



**Testimony of  
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**Before the  
Subcommittee on Federal Financial Management,  
Government Information and International Security**

**On  
What You Don't Know Can Hurt You:  
S. 2590, the "Federal Funding Accountability and Transparency Act"**

**July 18, 2006**

Mr. Chairman and Members of the Committee:

Thank you for inviting me to testify today regarding the Federal Funding Accountability and Transparency Act (S. 2590) and the need for increased transparency in federal spending. We strongly endorse S. 2590 and, in principal, advocate for greater openness regarding federal tax and spending practices.

Founded in 1983, OMB Watch's mission is to promote a more just, equitable, and democratic society by increasing government transparency and accountability; ensuring sound, equitable regulatory and budgetary processes and policies; and protecting and promoting active citizen participation. We concentrate on four main policy areas: federal budget and government performance; the regulatory process; government transparency and access to information; and nonprofit advocacy rights. OMB Watch does not and never has received federal funds and, therefore, would not be directly affected by S. 2590.

OMB Watch works with nonprofit organizations across the country, some of whom may receive federal funding and would be listed in the searchable database envisioned by S. 2590. In the past we have successfully advocated for legislation that culminated in the 1999 Federal Financial Assistance Management Improvement Act, which was intended to streamline the application and reporting requirements for federal grantees.

Since 1989 we have run RTK NET ([www.rtknet.org](http://www.rtknet.org)), a free searchable website providing data about toxic chemical releases and environmental health hazards. As a result, we are familiar with making complex government databases available to the public. For all of the above reasons, our interest in S. 2590 is central to our mission.

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For more than a decade, OMB Watch has called for improving access to information regarding federal spending. We have been concerned that the government's public access vehicles to information about federal spending are either non-existent or extremely poor. Accordingly, OMB Watch decided earlier this year to make information about federal financial assistance awards and federal contracts available through a free online searchable service. With support from the Sunlight Foundation, we started this project in May and will have an experimental version available for public use on October 1. We know the system will not be perfect, but at least there will be something the public can use to identify federal spending.

The experience we are going through in making the data publicly accessible has helped us in preparing this testimony. Although we would not characterize ourselves as experts on these data, we are becoming increasingly familiar with them. Bottom line: We have now seen all the warts and we know there are many, many problems with the data itself.

Although we remain strongly supportive of S. 2590, we want to emphasize that such legislation should be perceived as a first step in a much larger effort to enhance transparency in federal spending. The quality of the data must be significantly improved and more information must be put in the public domain in order to hold our government accountable.

My comments today will cover four subjects:

- Why OMB Watch Supports S. 2590
- Current Status of Transparency in Federal Grant and Contracts
- Comments on and Suggested Improvements to Provisions in S. 2590
- Next Steps Regarding Transparency in Federal Fiscal Matters

## **I. Why OMB Watch Supports S. 2590**

OMB Watch has long believed that transparency and disclosure, both with regard to government information and decision-making processes, are essential characteristics to a properly functioning democracy. A fundamental aspect of any healthy democracy is an engaged and active citizenry. In order to allow citizens to participate in the political and policy process, they need accurate and timely information about the government they are tasked with judging. It is also important for elected officials, political appointees, and others who are operating the levers of power to know that their actions and decisions will be tracked and evaluated. This awareness engenders greater effort in our government officials to strive for efficiency and effectiveness in government – and creates a record of accountability.

Unfortunately, OMB Watch believes that the increase in government secrecy in recent years has steadily pushed us away from a more efficient and effective democracy. This heightened secrecy has resulted in an increased public distrust of government, both from the left and the right of the political spectrum, and an erosion of some of our most foundational democratic principles.

The consequences of this trend could move beyond simply a distrust of the federal government. They could include a further drop-off in participation and interest in public debate, civic activities and elections, a blurry picture of the role of government in responding to community needs, and inaccurate or misleading information about government spending and effectiveness. In some ways this may add to the corrosive, partisan approach to governing today. The opposite may

also be true: a more transparent government might lead to improved problem-solving and identifying what is possible through collective action.

The main tenets of S. 2590 – the public has a right to know how and on what the government is spending public resources – is a key aspect of allowing citizens to hold their government accountable and make informed decisions during elections. With easy and timely access to government spending information, the public will be much more likely and able to question their elected representatives, uproot and decrease both unethical and corrupt behavior, and address inappropriate allocation of federal resources. At the same time, the public will be able to better appreciate the scope and importance of the federal investment in our communities, and possibly participate more actively in shaping the priorities that govern our federal spending.

The bipartisan support throughout the political spectrum for S. 2590 underscores that this is more than a "strange bedfellows" left-right coalition supporting this important issue, but rather a pro-openness, pro-disclosure, pro-accountability partnership that goes to the core of our democracy. Most importantly, within this bill is an inherent trust in the will and providence of the American public. Regardless of ideology, the S. 2590 principles speak to a trust in the American people to use this information to make a more responsive, effective, and efficient government – something all Americans can agree we need.

In addition to a principled support for S. 2590, we also have very practical reasons to support the bill. The current government systems to provide access to this information simply don't work. Information about federal spending and tax activities is difficult to obtain for the general public, researchers, and journalists. As a group that works with such stakeholders, we support efforts, such as S.2590, that would make access easier and more functional.

