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**Testimony of  
Craig Jennings, Director of Federal Fiscal Policy  
OMB Watch**

**House Committee on Oversight and Government Reform**

**On  
Achieving Transparency and Accountability in Federal Spending**

**June 14, 2011**

Chairman Issa, Ranking Member Cummings, members of the subcommittee: My name is Craig Jennings and I am the Director of Federal Fiscal Policy at OMB Watch — an independent, nonpartisan watchdog organization. Thank you for inviting me to testify today on the important topic of current problems with existing federal spending transparency and ways to improve the accessibility and accuracy of these systems.

Since it was formed in 1983, OMB Watch has focused on bringing greater accountability to our nation's spending. In recent years, we played a leadership role in the passage of the Federal Funding Accountability and Transparency Act of 2006 (FFATA). We also developed FedSpending.org, a website that implemented much of the goals of FFATA by providing online searchable and downloadable tools to monitor much of the federal government's spending. Because of its success, FedSpending.org was licensed to the federal government and became USAspending.gov. In other words, OMB Watch has nearly thirty years of both policy and practical experience with bringing greater accountability to federal spending information.

OMB Watch does not receive any government funding and, therefore, would not be financially affected by actions taken with regards to improved transparency and accountability of USAspending.gov.

We want to commend this Committee for holding today's hearing and for efforts to improve the utility of USAspending.gov. In general, we are very supportive of proposals to strengthen public access to government spending information. Such transparency is a nonpartisan issue as demonstrated by the bipartisan co-sponsorship of FFATA, where two Senators with different ideological backgrounds worked closely together to draft and advocate for the bill. We hope a similar approach is taken with the Digital Accountability and Transparency Act (DATA Act).

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1742 Connecticut Ave. NW  
Washington, DC 20009

tel: 202.234.8494  
fax: 202-234.8584

email: [ombwatch@ombwatch.org](mailto:ombwatch@ombwatch.org)  
web: <http://www.ombwatch.org>

This testimony details OMB Watch's top ideas for making federal spending more transparent and accountable. I begin with a summary of the top ideas, which is followed by a more detailed discussion of the summary points. On June 9, we were given a summary and section-by-section of the DATA Act, along with a briefing by Committee staff. However, we did not receive a copy of legislative language during that briefing and therefore cannot comment about the DATA Act with any specificity. As with all legislation, the devil is in the details. Accordingly, we look forward to reviewing the legislative language and working with Chairman Issa as the bill moves through the House. .

## **I. Summary of Top Recommendations to Improve Federal Spending Transparency**

- 1. Data Quality.** Publishing poor-quality data can be counterproductive to federal spending transparency. Although putting such data into the public sphere actually serves to increase its quality, as the public can scrutinize and compare it to other existing data sets, inaccurate data can lead to incorrect policy judgments.

Comparing recipient reports to agency reports on spending will not improve the quality of data on USAspending.gov. This is for two reasons. First, agencies report mostly obligations, although not always. This creates confusion. Second, the agency information is not the most accurate when it comes to how much was actually spent, the outlays. The best outlay data is from the Department of Treasury, the nation's checkbook. That data should be made available online and compared to recipient reports.

- 2. Unique Entity Identification.** Tracing the flow of dollars from the government to a given recipient is, of course, the cornerstone of federal spending transparency. It also is important to trace a given recipient across multiple databases. To do this, each recipient of federal funds should be uniquely identified across all data systems in the government: We need to know if the Acme Corporation that received a contract in 2006 from the Pentagon is the same Acme Corporation that received a contract in 2009 from the Department of Energy and is the same Acme Corporation that was poorly reviewed by the State Department in 2005.

It seems obvious, but there currently is no such unique identifier system throughout government, and the current system used within USAspending.gov is deeply flawed, as I explain later. Without establishing a comprehensive, universal unique identification system federal spending transparency will be hamstrung. This unique ID must include, at a minimum, parent company, headquarters, and facility.

- 3. The Complete Chain of Recipients.** An important lesson from Recovery.gov is the importance of having subrecipients of federal funds report in a timely manner with appropriate and relevant information. Recovery.gov provides information about the prime recipient and one tier below the prime. We strongly recommend that all subrecipients, not simply one tier below the prime, report on a quarterly basis. A dollar threshold, such as \$25,000, can be established to reduce reporting by subrecipients receiving small amounts of

money. We believe the FederalReporting.gov website built by the Recovery Board can be modified and used for this purpose. Assuming the proposed DATA Act moves in this direction, it needs to distinguish between prime recipients and subrecipients in order to establish the appropriate linkages and reporting responsibilities.

4. **Tax Expenditures.** In FY 2009, the government spent \$556.4 billion in grants and \$537.6 billion in contracts, as reflected on USAspending.gov. By comparison, the government spent an estimated \$1 trillion in that year through tax expenditures, which is not monitored by USAspending.gov.

