Calendar No. 21

104TH CONGRESS, 1st Session | SENATE | REPORT 104–8

PAPERWORK REDUCTION ACT OF 1995

R E P O R T

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

together with

ADDITIONAL VIEWS

TO ACCOMPANY

S. 244

TO FURTHER THE GOALS OF THE PAPERWORK REDUCTION ACT TO HAVE FEDERAL AGENCIES BECOME MORE RESPONSIBLE AND PUBLICLY ACCOUNTABLE FOR REDUCING THE BURDEN OF FEDERAL PAPERWORK ON THE PUBLIC AND FOR OTHER PURPOSES

FEBRUARY 14 (legislative day, JANUARY 30), 1995.—Ordered to be printed

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FEBRUARY 14 (legislative day, JANUARY 30), 1995.—Ordered to be printed

Mr. ROTH, from the Committee on Governmental Affairs, submitted the following

REPORT

[To accompany S. 244]

The Committee on Governmental Affairs, to which was referred the bill (S. 244) to strengthen the Paperwork Reduction Act of 1980 and to reauthorize appropriations for the Office of Information and Regulatory Affairs, having considered the same, reports favorably the "Paperwork Reduction Act of 1995", with an amendment, and recommends that the bill, as amended, do pass.

I. PURPOSE

The purpose of the "Paperwork Reduction Act of 1995" (S. 244, as amended), is to:

(1) Reaffirm the fundamental purpose of the Paperwork Reduction Act of 1980—to minimize the Federal paperwork burdens imposed on the public by Government;

(2) Clarify that the Act applies to all Government-sponsored collections of information (including disclosure requirements), eliminating any confusion over the coverage of third-party paperwork burdens (those imposed by one private party on another private party due to a Federal regulatory mandate), caused by the U.S. Supreme Court's 1990 decision in *Dole* v. *United Steel Workers of America*;

(3) Emphasize the fundamental responsibilities of each Federal agency to minimize paperwork burdens and foster paperwork reduction, by requiring a thorough review of each proposed collection of information for need and practical utility, the Act's fundamental standards, agency planning to maximize the use of information already available within Government or

already collected by the public, and improved opportunity for public comment on a proposed paperwork requirement;

(4) Seek to reduce the paperwork burdens imposed on the public through better implementation of the annual Government-wide paperwork reduction goal of 5 percent;

(5) Reauthorize appropriations for the Office of Information and Regulatory Affairs (OIRA) within the Office of Management and Budget (OMB) for five years (through FY 2000), at $8 million each year;

(6) Enhance opportunities for public participation in government decisions regarding paperwork burdens;

(7) Establish policies to promote the dissemination of public information on a timely and equitable basis, and in useful forms and formats;

(8) Strengthen agency accountability for managing information resources in support of efficient and effective accomplishment of agency missions and programs; and

(9) Improve OIRA and other central management agency oversight of agency information resources management (IRM) policies and practices.

II. SUMMARY

The "Paperwork Reduction Act of 1995" is substantially identical to S. 560, the "Paperwork Reduction Act of 1994", in the 103rd Congress. S. 560 passed the Senate by unanimous voice vote on October 6, 1994. The following day, the text of S. 560 was attached to a House-passed bill, H.R. 2561, by unanimous consent and returned to the House of Representatives. The House Government Operations Committee Chairman declined to clear either measure before the adjournment of the 103rd Congress.

S. 560, as passed by the Senate, was a blending of S. 560, as introduced, and S. 681, the "Paperwork Reduction Reauthorization Act of 1993"—the two Senate bills of the 103rd Congress to reauthorize appropriations for IORA and amend the Paperwork Reduction Act of 1980 (as amended in 1986). S. 560, as reported by the Committee on August 2, 1994, was the product of a year-long, bipartisan effort within the Committee, assisted by frequent consultation with staff of the General Accounting Office (GAO) and the Office of Management and Budget (OMB), and the solicitation of public comment.

While agreement was reached in the Second Session of the 103rd Congress, the effort to adopt legislation to strengthen the Paperwork Reduction Act and reauthorize appropriations for OIRA has been on-going within the Committee since the 101st Congress. This sustained six-year effort within the Committee was supported by efforts of the Committee on Small Business on which several Members of the Committee also serve. That Committee conducted hearings that focused on testimony from representatives of the small business community regarding the burdens imposed by Federal paperwork requirements, especially the cumulative effects of such requirements, their perspective on the implementation of the 1980 Act, and recommendations for strengthening the Paperwork Reduction Act.

S. 244 is premised on the Committee's continuing support for the purposes and principles which provide the foundation for the Paperwork Reduction Act of 1980. While Committee oversight throughout the 1980s identified various implementational problems, the legislation's proposed amendments to the 1980 Act, as amended in 1986, build on and further its original purposes—to strengthen OMB and agency paperwork reduction efforts, to improve OMB and agency information resources management, including in specific functional areas such as information dissemination, and to encourage and provide for more meaningful public participation in paperwork reduction and broader information resources management decisions.

The legislation is drafted in the form of a revision of the Act due to the number of amendments. These amendments include word changes made for reasons of clarity and consistency, the deletion of obsolete provisions (e.g., out-dated deadlines), the reorganization of sections, and substantive changes to update and strengthen the original purposes of the Act. To the extent the legislation is a restatement of the 1980 Act, as amended in 1986, the scope, underlying purposes, basic requirements, and legislative history of the law are unchanged. To the extent the legislation modifies provisions in current law, the amendments are made strictly for the purposes described in this report, and in order to further the purposes of the original law.

With regard to the reduction of information collection burdens, the legislation maintains the Act's 1986 goal of an annual five percent reduction in public paperwork burdens. The legislation includes third-party disclosure requirements in the definition of collection of information to overturn the Supreme Court's decision, *Dole* v. *United Steelworkers of America*, 494 U.S. 26 (1990). This will ensure that such third-party information collection and disclosure requirements are subject to the Act's paperwork review and clearance processes and its public protection provisions. The Act is also amended to require each agency to develop a paperwork clearance process to review and solicit public comment on proposed information collections before submitting them to OMB for review. Public accountability is also strengthened through requirements for public disclosure of communications with OMB regarding information collections (with protections for whistleblowers complaining of unauthorized collections), and for OMB to review the status of any information collection upon public request. In combination with more general requirements, such as encouraging data sharing between the Federal Government and State, local, and tribal governments, the legislation strives to further the Act's goals of minimizing government information collection burdens, while maximizing the utility of government information.

The legislation also adds further detail to strengthen other functional areas, such as statistical policy and information dissemination. The dissemination provisions, for example, delineate clear policies that were not articulated in the Act's previous references to dissemination. These provisions require OMB to develop government-wide policies and guidelines for information dissemination and to promote public access to information maintained by Federal agencies. In turn, the agencies are to: Ensure that the public has

timely and equitable access to public information; solicit public input on their information dissemination activities; and not establish restrictions on dissemination or redissemination. Emphasis is placed on efficient and effective use of new technology and reliance on a diversity of public and private sources of information to promote dissemination of government information, particularly in electronic formats.

With regard to the Act's over-arching information resources management (IRM) policies, the legislation charges agency heads with the responsibility to carry out agency IRM activities to improve agency productivity, efficiency, and effectiveness. It makes program officials responsible and accountable for those information resources supporting their programs. The IRM mandate is strengthened by focusing on managing information resources in order to improve program performance, including the delivery of services to the public and the reduction of information collection burdens on the public.

To improve accountability for agency IRM responsibilities, as well as enhance the potential to foster paperwork reduction, agency responsibilities under the Act are amended to complement and more directly parallel OMB's functional responsibilities. Further, to prompt agencies to reform their management practices, the bill requires each agency head to develop a IRM strategic planning process and develop IRM performance measures linked to program performance. In these various pursuits, the goal is to integrate the management of information resources with program management and assure the use of the resources to achieve agency missions. With the Federal government spending approximately $25 billion a year on information technology, the stakes are too high not to press for the most efficient and effective management of information resources. With such improvements in information resources management, the reduction of information collection burdens on the public and maximizing the utility of government information will not otherwise occur.

III. Need for the Legislation

A. Overview

For the American public, government information often seems to serve either of two quite different purposes. It can be the means by which the dedicated public servant uncovers problems, reaches decisions, enforces laws, delivers services and informs the public. But it also can be the means by which the faceless bureaucrat asks time-consuming or intrusive questions, forces seemingly arbitrary changes in business practices or personal behavior, and imposes significant costs on the economy.

These two views of government information have led to different perspectives on how the government should manage its information activities. The Paperwork Reduction Act reflects, the tensions between these perspectives and the legislative effort to create a comprehensive management framework equal to the task of managing both sides of the seemingly divergent nature of government information (which includes information collected, maintained, or disclosed by or for the government).

Arising out of recommendations of the 1977 Federal Paperwork Commission, the Paperwork Reduction Act of 1980 combined a revitalized paperwork clearance process (that had originated in the Federal Reports Act of 1942) with government-wide requirements for "information resources management" (IRM). Key to the success of the Act were its mandates for OMB leadership, agency management, and meaningful public participation in the development and implementation of IRM policy. The Act's strategic approach to integrating these mandates was perceived as an effective means to reduce burden on the public.

Fifteen years later, the Committee not only continues to believe very strongly in the Act's purposes and requirements, but also believes that more needs to be done both to further paperwork reduction and to strengthen IRM. Again, the key to success involves improving OMB leadership, strengthening agency management, and encouraging more effective public participation.

Federal information collection burdens continue to mount. Not only OMB, but agencies too, must do more to reduce these burdens. A major purpose of S. 244, therefore, is to strengthen the Act's paperwork control requirements by: (1) Clarifying the scope of OMB review; (2) enhancing opportunities for public participation, and expanding the Act's public protection provisions; and (3) specifying agency paperwork reduction responsibilities. With these changes, the Committee believes greater progress can be made in reducing government paperwork burdens on the public.

The reduction of public paperwork burdens will also be served by the legislation's other management focus. The still widening gap between possibilities for improved government operations through the use of information technology, and the government's apparent inability to take advantage of this technology, demonstrates that the Act's IRM mandates have not been sufficiently realized. Today's information systems offer the government unprecedented opportunities to provide higher quality services tailored to the public's changing needs, delivered more effectively, faster, at lower cost, and with reduced burdens on the public. Unfortunately, Federal agencies have not kept pace with evolving management practices and skills necessary to: (1) precisely define critical information needs; and (2) select, apply, and manage changing information technologies. The result, in many cases, has been wasted resources, a frustrated public unable to get quality service, and a government ill-prepared to measure and manage its affairs in an acceptable manner. Despite spending more than $200 billion on information management and systems in the past 12 years, the government has too little evidence of meaningful returns. The consequences—poor service quality, high costs, low productivity, unnecessary risks and burdens, and unexploited opportunities for improvement—cannot be tolerated.

Thus, another important purpose of the legislation is to revise the Act's IRM requirements to refocus the attention of Federal managers on the pressing need to use information technology to support programs efficiently and effectively. The Federal government's annual expenditure of approximately $25 billion on information technology is seriously compromised by inadequate systems planning, design, acquisition, and management. These amendments

are intended to fight waste, reduce burdens, and strengthen accountability through greater and more clearly delineated OMB and Federal agency IRM responsibilities.

A third important issue that requires legislation is the matter of information dissemination. The advent of the electronic information age presents new opportunities and obligations for the Federal government as it strives to fulfill its continuing responsibility to make government information accessible to the American public. The legislation meets this need by providing for improved dissemination of government information to the public, particularly in electronic formats. The bill establishes basic dissemination policies and principles, mandates the development of an effective information locator system, and integrates access and dissemination planning into the management of government information.

B. THE PAPERWORK REDUCTION ACT OF 1980

The Paperwork Reduction Act of 1980 has its origins in the Federal Reports Act of 1942. The Reports Act authorized the Bureau of the Budget (OMB's predecessor office) "to coordinate Federal reporting services, to eliminate duplication and reduce the cost of such services, and to minimize the burdens of furnishing information to Federal agencies." The core or the current law's focus on reducing information collection burdens on the public, and employing improved information resources management to do so, can be clearly traced to this 52 year-old statutory mandate.

In the mid-1970s, growing public complaints about government "red tape" led Congress to create the Commission on Federal Paperwork. The Commission reported in 1977 that the annual cost of Federal paperwork was $100 billion and that there were serious "structural and procedural flaws" in the Reports Act clearance process that "preclude it from ever being fully successful in controlling the total paperwork burden on the American public."

The Commission did not, however, simply recommend improvements in the paperwork clearance process. It saw that the red tape problem was part of a much larger problem—fragmented, inefficient, and ineffective management of information in the emerging electronic age. As the Commission noted:

> A simple bureaucratic reorganization of traditional records and paperwork management disciplines to meet the challenges of the information revolution would simply be overwhelmed in attempting to control the mass of complexity presented by modern computer/telecommunications technologies.—Information Resources Management: A Report of the Commission on Federal Paperwork, September 9, 1977, p. 9.

The Commission concluded that a new, broader information management framework was needed to control the Federal information appetite and help agencies more efficiently and effectively perform their information functions:

> It is time to review the problems of paperwork and red tape, not as documents to be managed, but rather as information content to be treated as a valuable resource. By applying the principles of management to this valuable na-

> tional resource we not only get at the root cause of paperwork and red tape, but cause a rippling effect in the application throughout Government: the design of programs is improved; government becomes mores sensitive to the burdens it imposes on the public, becomes more understandable, and develops clearer goals and objectives. In the end, government improves the delivery of services to people as well as fulfills it other functions of regulation, defense, enforcement and revenue collection more effectively.
>
> Information resource management is not the only solution to insensitive complex and unresponsive government. It can, however, make a significant impact in reducing the economic burdens of paperwork on the public by reducing duplication, clearly justifying information needs, improving reporting forms and collection processes, and effectively and efficiently utilizing modern information handling techniques and technologies.—*ibid*., p.16.

The Commission's call for a new broader-based legislative approach was echoed by others, such as the President's Federal Data Processing Reorganization Project and the General Accounting Office (see Senate Report No. 96–930, pp. 109–111, for a list of GAO reports describing agency information management problems and recommended solutions). The consensus view was to simultaneously strengthen central policy management agency leadership and to improve the management of information resources in Federal agencies to attain the dual goals of reducing public paperwork burdens and making more effective use of the information collected by government. The result was the Paperwork Reduction Act (P.L. 96–511), which was enthusiastically signed into law in December 1980 by the outgoing President, Jimmy Carter. It was just as enthusiastically embraced by the incoming President, Ronald Reagan.

The Act's broad purposes were to:

> Minimize the public burden of Federal paperwork;
>
> Minimize the Federal cost of collecting, maintaining, using, and disseminating information;
>
> Maximize the usefulness of information collected by the Federal government;
>
> Coordinate Federal information policies and practices;
>
> Ensure that information technology is acquired and used to improve service delivery and program management and reduce the information processing burden for the Federal government and those who provide information to it; and
>
> Ensure that the collection, maintenance, use, and dissemination of information is consistent with applicable laws, including those relating to privacy, security, and confidentiality.

These purposes remain valid to this day.

The Act strengthened the Federal Reports Act paperwork clearance process by:

> (1) consolidating paperwork control in OMB;
>
> (2) eliminating exemptions from review for several agencies (e.g., the Internal Revenue Service) and types of government-sponsored information collections (e.g., recordkeeping requirements);

(3) requiring agencies to eliminate duplication, minimize burden, and develop plans for using the information before they request OMB approval of proposed information collections; and

(4) creating a ''public protection provision'' providing that no penalty may be imposed on a person who fails to respond to an unapproved paperwork requirement.

The 1980 Act's core objective of minimizing paperwork burdens imposed on the public was also strengthened by the Act's coverage of information collections contained in and associated with regulations. The Committee report accompanying the bill that became the 1980 Act applauded OMB ''efforts to oversee the information management and burden aspects of government regulations. This emphasis has great promise for minimizing the explosion of paperwork demands on the public because new regulations are causing the greatest growth in information requirements.'' Senate Report 96–930, September 8, 1980 p. 8.

The Act's other major initiative was, as recommended by the Federal paperwork Commission, to integrate this revitalized paperwork control process within a broader IRM context to link all of the Act's purposes under a consolidated management ''umbrella.'' thus, the Act created a single management framework to govern Federal agency information activities, and consolidated government-wide policy and oversight functions in a new office within OMB, the Office of Information and Regulatory Affairs.

The scope of this consolidation is seen in the array of laws enacted over the preceding 50 years that were coordinated under the Paperwork Reduction Act (PRA):

The Federal Reports Act (1942) created the BoB/OMB paperwork clearance process—the PRA revised that process;

The Federal Property and Administrative Services Act (1949) created the General Services Administration (GSA) and the Federal Records Act (1950) gave GSA records management and archiving functions—the PRA gave OMB oversight of those GSA functions;

The Budget and Accounting Procedures Act (1950) gave BoB/OMB statistical policy oversight—the PRA reestablished and expanded those responsibilities;

The Act of October 23, 1962 (P.L. 87–847, amending the Federal Property and Administrative Services Act of 1949) established the Federal Telecommunications Fund to finance procurement of Federal telecommunications equipment and facilities—the PRA gave OMB oversight of the fund and related information technology functions;

The ''Brooks ADP Act'' of 1965 (P.L. 89–306, amending the Federal Property and Administrative Services Act of 1949) established GSA supervision of automatic data processing equipment (ADPE) procurement and Department of Commerce responsibility for Federal information processing/ADP standards—the PRA gave OMB oversight of these functions with more detailed policy requirements; and

The Privacy Act (1974) established OMB oversight of the management of government records containing personal infor-

mation—the PRA linked this responsibility with security and other related functions.

An additional function encompassed within this management framework established under the 1980 Act was oversight of the information management and burden aspects of government regulations. The Act emphasizes the linkage between oversight of the regulatory process and the closely related information management functions established by law. This linkage can be directly traced to the recognition of the Act's sponsors that new regulations are a principal source of new and expanded information collection requirements.

This range of policies and requirements consolidated under the umbrella of the Paperwork Reduction Act of 1980 demonstrates Congress's resolve to establish a comprehensive approach equal to the task of managing information needed by the Government in the emerging electronic information age. In its scope, the Act represented an historic effort to focus the attention of the entire Federal management apparatus on the twin tasks of reducing public information collection burdens and maximizing the utility of government information to more efficiently and effectively perform government functions.

C. IMPLEMENTATION OF THE PAPERWORK REDUCTION ACT OF 1980

Despite the consensus on purpose, need and approach which contributed to the enactment of the Paperwork Reduction Act of 1980, the Act's implementation has not been without controversy, especially with respect to the activities of OIRA. When the 1980 Act went into effect on April 1, 1981, OIRA was charged with additional responsibilities under President Reagan's executive order regarding regulatory review (Executive Order No. 12291, issued February 17, 1981). E.O. 12291 created a process for cost/benefit review of proposed agency regulations, which OMB integrated within OIRA as a complement to OIRA's responsibilities under the 1980 Act to review and approve proposed agency paperwork requirements (see 1981 and 1982 testimony of then-OIRA Administrators, Hearings before the Subcommittee on Federal Expenditures, Research, and Rules of the Senate Comm. on Governmental Affairs, March 18, 1981, p. 22, and April 14, 1982).

With OMB taking an integrated approach to paperwork reduction and regulatory review, OIRA's implementation of the 1980 Act became embroiled in a political debate about the Administration's regulatory policy. During the 1980s this controversy has periodically distracted the Committee from oversight of the core objective of the 1980 Act—rationalizing and minimizing the paperwork burdens being proposed by the various Executive departments and agencies as well as independent regulatory agencies. It complicated the consideration of legislation reauthorizing appropriations for OIRA between 1983 and 1986, and again between 1989 and 1992. A review of the Act's requirements, OMB's implementation of the Act, and this Committee's actions reflects this problematic history.

Responding to the paperwork burden reduction goals included in the Act, OIRA reported success in the battle against "red tape"—a 32 percent reduction by January 1984. This performance exceeded the Act's initial statutory goal of a 25 percent reduction in

paperwork burdens which government imposed on the American public.

Despite success in minimizing paperwork burdens on the public, GAO reported several times that OMB was not making sufficient progress on implementing the full range of its statutory obligations under the Act, which GAO identified as 39 discrete tasks some one-time actions others on-going responsibilities. For example, GAO noted that OMB did not issue policy guidance to agencies on information technology, statistical policy, records management, privacy, and information dissemination until it issued a comprehensive OMB circular, OMB Circular No. A–130, on December 12, 1985 (40 Fed. Reg. 52730, December 24, 1985). According to GAO, the principal reason for these missed implementation dates was OMB's concentration on the review of proposed paperwork agency burdens and the review of proposed regulations under the authority of Executive Order No. 12291.

While GAO was critical of OIRA for the focus of its efforts, many in the private sector, especially the small business community, applauded OIRA's focus on proposed paperwork requirements and proposed regulations. It was their view that review of proposed paperwork requirements and regulations was the central mission of OIRA under both the 1980 Act and Executive Order 12291.

OIRA's concentration on paperwork clearance and regulatory review was also criticized in some quarters for the extent to which it was said to involve OIRA in substantive program decisions of Federal agencies. It was also alleged by some that individual interest groups had special access and opportunity to affect review decisions. These assertions were disputed in testimony and other submissions to the Committee by OIRA and those who maintained that OIRA was properly discharging its responsibilities under both the 1980 Act and Executive Order 12291.

These alleged improprieties and abuses by OIRA were addressed Committee during hearings conducted by the Committee and various of its subcommittees throughout the 1980s. For a comprehensive list of hearings in the Committee and in other Senate and House committees, see Senate Report No. 102–256, Appendices I & II, pp. 68–70.

D. 1986 OIRA REAUTHORIZATION—PUBLIC LAW 99–591

The authorization for appropriations for the Office of information and Regulatory Affairs expired on September 30, 1983. Those with unabated concerns regarding OIRA's regulatory reviews responsibilities under the authority of Executive Order 12291 focused attention of some Members of the Committee on these issues.

The 1986 legislation reauthorizing appropriations for OIRA and making amendments to the 1980 Act were complicated by these ongoing concerns regarding OIRA's regulatory review activities among some Members of the Committee. First, an agreement within the Committee on a bipartisan reauthorization bill was linked to an agreement with the Reagan Administration regarding new administrative procedures to insure agency and public access to the regulatory review process. (See, Senate Report No. 99–347, pp. 14–15, July 31, 1986)

Second, the Committee agreement was also linked to the Reagan Administration's support of a statutory clarification designed to overcome a legal opinion issued by the Department of Justice which had been used by agencies to avoid adhering to the Act's requirements.

Third, the 1986 legislation contained provisions to address the concerns flowing from OIRA's concurrent responsibilities for review and approval of proposed agency paperwork requirements under the authority of the 1980 Act and its review of proposed agency regulations under Executive Order 12291. The 1986 amendments modified the 1980 Act to require disclosure of written communications between OIRA and agencies or the public regarding paperwork proposals, and to include in the record paperwork clearance decisions by OIRA.

The 1986 legislation built upon the foundation of the 1980 Act by:

Establishing an annual five percent paperwork burden reduction goal,

Requiring agencies to provide the public with more information about paperwork proposals,

Requiring OIRA to identify initiatives to reduce paperwork burdens associated with Federal grant programs, and

Revising the definition of "information collection request" to include "collection of information requirement." This definitional change ensured that collections of information specifically contained in rules would be governed by all aspects of the Act's paperwork clearance process (and not in a limited way, as argued in a 1982 Department of Justice memorandum).

(See, Senate Report No. 99–347, p. 52 (July 31, 1986))

With regard to IRM and other information functions, the 1986 amendments also built upon the 1980 Act by:

Defining the term "information resources management";

Providing new requirements and deadlines for IRM plans and policies;

Requiring the appointment of a professional statistician to carry out a broadened array of OMB's statistical policy functions;

Revising the scope of the Act's information technology provisions;

Strengthening OMB responsibilities for information security and dissemination; and

Mandating steps to make government information more accessible to the public.

Finally, the 1986 amendments to the Paperwork Reduction Act of 1980 required Senate confirmation of the OIRA Administrator. This was a further demonstration by the Committee of the importance that it accorded to OIRA's functions and in the Committee's oversight of those functions.

E. DOLE V. UNITED STEELWORKERS OF AMERICA

In 1990, the Paperwork Reduction Act faced its most serious challenge when the Supreme Court limited the reach of Act's authority in *Dole* v. *United Steelworkers of America,* 494 U.S. 26 (1990). This decision became a lightning rod in the debate between

those criticizing OIRA's paperwork review and regulatory review activities and those supporting a strong review process for proposed paperwork burdens.

Dole involved an OIRA paperwork clearance disapproval of several paperwork requirements implementing provisions in the OSHA Hazard Communication (HAZCOM) Standard. The HAZCOM Standard requires employers to inform employees of hazardous chemicals in the workplace. After lengthy litigation over the OSHA rule and OIRA's role in the clearance of the associated paperwork requirements, the Supreme Court ruled that OIRA's authority to review agency information collection activities was limited to information collected by an agency, and did not extend to third-party information collections or disclosure requirements. Former Senator Lawton Chiles of Florida, the sponsor of the Senate bill that became the Paperwork Reduction Act of 1980, filed an *amicus* brief which argued that the Act was intended to reach all Federally-sponsored paperwork burdens, irrespective of their format. The Court held that the plain meaning of the statute's words could not support such a finding. Those segments of the public most burdened by Federal paperwork requirements, especially the small business community, became alarmed that the protections afforded the public by the 1980 Act could be circumvented by simply recasting the proposed paperwork burden as a third-party paperwork requirement, i.e., one imposed by a private party on another private party, even if directed to do so by a Federal agency regulation. In the view of the advocates of the Paperwork Reduction Act, the Supreme Court had created a potentially enormous loophole that could be readily exploited by an agency simply by recasting the form of a proposed paperwork burden.

In late 1990, the Committee reached an agreement with the Bush Administration with respect to a bill (S. 1742) to reauthorize appropriations for OIRA and to amend the Paperwork Reduction Act. At the same time, the principal Committee proponents of S. 1742 sought to obtain the issuance of a new Executive Order to provide expanded public access to the OMB regulatory review process. Unfortunately, the 1990 reauthorization bill, S. 1742, did not pass because the full Senate failed to agree. For comments of Members of the Committee, see, statements of Senators Glenn and Roth, Cong. Record S17608–17610 (October 27, 1990); Senate Hrg. 102–821, "Nominations of Francis S. Hodsoll and Edward J. Mazur," Hearing before the Senate Comm. on Governmental Affairs, p. 17, October 30, 1991, and statement of Senator Roth, Cong. Record S795–799 (January 31, 1992).

