



**Testimony of
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OMB Watch**

**House Committee on Oversight and Government Reform
Subcommittee on Technology, Information Policy, Intergovernmental Relations
and Procurement Reform**

**On
Transparency Through Technology: Evaluating Federal Open-Government
Initiatives**

March 11, 2011

Chairman Lankford, Ranking Member Connolly, members of the Committee:

On behalf of OMB Watch, an independent, nonpartisan watchdog organization, I respectfully submit this written testimony for the record of the March 11, 2011 hearing, "Transparency Through Technology: Evaluating Federal Open-Government Initiatives." Thank you for holding this hearing, as we believe in making our government the most effective and responsive it can be through transparency and accountability.

OMB Watch was founded in 1983 and has spent over twenty-five years advocating for government accountability, transparency and access to government information, and citizen participation in governmental processes. OMB Watch believes citizens must take an active role in holding their government accountable, and federal spending transparency will do much to enable this.

Our development of FedSpending.org, a website that provides access to much of the federal government's spending information, demonstrated how the web can be used for greater accountability. The programming underlying FedSpending.org was licensed to the federal government and became USAspending.gov. In other words, we have both policy and practical experience with disclosure of federal spending information and with USAspending.gov in particular. OMB Watch does not receive any government funding and, therefore, would not be financially affected by actions taken with regards to improved transparency and accountability of USAspending.gov.

Celebrating 25 Years of Promoting Government Accountability and Citizen Participation — 1983 - 2008

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Data quality is a critical component of federal spending transparency. Indeed, arguably, federal spending transparency is impossible without high-quality data. But just as data quality is the foundation on which true transparency is built, transparency is the frame on which government accountability hangs. And accountability is what concerned stakeholders are after: making sure the federal government and those chosen by the government to perform work in its name are maximizing taxpayer value. This point is surely not lost in today's budget-constrained world.

USAspending.gov is an accountability tool, and addressing the site's data quality issues, great as they are, is only one way that we can improve oversight of federal spending. This testimony will address six components that can radically improve USAspending.gov as a tool for transparency and ultimately accountability. Together, these six components will better allow Congress and the public to know how much money the government is spending - not only through traditional means but through the tax code as well - who receives the money, where the money ends up, what the money was spent on, and how well that money was spent.

1. Treasury Data: *How Much Is the Federal Government Spending?*

In testimony for this hearing and through their Clearspending project, the Sunlight Foundation (Sunlight) has cogently demonstrated that USAspending.gov has significant data quality issues. A proviso in the project's methodology reveals the essential problem. "Since CFDA [Catalog of Federal Assistance] program obligations are annual estimates, there are very few programs whose reported CFDA obligation total is exactly equal to the aggregate obligations in USAspending.gov. As a result, the presence of over- or under-reporting cannot be assumed to represent an error."¹ Building off a methodology employed by GAO², Sunlight, compares bad data to bad data, but they do so simply because there is no publicly available, high-quality data.

USAspending.gov was always envisioned as just the beginning. When OMB Watch worked with Sen. Tom Coburn (R-OK) and then-Sen. Barack Obama (D-IL) to craft the legislation that ultimately created USAspending.gov, FAADS (Federal Assistance Award Data System) and FPDS (Federal Procurement Data System) databases were chosen because they were available, not because they were particularly good data sources.

We knew at the time that data quality in both data sets was suboptimal, to say the least, but we believed (and still do) that putting the data online would draw attention to the myriad flaws in the data. Since going online in 2007, USAspending.gov's data quality has improved and continues to do so because of attention - partly drummed up through hearings like these - the site receives. And while contract and assistance data quality have a long way to go, there is a much better data source that could be put online to feed USAspending.gov.

¹ "Methodology," Clearspending, Sunlight Foundation, accessed 3 March 2011

<http://sunlightfoundation.com/clearspending/methodology/>

² "Gov2.0 Presentation: An Open Government Scorecard," Sunlight Foundation, 7 Sept. 2010

<http://sunlightfoundation.com/blog/2010/09/07/gov2-0-presentation-an-open-government-scorecard/>

The final word in federal spending is found in the nation's checkbook, kept by the country's check writer, the Treasury Department, which has the highest quality source of federal spending data. If you want to know how much money and to who it has gone to, the most accurate information appears on the "Pay to the Order of" and "Amount" lines of Treasury payments. USAspending.gov and, indeed, federal spending transparency would be tremendously improved by putting the Treasury spending data online.

