

**Civil Society Report on
Implementation of the
Second US National Action Plan**

February 2016

Executive Summary

With the United States government now four months into the implementation phase of its Third National Action Plan (NAP), this report provides an opportunity to look back on what was and was not achieved during the implementation period of the NAP 2, and draw on lessons learned moving forward.

Overview

This report provides an assessment of the progress made on the [United States' Second National Action Plan](#) for the [Open Government Partnership](#) (OGP), spanning the period from January 1, 2013 to December 31, 2015. It encompasses the evaluations from civil society teams who worked on 16 out of the 26 commitments in the NAP 2. Many of the organizations engaged in this process had also taken part in developing the [Civil Society Model Plan](#) for the second U.S. NAP.

As with civil society's [final evaluation](#) of the United States' first NAP, this evaluation addresses both the quality and potential effect of the commitments, as well as the quality of the consultation process with civil society that is required of the governments participating in the OGP.

For each commitment assessed, the evaluation addresses: its potential impact; the progress made (for the commitment as a whole and each of the sub-commitments, where appropriate); whether the NAP 3 continues or improves on the initiative; the next steps the government should take; and the quality of the government's collaboration with civil society both in the *development* and the *implementation* of the NAP 2.

As the [table](#) below shows:

- On *Potential Impact*, only 2 of the evaluated commitments were [rated](#) as Transformative, 3 were rated as Minor, and the other 9 were rated as Moderate.
- On *Implementation Progress*, only 1 was rated complete, 6 were rated as having made substantial progress, and 9 were rated as having made limited progress.
- On [Collaboration during the process](#), 1 was rated Highly Meaningful, 7 were rated Adequate, 7 were rated Limited, and 1 was rated as having had no collaboration (see [Appendix A](#) for OGP guidelines on civil society consultations).

Collaboration with Civil Society

The relationships that have been built through work on the OGP – sometimes with hard-won trust on each side – will be essential to efforts to implement the OGP, and to our community's other policy work, as the executive branch transitions from this administration to the next. The importance can certainly be seen in the several NAP evaluations that our community has conducted. As OTG has noted in [previous reports](#), the commitments with the greatest progress on implementation benefited from active communication between government and civil society.

Much of the work on the commitments has not led, however, to collaborative and sustainable civil society-government relationships, from the perspective of the evaluators. One overarching theme reflected in the evaluations is the general dissatisfaction with the consultation process. As noted above, the rankings of the collaboration process during development of the commitments mostly varied from limited to adequate. OTG has written about the concern, as expressed by our partners in this work, that when consultation meetings take place, they often fall short of civil society's expectations. This report specifically notes the frustration over instances where the government leads have failed to provide feedback in response to civil society recommendations on OGP commitments.

A positive conclusion that emerges from the evaluations is that nearly all of the teams know who the government contacts are for the corresponding commitments, and have met with those contacts. One highlight from the evaluation on EITI is that the FACA (Federal Advisory Committee Act) multi-stakeholder group process, which includes government, civil society, and industry, played a major role in implementing EITI. The evaluation on surveillance transparency notes that a structure for engagement between the intelligence community and civil society is underway, and has the *potential* to ensure that collaboration with openness groups continues into the next administration.

OGP's [collaboration guidelines](#) instruct governments to provide adequate responses to civil society recommendations to ensure that the collaborative process is meaningful and productive. While many government officials regularly receive civil society's recommendations, they do not provide the feedback necessary to refine the recommendations to match realistic expectations for what can be implemented. This feedback would enhance the productivity of consultation meetings and help encourage continued civil society engagement in the consultation process. (For more on the consultation process, see this [assessment](#) prepared by Emily Manna).

Potential for Transformation and Progress Made

Most of the commitments were rated as having the potential to lead to moderate or transformative advances in open government policy areas. Civil society teams noted that four of the evaluated commitments – records management, transparency of legal entities, public participation, and whistleblower protections – had the potential to lead to transformative policy changes. The U.S. government fell short of completing many of its open government initiatives articulated in the NAP 2, however.

The possible explanations for why government agencies were unable to complete the initiatives varied across the evaluations. For example, the evaluation on the commitment to “Modernize the Freedom of Information Act,” attributed the limited progress on this commitment to the lack of a strong mandate, absence of political will, and need for greater leadership. The evaluation of the commitment on transparency for legal entities noted “corporate opposition” as an apparent roadblock to that potentially transformative commitment. On the commitment to increase transparency of foreign intelligence surveillance activities, the lack of progress was discussed as possibly being a result of the complex challenges stemming from a deeply ingrained culture of secrecy.

The lack of benchmarks and specific language is another commonly noted problem that emerges from this report. OGP [guidance](#) notes that governments should develop specific commitments and, where commitments have multiple sub-commitments, they should be broken into “clear, measurable milestones.” While the [Civil Society Model Plan](#) for the NAP 2 included detailed benchmarks and timelines for achieving measurable sub-commitments, these are generally not included in the U.S. NAPs.

Some initiatives were rated as having made meaningful progress. The commitments related to the Extractive Industries Transparency Initiative (EITI), for example, helped ensure the publication of the United States’ [first EITI report](#) in December 2015. Additionally, the evaluation on Open Education notes that this commitment was a “major step forward,” as it established open education as a “new area of focus for Open Government efforts.” This commitment led to awareness-raising activities on open education, new pilot programs for using open educational resources to support learning, and limited progress on the proposed launch of an online skills academy.

OTG’s previous OGP [assessments](#) noted that a bright spot was the combined progress of the commitments on agency open government plans. This time around, however, the evaluation on the agency open government plans notes that while most agencies did publish their updated plans by the June 2014 deadline, the notable exception is the Office of Management and Budget (OMB). OMB has yet to publish an updated plan, and at the time of evaluation, had made no indication that it will do so in the future. The failure of OMB to meet its open government obligations is particularly troubling given that OMB plays a central oversight role on information policy. More than 20 open government groups sent a letter to the President in December 2015 expressing this concern, and calling on OMB to take immediate steps to comply with the Open Government Directive and update its open government plan in line with the 2014 guidance (read the letter to OMB [here](#)).

The evaluations highlight the NAP 2 initiatives that were continued or expanded through other reforms, including the NAP 3 commitments. While this is an encouraging sign, as it is important to continue the initiatives that have not been completed, there is concern that time is running out to complete initiatives that have been underway for years. Moreover, the commitments in the NAP 3 lack the necessary benchmarks and specific enforcement mechanisms needed to ensure completion of the ongoing initiatives (some of which have been ongoing since the [first NAP](#)). This report emphasizes the need for a clearly defined timeframe, in order to complete critically important openness measures ahead of the impending change of Administration.

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Background and Evaluation Method

The White House released its [second National Action Plan](#) (NAP) for open government in December 2013. The United States government's NAP 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. In September 2014, the administration fulfilled its promise to update the NAP and made several [new commitments](#).

This is the fourth and final evaluation of the second Plan completed by OpenTheGovernment.org (OTG) and its partners. The OTG coalition has played a key role in coordinating civil society involvement in the development of the first, second, and third NAPs and the implementation of the first and second, working with the administration to spur meaningful progress toward transparency. For the second NAP, the coalition created a civil society [Model Plan](#) with recommended commitments, met with government officials to offer feedback and advocate the priorities of the openness community, and then [evaluated](#) the administration's progress in implementing the NAP.

This report presents the final evaluations of the NAP 2 commitments on which our coalition focused. Each evaluation was completed by the team that worked on each commitment. They are unscientific, but present a picture of each team's perspective on the development and implementation of the commitment, as well as the collaboration process with the government, from the NAP's introduction until its expiration in December 2015. The criteria we used for evaluating the collaboration process was taken from the OGP's [Guidelines for Civil Society Consultations](#), and the ratings scales for the commitments were based on those used by the [Independent Reporting Mechanism](#), a body within OGP that produces annual independent progress reports for each country participating in the OGP.

This report is not intended to be an exhaustive evaluation of the second National Action Plan. In total, the coalition and our colleagues evaluated 16 of the 26 commitments included in the NAP. OTG and its partners focused on the commitments that we see as top priorities to the openness community, and those for which we could identify interested groups and individuals. In addition, for this evaluation, we were able to include the commitment on Open Education, which was not a part of our previous evaluations. A few teams felt that they could not complete their final evaluations, due to lack of information and/or lack of resources.

OGP NAP 2 – Civil Society Final Evaluations

Commitment	Potential Impact	Implementation Progress	Collaboration Process During Development
Agency Open Government Plans	Moderate	Substantial	Adequate
Beneficial Ownership Transparency	Transformative	Limited	Limited
Classification Reform	Moderate	Substantial	Limited
Controlled Unclassified Information	Moderate	Limited	Adequate
Extractive Industries Transparency Initiative	Moderate	Complete	Highly Meaningful
Freedom of Information Act	Moderate	Limited	Limited
Open Data	Minor	Substantial	Adequate
Open Education	Moderate	Substantial	Adequate
Participatory Budgeting	Moderate	Limited	None
Privacy	Minor	Limited	Limited
Public Participation	Transformative	Limited	Limited
Records Management	Transformative	Substantial	Adequate
Reforming Government Websites	Moderate	Substantial	Adequate
Spending Transparency	Minor	Limited	Adequate
Surveillance	Moderate	Limited	Limited
Whistleblowers	Transformative	Limited	Limited

Key

(Based on the [scale used by the OGP's Independent Reporting Mechanism](#))

Potential Impact:

None	Maintains the status quo.
Minor	An incremental but positive step in the relevant policy area.
Moderate	A major step forward in the relevant policy area, but remains limited in scale or scope.
Transformative	A reform that could potentially transform ‘business as usual’ in the relevant policy area.

Implementation Progress Key

None
Limited
Substantial
Complete

Collaboration Process during Development Key

None
Limited
Adequate
Highly Meaningful

See Appendix A: OGP [Guidelines](#) on Civil Society Consultations

Civil Society Evaluations

Commitment: Support and Improve Agency Implementation of Open Government Plans

- *Develop guidelines for agency implementation*
- *Guidelines will require new measures for proactive disclosure*
- *Elicit civil society input*
- *Work to ensure implementation in accordance with the [Open Government Directive](#)*

Team Lead(s):

OpenTheGovernment.org

Team Members:

Shanna Devine, Government Accountability Project

Daniel Schuman, Demand Progress

Matt Rumsey, Sunlight Foundation (at time of evaluation)

Commitment Evaluation

How would you rate the potential impact of this commitment?

Moderate

Please elaborate: If fully implemented, would it lead to significant/transformational open government advances?

Although the guidance and efforts to work with agencies to comply with the Open Government Directive are a positive step forward, the commitment would have more transformative potential if it included instructions for specific measures, such as:

- a public system for tracking agencies' plan publication and implementation; and/or
- a mechanism for enforcement, to ensure accountability for agencies that fail to comply.

How would you rate the progress made on the implementation of this commitment?

Substantial

Please identify each sub commitment and explain where there has or has not been tangible progress made on this commitment.

The White House Office of Science and Technology's Chief Technology Officer Todd Park issued a memo on February 24, 2014 with guidance for agencies to update their open government plans in accordance with the Open Government Directive. The guidelines included new measures on proactive disclosure, as well as privacy, whistleblowers, and other areas. The Office of Science and Technology Policy (OSTP) made significant efforts both to implement the commitments and to collaborate with civil society on the creation of the guidelines.

The level of progress varies across agencies, but most agencies did publish their updated plans by the June 2014 deadline. One notable exception is the Office of Management and Budget (OMB), which is the only agency that has yet to publish an updated plan, and has given no clear date, as of January 2016, of when it will do so. There is no public mechanism for tracking agency publication or implementation of the plans, which makes it difficult to assess agency progress.

What do you think are the reasons for the level of completion of the commitment?

OSTP has consistently worked to collaborate with civil society and ensure that agencies update and implement their plans. However, there appears to be a lack of political will at the higher levels of the Administration to hold OMB, or any agencies that may be behind in their implementation, accountable. This may be due, at least in part, to the substantial time and effort invested in the Open Government Partnership National Action Plan, which overshadows the individual agency plans. In addition, the leadership at OMB has displayed an unwillingness to comply with the very clear guidelines laid out in the Open Government Directive.

Does the NAP 3 (or any other ongoing reforms) continue or improve upon this initiative?

The NAP 3 includes a commitment on agency open government plans, which includes new OMB and OSTP guidelines for agencies' 2016 plan updates. The guidelines will require agencies to publish progress reports on the implementation of their plans, and to update their Open Government websites. The NAP 3 also promises collaboration with civil society, and efforts to help agencies implement their plans.

What are the next steps the government should take to ensure the sustainability of this initiative?

Please elaborate on recommendations that you would like to see implemented that were not completed as part of this commitment.

Although the NAP 3 will require agencies to publish progress reports on implementation of their plans, there is still no public mechanism to track whether agencies have published their plans on time, and no centralized way to track implementation progress. In addition, there is still no enforcement mechanism to ensure compliance with the Open Government Directive.

