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April 17, 2002

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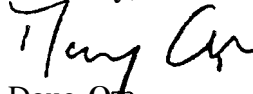
The Honorable John D. Graham
Administrator
Office of Information and Regulatory Affairs
Office of Management and Budget
Washington, DC 20503

Dear Dr. Graham:

This letter follows up on the April 11, 2002 hearing of the Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs, entitled "Paperwork Inflation - The Growing Burden on America." As discussed during the hearing, please respond to the enclosed followup questions for the record.

Please hand-deliver the agency's response to the Subcommittee majority staff in B-377 Rayburn House Office Building and the minority staff in B-350A Rayburn House Office Building not later than noon on Thursday: May 9, 2002. If you have **any** questions about this request, please call Subcommittee Deputy Staff Director Barbara Kahlow on 226-3058. Thank you for your attention to this request.

Sincerely,



Doug Ose
Chairman

Subcommittee on Energy Policy, Natural
Resources and Regulatory Affairs

Enclosure

cc: The Honorable Dan Burton
The Honorable John Tierney

Q1. Specific Plans to Reduce Paperwork. The Office of Management and Budget's (OMB's) Fiscal Year (FY) 2002 Information Collection Budget (ICB) reveals that only the Commerce Department - due to the end of the decennial Census - had substantial **net program decreases** from FYs 2000 to 2001. Unfortunately, as the General Accounting Office (GAO) testified, OMB erroneously included the Transportation Department's 42.5 million hours violation of law from 10/1/01 to 3/4/02 for the "Driver's Record of Duty Status" (formerly called the "Hours of Service of Drivers Regulations") as a program decrease instead of as an adjustment since it was in continuous use without any reduction in burden on the public.

a. What significant paperwork reduction initiatives - **with at least a 100,000 hours decrease due to an agency action** - were accomplished since January 20,2001, and what significant initiatives are planned in the remainder of 2002 for the following four non-Internal Revenue Service (IRS) agencies which each levy over 114 million paperwork hours of burden on the public?

- HHS?
- Labor?
- SEC?
- EPA?

b. OMB's FY 2002 ICB shows that two agencies - Agriculture and the Federal Communications Commission (FCC) - had significant **net program increases** in burden on the public - 5.7 million and 11.7 million hours, respectively. The FCC was one of the 12 agencies deleted from coverage by OMB's ICB Bulletin this year. Which FCC information collection(s) accounted for most of this increase? Was the increase due to a change in law or was it made at the discretion of the FCC?

c. Despite the Paperwork Reduction Act's (PRA's) requirement for OMB to identify all changes in burden, Appendix C in OMB's FY 2002 ICB, entitled "Significant Paperwork Reductions and Increases - FY 2001 & 2002," fails to identify many of the specific increases and decreases in **IRS paperwork**, which produce a net increase of over 200 million hours on the public. What specific non-statutorily required increases of 100,000 hours or more did the IRS levy on the public and why? Please provide a full accounting for this net increase of over 200 million hours of burden on the public.

d. What significant paperwork reduction initiatives were accomplished and are planned to reduce burden on the following key groups?

- Farmers?
- Small businesses?
- State and local governments?

Q2. Program Decreases due to Agency Actions. GAO explained that, in recent years, OMB has indicated in its ICB reports what specific type of action precipitated a program

change in burden - a new statute, an agency action, or a reinstated/expired collection. OMB's chart on page 63 in its FY 2002 ICB combines program changes due to agency action with those due to new statutes (in a column headed "FY 2001 Changes Due to New Statute or Agency Action") so the public cannot see what program changes were due to agency action. Please provide a breakdown for each agency of the program changes column to separately identify affirmative agency actions to reduce paperwork.

Q3. Disclosure of OMB's Role in Paperwork Reduction. Since 1993, OMB has been required by executive order to disclose specific changes made during the course of its review of agency **regulatory** proposals. The PRA requires OMB to keep the Congress "fully informed" (44 USC §3514). To hold OMB accountable to Congress and the public, in April, I asked if OMB would keep similar information about its review of agency **paperwork** proposals. In October, OMB replied, "Administrator **Graham** is actively exploring ways to develop a capacity to maintain a record of changes made ... during OMB's review." In 1981, OMB's computerized system began to record if a paperwork was approved with or without change due to OMB's review.

a. Will OMB commit to keep information, as of July 1, 2002, about the specific changes made, if any, during its paperwork review? If not, why not?

b. I have expressed my support for your prompt, post-review and return letters in the regulatory area. In the paperwork reduction area, how many prompt and post-review letters and how many disapprovals under the PRA has OMB issued since January 20, 2001? If any, please provide a copy of each such letter.

