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109TH CONGRESS }
2d Session }

SENATE

{ REPORT
109-329 }

FEDERAL FUNDING ACCOUNTABILITY AND
TRANSPARENCY ACT OF 2006

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 2590

together with

ADDITIONAL VIEWS

TO REQUIRE FULL DISCLOSURE OF ALL ENTITIES AND
ORGANIZATIONS RECEIVING FEDERAL FUNDS



SEPTEMBER 8, 2006.—Ordered to be printed

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SEPTEMBER 8, 2006.—Ordered to be printed

Ms. COLLINS, from the Committee on Homeland Security and
Governmental Affairs, submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany S. 2590]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 2590) to require full disclosure of all entities and organizations receiving Federal funds, having considered the same reports favorably thereon with an amendment and recommends that the bill do pass.

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I. PURPOSE AND SUMMARY

The purpose of S. 2590 is to increase transparency and accountability of Federal government expenditures by providing access to information on Federal funding awards through a single, searchable, publicly-available Web site. The Office of Management and Budget is required to ensure that the Web site is up-to-date, easily searchable and available to the public at no cost, so that informa-

tion on Federal awards may be accessed by the public in a timely way.

The bill requires the Web site to be fully accessible to the public by January 1, 2008, at which point data for fiscal year 2007 should be available on the Web site. After October 1, 2008, information about credit card transactions is required to be available on the Web site. By January 1, 2009, the bill requires the single Web site to provide information on subgrants and subcontracts. However, the bill does give the Director of the Office of Management and Budget the authority to extend, by no more than 18 months, the deadline for implementing the subaward reporting requirement for recipients of federal funds through State, local and tribal governments. Individual award transactions below \$25,000 are not required to be included on the Web site.

Specific elements of information about Federal awards are required to be available on the Web site, including the name of the recipient, award amount, award type (e.g., grant, contract, subgrant, etc.), industry classification or Catalog of Federal Domestic Assistance indicator, location of the recipient and the primary place of performance, Federal agency and program source, and detailed title and description of each award. In addition, a unique identifier for each entity or parent entity receiving Federal funds is also required to be available on the Web site.

The bill includes a temporary subaward reporting exemption for small entities. Entities that can demonstrate that they earned less than \$300,000 in gross income in the previous tax year would not be required to report on subawards until the Director of the Office of Management and Budget determines that the imposition of the reporting requirements would not create an undue burden on those entities.

In order to best determine the most cost-effective and efficient way to provide information on subawards, the bill establishes a pilot program to test methods of subaward data collection and reporting and to receive public feedback.

Finally, the bill requires the Director of the Office of Management and Budget to submit annual reports to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives, including data regarding the usage of the site and public feedback received, an assessment of the reporting burden placed on recipients of Federal funding, and an explanation of any reporting deadline extension for subaward recipients of Federal funding through State, local, or tribal governments.

II. BACKGROUND

As Federal spending approaches \$3 trillion in fiscal year 2007,¹ the public's ability to track how their tax dollars are used remains a monumental task. There is currently no comprehensive, publicly-available source of detailed, accurate, complete and timely information on Federal government spending. Even within the Federal government, information on all spending decisions is not compiled in

¹ Office of Management and Budget, Analytical Perspectives: Budget of the United States of America, Fiscal Year 2007, pg. 389, at <http://www.whitehouse.gov/omb/budget/fy2007/pdf/spec.pdf>.

one place. There is a lack of transparency and accountability for all but the very largest spending decisions.

Most Federal expenditures fall within several broad categories, and yet most are largely unseen by the public. According to the Census Bureau, the \$2.2 trillion in Federal direct spending or obligations reported in the Consolidated Federal Funds Report for fiscal year 2004—the most recent year for which this data is available—can be broken into the following categories:

- Retirement and Disability—\$667 billion
- Grants—\$460 billion
- Procurement Contracts—\$340 billion
- Salaries and Wages—\$226 billion
- Direct Loans—\$30 billion
- Guaranteed or Insured Loans—\$29 billion
- Insurance—\$773 billion
- Other Direct Payments—\$773 billion²

Grants and procurement contracts, two of the categories listed above, are just a small subset of the millions of financial transactions that the Federal government engages in on an annual basis. Yet in 2004, there were nearly 1.8 million contract actions and hundreds of thousands of grants awarded through more than 1,000 Federal programs.³ The Committee believes it is important that detailed information on these and other types of Federal spending be not only collected by the government for its own use, but also made available to the public.