Collaboration with Civil Society

During Development

How would you rate the consultation process during the development of the NAP, based on the OGP guidelines?

Adequate

Please elaborate on your rating: Feel free to address whether your recommendations were considered during the consultation process and/or incorporated in the 2nd NAP.

Our specific recommendation that the White House establish a centralized dashboard for tracking agency open government plans was not incorporated in the NAP 2. Nonetheless, OSTP was generally receptive to civil society's recommendations and requests for meetings.

During Implementation

Do you know the government contacts for this commitment?

Yes

Corinna Zarek, OSTP

Have you met or corresponded with the government leads on this commitment in the past 6 months?

Please also explain how many meetings/how frequently you corresponded.

Yes. The guidelines and plans were discussed at the November Open Government Working Group meeting, and civil society has had meetings and correspondence with individual agencies about the development of their plans. The State Department, for example, has reached out directly to OTG for recommendations as to update their agency Open Government Plan in the coming months.

a. If yes, who initiated the contact—civil society or the government leads?

Both

b. Were the persons with whom you met knowledgeable about the issues?

Very knowledgeable

c. Were the persons with whom you met able to influence agency decision?

Yes

Did the meetings foster meaningful collaboration, and were you satisfied with the feedback you received in response to your input?

Most meetings have been productive and meaningful, but OMB remains resistant to updating its plan.

Commitment: Increase Transparency of Legal Entities Formed in the United States

- ***Advocate for Legislation Requiring Meaningful Disclosure***
- ***Establish an Explicit Customer Due Diligence Obligation for U.S. Financial Institution***

Team Lead(s):

Eryn Schornick and Stefanie Ostfeld, Global Witness

Shruti Shah, Transparency International-USA

Team Members:

Clark Gascoigne, Financial Accountability and Corporate Transparency (FACT) Coalition

Heather Lowe and Liz Confalone, Global Financial Integrity

Alan Hudson, Global Integrity

Alison Glick, Government Accountability Project

Commitment Evaluation

How would you rate the potential impact of this commitment?

Transformative

Please elaborate: If fully implemented, would it lead to significant/transformational open government advances?

Approximately two million companies are formed in the U.S. each year—which is more than the rest of the world combined. Many U.S. states rank among the easiest places in the world to set up a company whose owners cannot be traced. In some states you need less identification to set up a company than you do to get a library card. Of 60 countries sampled worldwide, in only one, Kenya, is it easier to set up a company without disclosing who the owners are than in the U.S.

A requirement that U.S. companies disclose information about the real people who own or control them (often called the “beneficial owners”) at the time they are created is essential for: (1) curbing corruption and all forms of crime that generate money as fraudsters and criminals depend on anonymous companies to hide illicit activities and to move dirty money; and (2) providing authorities with the information needed to prevent huge amounts of time and money being spent in an attempt to determine who is ultimately behind these companies in order to stop them and their crimes.

Increased corporate transparency would (1) curb corruption, fraud and tax evasion which rob countries of needed resources to meet budgets and protect vulnerable communities; (2) promote sound corporate governance and financial stability; (3) make corporate campaign contributions more transparent; (4) enable individuals and companies to know with whom they are doing business; (5) help ensure a fair and level playing field for small- and medium-sized businesses; (6) foster global development; and (7) enhance national security. With this information law enforcement would be able to more effectively and efficiently conduct investigations to combat terrorism and financial crimes, as they would have access to important information about the ultimate owners of companies.

How would you rate the progress made on the implementation of this commitment?

Limited

Please identify each sub commitment and explain where there has or has not been tangible progress made on this commitment.

- Advocate for Legislation Requiring Meaningful Disclosure. The White House will continue to publicly advocate for legislation requiring disclosure of meaningful information at a time a company is formed, showing not just who owns the company, but also who receives financial benefits from the entity.
- Establish an Explicit Customer Due Diligence Obligation for U.S. Financial Institutions. In 2014, the Administration will work to enact a rule requiring U.S. financial institutions to identify the

beneficial owners of companies that are legal entities. The Treasury Department is currently engaged in rulemaking to clarify customer due diligence requirements for U.S. financial institutions. The agency has received public comments through an Advance Notice of Rulemaking and also hosted several stakeholder roundtables.”

The Administration has made some efforts to achieve progress towards its commitments. The Administration has publicly advocated for policies and action that would seek to address the transparency of legal entities formed in the U.S., and has been an active and constructive participant in global policy efforts to do the same, such as within the G20. The following two points address each sub-section of the Administration’s commitments to increase transparency of U.S. entities in more detail:

1. Advocate for Legislation Requiring Meaningful Disclosure: In July, the International Monetary Fund (IMF) published a report (<http://www.imf.org/external/pubs/cat/longres.aspx?sk=43059.0>) that is critical of the slow U.S. response to addressing weaknesses in its anti-money laundering framework that it has known about for a decade. According to the report, the U.S. has made "no substantive progress since 2006" on the issue of identifying who is behind anonymous U.S. companies.

As noted in the midterm evaluation in January 2015, the White House included language in its Fiscal Year 2015 Budget proposal to Congress that set out a new way forward for the White House’s advocacy to achieve this commitment. The proposal requires two pieces of legislation.

Legislation was not introduced in Congress during 2014 or 2015 to further the White House proposal. If the Administration’s proposal, as it is currently understood from its budget proposal and conversations with civil society, were introduced as legislation in Congress and passed into law during the next legislative session, it would not require meaningful disclosure of beneficial ownership information.

The Administration has been in semi-frequent communication with public interest stakeholders on this issue during this time period. It is unclear to civil society how much engagement the Administration has had with relevant congressional offices because, despite being asked, they have not shared the information.

Administration officials have at several points during the time period of the 2nd National Action Plan expressed public support – in writing, at speaking engagements, and within various policy fora – for action to collect beneficial ownership. While we applaud the Administration’s support for beneficial ownership transparency, we are concerned that the Administration is only supportive of this information being collected and is opposed to this information being accessible by the public. This position is inconsistent with the Administration’s broad support of financial transparency and open government. During 2014, the Administration had the opportunity to express support and advocate for a directly relevant piece of legislation, the Incorporation Transparency

and Law Enforcement Assistance Act, which had bipartisan support in both chambers, but did not do so.

2. Establish an Explicit Customer Due Diligence Obligation for U.S. Financial Institutions: According to the July 2015 IMF report (<http://www.imf.org/external/pubs/cat/longres.aspx?sk=43059.0>), U.S. efforts to require banks to know the beneficial owners of all corporate clients (through Treasury's proposed rule from August 2014) is not up to the international standard as it "appears not to fully capture the control component of the proposed definition for beneficial owners."

As noted in the mid-term evaluation, there has been some progress toward establishing an explicit customer due diligence obligation for U.S. financial institutions. In August 2014, the Administration, via the U.S. Treasury Department, issued a notice of proposed rulemaking (NPRM) that would require U.S. financial institutions to identify the beneficial owners of companies that are legal entities.

This is a significant step toward meeting the Administration's targets under the 2nd National Action Plan. However, the proposed rule is in some respects weaker and less effective than what was in the earlier Advance Notice of a Proposed Rulemaking (ANPRM) from 2012 (including: the definition of beneficial owner that replaces control of a company with management of a company; and a 25% ownership threshold for disclosure). If left unaddressed, would undermine financial institutions' efforts to collect meaningful information about the beneficial ownership of legal entities.

On December 23, 2015, FinCEN published a Regulatory Impact Assessment and Initial Regulatory Flexibility Analysis regarding this rulemaking. As of December 31, 2015, FinCEN has not published a final rule. Civil society recommendations for the final rule can be found here (<http://www.regulations.gov/#!documentDetail;D=FINCEN-2014-0001-0096>).

What do you think are the reasons for the level of completion of the commitment?

Corporate opposition appears to be the reason why the Administration has devoted inadequate resources to congressional outreach.

Does the NAP 3 (or any other ongoing reforms) continue or improve upon this initiative?

The third NAP does not make any further commitments related to beneficial ownership transparency. Under "3. Increase Transparency of Legal Entities Formed in the United States" the Department of the Treasury and the White House committed to "continue engaging Congress to build bipartisan support to require that meaningful beneficial ownership information be disclosed at the time a company is formed. The Department of the Treasury will also work towards finalizing a rule to clarify customer due diligence requirements for U.S. financial institutions."

Some work is being done under the Fiscal Transparency section ("1. Increase Transparency in Spending") to better identify awardees of Federal grants and contract. This includes the identification of parent and

subsidiary organizations of bidders – a public comment period (www.gpo.gov/fdsys/pkg/FR-2015-10-29/pdf/2015-27554.pdf) on this issue recently closed. Although not explicit, there is the potential for this commitment to involve the collection and publication of beneficial ownership information through this rulemaking process. See Global Witness' comment here (<http://www.regulations.gov/#!documentDetail;D=FAR-2015-0055-0050>).

What are the next steps the government should take to ensure the sustainability of this initiative?

Please elaborate on recommendations that you would like to see implemented that were not completed as part of this commitment.

(1) In order for there to be progress on the Administration's proposal to achieve its commitment to advocate for legislation requiring meaningful disclosure, legislation needs to be introduced in congress and the Administration needs to publicly support it and engage with Congress on the issue.

During 2014, the Administration had the opportunity to express support and advocate for a directly applicable piece of legislation, the Incorporation Transparency and Law Enforcement Assistance Act, which had bipartisan support in both chambers, but did not do so.

(2) In August 2014, the Administration, via the U.S. Treasury Department, issued a notice of proposed rulemaking (NPRM) that would require U.S. financial institutions to identify the beneficial owners of companies that are legal entities. The Administration should issue the final rule taking into account civil society concerns and recommendations outlined here (<http://www.regulations.gov/#!documentDetail;D=FINCEN-2014-0001-0096>).

Collaboration with Civil Society

During Development

How would you rate the consultation process during the development of the NAP, based on the OGP guidelines?

Limited

Please elaborate on your rating: Feel free to address whether your recommendations were considered during the consultation process and/or incorporated in the 2nd NAP.

The Consultation on the development of the 2nd NAP was limited. The commitment on this issue in the 2nd NAP is similar to the commitment in the 1st US OGP NAP and the US G8 Action Plan for Transparency of Company Ownership and Control. The commitment did not incorporate civil society recommendations to strengthen it.

During Implementation

Do you know the government contacts for this commitment?

Yes.

Sarah Runge, Director, Office of Strategic Policy for Terrorist Financing and Financial Crime, Department of Treasury

David Mortlock, Director for International Economic Affairs, National Security Staff, the White House; (although David Mortlock left his position and it is unclear who the current NSS lead is on this commitment)

Have you met or corresponded with the government leads on this commitment in the past 6 months? Please also explain how many meetings/how frequently you corresponded.

Yes, although mainly in the context of developing the Third National Action Plan.

a. If yes, who initiated the contact—civil society or the government leads?

Civil society

b. Were the persons with whom you met knowledgeable about the issues?

Very knowledgeable

c. Were the persons with whom you met able to influence agency decision?

Yes

Did the meetings foster meaningful collaboration, and were you satisfied with the feedback you received in response to your input?

While we appreciate the government officials' time and feedback, there has not been meaningful progress in reaching commitments related to beneficial ownership transparency. Most meetings have been substantive; however, beneficial ownership transparency commitments have not been achieved and if the Administration's proposed legislation were introduced and passed as currently articulated it would not address and incorporate civil society concerns and recommendations as stated above in II a. (1). Similarly, Treasury has given no indication that it intends to incorporate civil society recommendations into its final customer due diligence rule. If the final rule is similar to the proposed rule from August 2014, it would undermine financial institutions' efforts to collect meaningful information about the beneficial ownership of legal entities as stated in II a. (2).

Commitment: Transform the National Security Classification System

- ***Create a Security Classification Reform Committee***
- ***Systematically Review and Declassify Historical Data on Nuclear Activities***
- ***Pilot Technological Tools to Analyze Classified Presidential Records***
- ***Implement Monitoring and Tracking of Declassification Reviews***

Team Lead(s):

OpenTheGovernment.org

Elizabeth Goitein, Brennan Center for Justice

Team Members:

Steve Aftergood, Federation of American Scientists

Nate Jones, National Security Archive

Commitment Evaluation**How would you rate the potential impact of this commitment?****Moderate**

Please elaborate: If fully implemented, would it lead to significant/transformational open government advances?

If fully implemented, this commitment would lead to moderate advances in reforming the national security classification system. As noted in our September 2015 report, the nature of this commitment focuses on form over substance. While the title of the commitment is, “Transform the National Security Classification System,” the measures that are part of this commitment are not reflective of the type of ambitious initiatives needed to be truly transformative. Civil society groups have urged the Administration to adopt more aspiring initiatives that live up to the title and spirit of this commitment.

