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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

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MEMORANDUM FOR THE PAPERWORK REDUCTION ACT SENIOR OFFICIALS AND
AGENCY REPORTS MANAGEMENT OFFICERS

FROM: James B. MacRae, Jr. *JBM*
Deputy Administrator
Office of Information
and Regulatory Affairs

SUBJECT: OMB's Recent Testimony on Paperwork Clearance

In the past few days, you may have seen press discussion of the IRS development of a substitute to the controversial IRS Form W-4, "Employee's Withholding Allowance Certificate." To discuss this effort, both the IRS and OMB testified at a hearing this past Friday before Senator Chiles' Subcommittee on Federal Spending, Budget, and Accounting. I have attached a copy of the OMB testimony for your interest.

Although the focus of the hearing was the IRS Form W-4, and the substitute IRS Form W-4A, our testimony was somewhat broader in scope, describing the review procedures established by the Paperwork Reduction Act with which you and the other agencies are familiar. We also point out some of the changes required by the 1986 amendments to the Paperwork Reduction Act, particularly the one requiring a more detailed notice to the public of OMB's review of an agency's proposed collection of information.

Attachment

EXECUTIVE REGISTRY
100-19



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

PREPARED WRITTEN STATEMENT
of
WENDY LEE GRAMM
ADMINISTRATOR
OFFICE OF INFORMATION AND REGULATORY AFFAIRS
before the
SUBCOMMITTEE ON FEDERAL SPENDING, BUDGET, AND ACCOUNTING
COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE
March 6, 1987

Mr. Chairman and members of this subcommittee:

It is a pleasure to be here with you today. I want to discuss our ongoing efforts to implement the Paperwork Reduction Act, and how we are moving ahead to implement an important amendment to it that you supported last year. I also want to outline our use of the Paperwork Reduction Act as part of our current effort to improve the IRS Form W-4A, the "Employee's Withholding Allowance Certificate."

The Paperwork Reduction Act of 1980

The Paperwork Reduction Act is an ambitious attempt to control the government's collection and use of information. Building on the Federal Reports Act of 1942, the Federal Records Act, the Brooks Act, the Privacy Act, and related laws, it requires that we examine and improve the management of Federal information activities toward two ends--

First, to minimize the burden imposed on individuals, businesses, and other levels of government by reporting and recordkeeping requirements; and

Second, to encourage the efficient use of information and information processing technology within the Federal government.

The unifying theme of the Act is that information is a scarce economic good--which, like all goods, has costs of production as well as benefits of use. Essentially, it is the responsibility of the Administrator of the Office of Information and Regulatory Affairs (OIRA) within the Office of Management and Budget (OMB) to assure that the benefits of collecting the data outweigh the costs of obtaining and using it.

OMB Decision Criteria. Specifically, the Paperwork Reduction Act requires that OMB decide whether or not to approve the collection of information by any agency. While the Act's underlying goal is to minimize the Federal paperwork burden on the public, the Act also recognizes the need to weigh the burdens of the collection on the public against the needs of the agency. Thus, the Act requires OMB to balance the needs of the agency, and the practical utility of the information the agency may receive, against the burden on respondents and costs involved.

In this process, the Paperwork Reduction Act establishes an important role for Federal agencies, and as well as providing a coequal role for the public. Under the Paperwork Reduction Act, agencies have to justify each proposed collection of information in writing, and have their justification publicly available for all to see. To help the public, agencies have to give notice in the Federal Register of submittal of the agency's clearance request to OMB. The public--during OMB's review and at any other time--is to have full opportunity to make its views known concerning any Federal data collection.

Agency Role. The agencies have to request OMB approval to use the data collection instrument--whether it is in a written questionnaire, an oral interview, or some obscure data collection in a regulatory provision buried deep in the Code of Federal Regulations. In submitting a request to OMB, an agency must demonstrate that the collection of information is the least burdensome necessary for the proper performance of its functions, that the collection is not duplicative of others, and that the collection has practical utility.

