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United States General Accounting Office
Washington, DC 20548

April 29, 2002

The Honorable Mitchell E. Daniels, Jr.
Director
Office of Management and Budget

Subject: Paperwork Reduction Act: Changes Needed to Annual Report

Dear Mr. Daniels:

On April 11, 2002, we testified before the House Committee on Government Reform's Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs about the implementation of the Paperwork Reduction Act (PRA) of 1995.¹ Our testimony was based in part on information that was collected by the Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs (OIRA) to prepare its annual report to Congress on the implementation of the PRA. As was mentioned in our testimony, OIRA's fiscal year 2002 report differed from the agency's previous reports in two important respects. First, the report provided agency-specific information on paperwork burden-hour estimates and violations only for the cabinet departments and the Environmental Protection Agency (EPA), and did not include any such information for 12 independent agencies that had been included in previous reports. Second, the report merged data on the causes of changes in agencies' burden-hour estimates that previously had been presented separately. This letter is intended to bring those issues directly to your attention and to recommend corrective actions.

Most Independent Agencies Not Included in Annual Report

In previous annual reports on the PRA, OIRA provided agency-specific burden-hour estimates and information on PRA violations for 27 departments and agencies, including 13 independent agencies that are not cabinet-level departments. However, OMB Bulletin No. 02-02 (Oct. 17, 2001) asked only one independent agency—EPA—to submit the information used to compile the fiscal year 2002 report. OIRA did not indicate in the bulletin why other agencies were not required to provide information. However, in his prepared statement at the April 11, 2001, hearing, the OIRA administrator said the agencies were excluded because (1) OMB's authority over the independent agencies is limited, so its "ability to influence their information collection policies through OMB oversight is constrained;" (2) most independent

¹U.S. General Accounting Office, *Paperwork Reduction Act: Burden Increases and Violations Persist*, GAO-02-598T (Washington, D.C.: Apr. 11, 2002).

agencies have total burden inventories of under 10 million hours; and (3) OMB has limited resources, and it can best use those resources by focusing on the agencies that impose the most paperwork burden and over which OMB has “the most direct authority under the PRA to approve or disapprove information collections.”

We do not believe that these explanations justify the exclusion of all but one of the independent agencies from OMB’s annual report. Data that we obtained from the Regulatory Information Service Center indicated that some of the excluded independent agencies had larger estimated paperwork inventories and numbers of violations than several of the agencies that were included in OIRA’s report.² As of September 30, 2001, 6 of the 12 independent agencies that OIRA omitted from its fiscal year 2002 report estimated their paperwork burden at more than 10 million hours.³ One of these agencies (the Securities and Exchange Commission) estimated its burden at 114.3 million hours. In contrast, 3 of the 15 departments and agencies that were included in the report estimated that their paperwork burden was less than 10 million hours.⁴ Also, two of the independent agencies not included in this year’s report (the Federal Emergency Management Agency and the Small Business Administration) had more PRA violations last year than eight of the agencies that OIRA included in this year’s report.

Section 3514(a) of the PRA requires OIRA to keep Congress “fully and currently informed” of the major activities under the act, and specifically requires that its report include “a list of any increase in the collection of information burden” and “a list of all violations of this chapter.” We do not believe that OIRA’s annual report for fiscal year 2002 fully satisfies these requirements. Meeting these reporting requirements is not, in our opinion, a function of resources or differences in OIRA’s authority regarding independent regulatory agencies. Although OIRA can provide summary data for agencies with little PRA activity, we believe that it should provide detailed information on at least those agencies whose paperwork estimates and/or number of violations exceed those of the departments and agencies that are included in its report.

Reasons for Program Changes are Unclear

OIRA classifies modifications in agencies’ burden-hour estimates as either “adjustments” or “program changes.” Adjustments are caused by factors not related to deliberate government action, such as changes in the population responding to a requirement or agency reestimates of the burden associated with a collection of information. Program changes are the result of deliberate federal government action

²The Regulatory Information Service Center 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.

³These six agencies were the Federal Communications Commission (40.1 million hours), the Federal Deposit Insurance Corporation (10.5 million hours), the Federal Trade Commission (72.6 million hours), the Securities and Exchange Commission (114.3 million hours), the Social Security Administration (24.2 million hours), and the Federal Acquisition Regulations (submitted by the General Services Administration) (23.8 million hours).

⁴These agencies were the departments of Energy (3.9 million hours), Interior (7.6 million hours), and Veterans Affairs (5.3 million hours).

(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.

In the annual PRA reports for fiscal years 2000 and 2001, OIRA indicated in separate columns in its summary table whether the fluctuations in agencies' burden-hour estimates that were caused by program changes were, in turn, caused by new statutes or agency actions. By providing this information in separate columns, the reader could determine whether any program change increase or decrease in an agency's estimated paperwork burden was attributable to Congress or the agency itself. However, in the annual report for fiscal year 2002 that was released on April 11, 2002, the agency actions/new statutes information was provided in a single column. As a result, Congress and the public are no longer able to determine the specific causes of the program changes reported.

We believe that OIRA could improve the quality and transparency of the information in its annual report by reporting the program changes due to new statutes and agency actions in separate columns of its summary table. Also, OIRA could enhance information quality and transparency even further by providing another column to the table identifying the changes due to reinstatements and/or expirations. For several years, readers of the annual report who wanted to know how many of the changes in agencies' burden estimates were due to reinstatements and/or expirations had to calculate those amounts by subtracting the "new statutes" and "agency action" values from the program change totals. Adding a column that explicitly shows the changes due to reinstatements and/or expirations would eliminate the need for Congress and the public to perform those calculations.

Recommendations

We recommend that the director of OMB ensure that OIRA's annual report on the PRA for fiscal year 2003 contain burden-hour estimates and information on PRA violations for all of the agencies covered by the act. At a minimum, the report should include agency-specific data on burden estimates and violations for all agencies whose burden estimates and/or number of violations exceed those of the cabinet departments traditionally included in the report.

We also recommend that the director ensure that the fiscal year 2003 report's summary burden-hour table identify in separate columns the program changes that are attributable to new statutes, agency actions, and reinstatements and/or expirations. Doing so will enable Congress and the public to better understand why agencies' burden estimates change, and will improve the transparency and accessibility of government information.

Agency Comments and Our Evaluation

On April 17, 2002, we provided a draft of this report to the director of OMB for his review and comment. On April 25, 2002, OIRA officials told us that the agency would reconsider its decision to limit the scope and detail of the annual report on the PRA in light of our recommendations. In particular, they said that OMB would include the

12 agencies in its fiscal year 2003 annual report that had been omitted in the fiscal year 2002 report.

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We are sending copies of this letter to the appropriate congressional committees and the administrator, Office of Information and Regulatory Affairs. The letter is also available on GAO's homepage at <http://www.gao.gov>. If you or your staff have any questions on the matters discussed in this letter, you may contact Curtis Copeland or me at (202) 512-6806.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Victor S. Rezendes". The signature is fluid and cursive, with the first name "Victor" being the most prominent.

Victor S. Rezendes
Managing Director
Strategic Issues

Enclosure

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