



Testimony

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Natural Resources, and Regulatory Affairs, Committee on
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PAPERWORK REDUCTION ACT

Burden Increases at IRS and Other Agencies

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G A O

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Paperwork Reduction Act: Burden Increases at IRS and Other Agencies

I am pleased to be here today to discuss the implementation of the Paperwork Reduction Act of 1995 (PRA). As you requested, I will initially discuss the changes in federal paperwork burden since last year's hearing, with particular attention to changes at the Internal Revenue Service (IRS). I will then briefly discuss IRS burden-relief initiatives that are directed at small businesses and revisit the issue of PRA violations that we discussed during last year's hearing.¹

In brief, although the PRA envisioned a 30-percent reduction in federal paperwork between fiscal years 1995 and 1999, preliminary data indicate that paperwork has increased during this period, and that the increase is primarily attributable to IRS. Federal paperwork increased by about 233 million burden hours during fiscal year 1999 alone—the largest increase in any 1-year period since the PRA was enacted.² Nearly 90 percent of the governmentwide increase during fiscal year 1999 was attributable to increases at IRS, which IRS said was primarily a result of new and existing statutory requirements. Some non-IRS agencies appear to have exceeded the burden-reduction goals envisioned in the PRA. Although some of these reductions reflect substantive program changes, others are revisions to the agencies' previous burden estimates or are the result of violations of the act, and therefore will have no effect on the paperwork burden felt by the public.

Federal agencies identified 710 violations of the PRA during fiscal year 1999—fewer than the 872 violations that were identified during fiscal year 1998. However, problems in last year's data make it unclear whether the number of violations is really going down. Even if the number of violations is going down, 710 PRA violations during fiscal year 1999 is far too many. As we said last year, we believe that the Office of Management and Budget (OMB) can do more to ensure that agencies do not use information collections without proper clearance. We also believe that other federal agencies have a role to play in reducing the number of PRA violations.

Background

Before discussing these issues in detail, it is important to recognize that at least some federal paperwork is necessary and can serve a useful purpose. Information collection is one way that agencies carry out their missions. For example, the IRS needs to collect information from taxpayers and

¹Paperwork Reduction Act: Burden Increases and Unauthorized Information Collections (GAO/T-GGD-99-78, Apr. 15, 1999).

²In this testimony, we use the term "during fiscal year 1999" to refer to the period between September 30, 1998, and September 30, 1999.

their employers to know the amount of taxes owed. The Bureau of the Census recently distributed census forms to millions of Americans that will be used to apportion congressional representation and for a myriad of other purposes.

However, federal agencies have an obligation under the PRA to keep the paperwork burden they impose as low as possible, given their statutory and programmatic responsibilities. 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. Under the act, OIRA has overall responsibility for determining whether agencies' proposals for collecting information comply with the act.³ Agencies must receive OIRA approval for each information collection request before it is implemented. OIRA is also required to keep Congress "fully and currently informed" of the major activities under the act, and must report to Congress on agencies' progress toward reducing paperwork. To do so, OIRA develops an Information Collection Budget (ICB) by gathering data from executive branch agencies on the total number of "burden hours" OIRA approved for collections of information at the end of the fiscal year and agency estimates of the burden for the coming fiscal year. OIRA published its ICB for fiscal year 1999 (showing changes in agencies' burden-hour estimates during fiscal year 1998) just before last year's hearing. OIRA officials provided us with a copy of the fiscal year 2000 ICB last week. We used that information and the agencies' ICB submissions to identify changes in governmentwide and agency-specific burden-hour estimates during fiscal year 1999.

"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. 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.

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.

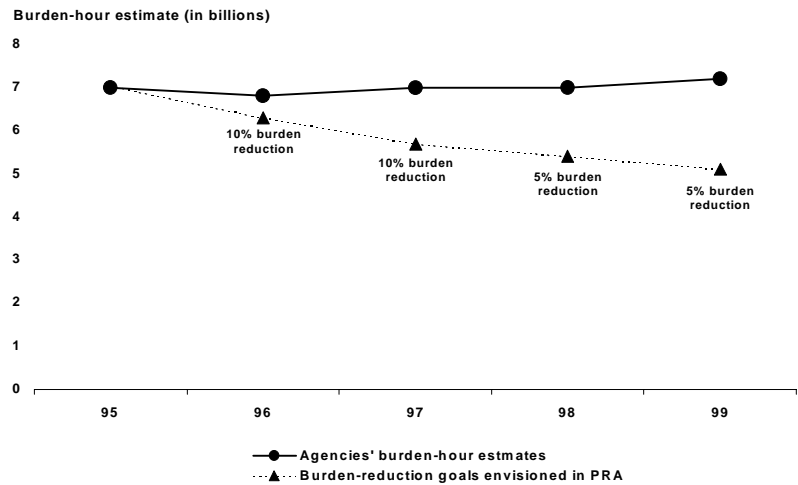
Federal Paperwork Burden Estimate Continues to Increase