How would you rate the progress made on the implementation of this commitment?**Substantial**

Please identify each sub commitment and explain where there has or has not been tangible progress made on this commitment.

- **Create a Security Classification Reform Committee** – In September 2014, civil society groups met with NSC officials from the Classification Reform Committee (CRC) to discuss the Committee’s activities and provide input regarding priorities among the Public Interest Declassification Board’s recommendations. The groups followed up with a letter recommending that the Committee focus on the following steps: (1) Create a system of self-cancelling classification. (2) Expand and improve Mandatory Declassification Review. (3) Ensure accountability for improper classification.

While this commitment indicated that the Committee would “meet periodically with external stakeholders to obtain their input as appropriate,” there have been no meetings between the CRC and CSOs to report since September 2014, although a CRC representative was present at a public meeting held by the Public Interest Declassification Board (PIDB) in June 2015. Moreover, there has been no indication that any of the recommendations provided to the Committee by civil society were accepted and/or implemented. While this commitment was technically fulfilled with the creation of the CRC, there are no visible outcomes that have resulted from the Committee’s work more than a year after its establishment.

- **Systematically Review and Declassify Historical Data on Nuclear Activities** – On June 19, 2014, the Public Interest Declassification Board (PIDB) held a public meeting on declassification of Formerly Restricted Data (FRD) on nuclear activities. Since then, there have been some advances to review and declassify historical data and nuclear activities. The government reported in March 2015 that 8

of 10 FRD topics identified during the June 2014 public meeting were reviewed, declassified and made available on the DOD website. While there has been progress made, the vast body of FRD records are not yet subject to systematic declassification review. As we emphasized in our September 2015 report, there has not been a systematic review to declassify FRD public interest information, nor has there been any noticeable wave of declassified FRD documents appearing at NARA or anywhere else.

- **Pilot Technological Tools to Analyze Classified Presidential Records** – On June 25, 2015, the PIDB hosted a public meeting where they provided a briefing on the results of the pilot projects completed at UT Austin, co-sponsored by the CIA and NARA, to pilot technological tools to analyze and facilitate declassification of classified Presidential Records. During the presentation, there were issues raised regarding funding for ongoing projects, although the commitment subsequently was reiterated in the NAP 3. Also, the government’s self-assessment indicates that there will be a final report produced analyzing the technology and its potential use for classification and declassification, but gives no timeline for the release of the report.
- **Implement Monitoring and Tracking of Declassification Reviews** – The National Declassification Center (NDC) at NARA implemented a system for monitoring and tracking of declassification reviews. The improvements that the NDC has made to its referral and tracking system have streamlined the process of declassifying historic documents. It is difficult to measure, however, if this has led to any internal changes in agency practices. The automated system for presidential records has not yet been implemented.

In our September 2015 review, we reported that the NDC’s “indexing on demand” process has led to meaningful progress by allowing the public to select which documents NARA devote resources to declassifying.

What do you think are the reasons for the level of completion of the commitment?

Potential factors attributable to the lack of completion of the initiatives associated with this commitment include lack of follow-through, the absence of specific benchmarks needed to ensure tangible progress, apparent resource constraints, and an inefficient “pass-fail” review process.

- **Lack of follow-through:** As mentioned above, there were not follow-up meetings between civil society and the CRC following the September 2014 meeting. It is not clear how rigorously the CRC has pursued its mission; the lack of visible output is not encouraging.
- **Absence of specific benchmarks:** The commitment to systematically review and declassify historical data on nuclear activities lacks specific, measurable goals and benchmarks to ensure that sufficient progress is being made.
- **Resource constraints:** The issues relating to the CIA pilot technology project (mentioned above) are an example of possible shortcoming resulting from a lack of steady resources for this commitment.
- **Inefficient process:** The commitment to implement a system for monitoring and tracking of declassification reviews has been hindered by wasteful multiple re-reviews of old documents and an

inefficient “pass-fail” review process are still resulting in far too much information remaining classified at the NDC.

Does the NAP 3 (or any other ongoing reforms) continue or improve upon this initiative?

The NAP 3 continues work on the implementation of technological tools to help automate declassification review, by committing to developing a plan to expand the use of the technological tools that were piloted by the CIA and NARA. It also commits to piloting (by the CRC) the use of a topic-based interagency declassification guide; establishing a special systematic declassification review program (by the NDC); and declassifying historical records in the public interest (led by the CIA, involving the Intelligence Community and the CRC). Unfortunately, much like the NAP 2 commitments, these ones fall short of being truly “transformative” in their reach and do not address the top priorities that civil society organizations have repeatedly identified to the relevant officials, including the CRC.

What are the next steps the government should take to ensure the sustainability of this initiative?

Please elaborate on recommendations that you would like to see implemented that were not completed as part of this commitment.

Civil society developed a number of detailed recommendations as model commitments for the 2nd and 3rd National Action Plans, as well as recommendations submitted to the CRC. These include:

- Develop more precise definitions for classifiable information, based on the PIDB’s recommendation to “tighten definitions” on information subject to classification.
- Establish a category of “self-cancelling classification” by directing that all classified information that is operational or based on a specific date or event shall be automatically declassified without review when that operation, date, or event passes.
- Commit to publicly reporting on the work of the CRC, and develop tangible recommendations for major, substantive reforms that would meaningfully reduce secrecy.
- Develop and implement an expedited declassification review process, involving MDR requests and the Interagency Security Classification Appeals Panel (ISCAP), and make other improvements to the MDR process.
- Ensure accountability for improper classification.
- Clarify limits on classification of “intelligence sources and methods.”
- Raise the NDC’s declassification rate by embracing established declassification best practices.
- End all agency equities at 25 years.

Collaboration with Civil Society

During Development

How would you rate the consultation process during the development of the NAP, based on the OGP guidelines?

Limited

Please elaborate on your rating: Feel free to address whether your recommendations were considered during the consultation process and/or incorporated in the 2nd NAP.

Although there was no official consultation process during the development phase of the NAP 2, the Administration did incorporate some of the concepts provided in [recommendations](#) developed by civil society on reforming the classification system. For this reason, we are rating the consultation process as limited.

During Implementation

Do you know the government contacts for this commitment?

Yes.

John Fitzpatrick, Director of the Information Security Oversight Office (ISOO), NARA (at the time of evaluation)

John Ficklin, Chair of The Security Classification Reform Committee (and a Deputy of Lisa Monaco on the National Security Council) (at the time of evaluation)

Mary I. Ronan, National Security Council staff (at the time of evaluation)

John Powers, staff on the Public Interest Declassification Board (at the time of evaluation)

Have you met or corresponded with the government leads on this commitment in the past 6 months?

Please also explain how many meetings/how frequently you corresponded.

There have been regular meetings between the government leads on this commitment and civil society – although many of the meetings occur outside of the scope of the specific OGP commitments. NARA officials regularly meet with civil society to discuss initiatives associated with this commitment and receive feedback from the openness community. In October 2015, John Fitzpatrick met with civil society to discuss civil society recommendations for NAP 3 (although this did not occur until after the commitments for NAP 3 had been finalized) and provide an update on the status of the NAP 2 commitment.

- a. If yes, who initiated the contact—civil society or the government leads?**

Both

- b. Were the persons with whom you met knowledgeable about the issues?**

Very knowledgeable

- c. Were the persons with whom you met able to influence agency decision?**

Yes

Did the meetings foster meaningful collaboration, and were you satisfied with the feedback you received in response to your input?

Overall, the meetings between civil society and government leads on this commitment have been substantive and informative; however, civil society did not receive regular feedback from government officials needed for a productive and collaborative process. CRC members, for example, were receptive to civil society concerns at the September 2014 meeting. However, as noted above, there was no feedback provided in response to specific civil society recommendations and groups were not able to schedule a follow-up meeting to discuss the CRC initiatives.

Commitment: Implement the Controlled Unclassified Information Program

- ***NARA will establish a program to standardize processes and procedures for managing CUI***
- ***Over the next year, NARA will issue implementation guidance with phased implementation schedules***
- ***NARA will create an enhanced CUI Registry***

Team Lead(s):

OpenTheGovernment.org

Team Members:

Elizabeth Goitein, Brennan Center for Justice

Steven Aftergood, Federation of American Scientists

Scott Amey, Project on Government Oversight

Sean Moulton, Project on Government Oversight

Commitment Evaluation

How would you rate the potential impact of this commitment?

Moderate

Please elaborate: If fully implemented, would it lead to significant/transformational open government advances?

This commitment could have had transformational potential if it had included specific benchmarks and timelines for agency implementation of NARA's new CUI program. Without those provisions, it allowed for an indefinite, drawn-out process.

How would you rate the progress made on the implementation of this commitment?

Limited

Please identify each sub commitment and explain where there has or has not been tangible progress made on this commitment.

As part of this commitment, in 2014, NARA circulated a draft regulation with implementation guidance and a CUI registry for interagency review. In 2014, and in May 2015, the Information Security Oversight Office (ISOO) published a draft document in the Federal Register outlining how agencies should designate, mark, and manage dissemination of CUI. The draft document explained what data qualifies as CUI, procedures for transmitting, safeguarding, and “decontrolling” the information, and establishing a management structure around CUI policies. The new rule will apply to all executive branch agencies, and sets out guidelines for the sharing of CUI to organizations and individuals outside the executive government.

There is significant civil society concern over the fact that even after the public comment period, the rule has been opened for another round of agency comments, which could then necessitate yet another round of public comment. In a process that has already extended far beyond the intended time period, this pushes the end goal of agency implementation even farther away, beyond the end of the current Administration.

There are, additionally, a number of technical requirements that agencies need to adopt to create a standardized marking system for information that requires safeguarding or dissemination controls, but there are not clearly defined deadlines for agencies to implement all aspects of the new regulations. We are concerned that it will very likely take years before agencies complete the requirements needed to fully adopt and implement the new rules governing CUI.

What do you think are the reasons for the level of completion of the commitment?

Significant pushback from some agencies seems to be a key reason for the delay in finalizing the rule, particularly over concerns that the rule will impinge upon perceived agency authority.

Does the NAP 3 (or any other ongoing reforms) continue or improve upon this initiative?

The NAP 3 rolls over the NAP 2 commitment, with the added component of applying the rule to contractors, grantees, and licensees.

What are the next steps the government should take to ensure the sustainability of this initiative?

Please elaborate on recommendations that you would like to see implemented that were not completed as part of this commitment.

NARA should ensure that the rule is completed without the need for further rounds of agency comment beyond what is already scheduled, and should publish a timeline for agency implementation of the rule, that will require agencies to lay out firm benchmarks for full implementation within 180 days of the publication of the rule, and specific timelines for each of those benchmarks. These timelines should not extend beyond 18 months after the publication of the rule, at the latest.

Collaboration with Civil Society

During Development

How would you rate the consultation process during the development of the NAP, based on the OGP guidelines?

Adequate

Please elaborate on your rating: Feel free to address whether your recommendations were considered during the consultation process and/or incorporated in the 2nd NAP.

Although there was no civil society model commitment on CUI for the 2nd NAP, ISOO has coordinated closely with open government organizations on the creation of the CUI framework for several years, outside of the OGP context. The collaborative process started off highly meaningful, but has dropped off some in recent months.

During Implementation

Do you know the government contacts for this commitment?

Yes.

John Fitzpatrick, ISOO (at time of evaluation)

Have you met or corresponded with the government leads on this commitment in the past 6 months? Please also explain how many meetings/how frequently you corresponded.

NARA held a stakeholder meeting with civil society leads on this commitment in June 2015 after publishing the proposed rules on the Federal Register. In addition, NARA has participated in a number of other meetings and phone calls with civil society members.

a. If yes, who initiated the contact—civil society or the government leads?

Both

b. Were the persons with whom you met knowledgeable about the issues?

Very knowledgeable

c. Were the persons with whom you met able to influence agency decision?

Yes

Did the meetings foster meaningful collaboration, and were you satisfied with the feedback you received in response to your input?

Yes, in general NARA has been very responsive to civil society and receptive to input. Civil society's concerns about the lengthy process of creating the rule, which has far exceeded the one-year timeline indicated in the commitment, have been heard and understood by NARA, but the process is apparently being driven by the agencies and OMB and our concerns have not had an impact.

Commitment: Implement the Extractive Industries Transparency Initiative

- ***Publish the first United States EITI report in 2015***
- ***Achieve EITI compliance in 2016***
- ***Disclose additional revenues on geothermal and renewable energy***
- ***Unilaterally disclose all payments received by the U.S. Department of Interior***
- ***Create a process to discuss future disclosure of timber revenues***
- ***Promote the development of innovative open data tools that make extractive data more meaningful for and accessible to the American people***

Team Lead(s):

Mia Steinle, Project on Government Oversight

Commitment Evaluation

How would you rate the potential impact of this commitment?

Moderate

Please elaborate: If fully implemented, would it lead to significant/transformational open government advances?