OIRA reauthorization was not achieved during the 102nd Congress, largely because of a renewal of the regulatory review controversy. Committee oversight of the regulatory review role of the Council on Competitiveness, chaired by Vice President Dan Quayle, gave rise to legislation from the Committee to require extensive disclosures to the public during the course of the regulatory review process (S. 1942, the "Regulatory Review Sunshine Act"; Senate Hrg. 102–1135, "The Role of the Council on Competitiveness in Regulatory Review," Hearing before the Senate Comm. on Governmental Affairs, October 24 and November 15, 1991; and Senate Report No. 102–256, February 25, 1992; see also the statement of

Senator Roth, introducing S. 2172, the "Regulatory Improvement and Accountability Act," January 31, 1992, Cong. Record S795–799).

On January 21, 1993, President Clinton announced an initiative to develop a new Executive Order on Regulatory Planning and Review to replace Executive Order 12291. The new Executive Order was expected to address the public disclosure issues that had prevented the Committee from taking action on pending legislation, S. 1139 sponsored by Senator Nunn. That bill, like S. 244, focused on strengthening the Paperwork Reduction Act and would have reauthorized appropriations for OIRA, matters distinct from the controversy regarding OIRA's conduct of its regulatory review responsibilities under Executive Order 12291.

D. 1994 LEGISLATION—S. 560

Legislative efforts in the 103rd Congress began with the introduction of two bills to reauthorize appropriations for OIRA and amend the Paperwork Reduction Act—S. 560 and S. 681. Discussions among the primary Committee sponsors of the two bills, Senators Nunn and Roth, and Senators Glenn and Levin, respectively, and with officials of the Clinton Administration suggested that a renewed cooperative efforts could produce a bill adopting many of the features of each measure.

Prospects for achieving an OIRA reauthorization were subsequently improved when President Clinton issued the promised Executive Order on "Regulatory Planning and Review" (Executive Order No. 12866, September 30, 1993). This order superseded President Reagan's two regulatory review orders (E.O. 12291 and E.O. 12498). Executive Order 12866 maintained OMB review of proposed agency regulatory actions, but also established "sunshine" requirements that mitigated concerns of some members of the Committee and some in the public about fairness and public accountability.

The new regulatory review order on its issuance received broad-based support from state and local officials, business, and public interest groups and concern over OIRA regulatory review subsided. Efforts to reauthorize OIRA appropriations and adopt amendments to strengthen the Paperwork Reduction Act of 1980 then proceeded, with the three major issues being additional efforts to foster paperwork reduction, improve information technology management, and advance information dissemination.

With more than fourteen years of experience under the 1980 Act, it is clear that implementation of the information resources management (IRM) provisions of the Act should be modified and strengthened to meet the challenged of the Information Age. To continue to achieve the fundamental objectives of the 1980 Act, amendments are needed to strengthen each functional IRM area: IRM policy; IRM utilization to minimize paperwork burden; information dissemination; statistics; records management; information security and privacy; and information technology management.

First, with regard to the minimization and reduction of paperwork burdens on the public, continuous improvement is essential, given increased Government needs for information and sustained growth of statutorily-based and regulatorily-based information col-

lections. Increased OMB attention to specific annual paperwork reduction goals will help focus attention on this important task by senior agency managers. Increased emphasis on agency responsibilities to minimize paperwork burdens on the public, and earlier opportunity for public comment, will lead to more thorough agency review of proposed information collections before their submission to OIRA. Finally, the disparate treatment of information disclosure and third-party information collection requirements, introduced by the Dole decision needs to be corrected to prevent a potential for substantially weakening the Act's future effectiveness.

The Act's IRM provisions are also in need of adjustment for a variety of reasons, not the least of which is the availability of new information technology. Over the past 14 years, GAO reports and subcommittee hearings have pointed out that OIRA has given insufficient emphasis to its IRM responsibilities. Similarly, Federal agencies made limited progress in implementing efficient and effective programs of information resources management. As a result, many of the problems the Act sought to remedy not only persist, but have grown more serious. Additionally, a revised Act should also help agencies prepare for the variety of new information management challenges that are on the horizon—for example, those presented by the recommendations of the Vice President's National Performance Review (NPR) and National Information Infrastructure (NII) initiatives.

Given these opportunities, the Act's provisions for public participation are doubly important. The Committee continues to believe that:

> A key to successful information resources management is public participation and comment on the development and implementation of information policy. Effective public comment at the front end of decision processes is particularly beneficial. Public participation in itself is a resource which should be tapped by agency official planning and designing collection of information. Senate Report 96–930, p. 16.

To strengthen and expand opportunities for more meaningful public comment and participation, a number of the Act's provisions need amendment.

Overall, the Committee believes, as did the Federal Paperwork Commission, that more needs to be done to improve the management of Federal information resources. Information management policymakers must equip themselves with the knowledge necessary to achieve the highest quality, best use, and least burden from government information. Similarly, agency managers, called upon to do more with less, must familiarize themselves with the capabilities of information technology as a resource for efficiently and effectively administering programs—again, maximizing utility and minimizing burden. Without this effort, government information activities will be too wasteful and too burdensome, and the American public will have confirmed their worst views regarding government's demands for and subsequent use of information obtained from the public.

The Committee believes that information obtained by government is a valuable and useful resource to government and society, if managed in a coordinated and systematic manner based on established principles of information resources management. OIRA, in conjunction with other central management offices, should exercise leadership in developing coherent information policy which gives balanced and needed emphasis to all information functions. Federal agencies should establish information resources management programs that implement OIRA's policy guidance. Without such improved IRM programs, agencies will fail in their operational responsibilities—OIRA may develop the policies, but the practices take place in the agencies.

The Committee is pleased to see a variety of initiatives to change the culture of Federal information resources management by focusing on "best practices" and the improvement of mission performance. See, GAO's report, "Improving Mission Performance Through Strategic Information Management and Technology" (GAO/AIMD–94–115, May 1994), released at the Committee's May 19, 1994, hearing; the revised OMB Circular A–130, 59 Fed. Reg. 37906 (July 25, 1994); and "Reengineering through Information Technology," Accompanying Report of the National Performance Review (September 1993). These efforts hold great promise for improving the efficiency and effectiveness of government information activities.

The major functional areas addressed by the legislation are as follows.

Information resources management

The Paperwork Reduction Act of 1980 established the concept of information resources management (IRM) for the Federal government, recognizing that improved IRM could be a powerful tool to rationalize, minimize, and reduce paperwork burdens imposed on the public. The 1980 Act called for the efficient and effective management of information and related resources, like other government resources. The management structure required by the Act was intended to insure that agency IRM activities be given more attention and visibility from top management. In most agencies, however, management continues to overlook the importance of these activities, particularly with regard to their supporting the fulfillment of agency policies and programs. Consequently, during the period the law has been in effect, most agencies have made little progress in improving the management of their information resources.

Furthermore, within the past decade, the public has grown accustomed to the benefits of using information technology to reduce the burden and improve the cost, quality, and timeliness of product and service delivery. Americans now expect to solve a problem with one telephone call, obtain customer service 24 hours a day, withdraw cash from automated teller machines around the country, and get products delivered almost anywhere overnight. Consequently, at a time when almost anyone can get eyeglasses in about an hour, veterans cannot fathom why they must wait six weeks to obtain them from the government. Similarly, the general public cannot understand why it takes weeks, instead of days, to process an in-

come tax refund or months to determine eligibility for Social Security disability benefits.

Federal agencies spent at least $25 billion on information systems in 1993, and more than $200 billion over the last 12 years. Despite this huge expenditure, it is unclear what the public has received for its money. Critical information assets are frequently inaccurate, inaccessible, or nonexistent. Efforts across the government to improve mission performance and reduce costs are still too often limited by the lack of information or the poor use of information technology.

GAO's information management transition reports in 1988 and 1992 underscored how agencies lack critical information needed to analyze programmatic issues, control costs, and measure results ("Information Management and Technology Issues," GAO/OCG–93–5TR, December 1992; "Information Technology Issues," GAO/OCG–89–6TR, November 1988). Examples of Federal agency systems failures documented by GAO over the past 10 years include:

The outlay of millions of dollars of unauthorized student loans because of poor information tracking;

Over $1 billion of mistaken Medicare payments;

The release of highly sensitive data on law enforcement informants through mismanagement of security; and

Inadequate financial data on agencies' basic operations that frustrates financial management and auditing.

For most Federal agencies, GAO has reported that pervasive gaps in available skills and confused roles and responsibilities severely inhibit significant increases in performance. Common problems include: (1) a failure to define the roles of program managers in relation to IRM professionals; (2) the lack of an effective IRM official to raise and help resolve information management issues with top management; and (3) outdated or poorly defined skill requirements. These problems weaken an organization's ability to define how new information systems support its mission, meet customer needs, or respond more quickly to change.

Without action by Federal executives, the gap between public expectations and agency performance will continue to expand. Program failures will continue and opportunities for improvement will be lost. Many low-value, high-risk information systems projects will continue to be pursued unimpeded and undermanaged as leaders blindly respond to crises by purchasing more technology. Most Federal managers will continue to operate without the financial and management information they need to truly improve mission performance. Moreover, many Federal employees will struggle unsuccessfully, under increasing workloads, to do their jobs better as they are hampered with information systems that simply add on another automated layer of bureaucracy.

Given both these risks and the potential for improvement, business as usual is simply no longer a tenable option for Federal executives. Recommendations of the President's National Performance Review (NPR) suggest the scale of improvements possible from "reinventing" the management of information technology. One such initiative, the Wage Reporting Simplification Project, identified life cycle savings of $1.7 billion to participating government agencies and $13.5 billion in reduced burden to private sector em-

ployers ("Reengineering through Information Technology", Accompanying Report of the National Performance Review, September 1993). And the specific performance planning and reporting requirements of the Government Performance and Results Act (P.L. 103–62) point to a time in the very near future when agency managers will have to account for the programmatic outcomes of their information activities.

Given this need for action, the overarching management strategy of the Paperwork Reduction Act of 1980 is all the more important. As the Committee reported in 1980:

> The purpose of aggregating these [information management] functions within the single office [OIRA] is to establish a government-wide policy framework for "information resources management". . . . The Committee strongly believes the application of this policy framework for information resources management will result in financial savings to the government . . . and a substantial reduction in paperwork burden on the public.—Senate Report 96–930, pp. 7–8.

Through the Paperwork Reduction Act, Congress attempted to articulate the management concept that could drive real world management improvements. Nearly a decade and a half later, the Committee finds that while IRM is a recognized concept in government and the private sector, there is not enough commitment to making IRM work in practice. The Committee is convinced, however, that the management concept is not flawed. Rather the need is to develop an improved strategy by which to apply IRM.

Information, as a resource, is not simply a matter of questions answered or systems acquired. Information must be reliable, accurate, complete, accessible, and timely if it is to be used by agency managers to make decisions and take actions in fulfilling agency missions. Accordingly, investments in information resources must be managed as a part of a coordinated, performance-oriented approach to "recognize and address the interconnectivity among the stages of the information life cycle." "Information Life Cycle: Its Place in the Management of U.S. Government Information Resources," Government Information Quarterly, Peter Hernon, vol. 11, No. 2, pp. 156–7 (1994).

Part of a revised IRM strategy is to implement more fully the Act's original IRM management structure. The 1980 Act required agency heads to designate a senior IRM official, reporting directly to the agency head, who would be responsible and accountable for the agency's IRM activities. The goal was to consolidate responsibility for the functional IRM activities (collection of information, statistics, privacy and security, records management, and managing information technology) already established through various laws.

The Act's OMB/agency IRM structure was to establish an identifiable line of accountability for information management activities between the OMB Director and individual agencies and within agencies. Not only would this structure enable agencies to better manage their information resources, but also it would enable Congress to pinpoint responsibility for those activities.

In most agencies, the IRM official designated by the agency head under the Paperwork Reduction Act was (and is) the Assistant Secretary for Administration (or similar official). In addition to the IRM functions, this official also had a variety of other functions, such as personnel and procurement. The common result was that these already developed functions took precedence over the (newly coordinated) IRM responsibilities, which meant that subordinate officials continued to manage IRM activities, as before. Investments in information technology also continued to be managed as before—isolated projects not evaluated or coordinated to assure compatibility among systems let alone priority to or actual support for the accomplishment of agency programs and missions. Moreover, as a subordinate staff function, IRM was not considered important enough to integrate with other management activities, such as strategic planning, budgeting, financial management, and personnel management. Diminished in importance organizationally, IRM also suffered from the failure to develop clear job descriptions and training programs for IRM personnel. This reduced opportunities for professional advancement and IRM skill development and further reduced agency IRM capacity.

Given the weakness of agency IRM efforts, the need for an effective and integrated IRM strategy for the Federal Government became even more critical. As GAO repeatedly reported, OIRA's limited resources resulted in the delegation of IRM tasks to GSA and insufficient oversight of the operating agencies. (See Senate Report 98–576, pp. 6, 8; Senate Report 101–487, p. 39.)

Given this history, the Committee amends the Act in order to clarify the meaning and requirements for IRM both within OIRA and the agencies. First, IRM is redefined to link management directly with program outcomes:

> the term "information resources management" means the process of managing information resources to accomplish agency missions and to improve agency performance, including the reduction of information collection burdens on the public.

Focusing IRM on supporting mission accomplishment shifts the term from the generic concept of efficiency and effectiveness to one of direct support for the accomplishment of agency missions. This is consistent with the Committee's development of the Government Performance and Results Act, which requires agencies to develop strategic plans, and performance plans and reports to focus program and management activities on directly serving programmatic outcomes:

S. 244 maintains OMB's central IRM role. The OIRA Administrator should still prescribe government-wide IRM policies and guidance (with support from other central management agencies), should still oversee agency implementation, and should still evaluate agency IRM activities. However, the current legislation revises many of these mandates to refocus them on integrating information management with program management and concentrating on program outcomes as the standard for oversight of the efficiency and effectiveness of IRM.

Likewise, S. 244 also revises agency IRM responsibilities. It spells out the Act's functional IRM areas (paperwork control, dissemination, etc.) as agency operational responsibilities (in section 3506) to match OMB's policy and oversight responsibilities (in section 3504). Accountability for carrying out these responsibilities also is more clearly spelled out. Under the leadership and direct responsibility of the agency head, the legislation first assigns program officials the responsibility and accountability for information resources assigned to and supporting their programs, and, second, assigns IRM oversight within the agency to the IRM office. The connection and collaboration among program, information, and agency managers is then institutionalized by the requirement that each agency head create a permanent senior-level agency IRM steering committee. Neither the functional responsibilities nor the management accountability are new creations under this legislation. The 1980 Act, as well as other information management laws, vest these duties in agencies. The amendments proposed in the current legislation are intended to more clearly focus agency managers on the breadth of their IRM responsibilities.

As a guide to the implementation of these requirements, the Committee believes that OMB and the agencies should draw on the developing body of GAO work on IRM best practices. "Executive Guide: Improving Mission Performance Through Strategic Information Management and Technology," GAO/AIMD–94–115, May 1994. GAO's best practices, which were identified at leading public and private organizations, center on three key efforts to build a modern information resources management infrastructure: (1) deciding to change information resources management practices and getting management commitment, (2) directing resources toward high-value uses and mission goals, and (3) supporting improvement with resources, organizational support and trained and committed managers and professional staff. A description of these practices and recommendations for senior executives are contained in the appendix to this report.

Collection of information/control of paperwork

The Paperwork Reduction Act of 1980 authorized OMB to judge whether agency information collection activities are "necessary for the proper performance of the functions of the agency." In 1995, the Committee looks back over the record of the Act's implementation and finds that the Act's paperwork clearance process has served as an effective mechanism to control Federal agency information collection activities.

The effectiveness of the process as a control mechanism, however, has not resulted in a reduction of the total paperwork burden on the public. New statutory requirements, and the regulatorily implementation of these new laws, have frequently established new information requirements. Therefore, the Committee believes that a strengthened process, with clarified agency responsibilities and improved opportunities for public participation, will result in more significant reductions in cumulative paperwork burdens and more faithful implementation of the Act.

First, despite the Act's mandate, cumulative government-sponsored paperwork burdens on the public continue to be a real and

serious problem. At Committee hearings, representatives of the business community have testified about rising paperwork burdens. In 1989, Mark Richardson of the Business Council on the Reduction of Paperwork stated that the cost of the paperwork burden to the business sector had reached a level more than three times what it was in 1978, "about $330 billion annually." Senate Hrg. 101–166, p. 81. During the May 19, 1994, Committee hearing, Robert Coakley of the Council on Regulatory and Information Management suggested that the amount of time and effort for the public to meet the Federal government's information needs has reached an amount equivalent to nine percent of the Gross Domestic Product. William Hunt of GAO said at that same hearing that, according to OMB's tabulations, the American public spends more than 6.5 billion hours every year filling out government forms and complying with paperwork regulations.

In the first years of the Act's implementation, OMB's annual reduction figures had suggested great progress in reducing these paperwork burdens (e.g., 12.8% in 1982 and 10% in 1983). Within several years, however, the paperwork problem proved to be more intractable. OMB's government-wide burden estimate increased each year, despite the reductions associated with specific year-to-year disapprovals. According to GAO, there was "a 27-percent increase in reported burden hours (to 1.9 billion) between 1980 and 1987." "Paperwork Reduction: Little Real Burden Change in Recent Years," GAO/PEMD–89–19FS, June 1989.

New information collections necessitated by new laws and regulations accounted for some of this increase. Other increases were due to agency reevaluation of the burden imposed by existing information collections. Thus, GAO pointed out in 1993 that while the paperwork burden OMB reported rose from over 1.8 billion hours in 1987 to nearly 6.6 billion hours in 1992, most of the increase was due to a recalculation of burden hours by the Department of the Treasury, not because of new burdens imposed on the public "Paperwork Reduction: Reported Burden Hour Increases Reflect New Estimates, Not Actual Change," (GAO/PEMD–94–3, December 1993). On the basis of such factors, as well as other methodological problems, GAO has cautioned against singular reliance on such estimates (Testimony of William Hunt, Director, Federal Management Issues Group, General Government Division, GAO, May 19, 1994).

While the Committee acknowledges these limitations, the Committee believes that burden estimates serve an invaluable role as markers along the road to paperwork reduction. Particularly for small businesses, paperwork burdens can force the redirection of resources away from business activities that might otherwise lead to new and better products and services, and to more and better jobs. Accordingly, the Federal government owes the public an ongoing commitment to scrutinize its information requirements to ensure the imposition of only those necessary for the proper performance of an agency's functions. Burden estimates and reduction goals can help OMB and agencies target particularly burdensome paperwork and focus agency efforts on achieving meaningful burden reductions. The Committee thus maintains the Act's five percent annual burden reduction goal and stresses the need for OMB

to oversee improved burden estimation efforts. The Committee's only caution is that OMB and agencies not rely solely on burden estimates apart from a qualitative assessment of the necessity of any information collection for the proper performance of an agency's functions.

A second set of paperwork control issues involves the substance of OMB's paperwork clearance decision-making. As has already been discussed, witnesses before this Committee and other Committees have asserted that in past administrations OMB used the paperwork clearance process to affect the policies and substantive requirements of agency decisions, particularly in the areas of public health and safety, and environmental protection.

Other witnesses have questioned the validity of these accusations. The only consistently common view has been that OIRA and the agencies are expected by the Committee to conscientiously conduct the process of reviewing proposed paperwork burdens pursuant to the standards and procedures specified in the 1980 Act and the 1986 amendments.

The Committee is mindful of these criticisms of the paperwork clearance process. Support from the Committee on OIRA's role in particular clearance decisions has not always been unanimous. And the Committee wishes to stress again its special role in exercising oversight of OIRA's activities regarding the clearance of proposed paperwork requirements. As the Committee has noted, and supported with action, previously:

> The Congress itself has the responsibility and must ultimately ensure that the authority granted to the Director of OMB by this Act over both Executive branch and independent regulatory agencies and the override authority is not abused. As the history of the original Federal Reports Act demonstrates, the Congress has the prerogative and capability to change those authorities. (S. Rpt. 96–930, p. 16)

Despite concerns with the past, the Committee is united in its continuing belief in the need for, and the requirements of, the paperwork clearance process, as well as the need for it to remain comprehensive and without loopholes.

It is because of the Committee's commitment to this goal that the current legislation overturns *Dole* v. *United Steelworkers of America*. The Supreme Court's 1990 decision held that the Paperwork Reduction Act's paperwork clearance process for agency information "collections" does not cover agency information "disclosure" requirements. Former Senator Lawton Chiles of Florida, the sponsor of the legislation that became the 1980 Act filed an amicus brief urging the Court that the Act was intended to reach such Government-sponsored third-party paperwork burdens, those imposed by one private party on another private party. The Court found that the plain meaning of the Act's statutory language did not support such a holding. The need for a comprehensive and conclusive process for the review of agency information activities that burden the public requires the Committee to clarify the Act to overturn the Court's holding.

Moreover, while *Dole* did not immediately unleash a flood of paperwork on the American people, as some feared, at least two agencies did use the decision to avoid OMB review. At the request of Senator Glenn, then chairman of the Committee, GAO studied the impact of the Court decision. GAO found that neither OMB nor the agencies it reviewed had issued any formal guidance implementing the decision. Further, agencies differed in their interpretation of the decision. Two agencies studied by GAO had not changed their practices (i.e., EPA and HHS). Two other agencies, however, were sending fewer proposals to OMB for clearance (i.e., OSHA and the FTC). "Paperwork Reduction: Agency Responses to Recent Court Decisions," GAO/PEMD–93–5, February 3, 1993. While the Committee believes OMB missed an opportunity by not issuing guidance to agencies on *Dole*, as recommended by GAO, the best solution now is to statutorily preclude the possibility of the disparate treatment of collections of information made by Federal agencies and third-party paperwork burdens imposed on one party by another party at the direction of a Federal agency.

Conclusively reestablishing the comprehensive paperwork clearance process should not be interpreted as expanding OMB's statutory authority to review and control agency decisions beyond that provided by the Act. The Committee reaffirms its 1980 position that OMB not use the Act to undertake regulatory reform issues that "go beyond the scope of information management and burden" (Senate Rpt. 96–930, pp. 8–9). Given past controversies, the Committee urges OMB to be vigilant in its use of its authorized statutory powers.

For these reasons, and as in 1986, the current legislation strengthens OMB accountability, as well as its paperwork reduction mandate. Committed to a comprehensive process, but mindful of past controversies, the Committee believes that a more thorough and open agency paperwork clearance process can improve the quality of paperwork reviews and public confidence in government decision-making. Analogous to the way in which an agency's rulemaking record stands as the basis for and evidence of the need for a regulation, so should a more highly developed and examined record of an agency's formulation of an information collection proposal stand as the basis for the collection and as a public record of its need.

The delineation of a more detailed agency paperwork clearance process obviously places a heavier burden on agencies to justify the programmatic need for information. But this, too, should help counteract some of the negative connotations associated with information collections. Information requirements will less often come unannounced and unexplained if the agency has already had to justify the requirement, and the burden it imposes, to the public and consider public comments. This early review in turn should help agencies make their case for the value of Federal information and prompt them to improve the quality and availability of such information. The review certainly will assist individuals and organizations representing those who are burdened to engage agencies in meaningful dialogue about the need for information. Out of this more thorough review of information collection proposals should come more effective ways to minimize burdens and maximize the

utility of information collected or generated by or for the Federal government. As agencies move to more electronic information systems, this type of clearance process provides greater assurances that both information collection and technology investments are made wisely.

In this regard, a statement by the OIRA Administrator at the Committee's May 19, 1994, hearing is encouraging:

> A significant challenge . . . is to develop mechanisms to make government information, particularly information in electronic formats, more easily accessible to the public and easier to share among agencies so that the information collection burden on the public can be minimized.

S. 244, as amended, seeks to improve the law to more clearly address the benefits as well as the burdens of Federally-sponsored collections of information. Accurate, timely, relevant, statistically sound information is essential to rational and effective legislation, regulation, resource allocation, and enforcement—indeed, for virtually all public policy decisions. Thus, the bill, seeking to "ensure the greatest possible public benefit" from government information, states that it is a basic obligation of the agencies and OMB to "improve information resources management in ways that increase productivity, efficiency, and effectiveness of Federal programs, including service to the public." Better IRM will create better information, used better, and with fewer burdens on the American public. For example, the bill maximizes utility by placing an emphasis on interoperability of agency systems and improvements in data sharing. These steps are meant to capitalize on the advantages that information technologies offer for streamlining agency operations, enhancing public access to government information, and reducing burdens on the public.

To accomplish these various objectives, S. 244, as amended, makes extensive changes to the existing law regarding the controls over information collections. At the OMB level, the legislation requires the Director, in consultation with the agency heads, to set an annual government-wide goal for the reduction of information collection burdens by at least five percent to set annual agency goals for burden reduction, as well—importantly, not merely as a stand-alone goal, but as a part of a broader IRM plan, including efforts to reduce burden, eliminate duplication, meet shared data needs, and improve efficient and effective use of information technology. In addition, the bill calls on OIRA to coordinate its review of procurement and acquisition-related collections of information—one of the most frequently mentioned areas to burden—with OMB's Office of Federal Procurement Policy (OFPP) to improve the efficiency and effectiveness of the procurement process as well as to reduce burdens on the public.

At the agency level, the bill describes in some detail the requirements for agencies to establish processes for reviewing their information collections before submitting them to OMB for clearance. The agency's designated IRM official should independently of the proposing program office, evaluate the need for the information, the burden estimate, the agency's plans for management and use of the information to be collected, and whether the proposed collection

meets the other requirements of the Act. S. 244, as amended, also prescribes that agencies must consult with the public on their proposed collections and certify to OMB that the clearance steps have been taken. These include assuring the need for the information, that the collection is not unnecessarily duplicative of information otherwise reasonably accessible to the agency, and that the burden to be imposed has been minimized.

Under the legislation, OMB must then allow at least 30 days for further public comments. Also, OMB is to provide a decision to the requesting agency within 60 days (the 30-day extension period under current law is eliminated). If OMB does not notify the agency of its decision on the proposed collection within this time, approval is inferred and the agency may collect the information for two years. Any such OMB decision to disapprove a collection of information or instruct an agency to make substantive or material change to it is to be publicly available and include an explanation of the OMB decision. Further, communications between the Office of the OMB Director, OIRA Administrator, or OIRA staff and an agency or person not employed by the Federal government regarding proposed collections of information are to be made part of the public record. Public comments pertinent of OIRA's decision to approve, modify, or disapprove an agency's collection of information are to be part of the public record.

Finally, an additional new purpose of the bill is to strengthen the partnership between the Federal government and State, local and tribal governments by minimizing information collection burdens and maximizing utility information collected by Federal agencies. This will require additional attention be paid to establishing common standards for data exchange and for interoperability among systems.

In these various ways, and as more precisely described in the section-by-section analysis, the Committee intends to strengthen the Act's paperwork reduction requirements to improve the efficiency and effectiveness of government operations, including the reduction of paperwork burdens on the public.