Q4. Resolution of Agency PRA Violations.

a. In September, I asked OMB to provide resolution dates for each agency violation of the PRA. To date, OMB has not yet fully provided this information. Please provide this information for the hearing record.

b. The law requires OMB to include in its report to Congress a list of "all" violations of the PRA (44 USC §3514(a)(2)(A)(ii)). The **12 agencies deleted from coverage** by OMB's ICB Bulletin this year accounted for **64 violations** of the PRA last year -- whereby agencies illegally imposed paperwork burden on the public without any or current OMB approval, as required by law. What is the number of violations during FY 2001 in these 12 agencies? Please provide information for each of the 12 for the hearing record.

c. Two of the 12 deleted agencies include the Small Business Administration (**SBA**) and the Federal Emergency Management Agency (**FEMA**). Did **SBA** and **FEMA** resolve each of their 28 and 20 PRA violations, respectively, from FY 2000? If not, why, and when will they be resolved?

d. Last year's ICB revealed that HUD and Agriculture had 99 and 96 PRA violations, respectively, during FY 2000. During FY 2001, these agencies again top the list, with 113 and 67 violations, respectively. What steps has OMB taken since January 20, 2001 to rectify the chronic paperwork violations problems at these two agencies?

Q5. Progress in Reviewing Regulatory Paperwork. The FY 2001 Treasury and General Government Appropriations Act required an OMB report to Congress which: (a) evaluated the extent to which the PRA reduced burden imposed in agency rules ("regulatory paperwork"), (b) evaluated the burden imposed by each major rule imposing more than 10 million hours of burden, and (c) identified specific expected reductions in regulatory paperwork in FYs 2001 and 2002. OMB's report did not fully respond to the statutory requirements. In response, in September, I asked OMB to reexamine 15 specific non-IRS rules each imposing over 10 million hours of burden.

What is the progress of reexamining the paperwork in each of the following rules?:

- Labor: Process Safety Management (PSM) of highly hazardous chemicals (79 million hours on August 30, 2001)
- SEC: confirmation of Securities Transactions (56 million hours)
- Transportation: Hours of Service of Drivers regulations (42 million hours)
- Transportation: Inspection, Repair, & Maintenance (35 million hours)
- SEC: recordkeeping by Registered Investment Companies (21 million hours)
- FTC: Truth in Lending regulation (20 million hours)
- HHS: Investigational New Drug (IND) regulations (17 million hours)
- EPA: standards for the use or disposal of Sewage Sludge (13 million hours)
- Labor: Bloodborne Pathogens standard (13 million hours)
- FTC: Fair Packaging & Labeling Act regulation (12 million hours)
- Treasury: recordkeeping & reporting of Currency & Foreign Financial Accounts (12 million hours)
- Labor: OFCCP recordkeeping & reporting requirements (11 million hours)
- HHS: Medicare & Medicaid for Home Health Agencies (10 million hours)
- HHS: Clinical Laboratory Improvement Amendments (CLIA) (10 million hours)
- Education: Federal Family Education Loan program (10 million hours)

Q6. Public Disclosure. The PRA's "Public Protection" provision is an important OMB tool to reduce paperwork. In April, I asked if OMB would publish a monthly OMB Notice in the Federal Register identifying: (a) all expirations of OMB PRA approval and (b) information describing action by the executive branch to achieve each major program reduction. Such a Notice could be widely circulated by interest groups to the affected public and will more fully actualize the PRA "Public Protection" provision. In October, OMB replied that, from information on its website, "the public can determine whether a particular agency collection has a currently valid OMB approval."

I do not believe that OMB's website provides sufficient information for the public to assess monthly results in paperwork reduction and paperwork for which the public is no longer required to comply. As a consequence, will you publish such a Federal Register Notice? If not, why not?

Q7. Staffing for IRS Paperwork. IRS accounts for 83 percent of all government-wide paperwork burden. Most of this paperwork burden is due to forms which the public has ... to complete, not regulatory rulings. In the last few years, its paperwork reduction initiatives have barely made a dent in this burden. Currently, OMB has only one person working part-time on IRS paperwork. In April, I asked if OMB would increase its staffing devoted to IRS paperwork reduction. In October, OMB replied, "Administrator Graham does not intend to make staffing decisions on IRS until he better understands IRS' initiatives in this area."

To improve results, will you increase OMB staffing devoted to IRS paperwork reduction? If so, to how many full-time equivalents? If not, how will you assure this Subcommittee that next year will show sizeable paperwork reduction results by the IRS?

Q8. Status of OMB/DOI/USDA Joint Effort. At last year's April 24, 2001 hearing, a public witness identified duplicative and burdensome paperwork imposed on farmers. In May, I wrote a joint letter to OMB Director Daniels and Interior Secretary Norton asking for OMB to work jointly with the Departments of the Interior and Agriculture to eliminate any duplicative paperwork. What is the status of this joint effort?

Q9. Resolution of Agency PRA Violations. What specific steps has OMB taken to resolve each of the following extant PRA violations:

- OMB #: 0938-0366 - HHS's "Intermediate Care Facilities for the Mentally Retarded, Conditions of Participation" with **6,839,873** hours when OMB approval expired on 10/31/96
- OMB #: 2502-0458 - HUD's "Real Estate Settlement Procedures Act (RESPA) ... Model Disclosure Statement ..." with **6,139,920** hours when OMB approval expired on 11/30/97
- OMB #: 0560-0004 - Agriculture's "Report of Acreage" with **2,854,710** hours when OMB approval expired on 6/30/97
- OMB #: 1830-0510 - Education's "Reporting Requirements for Adult Education Act" with **598,930** hours when OMB approval expired on 10/31/94