Much of the information in the first USEITI report was already publicly available (albeit spread across many government agencies and websites). A more significant advance would be for the second USEITI report to include commodity revenues at the project level, which would be new data for the public.

How would you rate the progress made on the implementation of this commitment?

Complete

Please identify each sub commitment and explain where there has or has not been tangible progress made on this commitment.

The commitment specifies, "The Administration intends to publish the first United States EITI report in 2015 and to achieve EITI compliance in 2016." The US will actually not achieve EITI compliance in 2016, as the USEITI multi-stakeholder group opted to not have the first USEITI reported validated -- this decision isn't a reflection on the Administration's progress though.

What do you think are the reasons for the level of completion of the commitment?

Through the FACA (Federal Advisory Committee Act) multi-stakeholder group process, the government, civil society, and industry worked in close collaboration for months.

Does the NAP 3 (or any other ongoing reforms) continue or improve upon this initiative?

Yes.

What are the next steps the government should take to ensure the sustainability of this initiative?

Please elaborate on recommendations that you would like to see implemented that were not completed as part of this commitment.

As stated above, the NAP 3 should require project-level reporting to happen under USEITI. I believe that the Administration's final wording for the NAP 3 wasn't strong enough on that point.

Collaboration with Civil Society

During Development

How would you rate the consultation process during the development of the NAP, based on the OGP guidelines?

Highly Meaningful

Please elaborate on your rating: Feel free to address whether your recommendations were considered during the consultation process and/or incorporated in the 2nd NAP.

During Implementation

Do you know the government contacts for this commitment?

Yes.

Greg Gould (Office of Natural Resources Revenue), Paul Mussenden (Interior) + many other Interior staff members, as well as staff from Treasury and Energy.

Have you met or corresponded with the government leads on this commitment in the past 6 months?

Please also explain how many meetings/how frequently you corresponded.

Yes. I communicate with the government leads often and am in communication with their staff several times a week, whether by email or by phone.

a. If yes, who initiated the contact—civil society or the government leads?

Both

b. Were the persons with whom you met knowledgeable about the issues?

Very knowledgeable

c. Were the persons with whom you met able to influence agency decision?

Yes

Did the meetings foster meaningful collaboration, and were you satisfied with the feedback you received in response to your input?

As I noted above, the FACA multi-stakeholder group process ensures that civil society plays a major role in implementing EITI -- within the process, civil society, government, and industry are on equal footing in terms of decision-making.

Commitment: Modernize the Freedom of Information Act

- **Improve the Customer Experience through a Consolidated Online FOIA Service.**
- **Develop Common FOIA Regulations and Practices for Federal Agencies.**
- **Improve Internal Agency FOIA Processes.**
- **Establish a FOIA Modernization Advisory Committee.**
- **Improve FOIA Training Across Government to Increase Efficiency.**

Team Lead(s):

OpenTheGovernment.org

Team Members:

Sean Moulton, Project On Government Oversight (POGO)

Nate Jones, National Security Archive

Commitment Evaluation

How would you rate the potential impact of this commitment?

Moderate

Please elaborate: If fully implemented, would it lead to significant/transformational open government advances?

If fully implemented, the initiatives associated with this commitment would lead to moderate advances, but not transformational changes in openness policies and practices. This commitment is overly process-oriented, and falls considerably short of the ambitious openness policies laid out on the first day of this Administration, when the President committed to usher in a “new era of openness.” The measures spelled out in this commitment lack both ambition and the enforcement mechanisms needed to encourage measurable steps towards transformational advances in FOIA and public access to information. The openness community believes the Administration should use OGP as a vehicle to push for measures to help institutionalize the President’s 2009 [FOIA Memorandum](#), and ensure the presumption of openness continues on to the next Administration.

How would you rate the progress made on the implementation of this commitment?

Limited

Please identify each sub commitment and explain where there has or has not been tangible progress made on this commitment.

- **Consolidated Online FOIA Service:** While the Department of Justice Office of Information Policy (OIP) worked with the development office of General Services Administration (GSA) - 18F - throughout 2014 to develop and build the consolidated FOIA portal (FOIA.gov), and despite meetings with civil society on priorities and our review of website, the site does not improve on FOIA.gov nor offer tools to improve FOIA processing. OIP reported to civil society in August 2015

that they were working with the Chief Technology Officer (CTO) to continue work on the portal, but the project with 18F was ended in late 2015.

- **Develop Common FOIA regulations and practices for federal agencies:** Civil society organizations met with officials from the Office of Information Policy (OIP) and agency volunteers who were working on drafting sections of the common FOIA regulations in 2014 to discuss proposed model regulations. At that time, OIP laid out a schedule for the work and next steps to develop the regulations. Civil society worked extensively to develop model [FOIA regulations](#), and made them available to OIP and published them online in July 2014. To date, there have been no drafts of the agency common regulations been shared with civil society organizations. OIP officials informed civil society members during an August 2015 meeting that the common FOIA regulations were still under development, and, as of December 2015, there is no deadline planned for the release of the regulations.
- **Improve internal agency FOIA processes:** In 2014, DOJ [launched](#) a series of best practices workshops that focus on specific topics in FOIA administration, a few of which have been open to the public. In October 2014 OIP hosted a forum featuring best practices from FOIA requesters' perspectives. The DOJ tracks all documented best practices, as well as related guidance and resources, on its [website](#).
- **Establish a FOIA Modernization Advisory Committee:** NARA launched the [FOIA Advisory Committee](#) in June 2014, comprised of government and non-government members of the FOIA community (10 each). This committee has held 6 meetings since June 2014 to address important issues, such as FOIA litigation, FOIA fees, proactive disclosure, and FOIA enforcement. There are two meetings currently scheduled for 2016. The Committee has the authority to recommend legislative action, policy changes, or executive action, and is currently preparing recommendations on ways to improve FOIA administration.
- **Improve FOIA training across government:** OIP developed and released standard e-learning training resources – ranging from basic resources to a high-level executive training video, to a comprehensive set of modules intended for FOIA professionals. OIP gathered input from civil society organizations in the development phase of the e-learning tools.

What do you think are the reasons for the level of completion of the commitment?

Factors include the lack of a strong mandate, absence of political will, and need for greater leadership and enforcement mechanisms to encourage the full completion of the FOIA measures.

At the start of this Administration, President Obama indicated that each agency should decrease its FOIA backlog by 10 percent each year. However, no enforcement mechanisms were put in place to hold agencies accountable for failing to meet that benchmark. OGP commitments to improve internal agency processes would have a higher likelihood for success if there were enforcement mechanisms in place, and incentives for meeting such goals.

The OIP trainings are important, for example, but in order for such trainings to have a greater impact, they should be mandatory for poor-performing FOIA offices. Overall, the workshops appear to have led to limited progress to improve internal agency FOIA processes, and in some agencies there is still a “lack

of knowledge” on fundamental aspects of the Attorney General’s FOIA Guidelines (according to a recent OGIS compliance [report](#) on FEMA’s FOIA process).

Does the NAP 3 (or any other ongoing reforms) continue or improve upon this initiative?

The NAP 3 includes five commitments to modernize the implementation of the FOIA, including measures that continue on the NAP 2 FOIA commitments. These include expanding the services of the consolidated website, FOIA.gov reviewing existing technologies, such as FOIAonline, and leveraging these technology tools to expand on the existing FOIA.gov. The NAP 3 also includes a commitment to improve agency proactive disclosures by posting FOIA-released records online. This involves a pilot program involving 7 agencies that has been underway since July 2015 under DOJ’s lead, to look at associated costs, resources needed, etc. This has important potential, and could help reduce FOIA backlogs and get more information out to the public.

What are the next steps the government should take to ensure the sustainability of this initiative?

Please elaborate on recommendations that you would like to see implemented that were not completed as part of this commitment.

Civil society continues to urge the Administration to implement more ambitious FOIA commitments that would continue the measures started as part of the NAP 2 commitments, as well advance FOIA practices through new initiatives. They include;

- Promote legislative reforms that would enshrine the “presumption of openness” in FOIA.
- Mandate that agencies update FOIA regulations. Require agencies review and update all FOIA regulations within 180 days of the publication of the NAP so that they conform with the Attorney General’s guidance on the presumption of openness, and all other requirements of the law.
- Reduce the FOIA burden by identifying and proactively disclosing whole records categories, and increase public participation in the proactive disclosure process.
- Issue guidance to narrow the application of Exemption b(5). We have recommended the guidance and agencies’ FOIA regulations be revised to require agencies to consider the public interest in disclosure and balance that interest against the agency interest in withholding.

Collaboration with Civil Society

During Development

How would you rate the consultation process during the development of the NAP, based on the OGP guidelines?

Limited

Please elaborate on your rating: Feel free to address whether your recommendations were considered during the consultation process and/or incorporated in the 2nd NAP.

Although there was no official consultation process during the development phase of the NAP 2, the Administration did incorporate many of the concepts provided in recommendations developed by civil society relating to FOIA. The [recommendations](#) included measures on FOIA processing, proactive disclosure, and using technology to improve FOIA processing government-wide. There were also informal meetings that took place between government leads and civil society over the course of the development phase.

During Implementation

Do you know the government contacts for this commitment?

Yes.

Melanie Pustay, Office of Information Privacy, Department of Justice

Have you met or corresponded with the government leads on this commitment in the past 6 months? Please also explain how many meetings/how frequently you corresponded.

There have been somewhat regular meetings between the government leads on this commitment (including officials from OIP and OGIS) and civil society – although most meetings occur outside of the scope of the specific OGP commitments. There were more regular meetings during the early stages of the implementation of this commitment, including collaboration with OIP and GSA on the development of the FOIA.gov online system. In the last six months, there have been informal meetings with OGIS officials, as well as FOIA Advisory Board meetings.

a. If yes, who initiated the contact—civil society or the government leads?

Both

b. Were the persons with whom you met knowledgeable about the issues?

Very knowledgeable

c. Were the persons with whom you met able to influence agency decision?

Yes

Did the meetings foster meaningful collaboration, and were you satisfied with the feedback you received in response to your input?

Overall, there is large room for improvement in terms of fostering greater collaboration and better feedback in response to civil society's input on FOIA-related initiatives. For example, civil society groups worked extensively to develop the model FOIA regulations, yet, over a year and a half later, we still have not seen any draft language from OIP, and have no indication on when these regulations will be released. There is general disappointment with the feedback received in response to civil society input, and a growing sentiment that civil society contributions to FOIA-related OGP measures are not leading to meaningful openness advances.

Commitment: Open Data to the Public

- **Manage Government data as a Strategic Asset.**
- **Launch an Improved Data.gov.**
- **Open Agriculture and Nutrition Data.**
- **Open Natural Disaster-Related Data to Support Response and Recovery Efforts.**

Team Lead(s):

Matt Rumsey, The Sunlight Foundation (at time of evaluation)

Team Members:

Daniel Schuman, Demand Progress

Commitment Evaluation

How would you rate the potential impact of this commitment?

Minor

Please elaborate: If fully implemented, would it lead to significant/transformational open government advances?

The commitments in NAP 2.0 were mostly continuations of commitments already being undertaken by the Obama administration. Broadly, the Administration's commitment to open data has the potential for transformative change, but this specific document represented incremental steps towards that more transformative future.

How would you rate the progress made on the implementation of this commitment?

Substantial

Please identify each sub commitment and explain where there has or has not been tangible progress made on this commitment.

- **Manage data as a strategic asset:** OMB and agencies took significant steps towards managing their data as a strategic asset. While not all agencies appear to believe that this goal was worth achieving, the majority did release inventories of their data holdings and providing necessary metadata to manage that information.
- **Launch improved data.gov:** While data.gov is not -- and likely never will be -- perfect, a new and improved version was launched during the relevant time period.
- **Open agriculture and nutrition data:** the Administration took steps to join a larger international movement to open more agriculture and nutritional data and the USDA has been an active participant in open data efforts.
- **Open natural disaster related data:** Unclear

What do you think are the reasons for the level of completion of the commitment?

Strong commitment from the Obama administration and outside actors help ensure that agencies moved forward with various open data efforts.

Does the NAP 3 (or any other ongoing reforms) continue or improve upon this initiative?

Yes, broadly speaking the administration still appears committed to open data. NAP 3.0 has a specific commitment to open data that should lead to best practices for open data and help the public be more engaged in the process of opening government data.

What are the next steps the government should take to ensure the sustainability of this initiative?

Please elaborate on recommendations that you would like to see implemented that were not completed as part of this commitment.

Continue commitment to open data and build in systems that will endure beyond the current administration.

Collaboration with Civil Society

During Development

How would you rate the consultation process during the development of the NAP, based on the OGP guidelines?

Adequate

Please elaborate on your rating:

Feel free to address whether your recommendations were considered during the consultation process and/or incorporated in the 2nd NAP.

During Implementation

Do you know the government contacts for this commitment?

Yes

Rebecca Williams, General Services Administration (GSA)

Justin Grimes, Office of Management and Budget (OMB)

Have you met or corresponded with the government leads on this commitment in the past 6 months?

