Order Code RL30590

CRS Report for Congress

Paperwork Reduction Act Reauthorization and Government Information Management Issues

Updated January 4, 2007

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Prepared for Members and Committees of Congress

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Summary

Replacing the ineffective Federal Reports Act of 1942, the Paperwork Reduction Act of 1980 (PRA) was enacted largely to relieve the public of the mounting information collection and reporting requirements of the federal government. It also promoted coordinated information management activities on a government-wide basis by the director of the Office of Management and Budget and prescribed information management responsibilities for the executive agencies. The management focus of the PRA was sharpened with the 1986 amendments which refined the concept of "information resources management" (IRM), defined as "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." This key term and its subset concepts received further definition and explanation in the PRA of 1995, making IRM a tool for managing the contribution of information activities to program performance, and for managing related resources, such as personnel, equipment, funds, and technology. The PRA of 1995 authorized appropriations for the Office of Information and Regulatory Affairs (OIRA), located within OMB, through FY2001 (44 U.S.C. 3520). After a lapse of four years, reauthorization of OIRA appropriations got underway in March 2006 with an initial overview hearing on the Paperwork Reduction Act by the House Subcommittee on Regulatory Affairs. A second hearing by the subcommittee was held in July, but no further action, including the introduction of reauthorizing legislation, occurred before the final adjournment of the 109th Congress. A return to reauthorizing the Paperwork Reduction Act awaits the 110th Congress. This report will be updated as events warrant.

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Since its inception in 1789, the federal government has required paperwork for a variety of reasons, not the least of which include direction, accountability, and service delivery. The Constitution mandates one of the largest paperwork requirements — the decennial census.[1] The First Congress set the initial paperwork obligation in the eleventh law it adopted, an act of September 1, 1789, concerning the documentation of marine vessels.[2]

The burdensome nature of paperwork became much more acute with the rise of the federal administrative state in the early years of the 20th century. The 16th amendment to the Constitution, adopted in February 1913, authorized Congress to impose taxes on incomes, from whatever source derived, without apportionment among the states and without regard to any census or enumeration. The War Revenue Act of October 1917 made the income tax the chief source of revenue during the participation of the United States in World War I, and introduced the American citizenry to the travails of tax reporting.[3]

Simultaneous with these developments was an increase in federal regulatory and compliance agencies with new reporting and recordkeeping requirements for financial, health and safety, and business activities. An autonomous Department of Labor was established in 1913,[4] along with the Federal Reserve System.[5] The Federal Trade Commission was created the following year.[6] United States entry into World War I in 1917 prompted a multiplicity of new regulatory entities to deal with transportation, shipping, trade, manufacturing, and food and fuel production.

In the years following the end of World War I, the provision of new personal benefits to the public added to federal reporting and recordkeeping requirements.

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[1] Article I, Section 2, prescribes that, "The actual Enumeration shall be made within three Years after the Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct." The first such statute was an act of Mar. 1, 1790 (1 Stat. 101).

[2] 1 Stat. 55.

[3] 40 Stat. 300.

[4] 37 Stat. 736.

[5] 38 Stat. 251.

[6] 38 Stat. 717.

First came veterans' programs and the establishment of the Veterans Administration in 1930. Next was the arrival of the New Deal in 1933, with the subsequent provision of a variety of old age security, unemployment, disability, and welfare benefits. The New Deal also engendered a variety of new financial, banking, industrial, farming, communications, housing, and public works regulatory programs. Finally, the outbreak of war in Europe in 1939 and the entry of the United States into World War II in 1941 brought a variety of new reporting and recordkeeping requirements for virtually all sectors of the nation and its citizens.

Federal Reports Act of 1942

Federal officials were not unaware of the growing reporting and recordkeeping burden being generated by new regulatory and personal benefits programs. At the highest level, President Franklin D. Roosevelt indicated, in a May 16, 1938, letter to the Central Statistical Board, his concern "over the large number of statistical reports which Federal agencies are requiring from business and industry." Informing the board of his "desire to know the extent of such reports and how far there is duplication among them," he tasked the panel "to report to me on the statistical work of the Federal agencies, with recommendations looking toward consolidations and changes which are consistent with efficiency and economy, both to the Government and to private industry."[7]

In response, the board indicated that, for the fiscal year ending June 30, 1938, the executive agencies had collected over 135 million returns from individuals and businesses, but concluded that most of this information was needed by the government and that, while such reporting should be coordinated, it should remain decentralized.[8] While this reply apparently ended the matter for the President, there were those in Congress who remained sensitive to the paperwork issue. Among them was the Senate Special Committee to Study the Problems of American Small Business, which developed the draft Federal Reports Act of 1941, empowering the Bureau of the Budget (BOB) to (1) direct an agency to collect information on behalf of itself and other agencies, and (2) direct an agency to provide to another agency data it had collected for itself. A later version of the proposal required BOB clearance of any agency's plans or forms for the collection of information from 10 or more persons, authorized BOB to determine whether or not a proposed agency collection of information was necessary for the performance of its functions, barred any collection of information which BOB deemed unnecessary for any reason, and exempted the Department of the Treasury (including the Internal Revenue Service (IRS)) from the requirements of the measure.

In the House, the legislation was stripped of the Treasury Department exemption, was amended to except the General Accounting Office (GAO) from its requirements, and had a provision appended to indicate that persons who failed to furnish information to an agency could only be subjected to the penalties provided by statutory law. A conference committee on the measure reinstated, but narrowed,

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[7] U.S. Commission on Federal Paperwork, *History of Paperwork Reform Efforts, A Report of the Commission on Federal Paperwork* (Washington: July 29, 1977), p. 15.

[8] Ibid., pp. 16-20.

the Treasury exemption to exclude only the IRS, Comptroller of the Currency, Bureau of the Public Debt, Bureau of Accounts, Division of Foreign Funds Control, and federal bank supervisory agencies. Sent to the President, the bill was signed into law on December 24, 1942, as the Federal Reports Act of 1942 (FRA).[9]

Implementing the FRA, BOB required each agency seeking information from 10 or more persons to submit the proposed questionnaire along with an explanation of its administration and a full justification for its use, including an estimate of the time required for completion of the instrument. While BOB devoted almost 50 of its staff to this area in the immediate post-World War II years, the number fell to some 25 personnel in the 1960s and 1970s. In 1942, the BOB director also inaugurated the Advisory Council on Federal Reports, composed of representatives from leading national business organizations, who met quarterly to consider broad questions concerning federal reporting requirements. However, when representatives from agencies seeking information subsequently began to meet with council members to discuss collections, the situation came under criticism and congressional investigation, and reform legislation — the Federal Advisory Committee Act of 1972 (FACA) — was enacted.[10] The council was reconstituted as the Business Advisory Council on Federal Reports, an industry trade group, rather than as an advisory committee under FACA.

