INDEPENDENT REPORTING MECHANISM:

UNITED STATES PROGRESS REPORT 2013–2015

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Second Progress Report

Open Government Partnership
INDEPENDENT REPORTING MECHANISM

RUTGERS
School of Public Affairs and Administration | Newark

Open Government Partnership

INDEPENDENT REPORTING MECHANISM:

UNITED STATES

PROGRESS REPORT 2013-15

EXECUTIVE SUMMARY

INDEPENDENT REPORTING MECHANISM (IRM): UNITED STATES PROGRESS REPORT 2013-2015

The second US national action plan contained new commitments that expanded the scope to newsworthy areas. While notable progress has been made in completing the action plan, many of the commitments, as written, are positive yet remain incremental in their potential impact.

The Open Government Partnership (OGP) is a voluntary international initiative that aims to secure commitments from governments to their citizenry to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance. The Independent Reporting Mechanism (IRM) carries out a biannual review of the activities of each OGP participating country.

The US officially began participating in OGP in September 2011, when President Obama declared the government's intent to join.

The Executive Office of the President coordinates the development and implementation of the NAPs. The US engagement with the OGP is led by the State Department and U.S. Agency for International Development. There is no legally binding mandate for agencies to participate in the goals of the OGP or to meet the commitments in the Action Plan.

U.S. President Barack Obama has taken deliberate steps to draw numerous advisors from government, academia, and civil society into leading the effort, and he continues to engage directly with the process of achieving the OGP commitments.

OGP PROCESS

Countries participating in the OGP follow a process for consultation during development of their OGP action plan and during implementation.

The development of the U.S Second National Action Plan was led centrally but drew from expertise and innovations across a wide range of stakeholders, including many government agencies in charge of various commitments. The Action Plan was remarkable for the range of innovative tools and in-person forums that were used to generate collaboration.

The Action Plan was developed with active participation from civil society groups and made strong efforts to learn from and build upon the actions of the first plan. However, the decision-making process did not seek active collaboration with the public, it involved a narrow range of participants, and it was not carried out according to a well-defined or transparent schedule.

The government self-assessment report was published in due time. However, it did not provide the required two-week public comment period on its draft report.

AT A GLANCE

MEMBER SINCE:	2011
NUMBER OF COMMITMENTS:	26
NUMBER OF MILESTONES:	54

LEVEL OF COMPLETION

COMPLETED:	2 of 26
SUBSTANTIAL:	17 of 26
LIMITED:	6 of 26
NOT STARTED:	1 of 26

TIMING

ON SCHEDULE:	14 of 26

COMMITMENT EMPHASIS

ACCESS TO INFORMATION:	18 of 26
CIVIC PARTICIPATION:	10 of 26
PUBLIC ACCOUNTABILITY:	2 of 26
TECH & INNOVATION FOR TRANSPARENCY & ACCOUNTABILITY:	17 of 26
UNCLEAR:	2 of 26

NUMBER OF COMMITMENTS THAT WERE:

CLEARLY RELEVANT TO AN OGP VALUE:	24 of 26
OF TRANSFORMATIVE POTENTIAL IMPACT:	2 of 26
SUBSTANTIALLY OR COMPLETELY IMPLEMENTED:	19 of 26
ALL THREE (✪):	**2 of 26**

This report was prepared by Suzanne Piotrowski of Rutgers, The State University of New Jersey

COMMITMENT IMPLEMENTATION

As part of OGP, countries are required to make commitments in a two-year action plan. The US action plan contained 26 commitments, most of which contained further detailed milestones. There were a total of 54 milestones in the action plan. Table 1 summarizes each commitment, its level of completion, its ambition, and whether it falls within the US's planned schedule, and the key next steps for the commitment in future OGP action plans.

The US action plan contained two starred commitments (commitments 11 and 13). These commitments are measurable, clearly relevant to OGP values as written, of transformative potential impact, and substantially or completely implemented. Note that the IRM updated the star criteria in early 2015 in order to raise the bar for model OGP commitments. In addition to the criteria listed above, the old criteria included commitments that have moderate potential impact. Under the old criteria, the US would have received 11 additional stars (commitments 2, 3, 4, 6, 9, 12, 20, 23, 24, 25, 26). See (http://www.opengovpartnership.org/node/5919) for more information.

Table 1 | Assessment of Progress by Commitment

COMMITMENT SHORT NAME	POTENTIAL IMPACT				LEVEL OF COMPLETION				TIMING
✪ COMMITMENT IS CLEARLY RELEVANT TO OGP VALUES AS WRITTEN, HAS TRANSFORMATIVE POTENTIAL IMPACT, AND IS SUBSTANTIALLY OR COMPLETELY IMPLEMENTED.	NONE	MINOR	MODERATE	TRANSFORMATIVE	NOT STARTED	LIMITED	SUBSTANTIAL	COMPLETE	
1. Public Participation									Behind schedule
1.1. E-Petitions									On schedule
1.2. Public Participation Best Practice									Behind schedule
2. Records Management									On schedule
3. FOIA									Behind schedule
3.1. Consolidated FOIA Request Portal									Behind schedule
3.2. Core FOIA Regulations And Common Practices									Behind schedule
3.3. Internal Agency FOIA Process									Behind schedule
3.4. FOIA Advisory Committee									On schedule
3.5. FOIA Training									On schedule

COMMITMENT SHORT NAME	POTENTIAL IMPACT				LEVEL OF COMPLETION				TIMING
✪ COMMITMENT IS CLEARLY RELEVANT TO OGP VALUES AS WRITTEN, HAS TRANSFORMATIVE POTENTIAL IMPACT, AND IS SUBSTANTIALLY OR COMPLETELY IMPLEMENTED.	NONE	MINOR	MODERATE	TRANSFORMATIVE	NOT STARTED	LIMITED	SUBSTANTIAL	COMPLETE	
4. Classification Of Documents	■	■	■		■	■	■		On schedule
4.1. Classification Reform Committee									On schedule
4.2. Nuclear Activities Information									On schedule
4.3. Analyze Presidential Records									Behind schedule
4.4. Declassification Tracking System									On schedule
5. Controlled Unclassified Information	■	■	■		■	■			On schedule
6. Foreign Intelligence Surveillance	■	■	■		■	■	■	■	On schedule
6.1. National Security Authorities									On schedule
6.2. Foreign Intelligence Surveillance Programs									On schedule
6.3. Stakeholder Consultation									On schedule
7. Privacy Compliance	■	■			■	■			Behind schedule
7.1. Accessibility Of Privacy Policies And Compliance Reports									Behind schedule
7.2. Improve Privacy Compliance Reports					Unclear				Behind schedule
8. Open Government Plans	■	■			■	■	■		On schedule
9. Whistleblowing	■	■	■		■	■	■		Behind schedule
9.1. Certification Program									On schedule
9.2. Presidential Directive									On schedule
9.3. Legislative Advocacy									Behind schedule
9.4. Executive Authority									Behind schedule

COMMITMENT SHORT NAME	POTENTIAL IMPACT				LEVEL OF COMPLETION				TIMING
✪ COMMITMENT IS CLEARLY RELEVANT TO OGP VALUES AS WRITTEN, HAS TRANSFORMATIVE POTENTIAL IMPACT, AND IS SUBSTANTIALLY OR COMPLETELY IMPLEMENTED.	NONE	MINOR	MODERATE	TRANSFORMATIVE	NOT STARTED	LIMITED	SUBSTANTIAL	COMPLETE	
10. Legal Entities									Behind schedule
10.1. Disclosure Legislation									On schedule
10.2. Customer Due Diligence Obligation									Behind schedule
✪11. Executive Industries Transparency Initiative									On schedule
11.1 Geothermal and renewable energy revenues									On schedule
11.2 Department of Interior payments									On schedule
11.3 Timber revenues					Unclear				Behind schedule
11.4 Open data tool on extractives									On schedule
12. Fossil Fuel Subsidies									On schedule
✪13. Federal Spending									On schedule
13.1. Global Initiative on Fiscal Transparency Overall									On schedule
13.2. Engage External Stakeholders									On schedule
13.3. Data Availability									On schedule
13.4. Contracting Data									On schedule
13.5. Government Accountability and Transparency Board									On schedule
13.6. Improve USAspending.gov									On schedule

COMMITMENT SHORT NAME	POTENTIAL IMPACT				LEVEL OF COMPLETION				TIMING
✪ COMMITMENT IS CLEARLY RELEVANT TO OGP VALUES AS WRITTEN, HAS TRANSFORMATIVE POTENTIAL IMPACT, AND IS SUBSTANTIALLY OR COMPLETELY IMPLEMENTED.	NONE	MINOR	MODERATE	TRANSFORMATIVE	NOT STARTED	LIMITED	SUBSTANTIAL	COMPLETE	
13.7. Accessibility and Reusability of Federal Financial Data									Behind schedule
13.8. Visualization and Publication of Federal and Financial Data									On schedule
13.9. Continue to Engage Stakeholders									On schedule
14. ForeignAssistance.gov									On schedule
15. Performance.gov									Behind schedule
16. Import and Export Systems									On schedule
17. Participatory Budgeting									On schedule
18. Visa Sanctions									Behind schedule
19. Public Participation in Rulemaking									On schedule
19.1. Commenting on Rulemaking									On schedule
19.2. Stakeholder Outreach									On schedule
19.3. Readability of Regulations									On schedule
20. Open Data									On schedule
20.1. Inventory of Data									On schedule
20.2. Data.gov									On schedule
20.3. Open Agriculture and Nutrition Data									Behind schedule
20.4. OpenFEMA									On schedule

COMMITMENT SHORT NAME	POTENTIAL IMPACT				LEVEL OF COMPLETION				TIMING
✪ COMMITMENT IS CLEARLY RELEVANT TO OGP VALUES AS WRITTEN, HAS TRANSFORMATIVE POTENTIAL IMPACT, AND IS SUBSTANTIALLY OR COMPLETELY IMPLEMENTED.	NONE	MINOR	MODERATE	TRANSFORMATIVE	NOT STARTED	LIMITED	SUBSTANTIAL	COMPLETE	
21. ExpertNET									Behind schedule
22. Federal Websites									Behind schedule
23. Public Collaboration									Behind schedule
23.1. Open Innovation Toolkit									Behind schedule
23.2. Challenge.gov									On schedule
23.3. Citizen Science Programs									On schedule
24. Open Education									Behind schedule
24.1. Awareness and Partnership									Behind schedule
24.2. Pilot New Models of Learning									On schedule
24.3. Online Skills Academy									On schedule
25. Deliver Services through Information Technology									On schedule
25.1. Expand Digital Service Delivery									On schedule
25.2. Build Digital Services in the Open									On schedule
25.3. Open Source Software Policy									Behind schedule
26. Big Data									On schedule
26.1. Data Privacy in Law Enforcement									On schedule
26.2. Big Data in Health									On schedule
26.3. Stop Discrimination									Behind schedule

NAME OF COMMITMENT	SUMMARY OF RESULTS
1.Public Participation • OGP Value Relevance: Clear • Potential impact: Minor • Completion: Substantial	These two actions aimed to improve citizen participation at the level of White House policy-making (for the e-petitions) and at the agency level (for "best practices"). For the e-petitions site, *We the People*, the goal was to improve the public's ability to sign petitions without directly using the White House website—allowing interest groups to host their own petitions. The commitment, as written, is largely implemented, with some obligation to consult users remaining for 2015. One concern has been the increasing threshold for the number of signatures. In February 2015, the General Services Administration (GSA), in collaboration with civil society, published the *Public Participation Playbook*. During development, the GSA actually used the playbook when federal agencies and private sector actors used it to address cyber-vandalism. Civil society organizations found that the participatory process for the development of the *Playbook* did not give enough time for members to fully participate. Further, guidance is advisory and vague, rather than setting out clear steps to relate to other mandatory participation laws.
1.1. E-Petitions • OGP Value Relevance: Clear • Potential impact: Minor • Completion: Substantial	
1.2. Public Participation Best Practice • OGP Value Relevance: Clear • Potential impact: Minor • Completion: Substantial	
2. Records Management • OGP Value Relevance: Clear • Potential Impact: Moderate • Completion: Substantial	This commitment, led by National Archives and Records Administration (NARA), would modernize the management of official emails. During, the implementation period agencies received guidance to store emails based on official positions. There was also a notice and comment period on automated electronic records management. Civil society members interviewed applauded the efforts but pointed out that not all agencies have complied meaningfully. Agencies should clarify whose emails should be permanently retained. NARA should also accelerate timelines and deadlines for issuing such guidance.
3. FOIA – Overall • OGP Value Relevance: Clear • Potential Impact: Moderate • Completion: Substantial	Overall, substantial efforts have been made to improve the Freedom of Information Act (FOIA) process for requesters and agencies. The commitment to consolidate a portal that allows citizens to submit FOIA requests is a recognized best practice. However, since the federal government already has FOIAonline to fulfill this role, it is not clear that the under-construction consolidated FOIA portal will be more useful than the already existing one. To develop common FOIA regulations, an interagency task force was established and input from members of civil society was received. However, the civil society members interviewed state that the completed draft has not been shared with civil society yet. The government committed to scale targeted efforts to improve the efficiency of agencies with the biggest backlogs. A series of government-wide Best Practices Workshops have been held on topics that included: reducing backlogs and improving timeliness, proactive disclosures and making online information more useful, and best practices for the requesters' perspective. However, the commitment does not clearly specify how backlogged FOIA requests will be improved. Cont...
3.1. Consolidated FOIA Request Portal • OGP Value Relevance: Clear • Potential impact: Minor • Completion: Limited	
3.2.. Core FOIA Regulations and Common Practices • OGP Value Relevance: Clear • Potential impact: Minor • Completion: Limited	
3.3. Internal Agency FOIA Processes • OGP Value Relevance: Clear • Potential impact: Minor • Completion: Limited	

NAME OF COMMITMENT	SUMMARY OF RESULTS
3.4. FOIA Advisory Committee • OGP Value Relevance: Clear • Potential impact: Minor • Completion: Complete	In June 2014, the National Archives and Records Administration launched a FOIA Advisory Committee. The Committee is composed of 20 members of FOIA experts, 10 from inside the government and 10 from outside the government. To date, five Committee meetings have been held and were well attended by the public. The emphasis on FOIA training is laudable and has the potential to have a major impact on FOIA practices. With that said, civil society members noted that to date there has not been any overall change in the process or handling of FOIA requests. It is recommended that the White House advocate for legislation that supports changes in authority to strengthen the Office of Government Information Services' independence.
3.5. FOIA Training • OGP Value Relevance: Clear • Potential impact: Moderate • Completion: Limited	
4. Classification of Documents • OGP value relevance: Clear • Potential impact: Moderate • Completion: Substantial	These commitments are intended to make information available to the public through declassification once the need for protecting the information has passed, while simultaneously protecting national security. In response to the Public Interest Declassification Board's 2012 report to the president, the Security Classification Reform Committee (SCRC) was established. It is comprised of a National Security Council Staff as a chair and representatives of the relevant agencies and departments. The Committee has reviewed the recommendations from the PIDB and met with members of civil society to discuss priorities among the recommendations. However, more work needs to be done in this area to meet the spirit of the initiative. Substantial progress has been made on the commitment to declassify formally restricted data (FRD) on nuclear activities when the historical nuclear policy is deemed no-longer sensitive. In June 2014, the PIDB held a public meeting with representatives from several agencies to review FRD topics. Eight of the 10 FRD topics were declassified and made publicly available but civil society members believe this is a small fraction of the university of FRD topics.. There was an attempt to pilot technological tools to analyze classified Presidential Records; however, the outcome of the pilot project is unclear, according to the leads of civil society on this commitment. Since mid-April 2014, the National Declassification Center at NARA has implemented a system of automated notification and follow-up reminders for agency review when classified federal records are ready for declassification. The automated system for presidential records, however, has not been implemented yet – it is targeted for summer 2015. It is recommended that the head of the Information Security Oversight Office and PIDB should convene a national discussion, inside and outside the beltway, on how an executive order should be written to transform security classification.
4.1. Classification Reform Committee • OGP Value Relevance: Clear • Potential impact: Moderate • Completion: Complete	
4.2. Nuclear Activities Information • OGP Value Relevance: Clear • Potential impact: Moderate • Completion: Substantial	
4.3. Analyze Presidential Records • OGP Value Relevance: Clear • Potential impact: Minor • Completion: Limited	
4.4. Declassification Tracking System • OGP Value Relevance: Clear • Potential impact: Moderate • Completion: Substantial	
5. Controlled Unclassified Information • OGP value relevance: Clear • Potential impact: Moderate • Completion: Limited	This commitment gives NARA the authority to establish greater consistency in the management and designation of documents among the separate agencies of the federal government. Some progress has been made on drafting the standardized rules for managing Controlled Unclassified Information (CUI). However, a civil society team is concerned with the lengthy timeline set by CUI Office in making progress on implementing CUI regulations. If the goals of this commitment are met, it would significantly enhance transparency at the federal government and give needed clarity to federal employees. These were released in 2015 and will count toward the end of term report.

NAME OF COMMITMENT	SUMMARY OF RESULTS
6. Foreign Intelligence Surveillance • OGP value relevance: Clear • Potential impact: Moderate • Completion: Complete	In June 2014, the Office of Director of National Intelligence (ODNI) released its first annual Statistical Transparency Report that presented data on how often the government used certain national security authorities during calendar year 2013. Specifically, the Report contains information regarding the number of orders issued and targets affected under several sections of Foreign Intelligence Surveillance Act (FISA) and section 215 of the PATRIOT Act. However, the report lacks standards and specifics. Information related to foreign intelligence surveillance programs is routinely reviewed and declassified where appropriate, and publicly tracked on a new Intelligence Community website. However, there is no explanation regarding the principles of classification/declassification considered ODNI and Department of Justice have engaged with civil society organizations as well as the members of the Privacy and Civil Liberties Oversight Board. According to civil society members, further disclosures of information regarding foreign intelligence surveillance activities are needed, such as surveillance activities under Executive Order 12333, FISA Court opinions, and the use of data collected by the National Security Agency by other parts of the intelligence community.
6.1. National Security Authorities • OGP Value Relevance: Clear • Potential impact: Moderate • Completion: Complete	
6.2. Foreign Intelligence Surveillance Programs • OGP Value Relevance: Clear • Potential impact: Minor • Completion: Complete	
6.3. Stakeholder Consultation • OGP Value Relevance: Clear • Potential impact: Minor • Completion: Complete	
7. Privacy Compliance • OGP value relevance: Clear • Potential impact: Minor • Completion: Limited	Under the first commitment, the Privacy and Civil Liberties Oversight Board (PCLOB) was established, with the mission to ensure that the federal government's efforts to prevent terrorism are balanced with the need to protect privacy and civil liberties. Section 803 of the Implementing the Recommendations of the 9/11 Commission Act of 2007 directs the privacy and civil liberties officers of federal agencies to submit standardized reports periodically to the PCLOB. However, this remains limited to only eight agencies. While the government took some initiatives to improving the privacy compliance reports, its scope was limited to only a few agencies. In addition, the eight Section 803 agencies have had spotty publication of these reports. It is expected that making privacy reports more accessible in the long-run will assist those who are doing research and policy work on federal privacy issues. It is recommended that all agencies which are covered under Section 803 make their reports public on the PCLOB website.
7.1. Accessibility of Privacy Policies and Compliance Reports • OGP Value Relevance: Clear • Potential impact: Minor • Completion: Limited	
7.2. Improve Privacy Compliance Reports • OGP Value Relevance: Clear • Potential impact: Minor • Completion: Unclear	
8. Open Government Plans • OGP value relevance: Clear • Potential impact: Minor • Completion: Substantial	The majority of federal agencies posted their new individual plans on their websites in June and July 2014. However, some agencies have either not yet published their plans or have come up with plans that are not meaningful. In order to ensure robust implementation of the agency plans, a system must be established of holding agencies accountable for publishing their individual open government plans and implementing the plans they came up with. The IRM researcher suggests that OSTP should create a webpage where the public can monitor implementation of agency plans.

NAME OF COMMITMENT	SUMMARY OF RESULTS
9. Whistleblowing • OGP value relevance: Clear • Potential impact: Moderate • Completion: Substantial	The Administration has mandated federal agencies to participate in the Office of Special Counsel (OSC) whistleblower certification program. The certification program requires agency heads to ensure that employees are informed of the rights and remedies available to them under the Whistleblower Protection Act (WPA) and related laws. Although the Administration has required participation, most agencies have not complied. Out of some 100 government agencies, only 18 have completed and 26 are registered to complete the certification program since the beginning of 2014. Substantial progress has been made in implementing the Presidential Directive on Protecting Whistleblowers that recommends expanding the persons to whom protected disclosures may be made. However, there are a number of limitations including a lack of independent due process to enforce the rights and a shortfall in public posting of individual guidelines under the Presidential Directive by federal agencies. The Intelligence Authorization Act for fiscal year 2014 was passed, which codifies statutory protections for whistleblowers. However, there are current gaps in statutory protections for whistleblowers in government, including shortfalls in protections for federal employees whose rights are limited to administrative remedies. There are also inadequate protection for intelligence community contractors. Civil society members recommend that more work is needed in this area, such as enforcing participation in OSC training, issuing memos to department heads making certification programs mandatory, and advocating from stronger legislative solutions.
9.1. Certification Program • OGP Value Relevance: Clear • Potential impact: Minor • Completion: Complete	
9.2. Improve Privacy Compliance Reports • OGP Value Relevance: Clear • Potential impact: Minor • Completion: Substantial	
9.3. Legislative Advocacy • OGP Value Relevance: Clear • Potential impact: Minor • Completion: Limited	
9.4. Executive Authority • OGP Value Relevance: Clear • Potential impact: Minor • Completion: Limited	
10. Legal Entities • OGP value relevance: Unclear • Potential impact: Moderate • Completion: Limited	The White House has advocated for legislation that would require every legal entity formed in the U.S. to obtain an employer identification number and therefore list a single "responsible party" on its tax form. However, civil society members interviewed are concerned about the weak definition of "responsible party" which does not meet the international definition of beneficial owner and about the lack of clear enforcement mechanisms. In August 2014, the U.S. Treasury Department issued a Notice of Proposed Rulemaking that would require financial institutions to provide beneficial ownership information for company customers. However, civil society members interviewed revealed concerns about the effectiveness of the proposed rule since it is weaker and less effective than what was in the earlier Proposed Rulemaking. They believe the definition of beneficial owner needs to include the concept of 'effective control' so that it captures individuals who control a company through unofficial means. The IRM researcher and CSOs recommend that the Treasury should continue to work toward developing a final rule that contains comprehensive and meaningful regulations that includes a definition of beneficial owner that meets the international standard.
10.1. Disclosure Legislation • OGP Value Relevance: Unclear • Potential impact: Moderate • Completion: Limited	
10.2. Customer Due Diligence Obligation • OGP Value Relevance: Unclear • Potential impact: Moderate • Completion: Limited	

NAME OF COMMITMENT	SUMMARY OF RESULTS
✪**11. Extractive Industries Transparency Initiative -Overall** • OGP value relevance: Clear • Potential impact: Transformative • Completion: Substantial	The U.S. became EITI candidate country in March 2014 and established a USEITI Advisory Committee. The Committee is comprised of industry, civil society organizations, and representatives from government, and is responsible for overseeing implementation of EITI in the U.S. In addition to hosting several multi-stakeholders meetings throughout the calendar year of 2013 and 2014, the Department of Interior, in collaboration with General Services Administration team, created the Natural Resources Data Portal that reveals the amount and the use of natural resource revenues extracted from the U.S. federal lands. The White House went further than its EITI obligations by committing to disclose timber revenues. The first USEITI report is scheduled to be published in December 2015.
11.1. Geothermal and renewable energy revenues • OGP Value Relevance: Clear • Potential impact: Moderate • Completion: Substantial	
11.2. Department of Interior payments • OGP Value Relevance: Clear • Potential impact: Moderate • Completion: Substantial	
11.3. Timber revenues • OGP Value Relevance: Clear • Potential impact: Moderate • Completion: Unclear	
11.4. Open data tool on extractives • OGP Value Relevance: Clear • Potential impact: Moderate • Completion: Substantial	
12. Fossil Fuel Subsidies • OGP value relevance: Clear • Potential impact: Moderate • Completion: Complete	The report regarding U.S. government spending on fossil fuel subsidies was published on the Treasury Department Open Government website in August 2014 and was submitted to the group of G-20. However, civil society members pointed out that this commitment is weak given that there is no specific requirement for the scope of the report. The report is not required to provide detail about the breakdown of data regarding different kinds of fuels or different kinds of subsidy from grants to states and local government to tax exemptions for companies. One suggestion is to make the information about government spending on natural resources, including fossil fuel subsidies, available on USAspending.gov.
✪**13. Federal Spending – Overall** • OGP value relevance: Clear • Potential impact: Transformative • Completion: Substantial	The United States joined Global Initiative on Fiscal Transparency (GIFT) and participated in the OGP-GIFT Fiscal Openness Working Group. The Working Group held several workshops and meetings and the written summary of each of the workshops are posted on the GIFT website. In October 2014 and February 2015 the Office of Management and Budget (OMB) and the Department of Treasury met with external stakeholders. In response to the feedback from external stakeholders, the Treasury launched a refreshed and user-friendly USASpending.gov in April 2015. However, the Government Accountability Office (GAO) Report on Data Transparency released in July 2014 states that at least 93 percent of federal awards on USAspending.gov contained information that was inconsistent with federal agency records. Cont...
13.1. Global Initiative on Fiscal Transparency • OGP Value Relevance: Clear • Potential impact: Minor • Completion: Complete	

NAME OF COMMITMENT	SUMMARY OF RESULTS
13.2. Engage External Stakeholders • OGP Value Relevance: Clear • Potential impact: Minor • Completion: Substantial	Federal spending data such as total amount of money distributed to an agency and total amount distributed to a city or county in a fiscal year are available in machine-readable formats. Furthermore, the effort to publish additional federal contracting data is underway along with the efforts to introduce new statutory and regulatory requirements for opening up contracting data. The Government Accountability and Transparency Board released its annual plan document in April 2014, which describes progress made by the Board in 2013 and its planned activities in 2014. In May 2014, president Obama signed the Digital Accountability and Transparency Act (DATA Act), which requires Treasury and OMB to standardize and make publicly available the U.S. Federal spending data online. Treasury published a Federal Register Notice in September 2014 and conducted small-scale pilots to "create a standard taxonomy and to demonstrate how the additional data elements required by the DATA Act could be visualized". The US government should continue to work on the areas they have already proposed in this National Action plan. In addition, as stated in the GAO report on data transparency, the issue of data quality on USASpending.gov should be addressed. They should also look to broaden their reach and explore new federal spending data to be made publicly available.
13.3. Data Availability • OGP Value Relevance: Clear • Potential impact: Minor • Completion: Substantial	
13.4. Contracting Data • OGP Value Relevance: Clear • Potential impact: Minor • Completion: Substantial	
13.5. Government Accountability and Transparency Board • OGP Value Relevance: Clear • Potential impact: Moderate • Completion: Complete	
13.6. Improve USAspending.gov • OGP Value Relevance: Clear • Potential impact: Minor • Completion: Substantial	
13.7.Accessibility and Reusability of Federal Financial Data • OGP Value Relevance: Clear • Potential impact: Moderate • Completion: Limited	
13.8. Visualization and Publication of Federal and Financial Data • OGP Value Relevance: Clear • Potential impact: Minor • Completion: Complete	
13.9. Continue to Engage Stakeholders • OGP Value Relevance: Clear • Potential impact: Minor • Completion: Complete	

NAME OF COMMITMENT	SUMMARY OF RESULTS
14. ForeignAssistance.gov • OGP value relevance: Clear • Potential impact: Moderate • Completion: Limited	So far, ten agencies, which account for 98 percent of the U.S. foreign assistance portfolio - among 22 agencies managing U.S. foreign assistance - have published data on ForeignAssistance.gov. Furthermore, a government lead on this commitment stated that the ForeignAssistance.gov team within the Department of State has worked on improving the usability and functionality of the website and on raising awareness of the website through a Twitter channel and other forms of social media. However, the civil society team is concerned about the quality of data behind the interface. since the scope of the information published on the website is limited to aggregated and transaction level data, lacking program level data which would allow users to understand how funding is actually being used.
15. Performance.gov • OGP value relevance: Clear • Potential impact: Minor • Completion: Substantial	In February 2015, agencies added their new annual performance plans and reports to Performance.gov. Agencies have also reported on progress of the agency and cross-agency priority goals on a quarterly basis, allowing the public to monitor whether and to what extent the goals are met. Furthermore, export functionality of Performance.gov has been improved for users to access more data in a machine-readable format. Experts in the field found the website was clumsy and added little value with the level of aggregation a problem. The biggest failure of this site is the absence of actual performance data that speaks to the agencies measurement and reporting efforts. There is no raw data to analyze, no time comparison, and no interpretation for the lay user.
16. Performance.gov • OGP value relevance: Clear • Potential impact: Minor • Completion: Substantial	In February 2014, President Obama signed the Executive Order on Streamlining the Export/Import Process for America's Businesses. The Automated Commercial Environment (ACE), which will become the single window platform for import and export requirements by 2016, is in the process of development by the U.S. Customs and Border Protection (CBP) in collaboration with a number of federal agencies. ACE will not only streamline transactions and promote transparency but the international trade community will be able to more easily and efficiently comply with U.S. trade laws and regulations.
17. Participatory Budgeting • OGP value relevance: Clear • Potential impact: Minor • Completion: Limited	In May 2014 the Office of Science and Technology Policy (OSTP) hosted a meeting on best practices for participatory budgeting, bringing together local officials, staff, residents, researchers, civil society, and other organizations leading the efforts to promote participatory budgeting. The Department of Housing and Urban Development, in collaboration with a civil society team, created a new participatory budgeting resources page on its website. This should encourage local governments to use participatory budgeting in allocating Community Development Block Grants. However, after the May 2014 convention, no further efforts to collaborate with multiple stakeholders to promote public participation in community spending have been identified by the IRM researcher. In order to move this commitment forward, more collaboration and communication among representatives from communities across the country is necessary.
18. Visa Sanctions • OGP value relevance: Unclear • Potential impact: Minor • Completion: Limited	Congress expanded the existing corruption visa ineligibilities covered under Section 7031(c) of the Foreign Operations and Related Programs Appropriations Act. Additionally, President Obama signed a series of executive orders from early 2014 to the present that impose visa sanctions to foreign officials who show strong evidence of corruption or violation of human rights. The US government should revise this commitment to ensure that public information access and public accountability are core parts of the goal of exposing international corruption and preventing individual perpetrators from taking safe harbor in the United States. As is stands the relevance to open government is unclear.

