.7	24.5
Federal Communications Commission	40.1	(0.5)	–	(1.7)	(2.3)	(11.1)	(13.3)	26.8
Federal Deposit Insurance Corporation	10.5	–	–	0.1	0.1	(0.7)	(0.5)	10.0
Federal Emergency Management Agency	5.5	0.0	0.0	0.3	0.3	2.0	2.3	7.8
Federal Energy Regulatory Commission	4.4	–	0.0	0.0	0.0	–	0.0	4.4
Federal Trade Commission	72.6	–	–	–	–	(2.9)	(2.9)	69.7
National Aeronautic and Space Administration	6.9	–	(0.9)	0.0	(0.9)	0.0	(0.9)	6.0

(Continued From Previous Page)

Burden hours in millions

	FY 2001 estimate	Program changes			Total	Adjustments	Total change	FY 2002 estimate
		New statutes	Lapses in OMB approval	Agency action				
National Science Foundation	4.8	—	—	0.0	0.0	(0.3)	(0.3)	4.5
Nuclear Regulatory Commission	8.2	—	—	—	—	0.2	0.2	8.4
Securities and Exchange Commission	114.3	0.2	—	4.3	4.5	17.8	22.3	136.6
Small Business Administration	1.9	—	0.3	0.0	0.4	0.5	0.9	2.8
Social Security Administration	24.2	0.4	—	0.3	0.7	0.0	0.6	24.8

Source: OMB and agencies' ICB submissions.

Note: Data on the Federal Acquisition Regulatory Council were submitted by the General Services Administration. Data from the 27 departments and agencies may not equal the governmentwide figure because smaller agencies' requirements are also included. Cells with "0.0" values were non-zero values rounded to zero. Cells with "—" entries were zero values. Addition of individual elements may not equal totals due to rounding.

However, changes in agencies' bottom-line burden-hour estimates do not tell the whole story and can be misleading. It is also important to understand *how* the agencies accomplished these results. OIRA classifies modifications in agencies' burden-hour estimates as either "program changes" or "adjustments."

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

The agencies' ICB submissions identified what drove the changes in agencies' bottom-line burden-hour estimates during fiscal year 2002. For

example, more than 80 percent of the 13 million hour decline in the FCC estimate was due to the adjustment of one information collection. However, OMB does not require agencies to explain the causes of significant adjustments in agencies' burden-hour estimates. Therefore, it is not clear whether the FCC adjustment reflected a real reduction in the burden felt by the public (e.g., a change in the population responding to the collection), or was simply a reestimation of the burden that already existed. In any event, it appears that most of the FCC decrease was not the result of agency burden-reduction initiatives.

In contrast, HHS indicated that the 37 million burden-hour increase in its paperwork estimate during fiscal year 2002 was almost entirely driven by a statutory program change in a single collection related to the enactment of the Health Insurance Portability and Accountability Act of 1996.⁶ In its ICB submission, HHS said the purpose of this statutory change was "to establish standards for electronic transactions and for code sets to be used in those transactions." HUD indicated that the 87 percent increase in its burden estimate was entirely driven by program changes—specifically the reinstatement of two information collections that had been in violation of the PRA (i.e., HUD continued to collect the information without OMB approval). Therefore, although the department's burden estimate increased, the actual burden imposed on the public by the collection did not change.

In some cases, we found the agencies' explanations in their ICB submissions for the changes in their burden estimates somewhat misleading and/or inconsistent. For example, DOT indicated in its summary table that virtually all of the department's 165 million burden-hour increase in its estimate was driven by program changes—specifically, an "agency action." However, the narrative that the department submitted to OMB indicated that almost all of this change was driven by the reinstatement of a collection that had been in violation ("Driver's Records of Duty Status") and an adjustment to the collection's burden estimate.⁷ DOT's estimate of the burden associated with this collection declined about 42 million burden hours when the violation occurred during fiscal year

⁶Pub. Law 104-191.

⁷This collection is used by DOT to determine the compliance of motor carriers and commercial motor vehicle drivers with the maximum driving and duty time limitations prescribed in the Federal Motor Carrier Safety Regulations. For a discussion of how DOT's burden-hour estimate for this collection changed, see 67 Fed. Reg. 1396 (Jan. 10, 2002).

