

Congress of the United States  
U.S. House of Representatives  
Committee on Small Business  
2361 Rayburn House Office Building  
Washington, DC 20515-6515

Memorandum

To: Members, Committee on Small Business  
From: Committee Staff  
Date: March 27, 2017  
Re: Hearing: "Evaluating the Paperwork Reduction Act: Are Burdens Being Reduced?"

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On Wednesday, March 29, 2017 at 11:00 a.m., the Committee on Small Business will meet in Room 2360 of the Rayburn House Office Building for the purpose of examining the Paperwork Reduction Act (PRA or Act).<sup>1</sup> With some limited exceptions, the PRA requires all executive departments and independent regulatory agencies to obtain approval from the Office of Management and Budget (OMB) in advance of collecting information from or imposing a reporting or recordkeeping requirement on 10 or more persons. The Committee will examine the PRA's effectiveness in reducing the paperwork burden on small businesses and issues that may warrant further scrutiny or legislative action.

**I. Introduction**

Congress has been concerned for decades about the burden of federal paperwork on individuals and businesses, particularly small businesses. As the number of federal programs has increased, so has federal paperwork, including: tax forms; recordkeeping and reporting requirements related to regulations or compliance; reports, surveys, polls, and studies; and paperwork related to obtaining a government benefit (e.g., disability, social security, veterans, or unemployment benefits, jobs, grants or contracts).<sup>2</sup> Federal agencies need certain information from the public to properly administer statutes. However, the inefficient use of information collected by the government substantially reduces its effectiveness and imposes a significant burden on the public.<sup>3</sup> Concerns about the growing burden of paperwork and OMB's failure to effectively administer the Federal Reports Act of 1942, a statute aimed at reducing paperwork, led Congressional committees to hold a series of hearings in the 1960s and 1970s to examine that statute and its success in reducing the federal paperwork burden.<sup>4</sup>

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<sup>1</sup> 44 U.S.C. §§ 3501-21.

<sup>2</sup> William F. Funk, *The Paperwork Reduction Act: Paperwork Reduction Meets Administrative Law*, 24 HARV. J. ON LEGIS. 1, 2-4 (1987).

<sup>3</sup> 126 CONG. REC. 6212 (1980) (statement of Rep. Brooks).

<sup>4</sup> *Efforts to Reduce Federal Paperwork: Hearing Before the Subcomm. on Oversight Procedures and the Subcomm. on Reports, Accounting, and Mgmt. of the S. Comm. on Gov't Operations*, 94th Cong. 1-2, 4 (1975) (statements of Senator Nunn, Chmn., Subcomm. on Oversight Procedures, S. Comm. on Gov't Operations and Senator Metcalf, Chmn., Subcomm. on Reports, Accounting, and Mgmt., S. Comm. on Gov't Operations).

In 1980, Congress's oversight and legislative work culminated with the passage of the PRA.<sup>5</sup> Its primary purposes include: minimizing the paperwork burden on individuals, small businesses, and others; reducing the cost to the federal government of collecting and using information; and maximizing the usefulness of information created, collected, maintained and used by the federal government.<sup>6</sup> In 1986, the Act was reauthorized and amended, and in 1995, major changes were made and the PRA was entirely recodified.<sup>7</sup> In 2002, the PRA was further amended by the enactment of the Small Business Paperwork Relief Act of 2002.<sup>8</sup>

## II. The PRA

### A. Overview

The PRA established the Office of Information and Regulatory Affairs (OIRA) in the OMB. The Administrator of OIRA was given the responsibility of administering the PRA.<sup>9</sup> Key responsibilities include coordinating and implementing federal information resources management policies and reviewing and approving the federal paperwork that seeks to collect information from individuals and businesses.<sup>10</sup>

