



Recovery Act Transparency: Implementation and Current Issues

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

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Introduction

President Obama has been emphatic he wants the American Recovery and Reinvestment Act (Recovery Act) expenditures to be transparent and accountable ever since he signed the act into law on February 17, 2009. While transparency is laudable for its own sake, it should not be forgotten that transparency is a means to an end; it makes accountability possible. And it is accountability, after all, that makes government spending more effective and efficient.

The challenge in creating such a system for the implementation of the Recovery Act is to develop a simple structure by which recipients of stimulus funds are answerable to taxpayers. To create such a system, those recipients must be able to enumerate what services or goods they provided to the nation, the state, and the local communities in which they worked while explaining the degree of success of the projects they undertook. The government has the obligation to taxpayers to ensure that recipients are efficient in the delivery of the services or goods they were trusted to deliver.

Without knowing what every recipient is doing with the funds that they receive, it is impossible to find instances of waste, fraud, and abuse, nor is it possible to discover those recipients that are exceptional stewards of the nation's resources and deserve recognition for their work and additional opportunities to service their country. Without a system that creates incentives and aligns the goals of the Recovery Act with those of who receive funds to implement it, it is quite likely this effort will be criticized.

The concept of transparency in Recovery Act spending is rather simple to articulate but quite difficult to implement. By law, the actual implementation of this concept is left to the Office of Management and Budget (OMB), the executive branch office that helps supervise the other executive agencies, as well as the Recovery Accountability and Transparency Board (the Recovery Board). This report examines both agencies' role and actions in the implementation of the transparency and accountability provisions of the Recovery Act, primarily by exploring the guidance OMB has issued thus far. This report starts by first looking at the three main elements of transparency in the Recovery Act and then moves to examine the central transparency issues surrounding how the act is currently being implemented. The report then briefly describes Recovery Act transparency as implemented by state governments. By addressing these issues, OMB and the Recovery Board can make the Act as accountable and transparent as possible.

Three Essential Elements of Recovery Act Transparency

In order to ensure that Recovery Act spending is fully transparent, the government and the public should not only have access to data about who is getting money and what they are doing with it, but they should also be able to easily access and understand that information. There are three essential elements of spending transparency necessary for the Recovery Act:

1) Information about Who Receives Recovery Act Funds

Americans have a right to know how and where public dollars are being spent. Reporting and oversight are necessary to ensure the honest and ethical use of public funds. Without sufficient transparency, pay-to-play scandals and corruption are endemic to large, federal expenditures. Additionally, understanding which communities, companies, and individuals are supported by Recovery Act funds is a basic fairness issue. Without it, some communities or sectors could be systematically excluded from support, while well-connected entities may get special deals. Proper transparency mechanisms for tracking spending will help mitigate this. One key element is that all recipients of Recovery Act funds must be required to report in a timely fashion on funds they receive.

2) Information about Effectiveness of Recovery Act Spending, Including Performance Data

Only by carefully tracking expenditures will public officials be able to judge the effectiveness of public investments and be able to fine-tune or shift spending to achieve maximum results. As with all federal spending, decisions on whether to fund similar programs, contractors, or grantees in the future should be informed by the effectiveness of their performance during Recovery Act implementation. To this end, data on performance of programs and the entities that undertake Recovery projects should be included alongside basic spending data. Linking performance data with spending information also creates new opportunities for dialogue about improving the quality of government programs and eliminating programs that continue to fail.

All too often, key equity metrics – such as race, gender, economic status, age, and disability – are overlooked when measuring against benchmarks. In the case of the Recovery Act, equity metrics are essential to measuring success and need to be given greater prominence.

3) Accessible, Understandable, and Useable data on Recovery Act Spending

Submission of information to government should take place through publicly visible channels, as should information production by federal agencies. Agencies that withhold information – either intentionally or unintentionally – feed a perception that government is hiding something. In some cases, this requires a radical overhaul of the way government perceives its role – call it a Web 3.0 Revolution. It is not simply about employing 21st century technology tools; it is also about embracing a distributed, open standards mindset that allows for disparate data to be linked.

For the Recovery Act, this means government must not only provide a robust, searchable website, but it also must provide the underlying data in machine-readable formats that allow

developers to create their own websites and uses of the data. These data cannot be shared in aggregated form; they must provide information about each grant and contract, as well as information about the flow-down of federal funds from these grants and contracts to various tiers of subrecipients. As the government provides data through machine-readable feeds and through its own website, there needs to be a synchronization of the underlying data so the public does not become confused by the different data being presented. Moreover, data quality must be regularly checked and improved.

OMB has required each agency to provide weekly reports on expenditures and other information to the Recovery Accountability and Transparency Board. Currently, agencies publish limited information about Recovery Act spending through these reports to the Recovery.gov website but submit more detailed data, including recipient information and location the funds were spent, through the USA Spending.gov data submission process. This creates confusion about what money is being spent and who has received it for users who are only accessing information through Recovery.gov. The data reported through weekly reports to the Recovery Board and the data submitted to USA Spending.gov need to be reconciled (as should data from the Treasury Department, which writes checks to entities for grants and contracts and has the most accurate information).