Without a rigorous and transparent accountability system in place to provide visibility into who is receiving Federal funds through contracts and grants, and for what purpose, there is a greater potential for fraud and abuse. One goal of S. 2590 is to mitigate the potential for fraud and abuse by allowing citizens to see how their tax dollars are spent. Greater transparency allows taxpayers to judge whether government funds are being used for purposes they consider valuable, or whether spending in certain areas is excessive or wasteful. It also allows the public to better understand, assess, and appreciate the scope and value of federal investments in their communities and to more fully participate in shaping priorities for Federal spending. The Web site will also allow state governments to better evaluate what funds flow to their states, what needs are or are not being met through federal funding, and may foster greater coordination between the Federal government and states, and between states and their subawardees.

The Federal Government currently makes some information on Federal expenditures available through various databases and reports. These include, but are not limited to, the Federal Procurement Data System (FPDS, currently the Federal Procurement Data System-Next Generation (FPDS-NG)), the Federal Assistance Awards Data System (FAADS), and the Consolidated Federal Funds Report (CFFR). However, each system is limited in its capabilities and usefulness, and the systems are largely not compatible with one another.

² U.S. Census Bureau, Consolidated Federal Funds Report for Fiscal Year 2004, p. v, December 2005, at <http://www.census.gov/prod/2005pubs/cffr-04.pdf>.

³ FPDS-NG, Federal Procurement Report: FY2004, Section 1: Total Federal Views, p. 1, 2004, at <http://www.fpdsng.com/downloads/FPR-Reports/fpr-section-I-federal-views.pdf>; U.S. Census Bureau, Governments Division, Federal Assistance Awards Database System, 2005 3rd Quarter—Summary Table, at <http://www.census.gov/govs/faads/053sumus.html>.

FPDS-NG is the primary source of information on Federal contracting. It was created in 1978 to provide a central repository for all Federal contracting information, and to make that information publicly available. GSA is the agency responsible for administering the system (41 U.S.C. 405(d)(4)(A)).

There are a number of weaknesses with FPDS that make it ineffective for providing timely, accurate information on procurement actions: first, not every agency is required to report to FPDS, meaning that the only way to gain an accurate count of procurement spending is to ask each agency individually. Second, the database is undependable, often providing data that is unusable or unreliable.⁴

The Federal Assistance Awards Data System, or FAADS, is the primary source of information on Federal grants. It was created in 1980 to be the central source for information on all Federal assistance awards and is administered by the Census Bureau (31 U.S.C. 6102(a)). FAADS collects information mainly in two formats: (1) an aggregate of all Federal assistance at the county level; and (2) an account of individual awards, including the amount awarded and the name of the recipient. Currently, 33 Federal agencies report to FAADS, which is nearly all Federal agencies that make awards. There remain, however, a few scattered small agencies that are not yet required to report.⁵

FAADS is more reliable than FPDS for its data quality and timeliness, but it also has limitations, making it far from adequate for needed transparency. The following are the biggest limitations to FAADS: first, each quarterly report is independent of the one that came before it and does not reflect total awards given in a certain fiscal year (or over any time period other than the quarter being reported). In order to obtain a comprehensive picture of Federal grants and awards, one would have to collect all previous reports and compile the information independently. Second, the Census Bureau emphasizes the fact that FAADS is not a “database” and is therefore not searchable. Instead, FAADS is a “sequential text file” that can only be read with special computer software. Searches for information are then only permitted on a “one-term-at-a-time” basis, and then not across years. Third, FAADS only reports information on the identity of the initial recipient, and not the identity of second- or third-tier recipients. This means that grants given to States are only tracked to the State level, not through to subawards. Fourth, FAADS is only updated with new information on a quarterly basis, meaning that information may be as old as three months by the time it is released.

The Consolidated Federal Funds Report, or CFFR, is a summary report of Federal spending on a geographic basis by State, county and sub-county areas. This report is published every year by the Census Bureau and is distributed publicly, as well as to Congress (31 U.S.C. 6202). The CFFR utilizes data collected from FAADS, FPDS and a collection of Federal agencies to track Federal funding

⁴GAO has long documented the data problems associated with FPDS, and specifically in a letter to The Honorable Joshua Bolten, Director Office of Management and Budget on December 30, 2003, regarding Reliability of Federal Procurement Data, at: <http://www.gao.gov/new.items/d04295r.pdf>.

