



## Testimony

Before the Subcommittee on National Economic Growth,  
Natural Resources and Regulatory Affairs; and the  
Subcommittee on Government Management, Information,  
and Technology, Committee on Government Reform  
House of Representatives

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# PAPERWORK REDUCTION ACT

## Burden Increases and Unauthorized Information Collections

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# Paperwork Reduction Act: Burden Increases and Unauthorized Information Collections

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The Paperwork Reduction Act of 1995 (PRA) required the Office of Management and Budget (OMB) to establish goals to reduce the federal government's paperwork burden by 25 percent by the end of fiscal year 1998. However, the governmentwide burden-hour estimate in OMB's Information Collection Budget (ICB) declined by less than one-half of 1 percent during this period, remaining at nearly 7 billion burden hours. The Internal Revenue Service (IRS) accounts for about 80 percent of the governmentwide burden, and an increase in IRS' estimated burden between 1995 and 1998 offset the decreases in other agencies' estimates. IRS said the increase in its burden estimate was primarily because of increased economic activity and new statutory requirements to collect information. For example, the Taxpayer Relief Act of 1997 reportedly increased IRS' paperwork burden by more than 92 million hours. Both IRS and non-IRS agencies expect their paperwork burden to increase during the next 2 years, with the largest increases expected to occur at IRS.

OMB's Office of Information and Regulatory Affairs (OIRA) has not fully satisfied all of the requirements that the PRA assigns to that Office. For example, OIRA established governmentwide burden-reduction goals late in each of the past 3 fiscal years, and the Office sees no necessary connection between the agencies' goals and the governmentwide goal.

OMB data provided to the Subcommittee on expired paperwork authorizations indicate a troubling disregard by agencies for the PRA requirement that they obtain OMB approval before collecting information from the public. OMB indicated that 17 information collections were being carried out after OMB's approval had expired, and 11 other collections had been continued for a period of time in violation of the PRA. These collections imposed more than 111 million hours of estimated burden in recent years, with an estimated cost to the public of about \$3 billion. OMB's ICB for fiscal year 1999 indicates that there were many other PRA violations in addition to those provided to the Subcommittee. Also, the ICB reflects the burden hours associated with these expired authorizations at the end of the fiscal year as burden reductions. Therefore, some of the burden reductions claimed in the ICB did not really occur. OMB can do more to encourage agencies to comply with the PRA, including notifying the President's Management Council and the "budget side" of OMB of agencies' PRA violations.

# Paperwork Reduction Act: Burden Increases and Unauthorized Information Collections

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I am pleased to be here today to discuss the implementation of the Paperwork Reduction Act of 1995 (PRA). As you requested, I will summarize our recent reports and testimonies on the PRA<sup>1</sup> and provide our analysis of data on expired paperwork authorizations that were recently submitted to the Subcommittee by the Office of Management and Budget (OMB).

In brief, our reports and testimonies all indicate that federal paperwork burden estimates have increased dramatically since the PRA was first enacted in 1980, although some of that increase is due to changes in measurement techniques. Agencies' burden estimates have continued to increase since 1995 despite congressional expectations for reductions in federal paperwork burden. The increase in the governmentwide paperwork estimate appears largely attributable to continued increases in the Internal Revenue Service's (IRS) estimates. However, IRS said these increases are due to increased economic activity and new statutory requirements—factors it does not control. In addition, we believe that OMB's Office of Information and Regulatory Affairs (OIRA) has not fully satisfied all of the responsibilities that the PRA assigns to that Office.

Regarding the data that OMB provided to the Subcommittee, we believe it indicates a troubling disregard by agencies for the requirement that they obtain OMB approval before collecting information from the public. Using OMB's measure of the costs associated with federal paperwork, we estimate that agencies have imposed at least \$3 billion in unauthorized burden in recent years. OMB can do more to encourage agencies that are not complying with the PRA to come into compliance, and we offer some options in that regard.

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## Background

Before discussing these issues in detail, it is important to recognize that some federal paperwork is necessary and can serve 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 amount of taxes owed. Next spring, the Bureau of the Census will distribute census forms to millions of Americans that will be used to apportion congressional representation and for a myriad of other purposes.

