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Agency Open Government Plans

Goal 1: Improve Implementation of Open Government Plans

Issue Statement:
The Open Government Directive is one of the Administration’s signature open government policies. Among other things, it requires each agency to publish at least every two years a plan to make it more open, participatory, and collaborative. In the first National Action Plan, the Administration committed to monitoring implementation of agencies’ open government plans. While many agencies have published the required 2 year update of their plans, there needs to be an effort to refocus agency attention on being more open.

Commitment:
Launch a live open government dashboard. The Administration will create an open government dashboard that makes it easy for the public to weigh in on open government issues and monitor agencies’ progress. As part of this effort, the Administration will require agencies to regularly report on key indicators that have been developed in consultation with agency personnel and outside stakeholders. This reporting will feed directly into the open government dashboard.

Anticipated Effect:
When implemented, this commitment will increase public integrity (OGP Grand Challenge 2). The public will be able to access the information it needs to understand agency actions and share opinions and expertise.

Timeline and Benchmarks:
3 months – Administration has met with agency personnel and outside stakeholders to discuss key indicators
3 – 9 months – Reporting requirements and guidance given to agencies
12 months – Dashboard is launched
12 – 15 months – Convene meetings with agency personnel and outside stakeholders to review key indicators, progress on reporting

Commitment endorsed by:
OpenTheGovernment.org
Project On Government Oversight (POGO)
Center for Effective Government
Global Financial Integrity
New Rules for Global Finance
Center for Science and Democracy at the Union of Concerned Scientists
Beneficial Ownership Information

Goal 1: Publicly accessible beneficial ownership information for all companies and trusts

The U.S. Government shall require that (a) beneficial ownership information be collected and verified for all companies, LLCs and partnerships, (b) information about the settlor, trustee and beneficiary of trusts be collected, (c) a unique identifying number be ascribed to all entities formed in the U.S., whether by the Federal Government or by a State (as not all entities are required to obtain a tax identification number), (d) anti-money laundering customer due diligence requirements be extended to company formation agents, including an obligation to identify and verify beneficial ownership information, and that (e) beneficial ownership information collected about companies, LLCs and partnerships be made available in public registries accessible by law enforcement and tax authorities in the U.S. and in countries around the world, as well as to financial institutions and the general public.

Issue Statement:

Despite U.S. efforts to increase financial transparency and combat money laundering and terrorist financing, anonymous U.S. shell companies continue to be used by rogue regimes, corrupt politicians, drug traffickers, arms smugglers, tax evaders, financiers of terrorism, and fraudsters to hide and move illicit funds. The World Bank found that the U.S. was the most popular choice for shell companies used in grand corruption cases. A Griffith University study found that it is easier to obtain an untraceable shell company in many U.S. states than anywhere else in the world, except for Kenya.

More than two million companies are formed in the U.S. each year—which is more than the rest of the world combined. Almost every state collects less information from the people forming these companies than from people seeking to obtain a driver’s license or register to vote. While some states require the listing of shareholders, shareholders can be other companies with hidden owners or nominees who serve as front people for the actual shareholder.

Public registries of beneficial ownership information will strengthen anti-money laundering efforts; support corporate due diligence, sound corporate governance and enable the market to function effectively; combat patent trolls; act as a deterrent to corruption and fraud; allow civil society, journalists and academics to assist law enforcement by helping identify inaccuracies in companies’ beneficial ownership disclosure; and ease capacity constraints on developing countries that need this information to curb corruption, tax evasion, and other forms of illicit financial flows.

Commitment:

End the ability to incorporate anonymously in the U.S. The Administration will actively support ending the ability to incorporate anonymously in the U.S. by requiring beneficial ownership information to be collected and verified for all companies, LLCs and partnerships, and to make this information freely available in an open data format, as well requiring beneficial ownership information to be collected and verified for the settlor, trustee and beneficiary of all trusts and for this information to be available to law enforcement and taxation authorities. To achieve this, the Administration will:
(a) within four months of adoption of this National Action Plan, publish a report detailing the legal basis on which the Federal Government can or cannot collect the aforementioned beneficial ownership information, available as described above. If the Administration determines that there is a legal basis for the Federal Government to collect such information, to implement a plan for such collection and publication, as relevant, within twelve months of the adoption of this National Action Plan; while also

(b) visibly advocating for the passage of the Incorporation Transparency and Law Enforcement Assistance Act and/or any other legislation that requires meaningful disclosure of beneficial ownership information (natural persons who are the ultimate, direct and indirect owners of a legal entity or demonstrate control by other means).

**Anticipated Effect:**

When implemented, this commitment will increase public integrity (OGP Grand Challenge 2), increase corporate accountability (OGP Grand Challenge 5), and create safer communities. Public registries of beneficial ownership information will make it harder for drug traffickers, fraudsters, terrorists and other criminals to misuse US companies to facilitate illegal activities. The government will be better able to combat money laundering, other types of financial crime and terrorist financing. It will also strengthen the financial sector’s anti-money laundering efforts; support corporate due diligence, sound corporate governance and enable the market to function effectively; combat patent trolls; act as a deterrent to corruption and fraud; allow civil society, journalists and academics to assist law enforcement by helping identify inaccuracies in companies’ beneficial ownership disclosure; and ease capacity constraints on developing countries that need this information to curb corruption, tax evasion, and other forms of illicit financial flows.

**Timeline and Benchmarks:**

I. **Administrative Approach**
   - Publish report detailing legal basis on which the Federal Government can or cannot collect beneficial ownership information (month 4)
   - If there is a legal basis for such collection of beneficial ownership information, begin the implementation of a plan to do so (month 12)
   - Publish a Notice of Proposed Rulemaking to require that anti-money laundering customer due diligence requirements be extended to company formation agents, including an obligation to identify and verify beneficial ownership information (month 12)

II. **Administrative Advocacy**
   - Appoint USG team and identify a point person from the White House to liaise with civil society (month 1)
   - Convene 1st meeting with USG team and civil society to develop advocacy plan (month 1)
   - Complete advocacy action plan and share with civil society (month 2)
   - White House reaches out to relevant constituencies to identify support for the legislation (ongoing):
     - Financial institutions and associations
o Secretaries of State, including the DE Secretary of State
o Attorneys General, Mayors, Governors, District Attorneys, Police and their associations
o Senate and House offices of members on the relevant committees and in leadership

- Treasury reaches out to relevant constituencies to identify support for the legislation (ongoing):
  o Financial institutions and associations
  o Secretaries of State, including the DE Secretary of State
  o Senate and House offices of members on the relevant committees and in leadership

- DoJ reaches out to relevant constituencies to identify support for the legislation (ongoing):
  o Attorneys General, Mayors, Governors, District Attorneys, Police and their associations
  o Senate and House offices of members on the relevant committees and in leadership

- High-level officials speak in support of ending anonymous U.S. companies and mention the legislation by name in public statements and testimony

**Commitment endorsed by:**

Global Witness
OpenTheGovernment.org

Project On Government Oversight (POGO)
Global Financial Integrity
EG Justice
Tax Justice Network USA
The ONE Campaign
Communications Surveillance Transparency

Goal 1: Greater Transparency of Communications Surveillance

Issue Statement:

Basic information about how the government uses its various law enforcement–related investigative authorities has been published for years without any apparent disruption to criminal investigations. As an OGP commitment, the same information should be made available regarding the government’s national security–related authorities.

This information about how and how often the government is using these legal authorities is important to the American people, who are entitled to have an informed public debate about the appropriateness of those authorities and their use, and to international users of US-based service providers who are concerned about the privacy and security of their communications.

Just as the United States has long been an innovator when it comes to the Internet and products and services that rely upon the Internet, so too should it be an innovator when it comes to creating mechanisms to ensure that government is transparent, accountable, and respectful of civil liberties and human rights.

Commitments:

The administration will ensure that those companies who are entrusted with the privacy and security of their users’ data are allowed to regularly report statistics reflecting:

- The number of government requests for information about their users made under specific legal authorities such as Section 215 of the USA PATRIOT Act, Section 702 of the FISA Amendments Act, the various National Security Letter (NSL) statutes, and others;
- The number of individuals, accounts, or devices for which information was requested under each authority; and
- The number of requests under each authority that sought communications content, basic subscriber information, and/or other information.

The government will also augment the annual reporting that is already required by statute by issuing its own regular “transparency report” providing the same information: the total number of requests under specific authorities for specific types of data, and the number of individuals affected by each.

The Department of Justice, on behalf of the relevant executive branch agencies, will agree that Internet, telephone, and web-based service providers may publish specific numbers regarding government requests authorized under specific national security authorities, including the Foreign Intelligence Surveillance Act (FISA) and the NSL statutes.

The administration will press Congress to pass legislation requiring comprehensive transparency reporting by the federal government and clearly allowing for transparency reporting by companies without requiring companies to first seek permission from the government or the FISA Court.
Anticipated Effect:

When implemented, this commitment will increase public integrity (OGP Grand Challenge 2) and trust in government. The public will have a better understanding of the government’s communications surveillance policies and practices by appreciating how First Amendment concerns are being respected in the context of legitimate national security concerns.

Timeline and Benchmarks:

3 months – concessions allowing companies to publish basic figures describing government requests for user information under Section 215 of the USA PATRIOT Act, Section 702 of the FISA Amendments Act, the various National Security Letter (NSL) statutes, and others (and including explicit DOJ approval of such publication)

12 months – Augmentation of the government’s annual reporting to include a fulsome "transparency report" summarizing the same information; Draft comprehensive transparency reporting legislation introduced in Congress

Commitments endorsed by:

Global Integrity
OpenTheGovernment.org
Global Network Initiative
Project On Government Oversight
Ethics Disclosure

We understand that each of the following recommendations require unique steps to implement. At the same time, these recommendations are inter-related and interdependent. For example, one recommendation proposes lowering the threshold for coverage under the Lobbying Disclosure Act. This should be done in conjunction with the clarification of lobbyist employment restrictions in President Obama’s Executive Order on Ethics so that the restrictions do not create a perverse incentive to de-register or evade the LDA’s requirements.

Goal 1: Strengthening Lobbyist Employment Restrictions in Executive Order 13490 (Ethics EO)

Build on and expand the Obama Administration’s groundbreaking efforts to address the problem of the “revolving door” and “special interest” influence in government by significantly expanding the scope of those persons subject to the President’s Executive Order 13490 (Ethics EO) so that it covers all persons with pecuniary conflicts of interest whether or not they are “registered lobbyists.”

Issue Statement:

President Obama is the first President in history to seek formal restrictions on the Executive Branch employment of individuals representing “special interests”. The initial form of these restrictions adopted in the President’s first term was based on a person’s status as a “registered lobbyist” under the Lobbying Disclosure Act (LDA). This innovative effort sent a strong message that the Administration intended to reduce the clout of influence peddlers in Washington and it has had many significant consequences.

President Obama should now go further by implementing what might be called Ethics Reform 2.0, which would cover all persons with “special interests” in federal decisions as judged by whether or not they would have “pecuniary conflicts of interest” in their new positions. This standard would apply to individuals regardless of whether they are registered lobbyists, corporate executives or high-priced public relations advisors who seek to influence public decisions for private gain. No person could be employed in a job in which their pecuniary conflicts of interest would interfere with their ability to impartially pursue the public interest.

There is a precedent for making just such an adjustment to certain ethics and lobbying restrictions. Having initially applied certain restrictions to “registered lobbyists” seeking stimulus funds, the Administration recognized that the logic of those requirements applied to all persons seeking financial benefits under the stimulus legislation and expanded the restrictions accordingly to cover all persons lobbying to receive stimulus funds whether or not they were “registered” lobbyists under the LDA.\(^1\) This adjustment was met with widespread approval.

\(^1\) On March 20, 2009, President Obama issued a memorandum for the heads of executive departments and agencies outlining restrictions on certain Recovery Act communications with lobbyists. (See http://www.whitehouse.gov/the_press_office/Memorandum-for-the-Heads-of-Executive-Departments-and-Agencies-3-20-09/) On April 7, 2009, the Director of the Office of Management and Budget issued additional guidance for department and agency heads regarding these communications. (See http://www.whitehouse.gov/sites/default/files/omb/assets/memoranda_fy2009/m-09-16.pdf.) These were criticized because of unequal application to those who are and are not registered under the LDA. On May 29, 2009, Norm Eisen, Counsel to the President for Ethics and Government Reform, announced changes to President...
In order to implement these expanded provisions in a manner that avoids unintended consequences, the Administration should also return to using the waiver authority built in to EO 13490. It should do so, however, based on clear policies about how waivers will be issued and based on publicly available information about those receiving waivers. The Administration also should articulate clear policies for recusals required for discrete conflicts of interest. Building on current efforts, the Administration should enhance the release and the accessibility of information about its appointees.

