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GPRA

Managerial Accountability and Flexibility Pilot Did Not Work As Intended



General Government Division

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The Honorable Fred D. Thompson
Chairman
The Honorable John Glenn
Ranking Minority Member
Committee on Governmental Affairs
United States Senate

The Honorable Dan Burton
Chairman
The Honorable Henry A. Waxman
Ranking Minority Member
Committee on Government Reform and Oversight
House of Representatives

Congress intended for the Government Performance and Results Act (GPRA) to fundamentally shift the focus of federal management and accountability from a preoccupation with rigid adherence to prescribed processes to a focus on achieving desired outcomes and results. In crafting GPRA, Congress recognized that if federal managers were to be held accountable for achieving results, they would need the authority and flexibility to achieve those results. GPRA provides for a series of pilot projects so that federal agencies can gain experience in using the act's provisions and provide lessons to other agencies before GPRA's governmentwide implementation, which is to begin in the fall of 1997. One set of these GPRA pilot projects focused on managerial accountability and flexibility.

This report was developed in partial response to GPRA's requirement that we report on the act's implementation during the initial pilot phase—fiscal years 1994 to 1996—and on the prospects for its governmentwide implementation. Our objectives were to (1) determine whether the managerial accountability and flexibility pilot worked as intended and the reasons why it did or did not and (2) identify the lessons learned from this pilot and their possible implications for governmentwide implementation of GPRA.

Background

The experiences of foreign governments that are considered leaders in implementing results-oriented management reforms, such as Australia, Canada, New Zealand, and the United Kingdom, have suggested that substantial improvements in performance are possible when

managers are provided with expanded authority over spending, human resource, and other management functions while being held more accountable for achieving results.¹ Congress was aware of the experiences of these foreign governments—and the similar experiences of some state and local governments in the United States—when it developed GPRA.

As one avenue of providing managers with needed authority and flexibility, GPRA allows agencies to propose, and the Office of Management and Budget (OMB) to approve, waivers of certain nonstatutory administrative requirements and controls. A waiver proposal must describe and quantify any anticipated effects on an agency's performance and be endorsed by the agency that imposed the requirement or control. These waivers could include the delegation of additional procurement authority to line managers or the lifting of limitations on personnel compensation and remuneration by central management agencies. However, GPRA does not provide any new authority to waive statutory requirements.² Finally, GPRA does not provide any new authorities to any agency to waive requirements, nor does it restrict or redefine waiver authorities already in existence. However, if an agency has authority under a law other than GPRA to waive a statutory requirement or control, it may do so and only needs to satisfy the requirements of that law.

Under GPRA, managerial accountability and flexibility waivers were to be piloted during fiscal years 1995 and 1996. OMB was to select at least five agencies to participate in the managerial accountability and flexibility pilot from among the eligible GPRA performance planning and reporting agencies during fiscal years 1994 to 1996. (See app. I for an overview of GPRA, including the pilot phases.) Agency proposals to OMB were to identify the requirement or control to be waived, quantify how relief from the control or requirement was expected to affect performance, and compare the anticipated performance improvements with (1) current performance levels and (2) levels that could be expected without the waiver.

Agency proposals for participation in this phase of the GPRA pilot process were to be sent to OMB for consideration. OMB would not approve a waiver request unless it was endorsed by the agency that established the requirement—for example, the Office of Personnel Management (OPM), the

¹See *Managing for Results: Experiences Abroad Suggest Insights for Federal Management Reforms* (GAO/GGD-95-120, May 2, 1995).

²The Senate Committee on Governmental Affairs report that accompanied GPRA specified that the act does not authorize waivers of any regulation promulgated in accordance with the Administrative Procedures Act, unless the public notice and comment provisions of the Administrative Procedures Act are satisfied (5 U.S.C. 551 et seq.).

General Services Administration (GSA), or the Department of the Treasury's Financial Management Service (FMS). OMB was then to use the relevant central management agency's endorsement of waiver requests in deciding whether to designate a line agency as a managerial accountability and flexibility pilot.³

Results in Brief

The GPRA managerial accountability and flexibility pilot did not work as intended. OMB did not designate any of the 7 departments and 1 independent agency that submitted a total of 61 waiver proposals as GPRA managerial accountability and flexibility pilots. For about three-quarters of the waiver proposals, OMB or other central management agencies determined that the waivers were not allowable for statutory or other reasons or that the requirement for which the waivers were proposed no longer existed. For the remaining proposals, OMB or other central management agencies approved waivers or developed compromises by using authorities that were already available independent of GPRA.

Three major factors contributed to the failure of GPRA's managerial accountability and flexibility pilot phase to work as intended. First, changes in federal management practices and laws that occurred after GPRA was enacted affected agencies' need for the GPRA process. These changes included the elimination of the bulk of the Federal Personnel Manual, which provided instructions and guidance on virtually every facet of government employment, and the enactment of the Federal Workforce Restructuring Act. This act established a new personnel ceiling for all of the executive branch, which had the effect of limiting OMB's ability to waive agency personnel ceilings established in the budget. With a statutory cap on the number of executive branch employees being set, OMB believed it would not be able to manage the federal government's full-time equivalent (FTE) reductions while ensuring that downsizing statutory requirements were met if one or more agencies were given the authority to exceed their FTE limits.

Second, GPRA was not the only means by which agencies could receive waivers from administrative requirements, and thereby obtain needed managerial flexibility. For example, as previously noted, a number of waivers that were initially proposed as part of the GPRA process were approved under authorities existing independent of GPRA. Moreover, under the National Performance Review (NPR), about 185 reinvention labs were

³For a more detailed description of GPRA's requirements, see appendix I.

created.⁴ The goal of the reinvention lab effort was similar to that of the GPRA managerial accountability and flexibility provision—in essence, to improve performance by providing managers with added operational authority. However, obtaining a waiver as a reinvention lab was easier than using the GPRA process. For example, in contrast to GPRA, agencies obtaining waivers through the reinvention labs were not required to show how, and the degree to which, program performance would be changed as the result of receiving a waiver.

Third, OMB did not work actively with agencies that were seeking to take part in the managerial accountability and flexibility pilot, in contrast to its more proactive posture toward other GPRA requirements, such as the pilots for the performance planning and reporting requirements. As of November 1996, almost 11 months after OMB had received the endorsements by the central management agencies, OMB had not formally notified two of the eight agencies that nine of their requested waivers had been approved outside of the GPRA pilot process or that a compromise had been developed. According to officials in those agencies, in the absence of formal notification from OMB, they continued to operate under the old requirements, even though they were not required to do so. Overall, officials in five of the eight agencies that submitted a waiver proposal to OMB said that they never received (1) feedback from OMB on the status of their waiver proposals; (2) notification of specific concerns that OMB may have had about the quality and scope of the proposals; or, most important, (3) explicit instructions from OMB on how their proposals could be improved to better meet OMB's expectations. However, under the performance planning and reporting pilot, OMB assessed the strengths and weaknesses of agency proposals and suggested ways to improve them.

Even though the pilot process did not result in any GPRA-authorized waivers and thus did not work as intended, the process provided lessons for agencies and may have important implications for governmentwide GPRA implementation. While preparing their waiver requests, several participating agencies learned that the burdens and constraints that confronted their managers often were imposed by the agency itself or its parent department and were not the result of requirements imposed by central management agencies. The administration's effort to develop federal management "templates" that, in part, document the range of

⁴NPR is the administration's major management reform initiative and has issued recommendations intended to make the government "work better and cost less." A key part of that initiative has been the establishment of reinvention labs, which are designed to test ways that agencies could improve their performance and customer service by reengineering work processes and eliminating unnecessary regulations. See *Management Reform: Status of Agency Reinvention Lab Efforts* (GAO/GGD-96-69, Mar. 20, 1996) for our assessment of the status of NPR's efforts to encourage reinvention labs.

flexibility agencies have under existing central management agency requirements is a promising means for disseminating knowledge about available flexibility among federal agencies.⁵

In addition, the pilot experience should provide useful information for Congress to consider as GPRA is implemented governmentwide. The report of the Senate Committee on Governmental Affairs, which accompanied the act, recognized that the limited nature of the flexibility waivers authorized by GPRA may not be sufficient to enable managers to address barriers to improved performance. However, the report stated that neither the Senate Committee nor the agencies were able to identify the statutory and other controls for which waivers should be considered. In addition, the report urged OMB to develop (1) a list of possible statutory barriers to improved program performance that Congress may wish to consider modifying or abolishing and (2) an analysis of the performance benefits and other effects that legislative changes would produce. The relatively large number of proposals to waive statutory requirements should be helpful to OMB in fulfilling these tasks.

