

## OGR’s Biannual FITARA Scorecard (Dec. 2018 edition) – HHS Details

Since 2015, the House Committee on Oversight and Government Reform (OGR) has held a series of biannual hearings on agencies implementation of IT legislation. The seventh iteration of OGR’s IT scorecard grades agencies implementation of the:

- Federal Information Technology Acquisition Reform provisions (FITARA) ,<sup>1</sup>
- Making Electronic Government Accountable By Yielding Tangible Efficiencies Act of 2016 (MEGABYTE),<sup>2</sup>
- Modernizing Government Technology (MGT) act (NEW AREA),<sup>3</sup>
- and Federal Information Security Modernization Act of 2014 (FISMA) (PREVIEWED AREA).<sup>4</sup>

A total of 7 related areas are graded, 6 of which were combined to yield an overall A through F grade. The seventh area, FISMA, was previewed and not included in the overall score. In addition, this scorecard lowers the overall grade of agencies whose CIO doesn’t report appropriately, which is also reflected in the suffix (“+” or “-”) after an agency’s grade.

Historically, the Department of Health and Human Services (HHS) received 5 “D” grades and 1 “C” grade. Its most recent performance, a “B,” was graded as follows.

Areas	Incremental Development	Risk Transparency	Portfolio Review Savings	Data Centers	Software Licenses	Working Capital Funds	Cyber	CIO’s Boss	Grade
Law(s)	FITARA	FITARA	FITARA	FITARA	FITARA & MEGABYTE	MGT	FISMA		
Grade	A	B	A	C	A	C	F	+	B+

### Incremental Development

Poor-performing projects have often used a “big bang” approach—that is, broadly-scoped projects that take several years to deliver functionality. Consequently, since 2012, OMB has called for agencies’ major IT investments to deliver functionality every 6 months.<sup>5</sup>

The percentage of an agency’s software projects which reported incremental delivery of functionality.

The committee is considering grading the portion of all “in-progress” projects that are either delivering functionality every 6 months or using an incremental software development methodology.

### HHS’s Grade: A

HHS had 15 software development projects, 13 of which planned to deliver functionality every six months.

$$\frac{100 \text{ incremental projects}}{103 \text{ software projects}} = 97\% \text{ ratio} = A$$

If 8 fewer projects were delivered incrementally, HHS would have received a “B.”

If HHS were graded using the methodology the committee is considering, it would have also received an “A,” although its ratio would have been 93%, rather than 97%.

<sup>1</sup>Title VIII, Subtitle D of the National Defense Authorization Act for Fiscal Year 2015, Pub. L. No. 113-291.

<sup>2</sup>Pub. L. No. 114-210 (July 29, 2016); 130 Stat. 824.

<sup>3</sup>Title X, Subtitle G of the National Defense Authorization Act for Fiscal Year 2018, Pub. L. No. 115-91.

<sup>4</sup>The Federal Information Security Modernization Act of 2014 (FISMA 2014) (Pub. L. No. 113-283, Dec. 18, 2014) partially superseded the Federal Information Security Management Act of 2002 (FISMA 2002), enacted as Title III, E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2946 (Dec. 17, 2002).

<sup>5</sup>OMB, *Guidance on Exhibits 53 and 300—Information Technology and E-Government* (2012).

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### Risk Assessment Transparency

### HHS's Grade: B

For each major investment, FITARA requires the responsible agency Chief Information Officer (CIO) to submit an assessment of risk and the investment's ability to accomplish its goals.<sup>6</sup> Additionally, for major IT investments that rate as high risk for four consecutive quarters, the law requires that the agency CIO conduct a review aimed at identifying and addressing the causes of the risk.<sup>7</sup>

Given the string of high-profile federal IT failures, the Committee is concerned that CIO risk assessments are overly optimistic and not realistic. Correspondingly, this calculation rewards the agencies that are reporting more risk.

The five agencies with the most reported risk (highest portion of investments rated "red" or "yellow," by dollar) are given an "A," the next five a "B," the next five a "C," the next five a "D," and the last 4 are given an "F" (24 agencies were evaluated).

HHS spent \$2.9 billion on major IT investments in fiscal year 2018. Of that total, the CIO rated \$58 million yellow and \$0 million red.

$$\frac{\$2.7 \text{ billion}}{\$2.9 \text{ billion}} = 92\%$$

HHS's risk ratio of 92% placed it in the second tier (6<sup>th</sup> overall rank), earning it a "B."

To receive an "A" in this area, HHS would have needed to rate approximately \$9 million more as yellow or red.

### IT Portfolio Review Savings

### HHS's Grade: A

FITARA requires OMB to develop and most agencies to implement a process to review agency IT investment portfolios in order to, among other things, increase efficiency and effectiveness, and identify potential waste and duplication.<sup>8</sup>

Each agency's total PortfolioStat savings was divided by its total IT budget for the most recent 3 fiscal years. As with the Risk Assessment Transparency grades, the resulting ratio was ranked (the five agencies with the highest savings ratio received an "A," the next five a "B," etc...).

HHS budgeted \$17.041 billion for its IT over 3 years and, as of December 2018, had reported \$4.378 billion in savings and avoidances from 2012 through 2019.

$$\frac{\$4.378 \text{ billion}}{\$17.041 \text{ billion}} = 25.7\%$$

HHS's savings ratio of 25.7% was the highest of all the agencies, and earned it an "A."

<sup>6</sup>Federal Information Technology Reform provisions of the Carl Levin and Howard P. 'Buck' McKeon National Defense Authorization Act for Fiscal Year 2015, Pub. L. No. 113-291, div. A, title VIII, subtitle D § 832; 40 U.S.C. § 11302 (c)(3)(C).