**Commitment:**

The Administration should commit to issuing a revised version of EO 13490 using the expanded pecuniary conflict of interest approach rather than LDA registration status, announce clear procedures for considering and issuing waivers and recusals, and implement new procedures to enhance the disclosure and accessibility of information concerning waivers, recusals and the handling of potential conflicts of interest of its appointees.

**Anticipated Effect:**

When implemented, this commitment will increase public integrity (OGP Grand Challenge 2). As mentioned above, with these reforms no person could be employed in a job in which their pecuniary conflicts of interest would interfere with their ability to impartially pursue the public interest.

**Timeline and Benchmarks:**

Because these steps involve very slight amendments to EO 13490, it should be possible to implement them in a relatively short timeframe after consultation within the Administration on the details of implementing the revised EO. Therefore the Administration should announce its intention to implement these steps at the time it announces the new National Action Plan (Fall 2013) and should plan to publish the new EO three months from that date. Within one year, the Administration should publish any guidance that is needed for implementation of the revised EO.

**Commitment endorsed by:**

Center for Effective Government

Project On Government Oversight

Obama's March 20 memorandum to address the controversy. (See [http://www.whitehouse.gov/blog/Update-on-Recovery-Act-Lobbying-Rules-New-Limits-on-Special-Interest-Influence/](http://www.whitehouse.gov/blog/Update-on-Recovery-Act-Lobbying-Rules-New-Limits-on-Special-Interest-Influence/).) Eisen wrote, “For the first time, we will reach contacts not only by registered lobbyists but also by unregistered ones, as well as anyone else exerting influence on the process.” On July 24, 2009, OMB revised the guidance to agency heads to reflect the changes identified by Eisen. (See [http://www.whitehouse.gov/sites/default/files/omb/assets/memoranda_fy2009/m09-24.pdf](http://www.whitehouse.gov/sites/default/files/omb/assets/memoranda_fy2009/m09-24.pdf).)
Goal 2: Implement Executive Branch Procurement Lobbying Disclosure

The Lobbying Disclosure Act (2 U.S.C. § 1601) requires the provision of information about lobbyist activities targeting Congress and certain high-level executive branch officials: but the statute does not cover most executive branch influence-peddling. The Byrd Amendment (31 U.S.C. § 1352) requires disclosure of executive branch lobbying by government contractors, but compliance and disclosure of this information is inconsistent. In general, collection of information about influence-peddling to obtain funding from the executive branch, such as lobbying by contractors, is limited. Such information should be systematically collected and disclosed.

Issue Statement:

Current laws governing lobbying disclosure are not effectively capturing major influence peddling within the executive branch. The objective of this commitment is to shine a light on communications from individuals outside of government attempting to influence spending on federal programs, including contracts, grants, cooperative agreements, loans, insurance awards, tax expenditures, or any other financial arrangements. This commitment also implements Section 4(c)(4) of Executive Order 13490 (Ethics EO), which called for steps to improve executive branch procurement lobbying disclosure.

The Byrd Amendment currently prohibits using “appropriated funds” to lobby for federal awards, and requires federal grantees and contractors to disclose their lobbying activities and certify that they are not using federal funds to lobby for a grant, contract or other award. Additionally, the Byrd Amendment requires grantees and contractors to file the Standard Form LLL (SF-LLL) to certify any use of non-federal funds to influence federal awards, and to disclose the names of any paid lobbyists or consultants hired to do so. An SF-LLL form must be filed: (1) with each submission of request for an award of a federal contract, grant, loan, or cooperative agreement; (2) upon the receipt of a federal contract, grant, loan, or cooperative agreement; and (3) at the end of each calendar quarter in which lobbying occurred.

However, each agency treats the SF-LLL differently, making enforcement of disclosure inconsistent. For example, in some agencies that provide grants, the grant award letters require certification that no federal funds have been used to influence the award. In other agencies, it is not clear if the SF-LLL is collected at all or if reporting is updated regularly.

Even if the SF-LLL has been collected, it is extremely difficult for the public to obtain the information. These inconsistencies are a result of three problems: (a) no central agency collects the SF-LLL; (b) there exists no guidance for agencies governing disclosure of the information; and (c) there is no vehicle for online access to the information. Many agencies require the public to submit a Freedom of Information Request.

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Request to review SF-LLL forms – and even this, often lengthy process, does not necessarily result in public disclosure.

In addition to compliance and access concerns, the SF-LLL does not require the breadth of information that leads to meaningful disclosure.

Commitment:
The Obama administration should make a commitment to develop a disclosure framework that:

- Captures influence peddling by organizations and individuals representing organizations that are seeking to win or influence any federal award or spending on federal programs above a specified threshold such as $250,000.
- Includes influence peddling on tax expenditures, non-monetary transfers, and subsequent awards (e.g., sub-contracts or sub-grants) in addition to contracts, grants, and other forms of financial assistance.
- Expands the type of information collected to support meaningful disclosure. This information should provide a full understanding of who is trying to influence government spending, the programs and agencies being influenced, and the amount of money involved (both in terms of influencing the agency and possible awards).
- Establishes electronic reporting of attempts to influence government spending, expanding on SF-LLL.
- Creates a searchable website with information from SF-LLL disclosures that are provided in a timely manner. The website should utilize common identifiers for organizations, federal awards, lobbyists, and other categories of information. The website should adhere to best practices for public access including ability to download data in aggregate, search in multiple formats, and provide web services for various feeds.
- Allows data on the searchable website to be linked to other government information on previously disclosed lobbying and ethics.
- Provides enforcement mechanisms for both governmental and non-governmental entities to ensure compliance. These mechanisms range from remedial actions to penalties.

Anticipated Effect:
When implemented, this commitment will increase public integrity (OGP Grand Challenge 2). The public will have a better understanding of who is trying to influence government spending, the programs and agencies being influenced, and the amount of money involved.

Timeline and Benchmarks:
There should be two phases: the first requires improved compliance and disclosure of the SF-LLL; the second requires expansion of SF-LLL coverage.

Phase I: Compliance and Disclosure of SF-LLL

1. **Revise the data collected on SF-LLL.**
   - Months 1-2: Review data elements currently collected through the SF-LLL and invite input on appropriate information that should be collected.
   - Months 3-4: Propose a revised SF-LLL and invite input on the revised form.
Month 5: Submit revised information collection request to OMB under the Paperwork Reduction Act.

Month 7: Announce revised SF-LLL to agencies (see OMB memo below).

2. Make SF-LLL available online in a searchable format.
   Months 5-7: Develop an online interface to complete the SF-LLL obviating the need for a paper version.
   Months 5-9: Create a searchable website with SF-LLL data.
   Month 7: OMB issues memorandum to agencies on compliance and disclosure of SF-LLL. The memo includes: (a) description of SF-LLL; (b) who must complete the form; (c) how often the form must be completed; (c) disclosure requirements; (d) enforcement requirements; and (e) plans for future upgrades to the searchable website and compliance requirements.
   Month 11: Searchable website becomes operational.

3. Enforce the existing SF-LLL rules.
   Month 10: Agencies inform recipients of federal awards of plans for the revised SF-LLL changes and penalties for noncompliance.
   Months 11-23: Provide warnings to federal awardees about non-compliance.
   Month 24: Begin applying penalties for non-compliance.

Phase II: Expand Who Reports SF-LLL
   Months 5-11: Explore options for expanding SF-LLL reporting requirements to all organizations and those representing organizations seeking to win or influence any federal award or spending on federal programs above a specified threshold, such as $250,000.

   Two options that should be considered: (1) Integrate the agency visitor logs into the SF-LLL process, whereupon entering an agency location, visitors would be required to list with whom they will be meeting and the purpose of the meeting; (2) Require government employees to file a brief online report immediately when they are involved in communications with those outside of government who are trying to influence federal spending, which would trigger a notice to the non-governmental participants to complete a more detailed SF-LLL about the communication.

   The options should also consider what types of communications – for example, policy, program, legal, technical or background communications knowingly prepared to seek a Federal award – are covered under these requirements.
Months 12-14: Propose a plan for expanded reporting requirements and invite comments

Month 15: Finalize plan

Months 16-24: Implement plan

Commitment endorsed by:

Center for Effective Government

Project On Government Oversight
Goal 3: Disclose Campaign Contributions and Independent Expenditures of Federal Contractors

To ensure the integrity of the federal contracting system in order to foster decisions that provide economical and efficient results for the American people.

Issue Statement:

In the wake of Citizens United, there is unlimited spending on elections with far too little disclosure. That secret spending is eroding the quality of our democracy and potentially warping merit-based contracting decisions.

Federal contract spending totaled $517 billion in fiscal year 2012. Although that amount has declined from a peak of $541 billion in FY 2008, this is still a considerable amount of money, accounting for 15.5 percent of all outlays. In FY 2012, over $245 billion in contracts was awarded without full and open competition, and about 70 percent of that amount, $173 billion, was spent on sole source contracts, which have no competition at all. Moreover, of contracts that were competitively awarded, a full $144 billion worth of contracts were awarded after the government received only a single bid.

While 2 U.S.C. § 441c prohibits contractors from making political contributions, the law allows contractors to create segregated funds to make such contributions. Furthermore, since Citizens United contractors can make independent expenditures from their general treasury. These loopholes allow contractors an opportunity to gain influence over senior government officials, elections, policies, programs, and projects through various kinds of political contributions.

According to the Center for Responsive Politics, House, Senate, and presidential candidates raised over $3 billion, and outside entities (groups or individuals independent of, and not coordinated with, candidates’ committees) spent an additional $1 billion on independent expenditures and electioneering in the 2012 election cycle. The defense sector alone was credited with contributing over $27 million in the 2012 election cycle.

Not surprisingly, small business owners believe that contracting procedures that do not provide for full and open competition fall prey to the influence big companies campaign contributions and makes it difficult for small businesses to compete. Fully 88 percent of small business owners recently surveyed said they had a negative view on the role money plays in politics, with more than two-thirds saying they had a very negative view.3

In 2011, President Obama attempted to add transparency and accountability to the system with a draft Executive Order entitled “Disclosure of Political Spending by Government Contractors.” The draft Order stated that the “federal Government must ensure that its contracting decisions are merit-based in order

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to deliver the best value for the taxpayers,” and added that every stage of the contracting process must “be free from the undue influence of factors extraneous to the underlying merits of contracting decisions making, such as political activity or political favoritism.”

Employing a strategy used in many states, the draft Executive Order also included a provision that required federal agencies to “require all entities submitting offers for federal contracts to disclose certain political contributions and expenditures that they have made within two years prior to submission of their offer.” Although there was some support for President Obama’s draft Order, it was swiftly derailed by contracting industry lobbyists and their political allies.

Linking the disclosure to “submitting offers” ignited a firestorm of criticism from contractors and conservatives that such disclosure would increase political favoritism in the contracting process. House Oversight and Government Reform Committee Chairman Darrell Issa warned that if “the President’s proposed Executive Order is authorized, political donation information would be readily available to political appointees who are immediately involved in the contracting process.”

In fact, the draft Executive Order was intended to provide a much-needed dose of transparency, so contractors would not be able to influence the awards process via secret political spending. But asking the disclosure of political spending information prior to the bidding process was the fatal error that should have been corrected.

Commitment:

The Administration should commit to issuing a revised Executive Order that requires any individual or entity receiving federal contracting awards to file semi-annual disclosures of all:

1. Contributions or expenditures to or on behalf of a federal candidate, parties, or party committee made by the bidding individual or entity, its directors or officers, or any affiliates or subsidiaries within its control; and

2. Contributions made to third party entities with the intention or reasonable expectation that parties would use those contributions to make independent expenditures or electioneering communications.

This commitment would honor the Supreme Court’s ruling in Citizens United that was based on the theory that the “First Amendment protects political speech; and disclosure permits citizens and shareholders to react to the speech of corporate entities in a proper way. This transparency enables the

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4 Basing disclosure on those receiving contract awards would not violate the “Consolidated Appropriations Act of 2012” (Pub. Law 112-74, Sect. 743), prohibiting political spending disclosure “as a condition of submitting the offer.”
electorate to make informed decisions and give proper weight to different speakers and messages.”\(^5\) (Emphasis added.)