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<sup>1</sup>[Paperwork Reduction: Burden Reduction Goal Unlikely To Be Met](#) (GAO/T-GGD/RCED-96-186, June 5, 1996); [Paperwork Reduction: Governmentwide Goals Unlikely To Be Met](#) (GAO/T-GGD-97-114, June 4, 1997); [Regulatory Management: Implementation of Selected OMB Responsibilities Under the Paperwork Reduction Act](#) (GAO/GGD-98-120, July 9, 1998); and [Paperwork Reduction Act: Implementation at IRS](#) (GAO/GGD-99-4, Nov. 16, 1998).

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However, federal agencies have an obligation under the PRA to keep the paperwork burden they impose as low as possible. The original PRA of 1980 established 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.<sup>2</sup> 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. The PRA of 1995 defines the term "collection of information" as "obtaining, causing to be obtained, soliciting, or requiring the disclosure to third parties or the public, of facts or opinions by or for an agency, regardless of form or format."

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.

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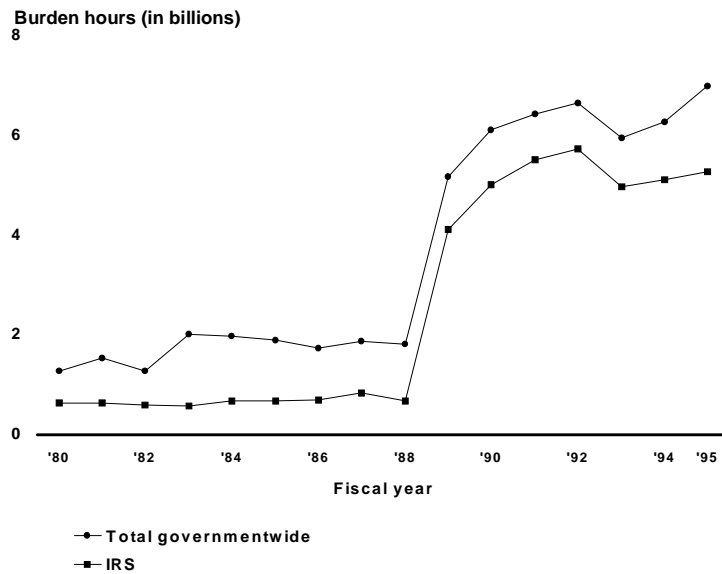
## Federal Paperwork Burden Estimate Has Increased

Although referred to as a "budget," the ICB does not limit the number of burden hours an agency is permitted to impose. As figure 1 shows, federal agencies' annual paperwork burden-hour estimate rose from about 1.5 billion hours in 1980 to about 7.0 billion hours by the end of fiscal year 1995—just before the PRA of 1995 took effect. The figure also shows the degree to which IRS' paperwork estimate drives the governmentwide estimate.

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<sup>2</sup>The 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 to collect information 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.

Figure 1: Changes in IRS and Governmentwide Burden-Hour Estimates Between Fiscal Years 1980 and 1995



Note: Data are estimated as of September 30 of each year.  
Sources: OMB and the Department of the Treasury.

As you can see, a large part of the increase in the governmentwide burden-hour estimate during this period occurred in 1989, when IRS changed the way it calculated its estimates. That reestimate increased the agency's paperwork estimate by 3.4 billion hours and nearly tripled the governmentwide burden-hour estimate. However, it is important to remember that the amount of paperwork actually imposed on the public did not change, only IRS' estimate of the burden that was already there.<sup>3</sup> In every year since 1989, IRS has accounted for nearly 80 percent of the governmentwide burden estimate.