Some agencies were critical of the length of time the BOB review process occasionally required before collections could be undertaken. Regulatory agencies complained that Office of Management and Budget (OMB) refusals to allow them to collect information from regulated industries infringed upon their statutory duties.[11] In 1973, Congress responded by exempting the independent regulatory agencies from OMB review.[12]

Congressional unhappiness with OMB had also been prompted by a 1972 report by the Senate Select Committee on Small Business, which concluded that there was "an indifference of OMB officials towards their basic responsibilities .... Since only a relative handful (between one and five percent) of forms [were] disapproved, [the] committee [could] only conclude that hundreds of unnecessary or duplicative forms [were] being imposed on the public."[13] The committee also believed that OMB, "not knowing the problems of small business respondents," could not "effectively adapt 'data requests to respondent's records'";[14] had "shown a consistent lack of initiative

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[9] 56 Stat. 1078; 44 U.S.C. 3501-3520 (1982).

[10] 86 Stat. 770.

[11] The Office of Management and Budget was the 1970 successor to the Bureau of the Budget (84 Stat. 2085).

[12] 87 Stat. 576.

[13] U.S. Congress, Senate Select Committee on Small Business, *The Federal Paperwork Burden*, 93rd Cong., 1st sess., S.Rept. 93-125 (Washington: GPO, 1973), pp. 25-26.

[14] Ibid., p. 30.

in rigorously pursuing the directives of the Federal Reports Act";[15] and had refused "to adequately staff or properly equip, with data processing tools, its Statistical Policy Division," the office that was responsible for administering the FRA.[16] Ultimately, the committee recommended that GAO be given the FRA responsibilities presently vested in OMB.[17] The congressional response to this and similar criticism of OMB regarding reporting and recordkeeping burdens was the creation of the Commission on Federal Paperwork in 1974.

Commission on Federal Paperwork

A 14-member temporary national study panel, the Commission on Federal Paperwork, was statutorily mandated to study, report findings, and make recommendations concerning the adequacy of laws, regulations, and procedures to assure that the federal government was obtaining needed information from the private sector with minimal burden, duplication, and cost.[18] The commission was cochaired by Representative Frank Horton and Senator Thomas J. McIntyre, both of whom had a longstanding interest in paperwork issues and had championed the creation of the study panel. Other members of the commission included former IRS Commissioner Donald C. Alexander, former Senator Bill Brock, Secretary of Health, Education, and Welfare Joseph A. Califano, Jr., Senator Mark O. Hatfield, OMB Director Bert Lance, former OMB Director James T. Lynn, Comptroller General Elmer B. Staats, and Representative Tom Steed, as well as state government, union, and business leaders. The panel's director was Warren Buhler, formerly a principal assistant to Representative Horton from the staff of the House Committee on Government Operations.

By the time the commission concluded its work in September 1977, it had issued 36 reports and had offered 770 recommendations.[19] Among its findings, the commission proffered that "structural and procedural flaws" in the Federal Reports Act's clearance process "preclude it from ever being fully successful in controlling the total paperwork burden on the American public."[20] Among these flaws were the exemption of IRS and the bank supervisory agencies from the FRA's requirements, and the shared jurisdiction of OMB and GAO over the reports clearance process. The commission determined that insufficient resources had been allocated to the FRA clearance process, which was seen as being ineffective in the case of new programs because it occurred too late in the development process.[21] The commission also concluded that information is a valuable resource which government should

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[15] Ibid., p. 34.

[16] Ibid., p. 60.

[17] Ibid., p. 63.

[18] 88 Stat. 1789.

[19] See U.S. Commission on Federal Paperwork, *Final Summary Report, A Report of the Commission on Federal Paperwork* (Washington: Oct. 3, 1977).

[20] Ibid., p. 50.

[21] Ibid.

manage with the same care and responsibility that apply to its management of its financial, material, physical, and human resources.[22]

Among its recommendations, the commission called for new legislation, replacing the FRA, "to regulate the collection, management, and use of Government-held information as well as its disclosure." It also urged the establishment of an executive office to, among other functions, "coordinate information management responsibilities ... and to monitor agency compliance with information laws."[23]

The commission's organic statute specified that, upon the submission of the panel's final report, OMB was to coordinate and formulate executive branch views concerning the commission's recommendations, begin implementing those recommendations in which the executive concurred, and propose legislation needed to carry out those recommendations in which the executive concurred.[24] A September 1979 OMB progress report, the third such required semi-annual report, indicated that more than 50% of the commission's recommendations pertaining to the executive branch (269 of 520) had been implemented.[25] Six months later, however, a GAO assessment criticized OMB for overstating the progress that had been made in implementing the commission's recommendations. GAO urged Congress to enact legislation requiring OMB to "establish a legislative program for those recommendations still pending and create an Office of Federal Information Policy within OMB."[26]

The Paperwork Reduction Act of 1980

Neither the steady flow of paperwork commission reports from mid-1976 into the early autumn of 1977, nor the panel's summary final report in October, impelled Congress to legislate the proffered recommendations in these documents. Instead, interested members, such as Representative Horton and Senator McIntyre, pursued a strategy of following, through congressional oversight, OMB activities in furtherance of implementing commission recommendations. Moreover, paperwork reduction was only one of several management reforms being entertained by the Carter Administration and the 95th Congress.

Former Georgia Governor Jimmy Carter had been elected to the presidency in 1976 after conducting a campaign in which, at least in part, he targeted the bureaucracy and otherwise championed efficient and economical government. Embarking on his second year in office, he issued E.O. 12044, which required the executive agencies to use cost-benefit analyses in justifying new regulations, to

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[22] Ibid., p. 56.

[23] Ibid., p. 52.

[24] 88 Stat. 1790.

[25] U.S. Office of Management and Budget, *Paperwork and Red Tape: New Perspectives; New Directions* (Washington: Sept. 1979), p. 5.

[26] U.S. General Accounting Office, *Program to Follow-Up Federal Paperwork Commission Recommendations Is in Trouble*, GAO Report GGD-80-36 (Washington: Mar. 14, 1980), pp. i-iv.

minimize paperwork burdens on the private sector, and to estimate the reporting and recordkeeping requirements attending significant new regulations prior to their final adoption.[27] In November 1979, he issued E.O. 12174 with a view to minimizing further the paperwork burden "imposed on persons outside the Federal government."[28] In his statement accompanying this directive, the President endorsed a Senate bill responding to the paperwork commission's recommendation of new legislation to replace the FRA.[29]

The legislation President Carter endorsed was the Paperwork and Red Tape Reduction Act of 1979, developed and introduced in the House by Representative Jack Brooks and Representative Horton, the chairman and ranking minority member, respectively, of the House Committee on Government Operations, to which the bill (H.R. 3570) had been referred. A companion measure (S. 1411) was sponsored in the Senate by Senator Lawton Chiles and Senator John Danforth, the chairman and ranking minority member, respectively, of the Subcommittee on Federal Spending Practices and Open Government of the Committee on Governmental Affairs, to which the legislation was referred. The Senate bill received a hearing by the Chiles subcommittee on November 1, 1979.

