The Paperwork Reduction Act (PRA) created the Office of Information and Regulatory Affairs (OIRA) within the Office of Management and Budget to oversee information policy in the executive branch.\(^1\) OIRA’s oversight responsibilities include the review and approval of federal agencies’ information collections from the public. Information collections are government requests for structured information from the public such as those issued through report forms, application forms, schedules, questionnaires, surveys, and reporting or recordkeeping requirements.\(^2\) The OIRA review process applies whenever a federal agency is seeking to collect such information from ten or more individuals.\(^3\) The goal of that process is to ensure that the burden of information collection on the public is justified by the utility of the information to the government.

When an agency seeks to collect information from the public, it must follow a series of steps. It must first publish a notice in the Federal Register and give the public sixty days to comment. Once the comment period ends, the agency must submit the proposed information collection to OIRA with a detailed supporting statement. The agency must also publish a second notice in the Federal Register asking for comments on the information collection it provided to

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\(^2\) 44 U.S.C. § 3502(3). The PRA applies to the collection of structured information, meaning requests for information calling for either answers to identical questions or identical reporting or recordkeeping requirements or answers to questions which are to be used for general statistical purposes. \textit{Id.}

\(^3\) \textit{Id.}
OIRA. After waiting thirty days for public comments, OIRA has another thirty days to decide whether to approve the information collection.

The Expedited Clearance Process

The process for obtaining OIRA approval for an information collection can be lengthy.\(^4\) To address this, OIRA has issued a series of memoranda designed to highlight existing processes that shorten the review time of certain types of information collections, while still maintaining the integrity of the review process.\(^5\) The memoranda discuss several categories of information collections that may qualify for expedited clearance from OIRA, such as generic clearances and fast-tracks, common forms, and certain requests for information through social media.\(^6\) Generic clearances are generally intended for “voluntary, low-burden, and uncontroversial collections,” not for ones with substantive policy impacts.\(^7\) The fast track process, a subset of generic clearances, was designed to encourage agencies to solicit feedback about their services, and


\(^6\) Agencies can also take advantage of expedited approval processes for the following additional categories of information collections: emergencies; non substantive changes; de minimis changes; data search tools and calculators; and challenges or prizes. See Shelanski, supra note 5. Direct observations of users of digital services (observations of users interacting with a digital services tool and at most engaging in nonstandardized oral communications with user) are not subject to the PRA. Id.

\(^7\) When an agency asks for approval of a generic clearance, it is asking for approval of a series of related information collections under a single, umbrella request. The umbrella request describes the individual collections that would fall under it. The umbrella request then goes through the entire PRA process. If OIRA approves the umbrella request for a generic clearance, the individual collections covered by that clearance can be submitted through an expedited approval process in which OIRA reviews the proposed collection within ten days of receipt.
therefore is generally used for information collections that focus on customer service feedback.\(^8\) Common forms are information collections that can be used by two or more agencies, or government-wide, for the same purpose.\(^9\)

Agencies’ use of social media may also qualify for expedited approval or may not even require PRA clearance. For instance, the PRA does not apply to general solicitations of public views and feedback; interactive meeting tools, such as discussion boards or forums; and certain other categories of collections that agencies may engage in through social media and web-based interactive technologies.\(^10\) If, however, agencies use the internet to collect more than identifying information or general public comments, they must secure OIRA approval before doing so.

**Agencies’ Use of Expedited Clearance Processes**

Agencies have used the expedited clearance process offered by OIRA in varying degrees. Agencies’ use of new generic clearances and fast tracks increased after OIRA publicized them and provided training to agencies on their use in 2011, but has since decreased (although agencies continue to extensively seek OMB approvals under existing clearances).\(^11\) This is in part because the most likely candidates for generic clearances and fast-track approval were the first ones submitted by agencies. But these techniques have likely also faded in the consciousness of agencies, particularly with the turnover of agency personnel. Agencies have also been very limited in their use of social media to request public feedback,\(^12\) even though social media could be beneficially used to gain general and unstructured feedback without

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\(^8\) The fast track process borrows heavily from the generic clearance process, but adds a few features. In the fast track process, OIRA drafts the initial sixty-day notice for publication in the Federal Register as well as the subsequent thirty-day notice; it also reviews individual requests under the fast-track clearance within five working days.

\(^9\) Under the common form approval process, a “host” agency secures approval of the collection from OIRA. Later, other agencies that wish to use the form can avoid the two Federal Register notices required under the PRA and merely inform OIRA of any additional burden on the public that the use of the form might create.

\(^10\) See Shelanski, supra note 5.


\(^12\) Id. at 19–20.
implicating the PRA. There also appears to be very little use of the generic clearance and fast track processes to test the usability of forms or obtain feedback to improve agency websites, even though OIRA has indicated that usability testing is a good fit for these processes.\textsuperscript{13}

Common forms could also be used to expedite approval of collections, but agencies have not used them as often as fast-tracks and generic clearances. This may be because there are barriers that make it difficult for agencies to collaborate with one another to develop common forms.\textsuperscript{14} There also appears to be confusion at agencies about how they should report the burden created by an information collection conducted through a common form.\textsuperscript{15} Finally, agencies sometimes avoid common forms because they want to ask for information to suit particular agency needs.\textsuperscript{16} Regardless, it appears that there is a great deal of untapped potential for the use of common forms.\textsuperscript{17}

\textbf{Other Opportunities for Facilitating the Clearance Process}

Aside from the expedited clearance process outlined by OIRA, there are other opportunities for making the information collection clearance process more efficient, while still maintaining its integrity. An approval for an information collection only lasts three years, so an agency must submit an information collection for re-approval after three years even when nothing has changed in the information collection since the last submission. One possibility would be to expand the use of generic clearances and fast tracks to cover these extensions of approval of information collections without changes. Another would be for an agency to review all of the collections that are coming up for renewal without changes for a particular time period

\textsuperscript{13} See \textit{id.} at 25–26. Not all types of activities related to testing the usability of forms or website feedback would be covered by the PRA. Direct observations of users interacting with digital services tools are not subject to the PRA. \textit{See supra} note 6.