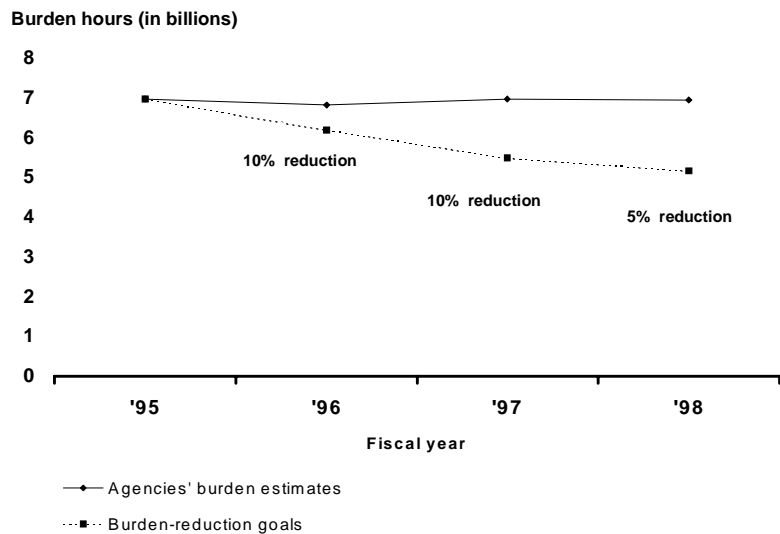
The PRA of 1995 made several changes in federal paperwork reduction requirements. For example, it required OIRA to set a goal of at least a 10-percent reduction in the governmentwide burden-hour estimate for each of fiscal years 1996 and 1997, a 5-percent governmentwide burden reduction goal in each of the next 4 fiscal years, and annual agency goals that reduce

<sup>3</sup>Paperwork Reduction: Burden Hour Increases Reflect New Estimates, Not Actual Changes (GAO/PEMD-94-3, Dec. 6, 1993).

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 3-year period ending on September 30, 1998, the 7.0 billion burden-hour estimate would have fallen 25 percent, or to less than 5.3 billion hours.

However, as figure 2 shows, the anticipated 25-percent reduction in burden during this 3-year period did not happen. In fact, the recently developed ICB for fiscal year 1999 shows that the governmentwide burden-hour estimate actually declined by less than one-half of 1 percent during this period.

**Figure 2: Changes in Estimated Governmentwide Burden-Reduction Goals**



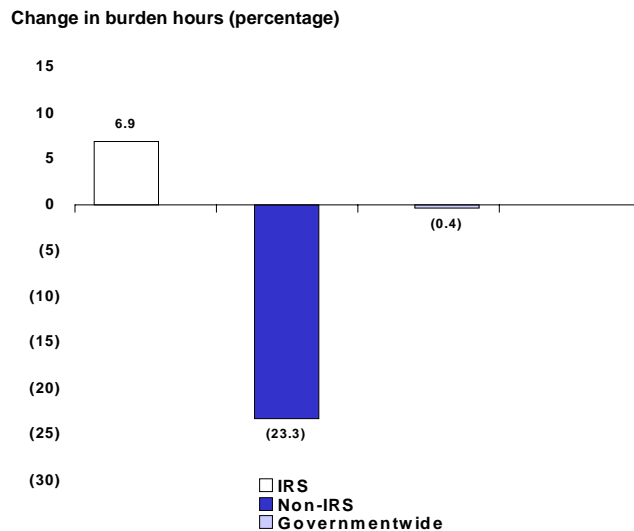
Note: Data are as of the end of each fiscal year.  
Source: OMB.

**IRS Paperwork Burden Estimates Have Increased**

A variety of factors appear relevant in explaining why federal paperwork burden has not been reduced. However, the primary reason seems to be IRS' inability to reduce its estimated burden. As I previously noted, IRS accounts for nearly 80 percent of the governmentwide burden-hour

estimate. Therefore, as illustrated in figure 1, changes in IRS' estimate can have a highly significant—and even determinative—effect on the governmentwide total. As figure 3 shows, non-IRS departments and agencies estimated that, in the aggregate, they had reduced their paperwork burden by more than 23 percent between fiscal years 1995 and 1998—close to the 25-percent burden-reduction goal envisioned in the PRA. However, IRS' burden-hour estimate increased by 6.9 percent during this period. That increase offset the estimated reductions in the other agencies and was largely responsible for the relatively minor decline in the governmentwide paperwork burden-hour estimate. Also, as I will discuss later, the estimate for the non-IRS agencies' reductions was overstated.

