

## A Quick Accounting of Accountability Information

On his first day in office, President Obama committed his administration "to creating an unprecedented level of openness in Government." The motivation the President provided for focusing on the issue was "to strengthen our democracy and promote efficiency and effectiveness in Government." Two years later, it is undeniable that the Administration has put an unprecedented amount of time and energy into making open government work: they have launched an innovative policy experiment aimed at engaging the public in government and building transparency into the way agencies operate.

One of the most visible goals of the Administration's effort has been on "democratizing" data, moving machine readable data out of agency warehouses and into a location makes it easily accessible to the large community of developers who can create multiple applications that allow for new views and public analysis. Since its launch in January 2010, Data.gov has grown from just a few data sets to well over 300,000 – with more added regularly.

Unfortunately, many open government advocates feel that in their zeal to release data, the Administration has overlooked a vast trove of information that is important to the public. OpenTheGovernment.org and many of our partners have argued that the Administration should encourage agencies to release types of information that help people understand what the government is doing and why. This information, sometimes referred to as "accountability" or "ethics" information includes items like lists of Inspectors General (IG) reports and on-line access to the non-classified ones, calendars for top agency officials, lobbying disclosure forms that can make it easier for the public to find out who federal officials are hearing from and how it is shaping their policy choices.

Most of this information, with some redaction to protect privacy and other pieces of confidential information, is available under the Freedom of Information Act (FOIA). However, the FOIA process often does not give people access in a reasonable time frame; by the time the public has the information, the policy decision is made. To give people the information they need in time to spot possible conflicts of interest and improve public trust that government officials are doing the right thing, the Administration should pro-actively release the information.

In honor of Sunshine Week, a national initiative to promote a national dialogue about the importance of open government, OpenTheGovernment.org asked volunteers to see if specific types of accountability and ethics information are available on a selected number of agencies' websites. The agencies selected for evaluation were the ten large agencies rated as having the "strongest open government plans" in an audit we produced last year (list of agencies evaluated at the end of this report; see audit here: <https://sites.google.com/site/opengovtplans/> ). Our volunteers (listed at the end of this report), who each have experience evaluating agencies' information policies, were asked to spend no more than five minutes looking for each type of information.

### SUMMARY

On Monday, March 14 the Administration announced it would, in furtherance of meeting the President's goal of "unprecedented transparency" direct agencies to "proactively provide information about their regulatory compliance and enforcement activities, so that the public can hold both regulated parties and

agencies themselves more accountable.” The White House announcement also specifically called on agencies to post official congressional testimony and agency reports to Congress required by statute, which should bring all agencies one step closer to meeting our requirement for all information officially exchanged between the executive and legislative branches to be publicly available. The White House’s renewed focus on making information for accountability available is a welcome development.

The results of this limited audit show the Administration has its work cut out for it to go meet this goal. Even at the agencies perceived to be among the leaders in transparency, the public has no consistent access to the type of information it needs to understand how and why public policy decisions are formed, and hold decision makers accountable for their actions. We look forward to working with the Administration, agency officials, and our partners on making this goal a reality.

## **WHAT WE LOOKED FOR AND RESULTS**

- **Visitor logs for each of the agency’s decision-makers made public in timely (every 3 months at a minimum) fashion**

The White House is to be commended for proactively releasing its visitor logs. These logs include information like the name of the visitor, the date of the visit, the date of the appointment, the name of the person being visited, and a general description of the reason for the visit that allow us to know who is influencing public policy development and implementation. The White House’s policy acknowledges the public’s right to know while maintaining space for the important and sometimes sensitive work of government to go on by including a 3 – 4 month lag before disclosure of the records and making some exceptions for national security and confidentiality reasons.

Public policy is not only developed in the White House, however. The White House’s policy should be extended across the federal government so the public has a full grasp of who is talking to our government’s decision makers. Not all agencies currently keep visitor logs, although many do.

✚ **None of our evaluators were able to find online visitor logs from any of the agencies surveyed during this audit.** Those agencies that do have logs should begin to make them publicly available online, subject to exemptions to address privacy issues and other concerns related to non-policy meetings, such as job interviews. The administration should work with all agencies to make sure they are collecting this information and making it publicly available in a useful and meaningful format.

- **Lobby disclosure forms and data, including the SF-LLL forms which government contractors and grantees must file when lobbying for additional funds.**

The law requires all those seeking federal contracts or grants to file a disclosure form whenever they pay a lobbyist to influence members of Congress or the executive branch in obtaining those contracts or grant. The Administration can, and should, shed light on this wielding of influence by posting the forms for public view.

✚ **Of the agencies evaluated during this audit, a few auditors noted that they were able to locate SF-LLL data related to the disbursement of funds under the American Reinvestment and Recovery Act (ARRA); none of the agencies, however, made all of this information available.**

While requiring all agencies to post the SF-LLL forms would be a giant step forward for transparent government, the Administration, through the Office of Management and Budget (OMB), could also take steps to make the information more usable and meaningful. The steps suggested by OMB Watch and other transparency advocates to improve accountability include: (1) Make data collected under SF-LLL searchable through a website (and linked to websites such as USAspending.gov and Ethics.gov); (2) Expand the amount of information collected under the SF-LLL so as to better describe special interest influences; (3) Enforce the penalties under the Byrd amendment to force compliance; and (4) Expand who must report the SF-LLL to include all entities trying to influence federal spending.