\textsuperscript{14} See \textit{id.} at 17–19.

\textsuperscript{15} \textit{Id.} Agencies must report their annual burden as part of OIRA’s required submission to Congress of an Information Collection Budget.

\textsuperscript{16} Sometimes this is because statutes require agencies to collect data elements not on the common form; in other cases, it may be the agency’s preference.

\textsuperscript{17} \textit{Id.} at 17–19, 24.
and consolidate the Federal Register notices for those renewals. Both approaches—expanding
the use of generic clearances and fast tracks and consolidating Federal Register notices for
renewals—could be time-saving, especially since these clearances raise the fewest substantive
issues as they are unchanged from when OIRA initially approved them. On the other hand, if
these processes were available, they might incentivize agencies to shy away from making
necessary changes to collections. There is also a concern that combining unrelated collections
under a single umbrella request might be confusing to the public.

Another opportunity to achieve efficiencies is to update the supporting statement that
agencies must submit with each submission of a proposed information collection to OIRA for
review.18 The supporting statement is intended to allow OIRA to evaluate the collections against
the statutory criteria in the PRA. Developing it is a significant component of the time it takes
agencies to prepare information collections for review, especially new collections. As things
currently stand, neither agencies nor OIRA are satisfied with them.19 Refining the supporting
statement with the involvement of the Council of Agency Paperwork Reduction Act (CAPRA), a
group that meets monthly to discuss issues related to the PRA, has the potential to reduce the
burden on agencies while increasing the practical utility of submissions for OIRA.

Some agencies have also reported difficulties and confusion in using ROCIS, the
computer system used by agencies to submit information collections to OIRA.20 Improvements to
ROCIS could both reduce agency burden and make agency submissions more useful to OIRA.
Finally, obtaining better data regarding the burdens imposed on businesses, other institutions,

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18 The supporting statement consists of the answers to eighteen questions. *Id* at 22. For collections with a statistical
component, there is a second part to the supporting statement consisting of five additional questions. *Id.*

19 Filling out some parts of the form for the supporting statement is perceived by agencies as a pro forma exercise,
and filling out other parts is perceived as a needlessly time-consuming exercise. From OIRA’s perspective, agencies
focus too much on discussing burdens of the proposed information collection and not enough time discussing its
practical utility. *Id.* at 24.

20 *Id.* at 22, 25.
and individuals by government information collections may lead to additional ideas for improvement of the collections process.

RECOMMENDATION

1. The Office of Information and Regulatory Affairs (OIRA) should increase the training opportunities for agencies on the Paperwork Reduction Act (PRA) to the extent practicable. The topics of such sessions could include basic administration of the PRA, expedited clearance process, and other new and emerging topics in information collection. The method of delivery of training could include in-person training, new training materials, and “training the trainers” at agencies.

2. Agencies should consider making greater use of social media platforms for general solicitations of information from the public on agency policies as well as encouraging the public to comment on published proposed regulations and information collections.

3. Agencies should make greater use of generic clearances for usability testing of websites and other applications.

4. Agencies, through the Council of Agency Paperwork Reduction Act (CAPRA) and with guidance from OIRA, should develop an annually updated list of candidates for common forms. This list should be included in the Annual Information Collection Budget report which agencies submit to Congress every year.

5. For information collection requests without changes from previous approvals, OIRA should consider expanding generic clearances by providing a PRA-compliant process that includes the following steps:
   a. An agency creates a generic clearance for all of its collections which expire in the next three years and for which it expects no changes in the format or burden estimate.
   b. The agency then follows the generic clearance process, clearly listing which collections are being covered by the umbrella clearance.
   c. If OIRA approves the clearance, when an individual collection listed on the umbrella clearance is scheduled to expire, the agency submits it to OIRA and
affirms that there are no changes to the collection. OIRA then has ten days to approve the individual collection.

d. If an agency does decide to make a non-trivial change to the collection, then it must go through the normal PRA process.

6. For information collection requests without changes from previous approvals, OIRA should consider allowing agencies to consolidate the first Federal Register notice for extensions by providing a PRA-compliant process that includes the following steps:

   a. The agency would choose a time period (e.g., six months or a year) and review all of its collections that were coming up for renewal during that period.

   b. The agency would then place a single notice in the Federal Register to inform the public that those collections are available for public comment.

7. OIRA, through collaboration with CAPRA, should develop recommendations for revising the supporting statement requirements on information collection submissions to ensure they minimize preparation time and remain practically useful.

8. The General Services Administration (GSA), through collaboration with OIRA, should examine whether user-friendly changes are needed to ROCIS, the internal computer system used to submit information collections to OIRA.

9. OIRA should consider developing a survey of businesses regarding cumulative paperwork burdens, which could later be used by other agencies to examine the paperwork burdens on schools, hospitals, and other individuals and entities.

10. OIRA should consider adding North American Industry Classification System (NAICS) codes, which capture information about affected sectors of the economy, to individual collections so that agencies can tag each individual collection with the appropriate NAICS codes. This would allow OIRA to understand which sectors of the economy are subject to the greatest volume of information collections.