**Figure 3: Percentage Change in IRS, Non-IRS, and Governmentwide Burden-Hour Estimates Between Fiscal Years 1995 and 1998**



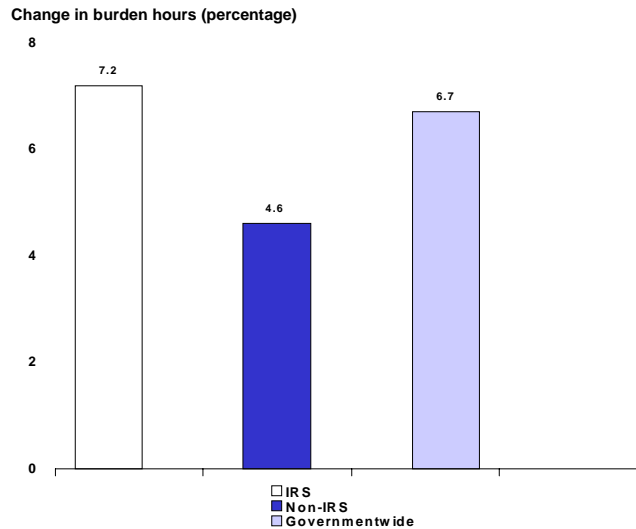
Note: The governmentwide burden-reduction goal for this 3-year period was 25 percent.  
Sources: OMB and Department of the Treasury.

As figure 4 shows, the ICB for fiscal year 1999 indicates that federal agencies expect their paperwork burden to increase between the end of fiscal years 1998 and 2000 by nearly 7 percent (about 468 million hours) raising the governmentwide burden-hour estimate to more than 7.4 billion hours. Unlike the previous 3-year period in which the non-IRS agencies significantly reduced their burden-hour estimates, these agencies expect



their aggregate burden to increase by more than 4 percent between fiscal years 1998 and 2000. However, IRS will again lead the way, accounting for more than 85 percent of the governmentwide increase in estimated burden during this period.

Figure 4: Percentage Change in IRS, Non-IRS, and Governmentwide Burden-Hour Estimates Between Fiscal Years 1998 and 2000



Note: The governmentwide burden-reduction goal for this 2-year period was 10 percent.  
Sources: OMB and Department of the Treasury.

### IRS Burden-Reduction Efforts

The 1998 and 1999 ICBs indicate that IRS has tried to eliminate unnecessary burden and has had some successes. For example, the reports stated that IRS had

- reduced the burden associated with IRS Form 1040EZ by 3.7 million hours for tax year 1996 by encouraging taxpayers to use the 1040 TeleFile, which is IRS' telephone-based filing system;
- allowed employers to report payments to employees subject to federal income, Social Security, and Medicare taxes through the 941 Telefile program, thereby reducing the paper form's burden by nearly 14 million hours during fiscal year 1998;

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- raised the threshold for which businesses had to maintain receipts to substantiate expenses for travel, entertainment, gifts, and listed property, thereby reducing burden by an estimated 12.5 million hours during fiscal year 1997; and
  - required those who file 250 or more of IRS Form 1042-S (used by withholding agents to report income and tax withheld from payees) to do so on magnetic media, thereby producing an estimated burden reduction of 21.1 million hours during fiscal year 1997.

As a result of these and other actions, IRS and other parts of the Department of the Treasury said they had eliminated more than 100 million hours of paperwork burden between fiscal years 1995 and 1998. However, despite these efforts, IRS' overall burden estimate increased by about 400 million hours during this period. The ICBs that OIRA developed during this period indicated that this net increase was because of increased economic activity and new legislation that required IRS to establish new information collections. For example, the ICB for fiscal year 1999 said the Taxpayer Relief Act of 1997 (P.L. 105-34) significantly increased IRS' paperwork burden, much of which was caused by new provisions for the calculation and reporting of taxes owed on capital gains. Overall, the ICB indicated that the Taxpayer Relief Act had increased burden by more than 92 million hours as of December 1998. IRS officials told us that these factors are outside of the agency's control and have caused the recent increases in its burden-hour estimates. They also said 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.

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## OIRA Actions Fall Short of PRA Requirements

Our July 1998 report examined the way in which OIRA has carried out some of its responsibilities under the PRA.<sup>4</sup> Although OIRA pointed to a number of actions it had taken in each area of its responsibilities that we examined, those actions often appeared to fall short of the act's requirements.

