

CIVIL SOCIETY PROGRESS REPORT

First Check-In on the Implementation of the
United States' Second Open Government
National Action Plan

June 2014

Background

The White House released its [second National Action Plan](#) (hereafter, Plan) for open government in December 2013. The United States government's action plan fulfills a membership requirement of the Open Government Partnership (OGP), an international and multi-platform initiative that requires government and civil society to work together on the creation and implementation of open government reforms. As a founding member of the OGP, the United States' plan and its implementation receive international attention and should serve as models for OGP members.

The OpenTheGovernment.org coalition has played key roles throughout the US's engagement with the OGP. The coalition coordinates efforts of a wide range of civil society organizations to share policy ideas with the administration, to push the administration to address policy priorities of the diverse open government community in meaningful ways, and to stretch itself and federal agencies toward transformational commitments in the development of its open government reform efforts and its Plans. OTG works with teams of civil society partners to make recommendations on the execution of each of the government's commitments, and to [assess the implementation](#) of those commitments.

To encourage steady progress and collaboration throughout the two year implementation period of the second plan, these teams will report every six months on any substantive progress on specific commitments and on collaborative efforts and interactions between agencies and civil society. Not all commitments will necessarily be evaluated; some commitments are not evaluated in this report because civil society organizations interested in engaging on the commitments have not been identified. These include commitments on increasing beneficial ownership transparency, improving Performance.gov, expanding visa sanctions, consolidating import and export systems, and promoting public participation in community spending.

The baseline check-ins compiled in this report cover the basics of effective collaboration: have the members of civil society been able to identify who is responsible for implementing the commitment? Have they had any contact with the leads in government? Has there been any substantive progress on each particular commitment?

In civil society's [evaluation](#) of the *first* National Action Plan, we included agencies' efforts to stretch beyond the letter of the commitment in the evaluation metrics. Over the next six months, civil society will monitor substantive progress, and develop recommendations outlining a year-long path for implementation that meets the letter and spirit of the commitment. These recommendations will become part of the next 6-month check-in.

One year into the implementation period, in December 2014, civil society will again check in on the progress on implementation and share recommendations that set a higher, but reachable, bar for implementation to discourage check-the-box fixes and a tendency for new issues and crises to distract attention away from transparency priorities.

The OGP may be most notable for its recognition of the crucial role of collaboration between civil society and government in the creation and implementation of the National Action Plans. This first report, six months into a two-year implementation period for the 2nd US National Action Plan, shows uneven momentum and progress on the commitments in the US Plan. The US progress to date appears to validate this basic insight of the OGP and to indicate that communication and collaboration with civil society are essential not just to the development of plans but often to get the ball rolling on implementing commitments.

Summary

The Administration appears to be on-course to meet a majority of its commitments overall. However, the Plan has spurred on that progress and created momentum for implementation in only a few commitments. For those commitments where the Administration does not seem to be making progress, our evaluations show a lack of collaboration between the Administration and civil society organizations on the issue. Other commitments on which the Administration appears to be making progress lack the increased momentum that being a White House pledge should inspire – and which is needed to meaningfully meet the commitments by the December 2015 implementation deadline.

Commitments where there is substantial progress, change in momentum

The commitments with the greatest apparent momentum and progress on implementation benefit from active communication between government and civil society. A notable bright spot is the combined progress of the commitments on agency open government plans. OSTP brought agency representatives engaged in the development of agency plans to meet with civil society to share input into plans. In a notable example, civil society groups were able to provide input on building whistleblower protections into several agencies' unique plans and plan follow-up meetings with those individual agencies, which helped move progress on the whistleblower commitment.

- **Freedom of Information Act (FOIA)** - Civil society groups have a pre-established working relationship with government officials tasked with implementing this commitment. The team [writes](#) that: “it will take continued collaboration with outside stakeholders and pressure to make sure that meeting the commitments translates into changes that lead to the FOIA working better for the public.”
- **Whistleblowers** - Civil society groups engaged on this commitment have good contacts with the implementing officials for several agencies. As mentioned above, the consultations for a significant number of agency open government plans gave civil society an opportunity to share information on whistleblower rights and training opportunities that will support government-wide implementation of the whistleblower commitment.
- **Open Government Plans** - The Office of Science and Technology Policy (OSTP) made significant efforts to implement this commitment in the first six months and coordinated substantially with civil society. The majority of agencies posted their refreshed plans on June 2nd, 2014. It is too early to tell if OSTP's efforts affected agencies.

