



Reexamination of Agency Reporting Requirements: Annual Process Under the GPRAMA Modernization Act of 2010 (GPRAMA)

Clinton T. Brass

Specialist in Government Organization and Management

May 29, 2013

Congressional Research Service

7-5700

www.crs.gov

R42490

CRS Report for Congress

Prepared for Members and Committees of Congress

Summary

On January 4, 2011, the GPRA Modernization Act of 2010 (GPRAMA) became law. The acronym “GPRA” in the act’s short title refers to the Government Performance and Results Act of 1993 (GPRA 1993), a law that GPRAMA substantially modified. Some of GPRAMA’s provisions require agencies to produce plans and reports for a variety of audiences that focus on goal-setting and performance measurement. Other provisions, by contrast, establish an annual process to reexamine the usefulness of certain reporting requirements.

Specifically, Section 11 of GPRAMA enacts into law a multi-step process in which the President and the Office of Management and Budget (OMB) may propose to Congress that certain plans and reports be eliminated or consolidated. The GPRAMA process covers the plans and reports that executive branch agencies produce “for Congress” in response to statutory requirements or as directed in non-statutory congressional reports. As a consequence of this scope, the GPRAMA process covers some, but not all, reporting requirements. For example, reports from the President are not covered, because the President is not an “agency” under the act. Notably, as a step in this process, GPRAMA requires an agency to consult with congressional committees to determine whether products are considered to be useful or could be eliminated or consolidated.

This Congressional Research Service report provides an overview of GPRAMA’s processes that relate to the reexamination of agency reporting requirements. To provide context, the report begins by discussing potential categories, advantages, and disadvantages of reporting requirements. Notably, views about the advantages and disadvantages of reporting requirements may be in the eye of the beholder. Congress also may intend to make information available to primary audiences in addition to itself, such as key non-federal stakeholders and the broader public. Because GPRAMA’s provisions are not the first to focus on agency reporting requirements, the report contrasts GPRAMA’s provisions with related authorities and selected efforts from the past.

The report concludes by highlighting potential issues for Congress in two categories. First, looking ahead to continued implementation of GPRAMA’s provisions, the President and OMB may propose that specific reporting requirements be consolidated, modified, or eliminated. Members and committees of Congress may consider a specific proposal from several perspectives, including the sufficiency of consultations with agencies about reporting requirements, the broader policy and political context of a proposed change to a reporting requirement, a reporting requirement’s usefulness to Congress and other primary audiences, and a reporting requirement’s costs and side effects.

Second, Congress may evaluate how well the GPRAMA process is working. If Congress perceives a problem or the potential for improvement, Congress may consider amending the law to change aspects of how the process operates. A number of topics might be examined, including the coverage of GPRAMA’s statutory process (and what the law does not cover), how consultations are required to take place, and how proposals to modify or eliminate reporting requirements are to be justified with analysis.

This report will be updated to track any statutory changes to GPRAMA’s process and some aspects of the law’s implementation.

Contents

Background: Potential Categories, Advantages, and Disadvantages of Reporting Requirements	1
Categories	1
Advantages and Disadvantages	2
GPRAMA’s Statutory Process	5
Coverage	5
Statutory Process and Outputs	5
Initial List	6
Second List	6
Congressional Consultations Regarding Usefulness	6
Presidential List	7
Contrast With Current Authorities and Previous Efforts	7
Implementation of GPRAMA’s Process	10
Some Potential Uncertainties	10
Developments During the 112 th Congress	11
Developments During the 113 th Congress	13
Potential Issues for Congress	14
Potential Issues When Considering Specific Proposals	15
Potential Issues When Considering Changes to GPRAMA’s Process	16

Tables

Table A-1. January 2013 Proposals (Obama Administration)	20
--	----

Appendixes

Appendix. Plans and Reports Proposed to Congress for Modification (“Presidential List”)	20
---	----

Contacts

Author Contact Information	22
----------------------------------	----

On January 4, 2011, the GPRA Modernization Act of 2010 (GPRAMA) became law.¹ The acronym “GPRA” in the act’s short title refers to the Government Performance and Results Act of 1993 (GPRA 1993), a law that GPRAMA substantially modified.² Some of GPRAMA’s provisions require agencies to produce plans and reports for a variety of audiences that focus on goal-setting and performance measurement.³ Other provisions, by contrast, establish an annual process to reexamine the usefulness of certain reporting requirements.

Specifically, Section 11 of GPRAMA enacts into law a multi-step process in which the President and the Office of Management and Budget (OMB) may propose to Congress that certain plans and reports be eliminated or consolidated.⁴ The GPRAMA process covers the plans and reports that executive branch agencies produce “for Congress” in response to statutory requirements or as directed in non-statutory congressional reports. As a consequence of this scope, the GPRAMA process covers some, but not all, reporting requirements.⁵ Notably, as a step in this process, GPRAMA requires an agency to consult with congressional committees to determine whether products are considered to be useful or could be eliminated or consolidated.

This Congressional Research Service (CRS) report provides an overview of GPRAMA’s processes that relate to the reexamination of agency reporting requirements. The report also will be updated to track some aspects of GPRAMA’s implementation. Because GPRAMA’s provisions are not the first to focus on agency reporting requirements, the report also contrasts GPRAMA’s provisions with related authorities and selected efforts from the past. The report concludes by highlighting potential issues for Congress. To provide some context, the report begins by discussing potential categories, advantages, and disadvantages of reporting requirements.

Background: Potential Categories, Advantages, and Disadvantages of Reporting Requirements

Categories

Reporting requirements have been categorized in varying ways, including by purpose and frequency.⁶ To illustrate, purposes might be placed in at least three categories, which may overlap:

¹ P.L. 111-352, 124 Stat. 3866 (H.R. 2142). The law also has been cited as GPRA-MA, GPRA 2010, and GPRA.

² P.L. 103-62, 107 Stat. 285. Some of GPRA 1993’s provisions were amended before enactment of GPRAMA.

³ For an overview, see CRS Report R42379, *Changes to the Government Performance and Results Act (GPRA): Overview of the New Framework of Products and Processes*, by Clinton T. Brass.

⁴ GPRAMA, Section 11; 31 U.S.C. §§1105(a)(37) and 1125. This CRS report uses the terms “plans and reports,” “reports,” “products,” “reporting,” and “reporting requirements” interchangeably, unless otherwise noted.

⁵ For example, a law may require an agency to produce a plan or report for audiences other than Congress, such as the broader public, or require that a report be made available on a public website. Federal law also may require reporting from entities other than federal agencies. Examples include the President, Vice President, units in the Executive Office of the President, and recipients of federal grant and contract awards. Finally, in the absence of a specific requirement in statute or directive in congressional report language, the President, OMB, or an agency official may use discretion to direct agencies to produce plans and reports for Congress or other audiences. It is unclear in specific cases whether agencies, OMB, or the President will implement GPRAMA in a way that includes these kinds of requirements.

⁶ For example, see John R. Johannes, “Statutory Reporting Requirements: Information and Influence for Congress,” in (continued...)

- notifying Congress in advance of an action (“advance reporting”);
- reporting on past or relatively recent conditions or actions, or certifying the accuracy or genuineness of a statement (“post facto reporting”); or
- studying a policy issue and offering analysis, recommendations, proposals, or plans (“policy reporting”).

With regard to frequency, reporting may be required

- according to a fixed, regular schedule (“periodic reporting”);
- when a certain event or condition occurs (“triggered reporting”);
- only once (“one-time reporting”); or
- from time to time at the discretion of a reporting entity (“indeterminate reporting”).

Other categories also may be used. For example, an observer may distinguish between

- reports that executive agencies submit to Congress directly without prior OMB review (“direct reporting”), and
- reports from executive agencies that are reviewed by OMB for potential modification to conform to the President’s policy preferences (“OMB-reviewed reporting”).⁷

In practice, terminologies that are used to describe reporting requirements may be idiosyncratic to a particular agency or policy area.

Advantages and Disadvantages

Views about the advantages and disadvantages of reporting requirements may be in the eye of the beholder. Congress, and by delegation its committees, have the constitutionally rooted authority to compel the disclosure of information they need from agencies and the President in order to perform Congress’s legislative functions.⁸ Congress often uses reporting requirements to help

(...continued)

Abdo I. Baaklini and James J. Heaphy, eds., *Comparative Legislative Reforms and Innovations* (Albany, NY: State University of New York at Albany, 1977), pp. 33-60; and U.S. Congress, House Committee on Foreign Affairs, *Required Reports to Congress on Foreign Policy*, committee print, prepared by the Foreign Affairs Division of the Congressional Research Service, 100th Cong., 2nd sess., August 1, 1988 (Washington: GPO, 1988), pp. 10-14.