2001, so the adjustment was about 120 million hours. Documentation that we obtained from DOT's Office of the Chief Information Officer indicated that the adjustment was caused by significant increases in the department's estimates of the time needed for drivers and motor carriers to perform certain tasks. Therefore, the actual burden associated with this information collection did not change. The same information was being collected when the authorization had lapsed during fiscal year 2001 and when it was reinstated during fiscal year 2002. The rest of the increase was caused by the department's reestimation of the burden, not a change in the burden itself.

Reasons for Changes in IRS Burden Estimate

The increase in the IRS burden-hour estimate during fiscal year 2002 (about 330 million burden hours) was more than the increase in the rest of the government combined. Therefore, although all agencies must ensure that their information collections impose the least amount of burden possible, it is clear that the key to controlling federal paperwork governmentwide lies in understanding and controlling the increases at IRS.

The Department of the Treasury's ICB submission indicated that more than 80 percent of the increase in the department's estimate during fiscal year 2002 (about 280 million burden hours) was caused by adjustments. An IRS official told us that this adjustment was largely driven by an increase in the number of taxpayers using Form 1040.

IRS identified a number of burden-hour increases that it said were caused by the underlying statutes. For example, IRS said that it added more than 18 million burden hours to its estimate because of changes to Form 1040 and its associated schedules and instructions that were precipitated by the Economic Growth and Tax Relief Reconciliation Act of 2001.⁸ Also, IRS said it added nearly 17 million hours to the burden associated with Form 4562 ("Depreciation and Amortization") because of changes made by the Job Creation and Worker Assistance Act of 2002.⁹

⁸Pub. Law 107-16.

⁹Pub. Law 107-147. IRS said that the provisions that affected Form 4562 include an additional 30 percent depreciation deduction for qualified property placed in service after September 10, 2001, and an increase in the section 179 expense deduction for property placed in service in the New York Liberty Zone.

However, IRS said that other increases in its burden-hour estimate were made at the agency's initiative—not because of new statutes. For example, the agency said that an increase of more than 22 million hours in its estimate for Form 941 and related forms were due to changes “requested by IRS.”¹⁰

The Department of the Treasury also indicated in its ICB submission that it had taken a number of initiatives to reduce paperwork burden. For example, beginning with the 2002 tax year, Treasury said that IRS had eliminated the requirement on small corporate filers (i.e., those with total receipts and assets of less than \$250,000) to file certain schedules with their returns, resulting in a reduction of about 26 million burden hours. Treasury also said it had decided to increase the threshold for taxpayers having to file Schedule B (Form 1040) from \$400 to \$1,500. As a result, the department said that more than 10 million fewer taxpayers would have to file the schedule—about one-third of those who previously had to file. However, Treasury did not estimate how many burden hours would be reduced as a result of that action.

Focusing on IRS to Control Paperwork

In summary, the agencies' information collection estimates for the ICB being released today indicate that federal paperwork continues to increase at a record pace, and that IRS continues to account for most of the increases in estimated burden. Because IRS constitutes such a significant portion of the annual increases and the governmentwide burden-hour estimate, one strategy to address increases in federal paperwork could be to focus more of OIRA's burden-reduction efforts on that agency. Just as increases in IRS's estimates have had a determinative effect on the governmentwide estimates, reduction in the IRS estimates can have an equally determinative effect. For example, just one IRS information collection (related to Form 1040) is estimated to impose more paperwork burden than all of the non-Treasury collections combined. Just five IRS information collections represent about half of the 8.2 billion hour paperwork estimate governmentwide. A small reduction in the burden associated with those five collections could have a major effect on the governmentwide effort to reduce paperwork burden.

¹⁰Form 941 is used by employers to report payments made to employees subject to income and social security/Medicare taxes and the amounts of those taxes.

However, significant reduction of the burden hours associated with these and other IRS information collections may ultimately depend upon congressional action. IRS officials maintain that the agency's paperwork burden totals reflect the information that is needed to administer the tax laws. Therefore, they suggest that significant reductions in IRS's paperwork burden would require changes to the tax laws. Within the current tax laws, however, IRS has some discretion that can affect paperwork burden. For example, in January 2001 IRS altered the threshold over which businesses must pay employment taxes on a quarterly rather than a more frequent basis. In general, when considering reductions in the amount or frequency of data collection, IRS must also balance the potential for decreasing its ability to ensure that taxpayers fulfill their tax obligations with the amount of burden imposed.