For example, as required by the PRA of 1995, OIRA has set both the governmentwide and agency-specific burden-reduction goals. However, OIRA did not set the governmentwide goal until January 1997—15 months after the PRA took effect. Also, OIRA established the agencies' goals for fiscal years 1996, 1997, and 1998 near the end of each of those fiscal years—too late to serve as real “goals.” The PRA says OIRA should establish agency burden-reduction goals that represent the “maximum

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<sup>4</sup>GAO/GGD-98-120.

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practicable opportunity” in each agency. The act’s legislative history suggests a relationship between the agency goals and the governmentwide goals, and it is logical to assume that the agency-specific goals would be the means by which the governmentwide goals would be achieved. However, OIRA says that the agency-specific goals may not total to the governmentwide goal because of the agencies’ statutory and program responsibilities.

The PRA of 1995 also required OIRA to conduct pilot projects to reduce federal paperwork burden. However, as of last July, OIRA had not formally designated any such pilot projects. OIRA officials told us that other burden-reduction efforts are under way, and that pilot projects used to satisfy another statute meet the PRA’s requirements. However, in most cases, those other pilots predated the act and did not appear to have been initiated in response to the act’s requirements.

The PRA also required OIRA to develop and maintain a governmentwide strategic plan for information resources management (IRM), which was defined in the act as the process of managing those resources to accomplish agency missions and improve agency performance. OIRA officials said that information contained in their annual reports to Congress under the PRA, the budget, and other documents satisfy this requirement. However, those documents do not appear to contain all of the elements that the PRA requires in a governmentwide IRM strategic plan.

Similarly, the PRA requires OIRA to periodically review selected agencies’ IRM activities, and OIRA officials and staff said they do so through their reviews of agencies’ information collection requests, OMB’s budget formulation and execution process, and other means. However, none of the mechanisms that they mentioned would allow OIRA to address all of the elements that the PRA requires in the reviews.

OIRA’s lack of action in some of these areas may be a function of its resource and staffing limitations. As we reported last July, OIRA has taken between 3,000 and 5,000 actions on agencies’ information collection requests in each year since the PRA of 1995 was enacted. At the same time, the 20 to 25 OIRA staff members assigned to this task were responsible for reviewing the substance of about 500 significant rules each year and carrying out other responsibilities as well. Although the number of PRA-related actions that OIRA has taken each year has been relatively constant since 1980, the number of OIRA desk officers responsible for those reviews has declined by more than 35 percent between 1989 and 1997.

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## Agencies Continue to Use Expired OIRA Authorizations

The second general issue you asked us to address involves data that OIRA recently sent to the Subcommittee concerning expired authorizations to collect information. 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. Finally, the PRA 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. OMB may not approve a collection of information for more than 3 years.

In his March 3, 1999, letter to you, Chairman McIntosh, the Acting OIRA Administrator described the results of OIRA staff's review of 91 paperwork clearance dockets that it conducted at your instigation. In one part of the letter, the Acting Administrator described the status of 52 information collections for which OIRA approval had expired. He indicated that 17 of these collections were still being carried out by the agencies after OIRA's approval had expired, which was in violation of the PRA's requirements. A table enclosed with the Acting Administrator's letter provided the details for each of these collections, including the date that OMB's authorization expired and the annual burden-hour estimate for each collection. The table indicated that some of these information collections had continued to be administered for more than 2 years after OIRA's approval had expired, and one had been out of compliance for more than 3 years. The table also indicated that at least one of these collections had been disapproved by OIRA, but the agency (the Department of Agriculture) went ahead with the information collection anyway.

Using the information in the Acting Administrator's letter, we prepared table 1, which shows, by agency and information collection, the total number of burden hours that have been imposed in violation of the PRA since OMB's authorizations expired or were disapproved. The table also shows that, for all 17 collections, the agencies have continued to impose nearly 64 million burden hours of unauthorized paperwork even though OMB's approval had expired.

