

## Open Government and Records Management

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The authors of the American Constitution met behind closed doors in Philadelphia during the hot summer of 1787. When they completed their labors, the American public was, naturally enough, curious about what they had done. A large crowd gathered around what is now known as Convention Hall. One of its members asked Benjamin Franklin, as he emerged from the building, "What have you given us?" Franklin's answer was hopeful, or perhaps a challenge, even a dare: "A republic, if you can keep it."

The distinctly American combination of humility and determination that met Franklin outside the doors of the Convention Hall provides a clue to our nation's character – and the challenge in Franklin's response is central to the continuing work of improving our experiment in self-government.

What Franklin helped give us was indeed a republic – a charter that recognized the sovereignty of We the People, and that can be counted, in multiple ways, as the nation's first Open Government Directive.

In this light, it is really a special honor to be here today, for the organization that is hosting this conference -- the National Archives -- has been entrusted with a most important records management responsibility: that of safeguarding and preserving the documents, including the Constitution and Bill of Rights, on which our republic is based.

This responsibility is a part of a more modern task – which is to link records management with contemporary technologies and open government, and through this link to promote accountability and democratic deliberation, with a clear eye on this nation's remarkable past, both distant and recent.

The republic that we have managed to keep has lasted for well over two centuries.

At the President's direction, this Administration has taken unprecedented measures to promote transparency and open government. We have started to democratize data.

Through our government-wide efforts, we are providing people with new access to information and analysis. We are reaching out to them directly for innovative ideas. We are making government a partner with the American people by breaking down the barriers that have long stymied public collaboration and participation. Domains such as records management, which many of you help ensure, play a crucial role in all this by ensuring accountability through proper documentation of government actions.

Since his inauguration, the President has placed a great deal of emphasis on open government and on proper management of public records, with an emphasis on disclosure. In January 2009, he issued a memorandum calling for a "presumption in favor of disclosure" under the Freedom of Information Act. On the very same day, he issued a memorandum on openness in general, calling for new measures to promote transparency, participation, collaboration.

Since then, the Administration has taken a number of steps to promote commitments from putting into place sweeping ethics standards to making new data available online. Just as an example: today – for the first time in history –the White House posts online the names of almost every visitor and whom they visited.

But the work this Administration has done in the last year to open government responds to something far older than President Obama's charge to OMB. Our work to make government more transparent, participatory, and collaborative – to make our Republic more accountable to the citizens it serves – is designed to help rise to Franklin's challenge and keep that republic. The recent efforts are hardly the end of the Administration's open-government efforts; they are merely the beginning. The collective progress made in the last fifteen months underscores the President's commitment to a transparent, accountable government. We are looking for new and creative ideas to promote transparency, to preserve our legacy, and to make the living past available to the American public. If we link transparency and the unrealized potential of modern technologies to records management, we will be able to document our practices and to learn from our successes and our failures.

As the President has emphasized, there are three independent reasons to support open government, and all of these bear directly on records management.

First, open government promotes accountability. In the words of Supreme Court Justice Louis Brandeis: "Sunlight is said to be the best of disinfectants." By putting a public spotlight on the actions of public and private institutions, we can motivate significant improvements in performance.

Second, transparency enables people to find information that they "can readily find and use." That is why the President has asked that agencies "harness new technologies" and "solicit public feedback to identify information of greatest use to the public." Through such steps, we can provide people with information that they can use to improve and even lengthen their lives.

Third, the President has said that "[k]nowledge is widely dispersed in society, and public officials benefit from having access to that dispersed knowledge" and hence to "collective expertise and wisdom."

Through more open, accountable, participatory approaches, we are bridging the gap between the American people and their government. We have been reshaping government according to three core values:

- Transparency. Government should provide citizens with information about what their government is doing so that government can be held accountable.

- Participation. Government should actively solicit expertise from outside Washington so that it makes policies with the benefit of the best information.
- Collaboration. Government officials should work together with one another and with citizens as part of doing their job of solving national problems.

Open government is not the work of any single federal office or official. All of us are moving forward with measures to translate the values of openness into lasting improvements in the way government makes decisions, solves problems, and addresses national challenges – and maintains its institutional memory.

### **Sunlight and Records**

When the President quoted Justice Brandeis' words in the Open Government Memorandum, he referred to the principle of accountability.

The basic idea is that officials should be held accountable for their action and inaction – and that accountability requires transparency. This is, of course, a central idea behind the Federal Records Act, which is designed to ensure there is proper documentation of agency decisions and actions.