- **Reports to Congress and other communications with Congress, including responses to inquiries, testimony before committees, legislative proposals, etc.**

Every year agencies prepare and submit a variety of reports on Congressionally-mandated reports, responses to inquiries by members of Congress, testimony before Congress, and any other materials formally submitted to a member or committee of Congress. The public has a right to know what unclassified and non-privileged information and advice flows between the executive and legislative branches of government because, among other things, it influences how laws are drafted or amended and how taxpayer money is spent. For the information to be locatable and meaningful to the public, these documents should be provided in a full-text searchable format and should be posted in a prominent central location on the website, e.g. example.gov/congress.

✚ **A few of the agencies evaluated during this audit made some of this information available, but the postings were far from comprehensive.** Although one agency comes close to meeting this requirement and at least three others made information available that partially met the requirement, no agency posted all of the information. Of the agencies that posted some of the information, not all of them made it available in a centralized location; for example, one agency posted most of the material under “legislative Affairs” and some in the “FOIA Reading Room.” One agency even included a link to “Reports to Congress” on its /open page that only gave users access to reports from the agency’s Office of the Inspector General (IG).

- **A list of all Inspector General reports, with online access to all unclassified reports.**

IGs are an independent office within each agency that helps the agency fulfill its mission in a more efficient and cost-effective manner. These offices often include auditors, program analysts, investigators, and others with extensive expertise in the areas dealt with by the agency. The public should have online access to all unclassified IG reports so that they know when taxpayer dollars are being well or poorly spent, and they can hold the agency accountable for its actions. The reports should be easily searchable and browsed by type (e.g., audit), subject or title, and date of release, with a link to each unclassified report

✚ **All of the agencies included in this audit provided some form of public access to IG reports; however, there is no way to tell how comprehensive the listings are.** One of our volunteers was able to locate a complete list of the agencies IG reports in an Annual Report to Congress, but could not locate the IG audits listed in the report online.

- **Calendars (with identification of companies/individuals and topics), correspondence logs, and ethics disclosure of top-level agency officials (e.g., the Secretary, Deputy Secretary, and Assistant Secretary).**

Like visitor logs, calendars for top-level agency officials shine a light on who is trying to influence policy makers. Information from calendars indicates the importance to the agency of the topic, and the person who is seeking to influence the policy. As in the case of visitor logs, the administration can craft a policy that respects and protects any classified, confidential, or non-job related information.

✚ **Some agencies included in the audit are making progress in making this information available:**

- One agency included in the audit does make calendars for top-level political appointees available, although the topic of the meeting is not indicated;
- Another agency lists significant meetings held with persons outside the executive branch by designated decision makers in a certain component of the agency.

✚ **Some agencies have committed to make this information available, but have apparently run into major road blocks:**

- One agency that included the release on the top agency official on a monthly basis as part of its Open Government Plan has only made a selected number of calendars over a year old available.

The policies and practices at agencies that have successfully release this information on a regular basis should help other agencies figure out how to make this information possible.

- **Contract and award documents include Requests for Proposals, Contracts, Task Orders, Contract Modifications, etc.**

Giving the public access to detailed spending information allows them to better understand the effect of federal spending on their lives and makes it easier to make sure scarce taxpayer resources are not being wasted. The success of USASpending.gov and Recovery.gov has raised the bar on the reporting of government spending information and led to increased interest in seeing the contract, task orders and grants that guide much of spending. A business's confidential commercial or financial information can be redacted before release.

✚ **Some of the agencies included in the audit make a limited amount of contact information available, but none provide the level of detail required to meet this requirement.** A couple of the agencies do post basic information on all active contacts, but do not make the actual contracts available; a couple of other agencies make selected disclosures of some contacting information, but it is not available in a consolidated or comprehensive fashion.

- **A list of all FOIA requests and any documents released as a result of a FOIA request in an organized, searchable manner, within three months of event.**

While not all FOIA requests may practically be released, agencies should, to the extent legal, make the same materials they make available to requesters available to the public. The system could possibly utilize a one or two month delay to protect the requester's ability to use the information for original journalistic, academic, or business-related purposes.

 **None of the agencies included in the audit make this information available.**

The City of Chicago, which posts their entire FOIA log online (<http://data.cityofchicago.org/>), currently operates a model agencies can follow to make this information available.

### **Agencies Evaluated**

National Aeronautics and Space Administration  
Department of Health and Human Services  
Department of Agriculture  
Department of Education  
Social Security Administration  
Department of Transportation  
Department of Justice  
General Services Administration  
Environmental Protection Agency  
Department of Housing and Urban Development

### **Volunteers**

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