**Anticipated Effect:**

When implemented, this commitment will *increase public integrity (OGP Grand Challenge 2)*. Removing secrecy from federal contractors’ campaign spending will encourage and support merit-based contracting decisions.

**Timeline and Benchmarks:**

President Obama should revise and sign the draft Executive Order, “Disclosure of Political Spending by Government Contractors. Within 30 days after its release, the Administration should issue guidance for the release of contractor political spending information on Data.gov and insert a clause into federal contracts requiring the political contribution and expenditure reporting.

**Commitment endorsed by:**

Center for Effective Government

Project On Government Oversight

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Goal 4: Require Publicly Held Companies Disclose Their Direct and Indirect Political Contributions

To provide investors the information they need to assess and respond to corporate political spending.

Issue Statement:

In August, 2011, the Committee on Disclosure of Corporate Political Spending – comprised of 10 law professors – filed a petition with the Securities and Exchange Commission (SEC) asking the agency to initiate a rule requiring public companies to disclose to shareholders the use of corporate resources for political activities. The petition has drawn more comments than any other in SEC’s history, with over 500,000 comments, the vast majority in support of the rulemaking petition.

In 2006, polls indicated that 85% of company shareholders believed there was a lack of transparency surrounding corporate political activity. Nearly six in ten shareholders (57%) strongly agreed that there was too little transparency with respect to corporate spending on politics. Recognizing that these shareholder concerns have persisted, some of the largest companies have started voluntarily disclosing their direct and indirect political contributions. A recent report notes that the percentage of S&P 500 companies that have adopted disclosure policies has increased from a trivial level in 2003 to nearly 60% in 2012.

Despite increasing disclosure to shareholders, nine in ten Americans say there is too much corporate money in politics. Moreover, 81% agree that the “dark money” from corporate political spending is bad for democracy. Three-quarters of business executives now say that the system of financing elections amounts to a “pay-to-play” system, where companies are expected to give money if they want to have influence over public policy. These business executives, regardless of partisan preference, want more transparency: 95% of Democrats and 88% of Republicans support disclosure reforms.

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10 Ibid, pg. 1.
12 Ibid.
More to the point, the same 2013 poll of business executives found widespread support (85%) for a SEC rule requiring all publicly traded companies to disclose all political expenditures to shareholders. That support was also bipartisan: 94% of Democrats and 79% of Republicans.

Notwithstanding broad support for the SEC rule – including among business executives – it is not clear what action the SEC will take on the rulemaking petition.

**Commitment:**

The administration will encourage the SEC to initiate a rule to require publicly traded companies to disclose all direct and indirect political expenditures.

**Anticipated Effect:**

When implemented, this commitment will increase public integrity (OGP Grand Challenge 2) and increase corporate accountability (OGP Grand Challenge 5). Increasing transparency will provide investors the information they need to assess and respond to corporate political spending.

**Timeline and Benchmarks:**

As soon as can be arranged the president will communicate with the SEC commissioner about the priority of initiating a rulemaking on disclosure of corporate political expenditures.

**Commitment endorsed by:**

Center for Effective Government
Goal 5: Build Support for Reforming the Lobbying Disclosure Act

To convene a bipartisan working group of diverse stakeholders to meet and draft model lobbying reform legislation that, if enacted, would make Lobbying Disclosure Act disclosure requirements more comprehensive and effective.

Issue Statement:

The US Supreme Court in *US v. Harriss* outlined the need for comprehensive lobbying disclosure, stating:

> Present-day legislative complexities are such that individual members of Congress cannot be expected to explore the myriad pressures to which they are regularly subjected. Yet full realization of the American ideal of government by elected representatives depends to no small extent on their ability to properly evaluate such pressures. Otherwise the voice of the people may all too easily be drowned out by the voice of special interest groups seeking favored treatment while masquerading as proponents of the public weal. This is the evil which the Lobbying Act was designed to help prevent.

In order for elected representatives and citizens to be able to “properly evaluate the pressures” imposed by lobbying, the Lobbying Disclosure Act must be amended to provide for more comprehensive disclosure.

- **Expand Lobbying Disclosure Act Coverage.** The LDA should mandate that those who are paid to lobby register and report their actions. The threshold for disclosure should be lowered, some exemptions eliminated, and contingent fee arrangements should be reported to ensure comprehensive reporting.
- **Identify Targets of Lobbying.** Currently, LDA reports must only indicate which House of Congress or federal agency a lobbyist contacted during the reporting period. To be meaningful, lobbying disclosure reports should more specifically identify the targets of a lobbying effort which, for example, might include congressional committees and agency sub-entities contacted by the lobbying firm.
- **Disclose Grassroots Lobbying.** Lobbying and other organizations often make large expenditures to exhort groups or the general public to communicate with decision-makers in order to sway their opinions (e.g., communications that urge constituents to “write your congressman”). Public reporting of expenditures or receipts for grassroots lobbying efforts should be required.
- **Disclose Campaign-related Activities.** The LD-203 already requires disclosure of lobbyists’ campaign contributions and related contributions by each individual lobbyist. This should be extended to reporting of the lobbyist’s sponsorship/hosting of fundraising events, bundling, positions held in a campaign organization, participation on the board of a PAC or super-PAC, and solicitation of contributions by the lobbyist from persons outside her immediate family.
- **Publish Unique Identifiers.** To ensure the accuracy of reports and to enable better tracking of lobbyists’ activities, the unique identifier for each federally registered lobbyist should be publicly available in downloadable format.
Commitment:
The administration will advocate for improved lobbying disclosure to more accurately reflect the scope and influence of lobbying activities.

As a first step, the administration will convene a working group to develop recommendations for amendments to the Lobbying Disclosure Act that will provide for more timely, accurate, complete and robust disclosure.

The administration recognizes that any disclosure requirements will require congressional action to amend the LDA. Therefore, the administration will encourage Congress to pass legislation that will improve disclosure and close loopholes in the currently inadequate lobbyist reporting regime.

Anticipated Effect:
When implemented, this commitment will increase public integrity (OGP Grand Challenge 2). Representatives and the public will be able to better evaluate the pressures and impact of lobbying.

Timeline and Benchmarks:

3-6 months: Name participants for Working Group, which would include people outside of government, to refine proposals to amend the LDA.

6-18 months: Convene regular working group meetings to examine disclosure requirements with the goal of amending the current LDA in order to more fully disclose influence; engage representatives of Congress in this process.

18-24 months: Release draft LDA amendments and begin to advocate for enactment of legislation that would strengthen lobbyist disclosures.

Commitment endorsed by:
Goal 6: Make Ethics Data Usable, Interoperable and More Accessible

Issue Statement:

There are numerous types of information intended to shed light on special interest influence which are disclosed by various federal agencies. Disclosure is most effective when it makes information easy to access and use. However, many websites for accessing ethics disclosures are difficult to use and offer limited functionality. In addition, data is not always available in open formats, which impedes research and hinders the development of new tools for accessing the information. Finally, the multitude of data sources are not always interoperable; without common identifiers and standardized data formats, making connections between datasets – such as between lobbying and campaign contributions – can be challenging and laborious.

Commitment:

A. Establish a working group to coordinate disclosure of ethics information. The Administration will establish an inter-agency working group to coordinate technical issues related to access to ethics information. The working group will invite participation from all offices handling information about lobbying, political financing, and personal financial disclosures. The administration will also appoint representatives to the working group with expertise in usability, open data, and information policy. The working group will solicit feedback from stakeholders and the public. The working group will particularly address interoperability of data sources managed by the participating agencies and will seek to facilitate research and reuse across multiple datasets.

B. Ensure compliance with federal data policy. The Administration will direct agencies managing disclosure of ethics information to ensure that ethics data sources comply with the principles of openness and interoperability of Executive Order 13642, OMB Memorandum M-13-13, and the Digital Government Strategy.

C. Review usability of ethics websites. The Administration will direct agencies managing disclosure of ethics information to review the usability of their websites for members of the public seeking to access ethics information. The review will include usability analyses and seek feedback from frequent users of ethics information, including NGOs and journalists. The Administration will direct agencies managing disclosure of ethics information to adopt ongoing customer experience and usability measurement tools, such as those called for in the Digital Government Strategy, if they have not done so already.

D. Implement lessons learned. The Administration will direct agencies to implement lessons learned from these reviews into updates, revisions, and future planning for ethics information disclosure.

Anticipated Effect:

When implemented, this commitment will increase public integrity (OGP Grand Challenge 2). The public will have a better understanding of who is influencing government policies.

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13 See OMB Watch, Upholding the Public’s Trust: Key Features for Effective State Accountability Websites, March 2012, at http://www.foreffectivegov.org/upholdingpublictrustreport.
Timeline and Benchmarks:

2 months – Administration issues guide to agencies on openness, usability, and interoperability of ethics information

3 months – Issue charter for working group; appoint administration representatives and invite agency participation

4 months – Working group identifies initial topics of interest and begins seeking public and stakeholder feedback

6 months – Working group members begin conducting peer reviews of ethics data sources to offer suggestions to improve usability and interoperability

Commitment endorsed by:

Center for Effective Government

OpenTheGovernment.org
Enhance Ethics.gov

Goal 1: Enhance Ethics.gov with Increased Disclosure of Special Interest Attempts to Influence Government Decision-making

Issue Statement:
The Administration has taken several steps to increase disclosure of lobbying and special interest attempts to influence government decision-making, such as by posting ethics waivers filed by White House personnel and creating Ethics.gov. However, there remains a need to reduce the over-influence of moneyed interests in government by further disclosing information that would reveal special interest activities.

Commitment:

Direct agencies to publish additional information on special interest influence. The Administration will direct agencies to regularly and proactively disclose additional information that could shed light on special interest attempts to influence government decision-making. Specifically, the Administration will direct agencies to post online in searchable, sortable, downloadable format on Ethics.gov, and link from agency websites to, the following information:

- *Communications with Congress*, including spending requests from members of Congress per E.O. 13457;
- *Calendars of Top Agency Officials*, including meeting topics and participating personnel;
- *Agency Visitor Logs*, for agencies which currently keep logs in an electronic format;
- *Contractor Lobbying Disclosures*, known as Form LLL, filed with federal agencies;
- *Federal Advisory Committee Information*, including information about members (such as any conflict-of-interest waivers) and committee activities (such as meeting agendas, minutes, and transcripts).

Oversee implementation of the new disclosure requirements. The Administration will closely oversee and guide agency implementation of the new disclosure requirements, including requiring agencies to regularly report publicly on implementation and monitoring agency compliance with deadlines.

Provide technical assistance to agencies. The Administration will expand Ethics.gov to allow for postings by agencies under the new disclosure requirements. The Administration will direct agencies to create and disclose information on Ethics.gov in compliance with the format and interoperability requirements of the new data policy (E.O. 13642 and M-13-13).

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15 Although required by law to be publicly available, members of the public have experienced difficulty accessing these filings. See Byron Tau, "Contracting lobbying info under wraps," *Politico*, July 7, 2013, [http://www.politico.com/story/2013/07/thank-you-for-contacting-nsa-we-do-not-have-anything-for-you-93752.html](http://www.politico.com/story/2013/07/thank-you-for-contacting-nsa-we-do-not-have-anything-for-you-93752.html).
Anticipated Effect:

When implemented, this commitment will increase public integrity (OGP Grand Challenge 2). The public will have a better understanding of who is influencing government policies.

Timeline and Benchmarks:

1 month – Solicit stakeholder input on establishing disclosure requirements

3 months – Issue disclosure requirements; direct Administration to begin preparing implementation guidance and developing Ethics.gov for expanded disclosure

3-6 months – Issue implementation guidance on disclosure requirements; publicize implementation resources available to agencies

6-12 months – Agencies required to begin disclosure through Ethics.gov, with deadlines staggered by types of information (e.g. begin posting new Form LLL filings after 6 months; begin posting monthly visitor logs after 12 months; etc.)

18 months – Agencies are fully compliant with new reporting requirements

24 months – Agencies phase out any paper visitor logs in lieu of electronic

Commitment endorsed by:

OpenTheGovernment.org

Center for Effective Government

Project On Government Oversight (POGO)

Center for Science and Democracy at the Union of Concerned Scientists
Freedom of Information Act (FOIA)

Goal 1: Address Systemic Issues with FOIA Processing

Issue Statement:
Despite changes in law and policy, the public is still not able to get timely access to government records under the Freedom of Information Act (FOIA). There are a variety of factors that could be interfering with consistent and efficient application of the law. There is a need for a concerted study of the system so that we have a clear understanding of the relationship between these factors, and can craft a plan to make the system work.