**Statement  
Paperwork Reduction Act: Burden Increases and Unauthorized Information Collections**

**Table 1: Information Collections That Were Being Implemented Without OMB Approval as of March 1999**

| <b>Department</b>                            | <b>Title</b>                                    | <b>OMB approval expiration date</b>         | <b>Burden hours since expiration<sup>a</sup></b> | <b>Estimated costs in millions (\$)<sup>b</sup></b> |
|--|---|---|--|---|
| <b>Agriculture</b>                           | Food Stamp Program IDs                          | 04/30/97                                    | 2,846,386  | \$75.4  |
|  | Annual Certs, Power of Attorney, Acreage Report | 06/30/97                                    | 4,767,366  | \$126.3   |
|  | Civil Rights Compliance                         | 08/31/97                                    | 799,146  | \$21.2  |
|  | CCC Conservation Contract Addendum              | 10/31/97                                    | 687,477  | \$18.2  |
|  | Noninsured Crop Disaster Assistance Program     | 05/31/98                                    | 6,081,641  | \$161.2   |
|  | <b>Health and Human Services</b>                | Medical Institutional Provider Bill         | 10/31/95   | 11,956,425  |
| Medicare Secondary Payer Information         |   | 03/31/96                                    | 1,932,643  | \$51.2  |
| Mentally Retarded ICFs Participation Condit. |   | 10/31/96                                    | 15,936,904                                       | \$422.3   |
| Medical Review of Outpatient Therapy         |   | 12/31/97                                    | 639,990  | \$17.0  |
| <b>Housing and Urban Development</b>         |   | Nondiscrimination Handicap Assisted Housing | 03/31/97   | 1,356,931   |
|  | RESPA 1991 Act Amendments                       | 04/30/97                                    | 966,286  | \$25.6  |
|  | RESPA Model Disclosure                          | 11/30/97                                    | 7,674,900  | \$203.4   |
|  | Compliance Inspection Mortgagee's Assurance     | 07/31/98                                    | 527,728  | \$14.0  |
|  | <b>Justice</b>                                  | Arrival and Departure Record                | 11/30/97   | 1,567,500   |
| Supplement to Form Employment Authorization  |   | 01/31/98                                    | 1,210,720  | \$32.1  |
|  |   | 04/30/98                                    | 2,835,280  | \$75.1  |
| <b>Veterans Affairs</b>                      | VA Acquisition Regulation                       | 11/30/96                                    | 2,208,251  | \$58.5  |
| <b>Totals</b>                                |   |   | <b>63,995,574</b>                                | <b>\$1,695.8</b>                                    |

<sup>a</sup>The number of burden hours since expiration was calculated by multiplying the burden hour requirement by a date multiplier (number of months elapsed since approval expiration and March 1, 1999, divided by 12).

<sup>b</sup>The estimated cost is calculated by multiplying the burden hours since expiration by the OMB established value of \$26.50 per burden hour for tax paperwork.

Sources: OMB and GAO analysis.

Another way to view paperwork burden is in monetary terms. In the ICB for fiscal year 1999, OMB noted that converting burden hours into dollar costs requires agencies to estimate a wage rate that would be applicable to

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the burden hours associated with the collection, and that wage rate should be “loaded” to include overhead and fringe benefit costs. OMB also noted that the hourly cost of a technical employee might well exceed \$40. In its 1997 report to Congress on the costs and benefits of federal regulations,<sup>5</sup> OMB estimated the “opportunity cost” associated with filling out tax forms at \$26.50 per hour. Therefore, multiplying IRS’ 5.3 billion burden-hour estimate times \$26.50 yielded a \$140 billion cost of tax compliance paperwork. As table 1 shows, multiplying the nearly 64 million burden hours of paperwork imposed in violation of the PRA times this estimate of opportunity cost yields a dollar value of nearly \$1.7 billion of unauthorized paperwork burden from these 17 information collections.

The Acting Administrator’s March 3 letter also indicated that OMB’s authorization for another 11 collections had expired and were later reinstated, but not before they were used to collect information in violation of the PRA’s requirements. The table enclosed in the letter provided the annual burden-hour estimate and the period that elapsed without OMB authorization. Although the authorizations for most of these collections had lapsed for about 6 months or less, one collection was unauthorized for nearly 2 years. Using this information, we prepared table 2, which shows, by agency and information collection, the total number of burden hours that were imposed in violation of the PRA between the date that OMB’s authorizations expired and the date the authorizations were reinstated. For all 11 collections, the agencies imposed more than 47 million hours of unauthorized burden. Using the same \$26.50 per hour “opportunity cost” multiplier, these agencies imposed nearly \$1.3 billion in paperwork burden in violation of the PRA.