To see why tax expenditure transparency is necessary, consider that the home mortgage interest deduction and Section 8 housing vouchers are both designed to help Americans afford homes. From a housing-policy standpoint there's little difference between these two policies, but from a reporting and performance measurement standpoint there is a world a difference. If the public and Congress demand to know how wisely their tax dollars are being spent, then we should see information on both of these pools of spending. We strongly recommend addressing this massive shadow budget by putting tax expenditure information online.

5. **How Information is Displayed.** We learned three things from Recovery.gov and USAspending.gov. First, we need to ask the right information from recipients of federal funds in order to assess performance. However, it will be impossible to add enough fields to satisfy each agencies needs. Accordingly, the new approach should allow agencies to add agency or program specific questions that are reported to the agency, but able to be integrated into the overall spending website.

Second, as information is collected from prime recipients and their subrecipients, the website needs to provide new ways of presenting the data so double counting does not occur and that the public can obtain an accurate picture of where the federal funds are actually spent.

Third, the website needs to be relevant for multiple types of users, some are interested in tables and charts, others in simple graphs, and yet others in maps and other methods of graphically presenting data.

6. **Information Beyond Just Dollars.** Federal spending is much more complex than simply writing a check to a recipient. As such, federal spending information disclosure should not be limited to reporting who got how much. We need to know what the American people were supposed to get in return for handing over our tax dollars, what was the quality of the service performed or the good provided, and whether recipients of federal funds are playing by the rules. A federal spending transparency system should include:
  - a. *Full text of contracts and requests for proposals*, so that the public can know if those acting in the interest of the federal government are fulfilling all that they said they would do;

- b. *Performance data*, so that the public knows that federal funds are being used wisely; and
- c. *Mashups with regulatory compliance data*, so that the public knows federal funds are not going to scofflaws, like tax cheats, violators of workplace safety rules, or toxic chemical dumpers.

**7. The Complete Spending Cycle.** Before a check is written to a recipient, and indeed, before a given program is authorized to write that check, a series of decisions were made throughout the legislative and executive branches. And even after funds are dispersed, the American people should see how wisely those funds were spent. However, we are currently limited to seeing only a small slice of the full federal spending cycle – the obligations that agencies make to recipients.

Full federal spending transparency would allow the public to see the full life cycle of a given federal program from the appropriation of funds to the contracts and grants written to execute the program to whom funds were disbursed to program performance measurement and to the program's justification for reauthorization in the President's budget. This is admittedly an incredibly complex endeavor, but it is essential to understanding how and why federal funds are spent.

**8. Intergovernmental Reporting.** A key concern that surfaced during the implementation of the Recovery Act's reporting requirements was the burden placed on states and recipients of multiple awards. For recipients, it often means reporting similar information, but in different forms, to the local, state or federal government. For state government, there is the cost of collecting information from its subrecipients. We believe the federal government should work with state and local governments to develop a uniform reporting system that all parties can use and would result in overall burden reduction for recipients. Additionally, if there are changes required in state financial reporting systems, the federal government should pick up the tab for this. A huge benefit of establishing a uniform model of spending transparency is that data on state websites will not be different than on federal websites.

**9. Data Distribution.** Federal spending transparency depends not just on publishing data, but also on making sure that a wide variety of audiences are able to consume that data. There are sophisticated users that can download raw data and write programs to do present it in novel and insightful ways. But getting this raw data out to the public should be done in such a way that it can be consumed by as many computer systems as possible, which means among other requirements, avoiding proprietary data structures like Microsoft Excel.

But as flashy and cutting-edge machine-readable data distribution becomes popular, it is important to not overlook the less sophisticated user. It is incumbent upon the federal government to design web-based interfaces that people who cannot built websites can go to and easily understand where their tax dollars are going. Focus groups and market testing should be undertaken to ensure that my mom or policy analyst like me can log into a single

website and see how federal dollars are protecting the food supply or who build that new highway to the airport.

With respect to the preliminary information we received on the DATA Act:

- 1. Funding.** The success of the Recovery Accountability and Transparency Board was largely related to the funding it received from Congress. USAspending.gov has never received dedicated funds. Congress needs to provide funds sufficient for the Federal Accountability and Spending Transparency Board to do this important work – and Congress should view this appropriation as an investment.
- 2. The FAST Board, the Future of USAspending.gov and FFATA.** We are generally supportive of the creation of a separate, independent agency charged with supporting federal spending transparency. OMB Watch believes that the Recovery Board has been exemplary in overseeing Recovery Act transparency, and we would be pleased if a successor to it carried on its powers and work for all of federal spending.

We are concerned, however, that the FAST Board would sunset. We do not believe that federal spending transparency should live under the sword of Damocles. Rather, it should be a fundamental element of democratic governance, albeit subject to congressional oversight.

Finally, rather than completely repealing FFATA, the DATA Act should amend it to accommodate the new structure of federal spending transparency. For example, there are requirements in FFATA, such as minimal mandates of what information should be collected and displayed about federal spending. This list should be retained and expanded to include items such as competition in federal contracting which is currently being provided but was not part of the FFATA requirements. Similarly, rather than end USAspending, the DATA Act should build upon this platform so as not to spend millions of dollars reinventing the wheel.

