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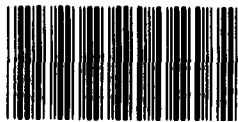
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STATEMENT OF
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COMPTROLLER GENERAL OF THE UNITED STATES
BEFORE THE
SUBCOMMITTEE ON LEGISLATION AND NATIONAL SECURITY ^{H. 501506}
COMMITTEE ON GOVERNMENT OPERATIONS
HOUSE OF REPRESENTATIVES
ON [H.R. 6410, THE PAPERWORK REDUCTION ACT OF 1980]

Mr. Chairman and Members of the Subcommittee:

We are pleased to appear before your Subcommittee today to discuss H.R. 6410, the "Paperwork Reduction Act of 1980." The bill would create a central office in the Office of Management and Budget (OMB) responsible for setting Government-wide information policies and for providing oversight for the agencies' information management activities. Such oversight would include periodic evaluations of the agencies' information management activities. The activities covered by the bill include reports clearance and paperwork control, statistics, privacy, automatic data processing, telecommunications, and records management. ^{AGC00027}



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We strongly support the objectives of H.R. 6410. We believe it provides for the first time the basic central management structure--including the authority, responsibility, and accountability--for exerting badly needed control and oversight for these interrelated areas.

Significantly, our analysis of the bill indicates that its provisions are generally consistent with many of the recommendations of the Commission on Federal Paperwork. I served as a member of that Commission under the able leadership of Congressman Frank Horton. I am very pleased that this Subcommittee is taking the initiative on many of the changes recommended by the Commission.

NEW MANAGEMENT STRUCTURE CREATED

I will now discuss the new management structure for the Government's information activities which would be created by the bill. The proposed structure consists of two key elements, both of which we believe are essential. First, a central office is created within OMB, with broad responsibilities for developing consistent information policies and overseeing agency activities. Second, a high-level official is to be designated within each agency who will be held accountable for insuring that the agencies effectively carry out their information management activities.

We favor the creation of a statutory office in OMB headed by an appointee of the OMB Director as provided in the

bill. Placing the office in OMB and providing this type of appointment would give the OMB Director line authority for exercising the office's functions to assure accountability to the President and the Congress.

→ ~~we~~ ^{GAO} strongly supports the creation of this structure which ~~we believe~~ should enhance the economy and efficiency of Government information activities and ultimately reduce the reporting, recordkeeping, and related regulatory burdens imposed on the public.

The bill authorizes specific funding to carry out the office's functions. We believe this is essential for the office to succeed. Historically, limited resources have been applied to the information management areas. Although additional resource allocations have recently been given to the paperwork and statistics areas, there is no certainty that the resource levels would continue under this or succeeding administrations. Accordingly, we agree the Congress should provide specific resource allocations to OMB to support these activities.

SCOPE OF ACTIVITIES
ASSIGNED THE NEW OFFICE

I turn now to specific areas covered by the bill, including one area we think should be added. Under the bill, Federal information-related activities include reports clearance and paperwork control, statistics, privacy, records management, automatic data processing, and telecommunications.

We agree that the ⁴⁰ policy-setting and oversight responsibilities--but not the operating responsibilities--for these areas should be vested in the new OMB office, ~~however, we also believe that~~ oversight responsibility for Freedom of Information Act activities should be vested in the new office. ^(see p 6) This should facilitate the establishment of consistent policies and standards covering Federal information activities, including sharing and disclosure.

At the present time, OMB has some degree of responsibility in the paperwork, privacy, ADP, and telecommunications areas. Under the bill, the extent of OMB's responsibility in these areas will be expanded or modified. The areas of statistical policy and records management policy will be added. I will discuss the statistical policy function later.

With regard to records management, ^{2nd} the bill recognizes the need to provide a cohesive Federal information policy and to coordinate the various components of Federal information practices. ^{1st} Records management, concerned with information use and disposition, is a vital element of information policy.

^{2nd a.} In the past, this function has not received the level of management attention it deserves. For example, although GSA is authorized to do so, it does not report to OMB or to the Congress serious weaknesses in agencies' records management programs along with the potential for savings if corrective actions are taken. We pointed this problem out as early as 1973, but GSA's response to date has been inadequate.

^{2nd}
We believe the assignment of oversight responsibility in OMB and the periodic evaluations required by the bill would remedy this situation. In so doing, the benefits which improved records management practices can bring to the performance of Federal programs can be realized.

Turning now to the Freedom of Information issue, OMB provides central direction and oversight of agencies' activities under authority of the Privacy Act, but the Freedom of Information Act does not require similar oversight. The Department of Justice has assumed this role to some degree. Justice provides continuing legal guidance and consultation and also handles litigation resulting from the agencies' denials of requests for records.

Our recent report on the Freedom of Information and Privacy Acts ^{1/} shows that these laws generally are effective tools for meeting congressional policy on openness in Government. We concluded that better oversight and executive direction can improve implementation.