Commitments where there has been some progress, no change in momentum

Civil society has seen some progress in the commitments below, but in some cases this progress is lacking the urgency or the purposefulness that should be inspired by the Plan. For example, the implementation of the controlled unclassified information program includes a timeline stretching many years into the future.

In another, the US government's renewed commitment on increasing foreign assistance transparency has made some progress. However, according to the team, the quality and timeliness of some data provided are poor and the quality is highly uneven across agencies. In their check-in [form](#), the foreign assistance team identified several roadblocks to meaningful improvement.

- **Classification** - This commitment is substantially different from its NAP 1.0 counterpart. Progress has been made, but there is little public detail about the implementation available.
- **Open Data** - The open data commitment is substantially different from the commitment in the first National Action Plan. According to the [team](#), "The people with responsibility for the commitment at the White House are knowledgeable and engaged. They have been happy to discuss the commitment and receptive to suggestions," though agency plans are uneven.
- **Controlled Unclassified Information** – This is a new commitment for the NAP, although it is an on-going government initiative. Civil society has strong contacts for those implementing the commitment. There are concerns about the lengthy timeline for implementing reforms.
- **Records Management** – This commitment also builds upon a commitment in the first NAP. Civil society members working on this commitment have good contacts with the implementing officials. According to the team, the National Archives and Records Administration "is continuing to push agencies forward and is regularly discussing progress and potential roadblocks with outside stakeholders."
- **Extractive Industries Transparency Initiative** – This commitment carried over from administration's first National Action plan. The EITI has communications between stakeholders built into its process.
- **Spending Transparency** – Government officials appear to be making modest progress and are communicating with civil society throughout the process. The evaluation team notes that the government should articulate "specific goals, key milestones to achieving the goals, and timeline for these activities" to move forward on the commitment.
- **Foreign Assistance Transparency** – This commitment is a continuation of the administration's first NAP commitment. The US government has made partial progress on this commitment, and in recent months, progress seems to be accelerating. However, the team [notes](#) that "in order for the U.S. government to meet its commitment in the timeframe envisioned, resources must be devoted to improving the quality of aid data from the largest spending foreign assistance agencies." Additionally, more agencies – particularly HHS – need to begin publishing data to the Dashboard.

Commitments where there has been little/no apparent progress

The civil society teams participating in this evaluation are not aware of any progress on the commitments below. For all commitments below but one, the teams have not identified or corresponded with government officials responsible for implementation. The exception is the commitment to increase transparency of foreign intelligence surveillance activities. In this case, civil society members have corresponded with the Administration, but the commitment does not appear to date to be meaningful.

Another commitment, to continue piloting expert networking platforms, is an adaptation of a commitment in the Administration's first Plan. The commitment in NAP 1.0 envisioned a government-wide expert networking platform. In its [self-assessment](#), the US government acknowledged the commitment as unmet and noted, "After further exploring the concept, the Administration recognized that a single government-wide software platform would face implementation challenges." The new commitment announced plans to take an FDA pilot program as a model for expert networking platforms inside other agencies. As an evaluation team member wrote in an initial [commitment analysis](#), the administration should "reach out to the public for help, especially the many people who participated in the 2010 open, online brainstorm around ExpertNet who probably aren't even aware that there is any movement on this initiative at the FDA or elsewhere. The purpose of ExpertNet is to do targeted public outreach, so naturally public outreach should be part of developing the system itself."

That need for public outreach extends to all the commitments below to ensure progress in the commitments and to better allow civil society to participate in and evaluate the commitments' implementation. The efforts to implement these commitments should be as public-facing as possible.

- **Public Participation** – This commitment is a continuation of the first NAP commitment to develop best practices and metrics for public participation. There has been little communication to civil society about any progress made.
- **Privacy** – Civil society has not identified the government leads on this commitment. According to the [team](#), agency representatives at the open government plan meetings "didn't seem to know about the privacy aspects" of their plans.
- **Fossil Fuels** – Civil society groups engaged in fossil fuel subsidies have not heard the NAP commitment mentioned by government officials. [According](#) to the team, "the level of information available to us has not changed."
- **Participation in Regulations** - The commitment has had some progress, but government leads have not been identified and civil society groups engaged on the issue are not aware of any planned progress in the future.
- **Expert Networking Platforms** – The creation of a government-wide expert networking platform was an unmet commitment in the first National Action Plan. The new commitment focuses on pilot programs of expert platforms within agencies. Civil society groups engaged on this commitment have not identified government leads for this commitment or are aware of any progress on this commitment.