⁷ OMB directs many agency reports to undergo a review and clearance process to “ensure consistency of agency legislative views and proposals with Presidential policy.” See U.S. Executive Office of the President (hereinafter EOP), Office of Management and Budget (hereinafter OMB), “The Mission and Structure of the Office of Management and Budget,” at http://www.whitehouse.gov/omb/organization_mission/. During the review process, OMB may attempt to direct an agency to modify the contents of a report. In response, Congress sometimes has prohibited such reviews or otherwise provided authority for an agency to report directly to Congress without OMB or presidential review and modification. For example, see 12 U.S.C. §250, regarding the authority of several financial regulatory agencies to submit legislative recommendations, testimony, or comments on legislation directly to Congress.

⁸ When Congress establishes reporting requirements through law, or when a committee of jurisdiction conducts an investigation for legislative or oversight purposes, Congress and the committee, respectively, have a right to information held by an agency or the President in the absence of either a valid claim of constitutional privilege by the President or a statutory provision whereby Congress has limited its constitutional right to information. For discussion, (continued...)

inform its study of policy issues, oversight of agencies and programs, and lawmaking.⁹ In addition, reporting requirements may be intended to facilitate congressional involvement in how an agency uses discretion and makes decisions,¹⁰ or to indirectly influence an agency's thinking and behaviors.¹¹ When pursuing any of these activities, Congress may use reporting requirements to cooperate or compete with the President to influence how agencies formulate and implement policy.

When Congress establishes a reporting requirement, Congress may intend to make information available to primary audiences in addition to itself. Additional audiences may include, for example, non-federal stakeholders; personnel within the agency that authors a particular plan or report; other federal agencies and officials; and the broader public. When Congress widens the audience of a reporting requirement beyond itself, Congress may pursue a variety of objectives. For example, Congress may intend to

- enhance capacity within an agency;¹²
- promote interagency collaboration and information sharing;¹³
- provide information or studies that may be valuable to non-federal stakeholders or the broader public;¹⁴

(...continued)

see CRS Report RL31351, *Presidential Advisers' Testimony Before Congressional Committees: An Overview*, by Todd Garvey, Alissa M. Dolan, and Henry B. Hogue, under the heading "Congress's Right to Executive Branch Information"; and CRS Report RL30240, *Congressional Oversight Manual*, by Todd Garvey et al.

⁹ Congress frequently relies on this information to carry out its constitutional responsibilities before, during, and after an agency's implementation of law. For discussion of how Congress may use transparency and public participation to facilitate congressional involvement in an agency's formulation and implementation of public policies, see David H. Rosenbloom, *Building a Legislative-Centered Public Administration: Congress and the Administrative State, 1946-1999* (Tuscaloosa, AL: University of Alabama Press, 2000). For research and analysis related to reporting requirements, see Patrick R. Mullen, "Congressional Reporting: A Management Process to Build A Legislative-Centered Public Administration" (Ph.D. diss., Virginia Polytechnic Institute and State University, 2006), at <http://csp1.uis.edu/ILLAPS/AboutUs/FacultyandStaff/documents/PatrickRMullen-Dissertation.pdf>.

¹⁰ For example, a statute may require an agency to notify certain committees of its desire to "reprogram" funds and, thereafter, require the agency to wait a period of time before it follows through on the reprogramming request. The term "reprogramming" refers to a process in which an agency reallocates funding from one program, project, or activity to another within a single budget account. From a legal perspective, this kind of reallocation frequently is possible without further enactment of legislation. Most appropriations are provided in large, lump-sum amounts, where an agency has discretion under law to sub-allocate funds among various programs, projects, and activities within an account. However, a failure to communicate with a committee, seek the committee's approval, or abide by the committee's wishes may have future repercussions for an agency. In practice, appropriations committees and some authorizing committees might use these kinds of report-and-wait and "committee approval" provisions to influence agency decisions during policy implementation and to exercise oversight. For further discussion, see CRS Report RL33151, *Committee Controls of Agency Decisions*, by Louis Fisher.

¹¹ John R. Johannes, "Study and Recommend: Statutory Reporting Requirements as a Technique of Legislative Initiative in Congress—A Research Note," *Western Political Quarterly*, vol. 29, no. 4 (December 1976), pp. 589-596.

¹² Apart from the potential value of information to Congress and others, reporting and the implicit threat of broader scrutiny may provide some incentive for an agency to build capacity that is necessary to faithfully, effectively, and efficiently carry out its statutory duties. For examples, see CRS Report RL34257, *Earned Value Management (EVM) as an Oversight Tool for Major Capital Investments*, by Clinton T. Brass; and CRS Report R41293, *The Nunn-McCurdy Act: Background, Analysis, and Issues for Congress*, by Moshe Schwartz.

¹³ For related discussion, see CRS Report R41803, *Interagency Collaborative Arrangements and Activities: Types, Rationales, Considerations*, by Frederick M. Kaiser; and U.S. Government Accountability Office (hereinafter GAO), *Information Sharing: DHS Could Better Define How It Plans to Meet Its State and Local Mission and Improve Performance Accountability*, GAO-11-223, December 2010.

- establish broader transparency and accountability;¹⁵
- influence the course of policy discussion;¹⁶
- alert agencies to the existence of a problem and influence them to act;¹⁷
- facilitate the work of congressional support agencies;¹⁸ or
- enhance congressional oversight by allowing the public to more easily identify any issues of concern, which, in turn, members of the public may bring to Congress's closer attention.¹⁹

At times, Congress, agencies, and the President have reexamined reporting requirements to ascertain whether the requirements should continue, change, or be eliminated. Several rationales have been considered for modifying or abolishing reporting requirements. During the 104th Congress, for example, the House Committee on Government Reform and Oversight expressed concern about the burden and cost of outdated or unnecessary reporting requirements.²⁰ The presence of a reporting requirement might not increase an agency's total costs, if the agency operates under a defined budget amount. However, a requirement may involve an "opportunity cost" where funds and staff time could be used in other ways.

The costs of reporting requirements may be relatively small in some cases. For example, the 104th Congress considered legislation in 1995 to eliminate and modify more than 200 reporting requirements. Commenting on the measure, the Congressional Budget Office (CBO) estimated annual savings of \$2 million.²¹ CBO explained that some statutory requirements at the time were not being implemented. Hence, their elimination might result in no cost savings. In addition, CBO said periodic reports may reuse generic content and require minimal personnel time for updating. Even if a reporting requirement were eliminated, CBO said that agencies in practice still would collect much of the information for continued use and therefore would not reduce costs.

Reporting requirements also may have non-financial costs. For example, scrutiny that results from reporting may have side effects. If an agency's reporting omits major aspects of an agency's or program's mission, officials may face incentives to concentrate on reported tasks and not

(...continued)

¹⁴ Ibid.

¹⁵ U.S. Congress, House Committee on Foreign Affairs, *Required Reports to Congress on Foreign Policy*, committee print, prepared by the Foreign Affairs Division of the Congressional Research Service, 100th Cong., 2nd sess., August 1, 1988 (Washington: GPO, 1988), p. 9.

¹⁶ Ibid.

¹⁷ John R. Johannes, "Study and Recommend: Statutory Reporting Requirements as a Technique of Legislative Initiative in Congress—A Research Note," *Western Political Quarterly*, vol. 29, no. 4 (December 1976), pp. 589-596.

¹⁸ Patrick R. Mullen, "Congressional Reporting: A Management Process to Build A Legislative-Centered Public Administration" (Ph.D. diss., Virginia Polytechnic Institute and State University, 2006), p. 7.

¹⁹ For related discussion, see David H. Rosenbloom, *Building a Legislative-Centered Public Administration: Congress and the Administrative State, 1946-1999* (Tuscaloosa, AL: University of Alabama Press, 2000); and Mathew D. McCubbins and Thomas Schwartz, "Congressional Oversight Overlooked: Police Patrols versus Fire Alarms," *American Journal of Political Science*, vol. 28, no. 1 (February 1984), pp. 165-179.

²⁰ U.S. Congress, House Committee on Government Reform and Oversight, *Federal Reports Elimination and Sunset Act of 1995*, report to accompany S. 790, 104th Cong., 1st sess., November 8, 1995, H.Rept. 104-327 (Washington: GPO, 1995), p. 23.

²¹ Ibid., p. 26. The legislation ultimately was enacted as P.L. 104-66.

others that are integral to accomplishing the mission.²² Other potential consequences of scrutiny might include delays in the completion of tasks, increases in time that personnel spend responding to scrutiny rather than performing regular duties, and reduced creativity in addressing challenges.²³

GPRAMA's Statutory Process

Section 11 of GPRAMA establishes an annual, statutory process to reexamine certain reporting requirements. The process may culminate in a presidential proposal to Congress to eliminate, consolidate, or modify certain plans and reports.

Coverage

Most executive branch agencies are required to take part.²⁴ That said, GPRAMA does not require all entities in the executive branch to participate that may have statutory reporting requirements. For example, GPRAMA's definition of agency does not explicitly include the President or Vice President. As a result, requirements or directives for the President and Vice President to submit plans and reports to Congress do not appear to fall within GPRAMA's scope. In addition, it is unclear if the Executive Office of the President (EOP), the Office of the Vice President (OVP), or an entity located within the EOP, such as OMB, would constitute an "agency" under GPRAMA.²⁵ OMB or a President nevertheless might choose to implement GPRAMA in a way that incorporates these kinds of reports into GPRAMA's process.