On February 5, 1980, Representatives Brooks and Horton introduced a new version of their bill (H.R. 6410), which replaced their initial proposal. The new measure received a hearing before the Subcommittee on Legislation and National Security of the Committee on Government Operations on February 7, 21, and 26. Subsequently, on March 4, it was approved and ordered reported by the full committee.[30] The House passed the bill on March 24 without any member speaking against it.[31]

The House-passed version of the Paperwork Reduction Act was referred to the Senate Committee on Governmental Affairs on March 26. In August, the committee reported an amended version of its bill that was very similar to the House measure.[32] The Senate subsequently approved an amended version of its bill (S. 1411) on November 19, then substituted the language of this measure in the House bill (H.R.

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[27] 3 C.F.R., 1978 Comp., pp. 152-156.

[28] 3 C.F.R., 1979 Comp., pp. 462-463.

[29] U.S. General Services Administration, National Archives and Records Service, Office of the Federal Register, *Public Papers of the Presidents of the United States, Jimmy Carter: 1979* (Washington: GPO, 1980), p. 2177.

[30] U.S. Congress, House Committee on Government Operations, *Paperwork Reduction Act of 1980*, report to accompany H.R. 6410, 96th Cong., 2nd sess., H.Rept. 96-835 (Washington: GPO, 1980).

[31] *Congressional Record*, vol. 126, Mar. 24, 1980, pp. 6212-6214.

[32] U.S. Congress, Senate Committee on Governmental Affairs, *Paperwork Reduction Act of 1980*, report to accompany S. 1411, 96th Cong., 2nd sess., S.Rept. 96-930 (Washington: GPO, 1980).

6410), adopted the latter proposal by acclamation, and sent it back to the House.[33] On December 1, the House returned to its bill and, under a suspension of the rules, concurred in the Senate amendments, clearing the measure for the President's signature.[34] President Carter signed the legislation into law on December 11, 1980.[35]

Capitalizing on OMB's FRA experience and its role in management improvement and regulatory reform under the Carter Administration, the Paperwork Reduction Act (PRA) made OMB the principal policymaker and overseer of government paperwork activities. The statute established a new Office of Information and Regulatory Affairs (OIRA) within OMB, to which the director of OMB was to delegate his paperwork functions.[36] These functions included:

- "reviewing and approving information collection requests proposed by agencies";
- "determining whether the collection of information by an agency is necessary for the proper performance of [its] functions";
- ensuring that all procedural requirements for collecting information were fulfilled;
- "designating ... a collection agency to obtain information for two or more agencies";
- "setting goals for reduction of the burdens of Federal information collection requests";
- "overseeing action on the recommendations of the Commission on Federal Paperwork"; and
- "designing and operating ... the Federal Information Locator System."[37]

The PRA also assigned information management responsibilities to the director of OMB. Indeed, the statute's title was somewhat misleading. The director was broadly mandated to "develop and implement Federal information policies, principles, standards, and guidelines" and to "provide direction and oversee the review and approval of information collection requests, the reduction of the paperwork burden, [and] Federal statistical activities, records management activities, privacy of records, interagency sharing of information, and acquisition and use of

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[33] *Congressional Record*, vol. 126, Nov. 19, 1980, p. 30193.

[34] Ibid., Dec. 1, 1980, p. 31228.

[35] 94 Stat. 2812; 44 U.S.C. 3501-3520 (1982).

[36] 44 U.S.C. 3503 (1982).

[37] 44 U.S.C. 3504(c).

automatic data processing telecommunications, and other technology for managing information resources."[38]

Among the "general information policy functions" enumerated for the director were:

- "developing and implementing uniform and consistent information resources management policies and overseeing the development of information management principles, standards, and guidelines and promoting their use";
- "initiating and reviewing proposals for changes in legislation, regulations, and agency procedures to improve information practices, and informing the President and the Congress on the progress made therein";
- "coordinating, through the review of budget proposals and ... otherwise ..., agency information practices";
- "promoting, through the use of the Federal Information Locator System, the review of budget proposals and other methods, greater sharing of information by agencies";
- "evaluating agency information management practices to determine their adequacy and efficiency," as well as their "compliance ... with the policies, principles, standards, and guidelines promulgated by the Director"; and
- "overseeing planning for, and conduct of research with respect to, Federal collection, processing, storage, transmission, and use of information."[39]

Additional functions were specified for "statistical policy and coordination,"[40] "records management,"[41] personal privacy protection,[42] and "Federal automatic data processing and telecommunications."[43] This last phrase was the reference at the time for computer systems and digitized information, a burgeoning area that would command more attention in subsequent overhauls of the PRA.[44]

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[38] 44 U.S.C. 3504(a).

[39] 44 U.S.C. 3504(b).

[40] 44 U.S.C. 3504(d).

[41] 44 U.S.C. 3504(e).

[42] 44 U.S.C. 3504(f).

[43] 44 U.S.C. 3504(g).

[44] By one account, the federal government was operating two computers in 1950, the number then growing to 45 in 1955, 403 in 1960, 1,826 in 1965, 5,277 in 1970, and, in only a year, (continued...)

The independent regulatory agencies, which were defined in the statute, and the Treasury Department were brought within the scope of the PRA and its requirements. All of the executive agencies were assigned responsibilities as well, largely for ensuring the elimination of duplicative and unnecessary collections of information. The statute required each agency head to designate a senior official, who was to report directly to the agency head, to carry out the agency's PRA responsibilities.[45]

The remaining provisions of the new law specified the details of the information collection clearance process, including the use of a hearing or a statement submission arrangement;[46] the designation of a central collection agency to obtain information for two or more agencies;[47] the directing of information sharing by agencies;[48] the establishment and operation of a Federal Information Locator System to "serve as the authoritative register of all information collection requests";[49] a selective "review, at least once every three years, [of] the information management activities of each agency to ascertain their adequacy and efficiency";[50] and keeping "Congress and its committees fully and currently informed of the major activities under" the PRA and reporting annually to both houses in such detail as was specified in the statute.[51] Appropriations were authorized through the fiscal year ending September 30, 1983.[52]

For the first year of PRA implementation, OMB reported that OIRA had been established prior to the statutory deadline, regulations had been issued to guide the agencies, and effective progress had been made in realizing compliance with the act's procedures and requirements.[53] GAO, however, offered a contrary view. Assessing the first six months of OMB efforts at implementing the PRA, Comptroller General Charles A. Bowsher told a House oversight subcommittee that OMB had denied GAO "access to documents and information essential to reaching a full understanding of its processes and an assessment of its efforts." Nonetheless, the Comptroller proffered:

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[44] (...continued)
5,961 in 1971. By 1980, the total could easily have been double the 1970 or 1971 figures. Moreover, these were bulky, mainframe computers, the personal computer proliferating in the federal government after 1980. Alan F. Westin and Michael A. Baker, *Databanks in a Free Society* (New York: Quadrangle, 1972), p. 29.