Federal agencies estimated that their information collections imposed about 7 billion burden hours on the public at the end of fiscal year 1995—just before the PRA of 1995 took effect. The PRA made several changes in federal paperwork reduction requirements. One such change required OIRA to set a goal of at least a 10-percent reduction in the governmentwide burden-hour estimate for each of fiscal years 1996 and 1997, a 5-percent governmentwide burden reduction goal in each of the next 4 fiscal years, and annual agency goals that reduce burden to the “maximum practicable opportunity.” Therefore, if federal agencies had been able to accomplish the reduction in burden contemplated by the PRA for the 4-year period ending on September 30, 1999, the 7 billion burden-hour estimate would have fallen 30 percent, or to about 5 billion hours.

However, as figure 1 shows, the data reported by the agencies indicate that the anticipated 30-percent reduction in burden during this 4-year period did not occur. In fact, the governmentwide burden-hour estimate increased by nearly 3 percent during this period, and was about 7.2 billion hours as of September 30, 1999.⁴ During fiscal year 1999 alone, the estimate increased by about 233 million hours—the largest increase in any year since the PRA was enacted in 1995.

⁴ The data from the fiscal year 2000 ICB (shown in table 1 of this testimony) indicates that the governmentwide burden-hour estimate for fiscal year 1999 was 7,183.9 million burden hours. However, that figure does not include about 16 million burden hours from agencies not listed in the table. Therefore, the actual governmentwide burden-hour estimate for fiscal year 1999 was about 7,200 million burden hours.

Figure 1: Changes in Estimated Governmentwide Burden-Reduction Goals



Note: Data are as of the end of each fiscal year.
Source: OMB.

The record burden-hour increase during fiscal year 1999 may not be a record for very long. The new ICB indicates that federal paperwork is expected to increase by more than 260 million burden hours during fiscal year 2000—about 30 million hours more than the increase during fiscal year 1999. By September 30, 2000, the governmentwide paperwork estimate is expected to be nearly 7.5 billion burden hours.

Governmentwide Increase Largely Attributable to IRS

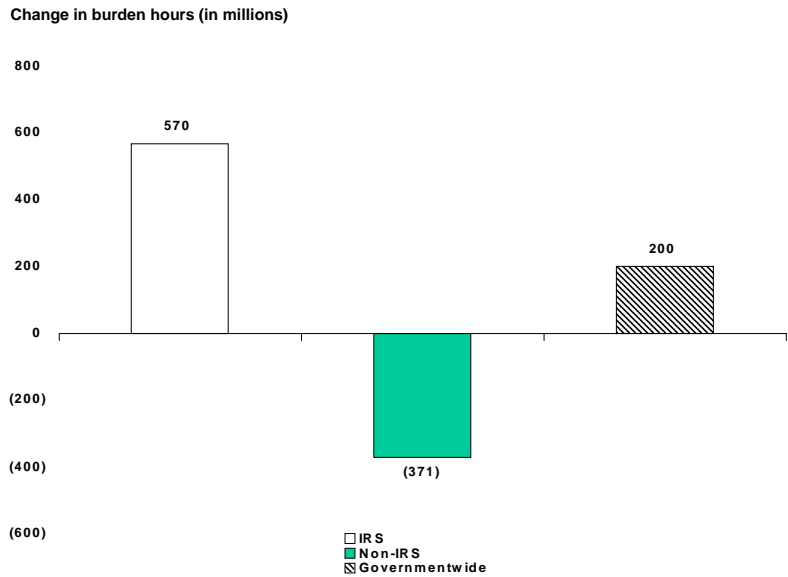
A variety of factors appear relevant in explaining why federal paperwork burden estimates have not declined during the past 4 fiscal years. However, as we said last year, the primary reason seems to be IRS' inability to reduce its estimated burden. IRS accounts for about 80 percent of the governmentwide burden-hour estimate. Therefore, changes in IRS' estimate can have a highly significant—and even determinative—effect on the governmentwide total.

As figure 2 shows, IRS' burden-hour estimate increased by 570 million burden hours between fiscal years 1995 and 1999—from less than 5.3 billion burden hours to nearly 5.9 billion hours. This increase in IRS' estimate more than offset the 371 million burden hours of reductions in all of the other agencies, and was largely responsible for the nearly 3-percent increase in the governmentwide paperwork estimate. During fiscal year

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1999 alone, IRS' paperwork estimate increased by more than 203 million burden hours. However, unlike in previous years, the increase in IRS' burden-hour estimate during fiscal year 1999 was not offset by lower estimates in the non-IRS departments and agencies. In fact, non-IRS agencies collectively increased their burden estimates by nearly 26 million burden hours during fiscal year 1999.

