



# The Federal Funding Accountability and Transparency Act: Background, Overview, and Implementation Issues

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January 31, 2008

Congressional Research Service

7-5700

[www.crs.gov](http://www.crs.gov)

RL33680

## Summary

On September 26, 2006, President Bush signed S. 2590, the Federal Funding Accountability and Transparency Act, into law (P.L. 109-282). In an attempt to expand oversight of federal spending, including earmarks, the new law required the Office of Management and Budget (OMB) to establish a publicly available online database containing information about entities that are awarded federal grants, loans, contracts, and other forms of assistance. Federal agencies award over \$880 billion dollars annually in three of the primary categories of financial assistance to be included in the database—\$470 billion in grants, \$381 billion in contracts, and \$29 billion in direct loans. The FFATA was endorsed by leaders of both parties and an array of business, union, and watchdog organizations.

OMB launched the new database, USAspending.gov, on December 13, 2007. While the database has been praised as a step toward a worthy objective—enhancing the transparency of government expenditures—government officials and members of the public have expressed concern that issues surrounding its implementation have not been adequately addressed. In particular, many observers question the reliability of information taken from the Federal Assistance Award Data System (FAADS) and the Federal Procurement Data System - Next Generation (FPDS-NG), which are important sources of information for USAspending.gov. They note that information in FAADS and FPDS is often incomplete and inaccurate, and therefore might limit transparency. Some observers also believe that the cost of establishing and maintaining the new database might grow as agencies seek to improve data quality and collect new information on subawards.

This report initially discusses the background of S. 2590, noting in particular how it compared to similar legislation in the House of Representatives. It then discusses the Federal Funding Accountability and Transparency Act's provisions, noting what types of assistance are to be part of the new database, the primary sources of the data, and deadlines for implementation. Finally, the report identifies and discusses issues that have been raised regarding the act that might affect its implementation, and that therefore might prove to be areas for future congressional oversight. This report will be updated as events warrant.

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On September 26, 2006, President Bush signed into law S. 2590, the Federal Funding Accountability and Transparency Act (P.L. 109-282).<sup>1</sup> According to supporters of the new law, P.L. 109-282 was an attempt to reduce “wasteful and unnecessary spending” by the federal government, including spending on funds earmarked for special projects.<sup>2</sup> To that end, the legislation required the Office of Management and Budget (OMB) to establish a publicly available, online database containing information about entities that are awarded federal grants, loans, contracts, and other forms of assistance. Using the database, supporters asserted, a citizen or watchdog group would be able to easily determine how much money was given to which organizations, and for what purposes.<sup>3</sup> The premise of the new law was that by making the details of federal spending available to the public, government officials would be less likely to fund projects that might be perceived as wasteful. Supporters of the legislation also suggested that the new database would give citizens the opportunity to better understand how the government distributes funds and enable the public to become more involved in the discussion of federal spending priorities.<sup>4</sup>

Three of the primary categories of federal expenditures and obligations to be included in the database—federal grants, loans, and contracts—represent a significant element of federal spending. According to the most recently published Consolidated Federal Funds Report (CFFR), federal agencies award over \$880 billion in those three categories of financial assistance alone: \$470 billion in grants, \$381 billion in contracts, and \$29 billion in direct loans.<sup>5</sup> OMB launched the database, USAspending.gov, on December 13, 2007. While the new database has been praised as a step toward a worthy objective—enhancing the transparency of government expenditures—government officials and members of the public have expressed concern about the quality of the data it provides, and about the cost of enhancing and expanding data collection efforts.

This report<sup>6</sup> initially discusses the background of S. 2590, noting in particular how it compared to similar legislation in the House of Representatives. It then discusses the Federal Funding Accountability and Transparency Act’s provisions, noting what types of assistance are to be part of the new database, the primary sources of the data, and deadlines for implementation. Finally, the report identifies and discusses issues that might affect the act’s implementation, and that therefore might prove to be areas for future congressional oversight.

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<sup>1</sup> The White House, Office of the Press Secretary, “President Bush Signs Federal Funding Accountability and Transparency Act,” press release, September 26, 2006.

<sup>2</sup> Testimony of Sen. John McCain, in U.S. Congress, Senate Subcommittee on Federal Financial Management, Government Information, and International Security, *Federal Funding Accountability and Transparency Act*, hearing on S. 2590, 109<sup>th</sup> Cong., 2<sup>nd</sup> sess., July 18, 2006, at [http://hsgac.senate.gov/\\_files/071806McCain.pdf](http://hsgac.senate.gov/_files/071806McCain.pdf). For information on other recent earmark reform proposals, see CRS Report RL33397, *Earmark Reform Proposals: Analysis of Latest Versions of S. 2349 and H.R. 4975*, by (name redacted).

