

110TH CONGRESS  
2D SESSION

# S. 3077

To strengthen transparency and accountability in Federal spending.

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IN THE SENATE OF THE UNITED STATES

JUNE 3, 2008

Mr. REID (for Mr. OBAMA (for himself, Mr. COBURN, Mr. CARPER, and Mr. MCCAIN)) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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## A BILL

To strengthen transparency and accountability in Federal spending.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Strengthening Transparency and Accountability in Fed-  
6 eral Spending Act of 2008”.

7 (b) **TABLE OF CONTENTS.**—The table of contents for  
8 this Act is as follows:

Sec. 1. Short title and table of contents.

Sec. 2. Improving application programming interface and website data elements.

Sec. 3. Improving data quality.

Sec. 4. Recipient performance transparency.

1 **SEC. 2. IMPROVING APPLICATION PROGRAMMING INTER-**  
2 **FACE AND WEBSITE DATA ELEMENTS.**

3 (a) IN GENERAL.—Section 2 of the Federal Funding  
4 Accountability and Transparency Act of 2006 (Public Law  
5 109–282; 31 U.S.C. 6101 note) (referred to in this Act  
6 as the “Act” for purposes of any amendment) is amend-  
7 ed—

8 (1) in subsection (a)—

9 (A) in paragraph (2)(A)(ii), by striking  
10 “and delivery orders” and inserting “lease  
11 agreements and assignments, and delivery or-  
12 ders”; and

13 (B) in paragraph (3)—

14 (i) in subparagraph (C), by striking  
15 “and” after the semicolon;

16 (ii) in subparagraph (D), by striking  
17 the period and inserting “; and”; and

18 (iii) by adding at the end the fol-  
19 lowing:

20 “(E) programmatically search and access  
21 all data in a serialized machine readable format  
22 (such as XML) via a web-services application  
23 programming interface.”;

24 (2) in subsection (b)—

25 (A) in paragraph (1)—

1 (i) in subparagraph (E), by striking  
2 “and” after the semicolon;

3 (ii) in subparagraph (F), by striking  
4 the period and inserting “; and”; and

5 (iii) by adding at the end the fol-  
6 lowing:

7 “(G) a unique award identifier that identi-  
8 fies each individual award vehicle;

9 “(H) the date that the financial award was  
10 made;

11 “(I) the date that the financial award re-  
12 quirements began;

13 “(J) the date that the financial obligations  
14 are dispersed to the recipient;

15 “(K) to the extent possible, the agency and  
16 department as well as subagencies and sub-  
17 offices that have authorized the Federal award;

18 “(L) in negotiated procurements, the high-  
19 est, lowest, and median offered price among all  
20 technically acceptable proposals or bids;

21 “(M) after January 1, 2010, for all con-  
22 tracts, subcontracts, purchase orders, task or-  
23 ders, lease agreements and assignments, and  
24 delivery orders—

1           “(i) both a copy in a format that re-  
2 produces the original image of each page  
3 and a copy in searchable text format of the  
4 request for proposals, the announcement of  
5 the award, the contract, and the scope of  
6 work to be performed;

7           “(ii) a product or service code that  
8 identifies the general category of product  
9 or service procured under the transaction;

10           “(iii) information about the extent of  
11 competition in making the award, includ-  
12 ing the number of qualified bids or pro-  
13 posals during the competitive process, and  
14 if the award was not competed, the legal  
15 authority and specific rationale for making  
16 the award without full and open competi-  
17 tion;

18           “(iv) the full amount of money that is  
19 awarded under a contract or, in the case of  
20 lease agreements or assignments, the  
21 amount paid to the Government, and the  
22 full amount of any options to expand or  
23 extend under a contract;

24           “(v) the amount and nature of the  
25 profit incentive offered to contractors for

1 achieving or exceeding specified goals such  
2 as fixed price, cost plus pricing, labor hour  
3 contracts, and time and materials con-  
4 tracts;

