

OPENTHEGOVERNMENT.ORG

Americans for Less Secrecy, More Democracy



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Patrice McDermott
Director

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Coalition Activities 21 April – 20 July 2010

Advance the right-to-know at the federal and state levels through legislative and other vehicles/ Strengthen coordination and engagement of organizations currently working on right to know and anti-secrecy issues

OTG engages in a variety of campaigns initiated by coalition staff, and by other partners themselves. Most of what the staff does is in coordination with partners and with others outside the coalition. We are regularly asked to coordinate other groups and to identify possible partners for campaigns.

Promote and Sustain Openness and Transparency/ Promote a Culture of Openness in Government

Open Government Directive/Open Government Plans

We created [Open Government Plans Audit](http://sites.google.com/site/opengovtplans/) (<http://sites.google.com/site/opengovtplans/>) as the "virtual home" of a project organized by [OpenTheGovernment.org](http://www.openthegovernment.org) to evaluate federal agency's progress towards fulfilling President Obama's [commitment](#) to "creating an unprecedented level of openness in Government" in order to "strengthen our democracy and promote efficiency and effectiveness in Government."

The ongoing contributors to this project-- American Association of Law Libraries, American Library Association, Center for Democracy and Technology, Citizens for Responsibility and Ethics in Washington, OMB Watch, OpenTheGovernment.org, POGO (Project On Government Oversight), Union of Concerned Scientists, faculty and students at the University of Maryland College of Information Studies, and volunteers Giovanni Piazza, Digital Strategist and Knowledge Executive, and Ted Smith (Health Central, for identification purposes only – are a group of volunteers with experience working with agencies and evaluating information policies drawn from nonprofit groups, academia, and other organizations that serve the public interest. The evaluators launched this effort by conducting an [audit](#) of the Open Government Plans agencies were required to develop under the [Open Government Directive](#) (OGD) by April 7, 2010. Agencies have been encouraged by the administration to continue to update and improve these plans, and many have already released new versions. Many of the agencies expressed a desire for more guidance on their revisions and reached out to the evaluators on how to better meet the specifications in the OGD in their plans. We hope and anticipate this collaboration will pay dividends in the improvements in the plans, as well as helping the agencies to implement the OGD.

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Updated plans were produced by a wide-range of agencies: from all five agencies that produced plans evaluated by the audit as the “weakest” to five of the eight plans evaluated as the “strongest.” Also, four agencies that were not required to produce plans submitted revisions. We have re-visited these updated plans and issued new evaluations.

Even when all agencies meet the minimal requirements identified in the OGD for the Open Government Plans, more needs to be done to improve openness in government. First and foremost, the public must be assured that they can obtain certain information consistently across government, regardless of which agency website they visit. The outside government openness community is putting the final touches on a process for describing minimal elements that should be part of an [open government floor](#).

In late June, we met with Norm Eisen about beginning work on the next phase of open government and he invited us to attend a meeting of the Open Government Working Group on June 30th (subsequently moved to July 6). At his request, we sent an Open Letter to the Administration which noted that

The important work of Open Government is about to enter a new and critical phase. OpenTheGovernment.org and the many evaluators who volunteered to review the Open Government Plans submitted in April commend the many agencies that worked to submit and to revise plans that embrace true transparency, participation and collaboration. We have been heartened by the level of interest in individual agencies to responding to areas of weaknesses in individual plans identified by our initial audit, and we look forward to working with agencies as they move from the planning stage to the even more important implementation of Open Government.

In preparation for the evaluation of Open Government implementation, we believe that independent Open Government advocates will continue to play important roles in objectively guiding and responding to Administration efforts. To this end, OpenTheGovernment.org and the independent evaluation effort it organizes will offer an initial draft set of metrics and leading practices for discussion in the upcoming June 30, 2010 meeting with agency Open Government leaders.

The metrics we share are intended to help the public look objectively at the progress each agency is making against not only its stated plan – but also progress against basic governmentwide levels of disclosure and reporting that we call the Openness Floor (attached). We also want to encourage agencies, beyond their plans, to strive toward the “leading practices” (attached) identified by agency Open Government leaders.

We hope that our independent perspective and active membership are viewed as valuable complements to continuing internal evaluations by the agencies and the Administration. While maintaining our independence, we recognize that communication is essential to this process. We intend to join the meeting on the 30th to share and listen so that we commonly develop a direction that informs clear, accountable action during this next phase of Open Government.

Many of the evaluators attended the meeting. Patrice discussed our plans and introduced Ted Smith (Armstrong Institute for Interactive Media Studies), who presented an overview (attached) of our thoughts toward evaluation of implementation. The overview was developed by Ted in collaboration with John Bertot (Professor, Director of the Center for Library and Information Innovation, U of MD College of Information Studies) and OpenTheGov staff.

Our project to date received praise – and thanks for our “free labor” -- from Aneesh Chopra (OMB E-Gov), Mike Fitzpatrick (OIRA), and Norm Eisen, each of whom expressed a desire to continue working with us.

