

Accountability and Transparency: Finding the Correct Balance

By Thomas H. McTavish

In an age when information on just about anything is available with the click of a mouse, it is not surprising that governments are using technology to share financial data in the name of accountability and transparency. Accountability and transparency are essential components of what most would consider to be good government. But it also raises some questions. For instance, just because information can be made available, is it by default valuable or meaningful? Is data timeliness or accuracy more important? Can information shared by our governments for the sake of fiscal responsibility put us at risk? Transparency projects being implemented by the federal government and by states around the country are providing some answers to those questions.

As public and private financial systems and transactions have grown more and more complex over the past decade, the calls for increased accountability and transparency have also grown. This call is due, at least in part, to the monumental frauds enabled by complicated financial systems that can, in skilled hands, be manipulated for personal gain. The call may also be due to a culture in which information is readily accessible through countless databases, search engines, video clips and sound bytes.

Politicians and special interest groups, as well as the media and general public, are increasingly looking for accountability and transparency in government at all levels. Accountability is the state of being liable or the willingness to accept responsibility. At its most basic level, transparency simply means to make clear or visible. The principles upon which the United States government was formed included both accountability and transparency.

Fiscal transparency is of key importance if governments, at least in the United States, are truly to represent and serve citizens. That will require a certain amount of access to and disclosure of fiscal information. The International Monetary Fund defines fiscal transparency this way:

Openness toward the public at large about government structure and functions, fiscal policy intentions, public sector accounts and projections. It involves ready access to reliable, comprehensive, timely, understandable and internationally comparable information on government activities so that the electorate and financial markets can accurately assess the government's financial position and the true costs and benefits of government activities, including their present and future economic and social implications.¹

We expect clear rules and processes to be established, systems to be agreed upon and then implemented, oversight of the systems to be ensured and, finally, an accounting of what has occurred to be provided. As citizens, we also have responsibilities in this process—our task is to closely scrutinize our governments' fiscal activities and seek to ensure their continued integrity and progress.

A Push for More

Efforts to make government more accountable and transparent have paid off. Then-President George W. Bush signed the Federal Funding Accountability and Transparency Act into law on Sept. 26, 2006.² The law requires the development of a free and searchable database to provide information about federal grants and contract awards. The Web site www.usaspending.gov, which went live in December 2007, provides expenditure data on most federal awards and contracts of more than \$25,000; ultimately, the site will be required to provide deeper levels of data all the way down to the sub-recipient award level.³ But an effort to strengthen the law by the bill's original sponsors—Sens. Tom Coburn, Tom Carper and John McCain, along with President Barack Obama when he was still in the Senate—failed to pass. The proposed legislation, the Strengthening Transparency and Accountability in Federal Spending Act of 2008, would have greatly expanded the list of required elements to be reported on the Web site. Although that effort failed, the push for even more accountability and transparency in government spending is likely to surface again during the upcoming year, as fiscal accountability and transparency in government has been a focus for President Obama.

In addition to managing the transparency Web site, the U.S. Office of Management and Budget is also undertaking several other disclosure efforts. The

agency's Office of Federal Financial Management is working to compile a database of all real property owned by the federal government, the Federal Real Property Database. The Office of Management and Budget also manages a searchable database of federal earmarks at <http://earmarks.omb.gov>.

The push for additional accountability and transparency has also reached state and local levels. Prior to the Federal Funding Accountability and Transparency Act, most states already had some sort of online disclosure system, most often related specifically to contracts, grants or employee salary data. Since the transparency act was enacted, officials in many states have followed the federal government in passing legislation to require more robust transparency initiatives. Virginia's Commonwealth Datapoint system was the first to provide detailed expenditure data. The system predated the federal act when it went live in November 2005. By mid-2007, states including Kansas, Minnesota, Oklahoma, Texas and Hawaii had signed into law initiatives mandating the creation of Web sites detailing state expenditure data. In several states, governors set forth this type of disclosure through executive order. Even some local governments are on board and are working to implement various types of disclosure databases.⁴

Logistics: Do the Benefits Outweigh the Costs?

A number of states have increased accountability and transparency in government and are sharing fiscal data with the public. As of July 2008, 14 states had passed transparency legislation and four states had issued executive orders mandating some sort of transparency initiative. Executive efforts toward increasing transparency are underway in seven other states, and local governments in at least seven states are embarking on their own initiatives. Additionally, many states have ongoing transparency legislation or efforts that were stalled in 2008.⁵

While many agree the pursuit of increased fiscal accountability and transparency in government is desirable, there are problems with implementing it. Opponents of some state initiatives contend that searchable databases of fiscal information are too costly to develop and maintain and that the costs may outweigh the benefits of the efforts, especially during years when states are facing huge budget shortfalls resulting from the economic downturn. Some even question the impetus for the databases, and states are debating whether additional transparency is needed as well as who will use the information. Some question whether the efforts are being undertaken in the

spirit of public disclosure or whether the data will simply be used by private entities to gain a competitive advantage in gaining government contracts.

For those states that decide the effort to develop a transparency Web site is worthwhile, they must decide how to implement the site, who will manage and maintain the site, how the site will be funded, what data will be included and how private information will be protected.