“Information” is defined in OMB’s PRA regulations as, “any statement or estimate of fact or opinion, regardless of form or format, whether in numerical, graphic, or narrative form, whether oral or maintained on paper, electronic or other media.”<sup>11</sup> Thus, information includes: 1) requests of information sent by the government, such as surveys (e.g., the Census Bureau’s Survey of Business Owners and Self-Employed Persons), written reports (e.g., grantee performance reports), and forms (e.g., the Internal Revenue Service Form 1040); 2) recordkeeping requirements (e.g., the Department of Labor’s recordkeeping regulations under the Fair Labor Standards Act); and 3) third-party or public disclosures (e.g., food labeling requirements).<sup>12</sup> The Act defines the term “collection of information” to mean:

[O]btaining, causing to be obtaining, soliciting, or requiring the disclosure to third parties or the public, of facts or opinions by or for an agency, regardless of form or format, calling for either—(i)

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<sup>5</sup> Pub. L. No. 96-511, 94 Stat. 2812 (1980) [hereinafter PRA of 1980].

<sup>6</sup> 44 U.S.C. § 3501.

<sup>7</sup> Jeffrey S. Lubbers, *Recent Developments: Regulatory Reform & the 104th Congress: Paperwork Redux: The (Stronger) Paperwork Reduction Act of 1995*, 49 ADMIN. L. REV. 111, 111 (1997). The PRA was last authorized in the 1995 Act. The legislation authorized \$8 million annually for OIRA to carry out the law’s provisions through 2001. 44 U.S.C. § 3521.

<sup>8</sup> Pub. L. No. 107-198, 116 Stat. 729 (2002).

<sup>9</sup> 44 U.S.C. § 3503. OIRA was established by the original PRA. PRA of 1980 § 3503. The statute required the Director of OMB to delegate the authority to administer the PRA to the Administrator but the Director remains responsible for the administration of the PRA. *Id.*

<sup>10</sup> 44 U.S.C. § 3504(a)-(c). Additionally, OIRA has policy and coordination responsibilities related to: information dissemination, statistical policies, records management policies, privacy and security, and federal information technology. *Id.* at § 3504(d)-(h).

<sup>11</sup> 5 C.F.R. § 1320.3(h).

<sup>12</sup> OMB, OIRA, EXEC. OFFICE OF THE PRESIDENT, MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENT AND AGENCIES, AND INDEPENDENT REGULATORY AGENCIES, INFORMATION COLLECTION UNDER THE PAPERWORK REDUCTION ACT (2010) [hereinafter OIRA 2010 PRA Memorandum].

answers to identical questions posed to, or identical reporting or recordkeeping requirements imposed on, ten or more persons, other than agencies, instrumentalities, or employees of the United States; or (ii) answers to questions posed to agencies, instrumentalities, or employees of the United States which are to be used for general statistical purposes . . . .

*Id.* at § 3502(3).<sup>13</sup> OMB’s regulations provide a detailed list of items that are collections of information regardless of whether mandatory, voluntary, or required to obtain or retain a benefit.<sup>14</sup> With minor exceptions, the PRA applies to the entire executive branch, including independent agencies.<sup>15</sup> Of primary importance for the purposes of this memorandum are the Act’s requirements for collections of information.

## *B. Approval of Collections of Information*

### *a. General Process*

Congress placed checks in the paperwork clearance process. Specifically, it checked the agencies interest in collecting information or mandating recordkeeping requirements by requiring public notice and comment on proposed collections and mandating OIRA’s oversight and review. An agency is not permitted to conduct or sponsor an information collection unless it complies with the PRA and receives the approval of OIRA.<sup>16</sup>

**CIO Review.** The PRA makes each agency’s Chief Information Officer (CIO) responsible for compliance with the Act. Before submitting a collection of information to OIRA, the CIO of each agency must review the collection of information. The CIO must determine whether the agency needs the information, its plan to effectively and efficiently use the information, and an estimate of the burden the collection of information will impose on the affected persons.<sup>17</sup>

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<sup>13</sup> For the purposes of this memo, the terms “collection of information”, “information collection”, “information collection request”, and “collection” will be used interchangeably.