Ensure Electronic Records are Preserved and Managed to Protect Accountability and History

In recent years the coalition has provided leadership, especially regarding legislative and regulatory reforms to improve electronic records management. After many years of raising the issue of electronic records with Administration officials and others, OTG has identified and cultivated ties to allies in the current Administration and the National Archives and Records Administration who understand the necessity of tackling the issue.

OTG has developed a strong working relationship with Norm Eisen, Special Counsel to the President for Ethics and Government Reform, who has asked the coalition to identify areas of disagreement between privacy and openness communities on the issues, and work to develop consensus recommendations. OTG staff spoke with key allies in this area and conveyed what we learned to Mr. Eisen.

The new Archivist of the United States has also shown a keen interest in moving NARA into a leadership position on the issue. OTG has played a coordinating role in setting up regular meetings with the Archivist, and keeping in regular contact with allies on NARA staff.

NARA instituted a Records Management Self-Assessment that agencies were required to do earlier this year and has reported to our community on their findings. We consider this a major step forward, impelled at least in part by the ceaseless criticism of NARA on this issue by OTG and partners.

Embed Freedom of Information Act (FOIA) Reform

OTG’s Director and others have met several times with DOJ officials to discuss suggestions for improving FOIA processing, agency compliance with Attorney General Holder's FOIA guidance, and DOJ’s open government plans and initiatives, including the Dashboard.

OTG has served a central role in facilitating discussion and work with the new Office of Government Information Services, which is tasked with mediating disputes between FOIA requesters and Federal agencies, reviewing policies and procedures of administrative agencies under FOIA, reviewing agency compliance with FOIA, and recommending policy changes to the Congress and President to improve the administration of FOIA. The coalition staff, several of our coalition partners, and others meet regularly with OGIS staff, and we maintain a listserv that allows our community and OGIS staff to keep each other apprised of issues.

Earlier this year, OTG coordinated a letter signed by more than 40 organizations urging the Intelligence Committee chairs and ranking members to exclude from the conferenced Intelligence Reauthorization bill a provision that would exempt “terrorist identity information” (TII) from the Freedom of Information Act. OpenTheGovernment.org and our coalition partners worked with our allies in Congress to keep the (b)(3) out of the Senate-passed version, but it was included in the House-passed one. In June, we learned that we had succeeded. The Conferees on the Intelligence Reauthorization bill agreed to exclude a provision that would exempt terrorist identity information (TII) information from FOIA from

the final bill. This is a great victory; however, we understand that a similar provision may be tucked into the FY 2011 Intelligence appropriations bill, so we will maintain our vigilance.

The Director worked very closely with congressional staff to remove (b)(3) exemptions in the financial regulatory reform bill, and brought the congressional staff together with several organizations that work on whistleblower issues to ensure that efforts to protect confidentiality and privacy did not result in new FOIA exemptions.

The Director has had several conversations with Norm Eisen about the lack of progress on FOIA improvements.

Chart a New Course on Secrecy/ Secrecy Rules

OTG continues to play a lead and a coordinating role in the openness community's response into the executive order on Controlled Unclassified Information that is being developed in the Administration. Our community has had several meetings with NSC staff, with the ISOO director, and 2 meetings with Norm Eisen at the White House. We are also talking with congressional staff to explore what may need to be done legislatively.

In other work in this area, OpenTheGovernment.org organized a [letter](#) to the Secretary of Defense from more than a dozen public interest organizations and professional societies thanking him for promoting increased transparency in nuclear weapons policy. The letter points out that the Secretary's decision to publish the Nuclear Posture Review Report in an entirely unclassified format and the disclosure of the size of the U.S. nuclear stockpile may not resolve the continuing debate over the future of nuclear weapons policy, but it will enable it to proceed on a more informed basis.

After the House and the Senate named Conferees to reconcile differences between the financial regulation legislation passed by each body, OpenTheGovernment.org and our coalition partners sent a [letter](#) urging them to ensure that the final version does not unnecessarily limit public access to critical information about financial fraud or harm whistleblowers.

OpenTheGovernment.org organized a [letter](#) to President Obama in late May urging him to give the public access to all monitoring data related to the oil leak in the Gulf of Mexico. The letter stresses that the Administration should affirmatively disclose all monitoring data of the leak, in the interest of meeting the President's commitment on his first full day in office to "disclose information rapidly in forms that the public can readily find and use," and his Administration's subsequent statements, policies and directives encouraging the executive branch to give the public prompt access to information that is not required to be withheld, even if there are permissive exemptions, the Administration should affirmatively disclose all monitoring data of the leak.

OpenTheGovernment.org organized a [letter](#) in May to the Chairman of the Senate Banking Committee, Senator Chris Dodd (D-CT), asking him to support Senator Patrick Leahy's (D-VT) amendment to the financial regulatory bill that would ensure the public's access to whistleblower disclosures on financial fraud. The letter notes that, unless amended, the bill will bar the public from accessing information provided by whistleblowers if the Securities and Exchange Commission (SEC) and the Commodity Futures Trading Commission (CFTC) decide not to act on it, and would prevent the whistleblower from accessing the information in order to establish a retaliation claim.