⁵Office of Management and Budget, U.S. Census Bureau, Federal Assistance Awards Database System User's Guide, for Federal Fiscal Year 2005, Appendix A, October 2005, at <http://ftp2.census.gov/govs/faads/guide2005.pdf>.

within a number of high-level spending categories: retirement and disability; other direct payments; grants; procurement contracts; salaries and wages; direct loans; guaranteed or insured loans; and insurance. One of the biggest problems with the CFFR is that the data is released on a two-year delay. Therefore, the most recent data currently available is from FY2004.

The inability of FPDS, FAADS and CFFR to easily provide more than high-level spending totals demonstrates the government's general inability to provide transparency in its spending. Strides have been made in recent years to make some information available online, but more must be done. Real accountability for specific funding actions requires that better information be made available. The databases and Web sites currently available do not provide that level of accountability.

III. LEGISLATIVE HISTORY

S. 2590 was introduced on April 6, 2006 by Senator Coburn, along with Senators Obama, McCain and Carper as original co-sponsors. The bill was referred to the Committee on Homeland Security and Governmental Affairs. As of August 3, 2006, additional co-sponsors include: Chairman Collins, Ranking Member Lieberman and Senators Alexander, Allen, Bayh, Boxer, Chambliss, Clinton, Coleman, Cornyn, DeMint, DeWine, Durbin, Frist, Isakson, Kerry, Landrieu, McConnell, Reid, Santorum, Sessions, Snowe, Sununu, Thune, Vitter and Voinovich.

On July 18, 2006, the Committee on Homeland Security and Governmental Affairs, Subcommittee on Federal Financial Management, Government Information, and International Security, held a hearing entitled *What You Don't Know Can Hurt You: S. 2590, the "Federal Funding Accountability and Transparency Act of 2006."* The Subcommittee heard testimony from The Honorable John McCain and The Honorable Barack Obama, as well as Gary D. Bass, Executive Director, OMB Watch; Eric Brenner, Director, Maryland Governor's Grants Office, Office of the Governor; and Mark Tapscott, Editorial Page Editor, The Washington Examiner.

On July 26, 2006, the Committee met in a business session where it considered the bill. An amendment in the nature of a substitute was offered by Senators Collins, Lieberman, Coburn, and Carper and adopted by voice vote. The Committee voted to report the bill favorably, as amended. Senators present: Collins, Lieberman, Bennett, Akaka, Carper, Coburn, Dayton, Lautenberg, and Pryor.

IV. SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section provides that the bill may be referred to as the "Federal Funding Accountability and Transparency Act of 2006."

Section 2. Full disclosure of entities receiving Federal funding

Subsection (a) defines key terms used throughout the bill: entity, Federal award, and searchable Web site.

"Entity" is defined as any of the following type of for-profit or non-profit organizations: corporation, association, partnership, limited liability company (LLC), limited liability partnership (LLP),

sole proprietorship, other legal business entities and States or localities. The bill does not require the Web site to provide information about Federal funding received by individuals, such as a Social Security check or the salary of a Federal employee. The definition was drafted broadly with the intention of ensuring that information on financial transactions with all types of entities is included on the Web site. In addition, nothing in this bill prevents the Office of Management and Budget from making available on the Web site additional publicly-available Federal funding information.

The definition of "Entity" exempts subcontractors and subgrantees until January 1, 2009. In place of a requirement to provide subaward information concurrently with other required information, this bill establishes a pilot program for collecting and reporting subaward information, as detailed in subsection (d). The exception for subaward recipient information is made to address the concern that collecting subaward information will be more difficult than collecting information on prime funding recipients, and more time is needed to identify best practices for collection and reporting of subaward information. The presence of the delayed timetable in the bill is not intended to indicate that this information is less important than information on prime awards, but it does recognize that additional time might be needed to develop a system that balances access to information with the burden of reporting subaward data.

"Federal award" is defined as any expenditure of Federal funds through: grants, subgrants, contracts, subcontracts, loans, awards, cooperative agreements, purchase orders, task orders, delivery orders, or other forms of financial assistance. The definition does not include individual transactions below \$25,000 and, before October 1, 2008, does not include credit card transactions. The definition of this term is intentionally broad so as to capture as much Federal funding as possible. The inclusion of various types of financial arrangements is not in any way intended to limit the types of transactions that should be recorded on the Web site. The purpose of this legislation is to provide the public with a broad and highly detailed view of Federal funding, and the definition of what constitutes a Federal award is to be interpreted equally broadly.