It is essential for the Recovery Board to ensure that the weekly reports from the agencies (reconciled with USA Spending.gov and Treasury Department data) continue to be made available even after recipient reports become available in October. Recipient reports need to be compared to the weekly reports to serve as a baseline of comparison.

The State of Recovery Act Transparency

Implementation of the Recovery Act to Date

Since its inception, many groups have been intently monitoring the implementation of the Recovery Act, and early indications are encouraging. It appears the Obama administration is putting in place a system that will serve the public well – and may be a model to learn from as meaningful disclosure is brought to annual federal spending. Even so, as of today, the federal government's efforts to make Recovery Act spending fully transparent and accountable still have a long way to go.

This is not to say the task is easy or there has not been significant progress. The task that the administration has undertaken – the tracking of hundreds of billions of dollars that are being rapidly disbursed to thousands of recipients – is unprecedented and enormous. It is surprising in that the government has never established a good model for reporting of annual federal spending through normal appropriations bills. The hope is that the Recovery Act becomes a learning tool for overhauling the way transparency occurs on annual federal spending efforts.

On the Recovery Act, the administration has made great strides within a short timeframe and is already making some data available to the public ahead of the statutory deadline. While Recovery.gov and the recipient reporting requirements that will drive what data are available remain less than ideal, hopefully the system will continue to substantially improve.

Currently, the greatest disappointment stems from the Recovery Board's lack of progress in updating and improving Recovery.gov, notwithstanding a July 8 contract with Smartronix to rebuild the website. This Recovery Board needs to understand that there are two types of reporting currently under the Recovery Act. The first concerns the weekly reports from federal agencies to the Recovery Board on how money is being spent and other items related to Recovery Act activities (e.g., lobbying contracts, summaries of contracts). The second concerns quarterly reports from recipients of Recovery Act funds that start in October. The Board seems focused on the second set of data and has done very little with the first set of data.

This is enormously frustrating and has created confusion. The federal agency reports contain information about how much money has been obligated and paid for each program under the Recovery Act. Some agencies identify the recipient of the money, although most do not. It would help if OMB provided more detailed instructions to agencies on the specific content that must be provided in the reports, including data that is consistent with the requirements of the Federal Funding Accountability and Transparency Act of 2006s required by the law. It would also help if OMB instructed agencies that this information should be in machine-readable feeds.

At this point in the recovery effort, the public should be able to type in a zip code, name of entity, or program name on Recovery.gov and find detailed information about the spending. But that has not happened. Recovery.gov only provides overall information about funds obligated and paid out, although one can get aggregate amounts for program areas. Because the federal agencies' machine-readable feeds are not uniform and not complete, the public cannot easily get the information and create its own searchable website. Individual federal agencies' Recovery Act

websites are not consistent in the content they provide; many agencies provide no detailed information about who got the money.

USA Spending.gov, which unlike Recovery.gov receives no funding under the Recovery Act, has begun posting the detailed information about each Recovery Act grant and contract.

USA Spending.gov reports data on obligated funds, not necessarily what has actually been spent. However, each agency employs its own definition of obligated funds adding a problem in trying to compare these data with the weekly data each agency puts on its own web site and gives to the Recovery Board for Recovery.gov. Additionally, the timing of the data appearing on USA Spending.gov is dependent on when the agency submits the information, as opposed to Recovery.gov, which is provided weekly. On the other hand, the data on USA Spending.gov are far more complete than the data in the weekly reports to the Recovery Board. It contains information about the award and the entity receiving the award. While we applaud the work of the USA Spending.gov team, their significantly different expenditure totals is a source of confusion and should be addressed.

While the public receives information from either Recovery.gov or USA Spending.gov, the most accurate data related to spending comes from the Treasury Department, which writes the checks to recipients of Recovery Act awards. Ideally, the Recovery.gov and USA Spending.gov websites should be reconciled with each other and with the Treasury Department data. In doing this, the public would have an accurate picture of money that has been committed or obligated as well as how much has actually been spent. (This will not address accuracy of sub-award information, which is addressed later in this paper.)

Central Data Collection

The most recent OMB guidance (issued June 22¹) establishes a central data collection system for recipients' Sec. 1512 reports². Rather than allowing only federal agencies to access the system for report submission, the system described in the guidance will allow entities outside of the federal government to submit recipient report information directly to FederalReporting.gov, the central data collection system that will ultimately feed Recovery Act spending data to Recovery.gov. This central reporting architecture has several advantages over an "up-the-chain" system in which initial fund-dispersing entities (i.e., federal agencies) are responsible for collecting all Sec. 1512-required information from all entities that received a portion of the original disbursement. These advantages include:

- Ability to accommodate a future requirement that all recipients of Recovery Act funds, regardless of how many layers removed from the initial federal disbursal those recipients are, submit reports on the use of those funds identical to reports required under Sec. 1512 of the Recovery Act.