NAME OF COMMITMENT	SUMMARY OF RESULTS
19. Public Participation in Rulemaking • OGP value relevance: Clear • Potential impact: Minor • Completion: Substantial	To further expand public participation in federal agency rulemaking, the interagency eRulemaking team developed a new commenting Application Programing Interface, which enables the public to comment on proposed regulations using third-party websites. Initial reports suggest that eRulemaking has led to a vast jump in the number of public comment on proposed regulations. The eRulemaking team has continuously reached out to civil society stakeholders for input in making improvements with Regulations.gov and civil society members interviewed on this commitment have positively assessed the progress that Regulations.gov has made. In 2012, the Consumer Financial Protection Bureau (CFPB) shared its software code with the public for any development project it or its contractors have built through its open source pilot. CFPB and General Services Administration have worked and will continue to work together to explore opportunities for potential expansion of CFPB's open source pilot to other agencies. Public input may have minimal impact on developing regulations because commenting happens only at the end of regulation development process. Changing the very nature of the process and when input in solicited could have a real impact on the nature of the regulations developed.
19.1. Commenting on Rulemaking • OGP value relevance: Clear • Potential impact: Minor • Completion: Complete	
19.2. Stakeholder Outreach • OGP value relevance: Clear • Potential impact: Minor • Completion: Substantial	
19.3. Readability of Regulations • OGP value relevance: Clear • Potential impact: Moderate • Completion: Substantial	
20. Open Data • OGP value relevance: Clear • Potential impact: Minor • Completion: Substantial	The Office of Management and Budget has been using a public dashboard to monitor agency compliance on developing inventory of their data and publishing a list of datasets that are public or could be made public. The majority of the Chief Financial Officers Act agencies have met their key milestones on time. However, some inside and outside of government hold the skeptical view that the commitment on managing government data as a strategic asset is a reiteration of existing policy; thus, the commitment has not contributed to further opening federal data to the public. In January 2014, Data.gov implemented a new version of catalog CKAN, which consolidates all datasets in a single catalog. This catalog is updated daily with the open datasets made available by federal agencies, and includes better sorting and tagging of datasets, and improved metadata. A newly launched Data.gov would not only increase the amount of data available to the public but also allow users to easily find and utilize public data of all levels of government. An interagency team has been established to encourage new efforts to release agriculture and nutrition data. According to the civil society members interviewed, however, the only noticeable effort made by the Administration is to encourage relevant organizations to join the Global Open Data on Agriculture and Nutrition (GODAN). Although the GODAN initiative encourages its partner agencies to further open data on agriculture and nutrition, there are no mandatory requirements for partnering organizations. The Federal Emergency Management Agency (FEMA) has offered some of its public data in a machine-readable format via an Application Programming Interface. FEMA's efforts to further open data regarding historic records of natural disasters will enable citizens and emergency services to understand and prepare for the effects of natural disasters at the state and local level.
20.1. Inventory of Data • OGP value relevance: Clear • Potential impact: Moderate • Completion: Complete	
20.2. Data.gov • OGP value relevance: Clear • Potential impact: Minor • Completion: Substantial	
20.3. Open Agriculture and Nutrition Data • OGP value relevance: Clear • Potential impact: Minor • Completion: Limited	
20.4. OpenFEMA • OGP value relevance: Clear • Potential impact: Minor • Completion: Substantial	

NAME OF COMMITMENT	SUMMARY OF RESULTS
21. ExpertNet • OGP value relevance: Clear • Potential impact: Minor • Completion: Not started	This commitment aims at creating expert networking platforms within agencies such as ExpertNet launched by the Food and Drug Administration (FDA). According to the government self-assessment, "FDA has begun expanding its pilot to include other parts of the agency" and "a working group began drafting best practices with civil society consultation." However, civil society members interviewed state that no apparent progress has been made on expanding government expert networking platforms. It is unclear whether the FDA's ExpertNet pilot program is currently in use. The administration should work with the research community to assess the impact of expert networking, and to find effective ways to design and implement such programs.
22. Federal Website • OGP value relevance: Clear • Potential impact: Minor • Completion: Substantial	In August 2014, the White House released the U.S. Digital Service Playbook drawn from successful best practices to improve government websites from the private sector and government. Along with the playbook, TechFAR Handbook was launched, which explains how agencies can innovate and execute key plays from the Playbook in ways consistent with Federal Acquisitions Regulations. Despite these advancements, the completion of this commitment has been postponed to 2015. It remains unclear whether and to what extent federal agencies are aware of the playbook and handbook and are actually employing the strategies provided to improve their websites.
23. Public Collaboration • OGP value relevance: Clear • Potential impact: Moderate • Completion: Substantial	In November 2014, the Office of Science and Technology Policy (OSTP) and the Challenges and Prizes Community of Practice hosted a workshop to kick off developing the Open Innovation Toolkit. The members of Federal Community of Practice on Crowdsourcing and Citizen Science participated and shared their thoughts on the types of tools, recourses and networks needed to implement citizen science and crowdsourcing projects. The OSTP plans to hold another round of similar workshop in 2015. Challenge.gov has continued to host crowdsourcing contests that solicit ideas and concepts from the public. Since its launch in 2010, the website has hosted nearly 400 crowdsourcing competitions and the platform has been used by more than 70 Federal departments and agencies. Some federal agencies have made continuous efforts to expand their use of crowdsourcing and citizen science projects. For example, the Environmental Protection Agency created an Air Sensor Toolbox that allows citizens to monitor local air pollution. When moving forward on these initiatives, the IRM researcher suggests the US government should explore other policy areas where crowdsourcing could be applied. They should also work to increase public awareness of these innovative tools.
23.1. Open Innovation Toolkit • OGP Value Relevance: Clear • Potential impact: Minor • Completion: Substantial	
23.2. Challenge.gov • OGP Value Relevance: Clear • Potential impact: Minor • Completion: Substantial	
23.3. Citizen Science Programs • OGP Value Relevance: Clear • Potential impact: Moderate • Completion: Substantial	
24. Open Education • OGP value relevance: Clear • Potential impact: Moderate • Completion: Substantial	In consultation with civil society stakeholders the Department of State, Department of Education, and White House Office of Science and Technology Policy are engaged in initial planning for a mid-2015 Open Education workshop. The Department of State has begun implementation of the first and second pilot programs and initial preparations are underway for the third pilot. The first pilot program expands the use of openly licensed content through the existing Massive Open Online Courses (MOOC). The second pilot program uses low bandwidth technology to bring digital libraries to rural communities in Kenya. Cont...
24.1. Awareness and partnerships • OGP Value Relevance: Clear • Potential impact: Minor • Completion: Limited	

NAME OF COMMITMENT	SUMMARY OF RESULTS
24.2. Pilot new models of learning • OGP value relevance: Clear • Potential impact: Minor • Completion: Substantial	In preparation for launching the online skills academy, the Department of Labor and Department of Education hosted a public virtual listening session in February 2015. The aim was to solicit public input on the development of the academy that will offer open online courses of study for free or at low costs. Since open education resources are free and openly accessible, it could play an important role in increasing access to high-quality educational content around the world, particularly for underserved and disadvantaged communities. However, the commitment does not add to the openness or accountability of government to its citizens.
24.3. Online skills academy • OGP value relevance: Clear • Potential impact: Moderate • Completion: Substantial	
25. Deliver Services Through Information Technology • OGP value relevance: Clear • Potential impact: Moderate • Completion: Substantial	In August 2014, the Obama Administration launched the U.S. Digital Service, which is comprised of a small team of digital experts. The goal of this team is to make websites more consumer friendly, to identify and fix problems, and to help upgrade the government's technology infrastructure, in collaboration with other government agencies. The Administration also released the Digital Services Playbook in August 2014, which provides best practices for effective digital service delivery. The Playbook was revised in January 2015, and will continue to make improvements based on the feedback and suggestions from the public through GitHub. Although no apparent progress has been made toward developing an open source software policy, the government self-assessment states that an interagency team has begun working on a draft and has solicited input from civil society. Since these are part of the commitments added in the Fall of 2014 it is too early to assess their impact. The IRM researcher recommends that when agencies contract for technology, they should built into the contracts a provision that the agency owns the final product. Where appropriate, the final product or output should be open source.
25.1. Expand digital service delivery • OGP Value Relevance: Unclear • Potential impact: Moderate • Completion: Substantial	
25.2. Build digital services in the Open • OGP Value Relevance: Clear • Potential impact: Minor • Completion: Substantial	
25.3. Open source software policy • OGP Value Relevance: Clear • Potential impact: Moderate • Completion: Limited	
26. Big Data • OGP value relevance: Clear • Potential impact: Moderate • Completion: Substantial	In September 2014 the Department of Justice (DOJ) published a document regarding the Department's activities that foster responsible use and privacy best practices with state, local, and tribal law enforcement entities receiving federal grants. Furthermore, in November 2014, DOJ issued a supplemental guide to serve as a single resource for law enforcement entities to protect the public's privacy and constitutional rights. To ensure privacy protection for big data analyses in health, the Department of Health and Human Services is (HHS) is working in collaboration with the Privacy and Security Workgroup of the Health Information Technology Policy Committee, a Federal advisory committee providing recommendations on health IT policy issues. In June 2014, the White House Office of Science and Technology Policy held a workshop regarding the opportunities and challenges ahead for federal agencies in light of the increasing availability of massive data sets. Furthermore, in September 2014, another workshop regarding the use of big data was held by the Federal Trade Commission, which addressed the concerns about the discriminatory impact of big data use on American consumers. The commitments were added in the Fall of 2014, and as such it is too early to fully assess their impact. The existing commitments flag privacy issues, but need to go further and also address use and effectiveness issues surrounding big data.
26.1. Data privacy in law enforcement • OGP Value Relevance: Clear • Potential impact: Minor • Completion: Substantial	
26.2. Big Data in Health • OGP Value Relevance: Clear • Potential impact: Minor • Completion: Substantial	
26.3. Stop discrimination • OGP Value Relevance: Clear • Potential impact: Minor • Completion: Limited	

RECOMMENDATIONS

Despite Obama's continued leadership on open government, in many cases he has not been able to deliver results. The OGP commitments do not feature prominently in the national media spotlight. While the Executive is ultimately responsible for implementing OGP commitments, a tense political climate has been the backdrop of major international defense and security controversies that shed a bad light on the openness and transparency of the U.S. government, and which overshadow the success of many commitments in its Open Government Action Plan. There are notable areas for improvement for open government and it remains to be seen whether the new leadership in the White House after the general elections of 2016 can find the political resolve to make positive steps forward. Based on the challenges and findings identified in this report, this section presents the principal recommendations:

TOP FIVE 'SMART' RECOMMENDATIONS

1. The third National Action Plan should concentrate on including more commitments which are ambitious and far-reaching.
2. Promote wider engagement with a more varied group of CSOs. Although the nature of some proposals are by their nature technical and niche, an overall strategic vision may allow for a greater appeal to more organizations.
3. When developing the third National Action Plan, participation should be expanded outside the beltway and decentralized to reach a broader range of individuals.
4. In the next action plan the US government should include commitments to make major and permanent reforms, as recommended in the full text, in the following areas:
   - declassification and over-classification;
   - Office of Government Information Services' reform;
   - foreign intelligence and surveillance; and
   - whistleblower protection
5. The next action plan should include concrete steps to support the continuation of the open government initiatives during and after an administrative transition. Civil society should have an active role in the development of such a plan.

ELIGIBILITY REQUIREMENTS:

To participate in OGP, governments must demonstrate commitment to open government by meeting minimum criteria on key dimensions of open government. Third-party indicators are used to determine country progress on each of the dimensions. For more information, visit: http://www.opengovpartnership.org/how-it-works/eligibility-criteria.

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Open Government Partnership INDEPENDENT REPORTING MECHANISM

The Open Government Partnership (OGP) aims to secure concrete commitments from governments to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance. OGP's Independent Reporting Mechanism assesses development and implementation of national action plans to foster dialogue among stakeholders and improve accountability.

[1] For more information, see Table 1 at http://internationalbudget.org/what-we-do/open-budget-survey/ as well as http://www.obstracker.org/
[2] The two databases used are Constitutional Provisions at http://www.right2info.org/constitutional-protections and Laws and draft laws http://www.right2info.org/access-to-information-laws
[3] This database is also supplemented by a published survey that the World Bank carries out biannually. For more information see http://publicofficialsfinancialdisclosure.worldbank.org
[4] Economist Intelligence Unit, "Democracy Index 2010: Democracy in Retreat" (London: Economist, 2010). Available at: http://bit.ly/eLC1rE
[5] Economist Intelligence Unit, "Democracy Index 2010: Democracy in Retreat" (London: Economist, 2010). Available at: http://bit.ly/eLC1rE

I | NATIONAL PARTICIPATION IN OGP

HISTORY OF OGP PARTICIPATION

The Open Government Partnership (OGP) is a voluntary, multi-stakeholder international initiative that aims to secure concrete commitments from governments to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance. In pursuit of these goals, OGP provides an international forum for dialogue and sharing among governments, civil society organizations, and the private sector, all of which contribute to a common pursuit of open government. OGP stakeholders include participating governments as well as civil society and private sector entities that support the principles and mission of OGP.

The United States was one of the founding OGP member countries, and launched its first National Action Plan in September 2011 during the first administration of current President, Barack Obama. Prior to its participation in the OGP, the Obama administration laid out principles for open government in U.S. federal agencies and departments in 2009 in the Memorandum on Transparency and Open Government.[1]

In order to participate in OGP, governments must exhibit a demonstrated commitment to open government by meeting a set of (minimum) performance criteria on key dimensions of open government that are particularly consequential for increasing government responsiveness, strengthening citizen engagement, and fighting corruption. Objective, third party indicators are used to determine the extent of country progress on each of the dimensions. See Section IX: Eligibility Requirements for more details.

All OGP participating governments are required to develop OGP country action plans that elaborate concrete commitments over an initial two-year period. Governments should begin their OGP country action plans by sharing existing efforts related to their chosen grand challenge(s) (see Section IV), including specific open government strategies and ongoing programs. Action Plans should then set out governments' OGP commitments, which move government practice beyond its current baseline with respect to the relevant grand challenge. These commitments may build on existing efforts, identify new steps to complete on-going reforms, or initiate action in an entirely new area.

The U.S. released its Second National Action Plan in December 2013, and the effective period of implementation for the action plan runs until the release of the Third National Action Plan, which is scheduled for the end of 2015.[2] The IRM published its progress report on the U.S.'s First National Action Plan in October of 2013, and praised the plan for being "highly varied and, in many respects, ambitious and innovative."[3] The report also noted success in achieving most of the commitments. The Second Action Plan (referred to hereafter as "the Plan") has built on the progress of the First Action Plan and has made positive steps despite a difficult domestic political environment.

BASIC INSTITUTIONAL CONTEXT

Implementation of the Second National Action Plan of the United States is led by the Executive Office the President (EOTP). The State Department is the leader in OGP for the United States, coordinating all international-facing efforts and participating in many of the NAP commitments. The executive agencies in government and agencies with primary responsibility for commitments in the Plan are regular participants in the Interagency Open Government Working Group. As such, these agencies make the biggest contribution to open government reform. The judicial and legislative branches of government do not have direct involvement in the implementation of the Plan.

The OSTP, has day-to-day oversight for monitoring the plan and coordinating the Working Group. Through the Memorandum[4] government agencies are expected to create their own open government plans. There is no legally binding mandate for agencies to participate in the goals of the OGP or to meet the commitments in the Plan.

U.S. President Barack Obama has taken deliberate steps to draw numerous advisors from government, academia, and civil society into leading the effort, and he continues to engage directly with the process of achieving the OGP commitments. No shift in the organizational structure of involved institutions or agencies occurred during the development and implementation of the Second Action Plan, nor did the government experience a change in executive leadership during the OGP action plan development or implementation phase. The latter will be an important challenge for the U.S.'s OGP commitments after the national election in November 2016.

METHODOLOGICAL NOTE

The IRM partners with experienced, independent national researchers to author and disseminate reports for each OGP participating government. In the U.S., the IRM partnered with Dr. Suzanne Piotrowski, Rutgers University – Newark, who with a team reviewed the government's self-assessment report, gathered the views of civil society, and interviewed appropriate government officials and other stakeholders. OGP staff and a panel of experts also reviewed the report.

This report follows on an earlier review of OGP performance, "United States Progress Report 2011-2013," which covered the development of the first action plan as well as the official implementation period from 1 January to 31 December 2012.

To gather the voices of multiple stakeholders, Dr. Piotrowski carried out two online questionnaires in February 2015; one of government personnel responsible for implementing the Plan, and one of civil society representatives responsible for monitoring and collaborating with the government on the Plan. In order to find richer data from the insights of key players, a stakeholder forum was organized in Washington D.C. on March 18-2015, which was conducted in the form of ten focus groups. Dr. Piotrowski also brought together stakeholders for the official kick-off meeting of the IRM process, attended numerous official meetings and policy check-ins of the Open Government Working Group, conducted interviews, and reviewed key documents. Documents reviewed included the official reports on the U.S.'s first action plan and the self-assessment published by the government in March 2015, and published articles, reports, and evaluations from other participants and public commentators taking place during implementation.

Summaries of these methods are given in Section VIII.

II | ACTION PLAN DEVELOPMENT

The development of the U.S Second National Action Plan was led centrally by the Executive Office of the President but drew from expertise and innovations across a wide range of stakeholders including many government agencies in charge of various commitments. It saw active participation from civil society groups and made strong efforts to learn from and build upon the actions of the first plan. Based on the IAP2 spectrum of political participation, the level of the consultation could be described as "involving" or "consulting" the public. The decision-making process did not seek active collaboration with the public, it involved a narrow range of participants, and it was not carried out according to a well-defined or transparent schedule.

Countries participating in OGP follow a set process for consultation during development of their OGP action plans. According to the OGP Articles of Governance, countries must—

- Make the details of their public consultation process and timeline available (online at minimum) prior to the consultation;
- Consult widely with the national community, including civil society and the private sector; seek out a diverse range of views; and make a summary of the public consultation and all individual written comment submissions available online;
- Undertake OGP awareness-raising activities to enhance public participation in the consultation; and
- Consult the population with sufficient forewarning and through a variety of mechanisms—including online and through in-person meetings—to ensure the accessibility of opportunities for citizens to engage.

This is dealt with in the next section, but evidence for consultation both before and during implementation is included here and in Table 1 for ease of reference.

Table 1: Action Plan Consultation Process

PHASE OF ACTION PLAN	OGP PROCESS REQUIREMENT (ARTICLES OF GOVERNANCE SECTION)	DID THE GOVERNMENT MEET THIS REQUIREMENT?
During Development	Were timeline and process available prior to consultation?	No
	Was the timeline available online?	No
	Was the timeline available through other channels?	No
	Provide any links to the timeline.	No
	Was there advance notice of the consultation?	No
	How many days of advance notice were provided?	0
	Did the government carry out awareness-raising activities?	Yes
	Provide any links to awareness-raising activities.	Blog posts on Open Gov Blog, such as "Open Government is an Open Conversation."

PHASE OF ACTION PLAN	OGP PROCESS REQUIREMENT (ARTICLES OF GOVERNANCE SECTION)	DID THE GOVERNMENT MEET THIS REQUIREMENT?
During Development	Were consultations held online?	Yes
	Provide any links to online consultations.	Public online feedback form.
	Were in-person consultations held?	Yes
	Provide any links to online consultations.	http://bit.ly/1Gi4etI
	Were consultations open or by invitation only?	Open
	Place the consultations on the IAP2 spectrum.[5]	Consult
During Implementation	Was there a regular forum for consultation during implementation?	Yes
	Were consultations open or invitation-only?	Open
	Place the consultations on the IAP2 spectrum.	Involve

A fifth requirement, during consultation, is set out in the OGP Articles of Governance. This requirement is dealt with in the section "III: Consultation during implementation":

- Countries are to identify a forum to enable regular multi-stakeholder consultation on OGP implementation—this can be an existing entity or a new one.

ADVANCE NOTICE AND AWARENESS-RAISING

Consultation in the development of the Plan was connected with the implementation and review of the First National Action Plan. Following its efforts in the first plan, the Administration stated that it would "continue to seek input from outside groups and citizens."[6] The Administration's ongoing consultation with the Interagency Working Group has been an important part of this process in the lead-up to the launch of the Second Plan. The Working Group's quarterly open meetings have provided numerous opportunities for the Administration to discuss the consultation process in-person with representatives from civil society, business, and academia. However, the minutes of meetings are not publicly available and there is very little concrete information about process or timeline involved in consultation with respect to the development of the Second National Action Plan. One of the earliest announcements was made on 3 July 2013 on the Open Gov Blog and describes numerous channels for consultation from academic workshops to social media conversations. It was a process that was in practice a relatively spontaneous and loosely organized engagement with stakeholders and the public.

The launch of the official consultation period for the Plan in September 2013 took place in a town hall style meeting in which participants were informed of a short period of consultation leading up to the launch of the Plan in December. In a blog post on September 3, 2013, the White House published a series of questions to invite public input on the development of the Plan.[8] The three topics of questions posed in the blog post formed the basis of the three priorities that group the commitments: *Public Integrity, Resource Management*, and *Public Services*. The questions allowed a window

for input of 20 days, but there was no prior information on the planning of this consultation process or the timeline that would be used. Published material, such as the Administration's Preview Report published on October 31, 2013, refer to the continuing solicitation of feedback leading up to December 2013, but are lacking in details as to how and when the consultation could actually take place, given that the request for input officially closed on September 23.[9]

Throughout 2013, there were several blog posts on the White House Open Gov Blog requesting feedback on the first National Action Plan to be used to develop the second National Action Plan. For example, in February 2013, the Administration announced an online feedback form that would be used to inform the Open Government Self-Assessment Report that reported on how effective the First Plan had been in meeting its goals.[10] The form requested input on three questions: 1) What Open Government commitments need the most additional work in the near term?; 2) How can we be more responsive to your feedback?; and 3) How can we work more closely with the public to enhance the Government's effectiveness? Another online platform, a third party online forum, Quora.com, provides for a Q&A with the public on the topic of open government. The current blog and comments feed of the Quora Open Government page shows frequent activity by users. Another online space which has met with some success is the Administration's use of online feedback through a Google Group forum. It has hundreds of users and receives new posts or comments on a daily basis.

Online platforms used by the Administration such as the Open Gov Blog and Quora promoted and explained the developments of the Plan, but were not designed to reach a wide audience. Previous activities from the First Plan such as the Challenge.gov, We The People e-petitions, and the Open Innovators Toolkit provide avenues to raise awareness through ongoing programs, but, again, the audience is narrow, and there appears to be no attempt to raise awareness of the Plan in general. The process is largely driven in a collaborative way with social media providing forums for issues and ideas to emerge, and civil society partners sometimes taking responsibility for organizing events that shape the consultation process. In addition to its online consultation, a diversity of in-person channels was used by the Administration. The Interagency Working Group held quarterly in-person meetings with civil society organizations. Within the Working Group, sub-groups addressed different topics, such as one group with expertise in digital communications technology addressed that addressed the We The People e-petition site. The organizing member of the civil society groups, Openthegovernment.org posted details of the meetings such as this one on the We The People e-petitions page. Additionally, the Administration receives many independent channels of public input via tweets on its official Twitter page, comments on its Facebook page, emails, and phone calls. A further instance of a different kind of in-person consultation was the Public Participation and Open Government Workshop held at Syracuse University's Maxwell School of Citizenship and Public Affairs, which brought together academics and civil society representatives.

It is important to note that other channels of consultation include the many forms of consultation undertaken by other departments and agencies as part of their NAP responsibilities. These agencies are also part of the integrated process of review, consultation, and re-planning that characterizes the NAP processes. Their consultation is fed back into the OSTP-led effort through the Interagency Working Group. For example, the National Archives and Records Agency (NARA) has its own independent process for consultation, as detailed in the NARA Open Government Plan 2012-2014.[11] All government agencies are expected to consult with the public and then make their own open government plans available online, and such agency-level plans are intended to decentralize development of open government efforts. However, while the agency plans add volume, their significance to the overall development of the Open Government National Action Plan was not clear. With agency plans, as with other parts of the advance notice and awareness raising stage of development, the National Action Plan lacked a clear timetable and guidelines for participation necessary to deliver effective public accountability and clarity of scope to give it drive and purpose.

DEPTH AND BREADTH OF CONSULTATION

The development of the Plan was remarkable for the range of innovative tools and in-person forums that were used to generate collaboration. As discussed above, the Open Gov Blog provided an e-form that interested parties could use to give input. In addition, other online platforms such as the We The People petition page and the Open Government Discussion Group seek to interact with citizens in a two-way process rather than a merely one-sided conversation. Academic input was specifically sought in the Public Participation and Open Government Workshop held at Syracuse University's Maxwell School of Citizenship and Public Affairs. A later official document, The Preview Report, released in October 2013 also refers to consultation with the private sector, which principally took place with two companies, IBM and Grant Thornton.

Additionally, experts within government departments and agencies are frequently described as important participants in the process. A large portion of the responsible government departments, agencies, and offices participated in the process orchestrated by the Interagency Working Group. There are a hundred federal agencies in the U.S. government who are expected to participate in the government-wide efforts of the Plan. The Plan development process encompassed mainly the leading agencies, including the Department of Justice, The National Archives and Records Administration, The Department of the Treasury, The State Department, The Agency for International Development, The Department of the Interior, The Office of the Director of National Intelligence, The General Services Administration, The Department of Homeland Security Customs and Border Protection, The Federal Emergency Management Association The Department of Education, The Environmental Protection Agency, The Department of Labor, The Food and Drug Administration, The Department of Agriculture, The Geological Survey, and The National Aeronautics and Space Agency.

While the Administration actively consults with civil society organizations, these organizations are largely from the beltway and are not necessarily representative of civil society as a whole. There are over 100 civil society organizations that have been involved in the OpenTheGovernment.org. The interaction between the Administration and civil society organizations was very effectively organized vis- à-vis the quarterly open meetings with the Working Group. OpenTheGovernment.org in many ways is readily relied upon by the Executive Office of the President as a convenient way for the Administration to carry out its obligations with civil society, but this reliance on organizations with a strong presence in the capital, Washington, D.C., limits the consultation process and precludes the encouragement of an even more open and inclusionary effort to tap civil society expertise. (While the coalition behind OpenTheGovernment.org has membership outside DC, the organizations participating in OGP are almost entirely based in the capital, and only a subsection of the members participate on a regular basis. This is admittedly a difficult task in such a large country as the United States, but one, which should start with efforts to convene a stronger national sample of civil society representatives.

There have been some improvements in public participation in the second national action plan. The First Progress Report, developed by civil society organizations and coordinated by OpenTheGovernment.org, noted that public participation in the First Plan was one of the most conspicuous shortcomings, but the Second Progress Report said that government collaboration had somewhat improved. Collaboration appears to have been unevenly spread across the different commitments. Civil society evaluations of the first Plan were generally positive, praising the serious steps being taken, while also faulting some specific areas that need more work. There have been no concerted or strong voices criticizing the meaningfulness of the consultation process itself. In order to create a more two-sided conversation, the coalition of civil society organizations had earlier called for the creation of a Presidential Advisory Committee on Open Government in 2011, but the Administration decided not to pursue this idea.

Finally, while online forums are geographically neutral, the technological resources required for internet access must raise serious questions about the socioeconomic fairness of the consultation process. On a positive note, many of the online mechanisms did include Spanish versions in order to be readable by the many Spanish-speaking members of US society. However, the DC-centric geographic placement of the civil society organizations and their base of material resources are a significant advantage in access to the information technology and the internet. It also appears that most of the in-person meetings with civil society took place in the DC Metro area, which automatically excludes a large number of potentially interested stakeholders in open government developments. The depth of the consultation process can only go as far as the tools of communication permit. In the case of the US National Action Plan, the innovative use of technology has been admirable, but the reliance on technology has perhaps been a distraction from the goal of creating a process of consultation that is broad-reaching and representative. These shortcomings in the consultation on the development of the National Action Plan can and must be improved upon. One possible way to engage with civil society throughout the country is to include commitments on subnational governments, which they are interested in.

Additionally, at the time of writing (June 2015) there is some evidence that the consultation for the forthcoming action plan will be organized around thematic groupings, some of which may naturally lead to the participation of broader networks of civil society and academia working across the country.

[1] Transparency and Open Government Presidential Memorandum, Federal Register 76, no. 14 (26 January 2009), http://1.usa.gov/1BQCSGL
[2] "The United States Second National Action Plan," The Open Government Partnership, 5 December 2013, http://bit.ly/1FBLTXc
[3] IRM report, "United States Progress Report 2011-13, The Open Government Partnership, 23 October 2014, http://bit.ly/1DB7cJ0
[4] Transparency and Open Government Presidential Memorandum, Federal Register 76, no. 14 (26 January 2009), http://1.usa.gov/1BQCSGL
[5] "IAP2 Spectrum of Political Participation", International Association for Public Participation, http://bit.ly/1kMmlYC
[6] "The United States Second National Action Plan," The Open Government Partnership, 5 December 2013, http://bit.ly/1FBLTXc
[7] Lisa Ellman and Hollie Russon Gilman, "Open Government is an Open Conversation," Open Gov Blog, the White House, 3 July, 2013, http://1.usa.gov/1MOEQul
[8] Nick Sinai, "We Want Your Input on Building a More Open Government", Open Gov Blog, the White House, 3 Septmeber 2013, http://1.usa.gov/1BQNVQc

III | ACTION PLAN IMPLEMENTATION

REGULAR MULTI-STAKEHOLDER CONSULTATION

While the implementation of the Plan is centrally driven by the White House Office of Science and Technology Policy (OSTP), it is overseen by the government-wide Interagency Working Group. The civil society coalition, which includes OpenTheGovernment.org, provides input and guidance to on the implementation. The quarterly open meetings of the Interagency Working Group plus an informal network of government and nongovernment professionals provide multi-sector collaboration on implementation.

Since the First IRM Progress Report, the multi-sector collaboration has been given further impetus by new tools. The OSTP launched the US Open Government Google Group, which has garnered over 250 posts on over 80 topics on implementation areas such as "ExpertNet" to "America rates the federal agencies." In addition, new commitments have opened up new bilateral relationships with supporting agencies, foreign governments, and international nongovernmental organizations. For example, the Members Meetings of the Extractive Industries Transparency Initiative (EITI) are composed of private companies, civil society groups, and national governments; the commitment to fossil fuels transparency involves working through a transparent accountability process with the G-20 countries; and the Global Initiative for Financial Transparency (GIFT) also has a working group consultation process. Further there are other transparency initiatives such as the Government and Accountability Transparency Board (GATB) that has its own interagency consultation process.

At the domestic level, other commitments have also demonstrated innovative and effective collaborations with specific outputs. The OpenFEMA initiative announced a call for applicants for a citizen collaboration body called the Youth Preparedness Council in January 2015.[1] In December 2014, the White House reported on a range of new tools being used across federal agencies to promote collaborative crowdsourcing efforts with citizens.

Recommendations have been made by civil society on how to expand public participation and to more clearly designate accountable program leads in the future. The policy expertise of the coalition, though strong, is not representative of the whole range of policy areas covered by the commitments. Areas that are underrepresented among civil society include fossil fuel subsidies and open education. The current coalition, OpenTheGovernment.org, is highly professional and has an extraordinary high level of expertise. Ultimately though it is the obligation of the White House to encourage and facilitate participation. Indeed, this has taken place to some extent in the context of individual commitments. For example, the Civil Society Progress report published in January 2015 offers a hopeful note for the future, saying that public participation has improved through commitments such as the General Services Administration (GSA) Public Participation Playbook, which publishes data and tools for participation.[2]

These positive assessments of the technological and technical capacity of the implementation of the Action Plan are tempered only by the continued struggle of the Administration to successfully integrate a broad coalition of stakeholders to monitor implementation and to facilitate the lines of communication between stakeholders and responsible program leads in government.

[1] Federal and Emergency Management Agency, "FEMA Encourages Young People to Join Youth Preparedness Council," 21 January 2015, http://1.usa.gov/1ysNPhl
[2] Openthegovernment.org, "Civil Society Progress Report: Second Check-In on the Implementation of the United States' Second Open Government National Action Plan", January 2015, http://bit.ly/1O7asyN

IV | ANALYSIS OF ACTION PLAN CONTENTS

All OGP participating governments develop OGP country action plans that elaborate concrete commitments over an initial two-year period. Governments begin their OGP country action plans by sharing existing efforts related to open government, including specific strategies and ongoing programs. Action plans then set out governments' OGP commitments, which stretch practice beyond its current baseline. These commitments may build on existing efforts, identify new steps to complete ongoing reforms, or initiate action in an entirely new area.