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<sup>5</sup>Report to Congress on the Costs and Benefits of Federal Regulations, Office of Management and Budget, Office of Information and Regulatory Affairs, September 30, 1997.

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**Table 2: Information Collections That Were Implemented Between Expiration of OMB Approval and Reapproval**

| <b>Department</b>                    | <b>Title</b>  | <b>OMB approval expiration date</b> | <b>Reapproval date</b> | <b>Burden hours between expiration and reapproval<sup>a</sup></b> | <b>Estimated costs in millions (\$) <sup>b</sup></b> |
|--------------------------------------|---|-------------------------------------|------------------------|---|--|
| <b>Defense</b>                       | CHAMPUS claim form  | 06/30/96                            | 10/28/96               | 268,125   | \$7.1  |
| <b>Health and Human Services</b>     | Medicare/Medicaid Claim Premarket Approval of Medical Devices | 12/31/96                            | 02/20/97               | 908,204   | \$24.1   |
|                                      | Home Health Agencies Info for Medicare                        | 02/28/97                            | 12/30/97               | 451,022   | \$12.0   |
|                                      |   | 05/31/97                            | 11/18/97               | 3,474,925   | \$92.1   |
| <b>Housing and Urban Development</b> | Good Faith Estimate and Special Information                   | 05/31/97                            | 10/14/97               | 216,875   | \$5.7  |
|                                      | Employment for Low and Very Low Income                        | 07/31/97                            | 04/06/98               | 357,828   | \$9.5  |
| <b>Justice</b>                       | Employment Eligibility Verification                           | 12/31/97                            | 07/09/98               | 8,300,000   | \$220.0  |
| <b>Transportation</b>                | Inspection Repair and Maintenance                             | 07/31/96                            | 06/25/98               | 31,935,243  | \$846.3  |
| <b>Veterans Affairs</b>              | Eligibility Verification Report                               | 11/30/95                            | 09/06/96               | 575,100   | \$15.2   |
|                                      | Customer Survey for EO 12862                                  | 01/31/97                            | 04/15/97               | 244,660   | \$6.5  |
|                                      | Application for Medical, Funeral, etc.                        | 07/31/98                            | 10/23/98               | 691,685   | \$18.3   |
| <b>Totals</b>                        |   |                                     |                        | <b>47,423,667</b>   | <b>\$1,256.7</b>                                     |

<sup>a</sup>The number of burden hours between expiration and reapproval was calculated by multiplying the annual burden hour requirement by an elapsed-time multiplier (number of months elapsed since approval expiration and reapproval, divided by 12).

<sup>b</sup>The estimated cost was calculated by multiplying the number of burden hours since expiration by the OMB established value of \$26.50 per burden hour for tax paperwork. The sum of the figures does not equal the total because of rounding.

Sources: OMB and GAO analysis.

Combining the results of tables 1 and 2, the information in the Acting Administrator's letter indicates that these federal agencies have imposed more than 111 million burden hours in estimated paperwork burden in

violation of the PRA. In dollar terms, that amounts to nearly \$3 billion in unauthorized burden.

However, this is clearly not the full extent of unauthorized information collections that have taken place. The ICB that OIRA recently developed identifies 800 violations of the PRA in fiscal year 1998. These violations included both other collections with expired OMB authorizations (some of which were subsequently reauthorized) and information collections that were never authorized in the first place. Some agencies (the Departments of Agriculture, Health and Human Services, and Veterans Affairs) had more than 100 PRA violations.

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### Expired OMB Authorizations Were Counted As Burden Reductions

As disconcerting as these violations are, even more troubling is that OIRA's ICB reflects the hours associated with unauthorized information collections ongoing at the end of the fiscal year as burden reductions. However, the public has seen no real reduction in paperwork burden associated with these information collections; although the agencies are still requiring the paperwork, OMB is no longer counting the burden because its authorization had expired. As a result, OMB credits agencies for burden-reduction accomplishments that have not been achieved, when in reality the agencies are actually violating the PRA.

