

MINIMUM STANDARDS OF OPEN GOVERNMENT

MINIMUM OPEN GOVERNMENT STANDARDS FOR FEDERAL AGENCIES – SHORT-TERM PRIORITIES

The Minimum Standards of Open Government could be a powerful way to advance President Obama's goals of open government.

President Obama's open government memorandum directed agencies to "put information about their operations and decisions online."¹ In addition, President Obama stated in his memo on the Freedom of Information Act (FOIA) that agencies "should not wait for specific requests from the public," but instead should post information proactively on their websites.²

The idea of these Minimum Standards of Open Government is to advance these goals by identifying key information that all agencies should routinely post online. These types of information would then serve as a minimum standard, or "floor," for modern online transparency.

At the request of administration officials, this document represents a prioritized sub-set³ of information that should be included in such a standard. These ideas are broadly shared priorities among the open government community.

1. Communications with Congress
2. FOIA Requests and Released Documents
3. Agency Visitor Logs
4. Employee Directories and Contact Information
5. Calendars of Top Officials
6. Federal Advisory Committees' Information

Each type of information is frequently released under FOIA requests; we believe that most agencies could quickly implement a directive to proactively post this information online. These

¹ http://www.whitehouse.gov/the_press_office/TransparencyandOpenGovernment

² http://www.whitehouse.gov/the_press_office/FreedomofInformationAct

³ For the latest draft of the complete recommended standard, see <http://www.ombwatch.org/files/info/OpennessFloor-aug2012.pdf>

types of information could be the first elements of a "floor" that could be progressively expanded over time.

We encourage the administration to direct all agencies to begin posting this information online. To ensure effective implementation, we suggest that the administration further issue specific guidance, including deadlines and reporting requirements, and provide technical assistance to agencies, such as through the new Digital Services Innovation Center in the General Services Administration.

COMMUNICATIONS WITH CONGRESS

Recommendation: Each agency should post its communications with Congress, namely:

- Testimony to Congress
- Reports to Congress required by statute
- Communications received from members of Congress
- Responses to formal inquiries from members of Congress

Rationale: The relationship between Congress and the executive branch is a subject of considerable public interest. These important documents portray Congress' oversight activities and the exchange of ideas between branches – key features of the Constitutional separation of powers that is at the heart of our American democracy. Because they describe significant activities of the executive branch, these documents should be available to the public. Increased transparency of this information can support increased accountability of both branches of government.

Examples of Good Practice:

- In March 2011, the White House announced in a blog post that agencies would begin to post Congressional testimony and mandated reports.⁴ An analysis by OpenTheGovernment.org in July 2011 found that around half of agencies were complying with the directive.⁵
- The Federal Aviation Administration posts agency reports.⁶
- The Environmental Protection Agency posts Congressional testimony.⁷
- The proposed Access to Congressionally Mandated Reports Act⁸ would require agency reports to be posted on a single website.
- Executive Order 13457 directs agencies to post online all communications from Congress recommending expenditures (also known as "lettermarking.")

Implementation Suggestions: Each agency should establish a common location on their websites (e.g., www.agency.gov/congress) to present all of their communications with Congress. The pages should organize the records such that users could easily find items by subject, date, or members/committees of Congress.

⁴ <http://www.whitehouse.gov/blog/2011/03/14/freedom-information-act-building-steady-progress>

⁵ <http://www.openthegovernment.org/node/3161>

⁶ http://www.faa.gov/about/office_org/headquarters_offices/agi/reports/

⁷ <http://www.epa.gov/ocirpage/hearings/index.htm>

⁸ H.R. 1974 / S. 1411

FREEDOM OF INFORMATION ACT REQUESTS AND RELEASED DOCUMENTS

Recommendation: Each agency should post key documents from its FOIA process, namely:

- Its log of FOIA requests received by the agency and their status in processing
- Documents released by the agency in response to a FOIA request

Rationale: The Freedom of Information Act (FOIA) is a vital tool for government transparency and accountability. For maximum effectiveness and efficiency, a modern FOIA request should be digital and public. Posting released FOIA documents makes the information more accessible and reduces duplicative requests. In addition, FOIA logs provide useful information about agency performance at FOIA implementation, in greater detail than is available in annual agency reports. These reforms would advance the spirit of FOIA while updating its practice for the 21st century.

