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The Paperwork Reduction Act and Federal Collections of Information: A Brief Overview

Congress enacted the Paperwork Reduction Act (PRA) in 1980 and reauthorized the law in 1995 (codified at 44 U.S.C. §§3501-3521) primarily to address a concern that the federal government was requiring businesses, individuals, and other entities to spend too much time filling out paperwork at the behest of federal agencies. The PRA contemplated a centralized system for controlling and minimizing the amount of information that federal agencies collect while considering the public benefit and utility of the information. To this end, the PRA requires agencies to justify collecting information from the public by establishing the need and intended use of the information, estimating the paperwork burden to result from the information collection, and providing public input on each proposed collection. The PRA also created the Office of Information and Regulatory Affairs (OIRA) within the Office of Management and Budget (OMB) primarily to implement government-wide efforts to manage the federal paperwork burden.

This In Focus provides an overview of the information collection aspects of the PRA, including OMB and agency responsibilities for managing paperwork burden. Other elements of the PRA, including information resources management and statistical policy, are not covered here.

What Is the “Federal Paperwork Burden”?

Agencies collect information from the public under a wide variety of circumstances—for example, through tax forms, the decennial census, applications for government benefits, efforts to evaluate programs, and reporting requirements that inform agencies on industry’s compliance with regulations. The PRA requires agencies, when collecting information, to estimate the paperwork burden associated with each collection. The burden is generally considered to be a function of the number of respondents, the frequency of response, and the time required to provide the information. The burden is generally represented in hours (often referred to as “burden hours”). Although information collections are often critical to the work of federal agencies, they can impose a substantial burden on the public.

Paperwork Reduction Act Overview

To achieve its objective of balancing the federal paperwork burden with benefits of information, the PRA tasked OMB with reviewing and approving agencies’ information collections. As described in more detail below, agencies must receive approval from OIRA prior to conducting an information collection. Upon approval of each information collection request (ICR), an “OMB control number” is assigned and must be displayed on the collection. Each OMB approval may last for a period of up to three years.

OMB is also required to report annually to Congress on “major activities” under the PRA. OMB fulfills this requirement by issuing an annual “information collection budget” (ICB). ICBs contain information about the current paperwork burden, efforts to reduce the burden, violations of the act, and improvements in the use of information.

Scope of the PRA

The scope of the PRA is broad: It applies to almost all agencies and to most agency information collections, including collections that are voluntary.

The PRA’s requirements apply to almost all executive branch agencies, including statutorily designated independent regulatory agencies, which are generally excluded from regulatory oversight and control by the President or OMB. Specifically, the PRA defines *agency* as “any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency.” The following agencies and entities are exempted: the Government Accountability Office; the Federal Election Commission; the governments of the District of Columbia and the territories and possessions of the United States; and government-owned, contractor-operated facilities, including laboratories engaged in national defense research and production activities.

The PRA defines *collection of information* broadly as “the 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, calling for either - (i) answers to identical questions posed to, or identical reporting or recordkeeping requirements imposed on, ten or more persons, other than agencies, instrumentalities, or employees of the United States; or (ii) answers to questions posed to agencies, instrumentalities, or employees of the United States which are to be used for general statistical purposes.”

With these definitions, if a federal agency wants to collect information from 10 or more nonfederal entities—which can include individuals, states, or businesses—or to require 10 or more of these entities to provide information to a third party or to the public, that information collection or disclosure requirement is likely to be covered by the PRA. Notably, information collections subject to the PRA include both collections that are mandatory, such as tax forms that are required to be filled out annually, and collections that are voluntary, such as applications for federal benefits such as nutrition assistance and student loans.

A small number of types of information collections are exempt from the PRA. The PRA excludes information collections conducted during federal criminal investigations or prosecutions, for example, or collections obtained during the conduct of certain intelligence activities. OMB has identified categories of items that are generally not considered information under the PRA, which include agencies' general solicitations of facts or opinions on social media. By statute, Congress has also occasionally exempted specific information collections from the PRA.