## **II. Current Status of Transparency in Federal Grants and Contracts**

Currently, federal spending information is basically divided into two main government databases. The Federal Assistance Award Data System (FAADS) contains information supplied by most federal agencies regarding most types of federal spending except federal contracts and expenses within the federal government such as salaries. The Federal Procurement Data System (FPDS) includes information supplied by most federal agencies regarding federal contracts. FAADS and FPDS are not, however, comprehensive as some agencies do not report into these databases. The Consolidate Federal Funds Report (CFFR) is an attempt to provide a consolidated view of federal spending.

### **1. Federal Assistance Award Data System**

The Census Bureau makes the Federal Assistance Award Data System (FAADS) data available in free quarterly downloadable files. It is very easy to download the data, and the user manual is very clear. But as the Census Bureau notes, "FAADS is not a 'database' to be queried. It is a sequential text file that can only be 'read' by a custom-written computer program." In other words, it is very difficult to search for information in the files. It requires significant computer expertise and resources to access one quarterly file, let alone multiple quarters. Thus, except for those with significant resources, it is nearly impossible to obtain detailed information about financial assistance awards.

Moreover, the FAADS data is limited to information regarding only domestic assistance. By focusing on domestic assistance, FAADS does not cover all assistance provided by the government. Additionally, the FAADS quarterly files can be incomplete if an agency misses the

quarterly filing deadline. The Census Bureau focuses on providing the information reported in a particular quarter, rather than compiling a complete record of federal grants for that quarter. When agencies miss the filing deadline the information is simply included in the next quarterly file. This makes it more difficult on users to construct an accurate picture of the federal assistance for each quarter. Finally, there appears to be little to no quality check of the data. The Census Bureau merely forwards the submitted data along without review, analysis or error checking, and some data quality work done for the CFFR apparently does not get merged back into FAADS Thus, the quality of the information within FAADS can be quite uneven.

Even if the FAADS data is made publicly accessible in a searchable format, it may be confusing because of the way the data is handled. Each financial assistance record that is submitted to FAADS falls into one of two categories: action-by-action or county aggregate. The action-by-action records contain such items as the name and location for the recipient (but not the address), the amount of money awarded, the place of performance, the Catalog of Federal Domestic Assistance program under which the award was made, and a project description, which often is simply a repeat of the CFDA program description.

In other words, for the action-by-action records, the public could obtain transactional information. Even so, for many forms of financial assistance, the specifics of the purpose would remain difficult to ascertain. The CFDA program description is comprehensive and useful in understanding the general program that is being supported. However, for some project grants or cooperative agreements, such as discretionary grants, the public would likely need a summary of the work – and that is not currently available in the database. In general, these action-by-action records do not provide enough descriptive information about what the funding is for.

The second category – county aggregate data – contain fewer data elements that the action-by-action records contain. These records are usually associated with certain types of assistance to individuals (e.g., pensions) and large volume loan programs (e.g., individual home ownership loans), and only the aggregate award amounts for all recipients in each county are presented.

**Table 1. Federal Financial Assistance Awards\*:  
FY 2000-2005\*\* by Type of Assistance**

**(Dollars in Billions)**

<b>Assistance Type</b>	<b>Aggregate</b>	<b>Action-by-Action</b>	<b>Total</b>
Direct payment with unrestricted use (retirement, pension, veterans benefits, etc.)	3,219.78	.16	3,219.94
Insurance	2,560.00	.01	2,560.01
Direct payment for specified use, as a subsidy or other non-reimbursable direct financial aid	1,660.78	269.92	1,930.70
Block and Formula Grants	1,088.14	653.73	1,741.87
Direct & Guaranteed/Insured Loans	727.03	195.68	922.71
Project Grants & Cooperative Agreements	17.35	482.89	500.24
Other	6.43	.47	6.90
<b>Total</b>	<b>\$9,280.51</b>	<b>\$1,602.85</b>	<b>\$10,883.36</b>

\* Does not include non-federal share (e.g., matching funds)

\*\* FY 2005 only includes first three quarters.

It is not completely clear why certain types of assistance are put into the action-by-action or the county aggregate category. However, the county aggregate category dwarfs the action-by-action category (as shown in Table 1), meaning that for 85 percent of federal financial assistance, there is only limited county aggregate information.

While improved disclosure of the FAADS data will be extremely useful, the above discussion shows the weaknesses that are inherent in the current FAADS data system.

## **2. Federal Procurement Data System**

The Federal Procurement Data System (FPDS) was implemented in 1978 and since 1982 has been administered by the General Services Administration. In April 2003, GSA awarded a five-year, \$24.3 million contract to Global Computer Enterprises to replace the antiquated procurement data collection system. The new system, called FPDS-NG (NG is for Next Generation), seems to have its primary focus on providing an electronic vehicle for reporting and integrating with agency procurement systems. Its emphasis does not seem to be public access to the data.

As recently as September 27, 2005, the Government Accountability Office sent the Office of Management and Budget a letter assessing FPDS-NG and describing fundamental improvements still needed. “Our review raised concerns regarding whether the FPDN-NG has achieved its intended improvements,” GAO wrote. The letter continues to identify problems with “timeliness and accuracy of data” and “ease of use and access to data.” This assessment did not sound much different than reports from 25 years ago. In two reports – one from 1979 and the other from 1980 – GAO criticized FPDS data on timeliness of reporting and accuracy of the information, and with future evaluations added on problems with accessing the data.