Commitment:
Study and develop an action plan to address systemic FOIA issues. The Administration will set up a commission consisting of government officials, outside stakeholders, and others with expertise in government information systems. The Commission will be charged with studying current problems with the law, including a lack of enforcement, possible performance standards, the review process for agency’s legislative proposals for new exemption (b)(3) statutes, the fee system, and the growth in the use of exemptions. The commission would also be required to issue an action plan for addressing these issues and make the plan publicly available.

Anticipated Effect:
When implemented, this commitment will increase public integrity (OGP Grand Challenge 2). The government will have a plan to make sure people can use the FOIA to get timely access to government information.

Timeline and Benchmarks:
3 months – Appoint Commission members and convene 1st meeting;
6 months – issue draft report for comment;
9 months – issue report on systemic issues;
12 months – release a first draft of nation plan to address issues
15 months – issue final action plan with specific timelines
18-24 months – Agencies implement plans and report on progress.
24 months – Commission reconvenes to assess governmentwide progress against plan.

Commitment endorsed by:
OpenTheGovernment.org
Project On Government Oversight (POGO)
Center for Effective Government
Global Financial Integrity
Center for Science and Democracy at the Union of Concerned Scientists
Goal 2: Make More Information Publicly Available through the FOIA

Issue Statement:

Documents released under the Freedom of Information Act (FOIA) constitute public information. After an agency’s FOIA office has redacted any non-releasable sections of a document, the public should have easy, online access to all of the available information in the document.

Under current standards, agencies are required to post a properly redacted version of any document that has been requested three times. However, many agencies do not have effective tracking systems and there is no way for the public to know that an agency is meeting its obligation to post records. Adopting the standard that a release to one is a release to all will cut down on ambiguity and reduce redundant FOIA processing.

Commitment:

Post online all documents released under FOIA. In the short term, the Administration will direct all agencies to make copies of their FOIA logs available in a standard, machine-readable, format on a monthly basis. The Administration will also phase in requirements for agencies to post all documents released under the FOIA, and will work with agencies to ensure no technical barriers exist.

Anticipated Effect:

When implemented, this commitment will increase public integrity (OGP Grand Challenge 2) and improve government efficiency. The public will have better access to government information and the government will reduce duplicative reviews of documents for public release.

Timeline and Benchmarks:

3 months – Administration provides agencies with guidance on making FOIA logs available in a standard, machine-readable, format

6 months – Agencies begin posting monthly FOIA logs in a standard, machine-readable, format

6-12 months - Administration works with agencies to identify technical barriers to making released documents available online

12 months - Administration provides guidance to agencies on how to address compliance with Section 508 requirements and other technical barriers

24 months - Agencies begin posting all released documents

Commitment endorsed by:

OpenTheGovernment.org

Project On Government Oversight (POGO)

Center for Effective Government

Global Financial Integrity

Center for Science and Democracy at the Union of Concerned Scientists
Goal 3: Use Technology to Improve FOIA Processing Government-wide

Issue Statement:
In the first National Action Plan, the Administration committed to use technology to improve the processing of Freedom of Information Act requests. These efforts have led to better use of technology at several agencies. Still, however, the decentralized process for handling Freedom of Information Act (FOIA) requests is inefficient for the federal government and for requesters.

Commitment:
Create a comprehensive open source FOIA processing service. In the short-term, the Administration will take steps to centralize making and tracking FOIA requests and appeals. The Administration will also develop and put in place interoperability requirements so that FOIA offices across the government can easily share documents and processing information. Additionally, in line with the Administration’s emphasis in the Open Data Policy on creating information systems to support interoperability and information accessibility, the Administration will work with agencies to support the creation of a comprehensive FOIA processing system that makes it easier for users to make and track requests, agencies to process requests, and enables agencies to make all documents processed available online for the public.

Anticipated Effect:
When implemented, this commitment will increase public integrity (OGP Grand Challenge 2) and improve government efficiency. The public will have better access to government information and the government will have more efficient software to help it process requests.

Timeline and Benchmarks:
3 months – Launch a centralized web portal requesters can use to make and track FOIA requests and appeals to any federal entity; Recruit agency(s) to participate in creating and piloting comprehensive system

6 – 12 months – Convene meeting(s) with agency officials from the IT department and the FOIA office and outside stakeholders to discuss challenges and opportunities; release interoperability requirements

15 – 18 months – Launch comprehensive FOIA system; Convene meeting(s) with agency officials from the IT department and the FOIA office and outside stakeholders to discuss improving system

18 - 24 months – Make source code available for other federal agencies, state and local government offices; Agencies must meet interoperability requirements

Commitment endorsed by:
OpenTheGovernment.org
Project On Government Oversight (POGO)
Center for Effective Government
Foreign Aid

**Goal 1: Increase Transparency of Foreign Assistance**

**Issue Statement:**

Partial data from several of the top agencies providing foreign assistance has been published to the Foreign Assistance Dashboard but this data is insufficiently detailed to deliver on the true potential of aid transparency. In order to empower citizens to hold governments accountable, allow recipient governments to better manage aid and other resources, and enable greater donor and aid coordination, timely, comprehensive and detailed data on the specific activities of agencies providing foreign assistance will be made available in an internationally comparable format (the IATI standard).

**Commitment:**

Publish timely, comprehensive and detailed information on foreign assistance. All agencies that administer foreign assistance will deliver “maximum coverage” of data by publishing foreign assistance information in a machine readable format that goes beyond the government-wide IATI implementation schedule to include missing information elements deemed “unable to publish”. This is in line with the Administration’s guidance on the collection of U.S. foreign assistance data (OMB Bulletin), the Open Data Policy, and with the “grand challenge” of the Open Government Partnership. This added-value information includes: activity budgets, planned disbursements and results. The timeline for publishing this information will be included in individual agencies’ Open Government Plans (2014 updates), which will also specify the resources that will be allocated to fulfill these commitments.

**Anticipated Effect:**

When implemented, this commitment will help the government manage public resources more effectively (OGP Grand Challenge 3). Citizens will be able to hold governments accountable for its funding choices, allow recipient governments to better manage aid and other resources, and enable greater donor coordination.

**Timeline and Benchmarks:**

**3 months** – Top three priority agencies (USAID, State Department and Millennium Challenge Corporation (MCC)) publish comprehensive and detailed information to the Foreign Assistance Dashboard (i.e., planning, obligation, spent, implementation, and program and activity level data). All information added to the Foreign Assistance Dashboard will be updated and published on the IATI Registry quarterly as indicated in the 2011 OGP Action Plan and the OMB Bulletin.

**12 months** –

- Remaining four priority agencies (Department of Defense, Department of the Treasury, Department of Agriculture and the Department of Health and Human Services) publish comprehensive and detailed information to the Dashboard (i.e., planning, obligation, spent, implementation, and program and activity level data).
• Agencies’ IT upgrades include compatibility with IATI to enable automatic publication of structured, comprehensive and comparable aid information. These upgrades should be made with the aim of publishing more and better quality information over time.

• The Office of Science and Technology Policy (OSTP) undertakes a review of agencies’ progress, in particular to assess the coverage and quality of information published. The findings of this review should be made public, and include technical and policy recommendations, as well as best practices, to assist agencies as they work on improving their information management systems.

24 months – All remaining agencies that administer foreign assistance are on-boarded to the Dashboard and the information is passed in full to the IATI Registry.

**Commitment endorsed by:**

Publish What You Fund

OpenTheGovernment.org

Project On Government Oversight (POGO)

Global Financial Integrity

The ONE Campaign

InterAction

Oxfam America
Goal 2: Make Foreign Assistance Decision-making Inclusive, Open and Transparent

Issue Statement:
Transparency, participation and collaboration are the key principles underlying the Administration’s Open Government Directive. To date, most agencies administering foreign assistance have focused their attention on transparency, or initiatives to increase the availability of information. More limited progress has been made on participation and collaboration. While some agencies have consistently demonstrated a willingness to engage external stakeholders in decision making – such as the Millennium Challenge Corporation (MCC), which includes civil society representatives on its Board of Directors – this practice needs to be strengthened and institutionalized in all agencies. In particular, agencies must adopt a model of stakeholder engagement that emphasizes regular, two-way communication and meaningful consultation.

Commitment:
Issue agency-specific policies mandating open policymaking, except where sensitive security and foreign policy considerations dictate otherwise. These policies will be developed with input from a wide range of external stakeholders, both in countries receiving foreign assistance and in the United States, exemplifying an open policymaking approach. The policies will be accompanied by guidance to ensure effective implementation, and reflected in agencies’ Open Government Plans (2014 updates).

Anticipated Effect:
When implemented, this commitment will help the government increase public integrity (OGP Grand Challenge 2) by giving citizens an opportunity to contribute their expertise and have a greater voice in the decision making process.

Timeline and Benchmarks:
3-6 months – Top agencies administering foreign assistance (USAID, State Department and Millennium Challenge Corporation) assign leads for developing a policy on open policymaking. Leads convene meetings with agency officials and external stakeholders to identify the key principles that will underpin the new policies.

9 months – Agencies release a first draft of their policies for public comment.

12-15 months – Agencies issue final policies on open policymaking.

18 months – Agencies develop guidance and/or undertake training on implementing the open policymaking policy.

24 months – Agencies publish a self-assessment of their progress.

Commitment endorsed by:
Publish What You Fund
OpenTheGovernment.org
Project On Government Oversight (POGO)
Global Financial Integrity
The ONE Campaign
InterAction
Oxfam America
Goal 3: Promote Greater Transparency among Implementers of U.S. Foreign Assistance

Issue Statement:
Despite the U.S. government’s own commitment to publish to the IATI standard, implementers of U.S. foreign assistance – including U.S.-based NGOs, contractors and universities – are not currently required to publish. While the U.S. government will not mandate IATI compliance, offering incentives would encourage more organizations to publish, making IATI information more complete and useful.

Commitment:

Establish incentives to encourage implementers of U.S. foreign assistance to publish to IATI. The Administration will convene a group to explore the incentives that would encourage a greater number of U.S. implementers to publish to IATI. These could include reduced or simplified U.S. government reporting requirements, small grants, and/or technical support for organizations to develop internal capacity and publish their initial set of IATI compliant data.

Anticipated Effect:
When implemented, this commitment will help the government manage public resources more effectively (OGP Grand Challenge 3). Once non-government actors publish to IATI, the United States, as well as other governments and donors, will be able to make better decisions about where to allocate scarce aid resources.

Timeline and Benchmarks:
3 months – Appoint group to study the issue; group will include implementing partner representatives.
6 months – Issue draft set of incentives and mechanisms to enact them; circulate for public comment.
12 months – Issue final draft of incentives and mechanisms.
15 months – Responsible entities are identified and briefed, prepare to implement.
24 months – Assess effectiveness of incentives in promoting greater participation in IATI. Assessment could include lessons learned and/or best practices from organizations that have published to IATI

Commitment endorsed by:
Publish What You Fund
OpenTheGovernment.org
Project On Government Oversight (POGO)
Global Financial Integrity
The ONE Campaign
InterAction
Oxfam America
Government Websites

Goal 1: Reform Government Websites

Issue Statement:
The first National Action Plan included a commitment to "reform the seven-year-old policy (OMB Memorandum M-05-04) that governs the management, look and feel, and structure of Federal Government websites to make them more useful and beneficial for the public." The Administration's self-assessment of the first NAP stated that this commitment was "completed and expanded through the issuance of the Digital Government Strategy" in May 2012. While the strategy was a landmark document, it did little to address the look and feel of government websites. In particular, there is a need for an increased emphasis on the usability of online disclosure tools, such as databases and apps, as accessing online government information remains a frequently frustrating experience. Furthermore, M-05-04 remains in effect, despite the fact that many aspects of the memo have been superseded by newer policies.

Commitment:

Identify good practices for effective online disclosure. The Administration will publish a report on good practices for effective online disclosure, which will:

- Highlight successes in user-friendly disclosure tools and apps created by agencies or third parties using agency data;
- Identify the characteristics of successful disclosure tools – and what users expect;
- Examine different development approaches (e.g. agency-led development, agency contests, hackathons) and explore the pros and cons of each approach; and
- Compile lessons learned and good practices, including recommendations for reform.