Please also explain how many meetings/how frequently you corresponded.

Yes

- a. **If yes, who initiated the contact—civil society or the government leads?**

Both

- b. **Were the persons with whom you met knowledgeable about the issues?**

Very Knowledgeable

- c. **Were the persons with whom you met able to influence agency decision?**

Not sure

Did the meetings foster meaningful collaboration, and were you satisfied with the feedback you received in response to your input?

Yes.

Commitment: Empower Americans through Participatory Budgets and Responsive Spending

- *Work with communities, non-profits, civic technologists, and foundation partners to develop new commitments that will expand the use of participatory budgeting in the United States*
- *Convene an action-oriented Participatory Budgeting Workshop in 2015 to garner commitments that support community decision-making for certain projects using public funds.*

Team Lead(s):

Josh Lerner, Participatory Budgeting Project

Commitment Evaluation

How would you rate the potential impact of this commitment?

Moderate

Please elaborate: If fully implemented, would it lead to significant/transformational open government advances?

When the White House has expressed support for participatory budgeting, this legitimizes the work and increases interest from local elected officials. The White House could greatly increase the number of cities implementing participatory budgeting by expressing more support and by working with federal agencies and other partners to provide technical assistance and resources.

How would you rate the progress made on the implementation of this commitment?

Limited

Please identify each sub commitment and explain where there has or has not been tangible progress made on this commitment.

We were in planning discussions to convene the 2015 workshop that the NAP committed to, but the White House did not secure a room, approve the invite list, or agree on a MOU in time to hold the event. It may happen in February instead.

What do you think are the reasons for the level of completion of the commitment?

Insufficient White House staff time dedicated to moving the commitment forward - there was plenty of support from partners.

Does the NAP 3 (or any other ongoing reforms) continue or improve upon this initiative?

It would continue and improve on the initiative, if implemented.

What are the next steps the government should take to ensure the sustainability of this initiative?

Please elaborate on recommendations that you would like to see implemented that were not completed as part of this commitment.

Hold the workshop that was included in the commitment and convene discussions with federal agencies that could support or implement participatory budgeting.

Collaboration with Civil Society

During Development

How would you rate the consultation process during the development of the NAP, based on the OGP guidelines?

None

Please elaborate on your rating: Feel free to address whether your recommendations were considered during the consultation process and/or incorporated in the 2nd NAP.

There was no discussion with us or others implementing participatory budgeting prior to publication of the NAP, as far as I know.

During Implementation

Do you know the government contacts for this commitment?

Yes.

Aden Van Noppen

Have you met or corresponded with the government leads on this commitment in the past 6 months? Please also explain how many meetings/how frequently you corresponded.

Yes, frequent emails.

- a. If yes, who initiated the contact—civil society or the government leads?**

Civil society

- b. Were the persons with whom you met knowledgeable about the issues?**

Somewhat knowledgeable

- c. Were the persons with whom you met able to influence agency decision?**

Yes

Did the meetings foster meaningful collaboration, and were you satisfied with the feedback you received in response to your input?

Yes, we just need more follow through on the discussions, and more trust in the people working on the ground to inform how the White House can support this work.

Commitment: Make Privacy Compliance Information More Accessible

- ***Improve the Accessibility of Privacy Policies and Compliance Reports: make it easier for the public to access, download, and search online for publicly-available privacy policies and privacy compliance reports***
- ***Update and Improve Reporting on Federal Agency Data Policies and Practices: Agencies will collaborate to review the content of publicly-available privacy compliance reports and to consider best practices to ensure that the reports provide meaningful information about the Federal Government's management of personal information***

Team Lead(s):

Rachel Levinson-Waldman (Brennan Center for Justice)

Team Members:

Scott Roehm (The Constitution Project)

Jeramie Scott (Electronic Privacy Information Center)

Commitment Evaluation

How would you rate the potential impact of this commitment?

Minor

Please elaborate: If fully implemented, would it lead to significant/transformational open government advances?

The language of the commitment is directed at making existing documents easier to find, and asks agencies to collaborate to **review** privacy compliance reports and **consider** best practices regarding the content of those reports. These are important steps, but they are not transformative. Moreover, the commitment is aimed at ensuring that the federal government is carrying out a transparency obligation that is already required by statute, Section 803 of the Implementing Recommendations of the 9/11 Commission Act. Again, this is important, but because it is an existing obligation, it is not transformative. If the government were to interpret its obligations pursuant to Section 803 according to the expansive language of the statute itself, which requires agencies to report on **both** civil liberties compliance **and** privacy compliance (as, in fact, DHS does), that would be a more significant step forward.

How would you rate the progress made on the implementation of this commitment?

Limited

Please identify each sub commitment and explain where there has or has not been tangible progress made on this commitment.

- **Improve the Accessibility of Privacy Policies and Compliance Reports:** To make it easier for citizens to find and understand what information the Government collects and maintains, Federal agencies will make it easier for the public to access, download, and search online for publicly-available privacy policies and privacy compliance reports.

To our knowledge, no method for easier access, downloading, or searching of privacy policies and privacy compliance reports has yet been implemented, beyond the agencies/departments' own webpages. With respect to Section 803 reports, which has been the de facto focus of the administration's work with respect to this commitment, some of those webpages are quite user-friendly (for instance, DOJ and DHS); some are non-existent (for instance, CIA and Department of State); and some are easy to use but not up-to-date (for instance, ODNI, whose most recent online report is from the fourth quarter of 2013). For offices such as ODNI, it is not clear whether the office has not kept up with completing their Section 803 reports or has not posted the most recent ones; either way, it is a loss to transparency.

That said, government officials indicated during public meetings in the spring of 2015 that the PCLOB was considering hosting a public portal for 803 reports. In addition, the PCLOB's most recent semi-annual report, from March 2015, states that the Board's staff is actively engaged in a project to make the reports more accessible. We are supportive of the PCLOB's efforts in this realm. We are not aware that there is a similar plan regarding privacy policies, though the CIO Council currently has a web page that collects and links to the privacy pages, PIAs, and SORNs for departments and agencies. (<https://cio.gov/about/groups/privacy-cop/privacy/>)

- **Update and Improve Reporting on Federal Agency Data Policies and Practices:** Agencies will collaborate to review the content of publicly-available privacy compliance reports and to consider best practices to ensure that the reports provide meaningful information about the Federal Government's management of personal information.

Several of the relevant agencies have taken steps to deepen the content of their Section 803 reports. The Department of Justice, for instance, previously listed only the number of privacy reviews completed during the relevant period, with little to no additional information about the topics covered. Beginning in the second quarter of 2014, DOJ's Privacy Office significantly expanded the content of its reports, providing the names and summaries of significant Privacy Impact Assessments conducted during the covered period. The Department of Homeland Security also publishes detailed reports on both privacy and civil liberties, and has done so for some time. This is not to say that DOJ and DHS could not potentially be more detailed in certain areas, but they have made notable efforts to provide substantive information. The other Section 803 reports that are publicly available – for instance, DOD and ODNI – are much thinner.

In addition, consistent with our understanding from the spring 2015 meeting, PCLOB's March 2015 semi-annual report describes a project to help provide guidance regarding the scope of Section 803 compliance reports and enhance consistency. The report states, for instance, that the Board has been "working with agency privacy and civil liberties officers to identify viable changes to their

reporting under Section 803 of the 9/11 Commission Act designed to make those reports more informative and accessible.” The report also notes that Board staff “subsequently analyzed the statutory requirements of Section 803 and surveyed existing reports to identify potential areas for improvement, with the goal of formulating recommendations to make the reports more informative and accessible. During the next Reporting Period, the Board will draft detailed guidance that provides an interpretation of Section 803’s requirements and offers suggestions to improve the usefulness of the reports.” Again, we are very supportive of the PCLOB’s work in these areas, and look forward to learning more about potential enhancements to the agencies’ Section 803 reports.

What do you think are the reasons for the level of completion of the commitment?

It appears that work on this issue is currently occurring on an agency-by-agency basis. To the extent that there is a prospect for more comprehensive and unified reporting under Section 803 from all agencies, and for better/easier public access to Section 803 reports, it appears to be due to the work of the PCLOB, which we hope will bear fruit.

Does the NAP 3 (or any other ongoing reforms) continue or improve upon this initiative?

We are not aware that NAP 3.0 continues or improves upon the NAP 2.0 privacy commitment. Circulars A-130 and A-108, which are currently undergoing revision, are relevant to the scope of privacy policies, but we are not aware yet that their revisions will have a specific impact upon this initiative.

What are the next steps the government should take to ensure the sustainability of this initiative?

Please elaborate on recommendations that you would like to see implemented that were not completed as part of this commitment.

In the privacy proposals that we submitted in June 2015 for NAP 3.0, we included a [proposal](#) following up and expanding upon this commitment. These recommendations, which were not responded to and are not reflected in the third NAP, would help ensure the sustainability of Commitment 7.

As recommended in follow-up comments to the second NAP, the agencies covered by Section 803 of the Implementing Recommendations of the 9/11 Commission Act should include reporting about civil liberties compliance in Section 803 reports, in addition to reporting regarding privacy compliance. By its terms, Section 803 requires both. In addition, the covered agencies should broaden the scope of the reports beyond counterterrorism-related issues; while the reports are provided to the PCLOB, whose mandate is focused on counterterrorism, Section 803 does not limit the reports to counterterrorism-related matters. The covered agencies should be provided the resources necessary to enhance and improve their reporting in this manner.

Timeline and benchmarks: We have outlined in our NAP 3 proposal a timeline and a series of benchmarks covering a needed directive, expanded Section 803 reporting, and resource constraints.

Collaboration with Civil Society

During Development

How would you rate the consultation process during the development of the NAP, based on the OGP guidelines?

Limited

Please elaborate on your rating:

Feel free to address whether your recommendations were considered during the consultation process and/or incorporated in the 2nd NAP.

None of the current team members were involved in the process during the development of NAP 2.0. However, a civil society colleague who was involved offered these comments: “We were invited to participate, but our recommendations were not incorporated. We strongly recommended more meaningful privacy protections, including commitments about limiting collection/retention and addressing the NSA program, but instead we were given only these weak commitments.”

During Implementation

Do you know the government contacts for this commitment?

Mostly

The primary government lead appears to be PCLOB, based upon earlier meetings and their semi-annual report. We were informed that the OMB Privacy Advisor was also a government lead, but he has stated that is not the case. We have not been in contact in some months with leads from any individual agencies or departments.

Have you met or corresponded with the government leads on this commitment in the past 6 months?

Please also explain how many meetings/how frequently you corresponded.

Total: two meetings, one phone call, and several email exchanges.

In early June 2015, we submitted our proposals for the third National Action Plan to OSTP, which included a proposal (copied above) to follow up on and complete this commitment. In late June, we followed up with a list of our priorities for the third NAP, which included the proposal regarding this commitment. In July, civil society engaged on both the privacy and the surveillance commitments and met with multiple government leads to discuss those commitments. The meeting ultimately did not focus in detail on the privacy commitment, in part because the most current version of civil society’s model plan had not been circulated to the governmental representatives. However, we understood from the meeting that PCLOB was in the process of preparing guidance to the agencies regarding Section 803 reporting. After that meeting, the team working on this commitment reached out to the NAP coordinator/director at the Office of Science and Technology Policy to request a phone conversation regarding next steps, and we had a productive phone call. In addition, after we asked for feedback regarding progress on this commitment, the OSTP point of contact helped facilitate a meeting with the new privacy advisor at OMB in October.

- a. **If yes, who initiated the contact—civil society or the government leads?**
Both
- b. **Were the persons with whom you met knowledgeable about the issues?**
Somewhat knowledgeable
- c. **Were the persons with whom you met able to influence agency decision?**
Not sure

Did the meetings foster meaningful collaboration, and were you satisfied with the feedback you received in response to your input?

With respect to the above – whether the persons with whom we met were able to influence to agency decision – it seemed that we met with at least some people who **could** influence agency decisions, but it was not clear whether they were actually inclined to influence agency decisions or did so.

With respect to fostering meaningful collaboration, our experience was mixed. We very much appreciated that the government leads, both at OSTP and at the departments and agencies, made the time to meet with civil society representatives in June, and that the OMB privacy advisor took the time to meet with our smaller team in October. We believe that there was a genuine desire to collaborate, to provide information where possible, and to solicit information from civil society. Among other things, it was very helpful to learn of PCLOB's efforts to make Section 803 reports more substantive and meaningful.

At the same time, we cannot say that the meetings consistently fostered meaningful collaboration or that we were regularly satisfied by the feedback we received. The most basic illustration of this is that it is still not clear to us, several years into the process, precisely how this commitment is moving forward. Relatedly, the point of contact has also been something of a moving target, and we have gotten little feedback on our requests regarding the more substantive aspects of this commitment. For instance, after our phone conversation with the OSTP representative, which was productive and cordial, we asked for a phone call or meeting to learn more about the government's progress on this commitment (as well as several matters related to our proposals for the third NAP). In response, a meeting was set up with the OMB privacy advisor, who ultimately seemed not to be focusing on these issues. We were subsequently advised that he was – but he then responded (very recently) that he is not. As a result, six months later, we still have not learned anything of significance regarding movement on this commitment.