Objectives, Scope, and Methodology

To meet our two objectives of (1) determining whether the managerial accountability and flexibility pilot worked as intended and the reasons that it did or did not and (2) identifying the lessons learned from this pilot and possible implications for governmentwide implementation of the GPRA managerial accountability and flexibility provision, we first reviewed GPRA and its legislative history to determine congressional intent. We interviewed the OMB official who managed the GPRA waiver process and OMB's review of the 61 waiver proposals. At the other central management agencies—GSA, OPM, and FMS—we interviewed officials and reviewed documents to determine each agency's role in the waiver process. We reviewed guidance on the scope of allowable and unallowable waiver proposals that OMB and the other central management agencies had developed for line agencies. We also reviewed documents showing the agencies' proposals, management agencies' decisions on the proposals, and the reasons for those decisions. However, we did not assess the final waiver determinations made by OMB and the other central management agencies on whether the pilot agencies' waiver proposals should or should not have been approved.

⁵These templates are being developed as part of the administration's initiative to create Performance Based Organizations (PBO). The PBO initiative is intended to give agencies that deliver measurable services a greater degree of autonomy from governmentwide rules in exchange for greater accountability for achieving results.

We supplemented our work at the central management agencies by interviewing officials from the 28 agencies participating as GPRA performance planning and reporting pilots that were eligible to develop waivers. An additional seven performance planning and reporting pilots were designated too late to participate in the managerial accountability and flexibility waiver pilot. The 28 eligible agencies had a total of 70 individual pilots or components that were involved in the performance planning and reporting pilot phase. (See app. II for a list of these eligible performance planning and reporting pilot organizations.) We interviewed officials in 68 of these 70 organizations. (The remaining two organizations could not identify a knowledgeable official for us to interview.) For the majority of the performance planning and reporting pilots, our discussions focused on identifying the reasons that a waiver proposal was not submitted to OMB for consideration.

For the 14 of the 70 organizations, representing 8 agencies, that did submit a waiver proposal, we conducted more in-depth interviews and reviewed documents to determine how those agencies developed their proposals, what were the characteristics of the waiver proposals, and how much interaction agency officials had with OMB and the other central management agencies after the proposals were submitted. (See app. III for the results of these 14 organizations' waiver proposals.)

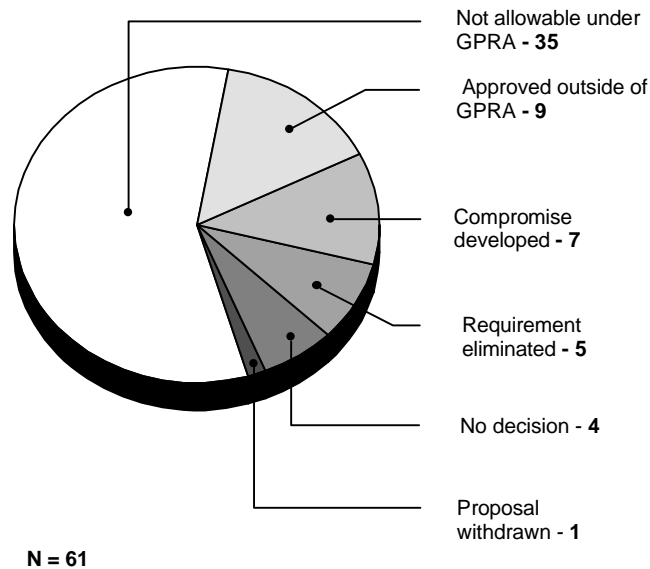
We also reviewed our recent and ongoing work on GPRA and related management reform efforts to help identify the implications of the GPRA managerial accountability and flexibility pilot process for governmentwide implementation of GPRA. A list of our recent reports related to these issues is at the end of this report.

We conducted our review from December 1995 to February 1997 in Washington, D.C., in accordance with generally accepted government auditing standards. We obtained written comments on the draft of this report from the Office of Management and Budget. These comments and our evaluation are discussed on pages 17 and 18, and the OMB letter is reprinted in appendix IV.

OMB Did Not Select Any Agencies as Managerial Accountability and Flexibility Pilots

Of the 70 organizations participating in the performance planning and reporting pilot phase and eligible to participate as managerial accountability and flexibility pilots, 14—from 8 independent agencies—submitted 61 waiver proposals to OMB. However, OMB did not designate any of the agencies as pilots for GPRA’s managerial accountability and flexibility provision. Figure 1 shows the results of the central management agencies’ decisions—including OMB’s—on the 61 GPRA waiver proposals.

Figure 1: Results of Waiver Proposals



Sources: OMB, GSA, OPM, and FMS data.

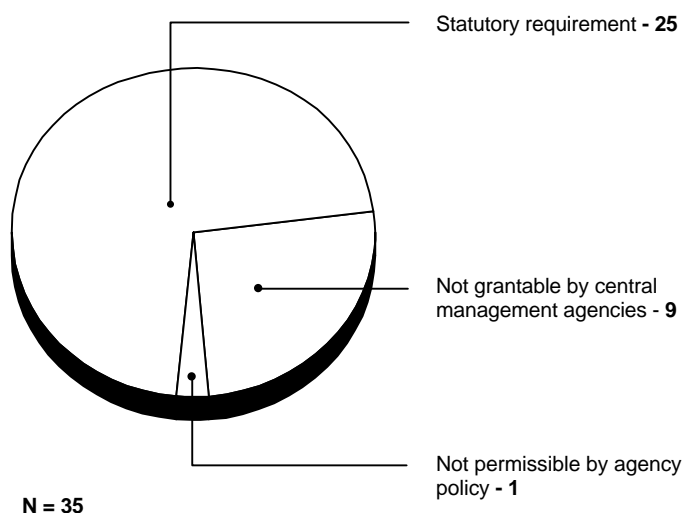
Of the 61 waiver proposals, OMB and the other central management agencies found 35 not to be allowable under GPRA for statutory or other reasons. (App. III provides a listing of the 61 waiver proposals and the decisions of the central management agencies.) Of the remaining 26 of the 61 waiver proposals, 9 were approved by relevant central management

agencies using authorities existing independently of GPRA. For example, the Defense Logistics Agency (DLA) had four waiver proposals approved by GSA outside of the GPRA pilot process under GSA's existing authority. Also, Treasury's FMS granted one waiver outside of the pilot, which was initially proposed as part of the GPRA pilot, for the Bureau of Engraving and Printing to convert disbursements to foreign currencies through commercial banks rather than through U.S. embassies. For an additional 7 of the 26 waiver proposals, an office in OMB developed a compromise with the proposing agencies. The compromises generally streamlined and expedited, but did not remove, OMB's review and approval of agencies' customer surveys. For 5 of the remaining 10 waiver proposals, the requirement for which the waiver had been proposed was eliminated through other initiatives, making a waiver unnecessary. For example, some of the proposals asked for a waiver of requirements that GSA eliminated for all agencies. No decisions were made on four other waiver proposals, and one proposal was withdrawn.