<sup>7</sup>Pub. L. No. 113-291, div. A, title VIII, subtitle D § 832; 40 U.S.C. § 11302 (c)(4).

<sup>8</sup>Federal Information Technology Reform provisions of the Carl Levin and Howard P. 'Buck' McKeon National Defense Authorization Act for Fiscal Year 2015, Pub. L. No. 113-291, div. A, title VIII, subtitle D § 833; 40 U.S.C. § 11319 (c) (second subsecs. (c)).

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### Data Center Consolidation

### HHS's Grade: C

FITARA requires agencies (with a few caveats) to provide the Office of Management and Budget (OMB) with a data center inventory, a strategy for consolidating and optimizing the data centers (to include planned cost savings), and quarterly updates on progress made.<sup>9</sup> The law also requires OMB to develop a goal of how much is to be saved through this initiative, and provide annual updates on cost savings achieved.

Agencies were graded based on two factors:

- the percentage of planned savings that have been achieved, and
- the number of unmet data center optimization metrics

Each of the two parts count as half of the grade, and the result is adjusted up if an agency had closed more than 50% of their total data centers.

OMB set a savings goal of \$78 million for HHS. As of December 2018, HHS had reported \$169 million towards that goal.

$$\frac{\$169}{\$78} = 216\% \text{ achieved} = A$$

However, HHS had not met any of the five data center optimization metrics, resulting in an "F" for that portion of the grade.

HHS's "A" in savings and "F" in optimization average to a "C." To raise its grade to a "B," HHS would need to:

- meet one more optimization metric goals, or
- close more than 50% of its total data centers.

### Software Licenses

### HHS's Grade: A

FITARA requires GSA to enhance use of software license agreements across all executive agencies. More recently, the MEGABYTE Act required OMB to issue a directive to every executive agency CIO to, among other things, establish a comprehensive, regularly updated inventory of software licenses and analyze software usage to make cost-effective decisions.

An agency receives a "C" if it has a comprehensive, regularly-updated inventory of software licenses. Agencies with a "C" can move up to an "A" if their inventory is used to make cost-effective decisions.

HHS has a comprehensive and regularly-updated inventory of software licenses that it uses to make management decisions and save money.

Consequently, HHS received an "A" in this area.

<sup>9</sup>Federal Information Technology Reform provisions of the Carl Levin and Howard P. 'Buck' McKeon National Defense Authorization Act for Fiscal Year 2015, Pub. L. No. 113-291, div. A, title VIII, subtitle D § 834, 128 Stat. 3292, 3444-3448 (Dec. 19, 2014).

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### Working Capital Funds

MGT allows agencies to establish working capital funds to modernize legacy IT systems and address cybersecurity.

An agency receives an “A” if it has an MGT-specific WCF with a CIO in charge of decision-making, a “B” if it plans to setup an MGT WCF in 2018 or 2019, a “C” if it has a department-level WCF, a “D” if it has some other IT-related funding method, and an “F” otherwise.

### HHS's Grade: C

In response to the committees' request for information on the MGT act in May 2018, HHS indicated that it could create an MGT-specific WCF, but it lacked the authority to transfer funds into the account. However, the department noted that it has a department-level working capital fund as well as a nonrecurring expenses fund, both of which can be used to fund IT improvements and replacements.

HHS received a “C” in this area because it did not plan to establish an MGT-specific working capital fund, but it did have an alternate means of funding IT efforts.

However, as of November 30, 2018, the committee had not received a response to their latest request on the status of HHS's MGT efforts.

### Cybersecurity

Among other things, FISMA is intended to improve oversight of federal agencies' information security programs. In particular, it requires Inspectors General to conduct independent annual assessments of their parent agency's information security practices. The inspectors general rate their respective agencies in 5 NIST cybersecurity areas (Identify, Protect, Detect, Respond, and Recover) using the following maturity levels:

1. Ad-hoc
2. Defined
3. Consistently Implemented
4. Managed and Measurable
5. Optimized

In addition, in March 2018, the Administration issued the President's Management Agenda, which included a set of Cross-Agency Priority (CAP) goals. Consequently, OMB requires agencies to submit 10 associated cybersecurity metrics.

The Inspectors General (IG) ratings were averaged and combined with the percentage of cybersecurity metrics met by the agency.

### HHS's Grade: F (previewed)

The IG of HHS made the following FISMA assessments:

- Identify – Defined (3),
- Protect – Defined (3),
- Detect – Defined (2),
- Respond – Defined (2), and
- Recover – Defined (2).

The average of those levels is a 2.4, out of a possible of 5 (48%), which would be an “F.”

Additionally, HHS has met 4 of OMB's 10 CAP goals (40%), which would be another “F.”

Those two grades average to a “F.” To raise its grade to a “D,” HHS needs to either:

- raise its average IG rating above a 3.0 (a total of 3 levels across the areas) or
- meet 2 more CAP goals.

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### CIO Authorities

### HHS Grade addendum: “+”

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Among other things, FITARA set out to ensure that federal Chief Information Officers (CIO) had a significant role in agencies' IT decisions. However, the committee has heard that, in many cases, these CIOs do not report to the head of their agency. Given the history of federal IT failures, the Committee is concerned that CIOs are not adequately empowered.

HHS's website shows that the acting CIO reports to the Deputy or Secretary.<sup>10</sup> Consequently, a “+” was appended to the overall grade.

This calculation rewards agencies with a “+” when the CIO reports to the Secretary or Deputy Secretary and. Conversely, agencies with CIOs that don't report to leadership are penalized with a “-.”

This scorecard also lowers the overall grade of agencies whose CIO doesn't report to the agency head or deputy.

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<sup>10</sup><https://www.hhs.gov/about/leadership/ed-simcox/index.html>