5 “(vi) an indication if the contract is  
6 the result of legislative mandates, set-  
7 asides, preference program requirements,  
8 or other criteria, and whether the contract  
9 is multiyear, consolidated, or performance  
10 based;

11 “(vii) an indication if the contract is  
12 a congressionally directed spending item as  
13 defined in Public Law 110–81; and

14 “(viii) socioeconomic characteristics of  
15 the entity that receives an award including  
16 its size, industrial classification (NAICS  
17 code), and whether the entity is owned by  
18 minority individuals, women, veterans, or  
19 other special categories; and

20 “(N) after January 1, 2009, for all grants,  
21 subgrants, loans, awards, cooperative agree-  
22 ments, and other forms of financial assist-  
23 ance—

24 “(i) the type of recipient receiving the  
25 award, such as State government, local

1 government, Indian tribe, individual, small  
2 business, for-profit, or nonprofit;

3 “(ii) the type of financial assistance  
4 each transaction represents including di-  
5 rect payments, insurance, loans, grants,  
6 and cooperative agreements;

7 “(iii) the amount of money from non-  
8 Federal sources that is required to obtain  
9 the award; and

10 “(iv) an indication if the funding is a  
11 congressionally directed spending item as  
12 defined in Public Law 110–81.”;

13 (B) by redesignating paragraphs (2), (3),  
14 and (4) as paragraphs (3), (4), and (5), respec-  
15 tively; and

16 (C) by adding after paragraph (1) the fol-  
17 lowing:

18 “(2) PRESENTATION OF DATA.—The website  
19 shall present information about Federal awards and  
20 recipients of Federal awards in ways that meet the  
21 needs of users with different levels of understanding  
22 about government spending and abilities using  
23 searching websites by—

24 “(A) providing search results for novices  
25 displayed in summary form and with top level

1 information such as amount of money received  
 2 in a fiscal year, basic information about the re-  
 3 cipient, purpose of the Federal award, what  
 4 Federal agencies are providing the money,  
 5 where the work is performed, and extent of  
 6 competition, if applicable; and

7 “(B) providing more detailed information  
 8 for more sophisticated users, including all data  
 9 in paragraph (1).”; and

10 (3) in subsection (c), by striking paragraph (4)  
 11 and inserting the following:

12 “(4) shall be updated at least once every 30  
 13 days with new information required by this Act;  
 14 and”.

15 (b) EFFECTIVE DATE.—Except as otherwise pro-  
 16 vided, amendments made by subsection (a) shall be imple-  
 17 mented not later than 6 months after the date of enact-  
 18 ment of this Act.

19 **SEC. 3. IMPROVING DATA QUALITY.**

20 (a) IN GENERAL.—The Act is amended by adding at  
 21 the end the following:

22 **“SEC. 5. IMPROVING DATA QUALITY.**

23 “(a) IN GENERAL.—The Director of the Office of  
 24 Management and Budget shall ensure the following:

1           “(1) A simple method for the public to report  
2 errors is available on the website created by this Act  
3 which should—

4           “(A) allow the public to report errors on  
5 single records as well as problems affecting  
6 multiple records;

7           “(B) allow the public to provide contact in-  
8 formation, including e-mail address, mail ad-  
9 dress, or telephone number, to be used for in-  
10 forming the reporter of the outcome of the  
11 records review;

12           “(C) send copies of the error report to  
13 both an official responsible for the data quality  
14 at the agency that generated the data and to  
15 the Office of Management and Budget;

16           “(D) if reported errors are deemed to be  
17 nonfrivolous, place an indicator on the records  
18 on the website that informs users that the accu-  
19 racy of the record has been brought into ques-  
20 tion, until the information is either confirmed  
21 as correct or updated to be correct; and

22           “(E) maintain a public record organized by  
23 agency of the total number of records which  
24 have had nonfrivolous reports of errors, the  
25 number of records which have been corrected,

1 and number of records for which error reports  
2 remain unresolved.