These 26 waivers and compromises were not carried out under the GPRA process because the act does not require an agency to use its provision as the exclusive means for obtaining a waiver for an increase in managerial flexibility. As long as the separate authority exists, GPRA does not prevent line and central management agencies from agreeing on waivers outside of the GPRA pilot process. Therefore, central management agencies were able to approve these waivers and compromises under their independent authority, even though OMB believed that the line agencies' proposals did not satisfy the GPRA requirements because they did not (1) show sufficiently how the waivers would help agency performance and (2) quantify the degree to which performance would be changed.

Of the 35 waiver proposals that OMB and the other central management agencies found not to be allowable under the GPRA pilot, the majority, or 25 proposals, sought waivers of statutory requirements. An additional 9 of the 35 waiver proposals were not allowable because the agencies were requesting waivers from nonstatutory requirements that the central management agencies were not authorized to grant. The remaining proposal was denied because granting it would contradict the central management agency's policy. Figure 2 shows the reasons that the 35 proposals were not allowable under GPRA.

Figure 2: Reasons That the 35 Proposals Were Not Allowable Under GPRA



Sources: OMB, GSA, OPM, and FMS data.

According to the information furnished by the central management agencies, of the 25 proposals that sought waivers of statutory requirements, 8 requested waivers of human resource requirements that can only be waived as an OPM-designated demonstration project authorized under the Civil Service Reform Act of 1978.⁶

An additional 9 of the 35 waiver proposals that OMB and the other central management agencies found not to be allowable under GPRA were not allowable because the agencies were requesting waivers from nonstatutory requirements that the central management agencies were not authorized to grant. Of these nine proposals, three were for waivers of Government Printing Office printing requirements that, according to OMB, could only be granted by the Congressional Joint Committee on Printing. OMB could not consider granting waivers from government printing

⁶Demonstration projects are meant to allow agencies to use alternative ways to implement personnel functions, such as hiring, pay, and performance management, and to show the feasibility of the application of these alternatives to other agencies.

requirements since GPRA's managerial accountability and flexibility provision applied only to executive branch agencies, not legislative agencies. The remaining proposal of the 35 was denied by FMS because granting a waiver that would create the appearance of currency speculation is not permissible by FMS policy.

Continuing Federal Management Reform Efforts Reduced the Need for the GPRA Waiver Process

Changes to federal management practices that have been undertaken since GPRA was enacted reduced the need for the GPRA waiver mechanism. According to agency officials both in agencies that submitted waiver proposals and those agencies that did not, these changes in federal management practices, in some cases, addressed the central barriers to agencies' improved performance. For example, as previously noted, five of the proposals submitted to OMB sought waivers from requirements that were eliminated for all agencies, thereby making waivers unnecessary. The following reform efforts are examples of changes in federal management practices that limited the use of the GPRA waiver process.

The Elimination of the Federal Personnel Manual

OPM eliminated the Federal Personnel Manual as part of its NPR reinvention effort in January 1994. Before its elimination, the approximately 10,000-page manual provided instructions and guidance on virtually every facet of government employment, including a section specifying how federal employees should label file folders. The manual's elimination and other initiatives were designed to provide federal managers with the flexibility needed to (1) determine the work processes that would enhance the agencies' performance and ability to meet their missions and (2) hire the staff that would best implement those work processes.

Enactment of the Federal Workforce Restructuring Act

About 22 percent, or 15, of the 68 organizations we contacted told us that they had planned to seek waivers under GPRA from OMB's administrative controls over agencies' FTE staffing ceilings.⁷ According to officials in the GPRA performance planning and reporting pilot agencies, FTE controls could be barriers to improving an agency's performance because such controls may limit its flexibility in allocating resources in the most efficient way possible. For example, some agencies whose costs are covered by fees collected for services said that the FTE controls prevented them from hiring additional staff to help improve their agencies' performance, even though they had the funds to pay the additional staff. In

⁷An FTE consists of one or more employed individuals who collectively complete 2,080 work hours in a given year. Therefore, both one full-time employee and two half-time employees equal one FTE.

fact, GPRA specifically mentions “specification of personnel staffing levels” as a possible area for waivers that could be available to pilot agencies.

However, the Federal Workforce Restructuring Act, which was enacted after GPRA, established new FTE ceilings for the executive branch of the federal government and required reductions in the federal workforce totaling 272,900 FTEs by fiscal year 1999. Although the act did not set FTE ceilings for individual agencies, an increase in the FTE levels of any one agency would need to be met by offsetting reductions of FTEs in other agencies. As a result, OMB concluded, at that time, that it could not manage the governmentwide FTE reduction requirements if one or more agencies were given the authority to exceed their FTE limits. Therefore, OMB’s guidance discouraged agencies from seeking such waivers, and, as a result, of the three waiver proposals requesting relief from the FTE limitations, OMB did not approve the two proposals it received, and OPM did not approve the one proposal it received from OMB. Officials from agencies that did not submit any waiver proposals, as well as officials from those agencies that did submit proposals, cited the exclusion of FTE ceilings as a factor that limited the usefulness of the GPRA managerial accountability and flexibility pilot process.

Agencies Used Another Mechanism to Obtain Some Waivers

Since GPRA did not convey any new authority to waive rules or alter any existing authorities, agencies were able to use another mechanism to obtain needed managerial flexibility. Under NPR, 26 federal departments, agencies, and other federal entities were participating in about 185 NPR reinvention labs. The reinvention labs, like GPRA’s managerial accountability and flexibility provisions, were to be agency-level efforts designed to test ways agencies could improve performance and customer service by reengineering work processes and eliminating unnecessary regulations. Many of the waiver requests developed by the reinvention labs were targeted at the same types of requirements that could be waived under GPRA. From our review on the status of the reinvention labs, we determined that about 32.4 percent, or 317, of 977 waivers that had been requested by the labs were directed at obtaining relief from rules imposed by central management agencies, including OMB, GSA, and OPM.⁸ Over 30 percent, or 97, of these 317 requests had been approved at the time we did our review, and decisions on an additional 41 percent, or 130, were pending.

⁸About another 52 percent of the waiver requests were directed at agency-specific rules, while the remaining 16 percent were directed at other sources (e.g., executive memorandums). See [GAO/GGD-96-69](#), page 39.

An agency seeking a waiver generally found that it was much easier to take another avenue, such as to become an NPR lab, than it was to obtain a waiver under GPRA. Unlike the agencies submitting waiver proposals under the GPRA pilot process, NPR reinvention lab agencies negotiated directly with the central management agency that imposed a requirement, thereby seeking relief under the management agency's existing waiver authority without OMB's involvement in the process. Also, labs were not required, before they could be approved, to show how and the degree to which their performance would change as a result of receiving added flexibility. Finally, labs were not required to subsequently report on the effectiveness of their use of a waiver in improving performance and service to customers.

OMB Contributed to Pilot Phase's Not Working as Intended by Not Actively Working With Agencies

OMB did not actively work with agencies on their managerial accountability and flexibility proposals to (1) provide feedback, (2) notify the agencies of specific concerns, or (3) provide explicit instructions, especially after it received those waiver proposals and concluded that they did not meet GPRA requirements. According to an OMB official, the waiver proposals did not reflect well thought-out efforts on the part of the agencies to identify requirements that significantly hindered their ability to achieve their missions and goals. In addition, according to OMB, in some cases the agencies did not adequately research the requirements from which they were seeking waivers. As evidence, OMB pointed to the relatively large number of requests for exemptions from statutory requirements, which are not allowable under GPRA. OMB believed that the calculations of projected changes in performance either were lacking or, in many instances, were of such minimal nature as to not merit, by themselves, designating a pilot. Overall, OMB believed that the proposals it received were generally limited to seeking waivers from minor annoyances rather than significant barriers to improved performance.