In OMB Watch’s recent efforts to make the FPDS data publicly accessible, we have run into each of the problems identified by GAO. For example, to download the data, FPDS-NG requires a cumbersome system for downloading that necessitates a separate download of data for each agency. This is extremely time consuming and burdensome. Documentation on the structure of the database and definition of data fields is barely adequate. Even as we started to go through the difficult process of downloading the data, it turned out that most of the Defense Department data for FY 2005 were not on the system, but there was no indication of this fact. According to GAO, DoD contracts account for about 60 percent of contracting actions. After repeated inquiries, no one at GSA or at FPDS-NG could tell us when the DoD data would be added. In the end, we purchased the data from Eagle Eye Publishing, a private company that Congress contracts with to provide you with the data. Eagle Eye had merged records from the DD350 Defense Department database with the FPDS data in order to fill this hole, and had made other improvements to make the data more complete and more accurate. It was easier to obtain a more complete and accurate dataset from Eagle Eye for a fee, then it was to get it from the government agency in charge of maintaining the data.

Even if the data from FPDS-NG were complete and timely, the service is not designed for meaningful public access. Other than getting reports already developed by FPDS-NG, the next generation service is too difficult and confusing to use. Search function appears to only search pre-prepared reports, charts, tables and statistics rather than the database itself. After spending considerable time on the system, we still could not figure out how to obtain information about a particular company or a particular contract or if it was even possible to find such information in the system. In other words, FPDS-NG does not meet our standard for public access to federal procurement data.

### **3. Consolidated Federal Funds Report**

On an annual basis the Census Bureau prepares the Consolidated Federal Funds Report (CFFR). The CFFR covers federal expenditures or obligations for the following categories: grants and cooperative agreements, salaries and wages, procurement contracts, direct payments for individuals, other direct payments, direct loans, guaranteed or insured loans, and insurance. In other words, it combines FAADS and FPDS-NG plus data from agencies not reported to either service. The CFFR data is presented in a print report as well as through online queries of static tables. The CFFR allows for analysis by geography at the state and county level, by program area (mostly CFDA number), and by federal agency. The data is provided in aggregate form, meaning users cannot obtain information about specific awards or search on any particular fields of interest other than the aggregate tables provided by the Census Bureau. While CFFR is an extremely helpful resource, it falls far short of the fiscal transparency tool needed – a searchable database providing detailed information about federal spending.

Given the state of play regarding FAADS, FPDS, and CFFR, it is clear that the existing systems are not adequate for providing the public access to data about federal spending. That is why S. 2590 is very important to enact.

### **III. Comments on and Suggested Improvements to Provisions in S. 2590**

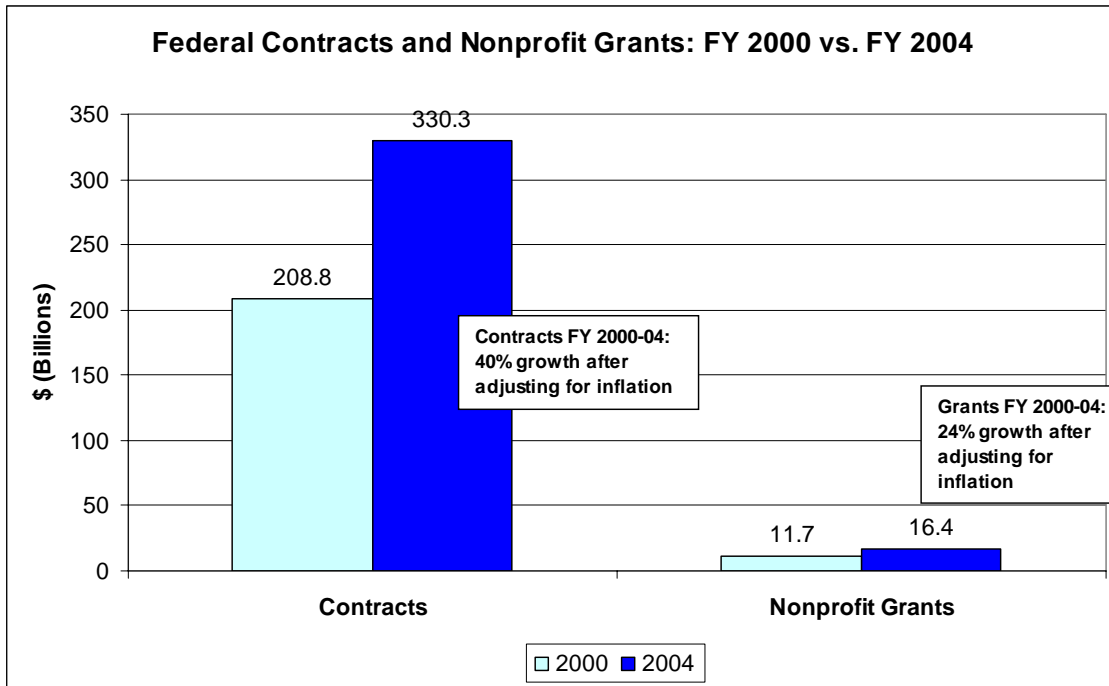
In this section, we address six components of S. 2590.

#### **1. Scope of disclosure**

OMB Watch strongly supports the principle that all federal financial support from all agencies should be disclosed. S. 2590 represents a strong step in that direction with its focus on “grants, contracts, subgrants, subcontracts, loans, awards and other forms of financial assistance.” While “other forms of financial assistance” is a catch-all category, we hope the legislation can be strengthened by making clear this at least includes all types of assistance covered by FAADS, FPDS and the CFFR. For example, the public should be able to obtain information about federal spending on flood insurance or farm supports. The only exceptions to public disclosure should be for national security purposes and protection of personal privacy rights. And when it comes to personal privacy, only details about the specific individual should be withheld and all remaining information about the financial award (e.g., amount, purpose and location of award) should be provided.

