







their activities. However, the laws that affect crowdsourcing also affect numerous other federal activities.

This report explains the laws applicable to crowdsourcing and provides general guidance about how to comply with or lawfully avoid application of those laws. While some legal and administrative requirements applicable to crowdsourcing activities may be time consuming or cumbersome, none are an insurmountable barrier. The most practical advice derived from discussions with government employees who lived through compliance with various laws is to embrace the bureaucracy.

The Commons Lab within the Science and Technology Innovation Program at the Woodrow Wilson International Center for Scholars has been a leader in facilitating effective and efficient adoption of crowdsourcing. The Commons Lab has commissioned a series of reports, including this one that describe various crowdsourcing activities, and discuss the value and future of crowdsourcing.

## PAPERWORK REDUCTION ACT

The Paperwork Reduction Act of 1980 (PRA) regulates federal agency activities that involve the collection of information from more than 10 persons. The goals of the law are to provide for better management of information resources, minimize burden on the public, avoid duplication, and assure the practical utility of collected information. A broader goal of the PRA was to create a new government-wide organizational and policy framework to manage government information resources. The

PRA is a principled law seeking to improve management and efficiency in the federal government.

The PRA applies to many crowdsourcing activities. When the law applies, a federal agency must develop a formal information collection request, publish its plans in the Federal Register, consider public comments, publish a second Federal Register notice, and ask the Office of Management and Budget (OMB) for approval. 5 U.S.C. § 552(d)-5(e) and 5217.7(e)315

5. The agency submits its proposal for information collection to OMB concurrent with the publication of the second Federal Register notice. OMB then has 30 additional days from the end of the comment period (or 60 days in total) to take action on the proposal.

These linear steps belie the complexity of the process. The notion of an information collection request is broader than the words imply. OMB wrote the rule expansively to cover activities that go beyond simple reporting to an agency: Asking the public to provide any information—whether on paper, through a website, or via a mobile app—can constitute an information collection request.

In general, the rules governing the collection of information apply broadly to government collection activities, and the definitions in the rule are comprehensive. While there are some excluded activities, it is difficult to find loopholes that allow crowdsourced data collection to fall outside the PRA.

It is difficult to offer any clear timeline for the clearance of a PRA information collection request. The process is highly variable, depending on the complexity of the request, the agency's resources, and the OMB's workload. An estimate of six to nine months overall may be a rough rule of thumb, but longer turnaround times are possible.

From time to time, OMB publishes additional advice and new procedures for agencies to use in developing and clearing information collection requests. Recent OMB PRA publications address the use of social media and web-based interactive

## Strategies for Progress

1. It is not inconceivable that the PRA law or rules could change to accommodate or exempt crowdsourcing in some major way. However, OMB has not shown much willingness over the years to significantly change information clearance procedures.
2. The PRA information clearance process is not insurmountable or pointless. Advice from more than one experienced navigator of OMB clearance boils down to this: embrace the bureaucracy. This advice comes in part from the recognition that the information clearance process is mostly unavoidable, so there is no point in seeking to evade or deny it.

regulatory action, the IQA is more likely to be relevant, although to date many crowdsourcing activities have no regulatory implications. Further, the problem of data quality in crowdsourcing is already well known, and those who design and operate crowdsourcing activities seek ways of addressing quality issues as part of the programs' design. The standards in the law may still apply, but those standards may be lower or no different than those applied by crowdsourcing sponsors to themselves. Because OMB directs agencies to weigh the costs and the benefits of higher information quality in the development of information, the consequences of the IQA, even when it applies to crowdsourcing, may be limited.

### Strategies for Progress

1. Changes to the IQA or its rules seem unlikely. Obtaining additional guid-

tion relaxing some of the standards in the Antide ciency Act for particular agencies or activities. Granting agencies broad authority to accept gifts of services has not proved controversial in the past.

## PRIVACY AND INFORMATION POLICY

Federal information management laws affect crowdsourcing activities in much the same way as they affect other federal agency operds



in the crowdsourcing activity. Second, individuals who are not participants in the activity. Third, agency employees participating in the activity.

If the Privacy Act of 1974 applies, a set of procedural and publishing requirements attaches to an activity. An agency must describe in the Federal Register each system of records in a *system of records notice*, commonly called a SORN. An agency must also send a notice of a new or substantially changed system of records to OMB and to Congress. Writing a SORN might appear a daunting activity, but many of the elements tend to be the same in most SORNs within an agency. A SORN will use much of the same information for preparing for compliance as would be used during the clearance process of the Paperwork Reduction Act. Other elements can usually be readily copied or adapted from other agency SORNs.

For those not versed in the Privacy Act of 1974, writing the routine uses is the hardest part. A *routine use* is a term of art describing the disclosure of a record outside the agency that maint5(s)-1(i)-1g(t)-se the y40.5s

relevance to most federal crowdsourcing activities. For the most part, HIPAA privacy rules apply directly to covered entities, generally health care providers, health plans, and their business associates. Even if a crowdsourcing activity collects health

by HIPAA will engage crowdsourcing.

In 2007, OMB ordered agencies to develop a policy for safeguarding personally identifiable information ((P)-12(l)-18.6(l)6.4())11.9( a)-1.5(n)2.4(d)12( f)7.8(o)0.9(r)18.1( )XJ0 Tc -0.0



dors now publish standard TOS just

how to characterize crowdsourcing activities. The federal crowdsourcing







One Woodrow Wilson Plaza