However, OMB also did not consistently provide feedback to the agencies that submitted waiver proposals. Officials from all eight of the agencies that submitted waiver proposals requested feedback from OMB. Officials from 5 of the 8 agencies—covering 45 of the 61 waiver proposals—said that they never received (1) feedback from OMB on the status of their waiver proposals, (2) notification of specific concerns that OMB may have had about the quality and scope of those proposals, or (3) explicit guidance from OMB on how their proposals could be improved to better meet OMB's expectations.

OMB believed that an aggressive effort to work with the pilot agencies to improve the quality and scope of the proposed waivers would not have been fruitful. On the basis of its 1994 reviews of agencies' initial GPRA performance plans under the performance planning and reporting GPRA pilot phase, OMB believed that most pilot agencies had made only limited progress in setting program goals, developing performance measures, and managing on the basis of those goals and measures. As a result, OMB concluded, the pilot agencies were not in a position to successfully undertake an added step of determining whether, and the degree to which, changes in their processes would help the agencies better achieve program goals. OMB's conclusion, which was made, in general, without attempting to work with the agencies to confirm that they could not develop more comprehensive waiver proposals, was a major factor that led OMB not to work with the majority of the agencies to try to produce what it would consider to be a more acceptable set of proposals.

OMB's approach to the waiver pilot process differed significantly from its approach to the performance planning and reporting pilot process. For example, under the planning and reporting pilots, OMB issued a summary assessment of the agencies' fiscal year 1994 performance plans. This assessment included a discussion of the plans' strengths and weaknesses and additional actions the agencies needed to take to improve these plans.

In addition, as of November 1996, almost 11 months after receiving the central management agencies' endorsements, OMB had not formally notified two of the eight agencies that for nine of their requested waivers, the central management agencies had either approved them outside of the GPRA pilot process, or a compromise had been developed. Therefore, the relevant performance pilots in these two agencies—Treasury's Internal Revenue Service and the Department of Health and Human Services' Office of Child Support Enforcement—continued to operate under the old requirements, according to officials.

In contrast, an official at DLA said that the agency learned that it had been granted waivers outside of the GPRA pilot process when officials questioned OMB in June 1996, which was about 8 months after GSA approved the waivers, about the status of their proposals. The Department of Commerce was notified that OMB offered compromises to (1) a proposal to allow for (but not specifically expedite) a customer service survey clearance and (2) a proposal concerning the change of an in-house function to a contract. However, Commerce did not believe that these

compromises provided the flexibility desired and decided not to implement them.

According to OMB, it informally notified agencies when waiver proposals were approved or compromises were developed outside of the GPRA process. However, records of these informal contacts did not exist, and officials in relevant agencies could not recall such informal notifications. Some of these officials also said that they would have needed formal approval before they would have felt comfortable varying from required procedures.

Waiver Pilot Process Provided Lessons for Agencies and May Help Them Implement GPRA Governmentwide

Even if no waivers were approved under the GPRA pilot process, the GPRA waiver pilot process provided lessons for the agencies that submitted waiver proposals. Several agencies, in preparing waiver proposals for external requirements, found that they first had to identify (1) the burdens and constraints that confronted their managers, which often were primarily imposed by the agency itself and not by the requirements of statutes or central management agencies, and (2) the authorities that were already available. Furthermore, the relatively large number of proposals to waive statutory requirements should be helpful to OMB in identifying statutory barriers to agency performance. In the report of the Senate Committee on Governmental Affairs that accompanied GPRA, OMB was encouraged to develop a list of statutory requirements for which Congress, in future legislation, should consider authorizing waivers.

Waiver Pilot Process Highlighted the Need for Agencies to Make Full Use of Existing Authorities

The GPRA managerial accountability and flexibility pilot process showed that agencies were not taking full advantage of existing authorities and flexibilities. The experiences of agencies that proposed waivers underscored the fact that the major burdens and constraints that confronted agency managers often were imposed by the agency itself and not by central management agencies. For example, one agency found that most of its waiver proposals concerned requirements that its parent department had imposed. The department and the agency have since worked together to more fully make use of existing flexibilities. In another example, a Department of Defense agency, in preparing its GPRA waiver proposal, also found that most of its needed flexibilities could be granted by Defense and did not require the approval of a central management agency. The Department has since implemented policies and procedures to streamline the process its components should take to obtain relief from internally imposed requirements. The experiences of the agencies

proposing GPRA waivers are more broadly confirmed by our work on the NPR reinvention labs. We reported that over half of the waivers that the labs requested were for relief from requirements imposed by a lab's own agency.⁹

Agency managers also said that, in many cases, they were not sure which federal management requirements they had to follow by law, regulation, or administrative requirement. The managers said that the rapid and significant changes to federal management practices that Congress and the administration were making compounded their confusion. Therefore, managers were uncertain which management practices and procedures were imposed by their own agencies, eligible for a waiver under GPRA, or based in statute.

Efforts that are under way as part of the administration's PBO initiative are to assist agencies in identifying the requirements they now face. Under the initiative, a series of templates is being developed for selected management areas, such as human resources management and procurement.¹⁰ These templates are to describe for agencies the current requirements, the authorities that currently exist for agencies, and the procedures for obtaining additional flexibility. For example, the human resources management template, which has been developed, has three parts. The first part presents governmentwide interests, such as accountability for adherence to merit system principles, that must be maintained even as additional authorities are provided to agencies. The second part provides a detailed discussion of the existing personnel flexibilities and authorities. The third part discusses how OPM's existing authority to establish demonstration projects under the Civil Service Reform Act of 1978 can be used as a vehicle to waive existing laws and regulations. In fact, for 8 of the 11 GPRA waiver proposals that OPM denied because they asked for a waiver from statutory or other requirements that were beyond the scope of GPRA, OPM expressed its willingness to explore with the requesting agency the possibility of creating a demonstration project.

⁹GAO/GGD-96-69, page 150.

¹⁰The PBO initiative is based on the approach that the United Kingdom has used to create and manage its "Next Steps" agencies. For information on Next Steps and similar reform efforts, see [GAO/GGD-95-120](#).

Possible Statutory Barriers Identified in Waiver Proposals Provide Baseline for OMB in Developing Future Report

The report of the Senate Committee on Governmental Affairs that accompanied GPRA recognized that the establishment of improved performance levels may be inhibited because the act does not allow the waiver of statutory requirements or controls. However, the report states that neither the Senate Committee nor the agencies were able to identify the specific statutory requirements or controls for which a waiver should be considered. These unidentified requirements or controls are to be addressed, in part, by a GPRA-required report from OMB, which is due by May 1, 1997, on the performance planning and reporting and managerial accountability and flexibility pilot phases of GPRA. As part of that report, OMB is to discuss any significant difficulties that agencies experienced in developing waiver proposals.

The Senate Committee report urged OMB to develop (1) a list of possible statutory barriers to improved program performance that Congress may wish to consider modifying or abolishing and (2) an analysis of the performance benefits and other effects that legislative changes would produce. The waiver proposals seeking relief from statutory requirements should provide a starting point for OMB's efforts. However, according to OMB, it will need to undertake a significant amount of additional analysis because the agencies requesting relief from statutory requirements did not adequately provide an assessment of the benefits a waiver would yield. Therefore, OMB plans to work separately with the agencies to develop this information for its report.

Conclusion

The GPRA managerial accountability and flexibility pilot phase did not work as intended because it did not generate the experimental waivers from administrative requirements that Congress sought in crafting this provision of the act. Several factors contributed to this. For example, as recognized when GPRA was passed, the GPRA waiver provision does not allow central management agencies or OMB to waive statutory requirements that agencies saw as impediments to their ability to better manage for results. Waivers from statutory requirements were not allowable under GPRA. In addition, line agencies were able to obtain waivers through another avenue without meeting the GPRA requirement that agencies specify the direct and quantifiable improvements in their performance that would result from the proposal. Agencies' need or opportunity for waivers also decreased after GPRA's enactment as the administration and Congress initiated management reforms, such as altering personnel requirements and adopting federal FTE ceilings, that expanded or limited the flexibilities available to federal agencies governmentwide. Finally, in part through

their efforts to obtain GPRA waivers, several agencies discovered that restrictive rules often were their own creation and that these rules could be altered without any external waivers. The management templates now under development should, if widely disseminated, assist managers in identifying the requirements they face and the sources of those requirements.