"Searchable Web site" means a Web site that allows the public to search by any of the elements listed and explained in subsection (b)(1). This definition is intended to guarantee that the Web site is not only available to the general public, but that it is also easily usable. The bill is intended to ensure that the Web site can be searched using similar techniques as those used on popular search engine Web sites. The language of this bill does not preclude the inclusion of an advanced search capability on the Web site.

Subsection (b) provides general provisions regarding the Web site and the data to be submitted to the Web site.

Paragraph (1) requires the Office of Management and Budget (OMB) to ensure that the Web site is operational and available to the general public no later than January 1, 2008. This provision does not preclude OMB from making the Web site available prior to January 2008. It also requires that the Web site comply with Section 204 of the E-Government Act of 2002, which states that the Director of OMB "shall work with the Administrator of the General Services Administration and other agencies to maintain and pro-

mote an integrated Internet-based system of providing the public with access to Government information and services.”

This paragraph also requires that there be no cost to the public to access the Web site.

Finally, this paragraph requires that the Web site include certain data regarding each “Federal award” including: (1) the name of the entity receiving the award; (2) the dollar amount of the award; (3) information on the award including—transaction type, funding agency (as well as the program within the agency), the North American Industry Classification System code (used to identify market sector) or Catalog of Federal Domestic Assistance number, and purpose of the funding; (4) location of the entity receiving the award as well as the primary location of performance under the award, including city, State, congressional district, and country; (5) a unique identifier of the entity receiving the award and of the parent entity of the recipient, when applicable; and (6) other information that OMB deems relevant.

Paragraph (2) specifies that the Web site shall include data for fiscal year 2007 and each fiscal year thereafter.

Paragraphs (3) and (4) authorize OMB to delegate the work of developing and maintaining the Web site to one or more Federal agencies.

Subsection (c) of the bill addresses several provisions related to the operation of the Web site.

Paragraph (1) specifies that OMB may use existing Federal databases, such as the Federal Procurement Data System, Federal Assistance Award Data System, and Grants.gov, as sources of data for the searchable Web site. Paragraph (2), however, specifies that the Web site will not be in compliance with the requirements of the bill if it simply hyperlinks to other Federal databases. The objective in establishing the Web site is to prevent the need for citizens to search multiple sites and learn the operations of multiple databases to know where their tax dollars are being spent. Citizens should be able to access information on all Federal awards through a single Web site, regardless of how many separate systems feed into it.

Paragraph (3) requires that the Web site provide an opportunity for public feedback on the utility of the site and recommendations for improvements. This should provide an opportunity for feedback from entities receiving Federal funds and thus required to provide information, as well as anyone from the general public who uses the Web site for private research. Opportunities to provide feedback should be continuous, and improvements to the Web site should be on-going.

Paragraph (4) requires that all funding information required in the bill be posted to the Web site no later than thirty (30) days after the transaction has occurred. This means thirty calendar days and not thirty business days.

The Committee believes that the Web site should be easy for the public to locate and access, either through its own domain name or through prominence on a central Federal Web site, such as Firstgov.gov.

Subsection (d) requires the Director of OMB to establish a pilot program to address the issue of collecting subaward data. The Committee expects the Director of the Office of Management and

Budget to incorporate the lessons learned and public feedback from the pilot program as it implements the subaward reporting requirements of this bill.

The Director is required to establish the pilot program no later than July 1, 2007, to determine the most efficient and least burdensome means of collecting subaward data. The pilot project will last for two years, after which all subaward data will begin to be collected and integrated into the Web site. The Director of OMB may extend the subaward reporting requirement for subawardees that receive funding through State, local, and tribal governments for up to 18 months, to prevent imposing an undue burden on subaward recipients.

Subsection (e) allows that any entity with a gross income of less than \$300,000 in the previous tax year will be exempt from the subaward reporting requirements until the Director of OMB determines that the reporting requirements do not cause an undue burden on these entities.

Subsection (f) specifies that nothing in the Act shall prohibit OMB from including on the Web site information that is publicly available from any other Federal database.

Subsection (g) requires the Director of OMB to report to appropriate congressional committees regarding usage and public feedback on the Web site, the reporting burden placed on prime and subaward recipients, and the Director's use of the extension allowed in subsection (d).

Section 3. Classified information.

This section clarifies that the Act shall not require disclosure of classified information.

V. ESTIMATED COST OF LEGISLATION

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 9, 2006.

Hon. SUSAN M. COLLINS,
Chairman, Committee on Homeland Security and Governmental Affairs,
U.S. Senate, Washington, DC.