¹Office of Management and Budget Memo M-09-21,

http://www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-21.pdf

²Section 1512 reports refer to the section of the Recovery Act that describes what recipients of Recovery Act funds are to report.

- Reduced potential burden placed on state and local governments to collect Sec. 1512 reports from Recovery Act fund recipients. As state and local agencies are likely to regrant and subcontract a substantial amount of funds, an up-the-chain reporting system would have placed a heavy burden on state and local governments to collect information from these subrecipients. The centralized reporting described in the guidance will largely remove that burden (if states delegate the reporting responsibility, which is an option OMB provides).
- Timelier recipient reporting, as all reporting entities may submit information simultaneously without waiting on various entities within a reporting hierarchy to first submit reports.
- Minimize opportunities for loss of data fidelity that may arise in an up-the-chain reporting system will be significantly mitigated.

It should be expected that the central reporting system will face a number of problems initially. These problems include:

- Difficulty in registering. The government has come to rely on Dun & Bradstreet's DUNS number as a key identifier. However, if the recipient is using an old DUNS number or has not yet received a number, the recipient will not be able to register. This will likely be a problem for larger entities, such as states that have a tree of DUNS numbers to reflect each agency within the state that receives federal funds. There may also be other technical problems with the new registration system.
- Comparing two registration systems. The government already has an existing registration system, called Central Contractor Registry. In adding FederalReporting.gov, the government will need to coordinate the two registration systems to ensure data are consistent and recipients do not need to enter duplicate information.
- Difficulty in reporting. There will likely be technical problems in the first couple of quarters for recipients attempting to submit quarterly reports.

Multi-Tier Reporting

Although OMB is moving recipient reporting toward a central data collection system, it has made only preliminary steps toward an ideal reporting system, which features complete multi-tier reporting. The new reporting guidance requires only prime recipients and first tier subrecipients to report to the central data system, FederalReporting.gov. This system exempts subsequent subrecipients from reporting, potentially cutting off several tiers of the recipient chain. For instance, if a state receives a grant, sub-contracts work to a city, and the city then sub-contracts work to a company – a likely scenario – the federal government and the public will not know which contractor received the money or what it is doing with it. Lurking beneath the current required level of reporting could be a host of ethical and accountability issues, which will be hidden from public view because of the OMB guidance.

Ideally, OMB should require that every last recipient report directly to FederalReporting.gov, giving the public a full picture of every company that has benefitted from the Recovery Act. Without this complete multi-tier reporting, the public will not know the identity of a large number of Recovery Act recipients or how the money is used.

The first major obstacle to multi-tier reporting is the Act's (and OMB's) definition of "recipient." This is critical, because it is recipients that are required to report on their use of Recovery Act funds. Both the Recovery Act and OMB consider a recipient to be "any entity that receives Recovery Act funds directly from the Federal Government (including Recovery Act funds received through grant, loan, or contract) other than an individual and includes a State that receives Recovery Act funds."³ While the current reporting requirements apply to prime non-federal awardees only, they also require that prime recipients report on any sub-awards (i.e., sub-grants, subcontracts, etc.) they make. These requirements are problematic for two reasons.

First, Recovery Act funding remains visible only to the first tier of sub-awards. For large projects, it is likely there will be several tiers of sub-awarding. For example, the Department of Energy has allocated \$132 million to North Carolina for its Weatherization Assistance for Low-Income Persons program.⁴ If North Carolina hires a contractor to implement the program, information reported by that contractor would be made available by the Department of Energy through Recovery.gov according to current reporting requirements. However, if North Carolina gives some of those funds to the city of Raleigh, and Raleigh hires a contractor to implement the program, then the public would not, under current reporting requirements, be able to see which contractor was hired, nor would it be able to see how well the contractor executed the program. Limiting reporting requirements to only the first two layers will obscure basic information – such as to whom the money went and how that entity employed it – on billions of dollars of Recovery Act spending.

Second, the prime recipient has the option to delegate reporting to its first tier of subrecipients, which would increase transparency. But, if the prime recipient opts to report on any sub-awards it made itself, a potential for loss of data fidelity exists. In this example, North Carolina would report to the Department of Energy on its use of funds, and it would report it sub-awarded the funds to Raleigh; it would also report on how (it believes) Raleigh used those funds. Raleigh, being the actual spender of the funds, is better positioned to accurately report on its use of funds; the public will not see spending data directly from the entity that expended the funds.

To help illustrate these problems, on the following page are two figure, showing first the current reporting model and then the Coalition for an Accountable Recovery's (CAR's)⁵ proposed reporting model, which features direct reporting by all subrecipient tiers. The second figure shows how CAR's model builds off of the existing framework, but also allows for more timely and transparent reporting.