Statutory Process and Outputs

As articulated in statute, the process unfolds in several steps.²⁶ The Director of OMB is required at the outset to provide guidance to agencies on how to implement the GPRAMA provisions that

²² For discussion of the potential for performance reporting to create perverse incentives, see CRS Congressional Distribution Memorandum, *Obama Administration Agenda for Government Performance: Evolution and Related Issues for Congress*, January 19, 2011, by Clinton T. Brass (available on request).

²³ For discussion, see Robert I. Sutton and D. Charles Galunic, "Consequences of Public Scrutiny for Leaders and Their Organizations," in Barry M. Staw and Larry L. Cummings, eds., *Research in Organizational Behavior*, Vol. 18 (Greenwich, CT: JAI Press, 1996), pp. 201-250.

²⁴ Under GPRAMA, the term "agency" includes executive branch agencies, but explicitly does not include the Central Intelligence Agency, United States Postal Service, Postal Regulatory Commission, and the Government Accountability Office (a legislative branch agency that is included in some statutory definitions of "executive agency"). See GPRAMA, Section 2, 5 U.S.C. §306(f); and Section 3, 31 U.S.C. §1115(h)(1), both of which refer to 5 U.S.C. §105.

²⁵ Specifically, it is not clear if the EOP, OVP, or an entity within the EOP would constitute an "independent establishment" under 5 U.S.C. §105 and therefore would constitute an "agency" under GPRAMA. Consequently, it is not clear if requirements or directives for OMB and other entities in the EOP and OVP to submit plans and reports to Congress fall within GPRAMA's scope. For discussion of whether the EOP or an entity within the EOP would constitute an "agency" for purposes of the Government Performance and Results Act of 1993—which used the same definition of agency as GPRAMA—see CRS Report RL32592, *General Management Laws and the 9/11 Commission's Proposed Office of National Intelligence Director (NID) and National Counterterrorism Center (NCTC)*, by Clinton T. Brass and Curtis W. Copeland.

²⁶ The requirements are contained in GPRAMA, Section 11; 31 U.S.C. §§1105(a)(37) and 1125.

relate to congressional reporting requirements.²⁷ Thereafter and on an annual basis, the Chief Operating Officer (COO) at each covered agency is required to undertake several tasks.²⁸

Initial List

First, the COO is required to compile a list that identifies all plans and reports the agency produces for Congress, as required by statute or directed in congressional reports (hereinafter “initial list”).²⁹ It remains to be seen in specific cases how the expression “for Congress” will be interpreted.³⁰ GPRAMA does not require an agency’s COO to release the initial list of plans and reports outside the agency.

Second List

Next, the COO is required to analyze the initial list and identify a minimum percentage of the products as being “outdated” or “duplicative of other required plans and reports.”³¹ The agency’s COO is required to submit this second, smaller list (hereinafter “second list”) to OMB, along with a total count of plans and reports that were included on the initial list.³² GPRAMA does not require an agency to release the second list outside the executive branch. For the first year of GPRAMA’s implementation, the law said that the minimum percentage must be at least 10%. Subsequently, GPRAMA authorizes OMB to determine the minimum percentage each year.³³

Congressional Consultations Regarding Usefulness

Third, the COO is required to consult with congressional committees that receive the products included on the agency’s second list. GPRAMA’s stated purpose for the consultation is to determine whether the plans and reports are no longer useful to the committees and could be eliminated or consolidated with other products.³⁴ In cases where a plan or report is required to be

²⁷ 31 U.S.C. §1125(a).

²⁸ GPRAMA establishes the term “Chief Operating Officer” as an additional title for the deputy head or equivalent position of each agency. See GPRAMA, Section 8, 31 U.S.C. §1123.

²⁹ 31 U.S.C. §1125(a)(1).

³⁰ More specifically, it remains to be seen in specific cases whether agencies, OMB, or the President will interpret several kinds of reporting requirements as being “for Congress.” For example, as noted earlier, a law may require an agency to produce a plan or report for audiences other than Congress—such as the broader public—or require that a report be made available on a public website. It is not clear in such cases that an agency would physically submit the report to Congress or one or more committees, as opposed to simply make the report available online. A law also may require reporting from non-federal entities to an agency or to a website. Separately, the President, OMB, or an agency official may use discretion to direct agencies to produce plans and reports for Congress or other audiences in the absence of a specific statutory requirement or report language directive. Consequently, the statutory GPRAMA process does not cover the latter “discretionary” plans and reports.

³¹ 31 U.S.C. §1125(a)(2). GPRAMA does not define the terms “outdated” or “duplicative.”

³² 31 U.S.C. §1125(a)(4). Dividing the total number of products on the initial list (e.g., 100 plans and reports) by the total number on the second list (e.g., 12 plans and reports) would allow OMB to compute whether an agency has complied with GPRAMA’s requirement for agencies to identify an OMB-determined percentage of products as being outdated or duplicative. In this example, an agency would have identified 12% of its products as outdated or duplicative.

³³ 31 U.S.C. §1125(b).

³⁴ 31 U.S.C. §1125(a)(3).

submitted to Congress as a whole rather than to a specific committee, it remains to be seen how agencies will implement this consultation requirement.

Presidential List

As a final step in the statutorily prescribed process, GPRAMA requires the President's budget proposal to include a list of certain plans and reports each year.³⁵ This presidential list is required to include the "list of plans and reports ... that agencies identified for elimination or consolidation because the plans and reports are determined outdated or duplicative of other required plans and reports."³⁶ Some ambiguity appears to reside in this provision. The requirement for a presidential list appears to infer that when an agency identifies a product on its second list as outdated or duplicative, the agency also implicitly identifies the product for elimination or consolidation. However, the agency-level requirement for the second list does not actually require agencies to identify reports and plans for elimination or consolidation. Rather, each agency is required to identify an OMB-determined percentage of reports and plans as outdated or duplicative, send this list to OMB, and then consult with congressional recipients about the usefulness of the second list's plans and reports and whether any could be eliminated or consolidated. Consequently, if agencies operate according to the sequence in the statutory, agency-level requirement, the President's list may not reflect agencies' consultations about whether any of the products are considered by recipients to be outdated or duplicative.

Contrast With Current Authorities and Previous Efforts

GPRAMA's annual process for Congress, agencies, OMB, and the President to reexamine agency reporting requirements stands in partial contrast with current authorities and previous efforts. For instance, Congress established ongoing mechanisms within the legislative branch to help monitor reporting requirements. Provisions from the Congressional Budget and Impoundment Control Act of 1974, for example, require the Government Accountability Office (GAO) to monitor recurring reporting requirements and report annually to Congress on several aspects of reporting.³⁷ Furthermore, the rules of the House of Representatives require the Clerk of the House to engage in reporting-related activities. At the commencement of every regular session of Congress, the

³⁵ 31 U.S.C. §1105(a)(37). The President's budget proposal is required by 31 U.S.C. §1105(a). Under this provision, the President is required to submit to Congress an annual "budget of the United States Government" for the following fiscal year, including some information that is specified in statute, on or after the first Monday in January but not later than the first Monday in February. The submission includes consolidated budget proposals for federal agencies and establishments. OMB compiles the proposal on behalf of the President. Before the President submits this proposal to Congress, agencies are first required to provide budget requests to the President (31 U.S.C. §1108). At that time, an executive branch agency's views about funding needs may be modified by OMB to reflect the policy preferences of the President, before the proposal is submitted to Congress.

³⁶ GPRAMA adds that OMB may concurrently submit draft legislation to eliminate or consolidate these products (31 U.S.C. §1125(c)). Presidents may attempt to treat as non-binding a statutory provision that says the President "may" or "shall" make legislative recommendations. Presidential signing statements sometimes justify this view by using language from Article II, Section 3 of the Constitution, which says the President "shall ... recommend to [Congress's] Consideration such Measures as he shall judge necessary and expedient." For example, see U.S. National Archives and Records Administration, *George W. Bush White House Web Site*, "Statement by the President," November 25, 2002, at <http://georgewbush-whitehouse.archives.gov/news/releases/2002/11/20021125-11.html>.

³⁷ P.L. 93-344 (88 Stat. 328), later recodified in 31 U.S.C. §1113(e). For related historical discussion, see Patrick R. Mullen, "Congressional Reporting: A Management Process to Build A Legislative-Centered Public Administration" (Ph.D. diss., Virginia Polytechnic Institute and State University, 2006), pp. 59-61, 66-70, and 115-122.

