

Section #5: Transparency

In a period when trust in government is at an all-time low, transparency may be a tool to rebuild that trust. Government transparency may be defined as the public's right to know about actions of its government and power elites as well as access to tools that foster greater participation in democratic actions. Transparency is one element – albeit an essential one – of an open government.

Despite the clear importance of transparency in building a more effective and accountable government, the federal government continues to fall short of the openness we need. While progress has been made, we continue to struggle with the responsibilities of our often longstanding right to know laws, such as the Freedom of Information Act (FOIA). Today's laws and policies on public access are inadequate for today's 24 hour-7 day a week Internet world. Under the Freedom of Information Act, the bedrock law on openness, the burden is on the public to request information (and wait for a response); there are far too many loopholes to allow agencies to withhold information; and the law is designed for the paper world functioning in an electronic era. While FOIA needs some improvements (e.g., reducing backlogs; limiting discretionary exemptions; aligning the Department of Justice's policies and procedures, including litigation strategy, with the President's FOIA policy on openness) that Congress and the President should tackle, there is also a need to radically overhaul transparency policies to fit today's needs.

The President and new Congress can put in place a new open government policy that creates an affirmative obligation for government agencies to proactively disclose information. While some government information must remain secret, the burden to justify withholding information should be a government responsibility, should be set at a high standard, and should be fully disclosed and explained in terms all can understand. Any time the government proceeds to collect information, it should presume that the information will be disclosed in a timely and searchable manner.

To begin this affirmative disclosure model, the next President should immediately issue a new directive to agency heads establishing standards for information that all federal agencies must disclose. This standard would be a floor that agencies would be encouraged to go beyond. At a minimum it should include:

- General information about the agency that helps the public better understand how to contact key agency personnel and types of activities top level employees are engaged in, such as organizational charts, list of employees and how to contact them, logs of visitors meeting with top level officials, and calendars of top level officials;
- Policies guiding agency actions that will help the public better understand how decision-making and operations occur within an agency;
- Unclassified communications and reports prepared by an agency, such as communications to Congress and reports of an agency Inspector General; and
- Other records and data that will help the public hold government agencies accountable, such as logs of requests for records filed under the Freedom of Information Act and information about who is participating in federal advisory committees and what is being done by such committees.

There are other top level policy reforms needed including strengthening disclosure of information about: special interest influences and ethics of those working in government; administrative governance, including rulemakings and paperwork requirements; and federal spending, including tax expenditures. The President also needs to make sure that information withheld from public disclosure warrants secrecy. This includes ensuring the classification process is sharply reduced in scale, duration, and complexity.

Policy changes alone are not enough. Here are four principles that government should follow in using new information technologies to make data available to the public:

- **Make sure the information can be found and is timely and accurate.** If information cannot be found when the public is looking for it, then the agency is not truly being transparent.
- **Data standards are essential.** The development and use of standards for metadata will also be critical to facilitating the retrieval of the right information, especially as release of government data sets increases.
- **Make sure commercial services can be used.** Agencies and government employee should take advantage of the same open, free, commercial services the public uses to communicate and share information, such as Facebook, YouTube, and Twitter.
- **Data must be structured so it can be mashed-up.** With the disclosure of more and more government databases, the demand to link various data increases. Government has responsibility to enable such use of databases by developing a system of common identifiers for companies, locations, industries, activities, etc. to be used across agencies.

At present, disincentives are built into the way government agencies operate. Civil servants need to be given the freedom to disclose information and be rewarded for doing so.

Agency staff, beyond those responsible for implementing FOIA, should also be required to go to periodic trainings on transparency issues so that they are familiar with the public's right to know, as well as the tools they can use to carry out transparency efforts. The mandatory trainings could also result in a certification that signifies a level of understanding in how to disseminate government information. Ultimately, moving towards an open government rests on changing the culture within federal agencies.