³ Office of Management and Budget Memo M-09-10.

http://www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-10.pdf

⁴ Formula Block Grants Allocation - April 14, 2009.

http://www.energy.gov/recovery/documents/DOE_Formula_Block_Grant_Allocation_04142009.xls

⁵OMB Watch is a co-chair of CAR, a coalition dedicated to promote accountability policies for both government agencies and companies that contract with or benefit from Recovery Act spending. For more information, see <http://www.coalitionforanaccountablerecovery.org/>.

OMB/ARRA Reporting Model

Awarding Federal Agency

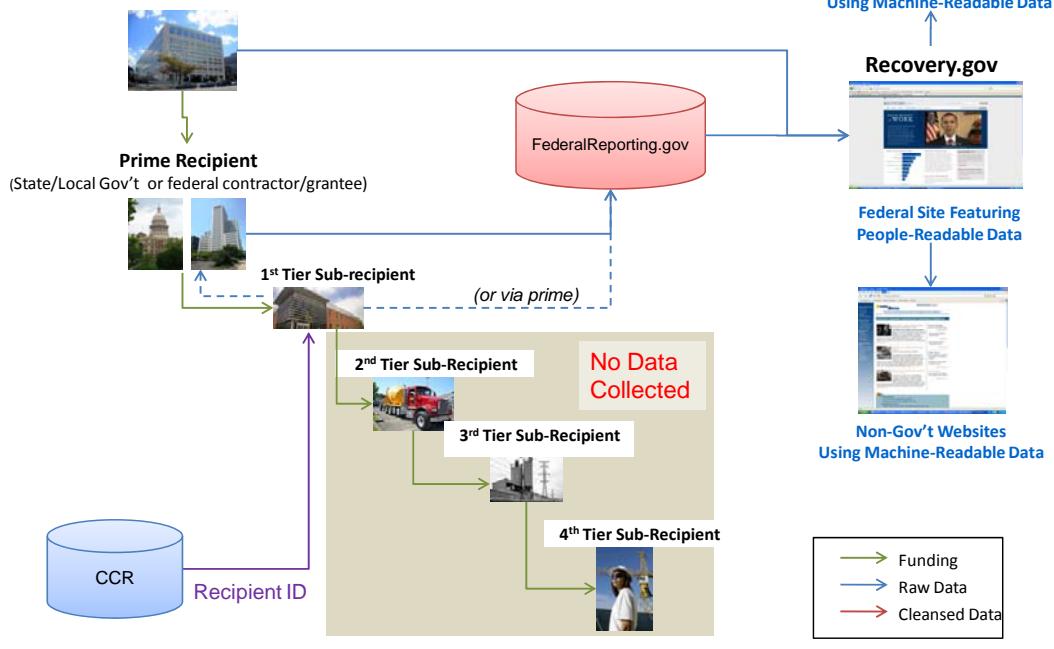


Figure 1: The current reporting model.

CAR Reporting Model

Awarding Federal Agency

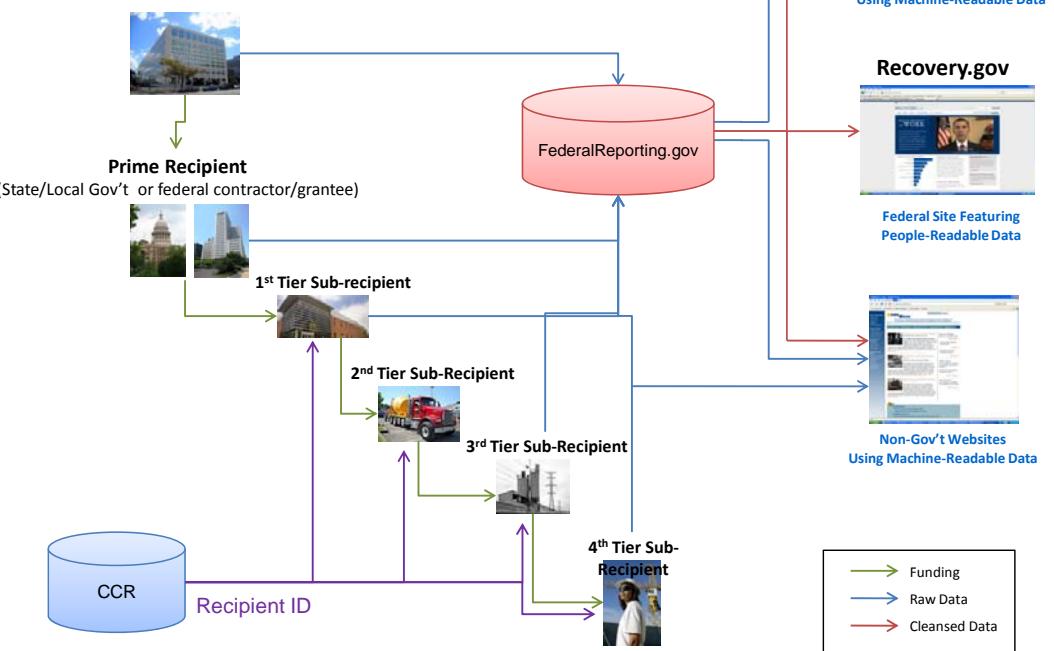


Figure 2: CAR's proposed reporting model, including direct reporting at all tiers.