Examples of Good Practice:

- FOIAonline, the new multi-agency FOIA portal, provides this functionality for all participating agencies.⁹ The module was developed by the Environmental Protection Agency (EPA), Department of Commerce, and National Archives and Records Administration (NARA), and launched in October 2012.
- Under the Electronic Freedom of Information Act Amendments of 1996¹⁰, agencies are required to post disclosed records likely to be the subject of multiple requests. This effort would take that process to the next level by posting disclosed records for *all* public requests.
- State and local governments have implemented this practice as well. For instance, Chicago has posted its FOIA logs beginning in 2010.¹¹

Implementation Suggestions: Not all records released under FOIA are appropriate for publication. Agencies could exclude from posting records containing personal information about the requester (*e.g.*, requests filed jointly under the Privacy Act).

⁹ <http://foiaonline.regulations.gov/>

¹⁰ P.L. 104-231.

¹¹ <https://data.cityofchicago.org/browse?category=FOIA>

AGENCY VISITOR LOGS

Recommendation: Each agency that keeps visitor logs in an electronic format should post its logs online.

Rationale: As the White House recognized when it adopted its policy to disclose its visitor logs, there is considerable public interest in knowing who visits federal agencies. In particular, visitor logs can shed light on lobbying and other activities intended to influence policymakers.

Examples of Good Practice:

- The White House visitors log¹² provides the name of the visitor, the date of the visit, the name of the person being visited, and a general description of the reason for the visit. The White House logs are searchable, sortable, and downloadable.
- The General Services Administration (GSA) posts the logs of visitors signing in and out of its headquarters.¹³
- Several agencies maintain visitor information in electronic format, including the Departments of Commerce, Defense, Homeland Security, Energy, Justice, Housing and Urban Development, State, Transportation, and Treasury.

Implementation Suggestions: We recognize that not all agencies currently keep visitor logs, or keep them on paper rather than in an electronic format. Over the longer term, we encourage agencies to transition their visitor logs to electronic format, and thereafter to post them online.

Some visitors could be exempted from disclosure to address privacy issues and other concerns related to non-policy meetings, such as job interviews. The White House's policy for exempting certain information¹⁴ is a useful starting point for agencies.

¹² <http://www.whitehouse.gov/briefing-room/disclosures/visitor-records>

¹³ <http://www.gsa.gov/portal/category/101851>

¹⁴ <http://www.whitehouse.gov/VoluntaryDisclosure>

EMPLOYEE DIRECTORIES AND CONTACT INFORMATION

Recommendation: Each agency should post its staff directory, including office contact information for each official.

Rationale: President Obama's open government memorandum¹⁵ identified participation as a pillar of open government. Staff directories facilitate participation by making it easier for the public to locate the relevant point of contact within an agency bureaucracy.

Examples of Good Practice:

- In March 2011, the White House announced in a blog post that agencies would begin to post agency directories.¹⁶ An analysis by OpenTheGovernment.org in July 2011 found that around half of agencies were complying with the directive.¹⁷ Of the compliant agencies, some were providing the information in a difficult-to-use format.
- The Department of State¹⁸, Department of Commerce¹⁹, FDA²⁰, and EPA²¹ have made their staff directories easily accessible online.

Implementation Suggestions: We recommend that staff directories be searchable by name and office, and should include employee name, title, organization, email address, mailing address, and phone number.

Directories should be updated in a timely fashion to reflect personnel changes.