## **II. Detailed Discussion of Recommendations on Federal Spending Transparency**

### **1. Data Quality**

Through their Clearspending project, the Sunlight Foundation has demonstrated that USAspending.gov has significant data quality issues. A proviso in the project's methodology reveals the essential problem. "Since CFDA [Catalog of Federal Assistance] program obligations are annual estimates, there are very few programs whose reported CFDA obligation total is exactly equal to the aggregate obligations in USAspending.gov. As a result, the presence of over- or under-reporting cannot be assumed to represent an error."<sup>1</sup>

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<sup>1</sup> "Methodology," Clearspending, Sunlight Foundation, accessed 3 March 2011.  
<http://sunlightfoundation.com/clearspending/methodology/>

The Subsidy Scope project by the Pew Charitable Trusts, which takes a sector-by-sector approach to detailing federal spending, noted that the CFDA “can be bafflingly inconsistent.”<sup>2</sup> The Clearspending project compares data of questionable quality to data of questionable quality, but they do so simply because there are no publicly available, high-quality data. Moreover, the Clearspending project only raised issues about data quality for financial assistance, not for procurement.

USAspending.gov was always envisioned as just the beginning. When OMB Watch worked with Sen. Tom Coburn (R-OK) and then-Sen. Barack Obama (D-IL) to craft the legislation that ultimately created USAspending.gov, FAADS (Federal Assistance Award Data System) and FPDS (Federal Procurement Data System) databases were chosen because they were available, not because they were particularly good data sources.

We knew at the time that data quality in both data sets was suboptimal, to say the least, but we believed (and still do) that putting the data online would draw attention to the myriad flaws in the data. Since going online in 2007, USAspending.gov’s data quality has improved and continues to do so because of attention - partly drummed up through hearings like these - the site receives. And while contract and assistance data quality have a long way to go, there is a much better data source that could be put online to feed USAspending.gov if the focus is on outlays.

We always thought of FAADS Plus and FPDS data (the data displayed on USAspending.gov) as an intermittent step. No matter how improved agency reporting becomes, it will always be flawed. Either there will be concerns about speed of reporting or over quality. Agencies are asked to report obligations; however, obligations do not always translate into outlays. For example, some agencies with loan obligations have reported loans to people who are eligible, which may be very important for internal agency purposes but is not the most meaningful information for display on USAspending.gov.

Some have discussed the idea of comparing improved agency reporting with information collected through recipient reports to high discrepancies in spending numbers. Instead, a better approach would be to display the data found in the nation’s checkbook. Kept by the country’s check writer, the Treasury Department, data on the checks that are handed to recipients is the most accurate source of federal spending data if we are concerned about outlays. If you want to know how much money and to whom it has gone, there is no higher data quality than that appears on the “Pay to the Order of” and “Amount” lines of Treasury payments. USAspending.gov and, indeed, federal spending transparency would be tremendously improved by putting the Treasury spending data online.

This is not to suggest that agency reporting should be dropped. In fact, by allowing access to Treasury spending data, Congress and the public could easily compare contract and

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<sup>2</sup> “Federal Records Missing Important Data,” *Subsidyscope*, accessed 9 June 2011.  
<http://subsidyscope.org/data-quality/>

assistance transactions reported by agencies to the actual cash outlays. And rather than take a rough guess at the extent to which FAADS Plus and FPDS data are inaccurate, we would know to the penny just how inaccurate federal agency obligation data is.

Moreover, comparing the Treasury data with recipient reports would be a good cross-check on whether recipients are receiving the money that was sent by the Treasury.

OMB Watch believes that the DATA Act could make a substantial improvement in spending transparency if it contained a provision that mandated that the FAST board publish the spending data as reported by the Treasury Department.

## **2. Unique Entity Identification**

Entities that receive federal funds may be identified differently in different systems. Tracing the flow of funds from request to expenditure to reporting on the use of those funds requires that multiple systems recognize a given entity throughout the process; that is, the Acme, Inc. that received a federal contract last year is the same Acme, Inc. that appears in EPA's toxic release inventory. Furthermore, assessing the total amount of federal funds that an entity has ever received requires the ability of systems to recognize that entity as such in every instance it is involved in the federal spending process. And because data are housed in many disparate locations and in different systems, the ability to link these data sets is essential to federal spending transparency.

The importance of identifying entities extends beyond USA Spending.gov. Implementing a single system to identify entities across all federal data would allow stakeholders within and outside government to link recipients of federal contracting dollars to contractor performance reviews to campaign donations to lobbying activity to environmental impacts and to workplace and consumer safety records. By linking these disparate data sets, citizens and governmental actors could increase the accountability of contractors, Congress, and the federal government alike.