<sup>3</sup> Testimony of Sen. Tom Coburn, *ibid.*

<sup>4</sup> U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, *Federal Financial Accountability and Transparency Act of 2006*, report to accompany S. 2590, 109<sup>th</sup> Congress, 2<sup>nd</sup> session, S.Rept. 109-329, at [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109\\_cong\\_reports&docid=f:sr329.109.pdf](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_reports&docid=f:sr329.109.pdf).

<sup>5</sup> U.S. Census Bureau, *Consolidated Federal Funds Report for Fiscal Year 2005*, September 2007, p. v, at <http://www.census.gov/prod/2007pubs/cffr-05.pdf>.

<sup>6</sup> CRS Information Specialist Merete Gerli collaborated in the preparation of this report.

## Background

Senator Tom Coburn, along with three cosponsors, introduced S. 2590 on April 6, 2006.<sup>7</sup> On August 2, 2006, the Senate Committee on Homeland Security and Governmental Affairs unanimously reported S. 2590, with an amendment in the nature of a substitute.<sup>8</sup> That same day, the committee's chair, Senator Susan Collins, and its ranking member, Senator Joseph Lieberman, requested that the bill be brought to the floor for a unanimous consent vote before the August recess commenced. This motion was blocked by an unnamed Senator, which delayed action on the bill until after the recess.<sup>9</sup> On September 7, all holds were lifted and the Senate passed S. 2590 by unanimous consent.<sup>10</sup> The House approved S. 2590, as passed by the Senate, by voice vote on September 13.<sup>11</sup> Later that same day both chambers agreed to S.Con.Res. 114, making enrollment corrections to S. 2590.<sup>12</sup> As noted previously, the President signed the bill into law on September 26, 2006.

S. 2590 received extensive bipartisan support at each stage of the legislative process. In the Senate, the bill was introduced with bipartisan sponsors, voted unanimously out of committee, and passed by unanimous consent. The legislation was ultimately cosponsored by 47 Senators, including Majority Leader Bill Frist and Minority Leader Harry Reid. In the House, S. 2590 was passed by voice vote under suspension of the rules, with members of both parties speaking in support of the Senate bill and none speaking against it.<sup>13</sup> The White House did not issue a Statement of Administrative Policy on S. 2590, but President Bush did express his support in a press release distributed the same day the bill was enrolled, making it apparent he would sign the measure once he received it.<sup>14</sup>

According to Senator Coburn, S. 2590 was endorsed by over 150 organizations with a wide range of political leanings.<sup>15</sup> The Senator's list of supporters included representatives of private enterprise, such as the U.S. Chamber of Commerce; unions, like the American Federation of State, County, and Municipal Employees; media groups, such as the American Society of Newspaper Editors; and government watchdog organizations, like OMB Watch. As evidence of

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<sup>7</sup> The other original cosponsors were Senators Tom Carper, John McCain, and Barack Obama.

<sup>8</sup> There was no written report released on August 2, but the Senate Committee on Homeland Security and Governmental Affairs filed S.Rept. 109-329, to accompany S. 2590, on Sept. 8, 2006, at [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109\\_cong\\_reports&docid=f:sr329.109.pdf](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_reports&docid=f:sr329.109.pdf).

<sup>9</sup> According to *Congressional Quarterly*, Senators Byrd and Stevens had both placed holds on the bill at different times. See Martin Kady II, "Frist Mobilizes Blogs to Muscle Two of Senate's Old Bulls on Database Bill," *CQ Today*, September 6, 2006, at <http://www.cq.com/display.do?FL=3&docid=2365650&productId=4>.

<sup>10</sup> *Congressional Record*, vol. 151 (September 8, 2006), pp. S9209-S9211.

<sup>11</sup> *Congressional Record*, vol. 152 (September 13, 2006), pp. H6498-H6501.

<sup>12</sup> *Ibid.*, pp. S9563-S9564, H6501-H6502. This was an unusual step, as substantive differences between House and Senate versions of the same bill are typically worked out in conferences. In this case, the concurrent resolution was used to ensure the bill was passed prior to the approaching October recess.

<sup>13</sup> *Congressional Record*, daily edition, vol. 151, (September 13, 2006), pp. H6498-H6501.

<sup>14</sup> The White House, Office of the Press Secretary, "President Bush Applauds House Passage of S. 2590, the Federal Funding Accountability and Transparency Act of 2006," press release, September 13, 2006, at <http://www.whitehouse.gov/news/releases/2006/09/print/20060913-4.html>.