The PRA's "Public Protection" Provision

Failure to obtain OMB approval for a collection represents a violation of the PRA and triggers the PRA's "public protection" provision. This provision states that an individual or entity may not be penalized for failing to comply with a collection of information subject to the PRA if the collection does not display a valid OMB control number or if the agency does not inform the respondents that they are not required to respond unless the collection of information contains a valid OMB control number.

Agency Clearance Process

Under the PRA, each agency is required to establish an internal process to review each proposed collection of information. Once the information collection has been internally reviewed, the agency must publish a notice in the *Federal Register* and provide for a 60-day public comment period on specified topics, including the necessity of the information collection; the accuracy of the agency's estimate of the paperwork burden; the quality, utility, and clarity of the information to be collected; and how to minimize the burden of the information collection. If the information collection is associated with a proposed rule, the agency may solicit public comments on the information collection at the same time it publishes a proposed rule under the Administrative Procedure Act's notice-and-comment requirements.

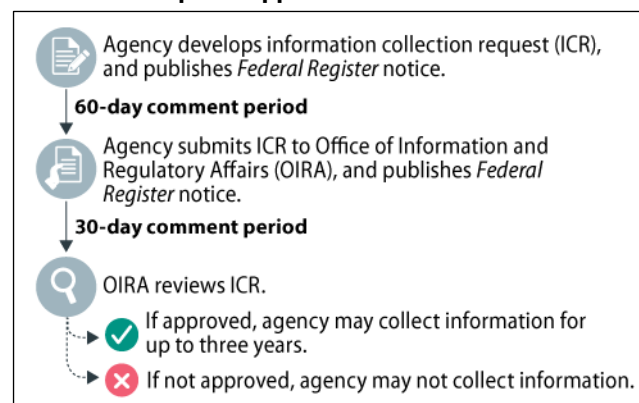
After the 60-day comment period has ended and the agency has considered the comments, the agency submits the ICR to OIRA and publishes a second *Federal Register* notice. The second notice informs the public that the request has been submitted to OIRA for review and begins a second public comment period of 30 days, during which public comments can be submitted directly to OIRA.

OIRA Clearance Process

After the 30-day comment period ends, OIRA may make its decision on whether to approve the ICR. OIRA is to evaluate several statutorily specified factors in its review of the ICR, including whether the collection is necessary for the proper performance of the functions of the agency and maximizes the benefit from the information to be collected, as well as its consistency with other legal requirements related to privacy, confidentiality, security, information quality, and statistical standards. If OIRA approves the ICR, the agency may proceed with the collection for up to three years. In most cases, if OIRA disapproves the collection, the agency may not proceed with it. However, in the case of a multi-headed independent regulatory agency, if OIRA disapproves an ICR, the agency may override OIRA's disapproval by majority vote.

Each year, OIRA typically receives between 4,000 and 5,000 requests, the vast majority of which it approves. Any disagreements between agencies and OIRA are generally not transparent to Congress and the public.

Figure 1. Paperwork Reduction Act: Information Collection Request Approval Process



Source: CRS.

Note: The Paperwork Reduction Act is 44 U.S.C. §§3501-3521.

Expedited OIRA Reviews

In some limited circumstances, an agency may request that OIRA provide expedited or "emergency" review of an ICR. Such a request must be accompanied by a written determination of one of the following: the collection of information is needed sooner than the regular time periods of the PRA and is essential to the agency's mission; the agency cannot reasonably comply with the normal clearance procedures because public harm is reasonably likely to result; an unanticipated event has occurred; or the use of normal clearance procedures will cause a statutory or court-ordered deadline to be missed. If appropriate, OIRA may modify or waive the public comment requirements and grant approval for up to 180 days.

Agencies may also request a "generic clearance" when they intend to conduct multiple similar collections that do not raise substantive or policy issues, and the specifics of the collection cannot or will not be determined until shortly before the information is to be collected.

Online PRA Resources

Information about current and past OIRA reviews of ICRs is available on OIRA's website, <http://www.Reginfo.gov>.

OMB has issued a number of guidance documents for agencies on PRA implementation and compliance. See <https://www.whitehouse.gov/omb/information-regulatory-affairs/federal-collection-information>.

ICBs are also available on OMB's website. See <https://www.whitehouse.gov/omb/information-regulatory-affairs/reports/ICB>.

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