Replace M-05-04 with an updated policy. The administration will issue an updated website policy to replace OMB Memorandum M-05-04, framed with the Administration's emphases on transparency and citizen service, integrating relevant policies already established by the Administration (e.g. in the Digital Government Strategy and Open Government Directive), and incorporating lessons learned from the Administration's review of online disclosure tools.

Anticipated Effect:

When implemented, this commitment will improve public services (OGP Grand Challenge 2). The public will have better access to information and services.

Timeline and Benchmarks:

1-3 month – Solicit stakeholder and expert opinions for review of online disclosure tools
6-9 months – Publish review of online disclosure tools
9-12 months – Solicit stakeholder and expert opinions for updated website policy
15-18 months – Issue updated website policy
Commitment endorsed by:

Center for Effective Government
OpenTheGovernment.org
Project On Government Oversight (POGO)
Interagency Open Government Working Group

Goal 1: Increase Transparency of the Open Government Working Group

Issue Statement:
The interagency Open Government Working Group was established to share best practices and coordinate implementation efforts.

Commitment:

Post basic information about the OGWG. The Administration will begin to post publicly basic information about the OGWG, including at least meeting agendas and lists of attendees, promptly after each meeting.

Ensure appropriate participation. The administration will ensure that working group participants include senior officials responsible for open government, as well as program-level staff with implementation responsibilities. Additionally, the administration will frequently invite external stakeholders to share their views and expertise, though this should not be considered as a substitute for having a more formal mechanism for stakeholder participation such as the recommended goal of a Presidential Advisory Committee on Open Government.

Anticipated Effect:
When implemented, this commitment will improve public integrity (OGP Grand Challenge 2). The public will be able to better understand the government’s efforts to promote openness and share expertise.

Timeline and Benchmarks:
30 days after next OGWG meeting – Begin posting basic information about the OGWG

Commitment endorsed by:

Center for Effective Government

OpenTheGovernment.org

Global Financial Integrity

Project On Government Oversight (POGO)
Inspectors General

Goal 1: Improve government oversight and accountability by filling Inspectors General vacancies with qualified, experienced individuals.

Issue Statement:
Some acting Inspectors General can carry on the work of their offices ably, but a sustained absence of permanent leadership is not healthy for any office—particularly one entrusted with such an important and challenging mission as an Inspector General (IG). Unlike permanent IGs, acting IGs do not go through a screening process and have little job security, raising concerns about their independence and effectiveness.

Permanent IGs undergo significant vetting—especially the IGs that require Senate confirmation—before taking their position. That vetting process helps to instill confidence among OIG stakeholders—Congress, agency officials, whistleblowers, and the public—that the OIG is truly independent and that its investigations and audits are accurate and credible. In addition, a permanent IG has the ability to set a long-term strategic plan for the office, including setting investigative and audit priorities.

There are currently seven Offices of Inspectors General that have been vacant for more than 550 days. Three of these have pending nominees, but if these positions are filled, there will be two new vacancies—nominees include the current IGs at the FHFA and the FDIC.

Commitments:
Appoint qualified, experienced individuals to fill every Inspector General vacancy, prioritizing the larger agencies and those with the greatest responsibilities to protect the public. Each Inspector General should be chosen based on knowledge, experience, ability, and integrity.

Reduce vacancy periods to less than six months.

Anticipated Effect:
When implemented, this commitment will improve public integrity (OGP Grand Challenge 2) and improve government efficiency. Permanent IGs are more independent and effective, and have the ability to set a long-term strategic plan for the office.

Timeline and Benchmarks:
3 months – Appoint nominees for all open positions.

12 months – Vacancy periods are less than six months going forward.

Commitment(s) endorsed by:
Project On Government Oversight (POGO)
OpenTheGovernment.org
Public Citizen
National Taxpayers Union
Taxpayers Protection Alliance
Global Financial Integrity
Government Accountability Project (GAP)
Center for Science and Democracy at the Union of Concerned Scientists
Open Government Data

Goal 1: Continue Progress on Opening Government Data

Issue Statement:
The Administration has taken numerous steps to open government data – most recently, through issuance of Executive Order 13642 in May 2013 and in the President’s management agenda announced in July 2013. There remains a need for the Administration to remain actively engaged in promoting agency disclosure of data and to take select additional actions to promote open data.

Commitments:

Oversee implementation of the new data policy. The Administration will closely oversee and guide agency implementation of E.O. 13642 and OMB Memorandum M-13-13, in line with the deadlines and reporting requirements established therein.

Review information collection requests for compliance with the new data policy. The Office of Information and Regulatory Affairs (OIRA) will issue guidance to agencies on how to comply with the new data policy when preparing requests for new or renewed information collections under the Paperwork Reduction Act. OIRA will update the OMB Form 83-I to ask agencies to explain how the request complies with the new policy and, if applicable, provide information on how the public can access the information to be collected. Thereafter, OIRA will review information collection requests for compliance with the policy before approving requests.

Issue guidance on dataset inventories required by the new data policy. Agencies have expressed some confusion about how to develop the dataset inventories. The Administration will issue additional guidance to assist agency implementation.

Anticipated Effect:
When implemented, this commitment will improve public services (OGP Grand Challenge 1). It will be easier for the government to make data public so that it can be used by innovators.

Timeline and Benchmarks:

1 month – Solicit stakeholder input on dataset inventories

2 months – Solicit stakeholder input on incorporating the data policy in information collection requests

3 months – Issue guidance on dataset inventories

4-6 months – Issue guidance on incorporating the data policy in information collection requests; update Supporting Statement template

9-12 months – Agencies required to document compliance for new or renewed information collection requests via updated OMB Form 83-I

Ongoing – Monitor deadlines and reporting established by E.O. 13642 and M-13-13
Commitment(s) endorsed by:

Center for Effective Government

OpenTheGovernment.org

Project On Government Oversight (POGO)
Presidential Advisory Committee on Open Government

**Goal 1:** Establish a Presidential Advisory Committee on Open Government to create an ongoing mechanism for public participation and collaboration and engagement with civil society groups.

**Issue Statement:**
According to the OGP Roadmap, the U.S. and other countries are supposed to “identify a forum to enable regular multi-stakeholder consultation on OGP implementation—this can be an existing entity or a new one.” The U.S. National Action Plan for 2011-2012 failed to identify a forum to sufficiently meet this objective. *We the People*, while a useful tool for public petitions, does not allow for regular consultation with stakeholders. The White House blog also has not provided meaningful consultation. However, an advisory committee under the Federal Advisory Committee Act (FACA) is precisely designed to provide such a forum and it inherently transparent and accessible to the public.

FACA is one of our hallmark “sunshine laws”—using it to meet OGP goals would allow the United States to showcase a foundational open government policy for other nations. Importantly, there also is an opportunity to substantially enhance and expand openness in the U.S. through the work and practices of the Presidential Advisory Committee on Open Government (PACOG). Establishing an advisory committee will ensure that the government receives recommendations from a variety of experts and stakeholders on OGP implementation and open government issues.

**Commitment:**

*Establish a Presidential Advisory Committee on Open Government subject to the Federal Advisory Committee Act of 1972* (or FACA, Public Law 92-463), but going beyond the basic statutory requirements of FACA, to serve as an example of openness, utilizing practices and technology that enhance open government by reducing conflicts, increasing transparency, and boosting public participation. Please see these best practices.

**Anticipated Effect:**
When implemented, this commitment will improve public integrity (OGP Grand Challenge 2). The government will be in a better position to implement and oversee open government initiatives and the public will be able to share expertise.

**Timeline and Benchmarks:**

- **3 months** – Issue a directive establishing the charter of at least five years for the PACOG to include no less than 50% membership from civil society and other nongovernmental stakeholders.
- **6 months** – Membership nomination process is well underway.
- **6-12 months** – Members are announced and the first meeting is scheduled.
- **18 months** – The committee has held several meetings and designated priority areas of consideration for the first year.
Commitment endorsed by:
Project On Government Oversight (POGO)
Center for Science and Democracy at the Union of Concerned Scientists
OpenTheGovernment.org
Public Citizen
National Taxpayers Union
Center for Effective Government
Global Financial Integrity
Taxpayers Protection Alliance
Government Accountability Project (GAP)
Public Participation

Goal 1: Strengthen the role of public participation in the open government work of Federal Agencies

Issue Statement:

The Open Government Initiative was, in part, intended to reshape the practices and activities of public participation in the work of federal agencies. Participation allows members of the public to contribute ideas and expertise so that their government can make policies, rules, and regulations with the benefit of information that is widely dispersed in society. However, several issues impede the effective use of participation in open government. First, agency officials sometimes lack the knowledge, skills, and abilities to launch effective and meaningful participatory programs, and there are few opportunities for officials to learn about best-practice from each other and from civil society. Second, most of the laws that govern that use of public participation are over thirty years old and pre-date the internet. The laws are often in tension with agency missions and the goals of participation, and leave agency staff wondering whether participatory innovations are legal. Finally, several laws, rules, and regulations limit agencies’ ability to collect and use routine data from their participatory programs, which impedes evaluation efforts. Without improved methods of public participation, agencies are severely restricted in their ability to appraise and improve policy development and implementation. Addressing these issues will enable agencies to focus on the participatory aspects of open government and help the U.S. become a leader in public participation innovation.

Commitment:

Help agencies develop the internal capacity to conduct public participation. The Administration will encourage opportunities for professional development and education about the numerous tools and strategies for designing and conducting public participation, promote the creation of shareable materials, and support communities of practice across agencies.

Review and clarify the legal framework for participation. The Office of Management and Budget (OMB), perhaps in conjunction with the collaborative governance research project of the Administrative Conference of the United States (ACUS), will examine and clarify the specific laws, executive orders, and other mandates that require participation, as well as the laws that potentially impede the implementation of participation. Where necessary and possible, an incremental approach will be used to revise the legal framework.

Develop a generic, OMB-approved tool that all agencies can use to collect common data about individual participants for routine uses. OMB will convene a working group to determine what individual-level data can be collected, as well as the best methods for collecting such data. The group will assess what data is already approved for collection from website usage and examine standardized metrics. The group will determine whether such a tool fits under the fast-track clearance process outlined in OMB M-11-26, and address Privacy Act concerns.
Anticipated Effect:
When implemented, these commitments will improve public services (OGP Grand Challenge 1), increase public integrity (OGP Grand Challenge 2), and more effectively manage public resources (OGP Grand Challenge 3). Agencies will gain competencies in the best practices of public participation, confidence that their participatory innovations comply with applicable laws, and the ability to better evaluate programs. The public will be able to more effectively contribute ideas and expertise to government in a wider variety of participatory formats, including, including in-person, online, mobile app, and hybrid arrangements.

Timeline and Benchmarks:
1-3 months: Conduct a survey of existing professional development and education opportunities and determine whether and how to share assets among agencies.

1-6 months: Examine and assess the legal framework for participation.

1-6 months: Convene a working group to examine routine collection of individual-level data and make recommendations about a generic tool.

6 months: OMB issues policy guidance memo that clearly states what is and is not allowed under the current legal framework.

6-8 months: OMB approves and releases generic tool for routine collection of common individual-level data.

Commitment Endorsed By:
AmericaSpeaks
National Coalition for Dialogue and Deliberation
Reform the Classification System

Goal 1: Provide White House Leadership for, and Active Agency Involvement in, Classification Reform

Issue Statement:
The President has recognized the problem of overclassification and the need for a “fundamental transformation” of the classification system, and he has received recommendations from the Public Interest Declassification Board (PIDB) about how to proceed. Without active White House leadership and agency involvement, however, classification reform cannot occur.

Commitment:
The President will appoint a White House-led Security Classification Reform Steering Committee and charge it with reducing the size and scope of the classification system. The committee will have active, high-level White House participation and support; it will include not only senior agency officials charged with ensuring the security of sensitive documents, but also those charged with ensuring public access to government information; and it will engage the public to the greatest extent possible.

Timeline and Benchmarks:
3 months – issue executive order establishing the Security Classification Reform Steering Committee led by White House/NSC with representation from agencies with original classification authority. Steering Committee is tasked to lead an orderly reduction in size and scope of national security classification system.

3-6 months – convene first meeting of Steering Committee. Establish channels for public input to Steering Committee, including holding at least one public meeting and/or publishing notice providing for public comment.

