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Reauthorization of the E-Government Act: A Brief Overview

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Reauthorization of the E-Government Act: A Brief Overview

Summary

December 2007 marked the fifth anniversary of the passage of the E-Government Act of 2002. Shortly before this anniversary, authorization of appropriations for several key provisions expired on September 30, 2007. Some of the activities and offices affected by the expiring authorizations include, but are not limited to, the Office of Electronic Government (OEG) within the Office of Management and Budget (OMB), the General Services Administration (GSA) E-Government Fund; the GSA program to operate a federal Internet portal; and the National Institute of Standards and Technology (NIST) responsibility to develop standards, guidelines, and associated methods and techniques for protecting federal information systems.

Building upon the Clinger-Cohen Act, the E-Government Act serves as the primary legislative vehicle to guide evolving federal IT management practices and to promote initiatives to make government information and services available online. In doing so, it also represents a continuation of efforts to realize greater efficiencies and reduce redundancies through improved intergovernmental coordination, and by aligning IT investments. The law contains a variety of provisions related to federal government IT management, information security, and the provision of services and information electronically. One of the most recognized provisions involves the creation of an Office of Electronic Government (OEG) within the OMB. The OEG is headed by an Administrator, who is responsible for carrying out a variety of information resources management (IRM) functions, as well as administering the interagency E-Government Fund authorized by the law.

Although the E-Government Act authorized a cumulative minimum of $345 million from FY2003-FY2007 for the E-Government Fund, concerns regarding oversight have prompted Congress to appropriate no more than $5 million in any given fiscal year since the passage of the act.

The occasion to consider reauthorization of the E-Government Act provides Congress the opportunity to assess the results of federal e-government initiatives since 2002, consider how they have affected the administration of government, and decide what changes, if any, are necessary. In considering whether to reauthorize any, some, or all of these provisions, Congress may also wish to consider a number of other issues related to the implementation and oversight. These issues include, but are not limited to: what actions may be needed to reconcile the fundamental disparity between the horizontal nature of government-wide e-government initiatives, and the vertical organization of government oversight and funding mechanisms; how e-government initiatives should be funded and the role of the E-Government Fund; and the continuity and future direction of e-government efforts with the upcoming transition of presidential administrations.

On November 7, 2007, S. 2321, the E-Government Reauthorization Act of 2007 was introduced. The bill would amend and reauthorize appropriations for the E-Government Act. A comparable bill has not been introduced in the House.

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Reauthorization of the E-Government Act: A Brief Overview

Background

On December 17, 2002, President George W. Bush signed the E-Government Act of 2002[1] into law. Building upon the Clinger-Cohen Act,[2] the E-Government Act serves as the primary legislative vehicle to guide evolving federal IT management practices and to promote initiatives to make government information and services available online. In doing so, it also represents a continuation of efforts to realize greater efficiencies and reduce redundancies through improved intergovernmental coordination, and by aligning IT investments. The law contains a variety of provisions related to federal government IT management, information security, and the provision of services and information electronically. One of the most recognized provisions involves the creation of an Office of Electronic Government (OEG) within the Office of Management and Budget (OMB). The OEG is headed by an Administrator, who is responsible for carrying out a variety of information resources management (IRM) functions, as well as administering the interagency E-Government Fund authorized by the law.

The E-Government Act also served an important role in providing the first, and current, official federal definition of e-government. As a somewhat amorphous concept, the term electronic government, or e-government, conjures different images for different people.[3] For some, it is submitting a form online. For others, it might

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[1] P.L. 107-347; 116 Stat. 2899.

[2] The Clinger-Cohen Act was passed as Sections D and E of the National Defense Authorization Act for Fiscal Year 1996 (P.L. 104-106). The Clinger -Cohen Act repealed the Brooks Act of 1965 (P.L. 89-306). The goal of the Brooks Act was to reform federal information technology procurement by concentrating purchasing authority within the General Services Administration (GSA). However, prolonged acquisition cycles and rapid changes in technology eventually diminished the effectiveness of the "one-size fits-all" approach of the Brooks Act. Among the major provisions of the Clinger-Cohen Act are the establishment of department-level chief information officers, the elimination of the General Service Administration's primary role in setting policy and regulation for federal information technology procurement/acquisition, the deployment of information security practices, and the establishment of two pilot programs to test alternative acquisition approaches (Share-in Savings and Solutions-Based Contracting). For a more detailed overview of the Clinger-Cohen Act, see CRS Report RL30661, *Government Information Technology Management: Past and Future Issues (The Clinger-Cohen Act)*, by Jeffrey W. Seifert.

