

OUT OF SIGHT, OUT OF DATE, OUT OF LUCK

QUICK STATS

- ✕ **CONFERENCE:** Regulation
- ✕ **TEAM:** All agencies
- **FUMBLE:** Outdated guidance documents from federal agencies
- **HOW TO RECOVER THE BALL:** Conduct regular guidance spring cleanings

Federal regulators often use guidance documents to explain and clarify their regulations to the public. Guidance documents cannot impose new legally binding obligations on businesses and individuals—only regulations issued through the formal rulemaking process can do that. However, guidance documents often have the effect of changing the behavior of businesses that seek to avoid unnecessary and costly federal intrusion.

In 2015 GAO found that 11 of the 25 sub-agencies it reviewed did not regularly evaluate whether issued guidance was effective and accurate. In one example DOL's Office of Federal Contract Compliance Programs conducted a two-year review of its existing guidance directives. After reviewing guidance documents in 2012 and 2013, officials discovered more than 85 percent of the office's guidance documents were unnecessary or outdated.²⁵⁷ While this effort is commendable, it begs the question: how many other agencies have outdated or conflicting guidance on their websites?

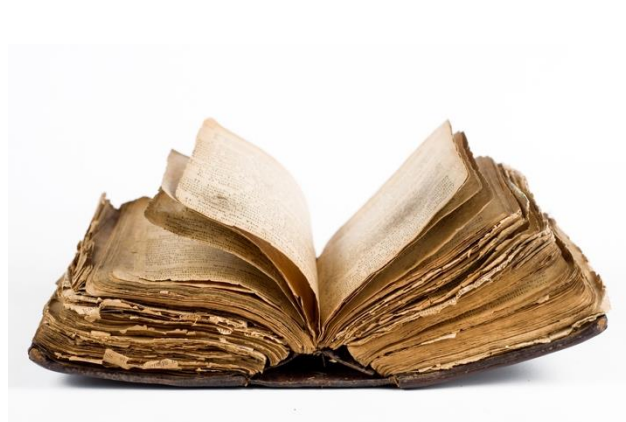


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RECOVERY

Federal agencies must do a better job to ensure their guidance documents are up-to-date and easy to find and meet the needs of regulated parties. On November 17, 2015, the Senate passed two joint resolutions of disapproval with bipartisan support that would prevent the EPA from enforcing the CPP.²⁵⁸ By conducting guidance spring cleanings like the Office of Federal Contract Compliance Programs, federal agencies can avoid confusion and make it easier for small businesses and other affected entities to comply with federal mandates.²⁵⁹

[For more information, please visit:](#)

[GAO: Regulatory Guidance: Selected Departments Could Strengthen Internal Control and Dissemination Practices](#)

[DOL: OFCCP Guidance Documents](#)