There is reason for optimism, however. In its April 3 interim guidance (M-09-15), OMB stated it intends to eventually “expand the reporting model in the future to also obtain … information [on awardees beyond first-level awards], once the system capabilities and processes have been established.”⁶ The June guidance does not fundamentally change the current model, but it does make a full reporting model possible, and CAR is eager to see the details of such a model. Nonetheless it is essential all recipients of Recovery Act funds – down to the same \$25,000 level OMB is already mandating – report directly to the federal government.⁷

Firm Type Distinction: Recipients, Subrecipients, and Vendors

OMB not only differentiates between firm type (“recipient” and “vendor”), but it requires recipients and first-tier subrecipients report from which vendors they purchased Recovery Act project-specific goods and services. This distinction in firm type will allow the media and government watchdogs to better assess how well or how poorly Recovery Act funds are being expended. However, because vendors are not awarded funds under the same terms and conditions as prime recipients and subrecipients, OMB does not require Sec. 1512 data elements be collected from vendors; only the identity of the vendor will be reported. This is unfortunate, since even simple vendor information, such as location and amount of money received, would be immensely useful. By requiring subrecipients to report vendor information, however minimal, OMB appears to be moving toward an expanded, multi-tier reporting system.

Delegation of Reporting Responsibility

Although the central reporting system described in the guidance allows for direct subrecipient reporting, OMB gives prime recipients the option to either report subrecipient information themselves or delegate that reporting responsibility to their first-tier subrecipients. And while delegation to subrecipients will reduce the potential burden placed on state and local governments, it unfortunately has the potential to create confusion among prime and subrecipients as to whether each party submitted the required reports. OMB addresses this potential for confusion in the guidance by indicating that, in the event of double entry, only the most recent report data will be retained. If neither recipient nor subrecipient enters information, it will be considered a material omission. However, the goal should be to avoid confusion, and therefore, a clearer division of responsibility would be beneficial.

In addition to potential confusion about reporting responsibility, the required data elements detailed in a document accompanying the guidance, “Supplement 2, Recipient Reporting Data Model,” indicate there may be instances in which subrecipient reports will not be able to be matched to a specific Recovery Act project. Subrecipient reports will contain a unique identifier for the subrecipient entity and a code indicating with which project the report is associated. This

⁶ Office of Management and Budget Memo M-09-15.

http://www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-15.pdf

⁷ Not only is this essential for tracking how money is spent under the Recovery Act, but it is the first step to proper compliance with the Federal Funding Accountability and Transparency Act (FFATA), which requires the creation of a searchable website of nearly all government spending. The disclosure law calls for all sub-awards to be disclosed by January 2009, but that has not been achieved. Creating a workable model for Recovery Act could have positive impact for general government spending and compliance with FFATA.

project identifier, however, is created by the prime recipient. It is possible that two different prime recipients may code two different projects identically for a given subrecipient. (For example, the Virginia Department of Transportation and the Maryland Department of Transportation may both hire Amy's Construction for road repairs and give that subrecipient a project code of, say, "1." "Amy's Construction" will have an ambiguous association or no association with one of these projects in the FederalReporting.gov database: Does Amy's report correspond with Maryland's or Virginia's project "1"?). The solution to such problems is relatively simple. Prime recipients should use the federal award identifier when assigning work to their various subrecipients, along with a sub-award number, eliminating any potential confusion.

Solicitations (RFPs), Bids, and Contracts

While transparency in the use of Recovery Act funds is essential, the decision making process by which those funds are awarded must also be transparent. Because billions of dollars of federal Recovery Act funds will be awarded through state and local governments, solicitations for contracts at the state level should be advertised as widely as possible to ensure a large pool of potential bidders are aware of such projects. Without access to requests for proposals (RFPs), bids, and all of the language of attendant awarded contracts, it will be difficult for outside stakeholders to assess the performance of any contractor using Recovery Act funds.

The first step to enabling transparency in the Recovery Act contract award process is to require state and local governments to report to the federal government as quickly as possible any Recovery Act project RFPs they may be offering. The next step is to make available online all bids received for all Recovery Act RFPs. If this presents a confidentiality problem, it would be reasonable to adhere to the guidelines surrounding disclosures of bids as articulated in the Strengthening Transparency and Accountability in Federal Spending Act of 2008 (S. 3077), as introduced in the 110th Congress by then-Sen. Barack Obama (D-IL) and Sen. Tom Coburn (R-OK).

Lastly, but most importantly, current Recovery Act law and OMB guidance⁸ require agencies to post to agency websites and to Recovery.gov summaries of contracts or orders (or modifications to existing contracts or orders) valued over \$500,000 or any contract that was not fixed-priced and competitively awarded. There are three problems with this requirement.