[3] Jeffrey W. Seifert and Harold C. Relyea. "Considering E-government from the Federal (continued...)

be sending an e-mail message to their Member of Congress. A 2000 Gartner Group report described e-government as "the continuous optimization of service delivery, constituency participation, and governance by transforming internal and external relationships through technology, the Internet, and new media."[4] A year later, Mark Forman, the first Associate Director for Information Technology and E-Government at (OMB), defined e-government as "the use of Internet technology and protocols to transform agency effectiveness, efficiency, and service quality."[5] Section 2 of the E-Government Act defines e-government as:

> the use by the Government of web-based Internet applications and other information technologies, combined with processes that implement these technologies, to (A) enhance the access to and delivery of Government information and services to the public, other agencies, and other Government entities; or (B) bring about improvements in Government operations that may include effectiveness, efficiency, service quality, or transformation.[6]

In addition, Section 207 of the E-Government Act broke new ground by establishing requirements for the accessibility, usability, and preservation of electronic government information. However, while the reporting requirements of this section appear to have been fulfilled,[7] ongoing concerns about issues such as the archiving of official electronic records and the accessibility of current electronic information for citizens have prompted the introduction of new legislation in the 110th Congress. For example, the revelation of deficiencies regarding the retention and preservation of official electronic communications (i.e., e-mail messages) by the White House have contributed to calls for more stringent rules and oversight related to the archiving of such materials.[8] Similarly, S. 2321, the E-Government Reauthorization Act of 2007, includes a provision (discussed later in this report) requiring the Director of OMB to promulgate new guidelines to make federal websites more searchable by online search engines such as Google or Yahoo! Search.

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[3] (...continued)
Perspective: An Evolving Concept, a Developing Practice," *Journal of E-Government*, 2004, pp. 7-15.

[4] Gartner Group. "Key Issues in E-Government Strategy and Management," *Research Notes, Key Issues* (Stamford, CT: Gartner Group, Inc., May 23, 2000).

[5] Stephen Barr. "President Searching for a Few Good E-government Ideas," *Washington Post*, August 10, 2001, p. B2.

[6] 116 Stat. 2899, at 2902.

[7] For example, the report on recommendations for managing electronic records required by Section 207 is available at [http://www.cio.gov/documents/ICGI/ICGI-207e-report.pdf]. Also, on December 17, 2004, OMB issued Memorandum 05-04, *Policies for Federal Agency Public Websites*, [http://www.whitehouse.gov/omb/memoranda/fy2005/m05-04.pdf], as required by Section 207(f).

[8] On April 15, 2008, H.R. 5811, the Electronic Communications Act was introduced. The bill would amend Title 44 of the U.S.C. by establishing new standards and certification requirements for the preservation of certain electronic records.

While many of the Bush Administration's e-government initiatives are separate from, and pre-date, the E-Government Act, some of the goals of these initiatives are statutorily affirmed by the act's provisions. For example, Section 216 addresses the development of common protocols for geographic information systems, which is also one of the objectives of the Geospatial One-Stop project.[9] Section 206 directs agencies to use electronic dockets in their rulemaking process, which represents a more distributed alternative to the centralized docket being implemented under the Regulations.gov initiative.[10] Section 203 directs agencies to adopt electronic signature methods. Likewise, the E-Authentication initiative strives to develop a government-wide approach to electronic identity systems.[11] In addition, some of the act's broader provisions, such as those related to the development of privacy guidelines, information security standards, and the identification of means to bridge disparities in Internet access among citizens, contribute to the technological and regulatory infrastructure needed to support e-government generally.