In fact, by allowing access to Treasury spending data, Congress and the public could easily compare contract and assistance transactions currently found in USAspending.gov to the actual cash outlays. And rather than take a rough guess at the extent to which FAADS Plus and FPDS data are inaccurate, we would know to the penny just how inaccurate federal agency obligation data is.

2. Tax Expenditures: *How Much More Is the Federal Government Spending?*

While USAspending.gov does a fair job of showing obligations that lead to federal cash outlays, it does not show many other forms of government spending. One giant hole is the absence of tax expenditure data. Tax expenditures, as defined by the 1974 Budget Act, are "revenue losses attributable to provisions of the Federal tax laws which allow a special exclusion, exemption, or deduction from gross income or which provide a special credit, a preferential rate of tax, or a deferral of liability." In other words, they're the tax breaks and loopholes that provide benefits to corporations and taxpayers. Accounting-wise, tax expenditures function in the same way as cash outlays, in that a dollar handed out as a tax break increases the federal deficit just as a dollar handed out via a check does.

Tax expenditures total over \$1 trillion a year, equalling the amount spent annually on discretionary spending (both security and non-security combined) and comprising an amount equal to almost 30 percent of our nation's spending. The Internal Revenue Service (IRS) is administering a subsidy program equal to the amount that all other agencies combined spend through the discretionary budget. Yet, while USAspending.gov gives some insight into how much and to whom federal agencies are writing checks, we know nothing about where tax expenditures end up.

It fails logic that the public should be barred from seeing the amount of federal tax breaks corporations receive, especially in light of the fact that several states make state tax expenditure information publicly available. The IRS currently publishes some limited information on corporate tax breaks, but only aggregated by industry. A grant delivered to an alternative energy company in the form of a check encourages the exact same research and development as funds delivered to that company in the form of an R&D tax credit. That the form of payment is different should not prevent the public from seeing how federal funds are spent and to whom they are provided. Showing basic information on USAspending.gov about which entities received which tax breaks, and for how much, would provide American citizens with an invaluable service while still protecting private and proprietary information.

USAspending.gov is both the natural home for tax expenditure data and a model for how to display it. The website currently displays federal spending in contracts, grants, and loans, and including tax expenditure data would help further inform a broader discussion on federal spending.

3. Multi-tier Sub-recipient Reporting: *Where Are Federal Funds Going?*

The current depth of vision along the chain of federal funds recipients is inadequate and keeps billions of dollars of contracts and grants out of view. Currently, we can see only two links in that chain: prime recipients and the first-tier sub-recipients. Prime recipients are the entities that receive funding from the federal government and can include states, cities, and private firms. Information on that exchange, including the identity of the prime recipient, is reported into USAspending.gov by federal agencies. Below prime recipients are the first tier of sub-recipients, who receive work from primes through sub-grants and subcontracts. Prime recipients report sub-recipients information to USAspending.gov.

After the first sub-recipient, however, the transparency trail goes cold. Prime recipients do not collect any sub-contracting data beyond first tier sub-recipients. Large federal projects are likely to be subcontracted out multiple times, employing many different contractors. And since most projects are routed through states or localities, the reporting levels are quickly exhausted.

For example, the federal Department of Transportation may give the State of Texas a \$1 billion grant to repair roads. The state government in Texas may then opt to subaward those funds to Austin, Dallas, Houston, and San Antonio. In this scenario, USAspending.gov shows us only the money that went to Texas (the prime recipient) and to the four cities (the first tier of sub-recipients). Almost certainly, however, those cities will sub-contract out to road construction firms to complete the work. And it wouldn't be uncommon for those road construction firms to sub-contract out some work. Plausibly, of the initial \$1 billion grant to Texas, hundreds of millions of dollars could be flowing to brothers-in-law of mayors but taxpayers would never know.

Instead of limiting transparency to two levels of recipients, a system of full multi-tier reporting in which any organization that receives more than \$25,000 in federal funds must report on the use of those funds should be implemented. Such a system would help give the public a better understanding of how federal funds are spent, and help prevent waste, fraud, and abuse.

