

apply to Federal agency dissemination of public information,” and specifies that agencies are “responsible for * * * complying with the * * * policies established by the Director.” 44 U.S.C. 3504(d)(1), 3506(a)(1)(B). In the Information Quality Act, Congress further specified that OMB’s guidelines should “provide policy and procedural guidance to Federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by Federal agencies.” Pub. L. 106–554, section 515(a).

Proposed Guidance

OMB’s current information quality guidance encourages but does not require peer reviews, and identifies general criteria that agencies should consider when they conduct such reviews. See Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies, 67 FR 8,452, 8,454–55, 8,459–60 (Feb. 22, 2002). To best serve the President’s policy of improving our federal regulatory system and the quality and integrity of information disseminated by the federal agencies, OMB, in coordination with OSTP, now proposes to ensure that agencies conduct peer reviews of the most important scientific and technical information relevant to regulatory policies that they disseminate to the public, and that the peer reviews are reliable, independent, and transparent. This notice seeks comment on the following proposed guidance, which would take the form of an OMB Bulletin, would supplement (but not replace) OMB’s information quality guidelines pursuant to the Information Quality Act, Pub. L. 106–554, section 515(b), and would also serve as guidance pursuant to the Paperwork Reduction Act, 44 U.S.C. 3504(d), and Executive Order 12866. OIRA will consult with OSTP in implementing this Bulletin as it relates to the peer review process.

Many agencies already have extensive peer review requirements. This guidance would supplement those requirements for the peer review of “significant regulatory information,” which is scientific or technical information that (i) qualifies as “influential” under OMB’s information quality guidelines and (ii) is relevant to regulatory policies. This category does not include most routine statistical and financial information, such as that distributed by the Census Bureau, the Bureau of Labor Statistics and the

Federal Reserve. Nor does it include science that is not directed toward regulatory issues, such as most of the scientific research conducted by the National Institutes of Health and the National Science Foundation. It is also limited to the peer review of *studies* to be disseminated, as opposed to applications for grants. In order to avoid duplication of effort, we have also exempted information that has already been adequately peer-reviewed from the peer review requirements of this Bulletin. Finally, OMB has excluded some categories of information, such as national security information, and some types of proceedings, such as individual adjudications and permit applications, from the scope of this Bulletin. The Bulletin also recognizes that waivers of these requirements may be required in some circumstances, such as when court-imposed deadlines or other exigencies make full compliance with this Bulletin impractical.

This Bulletin requires peer review of the category of “significant regulatory information” described above. It also articulates specific requirements for the peer review of “significant regulatory information” that the agency intends to disseminate in support of a major regulatory action, that could have a clear and substantial impact on important public policies or important private sector decisions with a possible impact of more than \$100 million in any year, or that the Administrator of OIRA determines to be of significant interagency interest or relevant to an Administration policy priority. Such an impact can occur whether or not a federal rulemaking is envisioned or considered likely to occur, in part because information might influence local, state, regional, or international decisions. For this category of especially important information, whose reliability is paramount, agencies must take care to select external peer reviewers who possess the requisite experience and independence from the agency. The agencies must also provide the peer reviewers with sufficient information and an appropriately broad charge. The agency must then publicly respond to the peer reviewers’ written report, and make other appropriate disclosures.

In addition to setting forth basic peer review procedures, this guidance also elaborates on the reporting requirements of Executive Order 12866 and the Information Quality Act. Pursuant to these authorities, agencies already provide OMB with information regarding upcoming regulatory initiatives and information quality issues. In doing so, each agency should make sure to identify: studies that will

be subject to the peer review requirements of this Bulletin; the agency’s plan for conducting the peer review; and correction requests filed by members of the public regarding the quality of information disseminated by the agency. These reporting requirements will permit the public, OMB, and OSTP to monitor agency compliance throughout the peer review process.

Finally, this Bulletin provides that each agency that receives a non-frivolous administrative correction request challenging the agency’s compliance with the Information Quality Act must promptly post the request on its Internet website or forward a copy to OIRA and, if requested, consult with OIRA regarding the request. This consulting requirement will assist OMB in discharging its responsibility under the Information Quality Act to monitor the quality of information disseminated to the public. Together with the peer review and reporting requirements discussed above, it should also give the public reasonable assurance that the most important regulatory science disseminated by the federal government comes with indicia of reliability.

Additional Requests for Comment

OMB seeks comments from all interested parties on all aspects of this proposed Bulletin and guidelines. In particular, OMB seeks comment on the scope of this Bulletin. As explained above, this proposal covers significant regulatory information, with some exceptions. It may be that the overall scope of this Bulletin should be reduced or enlarged, or that fewer or more exceptions should be made.

OMB also seeks comment on whether some provisions of this proposal should be strengthened, modified, or removed. While the bipartisan legislative proposal discussed above required all peer reviewers to be independent of the agency, this proposal leaves open the possibility that agency employees could serve on peer review panels in certain circumstances. This proposal also identifies circumstances that raise questions about the independence of peer reviewers (e.g., agency employees and agency-supported research projects), but it does not flatly preclude the selection of peer reviewers who raise some of those concerns. Members of the public are welcome to comment on whether these provisions strike the appropriate balance between safeguarding the fact and appearance of impartiality, on the one hand, and ensuring that qualified peer reviewers will not be precluded from service