Funding for e-government activities was to be primarily provided through a combination of a dedicated fund in the form of the E-Government Fund, as well as other appropriations specifically authorized in the E-Government Act. As discussed later in this report, the E-Government Fund was established by Title I of the E-Government Act to serve as a dedicated funding source for interagency IT projects. However, although the E-Government Act authorized a cumulative minimum of $345 million from FY2003-FY2007, concerns regarding oversight have prompted Congress to appropriate no more than $5 million in any given fiscal year since the passage of the act. Congress has also repeatedly declined to approve the Bush Administration's alternative proposals to allow OMB to tap the $40 million surplus fund of GSA's General Supply Fund.[12] Partly as a consequence of the relatively small amounts appropriated for the E-Government Fund, OMB has attempted to finance various e-government projects through an interagency "pass-the-hat" approach. Using this model, departments and agencies have been expected to contribute a portion of their budget to the managing partner department or agency responsible for developing the shared e-government application or service.

Shortly before the fifth anniversary of the passage of the E-Government Act, authorization of appropriations for several key provisions expired on September 30, 2007.[13] Some of the activities and offices affected by the expiring authorizations include, but are not limited to, the General Services Administration (GSA)

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[9] The Geospatial One-Stop project website is available at [http://www.geodata.gov/].

[10] The Regulations.gov e-rulemaking site is available at [http://www.regulations.gov]. For a more detailed analysis of the Regulations.gov initiative, see CRS Report RL34210, *Electronic Rulemaking in the Federal Government*, by Curtis W. Copeland.

[11] The e-authentication project website is available at [http://www.cio.gov/eauthentication/].

[12] U.S. Congress, House Committee on Appropriations, *Financial Services and General Government Appropriations Bill, 2008*, report to accompany H.R. 2928, 110th Cong., 1st sess., H.Rept. 110-207, (Washington: GPO, 2007), p. 68.

[13] U.S. Congressional Budget Office, *Unauthorized Appropriations and Expiring Authorizations,* January 12, 2007, [http://www.cbo.gov/ftpdocs/77xx/doc7725/01-12-UAEA_Appropriations.pdf].

E-Government Fund (Sec. 101); the OMB Office of Electronic Government (Sec. 101); the GSA program to operate a federal Internet portal (Sec. 204); the development of a government-wide online repository of federally funded research and development (Sec. 207); the GSA program to study and enhance the effectiveness of community technology centers that provide computer and Internet access to the public (Sec. 213); the GSA program to develop and maintain common protocols for geographic information systems (Sec. 216); the Federal Information Security Management Act (FISMA) (Title III); and the National Institute of Standards and Technology (NIST) responsibility to develop standards, guidelines, and associated methods and techniques for protecting federal information systems (Sec. 303). Although the authorizations of appropriations for these provisions have expired, the activities have continued to be funded through the Consolidated Appropriations Act for FY2008 (P.L. 110-161) for FY2008. Congress does, at times, approve spending for unauthorized appropriations to maintain the continuity of programs and services.[14]

However, the occasion to consider reauthorization of the E-Government Act provides Congress the opportunity to assess the results of federal e-government initiatives since 2002, consider how they have affected the administration of government, and decide what changes, if any, are necessary. In considering whether to reauthorize any, some, or all of these provisions, Congress could choose to amend the E-Government Act to establish a permanent authorization for the functions and structures that have become integral to the operation of government. Congress could also choose to add new provisions to reflect the maturing of both the initiatives and technology now in place. Likewise, Congress could choose to eliminate provisions that have not met expectations or that have been subsumed by changes in events and/or technology. Alternatively, Congress could choose not to reauthorize any of the provisions of the E-Government Act.

E-Government Act

Legislative History

The E-Government Act was first introduced with bipartisan support during the 107th Congress as S. 803 by Senator Joseph Lieberman on May 1, 2001. The bill was referred to the Committee on Governmental Affairs, which held a hearing on the legislation on July 11, 2001. At the hearing, Senator Lieberman described the bill as "a work in progress" and said that he expected the bill to change as further comments and feedback were received.[15] This initial bill was itself partly the product of comments received through a website launched by Senator Lieberman and Senator Fred Thompson on May 18, 2000. The website, called the E-Government Project,

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[14] For a more detailed analysis of the authorization-appropriations process, see CRS Report RS20371, *Overview of the Authorization-Appropriations Process*, by William Heniff, Jr.

[15] U.S. Congress, Senate Committee on Governmental Affairs, *S. 803 — E-Government Act of 2001*, hearing on S. 803, 107th Congress, 1st session, July 11, 2001 (Washington: GPO, 2001), p. 3.

solicited comments from the public, as well as government agencies, on 44 topics in what was referred to as an "experiment in interactive legislation." Operated as a mediated forum to emphasize "appropriateness and relevance," "nearly 1,000 comments were submitted, approximately one-half of which were posted on the website after being reviewed by Committee staff."[16] Also, on July 11, 2001, Representative Jim Turner introduced H.R. 2458, identical to the original version of S. 803, which was referred to the Committee on Government Reform.

