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Suggestions for Improving Transparency Policies

We offer several suggestions for ways that the federal government can improve transparency. The first section describes several general policies to create better disclosure systems; the second section offers some prototype and experimental initiatives that might begin in short order.

I. Policies for disclosure and transparency

1. Making government information more accessible

The Freedom of Information Act does not provide the American people with all the information they need about government activities. The fact is that it doesn't work very well for anyone. It keeps people waiting for the information they need and it costs the government millions of dollars each year to respond to one request at a time.

FOIA as a floor: The Attorney General could instruct agencies to disclose all possible information electronically and make it easy to find, whether or not disclosure is required by FOIA and without waiting for requests.

Open data access: The government could adopt the principles of open government provision as recommended by open government advocates including the Sunlight Foundation, My Society, the Omidyar Network, and the Electronic Frontier Foundation (see: http://resource.org/8_principles.html). Government information should be provided in a way that is: complete, primary, timely, accessible, machine processable, non-discriminatory, non-proprietary, and license free.

2. Fostering targeted transparency

Federal agencies are charged with carrying out a large number of legislated disclosure policies that aim not just toward the provision of information because Americans have a “right to know,” but also aim to reduce risks, enhance public accountability, allow individuals to protect themselves, or otherwise enable Americans to make wise choices. Often, these policies require government agencies to mandate or collect information from private sector companies and then to make that information available to the public. For example, automobile safety ratings aim to inform consumers about the riskiness of different car models; nutritional labels on food products allow consumers to avoid unhealthy foods; the Toxics Release Inventory requires manufacturers to disclose their chemical releases to create incentives for them to reduce pollution. We deem these policies “targeted transparency” because they strive to achieve specific policy outcomes.

Making targeted transparency more effective: OMB might ask all departments and agencies to make targeted transparency policies more effective by implementing an eight point check list.

1. Clearly *identify the intended users* of the information and verify that they can effectively integrate the disclosed information into their decision making routines.
2. Assess how information is *actually used* by the intended parties. Is it misinterpreted or misunderstood due to well known cognitive errors and limitations? Do users deploy short-cuts that result in counterproductive responses to information?
3. Evaluate how closely are transparency *metrics linked to the policy outcomes* they seek. There are many things that can be measured and incorporated into a transparency system that have little relation to ultimate objectives. For example, some users might assess nursing home facilities based on capital expenditures, but if those expenditures primarily reflect cosmetic investments (e.g. expenditures on entry areas or visitor amenities) rather than healthcare related commitments, a disclosure system might send the wrong signals.
4. Assess if important *differences in the accessibility of disclosed information* exist between different socio-economic groups, or people of different educational levels. How can these inequalities be mitigated?
5. Identify if there are *third party intermediaries that help users to understand disclosed information*. If present, who are they and how aligned are their incentives with those of intended users? For instance, the system of financial transparency relies on a large ecology of analysts and interpreters of that information. Some of these third party interpreters have conflicts of interest that cause them to systematically misinterpret information for end users.
6. Examine the mechanisms through which *disclosers receive information* about the responses of users. Transparency systems imply an action cycle where user information informs and presumably changes user behaviors which, in turn, alter incentives of

information disclosers who then change behavior. For example, for many consumer products, disclosers (providers of the good or service) have a first order concern in understanding consumer choices, preferences, and changes in their behavior as motivated by many factors including the provision of new information about product characteristics. But if disclosers, for example small or relatively unsophisticated businesses, lack the capacity to pick up changes in consumer behavior, transparency might be ill-suited as a tool for intervention.

7. Evaluate whether there are *sufficient incentives / enforcement tools to lead disclosers to provide information*. Transparency policies are not self-enforcing. The incentives created by the disclosure policy to compel the provision of accurate information must be analyzed as under any regulatory system.

8. Examine how *disclosure systems work in tandem with other regulatory tools*. Specifically, how do transparency policies complement other regulations to further a policy goal? For example, the Home Mortgage Disclosure Act provides information that strengthens regulatory enforcement under the Community Reinvestment Act.

II. Prototype Initiatives and Experiments

1. Economic stimulus spending disclosure

In contrast to criticisms about the lack of information and transparency in the initial financial stimulus measures, the Obama administration stimulus funds could be spent in more transparent ways. First, federal agencies could collect detailed and timely project-by-project information from major recipients of aid and their contractors regarding the nature of projects funded, distribution, employment created, bids offered, and many other details. Second, following the principles of open government described above, recovery.gov could create free data feeds that allow information developers to utilize and “mash-up” that information in any way they choose. Third, recovery.gov itself could employ 21st century, web 2.0 technologies to construct a highly interactive site that displays and allows user analysis of economic stimulus spending data and creates interactive user communities around it.

2. Making it easier for people to pay taxes and receive benefits they are entitled to

Existing administrative procedures make it too hard for people to fulfill their tax obligations and receive veterans benefits, medicare, and other benefits they are entitled to. Forms are confusing and hard to fill out. For the first time in history we have the technology to provide forms that

everyone can understand, regardless of skill level or learning style, and to get your feedback when we are not doing well enough.

The Secretary of the Treasury and the Secretary of Health and Human Services could set new standards for tax and benefit forms using universal design for learning (UDL) principles for digital information that have been developed by the National Science Foundation and educators.

3. Local conditions database and response system

The Departments of Housing and Urban Development and the Department of Transportation could create a customizable platform to allow cities and towns to quickly deploy web sites that allow residents to report local problems (e.g. broken streetlights, abandoned vehicles, potholes, tunnel and bridge problems) in a geo-coded database and display system with mark up features. Cities and towns could deploy the platform on a voluntary, and perhaps incentivized, basis and integrate it with their 311 (non-emergency) incident reporting systems.

4. Getting information about dangerous incidents to the public faster

Lives can be lost when people don't have the information they need. Information about the safety of our public water supply, our hospitals, our prescription drugs, the healthfulness of our food is so critical that Congress has passed laws requiring that the public be fully informed. Too often, however, information is incomplete, hard to understand, out of date, or just plain wrong.

The director of OMB could quickly establish a set of best practices so that new and existing disclosure systems will give people the information they need to make good choices. He will also convene a working group of agency officials to share new ideas about how to do better at getting crucial information to people when and where they need it.

The director of OMB might also instruct agencies to get information about threats to health and safety out to the public as soon as it is received. It will develop simple graphics to show how incomplete the information is and how much confidence the government has in it.

For example, the Food and Drug Administration could investigate ways to make its Adverse Event Reporting System more widely used and useful for physicians and patients to protect themselves against the unforeseen effects of drugs. Likewise auto safety officials could develop early warnings of safety defects.

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The need for creating more responsive and effective transparency policies are critical and the opportunities for doing so abundant. We believe these ideas can help move policies forward and we would be happy to elaborate on any of these suggestions.

Sincerely,



Archon Fung



Mary Graham



David Weil