Commitments should be appropriate to each country's unique circumstances and policy interests. OGP commitments should also be relevant to OGP values laid out in the OGP Articles of Governance and Open Government Declaration signed by all OGP participating countries. The IRM uses the following guidance to evaluate relevance to core open government values:

ACCESS TO INFORMATION

Commitments around access to information:

- Pertain to government-held information, as opposed to only information on government activities. As an example, releasing government-held information on pollution would be clearly relevant, although the information is not about "government activity" per se;
- Are not restricted to data but pertain to all information. For example, releasing individual construction contracts and releasing data on a large set of construction contracts;
- May include information disclosures in open data and the systems that underpin the public disclosure of data;
- May cover both proactive and/or reactive releases of information;
- May cover both making data more available and/or improving the technological readability of information;
- May pertain to mechanisms to strengthen the right to information (such as ombudsman's offices or information tribunals);
- Must provide open access to information (it should not be privileged or internal only to government);
- Should promote transparency of government decision making and carrying out of basic functions;
- May seek to lower cost of obtaining information;
- Should strive to meet the 5 Star for Open Data design (http://5stardata.info/).

CIVIC PARTICIPATION

Commitments around civic participation may pertain to formal public participation or to broader civic participation. They should generally seek to "consult," "involve," "collaborate," or "empower," as explained by the International Association for Public Participation's Public Participation Spectrum (http://bit.ly/1kMmlYC).

Commitments addressing public participation:

- Must open up decision making to all interested members of the public; such forums are usually "top-down" in that they are created by government (or actors empowered by government) to inform decision making throughout the policy cycle;
- Can include elements of access to information to ensure meaningful input of interested members of the public into decisions;
- Often include the right to have your voice heard, but do not necessarily include the right to be a formal part of a decision making process.

Alternately, commitments may address the broader operating environment that enables participation in civic space. Examples include but are not limited to:

- Reforms increasing freedoms of assembly, expression, petition, press, or association;

- Reforms on association including trade union laws or NGO laws;
- Reforms improving the transparency and process of formal democratic processes such as citizen proposals, elections, or petitions.

The following commitments are examples of commitments that would **not** be marked as clearly relevant to the broader term, civic participation:

- Commitments that assume participation will increase due to publication of information without specifying the mechanism for such participation (although this commitment would be marked as "access to information");
- Commitments on decentralization that do not specify the mechanisms for enhanced public participation;
- Commitments that define participation as inter-agency cooperation without a mechanism for public participation.

Commitments that may be marked of "unclear relevance" also include those mechanisms where participation is limited to government-selected organizations.

PUBLIC ACCOUNTABILITY

Commitments improving accountability can include:

- Rules, regulations, and mechanisms that call upon government actors to justify their actions, act upon criticisms or requirements made of them, and accept responsibility for failure to perform with respect to laws or commitments.

Consistent with the core goal of "Open Government," to be counted as "clearly relevant," such commitments must include a public-facing element, meaning that they are not purely internal systems of accountability. While such commitments may be laudable and may meet an OGP grand challenge, they do not, as articulated, meet the test of "clear relevance" due to their lack of openness. Where such internal-facing mechanisms are a key part of government strategy, it is recommended that governments include a public facing element such as:

- Disclosure of non-sensitive metadata on institutional activities (following maximum disclosure principles);
- Citizen audits of performance;
- Citizen-initiated appeals processes in cases of non-performance or abuse.

Strong commitments around accountability ascribe rights, duties, or consequences for actions of officials or institutions. Formal accountability commitments include means of formally expressing grievances or reporting wrongdoing and achieving redress. Examples of strong commitments include:

- Improving or establishing appeals processes for denial of access to information;
- Improving access to justice by making justice mechanisms cheaper, faster, or easier to use;
- Improving public scrutiny of justice mechanisms;
- Creating public tracking systems for public complaints processes (such as case tracking software for police or anti-corruption hotlines).

A commitment that claims to improve accountability, but assumes that merely providing information or data without explaining what mechanism or intervention will translate that information into consequences or change, would not qualify as an accountability commitment. See http://bit.ly/1oWPXdl for further information.

TECHNOLOGY AND INNOVATION FOR OPENNESS AND ACCOUNTABILITY

OGP aims to enhance the use of technology and innovation to enable public involvement in government. Specifically, commitments that use technology and innovation should enhance openness and accountability by:

- Promoting new technologies that offer opportunities for information sharing, public participation, and collaboration.
- Making more information public in ways that enable people to both understand what their governments do and to influence decisions.
- Working to reduce costs of using these technologies.

Additionally, commitments that will be marked as technology and innovation:

- May commit to a process of engaging civil society and the business community to identify effective practices and innovative approaches for leveraging

new technologies to empower people and promote transparency in government;

- May commit to supporting the ability of governments and citizens to use technology for openness and accountability;
- May support the use of technology by government employees and citizens alike.

Not all eGovernment reforms improve openness of government. When an eGovernment commitment is made, it needs to articulate how it enhances at least one of the following: access to information, public participation, or public accountability.

Recognizing that achieving open government commitments often involves a multiyear process, governments should attach time frames and benchmarks to their commitments that indicate what is to be accomplished each year, whenever possible. This report details each of the commitments that the United States included in its Action Plan, and analyses them for the first year of implementation.

While most indicators used to evaluate each commitment are self-explanatory, a number deserve further explanation.

1. Specificity: The IRM researcher first assesses the level of specificity and measurability with which each commitment or action was framed. The options are:
    - High (Commitment language provides clear, measurable, verifiable milestones for achievement of the goal)
    - Medium (Commitment language describes activity that is objectively verifiable, but does not contain clearly measurable milestones or deliverables)
    - Low (Commitment language describes activity that can be construed as measurable with some interpretation on the part of the reader)
    - None (Commitment language contains no verifiable deliverables or milestones)
2. Relevance: The IRM researcher evaluated each commitment for its relevance to OGP values and OGP grand challenges.
    - OGP values: To identify OGP commitments with unclear relationships to OGP values, the IRM researcher made a judgment from a close reading of the commitment's text. This judgment reveals commitments that can better articulate a clear link to fundamental issues of openness.
3. Potential impact: The IRM researcher evaluated each commitment for how ambitious commitments were with respect to new or pre-existing activities that stretch government practice beyond an existing baseline.
    - To contribute to a broad definition of ambition, the IRM researcher judged how potentially transformative each commitment might be in the policy area. This is based on the IRM researcher's findings and experience as a public policy expert. In order to assess potential impact, the IRM researcher identifies the policy problem, establishes a baseline performance level at the outset of the action plan and assesses the degree to which the commitment, if implemented, would impact performance and tackle the policy problem.

All of the indicators and method used in the IRM research can be found in the IRM Procedures Manual, available at (http://www.opengovpartnership.org/about/about-irm). Finally, one indicator is of particular interest to readers and useful for encouraging a race to the top between OGP-participating countries: the starred commitment. Starred commitments are considered to be exemplary OGP commitments. In order to receive a star, a commitment must meet several criteria:

1. It must be specific enough that a judgment can be made about its potential impact. Starred commitments will have medium or high specificity.
2. The commitment's language should make clear its relevance to opening government. Specifically, it must relate to at least one of the OGP values of access to information, civic participation, or public accountability.
3. The commitment would have a transformative potential impact if completely implemented.
4. Finally, the commitment must see significant progress during the action plan implementation period, receiving a ranking of substantial or complete implementation.

Based on these criteria, the US action plan contained two starred commitments, namely:

- Commitment 11: Executive Industries Transparency Initiative
- Commitment 13: Federal Spending

Note that the IRM updated the star criteria in early 2015 in order to raise the bar for model OGP commitments. Under the old criteria, a commitment received a star if it was measureable, clearly relevant to OGP values as written, had moderate or transformative impact, and was substantially or completely implemented.

Based on these old criteria, the US action plan would have received an additional eleven starred commitments:

- Commitment 2: Records Management
- Commitment 3: FOIA
- Commitment 4: Classification Reform Committee
- Commitment 6: Foreign Intelligence Surveillance
- Commitment 9: Whistleblowing
- Commitment 12: Fossil Fuel Subsidies
- Commitment 20: Open Data
- Commitment 23: Public Collaboration
- Commitment 24: Open Education
- Commitment 25: Deliver Services through Information Technology
- Commitment 26: Big Data

Finally, the graphs in this section present an excerpt of the wealth of data the IRM collects during its progress reporting process. For the full dataset for U.S., and all OGP participating countries, see the OGP Explorer.[1]

[1] The OGP Explorer provides the OGP community - civil society, academics, governments, journalists - easy access to the wealth of data that OGP has collected. It is available at: http://www.opengovpartnership.org/explorer/landing

1 | PUBLIC PARTICIPATION

Improve Public Participation in Government

In the first NAP, the Administration expanded opportunities for public participation in government, recognizing the value of the American public as a strategic partner in solving some of the country's most difficult challenges. The United States is committed to continuing to expand public participation in government and will:

- **Expand and Simplify the Use of We the People.** In 2014, the White House will introduce improvements to We the People that will make petitioning the Government easier and more effective. These improvements will enhance public participation by creating a more streamlined process for signing petitions and a new Application Programming Interface (API) that will allow third parties to collect and submit signatures to We the People petitions from their own websites. These improvements will also enhance transparency by enabling the public to perform data analysis on the signatures and petitions. The White House will publish a software development kit to help people build tools using the We the People API and will engage with the public on improvements to the API and expansion of its use.
- **Publish Best Practices and Metrics for Public Participation.** In the first National Action Plan, the Administration committed to identify best practices for public participation in government and to suggest metrics that would allow agencies to assess progress toward this goal. Over the past two years, the Administration consulted with the public, civil society stakeholders, and academics on how best to implement this initiative from the first National Action Plan. In 2014, the United States will continue these efforts and publish best practices and metrics for public participation.[1]

Responsible Institution: White House, General Services Administration (milestone 1.2.)

Supporting Institution(s): Other executive agencies and civil society

Start Date: 1 January 2014 *End Date: 31 December 2014*

	SPECIFICITY				OGP VALUE RELEVANCE				POTENTIAL IMPACT				COMPLETION			
	None	Low	Medium	High	Access to Information	Civic participation	Pubilc Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
1. Public participation				✗		✗		✗		✗					✗	
1.1. E-petitions				✗		✗		✗		✗					✗	
1.2. Public participation best practices				✗		✗		✗		✗					✗	

WHAT HAPPENED?

Both commitments combined aim at involving citizens in the design and implementation of government programs. The first commitment aims to improve the We the People online petition website so that users can sign petitions more conveniently on the website and also from other organizations' websites and enable the public to perform data analysis on the signatures and petitions. The second commitment aims to identify best practices and metrics for public participation in government.

Moderate progress has been made on the first commitment, but concerns remain.

A new form of Application Programming Interface (API) was released in October 2014 and launched in July 2015. The API allows users to write and sign petitions on websites external to ***We the People***, according to the government self-assessment. Further, at the time of writing, https://petitions.whitehouse.gov/developers provides a link for an .sql download file of all of the petitions, as well as programmer's resources to analyze and re-use these petitions. This was updated sometime between mid-2014 and March 2015.

As of December 31, 2014 substantial progress was made on the second commitment.

As an effort to publish best practices and metrics for public participation, a group at the General Services Administration (GSA), in collaboration with civil society, published in February 2015 a Public Participation Playbook. This is a resource to help government build more efficient and responsive public participation programs and measure their effectiveness, according to the government self-assessment.[2] There are two commenting resources with which the public can make contributions to improve the playbook: the Madison platform is for idea contributions whereas Github is for code and design contributions, according to civil society members interviewed on this commitment.[3]

DID IT MATTER?

So far, We the People is popular with the public and is one of the commitments that has reached the wider public. However, the ultimate impact seems to be minimal not only because of the high threshold of signatures required but even for the petitions that reached the threshold significant policy change is rare. Furthermore, at the time of publication (Spring 2015) the IRM researcher was unable to find evidence of use of the new API on websites external to We the People.

However, a concern has been raised by civil society members interviewed that the threshold for receiving an official response from the Obama Administration - 100,000 signatures in 30 days – is too high. The threshold started from 5,000 signatures in 2011, increased to 25,000, and finally starting from January 2013, 100,000 or more signatures in a month are needed in order to get attention from the White House.

While many petitions have been submitted through We the People, in most cases these have not been translated into actual policy change. To date, 168 petitions have received official responses from the Obama Administration, including ones regarding unlocking cellphones, the legalization of marijuana, the freedom of speech and religion, and reducing gun violence. However, not many policy changes have been made as a result of these online petitions. One notable exception has been a law on cellphones. A bill was passed into law in August 2014, which allowed consumers to legally unlock their cell phones and join a carrier that best suits their needs.

In contrast, the public participation playbook has significantly more evidence to demonstrate its use by federal agencies. While the playbook was being developed, the GSA facilitated a number of federal agencies such as the US Department of State and within the GSA itself and private sector actors to use the playbook to develop training and protocols for cyber-vandalism. At this time, the playbook is non-binding on federal agencies. For that reason, while it may have greater long-term impacts, within the scope of the commitment, it has limited impacts. In the future it will be important to note if and how the playbook will be used to develop other policies and how it will combine with Administrative Procedure Act (APA) and Federal Advisory Committee Act (FACA) which have binding legal requirement on the nature of public participation in federal decision-making.

Finally, one other issue is that civil society organizations focusing on public participation interviewed as part of this review found that the

participatory process for the development of the Public Participation Playbook did not give enough time for members to adequately participate.

MOVING FORWARD

Regardless of whether the United States government is going to include *We the People* or the Public Participation Playbook in its next open government action plan, the IRM research recommends the following issues be addressed:

- It is currently unclear what kinds of technological qualifications a third-party site needs to have to post a *We the People* API. This should be clarified when moving forward.
- The White House should explore ways to lower the threshold for getting a response to a *We the People* petition.
- The White House should explore ways to make more meaningful changes in policies as a result of petitions.
- Develop a path forward to institutionalize the best practices captured in the Playbook beyond voluntary processes. Identify how to better mainstream the Playbook findings in legally binding requirements such as FACA, EIA, and APA.

[1] e-petitions--Expand and Simplify the Use of We the People.
[2] 2015. United States of America Midterm Self-Assessment Report for the Open Government Partnership Second Open Government National Action Plan 2013-2015. edited by The US Government. Washington, DC.
[3] Piotrowski, Suzanne. 2015. Survey of US Civil Society Organization Points of Contact for US Second National Open Government Action Plan. School of Public Affairs and Administration, Rutgers University-Newark.

2 | RECORDS MANAGEMENT

Modernize Management of Government Records

The backbone of a transparent and accountable government is strong records management that documents the decisions and actions of the Federal Government. When records are well managed, agencies can use them to assess the impact of programs, reduce redundant efforts, save money, and share knowledge within and across their organizations. Greater reliance on electronic communications has radically increased the volume and diversity of information that agencies must manage. With proper planning, technology can make these records less burdensome to manage and easier to use and share. To meet current challenges, the National Archives and Records Administration (NARA) will work with Federal agencies to implement new guidance that addresses the automated electronic management of email records, as well as the Presidential Directive to manage both permanent and temporary email records in an accessible electronic format by the end of 2016. NARA will also collaborate with industry to establish voluntary data and metadata standards to make it easier for individuals to search publicly-available government records.

Responsible Institution: National Archives and Records Administration

Supporting Institution(s): None

Start Date: 1 January 2014 *End Date: 31 December 2016*

	SPECIFICITY				OGP VALUE RELEVANCE				POTENTIAL IMPACT				COMPLETION			
	None	Low	Medium	High	Access to Information	Civic participation	Pubilc Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
2. Records Management			✗		✗			✗			✗				✗	

Editorial note: Under the old criteria of starred commitments, this commitment would have received a star because it is clearly relevant to OGP values as written, has moderate potential impact, and has been substantially or completely implemented. Note that IRM updated the star criteria in early 2015 to only apply to commitments with transformative potential impact.

WHAT HAPPENED?

Records are instrumental in preserving the business of government. This commitment aims at modernizing the management of federal records. The commitment states that the National Archives and Records Administration (NARA) will work with federal agencies to implement new guidance for managing email records as well as to implement the Records Management Presidential Directive which was enacted in 2012 as a result of the first National Action Plan. Additionally, NARA will collaborate with industry to establish voluntary data and metadata standards to make it easier for the public to search government records.

Substantial progress has been made on this commitment, but concerns remain.

NARA has been working with agencies to implement the guidance, through its *Bulletins on Managing Email* dated August 2013, and March 2014, and the OMB Guidance on Managing Email dated September 2014, according to the government self-assessment. The Bulletin dated August 2013 provides agencies with a new records management approach, known as "Capstone," for managing their Federal record emails electronically.[1] The Capstone approach suggests managing federal record emails electronically based on the position/responsibilities of agency officials.[2] The Bulletin dated September 2014 introduced a draft report and plan and asked for feedback from the public as well as civil society group in order to meet Goal A3.1 of the Record Management Presidential Directive.[3] The goal A 3.1. is about finding economically viable automated solutions to reduce the burden of records management responsibilities. The final report and plan on automated electronic records management was issued in September 2014. Furthermore, NARA has reached out to the public to get feedback on the draft metadata guidance.

Civil society members interviewed on this commitment stated that despite NARA's efforts to push agencies forward on this commitment, not all agencies have complied meaningfully with the guidance on managing email records. For example, the Central Intelligence Agency (CIA), in its proposal to implement the Capstone approach, designated only a small number of officials whose email would be permanently retained, excluding the email records of a majority of CIA officials, according to the Civil Society Progress Report.[4] Both civil society as well as the Senate Select Committee on Intelligence objected to the CIA's proposal.

DID IT MATTER?

Recent and not-so-recent controversies show that there is significant public demand for the records of high-level public officials and that without clearer guidance such records may remain inaccessible.

Various stakeholders have applauded the government's efforts to take steps to address the automated electronic management of email records. Since the Presidential Policy Directive (PPD) on records management has been authorized, there is evidence that it is already being implemented by NARA.[5]

Then-administrator of the White House Office of Information and Regulatory Affairs, Cass Sunstein remarked that notably the PPD required a collaborative approach, whereby it would "consult with those inside and outside the government – including public stakeholders interested in improving records management and open government." From a civil society perspective, president of OMB Watch (now called Center for Effective Government) Katherine McFate notes: "This will save staff time and costs. It should also make public records more open and available to citizens. There's a lot of work to be done, and this is the first step in a process."[6] A government survey respondent similarly noted "these records will be searchable and retrievable by future researchers and users if we keep email records in electronic format."

However, at this time, it is unclear what the actual impacts of these particular activities (email records management guidance, PPD on records maintenance and format, and metadata standards) will have. This is largely because the timeline for this commitment predicts completion in 2016. The ultimate impact of changes in records will take a number of years to see fruition.

MOVING FORWARD

Based on independent research and conversations with civil society members working on records management, a number of suggestions were developed. As the United States government is developing future initiatives on record management, it should consider the following suggestions:

- There should be more specific guidance for agencies on whose emails should be permanently retained.
- In order to achieve high-level political buy-in, the White House can convene agency heads to highlight the urgency of the management of electronic records, including email. Agencies should publically post "plans to achieve the transition of managing all permanent records in electronic format" (as stated in the PPD) and a public meeting should be held to hold agencies accountable.
- The current timelines and deadlines are too lengthy and should be pulled forward considering the urgency of the issue. This would require a revision of the 2011 Records Management Presidential Memo.

- NARA should take ownership of a records training program. A records management training model could be modeled off of the FOIA training modules for all employees.
- NARA should also monitor the level of compliance by agencies and publish data demonstrating the levels achieved.
- CIO Council, NARA, and Federal Records Council could publish their plan on developing specific guidelines for incorporating the agencies' electronic records management into their technology procurement process.
- NARA should produce a public report on what capstone email project plans have been proposed and reviewed.
- A possible future NAP commitment could be to establish a target number of agencies that will establish internal protocols for email records management and will publish performance statistics on compliance with protocols.

[1] National Archives. August 29, 2013. "NARA Bulletin 2013-02." Accessed April 13, 2015. http://www.archives.gov/records-mgmt/bulletins/2013/2013-02.html.
[2] 2015. Civil Society Progress Report: Second Check-In on the Implementation of the United States' Second Open Government National Action Plan. Washington, DC: OpenTheGovernment.org.
[3] Ravanbakhsh, Arian. 2014. " Comment on and Discuss the Automated Electronic Records Management Report and Plan." Records Express: Official Blog of the Chief Records Officer at the National Archives, March 10. http://blogs.archives.gov/records-express/2014/03/10/comment-and-discuss-the-automated-electronic-records-management-report-and-plan/.
[4] 2015. Civil Society Progress Report: Second Check-In on the Implementation of the United States' Second Open Government National Action Plan. Washington, DC: OpenTheGovernment.org.
[5] see http://www.digitalgovernment.com/Agenda/Agenda-Records-Management-Presidential-Directive-Jump-Starting-Your-Agencys-Response-Training-Seminar.shtml
[6] Kash, Wyatt. 2011. "Obama Orders Agencies To Modernize Federal Record Keeping." BreakingGov, November 28, 2011. Accessed April 13, 2015. http://breakinggov.com/2011/11/28/obama-orders-agencies-to-modernize-federal-record-keeping/.

3 | FOIA

Modernize the Freedom of Information Act

The Obama Administration has already made important progress to improve the Freedom of Information Act (FOIA) process by simplifying the process of filing requests at many agencies, by proactively disclosing information in the public interest in advance of requests, by speeding up processing times, by greatly reducing FOIA backlogs, and by publishing more data on FOIA compliance. There is still much more that the Administration can do and the United States is committed to further modernizing FOIA processes through the following initiatives:

- **Improve the Customer Experience through a Consolidated Online FOIA Service.** More than 100 Federal agencies are subject to FOIA. For the average requester, this can mean significant energy spent searching for the right agency and navigating the unique process for submitting a request to that agency. The Administration will launch a consolidated request portal that allows the public to submit a request to any Federal agency from a single website and includes additional tools to improve the customer experience. The U.S. Government will establish a FOIA task force that will review current practices, seek public input, and determine the best way to implement this consolidated FOIA service.
- **Develop Common FOIA Regulations and Practices for Federal Agencies.** Certain steps in the FOIA process are generally shared across Federal agencies. Standardizing these common aspects through a core FOIA regulation and common set of practices would make it easier for requesters to understand and navigate the FOIA process and easier for the Government to keep regulations up to date. The Administration will initiate an interagency process to determine the feasibility and the potential content of a core FOIA regulation that is both applicable to all agencies and retains flexibility for agency-specific requirements.
- **Improve Internal Agency FOIA Processes.** Over the past few years, several agencies have analyzed existing FOIA practices and used this information to make dramatic improvements in their backlogs and processing times, as well as to increase the proactive release of information in the public interest. The U.S. Government will scale these targeted efforts to improve the efficiency of agencies with the biggest backlogs, and to share lessons learned to further improve internal agency FOIA processes.
- **Establish a FOIA Modernization Advisory Committee. Improvements to FOIA administration must take into account the views and interests of both requesters and the Government.** The United States will establish a formal FOIA Advisory Committee, comprised of government and non-governmental members of the FOIA community, to foster dialog between the Administration and the requester community, solicit public comments, and develop consensus recommendations for improving FOIA administration and proactive disclosures.
- **Improve FOIA Training Across Government to Increase Efficiency.** In order to efficiently and effectively respond to FOIA requests, every Federal employee - not just those in an agency's FOIA office - should fully understand the FOIA process. The Administration will make standard e-learning training resources available for FOIA professionals and other Federal employees and encourage their use.[1]

Responsible Institution: Department of Justice (DOJ), National Archives and Records Administration (NARA), General Services Administration (GSA)

Supporting Institution(s): All federal agencies

Start Date: Not Specified *End Date: Not Specified*

	SPECIFICITY				OGP VALUE RELEVANCE				POTENTIAL IMPACT				COMPLETION			
	None	Low	Medium	High	Access to Information	Civic participation	Pubilc Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
3. FOIA				✗	✗			✗			✗				✗	
3.1. Consolidated FOIA Request Portal				✗	✗			✗		✗				✗		
3.2. Core FOIA Regulation and Common Practices			✗		✗					✗				✗		
3.3. Internal Agency FOIA Processes			✗		✗					✗						✗
3.4. FOIA Advisory Committee				✗	✗					✗						✗
3.5. FOIA Training				✗	✗			✗			✗					✗

Editorial note: Under the old criteria of starred commitments, this commitment would have received a star because it is clearly relevant to OGP values as written, has moderate potential impact, and has been substantially or completely implemented. Note that IRM updated the star criteria in early 2015 to only apply to commitments with transformative potential impact.

WHAT HAPPENED?

The Freedom of Information Act (FOIA) gives the public the right to access information from the federal government, and thereby gives citizens a tool to monitor what their government is doing. These commitments are established to ensure the best use of FOIA by not only making improvements in FOIA procedures, but also by increasing the capacity of individual agencies in terms of implementing the procedures.

While there has been progress on many of these commitments, including improving internal agency FOIA process and setting up the FOIA Advisory Committee, there are some areas where additional work needs to be done.

A consolidated website for FOIA requests is still under development and has not been publically released. The Department of Justice (DOJ) and the 18F team, a digital services delivery team within the General Services Administration (GSA) have been working together to "create a streamlined request experience for requesters while at the same time ensuring that there are tools to assist agencies in handling the ever-increasing demand of incoming requests,"

according to government leads on this commitment. Up to date, the GSA team has gathered input from citizens through GitHub (a social networking site for programmers) as well as civil society and is now working with agency stakeholders to refine the first iteration of the consolidated request portal.[2]

According to government feedback on an earlier draft, the first iteration of that website launched in May 2015 at open.foia.gov. The website was developed on an open platform and was publicly available for viewing and comment throughout. Interested members of civil society provided input and feedback throughout the development of openFOIA. This launch was after the assessment period for this report and will be included in the end of term report.

Some progress has been made on the commitment to develop common FOIA regulations. In early 2014, the Department's Office of Information Policy (OIP) received a proposed model common FOIA regulation from members of civil society and shared that with agency representatives who attended a kick-off meeting in May 2014, according to both civil society and government leads on this commitment. After the kick-off meeting, an interagency taskforce responsible for developing a draft of core FOIA regulations was established. However, the civil society members interviewed state that the completed draft has not been shared with civil society yet.

Progress has been made to meet the internal agency FOIA processes milestone. According to a report released by the Justice Department in June 2015, the number of backlogged FOIA jumped from 95,464 to 159,741 between 2013 and 2014. However, the same period saw a significant decrease in processing time. In May 2014, the Department of Justice's Office of Information Policy (OIP) launched an initiative to improve the efficiency of agencies with the biggest backlogs and to share lessons learned to further improve internal agency FOIA processes, according to the government self-assessment. As lead for this commitment, DOJ held "Best Practices" workshops to meet this requirement and disseminated best practices across the interagency community. DOJ published a recap of each workshop and the best practices shared on its blog, *FOIA Post*.

The series of government-wide Best Practices Workshops were selected based on input from agencies and the public.[3] The topics for the workshop series were reducing backlogs and improving timeliness, proactive disclosures and making online information more useful, best practices for the requesters' perspective, and so on.[4] Furthermore, OIP has committed to holding more workshops on new topics of interest.[5] The follow-up on the previous workshops and information regarding upcoming workshops can be found at FOIA Post.

The milestone to establish a FOIA advisory committee has been completed. The National Archives and Records Administration (NARA) launched a FOIA Advisory Committee in June 2014, according to government leads on this commitment. The Committee is composed of 20 members of FOIA experts, 10 from inside the government and 10 from outside the government.[6] At its first meeting, the Committee established three subcommittees each of which is co-chaired by two Committee members, one from inside and the other one from outside the government.[7] The areas of focus of the subcommittees are extending oversight of the FOIA process; increasing proactive disclosure of records; and reforming FOIA fees.[8] To date-August 2015–, five Committee meetings have been held and were well attended by the public: June 24, 2014, October 21, 2014, January 27, 2015, April 21, 2015, and July 21, 2015

Lastly, OIP released standard e-learning training resources in March 2015, according to the government self-assessment. The new suite of training resources includes[9]:

- A briefing video on the FOIA for senior government executives;
- An in-depth e-Learning training module specifically designed for FOIA professionals;
- A separate e-Learning training module for the everyday federal employee whose records are subject to the FOIA; and
- An infographic that can serve as a resource on FOIA basics for all employees who are new to the federal workforce.

DID IT MATTER?

The FOIA is a keystone to transparency policy and practices in the US federal government. Taken as a whole, the FOIA milestones in the national action plan are substantive and progressive. Overall, good efforts have been made to push forward modernization of FOIA. The emphasis on FOIA training is laudable and has the potential to have a major impact on FOIA practices. Since FOIA is decentralized within the agencies, both in DC and throughout the country, there is a need for clear direction to FOIA officers as to their obligations and tools to improve FOIA handling. With that said, civil society members noted to date there has not been any overall change in the process or handling of FOIA requests, and the real test of the training program will be in its uptake, as well as the subsequent impact on the effectiveness of the FOIA processing system.

Specifically, having one place that citizens can go to in order to submit FOIA requests is a recognized best practice. However, since the federal government already has FOIAonline to fulfill this role, it is not clear that the under-construction consolidated FOIA portal will be more useful that the already functional FOIAonline. In fact, it appears that the consolidated portal is only a submission portal while FOIAonline has more functionality. FOIAonline allows users to track where a request is and identifies where bottlenecks are in the process. As a consequence, because this new site makes only a limited number of usability improvements, this particular commitment received a rating of "minor." Over time, it may improve and redundancies may be eliminated without losing functionality.

MOVING FORWARD

A series of recommendations for FOIA milestones in the next action plan were developed out of independent research and feedback from civil society members working on FOIA. While some issues deal with FOIA perennially, such as backlogs and processing time, and should continue to be improved, the below suggestions focuses on the broader context of implementing FOIA. The US government should consider the following issue when moving forward:

- **Posting already released materials:** If the US government continues with the development of a consolidated FOIA portal, it should be structured to facilitate the dissemination of previously released information through FOIA requests, such as the material released to "electronic reading rooms".
- **Presumption of disclosure:** All agencies should update and publically post their FOIA regulations to include amendments and current guidance from the Attorney General to include a presumption of disclosure.
- **Strengthening independent commissioner:** Most importantly the White House should advocate for legislation that supports changes in authority to strengthen OGIS's independence. OGIS needs to be strengthened to make it more independent and in-line with other countries' information commissioners such as Canada, Mexico and the UK with respect to both independent reporting and sanctioning ability.

[1] This commitment included five specific, related milestones that are analyzed here together.
[2] Piotrowski, Suzanne. 2015. Survey of US Government Points of Contact for US Second National Open Government Action Plan. School of Public Affairs and Administration, Rutgers University-Newark.
[3] Piotrowski, Suzanne. 2015. Survey of US Government Points of Contact for US Second National Open Government Action Plan. School of Public Affairs and Administration, Rutgers University-Newark.
[4] Piotrowski, Suzanne. 2015. Survey of US Government Points of Contact for US Second National Open Government Action Plan. School of Public Affairs and Administration, Rutgers University-Newark.
[5] Piotrowski, Suzanne. 2015. Survey of US Government Points of Contact for US Second National Open Government Action Plan. School of Public Affairs and Administration, Rutgers University-Newark.
[6] Piotrowski, Suzanne. 2015. Survey of US Government Points of Contact for US Second National Open Government Action Plan. School of Public Affairs and Administration, Rutgers University-Newark.
[7] Piotrowski, Suzanne. 2015. Survey of US Government Points of Contact for US Second National Open Government Action Plan. School of Public Affairs and Administration, Rutgers University-Newark.
[8] Piotrowski, Suzanne. 2015. Survey of US Government Points of Contact for US Second National Open Government Action Plan. School of Public Affairs and Administration, Rutgers University-Newark.
[9] Piotrowski, Suzanne. 2015. Survey of US Government Points of Contact for US Second National Open Government Action Plan. School of Public Affairs and Administration, Rutgers University-Newark.