<sup>14</sup> 5 C.F.R. § 1320.3(c). This includes: report forms; application forms; questionnaires; schedules; surveys; reporting and recordkeeping requirements; contracts; agreements; and posting, notification, labeling, or similar disclosure requirements. *Id.* at § 1320.3(c)(1). The PRA’s requirements do not apply to information collections for: 1) federal criminal matters; 2) civil actions involving the United States or any official or agency; 3) agency administrative actions or investigations; 4) compulsory process related to antitrust proceedings; and 4) intelligence activities conducted under Executive Order 12333 or successor orders. 44 U.S.C. § 3518(c).

<sup>15</sup> *Id.* at § 3502(1). Agencies are defined to include “any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency.” *Id.* The Government Accountability Office, the Federal Election Commission, the governments of Washington, DC and the territories and possessions, and government-owned contractor-operated facilities are exempted from the PRA’s requirements. *Id.* “Person” is defined as “an individual, partnership, association, corporation, business trust, or legal representative, an organized group of individuals, a State, territorial, tribal, or local government or branch thereof, or a political subdivision of a State, territory, tribal, or local government or branch of a political subdivision.” *Id.* at § 3502(10).

<sup>16</sup> *Id.* at § 3507.

<sup>17</sup> *Id.* at § 3506(c)(1); 5 C.F.R. § 1320.8. The CIO must be sufficiently independent from the program offices of the agency to fairly evaluate the collections of information. 44 U.S.C. § 3507(c)(1). For the purposes of the PRA,

**Public Notice and Comment.** The PRA then requires that the public have an opportunity to provide input on the proposed collection of information. An agency must publish a notice in the Federal Register that provides a 60-day period and solicit comment from members of the public and affected agencies on: 1) the necessity of the proposed collection of information for the proper performance of the agency, including whether the information has practical utility; 2) the accuracy of the agency’s burden estimate; 3) ways to enhance the usefulness, quality, and clarity of the information; and 4) techniques for reducing the burden of the collection.<sup>18</sup> After the 60-day comment period ends and the agency considers the comments it has received, the agency then submits the information collection package to OIRA for review.

**Agency Certification.** The agency must certify that each information collection: 1) is necessary for the proper performance of the agency and has practical utility; 2) does not duplicate information the agency could otherwise reasonably access; 3) reduces burdens on affected persons, including small entities to the extent practicable; 4) is written in language the public can understand; 5) is consistent and compatible, to the extent practicable, with existing reporting and recordkeeping practices of the affected persons; 6) indicates how long records must be maintained; 7) informs the public why the information is being collected; 8) has been developed by an office that has a plan and allocated resources to efficiently and effectively use the information; 9) utilizes efficient and effective statistical methodologies; and 10) uses information technology, to the maximum extent possible, to reduce burdens.<sup>19</sup> When the agency submits the collection of information to OIRA for clearance and approval, it must publish a second notice in the Federal Register. In that notice, the agency must notify the public that the submission has been made, comments may be submitted to OIRA and the agency, and that at least 30 days will be provided for public input before a decision is made.<sup>20</sup>



OIRA 2010 PRA Memorandum, *supra* note 12, at 2.

**OIRA Review.** OIRA then has 60 days to decide whether to deny or approve the agency’s collection of information.<sup>21</sup> OIRA may approve the collection for a period of

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“burden” is defined as the “time, effort, or financial resources expended by persons to generate, maintain, or provide information to or for a Federal agency. *Id.* at § 3502(2).

<sup>18</sup> *Id.* at § 3506(c)(2)(A).

<sup>19</sup> *Id.* at § 3506(c)(3). The term “small entities” is cross-referenced to the definition in the Regulatory Flexibility Act. 5 U.S.C. § 601(6). It includes: small businesses, small nonprofits, and small governmental jurisdictions. *Id.*

<sup>20</sup> 44 U.S.C. § 3507(a)-(b).