12 months – define performance-based goals for reductions in classification activity. Establish security policy test bed for pilot projects to evaluate new measures for improving classification/declassification performance by reducing over-classification and shortening the time for declassification.
Goal 2: End the Declassification Bottleneck

Issue Statement:
Executive Order 13,526 contemplates that documents will be declassified on specified dates or after specified time periods, and that certain categories of documents will be declassified “automatically.” In fact, however, the practice of reviews by multiple “equity-holding” agencies, along with the need to engage in review for nuclear information under the Kyl-Lott amendment, result in routine, extensive delays. Unless these impediments are removed, declassification cannot possibly keep up with the massive volumes of classified information being created; there will be a perpetual and expanding backlog of information awaiting declassification.

Commitment 1: The President will direct an end to agency equities over information (other than statutorily protected atomic energy information and intelligence sources and methods) after at most 25 years, and will empower NARA, through the National Declassification Center, to declassify and release such information.

Timeline and Benchmarks:
6 months – issue an executive order on classification reform amending Executive Order 13526 to authorize and require NARA, through the National Declassification Center, to implement automatic declassification of 25 year old records independent of previous agency equities (excluding statutorily protected atomic energy information and intelligence sources and methods).

Commitment 2:
The President will 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.

Timeline and Benchmarks:
6 months – issue an executive order on classification reform amending Executive Order 13526 to authorize and require declassification without review of records that have been marked for declassification upon a specific date or event when that date or event has passed. The Order should also direct NARA to monitor compliance with this self-cancelling classification as part of its annual audit process, by reviewing both the marking of documents and the ultimate declassification without review.

Commitment 3:
The President will seek repeal of the Kyl-Lott amendment; pending repeal, the President will take steps to mitigate Kyl-Lott’s effects by enforcing his previous direction to agencies to designate whole groups of records as unlikely to contained Restricted Data (RD) rather than engaging in page-by-page review.

Timeline and Benchmarks:
3 months – direct the Secretary of Energy to submit draft legislation to Congress that would repeal the Kyl-Lott Amendment, citing the improved performance in marking and identifying atomic energy information.
3 months – direct the National Declassification Center to adopt the least onerous means of compliance with Kyl-Lott procedures pending the repeal of the measure.

Commitment 4: The administration will implement a system to reexamine the classification status of Formerly Restricted Data (FRD). The goal of the system will be to move FRD (other than nuclear design and related information, which should be converted to RD) to the national security information category, and to establish a process for the systematic declassification review of historical FRD information.

Timeline and Benchmarks:

3 months – direct the Secretary of Energy and the Secretary of Defense to immediately terminate the use of the Formerly Restricted Data category, transferring appropriate nuclear weapons design information to the Restricted Data category and treating all other FRD as national security information subject to provisions of the executive order.
Goal 3: Provide More Precise Definitions for Classifiable Information

Issue Statement:
Under Executive Order 13,526 and agencies’ classification guidance, the definitions of information that is subject to classification are vague and often subjective, resulting in lack of uniformity and overclassification.

Commitment 1:
The administration (ideally through the Steering Committee) will implement the Public Interest Declassification Board’s recommendation to “tighten definitions” of information that is subject to classification.

Timeline and Benchmarks:
6-12 months – direct the Security Classification Reform Steering Committee to prescribe a process for increasing the precision and clarity of new and existing classification guidance.

Commitment 2: The President will issue a directive clarifying that “intelligence sources and methods” may be classified only if their disclosure could reasonably be expected to harm national security; open-source intelligence or widely-known general techniques will not be classifiable.

Timeline and Benchmarks:
3 months – The President will direct the Director of National Intelligence to issue revised guidance on the definition of intelligence sources and methods to clarify that only those sources and methods whose unauthorized disclosure could reasonably be expected to damage national security are subject to protection.

Commitment 3: The President will direct that one goal of the next Fundamental Classification Guidance Review (FCGR) is to ensure that all guidance topics describe the information that has been deemed classified with sufficient specificity that no subjective judgment is required on the part of a derivative classifier using the guide.

Timeline and Benchmarks:
6 months – issue an executive order on classification reform amending Executive Order 13526 to authorize and require the Director of the Information Security Oversight Office to issue guidance to implement this requirement for the next and successive FCGRs
Goal 4: Remove Classification as an Impediment to Timely Public Debate on Key Policy Issues

Issue Statement:
Often, classified documents exist that would contribute significantly to the public understanding and debate on key issues of national security or defense policy. While many such documents are properly classified, others could safely be released, and often are, through official or unofficial leaks. As both the FOIA and Mandatory Declassification Review processes can take years, there is currently no mechanism for the public to secure a timely independent evaluation of the documents’ classification status.

Commitment: The administration (ideally through the Steering Committee) will develop a process by which members of the public may nominate classified documents or topical areas for direct, expedited declassification review by the Interagency Security Classification Appeals Panel (ISCAP); ISCAP shall conduct such direct, expedited review if it determines that the document or topical area, if declassified, would contribute significantly to an ongoing, important policy debate. In cases of topical reviews, the ISCAP shall evaluate and amend, as appropriate, the relevant agency classification guidance. As prescribed in the executive order, the ISCAP shall favor declassification in cases where there is significant doubt about the need for classification.

Timeline and Benchmarks:

6-12 months – The Security Classification Reform Steering Committee will establish a procedure for expedited declassification review of documents or topical areas that are pertinent to significant public policy issues. The Interagency Security Classification Appeals Panel shall be tasked to solicit, receive, evaluate and process requests from the public for expedited declassification of matters of current policy significance.
Goal 5: Attack Culture of Overclassification

**Issue Statement:** At many agencies that engage in classification, a culture of secrecy exists that promotes unnecessary classification. This culture is manifested in weak training practices, lack of accountability for overclassification, a failure to encourage challenges to improper classification, and widespread apprehension on the part of employees about potential sanctions that may flow from a failure to classify.

**Commitment 1:** The administration (ideally through the Steering Committee) will develop a model for classification training drawing on existing best practices of agencies, including a separate training unit on avoiding overclassification.

**Commitment 2:** The administration (ideally through the Steering Committee) will develop measures, possibly in the nature of pilot projects, to implement accountability for overclassification.

**Commitment 3:** The President will direct agencies to develop incentives (such as cash awards or other personnel incentives) for authorized holders of classified information to challenge classification decisions.

**Commitment 4:** The President will direct agencies to implement a policy creating a “safe harbor” for classifiers who make good faith determinations not to classify information or to classify it at a lower level.

**Timeline and Benchmarks for Commitments 1-4 above:**

- **6-12 months** – The Security Classification Reform Steering Committee will undertake to develop a comprehensive classification reform agenda.

- **12-18 months** – The Steering Committee will develop and begin implementation of a training module for classifiers with emphasis on avoidance and correction of overclassification.

- **12-18 months** – The Steering Committee will consider approaches to improving accountability for classification performance, utilizing the security policy test bed for pilot projects.

- **12-18 months** – The Steering Committee will consider, test and evaluate the use of positive incentives for employees to challenge classification decisions.

- **12-18 months** – The Steering Committee will promulgate policy establishing a “safe harbor” and precluding retaliation against those who make good faith judgments not to classify information or to classify it at a lower level.
Regulatory Review and Compliance Data

Goal 1: Improve Regulatory Enforcement and Compliance Data Disclosure.

Issue Statement:
In Jan. 2011, President Obama issued a memorandum requiring Federal enforcement agencies to make publicly available compliance information easily accessible, downloadable, and searchable online. The first National Action Plan pledged that federal agencies would “continue to develop plans for providing greater transparency about their regulatory compliance and enforcement activities, and look for new ways to make that information accessible to the public.” There remains a need to ensure agencies are in full compliance with the memorandum and continue to make progress in this area.

Commitment:

Fully implement existing directives to agencies and explore new avenues for increasing transparency of and access to compliance data. To ensure the sustainability of this initiative, the Administration will establish a process that adequately supports agencies and holds them accountable as they work to achieve the goals of the commitment and memo. Each agency will identify which office or offices within the agency will be involved in implementing the compliance data disclosure improvement process, and the Administration will coordinate the process. The Administration will, before the three-year anniversary of the memorandum in January 2014, issue a report on the implementation of the memo.

The Administration will make a concerted effort to identify the resources needed to effectively carry out compliance disclosure improvements and seek these additional resources in agency budgets. This will allow agencies to focus on compliance data improvement efforts without diverting resources from each agency’s core mission.

The Administration will continue to explore new ways to improve data disclosure and accessibility. To guide this effort, the Administration will set up a working group of representatives from the agencies, White House offices, and other appropriate stakeholders to develop and examine opportunities to improve disclosure. The working group will issue an action plan that identifies the current best practices among agencies and encourages agencies to share and adopt successful practices. The action plan should also identify new opportunities to improve disclosure and facilitate agency exploration.

Anticipated Effect:
When implemented, this commitment will increase public integrity (OGP Grand Challenge 2). The public will be able to make sure the government is fairly and consistently enforcing its regulatory obligations.

Timeline and Benchmarks:
3 months – Administration has ensured agencies are implementing the regulatory compliance memo and has made publically available a report on the progress made.
6 months - Administration continues to coordinate, monitor, and report on the implementation of the memo. Appropriate representatives have been selected to serve as members of the working group and the group has started to share ideas and explore new opportunities to improve disclosure.

9 months – The working group releases and requests feedback on a draft action plan that identifies best practices among agencies. The plan offers recommendations for further improvements to compliance data disclosure, accessibility, and usability.

12 months - Administration issues final action plan.

18 months - Agencies work to implement recommendations and report progress to the working group.

24 months - The Administration continues to lead, coordinate, and report on the implementation of the memo and action plan, and continues to explore and develop new ideas for improvement.

Commitment endorsed by:

Center for Effective Government

OpenTheGovernment.org

Project On Government Oversight (POGO)

Global Financial Integrity

Center for Science and Democracy at the Union of Concerned Scientists
Goal 2: Improve Transparency and Timeliness in the Regulatory Review Process

Issue statement:
The White House Office of Information and Regulatory Affairs (OIRA), housed within the Office of Management and Budget (OMB), reviews the rules that executive agencies propose to modernize and implement existing laws. These reviews delay and sometimes weaken the substance of the final rules that are published. However, unlike most of the rulemaking process, OIRA’s centralized review is opaque. The lack of transparency is problematic. Greater transparency in the regulatory review process is needed to improve internal accountability and public understanding of why some laws are not effectively implemented.

Commitment:
Ensure OIRA is obeying all applicable transparency requirements and established deadlines for reviewing agency rules; increase proactive disclosure of information. The Administration will direct OIRA to comply with the transparency provisions of Executive Order 12866, which requires OIRA to document communications with outside parties, provide the public with the current status of rules under review, and encourage agencies to identify and disclose changes OIRA made to a rule during the review process. The Administration will direct OIRA to make available to the public the changes it requests to developing, proposed, and final rules at executive agencies and an explanation for why these changes were made. The administration will ensure that the materials, studies, and comments from outside organizations and agencies that have substantially informed OIRA decision-making are disclosed to the public and available on the regulations.gov website. The Administration will direct OIRA to comply with the review deadlines established by E.O. 12866 (90 or 120 days).

Anticipated Effect:
When implemented, this commitment will increase public integrity (OGP Grand Challenge 2) and government accountability. The public will be able to better track the regulatory review process and better understand OIRA’s role in ensuring that rules are produced in a timely manner and enforce the regulatory missions of the agencies that produce them.

Timeline and Benchmarks:

3 months – Administration has directed OIRA to ensure full compliance with existing transparency requirements and review deadlines.

6 - 9 months – Administration monitors and collects information on OIRA compliance with transparency requirements and timetables for reviewing rules. Gaps in the information disclosed, obstacles to timely disclosure, and potential remedies are identified. The Administration evaluates the effectiveness of more robust transparency requirements, to determine whether new transparency directives are needed.
12 months – Administration releases a report that details OIRA’s record of compliance with current transparency requirements, identifies gaps in information and obstacles to timely disclosure, and discusses policy changes that could remedy problems and improve transparency.

18 months - 24 months – Based on its evaluation of current disclosure practices and opportunities for improvement, the Administration issues new guidance or policy directives to increase transparency and timely disclosure in the regulatory review process.

