

GPRA Modernization Act of 2010 Explained

Background

Congress recently passed – and President Obama just signed -- legislation updating the 18-year-old Government Performance and Results Act (GPRA).

This update effort started several years ago through the efforts of Congressman Henry Cuellar (D-TX) then evolved more recently with support from Senators Tom Carper (D-DE) and Mark Warner (D-VA).

The update is based on more than 15 years of experience – documented through numerous GAO reports that culminated in a 2004 overarching assessment. This experience included both the evolution of agency practices as well as increased access to information and collaboration via the Internet.

The original 1993 law required agencies to create multi-year strategic plans, annual performance plans, and annual performance reports. The new legislation makes some significant changes – about 150 actions by one count – to existing law and will take several years to implement.

Overview of New Law. The new legislation creates a more defined performance framework by prescribing a governance structure and by better connecting plans, programs, and performance information. As described in the Senate committee report, the new law requires more frequent reporting and reviews (quarterly instead of annually) that are intended to increase the use of performance information in program decision-making.

The law will likely change behaviors in the executive branch by creating a more explicit fact-based decision-making framework to implement programs and be more results-oriented. Specific elements include:

1. Revised agency strategic planning requirements.
2. Revised agency annual performance planning requirements.
3. Revised agency performance reporting requirements.
4. New requirement that OMB assess agency performance.
5. New requirements to designate cross-cutting federal priority goals and agency-level priority goals.
6. New requirements for quarterly reviews and reporting of governmentwide and agency-level priority goals.
7. Codification of the existing government framework that evolved over the past 15 years. Specifically, it legislatively creates (1) chief operating officers, (2) program improvement officers, (3) a governmentwide performance improvement council, and (4) a governmentwide performance website.
8. Other new implementation actions, such as better training for program managers and a timetable for action.

Will Take Two to Tango. But for the law to be effective, Congress may have to change its behavior as well. For example, the law requires greater consultation with Congress in the designation of cross-cutting and agency-level priority goals, as well as in the development of agency strategic plans. But to do this, Congress will have to find new ways to coordinate its own efforts across committee

jurisdictions. EPA and Homeland Security, for example, each report to over 70 committees and subcommittees, often with differing priorities, so Congress will likely have to find a way to coordinate internally in order to provide meaningful input. This will only increase when the law's provisions for obtaining congressional input on cross-agency goals become effective.

1. Agency Strategic Plans

The new law revises agency strategic planning requirements under the Government Performance and Results Act (GPRA) by changing when they are prepared to align with presidential terms of office, requires greater cross-agency alignment of goals and programs, and details the congressional consultation process in the development of the plans.

According to the Senate committee report accompanying the new law:

“Under GPRA, an agency is currently required to develop a strategic plan at least every three years to cover the following five year period. This reporting timeframe for updating strategic plans does not correspond to presidential terms. It makes little sense to require an update of a strategic plan shortly before a new administration is scheduled to take office, as changes in political leadership often result in new objectives and can render preexisting plans unuseful.”

The new law:

“. . . addresses this issue by modifying the schedule for revising agency strategic plans to align with presidential terms. The bill requires strategic plans cover a period of no less than four years and allows the agency to make

adjustments to the plan to reflect significant changes in its operating environment. . . .”

The new law also attempts to:

“. . . ensure that agency goals align with broader federal efforts . . . and to provide greater clarity regarding the impact of employee efforts on overarching goals.” In addition, it *“requires an agency to describe how it is working with other agencies to achieve its own goals and objectives, as well as the crosscutting priority goals of the federal government.”*

The Senate committee report also notes the law:

“. . . .strengthens the Congressional consultation process by encouraging agencies to describe how agency goals and objectives incorporate the views and suggestions obtained through consultations with Congress. This legislation clarifies that the agency shall periodically consult with and obtain majority and minority views from its authorizing, appropriations, and oversight committees when developing or making adjustments to its strategic plan. It also requires Congressional consultations occur at least once every two years. . . .”