We understand – and are pleased – that PCLOB still has this issue on its (very busy) docket, and we look forward to learning more in its next report (or sooner). We also understand that other commitments may be pressing and that the OMB privacy advisor is a recent addition and is getting up to speed on a number of issues and setting his own priorities. Nevertheless, we cannot honestly represent that we have had meaningful collaboration with or received significantly satisfactory feedback from government leads – at OMB, OSTP or the agencies. That may well be because there is no clear government point-of-contact on this commitment – PCLOB aside (see above) – but if so that problem needs to be fixed. In addition, it seems unsustainable for PCLOB to bear the entire weight of this multi-agency commitment, particularly if there is not buy-in from the agencies themselves.

Commitment: Publish Best Practices and Metrics for Public Participation

- Publish best practices and metrics for public participation

Team Lead(s):

Tina Nabatchi, Program for the Advancement of Research on Conflict and Collaboration, Maxwell School of Syracuse University

Matt Leighninger, Public Agenda, Deliberative Democracy Consortium

Commitment Evaluation

How would you rate the potential impact of this commitment?

Transformative

Please elaborate: If fully implemented, would it lead to significant/transformational open government advances?

Yes, if fully implemented, the publication of best practices and metrics could substantively change the way the government engages in public participation. Such action would not only help government officials become more aware about the potential of public participation but would also clarify the scope of their authority to engage in various forms of participation, promote the use of better participation (i.e., thick and/or thin approaches as opposed to conventional approaches), and enable them to better evaluate participatory activities to understand what works where, when, why, and how.

How would you rate the progress made on the implementation of this commitment?

Limited

Please identify each sub commitment and explain where there has or has not been tangible progress made on this commitment.

The Administration has released The Public Participation Playbook, which represents a limited first step toward progress. However, no further steps have been taken. In fact, the Administration requested input from civil society stakeholders and other leaders on the Playbook, but then apparently did not incorporate any of those ideas.

What do you think are the reasons for the level of completion of the commitment?

The commitment is extremely complicated given the breadth and variety of agency actions and interactions with the public. The Administration seems to think of participation almost exclusively as a “thin” activity aimed primarily at informing the public rather than giving citizens meaningful opportunities to take part in decision-making or problem-solving. As a consequence, progress to advance best practices and develop metrics has been limited.

Does the NAP 3 (or any other ongoing reforms) continue or improve upon this initiative?

Yes. NAP 3 has several new commitments that have the potential to improve public participation initiatives.

What are the next steps the government should take to ensure the sustainability of this initiative?

Please elaborate on recommendations that you would like to see implemented that were not completed as part of this commitment.

- Representatives of the Administration should clarify what they mean by “public participation” and what they consider the potential benefits of participation.
- Representatives of the Administration should clarify the rules and regulations governing public participation so that agency officials better understand what is (and is not) authorized.
- If the Administration wants to carry through on the President’s campaign language about “giving Americans the chance to participate in government deliberations and decision making,” representatives of the Administration should help create meaningful opportunities for that to happen.
- The Administration should produce a new edition of the Public Participation Playbook that helps federal agencies think through their participation goals, consider a range of strategies and tactics, and develop long-term participation plans for connecting with their constituencies and tapping into the full potential of Americans as citizens and problem-solvers.

Collaboration with Civil Society

During Development

How would you rate the consultation process during the development of the NAP, based on the OGP guidelines?

Limited

Please elaborate on your rating: Feel free to address whether your recommendations were considered during the consultation process and/or incorporated in the 2nd NAP.

During Implementation

Do you know the government contacts for this commitment?

No

Have you met or corresponded with the government leads on this commitment in the past 6 months? Please also explain how many meetings/how frequently you corresponded.

No

- a. If yes, who initiated the contact—civil society or the government leads?
- b. Were the persons with whom you met knowledgeable about the issues?

I had no meetings or correspondence

c. Were the persons with whom you met able to influence agency decision?

I had no meetings or correspondence

Did the meetings foster meaningful collaboration, and were you satisfied with the feedback you received in response to your input?

As noted above, given the last minute nature of the meetings, civil society representatives were often unable to participate. Feedback was provided via occasional email communications, but it is unclear how input was used.

Commitment: Modernize Management of Government Records

- *The National Archives and Records Administration (NARA) will work with Federal agencies to implement new guidance that addresses the automated electronic management of email records, as well as the Presidential Directive to manage both permanent and temporary email records in an accessible electronic format by the end of 2016*
- *NARA will also collaborate with industry to establish voluntary data and metadata standards to make it easier for individuals to search publicly-available government records.*

Team Lead(s):

OpenTheGovernment.org

Team Members:

Nate Jones, National Security Archive

Matt Rumsey, Sunlight Foundation (at time of evaluation)

How would you rate the potential impact of this commitment?

Transformative

Please elaborate: If fully implemented, would it lead to significant/transformational open government advances?

This commitment has the potential to significantly advance government openness policies and practices by significantly improving the way agencies manage and preserve official email. The initiatives associated with this commitment – to work with federal agencies to implement new guidance for managing email, and to implement the 2011 Presidential Memorandum on Managing Government Records – are highly important. The commitment also set out important measures to help agencies meet the December 2016 deadline to have a system in place to effectively preserve and manage official email records.

How would you rate the progress made on the implementation of this commitment?

Substantial

Please identify each sub commitment and explain where there has or has not been tangible progress made on this commitment.

As part of this commitment, NARA worked with federal agencies to develop new guidance for managing email records. In August 2013, NARA introduced the Capstone approach for managing federal record emails electronically. NARA's [guidance](#) on the Capstone approach is important, as it encourages agencies to develop a rational, practical approach to email management, and ensure that email records are appropriately preserved in electronic format.

As we noted in our January 2015 progress report, NARA worked to push agencies forward and regularly discussed progress and potential roadblocks with outside stakeholders. NARA officials also worked to ensure agencies were aware of deadlines to electronically manage email as well as the benefits of adopting the Capstone approach. For example, in September 2014, NARA and OMB developed and delivered a memorandum reminding agencies about their records management responsibilities regarding email, highlighting the requirements in the Managing Government Records Directive (OMB M-12-18) for all email to be managed electronically by December 31, 2016.

In April 2015, NARA published a White Paper on the Capstone program, to further explain the process and decisions leading to the development of the General Records Schedule (GRS) for Email Managed under a Capstone Approach, and also to provide additional contextual information and detail not included in the typical appraisal report on this program.

NARA sought public comments in the development of its General Records Schedule (GRS) 6.1 on Email managed Under a Capstone Approach, and responded to public comments developed by OpenTheGovernment.org and our partners in July 2015. In September 2015, NARA issued a memorandum on newly revised portions of the GRS 6.1, with updated guidance on Capstone and answers to frequently answered questions on approaches to email records management programs.

With regards to the commitment on establishing voluntary data and metadata standards, NARA [reached out](#) to public stakeholders and issued draft guidance on metadata standards in March 2014. NARA also [publicly shared](#) drafts of its Automated Electronic Records Management Report and Plan and sought feedback from civil society before it was [issued](#) in September 2014.

What do you think are the reasons for the level of completion of the commitment?

While there has been substantial progress as a result of this commitment, we do not consider this commitment as fully complete, due to ongoing concerns about the lack of progress from some agencies on their plans to meet the requirements and 2016 deadline for email records management and preservation.

One reason for the lack of completion in the implementation in this commitment is that, despite the clear instruction from the White House directing agencies to reform their electronic records management policies and practices, some agencies have been slow (and possibly resistant) to make progress toward the 2016 deadline. Moreover, it appears that NARA does not have a clear sense of its statutory authority over agencies to enforce email records management and preservation practices in accordance with the Federal Records Act.

Does the NAP 3 (or any other ongoing reforms) continue or improve upon this initiative?

The NAP 3 continues this initiative, by including three new initiatives to: (1) increase transparency in managing email through the creation of a public dataset of positions of government officials whose email will come to NARA for permanent preservation of the Capstone approach; (2) report on agency progress in managing email; and (3) improve the records control schedule repository by seeking feedback from civil society to improve access to the data contained the repository.

What are the next steps the government should take to ensure the sustainability of this initiative?

Please elaborate on recommendations that you would like to see implemented that were not completed as part of this commitment.

As noted in our September 2015 progress report, the previously-expressed concern over lengthy timelines for implementation have been replaced for civil society with a concern that agencies are not on track to meet the 2016 deadlines. Civil society recommends that the new commitment to report on agency progress in managing email include clear bench-marks and success indicators to ensure that agencies are on track to meet the December 2016 deadline to manage both permanent and temporary email records in an accessible electronic format.

Additionally, for agencies that decline to adopt a Capstone approach, as well as those that opt for Capstone, NARA will need to monitor compliance with laws and Presidential directives requiring that emails be preserved and managed electronically. To do this, agencies not using Capstone or only partially using Capstone should be required to specify what NARA-approved disposition authorities they are using to manage email, and this information should be readily accessible to the public.

Given that NARA's latest assessment of records management programs in the federal government (released November 2015) indicates that 70% percent of agencies say they plan to implement a Capstone-type solution to email management – there is need to ensure that the remaining agencies implement a comparable initiative to ensure preservation and efficient management of email.

Collaboration with Civil Society

During Development

How would you rate the consultation process during the development of the NAP, based on the OGP guidelines?

Adequate

Please elaborate on your rating: Feel free to address whether your recommendations were considered during the consultation process and/or incorporated in the 2nd NAP.

Although there was not an official consultation process with civil society during the development phase of this commitment for the NAP 2, civil society recommendations were considered and adopted into this initiative. Many of the measures that are part of this commitment, and related policy recommendations on electronic records management, were developed by civil society and considered by NARA officials well-prior to the development of the NAP 2.

During Implementation

Do you know the government contacts for this commitment?

Yes

David Ferriero, Archivist of the United States

Paul Wester, Chief Records Officer, NARA (at time of evaluation)

Lawrence Brewer, Acting Chief Records Officer, NARA

David Stern, General Counsel, NARA

Have you met or corresponded with the government leads on this commitment in the past 6 months?

Please also explain how many meetings/how frequently you corresponded.

There have been regular meetings with government leads in charge of the implementation of this commitment, including; regular phone calls, email correspondence, and in-person meetings.

a. If yes, who initiated the contact—civil society or the government leads?

Both

b. Were the persons with whom you met knowledgeable about the issues?

Very knowledgeable

c. Were the persons with whom you met able to influence agency decision?

Yes

Did the meetings foster meaningful collaboration, and were you satisfied with the feedback you received in response to your input?

The meetings fostered meaningful collaboration, and we were generally satisfied with the feedback we received in response to our input. NARA officials responsible for the implementation of this commitment regularly accepted, considered, and often solicited recommendations from civil society as they carried out the initiatives associated with this commitment.

It is worth noting that much of the collaboration process was part of a continuous relationship between civil society and government officials, which pre-dates OGP. Therefore, it is difficult to determine which aspects of the collaborative process can be attributed to OGP, and which ones are attributable to previously established and ongoing working relationships.

Commitment: Reform Government Websites

- *Implement the Digital Government Strategy to improve Federal websites and to promote a more citizen-centered government*
- *Revise and update OMB policies for Federal Agency websites in 2014*

Team Lead(s):

Jessica McGilvray, American Library Association

Team Members:

Daniel Schuman, Demand Progress
Matt Rumsey, Sunlight Foundation (at time of evaluation)
Sean Moulton, Project On Government Oversight

Commitment Evaluation

How would you rate the potential impact of this commitment?

Moderate

Please elaborate: If fully implemented, would it lead to significant/transformational open government advances?

How would you rate the progress made on the implementation of this commitment?

Substantial

Please identify each sub commitment and explain where there has or has not been tangible progress made on this commitment.

While the OMB has listed this commitment as completed, we are still awaiting an update to the OMB policy (M-05-04). This is expected to be completed in the coming months.

What do you think are the reasons for the level of completion of the commitment?

Attention was placed on other priorities within the commitment. An example of this would be the TechFAR Handbook and the U.S. Digital Service Handbook.

Does the NAP 3 (or any other ongoing reforms) continue or improve upon this initiative?

Yes, the second initiative listed in the NAP 3 is to Increase Accessibility of Government Information Online. This initiative looks to be a positive step forward.

What are the next steps the government should take to ensure the sustainability of this initiative?

Please elaborate on recommendations that you would like to see implemented that were not completed as part of this commitment.