A robust federal spending transparency system would include the implementation of universal, and open unique identifier scheme. Currently, the federal government utilizes the Dun & Bradstreet Universal Numbering System (DUNS) to uniquely identify companies doing business with it. Theoretically, with an entity's DUNS number, one could trace its entire federal grant and contract history, but access to the system is expensive. Moreover, because it is privately owned, essentially enclosed in a "black box," the system is not subject to the usual transparency requirements, including Freedom of Information Act requests, leading to questions of accuracy and comprehensiveness.

Additionally, the DUNS system being employed on USA Spending.gov is flawed when it comes to historical corporate ownership information when a parent company divests itself of one of its subdivisions. For example, because Halliburton sold off a subsidiary, KBR, in 2007, billions of dollars of Iraq War contracts awarded to Halliburton no longer appear as

having been awarded to the company in USAspending.gov. And because the DUNS data remains locked in Dun & Bradstreet's data systems – a private service -- the federal government is extremely vulnerable to suspension of services if the government's contract is not renewed or not properly negotiated, potentially leaving the federal government without a system to identify its contractors. For example, it took until this year to negotiate an arrangement with D&B to publicly disclose parent company ownership.

The DATA Act should require the FAST Board to develop a solution to the unique ID issue. In tackling this issue, the FAST Board must be granted authority to apply the ID system across the government, not simply with regard to recipients of federal funds.

### **3. The Complete Chain of Recipients**

According to a Government Accountability Office report, \$24 billion in Recovery Act contract and grant spending went to about 3,700 recipients who owed some \$750 million in taxes to the US government.<sup>3</sup> A key reason the GAO was able to identify about half of the tax delinquent award recipients was because the Recovery Act mandated sub-recipient awards be reported to Recovery.gov.

The current depth of vision along the chain of federal funds recipients is inadequate and keeps billions of dollars of contracts and grants out of view. Currently, we can see only two links in that chain: prime recipients and the first-tier sub-recipients. Prime recipients are the entities that receive funding directly from the federal government and can include states, cities, and private firms. Information on that exchange, including the identity of the prime recipient, is reported into USAspending.gov by federal agencies. Below prime recipients are the first tier of sub-recipients, who receive work from primes through sub-grants and subcontracts. Prime recipients report sub-recipient information to USAspending.gov.

After the first sub-recipient, however, the transparency trail goes cold. Prime recipients do not collect any sub-contracting data beyond first tier sub-recipients. Large federal projects are likely to be subcontracted out multiple times, employing many different contractors. And since most projects are routed through states or localities, the reporting levels are quickly exhausted.

For example, the federal Department of Transportation may give the State of Texas a \$1 billion grant to repair roads. The state government in Texas may then opt to subaward those funds to Austin, Dallas, Houston, and San Antonio. In this scenario, USAspending.gov shows us only the money that went to Texas (the prime recipient) and to the four cities (the first tier of sub-recipients). Almost certainly, however, those cities will sub-contract out to road construction firms to complete the work. And it wouldn't be uncommon for those road construction firms to sub-contract out some work. Plausibly, of

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<sup>3</sup> "Thousands of Recovery Act Contract and Grant Recipients Owe Hundreds of Millions in Federal Taxes," Government Accountability Office, April 2011. <http://www.gao.gov/new.items/d11485.pdf>.



the initial \$1 billion award to Texas, hundreds of millions of dollars could be flowing through non-competed awards (e.g., the mayor's brother-in-law) but taxpayers would never know.

Instead of limiting transparency to two levels of recipients, a system of full multi-tier reporting in which any organization that receives more than some *de minimis* amount – say, \$25,000 – in federal funds must report on the use of those funds should be implemented. Such a system would help give the public a better understanding of how federal funds are spent, and help prevent waste, fraud, and abuse.

In this context, it is not appropriate to exclude funds going to individuals from disclosure on USAspending.gov. Many individuals doing subaward work are established as sole proprietors or other legal means that would appear to be an individual but should be disclosed. (Individuals as recipients of federal funds should only be exempt from disclosure when they are receiving direct payments under mandatory programs such as Social Security, Medicare, and Medicaid.)

The DATA Act should also address whether it is appropriate to track spending by vendors. A recipient or subrecipient may be passing significant sums to vendors. Under the Recovery Act there was some tracking of such spending.

When it comes to the ultimate recipient reporting, the chair of the independent Recovery Board, Earl Devaney, supports this concept. Devaney argues that “more data, clearly presented, will give the public a better sense of what is going on in this massive government program. ... [T]his kind of detailed information [multi-tiered reporting] should be available for all government spending programs in an electronic and timely fashion.”<sup>4</sup> We couldn't agree more, and hope that Congress and the Obama administration will take steps to implement this important change.