The President's starting principle is clear: "accountability is in the interest of the Government and the citizenry alike." And in establishing a "presumption in favor of disclosure," the President has demonstrated his commitment to that principle. "The Government," he said, "should not keep information confidential merely because public officials might be embarrassed by disclosure, because errors and failures might be revealed, or because of speculative or abstract fears. Nondisclosure should never be based on an effort to protect the personal interests of government at the expense of those they are supposed to serve."

But the call to remove barriers is only part of the reform. The President has also sought to reorient the government's posture – to change the default setting from one that is closed and insular to one that is open and collaborative. Part of this change involves bringing accountability and sound records management to the forefront. The importance of these commitments was recognized in our OMB Open Government Directive, which responded directly to the President's vision for openness. In the Directive, we asked agencies to show to the public how they are meeting basic records management requirements, thereby bringing accountability to agency effort in this domain. Thus the Directive requires Open Government Plans to include a "link to a publicly available website that shows how your agency is meeting its existing records management requirements. These requirements serve as the foundation for your agency's records management program, which includes such activities as identifying and scheduling all electronic records, and ensuring the timely transfer of all permanently valuable records to the National Archives."

This change marks a shift in both theory and practice. As the President has noted, it will make meaningful the statute that counts as "the most prominent expression of a profound national commitment to ensuring an open Government."

Bringing sunlight to agency record management practices, however, is just one example of how transparency policies can help make public officials more accountable. Consider another, the

new Information Technology Dashboard, which provides the public with an online window into the details of Federal information technology investments -- and allows users with the ability to track the progress of investments over time. With these dashboards, it is possible to see spending by each major government department. Graphs display performance against schedule, costs, and an informed assessment of how well they are meeting their objectives.

With the IT Dashboard as a case-in-point, I want to underline the clear relationship between transparency and accountability. This past year, in no small part because of the clear look at the status of projects that the Dashboard provides, VA announced the temporary halt of 45 of its most problematic computer projects last summer, so that they could be fixed. During the next six months, VA restarted 32 of these projects, stopped 12, and continued the review of one. These actions resulted in cost avoidance of \$54 million for VA during fiscal year 2010. The deliberative advantage of democratizing data aside, the case is clear: transparency is fiscally prudent.

At OIRA, we are undertaking a similar drive toward more transparency. Ironically, at an organization designed to gather public opinion and expert advice about proposed rules and regulations, one of the largest concerns we hear is that OIRA is not transparent enough. In response, we have launched the OIRA Dashboard at [reginfo.gov](http://reginfo.gov). This easy-to-use website allows people to track the rules and regulations that have been submitted for interagency review and find other relevant information about OIRA. With the help of intuitive and graphical displays, the Dashboard makes it easier for people to identify the rule or category of rules they are interested in, and allows them to monitor progress. Through the Dashboard, we add transparency to this important lever of policy – and we have invited participation to strengthen accountability and effectiveness.

As Web 2.0 pioneer Tim O'Reilly says of the IT Dashboard, allowing such information to be "being shared with the public...[is] a bit like having your performance review posted on the company bulletin board for all to see." And that's a pretty strong incentive to help government perform more effectively.

## **Data**

Transparency not only improves performance and effectiveness; it also provides people with access to information they "need and use," thus promoting learning and making data and evidence easy to find and easy to use. In an open government, anecdotes and guesswork can be replaced with hard evidence – a point that bears directly on records management. And indeed, that is a central goal of transparency. There are numerous examples; let me share just a few.

In September, the Consumer Product Safety Commission launched an initiative that is making important information more accessible to millions of consumers. Families can now find the latest safety information on CPSC's blog, which has articles, videos, podcasts and other information that can keep kids and families safe from a variety of product-related hazards. Among other tools, the site features a "Recall Search," which provides the latest updates on recalls affecting products families use every day.

Of course, there is a great deal of interest in promoting transparency in the domain of health care. The OMB Director has referred to two reforms: (1) "expanding the use of health information technology (IT) and electronic medical records, which is a necessary, but not sufficient, measure to improving the quality and efficiency of the health care system" and (2) "expanding research on 'comparative effectiveness' of different options for treating a given medical condition, which could provide information on both medical benefits as well as costs."

In the Director's words, "The key challenge from a cost perspective is substantially broadening out the base of information on a clinical basis in terms of what works and what doesn't." A good start can be found with on HHS's website, which offers a great deal of information on hospital performance, and which allows hospitals to be compared with one another. And recently HHS has put out for comment a new rule on meaningful use of health IT – a rule that could lead to significant improvement in health outcomes, make things easier for both doctors and patients, and save money in the process.