In the report, we analyzed data on litigation, based on the Freedom of Information Act and other laws governing disclosure of and access to public records. Our analysis showed that, when sued, agencies often released considerable information in records they had originally denied requesters.

^{1/}An Informed Public Assures that Federal Agencies Will Better Comply With Freedom of Information/Privacy Laws (LCD-80-8, October 24, 1979).

On the basis of these results, we believe better policy guidance in advance of the litigation stage, coupled with better communication of the results of past cases, would reduce the necessity for future litigation.

We believe that/giving OMB specific policy-setting responsibility for the Freedom of Information Act will provide this much needed executive direction and oversight/ Furthermore, because the two laws were intended to complement each other on matters of public access to records, their administration within OMB would benefit from close coordination.

^{GP} We strongly support the provisions in H.R. 6410 for consolidating, elevating, and clarifying OMB's policy function for the acquisition and management of automatic data processing and telecommunications resources/ We are especially pleased that policy and oversight for ADP and telecommunications are included with the other functions in the bill. We have issued many reports on management problems and Government-wide issues in these rapidly growing areas calling on OMB to develop, strengthen, improve, or clarify its policy and guidance. We have also reported on the special and complex problems of privacy in ADP and communications systems. OMB has lacked both sufficient staff and the organization to address many of our recommendations and concerns. The bill's provisions for an administrator at a sufficient level of authority and separate fund authorization address these problems. The bill's ADP and telecommunications provisions

would accomplish several of the key recommendations of the President's Reorganization Project for Federal ADP Activities and are also generally consistent with several Paperwork Commission recommendations.

PAPERWORK AND STATISTICAL POLICY

H.R. 6410 would bring about significant changes in the controls over collecting information from the public, including

- ending the currently fragmented responsibility for reports clearance, including the transfer of GAO's clearance responsibility to OMB;
- combining the statistical policy function with reports clearance in a single organization; and
- amending the Federal Reports Act to clarify certain provisions and eliminate weaknesses.

I will discuss each of these changes in more detail/

Consolidating fragmented activities

Progress toward achieving the Federal Reports Act's paperwork control objectives is hampered because there is no central management authority. Instead, control responsibility is fragmented among three organizations--OMB, GAO, and the Department of Health, Education and Welfare (HEW)--and a substantial portion of the burden imposed on the public is outside the central control process. We strongly favor consolidating the fragmented responsibilities into the new OMB office and eliminating all exemptions to the Federal Reports Act clearance process.

Until 1973, the responsibility for paperwork control was in OMB. Then, (1) GAO was assigned responsibility for reviewing and clearing the independent regulatory agencies' reports; (2) HEW was tasked with a broad program for collecting data on health professions personnel, which was exempted from OMB's central review authority; and (3) the HEW Secretary was assigned responsibility over all Federal data collections from educational institutions and programs. This last responsibility will soon be transferred to the Secretary of Education, fragmenting responsibilities even further.

Finally, in 1977, the President shifted the responsibility for setting statistical policies and standards and coordinating Federal statistical activities from OMB to the Department of Commerce. These responsibilities are closely related to the Federal Reports Act objectives for controlling paperwork burdens. For example, the application of statistical procedures to information collection may be helpful in improving the quality of the information collected and in reducing the reporting burden imposed on the public.

Because of this close relationship, the necessary coordination between the two functions is enhanced if the functions reside in a single organization. There is also a need to balance the sometimes conflicting interests for paperwork reduction on one hand, and those for improved statistics on the other, which can best be performed if both functions are

in one organization. I therefore clearly favor transferring this function from the Department of Commerce to OMB.

In addition, agencies responsible for about 75 percent of the paperwork burdens are exempt from the Federal Reports Act. These include the Internal Revenue Service (IRS), other Treasury Department agencies, and supervisory functions of the bank regulatory agencies. The Commission on Federal Paperwork recommended, and we agree, that these exemptions should be eliminated. The obvious reason is that controls are weakened by the exemptions.

Preserving regulatory agencies' independence

A key issue raised as a result of these proposed changes is how to preserve the independence of the independent Federal regulatory agencies. For those agencies defined either in this bill or in their enabling legislation as independent regulatory agencies, section 3507 includes an important "override" provision. This section provides that OMB review proposed information collection requests. Any disapproval of a request proposed by an independent regulatory agency may be voided if the agency's members vote, by a majority, to override OMB's decision. We endorse this provision. It would allow for a "second look" by the affected regulatory agencies in cases where the proposal for collecting information appears questionable or seems

to require revision. The override provision would also preserve the authority of the independent regulatory agencies to determine their information needs.

We would expect that the override mechanism would be used infrequently. Our own experience and analysis of OMB's implementation of the Federal Reports Act indicate that, although revisions are frequently desirable, relatively few information-gathering proposals are denied outright. However, we believe that the independent regulatory agencies' use of the override should be made on the public record, so that the Congress can monitor these actions.