Information dissemination

Information dissemination is an integral part of the information life cycle. While only mentioned once in the 1980 Act, the 1986 amendments properly inserted references to dissemination in provisions on IRM, IRM planning, and OMB's functional authority. In the years since the 1986 amendments to the Act, dissemination has emerged as a particularly important functional information area due to new opportunities for improve dissemination of and public access to government-held information made possible by emerging information technologies, not the least of which are growing public networks.

To realize the full potential for the flow of information, particularly electronically, requires new efforts by the Federal government to coordinate and improve dissemination management policies and practices. For this reason, and as described below, the Committee believes it is important to provide a more detailed statement of dissemination policies in statute.

S. 244, therefore, provides a statutory framework to guide Federal government dissemination of public information. Policy guidance and oversight responsibilities are vested in OMB and operational responsibilities rest with the agencies. OMB has an obligation to promote public access to government information through the development and oversight of government-wide information dissemination policies. Likewise, agencies have an obligation to conduct their dissemination activities to ensure that the public has timely and equitable access to public information.

The Committee intends these provisions to assist agency managers in accomplishing their missions by disseminating information necessary for the proper performance of the agency's functions. Working in consultation with the public, OMB, and other central management offices, agencies should adopt uniform technical standards and capabilities, and integrate dissemination decision-making with the management of other IRM functions to promote and provide more efficient and effective public access to a broader range of government information.

Accordingly, the legislation's policies and required practices apply to the dissemination of all government information regardless of form or format (i.e., paper publications, compact disc, on-line data, etc.), that public information be made available on a timely and equitable basis to all persons, that a diversity of government and non-government sources be used to facilitate access to government information, and that there be no exclusive or restrictive distribution arrangements to limit or regulate the use or reuse of public information.

These requirements are designed to facilitate information dissemination as part of the efficient and effective performance of government functions. This imperative does not, however, provide a single method or rule for dissemination. Federal agencies must develop approaches and make specific dissemination decisions that balance among competing forces and interests. Agencies also must develop effective dissemination capabilities, while avoiding proprietary-like information operations.

Thus, as agencies are governed by the public purposes of their statutory missions, they should avoid copyright-like controls (e.g., restrictions on reuse of information) or pricing arrangements that restrict the flow of public information. They should also take advantage of (and not unnecessarily duplicate) private sector initiatives that may more efficiently or effectively serve the same ends. Finally, agencies must fulfill legal requirements for dissemination, such as use of the Government Printing Office's Sales and Depository Library Programs. Multiple access points and multiple formats simply serve to enhance dissemination of government information to the public.

One critical component in establishing broad-based public access to government information is the development of a Government Information Locator Service (GILS). Such a locator system (or system of systems) should facilitate public and agency access to government information by providing pointers to information holdings of Federal agencies. Ultimately, this system should become a path to the holdings themselves. However, the Committee recognizes the diversity of current agency information systems and technologies.

It is important, therefore, at this time to promote access through available channels. As better standards for organizing and accessing databases are developed, agencies need to work toward common protocols that will make direct public access a practical reality. This goal of creating a means for agencies and the public to obtain, and not merely locate, government-held information should guide the development of GILS.

In the context of the current legislation and the immediate future, OMB has moved in the right direction in issuing its recent directive on GILS, and NIST likewise is making a valuable contribution to the creation of GILS standards. It is important, however, to insure consistent implementation across agencies and to create procedures and mechanisms that can be used to build a viable locator system. This includes ensuring the security and integrity of GILS. GILS also needs to be able to evolve over time to accommodate the changing mix of electronic formats for government information and rapid advances in information technology so that it does not become obsolete. The Committee expects that the interagency committee created in the legislation will provide the advice needed to ensure security and integrity of data, compatibility, sharing among agencies, and uniform access by the public. The term "uniform" should be understood to mean establishing a consistent standard for access and does not mean that all agency systems must employ the same software and hardware.

Statistical policy

Between 1939 and 1977, Federal statistical policy was the responsibility of OMB/BoB (Reorganization Plan No. 1 of 1939, see also section 103 of the Budget and Accounting Procedures Act of 1950, 31 U.S.C. 1104(d)). In October 1977, it was assigned to the Department of Commerce by Executive Order No. 12013. The Paperwork Reduction Act of 1980 transferred statistical policy and coordination back to OMB, integrated it with related information functions, and attempted to strengthen OMB's oversight and coordination responsibilities. To further strengthen the administration of the statistical functions, and in response to complaints from the statistical community, the 1986 amendments required OMB to appoint a professional statistician to the position of Chief Statistician to carry out OIRA's statistical policy responsibilities.

S. 244 continues and strengthens the requirements for OMB leadership of the Federal statistical system and adds a number of new provisions. These provisions reflect the Committee's view of the importance of improving central leadership and coordination of Federal statistical programs.

The Committee is convinced that much more needs to be done to address growing problems in the Federal statistical system. It has found that the Federal statistical system has not kept up with the changing nature of the U.S. and global economies, nor with advances in information technology. Statistical priorities and programs need to be reexamined and updated in light of rapidly changing economic, technological, and social conditions. Statistical information is used for a wide variety of decision-making, both in the public and private sectors. Having reliable, pertinent informa-

tion therefore becomes a necessity if such decisions are to be based on valid information.

To address these concerns, S. 244 amplifies OMB's existing statistical policy responsibilities and includes other provisions designed to improve the Federal statistical system and information infrastructure. The Committee intends that OMB give balanced emphasis to all of its major information policy functions, including statistics.

S. 244 strengthens the statistical policy mandate by explicitly requiring OMB to coordinate and provide leadership for the development of the decentralized Federal statistical system. Such coordination is needed to ensure the efficiency and effectiveness of the system as well as the integrity, objectivity, impartiality, utility, and confidentiality of information collected for statistical purposes. A recent study by the National Research Council ("Private Lives and Public Policies: Confidentiality and Accessibility of Government Statistics," 1994) noted increased concerns among many Americans about the confidentiality of information collected by government surveys. The report recommended new standards and procedures be implemented by Federal agencies to preserve confidentiality. These concerns are reflected in the legislation's amendments to the Act to provide more specific mandates for OMB and agencies to protect privacy in the collection of information for statistical purposes.

Developing interoperability among statistical systems in the different agencies also is important for improving access to valid and current data. To facilitate this coordination, the bill requires OMB to establish an interagency council, headed by the Chief Statistician and consisting of the heads of the major statistical agencies and representatives of other statistical agencies under rotating membership. In addition, OMB is to review the budget proposals for agency statistical programs to ensure that they are consistent with government-wide priorities for maintaining and improving the quality of Federal statistics and prepare an annual report on statistical program funding.

These provisions require that OMB adopt a proactive approach to statistical leadership. The Committee expects that OMB will provide leadership in identifying statistical priorities and in identifying and recommending corresponsing budget priorities for Federal statistical programs. Additionally, OMB should take an active role in developing statistical standards and guidelines to assist Federal agencies in the development and implementation of statistical programs. Statistical policy must address issues related to information collection, use, and dissemination. Appropriate protection for statistical confidentiality and security for statistical systems must be an integral part of the development of these programs. OMB is also to coordinate the participation of the United States in international statistical activities, including the development of comparable statistics. In addition, OMB is to provide opportunities for training in statistical policy and coordination functions to Federal government employees.

Records management

In order to provide greater visibility to the area of records management, the Paperwork Reduction Act assigned OMB an oversight role to support the efforts of GSA in getting agencies to implement effective records management practices. This was the only entirely new function assigned to OMB by the 1980 Act. The need was described in a July 1980 letter from the Comptroller General:

> With regard to records management, the bill recognizes the need to provide a cohesive Federal information policy and to coordinate the various components of Federal information practices. Records management, concerned with information use and disposition, is a vital element of information policy. In the past, this function has not received the level of management attention it deserves. For example, although the General Services Administration (GSA) is authorized to do so, it does not always report to OMB or to the Congress serious weaknesses in agencies' records management programs along with the potential for savings if corrective actions are taken. We pointed this problem out as early as 1973, but in a recent study we found that GSA's actions to date have been inadequate.
>
> We believe the assignment of oversight responsibility to OMB and the periodic evaluations required by the bill would remedy the situation. In doing so, the benefits which improved records management practices can bring to the performance of Federal programs can be realized.—Senate Report 96–930, pp. 100–101.

During the early years of the Act's implementation, however, OMB largely ignored this function, allowing GSA and subsequently the National Archives and Records Administration (NARA) (created in 1985), to deal with the executive agencies. Not until 1993 revision to OMB Circular No. A–130 did OMB provide significant policy guidance to agencies on records management (see also, A–130, Appendix IV).

Records management is essential to efficient and effective management of information throughout the information life cycle. As such, its oversight continues to be properly assigned to OMB under the Act. In the new era of electronic records, it is even more important to ensure effective records management at all stages of the information life cycle. Agencies increasingly rely on electronic mail for communication, on-line systems for dissemination, and on CD–ROMs for storing large volumes of data. Unless information created in these formats is properly managed to insure its integrity and archival preservation, much of the government's future records may well be lost.

The current policy debate about records management in this emerging environment of networks, electronic mail, and the National Information Infrastructure demand the development of new agency policies and practices. OMB, NARA, and each operating agency must take affirmative steps to manage records, regardless of their form or format, consistent with legal requirements and the practical demands of the electronic information age. Agencies must determine how they will insure future access to government

records originating in electronic formats and need to work closely with NARA in establishing consistent standards for archiving electronic materials.

S. 244 reiterates the Act's mandate for OMB to provide advice and assistance to the GSA Administrator and to the Archivist and to review agency compliance with the records management requirements. Further, it charges OMB with the responsibility to oversee the application of records management policies and guidelines, including requirements for archiving information in electronic format, when agencies are planning and designing their information systems. Finally, as with other functional areas, the Act now explicitly spells out the role of agency records management responsibilities in the IRM framework.

The Committee also wishes to emphasize the importance of consistent records retention policies for records management functions. As noted in past testimony before the Committee by representatives of the Association of Records Managers and Administrators, clear records retention policies for all recordkeeping requirements are needed if expensive and wasteful burdens on the public, State and local governments, and Federal agencies are to be avoided.

Privacy and security

Maintaining privacy and security is a key element in managing information. OMB had responsibilities for privacy and security of government information prior to enactment of the 1980 Paperwork Reduction Act, under the 1974 Privacy Act and within other statistical policy, reports clearance, and computer security functions.

S. 244 continues OMB's role under the Paperwork Reduction Act for developing and overseeing agency implementation of policies, standards, and guidelines for the privacy, confidentiality, security, disclosure, and sharing of information. The Act promotes sharing and disclosure of information for purposes of maximizing the utility of information to users, both governmental and non-governmental. Sharing of information among government agencies also serves the goal of minimizing the burden imposed on the public by government collection of information. Such sharing and disclosure must be done, however, consistent with the provisions of the Paperwork Reduction Act and other laws that govern access, confidentiality, sharing, or disclosure, such as the Privacy Act, the Computer Matching and Privacy Protection Act, the Freedom of Information Act, and agency specific laws such as those governing the Internal Revenue Service and the Census Bureau.

As a practical matter, the growth of networks offer new opportunities for broadly sharing information among agencies and with the public. At the same time, they create new vulnerabilities that can lead to breaches in security and threats to the loss of privacy. An assessment by the National Research Council ("Computers at Risk: Safe Computers in the Information Age," 1991) predicted that without more responsible use and management of computer systems, disruptions with adverse consequences would increase. The Committee is concerned about these increasing incidents of security breaches that range from hackers breaking into DOD computers ("Computer Security: Hackers Penetrate DOD Computer Systems," GAO/T–IMTEC–92–5, November 20, 1991), to IRS employees

browsing through personal income records ("IRS Automation: Controlling Electronic Filing Fraud and Improper Access to Taxpayer Data," GAO/T–AIMD/GGD–94–183, July 19, 1994, and "IRS Information Systems: Weaknesses Increase Risk of Fraud and Impair Reliability of Management Information." GAO/AIMD–93–34, September 22, 1993). Agencies must take the necessary steps to maintain the appropriate balance between openness and security, and give new attention to the risks of maintaining information in electronic formats.

The bill also recognizes the enactment of the Computer Security Act in 1987, establishing that OMB require Federal agencies to identify the sensitivity of their information and to afford appropriate security protections for it. Not only must systems be secured to maintain confidentiality of sensitive data, but procedures must ensure that integrity of information and availability of systems and data are not compromised. A crucial component of establishing sound computer security management involves agency-wide training and awareness. If systems and information are to be safeguarded, training at all levels must be implemented. Again, as computer systems increasingly are linked to national and international networks, effective implementation of computer security is essential.

Information technology

One of the purposes of the Paperwork Reduction Act when it was originally enacted was:

> To ensure that automatic data processing and telecommunications technologies are acquired and used by the Federal Government in a manner which improves service delivery and program management, increases productivity, reduces waste and fraud, and, wherever practicable and appropriate, reduces the information processing burden for the Federal Government and for persons who provide information to the Federal Government.—P.L. 96–511, sec. 2(a) (44 U.S.C. 3501).

As such, information technology has been recognized from the beginning as instrumental in improving government operations and fulfilling agency missions, including reducing the burdens imposed on persons who provide information to the government.

Yet, the management and application of the technology to support government operations has been a historical problem. As described in a July 1980 letter from the Comptroller General, the management of automatic data processing equipment (ADPE) was characterized by: (1) confusion of policy roles between OMB and GSA; (2) overly complex and costly software that too often fails to meet user needs, is inefficient, or simply does not work; and (3) a costly, prolonged, and ineffective acquisition process which too often emphasizes hardware characteristics over sound financial investment.

Noting that the functions assigned OMB, GSA, and the Department of Commerce under the Brooks ADP Act were not changed, the Comptroller General stated that, by reemphasizing the Brooks ADP Act, the 1980 Paperwork Reduction Act attempted to

strengthen the leadership and central direction provided by these agencies. Further, the consolidation within OMB of policymaking and oversight responsibilities for the other information management functions covered by the bill should enhance the capability for applying advanced information technology to the problems of controlling paperwork burdens and improving the quality of data for program management and evaluation.

To support his 1980 recommendation, the Comptroller General listed 70 GAO reports describing deficiencies in agency information management activities, with 31 dealing specifically with information technology problems (see Senate Report 96–930, pp. 99–110).

Since the passage of the Act, agencies have continued to spend more and more on information technology (now over $25 billion a year). GAO, too, has continued to report on deficiencies related to agency information technology activities and systems development efforts. In a February 1992 report summarizing 132 reports it issued between October 1988 and May 1991, GAO described ten categories of problems:

Inadequate management of information systems development life cycle;

Ineffective oversight and control of IRM;

Cost overruns in information systems development efforts;

Schedule delays in information systems development efforts;

Inaccurate, unreliable, or incomplete data;

Inability to ensure the security, integrity, or reliability of information systems;

Inability of systems to work together;

Inadequate resources to accomplish IRM goals;

Systems that make access to data time-consuming or cumbersome; and

Systems that were not performing as intended.

"Information Resources: Summary of Federal Agencies' Information Resources Management Problems," GAO/IMTEC–92–13FS, February 13, 1992.

Described previously in the Information Resources Management section of this report (and summarized in the appendix) is the latest report by GAO describing ways agencies can employ practices used by leading organizations in the private and public sectors to manage their information technology. This report, "Executive Guide: Improving Mission Performance Through Strategic Information Management and Technology," (GAO/AIMD–94–115, May 1994), describes 11 practices with related attributes and suggestions to agencies on how to get started in implementing the specific practice for better managing information and information technology. Based on the findings of that report, Gene Dodaro, Assistant Comptroller General for Accounting and Information Management, testified before the Committee on May 19, 1994, and recommended that the Paperwork Reduction Act be amended in the following ways:

Clarify that line managers—both senior executives and program managers—are accountable for effectively managing information and accountable for achieving meaningful results from technology investments.

Require agencies to implement practices to ensure that information technology investments effectively support agency missions. Information technology investments must be driven by business plans and effective controls over these investments need to be in place.

Encourage agencies to redesign business practices and supporting systems before making major investments in upgrading or replacing existing systems.

Require agencies to establish performance measures to evaluate the effectiveness of information technology support for agency missions. These measures should be developed consistent with the requirements of the Government Performance and Results Act.

Require agencies to integrate information technology operations and decisions into organization-wide planning, budgeting, financial management, human resources management, and program decisions. Technology decisions should not be separate activities, but rather should be integrated into an agency's overall planning and decision-making structure.

The recommendations were presented by GAO at the Committee's hearing on May 19, 1994 and were well received by many Members of the Committee. Further, it should be noted that some of the provisions of S. 244 will strengthen the 1980 Act's information technology management provisions by implementing some of the GAO's recommendations.

Conclusion

Based on the record compiled by this Committee, during both this Congress and preceding attempts to amend the Paperwork Reduction Act and reauthorize appropriations for the Office of Information and Regulatory Affairs, there is ample evidence of the need to reauthorize OIRA appropriations and strengthen the Act. Improvements are needed to clarify OMB and agency responsibilities for all functional areas covered by the Act. Improvements are also needed in efforts to reduce the burden of meeting the Federal government's information needs, increase the efficiency and effectiveness of Federal information resources management, and strengthen public participation in paperwork reduction and other IRM decisions. S. 244 accomplishes these purposes and the Committee strongly endorses its enactment.

IV. Committee Action

S. 244, the "Paperwork Reduction Act of 1995" was introduced on January 19, 1995, by Senator Nunn, for himself, Senator Roth, Senator Glenn, Senator Bond, Senator Bumpers, and 17 other Senators from both sides of the aisle. S. 244 is substantially identical to S. 560 as ordered reported unanimously by the Committee on August 2, 1994 and subsequently passed by the Senator on October 6, 1994.

S. 560 combined the provisions of the two bills from the 103rd Congress, S. 560 and S. 681. Both bills made amendments to the Paperwork Reduction Act of 1980 and provided a reauthorization of appropriations for the Office of Information and Regulatory Affairs, but approached those common purposes differently.

S. 560, the "Paperwork Reduction Act of 1993," was introduced on March 10, 1993, by Senator Nunn, for himself, Senator Bumpers, Senator Roth, Senator Danforth, and 22 other Senators. The bill focused on minimizing and rationalizing the paperwork burdens imposed on the public by Government-sponsored paperwork burdens. It sought to make Federal agencies more responsible and accountable for the paperwork requirements which they proposed. Simultaneously, S. 560 sought to empower the public regarding participation in the review of proposed regulations and the policing of agency compliance with the requirements of the Act. A major provision of S. 560 was amendments to the 1980 Act to make explicit that third-party paperwork burdens are subject to the Act, thus closing the serious loophole created by the Supreme Court's 1990 decision in *Dole* v. *United Steelworkers of America*. S. 560 was based on S. 1139, legislation from the 102nd Congress, also introduced by Senator Nunn. S. 1139 reflected many of the provisions Senator Nunn, and other Members from both sides of the aisle, advocated on behalf of the small business community as amendments to S. 1742 during the 101st Congress.

S. 681, the "Paperwork Reduction Reauthorization Act of 1993," was introduced on March 31, 1993, by Senator Glenn, for himself, and Senators Levin and Akaka. In addition to amendments strengthening the paperwork reduction aspects of the 1980 Act, this bill emphasized amendments designed to improve Government-wide information resources management (IRM) by strengthening OMB's policymaking authorities and responsibilities and making corresponding modifications to the IRM responsibilities of the individual Federal agencies. S. 681 also established public accountability procedures for executive branch regulatory review. S. 681 was based on S. 1044, from the 102nd Congress, which was in turn based on S. 1742, from the 101st Congress.

On May 19, 1994, the Committee held its major hearing in the 103rd Congress to consider legislation to reauthorize OIRA's appropriations, strengthen the Paperwork Reduction Act of 1980, and review OIRA's implementation of the 1980 Act as well as its regulatory review activities under President Clinton's Executive Order 12866 (Successor to E.O. 12291 and E.O. 12498 under the Reagan and Bush Administrations). Testimony included comments and discussion regarding a Committee staff draft that blended many of the provisions of S. 681 with those of S. 560.

Witnesses at the May 19, 1994, hearing were: Gene L. Dodaro, Assistant Comptroller General, Accounting and Information Management Division, U.S. General Accounting Office, accompanied by Jack L. Brock, Director, IRM Policies and Issues Group, Accounting and Information Management Division, and William M. Hunt, Director, Federal Management Issues Group, General Government Division; Sally Katzen, Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget; C. Boyden Gray, Chairman, Citizens for a Sound Economy; Robert E. Coakley, Executive Director, Council on Regulatory and Information Management, and Lorraine Lavet, Director of Domestic Policy, U.S. Chamber of Commerce (Co-Chairs, Paperwork Reduction Act Coalition); David C. Vladeck, Director, Public Citizen Litigation Group; and Gary D. Bass, Executive Director, OMB Watch.

In addition to the record of this hearing in the 103rd Congress, the Committee relied upon the five hearings conducted by the Committee and its Subcommittee on Government Information and Regulation during the 101st Congress and the 102nd Congress. These include: Nomination of S. Jay Plager to be Administrator of the Office of Information and Regulatory Affairs (S. Hrg. 101– , June 14, 1988); Reauthorization of the Paperwork Reduction Act (S. Hrg. 101–166, June 12 and 16 1989, by the Subcommittee on Government Information and Regulation); Reauthorization of OMB's Office of Information and Regulatory Affairs (S. Hrg. 101–588, February 21 and 22, 1990); Nomination of James F. Blumstein to be Administrator of the Office of Information and Regulatory Affairs (S. Hrg. 101–1176, October 23, 1990); and Nominations of Francis S. Hodsoll and Edward J. Mazur (S. Hrg. 102–821, October 30, 1991).

The Committee also had the benefit of the records from two hearings conducted by the Committee on Small Business, focussing on the small business community's assessment of agency implementation of the 1980 Act as well as recommendations for strengthening the Act. These include: "Implementation of the Paperwork Reduction Act of 1980" (S. Hrg. 101–315, September 7, 1989) and "Restraining Paperwork Burdens on Small Business: Implementation of the 'Paperwork Reduction Act of 1980' and Recommendations to Make it More Effective" (S. Hrg. 102–592; June 25, 1991).

S. 244 was considered by the Committee during a mark-up on February 1, 1995.

During the mark-up, the Committee considered and adopted by voice vote an amendment offered by Chairman Roth for Senator Cohen, Senator Glenn, Senator Nunn, and himself. This amendment deleted some of the bill's detail regarding the IRM responsibilities of OMB, OIRA, and the individual departments and agencies. The objective of the amendment was to refocus the Act's IRM policy guidance away from process and procedures and toward results-oriented standards. The amendment also eliminated several unnecessary references to existing law relating to the acquisition of information technology (IT) (e.g., the existing cross-references in the Paperwork Reduction Act to the delegation of procurement authority under the Brooks ADP Act). The amendment was offered and accepted with the expectation that the Committee was likely to be considering later during the 104th Congress legislation making further modifications to the Act's IRM provisions and other legislation relating to IT planning and Acquisition.

Following adoption of the IRM/IT amendment, the Committee, by unanimous roll-call vote, ordered S. 244 reported favorably to the Senate.

V. Section-by-Section Analysis

Section 1. Short Title

This section establishes the short title of the bill as the "Paperwork Reduction Act of 1995".

Section 2. Revision of Act

This legislation is drafted as a recodification of the Paperwork Reduction Act of 1980, as previously amended in 1986, which is codified at chapter 35, title 44, United States Code. The bill is drafted in the format of a recodification of the entire Chapter at the recommendation of Senate Legislative Counsel due to the number of proposed changes to current law. The recodified Chapter includes changes that range from substance to style. It includes the deletion of obsolete terms and provisions, the reorganization of sections for purposes of clarity and consistency, the consolidation and refinement of definitions and common terms, and the addition of new requirements to update and strengthen the original purposes of the 1980 Act. To the extent the revision is a restatement of the Paperwork Reduction Act of 1980, as amended in 1986, the legislation is a reaffirmation of the law's scope, underlying purposes, requirements, and legislative history. It is the intent of the Committee that the Act's prior legislative history remain unchanged and continue to be viewed an important explanation of the Congressional intent underpinning the Act's provisions. To the extent S. 244 modifies provisions in current law, it is done strictly for the purposes described below, and again, in order to further the purposes of the original law.

Sec. 3501. Purposes

Section 3501 maintains the Act's primary focus on minimizing paperwork burdens on the public. The bill adds several additional purposes and revises and realigns other purposes to emphasize the need to improve information resources management (IRM) as a means to minimize government costs and to improve the productivity, efficiency, and effectiveness of government programs, including the reduction of paperwork burdens and improved service delivery to the public. It promotes the theme of improving the quality and use of information to strengthen decisionmaking and accountability and to maximize the benefit and utility of information created, collected, maintained, used, shared, disseminated, and retained by or for the Federal Government. It emphasizes that information technology should be employed by Federal agencies to improve mission performance and reduce paperwork burdens, and that the Federal Government and State, local, and tribal governments should increase their common efforts to improve the utility and decrease the burdens of government information activities. It also adds the purpose of improving the responsibility and accountability of the Office of Management and Budget and other Federal agencies to the Congress and to the public for effectively implementing the requirements of the Act.

Sec. 3502. Definitions

1. The term "agency" is unchanged from current law.

2. The term "burden" is expanded with a more detailed list of descriptive examples of actions that constitute burden imposed by a collection of information (e.g., the resources expended for reviewing instructions; acquiring, installing, and utilizing technology to obtain, compile, or report the information; adjusting the existing ways to comply with any previously applicable instructions and re-

quirements; searching data sources; completing and reviewing the collection of information; and transmitting the information to the requesting agency or otherwise disclosing the information as instructed by an agency). No substantive limitation from current law is intended by the use of these examples. The Committee wants to cover all burdens associated with an information collection.

The phrase "or for" an agency is added, as it is elsewhere in the legislation, to clarify that the burdens associated with providing, maintaining, or disclosing information to or for a Federal agency, or to a third party or the public on the instruction or behalf of a Federal agency, are all equally included in the meaning of the term "burden."

3. The term "collection of information" is amended to accomplish several purposes.

First, several phases are added (i.e., "causing to be obtained," "requiring the disclosure to third parties or the public," and "or for" an agency) to clarify that all Federally-sponsored collections of information, not just those directly provided to a Federal agency, are contemplated within the meaning of the term. Information maintained, or information provided by persons to third parties, for example, is therefore covered by the Act, most particularly, the clearance of a proposed collection of information pursuant to sections 3506 and 3507, determinations of "need" pursuant to section 3508, and the protections afforded directly to the public by section 3512.

Whether a "collection of information" is conducted for or simply sponsored by the Federal government, rather than whether the government is the primary or immediate user of the information collected by a respondent, is the primary factor which determines whether a collection of information is covered by the meaning of the term. This clarification is intended to overturn the Supreme Court's interpretation of this term in *Dole* v. *United Steelworkers of America*, 494 U.S. 26 (1990). Agency third-party information disclosure requirements are within the scope of the Act.