In multiple domains, and for the private and public sectors alike, transparency ensures that more data is available. Proper records management in particular ensures that people might be able to find information that they "need and use." It is useful to make a distinction here. Some of these uses, and needs, might be as consumers, enabling people to select better products and activities. Other uses, and needs, involve our role as citizens, attempting to understand our history, both recent and not-so-recent.

### **Dispersed Information**

The third function of transparency draws on the understanding that *no one of us knows what all of us know*. I am speaking of access to dispersed information – of how open government can encourage public participation and allow citizens not just to keep the republic, but to shape it.

To understand the underpinnings of this notion, we can reach back to some thinking from centuries ago. It was Aristotle who claimed that when diverse people "all come together...they may surpass – collectively and as a body, although not individually – the quality of the few best." This is an early recognition of the power of groups, deliberating together. And when we ask for ideas from many people, we are likely to do much better than when we ask for ideas from just a few.

Consider, as one example, the President's SAVE Award – charged with the goal of producing ideas to yield savings while also improving the way that government operates. In a radio address on April 25, President Obama called for "a process through which every government worker can submit their ideas for how their agency can save money and perform better."

We received well over 38,000 suggestions. And after a public vote where more than 84,000 Americans cast an online ballot, the President welcomed Nancy Fichtner from Colorado to the White House as the winner of the first annual SAVE Award.

Her idea? Let veterans take unused medication home from the hospital. She argued that veterans leaving VA hospitals should be able to take medication they've been using home with them, so that it is not just thrown away when patients are discharged. As is the case in most hospitals all

across the country, medicine that is used in the hospital is not given to patients to be brought home; instead, it is thrown out. No more.

We are saving money not only for the VA but also – and I want to underline this -- for the veterans who don't have to go to the pharmacy to buy the very same medicines that had been going into the trash can.

And this outreach effort wasn't just a one-idea-and-done approach. We've already begun to implement a host of additional suggestions made through the SAVE Award. Many of them are included in the President's Budget. And while promoting electronic paystubs or scheduling Social Security appointments online or re-purposing unused government supplies may not be the most glamorous reforms in our nation's history, they do add up. They are important steps in enabling government to work more effectively and efficiently.

To drive this approach across the government, as you are well aware, OMB issued the Open Government Directive in December 2009, focusing agencies on numerous ways to collect dispersed knowledge in order to produce better outcomes and effectively engage citizens in the creative task of making government better and more effective. The directive has started to shift fundamentally the culture of government toward increased openness and accountability.

The Directive requires of agencies both immediate deliverables and long-term objectives. It recognizes that each agency has a different mission and serves different members of the public. Instead of imposing a one-size-fits-all strategy, the directive allows each agency, in consultation with the public, to create an Open Government Plan to meet the President's goals in the manner most appropriate and most effective for it.

Agencies have launched their own open government pages and plans. They have published online previously unavailable high-value data sets. They are adopting new, innovative approaches to public outreach and collaboration. To be sure, our efforts are only beginning. It is not easy to change the culture of a government, especially when that culture has been cemented over decades. For too long, administrations allowed bureaucratic barriers to be the rule, not the exception, to government decisions. No more.

Importantly, the foundation for this directive stems largely from the unprecedented Open Government Initiative, coordinated by the White House Office of Science and Technology Policy during the summer, in which the Administration reached out directly to the American people for specific policy recommendations. Thousands of citizens participated in forums online and offered ideas on how to transform the government into a more transparent, accountable, and participatory operation.

The American people know a lot about how to make government work better – to save money and improve services. It's more than fitting that the Open Government Directive has been shaped significantly by the collective wisdom of the American people.

The wisdom in Aristotle's ancient insight is being amplified by the power of technology.

### **Open Government and Records Management Policy**

I now want to turn to the question of how openness and records management policy can go hand in hand. It has been said that “records are like oxygen, no one really notices them until they are gone.” Missing records and emails can have significant adverse effects. In some cases, they can cause scandals, while in other cases, they cause a loss of institutional memory. In order to meet the spirit of the President’s instructions, accountability – in the form of faithful documentation of the decisions by agencies and their leaders -- must be assured.

In fact there is a close nexus among openness, records management policy, and another field I’m involved in, regulatory policy. In many areas, open government can help, and is helping, to promote regulatory goals simply through enlisting the power of accountability. Good records management can have a similar function.

Consider the following: Social science research shows that disclosure policies work best if the relevant information is clear, simple, salient, and meaningful. It also shows that when people are informed of the benefits or risks of engaging in certain behavior, they are far more likely to engage in corrective action *if they are also provided with clear, explicit guidance on how to do so*. For example, those who are informed of the benefits of receiving a vaccine show a greater tendency to be vaccinated if they are simultaneously given detailed plans and maps describing where to go. In many domains, the identification of a specific, clear, unambiguous path has an important effect on social outcomes; complexity or vagueness can ensure inaction, even when people are informed about risks and potential improvements. We are attempting to incorporate these ideas into disclosure policies.