3 “(2) Each agency inspector general—

4 “(A) reviews a statistically representative  
5 sample of agency Federal awards every 6  
6 months to verify accuracy of the data and that  
7 data standards are being followed;

8 “(B) reports to the Director of the Office  
9 of Management and Budget the findings of the  
10 review; and

11 “(C) makes publicly available, including  
12 through the website created by this Act, the  
13 findings of the review.

14 “(3) The data used on the website created by  
15 this Act is audited for quality every 6 months with  
16 the audit to include at least the following steps:

17 “(A) Review and report publicly on the ac-  
18 tivity in the error reporting system created by  
19 this section with an analysis for each agency  
20 and combined for agencies that includes at least  
21 the following indicators:

22 “(i) Number of errors reported.

23 “(ii) Number of reported errors re-  
24 solved.

1                   “(iii) Number of reported errors that  
2                   remain unresolved.

3                   “(iv) Number of reported errors that  
4                   led to corrections.

5                   “(v) Number of reported errors on  
6                   records that proved to be correct.

7                   “(vi) Average number of days to re-  
8                   solve error report.

9                   “(vii) Longest number of days to re-  
10                  solve an error report.

11                  “(viii) Longest held reported error  
12                  that remains unresolved.

13                  “(B) An independent review every 6  
14                  months of data used for the website to verify  
15                  accuracy of the data and assess the process  
16                  used for improving data quality with an ability  
17                  for the public to review these findings.

18                  “(C) Identify and report new standards  
19                  that should be implemented by agencies to im-  
20                  prove data quality.

21                  “(4)(A) No personally identifiable information  
22                  is made available through the website created by this  
23                  Act and a common standard is created across the  
24                  Government for assigning a unique award identifier

1 across both contract and Federal assistance award  
2 transactions.

3 “(B) A report is submitted within 6 months of  
4 the date of enactment of this Act to Congress (and  
5 made publicly available on the Internet) that no per-  
6 sonally identifiable information is available on the  
7 website.

8 “(C) Agencies are required to correct data for  
9 past years when personally identifiable information  
10 was used.

11 “(D) The unique recipient identifier and parent  
12 company identifier are—

13 “(i) accurate;

14 “(ii) able to identify past and current sub-  
15 sidiary ownership; and

16 “(iii) publicly available through the  
17 download and application programming inter-  
18 faces in section 2(a)(3).

19 “(5) The data on the website created by this  
20 Act is normalized to correct nonstandard ways of re-  
21 porting names and other information.

22 “(6) The Consolidated Federal Funds Report is  
23 published not later than 6 months after the end of  
24 the fiscal year.

1           “(7) A plan for improving the management and  
2 accuracy of agency financial information about Fed-  
3 eral awards, including public access to such data, is  
4 submitted to the Committee on Homeland Security  
5 and Governmental Affairs of the Senate and the  
6 Committee on Oversight and Government Reform of  
7 the House of Representatives and made publicly  
8 available through the Internet not later than Decem-  
9 ber 31, 2009.

10           “(8) Findings from the agency inspectors gen-  
11 eral reports, the data quality audits, and other infor-  
12 mation are used to develop standards or guidance  
13 for agency implementation of, and compliance with,  
14 the requirements of this Act.

15           “(b) STATUTORY OBLIGATIONS.—Nothing in this Act  
16 relieves the director or any Federal agency of any statu-  
17 tory obligation to develop, maintain, or provide access to  
18 complete, accurate, and timely Federal financial data.”.

19           (b) EFFECTIVE DATE.—Except as otherwise pro-  
20 vided, the amendments made by subsection (a) shall be  
21 implemented not later than June 30, 2009.