First, contract summaries will not offer the quality of data that will enable the public to assess whether a given contractor did, in fact, faithfully carry out its fiduciary duties. Nor will the public be privy to assessing whether the awarded contract adheres closely to the RFP under which it was granted. This is critical to developing true accountability in the Recovery Act contracting process. Access to all contract agreement language is an essential element to any effort to oversee government spending. While some will argue information contained within contracts can contain confidential business information, allowing for limited redactions in contracts can help to alleviate those concerns.

⁸ Office of Management and Budget Memo M-09-10.
http://www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-10.pdf

The second problem with existing contract posting requirements is the contract reporting threshold is too high. There could be thousands of contracts below \$500,000 that would escape public scrutiny and congressional oversight. Substantially lowering that threshold, say to \$200,000, would allow the public to see much more information on how Recovery Act funds are distributed without creating an overly burdensome reporting requirement.

Finally, and perhaps most significant, it does not appear federal agencies are complying with the OMB guidance in even posting summaries of the contracts. There is a centralized website, FedBizOpps.gov, which provides information about request for proposals. But that site does not provide the summaries of the contracts that have been negotiated nor do these summaries appear anywhere else.

Jobs Data

Congress crafted and President Obama supported the Recovery Act as a means to stimulate the economy with the express purpose of creating or saving millions of jobs. To ascertain the effectiveness of the package, Congress appropriately built into it a requirement funding recipients and federal agencies to report the number of jobs created or saved by Recovery Act projects. While this provision is certainly welcome, the law and OMB guidance could be substantially improved in two respects: The method of counting the number of jobs created or saved and the type of data collected on those jobs.

Prime recipients, according to the new guidance, are to report on “estimates of job impact by directly collecting specific data from sub-recipients and vendors.” That prime recipients must report this estimate differs from the April 3 OMB guidance, which required prime recipients to report on the impact on the workforces of subrecipients “if known,” or else the prime recipient must aggregate employment data from all of its projects. While the guidance is very precise in requiring the prime recipient of Recovery Act funds to report on estimated jobs created or retained, a supplemental document, Recipient Reporting Data Model (v2.0.1⁹), states the number for subrecipients should be supplied “if known.” This discrepancy needs to be clarified, since aggregation of employment data by prime recipients would hinder transparency and accountability by obscuring the performance and results of individual organizations receiving Recovery Act funds at the end of the funding chain.

Additionally, OMB’s April 3 guidance states recipients are to report a brief description and an estimate of the jobs created or retained. Job creation and retention figures are to be based on aggregate hours worked converted into a figure for full-time-equivalent (FTE) positions. Yet OMB leaves it up to each recipient to determine how many hours equal a FTE, which will lead to substantial inconsistencies across all job data. It would be advisable to require recipients to report the aggregate hours figure as well as the FTEs so analysts and watchdogs can make valid comparisons.

While it is encouraging the procedures for employment reporting include the collection of data on the types of jobs created (“job titles or broader labor categories”), it is disappointing the guidance does not also provide for gathering information on the quality of those jobs, especially

⁹ Recipient Reporting Data Model, <http://www.recovery.gov/sites/default/files/Final+OMB+Templates.pdf>

wage levels, availability of health coverage, and demographic information about people hired. Without such information, it will not be possible to safeguard against the use of Recovery Act funds in the creation of substandard jobs. To assess of the quality of jobs created by the Recovery Act, OMB should require employers to report several additional data points: type of work, wage levels, healthcare coverage, and demographic characteristics of Recovery Act project workers.

Performance and Equity Metrics

Lack of performance data in Recovery Act reporting has long been a cause for concern. It is not enough to simply report the number of jobs created or saved through Recovery Act spending; it is also important to know how many miles of roads were paved, how many teachers were hired, and what new research the National Science Foundation undertook. In May, however, federal agencies began posting their program plans, which detail the various programs each agency is implementing as part of its recovery efforts. Each plan has a “Measures” section, which contains basic performance metrics for each agency's Recovery Act goals. For example, for its weatherization program, the Department of Energy will set a target of how many houses are weatherized, and the agency will publish how far along it is toward its goal. These measurement sections are important to help ensure the recovery is as transparent and accountable as possible.

Unfortunately, it is still unclear how this performance data will be collected and when or where it will be reported. According to the June guidance, the only data OMB requires through the FederalReporting.gov system is project status (“fully completed,” “50%,” etc) and job creation information (both in narrative form and number), leaving it to the agencies to collect their own performance data. It is not apparent this will be a smooth and orderly process, though, since the quality of the Measures sections varies widely between agencies and even from project to project in the same agency. While it would be impractical for OMB to dictate performance measures for every Recovery Act project, at the very least it should step in and set standards for the Measures sections of the program plans, as well as for when this performance data will be collected and published.

More importantly, there are currently no provisions for any kind of equity metrics in the Recovery Act. While performance metrics help us ensure transparency, equity metrics will help us understand if the Recovery Act is addressing unmet needs and if resources are being distributed fairly. Recovery Act funding is vital for those populations that have been hit hardest by this recession, and the government must make sure those most in need are getting their fair share of Recovery Act dollars. It is not enough to know that money is being spent efficiently; it must also be spent equitably. Thus, for instance, in addition to knowing how many miles of road were paved, which is an example of performance data, it is important to know *which* roads are being paved and if these roads are helping to connect disparate communities. Such information will help the government and watchdog groups answer the question of whether this is an equitable recovery.