Recently, the House passed legislation requiring disclosure of federal financial support that is significantly narrower in scope than S. 2590. It only included federal financial assistance collected under FAADS, but not federal procurement. We fear that such efforts have less concern about fiscal accountability than about renewing a twenty-five year history of attacks on nonprofit grantees. We strongly oppose such efforts and believe that if they emerge as a goal of these legislative efforts, it will undermine the bipartisan nature currently supporting S. 2590.

It should be understood there are many types of recipients of federal grants with the largest share going to state and local governments. Nonprofits receive a much smaller share. And when compared to federal contracts, contracts account for more than 20 times the amount allocated to nonprofits through grants, as shown in the chart below. The same chart also shows between FY 2000 and FY 2004 federal contracts growing at nearly double the rate of federal grants to nonprofits.



Federal audits show no systemic pattern of mismanagement of federal grants, particularly grants to nonprofits. At the same time, there is evidence that “[t]he growth in federal contracts has been accompanied by pervasive mismanagement,” according to a report issued by Rep. Henry Waxman. “Mistakes have been made in virtually every step of the contracting process: from pre-contract planning through contract award and oversight to recovery of contract overcharges.” The Waxman report also demonstrates there has been a sharp increase in sole source contracts without competitive bidding: “The dollar value of these contracts rose from \$67.5 billion in 2000 to \$145 billion in 2005, an increase of 115%.” (“Dollars, Not Sense: Government Contracting Under The Bush Administration,” Prepared For Rep. Henry A. Waxman by Committee On Government Reform — Minority Staff, June 2006.)

This information suggests we need to keep our eye on the ball - federal contracts. The House bill does not do that; S. 2590 does.

**2. Single point of access and an integrated database**

The goal of creating a single searchable database website, as listed in the provisions of S. 2590 is another common sense but important step forward for disclosure of federal financial support. As noted in the previous section of this testimony, data on federal grants and contracts are available through two entirely different sources – the Census Bureau and FPDS-NG, respectively. Often those seeking information on federal spending are not concerned with the distinction between grants and contracts. Perhaps they simply want all information on spending by a particular agency or federal money spent in certain geographic areas. Perhaps they are more concerned with overall trends of spending and money flowing across several major agencies for certain purposes (e.g., hurricane response). Or they want to know the total amount a particular entity has received in federal support. Whatever the reason, the current system of providing data through two different venues requires that users acquire the information from two locations and then attempt to combine the results.

The act of integrating information from the two sites is further complicated by the fact that the two venues have dramatically different access available to the public and different formats for the data presentation. It is to be expected that two departments charged with providing access to financial support data would have many difference in how they choose to accomplish such a complicated and difficult task. The simplest way to ensure some level of uniformity and compatibility between the contracts and grants data is to provide access to them through a single site and interface.

It may become necessary to alter what information for either or both databases is reported or how the information is formatted in order to achieve the desired level of similarity and integration between the databases. Moreover, if S. 2590 is properly implemented it will need to include data not included in FAADS or FPDS. These facts call for another entity such as the Office of Management and Budget to provide the stewardship to integrate all the necessary data. There are many ways to achieve the desired outcome. For example, OMB may consider a distributed system relying on existing databases, although this may prove extremely difficult given the handling of FAADS. Or OMB may choose to recapitulate the various databases for this initiative. Whatever approach OMB takes, it is essential that the public interface present a single place to search for all the information – and that information be integrated so that the public need not have detailed knowledge about each of the various databases and terminologies.

### **3. Detailed disclosure**

Another key principle for legislation is that it be very clear about what level of detail is to be disclosed. We are pleased that S. 2590 does this. In particular, we strongly support Sec. 2(a)(1), which specifies the type of information that should be provided through the searchable website. Subparagraph (C), which calls for details on each funding transaction, is vitally important to retain in the final bill. Under both FAADS and FPDS-NG, for each award, there are multiple transactions that occur, including transactions that occur outside the fiscal year of the award. This information is essential to disclose for meaningful accountability.

We also support subparagraph (E) requiring a unique identifier for each entity that receives an award, including information about the parent company owning the entity. Because of mergers and acquisitions, the parent ownership issue may change periodically. However, we fear the underlying databases often do not reflect these changes. We think the bill could be strengthened by requiring the Office and Management and Budget ensure that this information is properly updated so that the public has an accurate understanding of who is doing business with the government. Such a requirement would be consistent with OMB's priority placed on implementation of the Data Quality Act.

The bottom line is that all fields currently collected under FAADS and FPDS-NG should be publicly available and searchable through this website. Having said this, we recognize that there are inherent limitations in the underlying data that we think this bill should begin to address. Ultimately, the public should be able to search on contract or grants related to specific issues or programs. A user should be able to type "Hurricane Katrina," for example, and receive a list of grants, contracts, insurance and other awards related to Katrina assistance. Our understanding is that the existing databases do not currently contain enough information to produce such results.