OMB did not actively work with agencies to develop waiver proposals that it would find acceptable, which also undermined the pilot effort. For example, OMB's feedback to agencies was very limited, and in some cases in which a waiver had been approved or a compromise had been developed outside of the GPRA process, the agency was not informed. As a result, some agencies were operating under procedures that were no longer required.

As shown by the number of waiver proposals requesting relief from statutory requirements, agencies continued to believe that certain statutory requirements limited their abilities to better manage and effectively achieve their goals and objectives. The Senate Committee on Governmental Affairs recognized the possibility that statutory barriers to better program management exist, and, therefore, encouraged OMB to include in its May 1997 report a list of statutes for which Congress should consider authorizing waivers. The requirements identified in agencies' waiver proposals provide a useful starting point for that effort.

Recommendation to the Director of OMB

For those GPRA waiver proposals that a central management agency has approved or for which a compromise has been developed, we recommend that the Director of OMB formally notify the relevant agency of the waiver approval or proposed compromise so that the new flexibilities, if still available, can begin to be used.

Agency Comments and Our Evaluation

We requested comments on the draft of this report from the Director of OMB or his designee. On February 27, 1997, the Deputy Director for Management provided us with comments on the draft. In general, OMB found our review to be a useful resource as the agency prepares its own report to Congress on the GPRA pilot projects and confirmed that the managerial accountability and flexibility pilot process had yielded some useful lessons. OMB generally agreed with the draft report's content and recommendation and, as a result, plans to send letters to the participating agencies notifying them of the status of their waiver proposals.

OMB also elaborated on the reasons that it did not designate any pilots from the waiver proposals it received, noting that many of them were narrow or applied to entities too small to have a demonstrable effect on performance. In retrospect, according to OMB, the managerial accountability and flexibility pilots may have followed too closely on the heels of the performance measurement pilots to permit a meaningful—and required—relationship between the two sets of GPRA pilots. As noted in this report, we did not assess the final waiver determinations made by OMB and the other central management agencies or whether waiver proposals should or should not have been approved. However, we did note that OMB's approach to the waiver pilot process differed significantly from its approach to the performance planning and reporting pilot process. Under the planning and reporting pilots, OMB issued a summary assessment of the agencies' fiscal year 1994 performance plans. This assessment included a discussion of the plans' strengths and weaknesses and additional actions the agencies needed to take to improve these plans. Finally, OMB suggested additional information, such as the quality of OMB's initial guidance to agencies on the managerial accountability and flexibility pilot process, that would, in OMB's view, make the report more useful. However, we did not include this information because our review was not designed to collect this systematically.

We are sending copies of this report to other interested Members of Congress; the Director and Deputy Director of OMB; officials at FMS, GSA, and OPM; officials at GPRA pilot agencies; and other interested parties. We also will make copies available to others on request.

Major contributors to this report are listed in appendix V. Please contact me at (202) 512-8676 if you have any questions concerning this report.



L. Nye Stevens
Director, Federal Management and
Workforce Issues

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Abbreviations

DLA	Defense Logistics Agency
FMS	Financial Management Service
FTE	full-time equivalent
GPO	Government Printing Office
GPRA	Government Performance and Results Act
GSA	General Services Administration
IRS	Internal Revenue Service
NPR	National Performance Review
OMB	Office of Management and Budget
OPM	Office of Personnel Management
PBO	Performance Based Organization

Overview of the Government Performance and Results Act

The Government Performance and Results Act (GPRA) is the primary legislative framework through which agencies will be required to set strategic goals, measure performance, and report on the degree to which goals were met. It requires federal agencies to develop, no later than the end of fiscal year 1997, strategic plans that cover a period of at least 5 years and that include the agency's mission statement; identify the agency's long-term strategic goals; and describe how the agency intends to achieve those goals through its activities and through its human, capital, information, and other resources. Under GPRA, agency strategic plans are the starting point for agencies to set annual goals for programs and to measure the performance of the programs in achieving those goals.

Also, GPRA requires each agency to submit to the Office of Management and Budget (OMB), beginning for fiscal year 1999, an annual performance plan. The first annual performance plans are to be submitted in the fall of 1997. The annual performance plan is to provide the direct linkage between the strategic goals outlined in the agency's strategic plan and what managers and employees do day to day. In essence, this plan is to contain the annual performance goals the agency will use to gauge its progress toward accomplishing its strategic goals and to identify the performance measures the agency will use to assess its progress. Also, OMB will use agencies' individual performance plans to develop an overall federal government performance plan that OMB is to submit annually to Congress with the president's budget, beginning for fiscal year 1999.

GPRA requires that each agency submit an annual report to the president and to the appropriate authorization and appropriations committees of Congress on performance for the previous fiscal year (copies are to be provided to other congressional committees and to the public upon request). The first of these reports, on performance for fiscal year 1999, is due by March 31, 2000, and subsequent reports are due by March 31 for the years that follow. However, the report for fiscal year 2001 is also to include actual results for the preceding 2 fiscal years, and the report for fiscal year 2002 and all subsequent reports are to include actual results for the preceding 3 fiscal years.

In crafting GPRA, Congress also recognized that managerial accountability for results is linked to managers' having sufficient flexibility, discretion, and authority to accomplish desired results. GPRA authorizes agencies to apply for managerial flexibility waivers in their annual performance plans beginning with fiscal year 1999.

The authority of agencies to request waivers of administrative procedural requirements and controls is intended to provide federal managers with more flexibility to structure agency systems to better support program goals. An example of increased flexibility would be to allow an organization to recapture unspent operating funds because of increased efficiencies and then to use these funds to purchase new equipment or expand employee training. Another example might involve delegating more authority to line managers to make procurement decisions. Agencies must report in their annual performance reports on the use and effectiveness of any GPRA managerial flexibility waivers that they receive.

GPRA calls for phased implementation so that selected pilot projects in the agencies can develop experience from implementing its requirements in fiscal years 1994 through 1996 before implementation is required for all agencies. As of January 1996, of the 77 pilot projects for performance planning and performance reporting originally designated by OMB, about 68 were still under way across most major federal agencies. OMB also was required to select at least five agencies from among the initial pilot agencies to pilot managerial accountability and flexibility for fiscal years 1995 and 1996.

Finally, GPRA requires OMB to select at least five agencies, at least three of which have had experience developing performance plans during the initial GPRA pilot phase, to test performance budgeting for fiscal years 1998 and 1999. Performance budgets to be prepared by pilot projects for performance budgeting are intended to provide Congress with information on the direct relationship between proposed program spending and expected program results and the anticipated effects of varying spending levels on results.