On March 21, 2002, the Senate Committee on Governmental Affairs approved an amendment in the nature of a substitute for S. 803. Some of the differences between the original bill and the amendment included the replacement of a provision that would have established a federal chief information officer with a provision to establish an Office of E-Government within OMB to be headed by a Senate-confirmed Administrator; the replacement of a plan for an online telephone directory with a provision for a full federal Internet portal; and a consolidation of a variety of reporting requirements into a single annual e-government report to be submitted to Congress by OMB.[17] On July 27, 2002, the Senate approved this amended version by Unanimous Consent and sent it to the House, where it was referred to the House Committee on Government Reform.

On September 18, 2002, the House Committee on Government Reform Subcommittee on Technology and Procurement Policy held a hearing on the bill.[18] The subcommittee subsequently marked up and forwarded an amended version of H.R. 2458 to the full committee by voice vote on October 1, 2002. During the markup session, the Subcommittee approved a number of amendments, including some that drew from other legislation before the Subcommittee. The amendments included making the E-Government Administrator position an appointed position not requiring Senate confirmation; adding the Information Technology Exchange Program (based on a proposal in H.R. 3295, the Digital Tech Corps Act of 2002); authorization of Share-in-Savings contracts (based on a proposal in H.R. 3832, the Services Acquisition Reform Act (SARA)); and adding a program to encourage and solicit innovative solutions to facilitate the development of electronic government services and processes (based on H.R. 4629).[19]

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[16] U.S. Congress, Senate Committee on Governmental Affairs, *E-Government Act of 2001*, report to accompany S. 803, S.Rept. 107-174, 107th Congress, 2nd session (Washington: GPO, 2002), p. 10.

[17] U.S. Congress, Senate Committee on Governmental Affairs, *E-Government Act of 2001*, report to accompany S. 803, S.Rept. 107-174, 107th Congress, 2nd session (Washington: GPO, 2002), pp. 13-14.

[18] U.S. Congress, House Committee on Government Reform, Subcommittee on Technology and Procurement Policy, *H.R. 2458 and S. 803, The E-Government Act of 2002*, hearing on H.R. 2458 and S. 803, 107th Congress, 2nd session, September 18, 2002 (Washington: GPO, 2002).

[19] U.S. Congress, House Committee on Government Reform, *E-Government Act of 2002*, report to accompany H.R. 2458, 107th Congress, 2nd session, H.Rept. 107-787, (Washington: GPO, 2002).

On October 9, 2002, the House Committee on Government Reform held a markup session in which an amendment to require Senate confirmation for the Administrator of the Office of E-Government was rejected by voice vote. Other amendments that were approved included adding Title III, the Federal Information Security Management Act (based on a proposal in H.R. 3844, the Federal Information Security Management Act of 2002); and Title V, the Confidential Information Protection and Statistical Efficiency Act (based on H.R. 5215, the Confidential Information Protection and Statistical Efficiency Act of 2002). The Committee then approved a substitute amendment of H.R. 2458 by voice vote and sent it to the full House.[20]

On November 15, 2002, the House passed the bill by Unanimous Consent and sent it to the Senate, which also passed the bill by Unanimous Consent the same day. On December 17, 2002, President Bush signed the E-Government Act into law as P.L. 107-347.

Major Provisions

The stated purposes of the E-Government Act include establishing effective leadership of federal information technology projects, requiring the use of Internet-based IT initiatives to reduce costs and increase opportunities for citizen participation in government, transforming agency operations, promoting interagency collaboration for e-government processes, and making the federal government more transparent and accountable. The 72-page law is divided into five titles, and incorporates the language from at least four other bills that had been introduced separately in Congress. It also amends different parts of the *United States Code* in the areas of federal information policy and information security.

