



How the Paperwork Reduction Act (PRA) Relates to Public Engagement and Collaboration

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Summary:

The Paperwork Reduction Act (PRA) of 1995 is a federal law that regulates how the federal government handles *systematic collection of information from the public*. If you are considering conducting a survey of visitors or asking people for information during a planning process, you should understand the PRA and whether it applies. While the PRA is clear that many public engagement activities related to public land management and planning are exempt from it, some activities are not. The Office of Management and Budget (OMB) is responsible for [federal regulations implementing the PRA \(5 CFR 1320\)](#).

This document explains key points about the PRA as it applies to public engagement, partnerships, collaboration, and public meetings. It also addresses several key questions and provides links to additional resources. *Some* of the guidance and regulations related to this and similar topics are found at this URL as of January 2018, with many broken links: <https://www.whitehouse.gov/omb/information-regulatory-affairs/federal-collection-information/>¹

Frequently Asked Questions (FAQs) about the PRA:

- **What is the *LEGISLATIVE INTENT* of PRA?** Generally, the PRA is intended to reduce paperwork burdens *on the public* by requiring any federal agency who wants to collect information from the public to secure authorization from OMB.
- **What are the main *REQUIREMENTS* to know about PRA?** The implementing regulations of the PRA require that OMB clearance—meaning review resulting in permission and authorization—must be obtained whenever an agency seeks (a) identical information from (b) 10 or more respondents (see [5 CFR 1320](#) for details). For example, when an agency creates a form to collect the same information from many people, OMB clearance is required *even if OMB has reviewed and authorized those questions previously as part of one or more other, different information collection instruments (note that a “Fast-Track” process is an option under the right circumstances, as discussed here later, and the use of “common forms” is encouraged)*.
- **What does *OMB CLEARANCE* mean?** OMB’s PRA clearance process ensures that any *information collection request* (ICR) by a federal agency receives public review and is evaluated and approved by OMB.
 - Every proposed ICR is the subject of two periods of public comment: (1) a 60-day public review conducted by the agency before submittal to OMB and (2) a 30-day public review conducted by OMB after submission.

¹ Broken link? Try going here for working ones: <https://obamawhitehouse.archives.gov/omb/infocoll/>

- **How is *INFORMATION* defined?** To understand the PRA, you need to understand how OMB regulations define *information* specifically to meet the PRA’s legislative intent. For the purposes of the PRA, “information” means “any statement or estimate of fact or opinion, regardless of form or format, whether in numerical, graphic, or narrative form, and whether oral or maintained on paper, electronic or other media” ([5 CFR 1320.4\(h\)](#)).
- **Are there EXEMPTIONS to this definition of Information?** Yes, consistent with the legislative intent, OMB regulations establish ten (10) exemptions, also called “exclusions”, that do not constitute “information” (and, therefore, related activities do NOT constitute “information collection”) for PRA purposes. Two of these exemptions are especially relevant to public engagement and collaboration activities that may occur as part of public engagement activities:
 - **“General solicitations” EXEMPTION #4:** “Information does not include ... facts or opinions submitted in response to general solicitations of comments from the public, published in the Federal Register or other publications, regardless of the form or format ...” ([5 CFR 1320.3\(h\)\(4\)](#))
 - **“Public hearings or meetings” EXEMPTION #8:** “Information does not include ... facts or opinions obtained or solicited at or in connection with public hearings or meetings” ([5 CFR 1320.3\(h\)\(8\)](#))
 - **For a full list of exclusions to the regulatory definition of “information” under the PRA, including those related to social media, go [HERE](#).**
- **What does GENERAL SOLICITATION mean?** Under the “general solicitations” exclusion, the PRA does NOT apply to notices published in the *Federal Register* or other publications that request public comments on proposed regulations or any general requests for comments “regardless of the form or format thereof” ([5 CFR 1320.3\(h\)\(4\)](#)). Accordingly, this exemption can include questions that are somewhat specific as long as the questions are “unstructured”, meaning open-ended and not specific, structured options or choices:
 - “A general solicitation may have a degree of specificity. For example, a general solicitation may pose a series of specific questions designed to elicit relevant public feedback; but the solicitation may not be a survey and the responses should be unstructured. Unstructured solicitations, such as those found in the preambles of proposed rules published in the Federal Register, give members of the public the option of replying to some or all of the questions in the manner they prefer (e.g., open-ended questions rather than selections from a list of choices). Similarly, agencies may offer the public opportunities to provide general comments on discussion topics through other means, including but not limited to social media websites; blogs; microblogs; audio, photo, or video sharing websites; or online message boards (whether hosted on a .gov domain or by a third-party provider).” [Social Media, Web-Based Interactive Technologies, and the Paperwork Reduction Act](#) (OMB memorandum, April 7, 2010) (7 pages, 84 kb)
- **Do these exemptions apply to SOCIAL MEDIA AND THE INTERNET?** Yes, these exemptions also may apply when using social media and web-based technologies as part of public engagement and collaboration activities when that use is the functional equivalent of a public meeting or of a general solicitation that might occur during a public meeting (OMB has guidance [HERE](#)). For example, using a “Wiki” or other collaborative communication platform is allowed because these are tools for facilitating interactions between federal agencies and the public, not an instrument to gather information under the PRA.