<sup>21</sup> *Id.* at § 3507(c)(2)-(3). During the review process, OIRA assesses: whether the collection of information is necessary for the proper performance of the agency, including whether it has practical utility; reduces the paperwork burden, particularly on entities and individuals most affected; and maximizes the public benefit from and practical utility of the information collected. OIRA 2010 PRA Memorandum, *supra* note 12, at 5.

up to 3 years.<sup>22</sup> If OIRA does not approve or deny the collection within that time period, the agency may infer approval.<sup>23</sup> Each information collection must display a control number, obtained from OIRA, and an expiration date, if needed, and explain that an agency cannot sponsor or conduct, and a person does not need to respond to, a collection of information unless it has a valid control number.<sup>24</sup>

#### b. Process for Proposed Rules with Collections of Information<sup>25</sup>

The process is slightly different for proposed information collections that are part of a proposed rule. In those cases, OIRA's information collection review and regulatory review functions under Executive Order (E.O.) 12,866 converge.<sup>26</sup> For those collections of information, the agency must state in the preamble to the notice of proposed rulemaking that the collection of information in the proposed rule has been submitted to OIRA for review and that comments should be directed to OIRA.<sup>27</sup> OIRA then has 60 days to file public comments, but provides at least 30 days after receiving the proposed collection before filing comments or making a decision.<sup>28</sup> The agency must also submit the final rule to OIRA, and OIRA may approve the information collection request, ask the agency to make substantive changes, or disapprove it.<sup>29</sup>

#### c. Public Protection Provision

The PRA also contains what is known as the "public protection" provision. No person can be penalized for failing to comply with a collection of information subject to the PRA if: the information collection does not display a valid control number, or the agency does not inform the potential respondents that a person is not required to respond if an information collection does not have a valid control number.<sup>30</sup> A person can invoke this provision during an agency's administrative process or judicial action.<sup>31</sup>

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<sup>22</sup> 44 U.S.C. § 3507(g).

<sup>23</sup> *Id.* at § 3507(c)(3).

<sup>24</sup> *Id.* at § 3506(c)(1)(B), § 3507(a)(3).

<sup>25</sup> There are also special procedures for clearance of collections of information in currently published rules. *See* 5 C.F.R. § 1320.12. For the sake of brevity, this memorandum will not cover those procedures.

<sup>26</sup> Under E.O. 12,866, OIRA is charged with reviewing significant regulatory actions of agencies (other than independent regulatory agencies), which it can return to agencies for further consideration. Exec. Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 Fed. Reg. 51735, 51740-42 (Oct. 4, 1993). If OIRA returns a rule with the collection of information to the agency for further consideration under E.O. 12,866, it would effectively disapprove the collection.

<sup>27</sup> 5 C.F.R. § 1320.11. The agency must submit the collection of information no later than the day the proposed rule is published in the Federal Register. *Id.*

<sup>28</sup> 44 U.S.C. § 3507(d)(1)(B); 5 C.F.R. § 1320.11(c)-(e). If OIRA or the public files comments, the agency must respond to those comments in final rule when it is published in the Federal Register and explain any changes made in the rule or why it rejected those comments. *Id.* at § 1320.11(f).

<sup>29</sup> *Id.* at § 1320.11(h). OIRA must notify the agency of its decision and must make the reasons for its decision publicly available. *Id.* at § 1320.11(i). The agency must publish a notice in the Federal Register to inform the public of OMB's decision. *Id.* at § 1320.11(k).

<sup>30</sup> 44 U.S.C. § 3512(a).

<sup>31</sup> *Id.* at § 3512(b). The PRA only creates a defense to an agency action. Parties attempts to argue that § 3512 creates a private right of action have been rejected by the courts. *Alegent Health - Immanuel Med. Ctr. v. Sebelius*,

### III. Issues for Consideration

#### A. *The Increasing Paperwork Burden*

OMB's annual reports to Congress on the federal paperwork burden are called Information Collection Budgets (ICBs).<sup>32</sup> Those reports were routinely late during the Obama Administration.<sup>33</sup> While the reports have described burden reductive initiatives of agencies, the overall burden continues to grow at a significant pace. Laws like the Affordable Care Act have imposed hundreds of millions of hours of paperwork. For example, in Fiscal Year (FY) 1999, the reported burden was 7.18 billion hours.<sup>34</sup> By FY 2015, the burden was estimated to be 9.78 billion hours.<sup>35</sup> As of March 22, 2017, OIRA estimates that the annual burden is 11.6 billion hours and is costing nearly \$1.9 trillion annually. In addition, it currently has approved a total of 9,521 collections of information, some which have hundreds of forms associated with them.<sup>36</sup> The burden, however, may be higher as questions have arisen with regards to the accuracy of agencies' burden estimates.