Title I establishes the Office of Electronic Government (OEG) in OMB. This new office is headed by an Administrator, who is appointed by the President, without Senate confirmation. As head of the OEG, the Administrator is tasked with assisting the Director of OMB, and the OMB Deputy Director for Management, in coordination with the efforts of the Administrator of the Office of Information and Regulatory Affairs (OIRA), another OMB unit, to carry out relevant OMB responsibilities for prescribing guidelines and regulations for agency implementation of the Privacy Act,[21] the Clinger-Cohen Act, IT acquisition pilot programs, and the Government Paperwork Elimination Act.[22] It also requires the General Services Administration (GSA) to consult with the Administrator of the Office of Electronic Government on any efforts by GSA to promote e-government.

Title I also amends Title 44 of the *United States Code* by adding a chapter on "Management and Promotion of Electronic Government Services," which focuses on issues related to the functions of the Administrator of the OEG, the Chief Information Officers (CIO) Council, and the E-Government Fund (discussed below). The chapter

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[20] Ibid.

[21] 5 U.S.C. §552a.

[22] 112 Stat. 2681-749.

makes the Administrator of OEG responsible for carrying out a variety of IRM functions. Some of these responsibilities include advising the OMB Director on IRM resources and strategies; providing "overall leadership and direction on electronic government"; promoting the effective and innovative use of IT by agencies, especially through multi-agency collaborative projects; administering and distributing funds from the E-Government Fund; consulting with GSA "to promote electronic government and the efficient use of information technologies by agencies"; leading activities on behalf of the OMB Deputy Director for Management, who serves as the chair of the CIO Council; assisting the OMB Director "in establishing policies which shall set the framework for information technology standards" to be developed by the National Institute of Standards and Technology; sponsoring an ongoing dialogue with federal, state, local, and tribal leaders to encourage collaboration and enhance consultation on IT best practices and innovation; promoting electronic procurement initiatives; and implementing accessibility standards.

In addition, Title I establishes the CIO Council by law,[23] with the OMB Deputy Director for Management as the chair, and details its organizational structure and mandate. Furthermore, Title I establishes an E-Government Fund for interagency information technology projects. The fund is to be administered by the GSA Administrator, with the assistance of the Administrator of OEG. The provision authorizes appropriations for the E-Government Fund in the following amounts: $45 million for FY2003, $50 million for FY2004, $100 million for FY2005, $150 million for FY2006, and "such sums as necessary for fiscal year 2007." The provision also allows funds to be made available until expended, and requires the OMB Director to submit annual reports to the President and Congress regarding the operation of the fund.[24]

Title II focuses on enhancing a variety of e-government services, establishing performance measures, and clarifying OMB's role as the leader and coordinator of federal e-government services. The responsibilities of the OEG are also described in greater detail. Among its provisions, Title II requires agencies to participate in the CIO Council and to submit annual agency e-government status reports; requires executive agencies to adopt electronic signature methods; directs the federal courts and regulatory agencies to establish websites containing information useful to citizens; outlines the responsibilities of the OMB Director for maintaining accessibility, usability, and preservation of government information; establishes privacy requirements regarding agency use of personally identifiable information and requires privacy guidelines be established for federal websites; creates a public-private exchange program for mid-level IT workers between government agencies and private sector organizations; amends a chapter of Title 10 of the *United States*

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[23] The CIO Council was originally established by Executive Order 13011, *Federal Information Technology,* on July 16, 1996, to serve as "the principal interagency forum to improve agency practices on such matters as the design, modernization, use, sharing, and performance of agency information resources." (3 C.F.R., 1996 Comp., pp. 202-209.)

[24] As discussed earlier in this report, despite a cumulative minimum of $345 million being authorized from FY2003 - FY2007, concerns regarding oversight have prompted Congress to appropriate no more than $5 million in any given fiscal year since the passage of the E-Government Act.

Code by adding a new section regarding the facilitation of new incentives and procedures to encourage agencies to use Share-in-Savings procurement techniques; amends a section of Title 40 of the *United States Code* by allowing state or local governments to use federal supply schedules for IT purchases; and mandates the development of common protocols for geographic information systems (GIS).