Broaden the base of national, state and local organizations active on right to know and anti-secrecy issues.

In May, OTG staff attended the National Freedom of Information Coalition annual meeting in Arlington, VA.

We circulated our letters and those of partners to our coalition partners and other organizations with which we regularly work. Letters circulated on behalf of other organizations included:

In May, a [letter](#) organized the Union of Concerned Scientists supporting efforts to bring back the Office of Technology Assessment.

A [letter](#) organized by the Center for Democracy and Technology (CDT) outlining concerns with S. 3480, the Protecting Cyberspace as a National Asset Act of 2010, including concerns that the proposal does not ensure the same amount of transparency about cybersecurity activities as other proposals, and recommending that, in addition to discussing other reporting requirements with the groups, the legislation should clarify that reports to Congress must be made available to the public. See the response from the Senate Committee on Homeland Security and Governmental Affairs [here](#).

The Sunlight Foundation organized a [letter](#) in June urging Members of Congress to co-sponsor the Earmark Transparency Act (S. 3335/ H.R. 5258). The bill would require Congress to create an online, searchable database for all earmark requests. Over 20 organizations, including OpenTheGovernment.org and several other coalition partners signed on in support.

Also in June, the Project On Government Oversight (POGO) organized a [letter](#) to the Chair and Ranking Members of the House and Senate Committee on Appropriations urging them to support an amendment to H.R. 4899, the Supplemental Disaster Relief and Summer Jobs Act of 2010 that would open the government's new contractor integrity and performance database, the Federal Awardee Performance and Integrity Information System (FAPIS) to the public. The letter included OpenTheGovernment.org and several other coalition partners.

OTG has continue to play a role coordinating a campaign to reform the state secrets privilege, but the issue seems to have stalled in Congress.

We continue to look for ways to expand our base, given the federal focus of the coalition and the resources of the staff.

Raise awareness of openness and secrecy efforts.

We continue to put out the bi-weekly Updates and talk regularly to journalists. Amy Bennett appeared on [News Channel 8](#), and we gave several radio interviews on the Open Government Plans audit.

We are continuing to work with a web designer and information architecture specialist to make our web site more informative, usable, and lively.

The staff of OTG continue to pursue opportunities to work with new media to educate them on openness and secrecy and to learn how to convey our message to and through them.

Patrice McDermott has three articles forthcoming, in *Government Information Quarterly*, *Research in Social Problems and Public Policy*, and in *Oregon Library Association Quarterly*.

OpenTheGovernment.org in the News – April 21-July 20 2010

[Activist Archivist: Open-government advocates sees the new National Archives chief as a breath of fresh air.](#)

[*National Journal*, July 10, 2010
(subscription req'd)]

[Open-gov reviews devalue social media](#)

[*Federal Computer Week*, July 8, 2010]

[Open government plans updated, criticized](#)

[*Federal Computer Week*, July 1, 2010]

Commentary: [Four differences between Twinkies and open-government plans](#)

[*Federal Computer Week: FCW Challenge*, May 17, 2010]

[Open government audit: agencies straddle the Mendoza line in meeting OGD goals](#)

[*FreeGovInfo*, May 17, 2010]

[Groups Urge Lawmakers to Ensure Public Access to Whistleblower Disclosures on Financial Fraud](#)

[*POGO Blog*, May 11, 2010]

[Gov 2.0 Week in Review](#)

[*O'Reilly Radar*, May 7, 2010]

[An open-source system for the VA is the next logical step](#)

[*NetworkWorld*, May 7, 2010]

[Open government plans mostly mediocre, says watchdog](#)

[*FierceGovIT*, May 5, 2010]

[Groups Thank SECDEF for Unclassified NPR, Stockpile Data](#)

[*Secrecy News*, May 5, 2010; see also [Size of Nuclear Stockpile to be Disclosed](#)]

[Agencies struggle to meet Obama's Open Government Directive](#)

[*ComputerWorld*, May 4, 2010]

[OMB Gets Low Marks On Transparency](#)

[*Information Week*, May 4, 2010]

[Audit: Agency Open Government Plans vary widely](#)

[*Federal News Radio*, May 4, 2010]

[Agencies' transparency plans need improvement, groups say](#)

[*Federal Computer Week*, May 4, 2010]

[NASA Ranks First in an Audit of Agency Open Government Plans](#)

[*The FOI Advocate*, May 4, 2010]

[Agency that initiated open gov process ranks near last in open gov study](#)

[*The Hill*, May 3, 2010]

[Are Federal Agencies Open? Audit Gives Mixed Grades](#)

[*ProPublica*, May 3, 2010]

[Even the 'worst' open government plans include open source](#)

[*NetworkWorld*, May 3, 2010]

- [Group gives most open government plans mediocre marks](#)

[*NextGov*, May 3, 2010]

- [Audit Reveals Wide Variation In Agency Open Government Plans](#)

[*National Coalition for History*, May 3, 2010]

- [Next Slide, Please: Military's PowerPoint addiction could be a bad habit for archivists](#)

[*Columbia Journalism Review*, April 26, 2010]