To the extent that the debate over the *Dole* decision has involved charges that overturning the decision would amount to legislatively authorizing substantive regulatory review, the Committee notes that the Act, as stated in section 3518(e) of current law, is not to be "interpreted as increasing or decreasing the authority . . . [of the President or the OMB Director] with respect to the substantive policies and programs of [agencies]". As the Court noted in *Dole* regarding OSHA's Hazard Communication Standard, which was reviewed by OIRA under the 1980 Act, "The promulgation of a disclosure rule is a final agency action that represents a substantive regulatory choice." Such an agency regulatory action does not mean that OMB could not or should not review the information collection aspects of that regulatory choice. As reflected by the inclusion of the provisions in section 3507(d) (section 3504(h) in current law), the Paperwork Reduction Act was meant to and does reach information collections contained in or derived from regulations. The nature of a collection of information as a regulatory requirement cannot in itself be allowed to shield the collection from the OMB Director's authority provided by the 1980 Act, including section 3508.

OMB's concurrent authority to review and approve proposed agency collections of information under the 1980 Act and to review

proposed agency regulations under presidential executive orders has engendered confusion regarding the relationship between an agency rulemaking decision made under the agency's program statutes and the Administrative Procedure Act (APA) and OMB's authority to review proposed collections of information emanating from such agency rules. Concern has been repeatedly expressed by some Committee Members and others that the exercise of OMB's paperwork review and approval authority should not be permitted to displace agency substantive decisions. Others urge that the standard applicable to OMB's exercise of its authority under the Act is that OMB's paperwork review process not unduly displace agency substantive decisions. In reporting S. 244, however, the Committee concludes that third-party information collections are no more "substantive" than other information collections and should be once again included within the scope of the Act.

Second, the phrase "regardless of form or format" replaces the phrase "through the use of written report forms, application forms, schedules, questionnaires, reporting or recordkeeping requirements, and other similar methods" contained in current law. This clarifies that regardless of the instrument, media, or method of agency action, a collection of information is any agency action that calls for facts or opinions resulting from answers to identical questions, or identical reporting or recordkeeping requirements. This includes any collection of information, whether the agency action is described as an information collection request, collection of information requirement, or other term. It also includes all the collection methods that are specifically listed in current law. It also includes information collection activities regardless of whether the collection is formulated or communicated in written, oral, electronic or other form, and regardless of whether compliance is mandatory, voluntary, or needed to obtain a contract or a benefit made available by the Federal government.

Third, the term "collection of information" replaces the terms "information collection request" and "collection of information requirement" in current law. The present definition of "information collection request" in section 3502(11), and all its uses in current law are deleted. The use of the term "collection of information requirement" in the current law's section 3504(h) is also deleted.

The use of the singular phrase, "collection of information," is made only for purposes of clarity and consistency. In the past, the use of separate terms created confusion about possible differences among the terms. The most significant instance involved the distinction between "information collection request" and "collection of information requirement," which was added to the Act by a Committee floor amendment to the original 1980 legislation.

In 1982, the Department of Justice issued a legal opinion that "information collection request" referred only to paperwork requirement not specifically contained in a rule and that "collection of information requirement" referred only to a collection of information which was contained in a proposed rule. An effect of the opinion was to question whether the Act's three-year limit on approvals of "information collection requests" applied to "collection of information requirements" contained in rules promulgated pursuant to notice and comment procedures.

In 1984 and again in 1986, the Committee deliberated on this issue and rejected the Justice Department's interpretation, and in 1986, Congress amended the Act to include the term "collection of information requirement" in the definition of "information collection request." This action, however, left references to the two terms in the text of the Act. The current legislation conclusively ends any confusion created by the existence of these two terms by substituting a comprehensive definition for "collection of information".

The Committee does not intend these words and definitional changes to be construed as narrowing or otherwise limiting provisions in current law or as altering the legislative history of the Act. At each point in the Committee's deliberations on these issues, i.e., in 1984, 1986, 1990, 1994 and 1995, the Committee endeavored to craft a clearance process that covered all types of information collections, while preserving the integrity of the rulemaking process. The Committee does not intend these word and definitional changes to limit provisions in current law or to alter the legislative history explaining the deliberations of the Committee and the Congress regarding the Paperwork Reduction Act, including its relationship to the Administrative Procedure Act.

4. The term "Director" is unchanged from current law.

5. The term "independent regulatory agency" is unchanged from current law.

6. A new definition is created for "information resources," which means information and related resources, such as personnel, equipment, funds, and information technology. The new definition is intended to complement the revised definition of "information resources management." Both the new definition and the amended definition serve to clarify and improve the existing law's definition of "information resources management." They make it clear that the resources to be managed are more than just information or information technology. They are those associated programmatic and managerial resources needed to perform information functions.

7. The term "information resources management" (IRM) is redefined to mean "the process of managing information resources to accomplish agency missions and to improve agency performance, including the reduction of information collection burdens on the public." This new definition is meant to further the original Act's intent to have Federal agencies better coordinate the management of information activities and associated resources. The legislation strengthens this mandate by focusing IRM on the basic reason for using information resources; i.e., to serve agency performance and efficiently and effectively accomplish agency missions, including the Act's objective of reducing public information collection burdens.

The reason for the redefinition of the term is that current law merely provides separate lists of management activities (planning, budgeting, organizing, etc.) and information life cycle functions (i.e., the stages that information goes through from its initial creation or collection through final disposition). While the current law's definition tracks the life cycle of information, it lacks an adequate explanation of the context or purpose for IRM as a concept. Eliminating the two parallel lists, and rooting the IRM concept in agency mission and performance objectives establishes an outcome-based means by which to direct and evaluate IRM activities.

With this revised definition, IRM more clearly involves the process of: (1) defining in a systematic way the information resources (from actual data or information to associated resources) needed to effectively accomplish an agency's missions, goals, and objectives; and (2) managing information resources throughout the information life cycle to efficiently and economically meet the defined information needs. The goal is to provide reliable, accurate, complete, and timely information needed by top agency and program managers to accomplish the missions of the agency, and at the same time reduce information collection burdens on the public and minimize the costs to the Government of information activities. Critical to this approach are:

Individuals skilled in carrying out the various IRM functions working with program and top agency managers to develop and operate information systems and provide related information resources needed to support agency missions.

Application of the management activities of planning, budgeting, directing, controlling, and evaluating to the information resources.

Management of information resources throughout the information life cycle.

8. The definition of "information system" is updated to mean an organized and distinct or discrete set of information resources and processes, automated or manual, for any elements of the collection, processing, maintenance, use, sharing, dissemination, and disposition of information. It includes systems that provide information to top agency managers as well as systems supporting agency program operations. The previous definition of "information system" appeared to make the phrase synonymous with a "management information system." Information systems are now understood to serve a much broader range of purposes than just providing management information.

9. The term "information technology" replaces the current term "automatic data processing equipment" (ADPE) but does not change the underlying definition from the "Brooks ADP Act" (40 U.S.C. 759). The reason for this change is that the term "information technology" has replaced "ADPE" in common usage and management practice. Moreover, as broadly defined by the Brooks ADP Act, the term covers computer and telecommunications equipment and services. Throughout the Paperwork Reduction Act, therefore, the legislation substitutes "information technology" for various references to "automatic data processing," "automatic data processing equipment," and "telecommunications."

10. The term "person" is unchanged from current law.

11. The term "practical utility" is broadened and clarified by dropping the phrase "it collects" from current law. This change clarifies that federally conducted or sponsored collections of information which mandate that persons provide or maintain information to or for third parties may have practical utility if the actual use of the information is necessary for the proper performance of the functions of the agency. This change is part of the Committee's intent to clarify the term in light of overturning the interpretation of the term "collection of information" by the Supreme Court in *Dole* v. *United Steelworkers of America.*

12. The term "public information" is added. It means any information, regardless of form or format, that an agency discloses, disseminates, or makes available to the public. It application in the Act, as amended by this legislation, is primarily in the context of "dissemination" of information for an agency.

13. The term "recordkeeping requirement" is clarified by the addition of the phrase "or for" an agency. As with the definition of "burden" and "collection of information," this amendment is meant to cover instances in which information is provided, maintained, or disclosed to or for an agency, or to the public or third parties on behalf of an agency.

In addition to its treatment of these definitions, the legislation eliminates the following definitions as unnecessary:

"automatic data processing"—this term is replaced by the term "information technology," as described above;

"data element," "data element dictionary," "data profile," "directory of information resources," and "information referral service"—these terms are unnecessary given the legislation's revision of section 3511, regarding the Government Information Locator Service; and

"information collection request"—this term is subsumed within the definition of "collection of information," as described above.

Sec. 3503. Office of Information and Regulatory Affairs

Section 3503, which establishes OMB's Office of Information and Regulatory Affairs (OIRA), is amended to conform with the creation of the position of OMB Deputy Director for Management (DDM) in the 1990 Chief Financial Officers Act. While the OIRA Administrator is and should continue to "serve as principal adviser to the Director on Federal information resources management policy," the Committee recognizes and affirms the status of the DDM as the OMB official designated by statute to coordinate and supervise the general management function of OMB.

The section also contains a provision highlighting the importance of selecting an OIRA Administrator and various employees of OIRA with full recognition of the professional qualifications needed to administer the full range of statutory responsibilities established by the Act.

Sec. 3504. Authority and functions of Director

Section 3504 specifies OMB's IRM authority and functions under the 1080 Act. The amendments to existing law do not change the structure of OMB's functional responsibilities, but rather revise and refine the specific details under each function, and, for the first time, delineate specific "dissemination" responsibilities.

As revised, the section eliminates references to OMB as the implementing agency. This reflects the recognition that OIRA can and should provide policy and practice leadership and oversight, but cannot and should not attempt to take over operational responsibilities for agency IRM functions. For this reason, the legislation also describes detailed agency responsibilities in section 3506 to mirror the OMB functions spelled out in section 3504. This reflects a major purpose of the legislation, that is, to improve implementation

of the Act by more clearly delineating agency responsibilities, while continuing to recognize the OMB Director's responsibility and accountability of the overall performance of the executive agencies.

S. 244 also streamlines language and makes more consistent use of terms such as collection of information (e.g., instead of "information collection request" or "collection of information requirement"), information resources management, and information technology. Consistent with the bill's objective of structural streamlining, section 3504(h) in current law (dealing with OMB clearance of a collection of information contained in a proposed rule—an element of the so-called Kennedy Amendment to the original 1980 legislation) is moved, without substantive change, to section 3507(d), the primary location for the Act's provisions relating clearance of proposed collections of information by OMB.

Subsec. (a)

As with the definition of IRM, this subsection identifies the Director's functional IRM responsibilities and focuses them on: (1) developing and coordinating government-wide policies and guidelines; and (2) overseeing agency use of information resources to improve the efficiency and effectiveness of government operations to fulfill agency missions, including the delivery of services to the public.

Subsec. (b)

Subsection (b), the general IRM policy functions, is amended to refer to "information resources management policy" instead of "information policy." the specific requirements are then updated and streamlined—again, with the principal objective being to improve the management of information resources.

New specific functions assigned the Director are to foster greater sharing, dissemination, and access to public information; oversee the development and implementation of "best practices" in IRM by Federal agencies; and oversee agency integration of program and management functions with their IRM functions (in many cases agencies have conducted them as separate activities as if there was no relationship between them). An agency's strategic plan (sometimes referred to as an agency business plan) should establish the mission for agency programs with performance measures to measure program performance (in accordance with the requirements of the Government Performance and Results Act) and the IRM plan should describe how information resources will be acquired and managed in support of the agency programs.

Subsec. (c)

This subsection is amended to improve its fit with other related sections of the Act, e.g., paperwork burden reduction goals in section 3505, agency responsibilities in section 3506, and the authority to review and approve a proposed collection of information pursuant to section 3507. One new requirement is added to highlight the need to reduce the burdens associated with government procurement-related paperwork. It requires coordination between OIRA and the Office of Federal Procurement Policy (OFPP) in the review of proposed agency collections of procurement-related information. The focus on minimizing burden remains (in paragraph (3)). It is

complemented (in paragraph (4)) by the mandate to maximize the utility and benefit of information once it is collected or created by or for the Federal Government. Finally, OIRA is to oversee agency development of burden estimates; i.e., to ensure consistency among agencies in burden estimation.

Subsec. (d)

This subsection establishes new provisions to provide specific guidance for the management of information dissemination functions. Under existing law, these were only referenced generally (e.g., sec. 3504(a)). While the Act's life cycle approach previously conveyed an expectation of OMB oversight of agency information dissemination function, the developing capabilities of agencies and of information technologies for this purpose necessitates the articulation of specific OMB information dissemination policy setting and oversight responsibility. As with other OMB IRM functions detailed in section 3504, the counterpart agency information dissemination responsibilities are spelled out in section 3506.

This new subsection requires OMB to develop government-wide policies and guidelines to guide agency dissemination of public information, and promote public access to public information. As elsewhere in the legislation, the mandate applies to the dissemination of information, regardless of form or format. This is meant to emphasize the need to develop policies and practices to promote dissemination of information in electronic format, as well as traditional paper forms. The emerging electronic information age demands that the Federal government proactively strive to provide public services in new formats and use new technologies to more efficiently and effectively perform government functions.

Subsec. (e)

OMB's statistical policy and coordination duties are spelled out in more detail to assist in improving the coordination of the decentralized Federal statistical system. Specific duties codified by this legislation include: coordinating system activities to ensure the integrity, objectivity, impartiality; utility, and confidentiality of information collected for statistical purposes; ensuring that budgetary proposals are consistent with government-wide priorities for improving statistics; developing policies for the timely and orderly release of statistical data; promoting the sharing of statistical information; and coordinating participation of the United States in international statistical activities. To facilitate interagency coordination and improve Federal statistical policy, the subsection calls for the creation of an Interagency Council on Statistical Policy. It also calls for OMB to provide opportunities to Federal Government employees for training in statistical policy.

Subsec. (f)

OMB's records management duties are reaffirmed and are strengthened to include oversight of agency implementation of records management policies established by the Archivist of the United States and the Administrator of General Services. Given emerging issues regarding electronic records management, specific reference is made to emphasize the need to develop policies and

practices to ensure that ultimate need to archive information in electronic format be considered in the initial planning and design of automated information systems.

Subsec. (g)

OMB privacy and security functions are amended to streamline language and integrate policies related to privacy, confidentiality, security, disclosure, and sharing of information. The current references to security are strengthened by citing the Computer Security Act of 1987. And consistent with that Act, the subsection is amended to focus IORA oversight on the pressing need of agency computer security planning to address "risk" and to afford security protections commensure with the risk involved. Increasingly networked information environments are creating additional challenges regarding both security and privacy.

Subsec. (h)

OMB's information technology or IT (previously referred to as "automatic data processing" or "ADP") duties are revised to reflect the need to integrate information technology management functions (like other elements of IRM) with program functions to serve and improve program performance. The Committee is convinced that OMB must improve its ability to affect agency mission accomplishment through the effective management of information technology, especially through the application of GAO's "Best Practices" recommendations and OMB policy guidance and oversight as provided under the Act.

Specific OMB responsibilities added to those in this subsection of current law are for OMB to: (1) coordinate information technology procurement policies with the Office of Federal Procurement Policy (OFPP) in OMB; and (2) ensure agency integration of IRM plans, program plans, and budgets to assist in the planning, use and management of information technology. Consistent with other changes made by the legislation to focus OMB's activities on policy guidance and oversight as opposed to operational responsibility, the legislation also highlights in this subsection the importance and responsibility of GSA and NIST to work in partnership with OMB to improve agency information technology functions. Finally, the legislation also amends this subsection to make word changes for the sake of consistency and clarity.

Sec. 3505. Assignment of tasks and deadlines

Section 3505 is amended to remove now-outdated tasks and deadlines assigned to the Director in current law from the 1980 Act and the 1986 amendments and to provide a new set of OMB and agency objectives.

1. OMB is to set, in consultation with agency heads, an annual government-wide goal for the reduction of information collection burdens by at least five percent as well as agency-specific goals for paperwork reduction and for improving IRM activities' support of agency programs. The Committee anticipates that the burden reduction goals will be measured against existing levels of burden estimated for the time the goals are set.

2. OMB is to conduct pilot projects to test alternative policies and procedures to fulfill the purposes of the Act, particularly with regard to minimizing the Federal information collection burden.

3. In consultation with GSA, the National Institute of Standards and Technology (NIST), National Archives and Records Administration (NARA), and Office of Personnel Management (OPM), OMB is to develop and maintain a government-wide strategic IRM plan that describes: (1) the objectives and means by which federal agencies will apply information resources to improve agency and program performance; (2) plans for reducing information collection burdens, enhancing public access to information, and meeting Federal information technology needs; and (3) progress in using IRM to improve agency performance and the accomplishment of missions.

Sec. 3506. Federal agency responsibilities

Because a major purpose of this reauthorization of the Act is to more clearly delineate agency responsibilities for each information function, the legislation substantially revises section 3506 to describe key agency functional IRM responsibilities that mirror the OMB responsibilities set out in section 3504. The Committee intends this section to stand as a clear mandate to agencies that primary responsibility for agency IRM rests squarely with the agency, and that each agency is expected to take this responsibility very seriously. Agencies should also be cognizant of other IRM responsibilities spelled out in more detail in related IRM laws.

Subsec. (a)

This subsection establishes the management structure which the agencies are to establish in carrying out their IRM responsibilities.

1. Each agency's IRM responsibility is clearly vested in the agency head to carry out and integrate activities in a manner that improves agency productivity, efficiency, and effectiveness, while complying with the Act's requirements and related implementing policies established by OMB.

2. The current law is unchanged with regard to the establishment of an agency designated senior IRM official. The senior IRM official is primarily responsible for assisting top agency program and management officials in managing information resources in support of agency programs and activities and for the effective and efficient design, development, and delivery of information activities to support program responsibilities and comply with the requirements of this Act.

3. The senior IRM official is required to head an office responsible for assuring agency compliance with the Act, including the minimization, rationalization, and reduction of paperwork burdens on the public. Subsection (c) specifically identifies this office as the office that is to review and certify proposed collections of information for subsequent review and approval by OMB. Also, the senior IRM official and staff are to have professional qualifications necessary to administer the agency's IRM functions.

4. Consistent with the goal of integrating IRM in program management, the legislation specifies that agency program officials are responsible and accountable for information resources assigned to

and supporting their programs. The provision also describes the relationship between the senior IRM official and program and management officials, including the Chief Financial Officer (or comparable official). In consultation with the agency Chief Financial Officer and the senior IRM official, program officials are to define program information needs and cooperatively develop strategies, information systems, and capabilities to meet those needs. The strategic plans developed under the Government Performance and Results Act should provide the foundation for IRM plans. Both the strategic plan and IRM plan should be reflected in the agency's budget request. Implementation of the strategic plan and the IRM plan should also be part of the agency's performance assessments under the Government Performance and Results Act.

Subsec. (b)

With respect to general information resources management, each agency is to undertake several specified actions:

1. Manage information resources to reduce information collection burdens, increase program efficiency and effectiveness, and improve the integrity, quality, and utility of information to users both within and outside the agency;
2. Develop and maintain a current strategic IRM plan describing how the agency will employ information resources to accomplish agency missions;
3. Maintain an ongoing process to improve IRM and integrate it with organizational planning, budget, financial management, human resources management, and program decisions; to develop an accurate accounting of information technology expenditures and related expenses; and to establish goals for improving IRM's contribution to agency programs;
4. Maintain an inventory of information resources, including directories necessary to fulfill the Government Information Locator Service (GILS) requirements of section 3511; and
5. Conduct IRM training programs to educate program and management officials about the importance of IRM.

Subsec. (c)

With regard to the collection of information and the control and reduction of paperwork burdens, the legislation specifies detailed agency paperwork clearance requirements. The Committee believes significant improvements can be made to the information collection clearance process by focusing increased agency attention to (and public participation in) the initial formulation of and periodic review of information collections. One improvement provided by a more complete airing of issues during the course of the agency's development of an information collection proposal should be to reduce the amount of contention that in the past arose relatively late in the process during OIRA review.

1. Section 3506(c) mandates a detailed information collection evaluation procedure requiring each agency to establish a process, to be executed by the office established under subsection (a) operating independently of the office having program responsibility, to evaluate proposed collections. The office must:

Review a collection of information before it is submitted to OMB for review, that includes making an independent evaluation of its need; preparing a description of it, a collection plan, and a burden estimate; pilot testing the collection, if appropriate; and developing a plan for the management and use of the information to be collected;

Ensure that information collections are inventoried, display a control number and, when appropriate, an expiration date; indicate the collection is in accordance with the Act; and contain a statement informing the person being asked why the information is being collected, its use, its burden, and whether responses are voluntary, required to obtain a benefit, or mandatory. This requirement is transposed from current law (section 3504(c)(3)) to make it more clearly an agency responsibility, rather than a duty of OMB. Note that this requirement must also be certified to by each agency (see section 35069(c)(3)(F)); and

Assess the information collection burden of proposed legislation affecting the agency.

2. Each agency is to provide a 60-day public comment period which occurs before the proposed collection is submitted to OMB for review. While such comment to OMB has been useful in the past, and should continue to be so, public comment on agency development of information collections should help:

Determine whether the information collection is necessary for the proper performance of the functions of the agency;

Assess the accuracy of, and improve, the agency's burden estimate;

Enhance the quality and utility of the information to be collected; and

Minimize the information collection burden, including through the use of information technology (including alternative information technologies).

This agency public comment period is not required for proposed information collections contained in proposed rules, which must be reviewed by OIRA under section 3507(d) (under this legislation, section 3504(h) under current law). The reason for this exemption is that such proposals solicit public comment through the agency notice of proposed rulemaking (NPRM) under the Administrative Procedure Act. To require an additional (and earlier) agency public comment period would result, as a practical matter, in agency publication of advance notices of proposed rulemaking (ANPRM) for every proposed rule that contains a collection of information. This would create a significant amount of internal government paperwork and expense for an insignificant improvement in opportunities for public notice and comment.

3. Each agency is to certify (with a supporting record, including comments received, and an agency response to any significant issues raised by the public) that each proposed collection of information submitted to OMB for review under section 3507:

Is necessary for the proper performance of the functions of the agency, including that it has practical utility;

Is not unnecessarily duplicative of available information;

Reduces, to the extent practicable and appropriate, the burden on respondents, which may include establishing alternative compliance or reporting requirements for small entities in accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. chapter 6);

Is written using plain, understandable language;

Is to be implemented in ways consistent and compatible, to the maximum extent practicable, with the respondents' existing reporting and recordkeeping practices;

Informs the respondent why the information is being collected; how it is to be used; a burden estimate; and whether responses are voluntary, for a benefit, or mandatory;

Has been developed by an office that has allocated resources for the management and use of the information;

Uses appropriate statistical survey methodology; and

Uses information technology (including alternative information technologies), to the extent practicable, to reduce information collection burden, and improve data quality, agency efficiency, and responsiveness to the public.

Subsec. (d)

As a complement to the delineation of OMB responsibilities at section 3504(d) to develop and oversee information dissemination policies, the legislation in this subsection establishes specific agency operational responsibilities to ensure that the public has timely and equitable access to public information. These provisions are largely consistent with the information dissemination principles of OMB Circular No. A–130 (58 *Fed. Reg.* 36068, July 2, 1993, and 59 *Fed. Reg.* 37906, July 25, 1994), particularly as they relate to maintaining a diversity of public and private information dissemination channels, and avoiding improperly restrictive practices.

Most generally, these statutory provisions are intended to guide agency dissemination activities and promote public access to government information in the increasingly multiple forms and formats made possible by new information technologies. Accordingly, these agency dissemination responsibilities apply to Federal public information "regardless of the form or format in which it is disseminated." The Committee notes that each agency remains subject to the requirements of the under the Freedom of Information Act (5 U.S.C. 552).

1. Each agency must ensure that the public has timely and equitable access to the agency's public information, including by encouraging a diversity of public and private sources, and by agency dissemination of public information in an efficient, effective, and economical manner. The goal in this paragraph is to enunciate clearly the obligation of Federal agencies to ensure effective public access to government information. The two secondary objectives are for agencies to: (1) encourage a diversity of providers in the private and public sectors, while avoiding unnecessary duplication of effort; and (2) disseminate information, whose dissemination is determined by the agency to be necessary for the proper performance of its functions, efficiently, effectively, and economically.

This obligation also requires agencies to disseminate and make public information available on a non-discriminatory and non-ex-

clusive basis to any public or private entity for any lawful purpose, including for redissemination of the information, or for its incorporation in another information product or service. In addition, ensuring effective access can require agencies (consistent with budget constraints) to eliminate, reduce, or otherwise compensate for barriers that may frustrate intended users, e.g., excessive charges, licensing requirements, or technical barriers.

2. Subsection 3506(d)(2) requires that each agency regularly solicit and consider public input on the agency's information dissemination activities. This includes outreach to the public to ascertain information user needs so that information can be disseminated in useful forms and formats. This also includes gathering information on information provided by other public or private sources, in order to avoid needless duplication of effort.

3. Subsection 3506(d)(3) sets forth four basic principles to which agencies must adhere in order to achieve the dissemination objectives of this legislation. These principles prohibit, except where specifically authorized by statute: (1) exclusive, restricted, or other distribution arrangements that adversely affect the timely and equitable availability of public information; (2) restrictions on or regulation of the use, reuse, or redissemination of information; (3) fees or royalties for reuse, resale, or redissemination of information; and (4) the establishment of user fees for information that exceed the cost of dissemination.

These restrictions are needed to promote First Amendment values, maintain the long-standing prohibition on copyright in works of the Federal government, and encourage sound agency information dissemination policies. These restrictions apply to every Federal agency, unless a statute under which a particular agency carries out its information dissemination functions specifically directs a different policy. Agencies should review their existing policies and practices to ensure that none of them violate these fundamental prohibitions.

Subsec. (e)

With regard to agency statistical activities, the legislation requires agencies to:

Ensure the relevance, accuracy, timeliness, integrity, and objectivity of its statistical information;

Fully inform respondents regarding the sponsors, purposes, and uses of statistical surveys and studies;

Protect respondent privacy and ensure that disclosures fully honor pledges of confidentiality;

Observe Federal standards and rules on data collection, analysis, documentation, sharing, and dissemination of statistical information;

Ensure timely publication of survey and study results, including information about their quality and limitations; and

Make data available, consistent with privacy and confidentiality measures, to statistical agencies and readily accessible to the public.

Subsec. (f)

With respect to records management, the legislation describes specific agency responsibilities to implement and enforce applicable policies and procedures (established by the Archivist of the United States and the Administrator of General Services), including requirements for archiving information maintained in an electronic format, particularly in the planning, design and operation of information systems. This emphasis on electronic records parallels the emphasis added to OMB's records management responsibilities in section 3504(f).