In addition, several studies are mandated, including a feasibility study on integrating federal information systems across agencies and implementing up to five pilot projects;[25] an interagency study on the best practices of federally-funded community technology centers;[26] a study "on using information technology to enhance crisis response and consequence management of natural and manmade disasters";[27] and a study to examine disparities in Internet access based on demographic characteristics.[28]

Title III, better known as the Federal Information Security Management Act (FISMA) of 2002, supersedes similar language that appeared in the Homeland Security Act of 2002,[29] and re-authorizes and amends the Government Information Security Reform Act (GISRA).[30] Among its provisions, FISMA amends a subchapter of Title 44 of the *United States Code* by stipulating the general authority, functions, and responsibilities of the OMB Director and individual agencies, relating to developing and maintaining federal information security policies and practices. It also requires agencies to conduct annual independent evaluations of their information security programs and practices. Agencies operating or controlling national security systems are also responsible for maintaining the appropriate level of information security protections for these systems. In addition, FISMA amends the Clinger-Cohen Act by requiring the Secretary of Commerce, on the basis of proposals developed by the National Institute of Standards and Technology (NIST), to promulgate information security standards for federal information systems. It also amends Section 20 of the National Institute of Standards and Technology Act[31] by affirming the role of NIST to develop standards, guidelines, and minimum

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[25] U.S. Office of Management and Budget, *Report to Congress on Implementation of Section 212 of the E-Government Act of 2002*, December 17, 2005, [http://www.whitehouse.gov/omb/egov/documents/Section_212_Report_Final.pdf].

[26] U.S. Office of Management and Budget, *Section 213 of the E-Government Act Report to Congress: Organizations Complementing Federal Agency Information Dissemination Programs*, April 15, 2005, [http://www.whitehouse.gov/omb/inforeg/section_213_report_04-2005.pdf].

[27] National Research Council, 2007, *Improving Disaster Management: The Role of IT in Mitigation, Preparedness, Response, and Recovery*, [http://books.nap.edu/catalog.php?record_id=11824].

[28] U.S. General Services Administration, *Improving Access to the Internet, A Report to Congress as Required by the E-Government Act of 2002 Section 215*, January 24, 2005, [http://www.cio.gov/documents/icgi/report.pdf].

[29] P.L. 107-296; 116 Stat. 2229.

[30] GISRA was passed as part of the Floyd D. Spence National Defense Authorization Act for FY2001 (P.L. 106-398, Title X, Subtitle G).

[31] 15 U.S.C. §278g-3.

requirements for information systems used by federal agencies, or by contractors on behalf of an agency. It also directs NIST to carry out these activities in consultation and coordination with the relevant agencies and offices, including, but not limited to, the OMB Director, the National Security Agency (NSA), the Government Accountability Office (GAO),[32] and the Secretary of Homeland Security. FISMA amends the National Institute of Standards and Technology Act[33] by replacing the existing Computer System Security and Privacy Advisory Board with the new Information Security and Privacy Advisory Board. It directs the Information Security and Privacy Advisory Board to advise NIST and the OMB Director on information security and privacy issues relating to government information systems.

Title IV authorizes appropriations for the bill through fiscal 2007, and makes the bill effective 120 days after enactment. Title V is referred to as the Confidential Information Protection and Statistical Efficiency Act of 2002. It designates the OMB Director as being responsible for coordinating and overseeing the confidentiality and disclosure policies established in the title, and establishes limitations on the use and disclosure of data and information by government agencies. Title V identifies the Bureau of the Census, the Bureau of Economic Analysis, and the Bureau of Labor Statistics each as a "Designated Statistical Agency," and outlines their responsibilities regarding the use, handling, and sharing of data.

Legislation and Congressional Activity Related to Reauthorization of the E-Government Act

On November 7, 2007, Senator Joseph Lieberman introduced, and Senator Susan Collins and Senator Thomas Carper co-sponsored, S. 2321, the E-Government Reauthorization Act of 2007. S. 2321 would amend and reauthorize appropriations for the E-Government Act of 2002. On November 14, 2007, the Committee on Homeland Security and Governmental Affairs reported the bill favorably without amendment. A comparable bill has not been introduced in the House.[34]

The bill has five main sections. Section 1 includes the short title of the bill. Section 2 would reauthorize appropriations for a variety of activities through FY2012. The activities covered by this section include those related to the operation of the federal Internet portal (USA.gov); activities related to the operation of an online repository of federally funded research and development; GSA efforts to study and enhance the use of community centers to provide computer and Internet access

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[32] The General Accounting Office was renamed the Government Accountability Office effective July 7, 2004.

[33] 15 U.S.C. §278g-4.