Subcontracting poses another problem for USAspending.gov. Since the prime recipient (or the sub-recipient) is paying another entity for work on the project, the original contract amount is no longer an accurate representation of the amount of money the prime recipient received. For instance, if Boeing received a \$10 million contract at its Chicago headquarters, but then subcontracted out \$4 million worth of work to a firm in Michigan, Boeing (and Illinois) is left with only \$6 million worth of the original contract. Illinois does not benefit from the full \$10 million, but Michigan does gain another \$4 million in federal funds. This information is important to

understanding how much money stays in a location and how many jobs certain entities or federal projects create.

The chair of the independent Recovery Accountability and Transparency Board, Earl Devaney, supports this multi-tier reporting. Devaney argues that “more data, clearly presented, will give the public a better sense of what is going on in this massive government program. ... [T]his kind of detailed information [multi-tiered reporting] should be available for all government spending programs in an electronic and timely fashion.”³ We couldn’t agree more, and hope that Congress and the Obama administration will take steps to implement this important change.

4. Unique Entity Identification: *Who Is Receiving Federal Funds?*

Entities that receive federal funds may be identified differently in different systems. Tracing the flow of funds from request to expenditure to reporting on the use of those funds requires that multiple systems recognize a given entity throughout the process. Furthermore, assessing the total amount of federal funds that an entity has ever received requires the ability of systems to recognize that entity as such in every instance it is involved in the federal spending process. And because data are housed in many disparate locations and in different systems, the ability to link these data sets is essential to federal spending transparency.

The importance of identifying entities extends beyond USAspending.gov. Implementing a single system to identify entities across all federal data would allow stakeholders within and outside government to link recipients of federal contracting dollars to contractor performance reviews to campaign donations to lobbying activity to environmental impacts and to workplace and consumer safety records. By linking these disparate data sets, citizens and governmental actors could increase the accountability of contractors, Congress, and the federal government alike.

Currently, the federal government utilizes the Dun & Bradstreet Universal Numbering System (DUNS) to uniquely identify companies doing business with it. Theoretically, with an entity’s DUNS number, one could trace its entire federal grant and contract history, but access to the system is expensive. Moreover, because it is privately owned, essentially enclosed in a “black box,” the system is not subject to the usual transparency requirements, including Freedom of Information Act requests, leading to questions of accuracy and comprehensiveness.

Additionally, the DUNS system is fatally flawed because historical ownership information on contractors is lost when a parent company divests itself of one of its subdivisions. For example, because Halliburton sold off a subsidiary, KBR, in 2007, billions of dollars of Iraq War contracts awarded to Halliburton no longer appear as having been awarded to the company in USAspending.gov. And because the DUNS data remains locked in Dun & Bradstreet’s data

³ "Chairman's Corner," Recovery.gov, 28 Feb. 2011
<http://www.recovery.gov/News/chairman/Pages/08Feb2011.aspx>

systems, the federal government is extremely vulnerable to suspension of DUNS number services potentially leaving the federal government without a system to identify its contractors.

5. Contracts: *On What Are Federal Funds Being Spent?*

Without being able to read the full text of the contract, it's difficult to determine what exactly the government is supposed to be getting for what it spends. And without knowing that, it's impossible to hold agencies accountable for maximizing taxpayer value. As a former information technology consultant, I can tell you that commercial grade websites can run from thousands of dollars to millions of dollars. Seeing only that the government has contracted with a vendor to build a website leaves many questions unanswered.

When the Recovery Board announced in July 2009 that it contracted with Smartronix, Inc. to build what was touted as the website that would provide the greatest federal spending transparency to date, many eyebrows were raised when it was determined that the ultimate value of the contract could be as high as \$18 million. While many criticized the seemingly exorbitant sum that would be employed to build Recovery.gov, such criticism was based mostly on conjecture. At the time, it was impossible to know what the Recovery Board had actually purchased. USAspending.gov provides only six words to describe this \$18 million contract: "American Recovery and Reinvestment Act Project"⁴