While we appreciate the new tools that were created in the last year, we are looking forward to the updated OMB policy (M-05-04). M-05-04 seems to be continually set aside and as a ten year old policy on federal websites, it would be great to have an update completed. The initiatives listed in the NAP 3 seem like positive steps forward to ensure sustainability. That said, given the nature of the Internet and the original Reform Government Websites initiative, the job will never truly be completed. The Internet is constantly evolving and the federal government needs to ensure that it continues to keep up with those changes and makes it as easy as possible for the public to access government information.

Collaboration with Civil Society

During Development

How would you rate the consultation process during the development of the NAP, based on the OGP guidelines?

Adequate

Please elaborate on your rating:

Feel free to address whether your recommendations were considered during the consultation process and/or incorporated in the 2nd NAP.

During Implementation

Do you know the government contacts for this commitment?

Yes.

Nicholas A. Fraser, Office of Management and Budget (OMB)

Have you met or corresponded with the government leads on this commitment in the past 6 months?

Please also explain how many meetings/how frequently you corresponded.

- a. If yes, who initiated the contact—civil society or the government leads?

Civil Society

- b. Were the persons with whom you met knowledgeable about the issues?

Very knowledgeable

- c. Were the persons with whom you met able to influence agency decision?

Yes

Did the meetings foster meaningful collaboration, and were you satisfied with the feedback you received in response to your input?

We are satisfied with the feedback and look forward to continued communication in the future. We have already been in contact with Corinna Zarek, who we will follow up with in early 2016 to begin discussion on NAP 3.

Commitment: Increase Transparency in Spending

- *Join the Global Initiative on Fiscal Transparency (GIFT)*
- *Regularly Engage with External Stakeholders*
- *Open Up Federal Spending Data*
- *Publish Additional Federal Contracting Data*
- *Provide Strategic Direction for Enhancing Fiscal Transparency*

Team Lead(s):

Sean Moulton, Project On Government Oversight

Commitment Evaluation

How would you rate the potential impact of this commitment?

Minor

Please elaborate: If fully implemented, would it lead to significant/transformational open government advances?

Most of the commitments in this area are safe, simple, and fairly vague - more regular communications, greater disclosure of spending data, etc. They are positive steps but they could easily be achieved without resulting in a transformational advance in open government. The potential for a significant impact in government activities in this area exists, but the commitments made in the Second Action Plan would not ensure we achieved that level of success.

How would you rate the progress made on the implementation of this commitment?

Limited

Please identify each sub commitment and explain where there has or has not been tangible progress made on this commitment.

- **Join GIFT**- The US Treasury Department is listed as a General Steward on the GIFT website. It isn't clear how active they have been with work groups.
- **Regularly engage with stakeholders** - The lead agencies, OMB and Treasury, have gotten better about their outreach recently. They have held periodic meetings and events at which stakeholders could get the latest information on their activities and provide feedback. Recently they started a set monthly call to inform stakeholders of current work and answer questions.
- **Open Up Federal Spending Data** - After Treasury released an "upgraded" USASpending.gov website, they moved fairly quickly to respond to complaints and criticisms. More recently they have launched a new website (openbeta.usaspending.gov) to explore variations on features and functions getting reactions from stakeholders.
- **Publish Additional Federal Contracting Data** - It is unclear if any additional contracting data has been released. The commitment is not specific but there hasn't been any significant disclosure of new contracting data
- **Provide Strategic Direction on Spending Transparency** - The commitment listed the GATB as the source of the strategic direction. However, there isn't any indication that the GATB had an impact on the administration's efforts. It is possible that such direction occurred behind the scenes but it seems that leadership on this issue has fallen to OMB and Treasury.

What do you think are the reasons for the level of completion of the commitment?

Several factors likely contribute the lack of significant change. First, passage of the DATA Act and the requirement to implement that has taken precedent over previous other commitments and plans.

Second, a great deal of uncertainty remains around the DATA Act implementation which has contributed to slower action.

Does the NAP 3 (or any other ongoing reforms) continue or improve upon this initiative?

It does. The 3rd NAP is able to make slightly more specific commitments in this area -- reimagined USASpending.gov, improve the ability to identify awardees, and link spending information with other data. These are important and needed improvements that would have greater impact on government transparency on spending. These would probably still not be transformative but they would be greater impact and would have a better chance on contributing to a transformation.

What are the next steps the government should take to ensure the sustainability of this initiative?

Please elaborate on recommendations that you would like to see implemented that were not completed as part of this commitment.

Work with agencies to get buy-in and participation. Maintain regular communication with stakeholders. Issue a timeline of milestones and any concrete deliverables that are expected. Report periodically on progress toward those milestones and explain any changes in the timeline that occurs.

Collaboration with Civil Society

During Development

How would you rate the consultation process during the development of the NAP, based on the OGP guidelines?

Adequate

Please elaborate on your rating: Feel free to address whether your recommendations were considered during the consultation process and/or incorporated in the 2nd NAP.

The leaders on this commitment have been steadily improving their communication with stakeholders. The monthly conference calls and the long running beta site could be two keys to achieving highly meaningful consultation.

During Implementation

Do you know the government contacts for this commitment?

Yes.

Christina Ho, Department of the Treasury
Karen Lee, OMB

Have you met or corresponded with the government leads on this commitment in the past 6 months? Please also explain how many meetings/how frequently you corresponded.

Yes. There have been monthly conference calls lately. There have also been some meetings around the commitment and related issues.

- a. If yes, who initiated the contact—civil society or the government leads?
Both
- b. Were the persons with whom you met knowledgeable about the issues?
Very knowledgeable
- c. Were the persons with whom you met able to influence agency decision?
Yes

Did the meetings foster meaningful collaboration, and were you satisfied with the feedback you received in response to your input?

Yes and yes.

Commitment: Increase Transparency of Foreign Intelligence Surveillance Activities

- *Share Data on the Use of National Security Legal Authorities*
- *Review and Declassify Information Regarding Foreign Intelligence Surveillance Programs*
- *Consult with Stakeholders*

Team Lead(s):

OpenTheGovernment.org

Scott Roehm, The Constitution Project

Team Members:

Liza Goitein, Brennan Center for Justice

Neema Singh Guliani, ACLU

Commitment Evaluation

How would you rate the potential impact of this commitment?

Moderate

Please elaborate: If fully implemented, would it lead to significant/transformational open government advances?

If accompanied with specific benchmarks, the measures associated with this commitment have the potential to lead to transformational advances in surveillance transparency, by leading to important disclosures on foreign intelligence surveillance activities. The commitments to release annual reports on the U.S. government's use of certain national security authorities and declassify information related to foreign intelligence surveillance programs could be interpreted as a mandate to disclose information essential to promote much-needed legal reforms. The consultation with stakeholders, similarly, could be read to mean that government officials are to take concerted steps to engage public-interest groups on

this issue – also a much-needed step to ensure government is aware of privacy and civil liberty concerns over large-scale data collection programs.

Nonetheless, the commitment lacks the specificity and detail needed to ensure transformative transparency disclosures; for this reason, we consider it as having a moderate potential impact.

How would you rate the progress made on the implementation of this commitment?

Limited

Please identify each sub commitment and explain where there has or has not been tangible progress made on this commitment.

- **Share Data on the Use of National Security Legal Authorities** – The ODNI has made relevant disclosures, such as ODNI’s June 2014 release of its annual Statistical Transparency Report, which included data on the number of orders issued and targets affected under sections of the FISA and Section 215 of the PATRIOT Act. However, the statistical report omits important information, including the total number of accounts (phone or email) affected by U.S. surveillance programs, which ODNI refuses to disclose, and any statistical information about E.O. 12333. Moreover, the ODNI has still not fully released statistical information recommended by the Privacy and Civil Liberties Oversight Board (PCLOB) as part of its oversight activities. In addition, it is difficult to navigate the ODNI statistical information that has been disclosed on orders issued and targets affected, because it lacks standards and organization. We consider the progress on this commitment to be limited.
- **Review and Declassify Information Regarding Foreign Intelligence Surveillance Programs** – ODNI has released and declassified a large number of documents and made them available on the Intelligence Community website, [IC on the Record](#). The Privacy and Civil Liberties Oversight Board’s report on Section 702 surveillance also disclosed a number of important new facts about the program, which the administration agreed to declassify at the PCLOB’s request. While these disclosures are important, there is plainly a massive amount of information that remains classified, and it is impossible to rate the relative progress of this commitment without knowing more about the amount and nature of information about foreign intelligence surveillance programs that still remains secret.
- **Consult with Stakeholders** – There has been progress made on this commitment. Intelligence officials have been willing to engage with civil society on these topics and there has been increased government engagement with civil society on both an informal and formal basis. We note, however, that the usefulness of these meetings is often limited by the overbroad or unnecessary classification of information, which inhibits an informed exchange of views. For this reason, true “consultation” is inevitably limited.

What do you think are the reasons for the level of completion of the commitment?

We acknowledge that any commitment of this nature will face the challenge of advancing initiatives that challenge a deeply ingrained culture of secrecy. Enhancing transparency on sensitive national security

programs requires a seismic cultural shift within the intelligence community. We acknowledge the enormous challenge that the government leads on this commitment face when working to implement transparency measures of this nature.

Another important reason that the measures associated with this commitment have fallen short of expectations could be attributed to the lack of specifics and benchmarks regarding the type and/or amount of information subject to disclosure under this commitment. In our January 2015 progress report, we noted that this commitment was developed prior to the President's Review Group's NSA report or the PCLOB's reports on Section 215 and Section 702 surveillance, and prior to the President's January 17, 2014 policy directive. Perhaps because of this, the two sub-commitments relating to increased disclosure lack specificity about the information to be disclosed, and therefore lack the forcing mechanism needed for adequate disclosures. In theory, the administration could honor these commitments by declassifying and releasing a single statistic or document – a clear sign that the commitments do not make sufficiently specific demands.

Does the NAP 3 (or any other ongoing reforms) continue or improve upon this initiative?

The NAP 3 includes commitments that continue and improve on this initiative. The measures include publishing an Open Government Plan for the Intelligence Community (which importantly includes calling on agencies to describe their governance frameworks, supported with appropriate releases of corresponding legal and policy documents), expanding and improving public electronic access to information about the IC, and taking steps to reinforce the principle that the IC workforce can and should raise concerns through appropriate mechanisms. It also includes a commitment to develop a structure for engagement with civil society, which is already underway, and has the important potential to ensure that collaboration with openness groups continues into the next Administration. However, similar to prior NAPs, NAP 3 still lacks specificity regarding the types and amounts of information to be disclosed, which may lead to the same deficiencies as NAP 2.

What are the next steps the government should take to ensure the sustainability of this initiative?

Please elaborate on recommendations that you would like to see implemented that were not completed as part of this commitment.

Acknowledging the important disclosures noted above, there is still a pressing need for more data about ongoing surveillance programs and transparency about what has and has not been declassified. This includes, but is not limited to, information on:

- How surveillance under Executive 12333 functions (very little has been made public about surveillance under this order).
- The scope of “incidental” or “inadvertent” collection of Americans’ information under Executive 12333 and Section 702.
- Foreign Intelligence Surveillance Court opinions, Office of Legal Counsel opinions, and agencies’ General Counsels’ interpretations of the laws governing surveillance, which constitute the “working law” of the executive branch.

- How other parts of the intelligence community, particularly the FBI, use the data collected by the NSA.

In order to encourage the prompt disclosure of the information outlined above, the Administration must develop specific measures and more concrete benchmarks in order to continue and expand on the initiatives underway as part of the NAP 2 and NAP 3 commitments. In addition, the Administration should fully and promptly implement the transparency recommendations that have been made by PCLOB.

Collaboration with Civil Society

During Development

How would you rate the consultation process during the development of the NAP, based on the OGP guidelines?

Limited

Please elaborate on your rating: Feel free to address whether your recommendations were considered during the consultation process and/or incorporated in the 2nd NAP.

During, and prior to, the development of this commitment there was regular government engagement with civil society on the issue of surveillance transparency. Although the Administration did incorporate aspects from the recommendations developed by civil society on the disclosure of information on national security legal authorities and foreign intelligence surveillance activities, there was no official consultation process and no direct feedback provided during the development phase of this commitment.

During Implementation

Do you know the government contacts for this commitment?

Yes.

Alex Joel, Privacy Officer, Office of the Director of National Intelligence

Ari Schwartz, Senior Director for Cybersecurity, National Security Council Staff (at time of evaluation)

Rebecca Richards, Civil Liberties and Privacy Officer, National Security Agency

Have you met or corresponded with the government leads on this commitment in the past 6 months? Please also explain how many meetings/how frequently you corresponded.

There has been regular government engagement with civil society over the course of the implementation of this commitment, on both a formal and informal basis. Over the last six months, civil society has met with Alex Joel to discuss measures associated with the NAP 2 commitments as well as other issues, including plans for organizing the structural engagement with members of the IC and civil society. However, even as there was regular engagement on the implementation of the NAP 2 commitments, we were disappointed that there was no opportunity for a consultation process during the development phase of the NAP 3 commitments.