#### **4. Tax Expenditures**

While USAspending.gov does a fair job of showing obligations that lead to federal cash outlays, it does not show many other forms of government spending. One giant hole is the absence of tax expenditure data. Tax expenditures, as defined by the 1974 Budget Act, are “revenue losses attributable to provisions of the Federal tax laws which allow a special exclusion, exemption, or deduction from gross income or which provide a special credit, a preferential rate of tax, or a deferral of liability.” In other words, they're the tax breaks and loopholes that provide benefits to corporations and taxpayers. Accounting-wise, tax expenditures function in the same way as cash outlays, in that a dollar handed out as a tax break increases the federal deficit just as a dollar handed out via a check does.

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<sup>4</sup> "Chairman's Corner," *Recovery.gov*, 28 Feb. 2011.  
<http://www.recovery.gov/News/chairman/Pages/08Feb2011.aspx>

Tax expenditures total over \$1 trillion a year, equaling the amount spent annually on discretionary spending (both security and non-security combined) and comprising an amount equal to almost 30 percent of our nation's spending. The Internal Revenue Service (IRS) is administering a subsidy program equal to the amount that all other agencies combined spend through the discretionary budget. Yet, while USAspending.gov gives some insight into how much and to whom federal agencies are writing checks, we know nothing about where tax expenditures end up.

OMB Watch is concerned that the DATA Act would not require reporting of this side of the federal budget. It fails logic that the public should be barred from seeing the amount of federal dollars that go to corporations through tax breaks when they can currently see the federal dollars that flow to them through contracts – especially in light of the fact that several states make state tax expenditure information publicly available.

The IRS currently publishes some limited information on corporate tax breaks, but only aggregated by industry. A grant delivered to an alternative energy company in the form of a check encourages the exact same research and development as funds delivered to that company in the form of an R&D tax credit. That the form of payment is different should not prevent the public from seeing how federal funds are spent and to whom they are provided. Showing basic information on USAspending.gov about which entities received which tax breaks, and for how much, would provide American citizens with an invaluable service while still protecting private and proprietary information.

However, I recognize that putting such information online would require answering myriad questions about things like privacy, what data exactly is useful, would any laws have to be changed, what should be the baseline revenue from which a tax expenditure is measured, etc., etc.? If jumping to full disclosure tax expenditures cannot be done soon because these questions or other concerns present reasonable impediments, I would suggest that the FAST Board undertake a study on tax expenditure disclosure to be reported to Congress.

## **5. Information to Display**

### ***Different Data for Different Programs***

The selection of data to be collected from recipients is vitally important. From the perspective of federal agencies, it is critical to be able to collect information that is relevant to a particular agency or program. However, the FAST Board will only be able to ask so many questions on the general recipient reporting. Thus, there needs to be a system that allows agencies to be able to add questions. For example, when The Department of Housing and Urban Development (HUD) gives out money for rehabilitation of houses that cuts across multiple blocks or locations in a county, what is the appropriate address that a recipient should insert in the "place of performance" field that only allows one address? Instead, HUD should be able to collect more granular level information to help monitor its funds.

The decision on what data is to be collected should be subject to public notice and comment. Collecting the right information is essential to knowing whether federal funds are properly being used. For example, a key concern about the Recovery Act was whether the funds were creating or saving jobs. Yet the questions being asked of recipients were inadequate in answering many employment questions.

### ***Subrecipient Information***

Neither Recovery.gov nor USA Spending.gov do an adequate job of displaying subrecipient information. A challenge is mapping the accurate flow of federal funds. Since the prime recipient (or the sub-recipient) is paying another entity for work on the project, the original contract amount is no longer an accurate representation of the amount of money the prime recipient received. For instance, if Boeing received a \$10 million contract at its Chicago headquarters, but then subcontracted out \$4 million worth of work to a firm in Michigan, Boeing (and Illinois) is left with only \$6 million worth of the original contract. Illinois does not benefit from the full \$10 million, but Michigan does gain another \$4 million in federal funds. This information is important to understanding how much money stays in a location and how many jobs certain entities or federal projects create.

The DATA Act needs to require that the FAST Board develop an approach for disclosing this data in a manner that reflects the net amount of money that stays in a particular location. Additionally, the federal website must allow the user to search by name of entity to identify how much the entity receives through subawards and through direct awards; for the subawards, who the prime recipients were; and whether the entity has also given out a subaward.

### ***Information Presentation Format***

Because different audiences have different information needs, policy knowledge, and technological facility, federal spending websites should aim to present data in a variety of ways. Displaying only tables of data will limit the meaningfulness of the data to many users. Additional formats such as charts, diagrams, maps, and animations should be included to ensure that federal spending information is comprehensible by the vast majority of users of the website.

## **6. Information Beyond Just Dollars**

### ***Contracts***

Without being able to read the full text of a contract or grant agreement between the federal government and private entity, it's difficult to determine what exactly the government is supposed to be getting for what it spends. And without knowing that, it's impossible to hold agencies accountable for maximizing taxpayer value. As a former information technology consultant, I can tell you that commercial-grade websites can run from thousands of dollars to millions of dollars, with price being determined by multiple factors, including site functionality, scale, and time to market. Seeing only that the government has contracted with a vendor to build a website leaves many questions unanswered.

