

E-Government Act of 2002 in the United States

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INTRODUCTION

The United States is frequently ranked among the most advanced e-government countries in the world (Accenture, 2004; United Nations, 2003; West, 2004). While many of these surveys emphasize the importance of technological issues, such as Web sites, interoperable data standards, and security protections, considerably less attention has been focused on the legislative environment that either facilitates or hinders the development of e-government at the national level. Like all countries, the United States has long grappled with the problem of how to centrally coordinate a diverse and sometimes incongruous collection of departments and agencies to achieve improved efficiencies, while maintaining a level of flexibility that enables these entities to carry out their specialized responsibilities effectively. This challenge can be made harder by the integration of information technology into government, by reifying organizational boundaries in the form of so-called “stove pipes” and “islands of automation.” To combat these problems, national governments are attempting to use legislative means to harmonize a cacophony of independent initiatives, and establish benchmarks for oversight.

On December 17, 2002, President George W. Bush signed the E-Government Act of 2002 (116 Stat. 2899; P.L. 107-347) into law. Although there are many existing laws regarding issues such as information technology (IT) management, privacy, and information security, the E-Government Act of 2002 is the first national law that specifically addresses e-government in the United States. Prior to the passage of the E-Government Act, the law frequently cited as the most comprehensive information technology-related law was the Clinger-Cohen Act, signed into law in 1996, just 5 years after the development of the World Wide Web (1991) and at a time when the potential uses of the Internet were just beginning to be recognized by the larger, general public. The Clinger-Cohen Act provisions focus primarily on a narrow range of issues, including the decentralization of IT management within the U.S. federal government, pilot testing of new IT procurement procedures, and the establishment of chief

information officer (CIO) positions in the major departments and agencies. In contrast, the provisions of the E-Government Act, described in greater detail below, address a much more comprehensive range of issues, suggesting that the integration of IT into government operations has reached a critical turning point. Some of these provisions include information security, IT management and training, the digital divide, and the creation of an Office of Electronic Government to coordinate and oversee e-government initiatives government-wide, among other duties.

STATUTORY INTENT AND HISTORY

The E-Government Act of 2002 was enacted to enhance access to government information and the delivery of information and services to citizens, employees, and other agencies and entities (U.S. Congress, 2002). To meet this goal, the statute authorizes \$345 million over 4 years for e-government initiatives. It also assigns considerable influence to the Office of Management and Budget (OMB) to ensure that information technology investments throughout the federal government embrace a citizen-centered, cross-agency, and performance-based strategy.

As defined in the statute, *e-government* refers to “the use by Government of web-based Internet applications and other information technologies, combined with processes that implement these technologies, to (A) enhance the access to and delivery of Government information and services to the public, other agencies, and other Government entities; or (B) bring about improvements in Government operations that may include effectiveness, efficiency, service quality, or transformation” (116 Stat. 2902). Both the term and the concept of e-government are relatively new in government parlance. The phrase appeared, without explanation, in the initial September 7, 1993, report of the National Performance Review (NPR) (Office of the Vice President, 1993, p. 112). A joint report of the NPR and the Government Information Technology Services Board, issued on February 3, 1997, gave the term

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more prominence and substance (Office of the Vice President, 1997). Almost 3 years later, in a December 17, 1999, memorandum to the heads of executive departments and agencies, President Bill Clinton directed these officials to take certain actions in furtherance of “electronic government” (U.S. NARA, 2001, p. 2317).

President George W. Bush indicated his support for e-government initiatives early in his administration when he proposed the creation of an e-government fund. In advance of his proposed budget for FY2002, the President released, on February 28, 2001, *A Blueprint for New Beginnings: A Responsible Budget for America's Priorities*. Introduced as a 10-year budget plan, the *Blueprint*, among other innovations, proposed the establishment of an electronic government account, seeded with “\$10 million in 2002 as the first installment of a fund that will grow to a total of \$100 million over three years to support interagency electronic Government (e-gov) initiatives.” Managed by OMB, the fund was foreseen as supporting “projects that operate across agency boundaries,” facilitating “the development of a Public Key Infrastructure to implement digital signatures that are accepted across agencies for secure online communications,” and furthering “the Administration’s ability to implement the Government Paperwork Elimination Act of 1998, which calls upon agencies to provide the public with optional use and acceptance of electronic information, services and signatures, when practicable, by October 2003” (U.S. Executive Office of the President, Office of Management and Budget [OMB], 2001a, pp. 179-180). About 1 month later, on March 22, OMB announced that the Bush administration recommended doubling the amount to be allocated to the e-government fund, bringing it to \$20 million. House appropriators, however, were particularly reluctant to provide more than a quarter of the amount sought by the President. While expressing general support for the purposes of the fund, they also recommended that the administration work with the House Committee on Government Reform and the Senate Committee on Governmental Affairs to clarify the status of its authorization. The E-Government Act establishes an E-Government Fund in the Treasury of the United States with specific levels of appropriations authorized through FY2006 and “such sums as are necessary for fiscal year 2007” (116 Stat. 2908).

Pursuant to an OMB Memorandum of July 18, 2001, an E-Government Task Force was established to create a strategy for achieving the e-government goals of the Bush administration. It subsequently identified 23 interagency initiatives designed to better integrate agency operations and IT investments. These initiatives, sometimes referred to as the Quicksilver projects, were grouped into five categories: government to citizen, government to government, government to business, internal efficiency

and effectiveness, and addressing cross-cutting barriers to e-government success. Examples of these initiatives included an E-Authentication project, led by the General Services Administration to increase the use of digital signatures; the eligibility assistance online project (also referred to as GovBenefits.gov), led by the Department of Labor to create a common access point for information regarding government benefits available to citizens; and the Small Business Administration’s One-Stop Business Compliance project (later renamed Business Gateway), designed to help businesses navigate legal and regulatory requirements. An additional initiative, a government-wide payroll process project, was subsequently added by the President’s Management Council. In 2002, the E-Clearance initiative, originally included as part of the Enterprise Human Resources Integration project, was established as a separate project, for a total of 25 initiatives (U.S. General Accounting Office [GAO], 2002, 2003a). These projects became part of the *President’s Management Agenda—FY2002*, submitted to Congress in August 2001 and featuring five interrelated government-wide initiatives: Strategic Management of Human Capital, Competitive Sourcing, Improved Financial Performance, Expanded Electronic Government, and Budget and Performance Integration (OMB, 2001b).

After the Clinger-Cohen Act of 1996, the E-Government Act takes the next step to improve IT investment and management, requiring OMB to provide a report to Congress annually on the status of e-government. Rather than simply identifying and reporting IT investment at each agency, the statute appears to have engendered a cultural change in IT procurement, from consolidating and integrating IT investments to encouraging performance-based, citizen-centered, cross-agency planning. The statute designates OMB as the lead organization for all federal executive branch IT purchasing and planning, and all federal executive branch agencies must comply with OMB guidance to ensure implementation of e-government.

MAJOR PROVISIONS

The E-Government Act is organized in five titles containing sections which amend various titles of the *United States Code*. Title I of the statute, denominated Office of Management and Budget Electronic Government Services, amends Title 44, *United States Code*, with a new Chapter 36 on Management and Promotion of Electronic Government Services. In addition to defining key terms, Title I establishes an Office of Electronic Government within OMB, headed by an administrator, who is appointed by the President without Senate confirmation. The administrator assists the director of OMB with all functions assigned in Chapter 36, as well as those as-

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