2. Agency Annual Performance Plans

The new law revises agency annual performance planning requirements under GPRA by requiring a link between the performance goals in the annual plan with the goals in their strategic plans. The plans also must describe the strategies and resources agencies will use, and requires the plans to cover a 2-year, rather than a 1-year period.

The Senate committee report notes:

“GPRA requires executive agencies to develop annual performance plans covering each program activity in the agencies’ budgets.”

It continues, noting that the new law:

“. . . requires an agency to describe how the performance goals contained in its performance plan contribute to the goals and objectives established in the agency’s strategic plan, as well as any overall federal government performance goals. Additionally, this legislation requires that an agency’s performance plan cover a two-year period, including both the current fiscal year and the next one. Under existing law, an agency’s performance plan is only required to cover the next fiscal year.”

The new law requires agencies to provide a clear description of the strategies and resources they intend to use to implement their plan. According to the Senate committee report, it:

“. . . requires an agency to provide additional information about how the agency plans to achieve its performance goals by identifying clearly defined milestones, the agency officials responsible for ensuring each goal is achieved, and the program activities, regulations, policies and other activities that support each goal.”

The committee report continues, noting:

“This legislation also requires the agency to post its performance plan on the agency website concurrent with the submission of the budget for the United States Government.”

3. Agency Performance Updates

The new law revises agency performance reporting requirements under GPRA by shifting its emphasis from annual reporting to more regular reporting. It also creates a forcing mechanism that requires OMB to take action on agency “unmet” goals.

According to the Senate committee report, the new law:

“. . . requires agencies to provide a performance update at least annually, occurring no later than 150 days after the end of the fiscal year. However, agencies are encouraged to provide more frequent updates that would provide significant value to the federal government, Congress, or” – as noted in the statute: “. . . program partners at a reasonable level of administrative burden.”

4. OMB Assessment of Agency Performance

The new law also adds a new “review and respond” process to the agency performance reporting cycle.

For those goals judged by OMB as being “unmet:”

“Each fiscal year, the Office of Management and Budget shall determine whether the agency programs or activities meet performance goals and objectives outlined in the agency performance plans and submit a report on unmet goals to—

- (1) the head of the agency;*
- (2) the Committee on Homeland Security and Governmental Affairs of the Senate;*
- (3) the Committee on Oversight and Governmental Reform of the House of Representatives; and*
- (4) the Government Accountability Office.*

If goals are unmet the first year. *“If an agency’s programs or activities have not met performance goals as determined by the Office of Management and Budget for 1 fiscal year, the head of the agency shall submit a performance improvement plan to the Office of Management and Budget to increase program effectiveness for each unmet goal with measurable milestones. The agency shall designate a senior official who shall oversee the performance improvement strategies for each unmet goal.*

If goals are unmet a second year. *“If the Office of Management and Budget determines that agency programs or activities have unmet performance goals for 2 consecutive fiscal years, the head of the agency shall—*

(A) submit to Congress a description of the actions the Administration will take to improve performance, including proposed statutory changes or planned executive actions; and

(B) describe any additional funding the agency will obligate to achieve the goal, if such an action is determined appropriate in consultation with the Director of the Office of Management and Budget, for an amount determined appropriate by the Director.”

“In providing additional funding . . . the head of the agency shall use any reprogramming or transfer authority available to the agency. If after exercising such authority additional funding is necessary to achieve the level determined appropriate by the Director of the Office of Management and Budget, the head of the agency shall submit a request to Congress for additional reprogramming or transfer authority.

And if goals are not met a third year in a row. *“If an agency’s programs or activities have not met performance goals as determined by the Office of*

Management and Budget for 3 consecutive fiscal years, the Director of the Office of Management and Budget shall submit recommendations to Congress on actions to improve performance not later than 60 days after that determination, including—

(1) reauthorization proposals for each program or activity that has not met performance goals;

(2) proposed statutory changes necessary for the program activities to achieve the proposed level of performance on each performance goal; and

(3) planned executive actions or identification of the program for termination or reduction in the President’s budget.”

5. Governmentwide Annual Performance Plan

The original GPRA requires OMB to develop a governmentwide annual performance plan. OMB chose to designate the President’s budget as meeting that requirement. Separately, GAO’s 2004 report recommended a governmentwide strategic plan, but OMB saw that as infeasible. The new law attempts another approach, and requires consultation with Congress.

