The Paperwork Reduction Act: What it is and How it Works

The Paperwork Reduction Act (PRA) establishes the guiding policies for the collection and dissemination of government information. Since its inception in 1980 and reauthorization in 1995, the PRA has had a major impact on both agency rulemaking and on the principles of the Administrative Procedure Act.

The PRA created the Office of Information and Regulatory Affairs (OIRA) within the Office of Management and Budget (OMB) and gave the agency broad authority over information management activities, including meeting annual paperwork reduction goals, reviewing each agency's information management activities, and improving federal information policy.[3] The PRA also establishes within each agency an information policy office and an information officer to carry out the information resources management activities.[4] The information officer is responsible for identifying information needs with the agency and developing strategies necessary to meet those needs.

> **Important Definitions**
> *Burden:* "time, effort or financial resources expended by person to generate, maintain or provide information to or for a Federal agency."[1]
>
> *Information resources management:* "the process of managing resources to accomplish agency missions and to improve agency performance, including through the reduction of information collection burdens on the public"[2]

OIRA and Agency Duties Under the Paperwork Reduction Act

Officials within OIRA and the agencies work in conjunction to carry out the mandates of the act, including the following:

- Developing information resources management policies
- Reviewing and approving information collections
- Promoting public access to information
- Coordinating statistical policies and systems
- Implementing records management activities
- Overseeing information privacy and security policies
- Overseeing the development of major information technology systems

The Information Collection Clearance Process

The central component of the PRA is the paperwork clearance process. Every time a federal agency proposes collecting information from ten or more people, the information collection must first be approved by OIRA.[5] Everything from tax forms to health research questionnaires is reviewed by OIRA.

Before an agency submits a proposed information collection to OIRA, it must first be reviewed and approved by the information officer for the agency.[6] After internal reviews, the agency must certify and provide a record of support to OIRA that the information collection is necessary for agency function and minimizes burden.[7] At the same time that the agency submits the proposed collection to OIRA for review, it must also announce the proposed information collection in the *Federal Register* and solicit public comments.[8]

Only after OIRA reviews and approves an information collection and assigns an OMB control number can an agency proceed to collect information.[9] If OIRA fails to comment on an information collection request within 60 days, the information collection is automatically approved for one year.[10] For information collection requirements associated within a rulemaking, an agency can reject OIRA's comments on an information collection, but OIRA can still block the information collection if it believes the agency missed procedural steps or responded inappropriately to OIRA's comments.[11] Independent regulatory agencies can overrule an OIRA decision.[12] Information collections cannot be approved for more than three years at a time.[13]

Other Requirements

Requirements for Collecting Information

When collecting the information, the agency must ensure that the information collection displays an OMB control number.[14] The agency must also inform persons subject to the information collection of the reasons for the information collection, the way the information will be used, an estimated of the burden, whether the collection is voluntary.[15] The agency must also explicitly tell the respondents that the information collection is not valid without an OMB control number.[16]

> ### Information Collection At-a-Glance
>
> *Both OIRA and Agency*
> - Minimize burden
> - Maximize utility of information and public benefit
>
> *OIRA*
> - Review and approve proposed agency collections of information
> - Establish and oversee guidelines for estimating burden
>
> *Agency*
> - Review each proposed collection before sending it to OIRA
> - Ensure the information collection displays a control number and expiration date
> - Inform the public of the reasons for the collection and the extent of the burden
> - Inform the public that information cannot be solicited without the control number
> - Provide a *Federal Register* notice of any proposes information collection and solicit comments
> - Certify that the information collection submitted to OIRA is necessary, is not duplicative, and reduces burden, especially on small entities
> - Comply with an abundance of other requirements, such as uses plan language and uses effective and efficient statistical methods.

Tranparency Requirements

Under PRA, OIRA is required to make publicly available any decisions disapproving or substantively changing information collections, including rationales for the decision.[17] OIRA must also make available any written exchanges between OIRA and agencies or persons outside the federal government regarding an approved information collection.[18] The director of OIRA is not required to disclose exchanges for information collections that are not approved.[19]

Burden Reduction

The PRA explicitly requires OIRA work with agency heads to make burden reductions that "represent the maximum practicable in each agency."[20] Overall, the PRA required annual overall reductions of 10 percent in 1996 and 1997, and 5 percent annual reductions in 1998, 1999, 2000 and 2001.[21]

Reports to Congress

OIRA must submit a report annually to Congress on information collection burdens on the public, including the accomplishments of agencies as well as violations of the PRA and a list of agencies that failed to reduce burden. The report also includes descriptions of the extent to which agencies have improved their use of statistical information, improved public access to information and improved government performance through information management policies.[22]