#### B. *Accuracy of Burden Estimates*

The accuracy of paperwork burden estimates has been a longtime concern. In its 1999 Information Collection Budget, OIRA stated:

[A]gency estimation methodologies can produce imprecise and inconsistent burden estimates. . . . While these officials are experts in their areas of responsibility and are usually familiar with the public's experience with responding to information collections they oversee, in many cases their estimates are not based on objective, rigorous, or internally consistent methodologies. This is a particular concern in the case of large collections, the burden of which may be measured in millions of hours or tens of millions of dollars.<sup>37</sup>

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34 F. Supp. 3d 160 (D.D.C. 2014); *Ass'n of Am. Physicians & Surgeons v. HHS*, 224 F. Supp. 2d 1115, 1129 (S.D. Tex. 2002); *Tozzi v. EPA*, 148 F. Supp. 2d 35, 43 (D.D.C. 2001).

<sup>32</sup> OMB is required to annually report to Congress under the PRA. 44 U.S.C. § 3514.

<sup>33</sup> <http://smallbusiness.house.gov/news/documentsingle.aspx?DocumentID=399411>.

<sup>34</sup> OMB, OIRA, INFORMATION COLLECTION BUDGET OF THE UNITED STATES GOVERNMENT, FISCAL YEAR 2006 REVISED DECEMBER 2006, at 1, *available at*

[https://obamawhitehouse.archives.gov/sites/default/files/omb/assets/omb/inforeg/icb/fy2006\\_icb\\_revised.pdf](https://obamawhitehouse.archives.gov/sites/default/files/omb/assets/omb/inforeg/icb/fy2006_icb_revised.pdf).

<sup>35</sup> OMB, OIRA, INFORMATION COLLECTION BUDGET OF THE UNITED STATES GOVERNMENT, 2016, at i, *available at* [https://obamawhitehouse.archives.gov/sites/default/files/omb/inforeg/icb/icb\\_2016.pdf](https://obamawhitehouse.archives.gov/sites/default/files/omb/inforeg/icb/icb_2016.pdf) [hereinafter 2016 ICB]. The vast majority of federal paperwork burden, approximately 75 percent, is imposed by the Department of Treasury. Calculated from data on Treasury's share of the FY 2015 total paperwork burden from the most recent Information Collection Budget. *Id.* at 7. The other highest contributors to the overall burden are the Department of Health and Human Services, the Securities and Exchange Commission, the Department of Transportation, and the Environmental Protection Agency. *Id.*

<sup>36</sup> OIRA, Inventory of Currently Approved Information Collections, <https://www.reginfo.gov/public/do/PRAReport?operation=11> (last visited Mar. 22, 2017). The total annual hours and costs, which are updated daily, can vary dramatically as old collections expire and new ones are added.

<sup>37</sup> OMB, OIRA, INFORMATION COLLECTION BUDGET OF THE UNITED STATES GOVERNMENT, FISCAL YEAR 1999, AT 35, *available at* <https://obamawhitehouse.archives.gov/sites/default/files/omb/assets/omb/inforeg/icb-fy99.pdf>.

While some agencies may have made improvements in recent years, OIRA has continued to identify the accuracy of burden estimates as a concern.<sup>38</sup> A 2012 report for the Administrative Conference of the United States characterized the burden estimates as “highly questionable at best and random numbers at worst.”<sup>39</sup> The report went on to state that the lack of trust in the burden estimates was due to agencies estimating the burdens “without testing their collections on the affected populations.”<sup>40</sup> This is particularly problematic. If an agency is not accurately estimating the burden—and therefore does not understand the burden it is imposing—it will not have the information it needs to determine if the burden could be reduced on small businesses, as the PRA requires.