Subsec. (g)

The legislation describes agency responsibilities for privacy and security. Each agency must:

Enforce applicable policies and procedures on privacy, confidentiality, security, disclosure and sharing of information maintained by an agency or by another entity on behalf of the agency;

Be responsible and accountable for compliance with the Freedom of Information Act, the Privacy Act, the Computer Security Act, and other related information management laws; and

Develop capabilities and provide protections, in carrying out the Computer Security Act, as needed to address cost-effectively the risk of harm from loss, misuse, or unauthorized access to or modification of information maintained by or on behalf of an agency.

Subsec. (h)

Finally, the legislation specifies actions agencies are to take with respect to information technology. Each agency must:

Implement and enforce applicable information technology management policies, procedures, and standards;

The agency designated IRM official must be responsible and accountable for information technology investments;

Use information technology to improve the productivity, efficiency, and effectiveness of agency programs, including dissemination of public information; and

Propose changes in legislation, regulation, and procedures to improve information technology practices, including changes to better use technology to reduce information collection burden.

Sec. 3507. Public information collection activities; submission to Director; approval and delegation

Section 3507 provides the details of the OMB paperwork clearance process and the actions agencies must take to get their proposals reviewed and approved (or disapproved) by OMB. With the establishment of specific agency information collection clearance requirements and the creation of a way for the public to participate earlier in the information collection development process, several modifications and cross-references are made to ensure that the agency clearance actions are performed consistent with and to facilitate the efficient functioning of the overall clearance process. In this regard, for example, the OMB process is streamlined in terms

of the comment period and review time limit (with a maximum of 60 days instead of 60 days plus a discretionary 30-day extension).

Subsec. (a)

The current law's basic paperwork clearance requirements remain the same, that is, that an agency is not to conduct or sponsor the collection of information unless, in advance of the adoption or revision of the collection, the Act's information collection clearance requirements are met at both the agency and OMB levels.

The agency must conduct its information collection review established under section 3506(c)(1); evaluate the public comments received under section 3506(c)(2); submit to OMB the certification required by section 3506(c)(3), together with the proposed collection of information and supporting material; and publish a notice in the "Federal Register" desribing the submission, its title, a summary, the need for the information, its proposed use, respondents and frequency of response, an estimate of the burden, and notice that comments may be submitted to the agency and OMB.

The agency may not collect the information without OMB approval, unless approval has been inferred (i.e., after passage of the time limit for OMB review, see subsection (c), below).

The agency must obtain an OMB-assigned control number to be displayed on or by the collection of information.

Subsec. (b)

OMB is to provide at least 30 days for public comment on the proposed collection of information before making a decision, except in emergencies, as provided under subsection (j).

Subsec. (c)

To clarify the existing law, sections 3507 (c) and (d) now clearly delineate the different procedures for OMB clearance of information collections not contained in proposed regulations and information collections contained in proposed regulations (subject to notice and comment), respectively. As described below, subsection(d) is substantively the same as the current law's language in section 3504(h).

Subsection (c) states that, for any proposed collection and information not contained in a proposed rule, OMB has 60 days for its review. If OMB does not notify the agency of a denial or approval within the 60 days, the approval may be inferred, a control number is assigned, and the agency may collect the information for not more than two years. Section 3507(b), in current law, permits such an inferred approval for only one year. The expansion to two years is made for the following reason: Consistent with the establishment of an extensive agency clearance process (delineated in section 3506(c)) and the expenditure of time and resources associated with that process, there should be an increased incentive for agencies to comply fully with that requirement and equally for OMB to not lightly discount that effort.

Subsec. (d)

The requirements of current law at section 3504(h) with regard to OMB clearance of information collections contained in a pro-

posed rule (subject to notice and comment), are moved to this subsection so as to place the major provisions of the paperwork clearance requirements in one section. While word changes are made for purposes of consistency and clarity no substantive changes are proposed. As under current law:

1. An agency must, no later than the publication of the notice of proposed rulemaking (NPRM), send to OMB any proposed rule containing a collection of information and supporting material. Within 60 days after the NPRM, OMB may file public comments on the proposed regulatory collection of information pursuant to the standards set forth in section 3508.

2. When the final rule is published, the agency must explain how any collection of information contained in the final rule responds to the comments, if any, filed by OMB or the public, or explain the reasons such comments were rejected.

3. OMB cannot disapprove any collection of information contained in any agency rule, if OMB received notice and did not comment within 60 days after the NPRM.

4. OMB can disapprove:

Any collection of information which was not specifically required by an agency rule (i.e., and thus should be reviewed under subsection (c));

Any collection of information contained in an agency rule, if the agency failed to comply with the Act's submission and clearance requirements;

Any collection of information contained in a final rule, if OMB finds within 60 days after the publication of the final rule that the agency's response to OMB's comments on the collection proposed in the NPRM was "unreasonable"; or

Any collection of information contained in a final rule, if OMB finds that the agency substantially modified the collection in the final rule from that in the NPRM and did not comply with OMB's submission and clearance requirements.

5. The procedures in this subsection apply only when an agency publishes a NPRM and requests public comments.

6. The decision by OMB to approve or not act upon a collection of information in an agency rule is not subject to judicial review. No substantive change from existing section 3504(h)(9) is intended.

Subsec. (e)

This new subsection consolidates several provisions in current law regarding public disclosure of OMB information collection clearance activities (i.e., current law—sections 3504(h)(6) and 3507(h)). It also presents the disclosure requirement in a more comprehensive fashion—any decision by OMB to disapprove a collection of information, or to instruct an agency to make substantive or material change to a collection of information, is to be publicly available along with an explanation of the reasons for such decision. Public disclosure is also required for written communications to and from the Director of OMB or OIRA regarding a proposed collection of information (current law—section 3507(h)).

These requirements do not however, require the disclosure of any national security information (current new sec. 3507(h)) or "any communication relating to a collection of information which has not

been approved under this chapter, the disclosure of which could lead to retaliation or discrimination against the communicator." This new language is added to protect "whistle-blowers" who otherwise might not inform OMB of unauthorized "bootleg" collections. This language is not intended, however, to create a second, internal OMB record of public comment to OMB regarding agency information collection proposals.

Subsec. (f)

The current law's authorization of independent regulatory agency overrides of OMB information collection disapproval is unchanged, but for word changes for purposes of consistency and clarity.

Subsec. (g)

The current law's limit of three years for information collection approvals is unchanged, but for word changes for purposes of consistency and clarity.

Subsec. (h)

As originally enacted, the Act described only procedures for gaining approval of new information collections. At the same time the Act's had a specific 3-year limit on OMB's approvals, which required agencies to re-submit information collections for reapproval upon their expiration. This is the "sunset" feature of the 1980 Act and was to apply to all paperwork requirements. Procedures for such reapprovals were subsequently adopted by OMB and are codified at 5 CFR 1320.14. This subsection prescribes a statutory framework for conducting such reviews of a previously approved collection of information for which there is a demonstrable continuing need.

The new procedure provided by the legislation has three major elements.

1. If an agency decides to seek an extension of OMB's approval granted for a currently-approved collection of information, the agency is to conduct the review required under section 3506(c), including the seeking of public comment on the continued need for the information and the burden imposed. After seeking comment, but no later than 60 days before the expiration of OMB's approval (and control number), the agency is to submit the collection to OMB, with an explanation of how the agency has used the information under the current approval.

2. If OMB disapproves an information collection in an existing rule, or recommends or instructs the agency to make a substantive or material change to such a collection, OMB must publish an explanation and shall instruct the agency to enter rulemaking to consider changes to the collection of information in the rule and thereafter to submit the collection for review under subsection (d) (as an information collection contained in a proposed rule). This procedure has basically been OIRA's practice since 1983, under 5 CFR 1320.14.

3. An agency is not allowed to make a substantive or material change to a collection of information after it is approved by the Director unless the modification is submitted for approval and is approved.

Subsec. (i)

The current law's provisions on OMB delegation of information collection clearance authority to agencies is unchanged, except for word changes for purposes of consistency and clarity. The Committee does note, however, that in the fourteen years of the Act's implementation, OMB has only once used this subsection to delegate paperwork clearance responsibility, that is, to the Federal Reserve Board. As recommended by GAO and the National Performance Review (NPR), OIRA may wish to consider possible candidates for additional delegations, particularly as agencies develop clearance capabilities, as required under the bill's amendments to section 3506. However, the Committee cautions OMB to carefully assess those agency capabilities so as to avoid any diminution in the vigorous review of proposed paperwork burdens which is still required by the Paperwork Reduction Act of 1980. The delegation provision is only intended to help OMB focus its paperwork clearance scrutiny where it is most needed. The delegation must not be used to permit the paperwork burdens being proposed by individual agencies to evade thorough and impartial review. Moreover, notwithstanding delegation, OMB must be vigilant to look for opportunities to minimize proposed paperwork burdens that are only possible by considering the information collection activities of other agencies, (e.g., duplication across agencies).

Subsec. (j)

The provisions in current law on expedited OMB paperwork clearance in emergency and time-limited situations are modified with word changes for consistency and clarity, and to provide that the standard for agency determination of the need for an expedited clearance is the reasonable likelihood (as opposed to a certainty) of public harm, failure to respond to an emergency, or violation of a legal deadline. The Committee does not intend agency heads or OMB to use this modification to alter their clearance practices from that under current law.

Sec. 3508. Determination of necessity for information; hearing

Section 3508 provides the standard of review for OMB paperwork clearance decision—"whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility." Except for word changes for purposes of clarity, consistency, and style, the substance of OMB Director's authority to approve or disapprove agency collections of information remains unaltered from current law and the full scope of the standards, policies, and purposes set for in the Act. Thus, OMB's attention to reducing burden, eliminating duplication, coordinating interagency collections, and overseeing the efficient and effective use of information collected by and for Federal agencies arises from and is authorized by this "necessary for the proper performance" standard.

The Committee's intent regarding this standard of review for all collections of information under the Act remains unchanged. This is the standard of review that the Director is to continue to use in all clearance decisions. (See, Senate Report 96–930, p. 49; and

Statement of Senator Kennedy, Dec. 15, 1980, 126 Cong. Rec. S16700).

Sec. 3509. Designation of central collection agency

This section's provisions on OMB's designation of one agency to obtain information for two or more agencies are unchanged from current, except for work changes for purposes of consistency and clarity.

Sec. 3510. Cooperation of agencies in making information available

The current law's provisions are unchanged, except for word changes for purposes of consistency and clarity. This section encourages agencies to cooperate in data sharing to facilitate more efficient and effective, and less burdensome information collection and use.

Sec. 3511. Establishment and Operation of Government Information Locator Service

Section 3511 required OMB to develop and operate a Federal Information Locator System (FILS). The section is amended to update the FILS requirement and transform it into an attainable goal.

The Committee notes that an original objective of FILS was to enable federal agencies and the public to identify duplicative or related collections of information. The Committee intends that this objective be preserved under the new system established by the amendments to this section.

In addition, the section now provides that OMB, to assist and promote agency and public access to government information:

1. Cause to be established a distributed agency-based electronic Government Information Locator Service (GILS) to identify major agency information systems, information holdings, and dissemination products;
2. Require each agency to have an agency information locator service as a component of a government-wide GILS;
3. Establish an interagency committee, with the National Archives and Records Administration (NARA), GSA, the Government Printing Office (GPO), and the Library of Congress, to advise the Secretary of Commerce on the development of technical standards to ensure compatibility, promote information sharing among the agencies, and promote access to government information by the public;
4. Consider public access and other user needs in the establishment and operation of GILS;
5. Ensure the security and integrity of GILS, including so that only information intended to be disclosed to the public or shared with other agencies is disclosed or shared; and
6. Periodically review GILS and recommend improvements (e.g., ways to improve public access to government information and interagency sharing of information to improve agency performance).

These provisions govern the establishment and operation of a government-wide system of systems that will provide multiple avenues for public access to government information by pointing to

specific agency information holdings. To make this possible, agencies systems must be compatible. Thus, agency GILS information should be available to the public through the Government Printing Office Locator System (established pursuant to P.L. 103–40) in addition to any other required methods, as well as any other methods agencies may choose to efficiently and effectively provide public and agency access to GILS. Planning for GILS should also include attention to ways in which the system can be a model, if not ultimately an actual mechanism, for providing access to underlying agency information.

Sec. 3512. Public protection

The intended scope, purposes, and requirements of section 3512's current provisions on public enforcement of the Act's information collection clearance requirements are unchanged. The section is amended, however, for purposes of consistency and clarity, and to unequivocally cover all collections of information, i.e., maintaining, providing, or disclosing information to or for an agency or person. Thus, the Act's public protection provisions once again apply to third-party paperwork burdens (including disclosures) as result of the clarification to the definition of the term "collection of information" in section 3502(3) and other amendments to address the Supreme Court's decision *Dole* v. *United Steelworkers of America*.

Court decisions have affirmed that the section's intended protection can be asserted effectively in empowering members of the public to defend themselves against unapproved collections of information. The Committee supports this provision and the purposes for which it was originally enacted, and continues, to serve.

Sec. 3513. Director review of agency activities; reporting; agency response

Section 3513 is updated and streamlined to provide for more effective executive branch review of agency implementation of the Act and related IRM laws. Many of the reviews of agency IRM activities conducted over the years have been compliance oriented. The section now focuses OMB review of agency IRM activities on determining their efficiency and effectiveness in helping to improve agency performance and achieve program missions and goals. In carrying out this responsibility, the OMB is to consult with:

The General Services Administration (GSA) to ensure attention to information technology and other IRM functional areas in which GSA plays a role through its Information Resources Management Service (IRMS) and the Federal Information Resources Management Regulation (FIRMR);

The National Archives and Records Administration (NARA) to ensure attention to records management issues;

The National Institute of Standards and Technology (NIST) to ensure attention to technical standards issues; and

The Office of Personnel Management (OPM) to ensure that greater attention is given to the training and retention of qualified IRM professionals.

Each agency that has an IRM activity reviewed under this section is to respond, within 60 days of receiving the report on the review, with a written plan to the Director. The plan is to describe

the steps, including milestones, that will be taken by the agency to address the IRM problems identified in the report and to improve agency performance and the accomplishment of its missions.

Sec. 3514. Responsiveness to Congress

Section 3514 provides that OMB is to inform the Congress on the major activities under the Act, including through an annual report. It is also expected that the OMB Director and the OIRA Administrator will report to Congress at such other times as events warrant.

Consistent with current legislative efforts to streamline congressional reporting requirements so as to mandate only that degree of reporting that is actually used, several detailed specifications for tabulations and lists are deleted from current law. The focus of the report is changed—to be on the results achieved rather than mostly information of projects undertaken. The Director is to report on the extent that agencies have: (1) reduced information collection burdens on the public; (2) improved the quality and utility of statistical information; (3) improved public access to Government information; and (4) improved program performance and the accomplishment of agency missions through their IRM activities.

Sec. 3515. Administrative powers

The current law's provisions are unchanged.

Sec. 3516. Rules and regulations

The current law's provisions are unchanged.

Sec. 3517. Consultation with other agencies and the public

This section is amended to permit a person to request OIRA Administrator to review any collection of information to determine if any person must comply with the collection—whether the collection is covered by the Act and has been properly cleared. Unless the request is frivolous (or extra time is needed), the Director is to respond to the person within 60 days and take any appropriate remedial action. The Director is also to coordinate the response with the agency responsible for the collection of information. A purpose of the section is to encourage the public to identify unapproved or "bootleg" paperwork requests and thereby encourage the better agency compliance with the Act.

The section is also amended to make word changes for purposes of consistency and clarity.

Sec. 3518. Effect on existing laws and regulations

The current law's provisions are unchanged, except for word changes for purposes of consistency and clarity.

Sec. 3519. Access to information

The current law's provisions are unchanged, except for word changes for purposes of consistency and clarity.

Sec. 3520. Authorization of appropriations

Section 3520 authorizes annual OIRA appropriations of $8,000,000 for five years, i.e., fiscal years 1996, 1997, 1998, 1999 and 2000.

The section is also revised to strike subsection (c), which was added in 1986.

Section 3. Effective date

The effective date of the "Paperwork Reduction Act of 1995" and the amendments which it makes to existing law, is June 30, 1995. This delayed effective date is intended to allow OMB time to revise its paperwork clearance regulations, and to allow agencies time to submit any current information disclosure requirements (or other third-party collections of information) for OMB clearance. This delayed effective date is also intended to provide agencies time to include the display of a valid OMB control number pursuant to section 3512.

Without this transaction period, disclosure requirements currently deemed not to be subject to the Act due to the 1990 Supreme Court decision in *Dole* v. *United Steelworkers of America* would immediately become unenforceable under the Act's public protection provision, section 3512. This could confuse the public and disrupt agency activities dependent upon such disclosure or third-party collections of information.

VI. Regulatory and Cost Impact

Rule 26.11b of the Standing Rules of the Senate requires the report accompanying each bill or joint resolution of a public character to contain an evaluation of the regulatory impact of the legislation. The evaluation must include an estimate of the number of individuals and businesses who would be regulated and a determination of the groups and classes of such individuals and businesses; a determination of the economic impact of such regulation on affected individuals, consumers, and businesses; a determination of the impact on the personal privacy; and a determination of the amount of additional paperwork that will result from the regulations to be promulgated pursuant to the legislation.

S. 244, as amended, strengthens Federal agency management policies and practices to improve the efficient and effective management of information resources in support of agency missions, including the reduction of information collection burdens on the public and improvements in information security and privacy protection. Accordingly, the legislation would not result in any additional regulation, increased economic impact, adverse impact on personal privacy, or additional paperwork on any individuals or businesses. Quite the contrary, the legislation should result in fewer regulations, less paperwork, better privacy and security protections, more useful government information, and less costs to both the public and the government.

In compliance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the Committee was provided the following cost estimate of the cost of S. 244, as amended, as prepared by the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 3, 1995.

Hon. WILLIAM V. ROTH, Jr.,
Chairman, Committee on Governmental Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 244, the Paperwork Reduction Act of 1995.

Enactment of S. 244 would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER, *Director.*

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 244.

2. Bill title: Paperwork Reduction Act of 1995.

3. Bill status: As ordered reported by the Senate Committee on Governmental Affairs on February 1, 1995.

4. Bill purpose: S. 244 would authorize the appropriation of $8 million for each of fiscal years 1996 through 2000 for the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB). S. 244 also would redefine and clarify many of the responsibilities of OIRA and would expand federal agencies' roles in efforts to improve the management of information.

5. Estimated cost to the Federal Government: The following estimate assumes the amounts authorized in S. 244 will be appropriated. The estimate of outlays for OIRA is based on the historical spending patterns of OMB. Provisions of S. 244 clarifying the role of federal agencies in information management are not expected to result in significant additional costs.

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000
Authorization of appropriations	8	8	8	8	8
Estimated outlays	7	8	8	8	8

The costs of this bill fall within budget function 800.

6. Comparison with spending under current law: OIRA's 1995 appropriation is $5.8 million. If the full amount authorized by S. 244 were appropriated, the 1996 funding level would represent an increase of $2.2 million over the 1995 funding level.

7. Pay-as-you-go considerations: None.

8. Estimated cost to State and local governments: None.

9. Estimate comparison: None.

10. Previous CBO estimate: None.

11. Estimate prepared by: Susanne S. Mehlman.

12. Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

VII. ADDITIONAL VIEWS OF SENATOR GLENN

The Paperwork Reduction Act is a vitally important law. It is essential to reducing the burdens of government red-tape on the public—a goal all should support. It also provides a framework for managing government information resources—an equally important goal given the $25 billion the government is now spending each year on information technology.

S. 244 refines the Act's provisions to better fulfill these important purposes. The legislation is based on 15 years of oversight of the Paperwork Reduction Act of 1980 and reflects careful deliberations by the Committee. I support the bill wholeheartedly and will urge my colleagues to vote for it when it is taken up by the full Senate.

Support for the original Act and for the current legislation should not, however, lead anyone to overlook the problems that have frustrated full implementation of the law. I set forth my individual views in the Committee report solely because I believe the report downplays those problems. Fifteen years of Committee oversight have produced a record replete with criticisms, largely directed at OMB, for unbalanced implementation of the Act. Slighting statistics, records management, information technology management, privacy and security, and other aspects of information resources management, OMB devoted itself to a paperwork clearance and regulatory review process that occasioned repeated charges of interferences with substantive agency decision-making. I believe that this record should not be obscured and that last year's Committee report (Senate Report No. 103–392) more accurately described this history.

This record involves much more than grousing by disgruntled special interest groups or partisan rhetoric in debates among Members. For example, GAO reports detailed inadequacies in OMB IRM and paperwork practices (e.g., GGD–83–35, IMTEC–84–24, PEMD–89–19FS, IMTEC–92–13FS, PEMD–93–3); congressional committees described the impact of OMB decisions (e.g., "OMB Review of CDC Research: Impact of the Paperwork Reduction Act," House Energy and Commerce Committee, 1986); courts questioned the role of OMB in reviewing agency rules (*Public Citizen Health Research Group* v. *Rowland*, D.C. Cir. 1985); and others have documented problems, such as a correlation between Reyes Syndrome deaths and regulatory delays in which OMB appears to have played a role ("Reduction of Deaths After Drug Labelling for Risk of Reye's Syndrome," The Lancet, vol. 340, p. 1042, October 24, 1992).

The only previous legislation enacted into law to reauthorize appropriations for the Act (P.L. 99–500/99–591, October 1986) contained a number of provisions included by this Committee precisely to address these problems: For example, Senate confirmation of the

OIRA Administrator (44 U.S.C. 3503(b)); new requirements and deadlines for IRM initiatives (44 U.S.C. 3505 (5) and (6), 3506(c) and 3514(a)(9)); the required appointment of a professionally qualified statistician to be Chief Statistician (44 U.S.C. 3504(d)); public disclosure of communications with OIRA about paperwork matters (44 U.S.C. 3507(h)); and limitations on the use of appropriations to functions specified by the Act (44 U.S.C. 3520 (b) and (c)). These amendments to the 1980 Act were not made in a vacuum or for no reason. They were made to address serious criticisms of OMB's implementation of the Act.

We undermine our own legislative and oversight record if in our fear of undermining our law we shy away from honestly assessing the tradeoffs occasioned by the creation of a strong centralized review process in OMB. I support the OMB management process and I believe it should be strong. But, I will not shrink from fulfilling my responsibility to be vigilant in oversight, asking hard questions and searching for better ways to fulfill statutory purposes.

Last year's report was, again, I believe, more accurate about the Act's history, blemishes and all. I regret that this year's report obscures that record.

JOHN GLENN.

VIII. CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law with no change proposed is shown in roman):

UNITED STATES CODE

TITLE 44—PUBLIC PRINTING AND DOCUMENTS

* * * * * * *

CHAPTER 35—COORDINATION OF FEDERAL INFORMATION POLICY

Sec.

3501. Purposes.
3502. Definitions.
3503. Office of Information and Regulatory Affairs.
3504. Authority and functions of Director.
3505. Assignment of tasks and deadlines.
3506. Federal agency responsibilities.
3507. Public information collection activities[—]*;* submission to Director; approval and delegation.
3508. Determination of necessity for information; hearing.
3509. Designation of central collection agency.
3510. Cooperation of agencies in making information available.
3511. Establishment and operation of [Federal] *Government* Information Locator [System] *Service.*
3512. Public protection.
3513. Director review of agency activities; reporting; agency response.
3514. Responsiveness to Congress.
3515. Administrative powers.
3516. Rules and regulations.
3517. Consultation with other agencies and the public.
3518. Effect on existing laws and regulations.
3519. Access to information.
3520. Authorization of appropriations.

§ 3501. Purposes

The purpose of this chapter [is] *are* to—

(1) [to] minimize the [Federal] paperwork burden for individuals, small businesses, *educational and nonprofit institutions, Federal contractors,* State, [and] local *and tribal* governments, and other persons *resulting from the collection of information by or for the Federal government*;

[(2) to minimize the cost to the Federal Government of collecting, maintaining, using, and disseminating information;] [Note.—See (5) below.]

[(3) to] *(2) ensure the greatest possible public benefit from and* maximize the [usefulness] *utility* of information *created,* collected, maintained, *used, shared* and disseminated by *or for* the Federal Government;

[(4) to] *(3)* coordinate, integrate, and to the extent practicable and appropriate, make uniform Federal information *resources management* policies and practices *as a means to improve the productivity, efficiency, and effectiveness of Government programs, including the reduction of information collection burdens on the public and the improvement of service delivery to the public*;

(4) improve the quality and use of Federal information to strengthen decisionmaking, accountability, and openness in Government and society;

(5) minimize the cost to the Federal Government of the creation, collection, maintenance, use, dissemination, and disposition of information;

(6) strengthen the partnership between the Federal Government and State, local, and tribal governments by minimizing the burden and maximizing the utility of information created, maintained, used, disseminated, and retained by or for the Federal Government;

(7) provide for the dissemination of public information on a timely basis, on equitable terms, and in a manner that promotes the utility of the information to the public and makes effective use of information technology;

[(5) to ensure that automatic data processing, telecommunications, and other information technologies are acquired and used by the Federal Government in a manner which improves service delivery and program management, increases productivity, improves the quality of decisionmaking, reduces waste and fraud, and wherever practicable and appropriate, reduces the information processing burden for the Federal Government and for persons who provide information to and for the Federal Government; and] [Note.—See (10) below.]

[(6) to] *(8)* ensure that the *creation,* collection, maintenance, use, [and] dissemination, *and disposition* of information by *or for* the Federal Government is consistent with applicable laws, *including laws* relating to—

(A) privacy and confidentiality, including section 552a of [T]title 5[, United States Code, known as the Privacy Act.]*;*

(B) security of information, including the Computer Security Act of 1987 (Public Law 100–235); and

(C) access to information, including section 552 of title 5;

(9) ensure the integrity, quality, and utility of the Federal statistical system;

(10) ensure that information technology is acquired, used, and managed to improve performance of agency missions, including the reduction of information collection burdens on the public; and

(11) improve the responsibility and accountability of the Office of Management and budget and all other Federal agencies to Congress and to the public for implementing the information collection review

process, information resources management, and related policies and guidelines established under this chapter.

§ 3502. Definitions

As used in this chapter—

(1) the term "agency" means 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, but does not include—

(A) the General Accounting Office**[**,**]***;*

(B) Federal Election Commission**[**,**]***;*

(C) the governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions**[**,**]***;* or

(D) Government-owned contractor-operated facilities, including laboratories engaged in national defense research and production activities;

[(2) the terms "automatic data processing," "automatic data processing equipment," and "telecommunications" do not include any data processing or telecommunications system or equipment, the function, operation or use of which—

[(A) involves intelligence activities;

[(B) involves cryptologic activities related to national security;

[(C) involves the direct command and control of military forces;

[(D) involves equipment which is an integral part of a weapon or weapons system; or

[(E) is critical to the direct fulfillment of military or intelligence missions, provided that this exclusion shall not include automatic data processing or telecommunications equipment used for routine administrative and business applications such as payroll, finance, logistics, and personnel management;**]**

[Note.—See definition for "information technology" below.]