Now we need to think about incorporating the same finding into records management policy. We need clear and specific requirements for proper management, along with clear and specific assistance for citizens so that people can find what they want or need. Proper records management can serve as a means for providing “sunlight” that can influence the behavior of officials and agencies and motivate them to improve their actions. Here, as elsewhere, we should be thinking about how to engage the public – to provide people with information that they might use or need, and that can perhaps even inspire them and change lives and practices.

As a matter of history, a significant success story for "sunlight" is the Emergency Planning and Community Right-to-Know Act, enacted by Congress in 1986 in the aftermath of the Chernobyl nuclear plant disaster in the Soviet Union. At first, this law seemed to be merely a bookkeeping measure, requiring a Toxic Release Inventory in which firms reported what pollutants they were releasing. But the law has had dramatic beneficial effects, spurring large reductions in toxic releases throughout the United States. And in March of 2009, the Administration worked with Congress to strengthen the Toxic Release Inventory by lowering the thresholds for reporting releases of more than 650 toxic chemicals.

The Environmental Protection Agency recently built on this precedent and issued a Greenhouse Gas Reporting rule, requiring disclosure by the most significant emitters. The data will also allow businesses to track their own emissions, compare them to similar facilities, and provide assistance in identifying cost-effective ways to reduce emissions in the future.

All this is merely a start. Consider as well the following:

- The Department of Transportation has issued a passenger protection rule that will disclose clear, available information about prolonged delays at the airport. The same Department has proposed a rule that would call for disclosure of information about the safety, durability, and fuel efficiency of tires. The Department has released a great deal of new information about car safety and also about infant safety seats.
- The FDA has taken action to police deceptive front-of-the-package labeling and signaled its intention to investigate methods for ensuring accurate labels, so that people will have a clear and simple way to see key nutritional information. This project uses openness and transparency as a way of promoting healthy choices and in particular as a way of combating childhood obesity, a particular concern of the First Lady.
- The Occupational Safety and Health Administration has, for the first time, listed a great deal of fatality information on its website. When workers die on the job, the public can learn about it -- a step that might well end up increasing safety.

These three examples all have one thing in common: disclosure is used as a mechanism for improving behavior. In the same vein, proper records management can operate as a powerful mechanism to make government more efficient, more accountable, and more responsive to the needs of its people. But to make that happen, the information that is preserved and documented needs to get out there to the public.

Other initiatives, such as Data.gov, are helping to accomplish this task. As many of you know, Data.gov is the new government website that allows the public to download federal datasets to build applications, conduct analyses, and perform research. Early use of the website suggests that individuals and organizations are not only viewing the data; they are also repurposing it. When Data.gov was launched, the Sunlight Foundation launched a parallel competition to elicit from the public the most innovative applications based on data available from the government site. Within days, there was a new application called "FlyOnTime.US," which uses data from the Bureau of Transportation Statistics to allow consumers to see estimated versus actual flight times for flights on major commercial carriers.

This is merely one illustration. If you have a look at Data.gov, you will see countless examples of openness in action.

### **Conclusion**

Let me conclude. Drawing on the President's statements, I have emphasized three functions of open government – first, promoting accountability (sunlight as a “disinfectant”); second, providing material that people can readily find and use in their daily lives; and third, allowing access to the "dispersed knowledge" of the American public. Each of these points has implications for records management – for its central importance and for potential improvements in the future.

I have sketched the multiple ways in which we are holding ourselves accountable, improving performance and saving taxpayer money; disclosing information that will lead to safer cars, safer

workplaces, and healthier lives; enlisting dispersed knowledge to produce fundamental improvements in what we do.

I started with some words from the Constitutional Convention. Let me end with a few more words from the same period.

In Federalist No. 1, Alexander Hamilton wrote:

It has been frequently remarked that it seems to have been reserved to the people of this country, by their conduct and example, to decide the important question, whether societies of men are really capable or not of establishing good government from reflection and choice, or whether they are forever destined to depend for their political constitutions on accident and force. If there be any truth in the remark, the crisis at which we are arrived may with propriety be regarded as the era in which that decision is to be made; and a wrong election of the part we shall act may, in this view, deserve to be considered as the general misfortune of mankind.

The founders of this nation – and the authors of our oldest Open Government Directive – made the right election. With humility and determination, let us continue their work.