According to the Senate committee report, the new law creates specific requirements for OMB by requiring that:

- “. . .the plan establish performance goals for each crosscutting federal government priority goal;
- OMB identify the various agencies, organizations, program activities, regulations, tax expenditures, policies and other activities that contribute to each federal government performance goal;
- a lead government official be assigned for each federal government performance goal;

- OMB establish common federal government performance indicators to measure and assess progress across agencies toward shared goals; and
- OMB identify government and cross-agency management challenges and plans to address such challenges.”

These governmentwide annual performance plans would be submitted to Congress along with each budget.

According to the Senate committee report, the new law:

“enhances the existing requirements for a federal government performance plan, establishes the development of federal government priority goals, and requires agencies to have their own priority goals in order to achieve those federal government priority goals. These three important measures, alongside requirements for quarterly progress reviews and web-based reporting, set up a government-wide strategic and planning process.”

Federal Priority Goals. According to the Senate committee report, the new law:

“. . . requires the Director of OMB to work with agencies to develop federal government priority goals that aim to improve performance and management across the federal government. The crosscutting policy goals are required to be outcome-oriented and limited in number to ensure that there is ample focus on achieving these goals over time.

“The management-related goals should cover management functions where significant improvements are needed across the federal government, such as information technology, human capital, and financial management. Recognizing that achieving the federal government priority goals will require sustained

focus over a period of time, the goals are required to be long-term in nature and updated or revised at least every four years.”

These goals would be included in the governmentwide performance plan, made available at the same time as the budget is submitted to Congress, and posted on the governmentwide performance website created by this legislation.

The law requires the Director of OMB to consult with Congress on the development of the Federal Government priority goals: “. . . including obtaining majority and minority views from—

- the Committees on Appropriations of the Senate and the House of Representatives;
- the Committees on the Budget of the Senate and the House of Representatives;
- the Committee on Homeland Security and Governmental Affairs of the Senate;
- the Committee on Oversight and Government Reform of the House of Representatives;
- the Committee on Finance of the Senate;
- the Committee on Ways and Means of the House of Representatives; and
- any other committees as determined appropriate;

“The Director of the Office of Management and Budget shall consult with the appropriate committees of Congress at least once every 2 years.”

Agency Priority Goals. According to the Senate committee report, the new law also:

“. . . requires the head of each agency to identify agency priority goals from

among the agency’s performance goals. The Director of OMB would have authority to determine the total number of agency priority goals across the federal government, as well as the number of priority goals to be developed by each agency. The Committee expects the total number of federal goals will not exceed 100 and agency goals will not exceed five per agency, while acknowledging variation. . . . The priority goals have a two-year timeframe.”

6. Quarterly Priority Goal Progress Reviews

The new law includes new requirements for quarterly reviews and progress assessments of governmentwide and agency-level priority goals.

Federal Priority Goal Reviews. According to the Senate committee report, the new law:

“. . . attempts to lay out a process for reviewing progress towards the federal government priority goals on, at minimum, a quarterly basis. For each federal government priority goal, the Director of OMB should review the progress achieved during the most recent quarter and the likelihood of meeting the performance target.

“As a part of these reviews, the Director of OMB and the PIC [Performance Improvement Council] must categorize the federal government priority goals according to the risk of not meeting performance targets, and for those at greatest risk, identify strategies to improve performance.”

Agency-Level Priority Goal Reviews. The new law:

“. . . provides an analogous review process at each agency required to develop priority goals. For each agency priority goal, the head of the agency and the COO, with the support of the agency PIO [performance improvement officer], reviews the progress achieved during the most recent quarter and the likelihood of meeting the performance target. The reviews should include the designated leader for each agency priority goal [to be known as a ‘goal leader’], and relevant personnel within and external to the agency. The reviews should also highlight and strategize regarding high risk areas—in other word, where there is the greatest risk of not meeting a priority goal.”