[(3)**]** *(2)* the term "burden" means **[**the**]** time, effort, or financial resources expended by persons to *generate, maintain, or* provide information to *or for* a Federal agency, *including the resources expended for—*

(A) reviewing instructions;

(B) acquiring, installing, and utilizing technology and systems;

(C) adjusting the existing ways to comply with any previously applicable instructions and requirements;

(D) searching data sources;

(E) completing and reviewing the collection of information; and

(F) transmitting, or otherwise disclosing the information;

[(4)**]** *(3)* the term "collection of information"—

(A) means the obtaining, *causing to be obtained,* **[**or**]** soliciting, *or requiring the disclosure to third parties or the public,* of facts or opinions by **[**an agency through the use of written report forms, application forms, schedules, questionnaires, reporting or recordkeeping requirements, or other similar meth-

ods] *or for an agency, regardless of form or format,* calling for either—

[(A)] *(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

[(B)] *(ii)* answers to questions posed to agencies, instrumentalities, or employees of the United States which are to be used for general statistical purposes; *and*

(B) shall not include a collection of information described under section 3518(c)(1);

[(5) the term "data element" means a distinct piece of information such as a name, term, number, abbreviation, or symbol;]

[(6) the term "data element dictionary" means a system containing standard and uniform definitions and cross references for commonly used data elements;]

[(7) the term "data profile" means a synopsis of the questions contained in an information collection request and the official name of the request, the location of information obtained or to be obtained through the request, a description of any compilations, analyses, or reports derived or to be derived from such information, any record retention requirements associated with the request, the agency responsible for the request the statute authorizing the request, and any other information necessary to identify, obtain, or use the data contained in such inform;]

[(8)] *(4)* the term "Director" means the Director of the Office of Management and Budget;

[(9) the term "directory of information resources" means a catalog of information collection requests, containing a data profile for each request;]

[(10)] *(5)* the term "independent regulatory agency" means the Board of Governors of the Federal Reserve System, the Commodity Futures Trading Commission, the Consumer Product Safety Commission, the Federal Communications Commission, the Federal Deposit Insurance Corporation, the Federal Energy Regulatory Commission, the Federal Housing Finance Board, the Federal Maritime Commission, the Federal Trade Commission, the Interstate Commerce Commission, the Mine Enforcement Safety and Health Review Commission, the National Labor Relations Board, the Nuclear Regulatory Commission, the Occupational Safety and Health Review Commission, the Postal Rate Commission, the Securities and Exchange Commission, and any other similar agency designated by statute as a Federal independent regulatory agency or commission;

(6) the term "information resources" means information and related resources, such as personnel, equipment, funds, and information technology;

[(11) the term "information collection request" means a written report form, application form, schedule, questionnaire, reporting or recordkeeping requirement, collection of information requirement, or other similar method calling for the collection of information;]

[(12) the term "information referral service" means the function that assists officials and persons in obtaining access to the Federal Information Locator System;]

[(13)] *(7)* the term "information resources management" means the [planning, budgeting, organizing, directing, training, promoting, controlling, and management activities associated with the burden, collection, creation, use, and dissemination of information by agencies, and includes the management of information and related resources such as automatic data processing equipment (as such term is defined in section 111(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(a))] *process of managing information resources to accomplish agency missions and to improve agency performance, including through the reduction of information collection burdens on the public;*

[(14)] *(8)* the term "information system[s]" means [management information systems] *a discrete set of information resources and processes, automated or manual, organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information;*

(9) the term "information technology" has the same meaning as the term "automatic data processing equipment" as defined by section 111(a)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(a)(2));

[(15)] *(10)* the term "person" means an individual, partnership, association, corporation, business trust, or legal representative, an organized group of individuals, a State, territorial, or local government or branch thereof, or a political subdivision of a State, territory, or local government or a branch of a political subdivision;

[(16)] *(11)* the term "practical utility" means the ability of an agency to use information [it collects], particularly the capability to process such information in a timely and useful fashion; [and]

(12) the term "public information" means any information, regardless of form or format, that an agency discloses, disseminates, or makes available to the public; and

[(17)] *(13)* the term "recordkeeping requirement" means a requirement imposed by *or for* an agency on persons to maintain specified records.

§ 3503. Office of Information and Regulatory Affairs

(a) There is established in the Office of Management and Budget an office to be known as the Office of Information and Regulatory Affairs.

(b) There shall be at the head of the Office an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall delegate to the Administrator the authority to administer all functions under this chapter, except that any such delegation shall not relieve the Director of responsibility for the administration of such functions. The Administrator shall serve as principal adviser to the Director on Federal information *resources management policy* [and shall report directly to the Director].

(c) The Administrator and employees of the Office of Information and Regulatory Affairs shall be appointed with special attention to professional qualifications required to administer the functions of the Office described under this chapter. Such qualifications shall include relevant education, work experience, or related professional activities.

§ 3504. Authority and functions of Director

(a)*(1)* The Director shall *oversee the use of information resources to improve the efficiency and effectiveness of governmental operations to serve agency missions, including service delivery to the public. In performing such oversight, the Director shall—*

(A) develop [and implement], *coordinate and oversee the implementation of* Federal information *resources management* policies, principles, standards, and guidelines; and

(B) [shall] provide direction and oversee—

(i) the review [and approval of information collection requests] *of the collection of information and* the reduction of the [paperwork] *information collection* burden[,]*;*

(ii) agency dissemination of and public access to information[,]*;*

(iii) [Federal] statistical activities[,]*;*

(iv) records management activities[,]*;*

(v) privacy [and], *confidentiality,* security [of records], *disclosure, and* [agency] sharing [and dissemination] of information[,]*;* and

(vi) the acquisition and use of [automatic data processing, telecommunications, and other information technology for managing information resources] *information technology.*

(2) The authority of the Director under this [section] *chapter* shall be exercised consistent with applicable law.

(b) [The] *With respect to* general information *resources management* policy, [functions of] the Director shall [include]—

(1) [developing and implementing uniform and consistent] *develop and oversee the implementation of uniform* information resources management policies, [and overseeing the development of information management] principles, standards, and guidelines [and promoting their use];

(2) foster greater sharing, dissemination, and access to public information, including through—

(A) the use of the Government Information Locator Service; and

(B) the development and utilization of common standards for information collection, storage, processing and communication, including standards for security, interconnectivity and interoperability;

[(2)] *(3)* [initiating and reviewing] *initiate and review* proposals for changes in legislation, regulations, and agency procedures to improve information *resources management* practices[, and informing the President and the Congress on the progress made therein];

[(3) coordinating, through the review of budget proposals and as otherwise provided in this section, agency information practices;]

[(4) promoting, through the use of the Federal Information Locator System, the review of budget proposals and other methods, greater sharing of information by agencies;]

[(5) evaluating agency information management practices to determine their adequacy and efficiency, and to determine

compliance of such practices with the policies, principles, standards, and guidelines promulgated by the Director; and]

[(6) overseeing planning for, and conduct of research with respect to, Federal collection, processing, storage, transmission, and use of information.]

(4) oversee the development and implementing of best practices in information resources management, including training; and

(5) oversee agency integration of program and management functions with information resources management functions.

(c) [The information collection request clearance and other paperwork control functions of the Director shall include—] *With respect to the collection of information and the control of paperwork, the Director shall—*

(1) [reviewing and approving information collection requests proposed by agencies] *review proposed agency collections of information, and in accordance with section 3508,* [(2)] determine[ing] whether the collection of information by *or for* an agency is necessary for the proper performance of the functions of the agency, including whether the information [will] *shall* have practical utility [for the agency];

[(3) ensuring that all information collection requests—

[(A) are inventoried, display a control number and, when appropriate, an expiration date;

[(B) indicate the request is in accordance with the clearance requirements of section 3507; and

[(C) contain a statement to inform the person receiving the request why the information is being collected, how it is to be used, and whether responses to the request are voluntary, required to obtain a benefit, or mandatory;]

[Note.—Subparagraph (3) moved to 3506(c)(1)(B).]

[(4) designating as appropriate, in accordance with section 3509, a collection agency to obtain information for two or more agencies;]

[(5) setting goals for reduction of the burdens of Federal information collection requests;]

[(6) overseeing action on the recommendations of the Commission on Federal Paperwork; and]

[(7) designing and operating, in accordance with section 3511, the Federal Information Locator System.]

(2) coordinate the review of the collection of information associated with Federal procurement and acquisition by the Office of Information and Regulatory Affairs with the Office of Federal Procurement Policy, with particular emphasis on applying information technology to improve the efficiency and effectiveness of Federal procurement and acquisition and to reduce information collection burdens on the public;

(3) minimize the Federal information collection burden, with particular emphasis on those individuals and entities most adversely affected;

(4) maximize the practical utility of and public benefit from information collected by or for the Federal Government; and

(5) establish and oversee standards and guidelines by which agencies are to estimate the burden to comply with a proposed collection of information.

(d) With respect to information dissemination, the Director shall develop and oversee the implementation of policies, principles, standards, and guidelines to—

(1) apply to Federal agency dissemination of public information, regardless of the form or format in which such information is disseminated; and

(2) promote public access to public information and fulfill the purposes of this chapter, including through the effective use of information technology.

[(d)] *(e)* [The] *With respect to* statistical policy and coordination, [functions of] the Director shall [include]—

[(1) developing and periodically reviewing and, as necessary, revising long-range plans for the improved coordination and performance of the statistical activities and programs of the Federal Government;]

(1) coordinate the activities of the Federal statistical system to ensure—

(A) the efficiency and effectiveness of the system; and

(B) the integrity, objectivity, impartiality, utility, and confidentiality of information collected for statistical purposes;

(2) [reviewing] *ensure that* budget proposals of agencies [to assure that the proposals] are consistent with [such long-range plans] *system-wide priorities for maintaining and improving the quality of Federal statistics and prepare an annual report on statistical program funding;*

[(3) coordinating, through the review of budget proposals and as otherwise provided in this chapter, the functions of the Federal Government with respect to gathering, interpreting, and disseminating statistics and statistical information;]

[(4)] *(3)* [developing and implementing Government-wide] *develop and oversee the implementation of Governmentwide* policies, principles, standards, and guidelines concerning—

(A) statistical collection procedures and methods[,]*;*

(B) statistical data classification[,]*;*

(C) statistical information presentation and dissemination[,]*;*

(D) timely release of statistical data; and

(E) such statistical data sources as may be required for the administration of Federal programs;

[(5)] *(4)* evaluate[ing] statistical program performance and agency compliance with [Government-wide] *Governmentwide* policies, principles, standards, and guidelines;

[(6) integrating the functions described in paragraphs (1) through (5) of this subsection with the other information resources management functions specified in this chapter; and]

(5) promote the sharing of information collected for statistical purposes consistent with privacy rights and confidentiality pledges;

(6) coordinate the participation of the United States in international statistical activities, including the development of comparable statistics;

(7) appoint[ing] a chief statistician who is a trained and experienced professional statistician to carry out the functions described [in paragraphs (1) through (6) of] *under* this subsection[.]*;*

(8) establish an Interagency Council on Statistical Policy to advise and assist the Director in carrying out the functions under this subsection that shall—

(A) be headed by the chief statistician; and

(B) consist of—

(i) the heads of the major statistical programs; and

(ii) representatives of other statistical agencies under rotating membership; and

(9) provide opportunities for training in statistical policy functions to employees of the Federal Government under which—

(A) each trainee shall be selected at the discretion of the Director based on agency requests and shall serve under the chief statistician for at least 6 months and not more than 1 year; and

(B) all costs of the training shall be paid by the agency requesting training.

[(e)] *(f)* [The] *With respect to* records management, [functions of] the Director shall [include]—

(1) provid*e*[ing] advice and assistance to the Archivist of the United States and the Administrator of General Services [in order] to promote coordination in the administration of chapters 29, 31, and 33 of this title with the information *resources management* policies, principles, standards, and guidelines established under this chapter;

(2) review[ing] compliance by agencies with—

(A) the requirements of chapters 29, 31, and 33 of this title*;* and

(B) [with] regulations promulgated by the Archivist of the United States and the Administrator of General Services [thereunder]; and

[(3) coordinating records management policies and programs with related information programs such as information collection, statistics, automatic data processing and telecommunications, and similar activities.]

(3) oversee the application of records management policies, principles, standards, and guidelines, including requirements for archiving information maintained in electronic format, in the planning and design of information systems.

[(f)] *(g)* [The] *With respect to* privacy *and security,* [functions of] the Director shall [include]—

(1) [developing and implementation] *develop and oversee the implementation of* policies, principles, standards, and guidelines on [information disclosure and confidentiality, and on safeguarding the security] *privacy, confidentiality, security, disclosure and sharing* of information collected or maintained by or [on behalf of] *for* agencies;

[(2) providing agencies with advice and guidance about information security, restriction, exchange, and disclosure; and]

[(3)] *(2)* [monitoring] *oversee and coordinate* compliance with sections 552 and 552a of title 5, *the Computer Security Act of 1987 (40 U.S.C. 759 note),* [United States Code,] and related information management laws[.]*; and*

(3) require Federal agencies, consistent with the Computer Security Act of 1987 (40 U.S.C. 759 note), to identify and afford security protections commensurate with the risk and magnitude of the harm resulting from the loss, misuse, or unauthorized access to or modification of information collected or maintained by or on behalf of an agency.

[(g)] *(h)* [The Federal automatic data processing (including telecommunications) functions of the Director shall include—] *With respect to Federal information technology, the Director shall—*

(1) *in consultation with the Director of the National Institute of Standards and Technology and the Administrator of General Services—*

(A) [developing and implementing] *develop and oversee the implementation of* policies, principles, standards, and guidelines for [automatic data processing (including telecommunications)] *information technology* functions and activities of the Federal Government, *including periodic evaluations of major information systems; and*

(B) oversee[ing the establishment] *the development and implementation* of standards under section 111(d) of the Federal Property and Administrative Services Act of 1949 *(40 U.S.C. 759(d))*;

(2) monitor[ing] the effectiveness of, and compliance with, directives issued [pursuant to] *under* section 110 and 111 of [such] *the Federal Property and Administrative Services* Act of 1949 *(40 U.S.C. 757 and 759)* [and reviewing proposed determinations under section 111(e) of such Act];

[(3) providing advice and guidance on the acquisition and use of automatic data processing (including telecommunications) equipment, and coordinating, through the review of budget proposals and other methods, agency proposals for acquisition and use of such equipment;]

(3) coordinate the development and review by the Office of Information and Regulatory Affairs of policy associated with Federal procurement and acquisition of information technology with the Office of Federal Procurement Policy;

(4) ensure, through the review of agency budget proposals, information resources management plans and other means—

(A) agency integration of information resources management plans, program plans and budgets for acquisition and use of information technology; and

(B) the efficiency and effectiveness of inter-agency information technology initiates to improve agency performance and the accomplishment of agency missions; and

[(4)] *(5)* promot*e*[ing] the use of [automatic data processing (including telecommunications) equipment] *information technology* by the Federal Government to improve the [effectiveness of the use and dissemination of data in the operation of

Federal programs; and] *productivity, efficiency, and effectiveness of Federal programs, including through dissemination of public information and the reduction of information collection burdens on the public.*

[(5) initiating and reviewing proposals for changes in legislation, regulations, and agency procedures to improve automatic data processing (including telecommunications) practices, and informing the President and the Congress of the progress made therein.]

[Note.—Existing subsection 3504(h) was moved to subsection 3507(d) and revised.]

[(h)(1) As soon as practicable, but no later than publication of a notice of proposed rulemaking in the Federal Register, each agency shall forward to the Director a copy of any proposed rule which contains a collection of information requirement and upon request, information necessary to make the determination required pursuant to this section.]

[(2) Within sixty days after the notice of proposed rulemaking is published in the Federal Register, the Director may file public comments pursuant to the standards set forth in section 3508 on the collection of information requirement contained in the proposed rule.]

[(3) When a final rule is published in the Federal Register, the agency shall explain how any collection of information requirement contained in the final rule responds to the comments, if any, filed by the Director or the public, or explain why it rejected those comments.]

[(4) The Director has no authority to disapprove any collection of information requirement specifically contained in an agency rule, if he has received notice and failed to comment on the rule within sixty days of the notice of proposed rulemaking.]

[(5) Nothing in this section prevents the Director, in his discretion—

[(A) from disapproving any information collection request which was not specifically required by an agency rule;

[(B) from disapproving any collection of information requirement contained in an agency rule, if the agency failed to comply with the requirements of paragraph (1) of this subsection; or

[(C) from disapproving any collection of information requirement contained in a final agency rule, if the Director finds within sixty days of the publication of the final rule that the agency's response to his comments filed pursuant to paragraph (2) of this subsection was unreasonable.

[(D) from disapproving any collection of information requirement where the Director determines that the agency has substantially modified in the final rule the collection of information requirement contained in the proposed rule where the agency has not given the Director the information required in paragraph (1), with respect to the modified collection of information requirement, at least sixty days before the issuance of the final rule.]

[(6) The Director shall make publicly available any decision to disapprove a collection of information requirement contained in an agency rule, together with the reasons for such decision.]

[(7) The authority of the Director under this subsection is subject to the provisions of section 3507(c).]

[(8) This subsection shall apply only when an agency publishes a notice of proposed rulemaking and requests public comments.]

[(9) There shall be no judicial review of any kind of the Director's decision to approve or not to act upon a collection of information requirement contained in an agency rule.]

§ 3505. Assignment of tasks and deadlines

In carrying out the functions under this chapter, the Director shall—

[(1) upon enactment of this Act—

[(A) set a goal to reduce the then existing burden of Federal collections of information by 15 per centum by October 1, 1982; and

[(B) for the year following, set a goal to reduce the burden which existed upon enactment by an additional 10 per centum;] [Note.—See (1)(A) below.]

(1) in consultation with agency heads, set an annual Government-wide goal for the reduction of information collection burdens by at least five percent, and set annual agency goals to—

(A) reduce information collection burdens imposed on the public that—

(i) represent the maximum practicable opportunity in each agency; and

(ii) are consistent with improving agency management of the process for the review of collections of information established under 3506(c); and

(B) improve information resources management in ways that increase the productivity, efficiency and effectiveness of Federal programs, including service delivery to the public;

[(2) within one year after the effective date of this Act—

[(A) establish standards and requirements for agency audits of all major information systems and assign responsibility for conducting Government-wide or multiagency audits, except the Director shall not assign such responsibility for the audit of major information systems used for the conduct of criminal investigations or intelligence activities as defined in section 4–206 of Executive Order 12036, issued January 24, 1978, or successor orders, or for cryptologic activities that are communications security activities;

[(B) establish the Federal Information Locator System; [Note.—See section 3511.]

[(C) identify areas of duplication in information collection requests and develop a schedule and methods for eliminating duplication; [Note.—See (3)(B)(i) below.]

[(D) develop a proposal to augment the Federal Information Locator System to include data profiles of major information holdings of agencies (used in the conduct of their operations) which are not otherwise required by this chapter to be included in the System; and

[(E) identify initiatives which may achieve a 10 per centum reduction in the burden of Federal collections of information associated with the administration of Federal grant programs;]

(2) with selected agencies and non-Federal entities on a voluntary basis, conduct pilot projects to test alternative policies, practices, regulations, and procedures to fulfill the purposes of this chapter, particularly with regard to minimizing the Federal information collection burden;

(3) within two years after the effective date of this Act—

[(A) establish a schedule and a management control system to ensure that practices and programs of information handling disciplines, including records management, are appropriately integrated with the information policies mandated by this chapter;

[(B) identify initiatives to improve productivity in Federal operations using information processing technology; [Note.—See (1)(B) above.]

[(C) develop a program to (i) enforce Federal information processing standards, particularly software language standards, at all Federal installations; and (ii) revitalize the standards development program established pursuant to section 759(f)(2) of title 40, United States Code, separating it from peripheral technical assistance functions and directing it to the most productive areas;

[(D) Complete action on recommendations of the Commission on Federal Paperwork by implementing, implementing with modification or rejecting such recommendations including, where necessary, development of legislation to implement such recommendations;

[(E) develop and annually revise, in consultation with the Administrator of General Services, a 5-year plan for meeting the automatic data processing equipment (including telecommunications) and other information technology needs of the Federal Government in accordance with the requirements of sections 110 and 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757, 759) and the purposes of this chapter; and [Note See (3)(B)(iii) below.]

[(F) submit to the President and the Congress legislative proposals to remove inconsistencies in laws and practices involving privacy, confidentiality, and disclosure of information;]

(3) in consultation with the Administrator of General Services, the Director of the National Institute of Standards and Technology, the Archivist of the United States, and the Director of the Office of Personnel Management, develop and maintain a Governmentwide strategic plan for information resources management, that shall include—

(A) a description of the objectives and the means by which the Federal Government shall apply information resources to improve agency and program performance;

(B) plans for—

(i) reducing information burdens on the public, including reducing such burdens through the elimination of duplication and meeting shared data needs with shared resources;

(ii) enhancing public access to and dissemination of, information, using electronic and other formats; and

(iii) meeting the information technology needs of the Federal Government in accordance with the purposes of this chapter; and

(C) a description of progress in applying information resources management to improve agency performance and the accomplishment of missions.

[(4) set a goal to reduce, by September 30, 1987, the burden of Federal collections of information existing on September 30, 1986, by at least 5 percent; and

[(A) set a goal to reduce, by September 30, 1987, the burden of Federal collections of information existing on September 30, 1986, by at least 5 percent; and

[(B) for the fiscal year beginning on October 1, 1987, and each of the next two fiscal years, set a goal to reduce the burden of Federal collections of information existing at the end of the immediately preceding fiscal year by at least 5 percent;] [Note.—See (1)(A) above.]

1(5) maintain a comprehensive set of information resources management policie and]

(6) with one year after the date of enactment of the Paperwork Reduction Reauthorization Act of 1986—

[(A) issue, in consultation with the Administrator of General Services, principles, standards, and guidelines to implement the policies described in paragraph (5);

[(B) report to the Congress on the feasibility and means of enhancing public access, including access by electronic media, to information relating to information collection requests required by this chapter to be made available to the public; and

[(C) identify further initiatives to reduce the burden of Federal collections of information associated with the administration of Federal grant programs.]

3506. Federal agency responsibilities

(a)*(1) The head of each* [Each] agency shall be responsible for—

(A) carrying out [its] *the agency's* information *resources* management activities [in an efficient, effective, and economical manner,] *to improve agency productivity, efficiency, and effectiveness;* and

(B) [for] complying with the [information policies, principles, standards, and guidelines prescribed] *requirements of this chapter and related policies established* by the Director.

[(b)]*(2)(A) Except as provided under subparagraph (B), the* [The] head of each agency shall designate[, within three months after the effective date of this Act,] a senior official [or, in the case of *the* military departments, and the Office of the Secretary of Defense, officials] who *shall* report directly to such agency head to carry out the responsibilities of the agency under this chapter.

(B) The Secretary of the Department of Defense and the Secretary of each military department may each designate a senior official who shall report directly to such Secretary to carry out the responsibilities of the department under this chapter. If more than one official is [appointed] *designated* for the military departments, the respective duties of the officials shall be clearly delineated.

(3) The senior official designated under paragraph (2) shall head an office responsible for ensuring agency compliance with and prompt, efficient, and effective implementation of the information policies and information resources management responsibilities established under this chapter, including the reduction of information collection burdens on the public. The senior official and employees of such office shall be selected with special attention to the professional qualifications required to administer the functions described under this chapter.

(4) Each agency program official shall be responsible and accountable for information resources assigned to and supporting the programs under such official. In consultation with the senior official designated under paragraph (2) and the agency Chief Financial Officer (or comparable official), each agency program official shall define program information needs and develop strategies, systems, and capabilities to meet those needs.

[(c) Each agency shall—]

[(1) systematically inventory its major information systems and periodically review its information resources management activities;][Note.—See (b)(3)(D) and (b)(4) below.]

[(2) ensure its information systems do not overlap each other or duplicate the systems of other agencies;]

[(3) develop procedures for assessing the paperwork and reporting burden of proposed legislation affecting such agency;] [Note.—See (c)(1)(C) below.]

[(4) assign to the official designated under subsection (b) the responsibility for the conduct of and accountability for any acquisitions made pursuant to a delegation of authority under section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759);] [Note.—See (h)(2) below.]

[(5) ensure that information collection requests required by law or to obtain a benefit, and submitted to nine or fewer persons, contain a statement to inform the person receiving the request that the request is not subject to the requirements of section 3507 of this chapter; and]

[(6) implement applicable Government-wide and agency information policies, principles, standards, and guidelines with respect to information collection, paperwork reduction, statistical activities, records management activities, privacy and security of records, sharing and dissemination of information, acquisition and use of information technology, and other information resource management functions;] [Note.—See (a)(1)(B) above.]

[(7) periodically evaluate and, as needed, improve the accuracy, completeness, and reliability of data and records contained within Federal information systems; and] [Note.—See (b)(3)(D) below.]

[(8) develop and annually revise a 5-year plan, in accordance with appropriate guidance provided by the Director, for meeting the agency's information technology needs.] [Note.—See (b)(2) below.]

[(d) The head of each agency shall establish such procedures as necessary to ensure the compliance of the agency with the require-

ments of the Federal Information Locator System, including necessary screening and compliance activities.]

(b) With respect to general information resources management, each agency shall—

(1) manage information resources to—

(A) reduce information collection burdens on the public;

(B) increase program efficiency and effectiveness; and

(C) improve the integrity, quality, and utility of information to all users within and outside the agency, including capabilities for ensuring dissemination of public information, public access to government information, and protections for privacy and security;

(2) in accordance with guidance by the Director, develop and maintain a strategic information resources management plan that shall describe how information resources management activities help accomplish agency missions;

(3) develop and maintain an ongoing process to—

(A) ensure that information resources management operations and decisions are integrated with organizational planning, budget, financial management, human resources management, and program decisions;

(B) in cooperation with the agency Chief Financial Officer (or comparable official), develop a full and accurate accounting of information technology expenditures, related expenses, and results; and

(C) establish goals for improving information resources management's contribution to program productivity, efficiency, and effectiveness, methods for measuring progress towards those goals, and clear roles and responsibilities for achieving those goals;

(4) in consultation with the Director, the Administrator of General Services, and the Archivist of the United States, maintain a current and complete inventory of the agency's information resources, including directories necessary to fulfill the requirements of section 3511 of this chapter; and

(5) in consultation with the Director and the Director of the Office of Personnel Management, conduct formal training programs to educate agency program and management officials about information resources management.