Needed changes to the
Federal Reports Act

The changes in the organizational arrangements which I have just described are only part of the problem needing resolution. We believe that major revisions are needed to clarify and strengthen the Federal Reports Act, which was passed in 1942, but remains today the basic statute providing for the control of Federal paperwork burdens imposed on the public. These revisions are all incorporated in the bill. Difficulties we have experienced in administering our reports clearance responsibilities and our audits support our position that the changes are needed.

Section 101 of the bill replaces the Federal Reports Act, incorporating five needed changes. First, recordkeeping requirements are specifically included in the reports clearance

process (Sec. 3502 of proposed new Chapter 35 of Title 44). The Federal Reports Act is presently unclear on whether record-keeping requirements are subject to clearance. In practice, both GAO and OMB have required that they be cleared. Some agencies, however, have resisted compliance with these efforts.

Second, the act's definition of "information" is clarified to eliminate an ambiguity (Sec. 3502). For example, the Securities and Exchange Commission has interpreted the act to apply only to situations where the answers provided by respondents are to be used for statistical compilations of general public interest. This interpretation severely limits the coverage of the act and the controls over Federal information collection efforts.

Third, the bill clarifies agency responsibilities by requiring agencies to (1) eliminate duplication, (2) minimize burden, and (3) formulate plans for tabulating data before they request approval of forms (Sec. 3507(a)(1)). Under the Federal Reports Act, the responsibilities of the individual agencies are unclear. In some cases agencies have attempted to force upon OMB and GAO tasks which we believe the agencies should perform in developing their information collection instruments.

Fourth, OMB is required to evaluate the agencies' information management controls (Sec. 3504(b)(5)). This is consistent with a recommendation we made to OMB some years ago. However, OMB has not had the staff to adequately carry

out this function. Under such a requirement, OMB should identify ways to improve the individual agencies' information management controls.

Fifth, the bill authorizes OMB to delegate its clearance authority to the agencies (Sec. 3507(e)) in cases where the agencies have demonstrated sufficient capability. OMB would determine an agency's capability on the basis of the evaluations described above. This would enable OMB to shift its emphasis to a policy and oversight role in contrast to the time-consuming effort of clearing individual reporting and recordkeeping requirements. This issue is addressed in our recent report entitled "Protecting the Public from Unnecessary Federal Paperwork: Does the Control Process Work?" (GGD-79-70; September 24, 1979.)

Followup on Paperwork
Commission recommendations

✓ Further improvements in carrying out Federal information activities should be brought about as the agencies implement the Paperwork Commission's recommendations ✓

We are pleased that the bill extends for an additional 2 years OMB's statutory authority to oversee action on the recommendations of the Commission. OMB's September 1979 report states that almost half of the recommendations, including many requiring legislation, are still open. We believe the additional time is necessary to complete the job.

Federal Information Locator System

^{GAO}
We endorse the creation of a Federal Information Locator System, which would provide a source for locating information maintained by different Federal agencies and which would help identify and eliminate unnecessary duplicate collections of information from the public. We recommended developing such a system in a 1975 report to the Senate Committee on Government Operations (GGD-75-85; July 24, 1975). We would suggest, however, that the Subcommittee consider amending Section 3511 to allow OMB ~~to delegated~~ ^{to be delegated} operating responsibility for the system to another executive agency. This would enable OMB to focus its attention on the important policy and oversight responsibilities in the bill. OMB has begun work on a locator system and some progress has been made. Much remains to be done, however.

The development of the proposed locator system should be closely coordinated with GAO's efforts to maintain its inventory of Federal information resources. This inventory was established under Title VIII of the Congressional Budget Act of 1974 (P.L. 93-344). The proposed system addresses, as we do, the identification, location, and nature of agencies' information sources and their potential use in the congressional decisionmaking process.

Coordination between the proposed OMB office and GAO will insure that overlap and duplication of efforts are minimized. As developmental efforts of the locator system proceed, OMB may wish to incorporate some of the features

of our data files. And if the locator system can successfully meet its public use requirements and the Congress' information needs, we may wish to consider consolidating some of our data collection and related activities.

OMB recently reorganized its information and regulatory oversight activities, bringing together most of its existing functions related to H.R. 6410. This is a positive step. We do not, however, believe it negates in any way, the need for this legislation. Without the legislation, fragmented policy and oversight responsibilities will continue and badly needed changes in Federal information management controls will not be effected. The bill would greatly strengthen the hand of OMB in exercising its broad responsibilities for improving the management of the Federal Government.

In conclusion, we see ^{key} enactment of H.R. 6410 as an important landmark in a concerted effort to establish consistent Federal information policies. The management structure and tools put into place by this legislation will assist ~~us~~ in working toward solutions for the many information problems now existing. We should not, however, deceive ourselves or others that this legislation represents more than the beginning of a long and difficult task.

This concludes my prepared statement. We have a number of technical suggestions for the bill which we will be happy to discuss with your staff. We shall be pleased to answer any questions which you or other Members of the Subcommittee may have.