

United States Senate

WASHINGTON, DC 20510

February 3, 2012

The Honorable Jeffrey D. Zients
Acting Director
Office of Management and Budget
1650 Pennsylvania Avenue, NW
Washington, DC 20503

Dear Mr. Zients:

On January 4, 2011, President Obama signed the GPRA Modernization Act of 2010 into law (Public Law 111-352) to enhance and refine the statutory framework for performance management established by the landmark Government Performance and Results Act of 1993 (GPRA or 'Results Act'). Under this new law Congress intends that the Federal Government will:

- Adopt a coordinated and crosscutting approach to achieving government-wide goals;
- Ensure quality performance information is used in decision making;
- Instill sustained leadership commitment and accountability for achieving results;
- Actively engage with Congress to address management and performance issues;
- Strengthen major management functions across agencies; and
- Achieve unprecedented levels of transparency by providing the public with access to planning and performance information through one centralized website.

In 2011, the Office of Management and Budget (OMB) released three guidance documents to agencies addressing implementation of the act: "Delivering on the Accountable Government Initiative and Implementing the GPRA Modernization Act of 2010," M-11-17 (April 14, 2011); "Delivering an Efficient, Effective, and Accountable Government," M-11-31 (August 14, 2011); and "Preparation and Submission of Strategic Plans, Annual Performance Plans, and Annual Performance Reports," Circular A-11, Part 6 (August 18, 2011).

We have analyzed these documents and believe they establish a solid foundation to build upon. We commend OMB for its efforts in making this substantial progress on implementation to date. However, our analysis, which is attached to this correspondence, highlights significant statutory requirements that have not yet received adequate focus, but are critical to the success of the act. These provisions address the new governmentwide crosscutting emphasis, enhanced Congressional consultations, and establishing a performance website for the Federal Government.

The analysis also contains recommendations for strengthening existing guidance to address these key areas. We respectfully request that you work quickly to address these

priority areas in subsequent OMB publications to make sure the implementation guidance for the GPRA Modernization Act is comprehensive and fulfills Congressional intent.

GPRA established a performance management framework that has attained an impressive level of continuity and sustainability over the past two decades and three successive administrations. With the GPRA Modernization Act, we have an opportunity to build upon this success. Working together, we can fundamentally transform the Results Act into a dynamic, innovative means of achieving a more efficient, transparent, and effective Federal Government.

Sincerely,



Daniel K. Akaka
Chairman
Subcommittee on Oversight of
Government Management, the
Federal Workforce, and the
District of Columbia



Thomas R. Carper
Chairman
Subcommittee on Federal Financial
Management, Government Information,
Federal Services, and International
Security



Mark R. Warner
Chairman
Task Force on Government Performance
Committee on the Budget

As our Nation confronts fiscal challenges and agencies make difficult choices, it is more important than ever that these budgetary and policy decisions are informed by high quality performance information and a focus on results. One of the most significant lessons learned in the years following the enactment of the Government Performance and Results Act of 1993 (GPRA) is that achieving important results for the American people requires coordinated, crosscutting efforts across multiple agencies and programs.

In directing OMB and agencies to focus on a limited number of priority goals, the GPRA Modernization Act (“Act”) seeks to establish a sustainable decision-making model focused on broad outcomes and groups of programs that can be gradually replicated across the Federal Government.

We offer the following analysis of the Office of Management and Budget (OMB)’s three guidance documents to Federal agencies addressing implementation of the Act: “Delivering on the Accountable Government Initiative and Implementing the GPRA Modernization Act of 2010,” M-11-17 (April 14, 2011); “Delivering an Efficient, Effective, and Accountable Government,” M-11-31 (August 14, 2011); and “Preparation and Submission of Strategic Plans, Annual Performance Plans, and Annual Performance Reports,” Circular A-11, Part 6 (August 18, 2011), and recommendations for future guidance on the Act.

Priority Goals and Performance Plans

Interim Federal Priority Goals and Agency Priority Goals

We strongly urge the Office of Management and Budget (OMB) work with agencies to publish ambitious, broad, and significant interim Federal Priority Goals and Agency Priority Goals concurrent with the submission of the fiscal year 2013 Budget to Congress.

The U.S. Government Accountability Office (GAO) High-Risk Program is an excellent resource for identifying priority goals that address crosscutting policy areas of critical importance to our Nation. For example, GAO added Federal oversight of food safety to its high-risk list in 2007 due to dangerous performance shortfalls and quality control problems resulting from our Nation’s fragmented food safety inspection system. Since then, the Congress and the administration have committed to reforming food safety programs, and it is imperative that decision-makers have the performance information necessary to determine what is working well and what is not. Improving food safety for all Americans is precisely the type of Federal Priority goal Congress envisioned when developing the GPRA Modernization Act.