### *C. Agency Efforts to Further Reduce Burdens on Small Businesses*

The PRA requires agencies to certify that each information collection reduces, to the extent practicable, the burden on small entities, which includes small businesses, small nonprofits and small governmental jurisdictions.<sup>41</sup> The Act suggests using techniques such as: establishing different requirements or timetables; consolidating or simplifying reporting requirements; or exempting, in part or in whole, small entities from the information collection requests coverage.<sup>42</sup> In 2005, the Government Accountability Office (GAO) found that in 12 case studies it reviewed, CIO certifications lacked rigorous support to ensure that all requirements of the PRA were met.<sup>43</sup> In four of the case studies, the agencies did not have complete information to support the CIO’s certification that the information collection reduced, to the extent possible, the burden on small business as required by § 3506(c)(3) of the PRA.<sup>44</sup> It is unclear whether agencies have improved their certifications. If agencies, however, do not adequately assess the burden imposed, their ability to consider alternatives is significantly diminished.

OMB also is required to annually publish in the Federal Register and make available on the internet a list of compliance assistance resources for small businesses.<sup>45</sup> A list is available on the Small Business Administration’s (SBA) website.<sup>46</sup> However, OMB has not complied with this requirement since 2012.<sup>47</sup>

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<sup>38</sup> Improving Implementation of the Paperwork Reduction Act, 74 Fed. Reg. 55,269, 55,270 (Oct. 27, 2009).

<sup>39</sup> STUART SHAPIRO, THE PAPERWORK REDUCTION ACT: RESEARCH ON CURRENT PRACTICES AND RECOMMENDATIONS FOR REFORM, REPORT TO THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES 21 (2012), available at <https://www.acus.gov/sites/default/files/documents/Draft-PRA-Report-2-15-12.pdf>.

<sup>40</sup> *Id.*

<sup>41</sup> 44 U.S.C. § 3506(c)(3)(C).

<sup>42</sup> *Id.*

<sup>43</sup> *Another Year, Another Billion Hours: Evaluating Paperwork Efforts in the Federal Government: Hearing Before the Subcomm. on Regulatory Affairs of the H. Comm. on Gov’t Reform, 109th Cong. 57 (2006)* (statement of Linda D. Koontz, Director, Information Management, GAO).

<sup>44</sup> *Id.* at 80-81 (prepared statement of Linda D. Koontz, Director, Information Management, GAO).

<sup>45</sup> 44 U.S.C. § 3504(c)(6).

<sup>46</sup> <https://www.sba.gov/starting-business/learn-about-business-laws/contact-government-agency/federal-compliance-contacts-and-resources>.

<sup>47</sup> <https://www.federalregister.gov/documents/search?conditions%5Bagencies%5D=management-and-budget-office&conditions%5Bterm%5D=%22compliance+assistance+resources%22+and+%22small+business%22#>.

#### D. PRA Compliance

Other PRA compliance issues have been identified as well. OMB annually reports on two types of violations by agencies under the PRA: 1) information collections that are not approved but in use; and 2) lapses in renewal or discontinuation.<sup>48</sup> In FY 2015, there were 283 violations, an increase of 58 from FY 2014's total of 225.<sup>49</sup> An additional issue that has been raised in public comments is agencies avoiding the PRA completely by relying on the "nine person loophole." Since the PRA only applies to information collections that are for 10 persons or more, an agency can avoid the PRA by only sending collections to nine people.<sup>50</sup>

A 2009 Congressional Research Service report noted that, in an effort to meet congressionally-mandated deadlines, Inspector General (IG) offices at the Environmental Protection Agency and the Securities and Exchange Commission avoided the PRA's requirements by limiting certain surveys to less than 10 persons or used the Government Accountability Office, which is exempt from the PRA, to conduct another survey. While circumventing the PRA is troubling, the time involved in complying with the PRA and the OIRA clearance process slows down IG investigations and compromises their independence. For that reason, legislation has previously been introduced to exempt the collections of information used during the conduct of an audit, investigation, inspection, evaluation, or other reviews by IGs from the PRA's requirements.<sup>51</sup>