When the Recovery Board announced in July 2009 that it contracted with Smartronix, Inc. to build what was touted as the website that would provide the greatest federal spending transparency to date, many eyebrows were raised when it was determined that the ultimate value of the contract could be as high as \$18 million. While many criticized the seemingly exorbitant sum that would be employed to build Recovery.gov, such criticism was based mostly on conjecture. At the time, it was impossible to know what the Recovery Board had actually purchased. USAspending.gov provides only six words to describe this \$18 million contract: "American Recovery and Reinvestment Act Project"<sup>5</sup>

Because of the (justified) complaints that the process to build Recovery.gov was so opaque, the Recovery Board urged the Government Services Administration (GSA) - the official governmental contracting party - to release the contract. Unfortunately, when GSA publicly released it, the contract was heavily redacted. Although the extent of redaction was comical to even those outside of the transparency community, it helps us understand what taxpayers were supposed to be getting for \$18 million. Things like the maximum number of users the site can handle; the hardware that would be used and what it would cost; the kind of security the site would be protected by; and basic warranty information all paint a more detailed picture of what taxpayers purchased.<sup>6</sup>

Putting contract text online is not without controversy. In February the Federal Acquisition Regulation (FAR) Council announced that it was withdrawing a proposal to put contract text online.<sup>7</sup> After gathering comments on the advanced notice of proposed rulemaking, the FAR Council heeded concerns that automatic contract disclosure would create an undue burden on contractors and the government to redact confidential business information and that the FOIA process as-is is sufficient to provide contract transparency.

While we do recognize the need to protect information that could harm a business's ability to compete, OMB Watch strongly objects to claims that putting all federal contracts online would be too burdensome and that the FOIA provides sufficient transparency. To mitigate the burden on the federal government of conducting a FOIA review of every contract to

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<sup>5</sup> Prime Award Spending data for Smartronix, Inc., USAspending.gov, accessed 10 March 2011. [http://usaspending.gov/explore?carryfilters=on&fromfiscal=yes&tab=By+Prime+Awardee&typeofview=complete&record\\_id=41530824&fiscal\\_year=2009&contractorid=392379&frompage=contracts](http://usaspending.gov/explore?carryfilters=on&fromfiscal=yes&tab=By+Prime+Awardee&typeofview=complete&record_id=41530824&fiscal_year=2009&contractorid=392379&frompage=contracts)

<sup>6</sup> "Obama Administration Redacts Contract Details for Recovery.gov", ProPublica, 13 Aug. 2009. <http://www.propublica.org/article/stimulus-transparency-watchdogs-keep-contract-details-a-secret-813>

<sup>7</sup> "Federal Acquisition Regulation; Enhancing Contract Transparency; Advance notice of proposed rulemaking; withdrawal," 76 Federal Register 28 (10 Feb. 2011), pp. 7522 – 7526.

<http://www.gpo.gov/fdsys/pkg/FR-2011-02-10/pdf/2011-2900.pdf> <sup>8</sup> A full discussion of the various flavors of machine-readable data and their distribution methods is outside of the scope of this testimony, but Raymond Yee, Eric C. Kansa, and Erik Wilde of UC Berkeley have written extensively about this subject in the context of Recovery Act transparency. Their paper "Improving Federal Spending Transparency: Lessons Drawn from Recovery.gov" (<http://escholarship.org/uc/item/7tw2w9wx>) is insightful in the context of this testimony.

identify confidential business information (CBI) before posting online, contracts could be submitted to the contracting agency electronically. This would allow the contractors the ability to electronically mark CBI and non-CBI information. Although we expect over-redaction initially, the fact that some of the contract text is online would be a step forward. Should stakeholders believe that some information was not properly redacted, a FOIA-like review process could then be initiated.

On the issue of FOIA being sufficient to bring transparency to federal contracting, one need look only as far as the pile of FOIA requests that routinely sit on agencies' desks. The federal government signs thousands of contracts each year, and FOIA requests commonly take months to fulfill. Not only is the burden of transparency placed on citizens, but requiring them to potentially make thousands of FOIA requests for contracts, often with a months-long delay, significantly hinders policy discussions.

### ***Performance Data***

USAspending.gov provides timely, if inaccurate, federal spending information on a publicly accessible website. But federal spending transparency is not an end in and of itself. Rather, transparency is a means to accountability. And holding spending decision-makers accountable requires the public and Congress have access to information on how effective federal programs are. That is, what kind of bang are we getting for the buck. By incorporating program performance data on USAspending.gov and linking it to program spending information, Congress and outside stakeholders will have important tools with which to hold policy-makers accountable.

As part of their budget request formulation process, federal agencies should have access to relevant, high-quality program data. Congress should also have access to the same data to help guide its funding deliberations. Outside stakeholders, those who are affected by program funding, involved in service delivery, and concerned as interested citizens, should also have access to the same information, allowing better participation in the democratic process to determine appropriate funding levels for our national priorities.