Under the current OMB reporting guidance, though, federal agencies are not required to collect any such data, instead leaving it to third-party groups to somehow match up the few pieces of data from Recovery.gov with other outside data in an effort to examine equity in the recovery.

Therefore, in addition to requiring reporting by all tiers of subrecipients, OMB should also require the collection of equity metrics, the details of which should again be decided in consultation with the various agencies involved. It is understandable such data collection is a difficult task and will involve a great deal of careful thinking, but it is nonetheless of the highest importance. With the unveiling on the first round of reporting on the new Recovery.gov website in October, it will finally be possible to begin in-depth analysis of Recovery Act spending. However, if agencies have not been collecting the correct data in the first place, such analysis will be decidedly more difficult and, in the end, less meaningful.

Access to Data

Even if the law or implementation guidance was changed today to collect the information as described above, these data would remain essentially useless unless they were made available in such a way that the public could not only understand but also manipulate the data. In terms of helping the public understand Recovery Act data, Recovery.gov will have to present the collected data in a way both novice and experienced users can access and make sense of. At the most basic level, a user should be able to search the data on Recovery.gov for Recovery Act projects located in her state, zip code, city, or congressional district. She should be able to sort the data from largest expenditure to smallest; from most jobs created to least; by entities receiving money, and by which federal agency authorized each project. These are just a few examples of the kind of elementary searching and sorting functionality Recovery.gov should provide but does not currently have. There are knowledgeable and talented people working on Recovery.gov right now who no doubt see the value in these tools, but it cannot be emphasized enough it is this basic database functionality that will provide the sort of transparency envisioned by Congress and President Obama.

Analysis and presentation of the data should not be the sole province of Recovery.gov, however. There are many outside organizations that could make use of Recovery.gov data for many purposes – some as yet unimagined. To accomplish this, these groups must have access to Recovery Act data, both raw and in a machine-readable format, such as through a data feed like RSS (Real Simple Syndication) or ATOM, as well as via RESTful web service discovery and open reporting language (e.g., XBRL). These feeds should not be an option but a requirement for every source of information (e.g., the central registry, the central reporting system, agency websites).

OMB Watch's database of federal spending, FedSpending.org, is an example of the importance of making data available in an understandable and accessible format. Before the creation of FedSpending.org, data on trillions of dollars in federal government spending were nominally accessible, but the presentation, search, and sorting tools were abysmal, rendering the data difficult to understand and virtually useless to the general public. However, because these government data sets were public, OMB Watch was able to download the data and build a user friendly, easily searchable website that opened up the data for millions of people. Since its launch in October 2006, FedSpending.org has attracted well over a hundred thousand unique visitors a month, processed over ten million searches, and been cited hundreds of times in media reports. With the increased attention and scrutiny of Recovery Act spending, there are many more organizations – large and small, for-profit and nonprofit – that would no doubt invent novel

ways to add value to Recovery Act spending data and work to make it more accessible and understandable to the public. This will only work if the data are made available in the proper, machine-readable formats.

The machine-readable feeds do not negate the importance of a robust Recovery.gov website, as many members of the public will want an easy-to-use, searchable website run by the government. It appears that the Recovery Board is on its way to developing such a robust website.

It is also essential that Recovery Act data be transmitted in such a way so as to maximize access to as much unfiltered data as possible. Reporting data should be available as close to the source of Recovery Act reporting as possible. Additionally, OMB Watch's experience with federal contract and grant data throughout the FedSpending.org project has shown there is certainly a need for some data "cleaning," such as standardizing the name of funding recipients or ensuring address and zip code fields match on individual entries. Ideally, a "cleansed" data set would be available in addition to the "raw" data.

The Recovery Board is currently wrestling with the timing for disclosing the quarterly recipient reports. The law and guidance require recipients to submit quarterly reports by the 10th day at the end of the quarter. (The first reports are due Oct. 10.) The law and guidance also provide a 20 day period during which the recipients and federal agencies can correct errors in the submitted data. The Recovery Board has considered making the recipient reports available as soon as the deadline for reports has expired, even before the error correction process. OMB Watch recommends that the Recovery Board wait until the errors have been corrected before disclosing the data, but make clear what data has been changed. Responsible transparency does not mean providing data with known errors shortly before those errors are corrected.

Data Reporting Compliance

The June OMB guidance states prime recipients have the "principal responsibility" for subrecipient reports, and subrecipients "share" in this responsibility. Additionally, agencies will review submitted reports and provide advice and programmatic assistance. Although several layers of quality assurance in the reporting process may prevent omissions and serious errors, such a system of diffused responsibility may actually result in lower data quality and timeliness. Each party responsible for data quality review may assume that final responsibility rests with another, meaning that potentially no one would be responsible for the quality of the data. It would be better if one party was solely charged with assuring data completeness and accuracy for the Recovery Act.