4 | CLASSIFICATION OF DOCUMENTS

Transform the Security Classification System

While national security requires that certain information be protected as classified, democratic principles simultaneously require government to be transparent - wherever possible - about its activities. Overclassification may have high costs and operational impacts on agencies. Classification must therefore be kept to the minimum required to meet national security needs, and information should be made available to the public through proper declassification once the need for protecting the information has passed. In continuation of our efforts to transform the classification system and declassify as much material as possible, while simultaneously protecting national security, the Administration will:

- **Create a Security Classification Reform Committee.** The Public Interest Declassification Board, an advisory committee made up of experts outside government as well as former government classification experts, has made several recommendations for reducing overclassification and simplifying the classification system in its report, Transforming the Security Classification System. The interagency Classification Review Committee, which will report to the Assistant to the President for Homeland Security and Counterterrorism, will review these recommendations, coordinate efforts to implement those that are accepted, and meet periodically with external stakeholders to obtain their input as appropriate.
- **Systematically Review and Declassify Historical Data on Nuclear Activities.** The Classification Review Committee will work with the Department of Defense, Department of Energy, Office of the Director of National Intelligence, and Department of State to determine, consistent with applicable statutes, how to implement a systematic review process for the declassification of no-longer sensitive historical information on nuclear programs (Formerly Restricted Data or FRD), focusing on specific events and topics of historical nuclear policy interest and ways for the public to help identify priorities for declassification review.
- **Pilot Technological Tools to Analyze Classified Presidential Records.** The Central Intelligence Agency and NARA will pilot the use of new tools to provide classification reviewers with search capability for unstructured data and automate initial document analysis, beginning with Presidential Records from the Reagan Administration's classified e-mail system.
- **Implement Monitoring and Tracking of Declassification Reviews.** The National Declassification Center at NARA will implement a referral and tracking system that will automatically notify appropriate agency representatives when classified records are ready for declassification review and enable monitoring to ensure that agencies meet review deadlines. This system will include records of Presidential Libraries.[1]

Responsible Institution: National Archives and Records Administration (NARA), Classification Review Committee, Central Intelligence Agency (CIA), Department of Defense (DoD), Department of Energy (DoE), Department of State, and Office of the Director of National Intelligence (ODNI)

Supporting Institution(s): Public Interest Declassification Board (PIDB)

Start Date: Not Specified *End Date: Not Specified*

	SPECIFICITY				OGP VALUE RELEVANCE				POTENTIAL IMPACT				COMPLETION			
	None	Low	Medium	High	Access to Information	Civic participation	Pubilc Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
4. Classification of Documents			✗		✗			✗			✗				✗	
4.1. Classification Reform Committee			✗		✗						✗					✗
4.2. Nuclear Activities Information			✗		✗						✗				✗	
4.3. Analyze Presidential Records			✗		✗			✗			✗			✗		
4.4. Declassification Tracking System				✗	✗			✗			✗				✗	

Editorial note: Under the old criteria of starred commitments, this commitment would have received a star because it is clearly relevant to OGP values as written, has moderate potential impact, and has been substantially or completely implemented. Note that IRM updated the star criteria in early 2015 to only apply to commitments with transformative potential impact.

WHAT HAPPENED?

A culture of over-classification shields information from public debate and experts agree that much of it could safely be released. In September 2013, an audit by the Justice Department's inspector general found that there is a tendency to over-classify documents in government, and that more than two mistakes per document are made in classifying.[2]

These milestones are intended to transform the classification system and make information available to the public through declassification once the need for protecting the information has passed, while simultaneously protecting national security.

While there has been substantial progress on some areas of these milestones, including establishing the Security Classification Reform Committee and implementing automated notification and tracking system for agency declassification review of federal records, further efforts are needed on other areas such as the efforts to analyze classified Presidential Records.

The first milestone, which was a major recommendation of the prior IRM report, has been fulfilled. The Security Classification Reform Committee (SCRC), comprised of a National Security Council Staff as a chair and representatives of the relevant agencies and departments, was established in response to the Public Interest Declassification Board's (PIDB) 2012 report to the president, according to government leads on this commitment. The Committee has reviewed the recommendations from the PIDB and met with members of

civil society to discuss priorities among the recommendations, though the nature of the civil society consultation has been minimal.[3] The civil society members interviewed on this commitment recommended the committee to focus on the following steps: (1) create a system of self-cancelling classification; (2) expand and improve Mandatory Declassification Review; and (3) ensure accountability for improper classification.[4] At the time of writing this report it is unknown which of the recommendations have been accepted and therefore, some time will need to pass before one can assess whether the SCRC will fulfill its bigger mandate of review, coordination, and periodic consultation.

Substantial progress has been made on the milestone to declassify formally restricted data (FRD) on nuclear activities when the historical nuclear policy is deemed no-longer sensitive. In June 2014, the PIDB held a public meeting with the representatives from the Department of State, Department of Energy (DoE), and Department of Defense (DoD) to discuss designing and implementing a systematic process by which they would later review FRD topics. Agencies subsequently reviewed FRD topics, including those identified by the public, according to the government self-assessment. Eight of the 10 FRD topics reviewed were declassified and made publicly available on the DoD website.[5] Civil society members believe this is a fraction of the university of FRD and the perception is that progress is slow.

There was an attempt to pilot technological tools to analyze classified Presidential Records. The members of the PIDB tested pilot technological tools in two regions of the State of Texas: College Station and Austin. The outcome of the pilot project is unclear, according to the civil society members interviewed on this commitment. In June 2015, the Public Interest Declassification Board held a public briefing on the CIA pilot project and its outcomes. That briefing and effort is discussed on blog posts. A recording of the meeting is online and the briefing is available on line as well.

Substantial progress has been made on the milestone to implement monitoring and tracking of declassification reviews. According to the government self-assessment, the National Declassification Center (NDC) at NARA has implemented, since mid-April 2014, the system of automated notification and follow-up reminders for agency review when classified federal records are ready for declassification.[6] The automated system for presidential records, however, has not been implemented yet – it is targeted for summer 2015, according to a government lead on this commitment.[7]

DID IT MATTER?

While the milestones on security classification are positive initial first steps, real and substantial progress in this area is slow. Without a declassification system that works and is timely, transparency and accountability in many areas of government is impossible. Civil society members felt strongly that claiming the SCRC is created and that this milestone is thus fulfilled is elevating "form over substance." The visible impact of the Committee is minimal. While the SCRC was created, more work needs to be done in this area to meet the spirit of the initiative (see civil society recommendations above). For the other milestones the IRM researcher could not find specific evidence of outcomes.

The prior action plan had commitments on declassification reviews as well. That report indicated that each document declassification suffered from a system in which every interested agency could delay or veto declassification multiple times. While the commitment in the current action plan does not address the fundamental legal issues around this system, it does reduce the total amount of time for the reviews and would provide better data on the overall progress on declassification. This is a necessary, but not sufficient step to greatly reducing the overall backlog from the declassification process. For that latter reason, it received a potential impact rating of "moderate."

MOVING FORWARD

As the US government moves forward to work on the declassification of documents, the IRM researcher suggests the following be considered:

Scale of commitment: There is a general sense among civil society that the national security classification system is broken. Civil society members working on classification of government documents felt strongly that the commitments' scale were not commensurate with the issues. It is recommended that the head of the Information Security Oversight

Office (ISOO) and PIDB should convene a national discussion, inside and outside the beltway, on how an executive order should be written to transform security classification.

At a more micro level, three additional recommendations are:

- **Address CSO and PIDB recommendations:** The SCRC should address all of the recommendations included in the civil society progress report as well as the PIDB recommendations. The SCRC should meet with both civil society representative and the PIDB.
- **More FRD Topics:** More FRD topics on nuclear activities should be explored and declassified.
- **Pilot Project Findings:** The findings from the pilot project to use technology tools to declassify presidential records should be made publicly available. A discussion on the pilot and these findings should be facilitated with the public as well as CSO members regarding its potential use for classification and declassification.

[1] This commitment included four specific, related milestones that are analyzed here together.
[2] "US govt audit reveals document over-classification, training deficiencies" October 02, 2013, RT, http://rt.com/usa/audit-over-classification-training-deficiencies-614/ ; https://oig.justice.gov/reports/2013/a1340.pdf
[3] 2015. Civil Society Progress Report: Second Check-In on the Implementation of the United States' Second Open Government National Action Plan. Washington, DC: OpenTheGovernment.org.
[4] 2015. Civil Society Progress Report: Second Check-In on the Implementation of the United States' Second Open Government National Action Plan. Washington, DC: OpenTheGovernment.org.
[5] 2015. United States of America Midterm Self-Assessment Report for the Open Government Partnership Second Open Government National Action Plan 2013-2015. edited by The US Government. Washington, DC.
[6] Piotrowski, Suzanne. 2015. Survey of US Government Points of Contact for US Second National Open Government Action Plan. School of Public Affairs and Administration, Rutgers University-Newark.
[7] Piotrowski, Suzanne. 2015. Survey of US Government Points of Contact for US Second National Open Government Action Plan. School of Public Affairs and Administration, Rutgers University-Newark.

5 | CONTROLLED UNCLASSIFIED INFORMATION

Implement the Controlled Unclassified Information Program

The Government currently uses ad hoc, agency-specific policies, procedures, and markings to safeguard and protect certain controlled unclassified information (CUI), such as information that involves privacy, security, proprietary business interests, and law enforcement investigations. This patchwork of policies has resulted in inconsistent marking and safeguarding of documents, unclear or unnecessarily restrictive dissemination policies, and impediments to authorized information sharing. The President therefore directed NARA to establish a program to standardize processes and procedures for managing CUI. Over the next year, NARA will issue implementation guidance, with phased implementation schedules, and an enhanced CUI Registry that designates what information falls under the program.

Responsible Institution: National Archives and Records Administration (NARA)

Supporting Institution(s): The CUI Council and the agencies that use the CUI markings

Start Date: 1 January 2014 *End Date: 31 December 2014*

	SPECIFICITY				OGP VALUE RELEVANCE				POTENTIAL IMPACT				COMPLETION			
	None	Low	Medium	High	Access to Information	Civic participation	Pubilc Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
5. Controlled Unclassified Information				✗	✗			✗			✗			✗		

WHAT HAPPENED?

Controlled unclassified information (CUI) is a category of information that is unclassified but that requires safeguarding or dissemination controls under law, regulation, or government-wide policy. Former President George W. Bush in a memo dated May 2008 created a formal CUI program. In November 2010, President Barack Obama signed Executive Order 13556: Controlled Unclassified Information (CUI) to standardize the way the Executive Branch handles information that requires protection but is not classified, designating the National Archives and Records Administration (NARA) as the CUI executive agency.

Under the current administration, there has been some attempt to reign in the proliferation of stamps used to mark official documents. (This was a recommendation of the previous OGP IRM report.) Despite the Executive Order (13556), the current system for managing and designating documents in the federal government remains somewhat ad hoc and arbitrary as it is defined at each agency. To address this, this commitment, gives NARA authority to establish greater consistency in this area over the next several years.

As stated above, this commitment is an on-going government initiative before it was included as a commitment for the Second U.S. National Action

Plan. NARA aims to direct agencies by providing implementation guidance with phased implementation schedules for establishing standardized processes and procedures for managing CUI.

Some progress has been made on drafting the standardized rules for managing CUI; but concerns remain. As of December 31, 2014 the implementation guidance was not published. According to the leads of civil society on this commitment, NARA circulated a draft of CUI regulation, including a CUI registry and the Notice of Proposed Rulemaking (NPRM), for interagency review in May 2014 and shared it with civil society members in November 2014. NARA will discuss the draft of NPRM with civil society, make it publicly available for comment, and finally, publish a final draft of CUI regulation in 2015, according to the government self-assessment[1].

The civil society team, however, is concerned with the lengthy timeline set by CUI Office in making progress on implementing CUI regulations, since the draft of CUI regulations lacks specific implementation deadlines for agencies.

DID IT MATTER?

The US government should be commended for taking on this project. To sum up the issue, NARA's website states:

> "There are currently over 100 different ways of characterizing SBU [Sensitive But Unclassified] information. Additionally, there is no common definition, and no common protocols describing under what circumstances a document should be marked, under what circumstances a document should no longer be considered SBU, and what procedures should be followed for properly safeguarding or disseminating SBU information. As a result of this lack of clarity concerning SBU, information is inconsistently marked, without any common definitions related to these ad hoc markings."[2]

In the last several years, there has been a significant change in national security classification policy. The production of new secrets ("original classification decisions") has dropped nearly 80% from 2010 to 2014[3]. However, the reduction in classification activity was not evenly distributed across the executive branch and it has not changed the structure of the classification system or its basic practices. If the goals of this commitment are met, it would enhance transparency at the federal government and give needed clarity to federal employees. Since even the draft of CUI regulation report is not publicly available yet though, it is premature to assess the actual impact at this point.

MOVING FORWARD

Based on independent research and feedback from civil society members working on CUI, the IRM researcher recommends the US government consider the following suggestions while continuing working on this issue:

- The final draft of CUI regulation should have clear deadlines for the implementation of all aspects of the regulations.
- The President should require the CUI office in NARA to report publically on implementation of the regulations by agency, including the use of legacy markings.
- Executive branch agencies should use the upcoming Fundamental Classification Guidance Review to maintain the ongoing reduction in the scope of original classification activity. Vague or open-ended classification guidance should be eliminated or replaced with precise, narrowly-formulated classification instructions.

[1] While after the period of time covered in this report, the National Archives and Records Administration did issue implementation guidance and an enhanced CUI registry, which were published in the Federal Register for review and comment as part of the draft regulation in May 2015: https://www.federalregister.gov/articles/2015/05/08/2015-10260/controlled-unclassified-information. The registry is also available at: http://www.archives.gov/cui/. These actions will be counted toward the end of term report.
[2] National Archives. 2015. "CUI Frequently Asked Questions." Accessed April 13, 2015. http://www.archives.gov/cui/faqs.html.
[3] http://www.archives.gov/isoo/reports/2014-annual-report.pdf

6 | FOREIGN INTELLIGENCE SURVEILLANCE

Increase Transparency of Foreign Intelligence Surveillance Activities

In June 2013, the President directed the U.S. Intelligence Community to declassify and make public as much information as possible about certain sensitive intelligence collection programs undertaken under the authority of the Foreign Intelligence Surveillance Act (FISA), while being mindful of the need to protect national security. Nearly two thousand pages of documents have since been released, including materials that were provided to Congress in conjunction with its oversight and reauthorization of these authorities. As information is declassified, the U.S. Intelligence Community is posting online materials and other information relevant to FISA, the FISA Court, and oversight and compliance efforts. The Administration has further committed to:

- **Share Data on the Use of National Security Legal Authorities.** The Administration will release annual public reports on the U.S. Government's use of certain national security authorities. These reports will include the total number of orders issued during the prior twelve-month period and the number of targets affected by them.
- **Review and Declassify Information Regarding Foreign Intelligence Surveillance Programs.** The Director of National Intelligence will continue to review and, where appropriate, declassify information related to foreign intelligence surveillance programs.
- **Consult with Stakeholders.** The Administration will continue to engage with a broad group of stakeholders and seek input from the Privacy and Civil Liberties Oversight Board to ensure the Government appropriately protects privacy and civil liberties while simultaneously safeguarding national security.[1]

Responsible Institution: Office of the Director of National Intelligence (ODNI) and other intelligence agencies

Supporting Institution(s): Private and Civil Liberties Oversight Board (PCLOB)

Start Date: Not Specified *End Date: Not Specified*

	SPECIFICITY				OGP VALUE RELEVANCE				POTENTIAL IMPACT				COMPLETION			
	None	Low	Medium	High	Access to Information	Civic participation	Pubic Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
6. Foreign Intelligence Surveillance			✗		✗	✗					✗					✗
6.1. National Security Authorities			✗		✗						✗					✗
6.2. Foreign Intelligence Surveillance Programs		✗			✗					✗						✗
6.3. Stakeholder Consultation		✗				✗				✗						✗

Editorial note: Under the old criteria of starred commitments, this commitment would have received a star because it is clearly relevant to OGP values as written, has moderate potential impact, and has been substantially or completely implemented. Note that IRM updated the star criteria in early 2015 to only apply to commitments with transformative potential impact.

WHAT HAPPENED?

These commitment aims to disclose, where appropriate, information regarding national security legal authorities and foreign intelligence surveillance activities.

The first and second milestones have been completed and the Administration has made efforts to engage with a broad group of stakeholders, including civil society stakeholders. In June 2014, the Office of Director of National Intelligence (ODNI) released its first annual Statistical Transparency Report that presented data on how often the government used certain national security authorities during calendar year 2013, according to the government self-assessment. Specifically, the Report contains information regarding the number of orders issued and targets affected under several sections of Foreign Intelligence Surveillance Act (FISA) and section 215 of the Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (PATRIOT) Act, which allows for secret court orders to collect tangible things (including "books, records, papers, documents, and other items") that could be relevant to a government investigation – the NSA uses Section 215 to justify its bulk telephone records collection program.[2]

As to the second milestone, a government lead on this commitment states that information related to foreign intelligence surveillance programs is routinely reviewed and declassified where appropriate, and publicly tracked on a new Intelligence Community (IC) website, IC on the Record.[3] For example, several important documents are available on the IC website, such as ODNI's response letter to Senator Ron Wyden about the use of "back door" searches by the National Security Agency (NSA) and Central Intelligence Agency (CIA) and the Privacy and Civil Liberties Oversight Board's (PCLOB) report on Section 702 surveillance of FISA.[4] Making these documents publically accessible is an important step towards increasing transparency in the operations of NSA, which has used section 702

and a secret backdoor to justify mass collection of US citizens' emails and phone calls without a warrant. With that said, there is still more work to be done to declassify documents on foreign intelligence surveillance programs.

When it comes to the milestone to consult with stakeholders, ODNI and Department of Justice have been engaged with civil society organizations as well as the members of PCLOB, according to both government and civil society members interviewed on this commitment.[5]

DID IT MATTER?

The White House is commended for putting transparency and FISA on the table. The commitment is welcome but the issue needs to be pushed further. On the surface, the first two milestones are fulfilled, but the lack of standards and specifics undermines their potential impact. The publication of the annual Statistical Transparency Report is an important first step, however the scope of the Statistical Transparency Report is minimal. As for the second milestone, while the Obama Administration has declassified and released thousands of pages of material, there is no explanation regarding the principles of classification/declassification of documents and there is no mention of the two major public policy concerns of surveillance: phone and internet data. The effects of the third milestone are not yet determined since the stakeholder participation is ongoing.

MOVING FORWARD

According to civil society members working on foreign intelligence surveillance, further disclosures of information regarding foreign intelligence surveillance activities are needed, including but not limited to information on:[6]

- Surveillance activities under Executive Order 12333, which governs the overseas collection of foreign intelligence information, provides the necessary information on which to base decisions concerning the conduct and development of foreign, defense, and economic policy and the protection of the United States' national interests from foreign security threats. The NSA conducts much of its spying under this Executive Order, yet very little is publicly known about how the order is used.
- The scope of "incidental" collection of Americans' information under Executive Order 12333 and Section 702 of FISA. While Section 702 gives the NSA authority to target without warrant the communications of foreign targets, "incidental collections" expand the collection of information also to US citizens. It allows the collection without warrant of communications of Americans in direct contact with foreign targets, who are inadvertently swept into the intelligence databases.
- Foreign Intelligence Surveillance Court opinions, Office of Legal Counsel opinions, and agencies' General Counsels' interpretations of the laws governing surveillance, which constitute the "working law" of the executive branch;
- The use of data collected by the NSA by other parts of the intelligence community, particularly the Federal Bureau of Investigation (FBI).

The civil society representatives made clear in the stakeholder meetings that they are also interested in an increase in transparency in foreign intelligence in Article 3 courts (this includes the Supreme Court of the United States, United States Courts of Appeals, United States District Courts, and the FISA Court). The IRM researcher recommends that an index be developed of all FISA court opinions (and other authoritative statements of law) – the FISA court is a US federal court established and authorized under FISA to oversee requests for surveillance warrants against suspected foreign intelligence agents. Such an index would include: some signifier to identify the opinion, such as date of issue; whether the opinion is considered significant (as defined in FISA); and declassification status.

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[1] This commitment included three specific, related milestones that are analyzed here together.
[2] 2015. Civil Society Progress Report: Second Check-In on the Implementation of the United States' Second Open Government National Action Plan. Washington, DC: OpenTheGovernment.org.
[3] Piotrowski, Suzanne. 2015. Survey of US Government Points of Contact for US Second National Open Government Action Plan. School of Public Affairs and Administration, Rutgers University-Newark.
[4] 2015. Civil Society Progress Report: Second Check-In on the Implementation of the United States' Second Open Government National Action Plan. Washington, DC: OpenTheGovernment.org.
[5] Piotrowski, Suzanne. 2015. Survey of US Government Points of Contact for US Second National Open Government Action Plan. School of Public Affairs and Administration, Rutgers University-Newark. and 2015. Civil Society Progress Report: Second Check-In on the Implementation of the United States' Second Open Government National Action Plan. Washington, DC: OpenTheGovernment.org.
[6] 2015. Civil Society Progress Report: Second Check-In on the Implementation of the United States' Second Open Government National Action Plan. Washington, DC: OpenTheGovernment.org.

7 | PRIVACY COMPLIANCE

Make Privacy Compliance Information More Accessible

As data increasingly help drive efficiency and effectiveness of public services, public trust in the Government's good stewardship of data is essential. The Federal Government has a dedicated workforce that has long worked to ensure the proper management and security of personal information held by Federal agencies. Agencies are required to routinely review, assess, and publicly report on their collection and use of personal information. To improve transparency and accountability of Federal data collection, the Administration will:

- **Improve the Accessibility of Privacy Policies and Compliance Reports.** To make it easier for citizens to find and understand what information the Government collects and maintains, Federal agencies will make it easier for the public to access, download, and search online for publicly-available privacy policies and privacy compliance reports.
- **Update and Improve Reporting on Federal Agency Data Policies and Practices.** Agencies will collaborate to review the content of publicly-available privacy compliance reports and to consider best practices to ensure that the reports provide meaningful information about the Federal Government's management of personal information.[1]

Responsible Institution: Members of OMB's Chief Information Officer Council Privacy Community of Practice, Office of Science and Technology Policy (OSTP), Private and Civil Liberties Oversight Board (PCLOB)

Supporting Institution(s): None

Start Date: Not Specified *End Date: Not Specified*

	SPECIFICITY				OGP VALUE RELEVANCE				POTENTIAL IMPACT				COMPLETION			
	None	Low	Medium	High	Access to Information	Civic participation	Pubilc Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
7. Privacy Compliance		✗			✗			✗		✗				✗		
7.1. Accessibility of Privacy Policies and Compliance Reports		✗			✗			✗		✗				✗		
7.2. Improve Privacy Compliance Reports		✗			✗					✗			Unclear			

WHAT HAPPENED?

These commitment aims at making it easier for citizens to access information about the federal management of personal information.

The Implementing the Recommendations of the 9/11 Commission Act of 2007 (Public Law 110-53) included some important amendments and created new roles and responsibilities for privacy officials working within federal agencies. Amongst others, it established the Privacy and Civil Liberties Oversight Board (PCLOB), an independent agency within the executive branch. The PCLOB's mission is to ensure that the federal government's efforts to prevent terrorism are balanced

with the need to protect privacy and civil liberties. Section 803 of the 9/11 Commission Act directs the privacy and civil liberties officers of eight federal agencies to submit periodic reports to the PCLOB regarding the reviews they have undertaken during the reporting period, the type of advice provided and the response given to such advice, and the number and nature of the complaints received by the agency for alleged violations, along with a summary of the disposition of such complaints. The eight agencies under section 803 are: Department of Justice, Department of Homeland Security, Department of Defense, Director of National Intelligence, the Treasury, Department of Health and Human Services, Central Intelligence Agency and Department of State.

Some progress has been made on implementing this commitment.

While the government took some initiatives to improving the privacy compliance reports, its scope was limited to only a few agencies. The Office of Science and Technology Policy (OSTP) had an interagency meeting with PCLOB and the agencies covered under Section 803 of the 9/11 Commission Act to discuss how the reports could be standardized and improved, according to the government self-assessment.[2] In addition, the Office of Management and Budget (OMB) and the Chief Information Officer Council Privacy Community of Practice have collaborated with agencies to "review reports and consider best practices for sharing and communicating the reports with the public."[3] However, civil society members interviewed on this commitment point out that that not all agencies are part of the process, just a limited subset. Again, only the eight agencies under the Section 803 area part of the process and only a small number of Section 803 reports have been made public.

In addition, the eight Section 803 agencies have had spotty publication of these reports. One civil society member shared that as of mid-February 2015, of the eight agencies only five agencies (DOJ, DHS, DOD, DNI and Treasury) had privacy compliance reports (also called Section 803 reports) from *any* FY 2014 quarter on their website. Three agencies (HHS, CIA and State) had no information on their website on these reports[4][5].

DID IT MATTER?

Considering the limited public outcomes available from this commitment, it is premature to assess the impact at this point in time. It is expected that making privacy reports more accessible in the long-run will assist those who are doing research and policy work on federal privacy issues. It is recommended that all agencies which are covered under Section 803 of the Implementation Recommendation of the 9/11 Commission Act make their reports public on the PCLOB website, in coordination with the PCLOB.

MOVING FORWARD

Expanding the scope of the reporting in the compliance reports would be of value to the privacy and transparency community and to those members of the public interested in how their personal data is being used. The IRM researcher proposes expanding the scope in a couple of different ways:

- expanding the content of the reports so they contain more substance about relevant Privacy Impact Assessments (PIA), a decision tool used by all federal agencies to identify and mitigate privacy risks (i.e. not just numbers);
- including more about the substance of complaints; and
- of particular importance, ensuring that the reports reflect civil liberties compliance activities, not just privacy compliance.

Including privacy initiatives in the national action plan is timely and important. The scope and breadth of these initiatives is not commensurate with the issue at hand though. How the US federal government collects and stores personal information of residents and nonresidents is an extremely important area, which needs more policy attention. The next National Action Plan should include privacy initiatives that go beyond the current limited scope of privacy compliance report.

[1] This commitment included two specific, related milestones that are analyzed here together.
[2] 2015. United States of America Midterm Self-Assessment Report for the Open Government Partnership Second Open Government National Action Plan 2013-2015. edited by The US Government. Washington, DC.
[3] Government self-assessment
[4] Personal correspondence with civil society member.
[5] While outside the dates covered in this report, as of August 2015 the Federal Chief Information Officer Privacy Committee was beginning to collect privacy compliance reports on https://cio.gov/about/groups/privacy-cop/privacy/ to share best practices.

8 | OPEN GOVERNMENT PLANS

Support and Improve Agency Implementation of Open Government Plans

The Office of Management and Budget and the Office of Science and Technology Policy will work with an existing interagency open government group, made up of individuals from across the Executive Branch, to develop guidelines for Federal agencies as they work to update their Open Government Plans in the coming months. These guidelines will require, at a minimum, new measures on proactive disclosures. The interagency group will solicit input from civil society organizations for these guidelines and will work to ensure robust implementation of the agency plans in accordance with the Open Government Directive.

Responsible Institution: Office of Management and Budget, Office of Science and Technology Policy (OSTP)

Supporting Institution(s): Interagency Open Government Working Group

Start Date: Not Specified *End Date: Not Specified*

	SPECIFICITY				OGP VALUE RELEVANCE				POTENTIAL IMPACT				COMPLETION			
	None	Low	Medium	High	Access to Information	Civic participation	Pubilc Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
8. Open Government Plans				✗	✗					✗					✗	

WHAT HAPPENED?

This commitment has been substantially completed, although not all agencies have been cooperative in implementing plans or reporting progress. In February 2014, OSTP issued guidance for agencies for developing 2014 Open Government Plan, according to the government self-assessment. The majority of federal agencies posted their new individual plans on their websites shortly afterward in June and July 2014

However, some agencies, including the Office of Management and Budget (OMB), have either not yet published their plans or have come up with plans that are not meaningful, according to civil society members interviewed on this commitment.[1] The civil society representatives are concerned with the fact that there is no system for holding agencies accountable and no central location where the public can monitor implementation of the agency plans.

DID IT MATTER?

As one civil society survey respondent noted, "Although not all agencies have cooperated with the guidelines developed by OSTP, some agencies are making progress, using their Open Government Plans as useful stepping stones for improving transparency and public engagement." The Open Government Plans have potential to move individual agencies along in advancing their transparency agendas.

MOVING FORWARD

In order to ensure robust implementation of the agency plans, it is important to establish a system of holding agencies accountable for publishing their individual open government plans and implementing the plans they came up with. As OSTP continues to work in this area, the IRM researcher suggests that they should create a single window (webpage) where the public can monitor implementation of agency plans.[2]

[1] 2015. Civil Society Progress Report: Second Check-In on the Implementation of the United States' Second Open Government National Action Plan. Washington, DC: OpenTheGovernment.org.
[2] 2015. Civil Society Progress Report: Second Check-In on the Implementation of the United States' Second Open Government National Action Plan. Washington, DC: OpenTheGovernment.org.

9 | WHISTLEBLOWING

Strengthen and Expand Whistleblower Protections for Government Personnel

Employees with the courage to report wrongdoing through appropriate, legally authorized channels are a government's best defense against waste, fraud, and abuse. Federal law prohibits retaliation against most government employees and contractors who act as whistleblowers, and those protections were strengthened by recent legislation and Executive action. However, some who work for the Government still have diminished statutory protections. The Government must also ensure that Federal employees know their rights. Therefore, the Administration will:

- **Mandate Participation in the Office of Special Counsel Whistleblower Certification Program.** To ensure that Federal employees understand their whistleblower rights and how to make protected disclosures, the Administration will require covered agencies to complete the U.S. Office of Special Counsel's program to certify compliance with the Whistleblower Protection Act's notification requirements.
- **Implement the Presidential Directive on Protecting Whistleblowers.** The U.S. Government will continue to work to implement the President's October 2012 Policy Directive on Protecting Whistleblowers with Access to Classified Information (PPD-19), including by ensuring strong, independent due process procedures; awareness of protections; and agency understanding of the protections available to government contractors under the directive.
- **Advocate for Legislation to Expand Whistleblower Protections.** With the Administration's support, Congress recently enacted legislation to strengthen whistleblower protections for most Federal Government employees and contractors, but there are still gaps in statutory protections available to certain government employees and contractors. The Administration will continue to work with Congress to enact appropriate legislation to protect these individuals.
- **Explore Executive Authority to Expand Whistleblower Protections if Congress Does Not Act.** While statutory protections are preferable, the Administration will explore additional options for utilizing Executive authority to further strengthen and expand whistleblower protections if Congress fails to act further.[1]

Responsible Institution: Office of the Director of National Intelligence (ODNI)

Supporting Institution(s): All federal agencies and the U.S. Congress

Start Date: Not Specified *End Date: Not Specified*

	SPECIFICITY				OGP VALUE RELEVANCE				POTENTIAL IMPACT				COMPLETION			
	None	Low	Medium	High	Access to Information	Civic participation	Pubilc Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
9. Whistleblowing			✗				✗				✗				✗	
9.1. Certification Program			✗				✗			✗						✗
9.2. Presidential Directive		✗					✗			✗					✗	
9.3. Legislative Advocacy		✗					✗			✗				✗		
9.4. Executive Authority	✗						✗			✗				✗		

WHAT HAPPENED?

Overall, some progress has been made in the commitment to strengthen and expand whistleblower protections for government personnel. However, more work needs to be done in some areas such as advocating for legislation to expand whistleblower protections.