Federal Government Priority Goals and the Federal Government Performance Plan

The August 2011 guidance documents do not elaborate on agency requirements related to the Federal Government Performance Plan and contain minimal information about the Federal Government Priority Goals. For example, Circular A-11 guidance states that agency Annual Performance Plans should discuss the agency’s contributions to any Federal Priority Goals which OMB has asked the agency to lead or support (Circular A-11, Part 6, Section 220.5), without mentioning the Federal Government Performance Plan in this section, nor in any other part of

Circular A-11 or M-11-31. As OMB M-11-17 noted, the Act requires OMB to coordinate with agencies to develop an annual Federal Government performance plan and to develop priority goals to improve the performance and management of the Federal Government. *See* 31 U.S.C. §§ 1115(a) and 1120(a)(1). To achieve agency performance planning initiatives that are crosscutting in nature and fully integrated with governmentwide efforts, we urge you to release additional guidance addressing these requirements.

Agency Strategic Plans and Agency Performance Plans

The Circular A-11 guidance also omits portions of the revised strategic plan requirements to address interagency collaboration as it pertains to achieving Federal Government Priority Goals. The Act requires agencies' strategic plans to describe how their goals and objectives are to be achieved, including "a description of how the agency is working with other agencies to achieve its goals and objectives as well as relevant Federal Government priority goals." *See* 5 U.S.C. § 306(a)(4)(B). Similarly, agencies must describe their performance plans and how their performance goals contribute to Federal Government performance goals, which includes any of the crosscutting performance goals in the governmentwide plan. *See* 31 U.S.C. § 1115(b)(3)(B).

However, Section 201.3 of Circular A-11 only states that in their strategic plans, agencies should describe the roles and responsibilities of external agency partners (including other Federal programs) related to each strategic goal. This guidance lacks the second half of the Act's requirement, which is to discuss how the agency is working with others to achieve any relevant Federal Government Priority Goals. Moreover, Section 210.10 of Circular A-11, which identifies the Act's new strategic planning requirements, does not mention interagency collaboration. Enhancing coordination and crosscutting strategic planning were key impetuses behind the reforms contained in the GPRA Modernization Act, and we urge that Circular A-11 be updated to address these critical issues.

The GPRA Modernization Act also amends the agency performance plans to require agencies to identify "low-priority program activities based on an analysis of their contribution to the mission and goals of the agency and include evidence-based justification for designating a program activity as low priority." *See* 31 U.S.C. § 1115(b)(10). However, the current guidance documents do not address this requirement. OMB should issue updated guidance that includes instructions to agencies for carrying out this new requirement, and specifies that "low priority program activities" should be included in the agency performance plans.

Congressional Consultation

The GPRA Modernization Act strengthens Congressional consultation by requiring OMB and agencies to describe how agency goals and objectives incorporate the views and suggestions obtained through consultations with Congress. *See* 5 U.S.C. § 306(a)(4)(B) and (d); 31 U.S.C. § 1120(a)(3) and (b)(1)(A).

The Act also requires Congressional consultations to occur at least once every two years to ensure that each Congress has input on the goals, objectives, strategies, and performance measures of the agency. These consultations also allow the agency to provide a progress report

on its performance and make sure that relevant committees of jurisdiction are receiving the performance information they need. By requiring OMB and agencies to engage Congress in addressing management and performance issues, we are seeking to increase the use of performance information in the Legislative Branch decision-making processes.

The Senate Committee Report on the Act clearly communicates the intent of Congress in regard to the need for, and purpose of, the enhanced consultations:

One of the original goals of GPRA was to strengthen the collaboration between Congress and the Federal agencies to improve government performance. For its part, Congress needs more objective information on the relative effectiveness and efficiency of Federal programs and spending. The Committee expressed the importance of Congressional consultation in its report on GPRA in 1993: ‘particularly during this time of very tight budget constraints, it is important that Congress develop a clear understanding of what it is getting in the way of results from each dollar spent, and how those results would change with an increase or decrease in funding. In all likelihood, Congress will face difficult, wrenching budget decisions for years to come. But even if the budget were balanced, and revenues strong, this information would be important in the making of wise spending decisions.’

GPRA also established a consultation process so that agencies could take Congressional views into account as appropriate. However, little evidence exists that agencies have formally or significantly considered the input of key stakeholders when developing goals and objectives. In waiting to consult with relevant Congressional stakeholders until a strategic plan has been substantially drafted and vetted within the executive branch, agencies forego important opportunities to learn early on about specific concerns that will be critical to successful implementation. Therefore, this Committee again strongly emphasizes that Congressional consultations are to take place during the development of the plan--not after.

See Senate Report 111-372, at pp. 4-5 (internal footnotes omitted). Congress must be considered a partner in shaping performance goals from the outset. As the Comptroller General of the United States noted at a March 2011 Congressional hearing on the Act, “In order for performance improvement initiatives to be useful to Congress for its decision-making, garnering Congressional buy-in on what to measure and how to present this information is critical.”