Exemptions to PRA

The PRA does not apply to information collected:

- during a Federal criminal investigation or disposition
- during the conduct of "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;"
- "by compulsory process pursuant to the Antitrust Civil Process Act and section 13 of the Federal Trade Commission Improvements Act of 1980; or"
- "during the conduct of intelligence activities as defined in section 3.4(e) of Executive Order No. 12333, issued December 4, 1981, or successor orders, or during the conduct of cryptologic activities that are communications security activities."[23]

OIRA and Agency Responsibilities under PRA

Develop information resources management policies

Both OIRA and Agency	OIRA	Agency
• Develop and maintain a strategic plan for information resources management that outlines how the federal government will "apply information resources to improve agency and program performance," including how it will: ○ Reduce information burdens ○ Enhance public access to information[24]	• Create uniform policies across agencies ○ Initiate and review legislative or regulatory proposals to improve information resources management practices ○ Develop best practices ○ Meet information technology needs • Conduct pilot projects to test alternative policies, etc. to minimize information collection burden[25]	• Ensure information resource management policies are integrated into the work of the agency, including organizational planning, budget and program decisions • Develop an account of information technology expenditures • Establish goals for improving information resources management • Maintain inventory of information resources • Conduct formal trainings with agency officials[26]

Promote public access to information

Both OIRA and Agency	OIRA	Agency
	• Develop and oversee guidelines for agency dissemination of information and public access[27]	• Ensure timely and equitable access to agency information • Provide timely access to the underlying data for public

		information maintained in electronic format
		• Solicit input on information dissemination activities
		• Provide notice when making significant changes to information dissemination products[28]

Coordinate statistical policy/system

Both OIRA and Agency	OIRA	Agency
• Ensure the integrity of statistical information from the federal government.[29]	• Provide annual report on statistical program funding • Develop stat procedures, methods, classifications, etc.[30]	• Protect respondents' privacy and observe federal standards for data collection and analysis • Ensure timely publication of results • "Make data available to statistical agencies and accessible to the public"[31]

Implement records management activities

Both OIRA and Agency	OIRA	Agency
	• Oversee records management activities in conjunction with the National Archivist and Administrator of Government Services[32]	• Implement and enforce records management procedures and policies[33]

Oversee information privacy and security policies

Both OIRA and Agency	OIRA	Agency
• Require agencies "to identify and afford security protections commensurate with the risk and magnitude of the harm resulting from" a breach of information security.[34]	• Develop and oversee policies and guidelines on information security, privacy, disclosure, etc.[35]	• Enforce privacy and security policies[36]

Oversee the development of major information technology systems

Both OIRA and Agency	OIRA	Agency
	• Develop and implement policies for the federal governments "information technology functions and activities." • Ensure agencies integrate information resource management plans with program plans, acquisition budgets, and use of	• Implement information technology policies • Promote the use of information technology to improve program effectiveness • Propose legislative changes to

	technology. • Ensure efficient and effective interagency information technology initiatives[37]	improve information technology and to reduce burden[38]

[1] 44 U.S.C. § 3502(2)
[2] *Id.* § 3502(7)
[3] *Id.* § 3504(a)
[4] *Id.* § 3506(a)
[5] *Id.* § 3507(a)(2)
[6] *Id.* § 3506(c)(1)
[7] *Id.* § 3506(c)(3)
[8] *Id.* § 3506(c)(2)(A)
[9] *Id.* § 3507(a)(3)
[10] *Id.* § 3507(c)(3)
[11] *Id.* § 3507(d)(4)
[12] *Id.* § 3507(f)(1)
[13] *Id.* § 3507(g)
[14] *Id.* § 3506(c)(1)(B)(i)
[15] *Id.* § 3506(c)(1)(B)(iii)
[16] *Id.* § 3506(c)(1)(B)(iii)(V)
[17] *Id.* § 3507(e)(1)
[18] *Id.* § 3507(e)(2)
[19] *Id.* § 3507(e)(3)(B)
[20] *Id.* § 3505(a)(1)(A)(i)
[21] *Id.* § 3505(a)(1)(A)
[22] *Id.* § 3514
[23] *Id.* § 3518(c)(1)
[24] 44 U.S.C. § 3504(b)
[25] *Id.*
[26] *Id.* § 3506(b)
[27] *Id.* § 3504(d)
[28] *Id.* § 3506(d)
[29] *Id.* § 3504(e)
[30] *Id.*
[31] *Id.* § 3506(e)
[32] *Id.* § 3504(f)
[33] *Id.* § 3506(f)
[34] *Id.* § 3504(g)
[35] *Id.*
[36] *Id.* § 3506(g)
[37] *Id.* § 3504(h)
[38] *Id.* § 3506(h)