- **Surveillance-** Although the administration has made strides in meeting with stakeholders on this commitment, the evaluation team [notes](#) the administration’s “stated intentions do not advance the United States’ transparency or accountability on FISA activities much beyond the status quo.”

Evaluation Forms

The forms filled out by each team are linked below.

[Improve Public Participation in Government](#)

[Modernize the Management of Government Records](#)

[Modernize the Freedom of Information Act](#)

[Transform the National Security Classification System](#)

[Implement the Controlled Unclassified Information Program](#)

[Increase Transparency of Foreign Intelligence Surveillance Activities](#)

[Make Privacy Compliance Information More Accessible](#)

[Support and Improve Agency Implementation of Open Government Plans](#)

[Strengthen and Expand Whistleblower Protections for Government Personnel](#)

[Implement the Extractive Industries Transparency Initiative](#)

[Make Fossil Fuel Subsidies More Transparent](#)

[Increase Transparency in Spending](#)

[Increase Transparency of Foreign Assistance](#)

[Further Expand Public Participation in the Development of Regulations](#)

[Open Data to the Public](#)

[Continue to Pilot Expert Networking Platforms](#)

[Reform Government Websites](#)

Commitment	ID'd Gov Contacts?	Meetings or Correspondence?	Relation to 1st National Action Plan	Apparent momentum?
Public participation	No	No	Carry on of commitments in 1st National Action Plan.	No apparent momentum towards meeting commitment. Commitment to create best practices not met in 1st plan; officials doubt will be met this time either.
Records Management	Yes	Yes	Carry on of commitments in 1st National Action Plan.	Momentum towards meeting commitment; there has been no apparent increase in activity since release of 2nd National Action Plan.
FOIA	Yes	Yes	Substantially different than commitments on this issue included in the 1st National Action Plan.	Momentum towards meeting commitment; noticeable increase in activity since release of 2nd National Action Plan.
Classification	Yes	No	Substantially different than commitments on this issue included in the 1st National Action Plan.	Momentum towards meeting commitment; hard to judge because lack of public information.
CUI	Yes	Yes	New area for commitments. Topic is not addressed in the 1st National Action Plan.	Momentum towards meeting commitment; there has been no apparent increase in activity since release of 2nd National Action Plan.
Surveillance	Yes	Yes	New area for commitments. Topic is not addressed in the 1st National Action Plan.	Momentum towards meeting commitment; doubt the commitments move government beyond status quo.
Privacy	No	No	New area for commitments. Topic is not addressed in the 1st National Action Plan.	No apparent momentum towards meeting commitment.
Open government plans	Yes	Yes	Substantially different than commitments on this issue included in the 1st National Action Plan.	Noticeable increase in attention from the Administration since release of the 2nd National Action Plan; unclear if momentum has carried over to agencies.

Whistleblowers	Yes	Yes	Substantially different than commitments on this issue included in the 1st National Action Plan.	Momentum towards meeting commitment; noticeable increase in activity since release of 2nd National Action Plan.
EITI	Yes	Yes	Carry on of commitments in 1st National Action Plan.	Momentum towards meeting commitment. The structure of the commitment provides ample opportunity for civil society to push for greater attention.
Fossil fuel subsidies	No	No	New area for commitments. Topic is not addressed in the 1st National Action Plan.	No apparent momentum towards meeting commitment.
Spending Transparency	Yes	Yes	Substantially different than commitments on this issue included in the 1st National Action Plan.	Momentum towards meeting commitment. Regular communication with civil society groups.
Foreign Assistance Transparency	Yes	Yes	Carry on of commitments in 1st National Action Plan.	Momentum towards meeting commitment; in June, two additional agencies published information to the Dashboard: the State Department and USDA.
Participating in Regulations	No	No	Substantially different than commitments on this issue included in the 1st National Action Plan.	No apparent momentum towards meeting commitment.
Open Data	Yes	Yes	Substantially different than commitments on this issue included in the 1st National Action Plan.	Momentum on this commitment existed prior to the release of the 2nd NAP and has not shifted significantly in either direction since the plan was revealed.
Expertnet	No	No	Carry on of commitments in 1st National Action Plan.	No apparent momentum towards meeting commitment.
Gov websites	No	No	Carry on of commitments in 1st National Action Plan.	No apparent momentum towards meeting commitment.