[34] On December 18, 2007, H.R. 4791, the Federal Agency Data Protection Act was introduced by Representative William Lacy Clay. Among its provisions, the bill would amend and reauthorize appropriations for Title III of the E-Government Act (the Federal Information Security Management Act). The bill would also amend Section 208 of the E-Government Act, regarding privacy requirements for federal government contracts with data brokers.

to the public; GSA efforts to develop and maintain common protocols for geographic information systems; the Federal Information Security Management Act; NIST responsibilities for standards to protect federal information systems; the Information Technology Exchange Program; the E-Government Fund; and to carry out activities related to Title I and II of the E-Government Act that are not otherwise specifically provided for.

Section 3 would amend Section 208(b)(3) of the E-Government Act regarding privacy provisions by tasking the Director of OMB with the responsibility to "develop best practices for agencies to follow in conducting privacy impact assessments."

Section 4 would amend Section 207(f) of the E-Government Act regarding agency websites by requiring the Director of OMB to "promulgate guidance and best practices to ensure that publicly available online Federal Government information and services are made more accessible to external search capabilities, including commercial and governmental search capabilities." The Director of OMB would also be required to review periodically and update these best practices so that they were "consistent with any advances made in information technology." Agencies, in turn, would be required to be in compliance with this guidance within two years of enactment of the E-Government Reauthorization Act and would be required to include information about these activities in their annual E-Government Status Reports to OMB.

Section 5 would amend Section 3606(b) of Title 44 U.S.C. by requiring OMB to provide to Congress copies of the annual agency E-Government Status Reports that the E-Government Act requires agencies to submit to OMB.

On December 11, 2007, the Senate Committee on Homeland Security and Governmental Affairs held a hearing on S. 2321 and related issues.[35] The witnesses providing testimony at the hearing included Karen Evans, Administrator of the Office of Electronic Government and Information Technology at OMB; John Lewis Needham, Manager of Public Sector Content Partnerships at Google, Inc.; Ari Schwartz, Deputy Director of the Center for Democracy and Technology; and Jimmy Wales, founder of Wikipedia. In his opening statement, the Chairman noted that the "issues of accessibility, accountability, interactivity, and public collaboration are essential to the future of an effective and responsive government."

To that end, Karen Evans provided an overview of OMB efforts to implement the E-Government Act and related e-government initiatives over the past five years.[36] Several of these initiatives are designed to make it easier to find related information dispersed across many government websites. One example is Science.gov, which

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[35] *E-Government 2.0: Improving Innovation, Collaboration, and Access*, hearing before the Senate Committee on Homeland Security and Governmental Affairs, 110th Cong., 1st sess. (2007).

[36] Testimony of Karen Evans, hearing before the Senate Committee on Homeland Security and Governmental Affairs, December 11, 2007, p. 1, [http://hsgac.senate.gov/public/_files/121107Evans.pdf].

provides a means to search across several federal research and development (R&D) databases simultaneously. Another example is Grants.gov, which provides a single site to search and apply for grants awarded by 26 federal grant-making agencies.

However, while these initiatives have improved citizens' access to government information, concerns were raised that significant amounts of online government information are "invisible" or are not accessible to commercial search engines. This problem can affect government search engines as well, as many utilize the same technology used by commercial search engines. Ari Schwartz, citing a Pew Internet Project report, stated that while "commercial search engines are the most popular means to find government information," many publicly available federal websites, either purposely or unintentionally, do not enable content to be indexed by these search engines.[37] Some sites purposely include code to limit the ability of search engines to index content, while other sites simply do not include commonly used protocols created to facilitate a search engine's ability to index the content of a site. One protocol singled out during the hearing was the Sitemap Protocol. This technical standard was originally developed by Google and is compatible with several of the most widely used search engines. According to John Lewis Needham, the Sitemap Protocol "provides a mechanism for a website owner to product a list - or a map - of all web pages on a site and systematically communicate this information or 'Sitemap' to search engines."[38] While an increasing number of federal websites appear to be using this protocol, some do not. As discussed earlier in this report, Section 4 of the E-Government Reauthorization Act would direct OMB to promulgate guidance and best practices to make online federal information more accessible to commercial and government search engines.

Other matters discussed during the hearing included outcomes since the passage of the E-Government Act; the effectiveness of current privacy protections for citizens; and the potential for Web 2.0 collaborative technologies to improve interaction between government agencies and citizens.