To be clear, measuring program performance is incredibly complex, and I do not mean to suggest that including performance data on a federal spending transparency website will settle policy disputes with a single program efficiency score. Indeed, not all that can be meaningfully known about federal programs is quantifiable; programs do not have a single, unitary purpose that never adjusts to changing circumstances. Nor is the only meaningful work performed by federal programs leading to a single outcome. But the inclusion of program performance data in USAspending.gov will serve to inform national conversations about what our national priorities are and which federal programs are deemed best to achieve them.

And because federal contractors are frequently engaged to act on behalf of the federal government to accomplish agency goals, Congress, federal agencies, and the public should

have access to federal contractor performance data so they can hold contractors accountable in the same way that federal agencies should be held accountable.

OMB and the FAST Board, in consultation with agencies, should work together to develop a plan for integrating performance data with spending information.

***Mashups with regulatory compliance and other available data***

The federal government maintains a host of databases including information on plants that release toxins into the environment, companies that violate workplace safety rules, and on the performance records of federal contractors. Joining these data sets together on a single website will allow the public to assess if a recipient of federal funds is adhering to the safeguards and standards that they should. Mashing data up in this way is an incredibly powerful tool that will allow the public and Congress to hold recipients of federal accountable.

The DATA Act should require linking key regulatory databases with spending data about recipients and subrecipients of federal funds. On January 18, 2011, the president issued a memo on regulatory compliance, requiring agencies to disclose enforcement and compliance activities. Working with OMB, the FAST Board should identify top priorities being disclosed under the president's memo and link that with profiles of entities receiving federal awards.

**7. The Complete Spending Cycle**

Federal spending is a roundtrip process that involves decision making in both the legislative and executive branches of the government:

- Congress first identifies a national priority, be it aid to low income families, ensuring the safety of the food supply, or protection of the environment and appropriates funds for those activities;
- federal agencies then undertake the work and expend federal dollars to accomplish their missions, as set forth by Congress;
- federal agencies then assess program performance;
- federal agencies then request from Congress funds to continue executing their programs in pursuit of their missions;
- And then Congress considers how well those objectives are being met and whether additional resources are warranted for the next year and then makes appropriations based on those assessments.

The description of that spending cycle is superficial to say the least. It excludes the detailed process by which federal agencies expend funds, including decisions on who receives grants and contracts. It also excludes the shadow budget that is executed through the tax code: the \$1 trillion tax expenditures that were written into the tax code to accomplish many of the same goals that are met through cash outlays.

Data quality suffers because information systems in the Legislative and Executive branches cannot track spending from appropriation to expenditure to program performance for a single given federal program – the chain of custody for federal spending does not exist. To establish this chain of information related to a given federal program, each federal program should be identified as a unique spending unit, a spending atom, if you will, and each spending atom should contain a unique identification code that follows it through the entire spending cycle. And as actions (spending, program execution, etc.) related to that atom are undertaken, each federal spending information system throughout government and the legislative process can have access to its funding and performance history.

I recognize that atomizing federal spending information like this is an ambitious and thorny problem that is outside of the scope of this hearing, but establishing such fundamental knowledge about federal spending will be necessary to enabling full transparency.

## **8. Intergovernmental Reporting**

States receive billions of federal dollars every year, and in a federal spending transparency system, they should be required to report on what they did with those funds. However, reporting on such large amounts of funding is, as we noticed with Recovery Act reporting, not without some burden. Although states largely complied with the Recovery Act's requirements, there was constant communication between the federal government and state officials on how best to comply with the requirements.

A federal spending transparency should consider state-reporting burdens by giving technical and financial assistance. Not only would such assistance garner buy-in from the states and improve the overall quality of their reports, it could pave the way for establishing spending transparency in all fifty states and the District of Columbia. Should states adopt federal spending transparency technology, standards, and practices, they could piggy-back on federal reporting systems for state-level disclosure

## **9. Data Distribution**

Proponents of open data will argue that any data published by the federal government should adhere to certain standards and principles. The specifics of these standards are beyond my expertise, but I can say that the government should make federal spending information as widely available as possible, and this includes making it usable by machines and people. In the case of machine-readable data distribution, the government should take under serious consideration the advice of experts who demand that federal data be published formats that are not proprietary (like Microsoft Excel) and that can easily be adapted to new technologies.<sup>8</sup> However, less sophisticated consumers of data should also be considered.

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<sup>8</sup> A full discussion of the various flavors of machine-readable data and their distribution methods is outside of the scope of this testimony, but Raymond Yee, Eric C. Kansa, and Erik Wilde of UC Berkeley have written extensively about this subject in the context of Recovery Act transparency. Their paper

What was revolutionary about FFATA and USAspending was not that they made federal spending data available, but that they made them *usable* by the general public. The data that FFATA specified that should feed USAspending – FAADS and FPDS – were already available to the public download. The problem was that using the data required a sophisticated knowledge of databases and the FAADS/FPDS data that 99 percent of the public does not have. FFATA required that those data be displayed on a user-friendly website, and it was that user-friendly website allowed average citizens, journalists, researchers, and even members of Congress to access federal spending data.