<sup>15</sup> Senator Coburn's office provided CRS with the list of supporters. Over 80 leaders of supporting groups signed "An Open Letter to Majority Leader Frist: Bring S. 2590 to the Floor for a Vote!," dated September 6, 2006. See <http://www.cq.com/flatfiles/editorialFiles/budgetTracker/reference/docs/20060706database-ltr.pdf>.

the unusual alliance in support of S. 2590, the list indicated that both People for the Ethical Treatment of Animals (PETA) and Gun Owners of America supported the bill, as did both the National Gay and Lesbian Task Force and the Traditional Values Coalition.

## Comparison with H.R. 5060

S. 2590 was a companion bill to H.R. 5060, which Representative Roy Blunt introduced on March 30, 2006, as an amendment to the Federal Financial Assistance Management Improvement Act of 1999. On June 21, 2006, the House passed H.R. 5060, as amended, by voice vote.<sup>16</sup> According to Representative Blunt, the bill was intended to “increase accountability and transparency in the federal awards process” by establishing a public database with information on award recipients.<sup>17</sup> While both S. 2590 and H.R. 5060 had similar objectives, the bills differed in important ways. **Table 1** highlights three of the most important differences between the engrossed bills.

**Table 1. Comparison of Selected Features in S. 2590 and H.R. 5060**

Feature	S. 2590	H.R. 5060
Contents of public database	Grants, loans, and contracts all included	Grants and loans included, but contracts excluded
Reimbursement for costs of new reporting requirements	Recipients and subrecipients of federal assistance allowed to recover costs associated with collecting and reporting data on subrecipients	No reimbursement provided to recipients and subrecipients
Subaward pilot program	18-month pilot program authorized to evaluate options for government-wide subaward reporting policy	No pilot program authorized

Most notably, contracts were exempt from the public database under the House bill, but were covered in S. 2590. Since contracts are one of the largest categories of federal domestic assistance, their exclusion would have significantly reduced the comprehensiveness of the database. When H.R. 5060 was first brought to the House floor in June, critics argued that a database without information on federal contracts was “missing a key component that is essential to public oversight.”<sup>18</sup> Even some Members who ultimately voted to pass the bill expressed concern that it did not include contracts.<sup>19</sup> Supporters of H.R. 5060 maintained that a database primarily covering grants would still be a valuable tool, and the bill’s sponsors reportedly pledged to develop separate legislation enhancing public access to federal contract information.<sup>20</sup> After S. 2590 passed the Senate, some House members expressed a clear preference for the Senate

<sup>16</sup> *Congressional Record*, vol. 151 (June 21, 2006), pp. H4335-H4338.

<sup>17</sup> Rep. Roy Blunt, “Blunt-Davis Bill to Reform Federal Grants Process Passes House,” press release, June 21, 2006, at <http://www.blunt.house.gov/Read.aspx?ID=653>.

<sup>18</sup> Rep. Danny Davis, “Amending Federal Financial Assistance Management Improvement Act of 1999,” remarks in the House, *Congressional Record*, daily edition, vol. 151 (June 21, 2006), pp. H4335-H4338.

<sup>19</sup> Rep. Henry Waxman, *ibid.*

<sup>20</sup> Aimee Curl, “Transparency bill subjected to secrecy,” *Federal Times*, August 14, 2006, p. 4. Rep. Danny Davis, *Congressional Record*, vol. 151 (June 21, 2006), p. H4336.

version, which they argued was “stronger and more comprehensive” because it included contracts.<sup>21</sup>

Both S. 2590 and H.R. 5060 required the public database to include information on subrecipients, but only the Senate bill provided funding to cover the costs associated with collecting and reporting that information. Currently, data on subgrantees and subcontractors are not gathered uniformly across the government. Some experts believe that recipients of federal financial assistance—particularly states and local governments—will incur substantial costs as they begin to collect and report information on their subrecipients.<sup>22</sup> Under S. 2590, recipients and subrecipients of federal assistance might recover the costs associated with new reporting requirements by incorporating those costs into their indirect cost rates; H.R. 5060 had no similar feature, leaving it open to the charge of being an unfunded mandate imposed on award recipients by the federal government.<sup>23</sup>

Because no uniform method of collecting detailed information on subcontractors and subgrantees existed, S. 2590 directed OMB to conduct a pilot program to determine the most cost-effective and least administratively burdensome approach to implementing a government-wide subaward reporting process. The pilot program was not included in the Senate bill when it was first introduced by Senator Coburn. It was added after concerns were raised about the potential administrative and financial burden new reporting requirements would place on grant award recipients.<sup>24</sup> H.R. 5060 did not contain provisions for a pilot program, and was criticized in congressional hearings as being “an attack” on federally funded grantees.<sup>25</sup>