Figure 2: Change in IRS, Non-IRS, and Governmentwide Burden-Hour Estimates Between Fiscal Years 1995 and 1999



Note: The governmentwide burden-reduction goal for this 4-year period was 30 percent.

Sources: OMB and the Department of the Treasury.

According to IRS, increases in its burden-hour estimates are primarily driven by statutory changes and the requirements in existing statutes. For example, IRS said in its ICB submission for the fiscal year 2000 ICB that the Taxpayer Relief Act of 1997 (P.L. 105-34) and the Tax and Trade Relief Extension Act of 1998 (P.L. 105-277) had increased the agency's paperwork requirements by nearly 93 million burden hours during fiscal year 1999 alone. Specific elements of this increase include the following:

- IRS added several new lines and worksheets in the instructions to Form 1040 and accompanying schedules for, among other things, (1) the student loan interest deduction to reflect new Code section 221, (2) the child tax

credit to reflect new Code section 24, (3) the education credits (the HOPE and Lifetime Learning Credits) to reflect Code section 25A, and (4) the additional (refundable) amount of the child tax credit to reflect new Code section 32(n). Taken together, IRS said these new sections created by the Taxpayer Relief Act resulted in nearly 39 million additional burden hours to its estimate for Form 1040.

- IRS added lines and worksheets to the instructions for Form 1040A to implement the same changes to the tax code created by the Taxpayer Relief Act that I described in the previous example, resulting in more than 24 million additional burden hours.
- IRS added new attachments and Code references to the instructions for Form 1120S, Schedule D, and Schedule K-1 primarily due to the Taxpayer Relief Act, resulting in an increase of more than 11 million burden hours.

Statutory requirements can also prompt reductions in federal paperwork burden. For example, the only significant burden reduction that IRS identified in its submission for the fiscal year 2000 ICB was a 4.7 million hour reduction caused by changes made by the Taxpayer Relief Act that allowed most taxpayers to exclude gain on home sales after May 6, 1997, thereby making the filing of Form 2119 unnecessary.

Overall, though, IRS said that more than 148 million of the 203 million burden-hour increase that occurred during fiscal year 1999 was due to new statutes. Most of the remaining increase was caused by adjustments that IRS said was driven by growth in the economy. IRS attributed only a small part of the increase during fiscal year 1999 (about 14 million burden hours) to agency actions. As they have done in previous years, IRS officials told us that the agency would not be able to reduce its paperwork burden if new statutes requiring information collections continue to be enacted and unless changes are made to the substantive requirements in the current tax code.

Non-IRS Agencies' Burden Reduction Results Varied, and Require Careful Interpretation

As I previously mentioned, non-IRS departments and agencies reduced their estimated paperwork burden by 371 million burden hours, or nearly 22 percent, between fiscal years 1995 and 1999. However, some agencies were clearly more successful in reducing their estimates than others. For example, the Department of Agriculture (USDA) reduced its burden-hour estimate by 47 percent during this 4-year period, from 131 million hours to about 68 million hours. The Departments of Defense (DOD), Labor (DOL), and Veterans Affairs (DVA) had similarly impressive reductions during the period. On the other hand, the Department of Health and Human Services' (HHS) estimate increased by nearly 12 million burden hours, or nearly 8 percent between fiscal years 1995 and 1999. The Environmental

Protection Agency's (EPA) estimate increased by nearly 10 percent—from less than 109 million burden hours to about 119 million hours.

However, these changes in agencies' bottom line burden-hour estimates do not tell the whole story. At least as important is understanding how the agencies accomplished these results. OIRA classifies modifications in agencies' burden-hour estimates as either "program changes" or "adjustments." Program changes are (1) the result of deliberate federal government action and (2) additions or reductions to existing paperwork requirements that are imposed either through new statutory requirements or an agency's own initiative (e.g., the addition or deletion of questions on a form). 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.

Understanding and distinguishing between these categories is an important part of overseeing agencies' paperwork reduction claims. For example, we recently published a report that, in part, examined EPA's claim that it had reduced its paperwork requirements by 24 million burden hours between fiscal years 1995 and 1998.⁵ In its annual report, EPA claimed that it had accomplished these reductions by "streamlining processes, eliminating outdated provisions, and consolidating duplicative requirements"—in other words, program changes. We examined 13 information collections that accounted for more than 70 percent of EPA's claimed reductions and concluded that a substantial portion were (1) revisions of previous agency estimates that had no impact on the burden borne by the public or (2) were other kinds of adjustments because of changes in the economy or respondents' technology for which EPA should not claim credit. Therefore, we concluded that EPA's claims regarding how it had reduced its estimate and that its efforts had saved businesses and communities hundreds of millions of dollars were misleading.