Performance Pilots Eligible to Participate in Managerial Accountability and Flexibility Pilot

Performance planning and reporting pilot	Fiscal year organization was designated a performance planning and reporting pilot
Department of Agriculture:	
Animal and Plant Health Inspection Service—agricultural quarantine inspection program	1994
Cooperative Extension Service—selected national initiatives	1994
Farmers Home Administration—single family housing program	1994
Forest Service	1994
Natural Resources Conservation Service—conservation operations programs	1995
Office of Civil Rights Enforcement	1994
Office of Communications	1994
Packers and Stockyards Administration—scales and weighing operations	1995
Department of Commerce :	
Census Bureau, Patent and Trademark Office, and National Technical Information Service—information dissemination	1994
National Oceanographic and Atmospheric Administration	1994
Department of Defense:	
Air Force Air Combat Command	1995
Army Research Laboratory	1995
Corps of Engineers—civil works operation and maintenance program	1995
Defense Commissary Agency	1995
Defense Logistics Agency	1994
Department of Education:	
Office of Postsecondary Education—student financial assistance programs	1994
Department of Energy:	
Energy Information Administration	1995
Morgantown Energy Technology Center	1994
Oak Ridge National Laboratory—technology partnership/transfer program	1995
Office of Defense Programs—non-nuclear component production	1994
Office of Energy Efficiency and Renewable Energy	1994

(continued)

Appendix II
Performance Pilots Eligible to Participate in
Managerial Accountability and Flexibility
Pilot

Performance planning and reporting pilot	Fiscal year organization was designated a performance planning and reporting pilot
Office of Environmental Restoration and Waste Management	1994
Department of Health and Human Services:	
Child Support Enforcement Program	1994
Food and Drug Administration—prescription drug program	1995
Department of Housing and Urban Development:	
Office of the Chief Financial Officer—departmentwide debt collection	1994
Department of the Interior:	
Bureau of Indian Affairs—forestry and ecosystem restoration in the Pacific Northwest program	1995
Fish and Wildlife Service—North American waterfowl management program	1994
Geological Survey—national water quality assessment program	1995
Minerals Management Service—royalty management program	1994
Department of Justice:	
Federal Bureau of Investigation—DRUGFIRE program	1994
Federal Bureau of Investigation—national name check program	1994
Federal Bureau of Investigation—organized crime/drug program	1994
Federal Bureau of Investigation—property procurement and management	1994
Federal Bureau of Prisons—program review division	1994
Office of Debt Collection Management—nationwide central intake facility	1994
Weed and Seed Program—new sites	1995
Department of Labor:	
Employment Training Administration—economic dislocation and worker adjustment assistance and trade adjustment assistance programs	1994
Occupational Safety and Health Administration	1994
Department of State:	
Bureau of Diplomatic Security—investigative functions	1995
Bureau of East Asian and Pacific Affairs—business and trade promotion	1995

(continued)

Appendix II
Performance Pilots Eligible to Participate in
Managerial Accountability and Flexibility
Pilot

Performance planning and reporting pilot	Fiscal year organization was designated a performance planning and reporting pilot
Department of Transportation:	
Federal Aviation Administration—airway facilities	1994
Federal Highway Administration—Federal Lands Highway Organization	1994
National Highway Traffic Safety Administration	1994
United States Coast Guard—marine safety, security, and environmental protection	1994
Department of the Treasury:	
Bureau of Engraving and Printing	1994
Internal Revenue Service	1994
United States Customs Service—office of enforcement	1994
United States Mint	1994
Department of Veterans Affairs:	
National Cemetery System	1994
Veterans Benefits Administration—loan guaranty operations	1994
Veterans Benefits Administration—New York regional office	1994
Agency for International Development: ^a	
Sustainable development activities	1995
Environmental Protection Agency:	
Leaking Underground Storage Tank Program	1995
Federal Emergency Management Agency:	
Emergency Management Information Systems	1995
General Services Administration:	
Information Resources Management Service—procurement of micro-computer workstations and related software	1994
Public Buildings Service—real estate activities	1994
National Science Foundation:	
Education and Training Program Evaluation	1994
Electronic Proposals	1994
High Performance Computing and Communication Program	1994
Science and Technology Centers	1994
Specialized Research Facilities	1994
Office of Personnel Management:	
Retirement Adjudication Division	1995

(continued)

**Appendix II
Performance Pilots Eligible to Participate in
Managerial Accountability and Flexibility
Pilot**

Performance planning and reporting pilot	Fiscal year organization was designated a performance planning and reporting pilot
Small Business Administration	1994
Social Security Administration	1994
Federal Communications Commission:	
Authorization of Service function	1994
Merit Systems Protection Board:	
Adjudication and Alternative Dispute Resolution in Appellate Cases	1994
National Archives and Records Administration:	
Federal Records Center program	1994
Railroad Retirement Board:	
Bureau of Survivor Benefits—survivor claims processing	1994
Tennessee Valley Authority: ^a	
Water Management	1994
National Endowment for the Humanities:	
Office of Publications and Public Affairs	1995

^aThis agency could not identify a knowledgeable official for us to interview.

Source: OMB.

Central Management Agencies' Determinations on 61 Waivers Requested by 14 Organizations

Agency/Number of waiver requests	Waiver description	Central management agency determination		
		Agency	Waiver decision	Reason for waiver denial
Department of Commerce:				
National Technical Information Service (2 waiver requests)	Waiver of requirements related to federal credit programs and collection of nontaxable receivables	FMS	No decision	Not applicable
	Waiver of requirement for OMB approval of customer surveys	OMB	Compromise developed, no need for waiver	Not applicable
Patent and Trademark Office (3 waiver requests)	Waiver of requirement to complete a study before converting an in-house function to one performed under contract	OMB	Compromise developed, no need for waiver	Not applicable
	Waiver of requirements mandating the use of GSA schedules for purchase of items	GSA	Denied	GSA cannot grant waiver since schedules are contractual requirements that would be breached if waiver request were granted
	Waiver of requirements inhibiting the use of a special occupational pay system	OPM	Denied	OPM cannot grant waiver under Chapter 47, Title 5, U.S.C., except under demonstration project authority
Department of Defense:				
Defense Logistics Agency (7 waiver requests)	Waiver of requirement for bidder inspection before selling excess property	GSA	Approved outside of the GPRA pilot process	Not applicable
	Waiver of requirement to use Standard Form 114C when selling excess property	GSA	Approved outside of the GPRA pilot process	Not applicable
	Waiver of requirements that prevent DLA from charging sales preparation expenses to the recipient of federally transferred or donated property	GSA	Denied	GSA cannot grant a waiver from the Federal Property and Administrative Services Act of 1949
	Waiver of requirement limiting authority for negotiated sales of property to sales of \$15,000 or less, and for negotiated firm fixed price sales of property to sales of \$25,000 or less	GSA	Denied	GSA cannot grant a waiver from the Federal Property and Administrative Services Act of 1949

(continued)

**Appendix III
Central Management Agencies'
Determinations on 61 Waivers Requested by
14 Organizations**

Agency/Number of waiver requests	Waiver description	Central management agency determination		
		Agency	Waiver decision	Reason for waiver denial
	Waiver of requirement to give public notice of property that is about to be abandoned or destroyed	GSA	Approved outside of the GPRA pilot process	Not applicable
	Waiver of requirement to prepare an Analysis of Alternatives and Market Survey before purchasing ADP equipment from a DLA or interagency contract using delivery order	GSA	Approved outside of the GPRA pilot process	Not applicable
	Waiver of requirement that limits DLA from selling property (valued at \$15,000 or less) back to the original equipment manufacturer, at negotiated prices rather than original dollar value, when such property cannot be resold elsewhere	GSA	Denied	GSA cannot waive dollar limitation on negotiated sales per the Federal Property Act
Department of Energy:				
Morgantown Energy Technology Center (4 waiver requests)	Waiver of requirement to establish qualified manufacturer lists and product lists	GSA	Requirement eliminated, no need for a waiver	Not applicable
	Waiver of requirements hindering the ability to direct hire employees	OPM	Denied	OPM cannot grant waiver under Chapter 47, Title 5, U.S.C., except under demonstration project authority
	Waiver of requirements related to the procedures and sequence of actions to be followed before terminating a poorly performing employee	OPM	Requirements eliminated, no need for a waiver	Not applicable
	Waiver of requirements related to the donation of surplus property to public agencies and eligible nonprofit agencies	GSA	Requirements eliminated, no need for a waiver	Not applicable
Department of Health and Human Services:				
Office of Child Support Enforcement (1 waiver request)	Waiver of OMB approval of proposed data collection and reporting effort	OMB	Compromise developed, no need for waiver	Not applicable
Department of Transportation:				
Federal Aviation Administration (1 waiver request)	Waiver of requirements that preclude establishing a new performance appraisal system	OPM	Denied	OPM cannot grant waiver under Chapter 47, Title 5, U.S.C., except under demonstration project authority