[45] 44 U.S.C. 3506.

[46] 44 U.S.C. 3507-3508.

[47] 44 U.S.C. 3509.

[48] 44 U.S.C. 3510.

[49] 44 U.S.C. 3511.

[50] 44 U.S.C. 3513.

[51] 44 U.S.C. 3514.

[52] 44 U.S.C. 3520.

[53] U.S. Office of Management and Budget, *Managing Federal Information Resources, First Annual Report Under the Paperwork Reduction Act of 1980* (Washington: Apr. 1, 1982), pp. 3-5.

> ... OMB's efforts to implement the Paperwork Reduction Act can be characterized as lacking the visible and forceful leadership necessary to achieve the Act's objectives. A sufficiently high priority has not been given to implementing the Act. Little or no effort has been directed to key requirements of the Act. As recently as October 16, 1981, OMB had approved no formal plans for implementing the Act. Resources have been allocated to other functions, and a growing workload of paperwork clearances is resulting in little or no effort being devoted to other key requirements of the Act.[54]

The Comptroller noted that a "substantial portion of OIRA resources have been devoted to regulatory review activities which are outside the scope of the Act." He reported that over 2,000 reviews of regulations pursuant to E.O. 12291 had been conducted, while only 23 such reviews pursuant to the PRA had occurred. Consequently, PRA work was backlogged: "a growing workload of individual paperwork review cases has resulted in delays in completing reviews of agencies' [PRA] implementation plans."[55]

Two years later, GAO found that OMB had been successful in meeting its requirements to reduce paperwork in terms of total percentages, but had made limited progress "in information resources management areas other than paperwork reduction, such as developing uniform information policies, promoting more effective use of advanced information technology, and overseeing the Federal statistical system."[56] OIRA's regulatory review activity remained a problem for PRA administration. "The act," GAO pointed out, "provides OIRA neither authority nor resource authorization for performing reviews of regulations except for assessing compliance with the act's objectives for reducing paperwork." Congressional leaders were reminded that "both House and Senate Committee reports on the legislation specifically stated that regulatory reform activities beyond those related to information and paperwork burden issues should not be assigned to OIRA."[57]

The report suggested three options if Congress "decides further action is needed to require OMB to increase the pace of progress toward achieving the Paperwork Reduction Act's objectives":

- "Require OMB to identify the resources needed for fully implementing the [PRA] and report annually on the resources expended for that purpose."
- "Provide a separate appropriation for implementing" the PRA.

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[54] U.S. Congress, House Committee on Government Operations, *Implementation of the Paperwork Reduction Act of 1980 (Public Law 96-511)*, hearing, 97th Cong., 1st sess., Oct. 21, 1981 (Washington: GPO, 1982), pp. 3-4, 8-9.

[55] Ibid., pp. 4, 10.

[56] U.S. General Accounting Office, *Implementing the Paperwork Reduction Act: Some Progress, but Many Problems Remain*, GAO Report GAO/GGD-83-35 (Washington: Apr. 20, 1983), pp. ii, 10-28.

[57] Ibid., p. iii.

- "Provide a separate appropriation for implementing the act and amend [it] to prohibit OIRA from performing any duties other than those required by the act."[58]

An April 1983 GAO report acknowledged that "OMB has taken several preliminary steps to implement its responsibilities for controlling Federal recordkeeping requirements imposed on the public," but concluded that "these steps have not produced meaningful retention standards." Consequently, individuals and businesses often retained records longer than required, resulting in an increased paperwork burden. The report indicated that "OMB should address this issue now and take the action necessary to meet its statutory responsibility for developing standards to control the length of time records must be retained for the Federal Government."[59] GAO recommended that OMB work with the General Services Administration (GSA), which was responsible for various records management matters at that time,[60] to reestablish the previous records retention guide produced by that agency, and modify its information collection request review process to facilitate the compiling of the guide.[61] OMB evidenced little interest in these suggestions.[62]

Amidst these GAO criticisms of its implementation of the PRA, OMB engendered the enmity of the Internal Revenue Service (IRS) and the Treasury Department, which objected to OMB's attempts to review IRS regulations containing reporting or recordkeeping requirements. To settle the dispute, OMB sought an interpretive opinion from the Office of Legal Counsel (OLC), Department of Justice, that would be binding on the agencies. Rendered on June 22, 1982, the OLC opinion concluded that reporting or recordkeeping requirements set out in prior, existing regulations were not subject to OMB review under the PRA.[63] The opinion was largely viewed as a substantial defeat for OMB for various reasons, not the least of which was the fact that IRS regulations accounted for almost half of the federal government's paperwork burden.[64]

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[58] Ibid., p. v.

[59] U.S. General Accounting Office, *More Guidance and Controls Needed Over Federal Recordkeeping Requirements Imposed on the Public*, GAO Report GAO/GGD-83-42 (Washington: Apr. 28, 1983), p. 8.

[60] GSA's records management responsibilities resulted from the inclusion of the National Archives within it at the time of the agency's establishment in 1949 (63 Stat. 379).

[61] U.S. General Accounting Office, *More Guidance and Controls Needed Over Federal Recordkeeping Requirements Imposed on the Public*, p. 9.

[62] After the National Archives separated from GSA and became an independent agency in April 1985, it published, in 1986, a revised version of the 1981 Guide to Record Retention Requirements in the Code of Federal Regulations, and reprinted, in 1989, a slightly modified version of a 1981 records management handbook, *Disposition of Federal Records*.

[63] U.S. Department of Justice, Office of the Assistant Attorney General, Office of Legal Counsel, Re: Paperwork Reduction Act of 1980, June 22, 1982, p. 56.

[64] U.S. Office of Management and Budget, *Information Collection Budget of the United States Government: Fiscal Year 1982* (Washington: Dec. 29, 1981), p. 13.