The first milestone has been completed, yet remains very limited in its scope. The Administration has mandated federal agencies to participate in the Office of Special Counsel (OSC) whistleblower certification program, according to the government self-assessment. The Office of Special Counsel is an investigative and prosecutorial office that works to end government and political corruption, and to protect government employees and whistleblowers; the certification program requires agency heads to ensure that employees are informed of the rights and remedies available to them under the Whistleblower Protection Act (WPA) and related laws. Accordingly, out of some 100 government agencies, only 18 have completed and 26 are registered to complete the certification program since the beginning of 2014, according to civil society members interviewed for this commitment. In sum, while the Administration has required participation, and thus fulfilled the milestone, most agencies have not complied. The milestone, as written, lacks consequences for not completing the certification program, which severely limits its overall efficacy.

Substantial progress has been made on the milestone to implement the Presidential Directive on Protecting Whistleblowers; however, concerns remain. The President's 2012 Policy Directive on Protecting Whistleblowers with Access to Classified Information (PPD-19) seeks to ensures employees serving in the Intelligence Community or those who are eligible for access to classified information can effectively report waste, fraud, and abuse while protecting classified national security information. Civil society note that without adequate protections from retaliations,

individuals cannot securely makes such reports. PPD-19 was established after Congress cut the Whistleblower Protection Act, giving the Director of National Intelligence (DNI) overall responsibility for Intelligence Community whistleblowing and source protection. As a result, DNI issued a Whistleblower Protection Directive in March 2014. Pursuant to PPD-19, the Department of Justice (DOJ) produced the Report on Regulations Protecting FBI Whistleblowers in April 2014 that recommends expanding the persons to whom protected disclosures may be made, according to government leads on this commitment. However, the civil society members interviewed addressed a number of limitations of PPD-19, including a lack of independent due process to enforce the rights, and public posting of individual guidelines under PPD-19 by federal agencies.

Some progress has been made on the milestone to advocate for legislation to expand whistleblower protections; but further efforts are needed. The Intelligence Authorization Act (IAA) for fiscal year 2014 was passed, which codifies statutory protections for whistleblowers consistent with the requirements in PPD-19, according to the government self-assessment. Many whistleblower claims go through administrative remedies that are provided by a government agency and are non-judicial. However, civil society members interviewed on this commitment pointed out the current gaps in statutory protections for whistleblowers in government. These gaps include shortfalls in protections for federal employees whose rights are limited to administrative remedies through whistleblower claims with the U.S. Office of Special Counsel and the U.S. Merit Systems Protection Board (MSPB)[2] – the MSPB is a quasi-judicial agency within the executive branch that hears appeals from federal employees and studies federal merit systems in an effort to protect the rights of federal employees. Another gap in the protection of whistleblowers is that there is inadequate protection for intelligence community contractors. Intelligence Community contractors do not have enforceable statutory whistleblower protections against employment-based or criminal retaliation. Government employees do have rights against job-related harassment; they do not however have protections against criminal retaliation (i.e. criminal investigations and prosecutions), even when engaging in legally protected activity. Furthermore, following a recent court case [*Kaplan v. Conyers*][3], national security employees classified as "noncritical sensitive," may be subject to irregular dismissal under the pretext of national security. The Administration still has a long way to go in working toward ensuring whistleblower rights.

DID IT MATTER?

The nature of whistleblowing is changing with changing technologies and outlets for government information. The rights and responsibilities of whistleblowers need to be clarified for all involved. Whistleblowers frequently face retaliation and negative consequences for their actions and need clearer protections and guidance. Considering that in the US much of the information is gathered by contractors and not government employees, intelligence community contractors need increased protection. A large impact on whistleblowing practices and policies is not expected as a result of the current efforts. While these are good initial steps, more needs to be done in this area.

MOVING FORWARD

Civil society members working on whistleblower rights strongly believe that more work is needed in this area. Many of the recommendations listed below are included in a letter civil society wrote on this issue previously. Among the issues that came out of the stakeholder focus group which should be considered when moving forward are:

- **Enforced participation in training**—Participation in the OSC training in theory is mandated under the Whistleblower Protection Act. The OSC is working well with the cooperating agencies. There should be a clear enforcement mechanism for the nearly 90 percent of agencies which have not registered to begin certification.
- **Memo to department heads** – The White House should issue a memo to department heads mandating compliance with the OSC 2302 (c) certification program. Such a memo would emphasize the priority of the certification program, and thus the issues of whistleblower rights and protections.

- **Public PPD 19 guidelines** – Every agency should be required to make public their guidelines under PPD 19.
- **Advocate strongly for legislative solutions**—The White House should support legislation to ensure that government employees, including government contractors in the intelligence community, have whistleblower rights; that those anti-retaliation rights apply in criminal as well as civil employment contexts; and that rights be strengthened through pending legislation for Department of Veterans Administration employees and military service members. Solutions need to be developed to ensure employees have access to jury trials, district courts and normal access to appellate courts, due process rights that consistently apply for private sector or government contractor employees. Finally, the Administration should support legislation or Executive action to achieve parity in whistleblower rights for FBI employees. While they have the nation's most significant law enforcement duties, they have the weakest whistleblower protections against fraud, waste, abuse or other misconduct.
- **Postpone implementation of the all-encompassing "sensitive jobs" loophole pending consensus legislation on shrinking access to the civil service merit system** – The courts have approved Administration discretionary authority to cancel all civil service due process and other appeal rights shielding the merit system for virtually any position in government. Agencies can designate positions as "non-critical sensitive," on national security grounds, despite not requiring access to classified information. The Administration should suspend implementation of this exception, which could cancel the merit system for the entire federal work force, until there has been a consensus with Congress on legislative changes to the civil service.
- **Rework MSPB** – In order to make the MSPB a meaningful and effective forum to adjudicate whistleblower rights several improvements are needed which will in some cases require legislation and other instances require rule making by the MSPB to implement certain changes. These include: providing training for all decision makers, including Administrative Law judges, in relevant whistleblower legal provisions, enhanced discovery procedures and providing for additional time to process complex cases (such as whistleblower claims).
- **Establish a whistleblower advocate** – Have a federal-wide whistleblower advocate in DOJ. Currently, each agency Inspector General has a whistleblower ombudsman and they support whistleblowers in each office. There should be a central clearing house on information regarding whistleblowing for all of the federal government.
- **Establish a Whistleblower Office**—The whistleblower community within the administration should create a Whistleblower Office at the Department of Justice (DOJ). A whistleblower advocate could be housed in such an office. Such an office is necessary given the overlapping authority to handle and investigate whistleblower allegations by several government agencies, the lack of communication and coordination between these agencies and other serious issues that sometimes arise. Establishing such an office would show a real commitment to whistleblower protections by this administration.
- **Presidential Award** – Institute a Presidential award for whistleblowers.

While this list is extensive, some of the above recommendations are easily possible in the short-time frame of a Third NAP, including the institution of a presidential award and establishment of a whistleblower advocate.

[1] This commitment included four specific, related milestones that are analyzed here together.
[2] CSO Stakeholder Focus Groups. 2015. Edited by Suzanne Piotrowski.
[3] For an overview of this case see: http://www.washingtonpost.com/blogs/federal-eye/wp/2013/08/21/court-limits-appeal-rights-for-sensitive-federal-jobs/

10 | LEGAL ENTITIES

Increase Transparency of Legal Entities Formed in the United States

The United States has been working closely with partners around the world to combat the criminal misuse of businesses, shell companies, and front companies. These legal entities are used to access the international financial system and facilitate financial crime, while masking the true identity of illicit actors. These legal entities are also used by individuals and companies to shelter assets and evade taxes. Enhanced transparency of companies formed in the United States will help to prevent criminal organizations from obscuring who really benefits from the businesses they operate, help to address tax avoidance, and also help developing countries to combat corruption when criminal actors look to illicitly deposit their money abroad. To promote transparency in company ownership, the Administration will:

- **Advocate for Legislation Requiring Meaningful Disclosure.** The White House will continue to publicly advocate for legislation requiring disclosure of meaningful information at the time a company is formed, showing not just who owns the company, but also who receives financial benefits from the entity.
- **Establish an Explicit Customer Due Diligence Obligation for U.S. Financial Institutions.** In 2014, the Administration will work to enact a rule requiring U.S. financial institutions to identify the beneficial owners of companies that are legal entities. The Treasury Department is currently engaged in rulemaking to clarify customer due diligence requirements for U.S. financial institutions. The agency has received public comments through an Advance Notice of Rulemaking and also hosted several stakeholder roundtables.

Responsible Institution: Department of Treasury, Department of Justice

Supporting Institution(s): U.S. Congress

Start Date: 1 January 2014 *End Date: 31 December 2014*

	SPECIFICITY				OGP VALUE RELEVANCE				POTENTIAL IMPACT				COMPLETION			
	None	Low	Medium	High	Access to Information	Civic participation	Pubilc Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
10. Legal Entities			✗		Unclear						✗			✗		
10.1 Disclosure Legislation			✗		Unclear						✗			✗		
10.2. Customer Due Diligence Obligation			✗		Unclear						✗			✗		

WHAT HAPPENED?

Shell companies are entities that can be used to disguise the identity of their true "beneficial owners" that can be used to hide illegal businesses or to facilitate illegal activity, like tax evasion, money laundering and terrorist financing risks. According to the Financial Transparency Coalition, hidden company ownership is a big contributor to the nearly $1 trillion that leaves developing countries illicitly every year.[1] Information on beneficial ownership helps to lift the veil of secrecy of offshore accounts and aids the fight against money laundering and tax evasion.

This commitment aim to increase transparency of legal entities formed in the United States to prevent companies from obscuring who really owns or controls the legal entity."

Some progress has been made on the first milestone, but concerns remain. According to the government self-assessment, the White House has advocated for legislation requiring meaningful disclosure of beneficial ownership information, which is included in its Fiscal Year 2015 and 2016 Budget proposal to Congress. Specifically, they have called for two pieces of legislation. One bill would require every legal entity formed in the U.S. to obtain an employer identification number (EIN) and when applying for an EIN, the filing entity must list a single "responsible party" on the Internal Revenue Service, IRS Form SS-4.[2] However, civil society members interviewed on this commitment are concerned that even if it were enacted, it would be possible for companies to complete the IRS form without disclosing real beneficial owners due to the "weak" definition of "responsible party" and lack of clear enforcement mechanism.[3] While there may be more than one responsible party, only one person would be required to be listed.

While the Administration supports increased beneficial ownership transparency, there is concern that the Administration is only supportive of this information being collected and is opposed to this information being accessible by the public. This position is inconsistent with the Administration's broad support of financial transparency and open government.

Civil society members believe the definition of beneficial owner needs to include the concept of effective control so that it captures individuals who control a company through unofficial means, such as trusts or power-of-attorney arrangements, outside of legal ownership or acting as a corporate officer. The Certification Form must include an explanation of control by other means in the definition of beneficial owner and in a question that explicitly asks for information about individuals who fit the definition.

Civil society members also believe a 25 percent ownership threshold is too high for the ownership prong of the definition. Civil society members have concerns that including any ownership threshold provides money launders with a clear guide on how to avoid anti-money laundering checks. As the efficient compromise between a requirement to ascertain all beneficial ownership information and the cost of compliance for financial institutions, CSOs strongly recommend a 10 percent threshold.

As for the second milestone, there has been moderate progress toward establishing an explicit customer due diligence obligation for U.S. financial institutions. In August 2014, the U.S. Treasury Department issued a Notice of Proposed Rulemaking (NPRM) that would require financial institutions to collect beneficial ownership information for their corporate customers, according to the government self-assessment. However, the civil society members interviewed revealed concerns about the effectiveness of the proposed rule since it is, in some respects, weaker and less effective than what was in the earlier Advance Notice of a Proposed Rulemaking (ANPRM) from 2012.

The International Corporate Accountability Roundtable sums up progress on this commitment in this way: "The Administration committed to the collection of beneficial ownership information in the U.S. Open Government Partnership National Action Plan and in the U.S. G-8 Action Plan for Transparency of Company Ownership and Control. Bipartisan legislation has been introduced in multiple legislative sessions of Congress that would require companies to disclose their ultimate owners and for that information to be made available to law enforcement. To date, the legislation has not passed."[4]

DID IT MATTER?

The issue of beneficial ownership of corporations and LLCs is extremely important and speaks to larger issues of transparency. The International Corporate Accountability Roundtable states in their "Shadow"

National Baseline Assessment (NBA) of Current Implementation of Business and Human Rights Frameworks that "American companies are not required to disclose beneficial ownership (ultimate ownership) information to the government at the time the company is formed." The Administration is commended for initiating efforts to bring transparency to legal entities. With that said, ensuring that the information collected is actually beneficial ownership information and that it reaches beyond the government and is available to the public at large would meet the commitment in the first instance, and improve it with respect to public availability. Beneficial ownership is an issue other countries are struggling to get a handle on as well. Prime Minister David Cameron said: "We need to know who really owns and controls our companies. Not just who owns them legally, but who really benefits financially from their existence. " Beneficial ownership initiatives will enhance accountability and transparency of companies formed in the U.S. by working to prevent criminal actors from illicitly depositing funds abroad.

MOVING FORWARD

As the US government moves forward on this area, the IRM researcher recommends a number of initiatives to be included in the next national action plan.

- The language of the legislation should be revised to include concrete definition of responsible party" and clear enforcement mechanisms.
- Beneficial ownership information needs to be available to the public. The collection of beneficial ownership information should be taken out of the IRS. Civil society members are concerned that once the information is collected by the IRS it will not make it out of the agency into public hands where it can more readily be available to law enforcement, civil society, journalists, and other companies seeking to do due diligence on partners.
- Treasury should continue to work toward developing a final rule that contains comprehensive and meaningful regulations. Civil society recommendations for the final rule can be found here.
- The White House should support the "Grassley bill", which contains appropriate language on this issue. This bipartisan legislation was first introduced in 2008. The bills introducing the Incorporation Transparency and Law Enforcement Assistance Act last session are - S1465 and HR3331.

[1] http://financialtransparency.org/issues/beneficial-ownership/
[2] 2015. Civil Society Progress Report: Second Check-In on the Implementation of the United States' Second Open Government National Action Plan. Washington, DC: OpenTheGovernment.org.
[3] 2015. Civil Society Progress Report: Second Check-In on the Implementation of the United States' Second Open Government National Action Plan. Washington, DC: OpenTheGovernment.org.
[4] Blackwell, Sara. 2015. "Shadow" National Baseline Assessment (NBA) of Current Implementation of Business and Human Rights Frameworks: The United States. International Corporate Accountability Roundtable.
[5] Department for Business, Innovation & Skills, Prime Minister's Office. 2013. Press Release: Public register to boost company transparency. London.

✪11 | EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE

Implement the Extractive Industries Transparency Initiative

Two years ago, at the launch of the OGP, President Obama announced the U.S. commitment to implement the Extractive Industries Transparency Initiative (EITI), an international standard aimed at increasing transparency and accountability in the payments that companies make and the revenues governments receive for their natural resources. The United States has actively worked toward increasing revenue transparency and accountability in relevant industry sectors, ensuring that American taxpayers receive every dollar due for the extraction of the Nation's natural resources.

The United States continues to work toward EITI candidacy, including by seeking public comment and feedback on the Federal Government's candidacy application. The Administration intends to publish the first United States EITI report in 2015 and to achieve EITI compliance in 2016. The United States will also:

- **Disclose additional revenues on geothermal and renewable energy;**
- **Unilaterally disclose all payments received by the U.S. Department of Interior**
- **Create a process to discuss future disclosure of timber revenues; and**
- **Promote the development of innovative open data tools that make extractive data more meaningful for and accessible to the American people.**

Responsible Institution: Department of the Interior, Department of State

Supporting Institution(s): EITI Multi-Stakeholder Group, State of Wyoming, California State Lands Commission, Interstate Oil and Gas Compact Commission, Interstate Mining Compact Commission

Start Date: Not Specified *End Date: 31 December 2014*

	SPECIFICITY				OGP VALUE RELEVANCE				POTENTIAL IMPACT				COMPLETION			
	None	Low	Medium	High	Access to Information	Civic participation	Pubilc Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
11. Extractive Industries Transparency Initiative				✗	✗			✗				✗			✗	
11.1 Geothermal and renewable energy revenues			✗		✗			✗			✗				✗	
11.2 Department of Interior payments				✗	✗			✗			✗				✗	
11.3 Timber revenues			✗		✗			✗			✗		Unclear			
11.4 Open data tool on extractives				✗	✗			✗			✗				✗	

✪*Editorial note: this commitment is clearly relevant to OGP values as written, has transformative potential impact, and is substantially or completely implemented and therefore qualifies as a starred commitment.*

WHAT HAPPENED?

The last decade has seen the proliferation of measures to improve the governance of the extractive sector. A driving motivation behind such initiatives is to increase public awareness regarding the management of non-renewable natural resources, to reduce opportunities for corruption between the public and private sector, and to prompt greater external oversight of the industry.

This commitment aims to produce annual reports on the Extractive Industries Transparency Initiative (EITI) starting from 2015 and to increase transparency and accountability in transactions for natural resources. According to the USEITI:

> The Extractive Industries Transparency Initiative (EITI) Standard is a voluntary, global effort designed to strengthen accountability and public trust for the revenues paid and received for a country's oil, gas and mineral resources. Countries that follow the standard publish a report in which governments and companies publicly disclose royalties, rents, bonuses, taxes and other payments from oil, gas, and mining resources.1

Susan Aaronson from the Elliott School of International Affairs, George Washington University who specializes, amongst other, on transparent trade policymaking, offers three main critiques of EITI:

> [T]he EITI partnership is not as effective as it could be for three reasons. First, the partners (governments, civil society, and business) have different visions of EITI. Second, some implementing governments have not allowed civil society to participate fully in the process or have not consistently provided civil society with the information they need to hold their governments to account. In this regard it is a limited partnership. Third, in many participating countries, the public and legislators may not be aware of EITI. Thus, although public participation is essential to the success and potential positive spillovers of EITI, the public is essentially a silent partner, limiting the ability of the EITI to succeed as a counterweight to corruption[2].

A significant amount of effort has been put into moving forward on this commitment. The U.S. has become EITI candidate country in March 2014 and, accordingly, a USEITI Advisory Committee was established prior to candidacy in February 2013, according to the government self-assessment.[3] The advisory committee is notable for the breadth of representation, comprised of industry, civil society organizations, and the representatives from government, is responsible for overseeing implementation of EITI in the United States. In addition to hosting several multi-stakeholder group meetings throughout the calendar year 2015, 2014 as well as 2013, the Department of Interior (DOI), in collaboration with General Services Administration (GSA) team, created the Natural Resources Data Portal that reveals the amount and the use of natural resource revenues extracted from the U.S. federal lands.[4]

The first U.S. EITI report is scheduled to be published in December 2015, according to the Civil Society members interviewed on this commitment.[5]

Additionally, this commitment designated four specific milestones:

- Disclose additional revenues on geothermal and renewable energy: This milestone was achieved through the Natural Resources Data Portal, which includes information on revenues for geothermal and wind.
- Unilaterally disclose all payments received by the U.S. Department of Interior: This milestone was also achieved through the Natural Resources Data Portal.
- Create a process to discuss future disclosure of timber revenues: It is unclear whether such a process has yet been put in place as there are no public documents available as evidence[6].
- Promote the development of innovative open data tools that make extractive data more meaningful for, and accessible to, the American people: As discussed above, this milestone has been reached through the Natural Resources Data Portal, a collaboration with 18F that uses cutting edge data reporting tools.

DID IT MATTER?

EITI has been called a "silent revolution"[7] and by the US joining the initiative it signals a strong commitment to this policy issue. One government survey respondent noted that as a result of the efforts to implement EITI, not only are the data on natural resource revenues more accessible to the public but, globally, it also has encouraged other countries to implement (e.g. the U.K.) or to consider implementation of EITI (e.g., Mexico), according to the government leads on this commitment.[8] The White House should be commended for including a timber initiative commitment, which goes further than its EITI obligations.

MOVING FORWARD

In order to achieve EITI compliance, the U.S. Department of Interior and the advisory committee should be on track to produce the first USEITI report by the end of 2015. As the US government continues work on this very important and timely policy area, it should consider the following:

- There should be a continued focus on the completion of EITI requirements, including corporate tax reporting.
- While the EITI commitments include basic standards for the extractives industry, more initiative can and should be pursued. A good example of this is the included disclosure of timber revenues.
- The US government should not solely focus at federal initiative. There should be a prioritization on gathering data on the extractive industry's impact at the state and county level and on tribal lands.
- Civil society members in the stakeholder meetings strongly recommended supporting the beneficial ownership disclosure requirements in the EITI.

[1] US Extractive Industry Transparency Initiative. 2014. EITI Fact Sheet. Washington, DC: Department of Interior.
[2] Aaronson, Susan. 2011. "Limited Partnership: Business, Government, Civil Society, and the Public in the Extractive Industries Transparency Initiative (EITI)." Public Administration Development (31):50-63.
[3] Piotrowski, Suzanne. 2015. Survey of US Government Points of Contact for US Second National Open Government Action Plan. School of Public Affairs and Administration, Rutgers University-Newark.
[4] 2015. Civil Society Progress Report: Second Check-In on the Implementation of the United States' Second Open Government National Action Plan. Washington, DC: OpenTheGovernment.org.
[5] 2015. Civil Society Progress Report: Second Check-In on the Implementation of the United States' Second Open Government National Action Plan. Washington, DC: OpenTheGovernment.org.
[6] According to feedback from the US government on an earlier draft, that milestone is part of the U.S. EITI work plan for 2016 which will be approved by the U.S. EITI Multi-Stakeholder Group and made publicly available by the end of 2015.
[7] Runde, Daniel. 2014. EITI's Silent Revolution. Forbes.com 2015 (October 3).
[8] Piotrowski, Suzanne. 2015. Survey of US Government Points of Contact for US Second National Open Government Action Plan. School of Public Affairs and Administration, Rutgers University-Newark.

12 | FOSSIL FUEL SUBSIDIES

Make Fossil Fuel Subsidies More Transparent

Regular public reporting on U.S. Government spending on fossil fuel subsidies will increase transparency and enhance accountability. The United States will publicly publish an annual report outlining Government spending on fossil fuel subsidies and share it with the Group of 20 (G-20) and other relevant international bodies

Responsible Institution: U.S. Treasury

Supporting Institution(s): None

Start Date: Not Specified *End Date: Not Specified*

	SPECIFICITY				OGP VALUE RELEVANCE				POTENTIAL IMPACT				COMPLETION			
	None	Low	Medium	High	Access to Information	Civic participation	Pubilc Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
12. Fossil Fuel Subsidies			✗		✗						✗					✗

Editorial note: Under the old criteria of starred commitments, this commitment would have received a star because it is clearly relevant to OGP values as written, has moderate potential impact, and has been substantially or completely implemented. Note that IRM updated the star criteria in early 2015 to only apply to commitments with transformative potential impact.

WHAT HAPPENED?

Since 2009, Obama and other G20 leaders pledged to phase out "inefficient" fossil fuel subsidies to help curb global warming[1]. A recent report by Oil Change International and the Overseas Development Institute found that G20 governments are spending approximately $88 billion a year on finding new oil, gas and coal reserves. They argue that scientists have determined that two thirds of known fossil fuel reserves need to stay in the ground to maintain a good chance of limiting temperature rise to the internationally agreed target of 2 degrees Celsius. The report thus maintains that it is inefficient for governments to continue subsidizing fossil fuel exploration and must immediately eliminate all such subsidies.[2] In accordance to the G20 pledge, the U.S. has committed to produce a report outlining government spending on fossil fuel subsidies and sharing it with the group of G-20 and others.

This commitment has been fulfilled. According to the government self-assessment, the report regarding U.S. government spending on fossil fuel subsidies was published on the Treasury Department Open Government website in August 2014 and submitted to the group of G-20. However, civil society members working on fossil fuel subsidies pointed out that this commitment was weak from the beginning given that there is no specific requirement for the scope of the report. The report is not required to provide detail about the breakdown of data regarding different kinds

of fuels or different kinds of subsidy from grants to states and local government to tax exemptions for companies.

DID IT MATTER?

This effort will allow the public to access information regarding government spending on fossil fuel subsidies and increase awareness of an important area of public policy regarding energy production, corporate subsidization and carbon emissions.

MOVING FORWARD

As the US government moves forward in this area, the IRM Researcher recommends attention to a few areas:

- The report needs to be easily accessible to the public. One suggestion that came out of the stakeholder meetings was to make the information about government spending on natural resources, including fossil fuel subsidies, available on USAspending.gov.
- The White House should work to incorporate fossil fuels subsidy reporting into the EITI reporting.

[1] Eilperin, Juliet. 2009. "G20 Leaders Agree to Phase Out Fossil Fuel Subsidies." The Washington Post, September 25. Accessed April 10, 2015. http://www.washingtonpost.com/wp-dyn/content/article/2009/09/25/AR2009092502453.html.

[2] "The Fossil Fuel Bailout: G20 Subsidies for Oil, Gas and Coal Exploration" Oil Change International & Overseas Development Institute, November 2014. http://priceofoil.org/2014/11/11/fossil-fuel-bailout-g20-subsidies-oil-gas-coal-exploration/

✪13 | FEDERAL SPENDING

Increase Transparency in Spending

The Administration's efforts to increase transparency in Federal spending have opened up new data on Federal procurement and financial assistance. The Administration intends to further increase the transparency of where Federal tax dollars are spent by committing to:

- **Join the Global Initiative on Fiscal Transparency.** The United States will join the Global Initiative on Fiscal Transparency (GIFT), an international network of governments and non-government organizations aimed at enhancing financial transparency, accountability, and stakeholder engagement. The Administration will actively participate in the GIFT Working Group and seek opportunities to work with others to champion fiscal openness in appropriate global forums.
- **Regularly Engage with External Stakeholders.** The U.S. Government will hold quarterly meetings with external stakeholders to identify and prioritize ways to improve the usability and functionality of the USASpending.gov website.
- **Open Up Federal Spending Data.** The U.S. Government will make Federal spending data more easily available in open and machine-readable formats.
- **Publish Additional Federal Contracting Data.** The Administration will facilitate the publication of certain Federal Government contract information not currently available in order to increase transparency and accountability of the Federal procurement system. Information will be made available consistent with Federal rulemaking procedures.
- **Provide Strategic Direction for Enhancing Fiscal Transparency.** The Administration, through the work of the Government Accountability and Transparency Board (GATB), will continue to provide strategic direction to the Federal Government on ways to increase Federal spending transparency and to detect waste, fraud, or abuse. GATB will update its annual plan with 2013 accomplishments and 2014 objectives including issues of data analytics and data integrity and standardization for procurement and grants.[1]
- **Improve USAspending.gov.** In 2015, the Administration will launch a refreshed USAspending.gov website that will improve the site's design and user experience, including better enabling users to explore the data using interactive maps and improving the search functionality and application programming interface.
- **Improve accessibility and reusability of Federal financial data.** In 2015, as part of implementation of the DATA Act, the Administration will work to improve the accessibility and reusability of Federal financial data by issuing data element definition standards and standards for exchanging financial data. The Administration, through the Office of Management and Budget, will leverage industry data exchange standards to the extent practicable to maximize the sharing and utilization of Federal financial data.
- **Explore options for visualization and publication of additional Federal financial data.** The Administration, through the Treasury Department, will use small-scale pilots to help explore options for visualizing and publishing Federal financial data from across the government as required by the DATA Act.
- **Continue to engage stakeholders.** The Administration will continue to engage with a broad group of stakeholders to seek input on Federal financial transparency initiatives including DATA Act implementation, by hosting town hall meetings, conducting interactive workshops, and seeking input via open innovation collaboration tools.

Responsible Institution: Office of Management and Budget (OMB), U.S. Treasury, General Services Administration (GSA), U.S. Agency for International Development (USAID), Department of Homeland Security (DHS), Department of Education (DoE), Government Accountability and Transparency Board (GATB).

Responsible Institution: U.S. Treasury

Supporting Institution(s): None

Start Date: Not Specified *End Date: Not Specified*

	SPECIFICITY				OGP VALUE RELEVANCE				POTENTIAL IMPACT				COMPLETION			
	None	Low	Medium	High	Access to Information	Civic participation	Pubilc Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
13. Federal Spending			✗		✗	✗		✗			✗				✗	
13.1. Global Initiative on Fiscal Transparency				✗	✗					✗						✗
13.2. Engage External Stakeholders				✗	✗	✗		✗		✗					✗	
13.3. Data Availability			✗		✗			✗		✗					✗	
13.4. Contracting Data			✗		✗			✗		✗					✗	
13.5. Government Accountability and Transparency Board	✗				✗						✗					✗
13.6. Improve USASpending.gov			✗		✗			✗		✗					✗	
13.7. Accessibility and Reusability of Federal Financial Data				✗	✗			✗			✗			✗		
13.8. Visualization and Publication of Federal and Financial Data			✗		✗			✗		✗						✗
13.9. Continue to Engage Stakeholders			✗			✗				✗						✗

✪*Editorial note: this commitment taken as a whole is clearly relevant to OGP values as written, has transformative potential impact, and is substantially or completely implemented and therefore qualifies as a starred commitment.*

WHAT HAPPENED?

The milestone to hold quarterly meetings with external stakeholders to improve USAspending.gov website is on track, but concerns remain on the consistency of information of federal awards. The Office of Management and Budget (OMB) and the Department of Treasury have met with external stakeholders in October 2014 and February 2015 to seek input from government and civil society stakeholders, according to the government self-assessment. In response to the feedback from external stakeholders, Treasury launched a refreshed USASpending.gov in April 2015. According to the review of the site by the IRM researcher, the refreshed website has improved navigation to allow users to more

directly summarize spending data, made the content easier to understand by limiting the use of government terminology and jargon, provided a new interactive map, and so on.[3] Furthermore, the USASpending.gov team is committed to making continuous improvements to the site, which can be tracked on the "What's new" page. The commitment to improve USASpending.gov, thus, has, to the letter of the law, been fulfilled. However, there are questions regarding the quality of the data that must be addressed with USASpending.gov generally. The Government Accountability Office (GAO) Report on Data Transparency released in July 2014 states that at least 93 percent of federal awards on USAspending.gov contained information that was inconsistent with federal agency records.

Substantial progress has been made on the milestones to open up more Federal spending data and to publish additional Federal contracting data. Federal spending data such as total amount of money distributed to an agency and total amount distributed to a city or county in a fiscal year are available in machine-readable formats, according to the review of the website by the IRM researcher. Furthermore, the effort to publish additional federal contracting data is underway along with the efforts to introduce new statutory and regulatory requirements for opening up contracting data, according to the government self-assessment.

The milestone to provide strategic direction for enhancing fiscal transparency has been completed. The Government Accountability and Transparency Board (GATB) released its annual plan document in April 2014, which describes progress made by the Board in 2013 and planned activities in 2014, according to the government self-assessment.

Some progress has been made on the milestones to implement the DATA Act. In May 2014, the president Obama signed the Digital Accountability and Transparency Act (DATA Act) which requires Treasury and OMB to standardize and make publicly available the U.S. Federal spending data online, according to the review of the public law by the IRM researcher. As part of the effort to standardize data element definition, Treasury published a Federal Register Notice in September 2014 and conducted small-scale pilots to "create a standard taxonomy and to demonstrate how the additional data elements required by the DATA Act could be visualized," according to the government self-assessment. Furthermore, Treasury has held multiple stakeholder meetings including a Data Transparency Town Hall Meeting in September 2014 and launched an open collaboration webpages to post updates and collect input on the data standardization issues.[4]

DID IT MATTER?