(continued)

**Appendix III
Central Management Agencies'
Determinations on 61 Waivers Requested by
14 Organizations**

Agency/Number of waiver requests	Waiver description	Central management agency determination		
		Agency	Waiver decision	Reason for waiver denial
National Highway Traffic Safety Administration (3 waiver requests)	Waiver of requirements limiting the ability to conduct customer surveys	OMB	Compromise developed, no need for waiver	Not applicable
	Waiver of requirements mandating that printing be done through the Government Printing Office (GPO)	OMB	Denied	OMB does not have the authority to grant waivers from GPO requirements
	Waiver of requirements impeding the agency from negotiating and contracting directly with 8a firms	OMB	Denied	Small Business Administration requirements are statutory
Department of the Treasury:				
Internal Revenue Service (IRS) (16 waiver requests)	Waiver of requirements specifying UNICOR (Federal Prisons Industries) as a source for procuring system furniture	GSA	Denied	Mechanism to obtain relief from mandatory requirements of UNICOR requires a petition to the Department of Justice for clearance
	Waiver of requirements impeding IRS and state tax agencies from being housed in the same building	GSA	Denied	GSA is mandated by law to provide space and related services to federal activities
	Waiver of selected requirements that prolong the awarding of Outside Fee Appraisal contracts	GSA	No decision	Not applicable
	Waiver of requirements providing for procurement and legal office review of uses of commercial/vendor equipment or software for no-cost test/evaluation purposes	GSA	No decision	Not applicable
	Waiver of requirement prescribing that GSA issue a negative availability statement before obtaining commercial lease authority for an indefinite assignment lease for multiple motor vehicles	GSA	Approved outside of the GPRA pilot process	Not applicable
	Waiver of requirement that IRS report on GSA-leased vehicles in annual energy report	GSA	No decision	Not applicable
	Waiver of requirement that a government bill-of-lading be used when using small carriers for shipments greater than \$250	GSA	Approved outside of the GPRA pilot process	Not applicable
	Waiver of requirement that envelopes be purchased through GSA	GSA	Requirement eliminated, no need for a waiver	Not applicable

(continued)

**Appendix III
Central Management Agencies'
Determinations on 61 Waivers Requested by
14 Organizations**

Agency/Number of waiver requests	Waiver description	Central management agency determination		
		Agency	Waiver decision	Reason for waiver denial
	Waiver of requirement precluding IRS from charging fees after service is rendered or product is delivered	OMB	Denied	Granting of this waiver would be in violation of the Budget Enforcement Act
	Waiver of requirement for clearance of surveys and focus groups, particularly those related to completion rates, and honoraria caps	OMB	Compromise developed, no need for waiver	Not applicable
	Waiver of requirements preventing release of Standard Form 52 directly into the automated personnel system	OPM	Approved outside of the GPRA pilot process	Not applicable
	Waiver of requirement to reduce internal regulations by 50 percent by 1996	OMB	Denied	OMB does not have the authority to waive executive order requirements
	Waiver of requirement that OMB approve all form revisions, including minor ones	OMB	Compromise developed, no need for waiver	Not applicable
	Waiver for biennial GSA approval for monitoring incoming customer calls	GSA	Approved outside of the GPRA pilot process	Not applicable
	Waiver of competition requirements under Federal Acquisition Regulations for all items under \$25,000	GSA	Denied	GSA cannot grant waiver since competition requirements are statutory
	Waiver of requirement to use GPO for printing	OMB	Denied	OMB does not have authority to grant waivers from GPO requirements
U.S. Mint (8 waiver requests)	Waiver of requirements specifying external review of small business set-aside decisions	GSA	Denied	Small Business Administration has denied waiver with GSA concurrence
	Waiver of requirements for processing service contract wage determinations	GSA	Denied	GSA does not have the authority to grant the waiver (authority belongs to the Secretary of Labor)
	Waiver of requirement for separate equal employment opportunity clearances for recurring contracts with the same contractor	GSA	Denied	GSA does not have the authority to grant the waiver (authority belongs to the Secretary of Labor)
	Waiver of FTE ceilings	OMB	Denied	OMB cannot grant waivers from the Federal Workforce Restructuring Act
	Waiver of budget object class and budget activity controls	OMB	Denied	Statutory requirements mandate information in budget by object class
	Waiver of budget obligation accounting and reporting requirements for Numismatic Public Enterprise Fund	OMB	Denied	Statutory requirements mandate accounting and reporting by fund

(continued)

**Appendix III
Central Management Agencies'
Determinations on 61 Waivers Requested by
14 Organizations**

Agency/Number of waiver requests	Waiver description	Central management agency determination		
		Agency	Waiver decision	Reason for waiver denial
	Waiver of limitations on conducting customer surveys without prior OMB approval	OMB	Compromise developed, no waiver needed	Not applicable
	Waiver of requirements inhibiting the Mint from using term appointment employees other than those on OPM registers	OPM	Denied	OPM cannot grant waiver under Chapter 47, Title 5, U.S.C., except under demonstration project authority
Bureau of Engraving and Printing (10 waiver requests)	Waiver of requirement specifying travel voucher must be submitted after travel is complete	GSA	Denied	GSA cannot grant waiver because of statutory requirement in Title 31, U.S.C., which mandates that all claims against the government must be in writing, and requires submission of a voucher
	Waiver of FTE ceiling	OPM	Denied	OPM cannot grant waivers from the Federal Workforce Restructuring Act
	Waiver of requirement to report by budget object class and for obligation accounting/reporting	OMB	Denied	Statutory requirements mandate information in budget by object class
	Waiver of requirements covering the lengths of appointment and benefits available to temporary employees	OPM	Denied	OPM cannot grant waiver under Chapter 47, Title 5, U.S.C., except under demonstration project authority
	Waiver of requirements inhibiting agency from receiving direct-hire authority	OPM	Denied	OPM cannot grant waiver under Chapter 47, Title 5, U.S.C., except under demonstration project authority
	Waiver of requirements impeding the establishment of pay-banding for general schedule employees	OPM	Denied	OPM cannot grant waiver under Chapter 47, Title 5, U.S.C., except under demonstration project authority
	Waiver of requirements specifying that personnel performance appraisal systems have a minimum of three rating levels for each critical element and three summary rating levels for each critical element and three summary rating levels, thus precluding introduction of a "pass/fail" system	OPM	Requirement eliminated, no need for a waiver	Not applicable
	Waiver of requirements that all foreign disbursements be processed through the Department of State	FMS	Approved outside of the GPRA pilot process	Not applicable
	Waiver of requirements impeding the ability to purchase insurance against negative fluctuations in exchange rates when contracting with foreign vendors	FMS	Denied	FMS cannot grant the waiver since its policy does not allow granting waivers that would create the appearance of currency speculation, thereby contravening Treasury Financial Manual section 9050.10

(continued)

**Appendix III
Central Management Agencies'
Determinations on 61 Waivers Requested by
14 Organizations**

Agency/Number of waiver requests	Waiver description	Central management agency determination		
		Agency	Waiver decision	Reason for waiver denial
	Waiver of requirements precluding the Bureau from using accumulated cash to make short-term investments in government securities	FMS	Denied	Denied under Title 31, U.S.C., section 5142
U.S. Customs Service (1 waiver request)	Waiver of FTE ceiling	OMB	Denied	OMB cannot grant waivers from the Federal Workforce Restructuring Act
Department of Veterans Affairs:				
New York Regional Office (3 waiver requests)	Waiver of requirement prescribing an evaluation/approval timeline for personnel compensation demonstration projects	OPM	Denied	OPM cannot grant waiver under Chapter 47, Title 5, U.S.C., except under demonstration project authority
	Waiver of requirement mandating the use of GSA contract guard service in federal office buildings	GSA	Waiver withdrawn	Not applicable
	Waiver of requirement that employee W-2 forms be adjusted to reflect the use of government vehicles by employees conducting government business	OMB	Denied	OMB does not have the authority to grant waivers from statutory requirements
Benefits Administration (1 waiver request)	Waiver of administrative costs definition to allow for certain costs to be categorized as program costs	OMB	Denied	Granting this waiver would be in violation of the Budget Enforcement Act
National Endowment for the Humanities (1 waiver request)	Waiver of requirement to use GPO for printing	OMB	Denied	OMB does not have the authority to grant waivers from GPO requirements

Note: Fifteen organizations in eight agencies submitted waiver proposals to OMB. One managerial accountability and flexibility nominee—the Department of Health and Human Services' Bureau of Health Professions—was ineligible since it had not been previously designated as a performance pilot. Two other organizations—the Department of Commerce's Patent and Trademark Office and the National Technical Information Service—submitted individual waiver proposals for the same pilot—Department of Commerce's Information Dissemination.