The Paperwork Reduction Reauthorization Act of 1986

As originally enacted, the PRA authorized appropriations for OIRA through the fiscal year ending September 30, 1983. Implementation difficulties, as revealed by GAO and the OLC opinion, gave Congress a basis for amending the statute while reauthorizing OIRA funding. During the 98th Congress, the House adopted such amendments (H.R. 2718) establishing line item funding for OIRA functions specifically mandated by the PRA; clarifying OMB's authority to review information collection requests in existing, as well as proposed, regulations; and strengthening congressional oversight of OMB's PRA mandate. Appropriations for OIRA operations were extended through FY1988.[65]

A companion bill (S. 2433) did not fair as well in the Senate. Among other provisions, it would have required Senate confirmation of the President's nominee to head OIRA. The Senate, however, did not complete action on its bill or the House measure prior to the final adjournment of the 98th Congress. Critics, who felt the legislation would have given OIRA and OMB too much authority over federal rulemaking activity, were not unhappy with the inaction.[66]

Congressional failure to extend the PRA authorization during the 98th Congress left OIRA dependent upon OMB's annual general authorization until its own spending authority could be restored. However, there was a considerable amount of concern in Congress among members of both parties about OIRA's ambitious reviews of all major regulatory actions of other federal agencies. In mid-July 1986, the House Subcommittee on Treasury, Postal Service, and General Government denied $5.4 million requested by OMB for OIRA, and the parent Committee on Appropriations made no attempt to restore the funds at the end of the month when the bill (H.R. 5294) was reported to the House. It was approved by the House on August 6, still devoid of OIRA funding, on a 302-118 vote. However, Senate appropriators declined to endorse the deletion and provided the requested funds.[67] Furthermore, delays in obtaining final passage of the 13 regular annual appropriations bills necessitated resort to a continuing resolution containing these proposals and other legislation, including the PRA reauthorization and amendments.

Legislation (S. 2887) to reauthorize and amend the PRA was introduced by Senator William V. Roth, Jr., chairman of the Senate Committee on Governmental Affairs, for himself and others on September 27, 1986. Referred to the Roth panel, the bill was reported favorably without amendment and without an accompanying written report on October 2. The text of the measure was subsequently included, as Title VIII, in the continuing resolution making appropriations for FY1987.[68]

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[65] *Congressional Record*, vol. 129, Nov. 7, 1983, pp. 31100-31102.

[66] Julie Rovner, "OMB's Regulatory Activities Draw Fire in Congress, Courts," *Congressional Quarterly Weekly Report*, vol. 44, June 14, 1986, pp. 1339-1341.

[67] Congressional Quarterly, *Congressional Quarterly Almanac, 99th Congress, 2nd Session, 1986* (Washington: Congressional Quarterly, 1987), pp. 22, 195, 325.

[68] 100 Stat. 3341-335.

The PRA amendments, among other modifications, refined "information resources management," as used in the statute; made future heads of OIRA presidential appointees subject to Senate approval; revised the statistical policy and coordination functions of the OMB director; established a chief statistician position; created a new Information Technology Fund to be administered by GSA; slightly modified the Federal Information Locator System; set new paperwork reduction goals of 15% for fiscal years 1987-1989; and authorized appropriations of $5.5 million for each of the fiscal years 1987, 1988, and 1989. The authorization indicated that such appropriations were to be used by OIRA to carry out only the functions prescribed by the PRA, as amended.[69]

In the months following the reauthorization of the PRA, OIRA review of agency regulatory actions continued to engender congressional ire. Late in the 101st Congress, in the face of strong opposition from the George H. W. Bush Administration, efforts were made to move legislation (H.R. 3695/S. 1742) reauthorizing the PRA while limiting OIRA's control over the regulatory review process. Initially, in March 1990, House managers negotiated with OMB to legislate a simple three-year reauthorization for OIRA if OMB would accept, separate from the legislation, an administrative agreement limiting OMB's regulatory power, to become effective when the reauthorization was enacted into law. Although the House managers thought they had administration consent to this arrangement, the White House withdrew its support in early April, just as the reauthorization measure was about to be taken to the House floor.[70]

The Senate bill, unlike its House counterpart, contained many restrictions on OIRA, and when it was scheduled for consideration by the Committee on Governmental Affairs in early April, Republican members of the panel, who opposed the OIRA limitations, boycotted the meeting. Later, in early June, after some accommodations had been reached, the committee approved the bill on a 14-0 vote.[71]

Further negotiation with the Bush Administration produced another compromise during the last week of the 101st Congress. Administration officials agreed to restrain OMB's exercise of its regulatory power if Congress would forego writing limits on OIRA's review of agency regulatory actions into law.[72] Senate committee leaders indicated they would bring a stripped-down version of their bill to the floor.[73]

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[69] 100 Stat. 3341-340.

[70] Congressional Quarterly, *Congressional Quarterly Almanac, 101st Congress, 2nd Session, 1990* (Washington: Congressional Quarterly, 1991), pp. 411-413.

[71] Ibid., p. 413.

[72] Ibid.

[73] U.S. Congress, Senate Committee on Governmental Affairs, *Federal Information Resources Management Act*, report to accompany S. 1742, 101st Cong., 2nd sess., S.Rept. 101-487 (Washington: GPO, 1990).

In light of this deal, House managers brought their bill to the floor,[74] and, on October 23, after about 15 minutes of debate, it was adopted on a voice vote.[75] The next day, OMB released a statement indicating the Bush Administration strongly endorsed the Senate reauthorization measure, but several Republican Senators reportedly placed anonymous holds on the legislation and it failed to receive consideration prior to the October 28 adjournment.[76]

With the convening of the 103rd Congress, which coincided with the inauguration of the Clinton Administration, two similar bills to reauthorize and amend the PRA were offered in the Senate. The first (S. 560) was introduced by Senator Sam Nunn, the ranking majority member on the Committee on Governmental Affairs, on March 10, 1993, for himself and 25 bipartisan cosponsors. The other measure (S. 681) was introduced by Senator John Glenn, the chairman of the Committee on Governmental Affairs, on March 31, for himself and two cosponsors. Both bills were referred to the Glenn committee, which eventually produced a compromise proposal — "the product of a year-long, bipartisan effort within the Committee, frequent consultation with staff of the General Accounting Office (GAO) and the Office of Management and Budget (OMB), and the solicitation of public comment."[77] The committee conducted an August 2, 1994, markup, with a unanimous vote in favor of the compromise version, which was substituted for the original text of the Nunn bill. Called up by unanimous consent, the bill was considered by the Senate and, as amended, passed on October 6, 1994.[78] The House had inadequate time to consider the bill before the final adjournment of the 103rd Congress on December 1.