### III. Comments About Preliminary Versions of the DATA Act

#### 1. Funding

Transparency is the frame on which government accountability hangs. And accountability is what concerned stakeholders are after: making sure the federal government and those chosen by the government to perform work in its name are maximizing taxpayer value. This point is surely not lost in today's budget-constrained world.

However, building and maintaining websites and keeping accurate data flowing to them requires human and financial resources. To be successful, any proposal to expand and improve federal spending transparency must also be accompanied by the requisite resources. Money spent on federal spending transparency should be seen as an investment rather than expenditure. The IT Dashboard, implemented by Vivek Kundra, Chief Information Officer for the U.S., has, according to Kundra, saved some \$3 billion in wasteful IT expenditures.<sup>9</sup>

Unfortunately, the continuing resolution approved in April by Congress reduced the funding source of projects like these – the Electronic Government Fund – from the previous level of \$34 million to \$8 million. In a recent letter from Kundra to Sen. Tom Carper, Kundra noted that the spending cuts will force OMB to terminate two E-Gov projects, slow the posting of data sets on Data.gov, and defer needed efforts to improve data quality on USAspending.gov.<sup>10</sup>

It should also be noted that the speed with which the Recovery Board built Recovery.gov and the system that allows recipients of federal Recovery Act dollars to file tens of thousands of reports on how they are spending federal dollars was possible largely because the Recovery Act provided the Recovery Board with adequate financial resources. The

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“Improving Federal Spending Transparency: Lessons Drawn from Recovery.gov”

(<http://escholarship.org/uc/item/7tw2w9wx>) is insightful in the context of this testimony.

<sup>9</sup> “Sunshine, Savings, and Service,” by Vivek Kundra, *The White House Blog*, 17 March 2011.

<http://www.whitehouse.gov/blog/2011/03/17/sunshine-savings-and-service>

<sup>10</sup> “Budget cuts shutter two open gov sites, others impacted,” *Federal News Radio*, 24 May 2011.

<http://www.federalnewsradio.com/?nid=35&sid=2395471>



Recovery Board was tasked with tracking a third of the almost \$800 billion over four years, but the federal government spends trillions of dollars each year, and so resource allocation to federal spending transparency should be estimated with these two scales in mind.

## **2. The FAST Board, the Future of USAspending.gov and FFATA**

We support the creation of the FAST Board, particularly if it builds from the work done by the Recovery Board and carries with it the powers under the Inspector General Act. It will be important for the DATA Act to be precise about regulatory and contract authority that the FAST would have.

We are, however, extremely concerned that there is a “sunset” provision in the act that could ultimately shutter federal spending transparency. We strongly urge you to either remove this provision altogether or alter it such that the transparency tools created and maintained by the FAST Board would not sunset along with the Board.

The summary materials provided to us are somewhat confusing about what will happen to USAspending.gov. The summary says that USAspending.gov will be eliminated and a new platform will be created. The section-by-section bill summary says that “functions of USAspending.gov” are to be transferred to the new website. We hope the bill does not eliminate USAspending.gov, but rather builds on it. If you decide that the FAST Board should run the website, then don’t simply transfer the functions to the Board. Rather, transfer authority to oversee the contract and allow the Board to take ownership of the website and modify it as needed, which will save more money than starting another website from scratch.

The FAST Board should also have the authority to utilize existing services made for under the Recovery Act, such as Federal Reporting.gov, Recovery.gov, and the waste, fraud and abuse tools.

We also do not understand the need to repeal FFATA instead of amending it. Rather than permanently undo this part of the law, FFATA could be changed to indicate that while the FAST Board exists, the provisions under the act are the responsibility of the Board, otherwise they remain as stated.

Thank you for your consideration, and I look forward to your questions.





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**Craig Jennings**  
**Director of Federal Fiscal Policy**

Craig Jennings is the Director of Federal Fiscal Policy at OMB Watch. He is an expert in federal spending transparency and the federal budget process. Since joining OMB Watch in 2006, he has studied and written about the federal budget, tax policy, and federal contracting. After the passage of the Recovery Act, Mr. Jennings closely followed the implementation of the act's transparency provisions and helped integrate recipient report data into FedSpending.org, OMB Watch's federal spending database. He also advocates for a sound, equitable budget and greater public participation in the federal budget process. He regularly provides insight into the fiscal policy and has appeared in national media outlets including CNNMoney, CBS Evening News, ABC News, and PBS's Nightly Business Report.

Mr. Jennings graduated from the University of Texas at Austin with a Bachelor of Business Administration degree. After earning his undergraduate degree, he worked as an information technology consultant for KPMG Consulting and Sungard Consulting. In 2007, Mr. Jennings earned a Master of Public Policy degree from American University.