Sources: Data from OMB, GSA, FMS, and OPM.

Comments From the Office of Management and Budget



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

DEPUTY DIRECTOR
FOR MANAGEMENT

February 27, 1997

Mr. L. Nye Stevens
Director, Federal Management
and Workforce Issues
United States General Accounting Office
441 G Street NW
Washington, DC 20548

Dear Mr. Stevens:

Thank you for providing us with a copy of GAO's forthcoming report, "Managerial Accountability and Flexibility Pilot Projects Did Not Meet Expectations". We have reviewed the report, and appreciate the work done by GAO staff in its preparation.

We also appreciate the opportunity to provide detailed comments on this report at this time. As the Government Performance and Results Act (GPRA) requires OMB to report to Congress this May on the pilot projects, we will be using that report to discuss more fully our assessment of what occurred over the course of designating the managerial accountability and flexibility pilots. The GAO report provides both a useful record and helpful insights in this regard.

In testimony to Congress nearly two years ago, I voiced our concern about many of the nominations for these pilot projects. As I noted then, several of the proposed pilots consisted only of a single waiver request. Other nominations had a narrowly drawn set of waivers, making the potential impact on performance difficult to gauge. I also offered some possible reasons for this, including passage of the Workforce Restructuring Act and its mandated reduction of Federal employment. In addition, agencies were discovering that many of the restrictive requirements they wanted to have waived were internally imposed, and not established by the central management agencies. The similar findings in your report confirm this earlier assessment. I would add that we still believe, in retrospect, that this set of pilots was designed to follow too quickly on the heels of the performance measurement pilots. Even today, the need for intense efforts currently by agencies to meet the deadline for developing strategic plans and the performance measures for their annual performance plans, both of which are fundamental precursors to any flexibility waiver, suggests a timing sequence that was very difficult to sustain.

The GAO report summarizes the wide range of waiver requests that were received with the pilot project nominations. As the report indicates, many of the waivers requested could not be authorized. Some of these were waivers from statutory requirements (which GPRA cannot be

**Appendix IV
Comments From the Office of Management
and Budget**

used to waive); others were from requirements established by an agency outside the Executive branch (the Government Printing Office), or from requirements that had already been eliminated, such as through the reforms of the National Performance Review.

Remaining after this initial screening of the waiver requests was a set of waivers that we concluded were unlikely -- because of either their limited application or the size of the entity receiving the waiver -- to have any demonstrable effect on performance. Thus, we chose to designate no pilots, rather than have pilots that were incapable of demonstrating the managerial accountability and flexibility concepts in GPRA. As you suggest in your single recommendation to OMB, we will soon send formal, dispositive letters to the nominating agencies regarding their nominations and associated waiver requests

There are several areas and aspects of the report where further elaboration would, in our view, increase its value for and relevance to government-wide implementation of the managerial flexibility provisions of GPRA. Let me sketch these below.

The report focusses on that phase of the designation process occurring after OMB received the pilot project nominations from the seven departments and one independent agency. There is little reference to what preceded that stage, or to the OMB documents provided to the agencies requesting the pilot project nominations and providing information on prospective waivers. We are particularly interested in agency views, independently obtained, of the adequacy of our guidance, and whether the 'metes and bounds' document (indicating what potentially might be waived and what would not) was useful to them. Perhaps this information might be gleaned from GAO's extensive set of interviews with officials from nearly 70 eligible organizations.

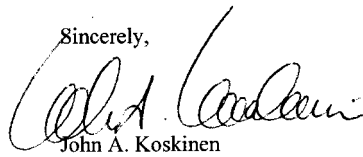
A dimension of these pilot project nominations not covered by the report goes directly to how government-wide implementation of managerial flexibility can be accomplished. The statute explicitly prescribes how changes in performance resulting from a waiver are to be determined and reported. It is a rigorous test. Most of the pilot nominations were either of an organizational level or defined a waiver-performance relationship that was not present in the existing performance plans of those agencies. (GPRA required that all the managerial accountability and flexibility pilot projects be selected from previously designated performance measurement pilots.) A current concern is how to avoid distorting the structure and content of the annual performance plans for FY 1999 if the pilot nominations truly reflect the type and level of waiver that will be sought by the agencies in the months ahead.

The GAO report also describes the Administration's initiative to develop Performance Based Organizations (PBOs). Much of the approach being using to establish PBOs is based on lessons learned from the managerial flexibility pilot process. GAO's past and future assessments of managerial flexibility concepts and their use in other countries are of value to us as we define the structure and performance aspects of a PBO. We expect that PBOs may turn out to be the most effective way to demonstrate the relationship between managerial flexibility and improved performance.

**Appendix IV
Comments From the Office of Management
and Budget**

Nonetheless, applying the lessons learned from these GPRA pilot project candidates to the process of identifying, submitting, and approving waivers of administrative requirements in the government-wide phase of GPRA will be an important task. We hope to work with your staff in helping us develop a process that addresses, where possible, the issues that arose with this set of pilot projects.

Sincerely,

A handwritten signature in black ink, appearing to read "John A. Koskinen". The signature is fluid and cursive, with a large initial "J" and "K".

John A. Koskinen

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Related GAO Products

Managing for Results: Using GPRA to Assist Congressional and Executive Branch Decisionmaking ([GAO/T-GGD-97-43](#), Feb. 12, 1997).

Executive Guide: Effectively Implementing the Government Performance and Results Act ([GAO/GGD-96-118](#), June 1996).

Acquisition Reform: Regulatory Implementation of the Federal Acquisition Streamlining Act of 1994 ([GAO/NSIAD-96-139](#), June 28, 1996).

Management Reform: Completion Status of Agency Actions Under the National Performance Review ([GAO/GGD-96-94](#), June 12, 1996).

Paperwork Reduction: Burden Reduction Goal Unlikely to be Met ([GAO/T-GGD/RCED-96-186](#), June 5, 1996).

Management Reform: Status of Agency Reinvention Lab Efforts ([GAO/GGD-96-69](#), Mar. 20, 1996).

Managing for Results: Achieving GPRA's Objectives Requires Strong Congressional Role ([GAO/T-GGD-96-79](#), Mar. 6, 1996).

GPRA Performance Reports ([GAO/GGD-96-66R](#), Feb. 14, 1996).

Managing for Results: Status of the Government Performance and Results Act ([GAO/T-GGD-95-193](#), June 27, 1995).

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Government Reform: Goal-Setting and Performance ([GAO/AIMD/GGD-95-130R](#), Mar. 27, 1995).

Managing for Results: State Experiences Provide Insights for Federal Management Reforms ([GAO/GGD-95-22](#), Dec. 21, 1994).

Management Reform: Implementation of the National Performance Review's Recommendations ([GAO/OCG-95-1](#), Dec. 5, 1994).

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