When OMB's approval for an information collection expires, OMB subtracts the estimated annual number of burden hours associated with the collection from the agency's total. For example, when OMB's approval for the Department of Agriculture's (USDA) Noninsured Crop Disaster Assistance Program's information collection expired on May 31, 1998, the estimated 8.1 million burden hours imposed by this collection each year was subtracted from OMB's database. However, USDA continued to collect this information without OMB's approval. Because this violation was ongoing as of September 30, 1998, the estimate of USDA's paperwork burden at the end of fiscal year 1998 in the ICB for fiscal year 1999 was inappropriately recorded as being reduced by 8.1 million hours.

Although the precise effect of not counting any of the unauthorized information collections on the overall accuracy of the ICB is unclear, it is clear that the governmentwide and some of the agency-specific burden estimates in the ICB are less than they should be. For example, counting just the five USDA ongoing information collections that were not being counted at the end of fiscal year 1998 would have added more than 15 million hours to USDA's 72 million burden-hour estimate. In addition, OMB's recent ICB indicated that USDA had 57 other information collections that were also being administered in violation of the PRA with



an additional 3 million hours of estimated burden. Adding these 3 million hours and the 15 million hours from the five collections listed in the Acting Administrator's letter to the 72 million hours reported in the ICB indicates that USDA's burden estimate should have been about 90 million hours. Although the ICB indicated that USDA had reduced its estimated burden by 59 million hours (45 percent) by the end of fiscal year 1998, the actual reduction appears to have been about 41 million hours (31 percent). Similar adjustments appear to be needed in other agencies' estimates as well.

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### OIRA Has Taken Little Action to Address Agencies' PRA Violations

In his March 3 letter, the Acting Administrator said OIRA believed that compliance with the PRA is important, and that OIRA desk officers have worked closely with agency staff to stress the importance of full and timely compliance with the act. He also said that OIRA learns of agency violations from public comment and through direct monitoring of reporting from the agencies. The Acting Administrator said that OIRA's database tracks and records OIRA activities in reviewing agency submissions for clearance under the PRA. However, he said the database is not designed or able to identify what he termed "bootleg" information collections that did not obtain OMB approval, or for which its approval had expired.

Last November, Chairman McIntosh, you suggested that OIRA prepare and submit a monthly report listing expirations of OMB PRA approval. In response, the Acting Administrator said OIRA would add information about expired approvals to OMB's Internet home page. As a result, he said 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.

Although we believe that notifying the public about unauthorized information collections is a step in the right direction, OIRA's approach places the burden of responsibility to detect unauthorized collections on the public. It is OIRA, not the public, that has the responsibility to review and approve agencies' collections of information and identify all PRA violations. Therefore, we believe that OIRA should not simply rely on the public to identify these violations. Although the Acting Administrator indicated that OIRA could not use its database to identify "bootleg" information collections, OIRA's actions indicate otherwise. Just as they did in response to your letter, OIRA desk officers could use the database to identify information collections for which OMB authorizations had expired, contact the collecting agency, and determine whether the agency is continuing to collect the information. The desk officers could also use

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the database to identify information collections whose authorizations are about to expire, and therefore perhaps prevent violations of the act.

The PRA of 1995 requires that OIRA's annual report to Congress include a list of all violations of the act. OIRA reported 39 pages of violations in the ICB for fiscal year 1998, broken down into collections for which authorizations had expired and collections for which authorizations were never initially provided. The ICB for fiscal year 1999 contains 59 pages of these violations. However, OIRA officials and staff told us that they have no authority to do much more than publish the list of violations and inform the agencies directly that they are out of compliance with the act.

We do not agree that OIRA is as powerless as this explanation would suggest. If an agency does not respond to an OIRA notice that one of its information collections is out of compliance with the PRA, the Acting Administrator could take any number of actions to encourage compliance, including any or all of 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 collection.

OIRA could also 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 repeatedly collect information without OMB approval or after OMB approval has expired are clearly not complying with this requirement.

Although OIRA's current workload is clearly substantial, we do not believe these kinds of actions would require significant additional resources.

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**Statement**

**Paperwork Reduction Act: Burden Increases and Unauthorized Information Collections**

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Primarily, the actions require a commitment to improve the operation of the current paperwork clearance process.

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This completes my prepared statement. I would be pleased to answer any questions.

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