DEAR MADAM CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2590, the Federal Funding Accountability and Transparency Act of 2006.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

DONALD B. MARRON,
Acting Director.

Enclosure.

S. 2590—Federal Funding Accountability and Transparency Act of 2006

Summary: S. 2590 would direct the Office of Management and Budget (OMB) to oversee the creation of a single comprehensive searchable Web site that would include information on all federal

grants, contracts, and other funding awarded to public and private organizations.

CBO estimates that implementing S. 2590 would cost \$4 million in 2007 and about \$15 million over the 2007–2011 period, assuming appropriation of the necessary amounts. Enacting the legislation would not affect direct spending or revenues. S. 2590 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA); any costs to state, local, or tribal governments would result from complying with the conditions for receiving federal assistance.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 2590 is shown in the following table. The cost of this legislation falls within budget function 800 (general government).

	By fiscal year, in millions of dollars—				
	2007	2008	2009	2010	2011
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Estimated authorization level	5	5	2	2	2
Estimated outlays	4	5	2	2	2

Basis of estimate: For this estimate, CBO assumes that the bill will be enacted near the start of fiscal year 2007, that the necessary funds will be provided for each year, and that spending will follow historical patterns for similar programs.

The federal government has many databases to monitor and report on federal spending. Three of the major government databases are the U.S. Census Bureau's Federal Assistance Award Data System (FAADS), the General Services Administration's Federal Procurement Data System (FPDS), and the U.S. Department of Health and Human Services' Web site, www.Grants.gov. FAADS contains information supplied by most federal agencies regarding most types of federal spending except contracts. FPDS includes information provided by federal agencies regarding federal contracts. Grants.gov is a Web site that can be used to apply for many federal grants. FAADS, FPDS, and Grants.gov do not comprise a comprehensive information source of all federal spending and reportedly are not timely nor easily queried for information.

S. 2590 would expand the current federal databases related to government spending to establish a single comprehensive database of federal spending that would be available through a public Web site listing all entities receiving federal funds, including the name of each entity with a unique identifier, information on the award, the amount of the award, the location of the entity, and the purpose of the funding by January 1, 2008. In addition, under the bill, OMB would initiate an 18-month pilot program beginning in July 2007 to identify spending by subcontractors and subgrantees. That information would be incorporated into the comprehensive federal spending database.

According to OMB, the government currently collects all the information needed to create a comprehensive database of federal spending. Using that information, CBO estimates that updating and expanding the government's current data collection efforts and adding a search engine through a Web site to create a single comprehensive database would cost nearly \$10 million over the 2007–

2008 period. In addition, CBO estimates that OMB would need \$2 million annually to update and maintain the database after it is established. Thus, we estimate that the creation of a single comprehensive searchable database would cost about \$15 million over the 2007–2011 period, assuming appropriation of the necessary amounts.

Intergovernmental and private-sector impact: S. 2590 contains no intergovernmental or private-sector mandates as defined in UMRA. The bill would require state, local, and tribal governments to provide OMB with information on how they spend money received from the federal government. Such requirements could be costly to intergovernmental entities, but any costs would result from complying with conditions for federal assistance.

Estimate prepared by: Federal Costs: Matthew Pickford. Impact on State, Local, and Tribal Governments: Sarah Puro. Impact on the Private Sector: Carla-Marie Ulerie.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

VI. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and determined that enactment of this legislation would have no regulatory impact.

VII. CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, there are no changes to existing law made by the bill as reported.

VIII. ADDITIONAL VIEWS OF SENATORS LAUTENBERG AND COBURN

Transparency in government decision-making should not be limited simply to spending; it should also be extended to the decisions Congress makes about the tax code. The tax code is currently over 60,000 pages long, and it is filled with obscure and little-known tax breaks. Because we believe that transparency is one of the best tools we have to curb wasteful behavior, we look forward to working together and with the Committee to develop bipartisan legislation like S. 2590 that will bring increased transparency to the tax code. Tax code matters can be extremely complex but the American public has a right to know how the tax code affects them. American taxpayers also deserve to know if they're paying higher taxes in order to offset the loss of revenue due to special treatment for special interest groups. This is a complex issue that will require careful study. We intend to address this issue in the Subcommittee on Federal Financial Management, Government Information, and International Security. We believe that a hearing addressing this issue will help us all to better understand the ultimate effects of targeted tax expenditures. Further study will also help to inform us on how to address the issue of greater transparency more comprehensively.

FRANK R. LAUTENBERG.
TOM A. COBURN.

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