22 **SEC. 4. RECIPIENT PERFORMANCE TRANSPARENCY.**

23           (a) IN GENERAL.—The Act as amended by section  
24 4 is amended by adding at the end the following:

1 **“SEC. 7. RECIPIENT PERFORMANCE TRANSPARENCY AND**  
2 **TAX COMPLIANCE.**

3 “(a) PERFORMANCE TRANSPARENCY.—The Director  
4 of the Office of Management and Budget shall ensure that  
5 the unique identifier required in section 2(b)(1)(E) that  
6 is used to link information on the website described in sec-  
7 tion 2 is also used to link information about performance  
8 of individual contractors and recipients of financial assist-  
9 ance starting with awards given in fiscal year 2008 includ-  
10 ing—

11 “(1) an assessment of the quality of work per-  
12 formed on Federal awards during the past 5 years,  
13 but not before fiscal year 2008;

14 “(2) information about Federal audit disputes  
15 and resolutions;

16 “(3) information regarding civil, criminal, and  
17 administrative actions initiated or concluded by the  
18 Federal Government or a State government against  
19 Federal awards recipients or violations of Federal or  
20 State laws or regulations during the preceding 5  
21 years including, but not limited to—

22 “(A) with respect to each proceeding—

23 “(i) a brief description of the pro-  
24 ceeding and its disposition;

1           “(ii) any amount paid by the person  
2 to the Federal Government or a State gov-  
3 ernment; and

4           “(iii) any violation of law or regula-  
5 tions, if applicable, related to the work-  
6 place, environmental protection, fraud, se-  
7 curities, and consumer protections includ-  
8 ing—

9                   “(I) those affecting worker safety  
10 and health;

11                   “(II) working pay and leave  
12 rights;

13                   “(III) workplace discrimination,  
14 including trafficking in persons;

15                   “(IV) labor relations;

16                   “(V) the Clean Air Act, Clean  
17 Water Act, the Resource Conservation  
18 and Recovery Act, and other environ-  
19 mental enforcement actions;

20                   “(VI) whistleblower protections;

21                   “(VII) Security and Exchange  
22 Commission actions; and

23                   “(VIII) Federal Trade Commis-  
24 sion actions;

1           “(B) all Federal contracts and assistance  
2 awarded to the Federal awards recipient that  
3 were terminated in such period due to default;

4           “(C) all Federal suspensions and  
5 debarments of the Federal awards recipient in  
6 that period;

7           “(D) all Federal suspension and debar-  
8 ment show cause orders received by the Federal  
9 awards recipient in that period; and

10           “(E) all administrative agreements signed  
11 with such Federal awards recipient in that pe-  
12 riod; and

13           “(4) publicly available Government reports, in-  
14 cluding those from the Government Accountability  
15 Office, Congressional Research Service, Congres-  
16 sional Budget Office, and agency inspectors general,  
17 concerning general contractor or assistance recipient  
18 performance or specific instances of waste, fraud,  
19 and abuse.

20           “(b) TAX COMPLIANCE.—

21           “(1) IN GENERAL.—The chief executive officer  
22 of an entity that receives a Federal award shall be  
23 required to certify whether—

24           “(A) the entity has filed all Federal tax re-  
25 turns required during the preceding 5 years;

1           “(B) the entity has been convicted of a  
2 criminal offense under the Internal Revenue  
3 Code of 1986; and

4           “(C) the entity has an outstanding debt  
5 under the Internal Revenue Code of 1986 for  
6 which a notice of lien has been filed in public  
7 records pursuant to section 6323 of such Code  
8 that is not—

9                   “(i) being paid in a timely manner  
10 pursuant to an agreement under section  
11 6159 or section 7122 of such Code; or

12                   “(ii) a debt with respect to which a  
13 collection due process hearing under sec-  
14 tion 6330 of such Code, or relief under  
15 subsection (a), (b), or (f) of section 6015  
16 of such Code, is requested or pending.

17           “(2) OMB.—The Director of the Office of Man-  
18 agement and Budget shall—

19                   “(A) develop the certification forms re-  
20 quired by paragraph (1);

21                   “(B) ensure that each agency providing  
22 Federal awards complies with the requirements  
23 of this subsection; and

1           “(C) after January 1, 2009, ensure that  
2           the website described in section 2 contains in-  
3           formation collected under paragraph (1).”.

4           (b) EFFECTIVE DATE.—The amendments made by  
5           subsection (a) shall be implemented not later than June  
6           30, 2009.

○