

Notes on Congressional Consultation

2011



Background

Under the GPRA Modernization Act (GPRAMA), agencies as defined by section 306(f) of title 5 are required to consult Congress on: agency strategic plans, **Agency Priority Goals**, and agency lists of plans and reports proposed for elimination. OMB will coordinate consultation with Congress on government-wide initiatives, specifically **Cross-Agency Priority Goals**.

In May 2011, an agency working group was called together by the Performance Improvement Council to discuss agency practices for congressional consultation. In July 2011, the National Academy of Public Administration (NAPA) held a forum to discuss how the executive branch might foster valuable dialogue with Congress using the congressional consultation requirements of GPRAMA. These notes summarize the discussions consultation practices by agencies that are related to fulfilling GPRAMA requirements.

Purpose of consultation

A long recognized best practice of strategic planning and performance management is outreach by agencies to key congressional stakeholders. Congressional consultation by agencies can help to:

- align agency goals, plans and programs with congressional intent and current situation, or environmental context
- obtain valuable feedback from Congress on high-level direction of agency goals, plans or strategic direction
- inform Congress on issues related to agency goals, plans or reports or implementation

Effective approaches

The most successful examples of congressional consultation by agencies have been when the consultation was not characterized as consultation under GPRA but instead the consultation was characterized as a discussion at a key point in the legislative process such as reauthorization of a program. Fitting into the natural rhythms of congressional needs, program needs and existing legislative processes seems to work best. Agency and congressional staffs reported that having agency program experts lead the consultation, as integrated in to a part of the agency's legislative affairs agenda, was more effective than having consultations lead by legislative affairs or performance management teams alone.

Agency preparation

Prior to consulting with Congress on agency strategic plans, **Agency Priority Goals**, and report elimination, agencies have found it helpful to:

- plan ahead with the agency’s legislative affairs office to determine what issues within the agency could be impacted by congressional decisions in the upcoming year;
- plan timing of agency consultation on performance topics at moments that are relevant to the interests and responsibilities of Congress during the fiscal year and are also relevant to program needs;
- prepare a basis for the consultation on the desired topic (e.g. What research, analysis, prioritization or other thinking has agency done to prepare for consultation? What will be provided to Congress on that pre-work?);
- prepare data and evidence to support the agency’s consultation within the context of outcomes that Congress is trying to achieve;
- ensure appropriate clearance of ideas or drafts as agency deems appropriate, and also in coordination with OMB;
- determine with whom the agency should consult based on topic and existing agency relationships with Congress and interests of committees in Congress;
- determine which agency representatives must deliver the information to Congress or participate in meeting with Congress;
- consider in advance how the agency will follow up after congressional consultation:
 - How will the agency incorporate feedback? Does the consultation need to be documented, and how?
 - How should the agency best reconcile conflicting views provided by different committees or congressional staffs or which conflict with agency views?
 - How will the agency clear revisions within their organization?
 - What should be reported in published plans or reports based on congressional input?

With whom agencies consult

Agencies consider their existing, established communication channels and relationships in addition to the congressional committees required by GPRA Modernization Act in deciding which congressional members or staff they consult and what methods they use to consult. The GPRA Modernization Act references the following congressional committees with whom OMB should consult on **Cross-Agency Priority Goals**:

1. Appropriations of the Senate and the House of Representatives;
2. Budget of the Senate and the House of Representatives;
3. Homeland Security and Governmental Affairs of the Senate;
4. Oversight and Government Reform of the House of Representatives;
5. Finance of the Senate;
6. Ways and Means of the House of Representatives; and
7. Other committees as determined appropriate

Where it relates to strategic goals and **Agency Priority Goals**, agencies reported focused consultation with:

- program authorizers and appropriators especially as relevant to the timing of congressional decisions;
- members and staff representing different political parties;
- number of committees, as deemed appropriate for the agency size in particular.

Timing

OMB has encouraged agencies to work with the Resource Management Office at OMB in planning when and what content the agency should share with Congress as related to developing the agency strategic plan and **Agency Priority Goals**, especially as some of the content may relate to the pre-decisional budget process.

For agency strategic plans, goals and reports, agencies reported a preference for consulting with Congress several months in advance of finalizing the report or goal, at the time in which the agency is deciding on strategic goal areas or **Agency Priority Goal** areas, for example. Congressional staffs recommended that agencies consider specific congressional interest areas and formats to present information to Congress in ways that are brief and relevant to congressional decisions.

In consulting with Congress early, for high-level strategic direction on topics specific to areas of interests with Congress, agencies were better able to integrate feedback in the development and subsequent implementation of their agency mission. Agencies recommended providing a cut-off time when the feedback period must close in order to finalize their plans and reports in a timely manner.

Frequency

Requirements for consulting Congress on various performance issues under the GPRA Modernization Act have been outlined in OMB Circular A-11 Part 6.

Congressional staffs recommended that agencies consider consulting, not necessarily on the entire strategic plan at once, but by addressing priority topics and key interest areas within the strategic plan that are relevant to congressional interests at the time that such topics are relevant to congressional decisions. This consideration could impact decisions related to frequency.

Methods

The approach an agency uses to consult with Congress – sending documents, holding phone calls, holding meetings - varies depending on a variety of factors about the consultation. For example, agencies consider consultation approaches that are most useful to the agency and Congress, based on factors such as:

- agency size, structure, and existing relationships with congressional committees and staff;
- topic of consultation (e.g. complexity of topic, nature of topic, feedback needed);

- appropriate component of agency that will lead the consultation (e.g. Will Secretary, CFO, PIO, program, legislative affairs be consulting Congress on the topic during the normal course of business?)

In the future, with the development a central website where agencies can provide information related to Priority Goals, and eventually strategic plans and other performance goals, agencies may have more supporting technologies to help them obtain congressional input.¹ Agencies have found it valuable to work with their legislative offices and appropriate congressional committees to determine the best method for consultation.

¹ Note that this paper was written prior to the launch of Performance.gov.