Real progress is being made in the area of fiscal transparency but many of these initiatives were not added to the National Action Plan until the Fall of 2014 and thus are just now getting underway. The refreshed USASpending.gov will allow users to more quickly, access summary information and use interactive mapping; however, concerns remain. For example, it has not only "limited the ability to easily access how taxpayer dollars are spent in real time" but "eliminated searching for keywords and sorting government grants and contracts by data."[5]

Although the individual milestones may have less than transformative impact, when taken as a whole, if fully completed, this commitment would have a transformative impact on government transparency by significantly opening up access to federal fiscal data that is both accurate and rendered in a way that is useful and intelligible to citizens, civil society organization, businesses, and other government organizations that might look to the resources to improve their own open data practices or engage in public policy work.

MOVING FORWARD

The US government should continue to work on the areas they have already proposed in this National Action plan. In addition, as stated in the GAO report on data transparency, the issue of data quality on USASpending.gov should be addressed. They should also look to broaden their reach and explore new federal spending data to be made publicly available.

[1] This commitment included nine specific, related milestones that are analyzed here together.
[2] Global Initiative for Fiscal Transparency. 2015. "About the Fiscal Openness Working Group." Accessed April 10. http://fiscaltransparency.net/2014/01/about-the-fiscal-openness-working-group/.
[3] Lebryk, David A. 2015. "Transparency Refresh: Improvements to the USASpending.gov Website." U.S. Department of Treasury, Last Modified April 1, 2015. http://www.treasury.gov/connect/blog/Pages/transparency-refresh.aspx.
[4] 2015. United States of America Midterm Self-Assessment Report for the Open Government Partnership Second Open Government National Action Plan 2013-2015. edited by The US Government. Washington, DC.
[5] Harrington, Elizabeth. 2015. "Treasury Department: We Improved USASpending.gov." The Washington Free Beacon, Last Modified April 2, 2015 Accessed April 17, 2015. http://freebeacon.com/issues/treasury-department-we-improved-usaspending-gov/.

14 | FOREIGNASSISTANCE.GOV

Increase Transparency of Foreign Assistance

Greater foreign aid transparency promotes effective development by helping recipient governments manage their aid flows and by empowering citizens to hold governments accountable for the use of foreign assistance. Increased transparency also supports evidence-based, data-driven approaches to foreign aid. As outlined in past OMB guidance to Federal agencies, by December 2015, agencies managing or implementing U.S. foreign assistance will establish an automated and timely process for publishing foreign aid data to ForeignAssistance.gov. Throughout 2014, the United States Agency for International Development, the Department of State, Department of Health and Human Services, Department of Agriculture, Department of Defense, Department of Treasury, and other agencies will work to add or expand detailed, timely, and high-quality foreign assistance data to ForeignAssistance.gov. The Department of State, as the lead agency for the U.S. government on this issue, will also continue to engage civil society organizations and the public online about the content and the use of the data on the website.

Responsible Institution: U.S. Treasury

Supporting Institution(s): None

Start Date: Not Specified *End Date: Not Specified*

	SPECIFICITY				OGP VALUE RELEVANCE				POTENTIAL IMPACT				COMPLETION			
	None	Low	Medium	High	Access to Information	Civic participation	Pubilc Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
14. ForeignAssistance.gov			✗		✗			✗			✗			✗		

WHAT HAPPENED?

The goal of this commitment is to increase foreign assistance transparency among all federal agencies managing or implementing U.S. foreign assistance by establishing a process for publishing foreign aid data to ForeignAssistance.gov. In particular, the commitment requires six major agencies managing U.S. foreign assistance to add timely and high-quality foreign aid data to ForeignAssistance.gov throughout 2014.

The relevant federal agencies have made partial progress on this commitment; however, much work remains to be done particularly in terms of data quality.

So far, ten agencies which account for 98 percent of the U.S. foreign assistance portfolio -among 22 agencies managing U.S. foreign assistance - have published some data on ForeignAssistance.gov, according to the government self-assessment and civil society progress report. Furthermore, a government lead on this commitment stated that the ForeignAssistance.gov team within the Department of State has worked on improving the usability and functionality of the website and on raising awareness of the website through a Twitter channel and other coordinated social media efforts. Although security assistance programs managed by

the Department of State are included on FA.gov, data on foreign assistance programs of the Department of Defense have not been fully reported in accordance with guidelines issued by the Office of Management and Budget. Given the important relationship between security and development, the absence of this data detracts from the ability to see a full picture of U.S. foreign assistance.

DID IT MATTER?

Foreign assistance is an area where there is a real demand for increase in transparency or usable government information. The 2014 Aid Transparency Index shows that U.S. agencies have a long way to go to improve the transparency of their foreign assistance. In 2011, the United States signed up to the International Aid Transparency Initiative (IATI) and committed to make data on 100% of U.S. official development assistance public by December 2015. A more recent review by Publish What You Fund, the 2015 U.S. Aid Transparency Review, found that only two of the six US donor agencies are "on track" to meet the 2015 deadline. It is debatable whether the tools of awareness-raising on foreignassistance.gov were sufficient. One government survey respondent noted, "Although there are areas of improvement in increasing foreign aid transparency, the efforts to improve FA.gov and raise awareness of the website through a Twitter channel by the FA.gov team within the Department of State have helped to expand awareness and accessibility of the website to the public. The new trial version of FA.gov, beta.foreignassistance.gov was launched in spring 2015.[1]" As a counter point, in a personal correspondence one civil society member stated: "The risk here is that the State Department and USAID have set far too low a bar for engaging actual and potential users of the data to stimulate uptake and demand, leading to a conclusion that demand doesn't exist. The failure of engagement and observed lack of demand will then justify scaling back effort to publish the data."

Some agencies [e.g., the United States Agency for International Development (USAID), the Millennium Challenge Corporation, and the President's Emergency Plan for AIDS Relief (PEPFAR)] have made more progress on publishing transaction level data to the website than others. Overall, civil society members interviewed on this commitment are skeptical about the quality of data published since they often lack "the descriptive project information that would allow users to understand how funding is being used." Also, other valuable information such as project results and procurement data collected by individual agencies is not available on the website. In personal correspondence one civil society member elaborated on this point: "Information is being published. The challenge is the quality of the information remains very low. Though the information is being published quarterly it does not give a complete overview of the agency's spending. Some activities are missing while others lack context. For example, basic information such as meaningful project names, description and dates have been excluded from many activities."

One civil society member also noted that the scope of what counts as the foreign assistance needs to be broadened more generally and that it should to include security assistance aid. The definition and scope of data on foreign assistance should be addressed moving forward.

MOVING FORWARD

Much work is still to be done on this issue and to be addressed in the next national action plan. Agencies in particular need to have a clearer plan going forward. Though USAID has published a costed management plan others are yet to lay out a clear path to fulfilling aid transparency commitments[2]. The IRM researcher summarized some of the key points made by civil society members working on foreign assistance, which have not yet been addressed[3] but are ripe for further work.

- Civil society members interviewed on this commitment attributed the problem of poor data quality to the lack of "decision-making power" and "resources" of the teams or individuals who are in charge of managing the data, or to lack of "coordination across teams." Therefore, it is important to ensure greater involvement from both the White House and agencies' senior leadership as well as to encourage collaboration across teams in order to provide meaningful information about the U.S. foreign assistance to the public.[4]
- Ensure that ForeignAssistance.gov is fully in line and comparable with the IATI standard. In personal correspondence, one civil society member stated, "The current (NAP 2) commitment fails to address that foreign assistance data must be internationally

comparable. This means it must fully comply with the IATI standard—the international standard for sharing aid data. The U.S. committed to implement IATI fully by the end of December 2015 in November 2011."

- According to civil society stakeholders, All agencies that have not already done so[5] should develop costed management plans that lay out the specific steps they will take to meet the December 2015 commitment (including in terms of improving data quality), and the resources that will be required to get there (staff, financial and technical). These plans should be public and developed in consultation with civil society.
- Transaction level data should be linked to program or project level data so that users understand how individual awards (e.g., grants, contracts, etc.) relate to the projects they are more familiar with and so users have context of the transaction published.
- Individual federal agencies should be permitted to directly post data to IATI. Apparently some agencies, such as the Millennium Challenge Corporation, were doing a good job at this but were told to take the data down.
- The US government should also consider ways to support greater use of the data that is made available and ensure that the data published is sufficiently granular to be relevant at the country level. This would include increasing awareness both in the US and overseas that this data is available.

[1] Piotrowski, Suzanne. 2015. Survey of US Government Points of Contact for US Second National Open Government Action Plan. School of Public Affairs and Administration, Rutgers University-Newark.
[2] USAID Cost management plan: http://www.usaid.gov/sites/default/files/documents/1870/IATI%20Cost%20Management%20Plan_u_14July2015.pdf
[3] Civil society members have already made specific recommendations for USAID which can be found here: http://www.interaction.org/blog/what-we%E2%80%99re-hoping-see-next-release-usaid-data
[4] 2015. Civil Society Progress Report: Second Check-In on the Implementation of the United States' Second Open Government National Action Plan. Washington, DC: OpenTheGovernment.org.
[5] While not within the official timeframe of this report, in July 2015, USAID published such a plan: http://www.usaid.gov/documents/1870/usaid-iati-cost-management-plan

15 | PERFORMANCE.GOV

Continue to Improve Performance.Gov

Performance.gov provides a window to the public on the Administration's efforts to create a government that is more effective, efficient, innovative, and responsive. The Federal Government improved the website by publishing regular progress updates on agency and cross-agency goals. In 2014, the Federal Government will add new performance goals with implementation strategies as well as enhanced website functionality, such as data exports, to make the information more accessible and useable.

Responsible Institution: Office of Management and Budget

Supporting Institution(s): All Agencies covered by the Chief Financial Officers Act of 1990

Start Date: 1 January 2014 *End Date: 31 December 2014*

	SPECIFICITY				OGP VALUE RELEVANCE				POTENTIAL IMPACT				COMPLETION			
	None	Low	Medium	High	Access to Information	Civic participation	Pubilc Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
15. Performance.gov			✗		✗			✗		✗					✗	

WHAT HAPPENED?

Performance.gov provides a window into the Administration's approach to improving performance and accountability, with the ultimate aim of cutting waste, saving money, and better serving the American people.

Substantial progress has been made on this commitment, even though it is not clear how Performance.gov is meeting its objective of enabling federal agencies to clarify priorities and operate more effectively.

In February 2015, agencies added their new annual performance plans and reports to Performance.gov, according to the government self-assessment. Furthermore, agencies have reported on progress of the agency and cross-agency priority goals on a quarterly basis, allowing the public to monitor whether and to what extent the goals are met. Twenty-four major federal agencies have added new agency priority goals with a 2-year time horizon. In addition, fifteen new cross-agency priority goals with a 4-year time horizon have been added to the website, which target areas where there is a need for coordination among agencies.[1] The new cross-agency priority goals include seven mission-oriented goals such as cybersecurity, climate change, and job creating investment and eight management-focused goals such as smarter IT delivery and improved customer service.[2]

Furthermore, export functionality of Performance.gov has been improved for users to access more data in a machine-readable format, according to the government self-assessment.

DID IT MATTER?

The goal-focused, data-driven management approach has the potential to enable federal agencies to clarify priorities and operate more effectively. It is not clear though how Performance.gov is meeting this objective. Experts in the field found the website added little value

with the level of aggregation a problem. The interface was perceived as clumsy and reminiscent of the old Program Assessment Rating Tool (PART) management systems, a set of questionnaires developed by the Bush Administration to assess the effectiveness of federal programs.

The biggest limitation of this site is the absence of actual performance data that speaks to the agencies' measurement and reporting efforts. Information is presented in PDF form. There is no raw data to analyze, no time comparison, and no interpretation for the lay user. A stakeholder questioned who the intended user of this site was, since the interface did not seem appropriate for the general public.

MOVING FORWARD

The IRM researcher recommends that as the US government moves forward on this project, they should renew their efforts to have exportable data available of not just the goals but the agency data tracking performance of these goals. In addition to exportable data, the information should be presented in such a way that the general public can consume it and make informed conclusions on agency and subunit performance. The interactive dashboard and comparative analysis approaches of websites such as foreignassistance.gov is much more user friendly in this respect.

[1] Performance.gov. 2015. "Using Goals to Improve Performance and Accountability." Accessed April 13, 2015. http://www.performance.gov/clear_goals?page=1&stra_goal=0&prio_goal=1&fed_goal=0&goal_type=APG.
[2] Performance.gov. 2015. "Cross-Agency Priority Goals." Accessed April 13, 2015. http://www.performance.gov/cap-goals-list?view=public.

16 | IMPORT AND EXPORT SYSTEMS

Consolidate Import and Export Systems to Curb Corruption

The Administration will develop guidelines for directing the consolidation of United States import/export systems to a "single window" platform to streamline business and regulatory transactions, promote transparency, and keep America competitive, safe, and secure.

Responsible Institution: Department of Homeland Security, Customs and Border Protection (CBP)

Supporting Institution(s): Other agencies with authority regarding border issues such as Department of Defense and Department of the Interior

Start Date: Not Specified *End Date: Not Specified*

	SPECIFICITY				OGP VALUE RELEVANCE				POTENTIAL IMPACT				COMPLETION			
	None	Low	Medium	High	Access to Information	Civic participation	Pubilc Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
16. Import and Export Systems		✗			✗			✗		✗					✗	

WHAT HAPPENED?

Substantial progress has been made on the commitment to develop guidelines for creating a consolidated platform for the U.S. import/export systems.

In February 2014, President Obama signed the Executive Order on Streamlining the Export/Import Process for America's Businesses, which directs federal agencies involved in trade to develop an "electronic single window platform" consolidating import/export systems in the U.S. by December 2016, according to an internet archive search by the IRM researcher. The Automated Commercial Environment (ACE), which will become the single window platform for import and export requirements, is in the process of development by the U.S. Customs and Border Protection (CBP) in collaboration with a number of federal agencies.[1] A specific guideline for developing and implementing ACE is publicly available on the CBP website.

DID IT MATTER?

The electronic single window platform which will be implemented through ACE will allow traders to file information once, to one system, as opposed to the current system that often requires importers and exporters to "submit information to multiple agencies, multiple times through processes that are largely paper-based and manual."[2] ACE will not only streamline transactions and promote transparency but by accessing a single site of regulatory information the international trade community will be able to more easily and efficiently comply with U.S. trade laws and regulations.

MOVING FORWARD

The US Government should continue its work on this area to meet the 2016 deadline. As stated in the government self-assessment, the CBP should also continue to reach out directly to the trade community.

[1] U.S. Customs and Border Protection. 2015. "Automated Commercial Environment: ACEopedia." http://www.cbp.gov/sites/default/files/documents/ACEopedia%20January%202015.pdf.
[2] U.S. Department of Homeland Security. 2015. "Importance of the Single Window." http://www.cbp.gov/sites/default/files/documents/singlewindow_infographic_3-4-14.pdf.

17 PARTICIPATORY BUDGETING

Promote Public Participation in Community Spending Decisions

Participatory budgeting allows citizens to play a key role in identifying, discussing, and prioritizing public spending projects, and gives them a voice in how taxpayer dollars are spent. Several communities around the country, such as Chicago, New York, San Francisco, and Vallejo, already have had success in, or are currently planning, participatory budgeting processes to help determine local budgeting priorities. One way participatory budgeting can be utilized by cities is through eligible Department of Housing and Urban Development Housing and Community Development funds, which can be used to promote affordable housing, provide services to the most vulnerable citizens, and create jobs through the expansion and retention of businesses. In 2014, the Administration will work in collaboration with the Strong Cities, Strong Communities initiative (SC2), the National League of Cities, non-profit organizations, philanthropies, and interested cities to: create tools and best practices that communities can use to implement projects; raise awareness among other American communities that participatory budgeting can be used to help determine local investment priorities; and help educate communities on participatory budgeting and its benefits.

Responsible Institution: Office of Science and Technology Policy (OSTP), Department of Housing and Urban Development (HUD)

Supporting Institution(s): Strong Cities, Strong Communities initiative (SC2), the National League of Cities, non-profit organizations, philanthropies, and interested cities

Start Date: 1 January 2014 *End Date: 31 December 2014*

	SPECIFICITY				OGP VALUE RELEVANCE				POTENTIAL IMPACT				COMPLETION			
	None	Low	Medium	High	Access to Information	Civic participation	Pubilc Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
17. Participatory Budgeting			✗			✗				✗				✗		

WHAT HAPPENED?

Some progress has been made but there is a lack of continued effort to promote participatory budgeting.

To further this commitment, in May 2014 the Office of Science and Technology Policy (OSTP) hosted a meeting on best practices for participatory budgeting, bringing together local officials, staff, residents, researchers, civil society, and other organizations leading the efforts to promote participatory budgeting, according to the government self-assessment.[1] The purpose of the meeting was to "share lessons learned and discuss how to deepen and scale up" the practice of participatory budgeting.[2]

Furthermore, in order to encourage local governments to use participatory budgeting in allocating Community Development Block Grants and other HUD funds, the Department of Housing and Urban Development (HUD), in collaboration with a civil society team, created a new participatory budgeting resources page on its website. According to the review of the page by the

IRM researcher, it contains the links to the information regarding basic steps in a participatory budgeting process as well as examples of the U.S. cities in which participatory budgeting practices have been successfully implemented.

However, after the May 2014 convening, no further efforts to collaborate with multiple stakeholders to promote public participation in community spending have been identified by the IRM researcher.

DID IT MATTER?

Participatory budgeting initiatives have the potential to give citizens direct control over some portion of government funds spent in their community. According to the civil society members interviewed on this commitment, the multi-stakeholders meeting held in May 2014 was "helpful for building the legitimacy of participatory budgeting, and encouraging more officials to use the practice.[3]" For example, some interested communities are exploring participatory budgeting for the first time with Federal funds through their Community Development Block Grant or HOME Investment Partnerships Program community engagement processes[4].

MOVING FORWARD

According to the civil society members working on participatory budgeting, more collaboration and communication among representatives from communities across the country is necessary to move this commitment forward. There needs to be more concerted efforts at monitoring participatory budgeting pilots and measuring their success over time. This is a goal that will require significantly more investment of time and resources, as well as awareness raising of what exactly participatory budgeting is and what it can achieve. The May convening was a good first step but it is not enough; thus, the Administration should take more actions to promote participatory budgeting[5].

[1] Overmann, Lynn, and Vivian Graubard. 2014. "Promoting Innovation in Civic Engagement: Celebrating Community-Led Participatory Budgeting." Accessed April 13, 2015. https://www.whitehouse.gov/blog/2014/06/02/promoting-innovation-civic-engagement-celebrating-community-led-participatory-budget.

[3] 2015. Civil Society Progress Report: Second Check-In on the Implementation of the United States' Second Open Government National Action Plan. Washington, DC: OpenTheGovernment.org.

[3] 2015. Civil Society Progress Report: Second Check-In on the Implementation of the United States' Second Open Government National Action Plan. Washington, DC: OpenTheGovernment.org.

[4] 2015. United States of America Midterm Self-Assessment Report for the Open Government Partnership Second Open Government National Action Plan 2013-2015. edited by The US Government. Washington, DC.

[5] Piotrowski, Suzanne. 2015. Survey of US Civil Society Organization Points of Contact for US Second National Open Government Action Plan. School of Public Affairs and Administration, Rutgers University-Newark.

18 | VISA SANCTIONS

Expand Visa Sanctions to Combat Corruption

In early 2014, the U.S. Government will launch an interagency process to explore ways to strengthen U.S. efforts to deny safe haven to corrupt individuals. These efforts include the possibility of strengthening the Presidential Proclamation that denies safe haven in the United States to those who have committed, participated in, or were beneficiaries of corrupt practices in performing public functions. Although this 2004 Proclamation has proven useful in denying safe haven to kleptocrats and their associates and families, experience with its enforcement has revealed several potential areas for enhancement that the Administration will continue to explore.

Responsible Institution: Department of State, Department of Justice, U.S. Treasury

Supporting Institution(s): None

Start Date: Not Specified *End Date: Not Specified*

	SPECIFICITY				OGP VALUE RELEVANCE				POTENTIAL IMPACT				COMPLETION			
	None	Low	Medium	High	Access to Information	Civic participation	Pubilc Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
18. Visa Sanctions		✗			Unclear					✗				✗		

WHAT HAPPENED?

Limited progress has been made on the commitment to strengthen the Presidential Proclamation that denies safe haven to those who have committed, participated in, or were beneficiaries of corrupt practices in performing public function.

According to the government self-assessment, Congress expanded "the existing corruption visa ineligibilities covered under Section 7031(c) of the Foreign Operations and Related Programs Appropriations Act."[1] No information on the state of this initiative was identified through the IRM researcher's own research or CSO input.

In addition, the United States' efforts to curb corruption by imposing visa sanctions to foreign officials who show strong evidence of corruption or violation of human rights have been furthered by a series of executive orders signed by President Obama from early 2014 to the present. For example, President Obama has issued executive orders to further impose visa restrictions on Russian officials responsible for violating the sovereignty of Ukraine (March 2014), on ten members of Hungarian officials (October 2014), and on Venezuelan officials (March 2015) accused of violating human rights of anti-government protesters.[2]

DID IT MATTER?

While this commitment touches on a potentially important issue, the US government has made little progress to further the issue . At this point it is unclear what the extent of the impact of this commitment will be in practice.

MOVING FORWARD

The US government should revise this commitment to ensure that public information access and public accountability are core parts of the goal of exposing international corruption and preventing individual perpetrators from taking safe harbor in the United States. As is stands the relevance to open government is unclear.

[1] 2015. United States of America Midterm Self-Assessment Report for the Open Government Partnership Second Open Government National Action Plan 2013-2015. edited The US Government. Washington, DC. p.21

[2] Pace, Julie, and Joshua Goodman. 2015. "Obama Levies Sanctions on 7 Venezuelan Officials." *US News and World Report.*

[3] According to government feedback on an earlier draft of this report, some progress has been made in 2015 and will be reflected in the end of term report. According to that document, interagency processes to expand visa sanctions to combat corruption have been launched, and have resulted in a decision to increase State Department staffing to support the application of visa ineligibilities. The 2015 Quadrennial Diplomacy and Development Review elevates visa actions as a tool, and the Anticorruption Policy and Program Guide released by the INL Bureau further sensitizes officers to this tool. The State Department is also increasing the number of briefings for embassy officers and desks to stimulate more cases. The United States is also sponsoring an October 2015 meeting of experts in the area of G-20 denial of entry to further awareness and cooperation in this area.

19 | PUBLIC PARTICIPATION IN RULEMAKING

Further Expand Public Participation in the Development of Regulations

The Administration continues to promote public participation in rulemaking, which covers such diverse subjects as energy, education, homeland security, agriculture, food safety, environmental protection, health care, and airline and automobile safety. Regulations.gov and a related underlying electronic Federal Docket Management System (FDMS) support the rulemaking processes at most Administration and many independent regulatory agencies, and are designed to make it easier for the public to comment on proposed regulations and for government agencies to post those proposed rules online. The online platform currently allows the public to view and comment on proposed rules, and includes associated data in the docket that can be searched and downloaded. The Administration will:

- **Make Commenting on Proposed Rulemakings Easier.** The eRulemaking Program Management Office (PMO), which leads Regulations.gov and the FDMS, will explore launching an API to allow the public to comment on proposed regulations using third-party websites.
- **Continue Proactive Outreach with Stakeholders.** To be responsive to non-government users of Regulations.gov, the PMO will continue to proactively engage and meet with outside stakeholder groups to obtain input on how best to improve the website.
- **Make Regulations Easier to Read.** The Consumer Financial Protection Bureau launched an open source pilot to make regulations easier to read and understand. Based on the performance of the pilot, the model will be considered for potential expansion to other agencies.[1]

Responsible Institution: Office of Management and Budget (OMB)

Supporting Institution(s): Environmental Protection Agency (EPA), General Services Administration (GSA), National Archives and Records Administration (NARA), and Consumer Financial Protection Bureau (CFPB)

Start Date: Not Specified *End Date: Not Specified*

	SPECIFICITY				OGP VALUE RELEVANCE				POTENTIAL IMPACT				COMPLETION			
	None	Low	Medium	High	Access to Information	Civic participation	Pubilc Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
19. Public Participation in Rulemaking		✗				✗		✗		✗					✗	
19.1. Public Participation in Rulemaking		✗				✗		✗		✗						✗
19.2. Stakeholder Outreach		✗				✗				✗					✗	
19.3. Regulations		✗				✗		✗		✗						✗

WHAT HAPPENED?

The first milestone is completed but further efforts are needed for the other two milestones.

Several updates have been made to Regulations.gov website in response to the First National Action Plan. For example, the e-Rulemaking Program Management Office (PMO) created read-only automated programming interface (API), which allows users to access comments and notes on the Regulations.gov through third-party websites.[2] To further expand public participation in federal agency rulemaking, the interagency eRulemaking team developed a new commenting API, which enables the public to comment on proposed regulations using third-party websites, according to the government self-assessment. The new API is currently available to the e-Rulemaking Program's partner agencies and partner agency sponsored organizations.[3] Initial reports suggest that eRulemaking has led to a vast jump in the number of public comment on proposed regulations.[4]

Substantial ongoing progress has been made on the second milestone. According to the government self-assessment, the eRulemaking team has continuously reached out to civil society stakeholders for input in making improvements with Regulations.gov and civil society members interviewed on this commitment have positively assessed the progress that Regulations.gov has made.[5]

The milestone to expand Consumer Financial Protection Board's open source pilot to make regulations easier to read and understand is on track to be complete in 2015. In 2012, the Consumer Financial Protection Bureau (CFPB) shared its software code with the public for any development project it or its contractors have built through its open source pilot.[6] CFPB and General Services Administration (GSA) have worked and will continue to work together to explore opportunities for potential expansion of CFPB's open source pilot to other agencies, according to the government self-assessment.

DID IT MATTER?

Regulations.gov generally receives positive feedback from stakeholders. The Civil Society Progress Report states that Regulations.gov has evolved "in ways that make it easier for people to find open rulemakings, review relevant documents, and submit their comments." With that said, with respect to regulation development, much more is possible in this realm. Currently commenting happens at the end of regulation development process; thus, public input may have minimal impact on developing regulations. Changing the very nature of the process and when input in solicited could have a real impact on the nature of the regulations developed.

MOVING FORWARD

As the US government continues to work in this area, the IRM researcher suggests the following areas for further action.

- In order to obtain input from various stakeholders on how best to improve the functionality of Regulation.gov and make regulations easier to read and understand, PMO should carefully assess and make improvements to the performance of the Open Source Pilot launched by the Consumer Financial Protection Bureau, thereby expanding the program to other agencies.
- US government should start a discussion on how to incorporate stakeholder feedback prior to the drafting process of regulations. The possibility of in-person and virtual deliberative forums should be explored. The goal would be to get feedback in earlier stages of regulation development, such as comments on what type of areas need regulatory adjustment.
- The US government should continue proactive outreach with stakeholders on how to improve regulations.gov.

[1] This commitment included three specific, related milestones that are analyzed here together.
[2] 2011. The Open Government Partnership The National Action Plan of the United States. edited by The US Government. September 20, 2011.
[3] Data.gov. 2015. "Regulations.gov API." Accessed April 17, 2015. http://api.data.gov/docs/regulations/.
[4] 2014. The Center for Democracy and Technology. "Wall Street Journal: Federal Agencies Are Flooded by Comments on New Rules." Accessed June 17, 2015. https://cdt.org/press/wall-street-journal-federal-agencies-are-flooded-by-comments-on-new-rules/
[5] 2015. Civil Society Progress Report: Second Check-In on the Implementation of the United States' Second Open Government National Action Plan. Washington, DC: OpenTheGovernment.org.
[6] 2015. "CFPB Source Code Policy." Github Accessed April 17, 2015. http://cfpb.github.io/source-code-policy/.

20 | OPEN DATA

Open Data to the Public

Open Data fuels innovation that grows the economy and advances government transparency and accountability. Government data has been used by journalists to uncover variations in hospital billings, by citizens to learn more about the social services provided by charities in their communities, and by entrepreneurs building new software tools to help farmers plan and manage their crops. Building upon the successful implementation of open data commitments in the first NAP, the second NAP will include commitments to make government data more accessible and useful for the public. Through these commitments, the United States will:

- **Manage Government Data as a Strategic Asset.** In an effort to make U.S. Government data more accessible and useful, Federal agencies will develop an inventory of their data and publish a list of datasets that are public or can be made public. Agencies will also develop new mechanisms to solicit public feedback regarding open government data.
- **Launch an Improved Data.gov.** Data.gov allows the public to easily find, download, and use data collected or created by the Federal Government. The United States will launch a new version of Data.gov to make it even easier to discover, understand, and use open government data. The new Data.gov will index all Federal agency datasets in one easy-to-use catalog. This new website will help developers, researchers, journalists, and other stakeholders find data and will help the public more easily find tools and resources to access Government services.
- **Open Agriculture and Nutrition Data.** Global development, agriculture, and health have been a key focus of the Administration's Open Data Initiatives. To expand these efforts internationally, the United States, in partnership with the United Kingdom, established the Global Open Data on Agriculture and Nutrition (GODAN). GODAN aims to increase the quality, quantity, and timeliness of available data to support agriculture and nutrition efforts - as well as to increase the number and diversity of stakeholders who are applying data-based solutions to improve agriculture and nutrition. This initiative will support public and private global efforts to make agriculture and nutrition data more available and easier to access. The United States will create an interagency group that will promote open data efforts in the public and private sectors and encourage new efforts to release agriculture and nutrition data.
- **Open Natural Disaster-Related Data to Support Response and Recovery Efforts.** Government data is used to help first responders and survivors make better-informed decisions during the chaos of a natural disaster. Expanding the amount of natural disaster-related open government data will increase awareness of the effects of natural disasters and improve disaster relief and recovery efforts. FEMA, through its OpenFEMA initiative, will release new disaster-related data in a machine-readable format and host workshops to build tools that support first responders, survivors, and impacted communities.

Responsible Institution: Office of Management and Budget (OMB)

Supporting Institution(s): Environmental Protection Agency (EPA), General Services Administration (GSA), National Archives and Records Administration (NARA), and Consumer Financial Protection Bureau (CFPB)

Start Date: Not Specified *End Date: Not Specified*

	SPECIFICITY				OGP VALUE RELEVANCE				POTENTIAL IMPACT				COMPLETION			
	None	Low	Medium	High	Access to Information	Civic participation	Pubilc Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
20. Open Data				✗	✗			✗			✗				✗	
20.1. Inventory of Data				✗	✗					✗					✗	
20.2. Data.gov				✗	✗			✗		✗						✗
20.3. Open Agriculture and Nutrition Data				✗	✗					✗				✗		
OpenFEMA			✗		✗			✗		✗					✗	

Editorial note: Under the old criteria of starred commitments, this commitment would have received a star because it is clearly relevant to OGP values as written, has moderate potential impact, and has been substantially or completely implemented. Note that IRM updated the star criteria in early 2015 to only apply to commitments with transformative potential impact.

WHAT HAPPENED?

There has been substantial progress made on open data milestones, except for the milestone to open more agriculture and nutrition data.

The Office of Management and Budget (OMB) has been using a public dashboard to monitor agency compliance on developing inventory of their data and publishing a list of datasets that are public or could be made public, according to both the government self-assessment and civil society progress report. A full inventory of datasets is available quarterly for all federal agencies consistent with the OMB Open Data Policy. According to the review of the public dashboard by the IRM researcher, the majority of the Chief Financial Officers (CFO) ACT agencies have met their key milestones on time.

