Why Public Notices on Government Websites Cannot Fulfill Their Missions

The point of public notice is to get information out in an accessible medium where people can trust its authenticity and look back at it later to make sure the law and process were followed.
The Internet is not yet up to the challenge.

❖ **People simply do not look at government websites.** According to the most recent data available by the Pew Research Center, only 13% of adult Internet users visit a local, state or federal government website on a typical day. The Census Bureau finds that 30% of Americans do not use the Internet at all, even though half of these people have a computer in their home.

PEW Internet & American Life Project – "Usage Over Time" (May 2011)
CENSUS – "Computer and Internet Use in the United States" (May 2013)

❖ **Government websites are not free.** Even for already established government websites, personnel need to be available to update and maintain content. Additionally, money must be spent to pay for electricity and bandwidth to run the site as well as costs for IT and security personnel required to monitor against any problems. During the 2013 shutdown of the federal government, many agency websites, as well as social media accounts and other online communication systems, were taken down "due to the lapse in federal government funding."

Christian Science Monitor – "Government Shutdown Sends National Park Service, NASA, Other Websites Offline" (October 1, 2013)

❖ **Government websites can also just disappear.** The touted Obama administration site recovery.gov, for example, was set up to enable citizens to track federal recovery dollars. But the agency has terminated a contract that supports the site and will itself be shuttered soon. The website will vanish.

Washington Post – "Data on $800 billion in stimulus spending will disappear this year. Here's why." (September 10, 2014)

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❖ **Government websites are not user friendly.** Often these websites are convoluted and uninformative. Visitors to the site often go for a singular purpose and do not browse around for additional information. Further many citizens, especially those in rural communities, prefer not to use electronic resources to complete many government transactions that would often bring someone to a government website, such as tax returns.

U.S. House of Representatives, 113th Congress – "H. Res. 97" (March 5, 2013)
USPS – "e-Government and the Postal Service – A Conduit to Help Government Meet Citizens' Needs" (January 7, 2013)
CIVIC PLUS – "Digital Disconnect: The Gaps Between Government to Citizen Online Interactions" (October 2012)

❖ **Government websites are prone to attack by hackers.** It is not a question of if, but rather a question of when information will be compromised. Examples of government websites that have fallen victim to hackers are abundant at the federal, state and local level. The vulnerability of government websites is further compromised by the inability to recover quickly if disaster strikes. A study by MeriTalk finds that only 8% of federal IT executives could recover 100% of their data in the event of a catastrophe.

FBI – "Alleged Hacker Indicted in New Jersey in Data Breach Conspiracy Targeting Government Agency Networks" (October 28, 2013)
MeriTalk – "Disaster Unpreparedness" (June 2013)

❖ **Due process requires effective notice be placed in an independent source.** An independent authority is necessary to protect the legitimacy of the notice and to keep the public informed. Government notices provide transparency about how a government is spending taxpayer dollars and ensure credibility, which will be greatly diminished if the government is posting information about its activities on its own government website.

GAO – "Agencies Could Take Additional Steps to Respond to Public Comment" (December 2012)

❖ **Authentication of electronic documents is still in its infancy.** Even with current advances in technology, it is difficult to authenticate a notice on a government website in a cost-effective manner. All levels of government, including the judiciary and the legislatures, have struggled with this issue because they do not yet understand the technology. At the National Conference of State Legislators, a group of lawmakers and elections officials acknowledged that e-Voting cannot yet be a reality because of a lack of knowledge and comfort about the software options available.

NCSL – "E-voting: It May be a While" (August 13, 2013)

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