The PRA reauthorization bill approved by the Senate was drafted as a complete revision of the act due to the number of changes it effected. Some technical modifications, such as word substitutions, the deletion of obsolete provisions, and section reorganizations, were included. Appropriations for OIRA were authorized for eight years at $8 million each year. The 1986 goal of an annual 5% reduction in public paperwork burdens was continued. One of the most controversial portions of the bill overturned a Supreme Court ruling that the PRA allowed OMB to review information collections intended for government use, but did not extend to regulations intended to force businesses to produce information for a third party, such as the public or its employees.[79] Agencies were required to develop a paperwork clearance process to review and solicit public comment on proposed information

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[74] U.S. Congress, House Committee on Government Operations, *Paperwork Reduction and Federal Information Resources Management Act of 1990*, report to accompany H.R. 3695, 101st Congress, 2nd sess., H.Rept. 101-927 (Washington: GPO, 1990).

[75] *Congressional Record*, vol. 136, Oct. 23, 1990, pp. 32732-32740.

[76] Congressional Quarterly, *Congressional Quarterly Almanac, 101st Congress, 2nd Session, 1990*, p. 413.

[77] U.S. Congress, Senate Committee on Governmental Affairs, *Paperwork Reduction Act of 1994*, report to accompany S. 560, 103rd Cong., 2nd sess., S.Rept. 103-392 (Washington: GPO, 1994), p. 16.

[78] *Congressional Record*, vol. 140, Oct. 6, 1994, pp. 28303-28308.

[79] See *Dole* v. *United Steelworkers of America*, 494 U.S. 26 (1990).

collections prior to their submission for OMB review. OMB was required to disclose publicly communications it received regarding information collections and to review the status of any collection upon public request. OMB was also tasked with developing governmentwide policies and guidelines for information dissemination and promoting public access to information maintained by federal agencies. Counterpart responsibilities were prescribed for the executive agencies to ensure that the public had timely and equitable access to public information, to solicit public input on their information dissemination activities, and to prohibit restrictions on the dissemination or redissemination of public information. The bill emphasized efficient and effective use of new technologies and reliance on a diversity of public and private sources to promote the dissemination of government information, particularly in electronic formats. Finally, agency heads were charged with responsibility to carry out information resources management (IRM) activities to improve agency productivity, efficiency, and effectiveness, and new IRM accountability arrangements were established, as well.

The Paperwork Reduction Act of 1995

Although the House and Senate majority parties in the 103rd Congress shifted to minority status in the 104th Congress as a consequence of the 1994 elections, important groundwork for PRA reauthorization legislation had been laid with the bipartisan, compromise Senate bill of the prior Congress. The Clinton Administration restrained OIRA's review of agency regulatory actions and saw the PRA as an important part of its efforts at improving customer service.[80] Bipartisan support for reducing the paperwork burden on the public remained strong in both houses of Congress. The OIRA authorization had lapsed in 1989 and, at a minimum, legislation to meet that need remained a priority on the congressional agenda.

A PRA reauthorization bill (H.R. 830) was introduced in the House by Representative William F. Clinger, Jr., chairman of the Committee on Government Reform and Oversight (successor to the Committee on Government Operations), on February 6, 1995, for himself and five cosponsors. Referred to his panel, the measure subsequently received subcommittee consideration and markup on February 8, when it was forwarded to the full committee. Two days later, the committee ordered the bill, as amended, reported on a 40-4 vote. Coming to the House floor, the bill, among other modifications, set an indefinite reauthorization period for OIRA, authorized no specific dollar amount of appropriations, and established a 10% annual goal for paperwork reduction.[81] The measure was called up by special rule for floor

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[80] See Office of the Vice President, *From Red Tape to Results, Creating a Government That Works Better & Costs Less: Improving Customer Service, Accompanying Report of the National Performance Review* (Washington: September 1993), pp. 19-22.

[81] U.S. Congress, House Committee on Government Reform and Oversight, *Paperwork Reduction Act of 1995*, report to accompany H.R. 830, 104th Cong., 1st sess., H.Rept. 104-37 (Washington: GPO, 1995).

consideration on February 22 when, after less than three hours of debate and further amendment, it was passed on a 418-0 recorded vote.[82]

A PRA reauthorization bill (S. 244) was introduced by Senator Nunn on January 19 for himself and 21 bipartisan cosponsors. Referred to the Committee on Governmental Affairs, the measure, as amended, was ordered to be reported favorably on February 1 on an 8-0 vote. Coming to the Senate floor, the bill, unlike its House counterpart, authorized appropriations for OIRA for five years at $8 million each year and continued the 5% annual goal for paperwork reduction.[83] The legislation was considered by the Senate on March 7 when, after less than an hour of discussion and amendment, it was passed on a 99-0 vote.[84]

On March 10, the Senate-passed version of the reauthorization bill (S. 244) was called up by unanimous consent in the House. The measure was amended by substituting the text of the House-approved reauthorization bill (H.R. 830) and was then passed on a voice vote, clearing the legislation for conference committee consideration.[85] The resulting conference report was filed in the House on April 3.[86] By voice vote, the Senate agreed to the conference report on April 6, the House concurring the same day on a 423-0 vote. The legislation was signed into law by President Clinton on May 22, 1995.[87]

The Paperwork Reduction Act of 1995, like the Senate PRA reauthorization bill of 1994, was drafted as a complete revision of the act. As in the earlier legislation, some technical modifications, such as word substitutions, the deletion of obsolete provisions, and section reorganizations, were included. The administrator of OIRA was made a presidential appointee subject to Senate confirmation. Appropriations for OIRA were authorized for six years at $8 million each year. A paperwork reduction goal of 10% was set for the first two authorization years and 5% thereafter. The purview of the act was extended to educational and nonprofit institutions, federal contractors, and tribal governments. The authority and functions of OIRA were revised, specifying information dissemination and related agency oversight responsibilities. OMB was required to conduct pilot projects to test alternative policies and procedures, and to develop a governmentwide strategic information resources management plan. The OMB director was tasked with establishing an Interagency Council on Statistical Policy.

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[82] *Congressional Record*, vol. 141, Feb. 22, 1995, pp. 5462-5481.

[83] U.S. Congress, Senate Committee on Governmental Affairs, *Paperwork Reduction Act of 1995*, report to accompany S. 244, 104th Cong., 1st sess., S.Rept. 104-8 (Washington: GPO, 1995).

[84] *Congressional Record*, vol. 141, Mar. 7, 1995, p. 6994.

[85] Ibid., daily edition, Mar. 10, 1995, pp. H2994-H3015.