The problem is less severe under FAADS since nearly every domestic award is linked to a Catalog of Federal Domestic Assistance (CFDA) number and the CFDA provides a



comprehensive description of the program. The CFDA link is less helpful for some project grants or cooperative agreements that fall into broad CFDA programs such as a discretionary grant fund. In these cases, the program description is vitally important, but the quality of information in this field is not good – sometimes it is missing and even when it is there it is less than complete. It would be helpful if S. 2950 requires OMB to identify ways of improving data quality and descriptions of federal awards under the required annual report.

Additionally, S. 2950 requires data on **all** assistance, not just domestic assistance, which is all that is covered under FAADS. S. 2590 requires the inclusion of international grants and other assistance in its disclosure requirements. It would be helpful to have this data provided in a format consistent with the FAADS format so there is compatibility of the data. OMB should also report in its annual report on efforts to enhance data disclosure.

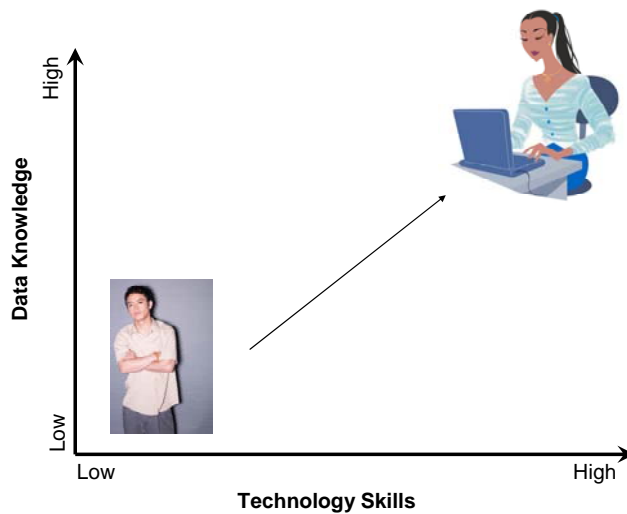
The problem of achieving a sufficient level of reliable detail is far more significant when it comes to contracts. The key fields such as “contract description” and “product or service information” codes are often not complete or do not provide enough detail. An example of the “contract description” is: Lake Hill Motors Hurricane Katrina. The “product or service information” for that contract is: Motor vehicles, trailers, and cycles. Piecing the two fields together gives you some vague sense that the contract has something to do with vehicles or trailers and Hurricane Katrina, but leaves much to the imagination.

The public has a right to know what federal resources are being used for. We hope S. 2590 not only places an emphasis on making existing information available but also includes a concerted effort to improve data quality.

#### **4. Description of a searchable database**

We welcome S. 2590's inclusion of a clear definition of what is meant by a “searchable database website.” It is vitally important to ensure that the public will be able to search on all major fields in the databases and be able to produce different types of outputs, including files that can be downloaded. As the Office of Management and Budget moves to have this service developed, it is important to consider different types of target audiences, ranging from novice users to sophisticated ones. As the graphic below displays, the service must be designed for the person who has limited data knowledge about grants or contracts and has limited technology skills. At the same time, the service must provide capabilities reaching those at the other end of the scale: those with high data knowledge and high technology skills. We have realized through our own experience that this will be a difficult task – most likely requiring a concerted effort and considerable creativity.

# Who Is The Target Audience



We appreciate S. 2590's disclaimer that a link to FPDS-NG or other government databases is not enough to satisfy the requirements of this bill. It helps to convey the notion that the service should be robust and responsive to different types of users. The provision in the bill requiring opportunities for public input on utility of the website and on recommendations for improvement is also important and consistent with good practice in making the service responsive to different types of users.

We would suggest two possible ways to augment this public input component. First, it might be useful to require OMB to build the site in a manner that fits the different type of users along the continuum identified in the graphic above. In doing so, during a beta phase of the website, OMB should seek the input of users along the entire continuum to ensure it is a responsive service. Second, we would recommend the creation of a citizens' panel to oversee the website development and operation. The panel could consist of data experts as well as representatives from major user groups such as journalists, public interest groups, state agencies, and even congressional staff. Such a panel could also provide Congress independent feedback on the service as well as OMB's actions and efforts developing the website. This citizens' panel might be temporary in nature and might be reconvened every two or three years for independent assessment of the service.