Because of the (justified) complaints that the process to build Recovery.gov was so opaque, the Recovery Board urged the Government Services Administration (GSA) - the official governmental contracting party - to release the contract. Unfortunately, when GSA publicly released it, the contract was heavily redacted. Although the extent of redaction was comical to even those outside of the transparency community, it helps us understand what taxpayers were supposed to be getting for \$18 million. Things like the maximum number of users the site can handle; the hardware that would be used and what it would cost; the kind of security the site would be protected by; and basic warranty information all paint a more detailed picture of what taxpayers purchased.⁵

Putting contract text online is not without controversy. In February the Federal Acquisition Regulation (FAR) Council announced that it was withdrawing a proposal to put contract text online.⁶ After gathering comments on the advanced notice of proposed rulemaking, the FAR Council heeded concerns that automatic contract disclosure would create an undue burden on

⁴ Prime Award Spending data for Smartronix, Inc., USAspending.gov, accessed 10 March 2011
http://usaspending.gov/explore?carryfilters=on&fromfiscal=yes&tab=By+Prime+Awardee&typeofview=complete&record_id=41530824&fiscal_year=2009&contractorid=392379&frompage=contracts

⁵ "Obama Administration Redacts Contract Details for Recovery.gov", ProPublica, 13 Aug. 2009
<http://www.propublica.org/article/stimulus-transparency-watchdogs-keep-contract-details-a-secret-813>

⁶ "Federal Acquisition Regulation; Enhancing Contract Transparency; Advance notice of proposed rulemaking; withdrawal," 76 Federal Register 28 (10 Feb. 2011), pp. 7522 – 7526
<http://www.gpo.gov/fdsys/pkg/FR-2011-02-10/pdf/2011-2900.pdf>

contractors and the government to redact confidential business information and that the FOIA process as-is is sufficient to provide contract transparency.

While we do recognize the need to protect information that could harm a business's ability to compete, OMB Watch strongly objects to claims that putting all federal contracts online would be too burdensome and that the FOIA provides sufficient transparency. To mitigate the burden on the federal government of conducting a FOIA review of every contract to identify confidential business information (CBI) before posting online, contracts could be submitted to the contracting agency electronically. This would allow the contractors the ability to electronically mark CBI and non-CBI information. Although we expect over-redaction initially, the fact that some of the contract text is online would be a step forward. Should stakeholders believe that some information was not properly redacted, a FOIA-like review process could then be initiated.

On the issue of FOIA being sufficient to bring transparency to federal contracting, one need look only as far as the pile of FOIA requests that routinely sit on agencies' desks. The federal government signs thousands of contracts each year, and FOIA requests commonly take months to fulfill. Not only is the burden of transparency placed on citizens, but requiring them to potentially make thousands of FOIA requests for contracts, often with a months-long delay, significantly hinders policy discussions.

6. Performance: *How Well Are Federal Funds Being Spent?*

USAspending.gov provides timely, if inaccurate, federal spending information on a publicly accessible website. But federal spending transparency is not an end in and of itself. Rather, transparency is a means to accountability. And holding spending decision-makers accountable requires the public and Congress have access to information on how effective federal programs are. That is, what kind of bang are we getting for the buck. By incorporating program performance data on USAspending.gov and linking it to program spending information, Congress and outside stakeholders will have important tools with which to hold policy-makers accountable.

As part of their budget request formulation process, federal agencies should have access to relevant, high-quality program data. Congress should also have access to the same data to help guide its funding deliberations. Outside stakeholders, those who are affected by program funding, involved in service delivery, and concerned as interested citizens, should also have access to the same information, allowing better participation in the democratic process to determine appropriate funding levels for our national priorities.

To be clear, measuring program performance is incredibly complex, and I do not mean to suggest that including performance data on USAspending.gov will settle policy disputes with a single program efficiency score. Indeed, not all that can be meaningfully known about federal programs is quantifiable; programs do not have a single, unitary purpose that never adjusts to changing circumstances. Nor is the only meaningful work performed by federal programs leading to a single outcome. But the inclusion of program performance data in

USAspending.gov will serve to inform national conversations about what our national priorities are and which federal programs are deemed best to achieve them.

Conclusion

Federal spending data quality should be improved on USAspending.gov, based on the six critical components discussed above. By expanding information on USAspending.gov to include cash outlay and tax expenditure data from treasury, full multi-tier sub-recipient reporting, an improved unique identification for entities, full text of federal contracts, and program performance data, it can become a powerful tool for federal spending accountability.

Thank you for your consideration.