Clerk is required to submit to Members of the House a list of reports that officers or departments are legally required to make to Congress.³⁸ The list is printed as a House document with the title *Reports to Be Made to Congress*.³⁹

Other legislation authorizes actions to be taken by OMB, the President, and agencies. In the wake of recommendations by the William Clinton Administration's National Performance Review (NPR), Congress considered a variety of management reform options. Congress ultimately acted on provisions related to reporting requirements in 1994 and 2000. One statutory provision is similar to GPRAMA, insofar as it authorizes OMB to include recommendations in the President's budget proposal to consolidate, eliminate, or adjust the frequency and due dates of statutory requirements for periodic reporting.⁴⁰ A separate law authorizes executive agencies, with the concurrence of OMB, to consolidate or adjust the frequency and due dates of certain statutorily required reports that focus on financial management and government performance.⁴¹

In addition to establishing ongoing authorities, Congress and its committees have reexamined reporting requirements many times in the past. At least 11 times in the last century, Congress acted to modify or eliminate groups of reporting requirements across multiple agencies.⁴² In contrast with GPRAMA's annual process, these prior efforts were generally one-time in nature. Congress also has modified or eliminated reporting requirements in narrower policy areas.⁴³ In some cases, committees and Members initiated reviews of reporting requirements.⁴⁴ At other

³⁸ The requirement currently may be found at House Rule II, clause 2(b).

³⁹ For example, an iteration of the document was issued in January 2011. See U.S. Congress, House, *Reports to Be Made to Congress*, transmitting a list of reports pursuant to clause 2, Rule II of the Rules of the House of Representatives, prepared by the Clerk, U.S. House of Representatives, 112th Cong., 1st sess., January 5, 2011, H.Doc. 112-4 (Washington: GPO, 2011), at <http://www.gpo.gov/fdsys/pkg/CDOC-112hdoc4/pdf/CDOC-112hdoc4.pdf>. Posting of electronic versions of the document may lag their printed versions. When available, electronic versions are posted for each Congress (under the "House Documents" button for each Congress) at <http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=CDOC>.

⁴⁰ Government Management Reform Act of 1994, Section 301 (GMRA, P.L. 103-356; 108 Stat. 3410; 31 U.S.C. §1113 note). OMB already had authority to make such recommendations. However, the act signaled that Congress was receptive to these recommendations, required the recommendations to provide certain justification information, and required the recommendations to be consistent with Congress's purposes to improve efficiency and quality.

⁴¹ Reports Consolidation Act of 2000 (P.L. 106-531; 114 Stat. 2537; see in particular codified language in 31 U.S.C. §3516). This act permanently restored and expanded separate authority that GMRA had given to OMB on a pilot basis. For discussion of some relevant reporting requirements that focus on financial management, see CRS Report R40610, *Federal Financial Management Reform: Past Initiatives and Future Prospects*, by Virginia A. McMurtry. For discussion of some relevant reporting requirements that focus on government performance, see CRS Report R42379, *Changes to the Government Performance and Results Act (GPRA): Overview of the New Framework of Products and Processes*, by Clinton T. Brass.

⁴² For examples of group modifications and eliminations, see P.L. 70-611 (enacted in 1928; 45 Stat. 986); P.L. 79-615 (1946; 60 Stat. 866); P.L. 83-706 (1954; 68 Stat. 966); P.L. 86-533 (1960; 74 Stat. 245); P.L. 89-348 (1965; 79 Stat. 1310); P.L. 93-608 (1975; 88 Stat. 1967); P.L. 96-470 (1980; 94 Stat. 2237); P.L. 97-375 (1982; 96 Stat. 1819); P.L. 99-386 (1986; 100 Stat. 821); P.L. 104-66 (1995; 109 Stat. 707); and P.L. 105-362 (1998; 112 Stat. 3280).

⁴³ These narrower kinds of legislation also illustrate how a close reading of a measure and knowledge of the broader statutory and policy context may be necessary to discern whether changes are being made to reporting requirements. For example, see P.L. 93-189 (Foreign Assistance Act of 1973, 87 Stat. 714; repealing sections of statutes without calling explicit attention to repeals of reporting requirements); and U.S. Congress, House Committee on Foreign Affairs and Senate Committee on Foreign Relations, *Improving the Reporting Requirement System in the Foreign Affairs Field*, joint committee print, prepared by the Foreign Affairs Division of the Congressional Research Service, 93rd Cong., 2nd sess., April 29, 1974 (Washington: GPO, 1974), pp. 12-13 (citing related changes to reporting requirements, including seven terminations and additional modifications).

⁴⁴ For example, see U.S. Congress, Senate Committee on Foreign Relations, *Reporting Requirements in Legislation on Foreign Relations*, committee print, prepared by the Foreign Affairs Division of the Legislative Reference Service, 91st (continued...)

times, Congress considered recommendations and draft legislation from a presidential Administration.⁴⁵

One of these past efforts was different from others in a significant respect. The Federal Reports Elimination and Sunset Act of 1995 (FRESA) included not only specific modifications and eliminations, but also a catch-all sunset provision to terminate all legal requirements for certain periodic reports.⁴⁶ Specifically, the sunset provision said that all “annual, semiannual, or other regular periodic” reports to Congress or any committee of Congress listed in the January 1993 version of *Reports to Be Made to Congress* would cease to be effective four years after the date of FRESA’s enactment.⁴⁷ As a result, FRESA covered reports from all three branches of the federal government. The law also specified numerous exceptions to the sunset provision and did not affect non-periodic (e.g., one-time or triggered) reporting requirements. Furthermore, the four-year grace period was intended to provide time “for Members of Congress to reauthorize those reports deemed necessary for carrying out effective congressional oversight.”⁴⁸

In response to FRESA, Congress subsequently restored reporting requirements through provisions in at least 13 public laws between 1999 and 2008.⁴⁹ In one case, Congress restored requirements in a broad category—requirements included in “any other law relating to the budget of the United States Government.”⁵⁰ A related committee report explained this lack of specificity by saying “it would be impractical to sort through the Clerk’s list to identify all such requirements. Therefore, [the measure] provides a categorical exemption for budget-related

(...continued)

Cong., 2nd sess., February 1970 (Washington: GPO, 1970) (reporting on a study initiated by the committee); and Senators Carl M. Levin and William S. Cohen, remarks in the Senate, *Congressional Record*, daily edition, vol. 141 (May 11, 1995), pp. S6514-S6515 (citing actions by their subcommittee to solicit input from 89 agencies, vet responses with Senate committees of jurisdiction, and introduce legislation to eliminate or modify reporting requirements).

⁴⁵ For example, see U.S. Congress, House Committee on Government Operations, *Discontinue or Modify Certain Reporting Requirements of Law*, report to accompany S. 2150, 89th Cong., 1st sess., August 10, 1965, H.Rept. 89-545 (Washington: GPO, 1965), p. 2 (referring to a draft bill that was sent to Congress by the Bureau of the Budget, the predecessor agency to OMB); and U.S. Vice President Al Gore, *From Red Tape to Results: Creating a Government that Works Better and Costs Less*, Report of the National Performance Review (Washington: GPO, 1993), p. 34 (proposing to, among other things, “consolidate and simplify” statutory reporting requirements).

⁴⁶ P.L. 104-66. The sunset provision was included as Section 3003. Congress passed a narrower but similar piece of legislation a decade earlier, in 1986. In that case, the Goldwater-Nichols Department of Defense Reorganization Act of 1986 required the Department of Defense to compile existing statutory requirements for reporting to Congress or its committees, other than one-time reporting. That list was required to be submitted to Congress with accompanying analysis. Similar to FRESA, the Goldwater-Nichols Act terminated reporting requirements in a catch-all way—in several titles of the U.S. Code—and with many exceptions. See P.L. 99-433, Section 602 (100 Stat. 1066).

⁴⁷ FRESA was enacted on December 21, 1995. Therefore, the sunset date was initially established as December 21, 1999. Congress later revised the sunset date to be May 15, 2000 (P.L. 106-113; 113 Stat. 1536, 1501A-302). For the Clerk’s January 1993 list, see U.S. Congress, House, *Reports to Be Made to Congress*, list of reports pursuant to clause 2, Rule III of the Rules of the House of Representatives, prepared by the Clerk, U.S. House of Representatives, 103rd Cong., 1st sess., January 5, 1993, H.Doc. 103-7 (Washington: GPO, 1993), at <http://clerk.house.gov/103/hd103007.pdf>.

⁴⁸ U.S. Congress, House Committee on Government Reform and Oversight, *Federal Reports Elimination and Sunset Act of 1995*, report to accompany S. 790, 104th Cong., 1st sess., November 8, 1995, H.Rept. 104-327 (Washington: GPO, 1995), p. 25.

⁴⁹ The website of the Office of the Law Revision Counsel of the House of Representatives lists 13 laws that either (1) explicitly amended FRESA to restore reporting requirements or (2) explicitly said FRESA’s sunset provision does not apply to certain reporting requirements. See notes for 31 U.S.C. §1113, at <http://uscode.house.gov/search/criteria.shtml>. Additional laws may have restored reporting requirements without explicitly citing FRESA.