## 5. Disclosure of sub-recipients

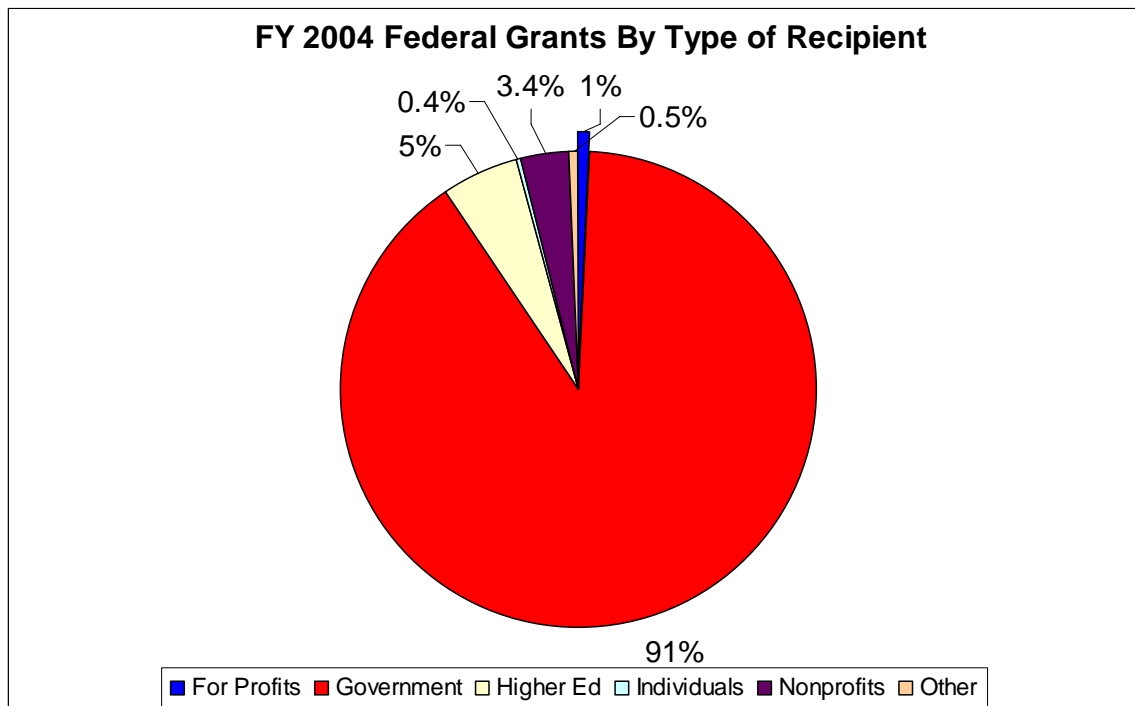
While in principle we are very supportive of sub-recipient reporting for grants and contracts, we have a number of practical concerns. First, reporting subcontracts is much easier than reporting subgrants. Assuming adequate statutory authority, agencies can simply start requiring contractors to report information about any subcontracts made in conjunction with fulfilling a particular contract obligation. We understand that this practice has already started with some small business contracts.

Second, there is a big difference between reporting on subcontracts and subgrants. Reporting of subcontracts is critically important because of the increase in the number and dollar amount of sole source contracts and special set asides for certain types of entities. In many of these

cases, the money given to a contractor is then subcontracted to other entities with the expertise to get the work done. Nonetheless, the prime contractor makes a profit as do the subcontractors. Yet the public never knows who is really providing the work or who has economically benefited from the federal funding. Because of the profit tree generated in the contracting regime, it is essential to collect information about subcontracts. Otherwise, the database will miss key transactions and allow for loopholes and opportunities for corruption and abuse.

Subgrants are vastly different from subcontracts. Unlike contracts, only in rare cases do grants have a profit motive built in. Additionally, most subgrants are administered by state and local government, which already have their own reporting and auditing requirements developed that most likely are not uniform across states. Thus, there already is scrutiny of most subgrants. Finally, federal cost principles apply no matter who administers the grant (except for block grants). (For example, sub-recipients of federal grants are prohibited from using federal grants for lobbying purposes.) Thus, the federal government already has an accountability method in place.

The largest share of federal grants goes to state and local governments and imposing subgrant reporting on them could be very difficult to accomplish. As the chart below indicates, in FY 2004, 91 percent of grants went to state, local, and tribal governments. Some of these grants are block grants, which are intended for broad purposes such as health, education or community development and hold few requirements for how the money is to be spent, instead offering state and local discretion within general guidelines established by Congress and the executive branch. Annual program plans or applications are normally required, but most federal rules are not attached to the funds. For example, OMB Circular A-122 dealing with cost principles does not apply since the federal government views the block grant funds as the recipient's. Requiring extensive reporting of subgrants in these categories would fundamentally change the nature and purpose of block grants.



The largest share of federal grants to state and local governments are statutorily directed by Congress based on formula grants. Formula grants establish an amount of assistance based on certain criteria that are written into legislation and program regulations. Quite often these funds are commingled with other state or local government funds, and then redistributed from those state and local agencies and offices as grants and contracts. Most of the time the sub-recipients do not know whether they have received federal, state, or local funds. For that matter, it appears most states are not able to track the origins of money that has been distributed.

In each of above cases, S. 2590's requirement for subgrant reporting will require a major overhaul of how intergovernmental transfer of funds are handled. Thus, S. 2590 should proceed cautiously in requiring sub-recipient reporting for block grants and formula grants to state and local governments, especially since these entities already have their own reporting requirements about use of funds, although not showing how much was federal funding.

I would suggest that S. 2590 drop the requirements for sub-recipient reporting for the time being. In lieu of this requirement, I would propose two steps. First would be a pilot project on reporting of subcontracting data by federal contractors. The pilot for collecting subcontract information would be designed with the intent of full implementation by the due date in S. 2590.

The second step would be to identify how often project grants and cooperative agreements are subgranted. (Block grants and formula grants would be excluded since states and localities already monitor the allocation of these funds.) Some federal project grants are intended for regranting. For example, under President Bush's faith-based initiative, grants go to entities that redistribute the funds to smaller groups. But the extent this happens throughout the government should be established.

Should there be a large number of regranting efforts, then there might be a pilot project to test ways for the grant recipient to report on its subgrants to other entities. If this pilot occurs, it should operate on several principles. First, the initial grant recipient should report on the subgrant, not the sub-recipients. Second, the pilot should place a premium on avoiding excessive burden on nonprofits and state and local government agencies. Third, any costs associated with reporting should be an allocable expense to the grant. Fourth, the estimated additional cost of such reporting should be added to the size of the grant so as to not to interfere with the purposes of the grant. Even when these principles are observed, Congress must balance imposing additional burdens on grantees that are already stretched thin in providing services versus the benefits derived.