The milestone to launch an improved Data.gov has been fulfilled. Data.gov has implemented a new version of catalog CKAN in January 2014, which consolidates all datasets in a single catalog, according to government survey response. The new catalog "features a number of improvements, such as an improved search that helps users find all the datasets for a particular location, such as zip code, better sorting and tagging of datasets, and improved metadata"[2] and "is updated daily with the open datasets made available by federal agencies," according to a government lead on this commitment.[3]

The government self-assessment states that an interagency team has been established to encourage new efforts to release agriculture and nutrition data. According to the civil society members interviewed, however, the only noticeable effort made by the Administration to open more agriculture and nutrition data is encouraging relevant organizations to join the Global Open Data on Agriculture and Nutrition

(GODAN). GODAN has partnered with more than 100 public and private entities including donors, international organizations and businesses and GODAN expects - though not mandates - the partner entities to use the GODAN Statement of Purpose to guide current and future open data operations on agriculture and nutrition.[4]

Lastly, substantial progress has been made on the milestone to expand access to existing open data about natural disasters. The Federal Emergency Management Agency (FEMA) has offered some of its public data in a machine-readable format via an Application Programming Interface (API), according to the government self-assessment. New datasets released by FEMA include Disaster Declarations Summaries (i.e., a summarized dataset describing all federally declared disasters), OpenFEMA datasets, and more, according to the review of the FEMA website by the IRM researcher. Furthermore, the government self-assessment states that FEMA has also hosted several workshops and meetings with civil society stakeholders "to help spur the creation of tools and products to support disaster survivors, first responders, and impacted communities" and launched a data visualization tool in January 2015.

DID IT MATTER?

The impact and reach of these milestones varies. Below are some general thoughts on each:

- Some inside and outside of government hold the skeptical view that the milestone on managing government data as a strategic asset is a reiteration of existing policy; thus, the commitment has not contributed to further opening federal data to the public.
- Some positive outcomes are expected as a result of the transformation of Data.gov. A newly launched Data.gov would not only increase the amount of data available to the public but also allow users to easily find and utilize public data of all levels of government.
- Although the GODAN initiative encourages its partner agencies to further open data on agriculture and nutrition, there are no mandatory requirements for partnering organizations, nor for the USDA in particular.
- FEMA's efforts to further open data regarding historic records of natural disasters will enable citizens and emergency services to understand and prepare for the effects of natural disasters at the state and local level.

MOVING FORWARD

Several suggestions came out of the stakeholder meetings with civil society members working on this commitment and other experts consulted, which include:

- The US government should work to manage government data as a strategic asset. To reach this goal agencies should:
  - make full inventories of datasets available quarterly, subject appropriate redactions; and
  - develop and implement plans to improve data quality generally.
- The US government should provide more comprehensive and accurate data listings on the Data.gov and more "non-public" datasets should be released [5].
- All agencies should deposit on Data.gov all of their public notices, regardless of scale. Currently a limited number are notices are posted in the federal register. One comprehensive, online source for all public notices, regardless of their scale, would provide easier and more thorough access.
- The US government should provide a community friendly forum on Data.gov where people can ask post and answer questions. Such a tool should be useful for members of the general public with basic technology skills.
- All publically availably federal data sets, including those on Data.gov, should be in a machine-readable format.
- A best practice standard should be developed and published on which machine-readable formats for datasets are preferable.

[1] This commitment included four specific milestones that are analyzed here together.
[2] 2015. "What's New." Data.gov Accessed April 17, 2015. https://www.data.gov/whats-new.
[3] Piotrowski, Suzanne. 2015. Survey of US Government Points of Contact for US Second National Open Government Action Plan. School of Public Affairs and Administration, Rutgers University-Newark.
[4] 2015. "The AIMS Community." Agriculture Information Management Standards Accessed April 17, 2015. http://aims.fao.org/community/blogs/1opening-data-agriculture-and-nutritdion-godan-initiative#.VHVlMzSG_xI.
[5] 2015. Civil Society Progress Report: Second Check-In on the Implementation of the United States' Second Open Government National Action Plan. Washington, DC: OpenTheGovernment.org.

21 | EXPERTNET

Open Data to the Public

Expert networking platforms offer the potential for Government officials to find and connect with Federal colleagues, academic researchers, or members of the general public that have specialized skills or unique expertise. The pilot program ExpertNet, launched by the Food and Drug Administration to connect Federal experts with each other and with citizens who have expertise on a pertinent topic, will be expanded in 2014. The Environmental Protection Agency and U.S. Department of Agriculture are also working to leverage a similar networking platform to enable collaboration and discovery among researchers and scientists. The Administration will work with the research community to assess the impact of expert networking and will convene agencies to identify best practices.

Responsible Institution: Food and Drug Administration (FDA), Environmental Protection Agency (EPA), United States Department of Agriculture (USDA)

Supporting Institution(s): Members of academic community and other researchers

Start Date: 1 January 2014 *End Date: 31 December 2014*

	SPECIFICITY				OGP VALUE RELEVANCE				POTENTIAL IMPACT				COMPLETION			
	None	Low	Medium	High	Access to Information	Civic participation	Pubilc Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
21. Expertnet		✗				✗				✗			✗			

WHAT HAPPENED?

It appears that a limited amount of work has been done on this commitment.[1]

Creating a government portal where citizen experts can communicate with government officials was a withdrawn commitment in the First National Action Plan for practical reasons. This commitment was rolled over into the Second National Action Plan. In this plan the aims are at creating expert networking platforms *within* agencies such as ExpertNet launched by the Food and Drug Administration (FDA). According to the government self-assessment, "FDA has begun expanding its pilot to include other parts of the agency" and "a working group began drafting best practices with civil society consultation." However, civil society members interviewed on this commitment state that there is "no apparent momentum towards meeting this commitment."[2] Furthermore, the IRM researcher is uncertain whether the FDA's ExpertNet pilot program is currently in use since it is hard to access the program via online search.

DID IT MATTER?

As mentioned in the civil society progress report (June 2014), no apparent progress has been made on expanding government expert networking platforms. And it is even unclear that the existing expert platform like FDA's ExpertNet has been used in a meaningful way. The potential impact of this initiative appears limited. At this time, the actual impact of this commitment is impossible to discern.

MOVING FORWARD

Prior to forcing agencies to employ expert networking platforms such as ExpertNet introduced by FDA, the administration should work with the research community to assess the impact of expert networking, as stated in the commitment, and to find effective ways to design and implement such programs. The IRM researcher suggests dropping this topic from the next national action plan.

22 | FEDERAL WEBSITES

Reform Government Websites

More citizens seek government information through the internet than any other source. In addition to continuing to be accessible, government websites should be easy to find, use, and navigate. The Administration will continue to work to implement its Digital Government Strategy to improve Federal websites and to promote a more citizen-centered government. These efforts will include revising and updating OMB policies for Federal Agency websites in 2014.

Responsible Institution: Office of Management and Budget (OMB), General Services Administration (GSA)

Supporting Institution(s): All federal agencies

Start Date: 1 January 2014 *End Date: 31 December 2014*

	SPECIFICITY				OGP VALUE RELEVANCE				POTENTIAL IMPACT				COMPLETION			
	None	Low	Medium	High	Access to Information	Civic participation	Pubilc Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
22. Federal websites			✗		✗			✗		✗					✗	

WHAT HAPPENED?

The Office of Management and Budget (OMB) has made substantial efforts to provide guidance on best practices for improving government websites; however, the commitment to complete the revisions to OMB policies has been postponed to 2015.

In response to the First National Action Plan, the White House issued the Digital Government Strategy in 2012 to improve the design and management of government websites. However, the commitment to revise and update the 10-year-old OMB Memorandum (M-05-04) on agency websites has been carried over to the Second National Action Plan and still has not been completed. According to government leads on this commitment, the revision of OMB policies is expected to be done by 2015.[1]

Despite the fact that the actual revision of OMB policies for federal agency websites is yet to be done, some noticeable efforts have been made to provide guidance for improving the websites, according to the government self-assessment. In August 2014, the White House released the U.S. Digital Service Playbook drawn from successful best practices from the private sector and government. Along with the playbook TechFAR Handbook was launched, which explains "how agencies can innovate and execute key plays from the Playbook in ways consistent with Federal Acquisitions Regulations."[2]

DID IT MATTER?

As noted in the 2015 civil society progress report, some of the government websites are still not easy to use and navigate, particularly in terms of downloading data such as the Foreign Agents Registration Act (FARA) database. The playbook and handbook seem to provide useful information on best practices to improve government websites; however, it is unclear

whether and to what extent federal agencies are aware of it and are actually employing the strategies provided to improve their websites. Because of these issues, the actual impact of this commitment appears to be minimal.

MOVING FORWARD

Going forward, the IRM researcher believes that the US government could do a few things to improve in this area.

- The OMB should make efforts to update OMB policies "to better reflect modern customer-centric approaches to websites"[3] and make those publicly available in 2015.
- There should be a campaign to increase the awareness and use of the guidance on best practices – the U.S. Digital Service Playbook and TechFAR Handbook.

[1] Piotrowski, Suzanne. 2015. Survey of US Government Points of Contact for US Second National Open Government Action Plan. School of Public Affairs and Administration, Rutgers University-Newark.
[2] 2015. United States of America Midterm Self-Assessment Report for the Open Government Partnership Second Open Government National Action Plan 2013-2015. edited by The US Government. Washington, DC.
[3] 2015. United States of America Midterm Self-Assessment Report for the Open Government Partnership Second Open Government National Action Plan 2013-2015. edited by The US Government. Washington, DC.

23 | PUBLIC COLLABORATION

Promote Innovation Through Collaboration and Harness the Ingenuity of the American Public

Creating a more Open Government and addressing our Nation's most challenging issues requires an informed and active citizenry. Recognizing the value of the American public as a strategic partner in addressing some of the country's most pressing challenges, the United States will work to more effectively harness the expertise, ingenuity, and creativity of the American public by enabling, accelerating, and scaling the use of open innovation methods across the Federal Government, including commitments to:

- **Create an Open Innovation Toolkit.** In 2014, the Administration will convene an interagency group to develop an "open innovation toolkit" for Federal agencies that will include best practices, training, policies, and guidance on authorities related to open innovation, including approaches such as incentive prizes, crowdsourcing, and citizen science.
- **New Incentive Prizes and Challenges on Challenge.gov.** The U.S. Government champions the use of challenges, prizes, and competitions to catalyze breakthroughs in national priorities. Launched on September 2010, Challenge.gov has hosted more than 300 crowdsourcing competitions, and the platform has been used by more than 50 Federal departments and agencies. The website will continue to provide public listings of new competitions offered by the Administration to engage citizens in solving difficult problems to help agencies achieve their missions.
- **Increased Crowdsourcing and Citizen Science Programs.** Public participation in scientific research, one type of crowdsourcing known as "citizen science", allows the public to make critical contributions to the fields of science, technology, engineering, and math by collecting, analyzing, and sharing a wide range of data. The Administration will expand its use of crowdsourcing and citizen science programs to further engage the public in problem-solving. For example, the National Aeronautics and Space Administration (NASA) will seek to drastically increase the number of asteroid observations by the amateur astronomer community as part of the Asteroid Grand Challenge. NASA will also launch the third International Space Apps Challenge in 2014, building upon the previously successful International Space Apps Challenges to continue to use publicly-released data to solve global challenges. In addition, the Environmental Protection Agency will expand its citizen science activities, such as leveraging crowdsourcing to monitor water quality; NARA will increase its citizen archivist crowdsourcing projects that make records more accessible online to include captioning of historical films and transcription of other Federal records by the public; and the U.S. Geological Survey will expand its National Map Corps program to use public input to improve the National Map.[1]

Responsible Institution: Office of Science and Technology Policy (OSTP), Environmental Protection Agency (EPA), Department of Health and Human Services (HHS), National Archives and Records Agency (NARA), Office of Personnel Management (OPM), U.S. Agency for International Development (USAID)

Supporting Institution(s): National Aeronautics and Space Administration (NASA), U.S. Geological Survey

Start Date: 1 January 2014 *End Date: 31 December 2014*

	SPECIFICITY				OGP VALUE RELEVANCE				POTENTIAL IMPACT				COMPLETION			
	None	Low	Medium	High	Access to Information	Civic participation	Pubilc Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
23. Public Collaboration			✗		✗	✗		✗			✗				✗	
23.1. Open Innovation Toolkit				✗		✗		✗		✗					✗	
23.2. Data.gov			✗		✗	✗		✗		✗					✗	
23.3. Citizen Science Programs			✗			✗		✗			✗				✗	

Editorial note: Under the old criteria of starred commitments, this commitment would have received a star because it is clearly relevant to OGP values as written, has moderate potential impact, and has been substantially or completely implemented. Note that IRM updated the star criteria in early 2015 to only apply to commitments with transformative potential impact.

WHAT HAPPENED?

Substantial progress has been made on the milestones to further engage the public in problem-solving through innovative approaches such as incentive prizes, crowdsourcing, and citizen science.

An interagency group of experts is developing the Open Government Toolkit.[2] According to the review of a White House Blog post by the IRM researcher, in November 2014, the Office of Science and Technology Policy (OSTP) and the Challenges and Prizes Community of Practice hosted a workshop to kick off developing the Open Innovation Toolkit. The members of Federal Community of Practice on Crowdsourcing and Citizen Science (FCPCCS) participated and shared their thoughts on the types of tools, recourses and networks needed to implement citizen science and crowdsourcing projects. The OSTP plans to hold another round of similar workshop in 2015.

Challenge.gov has continued to host crowdsourcing contests that solicit ideas and concepts from the public, according to the government self-assessment. Since its launch in 2010, the website has hosted nearly 400 crowdsourcing competitions and the platform has been used by more than 70 Federal departments and agencies.[4] Furthermore, the website won the Innovations in American Government Award "in honor of exemplary service and creativity in the public interest."[5]

Lastly, some federal agencies have made continuous efforts to expand their use of crowdsourcing and citizen science projects, according to government leads on this commitment.[6] For example, the National Archives and Records Administration (NARA) launched a captioning tool for historical films and new crowdsourcing programs, along with a public commenting API for a new version of the National Archives Catalog. The Environmental Protection Agency created an Air Sensor Toolbox that allows citizens to monitor local air pollution. And the National Map Corps, consists of volunteers who provide cartographic information to the U.S. Geological Survey (USGS), is continuously adding structures data (e.g., schools, hospitals, post offices, police stations and other important public buildings) to the USGS which would not otherwise be available.

DID IT MATTER?

The White House argues that open innovation tools such as citizen science and crowdsourcing can help federal agencies (a) advance and accelerate scientific research through group discovery and co-creation of knowledge; (b) increase science literacy and provide students with skills needed to excel in science, technology, engineering, and math (STEM); (c) improve delivery of government services with significantly lower resource investments; and (d) connect citizens to the missions of federal agencies by promoting a spirit of open government and volunteerism.[7] The IRM researcher agrees that there are possible gains for citizen science to be made from using these tools. It will take a period of time to truly understand what the impacts (positive or negative) and gains are from using these new collaborative tools. Of the initiatives, the Environmental Protection Agency's citizen science programs has the highest potential impact (in comparison to the positive–but incremental–initiatives by NARA and USGS). Consequently, this activity was given a rating of "moderate potential impact."

One civil society member cautioned about the overreliance on crowdsourcing to perform government services. There was a concern about the quality of the data gathered through crowdsourcing and the controls placed on the process. The crowdsourcing has lots of potential but needs to be applied carefully in a variety of policy areas.

MOVING FORWARD

When moving forward on these initiatives, the IRM researchers suggests the US government should explore other policies areas where crowdsourcing could it be applied. They should also work to increase public awareness of these innovative tools. A civil society member working on this commitment recommended that a clearing house of all opportunities of where the public and different stakeholders can engage with the government agencies could be developed. There was a sense that the public would be more involved in these projects if they knew where to find information on them. A possibly clearing house could have an associate app to inform the public of engagement activities that were of interest to them.

[1] This commitment included three specific, related milestones that are analyzed here together.
[2] 2015. United States of America Midterm Self-Assessment Report for the Open Government Partnership Second Open Government National Action Plan 2013-2015. edited by The US Government. Washington, DC.
[3] Gustetic, Jenn, Lea Shanley, Jay Benforado, and Arianne Miller. 2014. "Designing a Citizen Science and Crowdsourcing Toolkit for the Federal Government." Last Modified December 2, 2014 Accessed April 17, 2015. https://www.whitehouse.gov/blog/2014/12/02/designing-citizen-science-and-crowdsourcing-toolkit-federal-government.
[4] 2015. "Introduction to Challenge.gov." Challenge.gov Accessed April 17, 2015. https://www.challenge.gov/about/.
[5] 2015. "Challenge.gov Wins "Innovations in American Government" Award." Last Modified January 23, 2014 Accessed April 17, 2015. Challenge.gov Wins "Innovations in American Government" Award.
[6] Piotrowski, Suzanne. 2015. Survey of US Government Points of Contact for US Second National Open Government Action Plan. School of Public Affairs and Administration, Rutgers University-Newark.
[7] Gustetic, Jenn, Lea Shanley, Jay Benforado, and Arianne Miller. 2014. "Designing a Citizen Science and Crowdsourcing Toolkit for the Federal Government." Accessed April 17. https://www.whitehouse.gov/blog/2014/12/02/designing-citizen-science-and-crowdsourcing-toolkit-federal-government.

24 | OPEN EDUCATION

Open education is the open sharing of digital learning materials, tools, and practices that ensures free access to and legal adoption of learning resources. There is a growing body of evidence that the use of open education resources improves the quality of teaching and learning, including by accelerating student comprehension and by fostering more opportunities for affordable cross-border and cross-cultural educational experiences. The United States is committed to open education and will:

- **Raise open education awareness and identify new partnerships.** The U.S. Department of State, the U.S. Department of Education, and the Office of Science and Technology Policy will jointly host a workshop on challenges and opportunities in open education internationally with stakeholders from academia, industry, and government. The session will foster collaboration among OGP members and other interested governments and will produce best practices to inform good policies in open education.
- **Pilot new models for using open educational resources to support learning.** The State Department will conduct three pilots overseas by December 2015 that use open educational resources to support learning in formal and informal learning contexts. The pilots' results, including best practices, will be made publicly available for interested educators.
- **Launch an online skills academy.** The Department of Labor (DOL), with cooperation from the Department of Education, will award $25 million through competitive grants to launch an online skills academy in 2015 that will offer open online courses of study, using technology to create high-quality, free, or low-cost pathways to degrees, certificates, and other employer-recognized credentials. This academy will help students prepare for in-demand careers. Courses will be free for all to access on an open learning platform, although limited costs may be incurred for students seeking college credit that can be counted toward a degree. Leveraging emerging public and private models, the investments will help students earn credentials online through participating accredited institutions, and expand the open access to curriculum designed to speed the time to credit and completion. The online skills academy will also leverage the burgeoning marketplace of free and open-licensed learning resources, including content developed through DOL's community college grant program, to ensure that workers can get the education and training they need to advance their careers, particularly in key areas of the economy.

Responsible Institution: Department of State, Department of Education (DoE), Office of Science and Technology Policy (OSTP)

Supporting Institution(s): None

Start Date: 1 January 2014 *End Date: 31 December 2015*

	SPECIFICITY				OGP VALUE RELEVANCE				POTENTIAL IMPACT				COMPLETION			
	None	Low	Medium	High	Access to Information	Civic participation	Pubic Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
23. Open Education				✗	✗	✗		✗			✗				✗	
24.1. Awareness and partnerships				✗		✗				✗				✗		
24.2 Pilot new models of learning				✗	✗			✗		✗					✗	
24.3 Online skills academy				✗	✗						✗				✗	

Editorial note: Under the old criteria of starred commitments, this commitment would have received a star because it is clearly relevant to OGP values as written, has moderate potential impact, and has been substantially or completely implemented. Note that IRM updated the star criteria in early 2015 to only apply to commitments with transformative potential impact.

WHAT HAPPENED?

This commitment builds on existing initiatives to create open educational resources and were added to the Second National Action Plan in late 2014. All the milestoness are on track to be complete in 2015.

Progress has been made in the first milestone. The Department of State, Department of Education, and White House Office of Science and Technology Policy are engaged in initial planning for a mid-2015 Open Education workshop, according to government leads on this commitment. In consultation with civil society stakeholders, so far the agencies have planned the workshop logistics, including goals, location, timing, and invitation list.[1]

Substantial progress has also been made on the milestone to conduct three open educational resource pilots oversees. The Department of State has begun implementation of the first and second pilot programs and initial preparations are underway for the third pilot, according to the government self-assessment. The first pilot program is expanded use of openly licensed content through the existing Massive Open Online Courses (MOOC) Camp Initiative. The second pilot program uses low bandwidth technology to bring digital libraries to rural communities in Kenya. The program is coordinated and implemented by community members, in consultation with the Washington-Mandela Fellowship alumni, and "draws upon the digital libraries to create locally-relevant, locally-driven educational opportunities," according to a government lead on this commitment.[2]

In preparation for launching the online skills academy, the third milestone, the Department of Labor and

Department of Education hosted a public virtual listening session in February 2015 to solicit public input on the development of the academy that will offer open online courses of study for free or at low costs, according to the government self-assessment. The online skills academy will make publicly available taxpayer-funded curriculum that was previously unavailable.

DID IT MATTER?

This commitment is truly innovative and has the potential to open up educational resources to underserved areas. The commitment seeks to open up the actions and policies of government in determining the allocation of educational goods, and has strong potential. According to one government survey respondent, since open education resources are free and openly accessible, it could play an important role in increasing access to high-quality educational content around the world, particularly for underserved and disadvantaged communities.[3] Another government survey respondent thought that these commitments have strengthened social capital and cohesion by collaboratively engaging communities in program development and they have the ability to generate lessons on open educational resources (OER) that are relevant to U.S. educators and civil society. The IRM researcher did not receive any feedback from civil society on this commitment.

MOVING FORWARD

The IRM researcher recommends that as the US government continues to implement these commitments, the results of three pilot programs should be evaluated and the possibility of implementing the programs in other areas should be discussed. However, further work on open education commitments should clarify the exact relevance to open government.

[1] Piotrowski, Suzanne. 2015. Survey of US Government Points of Contact for US Second National Open Government Action Plan. School of Public Affairs and Administration, Rutgers University-Newark.
[2] Piotrowski, Suzanne. 2015. Survey of US Government Points of Contact for US Second National Open Government Action Plan. School of Public Affairs and Administration, Rutgers University-Newark.
[3] Piotrowski, Suzanne. 2015. Survey of US Government Points of Contact for US Second National Open Government Action Plan. School of Public Affairs and Administration, Rutgers University-Newark.

25 | DELIVER SERVICES THROUGH INFORMATION TECHNOLOGY

The Administration is committed to serving the American people more effectively and efficiently through smarter IT delivery. The newly launched U.S. Digital Service will work to remove barriers to digital service delivery and remake the experience that people and businesses have with their government. To improve delivery of Federal services, information, and benefits, the Administration will:

- **Expand digital service delivery expertise in government.** Throughout 2015, the Administration will continue recruiting top digital talent from the private and public sectors to expand services across the government. These individuals - who have expertise in technology, procurement, human resources, and financing - will serve as digital professionals in a number of capacities in the Federal government, including the new U.S. Digital Service and 18F digital delivery team within the U.S. General Services Administration, as well as within multiple Federal agencies. These teams will take best practices from the public and private sectors and scale them across agencies with a focus on the customer experience.
- **Build digital services in the open.** The Administration will expand its efforts to build digital services in the open. This includes using open and transparent processes intended to better understand user needs, testing pilot digital projects, and designing and developing digital services at scale. In addition, building on the recently published Digital Services Playbook, the Administration will continue to openly publish best practices on collaborative websites that enable the public to suggest improvements. Building digital services in the open will allow for collaboration with the public on improvements and enable reuse by entrepreneurs, nonprofits, other governments, and the public.
- **Adopt an open source software policy.** Using and contributing back to open source software can fuel innovation, lower costs, and benefit the public. No later than December 31, 2015, the Administration will work through the Federal agencies to develop an open source software policy that, together with the Digital Services Playbook, will support improved access to custom software code developed for the Federal government.

Responsible Institution: Office of Management and Budget (OMB), General Services Administration (GSA)

Supporting Institution(s): None

Start Date: Not Specified *End Date: Not Specified*

	SPECIFICITY				OGP VALUE RELEVANCE				POTENTIAL IMPACT				COMPLETION			
	None	Low	Medium	High	Access to Information	Civic participation	Pubilc Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
25. Deliver Services Through Information Technology			✗			✗		✗			✗				✗	
25.1. Expand digital service delivery			✗		Unclear						✗				✗	
25.2. Build digital services in the open		✗				✗		✗		✗					✗	
25.3. Open source software policy				✗		✗		✗			✗			✗		

Editorial note: Under the old criteria of starred commitments, this commitment would have received a star because it is clearly relevant to OGP values as written, has moderate potential impact, and has been substantially or completely implemented. Note that IRM updated the star criteria in early 2015 to only apply to commitments with transformative potential impact.

WHAT HAPPENED?

This commitment to improve digital service delivery of federal agencies is on track to be complete in 2015. In August 2014, the Obama Administration launched the U.S. Digital Service , which is comprised of a small team of digital experts. The goal of this team is "to make websites more consumer friendly, to identify and fix problems, and to help upgrade the government's technology infrastructure," in collaboration with other government agencies[1]. The U.S. Digital Service and the 18F digital delivery team, a new unit of the General Services Administration (GSA) focused on IT delivery created in March 2014, "have recruited more than 120 engineers, designers, and product managers from inside and outside government to work to improve government digital system," according to the government self-assessment.

The Administration also released the Digital Services Playbook in August 2014, which provides best practices for effective digital service delivery[2]. The Playbook was revised in January 2015, according to the government self-assessment, and will continue to make improvements based on the feedback and suggestions from the public through GitHub. Furthermore, the 18F team, a digital services delivery team within the General Services Administration (GSA), has developed most of its project completely in the open through GitHub and has regularly updated the progress made on each project on its dashboard, according to a government lead on this commitment.[3]

Although no apparent progress has been made toward developing an open source software policy, the third milestone, the government self-assessment states that

"an interagency team has begun working on a draft and has solicited input from civil society."

DID IT MATTER?

Since these are part of the commitments added in the Fall of 2014 it is too early to assess their impact. Potential benefits from implementing this commitment are significant. Digital Service Experts bring private-sector expertise to bear on public sector tech problems. This expertise has helped government deliver better services more quickly and at a lower cost. For example, Digital Service Experts helped millions of people access health care using Healthcare.gov during the 2015 Open Enrollment period. More of the work is described in a blog post. However, despite these benefits, the commitments require an application to transparency or accountability processes to really count as legitimate open government initiatives. This applies to the second and third milestones of the commitment but not the first. The first milestone, digital services, is a technical and human resources change, and does not have a clear relevance to OGP values. The second and third milestones involving the openness of government technology development rely on citizen participation to open up coding and software, and can be used to make digital open government amenable to public control. The guidance in the *Digital Service Playbook* strongly suggests "defaults to open," including making data and code available free of cost, with creative commons licensing, and where appropriate allows for public feedback and observation of software development. [https://playbook.cio.gov/#play13]

MOVING FORWARD

As the US government moves forward on these initiatives, they should consider the following suggestions made by the IRM researcher:

- The US government needs to think of ways to continue innovative and productive technology initiatives, such 18F and Innovation Fellows, that have links to open government and accountability. After a change in administration.
- When agencies contract for technology, built into the contracts should be a provision that the agency owns the final product. Where appropriate, the final product or output should be open source.

[1] Office of the Press Secretary, the White House. 2011. "FACT SHEET: Improving and Simplifying Digital Services." White House Accessed April 19, 2015. https://www.whitehouse.gov/the-press-office/2014/08/11/fact-sheet-improving-and-simplifying-digital-services.
[2] Office of the Press Secretary, the White House. 2011. "FACT SHEET: Improving and Simplifying Digital Services." White House Accessed April 19, 2015. https://www.whitehouse.gov/the-press-office/2014/08/11/fact-sheet-improving-and-simplifying-digital-services.
[3] Piotrowski, Suzanne. 2015. Survey of US Government Points of Contact for US Second National Open Government Action Plan. School of Public Affairs and Administration, Rutgers University-Newark.

26 | BIG DATA

President Obama has recognized the growing importance of big data technologies for our economy and the advancement of public good in areas such as education, energy conservation, and healthcare. The Administration is taking action to ensure responsible uses of big data to promote greater openness and accountability across a range of areas and sectors. As part of the work it is doing in this area, the Administration has committed to:

- **Enhance sharing of best practices on data privacy for state and local law enforcement.** Federal agencies with expertise in law enforcement, privacy, and data practices will seek to enhance collaboration and information sharing about privacy best practices among state and local law enforcement agencies receiving Federal grants.
- **Ensure privacy protection for big data analyses in health.** Big Data introduces new opportunities to advance medicine and science, improve health care, and support better public health. To ensure that individual privacy is protected while capitalizing on new technologies and data, the Administration, led by the Department of Health and Human Services, will: (1) consult with stakeholders to assess how Federal laws and regulations can best accommodate big data analyses that promise to advance medical science and reduce health care costs; and (2) develop recommendations for ways to promote and facilitate research through access to data while safeguarding patient privacy and autonomy. These recommendations will inform potential legislative efforts, regulatory guidance, and policy actions.
- **Expand technical expertise in government to stop discrimination.** U.S. Government departments and agencies will work to expand their technical expertise to identify outcomes facilitated by big data analytics that may have a discriminatory impact on protected classes.

Responsible Institution: Department of Health, Office of Science and Technology Policy, Department of Justice

Supporting Institution(s): None

Start Date: Not Specified *End Date: Not Specified*

	SPECIFICITY				OGP VALUE RELEVANCE				POTENTIAL IMPACT				COMPLETION			
	None	Low	Medium	High	Access to Information	Civic participation	Pubilc Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
26. Big Data		✗			✗	✗	✗	✗			✗				✗	
26.1. Data Privacy in law enforcement	✗						✗	✗		✗					✗	
26.2. Big Data in Health			✗		✗	✗		✗		✗					✗	
26.3. Stop discrimination		✗					✗	✗		✗				✗		

WHAT HAPPENED?

Although the definitions of big data may differ depending on profession, most definitions reflect the fact that big data are "large, diverse, complex, longitudinal, and/or distributed datasets generated from instruments, sensors, Internet transactions, email, video, click streams, and/or all other digital sources available today and in the future."[1]

Some progress has been made on the milestones to ensure responsible uses of big data to promote greater openness and accountability.

In order to enhance sharing of best practices on data privacy for state and local law, in September 2014 the Department of Justice (DOJ) published a document regarding the Department's activities that foster responsible use and privacy best practices with state, local, and tribal law enforcement entities receiving federal grants.[2] Furthermore, in November 2014, DOJ issued a supplemental guide to serve as a single resource for law enforcement entities to protect the public's privacy and constitutional rights, according to the government self-assessment.

To ensure privacy protection for big data analyses in health, the Department of Health and Human Services is (HHS) is working in collaboration with the Privacy and Security Workgroup of the Health Information Technology Policy Committee, a Federal advisory committee providing recommendations on health IT policy issues, "to gather information, engage with stakeholders through public listening sessions, and finalize a report of its work," according to the government self-assessment.

In June 2014, the White House Office of Science and Technology Policy (OSTP) held a workshop regarding "the opportunities and challenges ahead for federal agencies in light of the increasing availability of massive data sets,"[3] according to the government self-assessment. Furthermore, in September 2014, another workshop regarding the use of big data was held by the Federal Trade Commission (FTC), which addressed the concerns about the discriminatory impact of big data use on American consumers.

DID IT MATTER?

The milestones were added in the Fall of 2014, and as such it is too early to fully assess their impact.

The first and third milestones are relevant to public accountability, and OGP values. Privacy and the use of big data for potential discrimination are very important open government and accountability issues and are cited frequently by civil society. Both of these commitments take initial steps to link these policies and practices to the broader issue of integrity and accountability. The Government self-assessment report noted that, OSTP along with the Domestic Policy Council (DPC) will issue a follow-up report of the workshop further exploring the implications of big data technologies for discrimination and civil rights. The new report will explore how big data interacts with issues such as employment and access to credit, including considering how the use of big data technologies can both perpetuate discrimination and prevent it.