The summary table in the ICB for fiscal year 1999 reflected, for the first time, the program changes and adjustments made in each agency. Therefore, readers could better understand what caused changes in an agency's burden-hour estimates from the previous year. However, these broad "program change" and "adjustment" categories can, themselves, mask a number of meaningful differences. For example, a 1 million hour

⁵EPA Paperwork: Burden Estimate Increasing Despite Reduction Claims (GAO/GGD-00-59, Mar. 16, 2000). These reductions were more than offset by additions to EPA's collections, resulting in a net gain of about 10 million burden hours during this period.

reduction in an agency's burden estimate that is characterized as a program change may have been caused by aggressive action on the part of the agency to eliminate unnecessary requirements or by changes in the underlying statute that the agency simply carried out.

Agencies may also be credited with program changes even though they are violating the PRA. For example, suppose that an agency's OIRA authorization to administer 1 million burden-hour information collection lapses but the agency continues to collect the information. The summary table in the ICB will show a 1-million burden-hour reduction that OIRA considers a program change because the ICB counts the burden associated with authorized information collections. If the agency subsequently obtains OIRA approval to collect the information, the 1 million burden hours would be reinserted into the agency's burden-hour estimate, and would also be identified as a program change.

Changes in Agencies' Recent Burden Estimates Varied

The fiscal year 2000 ICB indicates, for the first time, whether each agency's program changes were due to (1) new statutes,⁶ (2) expired or reinstated collections, or (3) agency actions (e.g., the addition or removal of information collection requirements at the initiation of the agency). Using that information and information from the fiscal year 2000 ICB, we prepared a table (table 1) that shows the program changes (with the subcategories) and adjustments during fiscal year 1999 for major departments and agencies. In brief, the table shows that federal paperwork burden estimates rose by about 233 million burden hours during fiscal year 1999, and that the Department of the Treasury accounted for about 207 million of that increase. As I mentioned earlier, IRS alone increased its estimate between fiscal years 1998 and 1999 by more than 203 million burden hours. Also notable is that "agency actions," where one would expect to find evidence of agency burden-reduction efforts, resulted in an 18.4 million burden-hour increase governmentwide. Even in the non-Treasury agencies, "agency actions" resulted in a 4.2 million burden-hour increase.

⁶OMB instructed the agencies to consider only those statutes passed since January 1, 1995, as "new."

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Table 1: Reported Changes in Federal Agencies' Burden-Hour Estimates During Fiscal Year 1999

Burden hours in millions

	FY 1998 estimate	Program changes				Total	Adjust- ments	Total change	FY 1999 estimate
		New statutes	Reinstated/ Expired	Agency actions					
Governmentwide	6,951.1	163.8	6.8	18.4	189.0	43.7	232.7	7,183.9	
Non-Treasury	1,248.9	13.8	6.8	4.2	24.8	1.1	25.9	1,274.8	
Departments									
Agriculture	72.0	0.2	(7.2)	(1.3)	(8.3)	4.1	(4.2)	67.8	
Commerce	13.5	0.1	(0.1)	0.8	0.8	0.0	0.8	14.3	
Defense	119.0	0.0	0.0	(7.0)	(7.0)	(0.3)	(7.3)	111.7	
Education	40.9	0.2	0.0	6.3	6.5	(5.3)	1.2	42.1	
Energy	4.5	0.0	0.0	0.0	0.0	0.0	0.0	4.5	
Health and Human Services	139.3	8.8	4.3	(0.1)	12.9	12.1	25.1	164.4	
Housing and Urban Development	18.5	1.0	(0.4)	0.6	1.2	0.1	1.3	19.8	
Interior	4.6	0.2	(0.2)	(0.2)	(0.2)	0.0	(0.2)	4.4	
Justice	25.8	1.6	8.5	1.3	11.4	(0.6)	10.8	36.6	
Labor	199.0	0.0	0.3	0.6	0.9	(3.9)	(3.0)	196.0	
State	28.9	0.0	0.0	0.0	0.0	0.0	0.0	29.0	
Transportation	138.8	0.7	0.0	(0.3)	0.4	0.9	1.3	140.1	
Treasury (including IRS)	5,702.2	150.0	0.0	14.2	164.2	42.6	206.8	5,909.1	
Veterans Affairs	2.6	0.0	2.5	0.1	2.6	0.0	2.6	5.3	
Agencies									
Environmental Protection Agency	119.2	0.0	0.0	2.0	2.0	(2.3)	(0.3)	118.9	
Federal Acquisition Regulation	24.4	0.0	0.0	(0.5)	(0.5)	(0.5)	(1.0)	23.4	
Federal Communications Commission	30.3	0.8	0.1	2.3	3.2	(1.0)	2.2	32.5	
Federal Deposit Insurance Corporation	7.6	0.0	0.0	0.0	0.0	0.4	0.4	8.0	
Federal Emergency Management Agency	4.7	0.0	0.1	0.0	0.2	0.1	0.3	5.0	
Federal Energy Regulatory Commission	5.5	0.0	0.0	(1.5)	(1.5)	0.0	(1.5)	4.0	
Federal Trade Commission	127.0	0.0	0.0	0.0	0.0	(0.4)	(0.4)	126.6	
National Aeronautic and Space Administration	7.7	0.0	0.0	(0.4)	(0.4)	0.0	(0.4)	7.3	
National Science Foundation	4.7	0.0	0.0	0.0	0.0	0.0	0.0	4.7	
Nuclear Regulatory Commission	9.7	0.0	0.0	0.0	0.0	(0.1)	(0.1)	9.5	
Securities and Exchange Commission	75.7	0.0	0.0	2.2	2.2	(1.3)	0.9	76.6	
Small Business Administration	3.1	0.0	(1.2)	(0.2)	(1.4)	0.0	(1.4)	1.7	
Social Security Administration	22.1	0.3	0.0	(0.3)	0.1	(0.9)	(0.8)	21.2	