⁵⁰ P.L. 106-554; 114 Stat. 2763, 2763A-214.

reports.”⁵¹ On at least one occasion, the interim period between FRESA’s sunset date and the enactment of restoration legislation caused a gap to occur in regular reporting.⁵²

Perhaps unsurprisingly, observers have experienced difficulty when assessing the results of FRESA’s sunset provision.⁵³ Uncertainties remain regarding how many reporting requirements were terminated through the sunset provision, how many of these requirements actually were in a state of being implemented at the time of FRESA’s enactment, and how many requirements were later restored. Nevertheless, many periodic reporting requirements appear to have been eliminated. The enactment of provisions to restore reporting requirements also suggested that Congress and stakeholders in many cases continued to value receiving a flow of information from agencies and officials of the federal government.

Implementation of GPRAMA’s Process

Some Potential Uncertainties

Looking ahead, it remains to be seen in practice how some of GPRAMA’s provisions will be implemented in any specific year. As noted at the beginning of this report, GPRAMA’s process covers plans and reports that agencies produce “for Congress.” A consequence of this scope is that the GPRAMA process covers some, but not all, requirements for agencies to prepare plans and reports. Furthermore, it remains to be seen in specific cases how OMB and the President will interpret the expression “for Congress”—such as whether a requirement to post a report online, without a specific recipient, constitutes a covered report. It is also not clear if OMB and the President will implement GPRAMA to include reports that are produced by entities that are not covered by the act’s definition of “agency” (e.g., OMB).

Implementation of GPRAMA’s consultation requirement could be subject to some uncertainty, as well. It may be difficult, for example, for a Member or committee to know if an agency engages in consultations with congressional actors, if the agency produces a plan or report for Congress as a whole, as opposed to a specific committee.⁵⁴ Even if an agency submits a product to a specific

⁵¹ U.S. Congress, Senate Committee on Governmental Affairs, *Federal Reports Elimination and Sunset Act Amendments of 1999*, report to accompany S. 1877, 106th Cong., 1st sess., November 17, 1999, S.Rept. 106-223 (Washington: GPO, 1999), p. 4. This provision ultimately was included in a separate bill that became P.L. 106-554.

⁵² For example, the Oil Pollution Act of 1990 (OPA), as amended, established the Interagency Coordinating Committee on Oil Pollution Research, a federal interagency committee that focuses on oil spill prevention and response capabilities (P.L. 101-380, as amended; 104 Stat. 484; 33 U.S.C. §2761). OPA required the committee to submit a biennial report on its activities and plans. In May 2000, FRESA’s sunset provision terminated this requirement. Congress restored the reporting requirement in late 2002 (P.L. 107-295, 116 Stat. 2103). As a consequence of the 30-month interim period between sunset and restoration, the committee produced no biennial report for the 1999-2000 biennium. See related discussion at U.S. Interagency Coordinating Committee on Oil Pollution Research, “Biennial Reports,” at <http://www.iccopr.uscg.gov/apex/f?p=118:331:725296279643701>.

⁵³ For related discussion, see Patrick R. Mullen, “Congressional Reporting: A Management Process to Build A Legislative-Centered Public Administration” (Ph.D. diss., Virginia Polytechnic Institute and State University, 2006), pp. 128-133.

⁵⁴ If a law or congressional report says that an agency must report to a specific congressional committee, the committee presumably will be in a position to know whether it has been consulted. By contrast, if a law or congressional report does not identify a specific committee as the recipient of a plan or report, it is not clear if an agency would necessarily physically submit the report to Congress or one or more committees, as opposed to simply make the report available online or as a component of the agency’s response to another reporting requirement. In such cases, a particular (continued...)

committee, it may not be clear in advance whether the agency will consult about the product's usefulness with the majority, minority, or both. Furthermore, the precise stage of GPRAMA's process at which consultations with Congress will occur may not be clear in advance. As noted earlier, GPRAMA directs agencies to submit lists of products they believe to be outdated or duplicative to OMB before the agencies consult with congressional committees. The law's sequence notwithstanding, OMB has encouraged agencies during GPRAMA's initial years of implementation to engage in consultations with congressional committees several weeks before submitting final lists of purportedly outdated and duplicative reports to OMB.⁵⁵

Finally, it may not be clear in advance how OMB and the President will implement GPRAMA's statutory requirement for a presidential list. In a particular year, for example, it is possible that the President will submit to Congress without modification the second list of products that an agency's COO identifies to be outdated or duplicative. However, an agency's budget request and recommendations on pending legislation typically are subject to OMB review, clearance, and modification to conform to the policy preferences of the current President.⁵⁶ Given these practices, the policy preferences of the President are likely to be a significant influence on final proposals. In addition, because GPRAMA does not define the terms "outdated" and "duplicative" or otherwise specify criteria for consolidating or eliminating a report, the criteria that will be used in a particular year for including a plan or report on the presidential list—or excluding a plan or report—may vary across proposals in a single year and in subsequent years.

Developments During the 112th Congress

The section of GPRAMA that provides for reexamination of agency reporting requirements, Section 11, became effective on January 4, 2011, the date of the law's enactment.⁵⁷ The President and OMB did not appear to implement GPRAMA's process when formulating the President's FY2012 budget proposal, which was submitted to Congress just a few weeks later.⁵⁸

On August 18, 2011, OMB issued two pages of guidance to agencies regarding the GPRAMA process.⁵⁹ The guidance said that over the next few months, OMB would coordinate the process for reexamining agency reporting alongside the process of formulating the President's FY2013

(...continued)

committee may know whether it itself has been consulted but may experience difficulty in ascertaining whether the reporting agency consulted with any other committee. This raises the possibility that a committee may not be in a position to know if an agency has complied with GPRAMA's consultation requirement about a specific plan or report unless the committee also inquires with some or all other relevant committees about that plan or report.

⁵⁵ This guidance was included within OMB's annual budget guidance to agencies. See OMB, *Circular No. A-11*, "Preparation, Submission, and Execution of the Budget," August 18, 2011, Section 240 (for the President's FY2013 budget proposal); and OMB, *Circular No. A-11*, "Preparation, Submission, and Execution of the Budget," August 3, 2012, Section 290 (for the President's FY2014 budget proposal).

⁵⁶ OMB, *Circular No. A-11*, "Preparation, Submission, and Execution of the Budget," August 3, 2012, Section 22; and OMB, *Circular No. A-19*, "Legislative Coordination and Clearance," revised September 20, 1979, Section 5.e., at http://www.whitehouse.gov/omb/circulars_default/.

⁵⁷ GPRAMA, Section 11; 31 U.S.C. §§1105(a)(37) and 1125.

⁵⁸ Under 31 U.S.C. §1105(a), the FY2012 budget proposal was due to Congress by February 7, 2011. The President submitted the proposal to Congress on February 14, 2011. CRS Report R41707, *FY2012 Budget Documents: Internet and GPO Availability*, by Justin Murray.

⁵⁹ The guidance was included within OMB's annual budget guidance to agencies. See OMB, *Circular No. A-11*, "Preparation, Submission, and Execution of the Budget," August 18, 2011, Section 240.

budget proposal. In the meantime, OMB said agencies should immediately begin to compile lists of congressionally mandated products and consult with “appropriate” committees.

The guidance reminded agencies of GPRAMA’s first-year requirement for an agency to identify 10% of the plans and reports on an agency’s initial list as outdated or duplicative. OMB said this calculation should correspond only to “agency-specific” reports that an agency produces, however, and not to “government-wide” plans and reports where reporting requirements apply broadly to multiple agencies.⁶⁰ Any changes to multi-agency reporting requirements would be proposed by OMB, the guidance said. The document added that agencies should be prepared to send several data elements to OMB for each plan or report identified as outdated or duplicative.⁶¹ In addition, the guidance said an agency should make a recommendation for each of these products using one of three possible options: elimination, consolidation, or a third category.⁶² The third category addressed a situation where an agency does not find at least 10% of its plans and reports for Congress to be outdated or duplicative. OMB appeared to say that agencies still must achieve the 10% figure—even if the plans and reports are not outdated or duplicative—by identifying beneficial products that have comparatively lower net benefits and recommending them for elimination.

Lists of products that agencies identified as outdated or duplicative were due to OMB by September 12, 2011, a little less than a month after OMB issued its guidance. OMB elsewhere referred to these agency-submitted lists of products as being “draft” in nature, appearing to confirm that an agency’s second list would be subject to review and potential modification by OMB.⁶³ The presidential list was due to be submitted to Congress by February 6, 2012, as part of the President’s FY2013 budget proposal. President Barack Obama submitted the budget proposal to Congress on February 13, 2012. In the FY2013 *Budget* volume, the Obama Administration said a list of plans and reports that were identified for possible elimination or consolidation had been posted on the *Performance.gov* website for public comment.⁶⁴ However, the actual list did not appear on the website by that date and was not posted during the remainder of the 112th Congress. CRS has not located any official explanation for this omission.