## **6. Implementation Accountability**

We support the requirement that the Office of Management and Budget report to Congress annually on implementation of this website service. Given the importance of this service, the complexity of the information and need for careful presentation of the data in a user friendly manner, congressional oversight made prove crucial in ensuring that sufficient resources are utilized in establishing the website in a timely manner. Too often in the past we have seen information programs and accountability efforts fall to the bottom of agencies' priority list. Without reoccurring review and prodding by Congress, we fear that this carefully structured and badly needed resource could easily languish in a limbo state of begun but never finished.

In addition to the implementation report, we think Congress should require OMB to summarize feedback from the public about the service. In our years of developing and maintaining

searchable online database services, we have learned that listening to users is often the fastest method to identifying problems and limitations with the data, design or functionality of the site. A requirement that OMB report on the complaints, input and other comments made by public users of the website service would ensure that the office maintains a functioning mechanism to collect such feedback and address the issues raised in a timely manner. In fact, OMB should be required to actively obtain feedback on the design and functionality of the website with a series of focus groups and surveys. It may also be useful to have the citizen's panel mentioned above prepare an independent report to Congress on implementation. This panel, being involved in the development and implementation of the website would be able to provide an objective review of some of the internal processes and actions that general public users of the service would be unaware (further extending the transparency and disclosure principles inherent within this project).

Finally, these requirements to regularly report back to Congress will provide the foundation for any future legislative action. As mentioned above, there are several complex issues that may prove difficult to resolve such as reporting of sub-grant information. Implementation of this website and increased use of these databases will almost certainly uncover other unknown issues with data quality, format and structure of the databases and reporting methods. Increased use of the data may also lead to new desired uses or purposes for the data that require some alteration of the system or information collection. With proper reporting back to Congress, these problems and additional needs can be tracked and addressed, if necessary, by additional legislation.

We would encourage inclusion of language, beyond the reporting requirements, that holds OMB accountable for implementing this legislation. While we would be open to other accountability measures, our inclination is to include a provision granting the public the right to sue OMB if this service is not implemented or is implemented in a manner not consistent with the intent of the legislation. Such a provision would essentially create a second front of accountability. In addition to the congressional oversight, the ability for members of the public to sue would encourage greater public oversight and review by interested stakeholders such as journalists, companies, non-profits and others. This would in turn lead to greater public feedback for OMB, a reinforcing process. In the unlikely event that OMB fails to properly implement the website, a lawsuit, or even just the threat of a lawsuit, could result in a faster and more permanent correction than congressional oversight could produce, short of additional legislation.

#### **IV. Next Steps Regarding Transparency in Federal Fiscal Matters**

I want to reiterate OMB Watch's strong support for S. 2590. Its bipartisan support and its comprehensive approach to transparency are laudable. Even as we support S. 2590, we recognize simply making the data publicly available in a searchable format is not a complete solution for greater accountability. Earlier in this testimony, I emphasized the need to view S. 2590 as a building block in constructing a comprehensive approach to maximizing transparency and accountability regarding federal fiscal matters. In that context, I would suggest five areas for future exploration.

##### **1. Congressional Oversight**

When it comes to accountability, nothing can replace old-fashioned congressional oversight. Unfortunately, as this committee has realized, it has largely been lacking. There is no simple prescription to fix this problem as Chairman Coburn has noted in past public statements. Somehow Congress must make it clear to offices managing these fiscal databases and

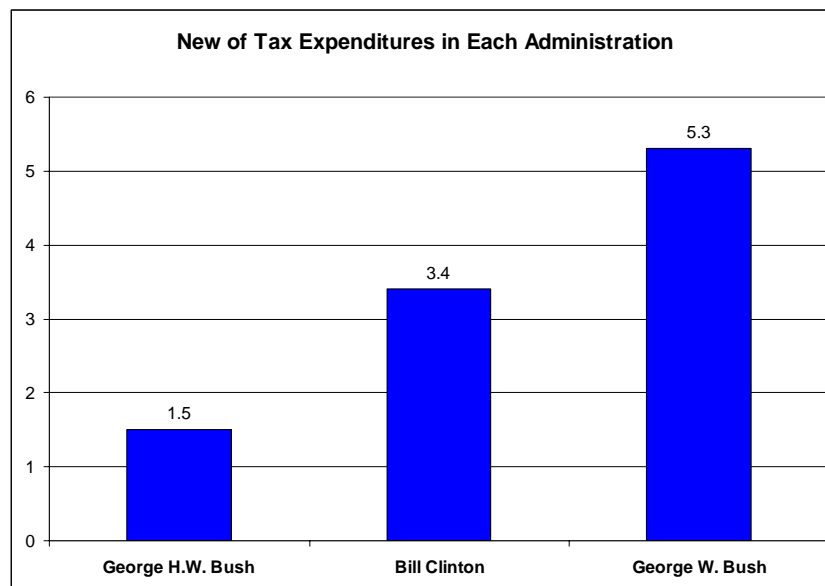
services, as well as to the agencies reporting the fiscal data, that anything short of accurate, clear, informative, timely data on federal fiscal matters will not be tolerated. Vehicles for delivering this message should include more regular hearings on the availability and clarity of fiscal data, and recurring evaluations by the Government Accountability Office.