Notes: The fiscal year 1998 governmentwide burden-hour estimate that appeared in the ICB for fiscal year 1999 was 6,967.2 million burden hours, and included 16 million burden hours for other agencies not individually listed in the table. However, the fiscal year 1998 governmentwide burden-hour estimate in the ICB for fiscal year 2000 does not include this estimate. OIRA estimated that these collections imposed about 16 million burden hours for fiscal year 1999. Therefore, the governmentwide burden-hour estimate for fiscal year 1999 is about 7.2 billion burden hours. Data on the Federal Acquisition Regulation were submitted by the General Services Administration. Addition of individual elements may not equal totals due to rounding.

Source: OMB.

Nearly half of the non-Treasury agencies were able to reduce their burden-hour estimates to some extent during this 1-year period, but the size of the agency increases were, on average, larger than the reductions. Only 2 of the 16 agencies with at least 10 million burden hours in fiscal year 1998 were able to meet the 5-percent burden-reduction goal for fiscal year 1999 envisioned in the PRA—DOD and USDA. DOD's 7.3 million burden-hour reduction in its paperwork estimate was almost entirely due to agency-initiated program changes—specifically, DOD's efforts to reduce and simplify the burden on contractors. In contrast, USDA's burden estimate declined by more than 4 million hours during fiscal year 1999, but the decline was almost entirely attributable to the expiration of USDA's authority to collect more than 7 million burden hours worth of information. However, this program change does not mean that the Department imposed 7 million hours less paperwork burden on the public. As I will discuss in more detail later, USDA was one of 2 departments with more than 100 violations of the PRA during fiscal year 1999. In those cases, the departments' authority to collect the information expired, but the departments continued to collect the information in violation of the PRA.

Other agencies were also able to claim significant burden reductions during fiscal year 1999, but were not able to meet the 5-percent burden-reduction goal envisioned in the PRA for that year. Again, it is important to understand how these reductions occurred. For example, DOL's burden estimate declined by more than 3 million hours, or about 1.5 percent. However, virtually all of the decrease in DOL's estimate was because of adjustments (e.g., reestimates or adjustments reflecting changes in the economy for which DOL should not claim credit).

Other agencies' burden-hour estimates increased during this 1-year period, with some estimates rising substantially. For example, HHS' estimate rose more than 25 million hours during fiscal year 1999, or about 18 percent. The HHS increase was nearly evenly divided between program changes and adjustments. The Department of Justice's estimate rose by nearly 11 million hour between fiscal years 1998 and 1999—an increase of more than 40 percent. There, the increase was entirely due to program changes—primarily reinstated collections.

Although these changes in non-Treasury departments and agencies are interesting, they pale in comparison to the size of the changes at IRS. IRS' burden-hour estimate increased nearly seven times as much as the net increases from all other agencies combined. Therefore, although all agencies must ensure that their information collections impose the least

amount of burden possible, the key to controlling federal paperwork governmentwide lies in controlling the increases at IRS.