Agencies Identified Fewer PRA Violations

I would now like to turn to the other main topic that you asked us to address—PRA violations. The PRA prohibits an agency from conducting or sponsoring a collection of information unless (1) the agency has submitted the proposed collection and other documents to OIRA, (2) OIRA has approved the proposed collection, and (3) the agency displays an OMB control number on the collection. The act also requires agencies to establish a process to ensure that each information collection is in compliance with these clearance requirements. OIRA is required to submit an annual report to Congress that includes a list of all violations. Under the PRA, no one can be penalized for failing to comply with a collection of information subject to the act if the collection does not display a valid OMB control number. OIRA may not approve a collection of information for more than 3 years, and there are currently about 8,000 approved collections.

As table 2 shows, the agencies indicated in their ICB submissions that a total of 244 PRA violations occurred during fiscal year 2002 (i.e., were either carried over from the previous year or were new violations). As in previous years, most (217) of these violations were collections whose OIRA approvals had expired and had not been reauthorized. Four cabinet departments were responsible for nearly 60 percent of the violations—USDA, the Department of Commerce (DOC), HUD, and the Department of Veterans Affairs (DVA).

Table 2: Reported Violations of the PRA During Fiscal Year 2002

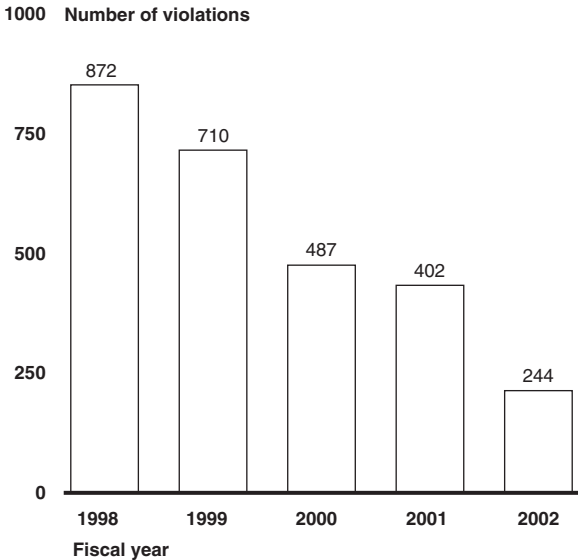
	Expired information collections	Other violations	Total violations
Departments			
Agriculture	65	1	66
Commerce	28	2	30
Defense	7	0	7
Education	3	1	4
Energy	0	0	0
Health and Human Services	11	7	18
Housing and Urban Development	24	0	24
Interior	6	0	6
Justice	16	1	17
Labor	0	0	0
State	4	0	4
Transportation	0	0	0
Treasury	0	0	0
Veterans Affairs	23	0	23
Agencies			
Environmental Protection Administration	0	1	1
Federal Acquisition Regulation	0	0	0
Federal Communications Commission	2	0	2
Federal Deposit Insurance Corporation	0	0	0
Federal Emergency Management Agency	6	8	14
Federal Energy Regulatory Commission	1	0	1
Federal Trade Commission	0	0	0
National Aeronautics and Space Administration	12	0	12
National Science Foundation	0	0	0
Nuclear Regulatory Commission	0	0	0
Securities and Exchange Commission	0	0	0
Small Business Administration	9	0	9
Social Security Administration	0	6	6
Total	217	27	244

Sources: OMB and agencies' ICB submissions.

Number of Violations Has Declined in Recent Years

As figure 5 shows, the number of PRA violations that the agencies identified has fallen markedly during the past 5 fiscal years—from 872 violations during fiscal year 1998 to 244 during fiscal year 2002. The decline in the number of violations between fiscal year 2001 and fiscal year 2002 is particularly notable. Last year, OIRA only asked the cabinet departments and EPA to report data on violations. The number of violations during fiscal year 2002 in just those agencies was less than half the number reported by the same agencies during fiscal year 2001 (200 versus 402).

Figure 5: The Number of PRA Violations Has Declined During the Past 5 Fiscal Years