The federal government's major transparency initiatives are spearheaded through the Office of Management and Budget. At the state level, and to some degree at the local level, however, there is little consistency to the logistics of the projects being either proposed or implemented. The mandate falls to the state comptroller in several states, to the state auditor or state treasurer in others, and to still other offices in the remaining states with initiatives. Transparency Web sites developed by states so far feature a potpourri of data including one or more of the following elements: grants, contracts, salaries, tax credits, expenditures, vendor data, geographic data and demographic data. Some states report expenditure data down to the voucher level, whereas most states only report expenditures above a certain dollar amount. Some sites contain years of data, while others contain considerably less. Some of the data is reported in real time, other data are static. The one area in which there is some consistency for states is funding: Most state auditors, comptrollers and treasurers tasked with implementing these transparency initiatives have had to do so without additional funding.

Data Timeliness, Accuracy and Meaning

Timeliness of fiscal reports from governments has long been an issue. Is it more important to see timely information or more important to have audited data? In many cases, by the time audited reports are issued for public consumption, public interest has waned and the window of opportunity for any practical application of the information has passed. States have struggled for years to find a way to finish their comprehensive annual financial reports in a timely manner. For some states, issuing the financial reports within six months after the year-end close is a challenge.⁶ To address the lag, several years ago many called for voluntary interim financial reporting by states, but that concept brought with it other complications, including the risk of issuing unaudited financial information. Some states decided the risk of liability for decisions based on unaudited data that could prove to be inaccurate was too great and chose not to issue voluntary interim financial information.

AUDITORS AND COMPTROLLERS

Other states lacked the resources to do ongoing interim reporting, and some questioned the demand for the interim reports.

The timeliness of transparency for expenditure data is often better. In most cases, information provided through state transparency initiatives is timely and, in many states, the data is real-time, being updated daily. Even the data that is more static in nature is certainly timelier than a state's six-month or older comprehensive annual financial report.

But should accuracy be sacrificed for timeliness? Data used in state comprehensive annual financial reports are carefully reviewed and audited prior to publication and distribution, but data linked to state transparency Web sites is typically unaudited, and its accuracy is by no means guaranteed. That could lead to liability problems for the state if inaccurate data on the transparency Web sites adversely affects the outcome of important decisions.

In addition to discussions about timeliness and accuracy, another question that arises is whether the raw data featured on state transparency sites has any real meaning for most citizens. Some would argue that without context or at least some assurance of reasonable accuracy, a piece of data is not worth all that much. States will have that information as they can analyze usage information, including who is accessing information on the site and how the information is being used.

Data Security

Increased automation and reliance on technology carry with them inherent risks—for individuals, for the private sector and ultimately for governments as well. Vast electronic stores of data open new challenges for protection from hackers and e-fraudsters, and data held by governmental entities is no exception.

In the past few decades, states have moved into the digital arena to meet the needs and expectations of a tech-savvy public. In fact, the transparency databases posted on Web sites around the country would not have been possible without a move by governments to embrace technology and its full potential. With that move came a huge responsibility and, now more than ever, state governments must be thorough and diligent in fulfilling the public trust of data protection.

Privacy: Is It Too Much to Expect?

Privacy is among the primary concerns about transparency databases. Officials need to decide the amount of information about a financial transaction by a government that can be shared. They also must consider whether providing the name of a person who received

a payment from the state amounts to transparency or an infringement of the recipient's privacy.

Certain personal information, such as Social Security numbers and health care information, is protected by law. But other types of information made available through searches on transparency Web sites can lead to problems as well. In at least two instances, individuals were assaulted by former spouses who used one state's transparency site to find contact information. These are isolated incidents, but carried to an extreme, the ramifications are clear.

States are attempting to scrub data to remove protected and sensitive information, but issues of privacy likely will continue to be discussed as state transparency Web sites become more prevalent and more widely promoted and utilized.

Federal and State Initiatives: Putting the Puzzle Together

All these issues leave government officials with an accountability and transparency puzzle that needs to be pieced together. Though the federal government is moving forward with the requirements of the Federal Funding Accountability and Transparency Act, much work remains to accomplish the intent of the legislation. Further development of the transparency Web site is underway, including efforts to determine how information will be made available for federal awards down to the sub-recipient level. The pilot project to test how sub-recipient information is to be gathered and entered into the database did not begin until August 2008. The Office of Management and Budget is expected to request an 18-month delay in implementing the sub-recipient portion of the site—a delay the statute allows—in order to examine the results of the pilot and make any necessary adjustments.

Some states and local governments are also moving forward with their own transparency projects. Each project is different and includes different data sets managed and developed by different parties within each state. These efforts may someday work in concert to provide a comprehensive, easily understandable view of the fiscal integrity of state and federal governments. The federal transparency pilot database will at some point enter a phase that will look at how the state sites can interface with the federal database to ease state compliance with federal requirements. Even though the original Federal Funding Accountability and Transparency Act legislation has yet to be successfully implemented, legislation that surfaced last year to strengthen the requirements is likely to resurface, potentially

requiring even more data about federal contracts and grants to be reported. This could place a tremendous burden upon states and local governments, and it would be necessary for them to find a way to report the required information.

Notes

¹George Kopits and Jon Craig, *Transparency in Government Operations*, IMF Occasional Paper No. 158 (Washington: International Monetary Fund, 1998), 1.

²“President Bush Signs Federal Funding Accountability and Transparency Act,” *www.whitehouse.gov*, September 26, 2006.

³*www.usaspending.gov*.

⁴*www.atr.org/state/projects/govtransparency.html*.

⁵*www.atr.org/state/projects/govtransparency.html*.

⁶“Time to Complete the States’ CAFRs, Fiscal Years 2003, 2004, 2005, 2006, and 2007,” a report by the National Association of State Comptrollers, *www.nasact.org/techupdates/downloads/CAFR_FY_03-07.pdf*.

About the Author

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