IRS Small Business Initiatives

Mr. Chairman, you also asked us to identify any substantive changes in IRS paperwork requirements directed at small businesses during the past year. IRS' ICB submission to OIRA for fiscal year 2000 identified several initiatives that the agency said were designed to increase accessibility for small businesses. For example, IRS said that it

- Was working with the Senate Committee on Small Business to survey small business owners and identify the most complex IRS forms, schedules, instructions, and other publications confronting taxpayers, with a goal of reducing tax filing and recordkeeping requirements encountered by small business.
- Had launched a web page for small business on the IRS internet homepage to, among other things, give tax assistance and expand electronic filing.
- Had established a "Small Business Laboratory Prototype" to increase voluntary compliance, lessen compliance burden, and provide improved customer service to the small business community.
- Was working with the Small Business Administration to develop new tax training for small business owners.

The ICB also identified several planned initiatives for fiscal year 2000 that were designed to address the needs of small business. These initiatives included enhanced outreach to new small businesses and penalty relief to small businesses with Y2K problems in the first quarter of the year 2000. Also, IRS officials told us during the development of this testimony that the agency had several other initiatives designed to reduce the burden associated with IRS paperwork on small businesses. However, neither the ICB nor the IRS officials with whom we spoke indicated how many burden hours these various initiatives would reduce from the agency's paperwork estimate. IRS officials told us that the agency's burden-estimation methodology does not allow them to measure the number of hours reduced as a result of some of the small business initiatives that the agency has made or intends to make.

Agencies Identified Hundreds of PRA Violations During Fiscal Year 1999

I would now like to turn to the last main topic you asked us to address—PRA violations. The PRA prohibits an agency from conducting or sponsoring a collection of information unless (1) the agency has submitted the proposed collection and other documents to OIRA, (2) OIRA has approved the proposed collection, and (3) the agency displays an OMB control number on the collection. OIRA may not approve a collection of

information for more than 3 years, and there are about 7,000 approved collections at any point in time. The PRA also says no one can be penalized for failing to comply with a collection of information subject to the act if the collection does not display a valid OMB control number. The act requires that OIRA's annual report to Congress include a list of all violations of the act, and requires agencies to establish a process to ensure that each information collection is in compliance with these clearance requirements.

In the ICB for fiscal year 1999 that was published last April, OIRA listed a total of 872 violations of the PRA. Of these violations, 795 were instances in which OIRA authorizations had expired and 77 were collections that had not received OIRA approval. In our April 1999 testimony before this Committee, we concluded that OIRA had done little to address agencies' PRA violations and suggested several ways that OIRA could improve its performance.

Shortly after the hearing, in May 1999, the Acting Administrator of OIRA sent a memorandum to agency chief information officers calling their attention to the violations in the ICB and noting that more than 370 of them remained unresolved (i.e., the agencies still had not obtained OIRA authorization or had not indicated that they were no longer collecting the information). He said "[t]his situation is unacceptable; we must fix it immediately and prevent it from happening again." He requested that each agency (1) provide a timetable for resolution of each violation listed in the ICB; (2) provide a timetable for resolution of each expiration of OIRA authorization since the end of fiscal year 1998, indicating for each collection whether or not the agency had discontinued its use; and (3) describe the procedures by which the agency's chief information officer would prevent future violations. The Deputy Director of OMB also notified the President's Management Council of the need to resolve the violations identified in the ICB and encouraged the members of the Council to work with the chief information officers to ensure they have the necessary resources and authority.

Most of the agencies responded to the Acting Administrator's memorandum, and they frequently indicated that they planned to improve their performance.⁷ For example, the Chief Information Officer at USDA indicated that 47 of the more than 100 information collections that were

⁷OIRA was not able to provide us with responses from the Departments of Education and Energy, the Federal Energy Regulatory Commission, the National Science Foundation, and the Social Security Administration.

listed in the ICB as violations had been reinstated, and 5 other collections were pending approval by OMB. The Acting Chief Information Officer at DVA said that they would make every effort to prevent violations in the future, and that the agency's first challenge was to "eliminate all expired collections of information by September 30, 1999." (Emphasis in original.)

Some of the agencies also indicated that some of the information collections identified in the ICB for fiscal year 1999 as being in violation of the PRA were not violations. For example, USDA's Chief Information Officer said that five of the collections were intentional expirations. The Assistant Secretary for Management and Budget at HHS indicated that six of the collections were incorrectly listed as violations for a variety of reasons. Therefore, the number of PRA violations during fiscal year 1999 appears to have been somewhat less than the 872 reported in the ICB, although the precise number of violations during that year remains unclear.

In September 1999, the OIRA Administrator sent letters to the agencies notifying them of continuing and possible new violations and encouraging them to bring those violations into compliance. For example, in his letter to the Department of Justice, the Administrator said OIRA's records indicate that "there may be eight uncorrected violations dating back to last fiscal year, as well as at least 43 additional violations through unintentional expirations this year."