#### E. Technology

Use of information technology is identified in the PRA as a way to minimize burdens and improve data quality. It should be used whenever possible to reduce burdens; however, special attention should be paid to whether burdens are actually being reduced. The 2002 Small Business Paperwork Relief Act, which amended the PRA, established an interagency task force to evaluate how to streamline paperwork requirements for small businesses.<sup>52</sup> The task force recommended using information technology to reduce burdens and focused on creating a web-portal, Business Gateway, to provide useful regulatory and compliance information to small businesses. The vision was to provide a "one-stop" website that would eliminate redundant information collections and provide forms that could be filled, filed, and signed electronically.<sup>53</sup>

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<sup>48</sup> 2016 ICB, *supra* note 35, at 8.

<sup>49</sup> *Id.* at 9.

<sup>50</sup> Policy Navigation Group, Comment Letter on Improving Implementation of the Paperwork Reduction Act (2009), <https://www.regulations.gov/document?D=OMB-2009-0020-0066>. According to the letter, some agencies make the argument that persons refers to legal persons (e.g., corporations) instead of physical persons. *Id.* at 6.

<sup>51</sup> CONGRESSIONAL REVIEW SERVICE, PAPERWORK REDUCTION ACT (PRA): OMB AND AGENCY RESPONSIBILITIES AND BURDEN ESTIMATES (R40636) 15-17, 19 (2009). See also Inspector General Empowerment Act of 2015, S. 579, 114th Cong. §6A (2015).

<sup>52</sup> § 3, 116 Stat. at 730-32.

<sup>53</sup> REPORT OF THE SMALL BUSINESS PAPERWORK RELIEF ACT TASK FORCE 15-17 (2004), available at <https://obamawhitehouse.archives.gov/sites/default/files/omb/assets/omb/inforeg/sbpr2004.pdf>.



That vision has not been achieved. Business Gateway has been subsumed into business.usa.gov.<sup>54</sup> While the website contains a lot of information, in some cases an overwhelming amount of information, it does not provide a one-stop shop. For example, a search for “compliance assistance” using the website search function yields 1161 results.<sup>55</sup> Clicking on the first result, “Employee Benefits Compliance Assistance,” leads to a page with a short description of the Employee Retirement Income Security Act of 1971 with links to additional information on the Department of Labor’s webpage.<sup>56</sup> There, a user must click through more pages to find the information he or she is seeking.

#### **IV. Conclusion**

Despite its name, the PRA has not been successful at minimizing the amount of federal paperwork on individuals and small businesses. While information collected from the public is required to implement statutes and administer programs, the burden of federal paperwork must be reduced, particularly so that individuals and small businesses can devote their limited resources to more productive endeavors. Additionally, minimizing overlapping and duplicative information collection requirements could increase the efficiency and effectiveness of the federal government’s operations at a lower cost to taxpayers. This hearing will allow the Committee to evaluate how effectively the PRA is operating and consider whether legislation or other actions should be taken to reduce the federal paperwork burden.

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<sup>54</sup> According to SBA budget documents, at one time, Business Gateway included Business.gov and Forms.gov. SBA, FY 2010 Congressional Budget Justification 81, *available at* [https://www.sba.gov/sites/default/files/aboutsbaarticle/Congressional\\_Budget\\_Justification\\_2010.pdf](https://www.sba.gov/sites/default/files/aboutsbaarticle/Congressional_Budget_Justification_2010.pdf). Subsequent budget documents note how the website has evolved. Today, a search for business.gov takes the user to business.usa.gov. Business.usa.gov was launched at the direction of President Obama in 2011. Memorandum of October 28, 2011, Making It Easier for America’s Small Businesses and America’s Exporters to Access Government Services to Help Them Grow and Hire, 76 Fed. Reg. 68,049 (Nov. 2, 2011).

<sup>55</sup> <https://business.usa.gov/search/site/%22compliance%20assistance%22>.

<sup>56</sup> <https://www.dol.gov/agencies/ebsa/employers-and-advisers/plan-administration-and-compliance>.