Transparency: It’s Here to Stay

By Audrey Wall [1]
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It could be argued that government is more transparent today than at any point in our country’s history. From the example set by the American Recovery and Reinvestment Act, state financial managers have worked to implement legislation envisioning ever greater access by citizens to government spending data. Transparency websites were first a trend for just a few states; they are now the norm. With each passing legislative session, the federal government hones its focus—and its mandates—on the concept of transparency. But how much is too much? At what point on the spectrum does the risk inherent in sharing so much financial data outweigh the potential benefits? These are not easy questions to answer. Regardless, it looks like transparency is here to stay.

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When Did Transparency Become Such a Big Deal, Anyway?

Lawmakers and citizens have long invoked the term transparency. Politicians seek to allay the fears of a suspicious public through assurances of accountability and transparency. Citizens cry for more transparency in the never-ending quest to hold elected and appointed leaders accountable for the management—and sometimes mismanagement—of the nation’s affairs. In the past few years, however, technology and a lot of hard work have enabled extraordinary new levels of government transparency.

In the fall of 2008, the American economy suffered a blow the likes of which most in today’s workforce have never experienced, and may never again, in their lifetimes. Lawmakers went into action to find ways to avert disaster; enter the American Recovery and Reinvestment Act of 2009. The act, which President Obama signed into law on Feb. 17, 2009, ultimately provided a whopping $862 billion to boost the American economy, with $280 billion going directly to the states. The Recovery Act injected an unprecedented amount of stimulus money into the economy and called for an unprecedented amount of transparency and accountability to support the expenditure of these enormous sums. The act also came with unprecedented expectations from Congress and citizens.

The Recovery Act did several new things. It established a Recovery Accountability and Transparency Board to facilitate transparency of the spending and to prevent and detect waste, fraud and abuse. It required state governors to certify that certain Recovery Act funds received and spent in their states...
were being used appropriately. The act also required quarterly reporting from grant recipients and the creation of a searchable online database, providing the public with never before experienced levels of access to government spending data.

Creating the new processes to enable quarterly reporting and support the searchable database was a daunting task. Initially, states were experiencing their worst economic and workforce situations since the Great Depression, and the timeframe to realize the reporting visions outlined in the Recovery Act were quite aggressive. Ultimately, representatives from all levels of government were able to come together to meet the challenge and establish a system to fulfill the requirements of the law. Quarterly reporting on Recovery Act funds came to pass beginning with the quarter ending Sept. 30, 2009, only seven months after the passage of the act—quite a feat considering the extraordinary amount of coordination required between federal, state and local governments, as well as other grant recipients. For the first time, states were reporting grant expenditures online, and government finance officials had pulled together to accomplish a task that many thought impossible.

From Recovery to Accountability
President George W. Bush signed the Federal Financial Accountability and Transparency Act into law in 2006. The act required that information on federal awards be made available online. Although federal agencies had reported prime recipient information since Jan. 1, 2008, the requirement for sub-recipient information to be posted by Jan. 1, 2009, was never enforced. With the successes of the Recovery Act, fulfilling the aims of the Transparency Act again became a focus.

Building on the achievements of and lessons learned from implementing the Recovery Act, the U.S. Office of Management and Budget issued guidance in April and again in August 2010 on implementing the sub-recipient piece of the Federal Financial Accountability and Transparency Act. The act required reporting similar to that required by the Recovery Act, except that it applied to sub-grants and sub-contracts for first tier sub-awards, not grant expenditures. Also, unlike the Recovery Act, reporting responsibilities could not be delegated to sub-recipients. The Federal Financial Accountability and Transparency Act sub-recipient reporting began on Oct. 1, 2010.

From Accountability to Transparency … and Beyond
In June 2011, House Resolution 2146, the Digital Accountability and Transparency Act was introduced by California Rep. Darrell Issa in an attempt to build on the successes of the Recovery Act. The Transparency Act essentially would continue the oversight established by the Recovery Act through the Recovery Accountability and Transparency Board and would require at least quarterly reporting of expenditure data for all grants and contracts. A companion measure has been introduced in the Senate.