There are actually pilots of these kinds of reviews already underway. Governmentwide, there are the TechStat meetings being held by the governmentwide Chief Information Officer, and in some government agencies, most notably in the FDA, which calls its reviews FDA TRACK. (See the IBM Center report on Baltimore’s CitiStat by Robert Behn to understand the model.)

7. Governance of Overall Performance System

The new law codifies an existing governance framework for performance across government by designating chief operating officers in each major agency and requiring the designation of program improvement officers in each agency. It also authorizes a governmentwide performance improvement council and requires a governmentwide performance website.

After the original GPRA was adopted in 1993, President Clinton designated the deputy secretaries as their department’s “chief operating officers” responsible for overall management and

performance issues, and this was continued by subsequent administrations. President George W. Bush in 2007 issued an executive order requiring major agencies to designate a “performance improvement officer.” This new law formalizes these positions and designations.

Governmentwide Council. The PIOs will meet regularly under the auspices of OMB as the Performance Improvement Council (PIC). The new law defines some specific duties for the Council, including:

- *“work to resolve specific Governmentwide or crosscutting performance issues, as necessary;*
- *facilitate the exchange among agencies of practices that have led to performance improvements within specific programs, agencies, or across agencies;*
- *coordinate with other interagency management councils;*
- *consider the performance improvement experiences of corporations, nonprofit organizations, foreign, State, and local governments, Government employees, public sector unions, and customers of Government services. “*

The law also allows the Council to develop an interagency staff:

“The heads of agencies with Performance Improvement Officers serving on the Council shall, as appropriate and to the extent permitted by law, provide at the request of the chairperson of the Performance Improvement Council up to 2 personnel authorizations to serve at the direction of the chairperson.”

Governmentwide Performance Website.

The Senate committee report states that the new law: *“. . . requires OMB to develop a single governmentwide performance website by [October 1,] 2012 that will feature performance information outlined in the bill and provided by the agency. The bill further requires that OMB issue guidance to agencies on providing performance information for publication on this website. In addition, agencies are required to produce all strategic plans, performance plans, and performance reports in searchable, machine-readable formats beginning in fiscal year 2012.”*

8. Other Implementation Provisions

The new law includes other new implementation actions, as well. For example, the Office of Personnel Management (OPM) must identify key skills and competencies for performance management; new definitions of terms; agency chief human capital officers have to prepare the section of their agency’s annual performance plan describing the skills and competencies needed to meet agencies’ goals described in the plans.

The new law contains a number of other implementation provisions worth highlighting:

- **Skills and competencies to be set.** OPM must identify, *“. . . in consultation with the PIC, to identify key skills and competencies related to performance management in the federal government not later than one year after the enactment date of this Act. Not later than two years after the enactment of this Act, the Director of OPM must incorporate such skills and competencies into relevant position classifications and agency training.”*

- **Use of Balanced Measures required.** Agency performance plans must “. . . establish a balanced set of performance indicators to be used in measuring or assessing progress toward each performance goal, including, as appropriate, customer service, efficiency, output, and outcome indicators. . . .”
- **CHCO role in goal achievement.** Agency chief human capital officers must “. . . provide a description of how the [agency’s] performance goals are to be achieved, including – the operation processes, training, skills and technology, and the human, capital, information, and other resources and strategies required to meet those goals. . . .”
- **Plans to be revised in one year.** Agency strategic and performance plans for FY 2013 must be revised to reflect the requirements under this law by February 6, 2012.

- **First agency quarterly reviews to be completed soon.** Agencies must conduct their first quarterly performance reviews on progress towards their priority goals outlined in the FY 2011 budget for the quarter ending June 30, 2011.
- **Eliminate obsolete mandated congressional reports.** And in the continuing tradition of eliminating “obsolete” congressionally mandated reports, the new law tries again to do what the 1982 Congressional Reports Elimination Act, the Federal Reports Elimination and Sunset Act of 1995, and the Reports Consolidation Act of 2000 failed to do.
- **Implementation cost estimates.** According to the Senate committee report, the Congressional Budget Office estimates that compliance with the provisions in this new law would require about \$1 million in new resources, per major agency.

References

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