Unfortunately, the August 2011 guidance documents provide insufficient information addressing how OMB will implement the Act’s Congressional consultation requirements for the Federal Government Priority Goals. The Act requires the Director of OMB, “when developing or making adjustments to Federal Government priority goals,” to consult periodically with Congress, including obtaining majority and minority views from the appropriations, budget, governmentwide oversight, tax committees, and other committees as appropriate. *See* 31 U.S.C. § 1120(a)(3). However, the guidance only states that “OMB will meet with Congressional staff to discuss the best process to consult with Congress on the Federal Priority Goals,” (M-11-31,

Section 5.7), and it does not address how OMB will comply with the Act's specific committee consultation requirements referenced above.

We respectfully request that OMB provide additional guidance describing the specific timelines and mechanisms being employed to fulfill the Federal Government Priority Goal Congressional consultation requirements. If OMB, in complying with 31 U.S.C. § 1120(a)(3)(G), determines that no other committees are appropriate to consult with when developing or making adjustments to Federal Government Priority Goals, we request that OMB include a justification for this decision.

In regard to the Act's Congressional consultation requirements for agency priority goals, none of the guidance documents sufficiently address implementation of these provisions. The Act states that "agency priority goals *shall* ... reflect the highest priorities of the agency, as determined by the head of the agency and informed by the Federal Government priority goals...and the consultations with Congress and other interested parties," 31 U.S.C. § 1120(b)(1)(A) (emphasis added), while the guidance only states that "Agencies *should* consult with Congress over the summer on their Priority Goal issue areas, prior to submitting defined draft goals to OMB in September," M-11-31, Section 4.22 (emphasis added).

M-11-31, Section 4.22 also provides an incorrect list of committees with which agencies are to consult, using the Act's Federal Government Priority Goal consultation requirements instead of the agency priority goal requirement that agencies consult with appropriate authorizing, appropriations, and oversight committees. *See* 5 U.S.C. § 306(d); 31 U.S.C. § 1120(b)(1)(A).

In addition, although the Act expands the Congressional consultation requirement for developing or revising strategic plans by directing agencies to obtain "majority and minority views from the appropriate authorizing, appropriations, and oversight committees," 5 U.S.C. § 306(d), OMB guidance does not address the amended language, and only specifies that agencies are to consult "with the Congress," Circular A-11 Part 6, Section 210.6, which was the original GPRA requirement.

Reporting Requirements

Performance.gov

The Act also seeks to enhance the transparency by requiring OMB establish a government-wide website that contains Federal performance information related to programs, priority goals and results. *See* 31 U.S.C. § 1122. The Act recognizes that the Federal Government must improve the quality and utility of performance planning and reporting materials, while overhauling the delivery of this information so it is readily accessible to the public in a dynamic, online format. We are pleased that OMB appears to be working hard to enhance the *Performance.gov* website to fulfill the Act's requirements no later than October 1, 2012.

We believe a centralized website that consolidates and provides performance information in a comprehensive, yet accessible manner is pivotal to the effective implementation of the Act, and strongly urge OMB to address areas where additional guidance or further refinement is needed.

Specifically, we are concerned that the guidance for agency quarterly review information to be provided to OMB, presumably for posting on *Performance.gov*, does not include all required elements and does not guarantee the information from those other required elements will be made public. The Act requires the following elements be addressed:

- Results achieved during the most recent quarter and overall trend data compared to the planned level of performance (31 U.S.C. § 1122(b)(6));
- Assessment of whether relevant organizations, program activities, regulations, policies, and other activities are contributing as planned (31 U.S.C. § 1122(b)(7));
- Identification of the agency priority goals at risk of not achieving the planned level of performance (31 U.S.C. § 1122(b)(8)); and
- Any prospects or strategies for performance improvement (31 U.S.C. § 1122(b)(9)).

Section 4.27 of M-11-31 states that agencies should submit updated data from quarterly reviews to OMB, including measures and milestones. However, if this submission is intended to be information for OMB to post on the governmentwide website, it does not meet the Act's requirements listed above. It is missing the agency's assessment of whether underlying organizations, program activities, and other factors are contributing to the priority goal as planned; the identification of the agency priority goals at risk of not being achieved; and any planned improvement strategies. OMB does note that such information may be included in additional submissions from agencies, which the guidance refers to as a quarterly "Analysis of Progress" (M-11-31, Section 4.27). However, this section states that Analysis of Progress supplemental information is intended for internal deliberation and not for release outside the Executive Branch. OMB should revise the guidance to comply with the Act's transparency requirements.

Performance.gov must focus on results to be credible and sustainable. Fortunately, we believe State initiatives, such as *Virginia Performs*, demonstrate that a comprehensive, transparent performance management website can garner bipartisan support and enhance the public's understanding of how their government is working for them. In Virginia's case, highlighting specific areas of performance improvement and performance decline is an admirable, balanced approach that we urge OMB to adopt for *Performance.gov*.

Reducing Duplicative and Outdated Agency Reporting

The Act also requires OMB to develop guidance on the elimination of unnecessary agency reporting. See 31 U.S.C. § 1125(a). Future guidance should include instructions addressing agency compliance with this provision. Timely submission of these reports will help make sure that Congress can fulfill the intent of the GPRA Modernization Act, and act to eliminate any duplicative or outdated reporting requirements.