The Transparency Act seeks to further several major pro-transparency reforms, including:

- Establishing a universal standard of recipient reporting of funds received from the federal government directly to an independent database.
- Collecting all agency expenditure data and combining it with data reported by recipients.
- Creating a Federal Accountability and Spending Transparency Board.

The implications of the Transparency Act will be huge for states. By some estimates, Recovery Act reporting only applied to about 50 percent of state funds; the Transparency Act would essentially require quarterly reporting of all funds. The number of state agencies and programs that will be required to report would increase drastically.

As deliberations on the Transparency Act occurred, President Obama issued an Executive Order to establish a Government Accountability and Transparency Board. This board will build on the lessons
learned by the Recovery Accountability and Transparency Board and is charged with making recommendations aimed at enhancing transparency of federal spending and further advancing efforts to detect and remediate fraud, waste and abuse.

It is not yet certain if or when the Transparency Act will be signed into law or how it might be reconciled with the executive order creating the Government Accountability and Transparency Board. However, several associations representing state government financial managers are working together to secure amendments to the legislation to include some type of funding for state and local governments and state and local representation on the Federal Accountability and Spending Transparency Board.

Other Federal Efforts
The creation of the Government Accountability and Transparency Board underscored the financial assistance community’s need for an institutionalized, formal body to provide general coordination over federal grants and cooperative agreements. To address this gap, the U.S. Office of Management and Budget, on Oct. 27, 2011, created the Council on Financial Assistance Reform. In addition to representing the interests and perspectives of the financial assistance community, the council was tasked with identifying how to make it easier for recipients to learn about and apply for assistance, as well as to understand what benefits they, and the country as a whole, have received as a result.

Build It and They Will Come
As these various transparency initiatives have evolved at the federal level, states have been making their own strides toward greater transparency. Prior to 2008, only a few states had pioneered websites providing expenditure data. Once the transparency train started rolling, however, it picked up steam quickly. Today, at least 40 states have websites that provide checkbook-level expenditure data, with some of them providing options to search by contractor, by activity or by other characteristics to provide the public with very specific, targeted information.

Each state’s site is different, as the efforts have transpired in different ways. Some states mandated transparency websites by legislation. In other states, officials anticipated the trend and moved preemptively to establish a means of providing more transparency. Some websites were created using existing staff and in-house databases, while others were developed with assistance from contractors who developed huge statewide data warehouses to feed the searches. Whatever their form, state transparency initiatives have arrived.

Of course the existence of state expenditure data does not ensure that it will be used wisely, used correctly or even used at all. And, as several states have learned—the hard way—some will use the data to commit fraud.

As stewards of public resources, governmental financial managers understand the importance of transparency and accountability. Some, however, question the actual value of providing expenditure data on searchable websites, arguing that transparency sites are merely duplicating information that was already available to the public through other means. States are expending enormous sums to develop and maintain these sites at a time when they are under brutal economic stress. Leaders from California, for instance, recently decided to close their transparency portal. They affirmed their commitment to “keeping state government open and transparent while eliminating inefficiencies and unnecessary costs.” A visit to the state’s transparency website now presents visitors with a message directing them to several decentralized sources of existing information and data on government programs and spending.

Beyond costing states dollars and time, transparency websites also have presented interesting questions about privacy and security. What information should be excluded on state sites to protect
the interests of citizens in their personal lives? Who is to be held accountable when information, available through transparency websites to anyone who cares to search for it, is used to commit costly crimes against state governments or even against individuals?

A Buzzword No More
No matter what one thinks of the various initiatives aimed at providing clearer views of government spending, the public is demanding more accountability from its governments. Transparency is here to stay. The task for government financial managers now is to examine the various opportunities and work together to reach solutions to provide transparency in the most efficient, effective manner possible—all the while protecting privacy and security. No easy task, but as the old adage goes, “if it was easy, it would have been done a long time ago.”

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