Commitment endorsed by:

Center for Effective Government
OpenTheGovernment.org
Project On Government Oversight (POGO)
Global Financial Integrity
Center for Science and Democracy at the Union of Concerned Scientists
Scientific Integrity

Goal 1: Build on Administration efforts to restore scientific integrity to federal agencies

Issue Statement:

If governments are to operate as transparently, openly and accountably as possible, they must commit to the goal of scientific integrity. Governments rely on access to unbiased and independent science to make policy decisions. The public’s faith in government depends, in part, on how well they perceive that the facts inform public policy, and not special interests.

The Center for Science and Democracy at the Union of Concerned Scientists has monitored the state of scientific integrity at federal agencies for the past decade. UCS called out abuses of science during the Bush Administration, and prepared for the election of a new president by compiling a scientific integrity “to-do” list for the next administration. We presented our proposals to then-candidate Obama, and after the election prepared a more formal document for the presidential transition team. In 2009, we praised the President when he issued a memorandum to agency heads outlining his key priorities for restoring scientific integrity at federal agencies. We closely followed, and consulted with the Office of Science and Technology Policy as OSTP put together a more detailed scientific integrity directive, released in December, 2010. The OSTP asked federal agencies to adopt a set of policy recommendations designed to build on the President’s memo. We have closely monitored the implementation of that directive, and have assessed agency performance in adopting its recommendations. [http://www.whitehouse.gov/sites/default/files/microsites/ostp/scientific-integrity-memo-12172010.pdf](http://www.whitehouse.gov/sites/default/files/microsites/ostp/scientific-integrity-memo-12172010.pdf)

The directive sought to ensure that federal scientists were hired on the basis of merit and not political affiliation, encouraged communication of science and technology information to the public, and set standards for more transparency at federal advisory committees.

However, the OSTP directive was not as specific as we had hoped it would be. And many federal agencies, despite our many face-to-face meetings with agency officials, can do much more to ensure that the ideals of the President’s memorandum are fully implemented.


These commitments expand on the goals set by the President and OSTP.

We have done studies evaluating agency media policies for scientists.

While progress has been made at some agencies, we continue to hear from scientists who feel that they cannot speak freely to the media about their work, and journalists who complain that agencies are not responsive to their requests and often make it difficult for them to interview agency scientists. In addition, agencies have been very slow to adopt policies that govern how scientists may use social
media to engage and inform the public, and how they may use social media as individual citizens not speaking on behalf of their respective agencies.

Commitment One:

The Administration should issue a memo directing all federal agencies to adopt agency media policies and social media policies that honor the free flow of information from agency scientists to the public and that also ensure that the free-speech rights of scientists are respected. Those policies should include: scientists’ right to last review of materials relying significantly on their work; the right to express personal views, provided that scientists make clear they are not speaking for their agency in an official capacity, and the acknowledgment that under the new Whistleblower Protection Enhancement Act, scientists who expose the censorship or manipulation of federal information are afforded whistleblower protections from retaliation. Social media policies should distinguish between personal and official use of social media tools, and include a personal-views exception, which allows scientists to identify their job title and employer, provided they make clear they are not speaking for the agency in an official capacity.

Timeline and Benchmarks:

3 months: Administration consults with agency officials and public information officers, journalists, and other stakeholders to propose specific recommendations for agency media policies.

6 months: Administration evaluates agency media and social media policies and offers best practices policies for agencies.

12 months: Administration issues its agency media and social media policy directive and gives agencies a deadline of six months to comply.

Commitment Two:

The Administration directs agencies to make avoiding conflict of interest a priority in their selection of experts for federal scientific advisory panels. The Administration also directs all agencies to permit agency scientists to present their research to federal advisory panels, if they request to do so. If scientists are not permitted to present, agencies must publicly disclose why permission was not granted.

Issue statement:

Federal agency advisory panels often include conflicted members with financial ties to the industries these panels oversee. These conflicts of interest erode the role of science in informing federal policymaking. While the Federal Advisory Committee Act and the Ethics in Government Act both impose some limitations on the use of conflicted experts, the Administration can take additional steps to make freedom from conflicts a priority in finding experts to serve on these panels. When experts with ties to the very industries affected by a panel’s recommendations are permitted to serve, they can have undue influence on the panel’s deliberations, compromising discussions that should be based on the quality of the scientific evidence before the panel. The presence of conflicted experts, when revealed by the media, also erodes the public’s faith in their government. In addition, agencies should do all they can to ensure that the informed views of their own agency scientists inform the deliberations of advisory panels. These views help ensure that panels have all the facts before them as they deliberate.
Timeline and Benchmarks:

**3 months**: The Administration conducts meetings with federal agency scientists to assess their frank views on the advisory panel process and how it may operate more effectively and impartially. The Administration also meets with stakeholders who have studied conflicts on FACA panels and have offered suggestions for reforms. It studies panels in the U.S. and abroad that ban conflicted experts and their success and strategies.

**6 months**: Administration meets with agency officials who select panelists and determine panel charters to get their views about how best to reduce the use of conflicted experts on panels.

**12 months**: The Administration issues a conflict of interest directive on conflict of interest at federal agencies.

**15 months**: The Administration publicly discloses its assessment of how well agencies are managing conflicts of interest and permitting agency scientists to present their views and findings before advisory panels.

**Anticipated Effect:**

When implemented, these commitments will **increase public integrity (OGP Grand Challenge 2)**. The public will have more confidence that government policies are based on facts and independent science, not on lobbying by special interests.

**Commitment(s) endorsed by:**

Center for Science and Democracy at the Union of Concerned Scientists
OpenTheGovernment.org
Project On Government Oversight (POGO)
Secret Law

Goal 1: Curb “Secret Law”

Issue Statement:
The public must have access to controlling executive and judicial interpretations of the legal rules under which our government operates in order to have an informed debate about the government’s legal authorities and policies, and to build a shared understanding of the rule of law. As then-Senator Russ Feingold said at a hearing in 2008 (as quoted in Secrecy News), "Secret law excludes the public from the deliberative process, promotes arbitrary and deviant government behavior, and shields official malefactors from accountability."

Commitment One:

Authoritative Legal Interpretations and Administrative Opinions: The President will direct the Attorney General to make publicly available copies of documents setting forth the authoritative legal interpretations of the Executive Branch, including operative Office of Legal Counsel (OLC) memos, opinions, papers, etc., that show the extent of executive branch authorities and the rules governing executive branch actions. These documents will be made available with redactions for appropriately classified material as needed. If redacted versions of the documents cannot be made available, then unclassified summaries will be made available.

Timeline and Benchmarks:

3 months – The administration will make publicly available a list of complete list of documents setting forth the authoritative legal interpretations and administrative opinions of the Executive Branch. The list must clearly indicate the topics of the documents, and what they are in reference to.

4 months – The administration will have met with stakeholders, including civil society organizations, to prioritize the release of materials in the public interest. Using the input of stakeholders, the administration will develop a timeline for release of materials to reach the 15 month deadline.

6 months – The administration will have completed the release of documents in priority categories. The government will also make publicly available all the documents detailing legal authorities and administrative opinions (with the proper limitations outlined above) created above within the last ten years.

15 months – The administration will have completed the public dissemination of copies of documents setting forth the authoritative legal interpretations and administrative opinions of the Executive Branch, including operative Office of Legal Counsel (OLC) memos, opinions, papers, etc., that show the extent of executive branch authorities and the rules governing executive branch actions.

Commitment Two:

FISC and other Secret Judicial Decisions and Opinions: The administration will make publicly available copies of existing Foreign Intelligence Surveillance Court (FISC) and other secret judicial decisions and opinions, with redactions for appropriately classified material as needed. If redacted versions of the opinions cannot be made available, the administration will urge the FISC to prepare and make available summaries of the opinions. Other judicial decisions or opinions that include or reflect significant
interpretations of the law, such as Electronic Communications Privacy Act (ECPA), will also unsealed and be made available with redactions as needed. If redacted versions of the documents cannot be made available, then unclassified summaries will be made available. The administration will also make unredacted versions of FISC and other secret judicial decisions opinions and pleadings available to all committees of jurisdiction in Congress. The administration will support legislation to require Courts to prepare unclassified versions of their opinions on a going-forward basis.

**Timeline and Benchmarks:**

1 month – The administration will make publicly available a list of FISC opinion titles and other now secret judicial decisions and opinions that include or reflect significant interpretations of the law.

6 months – The administration will complete the release of redacted opinions or unclassified summaries.

12 months – All opinions are made publicly available, with redactions for appropriately classified material as needed. If redacted versions of the opinions cannot be made available, unclassified summaries will be drafted and disseminated.

**Commitment Three:**

**Presidential Policy Directives (PPDs):** The administration will make publicly available unclassified Presidential Policy Directives (PPDs). The Administration will also make publicly available redacted or summarized versions of classified PPDs that set forth the operative rules and legal guidance for government programs. The administration also will promptly inform the public about, and make publicly available in unclassified or (where necessary) redacted/summarized form, any changes to previously published, PPDs. This should include any revocations or modifications, whether express or through practice, of an existing PPD.

**Timeline and Benchmarks:**

1 month – The administration will make publicly available a list, with sufficient titles indicating the topic and action, of operative PPDs, including any revocations or modifications.

3 months – The administration will make publicly available unclassified versions of PPDs.

12 months – The administration will make publicly available redacted or summarized versions of classified all remaining operative Presidential Policy Directives.

**Anticipated Effect:**

When implemented, these commitments will increase public integrity (OGP Grand Challenge 2) and trust in government. The public will have a better understanding of the legal rules under which our government operates and be able to have an informed debate about the government’s legal authorities and policies

**Commitment endorsed by:**

OpenTheGovernment.org

Project On Government Oversight – POGO
Citizens for Responsibility and Ethics in Washington – CREW

Federation of American Scientists

Electronic Frontier Foundation – EFF
Spending Transparency

Goal 1: Improve USASpending.gov website

Issue Statement:
As the premier website for federal spending data, USASpending.gov bears the responsibility of taking massive and complex data from across the federal government and using it to clearly and easily answer a myriad of spending questions people have on any given day. However, since launching in December 2007, the website has only undergone one significant upgrade, in 2010. There have been recent efforts to improve the data quality of agency submissions for the website, which are commendable changes, but their impact on citizens will be limited if the interface for accessing the data is not improving as well.

Commitment One:
The administration will solicit feedback and develop an improvement plan for USASpending. The Office of Management and Budget along with the General Services Administration should use several mechanisms of usability analysis, including online surveys, focus groups, and interviews of stakeholder and experts, to gather feedback and recommendations on the USASpending.gov website. Based on this input the agencies should issue and implement a phased improvement plan that will incrementally make the most important and manageable changes to the site.

Anticipated Effect:
When implemented, this commitment will increase public integrity (OGP Grand Challenge 2) and help the government manage public resources more effectively (OGP Grand Challenge 3). The public will have a better understanding of how the government uses taxpayer dollars.

Timeline and Benchmarks:

1 month – Implement ongoing customer satisfaction measurement and benchmarking process (e.g. via Foresee user surveys)

3 months – complete initial feedback process of surveys, focus groups, and interviews;

6 months – issue draft improvement plan for comment;

9 months – finalize improvement plan and begin implementation;

12 months – make first round of improvements;

15 months – make second round of improvements;

18-24 months – make third round of improvements and collect input/feedback on overall progress;

24 months – make fourth round of improvements and issue a public report detailing progress made and outline top options for future improvements.
Commitment endorsed by:
Center for Effective Government
OpenTheGovernment.org
Project On Government Oversight (POGO)
**Goal 2: Make Contracts and Grants Publicly Available**

**Issue statement:**

Citizens have a right to know whether their tax dollars are being spent wisely. Unfortunately, the terms of government contracts are not routinely disclosed. Without being able to read the full text of a contract or grant agreement between the federal government and a private entity, it’s difficult to determine what the government is supposed to be getting for what it spends or to hold agencies accountable for maximizing taxpayer value. Seeing only general descriptions of the government’s spending, as is currently provided on USAspending.gov, leaves many questions unanswered.

Filing FOIA requests for these documents is time consuming and focuses agencies to engage in a resource intensive review process. Achieving a system to allow proactive disclosure of contract and grant documents may be challenging but it could be pursued in stages to minimize costs and interference in the procurement process. The fact that many states make such documents available demonstrates that it is neither technically nor politically impossible.¹⁶

**Commitment:**

The administration will initiate a process to explore and select the best options for posting contracts, grant agreements and related documents online and linked to spending data on USAspending.gov. After initial research allows the selection of the best options for posting such data, several agencies can pursue different pilot projects to test the various approaches. Based on the results of those pilots, the administration can develop a plan to phase in the most effective approach that offers robust access to the information.

