



OMB Watch Analysis on Final Peer Review Bulletin

Shortly before the holidays, the Office of Management and Budget (OMB) released a final version of its proposal to establish government-wide requirements for when and how federal agencies use scientific peer review. The "[Final Information Quality Bulletin for Peer Review](#)" makes modest changes to the revised proposal that OMB published April 28, 2004 with only a 30-day comment period. OMB's announcement did not explain the seven-month delay until just before the holiday season, when many academics, scientists and public interest groups concerned with the policy were away on vacations.

After OMB released the revised proposal on peer review in April, OMB Watch acknowledged the improvements but raised several major concerns that remained unaddressed and provided recommendations for improving the proposal. This analysis will report on any progress made in the final bulletin with respect to OMB Watch's major concerns and recommendations.

OMB Watch's major concerns with the early versions OMB's bulletin on scientific peer review addressed these five areas: Authority, Problem Definition, Oversight, Selection of Reviewers, and Regulatory Delay.

Authority

OMB Watch contested OMB's legal authority to establish the peer review requirements in our [analysis](#) of OMB's April revised bulletin. OMB did not provide any law or executive order that clearly instructed the agency to implement such policies. Instead, OMB claimed its legal authority derived from a series of laws and executive orders, none of which explicitly instructed OMB to produce uniform peer review standards for the federal government. OMB Watch recommended that OMB withdraw the peer review proposal and first seek congressional approval before implementing any policies.

In the final bulletin, OMB continues to assert that authority for the peer review policies is implied in the Information Quality Act and OMB's general authorities. None of the laws or executive orders referenced provide any specific instructions on peer review. No new authority is referenced by the agency and OMB did not seek any clarifying or supporting language from Congress.

Problem Definition

In the revised draft proposal, OMB Watch did not believe that OMB adequately established that a fundamental problem existed with government-wide peer review; therefore it was unclear what the proposed policies would solve. OMB put the cart before the horse by focusing on a solution without proper attention to defining the problem, if one existed. OMB Watch recommended significantly limiting the scope of the peer review policies until such time as a government-wide peer review problem could be identified.

In the final bulletin, OMB continues to imply that a problem has been identified and defined by citing several studies and reports. However, none of these documents actually claim that an overarching problem or failure of peer review policies has occurred at federal agencies. Nor do the studies recommend the establishment of uniform requirements for scientific peer review. Instead, the referenced materials address the importance of peer review, the need for changes at certain agencies, or types of reviews. Yet, without a clear understanding of any problem in peer review standards, OMB finalized these policies assuming they will do more good than harm.

Oversight

OMB Watch also complained about the oversight role that OMB granted itself in the draft peer review proposals. OMB has never overseen peer review and holds very little scientific or peer review expertise – only a handful of recently-hired scientists. OMB is a political office working directly for the administration, not an unbiased scientific office. Yet, the agency places itself in the role of supervisor for implementing scientific peer review. OMB Watch recommended oversight authority to an objective scientific body, such as the National Academy of Sciences or an interagency review panel.

In the final peer review bulletin, OMB solidifies its new oversight role for scientific peer review. Provisions continue to give OMB the authority to grant exemptions, approve alternative peer review processes, and designate information for stricter review requirements. The final proposal also adds a stipulation that all federal agencies submit an annual report to OMB detailing the use of peer review for the fiscal year. OMB Watch continues to believe that the bulletin grants far too much influence over the scientific peer review process to the politically motivated offices of OMB and the Office of Science and Technology Policy. Such power would enable an administration to easily influence peer reviews and in turn, the rulemakings that follow.

Selection of Reviewers

OMB Watch raised concerns over the revised proposal's imbalance in treatment between government experts and those from industry. For the most important peer reviews, OMB created a double standard in which agency employees, who may peer review more basic peer information, are essentially barred from serving as reviewers. However, experts associated with affected industries are still allowed to serve as peer reviewers with only a requirement that their affiliations be disclosed. OMB Watch urged OMB to eliminate the double standard and allow for greater use of government experts not directly

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- [Draft Peer Review Bulletin](#) (Aug. 2003)
- [Revised Bulletin](#) (April 2004)
- [Final Bulletin](#) (Dec. 2004)
- [OMB Watch Analyses on Draft Bulletins](#)

associated with the information being reviewed, or to use the same standard to screen out scientists that possess questionable independence from industry perspectives.

OMB's final policies do make some improvement on this topic. Unfortunately, the progress is slight. In the case of ordinary peer reviews, the bulletin acknowledges that it is possible for government employed experts to provide independent and unbiased advice while reviewing government information. The section on independence of reviewers explains that in the "narrowest sense, independence in a reviewer means that the reviewer was not involved in producing the draft document to be reviewed." Unfortunately, the section continues to imply that even government experts completely separate from the agency producing the material to be reviewed should generally not be used except in rare circumstances.

Highly influential scientific information has must stricter peer review requirements, and OMB explicitly states that government employees should be rarely be used as reviewers. The final proposal continues to ban any experts from the sponsoring agency from reviewing information, but makes an exception for the "rare situation in which a scientist from a different agency of a Cabinet-level department than the agency that is disseminating the scientific assessment has expertise, experience and skills that are essential but cannot be obtained elsewhere." The unequal standards for private sector scientists are somewhat reconciled, as the final bulletin instructs agencies to "consider barring participation by scientists with a conflict of interest."

Regulatory Delay

OMB Watch previously raised significant concerns that the new layers of bureaucracy being proposed in the peer review standards would further delay an already slow regulatory process. The revised proposal required agencies to produce and accept public comments on peer review plans. OMB also instructed agencies to allow for public comments on individual peer reviews, even though the very definition of scientific peer review is the collection of feedback from selected experts. While OMB Watch supports and encourages the use of public comment procedures, it acknowledges that they can be time consuming and recommends they be only applied to appropriate processes. Adding repeated public comment periods to peer review will almost certainly delay the most important research. OMB Watch recommended that OMB include a stronger protection against delay by establishing a restriction on the length of time a peer review operates and the number of peer reviews a single study may undergo before dissemination.

In the final peer review policies, it appears that there is still a likelihood of excessive delay, and OMB Watch urges agencies not to allow any peer reviews to become never-ending. However, the bulletin actually adds even more bureaucratic requirements that will create additional delay problems. OMB continues to instruct agencies to engage in the peer review agenda process and provide an opportunity for public comment at several stages. This is further complicated, as OMB lists 10 specific requirements for each entry on an agency's peer review agenda. The proposal also adds new requirements -- each agency must submit annual peer review reports to OMB and certifications in the administrative record about how the agency has complied with the requirements of this peer review policy for each and every piece of highly influential scientific information.

Conclusion

While OMB's final scientific peer review bulletin continues to make slight improvements, these changes are overwhelmed by the continuing fundamental flaws and new provisions that exacerbate these problems. This final version requires agencies to implement the new policies within six months -- by the end of June. Any real problems, delays and/or conflicts that may or likely will result from this shortsighted and imbalanced set of policies will begin to appear after that implementation date.