In addition to corresponding with the agencies, OIRA has taken other actions designed to reduce the number of violations. For example, for years, OIRA has sent agencies a monthly list of agency information collections whose OMB authorizations will expire within the next few months. OIRA has also added information about expired approvals to OMB's Internet home page. As a result, the Acting OIRA Administrator said last year that potential respondents would be able to inform the collecting agency, OMB, and Congress of the need for the agency to either obtain reinstatement of OMB approval or discontinue the collection.

Agencies Again Reported Hundreds of PRA Violations

The fiscal year 2000 ICB indicates that PRA violations are still a serious problem. Table 2 shows the number of information collections in each agency for which OIRA authorizations had expired (and the agencies appear to have continued to collect the information beyond the expiration dates), collections that did not receive OIRA authorizations, and the total number of PRA violations in each agency. As you can see, the 27 agencies indicated that 710 of their information collections were in violation of the PRA at some point during fiscal year 1999. Of these, 620 were instances in

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which OIRA authorizations had expired, and 90 were collections that had not received OIRA approval. USDA and DVA had the most violations—more than 100 in each agency. Four other departments (Health and Human Services, Housing and Urban Development, Interior, and Justice) collectively reported 281 violations.

Table 2: Reported Violations of the PRA During Fiscal Year 1999

	Expired information collections	Unapproved information collections	Total
Departments			
Agriculture	98	18	116
Commerce	14	13	27
Defense	31	1	32
Education	7	3	10
Energy	0	0	0
Health and Human Services	49	11	60
Housing and Urban Development	80	0	80
Interior	25	18	43
Justice	98	0	98
Labor	20	3	23
State	26	6	32
Transportation	1	6	7
Treasury	3	0	3
Veterans Affairs	115	0	115
Agencies			
Environmental Protection Agency	1	1	2
Federal Acquisitions Regulation	0	0	0
Federal Communications Commission	5	0	5
Federal Deposit Insurance Corporation	2	0	2
Federal Emergency Management Agency	22	5	27
Federal Energy Regulatory Commission	0	0	0
Federal Trade Commission	0	0	0
National Aeronautics and Space Administration	0	0	0
Nuclear Regulatory Commission	0	0	0
National Science Foundation	0	0	0
Small Business Administration	19	0	19
Securities and Exchange Commission	0	0	0
Social Security Administration	4	5	9
Total	620	90	710

Note: The General Services Administration administers the Federal Acquisitions Regulation.

Source: OMB.

OIRA indicated that many of the 710 violations had been resolved by the end of fiscal year 1999 (i.e., OIRA authorization for the collection had been reinstated or the collection had been discontinued). However, more than 250 violations had not been resolved and, in some cases, had been

occurring for years. For example, OIRA authorization for 28 of USDA's collections had been expired since at least 1997 and no action had been taken to reinstate those authorizations or discontinue the collections by the end of the fiscal year.

As I indicated earlier, it is unclear whether the number of violations is going down, going up, or staying about the same. On the surface, it appears that the number of violations is going down (from 872 to 710). However, some of the expirations that OIRA identified as violations in the fiscal year 1999 ICB were not violations, so the real extent of change is less than it appears. At USDA and DVA, though, it is clear that not much progress has been made. In fiscal year 1998, there were 103 violations at USDA; the recently published ICB lists 116 violations during fiscal year 1999. Last year's ICB indicated that there were 128 violations at DVA during fiscal year 1998; the agency's submission for this year lists 115 violations during fiscal year 1999. Even if the number of PRA violations governmentwide is going down, we believe that 710 violations of the act in 1 year is still far too many.

In last year's testimony, we provided an estimate of the monetary cost associated with 28 PRA violations that had been the subject of correspondence between OIRA and the Subcommittee. To estimate that cost, we multiplied the number of burden hours associated with the violations by an OMB estimate of the "opportunity cost" associated with each hour of IRS paperwork. As a result, we estimated that the 28 violations imposed nearly \$3 billion in unauthorized burden on the public. However, we were unable to estimate the opportunity costs of all PRA violations because the ICB did not provide information on the number of burden hours associated with each of the violations.