(c) With respect to the collection of information and the control of paperwork, each agency shall—

(1) establish a process within the office headed by the official designated under subsection (a), that is sufficiently independent of program responsibility to evaluate fairly whether proposed collections of information should be approved under this chapter, to—

(A) review each collection of information before submission to the Director for review under this chapter, including—

(i) an evaluation of the need for the collection of information;

(ii) a functional description of the information to be collected;

(iii) a plan for the collection of the information;

(iv) a specific, objectively supported estimation of burden;

(v) a test of the collection of information through a pilot program, if appropriate; and

(vi) a plan for the efficient and effective management and use of the information to be collected, including necessary resources;

[Note.—Subparagraph (c)(1)(B) in existing subparagraph 3504(c)(3) moved and changed as follows:]

[3**]** *(B)* ensure**[**ing**]** that **[**all information collection requests**]** *each information collection—*

[A**]** *(i)* **[**are**]** *is* inventoried, displays a control number and, **[**when**]** *if* appropriate, an expiration date;

[B**]** *(ii)* indicates the **[**request**]** *collection* is in accordance with the clearance requirements of section 3507; and

[C**]** *(iii)* contains a statement to inform the person receiving the **[**request**]** *collection of information—*

(I) **[**why**]** *the reasons* the information is being collected**[**,**]***;*

(II) **[**how it**]** *the way such information* is to be used**[**,**]***;*

(III) an estimate, to the extent practicable, of the burden of the collection; and

(IV) whether responses to the **[**request**]** *collection of information* are voluntary, required to obtain a benefit, or mandatory; *and*

(C) assess the information collection burden of proposed legislation affecting the agency;

(2)(A) except as provided under subparagraph (B), provide 60-day notice in the Federal Register, and otherwise consult with members of the public and affected agencies concerning each proposed collection of information, to solicit comment to—

(i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

(ii) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology; and

(B) for any proposed collection of information contained in a proposed rule (to be reviewed by the Director under section 3507(d)), provide notice and comment through the notice of proposed rulemaking for the proposed rule and such notice shall have the same purposes specified under subparagraph (A(i) through (iv); and

(3) certify (and provide a record supporting such certification, including public comments received by the agency) that each

collection of information submitted to the Director for review under section 3507—

(A) is necessary for the proper performance of the functions of the agency, including that the information has practical utility;

(B) is not unnecessarily duplicative of information otherwise reasonably accessible to the agency;

(C) reduced to the extent practicable and appropriate the burden on persons who shall provide information to or for the agency, including with respect to small entities, as defined under section 601(6) of title 5, the use of such techniques as—

(i) establishing differing compliance or reporting requirements or timetables that take into account the resources available to those who are to respond;

(ii) the clarification, consolidation, or simplification of compliance and reporting requirements; or

(iii) an exemption from coverage of the collection of information, or any part thereof;

(D) is written using plain, coherent, and unambiguous terminology and is understandable to those who are to respond;

(E) is to be implemented in ways consistent and compatible, to the maximum extent practicable, with the existing reporting and recordkeeping practices of those who are to respond;

(F) contains the statement required under paragraph (1)(B)(iii);

(G) has been developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected, including the processing of the information in a manner which shall enhance, where appropriate, the utility of the information to agencies and the public;

(H) uses effective and efficient statistical survey methodology appropriate to the purpose for which the information is to be collected; and

(I) to the maximum extent practicable, uses information technology to reduce burden and improve data quality, agency efficiency and responsiveness to the public.

(d) With respect to information dissemination, each agency shall—

(1) ensure that the public has timely and equitable access to the agency's public information, including ensuring such access through—

(A) encouraging a diversity of public and private sources for information based on government public information, and

(B) agency dissemination of public information in an efficient, effective, and economical manner;

(2) regularly solicit and consider public input on the agency's information dissemination activities; and

(3) not, except where specifically authorized by statute—

(A) establish an exclusive, restricted, or other distribution arrangement that interferes with timely and equitable availability of public information to the public;

(B) restrict or regulate the use, resale, or redissemination of public information by the public;

(C) charge fees or royalties for resale or redissemination of public information; or

(D) establish user fees for public information that exceeds the cost of dissemination.

(e) With respect to statistical policy and coordination, each agency shall—

(1) ensure the relevance, accuracy, timeliness, integrity, and objectivity of information collected or created for statistical purposes;

(2) inform respondents fully and accurately about the sponsors, purposes, and uses of statistical surveys and studies;

(3) protect respondents' privacy and ensure that disclosure policies fully honor pledges of confidentiality;

(4) observe Federal standards and practices for data collection, analysis, documentation, sharing, and dissemination of information;

(5) ensure the timely publication of the results of statistical surveys and studies, including information about the quality and limitations of the surveys and studies; and

(6) make date available to statistical agencies and readily accessible to the public.

(f) With respect to records management, each agency shall implement and enforce applicable policies and procedures, including requirements for achieving information maintained in electronic format, particularly in the planning, design and operation of information systems.

(g) With respect to privacy and security, each agency shall—

(1) implement and enforce applicable policies, procedures, standards, and guidelines on privacy, confidentiality, security, disclosure and sharing of information collected or maintained by or for the agency;

(2) assume responsibility and accountability for compliance with and coordinate management of sections 552 and 552a of title 5, the Computer Security Act of 1987 (40 U.S.C. 759 note), and related information management laws; and

(3) consistent with the Computer Security Act of 1989 (40 U.S.C. 759 note), identify and afford security protections commensurate with the risk and magnitude of the harm resulting from loss, misuse, or unauthorized access to or modification of information collected or maintained by or on behalf of an agency.

(h) With respect of Federal information technology, each agency shall—

(1) implement and enforce applicable Governmentwide and agency information technology management policies, principles, standards, and guidelines;

(2) assume responsibility and accountability for information technology investments;

(3) promote the use of information technology by the agency to improve the productivity, efficiency, and effectiveness of agency programs, including the reduction of information collection burdens on the public and improved dissemination of public information;

(4) propose changes in legislation, regulations, and agency procedures to improve information technology practices, including changes that improve the ability of the agency to use technology to reduce burden; and

(5) ensure responsibility for miximizing the value and assessing and managing the risks of major information systems through a process that is—

(A) integrated with budget, financial, and program management decisions; and

(B) used to select, control, and evaluate the results of major information systems initiatives.

§ 3507. Public Information collection activities[—]; submission to Director; approval and delegation

(a) An agency shall not conduct or sponsor the collection of information unless[,] in advance of the adoption or revision of the [request for] collection of [such] information—

[(1) the agency has taken actions, including consultation with the Director, to—

[(A) eliminate, through the use of the Federal Information Locator System and other means, information collections which seek to obtain information available from another source within the Federal Government;

[(B) reduce to the extent practicable and appropriate the burden on persons who will provide information to the agency; and

[(C) formulate plans for tabulating the information in a manner which will enhance its usefulness to other agencies and to the public;]

(1) the agency has—

(A) conducted the review established under section 3506(c)(1);

(B) evaluated the public comments received under section 3506(c)(2);

[(2) the agency (A) has submitted to the Director the proposed information collection request, copies of pertinent regulations and other related materials as the Director may specify, and an explanation of actions taken to carry out paragraph (1) of this subsection, and (B) has prepared a notice to be published in the Federal Register stating that the agency has made such submission and setting forth a title for the information collection request, a brief description of the need for the information and its proposed use, a description of the likely respondents and proposed frequency of response to the information collection request, and an estimate of the burden that will result from the information collection request; and] [Note.—See (C) and (D) below.]

(C) submitted to the Director the certification required under section 3506(c)(3), the proposed collection of informa-

tion, copies of pertinent statutory authority, regulations, and other related materials as the Director may specify; and

(D) published a notice in the Federal Register—

(i) stating that the agency has made such submission; and

(ii) setting forth—

(I) a title for the collection of information;

(II) a summary of the collection of information;

(III) a brief description of the need for the information and the proposed use of the information;

(IV) a description of the likely respondents and proposed frequency of response to the collection of information;

(V) an estimate of the burden that shall result from the collection of information; and

(VI) notice that comments may be submitted to the agency and Director;

[(3)] *(2)* the Director has approved the proposed [information collection request, or the period for review of information collection requests by the Director provided under subsection (b) has elapsed.] *collection of information or approval has been inferred, under the provisions of this section; and*

(3) the agency has obtained from the Director a control number to be displayed upon the collection of information.

(b) The Director shall provide at least 30 days for public comment prior to making a decision under subsection (c), (d), or (h), except as provided under subsection (j).

[(b)] *(c)(1) For any proposed collection of information not contained in a proposed rule, the Director shall notify the agency involved of the decision to approve or disapprove the proposed collection of information.*

(2) The Director shall[, within sixty days of receipt of a proposed information collection request, notify the agency involved of the decision to approve or disapprove the request and shall make such decisions, including an explanation thereof, publicly available. If the Director determines that a request submitted for review cannot be reviewed within sixty days, the Director may, after notice to the agency involved, extend the review period for an additional thirty days.] *provide the notification under paragraph (1), within 60 days after receipt or publication of the notice under subsection (a)(1)(D), wherever is later.* [Note.—See (e)(1) below for decisions being publicly available.]

(3) If the Director does not notify the agency of [an extension,] *a* denial[,] or approval within *the* [sixty] *60*-day[s] *period* [(or, if the Director has extended the review period for an additional thirty days and does not notify the agency of a denial or approval within the time of the extension), a control number shall be assigned without further delay,] *described under paragraph (2)—*

(A) the approval may be inferred[,]*;*

(B) a control number shall be assigned without further delay; and

(C) the agency may collect the information for not more than [one] *2* years.

[Note.—Subsection 3507(d) is existing subsection 3504(h) moved and revised as follows:]

(d)(1) For any proposed collection of information contained in a proposed rule—

[(h)(1)] *(A)* [As] *as* soon as practicable, but no later than *the date of* publication of a notice of proposed rulemaking in the Federal Register, each agency shall forward to the Director a copy of any proposed rule which contains a collection of information [requirement and upon request, information] *and any information requested by the Director* necessary to make the determination required [pursuant to] *under* this *sub*section[.]*; and*

[(2)] *(B)* [Within sixty] *within 60* days after the notice of proposed rulemaking is published in the Federal Register, the Director may file public comments pursuant to the standards set forth in section 3508 on the collection of information [requirement] contained in the proposed rule[.]*;*

[(3)] *(2)* When a final rule is published in the Federal Register, the agency shall explain—

(A) how any collection of information [requirement] contained in the final rule responds to the comments, if any, filed by the Director or the public[,]*;* or

(B) [explain why it rejected those comments.] *the reasons such comments were rejected.*

[(4)] *(3)* [The Director has no authority to disapprove any collection of information requirement specifically contained in an agency rule, if he] *If the Director* has received notice and failed to comment on [the] *an agency* rule within [sixty] *60* days [of] *after* the notice of proposed rulemaking[.]*, the Director may not disapprove any collection of information specifically contained in an agency rule.*

[(5)] *(4)* [Nothing] *No provision* in this section *shall be construed to* prevent[s] the Director, in [his] *the Director's* discretion—

(A) from disapproving any [information collection request] *collection of information* which was not specifically required by an agency rule;

(B) from disapproving any collection of information [requirement] contained in an agency rule, if the agency failed to comply with the requirements of paragraph (1) of this subsection; [or]

(C) from disapproving any collection of information [requirement] contained in a final agency rule, if the Director finds within [sixty] *60* days [of] *after* the publication of the final rule that the agency's response to [his] *the Director's* comments filed [pursuant to] *under* paragraph (2) of this subsection was unreasonable[.]*; or*

(D) from disapproving any collection of information [requirement where] *contained in a final rule, if—*

(i) the Director determines that the agency has substantially modified in the final rule the collection of information [requirement] contained in the proposed rule [where]*; and*

(ii) the agency has not given the Director the information required [in] *under* paragraph (1)[,] with respect to the modified collection of information [requirement], at least [sixty] *60* days before the issuance of the final rule.

[(6) The Director shall make publicly available any decision to disapprove a collection of information requirement contained in an agency rule, together with the reasons for such decision.] [Note.—See (e)(1) below.]

[(7) The authority of the Director under this subsection is subject to the provisions of section 3507(c).] [Note.—See (f) below.]

[(8)] *(5)* This subsection shall apply only when an agency publishes a notice of proposed rulemaking and requests public comments.

[(9)] *(6)* [There shall be no judicial review of any kind of the Director's decision] *The decision by the Director* to approve or not [to] act upon a collection of information [requirement] contained in an agency rule *shall not be subject to judicial review.*

(e)(1) Any decision by the Director under subsection (c), (d), (h), or (j) to disapprove a collection of information, or to instruct the agency to make substantive or material change to a collection of information, shall be publicly available and include an explanation of the reasons for such decision.

[Note.—Existing subsection 3507(h) is moved to subsections (e)(2) and (e)(3) and changed as follows:]

[(h)] *(2)* Any written communication [to] *between the Office of the Director,* the Administrator of the Office of Information and Regulatory Affairs, or [to] any employee [thereof] *of the Office of Information and Regulatory Affairs* [from any] *and an agency or* person not employed by the Federal Government [or from an agency] concerning a proposed [information collection request] *collection of information* [and any written communication from the Administrator or employee of the Office to such person or agency concerning such proposal,] shall be made available to the public.

(3) This subsection shall not require the disclosure of—

(A) any information which is protected at all times by procedures established for information which has been specifically authorized under criteria established by an Executive order or an Act of Congress to be kept secret in the interest of national defense or foreign policy[.]*; or*

(B) any communication relating to a collection of information which has not been approved under this chapter, the disclosure of which could lead to retaliation or discrimination against the communicator.

[(c)] *(f)(1) An independent regulatory agency which is administered by 2 or more members of a commission, board, or similar body, may by majority vote void—*

(A) [Any] *any* disapproval by the Director, in whole or in part, of a proposed [information collection request] *collection of information* of [an independent regulatory] *that* agency[,]*;* or

(B) an exercise of authority under [section 3504(h) or 3509] *subsection (d) of section 3507* concerning [such an] *that* agency[, may be voided, if the agency by a majority vote of its

members overrides the Director's disapproval or exercise of authority].

(2) The agency shall certify each [override] *vote to void such disapproval or exercise* to the Director, *and* [shall] explain the reasons for [exercising the override authority] *such vote.* [Where the override concerns an information collection request, the] *The* Director shall without further delay assign a control number to such [request] *collection of information,* and such [override] *vote to void the disapproval or exercise* shall be valid for a period of [three] *3* years.

[(d)] *(g)* The Director may not approve [an information collection request] *a collection of information* for a period in excess of [three] *3* years.

(h)(1) If an agency decides to seek extension of the Director's approval granted for a currently approved collection of information, the agency shall—

(A) conduct the review established under section 3506(c), including the seeking of comment from the public on the continued need for, and burden imposed by the collection of information; and

(B) after having made a reasonable effort to seek public comment, but no later than 60 days before the expiration date of the control number assigned by the Director for the currently approved collection of information, submit the collection of information for review and approval under this section, which shall include an explanation of how the agency has used the information that it has collected.

(2) If under the provisions of this section, the Director disapproves a collection of information contained in an existing rule, or recommends or instructs the agency to make a substantive or material change to a collection of information contained in an existing rule, the Director shall—

(A) publish an explanation thereof in the Federal Register; and

(B) instruct the agency to undertake a rulemaking within a reasonable time limited to consideration of changes to the collection of information contained in the rule and thereafter to submit the collection of information for approval or disapproval under this chapter.

(3) An agency may not make a substantive or material modification to a collection of information after such collection has been approved by the Director, unless the modification has been submitted to the Director for review and approval under this chapter.

[(e)] *(i)(1)* If the Director finds that a senior official of an agency designated [pursuant to] *under* section 3506[(b)]*(a)* is sufficiently independent of program responsibility to evaluate fairly whether proposed [information collection requests] *collections of information* should be approved and has sufficient resources to carry out this responsibility effectively, the Director may, by rule in accordance with the notice and comment provisions of chapter 5 of title 5, United States Code, delegate to such official the authority to approve proposed [requests] *collections of information* in specific program areas, for specific purposes, or for all agency purposes.

(2) A delegation by the Director under this section shall not preclude the Director from reviewing individual [information collection requests] *collections of information* if the Director determines that circumstances warrant such a review. The Director shall retain authority to revoke such delegations, both in general and with regard to any specific matter. In acting for the Director, any official to whom approval authority has been delegated under this section shall comply fully with the rules and regulations promulgated by the Director.

[(f) An agency shall not engage in a collection of information without obtaining from the Director a control number to be displayed upon the information collection request.] [Note.—See 3507(a)(3) above.]

[(g)] *(j)(1) The agency head may request the Director to authorize collection of information prior to expiration of time periods established under this chapter, if* [If] an agency head determines *that—*

(A) a collection of information—

[(1)] *(i)* is needed prior to the expiration of [the sixth-day period for the review of information collection requests established pursuant to subsection (b),] *such time periods; and*

[(2)] *(ii)* is essential to the mission of the agency[,]*;* and

[(3)] *(B)* the agency cannot reasonably comply with the provisions of this chapter within such [sixth-day] *time* periods because—

[(A)] *(i)* public harm [will] *is reasonably likely to* result if normal clearance procedures are followed[,]*;* or

[(B)] *(ii)* an unanticipated event has occurred and the use of normal clearance procedures [will] *is reasonably likely to* prevent or disrupt the collection of information related to the event or [will] *is reasonably likely to* cause a statutory *or court-ordered* deadline to be missed[, the agency head may request the Director to authorize such collection of information prior to expiration of such sixty-day period].

(2) The Director shall approve or disapprove any such authorization request within the time requested by the agency head and, if approved, shall assign the [information collection request] *collection of information* a control number. Any collection of information conducted [pursuant to] *under* this subsection may be conducted without compliance with the provisions of this chapter for a maximum of [ninety] *90* days after the date on which the Director received the request to authorize such collection.

[(h) Any written communication to the Administrator of the Office of Information and Regulatory Affairs or to any employee thereof from any person not employed by the Federal Government or from an agency concerning a proposed information collection request, and any written communication from the administrator or employee of the Office to such person or agency concerning such proposal, shall be made available to the public. This subsection shall not require the disclosure of any information which is protected at all times by procedures established for information which has been specifically authorized under criteria established by an Executive order or an Act of Congress to be kept secret in the inter-

est of national defense or foreign policy.] [Note.—Subsection (h) was moved to subsections (e)(2) and (e)(3) above.]

§ 3508. Determination of necessity for information; hearing

Before approving a proposed [information collection request] *collection of information*, the Director shall determine whether the collection of information by [an] *the* agency is necessary for the proper performance of the functions of the agency, including whether the information [will] *shall* have practical utility. Before making a determination the Director may give the agency and other interested persons an opportunity to be heard or to submit statements in writing. To the extent[, if any,] that the Director determines that the collection of information by an agency is unnecessary *for the proper performance of the functions of the agency*, for any reason, the agency may not engage in the collection of [the] information.

§ 3509. Designation of central collection agency

The Director may designate a central collection agency to obtain information for two or more agencies if the Director determines that the needs of such agencies for information will be adequately served by a single collection agency, and such sharing of data is not inconsistent with [any] applicable law. In such cases the Director shall prescribe (with reference to the collection of information) the duties and functions of the collection agency so designated and of the agencies for which it is to act as agent (including reimbursement for costs). While the designation is in effect, an agency covered by [it] *the designation* may not obtain for itself information *for the agency* which [it] is the duty of the collection agency to obtain. The Director may modify the designation from time to time as circumstances require. The authority [herein] *to designate under this section* is subject to the provisions of section 3507(c)*(f)* of this chapter.

§ 3510. Cooperation of agencies in making information available

(a) The Director may direct an agency to make available to another agency, or an agency may make available to another agency, information obtained [pursuant to an information collection request] *by a collection of information* if the disclosure is not inconsistent with [any] applicable law.

(b)*(1)* If information obtained by an agency is released by that agency to another agency, all the provisions of law (including penalties which relate to the unlawful disclosure of information) apply to the officers and employees of the agency to which information is released to the same extent and in the same manner as the provisions apply to the officers and employees of the agency which originally obtained the information.

(2) The officers and employees of the agency to which the information is released, in addition, shall be subject to the same provisions of law, including penalties, relating to the unlawful disclosure of information as if the information had been collected directly by that agency.

§ 3511. Establishment and operation of [Federal] *Government* Information Locator [System] *Service*

[(a) There is established in the Office of Information and Regulatory Affairs a Federal Information Locator System (hereafter in this section referred to as the "system") which shall be composed of a directory of information resources, a data element dictionary, and an information referral service. The system shall serve as the authoritative register of all information collection requests, and shall be designed so as to assist agencies and the public in locating existing Government information derived from information collection requests.]

[(b) In designing and operating the System, the Director shall—

[(1) design and operate an indexing system for the System;

[(2) require the head of each agency to prepare in a form specified by the Director, and to submit to the Director for inclusion in the System, a data profile for each information collection request of such agency;

[(3) compare data profiles for proposed information collection requests against existing profiles in the System, and make available the results of such comparison to—

[(A) agency officials who are planning new information collection activities; and

[(B) on request, members of the general public; and

[(4) ensure that no actual data, except descriptive data profiles necessary to identify duplicative data or to locate information, are contained within the System.]

In order to assist agencies and the public in locating information and to promote information sharing and equitable access by the public, the Director shall—

(1) cause to be established and maintained a distributed agency-based electronic Government Information Locator Service (hereinafter in this section referred to as the "Service"), which shall identify the major information systems, holdings, and dissemination products of each agency;

(2) require each agency to establish and maintain an agency information locator service as a component of, and to support the establishment and operation of the Service;

(3) in cooperation with the Archivist of the United States, the Administrator of General Services, the Public Printer, and the Librarian of Congress, establish an interagency committee to advise the Secretary of Commerce on the development of technical standards for the Service to ensure compatibility, promote information sharing, and uniform access by the public;

(4) consider public access and other user needs in the establishment and operation of the Service;

(5) ensure the security and integrity of the Service, including measures to ensure that only information which is intended to be disclosed to the public is disclosed through the Service; and

(6) periodically review the development and effectiveness of the Service and make recommendations for improvement, including other mechanisms for improving public access to Federal agency public information.

§ 3512. Public protection

Notwithstanding any other provision of law, no person shall be subject to any penalty for failing to maintain, [or] provide, *or disclose* information to *or for* any agency *or person* if the [information collection request] *collection of information subject to this chapter* [involved]—

[was made after December 31, 1981, and]

(1) does not display a [current] *valid* control number assigned by the Director[,]; or

(2) fails to state that [such request is not subject to this chapter] *the person who is to respond to the collection of information is not required to comply unless such collection displays a valid control number.*

§ 3513. Director review of agency activities; reporting; agency response

(a) [The Director shall,] *In consultation* with the [advice and assistance of the] Administrator of General Services, [and] the Archivist of the United States, *the Director of the National Institute of Standards and Technology, and the Director of the Office of Personnel Management, the Director shall* [selectively review, at least once every three years, the] *periodically review selected agency* information *resources* management activities [of each agency to ascertain their adequacy and efficiency.] *to ascertain the efficiency and effectiveness of such activities to improve agency performance and the accomplishment of agency missions.* [In evaluating the adequacy and efficiency of such activities, the Director shall pay particular attention to whether the agency has complied with section 3506.]

[(b) The Director shall report the results of the review to the appropriate agency head, the House Committee on Government Operations, the Senate Committee on Governmental Affairs, the House and Senate Committees on Appropriations, and the committees of the Congress having jurisdiction over legislation relating to the operations of the agency involved.]

[(c)] *(b)* Each agency [which receives a report pursuant to subsection (b)] *having an activity reviewed under subsection (a)* shall, within [sixty] *60* days after receipt of [such] *a* report *on the review*, [prepare and transmit] *provide a written plan* to the Director[, the House Committee on Government Operations, the Senate Committee on Governmental Affairs, the House and Senate Committees on Appropriations, and the committees of the Congress having jurisdiction over legislation relating to the operations of the agency, a written statement responding to the Director's report, including a description of any measures taken to alleviate or remove any problems or deficiencies identified in such report.] *describing steps (including milestones) to—*

(1) be taken to address information resources management problems identified in the report; and

(2) improve agency performance and the accomplishment of agency missions.

§ 3514. Responsiveness to Congress

(a)*(1)* The Director shall—

(A) keep the Congress and [its] *congressional* committees fully and currently informed of the major activities under this chapter[,]*;* and

(B) [shall] submit a report [thereon] *on such activities* to the President of the Senate and the Speaker of the House of Representatives annually and at such other times as the Director determines necessary.

(2) The Director shall include in any such report[—] *a description of the extent to which agencies have—*

(A) reduced information collection burdens on the public, including—

(i) a summary of accomplishments and planned initiatives to reduce collection of information burdens;

(ii) a list of all violations of this chapter and of any rules, guidelines, policies, and procedures issued pursuant to this chapter; and

(iii) a list of any increase in the collection of information burden, including the authority for each such collection;

(B) improved the quality and utility of statistical information;

(C) improved public access to Government information; and

(D) improved program performance and the accomplishment of agency missions through information resources management.

[(1) proposals for legislative action needed to improve Federal information management, including, with respect to information collection, recommendations to reduce the burden on individuals, small businesses, State and local governments, and other persons;]

[(2) a compilation of legislative impediments to the collection of information which the Director concludes that an agency needs but does not have authority to collect;]

[(3) an analysis by agency, and by categories the Director finds useful and practicable, describing the estimated reporting hours required of persons by information collection requests, including to the extent practicable the direct budgetary costs of the agencies and identification of statutes and regulations which impose the greatest number of reporting hours;]

[(4) a summary of accomplishments and planned initiatives to reduce burdens of Federal information collection requests;] [Note.—See 2(A)(i) above.]

[(5) a tabulation of areas of duplication in agency information collection requests identified during the preceding year and efforts made to preclude the collection of duplicate information, including designations of central collection agencies;]

[(6) a list of each instance in which an agency engaged in the collection of information under the authority of section 3507(g) and an identification of each agency involved;]

[(7) a list of all violations of provisions of this chapter and rules, regulations, guidelines, policies, and procedures issued pursuant to this chapter;] [Note.—See 2(A)(ii) above.]

[(8) with respect to recommendations of the Commission on Federal Paperwork—

[(A) a description of the specifics actions taken on or planned for each recommendation;

[(B) a target date for implementing each recommendation accepted but not implemented; and

[(C) an explanation of the reasons for any delay in completing action on such recommendations;]

[(9)(A) a summary of accomplishments in the improvement of, and planned initiatives to improve, Federal information resources management within agencies; [Note.—See (2)(D) above.]