## 2. Improved disclosure of all aspects of the federal budget process

All stages and aspects of this process should be subject to the transparency requirements that S. 2590 proposes for grants and contracts. As the president submits his budget to Congress, agencies also provide detailed justifications for their spending requests. These documents are not publicly available, but should be. Similarly, as Congress proceeds with the annual budget and appropriations process, detailed information on its actions should be publicly available. For example, some appropriations subcommittees make detailed program account information available; others do not. Such information should be required to be widely available on committee websites. All legislation and committee and conference reports should be available online at least 72 hours before consideration. Finally, all earmarks should be separately identified along with who requested the earmark.

## 3. Disclosure of tax expenditures

S. 2590 only deals with one type of expenditure – spending. But there is another type that does not often receive much public attention – tax expenditures. Tax expenditures continue to grow each year: in FY 1984, they cost \$512 billion; in FY 2000, \$697 billion; and FY 2004, \$728 billion. The increase in the cost of federal tax expenditures has been 42 percent between 1984 and 2004. The number of new tax expenditures also has been increasing under each administration (see chart below). (source: “Tax Complexity: By the Numbers,” John S. Irons and Michael Powers, Center for American Progress, October 28, 2005 at <http://www.americanprogressaction.org/atf/cf/%7B65464111-BB20-4C7D-B1C9-0B033DD31B63%7D/TAXCOMPLEXITYREPORTTEXT.PDF>) This does not count tax earmarks such as those that may benefit a specific company.



Using S. 2590 as a model, it is time to create greater transparency with regards to tax expenditures and earmarked tax breaks.

#### **4. Disclosure of information about federal recipients and use of federal funds**

S. 2590 provides information about financial assistance awards, but does not develop a profile about recipients of federal funds or describe how the funds were used. In today's Internet world, the federal government should be able to provide information about a particular recipient of federal funding, including information about compliance with regulatory and legal requirements. For example, the public should be able to obtain information about the top federal contractor, Lockheed Martin, beyond what S. 2590 will provide. Does Lockheed Martin comply with federal work place safety, environmental, and equal opportunity employment requirements? Does it have civil or criminal violations? What federal fines has it paid? This type of profile is essential so that the public can be assured that it is not dealing with scofflaws. Similarly, the public should be able to know how much money Lockheed Martin spent on campaign contributions as well as on lobbying Congress and the executive branch for additional funding. These data will provide a more complete picture of all that is involved with the decision-making process and allocation of federal resources and give the public and Congress true tools to make value judgments about how the government spends taxpayer dollars.

It is also time to begin disclosing how federal funds were actually spent. With a number of reports indicating mismanagement and corruption in the federal procurement system, Congress should require all audits of federal awards conducted by the executive and legislative branches be made publicly accessible (redacting sensitive information such as confidential business information). We would encourage you to consider requiring OMB to identify how to disclose information discussed in this section in its first annual report as required by the bill.

Moreover, existing databases that may provide some profiles about entities receiving federal funds and their performance should be made publicly available. For example, the Central Contractor Registration, which houses such information as the Past Performance Information Retrieval System.

#### **5. Disclosure of spending by the legislative and judicial branches**

In FY 2005, the legislative branch spent \$4 billion and the judiciary branch \$5.6 billion. The public has a right to know how these funds are being spent. While the emphasis should remain on disclosure within the executive branch, the other branches of the federal government should also become far more open about how funds are spent. These branches, while spending far less than the executive branch of the government, can still benefit from the accountability and efficiency that transparency engenders. These branches should start by collecting data and producing annual reports that breakout spending in to major categories.

### **V. Conclusion**

OMB Watch strongly supports the S. 2590 because of the principles of transparency and accountability that it brings to bear on federal fiscal matters and because of the step forward in usable federal grant and contract data the legislation would clearly produce. Specifically we are impressed with the follow aspects of the legislation:

- The wide scope of disclosure that includes contracts which the recent House legislation missed.
- Creating a single searchable database website that will make access to and use of data easier.
- The high level of detail required of the data contained in the system.
- The ability to search on and organize the data around numerous key data elements.
- Attempting to finally address the issue of subrecipients of federal grants and contracts, an issue that has gone un-dealt with for too long.
- Requiring reporting on implementation to ensure that this step forward in fiscal transparency proceed in timely and useful manner.

OMB Watch also offers several specific recommendations to improve S. 2590 including:

- Requiring OMB to identify ways of improving data quality and descriptions of federal awards under the required annual report.
- Developing a site that fits the users of varying levels of experience and knowledge of federal fiscal data.
- Establishing a citizen panel to provide input during the creation of the website and evaluate OMB's efforts to implement the legislation and oversee the service.
- Replace the current requirement to report on subrecipients of federal grants and contracts with an intermediary stage of pilot projects designed to determine the most efficient and least burdensome method of collecting and presenting the needed data.
- Increase the implementation accountability provisions to include an objective evaluation of OMB's creation and management of the service and establish public right to sue OMB over any failure to properly implement the service.

In an effort to look beyond the current legislation before the committee, OMB Watch identified several areas that should be addressed at some point in the future to continue the process of improving fiscal transparency and accountability that S. 2590 applies to federal contract and grants. Those future improvements include:

- Increasing the amount of congressional oversight occurring on the issue of fiscal transparency.
- Expanding transparency to include all stages of the federal fiscal process, such as earmarks, budget justification documents, and appropriation reports.
- Improving disclosure of tax expenditures and tax earmarks.
- Improving disclosure of information on recipients and the use of federal funds.
- Establishing transparency requirements for the legislative and judicial branches.

Thank you for this opportunity to testify today in support of S. 2590 and strengthen disclosure of federal fiscal matters.