**Anticipated Effect:**

When implemented, this commitment will increase public integrity (OGP Grand Challenge 2) and help the government manage public resources more effectively (OGP Grand Challenge 3). The public will have a better understanding of how the government uses taxpayer dollars.

**Timeline and Benchmarks:**

- **3 months** – Administration issues memo on goals of posting contract and award documents online and identifying the top three potential methods for accomplishing goal
- **6 months** – Selected pilot agencies begin posting monthly contract and award documents
- **6-12 months** - Administration works with agencies to evaluate pilots and identify any technical barriers or other difficulties
- **12 months** – Pilot projects make modifications based on evaluations
- **16 months** - Administration collects input from stakeholders on pilot projects, provides guidance to agencies on how to address compliance with Section 508 requirements and other technical barriers

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**18 months** - Administration issues a report on pilot projects detailing what worked and what problems were encountered. The report identifies the selected approach to posting all government contract and award documents online including an implementation schedule.

**24 months** – First agencies begin posting contract and award documents online under the new system/approach.

**Commitment endorsed by:**

Center for Effective Government

OpenTheGovernment.org

Project On Government Oversight (POGO)
Goal 3: Apply the lessons of the Recovery Act by establishing a government-wide reporting system for contract and award recipients

Issue statement:

The accountability efforts around the Recovery Act taught us many lessons for spending transparency. Yet, few of those lessons have been brought to bear on the full federal spending universe. One of the most important and useful successes of tracking Recovery Act money was the use of recipient reporting. The Government Accountability and Transparency Board’s first report to the president noted that the simple requirement of having recipients report on their use of Recovery Act funds “enabled a tremendous breakthrough in public-sector accountability and transparency.”

Recipient reporting allowed the public to, for the first time, track federal money as much of it moved through prime recipients (state agencies, major corporations, etc.) of federal awards and see what other entities benefited from the projects and did much of the work (sub-contractors and sub-grantees). While USASpending.gov does include some sub-recipient information, the data appears less complete and robust than was achieved under the Recovery Act’s recipient reporting system.

Commitment:

The administration will establish a system for recipients of federal awards (contracts, grants, etc.) to report on the use of those funds. The administration will also generate a plan to phase this reporting requirement in across all agencies and eventually beyond first tier sub-recipients.

Anticipated Effect:

When implemented, this commitment will increase public integrity (OGP Grand Challenge 2) and help the government manage public resources more effectively (OGP Grand Challenge 3). The public will have more reliable information about how the government uses taxpayer dollars.

Timeline and Benchmarks:

6 months – OMB issues guidance to agencies about requiring recipient reporting on all awards and needed steps to properly inform recipients. The guidance should also include a staggered schedule to recipient reporting to begin for all agencies.

12 months – Administration launches a recipient reporting system with an initial round of agencies that oversee various types of awards (contracts, grants, etc.); FAR Council updates acquisition regulations to include contract terms requiring recipients to report.

16 months – Second round of agencies begin requiring recipient reporting.

20 months - Third round of agencies begin requiring recipient reporting

24 months – Fourth round of agencies begin requiring recipient

Commitment endorsed by:

Center for Effective Government
Whistleblowers

Goal 1: Demonstrate that President Obama strongly and uniformly supports all whistleblowers.

Issue Statement:
While some solid progress for strengthening whistleblower protections was made under the last U.S. National Action Plan for the Open Government Partnership, these advances have been overshadowed and undermined by other anti-whistleblower actions by the Obama Administration.

Indeed, in the past two years, the whistleblower community has been whipsawed by executive actions that signal both support for and opposition to the rights of whistleblowers and the role they play in ensuring that government operates as openly as possible.

Whistleblowers are in the trenches, and best equipped to sound the alarm about government waste, fraud and abuse and suppression of information. It is crucial that they be protected. Such protections save taxpayer dollars, advance public health and safety, and make the government more open and accountable.

The President has personally supported whistleblower protections, including supporting the passage of the landmark Whistleblower Protection Enhancement Act and issuing new protections for national security and intelligence community whistleblower. But the Obama Administration also has aggressively investigated and prosecuted national security whistleblowers.

The Department of Defense and the Office of Personnel Management both have challenged whistleblower protections. Both DOD and OPM would permit agencies to designate workers in “sensitive” positions, and have interpreted this designation to leave such employees, if terminated or demoted, no lawful process for appealing this personnel action, even if employees are, indeed, whistleblowers.

At the same time, other Executive Branch agencies, such as the Office of Special Counsel and the Merit Systems Protection Board, have been using their very limited resources to assist whistleblowers and to help with the implementation of the new whistleblower laws.

The law requires that agency employees are informed about their whistleblower rights. The Office of Special Counsel (OSC) offers to certify an agency is in compliance, but it is voluntary. At this time, only 27 agencies are certified. OSC also offers to assist agencies and train agency staff. And yet, agencies have been slow to request training.

Watchdogs such as the OSC and Inspectors General have newly expanded responsibilities to protect whistleblowers, increase government accountability and openness, and yield dividends for taxpayers. But to date the Administration has not made a commitment to give these agencies sufficient resources to do this important job.
Further, there are increasing concerns that agencies may be classifying information to deprive whistleblowers of the right to publicly challenge government misconduct and to retaliate against them, a practice illegal under Executive Order 12598.

In light of such contradictory signals, it is vitally important that the Administration speak with one voice on the importance of whistleblowers. The Administration must ensure that the new whistleblower protection policies it helped to usher in actually take root and fulfill the promise of more open, accountable, and efficient government.

The following commitments would go a long way to protect national security and intelligence community whistleblowers; prevent national security loopholes from undermining whistleblower protections and government accountability; increase accountability for federal spending by adequately protecting contractor and grantee whistleblowers; and protect our women and men in the military who blow the whistle on sexual assault, waste, fraud, abuse, and other misconduct.

**Commitments:**

- Issue an order that encourages, honors, and protects whistleblowing, enforcing existing protections and making it clear that the President has a zero-tolerance policy for suppression and retaliation against whistleblowers, which specifically:
  - Orders officials to hold violators of that anti-retaliation policy accountable to the fullest extent allowable.
  - Requires the head of each agency to seek certification from the Office of Special Counsel of compliance with the Whistleblower Protection Enhancement Act.
  - Requires training for federal, contractor, and grantee managers and employees on the rights and remedies available.
  - Establishes biannual Presidential awards for federal, contractor, and grantee employees who identify waste, fraud, abuse, threats to public health and safety, or other illegality or wrongdoing by the government or a federal fund recipient. Encourages agencies to establish similar awards.
  - Establishes an award for the highest performing agencies for encouraging, honoring, and protecting whistleblowing.
  - Directs the government to preserve the rights of federal workers while protecting legitimate secrets to prevent harm to our national defense.
  - Establishes that whistleblowers have direct access to Interagency Secure Classification Appeals Panel (ISCAP) for expedited, confidential review of challenges to the classification status.
  - Direct the Department of Justice and all other agencies to institute procedures that consistently include the negative impacts on whistleblowing a factor when weighing investigation, prosecution, and litigation decisions.
• Mandates ongoing, timely, public reporting on a central online Whistleblower Reporting Portal/Dashboard site of metrics on agency performance under the order and agency-specific statistics on OSC certifications and disclosures and retaliation claims made under the Whistleblower Protection Enhancement Act, Public Policy Directive 19, and the National Defense Authorization Act of Fiscal Year 2013 (Sections 827 and 828)—including the number, details, and resolutions of whistleblowing disclosures and claims of retaliation; training and certifications; and other compliance information.

• Invest more resources in the whistleblower protection functions of the Office of Special Counsel and the Inspectors General. The adequate funding of IG whistleblower responsibilities could be accomplished by better prioritizing existing resources within agency budgets.

• End the aggressive investigation and prosecution of government employees and contractors who exercise free speech rights to disclosure government waste, fraud, abuse, threats to public health and safety, censorship of federal information, or other illegality or wrongdoing. Limit Espionage Act prosecutions only to cases when the disclosure of information is specifically intended to harm the U.S. national defense or aid a foreign nation.

• Ensure the timely, public, and proper implementation of the Presidential Policy Directive Protecting Whistleblowers with Access to Classified Information (PPD-19), including strong, independent due process procedures and enforcement, and coverage of contractors and grantees by agencies. Protections should cover disclosures by Intelligence Community whistleblowers to the Office of Special Counsel. The ODNI and implementing agencies must participate in the Whistleblower Portal/Dashboard and ensure the maximum information is made public, while protecting classified disclosures.

• Actively support legislation and administrative action strengthening the FBI whistleblower protections, including allowing non-intelligence employees to have rights under the Whistleblower Protection Act.

• Actively support the strongest provisions of the legislation moving through Congress now to upgrade whistleblower protections for members of our military who face much higher hurdles than other federal worker and contractors in proving retaliation (NDAA FY 14, H.R. 1960, Sec. 527, and S. 1197, Sec. 511).

• Support legislation and administrative action to ensure that employees in national security sensitive positions are not stripped of their anti-retaliation and due process rights under the Whistleblower Protection Act and the merit system as a result of Berry v. Conyers, rulemaking, or any other action.

**Anticipated Effect:**

When implemented, these commitment will increase public integrity (OGP Grand Challenge 2). Whistleblowers will be able to bring public attention to possible waste, fraud, abuse and illegality without fear of reprisal.
Timeline and Benchmarks:

3 months – Assign team leads in the White House and relevant agencies and begin meeting with civil society groups and other stakeholders to develop the order and its policies; White House assigns a legislative liaison(s) to work with Congress and civil society on whistleblower legislation and begins actively lobbying for the best military whistleblower reforms as the NDAA FY14 moves through Congress; Seek to adequately fund OSC and IG expanded whistleblower responsibilities in any appropriations for Fiscal Year 2014, and include adequate funding in the President’s Budget for Fiscal Year 2015; Issue a policy to ensure anti-retaliation procedures are incorporated into all investigations, prosecutors, and litigation; ODNI and agencies implementing PPD-19 begin ongoing dialogue and sharing of agency certifications with civil society groups and other stakeholders; ODNI ensures agency certifications include coverage of contractor and grantee employees; DOJ issues proposed rule implementing strengthened protections for FBI whistleblowers.

6 months – Share a first draft of the President’s order with civil society groups and other stakeholders; ODNI issues a proposed rule for contractor and grantee implementation of PPD-19, including informing and training of employees; DOJ finalizes rule implementing strengthened protections for FBI whistleblowers; Aggressive investigations and prosecutions of whistleblowing cease; Bill(s) FBI and other national security and intelligence community whistleblower protections are introduced.

6-12 months – Issue the President’s order and begin implementation; White House continues to work with Congress on adequate funding for OSC and IG whistleblower responsibilities; Development of the Whistleblower Reporting Portal/Dashboard begins in consultation with ODNI, OSC, and OMB; Implementing rule for contractors and grantees is finalized; Congressional hearings on strengthening legislation take place.

12 months – Continue the ongoing dialogue on the progress of the implementation of the President’s order and other whistleblower protections with civil society groups and other stakeholders; Legislation has been reported by relevant committees; White House continues to ask Congress for adequate funding for OSC and IG whistleblower responsibilities.

18 months – Make the first whistleblower award and launch the Whistleblower Reporting Portal/Dashboard; ISCAP review is in place.

24 months – Make second whistleblower award and at least the first agency award; New laws enacted.

Commitment endorsed by:

Project On Government Oversight (POGO)
Center for Science and Democracy at the Union of Concerned Scientists
Government Accountability Project (GAP)
OpenTheGovernment.org
Public Citizen
Global Financial Integrity
Taxpayers Protection Alliance
National Taxpayers Union
Appendix 1: Summaries of Substantive Changes by Version

Version 1.1 – 25 July 2013

- Some substantive edits made to section on Foreign Aid
- Goal 2 in section on Regulatory Review and Compliance Data significantly expanded

Version 1.2 – 7 August 2013

- Section on Secret Law added
- NOT FULLY FINALIZED – additional sign-off in process – Section on Reform of Classification System added

Version 1.3 – 20 August 2013

- Clarifying edit under “Ethics” Commitment
- Added commitments under “Reforming the Classification System”
- Added commitments under “Public Participation”
- Added new commitments under “Ethics”