The fiscal year 2000 ICB also does not identify the number of burden hours for each violation, so we again cannot provide an estimate of the opportunity costs that all of these violations represent. Nevertheless, we continue to believe that these violations represent potentially significant opportunity costs to the public. Several of the USDA-expired collections that we highlighted last year continued to be violations during fiscal year 1999, and each collection imposed substantial costs on the public. For example:

- USDA's authorization to collect the report of acreage information collection expired on June 30, 1997, with an annual estimated burden of 2.8 million burden hours. In November 1997, OIRA disapproved reinstatement of this collection as "lacking need and practical utility." Nevertheless,

USDA continues to collect the information. As of September 30, 1999, the collection had imposed 6.4 million burden hours of paperwork without OIRA approval (2.25 years times 2.85 million burden hours per year). At a wage rate of \$26.50 per burden hour, the opportunity cost for this violation was nearly \$170 million.⁸

- USDA's authorization to collect the noninsured crop disaster assistance information collection expired on May 31, 1998, with an annual estimated burden of 10.1 million burden hours. As of September 30, 1999, the collection had imposed 13.5 million burden hours of paperwork without OIRA approval. Therefore, the opportunity cost associated with this violation was about \$357 million.

Not all of the expired collections were this large. Furthermore, reauthorization of these collections will not save the public the estimated opportunity costs. Nevertheless, another way to view paperwork burden is in monetary terms, and these figures illustrate the significance of the violations that continue to occur.

OIRA and Agencies Can Do More to Ensure Compliance With the PRA

As I indicated earlier, OIRA has undertaken several efforts since last year's hearing to encourage agencies to comply with the PRA. However, with 710 violations of the PRA during fiscal year 1999, it is reasonable to question the effectiveness of those efforts, and even whether OIRA alone can deal with this situation.

For example, although adding information about expired approvals to OMB's Internet home page is a step in the right direction, this approach places the burden of responsibility to detect unauthorized collections on the public. As we emphasized during last year's hearing, it is OIRA, not the public, that has the statutory responsibility to review and approve agencies' collections of information and identify all PRA violations.

Of the two types of PRA violations (collections without OMB authority and collections whose authority has expired), collections whose OMB authority has expired are the most numerous and the easiest to identify. However, OIRA's current procedures do not appear capable of detecting even these violations in a timely manner. For example, although OIRA has sent agencies a monthly list of information collections whose OMB approvals are about to expire, the agencies are not required to respond to

⁸As we noted last year, OMB has estimated the opportunity cost associated with filling out tax forms at \$26.50 per hour. Although OMB noted that the hourly cost of a technical employee (including overhead and fringe benefits) may exceed \$40 per hour, we used \$26.50 as the applicable wage rate in our calculations.

these notifications. Therefore, OIRA does not know which information collections are being administered in violation of the PRA until it collects the information as part of the annual ICB process—after the violations have occurred.

Even when OIRA becomes aware of PRA violations, OIRA officials told us they have no authority to require agencies to come into compliance. Ultimately, they said, it is up to the agencies to comply with the law. We do not believe that OIRA is as powerless as this explanation would suggest. In our previous testimony we identified several actions that OIRA could take to encourage agencies to come into compliance, including the following:

- Publicly announce that the agency is out of compliance with the PRA in meetings of the Chief Information Officer’s Council and the President’s Management Council.
- Notify the “budget” side of OMB that the agency is collecting information in violation of the PRA and encourage the appropriate resource management office to use its influence to bring the agency into compliance.
- Notify the Vice President of the agency’s violation. (The Vice President is charged under Executive Order 12866 with coordinating the development and presentation of recommendations concerning regulatory policy, planning, and review.)
- Place a notice in the Federal Register notifying the affected public that they need not provide the agency with the information requested in the expired information collection.

OIRA officials told us that the issue of PRA violations had been raised during at least one meeting of the Chief Information Officer’s Council and the President’s Management Council. They also said that the resource management offices receive copies of the ICBs listing the violations. Although they said that OIRA desk officers sometimes communicate with staff in OMB resource management offices about PRA violations, they also said that they do not do so routinely. Neither has OIRA notified the Vice President about the violations or placed the suggested notices in the Federal Register.

In our testimony last year we also said that OIRA could notify agencies that the PRA requires them to establish a process to ensure that each information collection is in compliance with the act’s clearance requirements. Agencies that continue to collect information without OMB approval or after OMB approval has expired are clearly not complying with

this requirement. Some agencies do not appear to have established sound clearance processes. Just 6 of the 27 PRA agencies in table 2 (USDA, DVA, and the Departments of Health and Human Services, Housing and Urban Development, Interior, and Justice) accounted for more than 70 percent of all violations.

At least some of the problem may be certain agencies' minimal human capital investment in paperwork clearance. According to OIRA officials, USDA has only one staff member responsible for reviewing the entire Department's paperwork requirements—a condition that they said contributes to the agency's poor PRA performance. Likewise, DVA indicated in its response to OIRA's May 1999 memorandum that it had "one full-time equivalent (FTE) person to support the PRA."

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 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.

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