Notwithstanding the omission, OMB issued the next version of annual guidance for the GPRAMA process on August 3, 2012.⁶⁵ This guidance corresponded to formulation of the President’s FY2014 budget proposal, which would be due to Congress after the 2012 presidential election. The new guidance was similar to the previous year’s guidance. However, the guidance newly said agencies should make their initial lists of plans and reports available to Congress and OMB, upon request. The guidance also told agencies to provide more extensive contextual

⁶⁰ As an example, OMB cited a reporting requirement established by the Reports Consolidation Act of 2000, which authorized covered agencies to consolidate certain reports related to financial management and performance into a Performance and Accountability Report (PAR).

⁶¹ This appeared to allude to a forthcoming data call to agencies that was not made publicly available.

⁶² In directing agencies to make recommendations, OMB’s guidance appeared to go further than GPRAMA’s requirement for agencies to identify products they consider to be outdated or duplicative.

⁶³ OMB, *Circular No. A-11*, “Preparation, Submission, and Execution of the Budget,” August 18, 2011, Section 200, p. 5.

⁶⁴ OMB, *Budget of the U.S. Government, Fiscal Year 2013* (Washington: GPO, 2012), p. 44.

⁶⁵ OMB, *Circular No. A-11*, “Preparation, Submission, and Execution of the Budget,” August 3, 2012, Section 290.

information to OMB about each proposal (e.g., to whom in Congress the plan or report is delivered), apparently by using OMB's MAX system to populate a database of the proposals.⁶⁶

Developments During the 113th Congress

After reelection of President Obama to a second term, it seemed from OMB's guidance in *Circular A-11* that a presidential list of plans and reports would be forthcoming along with the President's FY2014 budget proposal. However, a presidential list was posted on *Performance.gov* on January 8, 2013, well in advance of submission of the President's FY2014 budget.⁶⁷ It was not clear whether this posting was the result of OMB's annual budget process for FY2013, FY2014, or a combination of both years. The *Performance.gov* website described the posted list as identifying 376 plans and reports that are "potentially outdated, duplicative, or otherwise warranting modification." It may be noteworthy that the Obama Administration characterized the plans and reports as "potentially" outdated, duplicative, or otherwise warranting modification, rather than assert these attributes.

A detailed analysis of the 376 proposals is outside the scope of this CRS report. Nevertheless, several summary observations might be offered. (See also this report's **Appendix** for more detailed discussion, including **Table A-1**, which breaks down the proposals by entity and type of proposed modification.) As a group, the proposals were listed as corresponding to 28 entities: all 15 departments and 13 additional agencies and entities. When looking at the proposals by type of proposed modification, a clear majority of the 376 items were listed as proposals to eliminate reporting requirements rather than modify them. When viewing the proposals broken down by entity, the Department of Defense (DOD) was associated with the most proposals. Many additional items were listed as corresponding to the Executive Office of the President.

Subsequently, the President submitted budget proposals for FY2014 on April 10, 2013.⁶⁸ However, the various components of the submission did not include any reference to proposals for elimination or modification of reporting requirements under the GPRAMA process. When this omission is viewed in concert with the FY2013 President's budget proposal (referring to GPRAMA-related proposals but not providing them) and the January 2013 posting of 376 proposals (separate from the FY2014 President's budget), the implications for future events seem unclear. For example, it is not clear if the Obama Administration viewed the January 2013 posting of GPRAMA-related proposals on *Performance.gov* as corresponding to the President's FY2014 budget submission. If the Obama Administration viewed the January 2013 posting as corresponding to something other than the FY2014 submission, it is not clear if the Administration will pursue the GPRAMA process for reexamining reporting requirements on an

⁶⁶ Ibid. The MAX system is used by OMB and agencies to share information and collaborate. Under current practice, only executive branch personnel may have access to the large majority of MAX applications and associated information. Certain legislative and judicial branch personnel may use MAX to send data for inclusion in the President's consolidated budget submission. Notably, the President is required to include estimated expenditures and proposed appropriations for the legislative and judicial branches "without change" (31 U.S.C. §1105(b)). For more information about who may register for MAX, see OMB, "My Frequently Asked Questions," for the question "Who is eligible for a MAX account?" at <https://max.omb.gov/maxportal/webPage/home/faq>.

⁶⁷ Specifically, the presidential list was posted as a spreadsheet file and made available for download on the *Performance.gov* website. On the website's "FAQ" page, see the tab entitled "Congressionally-mandated Plans and Reports," at http://www.performance.gov/faq#Congressionally-mandated_Plans_and_Reports. The file may be downloaded from a link included within the page's text (see the text that says "linked list").

⁶⁸ CRS Report R43075, *FY2014 Budget Documents: Internet and GPO Availability*, by Jared Conrad Nagel.

annual basis, going forward, notwithstanding GPRAMA's requirement for including this information annually with the President's budget proposal.

OMB's guidance for formulation of the President's FY2015 budget proposal—contained in a revised version of *Circular A-11*—is expected to be issued in the summer of 2013. Further insight into the Administration's future plans may be forthcoming in that document.

Potential Issues for Congress

Under the system established by the U.S. Constitution, separate institutions share power and utilize checks and balances as they cooperate or compete for influence over public policy.⁶⁹ History demonstrates that Congress has relied extensively on receiving information and viewpoints from agencies and their personnel when performing its constitutional responsibilities. Reporting requirements in particular have been a mainstay of congressional involvement in administration of public laws from the 1st Congress to the present. In 1789, for example, the statute that established the Department of the Treasury said

it shall be the duty of the Secretary of the Treasury to digest and prepare plans for the improvement and management of the revenue ...; to prepare and report estimates of the public revenue, and the public expenditures; ... to make report, and give information to either branch of the legislature, in person or in writing (as he may be required), respecting all matters referred to him by the Senate or House of Representatives, or which shall appertain to his office.⁷⁰

In practice, reporting requirements may be used to pursue any of several objectives. These include transparency, accountability, public participation, efficiency, and effectiveness. Values like these may, on occasion, trade off against one another. Transparency may enhance accountability and effectiveness, for example, but the collection and presentation of information may affect behaviors and impose incremental costs.

Furthermore, the same information may have several interested audiences with their own priorities. Congress and non-federal stakeholders frequently rely on access to information about the plans and activities of the federal government when they oversee or work with agencies, or when they participate in the lawmaking process. Agencies themselves, OMB, and the President also need access to information to faithfully and effectively execute laws. In specific circumstances, however, different audiences in Congress, the executive branch, and the public may place differing weights on the aforementioned values. Some audiences also may have goals in conflict with one or more of the values. Over time, changes in circumstances and technology may have further implications for the types and formats of information that are feasible and desirable. For example, many reporting requirements were established before the Internet and relatively inexpensive information technology (IT) came into widespread use.

⁶⁹ Charles O. Jones, *Separate but Equal Branches: Congress and the Presidency* (Chatham, NJ: Chatham House, 1995).

⁷⁰ An Act to establish the Treasury Department, Section 2; Chapter XII, 1st Cong.; September 2, 1789 (1 Stat. 65-66).

Given this complex institutional, policy, and technological background, GPRAMA's process for the reexamination of agency reporting requirements raises potential issues for Congress. The following two sub-sections highlight several of these potential issues.

Potential Issues When Considering Specific Proposals

Looking ahead to annual implementation of GPRAMA's provisions, the President and OMB may propose the consolidation, modification, or elimination of specific reporting requirements. Members and committees of Congress may consider a specific proposal from several perspectives.

- **Context.** How does a reporting requirement fit in the broader picture of how an agency provides information to its own personnel? How does a plan or report fit in the broader picture of how an agency provides information to, and interacts with, Congress, other agencies, the President, non-federal stakeholders, and the broader public? How does the agency manage relevant information? How does a reporting requirement relate to an agency's mission, priorities, management processes, and IT systems?
- **Consultations.** Are consultations with Congress occurring under the GPRAMA process for reexamining reporting requirements? Are the consultations being conducted with sufficient time and depth for a committee or interested Members to have input before changes to a reporting requirement are proposed by the President? For products that are submitted to Congress as a whole rather than to a specific committee, are agencies engaging in consultations? What are Congress's expectations in that regard? Did an agency consult in advance with other, non-federal stakeholders?⁷¹ Does an agency have views that are different from those of OMB and the President about the benefits or costs of a reporting requirement? Will Congress have access to these concerns or opinions? What do non-federal stakeholders think about a proposal?
- **Credibility.** Does a proposal for elimination or consolidation of a plan or report appear to be founded on quality analysis and justification? When an agency, OMB, or the President identifies a plan or report as outdated or duplicative, how did they define these terms? Did the relevant agency, OMB, and the President make a credible proposal that justifies a recommendation adequately and acknowledges any trade-offs or disadvantages? How might any of the perspectives that are discussed below figure into an assessment of a proposal's credibility?
- **Usefulness.** How useful is a plan or report to its various audiences—including Congress as a whole, congressional recipients, personnel in the federal agency that authors a product, personnel in other government agencies, non-federal stakeholders, and the public? How do they use the plan or report? What impact does a plan or report have on the accountability and incentives of an agency,

⁷¹ This sort of consultation may be significant. One analysis cautioned that the elimination of a particular report as part of a group repeal "may go unnoticed by many interested in a particular subject." U.S. Congress, Senate Committee on Foreign Relations, *Reporting Requirements in Legislation on Foreign Relations*, committee print, prepared by the Foreign Affairs Division of the Legislative Reference Service, 91st Cong., 2nd sess., February 1970 (Washington: GPO, 1970), p. 10.