OMB also leaves enforcement responsibility to the disbursing agency. Although the guidance indicates severe penalties may be imposed on entities that do not submit reports or those that submit fraudulent or error-ridden reports, a prescription for such penalties is absent from the guidance. Clarity and promotion of enforcement mechanisms, while leaving in place agency-specific remedies, would likely increase compliance among recipients. OMB does indicate, however, that instances of false or misleading data found by federal agencies will be made public on Recovery.gov.

With the move toward a central reporting model, federal agencies have expressed concern that data for which they will be held responsible will not be under their control; they will not have continual access to expenditure reports for programs administered by them. The June 22 OMB guidance indicates federal agencies will have 20 days to review recipient reports, with a ten-day window to inform recipients of report anomalies so recipients may correct errors, before the data are locked down. The window for improving data quality may simply be too narrow for agencies that will be held accountable by the public and Congress.

Additionally, while federal agencies have customary contract non-compliance remediation powers (i.e., contract and grant agreement terms and conditions), they are not imbued with additional authority specifically intended to ensure recipient reporting compliance. OMB should work with federal agencies to make certain the agencies have the necessary tools and authority to enforce timely and accurate recipient reporting.

Recovery Act Transparency and the States

So far, this report has focused on elements of Recovery Act transparency that are in the domain of the federal government. However, state governments are already beginning to allocate hundreds of billions of dollars of federal funds for Recovery Act projects. States will also add their own money to Recovery Act projects, the details of which will not be reported on Recovery.gov, but will likely appear on state-level Recovery Act websites. Many citizens, local media, and local government watchdogs, therefore, will look to these websites to learn about their state's implementation of the Recovery Act. An in-depth review of state Recovery Act websites, however, has revealed a substantially uneven landscape.

In late July, the nonprofit policy center Good Jobs First released a study of state Recovery Act websites.¹⁰ The study found most websites failed to provide meaningful information on Recovery Act implementation in the state. Indeed, only six states scored above a fifty percent in Good Job First's survey, with the average score being a paltry 28.2 percent.

As people query their state's website to find out how to receive Recovery Act funds, how the funds will be allocated, who has received the funds already, and what they did with those funds, Americans will find there is not a single state website that can provide the answer to all these basic questions of spending transparency.

For example, the Washington State recovery website has an interactive map showing county-by-county breakdowns of Recovery Act funding by category (health care, infrastructure, education, etc.). Yet one cannot perform a simple search such as typing in a ZIP code to find a list of all Recovery Act projects within a given neighborhood. Washington's website also has information describing the kinds of grants that are available in the state. It also has a useful list of programs that are providing funding for state projects, but it is thin on details about how to apply for funds. Sadly, this was enough to merit Washington a third place finish in the Good Jobs First report.

¹⁰ "Show Us the Stimulus," <http://www.goodjobsfirst.org/news/article.cfm?id=396>

More impressively, Maryland has an address-searchable map which shows every project by location, along with a brief description of the project, the amount of money to be spent on it, the contractor completing the contract, and a way for the public to submit comments on each project. Although the site still lacks useful recipient data and contract information, Maryland's website deservedly received the highest score by far in Good Job First's recent study.

While spending data has yet to be made available on these sites, our experience so far indicates it will vary as much as the quality of information today. It is here the federal government should take the lead and offer not only funds to assist states in enabling Recovery Act transparency, but it should also provide technical assistance and advice, including minimal functional requirements that must be achieved for state websites.

Another problem is its unclear how concerns about waste, fraud, and abuse on state and local projects should be reported. While there are established hotlines for waste, fraud, and abuse at the federal level, the same is not immediately apparent for state and local governments. There is a lot of potential for abuse, especially at the local level, and since these are federal funds that could be wasted, the federal government should establish a clear reporting system for waste, fraud, and abuse allegations for state and local Recovery Act projects.

Continuing Efforts to Improve Transparency

It is clear what the Obama Administration is trying to accomplish with Recovery Act transparency is unprecedented for our federal government. This is not to say the level of transparency as articulated by President Obama can never be achieved. Implementing that degree of visibility will be an iterative process in which the reporting model and collected data improve over time – and should extend well beyond the Recovery Act to all future government spending.

As the Recovery Board implementation team learns more about the challenges it faces, better versions of Recovery.gov – and the data reporting structure that supports the website – will emerge. The issues outlined in this report, including multi-tier reporting, FTE definitions, the need for performance data, and public access to data, are not insurmountable problems by any means. Encouragingly, OMB and Recovery Board officials seem to be receptive to constructive criticism and have already begun implementing some suggestions from the transparency community and congressional oversight committees.

Overall, OMB Watch continues to be guardedly optimistic about the efforts of the Obama administration to promote transparency and accountability in Recovery Act spending. However, there is still much work to be done, and many steps remain on the path to a better accountability system for federal government spending.