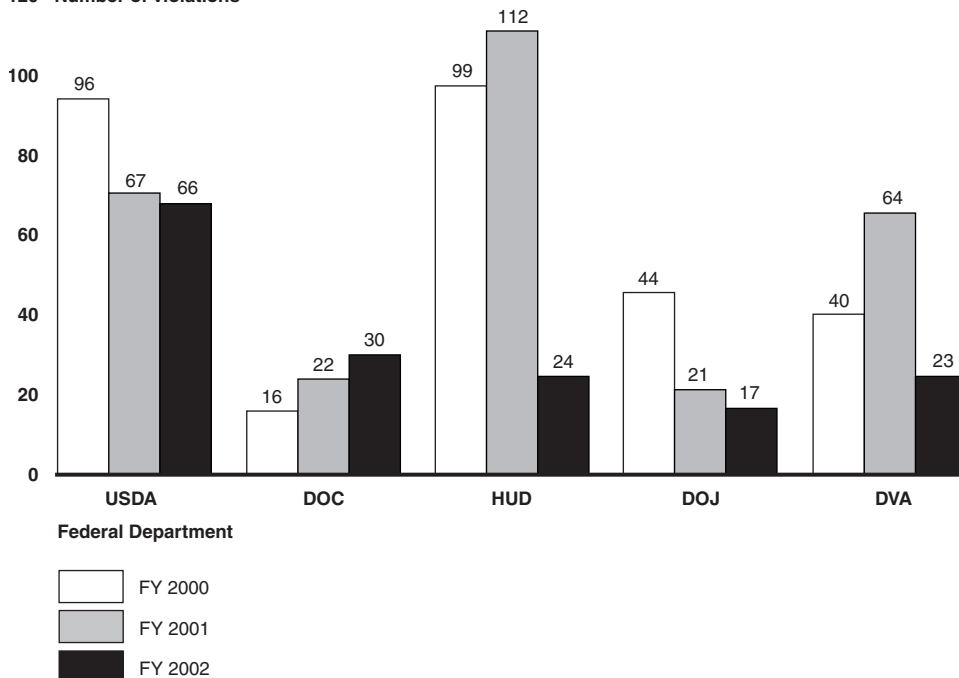
Source: OMB and agencies' ICB submissions.

Note: In fiscal year 2001, OMB reported the violations only for the cabinet-level departments and the EPA. Therefore, the data for that year does not include information for 12 independent agencies included in the other years.

As figure 6 shows, federal agencies vary in the extent and the consistency with which they have been able to reduce their number of violations. In some agencies, the number of violations has gone down in each of the last 3 fiscal years (e.g., USDA and the Department of Justice). In other agencies, the number of violations has gone up during this period (e.g., DOC) or exhibited an inconsistent pattern (e.g., HUD and DVA).

Figure 6: Agencies Exhibit Varying Patterns of Compliance with the PRA

120 Number of violations



Source: OMB and agencies' ICB submissions.

Notably, some cabinet departments were able to completely eliminate their violations during the past fiscal year—the Department of the Treasury (from 14 violations during fiscal year 2001 to zero during fiscal year 2002); DOT (from 12 violations to zero); DOL (from 8 violations to zero); and the Department of Energy (from 6 violations to zero).

OIRA Efforts to Reduce Violations

OIRA deserves a great deal of the credit for the reduction in the number of PRA violations during the past year. In June 2002—2 months after last year's hearing before this Committee—the OIRA Administrator sent a memorandum to agency chief information officers (CIOs), general counsels, and solicitors emphasizing the importance of compliance with the PRA. The Administrator said that, despite recent progress, the number of overall and unresolved violations was still “unacceptably high,” and asked each agency to identify progress on violations reported in the ICB for fiscal year 2001 and to identify any new violations that had occurred since September 30, 2001. He also asked the agencies to describe the procedures

that they had in place to prevent future violations, and said OIRA was planning to meet with the CIOs and general counsels of the five agencies with the highest number of overall, long-standing, or high-burden violations—USDA, HHS, HUD, the Department of State, and DVA.

In November 2002, the OIRA Administrator sent another memorandum to the CIOs, noting that although most agencies had done a good job of resolving existing violations, some were still having problems in this area. He also reported that six agencies had reported 10 or more new violations from October 2001 through June 2002—USDA, DOC, the Department of State; the Federal Emergency Management Administration, the National Aeronautics and Space Administration, and the Small Business Administration. The Administrator said OIRA's goal was "to achieve zero violations by no later than April 1, 2003," and urged each agency to reexamine the efficacy of its PRA clearance system. To assist in that effort, he attached a list of collections that had expired in the previous 30 days and those that were due to expire in the next 150 days, and asked the agencies to take action to resolve existing violations and to prevent future ones.

Long-standing Violations Still a Problem

In our previous testimonies on the implementation of the PRA, we noted that many of the agencies' PRA violations had been occurring for years. The agencies appear to have made some progress in this area, resolving certain long-standing violations by either obtaining OMB clearance or discontinuing the collections. For example, during fiscal year 2002, the Department of the Interior resolved three violations that had been occurring since 1993 or 1994. DVA resolved five violations that had been occurring since 1996 or 1997.