[(B) a detailed statement with respect to each agency of new initiatives to acquire information technology to improve such management; and

[(C) an analysis of the extent to which the policies, principles, standards, and guidelines issued and maintained pursuant to paragraphs (5) and (6) of section 3505 of this title promote or deter such new initiatives; and]

[(10) with respect to the statistical policy and coordination functions described in section 3504(d) of this title—

[(A) a description of the specific actions taken or planned to be taken, to carry out each such function;

[(B) a description of the status of each major statistical program, including information on—

[(i) any improvements in each such program;

[(ii) any program which has been reduced or eliminated; and

[(iii) the budget for each such program for the previous fiscal year and the fiscal year in progress and the budget proposed for each such program for the next fiscal year; and

[(C) a description and summary of the long-range plans currently in effect for the major Federal statistical activities and program.] [Note.—See (2)(B) above.]

(b) The preparation of any report required by this section *shall be based on performance results reported by the agencies and* shall not increase the collection of information burden on persons outside the Federal Government.

§ 3515. Administrative powers

Upon the request of the Director, each agency (other than an independent regulatory agency) shall, to the extent practicable, make its services, personnel, and facilities available to the Director for the performance of functions under this chapter.

§ 3516. Rules and regulations

The Director shall promulgate rules, regulations, or procedures necessary to exercise the authority provided by this chapter.

§ 3517. Consultation with other agencies and the public

(a) In [development of] *developing* information *resources management* policies, plans, rules, regulations, procedures, and guidelines and in reviewing [information collection requests] *collections of information*, the Director shall provide interested agencies and persons early and meaningful opportunity to comment.

(b) Any person may request the Director to review any collection of information conducted by or for an agency to determine, if, under this chapter, a person shall maintain, provide, or disclose the information to or for the agency. Unless the request is frivolous, the Di-

rector shall, in coordination with the agency responsible for the collection of information—

(1) respond to the request within 60 days after receiving the request, unless such period is extended by the Director to a specified date and the person making the request is given notice of such extension; and

(2) take appropriate remedial action, if necessary.

§ 3518. Effect on existing laws and regulations

(a) Except as otherwise provided in this chapter, the authority of an agency under any other law to prescribe policies, rules, regulations, and procedures for Federal information *resources management* activities is subject to the authority [conferred on] *of* the Director [by] *under* this chapter.

(b) Nothing in this chapter shall be deemed to affect or reduce the authority of the Secretary of Commerce or the Director of the Office of Management and Budget pursuant to Reorganization Plan No. 1 of 1977 (as amended) and Executive order, relating to telecommunications and information policy, procurement and management of telecommunications and information systems, spectrum use, and related matters.

(c)(1) Except as provided in paragraph (2), this chapter [does] *shall* not apply to the collection of information—

(A) during the conduct of a Federal criminal investigation or prosecution, or during the disposition of a particular criminal matter;

(B) during the conduct of—

(i) a civil action to which the United States or any official or agency thereof is a party; or

(ii) an administrative action or investigation involving an agency against specific individuals or entities;

(C) by compulsory process pursuant to the Antitrust Civil Process Act and section 13 of the Federal Trade Commission Improvements Act of 1980; or

(D) during the conduct of intelligence activities as defined in section 4–206 of Executive Order *No.* 12036, issued January 24, 1978, or successor orders, or during the conduct of cryptologic activities that are communications security activities.

(2) This chapter applies to the collection of information during the conduct of general investigations (other than information collected in an antitrust investigation to the extent provided in subparagraph (C) of paragraph (1)) undertaken with reference to a category of individuals or entities such as a class of licensees or an entire industry.

(d) Nothing in this chapter shall be interpreted as increasing or decreasing the authority conferred by Public Law 89–306 on the Administrator of the General Services Administration, the Secretary of Commerce, or the Director of the Office of Management and Budget.

(e) Nothing in this chapter shall be interpreted as increasing or decreasing the authority of the President, the Office of Management and Budget or the Director thereof, under the laws of the United States, with respect to the substantive policies and pro-

grams of departments, agencies and offices, including the substantive authority of any Federal agency to enforce the civil rights laws.

§ 3519. Access to information.

Under the conditions and procedures prescribed in section 716 of title 31, the Director and personnel in the Office of Information and Regulatory Affairs shall furnish such information as the Comptroller General may require for the discharge of [his] *the* responsibilities *of the Comptroller General.* For [this] *the* purpose *of obtaining such information,* the Comptroller General or representatives thereof shall have access to all books, documents, papers and records, *regardless of form or format,* of the Office.

§ 3520. Authorization of appropriations

(a) Subject to subsection (b), there are authorized to be appropriated to the Office of Information and Regulatory Affairs to carry out the provisions of this chapter, and for no other purpose, [$5,500,000] *$8,000,000* for each of the fiscal years [1987, 1988, and 1989] *1996, 1997, 1998, 1999 and 2000.*

(b)*(1)* No funds may be appropriated pursuant to subsection (a) unless such funds are appropriated in an appropriation Act (or continuing resolution) which separately and expressly states the amount appropriated pursuant to subsection (a) of this section.

(2) No funds are authorized to be appropriated to the Office of Information and Regulatory Affairs, or to any other officer or administrative unit of the Office of Management and Budget, to carry out the provisions of this chapter, or to carry out any function under this chapter, for any fiscal year pursuant to any provision of law other than subsection (a) of this section.

[(c) Funds appropriated pursuant to subsection (a) may not be used to carry out any function or activity which is not specifically authorized or required by this chapter, but funds so appropriated may be used for necessary expenses of a function or activity which is so authorized or required, such as hire of passenger motor vehicles and services authorized by section 3109 of title 5, United States Code. For the purposes of this subsection, the review of a rule or regulation is specifically authorized or required by this chapter only to the extent that such review is for the sole purpose of reviewing an information collection request contained in, or derived from, such rule or regulation.]

IX. APPENDIX

"BEST PRACTICES" IN STRATEGIC INFORMATION MANAGEMENT

Confronting continuing failures and problems in agency management of information technology, and rather than continuing to analyze the causes of failure as GAO has done in most of its IRM reports, GAO decided to learn how leading organizations, private or public, consistently apply information technology to improve mission performance. GAO performed case studies of the information management practices of senior management teams in 10 leading organizations who had been recognized by peers and independent researchers for their progress in managing information to improve service quality, reduce costs, and increase workforce productivity and effectiveness. GAO's resulting report, entitled "Executive Guide: Improving Mission Performance Through Strategic Information Management and Technology" (GAO/AIMD–94–115, May 1994) was released at the Committee's May 19 hearing.

At that same hearing. OIRA Administrator, Sally Katzen, stated:

> [OMB is] working with GAO on its project to improve the Federal government's information resources management by identifying and disseminating practices from organizations that have proven to be successful in applying information technology to improve mission performance.

Ms. Katzen also pointed out that OMB and GAO were developing an evaluation guide to explain how to assess whether agencies are applying GAO's "best practices" and the related policy principles of the revised OMB Circular No. A–130 (Transmittal No. 2, July 15, 1994, 59 Fed. Reg. 37906, July 25, 1994).

Following the release of the report, Senator Glenn, Chairman of the Committee, and Senator Roth, Ranking Republican Member, wrote to the heads of Federal agencies and offices to commend the GAO report to their attention. Some of their responses are as follows:

> I would like to take this opportunity to congratulate the GAO team which researched and wrote this report. It is an exceptionally positive, important, and practical step towards improving management practices in general, and IRM management in particular, throughout the Federal Government. I encourage all Federal agencies to make full use of the opportunity this report provides.—Henry G. Cisneros, Secretary, Department of Housing and Urban Development.
>
> Thank you for the opportunity to comment on what is being called a landmark document . . . published recently by the General Accounting Office (GAO). I applaud the efforts of the GAO team that conducted the research for this

project. . . This report consolidates a series of proven best practices, critical to building a modern IRM infrastructure, into a single reference document, which can serve a solid starting point in a reengineering effort.—Janet Reno, Attorney General, Department of Justice.

The Department has followed the subject GAO study with great interest . . . There is a growing literature on business process reengineering and strategic planning, but none as finely targeted to the management of IRM change in Federal agencies as this report.—Wendy R. Sherman, Assistant Secretary for Legislative Affairs, Department of State.

I was impressed by the scope and relevance of the recommended actions in the report. The GAO has done a great service to the federal information management community by issuing this document.—J. Brian Atwood, Administrator, Agency for International Development.

The issuance of this excellent report is very timely for us at the National Archives. . . . The GAO report immediately became required reading for all of our top managers and has been discussed around our meeting table as the "best guide to best practices available".—Trudy Huskamp Peterson, Acting Archivist, National Archives and Records Administration.

The GAO report constitutes a superb blueprint to federal agencies and provides a valuable guide with which to structure technical change while, at the same time, pointing out the pitfalls agencies need to avoid.—Richard Y. Roberts, Commissioner, Securities and Exchange Commission.

Following is a summary of the GAO report:

Federal agencies spent at least $25 billion on information technology in 1993, and more than $200 billion over the last 12 years. Despite this huge expenditure, it is unclear what the public has received for its money. At the same time, critical information is frequently inaccurate, inaccessible, or nonexistent. Efforts across the government to improve mission performance and reduce costs are still too often limited by the lack of information or the poor use of information technology.

GAO's information management transition reports in 1988 and 1992 underscored how agencies lack critical information needed to analyze programmatic issues, control costs, and measure results.[1] In GAO reports to Congress in the last 10 years, GAO documented numerous examples of federal agency systems failures.

Many federal agencies have an approach to information management characterized by (1) a short-term focus that emphasizes the status quo, (2) line management that is not engaged in, accountable for, or knowledgeable of information management issues, and (3) a largely paper-oriented planning process that is tied to existing ways of doing business. To many agencies, strategic management is a well-orchestrated paper chase responding to personal agendas

[1] "Information Management and Technology Issues" (GAO/OCG–93–5TR, December 1992), "Information Technology Issues" (GAO/OVG–89–6TR, November 1988).

and short-term crises, rather than an integrated institutionalized process that focuses on producing results for the public and effectively accomplishing missions.

Most agencies also live with loose, undisciplined, and opaque processes for selecting and controlling investments, and these investment results are rarely evaluated against projected benefits. More often than not, information management decisions are made in response to crises, without first examining how to simplify and redesign embedded, complex mission processes. In short, the emphasis lies on conforming to existing processes—which are rarely reevaluated—rather than focusing on results.

For most federal agencies—even those with serious improvement programs in place—pervasive gaps in available skills and confused roles and responsibilities severely inhibit significant increases in performance. Common problems include (1) a failure to define the roles of program managers in relation to IRM professionals, (2) the lack of an effective IRM official to raise and help resolve information management issues with top management, and (3) an outdated or poorly defined set of skill requirements. These problems weaken an organization's ability to define how new information systems support its mission, meet customer needs, or respond more quickly to environmental change.

Given both the risks of the status quo and the potential for improvement, business as usual is simply no longer a tenable option for federal executives. The Administration's dramatic goals, ranging from setting customer service standards for all federal agencies to making targeted improvements in major areas, cannot be achieved without successful information management. For example, improvements from reengineering agency business processes with the aid of information technology account for over 40 percent of the estimated savings over the next 5 years projected by the National Performance Review.

Strategic information management (i.e., managing information and information technology to maximize improvements in mission performance) is one critical, integrated part of any general management framework. It will be a crucial initiative for all federal agencies as they move to implement the Government Performance and Results Act, which is focused on results-oriented management.

Strategic information management typically involves defining a mission based on customer segments and needs; establishing core work processes that accomplish the mission; understanding the key decisions that guide mission delivery processes; supporting those decisions with the right information available to the right people at the right time; and using technology to collect, process, and disseminate information in ways that improve the delivery of products, goods, and services to customers. The following table illustrates critical issues senior executives are faced with in each of these areas.

Mission	How is the mission defined and tied to customer needs? What are the explicit goals, strategies, and performance indicators? Are processes, systems, and people properly aligned to achieve the mission? What are the right strategic information systems projects to work on and is there adequate return?

Work Processes	What are the core management and business processes? Which processes are highest cost and most customer sensitive? Which processes present the most significant opportunities and risks for improvement?
Decisions	How are the right people involved in decisions at the right time? How are processes working to organize decision-making? Which key decisions support mission accomplishment? How is the organization learning from its choices over time?
Information	How accurate, reliable, secure, and timely is information? How valuable and useful is information to make decisions? How are performance measurement data being captured? How well integrated are financial, management, and mission data?
Technology	Are information technology alternatives being fully considered? How are the most appropriate technologies identified? Are technologies in line with relevant industry standards? How well integrated and interconnected are technology assets?

GAO found that senior managers in leading organizations used a consistent set of practices to improve mission performance through strategic information management. Senior management made a personal commitment to improve by (1) recognizing the need to fundamentally change information management, (2) creating line management ownership to incorporate information management into business planning, and (3) taking specific actions to maintain momentum over time. The practices worked because, over time, they institutionalized new ways of doing business that are required to capture the value of information and information technology. They are also most effective when implemented together as mutually reinforcing activities.

The fundamental practices identified at these leading organizations are grouped according to three key functions critical to building a modern information resources management infrastructure: (1) deciding to work differently, (2) directing resources toward high-value uses, and (3) supporting improvement with the right skills, roles, and responsibilities. Following is a list of the practices:

DECIDE TO CHANGE

(1) Recognize and communicate the urgency to change information resources management practices.

(2) Get lien management involved and create ownership.

(3) Take action and maintain momentum.

DIRECT CHANGE

(4) Anchor strategic planning in customer needs and mission goals.

(5) Measure the performance of key mission delivery processes.

(6) Focus on process improvement in the context of an architecture.

(7) Manage information systems projects as investments.

(8) Integrate the planning, budgeting, and evaluation processes.

SUPPORT CHANGE

(9) Establish customer/supplier relationships between line and information management professionals.

(10) Position a Chief Information Officer as a senior management partner.

(11) Upgrade skills and knowledge of line and information management professionals.

GAO described the practices as follows:

Practice 1.—Recognize and communicate the urgency to change information resources management practices

Without senior executives recognizing the value of improving information resources management, meaningful change is slow and sometimes nearly impossible. Significantly increasing the rate of change requires new techniques, new processes, and new ways of doing business. Given the competing demands on senior managers, building a sustainable level of commitment to and involvement in a process improvement program requires a thorough understanding and recognition of information technology's critical role.

Senior executives usually decide to change for one reason—strong pressure to cut costs to increase service quality. As such, they are forced to assess ways of achieving cost reductions of service improvements, including improving mission benefits captured from information systems investments. Many find their information systems are both a large, uncontrolled area of expenditure and a neglected tool. Once the decision to change this situation is made, top management typically communicates goals for improvement with a clear, concise vision or principle statement that describes how information technology will be used to improve mission performance.

Practice 2.—Get line management involved and create ownership

Line ownership and accountability starts with the chief executive. In every one of the successful organizations studied, the chief executive played a strong leadership role in strategic information management. The executives realized that getting line managers to work differently meant putting them in charge of the change process. Consequently, the executives moved to set clear expectations and reinforce responsibility for information management decisions and results with line managers who deal directly with the customer. Where mission goals require work process innovation and information systems that cut across program or functional lines, accountability must also be aligned with the decisionmaking authority necessary to raise issues above existing stovepipes.

Increasing line managers' accountability and involvement works because it immediately focuses information management decisionmaking and systems development activities on measurable mission outcomes of strategic importance. Such a focus ensures more realistic benefits projections, greater attention to improving performance, and more extensive and intensive line actions to realize benefits throughout the life of a project. Without such accountability, it is too easy for the line organization to delegate decisionmaking irresponsibly, accept project delays, or fail to discern the loss of projected benefits.

Because the term of office of political appointees is limited, they should work with a committed cadre of senior executives to provide management continuity and agency ownership of major information management and technology projects.

Practice 3.—Take action and maintain momentum

A willingness to take action and maintain momentum is the difference between lip service and real improvement. Recognizing a problem and creating ownership are only the first steps toward action. Because of the barriers that exist to improving information resources management, leading organizations give considerable attention to initiating the change process and ensuring that it maintains momentum.

Perhaps the most important starting point is educating line management. Unless all line managers begin to understand how information management can make a difference in their performance, only marginal change will occur. Carefully picked and placed champions also create daily pressure to change by removing bottlenecks and resolving thorny operational issues that can easily shall an improvement initiative, particularly in public sector organizations. Finally, incentives become the tangible representation of the organization's level of interest in changing. Education, champions, and incentives all work because they address the root causes that inhibit change—ignorance, lack of focus, and lack of interest. Without addressing these root causes, even improvement efforts that get a good start tend to fade quickly.

Agency heads and deputies lacking background and experience with information systems projects need to educate themselves about how such projects can and should be used as a lever to achieve performance improvement. Only with such an education are they likely to make information management a key part of their strategic business plans and recognize the importance of identifying and encouraging department and program champions to help them succeed.

Practice 4.—Anchor strategic planning in customer needs and mission goals

At the leading organizations, strategic business and information system plans are almost always tightly linked and predicated on satisfying explicit, high-priority customer needs. This emphasis on customer needs helps an organization understand the source, nature, and priority of demands on its resources. Without a customer focus, an organization risks missing its real needs and ignoring what matters to key stakeholders. With it, corresponding mission goals can be more easily developed to satisfy each demand, and the needs of customer groups can be prioritized and matched with specific products or services. This allows the organization to set mission performance goals for improving service delivery or product responsiveness, costs, or quality—based on customer needs.

Successful information systems are not only defined as the ones delivered on time and within budget, but as ones that also produce meaningful improvements in cost, quality, or timeliness of service. Following a customer-driven approach provides accurate, detailed descriptions of requirements and specifications, which are needed to drive the design and development of supporting information systems.

Practice 5.—Measure the performance of key mission delivery processes

Successful organizations rely heavily upon performance measures to operationalize mission goals and objectives, quantify problems, evaluate alternatives, allocate resources, track progress, and learn from mistakes. Performance measures also measure whether information systems projects are really making a difference. Good measures define the information needed to perform a mission well and allow organizations to learn objectively and consistently over time. As noted in the passage of the Government Performance and Results Act, without performance measures, managers often have great difficulty getting results from information systems because they cannot define their needs precisely.

The standard measurement practices followed by the successful organizations focus on benefits, costs, and risks. In most cases, this includes program outcomes, resource consumption, and the elapsed time (i.e., cycle time) of specific work processes, activities, or transactions. Once the right measures are chosen, they act as a common focus for management to target problem areas, highlight successes, and generally increase the rate of performance improvement through enhanced learning. Business plans identify measurable outcomes and outputs expected from major information systems projects.

Practice 6.—Focus on process improvement in the context of an architecture

Accomplishing order-of-magnitude improvements in performance nearly always requires streamlining or redesigning critical work processes. Consequently, information systems initiatives must be focused on process improvement and guided by an organizational architecture.[2] Information systems projects that do no consider business process redesign typically fail or reach only a fraction of their potential. Those that ignore technology usually leave significant opportunities on the table. Using business process reengineering to drive information systems initiatives can lead to order-of-magnitude customer satisfaction and/or cost savings, rather than the marginal efficiency gains normally associated with initiatives that use technology to do the same work, the same way, only faster.

Rapidly evolving new technologies (e.g., networks or imaging) that have organization-wide impact need to be integrated into redesigned work processes systematically (i.e., architectural management). To maximize the benefits of process improvements across an entire enterprise and reduce risks, certain shared standards and rules for processes, data, and machines (i.e., organizational architectures) are vital.

Practice 7.—Manage information systems projects as investments

Successful organizations manage information systems projects primarily as investments, rather than expenses. As information

[2] Architectures explicitly define common standards and rules for both data and technology, as well as mapping key processes and information flows. For additional information refer to "*Strategic Information Planning: Framework for Designing and Developing System Architectures*" (GAO/IMTEC–92–51, June 1992).

management capability increases, projects are viewed more as mission improvement projects and less as information technology efforts. Senior management teams become personally involved in project selection, control, and evaluation. The basis of decisionmaking is an explicit set of criteria assessing the mission benefits, risks, and cost of each project. Quantitative and qualitative cost, benefit, and risk analyses—typically modeling sensitivities of project outcomes to various risk factors—underpin the criteria.

The investment focus systematically reduces inherent risks while maximizing benefits of complex projects. It does so by concentrating top management's attention on assessing and managing risk and regulating the tradeoffs between continued funding of existing operations and developing new performance capabilities. These tradeoffs, as well as conflicts between competing programs, surface during annual budget decisionmaking. With a disciplined process, organizations can identify early, and avoid, investments in projects with low potential to provide mission benefits. They can help make explicit links between project outcomes and program needs in complex and often ambiguous budget debates. Line accountability for improved performance is also reinforced. This typically means larger successes, fewer failures, and more significant information systems contributions to organizational goals.

Conversely, without a centralized process to select, control, and evaluate information systems projects as investments, organizations confront a number of difficult problems—significant unmanaged risk, unexamined low-value or redundant projects that consume scarce resources, mismatches between systems maintenance and strategic priorities for improving mission performance, design flaws that can unexpectedly increase complexity, and outsourcing decisions that put the organization at risk.

Practice 8.—Integrate the planning, budgeting, and evaluation processes

Successful organizations pay close attention to integrating the planning, budgeting, performance measurement, and architectural management processes, so that they never lose sight of critical information systems projects and treat them consistently throughout sometimes disparate management processes.[3] This helps force the linkage of information systems efforts to the mission, provides tight controls during implementation, and allows regular assessment to ensure that benefits accrue.

This integration of once-separate processes is the real test of whether an organization's information management approach is truly strategic and thus will be able to improve consistently over time. Without links to planning, budgeting becomes a reactive exercise to priorities of the moment that are not weighed adequately against those of the future. Without links to performance measurement, mistakes are not discovered or are repeated in planning. And without links to budgeting, plans can be mere paper exercises in rationalization. Credible plans and budgets need to identify the long-term benefits of information technology projects, how they will

[3] This concept of management process integration also directly underpins the threefold requirement of the Government Performance and Results Act for performance measures, strategic planning, and performance-based budgeting.

be funded over the years, and how the savings and benefits will be realized over time.

Practice 9.—Establish customer/supplier relationships between line and information management professionals

The best-designed management processes in the world cannot work without defining roles and relationships (i.e., knowing who is going to do what). Establishing customer/supplier relationships internally between line managers and information management support professionals enables the organization to maximize the benefits of new management processes. Line management in successful organizations typically behaves as a customer of support professionals or organizational units by asserting control over information system project funding and direction. Key line responsibilities include identifying specific mission goals, the core processes required to accomplish them, key decisions that guide work processes, and the critical information needed to support decision-making.

Information management professionals, then, act as suppliers, working to support efforts to meet a management objective, make a critical decision, or solve a business problem. Supplier functions can include traditional responsibilities for producing and servicing information systems. But they increasingly emphasize investment advisory services and strategic architectural design and management. The new focus is on achieving specific mission goals and objectives, rather than satisfying sometimes unrelated user requirements.

Practice 10.—Position a Chief Information Officer as a senior management partner

Positioning a Chief Information Officer (CIO) as a senior management partner is critical to building an organization-wide information management capability.[4] By creating a customer/supplier relationship at the highest levels, it helps line executives change how information is managed organization-wide. CIO positions have, in some cases, become untenable or controversial largely because they are overemphasized, inappropriately staffed, lack adequate authority, and/or are unable to focus solely on strategic information management issues. A CIO is not a substitute for institutionalized information management processes. Neither is it a panacea for resolving thorny problems that stem from top management disengagement, as is clearly illustrated by federal agencies' experiences with Designated Senior Officials for Information Resources Management under the Paperwork Reduction Act. Selection of an effective CIO is critical and difficult. Qualified professionals need a combination of leadership ability, technical skills, business process understanding, and communication skills.

A CIO serves as a bridge between top management, line management and information management support professionals. This in-

[4] Determining the balance of decision-making authority between corporate and mission levels on information management issues is a complex issue—one that depends largely on the degree of similarity between missions. Most organizations we studied operated on the presumption that, unless some significant shared corporate benefit was justified, decisions took place at the mission level.

cludes focusing and advising senior management on high-value issues, decisions, and investments. Equally vital is taking a strong role in working with the line managers to (1) design and manage an organization-wide architecture and (2) clearly articulate how information management will play a pivotal role in mission improvement. Finally, the CIO is usually accountable for serving line management with low-cost, high-quality information technology products and services. Over time, a successful CIO evolves from serving only as head of the information management unit to becoming a strategic adviser and architect—a vital member of the top management team.

Practice 11.—Upgrade skills and knowledge of line and information management professionals

Strengthening the skills and capabilities of line and information management units is the final part of the formula for building strategic information management capabilities. Lasting improvements in information management are impossible without upgrading the knowledge and skills of executives and managers.

First, it ensures that line executives gain a better understanding of information resources management, while helping information managers to acquire greater knowledge of the line unit's mission, goals, and problems. Second, it brings skills and knowledge up-to-date. In the rapidly evolving world of information technology, remaining current is critical. Organizations that fail to improve themselves continuously become literally trapped in antiquated skill bases, which then become an anchor inhibiting the organization's ability to change. For instance, every year information systems get easier to use and interact with. However, this ease of use is only possible with ever more complex decision logic and data flows. Operating and maintaining these progressively sophisticated systems requires continuously higher skill levels. Similarly, increased levels of complexity also demand more systematic, controlled planning, design, and development.

This fundamental is especially important in the federal government where so much technology acquisition is contracted out. The chance of a breakdown between an agency and its contractors is great when the agency does not have competent information management professionals to assist line management in evaluating and supervising contractor performance.

While meaningful short-term benefits can accrue within a year or two, these fundamentals are not quick fixes. They take significant effort and commitment to implement. In the case study organizations, new performance levels were achieved by consistently applying the fundamental practices over time, usually a period of 2 to 5 years. In addition, the practices were usually pursued in the context of other mutually reinforcing management improvement initiatives (e.g., total quality management).

Implementing these practices in the federal environment is not only possible, but is already beginning in several agencies. Though barriers exist—perceived and real—each practice is consistent with existing elements of federal regulations.

GETTING STARTED IN APPLYING THE FUNDAMENTAL PRACTICES: RECOMMENDED ACTIONS FOR SENIOR EXECUTIVES

To take comprehensive, quick, and practical steps toward improving strategic information management, federal agency executives should consider doing the following:

Take a personal leadership role in establishing strategic information management and designate a champion to lead day-to-day improvement efforts.

Make senior managers responsible for effectively implementing a strategic information management improvement program.

Make this new strategic information management program a critical success factor or a goal in the department/agency strategic planning process

Initiate a strategic information management improvement program within the next 90 days.

Additionally, both congressional leadership and top agency executives should ask and answer the following questions:

Are the right strategic information systems and reengineering projects being worked on?

Are external and internal customer requirements being satisfied, and is overall productivity and quality improving?

What is the risk-adjusted return on information systems investments?

Are there performance measures that truly define success for the organization in terms of expected outcomes for customers?

Does management information support critical decision-making and reinforce accountability for results?

Is management information accurate, timely, secure, usable, and targeted at the right decisionmakers and decision processes?

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