OMB, or the President? Would disappearance of a plan or report have implications for policy formulation or policy implementation, including Congress's ability to legislate or conduct oversight? Would disappearance of a plan or report have implications for power relationships among Congress, agencies, the President, non-federal stakeholders, or the public? Would consolidation of several products improve or degrade usefulness?⁷²

- **Costs and side effects.** What are the workload, costs, and side effects that correspond to a reporting requirement? Would changes in statute or report language that eliminate or consolidate a product have any effect on an agency's costs or priorities? Would an agency's data collection or reporting continue even in the absence of a requirement in statute or directive in report language? Would elimination of a reporting requirement entail costs or disruptions for Congress or non-federal stakeholders?
- **Options.** After reviewing considerations like those outlined above, do the benefits of a reporting requirement to Congress and other audiences justify the requirement's costs? Are there less costly or more effective options in contrast with the President's proposal? Could a reporting requirement be designed or implemented in a better way? Would better systems or utilization of technology improve the effectiveness of a reporting requirement or reduce its burden? In the age of "wiki" websites on the Internet and the possibility of designing websites to allow bulk-downloading of their contents, what are the implications for agency reporting requirements?⁷³ Do non-federal stakeholders or congressional support agencies have views to offer regarding what should be done for each item on the presidential list of proposed eliminations and consolidations?

Potential Issues When Considering Changes to GPRAMA's Process

Congress also may evaluate how well the GPRAMA process is working. If Congress perceives a problem or the potential for improvement, Congress may consider amending the law to change aspects of how the process operates. A number of topics might be examined.

⁷² Another analysis of reporting requirements discussed a trade-off that may occur when one or more reports are consolidated into an already existing product, such as an annual report. Consolidation may be pursued to reduce the number of reports and integrate their information, in an effort to make reporting more efficient and effective. However, consolidation may "create problems for both preparers and users of the reports" if a report's contents become too unwieldy, or if it becomes difficult for congressional or other audiences to determine in what part of a report a requirement was supposed to have been met. U.S. Congress, House Committee on Foreign Affairs, *Required Reports to Congress on Foreign Policy*, committee print, prepared by the Foreign Affairs Division of the Congressional Research Service, 100th Cong., 2nd sess., August 1, 1988 (Washington: GPO, 1988), p. 40.

⁷³ For example, it may be difficult or burdensome for an observer to track changes to a website's contents if information is presented in formats other than discrete files (e.g., PDF). Such a plan's or report's content may be overwritten and permanently lost, in such cases. Information about changes to a website's contents nevertheless might be captured if the website provides a bulk-download capability through which an observer could electronically download the website's contents at a particular point in time. Equipped with information that shows the website's contents on a specific date, an observer may be able to compare versions of a website over time and detect significant changes. This kind of issue may become more salient when information is provided primarily or only on the Internet in formats other than discrete files. For broader discussion of federal record-keeping requirements, see CRS Report R43072, *Common Questions About Federal Records and Related Agency Requirements*, by Wendy Ginsberg.

- **Coverage.** The GPRAMA process covers plans and reports that agencies produce “for Congress” but does not cover all reporting requirements. As noted earlier, a statute may require that a plan or report be produced by an entity whose status as an “agency” is ambiguous, like OMB.⁷⁴ A statute also may require that a plan or report be produced for the benefit of audiences in addition to Congress, such as the public through posting on the Internet. GPRAMA also does not explicitly cover an agency’s reporting to Congress—or for that matter, an agency’s reporting to the President—that occurs through the use of discretion by agencies, OMB, and the President. What might be the advantages and disadvantages of taking a broader view of reporting requirements in GPRAMA’s process? Would broader coverage that explicitly includes the President and entities in the Executive Office of the President, for example, paint a more useful picture? Would expanding the scope to include some reporting inside the executive branch (e.g., from agencies to OMB) offer more potential for identifying efficiencies and ways to generate and share information more effectively?⁷⁵
- **Consultations.** GPRAMA’s process requires agencies to consult with congressional committees. Unlike other provisions in GPRAMA, however, the consultation requirement does not specify that an agency consult with both the majority and minority of a committee or, furthermore, require an agency to consult with non-federal stakeholders.⁷⁶ In addition, some plans and reports may be submitted to Congress as a whole, as opposed to a specific committee. If agencies are perceived as not adequately consulting with Congress or non-federal stakeholders about proposals to eliminate or consolidate plans and reports, would any changes to GPRAMA be desirable? Might other mechanisms for consultation be considered? For example, what might be the advantages and disadvantages of amending GPRAMA to require agencies to publish elimination and consolidation proposals in the *Federal Register* for public notice and comment?⁷⁷

⁷⁴ Requirements for OMB to report to Congress may rely ultimately on agencies for information. In these cases, OMB may perform what is colloquially called a “data call” or more technically called a “budget data request” (BDR) to direct agencies to provide information to OMB. OMB then is in a position to compile or aggregate information and choose how to comply with a reporting requirement.

⁷⁵ OMB’s guidance for GPRAMA’s FY2013 process, for example, referred to a separate process in 2010 that OMB apparently pursued through use of discretion. In that process, OMB sought recommendations from agencies on how to reduce the burden of reporting to OMB in several mission support areas like financial management. It is not clear how the process worked or what its outcome was, but Congress and the public may have an interest in such processes and, more generally, intra-governmental information reporting and sharing. For OMB’s brief reference to the process, see OMB, *Circular No. A-11*, “Preparation, Submission, and Execution of the Budget,” August 18, 2011, Section 240.2, p. 2.

⁷⁶ For discussion of other consultation provisions in GPRAMA, see CRS Report R42379, *Changes to the Government Performance and Results Act (GPR): Overview of the New Framework of Products and Processes*, by Clinton T. Brass.

⁷⁷ A point of reference for this type of option might be the Administrative Procedure Act (APA, codified at 5 U.S.C. §551 et seq.). Under the APA’s “informal” rulemaking process, an agency publishes a proposed rule in the *Federal Register* and solicits comments from the public. The agency considers these perspectives when formulating a revised and final rule. Ultimately, the agency responds in the *Federal Register* to significant issues that were raised in the public’s comments and may publish a revised and final rule using any insights that are gained in the process. The agency’s written response provides a mechanism for Congress and the public to see whether comments from stakeholders and the public were taken seriously and influenced the agency’s approach. Such a process may provide a means for Congress and the public to hold the agency accountable for being responsive to stakeholders’ needs.

- **Justification of proposals.** GPRAMA does not address how agencies, OMB, and the President are to analyze reporting requirements or justify proposals to Congress. For example, the statute is silent about how agencies are to justify their identification of products as being outdated or duplicative. The requirement for the presidential list of plans and reports similarly does not address how proposals for elimination or consolidation are to be justified. Past experience suggests that a perception of poor justification may diminish the credibility of proposals for Congress.⁷⁸ In that light, what might be the advantages and disadvantages of providing more explicit structure in GPRAMA for how agencies, OMB, and the President are to document their analyses and justify their proposals? For example, Congress might consider establishing criteria for designations of a plan or report being considered “outdated” or “duplicative” or, alternatively, require OMB to do so in its guidance. Would any of the topics from the previous subsection of this report—such as context, consultations with stakeholders, usefulness, and costs (see “Potential Issues When Considering Specific Proposals”)—merit being required as topics for an agency or OMB to address in an agency’s analysis or a presidential proposal?⁷⁹
- **Coordination within Congress.** Under GPRAMA, large group-repeal-and-modification proposals may become an annual occurrence. In that light, Congress might consider strategies for how it wishes to consider proposals for many modifications and eliminations of reporting requirements. In the past, Members and committees of Congress have used several strategies to manage consideration of ad hoc proposals from agencies, OMB, and the President. These proposals typically crossed the jurisdictions of many committees. In response, a single subcommittee sometimes coordinated the consideration of proposals within a chamber of Congress.⁸⁰ The subcommittee then solicited feedback from committees of jurisdiction to develop a draft bill that could be introduced. Looking ahead to annual implementation of GPRAMA’s process, might similar approaches be used? In addition, some reporting requirements may correspond to different committees and still be closely interrelated. Might there be opportunities for committees to coordinate their efforts when they have jurisdictions and reporting requirements that are closely related?