To assure practical utility of information collections, the agency should be using effective management controls to plan and develop agency information needs. The agency should be collecting only such data as it can use; seeking only that level of detail needed; having it submitted no sooner than the likely time of actual use; and precisely defining recordkeeping

requirements and retention periods, based on likely periods of actual inspection and use.

For paperwork planning efforts to be effective, agencies should be sensitive to the concerns of respondents--the money, time, potential confusion, personal attitudes, managerial coordination, and staff involved. Agency information management controls should assure the careful evaluation of the impact of paperwork on each category of respondents, particularly individuals who are inexperienced with Federal information collection efforts.

Role of the Public. The Paperwork Reduction Act also sets forth various procedures to facilitate public comment on proposed and existing information collections. Agencies must give notice in the Federal Register that OMB has a proposed collection of information under review, and OMB must give the public meaningful opportunity to comment.

As another procedural safeguard, OMB may not approve a collection of information for a period in excess of three years. This restriction forces agencies to (1) resubmit periodically each ongoing collection of information for OMB review, (2) give notice to the public of agency and OMB reconsideration, and (3) invite the public and respondents to suggest improvements or to point out unreasonable burdens.

Improved Public Notice of Paperwork Clearances

The Paperwork Reduction Reauthorization Act of 1986 amended the Paperwork Reduction Act of 1980. A key aspect of the Paperwork Reduction Reauthorization Act is to foster the ability of the public to participate fully and constructively in the paperwork review process.

The 1986 paperwork reduction amendments require that each agency give the public notice in the Federal Register that it has submitted a collection of information for OMB review.

Specifically, this legislation includes clear guidelines about information each agency should include in a Federal Register notice. At a minimum, the notice must contain a title for the collection of information, a brief description of the need for the information and its proposed use, a description of the likely respondents and the proposed frequency of response to the collection of information, and an estimate of the burden that will result from the collection of information. The purpose of this notice is to give a clearer signal to the public of the proposed collection of information OMB has under review, thus bringing home to the public who might be affected and how.

In response to this and other amendments to the Paperwork Reduction Act, we are in the process of developing proposed amendments to the applicable OMB rules (5 CFR 1320). The attached memorandum has been sent to agencies, pending

promulgation of the rule applicable to the 1986 Paperwork Reduction Act amendments.

You might be interested to know the types of proposals our staff is considering to ensure that the public is able to participate in the process established by the Paperwork Reduction Act. First, we are considering whether to require agencies, in publishing their notices, to disaggregate their estimates of aggregate annual burden into discrete components--the average hours per response, the frequency of response, and the likely number of respondents. Second, we are considering whether to require agencies to publish the proposed form in the Federal Register, at least on those occasions when agencies seek expedited review or the form is highly burdensome. Third, we are considering having agencies print, on the face of a form, estimated average respondent burden hours, together with a request that respondents direct any comments on the accuracy of that estimate to OMB.

OIRA's Paperwork Clearances

Under the Paperwork Reduction Act, the Office of Information and Regulatory Affairs (OIRA) has reviewed an average of nearly 3,800 information collections each year, or over 265 a month. Our disapproval rate is around 7 percent, with, on average, 22 disapprovals a month. This is a heavy workload, but I believe we have been quite successful in keeping paperwork burdens as low as

possible.

This is not to say, however, that our paperwork clearance system works perfectly for each transaction. In general, when agency clearance requests come in for our review, staff and their immediate supervisors try to separate the obvious problems from the obvious non-problems. If an agency asserts a strong need, and, given adequate notice and time, the public comes in and demonstrates heavy burden, the competing interests are clear. Likewise, if the agency seeks routine extension of a well-established, reasonable, ongoing data collection, and there are no complaints on file, and none come in within a reasonable time period, then the OMB decision-process is also straight-forward.

The IRS Form W-4

With the IRS Form W-4, the facts were not so simple. The IRS development, and our initial review of the IRS Form W-4 and the IRS Form W-4A, is a case study of how the process can be frustrated; of a situation in which it appears that burdensome features in a form are mandated by law, yet the statutory structure requires implementation so quickly that it precludes adequate opportunity for public comment.