- a. If yes, who initiated the contact—civil society or the government leads?
Both
- b. Were the persons with whom you met knowledgeable about the issues?
Very knowledgeable
- c. Were the persons with whom you met able to influence agency decision?
Not sure

Did the meetings foster meaningful collaboration, and were you satisfied with the feedback you received in response to your input?

At times, engagement with government on the measures associated with this commitment has been useful and productive, with officials willing to engage and to provide information on unclassified matters. However, the usefulness of this engagement is limited by the amount of information that is classified (often unnecessarily, in our view). Moreover, too often, there is input from civil society without sufficient response from government. In many cases, NGO's have made specific transparency requests and received no indication on what is being considered.

Additionally, in some instances, meetings have not been as effective as they could be because the right officials were not there and/or were not prepared to discuss recommendations or questions we submitted in advance. This was notably the case with the consultation process on the development of the NAP 3 commitments on surveillance transparency.

Commitment: Strengthen and Expand Whistleblower Protections for Government Personnel

- *Mandate Participation in the Office of Special Counsel Whistleblower Certification Program*
- *Implement the Presidential Directive on Protecting Whistleblowers*
- *Advocate for Legislation to Expand Whistleblower Protections*
- *Explore Executive Authority to Expand Whistleblower Protections if Congress Does Not Act*

Team Lead(s):

Shanna Devine, Government Accountability Project
Liz Hempowicz, Project on Government Oversight

Team Member(s):

Tom Devine, Government Accountability Project

Commitment Evaluation

How would you rate the potential impact of this commitment?

Transformative

Please elaborate: If fully implemented, would it lead to significant/transformative open government advances?

If this commitment and its subcomponents were fully implemented then they could have the potential for transformative change. Full implementation would require: 100% agency completion rate in OSC's 2302(c) certification program; improvements to PPD-19 in order to ensure independent due process procedures and training amongst all government and contractor personnel; active support from the Administration on whistleblower legislation, including supportive Statements of Administration Policies; regular executive action to expand whistleblower protections when Congress does not act.

How would you rate the progress made on the implementation of this commitment?

Limited

Please identify each sub commitment and explain where there has or has not been tangible progress made on this commitment.

- Mandate Participation in the Office of Special Counsel Whistleblower Certification Program – Notwithstanding OSC's efforts, by the end of 2015 the OSC predicted a mere 10% completion rate. Currently there are no penalties for non-participation, and OSC does not have the capacity to ensure the necessary participation rate. Agencies that have taken special advantage of the certification program deserve recognition. This is not an exhaustive list, but notable agencies include DOJ OIG, SSA OIG, USDA OIG, and HUD.
- Implement the Presidential Directive on Protecting Whistleblowers – We understand that ODNI has made concerted efforts to conduct an extensive training program, which was expanded to a small number of contractor locations as well. Due to limited tracking capacity, we were unable to estimate the number or percentage of workers that have completed the training, however, so it is difficult to know the full extent of progress on this commitment. We also have not been able to review the training materials in order to assess their effectiveness. Lastly, in order for the adjudication process to be truly independent, we would recommend a review panel/board housed outside of the intelligence community. Currently employees must appeal to a board determined by the ODNI that consists of IGs from within the IC.
- Advocate for Legislation to Expand Whistleblower Protections – To our knowledge the Administration has not made any progress on this commitment, despite numerous meetings and requests from civil society to weigh in on significant legislation throughout the 113th and 114th Congress.
- Explore Executive Authority to Expand Whistleblower Protections if Congress Does Not Act - To our knowledge the Administration has not made any progress on this commitment.

What do you think are the reasons for the level of completion of the commitment?

As discussed above, the slow progress for subcommitments 1 & 2 are in part likely due to limited capacity, however, we cannot identify any defensible reason for the lack of progress on subcommitment 3 & 4. Our opinions for the lack of progress would be speculative at this stage, given the lack of communication by the Administration on those commitments.

Does the NAP 3 (or any other ongoing reforms) continue or improve upon this initiative?

The NAP 3 commitments are in some respects a continuation of subcommitments 1 & 2. Specifically, they include: Develop a Common Training Program on Whistleblowing Rights and Duties by the ODNI; Improve the Adjudication Process for Reprisal Claims by Department of Justice Employees; Oversee Compliance with the Presidential Directive on Protecting Whistleblowers.

What are the next steps the government should take to ensure the sustainability of this initiative?

Please elaborate on recommendations that you would like to see implemented that were not completed as part of this commitment.

Next steps should include: Incentives or penalties to ensure 100% agency completion rate in OSC's 2302(c) certification program; improvements to PPD-19 in order to ensure independent due process procedures and training amongst all government and contractor personnel; active support from the Administration on whistleblower legislation, including supportive Statements of Administration Policies for key legislation such as S. 794 (to close the IC contractor loophole); regular executive action to expand whistleblower protections when Congress does not act.

Collaboration with Civil Society

During Development

How would you rate the consultation process during the development of the NAP, based on the OGP guidelines?

Limited

Please elaborate on your rating: Feel free to address whether your recommendations were considered during the consultation process and/or incorporated in the 2nd NAP.

A core group of whistleblower advocacy, union, and good government groups met with the administration one two occasions before the development of the NAP 2.0. We shared our model commitments; however, our community's top priorities were not included in the NAP.

During Implementation

Do you know the government contacts for this commitment?

Yes & No. For a period of time Cori Zarek (OSTP) was the temporary contact, and then it became Lynn Eisenberg (White House Counsel's office) and it may have transitioned to Beverley Lumpkin (DOJ) in 2015.

Have you met or corresponded with the government leads on this commitment in the past 6 months?

Please also explain how many meetings/how frequently you corresponded.

Yes, we met with Beverley and Cori in July to discuss the status of NAP 2.0 and to share our model commitment recommendations for NAP 3.0

a. If yes, who initiated the contact—civil society or the government leads?

Both.

b. Were the persons with whom you met knowledgeable about the issues?

Somewhat knowledgeable.

c. Were the persons with whom you met able to influence agency decision?

Not sure.

Did the meetings foster meaningful collaboration, and were you satisfied with the feedback you received in response to your input?

Although we felt heard and appreciated in the exchange with the meeting participants, our input has not translated into substantive improvements to the NAP commitments or implementation process. We would like to acknowledge the efforts that individual agencies are putting into the whistleblower education and training dimension of the NAP. The DOJ OIG, under Michael Horowitz and Rob Storch's leadership, has collaborated closely with civil society to provide training to the Whistleblower Protection Ombudsman Work Group and to provide feedback on its own training program, including contractor whistleblower protections. In addition, under Dan Meyer's leadership, we have witnessed a good faith effort by the ODNI to implement a robust PPD-19 training program.

Additional Commitment

Commitment: Promote Open Education to Increase Awareness and Engagement

- *Raise open education awareness and identify new partnerships*
- *Pilot new models for using open educational resources to support learning*
- *Launch an online skills academy*

Team Lead(s):

Nicole Allen, SPARC

Commitment Evaluation

How would you rate the potential impact of this commitment?

Moderate

Please elaborate: If fully implemented, would it lead to significant/transformational open government advances?

This commitment was a major step forward because it established Open Education as a new area of focus for Open Government efforts. The U.S. was the first country to explicitly recognize the opportunity to benefit citizens through promoting more openness in education: one of the most critical public services offered by government. While the specific actions committed in the plan are relatively small in scale, the commitment provides a clear and unqualified statement of support for Open Education, which sent – for the first time – a powerful signal to institutions within government and civil society that the U.S. is behind this idea.

How would you rate the progress made on the implementation of this commitment?

Substantial

Please identify each sub commitment and explain where there has or has not been tangible progress made on this commitment.

- **Raise open education awareness and identify new partnerships:** Complete. The responsible agencies organized not only one, but two, workshops on challenges and opportunities in open education internationally. One was organized in New York around the time of the UN General Assembly, and the other in Mexico City during the 2015 OGP Summit. Both engaged a wide group of stakeholders and international representatives. There are plans to follow up after the workshop to further promote resources and connections.
- **Pilot new models for using open educational resources to support learning:** Complete. The Department of State successfully ran its three pilot programs, and compiled an excellent public summary here http://eca.state.gov/files/bureau/state_dept_pilots_use_cases_oer.pdf which they proactively shared with civil society.
- **Launch an online skills academy:** Limited progress. The only visible progress made on this commitment was a “listening session” held by the Department of Labor in early 2015, where they gathered input from the public on the design of the program. Our understanding is that DOL was going to develop the online skills academy courses through a competitive grant program, but no call for proposals has been issued and no money has been awarded. There may be additional progress behind the scenes, but the message we sent to the project contact listed on DOL’s website went unanswered.

What do you think are the reasons for the level of completion of the commitment?

- **Raise open education awareness and identify new partnerships:** This sub-commitment was the simplest of the three to complete in terms of resources and planning. Still, the responsible agencies did a great job of leveraging resources from civil society to help plan and run the events, which contributed to their success.
- **Pilot new models for using open educational resources to support learning:** From our view, this commitment was successful because the team charged with running this commitment at State was very committed and knowledgeable, and were strategic in identifying opportunities to make existing programs more open and build open education into State’s existing work.

- **Launch an online skills academy:** This sub-commitment is the most substantial of the three, and requires a significant amount of work in a relatively short period of time. Some degree of incompleteness would have been understandable – for example, if the courses were under development but not yet complete – but as far as we can tell the work has not even started.

Does the NAP 3 (or any other ongoing reforms) continue or improve upon this initiative?

Yes, NAP 3 includes a more generic but still strong commitment relating to Open Education, entitled “Expand Access to Educational Resources through Open Licensing and Technology.” The plan commits to continue promoting conversation among stakeholders and producing tools and best practices, and to make more federally funded educational resources openly licensed to the public. This broadens the scope of the initiative, but does not set specific benchmarks by which to measure success.

What are the next steps the government should take to ensure the sustainability of this initiative?

Please elaborate on recommendations that you would like to see implemented that were not completed as part of this commitment.

- Complete the commitment to develop the Online Skills Academy.
- Expand open education programs abroad based on lessons learned from pilots.
- Expand activities to raise awareness beyond closed-door events, to include public communications about Open Education in speeches, blog posts, and resources.

Collaboration with Civil Society

During Development

How would you rate the consultation process during the development of the NAP, based on the OGP guidelines?

Adequate

Please elaborate on your rating: Feel free to address whether your recommendations were considered during the consultation process and/or incorporated in the 2nd NAP.

This commitment was developed on a very short timeline, and the government did a good job organizing consultation given the circumstances (we were in mutual agreement that a quickly developed commitment was better than no commitment at all). Consultation with civil society consisted of a stakeholder meeting hosted by OSTP where we brainstormed ideas, and targeted follow up with participants in this meeting as the text was developed. While civil society would have pushed for a larger and more comprehensive commitment if we had had more time, we did feel that our input and ideas were considered in the final version.

During Implementation

Do you know the government contacts for this commitment?

Yes.

Paul Kruchoski and Jennryn Wetzler, Department of State
Sara Trettin, Department of Education
Dipayan Ghosh, Office of Science Technology & Policy
Sharon Leu (until she left mid-2015, after that no contact known), Department of Labor

**Have you met or corresponded with the government leads on this commitment in the past 6 months?
Please also explain how many meetings/how frequently you corresponded.**

- a. **If yes, who initiated the contact—civil society or the government leads?**
Both
- b. **Were the persons with whom you met knowledgeable about the issues?**
Very knowledgeable
- c. **Were the persons with whom you met able to influence agency decision?**
Yes

Did the meetings foster meaningful collaboration, and were you satisfied with the feedback you received in response to your input?

Yes, all of the government contacts were extremely engaged, and always open to conversation and collaboration. And it was genuine – they did not work with us out of obligation, but out of a true recognition that civil society could make a valuable contribution in fulfilling these commitments. We could not be more grateful for the hard work and friendship of our government contacts.

Appendix A: OGP Guidelines on Civil Society Consultations

- **Availability of timeline:** Countries are to make the details of their public consultation process and timeline available (online at minimum) prior to the consultation.
- **Adequate notice:** Countries are to consult the population with sufficient forewarning. Many countries have chosen to share written drafts two weeks before the official start of consultation to allow stakeholders to organize themselves.
- **Awareness raising:** Countries are to undertake OGP awareness raising activities to enhance public participation in the consultation.
- **Multiple channels:** Countries are to consult through a variety of mechanisms—including online and through in-person meetings—to ensure the accessibility of opportunities for citizens to engage.
- **Breadth of consultation:** Countries are to consult widely with the national community, including civil society and the private sector, and to seek out a diverse range of views.
- **Documentation and feedback:** Countries are to make a summary of the public consultation and all individual written comment submissions available online.
- **Consultation during implementation:** Countries are to identify a forum to enable regular multi-stakeholder consultation on OGP implementation—this can be an existing entity or a new one.