[86] U.S. Congress, Conference Committees, 1995, *Paperwork Reduction Act of 1995*, conference report to accompany S. 244, 104th Cong., 1st sess., H.Rept. 104-99 (Washington: GPO, 1995).

[87] 109 Stat. 163; 44 U.S.C. 3501-3520 (1997 Supp. III).

The federal agencies were required to establish a process, independent of program responsibility, to evaluate proposed collections of information, manage information resources to reduce information collection burdens on the public, and ensure that the public has timely and equitable access to information products and services. Except where specifically authorized by statute, the agencies were prohibited from establishing exclusive, restricted, or other distribution arrangements that interfere with timely and equitable public availability of public information; restricting or regulating the use, resale, or redissemination of public information by the public; charging fees or royalties for resale or redissemination of public information; or establishing user fees that exceed the cost of dissemination. Actions that the agencies must take with respect to information technology were specified, and the Federal Information Locator System was replaced with an agency-based electronic Government Information Locator Service to identify the major information systems, holdings, and dissemination products of each agency.

Information Technology Management Reform Act of 1996

The PRA of 1995 was modified the following year with the adoption of new procurement reform and information technology management legislation. A House bill (H.R. 1670) was introduced by Representative Clinger, the chairman of the Committee on Government Reform and Oversight, on May 18, 1995. The measure was part of a procurement modernization effort that he had undertaken in furtherance of the reforms realized with the enactment of the Federal Acquisition Streamlining Act of 1994.[88] Referred to the Clinger committee, the bill was marked up by the panel and ordered to be reported, as amended, on a voice vote on July 27.[89] The bill subsequently was called up by special rule in the House on September 13 and, the following day, was considered on the floor as unfinished business and, as amended, was passed on a 423-0 recorded vote.[90] The bill was then received in the Senate on September 18 and was referred to the Committee on Governmental Affairs.

A Senate procurement and information technology management reform bill (S. 946) was introduced by Senator William S. Cohen on June 20, 1995. His bill grew out of a staff study he had directed during the previous Congress as the ranking minority member of the Subcommittee on Oversight of Government Management of the Committee on Governmental Affairs.[91] The bill was referred to the Committee on Governmental Affairs. On August 4, during Senate consideration of the Department of Defense (DOD) authorization bill for FY1996 (S. 1026), Cohen offered an amendment, based on his procurement reform bill, that was accepted on

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[88] 108 Stat. 3243.

[89] U.S. Congress, House Committee on Government Reform and Oversight, *Federal Acquisition Reform Act of 1995*, report to accompany H.R. 1670, 104th Cong., 1st sess., H.Rept. 104-222, Part 1 (Washington: GPO, 1995).

[90] *Congressional Record*, vol. 141, Sept. 14, 1995, p. 25027.

[91] See William S. Cohen, *Computer Chaos: Billions Wasted Buying Federal Computer Systems, Investigative Report* (Washington: Oct. 12, 1994).

a voice vote.[92] The Cohen amendment remained in the DOD authorization bill (H.R. 1530 amended with the language of S. 1026) adopted by the Senate on September 6. The September 28 conference committee meeting on the legislation, with both Cohen and Clinger participating, provided an opportunity for reconciling their reform proposals into a mutually agreed upon package. The conferees' report, filed in the House on December 13, was approved in the House on December 15 on a 267-149 yea-nay vote, with the Senate agreeing four days later on a 51-43 yea-nay vote.

Although the Clinger-Cohen reforms drew no opposition from the White House, the President vetoed the DOD authorization bill for other reasons on December 28. An override attempt in the House on January 3, 1996, failed on a 240-156 yea-nay vote. On January 5, managers of the DOD authorization legislation turned to one of three reserved legislative vehicles (S. 1124) created in September when the Senate completed action on the DOD authorization bill (H.R. 1530 amended with the language of S. 1026).[93] That day, the House passed the reserved bill (S. 1124) on a voice vote, then notified the Senate of its action and requested a conference, to which the Senate agreed. The conferees met on January 18; their report was filed in the House four days later.[94] The House agreed to the conference report on January 24 on a 287-129 yea-nay vote, the Senate giving its approval two days later on a 56-34 yea-nay vote. President Clinton signed the legislation on February 10.[95]

Division D of the statute, concerning "Federal Acquisition Reform," was denominated the Federal Acquisition Reform Act of 1996.[96] Division E, concerning "Information Technology Management Reform," was known as the Information Technology Management Reform Act of 1996.[97] The two divisions were subsequently denominated the Clinger-Cohen Act.[98]

The Clinger-Cohen Act contains several provisions which either amend or modify provisions of the PRA of 1995 as set out in chapter 35 of Title 44 of the U.S. Code.[99] Among the amendments was one establishing a chief information officer (CIO) in each agency, replacing the designated senior official mandated by the PRA at 44 U.S.C. 3506. The duties and qualifications of the CIO were prescribed in the

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[92] *Congressional Record*, vol. 141, Aug. 4, 1995, pp. 22154-22158.

[93] See Ibid., Sept. 6, 1995, p. 23629.

[94] U.S. Congress, Conference Committees, 1996, *National Defense Authorization Act for Fiscal Year 1996*, conference report to accompany S. 1124, 104th Cong., 2nd sess., H.Rept. 104-450 (Washington: GPO, 1996).

[95] 110 Stat. 186.

[96] 110 Stat. 642.

[97] 110 Stat. 679.

[98] 110 Stat. 3009-393.

[99] The Clinger-Cohen Act (110 Stat. 680) also repealed a section of the Federal Property and Administrative Services Act, popularly known as the Brooks Act (40 U.S.C. 759), which authorized the Administrator of General Services to coordinate and provide for the procurement, maintenance, and utilization of automatic data processing equipment.

Clinger-Cohen Act. Another amendment redefined "information technology" as used in the PRA.

Other Clinger-Cohen Act provisions modified the responsibilities prescribed in the PRA. The capital planning and investment control duties assigned to the OMB director by the Clinger-Cohen Act were to be performed, according to that statute, "in fulfilling the responsibilities under section 3504(h)" of the PRA. Similarly, the director was to "encourage the use of performance-based and results-based management in fulfilling the responsibilities assigned under section 3504(h)" of the PRA. The Clinger-Cohen Act required agency heads, "[i]n fulfilling the responsibilities assigned under section 3506(h)" of the PRA, to "design and implement ... a process for maximizing the value and assessing and managing the risks of the information technology acquisitions of the ... agency" and to perform certain prescribed duties. Also, agency heads were to "identify in the strategic information resources management plan required under section 3506(b)(2) ... [of the PRA] any major information technology acquisition program, or any phase or increment of such a program, that has significantly deviated from the cost, performance, or schedule goals established for the program."[100]

Government Paperwork Elimination Act

Amendments to the PRA again were enacted in 1998 as the Government Paperwork Elimination Act (GPEA). The legislation (S. 2107) was introduced by Senator Spencer Abraham in May and was referred to the Committee on Commerce, where it was redrafted. According to the committee report, which was filed on September 17, the revised bill "would require Federal agencies to make electronic versions of their forms available online and would allow individuals and businesses to use electronic signatures to file these forms electronically." Continuing, the report indicated that the intent of the legislation "is to provide a framework for reliable and secure electronic transactions with the Federal government while remaining 'technology neutral' and not inappropriately favoring one industry over another."[101] The Senate subsequently approved the bill on October 15.

