

**CHAMBER OF COMMERCE  
OF THE  
UNITED STATES OF AMERICA**

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April 30, 2012

Mr. John Cooney  
Chairman  
Committee on Administration and Management  
Administrative Conference of the United States  
1120 20th Street NW, Suite 706 South  
Washington, DC 20036

**Re: ACUS Committee on Administration and Management's Draft  
Recommendation to Give OMB Discretion to Approve Collections  
for up to Five Years**

Dear Mr. Cooney:

The U.S. Chamber of Commerce, the world's largest business federation representing the interests of more than three million businesses and organizations of every size, sector, and region, is deeply interested in improving the Paperwork Reduction Act (PRA). We appreciate this opportunity to comment on the committee's latest draft recommendation report. Your efforts to promote better public engagement under the PRA are very important to improving the effectiveness of the law. The Chamber, though, is very concerned with the committee's draft recommendation #5 that encourages Congress to give the Office of Management and Budget (OMB) the discretion to approve information collections for up to five years.<sup>1</sup>

The committee acknowledges in the draft recommendation report that the PRA has not worked as intended. For example, the comment periods have failed to facilitate "a meaningful dialogue between agencies and the public."<sup>2</sup> Agencies do not

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<sup>1</sup> The Chamber's concerns also apply to recommendation #1(c), which appears to be a broader way of recommending that information collections be extended when there are no significant changes: "Congress and OMB should look at ways to streamline the public participation requirements when agencies seek renewal of approval from OMB for collections with no significant changes."

<sup>2</sup> "Paperwork Reduction Act, Committee on Administration and Management Draft Recommendation," Administrative Conference of the United States, Apr. 11, 2012, at 2.

utilize the comment periods as a way to educate themselves regarding the collection of information from regulated parties. As stated in the committee's draft report, "agencies tend to view information collection plans as final before this first comment period begins."<sup>3</sup> The burden hour estimates, in other words, are a done deal before the public even provides comments.

This ineffective dialogue and poor communication are a major reason why the paperwork burden hour estimates have been extremely inaccurate. Developing reasonable burden hour estimates is difficult even for affected entities. For agencies and OMB, developing reasonable estimates is extremely unlikely without significant interaction with the regulated community.

## **I. Problems with Recommendation #5**

*Recommendation #5: "Congress should amend the Paperwork Reduction Act to grant OMB discretion to approve collections for up to five years when such collections are being reapproved without significant change."*

Poor communication between agencies and regulated parties is the major problem with the PRA. There needs to be more opportunities for the public to exchange information with agencies. Therefore, allowing OMB to extend information collection cycles from three years to five years would hurt the goal of promoting more dialogue between regulated entities and agencies.

This recommendation should be rejected because it:

**1) Makes the Problems Worse:** This recommendation would extend the time that agencies would be unable to receive and act upon critical information necessary to make informed decisions regarding information collections.

**2) Misconstrues Changes to Collections as the Only Type of Important Change:** There can be changes in technology, the economy, and knowledge, to name just a few possible changes, which can have an even bigger impact on burden hours than changes to the information collections themselves. Therefore, "insignificant changes" to information collections do not justify extending collection periods when so many other factors and changes could come into play.

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<sup>3</sup> *Id.* at 3.

**3) Unnecessarily Extends Problems:** The burden hour estimates may be extremely flawed. By extending collections to five years from three years, OMB would be preventing agencies and the public from rectifying problems in a more timely fashion. Even if burden hour estimates are reasonably estimated during the comment periods, many things can happen during three years, and especially five years, including *unforeseeable* changes.

**4) Asks Too Much of OMB:** Calculating burden hours is extremely difficult. OMB does not have the expertise or the resources to go through reapproved information collections and determine those that should be extended for five years.

**5) Gives OMB Far Too Much Power:** The recommendation provides OMB the authority to extend any reapproved information collection with very few constraints. For example, OMB would not have to consider:

- The burden of the information collection—there is no distinction drawn between a major collection and a minor collection;
- Past compliance problems that make the information collection particularly difficult for regulated entities;
- Future compliance challenges that would make the information collection problematic; or
- The accuracy, or inaccuracy, of the estimated burden hours.

The term “without significant change” is also vague. OMB, as a result of this recommendation, would have carte blanche to extend information collections.

**6) Harms Agencies:** The PRA was designed to assist agencies in their information management practices. By reviewing information collections less frequently, agencies would lose out on valuable opportunities to gain feedback that could assist them in managing their information.

## II. Conclusion

The Chamber commends ACUS for its important work on the PRA. However, we strongly urge you to reject recommendation #5. In fact, the committee should take the opposite approach. Poor dialogue between the public and agencies, along with poor burden hour estimates, justifies Congress amending the law to require

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more frequent reviews of information collections, not allowing fewer reviews (e.g. “major collections,” which would need to be defined, should be reviewed every year).

Sincerely,

A handwritten signature in black ink, appearing to read "William L. Kovacs". The signature is written in a cursive style with a large initial "W".

William L. Kovacs