MOVING FORWARD

This commitment was a welcome addition to the Second National Action Plan, though milestones one and three should be revised for the next Action Plan to more clearly link to the OGP values. In general, the issues of big data and privacy are extremely important ones which deserve more attention and action (see the 2014 Podesta report). The existing commitments flag privacy issues, but need to go further and also address use and effectiveness issues surrounding big data. The role big data plays in policing is well documented[5] but the impact of these tools needs more attention. For example, if the data getting fed into predictive policing software are disproportionately skewed towards minority neighborhoods, how does that affect the outcomes? The next Action Plan should consider a commitment that addresses this issue. Much has been written on this issue and should be considered by the US government when moving forward to address not just privacy but also use[6][7] and effectiveness[8][9] of big data in both policing and counter-terrorism.

[1] Executive Office of the President. 2014. Big Data: Seizing Opportunities, and Prerserving Values. Edited by The US Government. Washington, DC.
[2] Piotrowski, Suzanne. 2015. Survey of US Government Points of Contact for US Second National Open Government Action Plan. School of Public Affairs and Administration, Rutgers University-Newark.
[3] Georgetown University. 2014. "White House, Georgetown Team up for Big Data Workshop." Last Modified June 19, 2014. http://www.georgetown.edu/news/white-house-big-data-conference.html.
[4] 2015. United States of America Midterm Self-Assessment Report for the Open Government Partnership Second Open Government National Action Plan 2013-2015. Edited by The US Government. Washington, DC.
[5] Newcombe, Todd. 2014. "Predictive Policing: The Promise and Perils." Government Technology, Last Modified September 22, 2014 Accessed April 19, 2015. http://www.govtech.com/public-safety/Predictive-Policing-The-Promise-and-Perils.html.
[6] Rieke, Aaron, David Robinson, and Harlan Yu. 2014. "Chapter 3: Criminal Justice, Predictive Policing: From Neighborhoods to Individuals." In Civil Rights, Big Data, and Our Algorithmic Future. Robinson Yu.
[7] Levinson-Waldman, Rachel. 2013. What Government Does with Americans' Data. The Brennan Center for Justice, New York University School of Law.
[8] Schneier, Bruce. 2006. "Why Data Mining Won't Stop Terror." Wired, Last Modified March 9, 2006 Accessed April 19, 2015. http://archive.wired.com/politics/security/commentary/securitymatters/2006/03/70357.
[9] All Tech Considered. 2012. "What The FBI Wants In A Social Media Monitoring App." National Public Radio, Last Modified January 30, 2012 Accessed April 19, 2015. http://www.npr.org/blogs/alltechconsidered/2012/01/31/146090425/what-the-fbi-wants-in-a-social-media-monitoring-app.

V | SELF-ASSESSMENT CHECKLIST

The US self-assessment report was released on 20 March 2015 in a blog post shortly before the 30 March deadline. No public comment period was held.

Table 3: Self-Assessment Checklist

Was annual progress report published?	☒ Yes ☐ No
Was it done according to schedule? (Due 30 Sept. for most governments, 30 March for Cohort 1.)	☒ Yes ☐ No
Is the report available in the administrative language(s)?	☒ Yes ☐ No
Is the report available in English?	☒ Yes ☐ No
Did the government provide a two-week public comment period on draft self-assessment reports?	☐ Yes ☒ No
Were any public comments received?	☐ Yes ☒ No
Is the report deposited in the OGP portal?	☒ Yes ☐ No
Did the self-assessment report include review of consultation efforts during action plan development?	☒ Yes ☐ No
Did the self-assessment report include review of consultation efforts during action plan implementation?	☒ Yes ☐ No
Did the self-assessment report include a description of the public comment period during the development of the self-assessment?	☐ Yes ☒ No
Did the report cover all of the commitments?	☒ Yes ☐ No
Did it assess completion of each commitment according to the timeline and milestones in the action plan?	☒ Yes ☐ No
Did the report respond to the IRM key recommendations (2015+ only)?	☐ Yes ☒ No

SUMMARY OF ADDITIONAL INFORMATION

The government self-assessment was published on 20 March 2015. The government did not provide a two-week public comment period on its draft self-assessment report. However, the mid-term self-assessment report states that throughout the first year of implementation of the Action Plan, the government engaged with civil society through various means, including: in-person meetings, email, and phone calls; by sharing information through the newly created U.S. Open Government discussion group; and via agency websites, blog posts, and Twitter accounts. Civil society organizations were also invited to join the working meeting for open government leaders across the Executive Branch on a quarterly basis. The self-assessment further states that the government leaders carrying out the commitments also engaged in targeted outreach to civil society stakeholders who work on related topics. The final version of the mid-term self-assessment is available to the public on the OGP portal.

FOLLOW-UP ON PREVIOUS IRM RECOMMENDATIONS (2015 +)

The previous IRM interim report summarized the impact of past US scandals related to transparency had on the integrity of the US OGP initiatives in this way: "systematic policies of surveillance are in strong tension with the broader open government agenda." These same tensions are still present in today's environment and may continue to erode the good work the US government is doing on specific transparency initiatives. The IRM interim report on the first NAP suggested seven areas to be included in the 2nd NAP. They were:

- Safeguarding scientific integrity
- Making public and prohibiting secret law and legal interpretation
- Strengthening the role and public interface of Inspectors General
- Reforming the classification system
- Enhance Ethics.gov
- Improving ethics disclosure
- Communications surveillance transparency

The previous report also presented nine broad recommendations broken into three categories: process, learning, and new frontiers.

VI | COUNTRY CONTEXT

The U.S. has played a lead role internationally in promoting the aims and activities of the OGP since its inception. President Obama spoke at the United Nations in September 2014, saying that "the achievements of these first three years are an example of the kind of steady, step-by-step progress that is possible for people and countries around the world," and he announced the creation of several new US commitments. It is encouraging to see the initiative of his administration supporting new developments in smart, innovative, and collaborative open government. While transparency and access in some areas is improving, the news media establishment feels that it is being systematically shut out of access to government information[1]. This incongruence is one that does not appear to be going away. An reliance on over classifying documents and perpetuating the classifications makes access to many important and timely government documents impossible to access.

Despite Obama's continued leadership on open government, he has not always delivered results. The OGP commitments do not feature prominently in the national media spotlight, and there have been several political bumps in the road. Since his re-election in 2012, the ability of the US government's executive to create and implement new policies has been hampered by political deadlock in Congress. This continued feature of the political system has been the backdrop of major international defense and security controversies that raise questions about the openness and transparency of the U.S. government, and which in the public eye overshadow the success of many commitments in its Open Government Action Plan.

An Executive Summary of the Senate Select Intelligence Committee report released in December 2014 revealed the extent of the Central Intelligence Agency's (CIA) detention and interrogation program used during the tenure of former president, George W. Bush, in the War on Terror. There has also been ongoing political fallout in countries such as Germany regarding the phone tapping of senior politicians by the U.S. National Security Agency (NSA). This is related to earlier national security events such as the leak of classified military documents by Edward Snowden in 2013, and has added to the perception of the secretiveness of government, which is no closer to being resolved. The U.S.'s second open government action plan tried to address these surveillance and security issues by sharing data and, to a degree, broadening whistleblower protections to include contractors, but the effect of this on security policies remains to be seen.

The context of open government in the U.S. has been further influenced by new national awareness of the threat of economic inequality. According to the U.S. Bureau of the Census, some 31 million Americans do not have home or mobile phone broadband access. This is a startling problem given that a large portion of the Plan's commitments relate to digitally delivered open government services and platforms. The Obama administration has tried some significant anti-poverty policies in the American Recovery and Reinvestment Act (ARRA) following the 2008 economic crisis and in the Affordable Care Act (ACA), but these seem to have had little impact on the growing tide of inequality. Viable open government policies must surely be predicated on the ability of all citizens to obtain information regarding the activities of government and to participate in democratic processes. Unfortunately, the country is on a downhill trend on this account, and it will inevitably affect its performance in open government in the future.

An evolving story that indicates the lack of transparency in the Administration is former Secretary of State Hillary Clinton's use of a personal email server for all work emails while at the State Department. Why such a server was used and which, if any, of these emails are still accessible is unclear. In the coming months, policies regarding the use of official government email addresses and the retention of emails will need to be clarified and enforced publically[23].

One of the most serious secrecy issues affecting the Obama administration during 2015 involved the negotiations of the proposed Trans-Pacific Partnership (TPP). The TPP is a cornerstone of Obama's legacy,

and seeks to "boost U.S. economic growth, support American jobs, and grow Made-in-America exports to some of the most dynamic and fastest growing countries in the world".[4] But many pundits, politicians, and even high-level advisors have criticized the secrecy that the Administration has insisted in enforcing on TPP negotiations. As Michael Wessel, commissioner of the US-China Economic and Security Review Commission and fellow of the Economic Policy Institute put it:

> "The public criticisms of the TPP have been vague. That's by design—anyone who has read the text of the agreement could be jailed for disclosing its contents. I've actually read the TPP text provided to the government's own advisors, and I've given the president an earful about how this trade deal will damage this nation. But I can't share my criticisms… I can tell you that… we should be very concerned about what's hidden in this trade deal—and particularly how the Obama administration is keeping information secret even from those of us who are supposed to provide advice… So-called "cleared advisors" like me are prohibited from sharing publicly the criticisms we've lodged about specific proposals and approaches. The government has created a perfect Catch 22: The law prohibits us from talking about the specifics of what we've seen, allowing the president to criticize us for not being specific."[5]

WikiLeaks has been leading the charge to publicize the text of the TPP agreement. The whistleblowing organization had published three different excerpts from the negotiation text, and in June 2015 launched a campaign to raise a $100,000 "bounty" for leaked drafts of the remaining chapters.[6]

Finally, next year the United States will hold its general election, and there will be a new president to take on the work of the OGP. So far the US government has made strong inroads in the use of collaborative partnerships, accountability initiatives, and modern IT tools for open government. There are notable areas for improvement and it remains to be seen whether new leadership in the White House can find the political resolve to make positive steps forward.

STAKEHOLDER PRIORITIES

Some of the recommendations made by CSOs following the first National Action Plan were addressed in the second action plan, yet they will require attention. The civil society evaluation of the U.S. First National Action Plan said that it wished to see the "halting" implementation style and the approach of repackaging existing government programs being gradually replaced by "bold" and "ambitious" commitments. On programs areas, it specifically called for focus on "government spending transparency, transformation of the classification system, proactive disclosure, the Freedom of Information Act (FOIA), and ethics disclosure." To its credit, the second plan has made a careful and detailed attempt to address many areas, but notably not ethical disclosures. With that said, these are things that must be continuously maintained and upgraded, and will take several years to bring to fruition especially in areas that require migration to new systems or digitization.

Two big priority topics were notable for their absence from the first plan: security surveillance and political campaign finances. The former was mentioned in the second plan but will remain a top priority given the ongoing public discussion of the issue. The commitment to share information on surveillance does not fully tackle the issue as many stakeholders were expecting. The commitment of consulting further with stakeholders, while hollow-sounding, may lead to more concrete steps being taken in the next plan. Campaign finance review again did not appear in the action plan.

Stakeholders emphasized that trade policy negotiations is an area that is ripe for greater transparency. While business and, to a lesser extent, labor are represented on the related advisory committees, the general public is not. It is argued that "public involvement and transparency in current US trade negotiations is especially important because, the negotiations address potentially controversial regulatory issues. Trade negotiators may benefit from increased trust in the negotiations as well as greater credibility and creative thinking from public involvement.[7]"

Stakeholders did not have an opportunity to comment on the Second National Action Plan self-assessment.

The feedback they gave the IRM researcher was extensive and was incorporated into review of the individual commitments. Stakeholders were available to comment and provide information to the IRM researcher on almost all the 60+ milestones and provided detailed feedback on how to move forward.

SCOPE OF ACTION PLAN IN RELATION TO NATIONAL CONTEXT

With reflections on the facts and challenges described in the previous sections, the IRM researcher suggests the US government focus more on the following areas and types of actions in the next National Action Plan:

Transparency: Information sharing by government agencies has been one of the strong points of the Plan and there have been solid attempts to improve the public utility of datasets and websites. The natural evolution of these tools should be to increase their range of formats and uses to broaden their relevance to different groups in society. Both the introduction of improved FOIA portals and spending transparency, for example, can be made more relevant to the public by creating interactive graphic interfaces and showing usage statistics. Part of the reason for modernizing online data and information is to appeal to an increasingly skeptical citizenry. New digital platforms such as the Public Participation Playbook and spending websites such as USAspending.gov are impressive in their sophistication, but this surface aspect can mask the underlying issue of informational quality. It is an issue inherent in all modern communication tools and one which takes time and effort to prevent by establishing strong information quality and transparency systems. The tools therefore must be made relevant and useful, and be promoted with more vigorous public awareness campaigns and by a concerted effort to tackle the underlying problems of information quality, accountability, and the digital divide. Digital algorithms must be transparent too so that the public can understand the logic behind the data and the way that selective data shapes the public policy agenda.

Finally, on areas of transparency that the U.S government is struggling to move on (such as surveillance and national security generally) there needs to be more public debate on what level of openness is desirable and an assessment of national priorities. Transparency in and of itself is not sufficient. This is where the other OGP values of accountability and civic participation come in. Genuine transparency aids decision-making, and efforts should be made to demonstrate the results of transparency on key areas of government performance.

Accountability: The link between technology, transparency, and accountability is difficult to ensure. With that said, most of the Second US Action Plan directly address strengthening accountability for open government. Accountability should be one of the top goals of the U.S. government as it seeks to capitalize on its impressive array of web 2.0 innovations to deliver on a central plank of the OGP Open Government Declaration. Accountability intersects with the issue of the digital divide, and there is a duty of government to be accountable to all citizens rather than just the powerful or wealthy. In the U.S. where economic, social, and political differentials are increasingly having an effect on individual opportunity, the accountability question becomes one of accountability to *whom*. The most glaring case of this accountability question in the U.S. public is currently the role that corporate funding plays in political elections. While the resolution of campaign financing laws lies with the U.S. court system, an important test for open government in the United States will be the ability of government, stakeholders, and citizens to have an open discussion that leads to the real possibility of changing policy. In another commitment area, fossil fuel subsidies, lack of progress is again an indication that government struggles to deliver accountability to the public on an area with implications for corporate interests in addition to citizens.

The Second National Action Plan has demonstrated steady progress on commitments that bring together multiple agencies in addition to civil society. In areas where agency coordination encounters problems, such as FOIA and whistleblowers, progress has been piecemeal, and this underlines the need for open government accountability efforts to generate collaborative relationships across government. More generally, the next task of accountability is to ensure that all of the digital tools used for representing the interests of society such as *We The People* and the

expert networking platforms show demonstrable results in influencing political decision-making.

Civic participation: It is very difficult to build civic participation at a national level especially in a large federal system such as the United States. *We The People* has been successful in bringing government together with the tools of collaborative governance and providing a channel for input among a growing generation of social media users. The usefulness, uptake and impacts of the Public Participation Playbook await confirmation once it has been in existence for a longer period of time. However, in general, by promoting such civic participation tools and beginning to publish more data about civic participation, the important step is taken towards greater public awareness of the value of civic participation. This can help more genuinely participative efforts to snowball. The U.S. has an increasingly collaborative, networked form of government across the states, and these efforts should be rolled out to the state and local levels to ensure that they have a national reach and are seeking to overcome challenges that can be addressed at the local level such as the digital divide.

Finally, as the U.S. considers the next steps it will take towards its open government commitments, there is a challenge for the benefits of civic participation, as well as the interrelated areas of transparency and accountability to be turned into benefits for public services. This focus, the 2015 theme of the Open Government Partnership, not only will provide a strong incentive to civil society and the broader public to engage with the government on civic participation, but it will also present a test of whether the U.S. is delivering on open government and has made headway in making a real difference to the lives of citizens.

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[2] Clark, Charles S. 2015. "Hillary Clinton Not Alone in Using Private Emails to Govern." GovExec, Last Modified March 3, 2015 Accessed April 21, 2015. http://www.govexec.com/technology/2015/03/hillary-clinton-not-alone-using-private-emails-govern/106545/?oref=top-story.
[3] Schmidt, Michael S. 2015. "House Panel Seeks Private Talk With Hillary Clinton About Email." *New York Times*, March 31, 2015. http://www.nytimes.com/2015/04/01/us/politics/hillary-clinton-email-benghazi-inquiry.html?ref=politics.
[4] "Trans-Pacific Partnership", *Office of the United States Trade Representative*, https://ustr.gov/tpp
[5] Michael Wessel, "I've Read Obama's Secret Trade Deal. Elizabeth Warren Is Right to Be Concerned." *Politico*, 19 May 2015: http://politi.co/1FSdC4W
[6] "WikiLeaks Launches Campaign to Offer $100,000 "Bounty" for Leaked Drafts of Secret TPP Chapters", *DemocracyNow!*, 2 June 2015: http://bit.ly/1KBldG8
[7] Aaronson, Susan. 2015. "Stream of Work to Make Trade Policy More Trusted, Transparent, and Accountable." George Washington University Accessed April 21, 2015. http://www.gwu.edu/~iiep/signatureinitiatives/governance/Trade_Trust_Transparency_Accountability/.

VII | GENERAL RECOMMENDATIONS

CROSSCUTTING RECOMMENDATIONS

As a consequence of these observations and the findings of the report, a number of general recommendations are made to improve the design and implementation of the next action plan. These recommendations are crosscutting; commitment-specific recommendations are included with each respective commitment.

Make consultation more transparent

The consultation process should be revamped in order to improve the openness of consultation for the next action plan. By formalizing its consultation timeline, publishing the results of consultation, promoting public awareness of the process, and doing all this as early as possible, the OSTP can make big steps forward in attracting a wider group of stakeholders into the process and boosting the level of expertise and preparation that is brought to the table.

Broaden civil society participation

This is related to the first recommendation, but it goes further in saying that proactive efforts should be made to attract civil society groups to participate beyond the geographic confines of Washington DC. More awareness-raising of the government's OGP efforts should take place, open government services should be advertised more widely, and responsibilities should be delegated to the current community of active civil society groups so that they are encouraged to build the network of cooperative participation.

Focus on commitments which are SMART and "transformative"

A very large number of commitments in the Plan were not specific or measurable. As the U.S. moves into its development of the third plan it should focus on turning its broad, multi-year goals, into more specific and measurable items that keep moving towards the larger goals and grand challenges of open government. The subject of these commitments could be classified as transformative and have a broad reach.

Share knowledge with other levels of government

Open government is growing at the state and local levels in the United States. The OGP action plan can take advantage of these synergies by bringing government officials from other levels of government to the table and develop ways of creating open government through a vibrant form of federal policy-making and implementation.

Facilitate international best practice cooperation

Many countries that are members of the OGP are making progress on the same policy areas. One such example is transparency on mining practices through the EITI. There are other common international areas such as freedom of information, data privacy, and foreign assistance spending. The success of the EITI in expanding its international participation should be replicated for more areas in open government, and international best practice groups could be formed to work on improving practices across national boundaries on issues that affect us all.

Create and strengthen interagency best practice teams

Several agencies have been notable for their progress in developing new open government tools and have led on interagency initiatives such as the Department of Agriculture's GODAN project, the Department of Health and Human Services in creating standardized open data formats in keeping with the DATA Act, and the National Archives and Records Administration on records management reform, to name just three examples. These practice areas are evolving into interagency teams of expertise. It's a process that should be capitalized on by creating formal best practice areas, strengthening existing interagency leaders, and identifying new ones where appropriate.

Strengthen usability and attractiveness of digital platforms across government

Government agencies have made strong stride forward in improving the user friendliness and attractiveness of government websites and data platforms. New websites should receive extensive public evaluation checks and then ensure that improvements continue across government in

order to ensure that the online presence of government is equivalent to the standards in the private sector, being open, accountable, and user-friendly.

Work with Congressional committees and explore bipartisan legislative goals

Several legislative goals were presented in the Plan, but they have generally been difficult to achieve given the divisiveness of congressional politics. However, the passage of the DATA Act showed that legislative reform for open government is possible and can appeal to legislators on both sides of the aisle. The bipartisan goals should be pursued further.

Share decisions and responsibilities with civil society

Consultation before and during implementation of the Plan has been improving but is still tends more on the "involving" end of the participation spectrum rather than the "collaborating" or "empowering" end. The Administration leadership should be encouraged by the dedication already shown by civil society experts and should progress into the next stage of the partnership which is delegating decision-making and providing for a more mixed-economy (government, civil society, and citizens) advisory process.

Develop digital collaborative governance tools

Innovative tools such as hackathons, APIs, and online forums such as We The People are an excellent way to harness tech innovations for open government goals. Many organizations including businesses, universities, research organizations, and crowdsourcing sites are developing new digital collaborative tools, and these should be experimented with to make sure that U.S. government 2.0 stays at the cutting edge.

Prioritize open government for ALL citizens

At a fundamental level, the Administration should make sure that the benefits of open government are being fairly enjoyed by all citizens. There should be efforts to widely educate citizens about the value of open government and the tools that are available to them. Furthermore, civil society organizations should be brought together to find policy solutions to the digital divide so that open government can truly live up to its claim to foster stronger democratic participation and accountability in society.

TOP FIVE SMART RECOMMENDATIONS

1. The third National Action Plan should concentrate on including more commitments which are ambitious and far-reaching.

2. When developing the third National Action Plan, the White House should expand its scope and include public participation to identify commitments on:
   - trade policy negotiations;
   - access to justice and civil right issues;
   - ethics and integrity of governance; and
   - state and local government open government.

3. When developing the third National Action Plan, participation should be expanded outside the beltway and decentralized to reach a broader range of individuals.

4. In the next action plan the US government should include commitments to make major and permanent reforms, as recommended in the full text, in the following areas:
   - declassification and over-classification;
   - Office of Government Information Services' reform;
   - foreign intelligence and surveillance; and
   - whistleblower protection

5. The next action plan should include concrete steps to support the continuation of the open government initiatives during and after an administrative transition. Civil society should have an active role in the development of such a plan.

VIII | METHODOLOGY AND SOURCES

As a complement to the government self-assessment, an independent IRM assessment report is written by well-respected governance researchers, preferably from each OGP participating country.

These experts use a common OGP independent report questionnaire and guidelines,[1] based on a combination of interviews with local OGP stakeholders as well as desk-based analysis. This report is shared with a small International Expert Panel (appointed by the OGP Steering Committee) for peer review to ensure that the highest standards of research and due diligence have been applied.

Analysis of progress on OGP action plans is a combination of interviews, desk research, and feedback from nongovernmental stakeholder meetings. The IRM report builds on the findings of the government's own self-assessment report and any other assessments of progress put out by civil society, the private sector, or international organisations.

Each local researcher carries out stakeholder meetings to ensure an accurate portrayal of events. Given budgetary and calendar constraints, the IRM cannot consult all interested or affected parties. Consequently, the IRM strives for methodological transparency, and therefore where possible, makes public the process of stakeholder engagement in research (detailed later in this section.) In those national contexts where anonymity of informants—governmental or nongovernmental—is required, the IRM reserves the ability to protect the anonymity of informants. Additionally, because of the necessary limitations of the method, the IRM strongly encourages commentary on public drafts of each national document.

PARTICIPANT OBSERVATION

Qualitative data collection was supplemented though participant observation methods. The lead researcher and two research assistants attended two meetings of the Interagency Working Group (in-person and through a conference phone line) to observe the quarterly open sessions in collaboration with civil society and nine policy progress check-in meetings organized by OSTP. These were carried out with full knowledge of the other members of the meeting, and offered opportunities for the researcher to ask questions in addition to taking notes on work towards the commitments.

INTERVIEWS AND FOCUS GROUPS

A series of ten focus groups took place on March 18, 19, and 20 at the OpenGovHub in Washington DC. Each meeting was scheduled for an hour, but many ran over. The stakeholder meetings were open to all interested members of civil society. Access to the meetings via bluejeans.com allowed for remote participation. All civil society points of contact provide by Openthegovernment.org were individually invited. In addition, blanket emails were sent out on a number of listservs including: the open government google group, FOIL listerv, FOIA advocates listerv, EthTalk listserv, and the International Transparency and Secrecy Research Network listserv.

The stakeholder meetings were organized into ten topics, with corresponding commitments/milestones:

1. Open data, IT and Government websites

- 20. Open Data to the Public
- 25. Deliver Government Services More Effectively Through Information Technology
- 26. Use Big Data to Support Greater Openness and Accountability
- 15. Continue to Improve Performance.Gov
- 22. Reform Government Websites

2. Transparency in spending, including DATA Act

- 13. Increase Transparency in Spending

3. Foreign Intelligence Surveillance/ Classification of information/CUI

- 4. Transform the Security Classification System
- 5. Implement the Controlled Unclassified Information Program
- 6. Increase Transparency of Foreign Intelligence Surveillance Activities

4. Extractives /Fossil Fuel/Foreign Legal Entities/Foreign Assistance

- 10. Increase Transparency of Legal Entities Formed in the United States
- 11. Implement the Extractive Industries Transparency Initiative
- 12. Make Fossil Fuel Subsidies More Transparent
- 14. Increase Transparency of Foreign Assistance

5. Freedom of Information Act (FOIA)

- 3. Modernize FOIA

6. Whistleblowing/Corruption/Integrity

- 9. Strengthen and Expand Whistleblower Protections for Government Personnel
- 16. Consolidate Import and Export Systems to Curb Corruption
- 18 Expand Visa Sanctions to Combat Corruption

7. Public participation and co-production

- 1. Improve Public Participation in Government (We the People)
- 17. Promote Public Participation in Community Spending Decisions
- 19. Further Expand Public Participation in the Development of Regulations
- 23. Promote Innovation Through Collaboration and Harness the Ingenuity of the American Public

8. Record Management

- 2. Modernize Management of Government Records

9. Privacy

- 17. Make Privacy Compliance Information More Accessible

10. Others Commitments/OGP Generally

- 8. Support and Improve Agency Implementation of Open Government Plans
- 21. Continue to Pilot Expert Networking Platforms
- 24. Promote Open Education to Increase Awareness and Engagement

Participants in the stakeholder meetings included:

Gregory Adams (Oxfam America)

Danielle Brian (Project On Government Oversight)

Steven Buckley (International Association for Public Participation)

Lucas Cioffi (QiqoChat Inc.)

David Colapinto (Government Accountability Project)

Tom Devine (Government Accountability Project)

Shanna Devine (Government Accountability Project)

Elizabeth Goitein (Brennan Center for Justice)

Laia Griñó (InterAction)

Katherine Hawkins (OpenTheGovernment.org)

Jonathan Leonard (World Resources Institute)

Rachel Levinson-Waldman (Brennan Center for Justice)

Jeremey Malcolm (Electronic Frontier Foundation)

Patrice McDermott (OpenTheGovernment.org)

Miriam Nisbet (GovLab Academy)

Abby Paulson (OpenTheGovernment.org)

Scott Roehm (The Constitution Project)

Matt Rumsey (Sunlight Foundation)

David Saldivar (Oxfam America)

Eryn Schornick (Global Witness)

Mia Steinle (Project on Government Oversight)

In addition to the focus groups, interviews, meetings, or personal correspondence were held with a large number of individuals including Susan Aaronson (George Washington University), Tom Devine (Government Accountability Project), Jeremey Hall (Rutgers University), Rachel Levinson-Waldman (Brennan Center for Justice), Jeremy Malcolm (Electronic Frontier Foundation), Patrice McDermott (OpenTheGovernment.org), Abby Paulson (OpenTheGovernment.org), Catalina Reyes (Publish What You Fund), Eryn Schornick (Global Witness), Lawrence Sperling (Department of State), and Corinna Zarek (White House Office of Science and Technology Policy).

C. SURVEY-BASED DATA

Surveys of U.S. government personnel and civil society representatives were carried out in February 2015. The survey was reviewed the Rutgers University IRB and deemed exempt from "human subjects research" (IRB Protocol # E15-465). A list of respondents using the OSTP's points of contact and OTG's points of contact was created for the initial distribution of the survey. Non-responders were sent follow-up emails. In order to expand the variety of respondents in the sample, subsequent respondents were identified through snowball sampling and contacted on a rolling basis. Participation in the civil society survey was also requested via the open government google group and the FOIL listserv. The survey was sent by email and filled out electronically using Qualtrics® software. Thirty civil society members and 52 government officials completed the survey. Responses from the surveys were incorporated into the discussions on each commitment.

ABOUT THE INDEPENDENT REPORTING MECHANISM

The IRM is a key means by which government, civil society, and the private sector can track government development and implementation of OGP action plans on a bi-annual basis. The design of research and quality control of such reports is carried out by the International Experts' Panel, comprised of experts in transparency, participation, accountability, and social science research methods.

The current membership of the International Experts' Panel is:

- Anuradha Joshi
- Debbie Budlender
- Ernesto Velasco-Sánchez
- Gerardo Munck
- Hazel Feigenblatt
- Hille Hinsberg
- Jonathan Fox
- Liliane Corrêa de Oliveira Klaus
- Rosemary McGee
- Yamini Aiyar

A small staff based in Washington, DC shepherds reports through the IRM process in close coordination with the researcher. Questions and comments about this report can be directed to the staff at irm@opengovpartnership.org

[1] Full research guidance can be found in the IRM Procedures Manual, available at: http://www.opengovpartnership.org/about/about-irm

IX | ELIGIBILITY REQUIREMENTS

In September 2012, OGP decided to begin strongly encouraging participating governments to adopt ambitious commitments in relation to their performance in the OGP eligibility criteria.

The OGP Support Unit collates eligibility criteria on an annual basis. These scores are presented below.[1] When appropriate, the IRM reports will discuss the context surrounding progress or regress on specific criteria in the Country Context section.

	2011	Current	Change	Explanation
Budget transparency[2]	4	4	No change	4 = Executive's Budget Proposal and Audit Report published 2 = One of two published 0 = Neither published
Access to information[3]	4	4	No change	4 = Access to information (ATI) law in force 3 = Constitutional ATI provision 1 = Draft ATI law 0 = No ATI law
Asset Declaration[4]	4	4	No change	4 = Asset disclosure law, data public 2 = Asset disclosure law, no public data 0 = No law
Citizen Engagement (Raw score)	4 (7.56)[5]	4 (8.53)[6]	Change	1 > 0 2 > 2.5 3 > 5 4 > 7.5
Total/Possible (Percent)	16/16 (100%)	16/16 (100%)	No change	75% of possible points to be eligible

[1] For more information, see http://www.opengovpartnership.org/how-it-works/eligibility-criteria
[2] For more information, see Table 1 at http://internationalbudget.org/what-we-do/open-budget-survey/ as well as http://www.obstracker.org/
[3] The two databases used are Constitutional Provisions at http://www.right2info.org/constitutional-protections and Laws and draft laws http://www.right2info.org/access-to-information-laws
[4] This database is also supplemented by a published survey that the World Bank carries out biannually. For more information see http://publicofficialsfinancialdisclosure.worldbank.org
[5] Economist Intelligence Unit, "Democracy Index 2010: Democracy in Retreat" (London: Economist, 2010). Available at: ://bit.ly/eLC1rE
[6] Economist Intelligence Unit, "Democracy Index 2010: Democracy in Retreat" (London: Economist, 2010). Available at: ://bit.ly/eLC1rE

X | ACKNOWLEDGEMENTS

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This project would not have been possible without the strong support and encouragement of the dean of the School of Public Affairs and Administration (SPAA), Rutgers-Newark, Marc Holzer. Two doctoral students at SPAA, Alex Ingrams and Sinah Kang, did a remarkable amount of work on this report. They both did much of the original research and drafted large chunks of the report. It is not an overstatement to say this report would not have been possible without them. They are wonderful colleagues and I look forward to working with each of them in the years to come.

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