By this time, however, the 105th Congress was moving toward final adjournment. Consequently, agreement was reached that the language of the noncontroversial Senate bill would be attached, as Title 17, to the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, which cleared both houses of Congress and was signed into law by President Clinton on October 21, 1998.[102] As enacted, the GPEA makes the director of OMB responsible for providing governmentwide direction and oversight regarding "the acquisition and use of information technology, including alternative information technologies that

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[100] See CRS Report RL30661, *Government Information Technology Management: Past and Future Issues (The Clinger-Cohen Act*), by Jeffrey W. Seifert.

[101] U.S. Congress, Senate Committee on Commerce, Science, and Transportation, *Government Paperwork Elimination Act*, a report to accompany S. 2107, 105th Cong., 2nd sess, S.Rept. 105-335 (Washington: GPO, 1998), p. 1.

[102] See 112 Stat. 2681-749.

provide for electronic submission, maintenance, or disclosure of information as a substitute for paper and for the use and acceptance of electronic signatures."[103] In fulfilling this responsibility, the director, in consultation with the National Telecommunications and Information Administration (NTIA) of the Department of Commerce, is tasked with developing, in accordance with prescribed requirements, procedures for the use and acceptance of electronic signatures by the executive departments and agencies. A five-year deadline is prescribed for the agencies to implement these procedures.

The director of OMB is also tasked by the GPEA to "develop procedures to permit private employers to store and file electronically with Executive agencies forms containing information pertaining to the employees of such employers."[104] In addition, the director, in cooperation with NTIA, is to conduct an ongoing study of the use of electronic signatures under the GPEA, with attention to paperwork reduction and electronic commerce, individual privacy, and the security and authenticity of transactions. The results of this study are to be reported periodically to Congress.

Finally, electronic records submitted or maintained in accordance with GPEA procedures, "or electronic signatures or other forms of electronic authentication used in accordance with such procedures, shall not be denied legal effect, validity, or enforceability because such records are in electronic form." The act further specifies: "Except as provided by law, information collected in the provision of electronic signature services for communications with an executive agency ... shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains."[105]

Government Information Security Amendments

Among the more recent provisions appended to the PRA of 1997 were the requirements of legislation initially introduced in mid-November 1999 by Senator Fred Thompson, chairman of the Committee on Governmental Affairs, with Senator Joseph Lieberman, the committee's ranking minority member. The report accompanying the bill when it was reported from committee in April 2000, proffered the following description.

> The Government Information Security Act would provide a comprehensive framework for establishing and ensuring the effectiveness of controls over information resources that support Federal operations and assets. It is modeled on the "best practices" of leading organizations in the area of information security. It does this by strengthening responsibilities and procedures and coordinating information policy to ensure better control and oversight of systems. It also recognizes the highly networked nature of the current Federal computing

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[103] 44 U.S.C. 3504(a)(1)(B)(vi), as amended.

[104] 112 Stat. 2681-750.

[105] 112 Stat. 2681-751.

> environment and provides for government-wide management and oversight of the related information security risks including coordination of security efforts between civilian, national security and law enforcement communities.[106]

The proposal sought to amend the PRA in four general areas: (1) agency heads must develop and implement an agency-wide security program, which must include risk assessment considering internal and external threats, risk-based policies, security awareness training for personnel, periodic reviews of the effectiveness of security policies including remedies to address deficiencies, and procedures for detecting, reporting and responding to security incidents; (2) agency security programs must be affirmatively approved by the director of OMB, who also would be responsible for establishing government-wide policies for the management of programs that support the cost-effective security of Federal information systems by promoting security as an integral part of each agency's business operations; (3) each agency must annually undergo an independent evaluation of its information security program and practices to be conducted either by the agency's Inspector General, the General Accounting Office or an independent external auditor, with the results of same reported to Congress; and (4) the new security arrangements applied to all information systems, although responsibility for approving the security plans and realizing an independent evaluation of national security entities was vested in the Secretary of Defense and the Director of Central Intelligence.[107]

During mid-June Senate floor consideration of the Defense Authorization bill for FY2001, the proposal was attached to that legislation, remained in the final version approved by the Senate on July 13, and in the subsequent conference committee version of the legislation, which cleared Congress on October 12 and was signed by the President on October 30.[108]

Because the information security amendments had a duration of two years, their continuation, in some form, was in the purview of the 107th Congress. Ultimately, an extension was included in the Homeland Security Act,[109] and a modified version of these provisions was included in the E-Government Act.[110] Because the latter statute was signed into law after the former, its information security title supersedes that of the Homeland Security Act.

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[106] U.S. Congress, Senate Committee on Governmental Affairs, *Government Information Security Act of 1999*, report to accompany S. 1993, 106th Cong., 2nd sess., S.Rept. 106-259 (Washington: GPO, 2000), pp. 1-2.

[107] Ibid., pp. 2-3.

[108] 114 Stat. 1654; the information security amendments may be found at 114 Stat. 1654A-266.

[109] 116 Stat. 2135 at 2258.

[110] 116 Stat. 2899 at 2946.

Reauthorizing the Paperwork Act

When the PRA of 1995 was signed into law, it authorized appropriations for OIRA through FY2001, which concluded on September 30, 2001.[111] Since that time, OIRA has been funded through appropriations made for OMB. No other aspect of the administration and operation of the PRA is affected by the expiration of the authorization of appropriations for OIRA.

As the historical record suggests, the reauthorization of appropriations for OIRA provides an opportunity and a legislative vehicle for substantively amending the PRA in furtherance of efficient, economical, and effective government information management.

After a lapse of fours years, reauthorization of OIRA appropriations got underway in March 2006 with an initial overview hearing on the Paperwork Reduction Act by the House Subcommittee on Regulatory Affairs. No legislation was before the subcommittee at the time of this hearing. A second hearing by the subcommittee occurred in July, but no further action was taken prior to the final adjournment of the 109th Congress.

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[111] 44 U.S.C. 3520.