¹⁵ http://www.whitehouse.gov/the_press_office/TransparencyandOpenGovernment

¹⁶ <http://www.whitehouse.gov/blog/2011/03/14/freedom-information-act-building-steady-progress>

¹⁷ <http://www.openthegovernment.org/node/3161>

¹⁸ <http://www.state.gov/s/l/treaty/staff/index.htm>

¹⁹ <http://dir.commerce.gov/>

²⁰ <http://directory.psc.gov/>

²¹ <http://cfpub.epa.gov/locator/index.cfm>

CALENDARS OF TOP OFFICIALS

Recommendation: Each agency should post a public calendar of its senior staff (e.g., Secretary, Deputy Secretary, Assistant Secretary).

Rationale: Calendars can shed light on who is meeting with policymakers, including lobbyists and others attempting to influence government decisions. In addition, calendars are a useful tool for journalists covering the activities of top decision-makers.

Examples of Good Practice:

- USDA's Food Safety and Inspection Service offers a calendar of official meetings, including the date, site, topic/subject, and all personnel that will be present at each meeting.²²
- EPA also lists senior manager schedules, and includes the option to subscribe to RSS feeds.²³
- The Consumer Financial Protection Bureau offers a Leadership Calendar that details the everyday schedule of Richard Cordray, the Director of the CFPB, and Raj Date, the Deputy Director.²⁴ It is current up to the last 30 days and includes dates and times of meetings, travel, and work periods. It also lets the public obtain the calendar in multiple formats, from PDF to RSS feeds to a format that allows the public to view in their calendar software.
- The Office of Government Information Services at the National Archives and Records Administration (NARA) posts the Director's calendar bi-weekly.²⁵

Implementation Suggestions: We suggest that agencies post calendars not only for department heads, but also for the heads of major agencies within a department. For example, the Department of Health and Human Services should provide this information not only for the Secretary, but also for the Commissioner of Food and Drugs (head of the Food and Drug Administration).

Over time, to include all top decision-makers, this practice could be expanded to include all Senate-confirmed positions.

²² http://www.fsis.usda.gov/News_&_Events/Officials_Calendar_of_Meetings/index.asp

²³ <http://yosemite.epa.gov/opa/admpress.nsf/Calendars?openview>

²⁴ <http://www.consumerfinance.gov/leadership-calendar/>

²⁵ <https://ogis.archives.gov/news-and-events/directors-calendar.htm>

FEDERAL ADVISORY COMMITTEES' INFORMATION

Recommendation: Each agency should post information about each of its federal advisory committees (FACs), namely:

- The committee's charter and a description of the committee's purpose and activities
- The names and biographies of each member, as well as any conflict of interest waivers
- Meeting agendas, minutes, transcripts, and recordings, if available
- Coming events, timelines of work being done

Rationale: Advisory groups can play an important role in policymaking. The Federal Advisory Committee Act (FACA) was designed to make such groups more transparent and to encourage public participation. Posting more information about FACs and their activities would promote the goals of FACA while best taking advantage of modern technology.

Examples of Good Practice:

- The EPA's Science Advisory Board²⁶ allows for public nomination of Board members, provides detailed biographical information on the Board members, and posts the Board's reports along with the agency's response.
- DOE's Blue Ribbon Commission on America's Nuclear Future²⁷ posts video webcasts of the Commission's meetings and discloses the process used to avoid conflicts of interest.
- The FDA posts waivers given to conflicted members on its website.
- Fido.gov provides an interagency database of certain information about federal advisory committees.
- The Federal Advisory Committee Act Amendments²⁸ and the Transparency and Openness in Government Act²⁹ would require additional disclosure of information about federal advisory committees.

Implementation Suggestions: Each agency shall maintain a listing of Advisory Committees to that agency. The listing shall include, or link to the relevant information about each Committee organized in a consistent easy to review format. The information shall also be available at the FACA database at fido.gov.

²⁶ <http://yosemite.epa.gov/sab/sabpeople.nsf/WebCommittees/BOARD>

²⁷ <http://brc.gov/>

²⁸ H.R. 3124

²⁹ H.R. 1144