⁷⁸ In an effort to reexamine reporting requirements during the 99th Congress, several committees noted instances when agencies or OMB made proposals but did not evaluate needs for information, re-submitted proposals when similar proposals had been rejected multiple times previously, and submitted proposals that, if enacted, would have gone beyond reporting requirements to change substantive laws. On occasion, proposals “were viewed by some committees as attempts by the administration to do away with programs under the guise of eliminating reports.” See U.S. Congress, House Committee on Government Operations, *Congressional Reports Elimination Act of 1986*, report to accompany H.R. 2518, 99th Cong., 2nd sess., July 21, 1986, H.Rept. 99-698 (Washington: GPO, 1986), pp. 3-5. Two years later, GAO analyzed weaknesses in procedures used by agencies and OMB during the aforementioned process, where OMB submitted a proposal to modify or eliminate 240 reporting requirements and Congress ultimately changed or eliminated only 23 of them in P.L. 99-386. See GAO, *Congressional Reports: Efforts to Eliminate or Modify Reporting Requirements Need to Be Improved*, GAO/AFMD-88-4, April 1988.

⁷⁹ As noted earlier in this report, Section 301 of the Government Management Reform Act of 1994 (P.L. 103-356; 108 Stat. 3410; 31 U.S.C. §1113 note) required covered proposals to provide certain justification information and to be consistent with statutorily prescribed purposes.

⁸⁰ In the past, a single subcommittee of the House or Senate committee that focused on government operations coordinated this work. The legislative histories of several measures indicate this strategy was used, including for P.L. 105-362, P.L. 99-386, and P.L. 97-375. Currently, the relevant committees would be the House Committee on Oversight and Government Reform and the Senate Committee on Homeland Security and Governmental Affairs.

- **OMB's activities and interactions with agencies.** For the FY2013 round of GPRAMA's process, OMB's guidance to agencies addressed the situation where an agency may not find at least 10% of its plans and reports for Congress to be outdated or duplicative. In such cases, OMB appeared to say agencies still must achieve the 10% figure. To achieve that rate, OMB said agencies should recommend products for elimination that have comparatively lower net benefits, even if they are not outdated or duplicative and by implication still may be useful to recipients. For subsequent years, GPRAMA gives authority to OMB to determine a minimum annual percentage of plans and reports that agencies are required to identify as outdated or duplicative. GPRAMA currently contains no requirement for OMB to inform Congress of such a percentage, if OMB chooses one. If OMB's exercise of this authority were of interest, Congress might consider options for exercising oversight over OMB's use of the provision, including the extent to which OMB uses analysis to determine this minimum percentage. If Congress were interested in the views of agencies about the value of certain reporting requirements before potential modification by OMB to suit the President's preferences, Congress might consider options to better understand how an agency's second list of plans and reports changes after OMB's review. These options might include conducting hearings on the topic, asking GAO to look into specific cases, or amending GPRAMA to require an agency to submit its second list to Congress concurrently with its submission to OMB or, alternatively, later when the President submits his or her budget proposal. This would allow Congress to see what, if any, changes OMB made.
- **Institutional roles and responsibilities.** GPRAMA establishes several roles and responsibilities for agencies, OMB, and the President. Looking ahead, Congress may consider how well this system is working. If Congress perceives a problem or the potential for improvement, Congress may consider changes. To illustrate, GPRAMA requires each covered agency to compile a list of all plans and reports that it produces for Congress in accordance with statute or report language. The law does not require compilation of these data into an overall database that is available to agencies, OMB, Congress, and the public. As a consequence, it is conceivable that agencies' efforts to create parallel databases to manage this task may be vulnerable to duplication of effort. GPRAMA's provisions may also create some duplication of effort when viewed in the context of the House Clerk's *Reports to Be Made to Congress* document. Furthermore, efforts to analyze reporting requirements across agencies may be difficult in the absence of a more global view.⁸¹ If options for a single database were considered, numerous questions might arise. What agency or agencies might be best positioned to set policy for the database, administer it, and host it on the Internet? Under current law and practice, individual agencies, the National Archives and Records Administration (NARA), and the General Services Administration participate in federal records management with a statutory division of labor.⁸² What might their respective roles be in a hypothetical, integrated system?⁸³

⁸¹ There may be opportunities for enhanced coordination and efficiencies across agencies. In addition, standardization may be appropriate in some cases. In other cases, however, agencies may have need for customized processes and systems to fit their unique circumstances and relationships with congressional committees.

⁸² For discussion, see 41 C.F.R. Part 102-193 ("Creation, Maintenance, and Use of Records"). OMB also has roles concerning several mission support and management functions, including information and statistical policy, that could (continued...)

Appendix. Plans and Reports Proposed to Congress for Modification (“Presidential List”)

January 2013 Proposals (Obama Administration)

On January 8, 2013, the Obama Administration proposed a group of plans and reports for modification under the process established by GPRAMA. The proposal was posted on the *Performance.gov* website, located in the website’s “FAQ” section.⁸⁴ In the Web page’s text, the Administration characterized the plans and reports as “potentially outdated, duplicative, or otherwise warranting modification.” The text also linked to a spreadsheet file available for downloading. The spreadsheet file identified 376 items as being proposed for modification. As a group, the proposed items were listed as corresponding to 28 entities: all 15 departments and 13 additional agencies and entities.⁸⁵ Each listed item provided the following information:

- name of entity;
- title of plan or report;
- type of modification (identifying one of four categories, including “eliminate,” “consolidate,” “reduce frequency,” and “streamline”); and
- description of the rationale for modification.

Table A-1 shows tallies of the 376 items, broken out by entity and type of modification.

Table A-1. January 2013 Proposals (Obama Administration)

Listed Entity	Number of Plans and Reports Listed, Broken Out by Administration’s Typology of “Proposed Modification”				Total
	Eliminate	Consolidate	Reduce Frequency	Streamline	
Department					
Department of Agriculture	25	1	1	-	27
Department of Commerce	9	-	-	-	9

(...continued)

be factored into the options that Congress considers.

⁸³ In recent Congresses, some legislation expressed a point of view to address questions like these. For example, see H.R. 6026 (111th Congress); H.R. 1974/S. 1411 (112th Congress); and H.R. 1380 (113th Congress), the Access to Congressionally Mandated Reports Act.

⁸⁴ “FAQ”, tab entitled “Congressionally-mandated Plans and Reports,” *Performance.gov*, [January 8, 2013], at http://www.performance.gov/faq#Congressionally-mandated_Plans_and_Reports. The linked file was posted at http://www.performance.gov/sites/default/files/tmp/_List_of_Reports_Required_by_P_L%20_111-352.xls.

⁸⁵ The spreadsheet listed the U.S. Army Corps of Engineers separately from the Department of Defense. If the Corps were tallied as an entity separate from the department, the proposal’s items would correspond to a total of 29 entities instead of 28 entities.

Number of Plans and Reports Listed, Broken Out by Administration's Typology of "Proposed Modification"					
Listed Entity	Eliminate	Consolidate	Reduce Frequency	Streamline	Total
Department of Defense (not including Army Corps of Engineers)	54	-	3	14	71
Department of Defense, Army Corps of Engineers ^a	1	2	-	-	3
Department of Education	1	9	-	-	10
Department of Energy	14	1	1	-	16
Department of Health and Human Services	13	12	2	1	28
Department of Homeland Security	7	13	5	7	32
Department of Housing and Urban Development	3	-	2	-	5
Department of the Interior	4	-	-	-	4
Department of Justice	2	2	1	-	5
Department of Labor	3	-	-	-	3
Department of State	21	-	-	-	21
Department of Transportation	19	-	1	-	20
Department of the Treasury	13	1	3	2	19
Department of Veterans Affairs	7	-	1	-	8
Other Agency or Entity					
Consumer Product Safety Commission	-	1	-	-	1
Corporation for National and Community Service	2	-	-	-	2
Environmental Protection Agency	6	-	-	-	6
Executive Office of the President	17	-	6	4	27
Federal Trade Commission	1	1	-	-	2
General Services Administration	4	-	-	-	4
National Aeronautics and Space Administration	9	-	2	-	11
National Science Foundation	2	1	-	-	3
Office of Personnel Management	3	-	-	-	3
Office of the Director of National Intelligence	26	-	3	1	30
Securities and Exchange Commission	-	2	-	-	2

Number of Plans and Reports Listed, Broken Out by Administration's Typology of "Proposed Modification"

Listed Entity	Eliminate	Consolidate	Reduce Frequency	Streamline	Total
Small Business Administration	2	1	-	-	3
Social Security Administration	1	-	-	-	1
Total	269	47	31	29	376

Source: *Performance.gov*.

Notes:

- a. The spreadsheet listed the U.S. Army Corps of Engineers separately from the Department of Defense.

When looking at the proposals by type, a clear majority of the 376 items were listed as proposals to eliminate reporting requirements (269 out of 376, or 72% of the total). When looking at the proposals by entity, the Department of Defense (DOD) was associated with the most proposals, 71 items (19% of the total). That total does not include three additional items associated with the Army Corps of Engineers. Another 27 of the 376 items were listed as corresponding to the Executive Office of the President (EOP). As noted earlier in this report, GPRAMA's definition of "agency" does not explicitly include the EOP or the entities located within it. Consequently, the scope of the Obama Administration's January 2013 proposal could be interpreted as going beyond GPRAMA's specific requirements.

Author Contact Information

Clinton T. Brass
 Specialist in Government Organization and
 Management
 cbrass@crs.loc.gov, 7-4536