In our initial review of the IRS Form W-4, we heard from the agency, which asserted a problem of time pressure, but we did not

hear from the public. The IRS sent us the proposed IRS Form W-4 on Monday, October 6, 1986. The IRS sent the public notice to the Federal Register on October 8, and the Federal Register published the public notice on Thursday, October 9. We approved the form on Tuesday, October 14. Our normal review process was truncated by Treasury's need to print more than 360 million forms, and to send them to employers early enough so that workers could fill them out by the end of December, in time for the new tax year. On the other hand, the public had only two working days in which to comment before OMB approved the form.

As a result of subsequent public reaction, IRS has developed a new IRS Form W-4A. IRS provided copies of the form to us and the public on Monday of this week, when our formal review began. On Tuesday, the second day of our formal review, we provided some suggestions for improving the proposed IRS Form W-4A to members of the IRS staff. Since then, IRS and OMB have met to discuss the suggestions we have made. We also met yesterday with representatives of the business community who wished to provide comments to us about the costs associated with providing employees advice and time off in the job to complete their withholding statements.

Let me tell you now, our initial response is that IRS has done an excellent job of simplifying a complex form. This proposed IRS Form W-4A is a significant improvement over the existing IRS Form W-4. We hope to complete our ongoing review within a week, after

the public has had some additional time to provide comments.

We believe that our procedures will not impede the timely delivery of IRS's proposed Form W-4A to the public, and that they will ensure at least some participation by the public as required by the Paperwork Reduction Act.

Thank you for the opportunity to appear before you. I would be most willing to answer any questions you may have.



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MEMORANDUM FOR THE PAPERWORK REDUCTION ACT SENIOR OFFICIALS AND
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FROM: James B. MacRae, Jr. *JBM*
Deputy Administrator
Office of Information
and Regulatory Affairs

SUBJECT: Public Notice Under the Paperwork Reduction Act

The Congress passed the "Paperwork Reduction Reauthorization Act of 1986" as part of the recent Continuing Resolution (H.J. Res. 738; P.L. 99-591). This reauthorization amended the "Paperwork Reduction Act of 1980" in a number of ways, and in response, we are in the process of developing amendments to the applicable OMB rules (5 CFR 1320).

The amendments to the Paperwork Reduction Act took effect upon enactment. One legislative amendment, in particular, requires your prompt attention, and should be complied with prior to any issuance of our regulatory amendments.

This amendment to 44 U.S.C. 3507(a)(2)(B) states explicitly the minimum information that an agency must provide the public in its Federal Register notice of submission of an information collection for OMB clearance. Specifically, this agency notice is to set 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 that¹ will result from the information collection request....¹

The congressional intent behind this standardization of information to be contained in agency notices is to encourage both more and better public comments on proposed information collections. Even before we issue any amendments to our rules, we ask you to review your existing Federal Register notices of submission of an information collection for OMB clearance in

¹We note that these amendments now define "collection of information request" to include a "collection of information requirement" (44 U.S.C. 3502(11)).

order to assure that your notices are in compliance with this new legislative amendment.² We also remind you that, in accordance with OMB's existing rules,³ you are to submit a copy of this Federal Register notice to us, along with your paperwork clearance packages.

The Office of Information and Regulatory Affairs will be reviewing your paperwork clearance requests for compliance with these rules and the spirit of this new statutory amendment. To provide flexibility to agencies, we have decided not to require agencies to adopt a rigidly defined, standardized notice. On the other hand, consistent with the Paperwork Reduction Act, we view our role in this review process to encourage more and better public participation. We will review agency clearance requests, and disapprove or return for corrective action any clearance request that fails to provide full and timely notice to the public. If you have any questions concerning this matter, please contact your Desk Officer.

²Our April 2, 1982, Memorandum entitled, "Federal Register Announcements of Proposed Collections of Information," sent to you by Administrator Christopher DeMuth included other recommendations as well:

[T]he notices should ask the public to send any comments they may have on the proposals to the agency and to the OMB Desk officer for the agency. [The agency] should provide the public with an earlier opportunity to comment on proposed information collections than is now the case.

³5 CFR 1320.12(a); 1320.13(a)&(b); and 13220.14(b).