However, the agencies also indicated that many other long-standing violations had not been addressed. Of the 244 violations that occurred during fiscal year 2002, 120 were still occurring at the end of the fiscal year (September 30, 2002). Forty-five of these 120 violations had been occurring for at least 1 year at that point, and 27 had been occurring for at least 2 years.

Some agencies had a particularly large number of long-standing unresolved violations.

- USDA indicated that 27 of its 66 violations were unresolved as of September 30, 2002. Of these, 14 had been occurring for more than 1

year, and 6 had been in violation for more than 2 years. Three of the USDA collections had been in violation for at least 5 years—since 1997.

- HUD indicated that 23 of its 24 violations during fiscal year 2002 were unresolved as of September 30, 2002. Of these, 17 had been occurring for at least 1 year, and 13 had been in violation for at least 2 years.
- SBA indicated that 8 of its 9 violations during fiscal year 2002 were unresolved as of September 30, 2002. Of these, 6 had been occurring for at least 1 year, and 4 had been occurring for at least 2 years.

Federal agencies brought a number of their unresolved violations into compliance after the fiscal year ended. For example, by the end of January 2003, HUD had resolved 15 of its 23 violations that were open at the end of fiscal year 2002. USDA resolved 12 of its 27 open violations by January 2003. Overall, 46 of the 120 violations that were still occurring as of September 30, 2002, were resolved between that date and the end of January 2003. However, that still leaves 74 violations occurring during fiscal year 2002 that had not been resolved by the end of January 2003.

Violations and Costs

In our testimony in previous years, we provided an estimate of the monetary cost associated with certain PRA violations. To estimate that cost, we multiplied the number of burden hours associated with the violations by an OMB estimate of the “average value of time” associated with each hour of paperwork.¹¹ Although the ICBs list the information collections that were in violation during the previous year, they do not show the number of burden hours associated with each of the violations. Therefore, we obtained data from OIRA on the estimated number of burden hours for the 45 information collections that had been in violation for at least 1 year as of September 30, 2002.

The data suggest that PRA violations may constitute significant costs for those who provide the related information. The 45 violations that we examined involved an estimated 48 million burden hours of paperwork, or

¹¹Office of Management and Budget, *Draft Report to Congress on the Costs and Benefits of Federal Regulations*, 67 Fed. Reg. 15014 (Mar. 28, 2002). In this report, OMB used an average value of time of \$30 per hour to estimate the cost associated with paperwork burden.

(at \$30 per hour) about \$1.4 billion in costs. Just 2 of the 45 collections accounted for more than \$1 billion in estimated opportunity costs.

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

OIRA Can Do More to Address Violations

Although OIRA and the agencies have clearly made progress in reducing the overall number of PRA violations in recent years, more progress is needed. As I am sure that the Administrator would agree, 244 violations of the law in 1 year is not acceptable. Agencies can and should achieve OIRA's goal of zero violations.

As I noted earlier, OIRA has taken a number of steps during the past year to try to address this problem. As we recommended last year, OIRA has used its database to identify information collections that (1) have recently expired and attempted to determine whether the agencies are continuing to collect the information and (2) are about to expire, thereby attempting to prevent future violations. OIRA has also asked the agencies to describe the procedures that they have in place to prevent future violations and has met with agencies that have the highest number of overall, long-standing, or high-burden violations. We believe that these actions precipitated the improvements that occurred during fiscal year 2002, and will have positive benefits for years to come.

However, OIRA still has not taken some of the actions that we previously recommended to improve compliance with the PRA. For example, OIRA could notify the budget side of OMB that an agency is collecting information in violation of the PRA and encourage the appropriate resource management office to use its influence to bring the agency into compliance. OIRA could also encourage the use of "best practices" learned from agencies with a good record of PRA compliance. Agencies that have recently eliminated their violations altogether (e.g., the Department of the Treasury, DOT, and DOL) may have much to teach agencies that continue to violate the act.

Although OIRA's current workload is clearly substantial, we do not believe the kinds of actions that we suggested would require significant additional resources. Primarily, the actions require a continued commitment by OIRA leadership to improve the operation of the current paperwork clearance process. However, we also recognize that OIRA cannot eliminate PRA violations by itself. Federal agencies committing these violations need to evidence a similar level of resolve.

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