- **What is a “Generic ICR”?** A “generic information collection request,” also known as a “generic ICR”, is available under OMB PRA regulations for “collections that are voluntary, low-burden..., and uncontroversial” ([OMB memo HERE](#))
 - A common example of a generic clearance request is a customer satisfaction survey, including using focus groups to evaluate customer satisfaction
 - An initial generic ICR is subject to the 60 and 30-day public review and comment requirements, but subsequent requests associated with an authorized generic request will receive OMB review within 10 business days for any public engagement strategies or activities that might meet the definition of a “voluntary information collection.”
 - Important: Check with your agency or Department about whether a “fast-track” approval process is available for public engagement, partnerships, collaboration, or any other relevant planning activities that may be subject to the PRA.

- **What is a “Common Form”?** A “common form” is an information collection instrument available for use by more than one agency, sometimes even government-wide. It allows multiple agencies to collect identical information for the same purpose using a common form. Once a common form is established, other agencies can use it without going through the OMB clearance process. It is important to know that, although you can use a common form, the only allowable changes are to the information identifying the agency on the form or in the instructions; no changes to the actual questions are allowed and mixing questions pulled from multiple forms also is not allowed (OMB has detailed guidance [HERE](#)).

- **What is the relationship between OMB’s regulations for PRA and the implementing regulations for the Federal Advisory Committee Act (FACA)?**
 - PRA and FACA are like “BOOKENDS” to a public engagement process: An ambiguous meeting description can create concern about either PRA or FACA violations or both.
 - **“PRA Bookend”**: PRA doesn’t apply to public meetings convened so participants can exchange “facts or opinions” and that might include “general solicitations” (PRA Exemption #8)
 - **“FACA Bookend”**: FACA doesn’t apply if a group that includes non-federal employees is convened only to *exchange individual opinions*, even in response to general solicitations, as opposed to being convened for the purposes of reaching *consensus*
 - **KEY**: *Neither* PRA nor FACA apply if a general request for individual “facts or opinions” occurs in response to a *general solicitation* of information during a public meeting (“between the bookends”), but the administrative record and the meeting description should be clear on this in case a challenge occurs.

- **Does PRA apply to brief MEETING EVALUATIONS, whether done verbally or in writing?** Yes, the PRA applies, but the PRA exemptions for *general solicitations* of information and for public meetings or hearings also apply as long as the information is collected through unstructured responses and open questions, as opposed to questions with specific, structured options.
 - **KEY**: A *general solicitation for information* can have a series of specific questions as long as the requested responses are unstructured and open-ended (as opposed to using a structured scale or a list of choices) and no one is required to submit specific information about themselves other than any self-identification necessary for an agency to consider the comment fully (see the OMB’s document entitled [Social Media, Web-Based Interactive Technologies, and the Paperwork Reduction Act](#) for more detailed guidance about *general solicitations*). For example, it is fine to end a meeting with a discussion about specific questions, like how the meeting went, what went well, and what might be worth changing, as long as no one is required to submit specific information about themselves.

Key Resources:

- OMB [Office of Information and Regulatory Affairs](#) (OIRA) (Homepage)
- OMB's OIRA homepage for [federal collection of information](#) (links)
- OMB's PRA Regulations: [5 C.F.R Part 1320 - Controlling Paperwork Burdens on the Public](#) (August 29, 1995) (20 pages, 127 kb)
- OMB's "[Flexibilities under the Paperwork Reduction Act...](#)" (July 22, 2016) (7 pages)
- OMB's resources for [Improving information collection under PRA](#) (links)
- OMB's resources for [PRA compliance](#) (links)
- [Paperwork Reduction Act - Generic Clearances](#) (OMB, May 28, 2010) (8 pages, 93 kb)
- [Information Collection under the Paperwork Reduction Act](#) (OMB, April 7, 2010) (8 pages, 96 kb)
- [Social Media, Web-Based Interactive Technologies, and the Paperwork Reduction Act](#) (OMB, April 7, 2010) (7 pages, 84 kb)
- [Reducing Reporting and Paperwork Burdens](#) (OMB, June 22, 2012) (3 pages, 280 kb)
- [Open Government Directive](#) (OMB, December 8, 2009) (11 pages, 81 kb)
 - Digitalgov.gov: [Open Government Directive](#) (US government webpage)
- USFS's [FACA Easy Button](#) (USFS, November 2, 2011) (3 pages, 411 kb)