Related Issues for Congress

In considering whether to reauthorize the E-Government Act, Congress may also wish to consider a number of other issues related to the implementation and oversight of the E-Government Act, and e-government initiatives generally. These issues include, but are not limited to the following:

Efficiency and Effectiveness. One issue Congress might consider is the overall effectiveness of the federal e-government initiatives at improving the efficiency and functionality of government operations. This includes not only

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[37] Testimony of Ari Schwartz, hearing before Senate Committee on Homeland Security and Governmental Affairs, December 11, 2007, p. 2, [http://hsgac.senate.gov/public/_files/121107Schwartz.pdf].

[38] Testimony of John Lewis Needham, hearing before Senate Committee on Homeland Security and Governmental Affairs, December 11, 2007, p. 4, [http://hsgac.senate.gov/public/_files/121107Needham.pdf].

improving the delivery of information and services to citizens, but also improving the administration of government back office operations. In a February 2008 report to Congress, OMB estimated agencies achieved a gross cost savings of $508 million in FY2007 implementing e-government initiatives and shutting down duplicative legacy systems.[39] In contrast, the federal government spent $65.5 billion on information technology investments in FY2007. Although the cost savings from e-government appears to be relatively small, Congress may wish to consider whether these e-government initiatives have delivered other, non-financial benefits to government and citizens. Potential questions include: Have these initiatives measurably improved performance and service levels? Have agencies been able to redirect resources toward providing additional or enhanced services? Do citizens believe the quality of services and information have improved?

Cross Agency Funding and the Role of the E-Government Fund. The problem of cross agency funding highlights the clash between the horizontal nature of government-wide e-government initiatives and the vertical organization of government. Congressional authorizing committees and appropriations subcommittees are organized by program and/or agency. The allocation of resources and the oversight of activities are likewise jurisdictionally defined. There are relatively few mechanisms to facilitate cross-agency collaboration, regarding the spending of funds. Although the E-Government Act authorized a significant sum that can be spent on e-government initiatives in the form of the E-Government Fund (a cumulative minimum of $345 million from FY2003-FY2007), concerns regarding oversight have prompted Congress to appropriate no more than $5 million in any given fiscal year since the passage of the E-Government Act. Congress has also repeatedly declined to approve Bush Administration's alternative proposals to allow OMB to tap the $40 million surplus fund of GSA's General Supply Fund.[40] As the number of cross-agency initiatives continues to grow, solutions that adequately address the needs of such collaborative initiatives, while ensuring appropriate oversight, may be needed.

Federal Enterprise Architecture (FEA). As a blueprint of the business functions of an organization, and the technology used to carry out these functions, the FEA is the means to develop government-wide initiatives. As such, it is also the means to address the problem of interoperability, the ability of a computer system or data to work with other systems or data using common standards or processes. Interoperability is an important part of the larger effort to improve interagency collaboration and information sharing. It also represents a significant challenge as the federal government implements cross-agency initiatives, such as the E-Payroll, GovBenefits.gov, and Lines of Business projects, to eliminate redundant systems and facilitate a "one-stop service delivery" approach to e-government. Decisions made in the development of the federal enterprise architecture can have significant

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[39] U.S. Office of Management and Budget, *Report to Congress on the Benefits of the President's E-Government Initiatives, Fiscal Year 2008*, February 2008, p. i, [http://www.whitehouse.gov/omb/egov/documents/FY08_Benefits_Report.pdf].

[40] U.S. Congress, House Committee on Appropriations, *Financial Services and General Government Appropriations Bill, 2008*, report to accompany H.R. 2928, 110th Cong., 1st sess., H.Rept. 110-207 (Washington: GPO, 2007), p. 68.

implications for future IT projects, suggesting that regular assessments of this process may be necessary to help minimize any potential complications.

Continuity and Future Direction of E-government Efforts. With the upcoming transition of presidential administrations, questions arise regarding the continuity and sustainability of IT investments made over the past several years. In many cases, the anticipated cost savings and efficiency gains of these investments is predicated on their ongoing operation. Each new administration brings its own prerogatives and priorities. In anticipation of program and funding requests of a new administration, Congress may wish to hold hearings and conduct a systematic analysis of e-government activities in order to better inform its oversight and funding decisions.

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