## Overview of the Act

The database required in the act was to be implemented in two phases. By January 1, 2008, the new database was required to provide information on entities that were awarded funds directly from the federal government. Entities covered in the first phase of the database include corporations, associations, partnerships, sole proprietorships, limited liability companies, limited liability partnerships, states, and localities. By January 1, 2009, the database must include information on subgrantees and subcontractors that receive federal funds through a primary award

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<sup>21</sup> Six representatives spoke in support S. 2590 on the floor of the House, including Danny Davis and Henry Waxman. “Federal Funding Accountability and Transparency Act of 2006” remarks in the House, *Congressional Record*, daily edition, vol. 151 (September 13, 2006), pp. H6498-H6501.

<sup>22</sup> Telephone conversation between the author and Jerry Keffer, Chief of the Federal Programs Branch at the U.S. Census Bureau, August 17, 2006. Letter from R. Thomas Wagner, Jr., President of National Association of State Auditors, Comptrollers, and Treasurers (NASACT), to Sen. Tom Coburn, July 5, 2006, at [http://www.nasact.org/techupdates/downloads/CRC/LOC/07\\_06-NASACT\\_coburn.pdf](http://www.nasact.org/techupdates/downloads/CRC/LOC/07_06-NASACT_coburn.pdf).

<sup>23</sup> An indirect cost rate is a percentage, negotiated between a recipient of federal funds (a grantee or a contractor) and a federal agency, which is used to calculate the amount the recipient might be reimbursed for the indirect costs associated with administering the federal award. For example, if a grantee expended \$100,000 in direct costs administering a federal grant program, and it had an indirect cost rate of 10%, then the grantee could request reimbursement from the federal awarding agency for \$110,000 (the total direct costs plus an additional 10%).

<sup>24</sup> Letter from R. Thomas Wagner, President of National Association of State Auditors, Comptrollers and Treasurers, to Sen. Tom Coburn, July 5, 2006.

<sup>25</sup> Testimony of Gary Bass, President of OMB Watch, *Federal Funding Accountability and Transparency Act*, hearing on S. 2590, 109<sup>th</sup> Cong., 2<sup>nd</sup> sess., July 18, 2006.

recipient. The act excluded individual recipients of federal assistance, and organizations with less than \$300,000 in total income were not required to report on subawards.<sup>26</sup>

Consistent with the objective of providing to the public comprehensive information on federal financial assistance, virtually all categories of awards will ultimately be covered by the database, including grants, contracts, subgrants, subcontracts, loans, cooperative agreements, delivery orders, task orders, and purchase orders. Two special provisions addressed particular types of transactions: individual transactions of less than \$25,000 are exempt, and credit card transactions will not be included until October 1, 2008.

To achieve greater transparency, the act required the database to provide the following information about each federal award:

- Name of entity receiving award
- Amount of award
- Type of award (e.g., grant, loan, contract)
- Agency funding award
- A North American Industry Classification System (NAICS) code for contracts or a Catalog of Federal Domestic Assistance (CFDA) number for grants and loans<sup>27</sup>
- Program source
- Award title that describes the purpose of the funding
- Location of recipient
- City, state, congressional district, and country in which award performance primarily takes place
- Unique identifier for entity receiving award and of the parent entity of recipient, if one exists
- Any other information specified by OMB

S. 2590's sponsors, mindful of the criticism that government databases are often difficult for non-experts to use, included language that required OMB to ensure the database is accessible through a "searchable website."<sup>28</sup> The act thus required that the website permit users to (1) conduct a search of federal funding by any of the data elements listed above, and (2) determine the total amount of federal funding awarded to an entity by fiscal year. In addition, the act stipulated that the website must provide information in a downloadable format, and that agencies must post new

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<sup>26</sup> Entities with less than \$300,000 might be required to report on subawards in the future if the Director of OMB determines this requirement is not unduly burdensome to those entities.

<sup>27</sup> The Census Bureau assigns a NAICS code to each business establishment for the purposes of collecting and analyzing statistical data on the U.S. economy. NAICS codes are two to six digits long, with each digit representing information about the economic sector in which the establishment conducts the largest portion of its business. CFDA numbers are assigned by the General Services Administration (GSA) to all federal domestic assistance programs, including grants and loans. A CFDA number usually has five digits, where the first two digits represent the federal agency and the last three digits indicate the specific program for which the agency is providing funding.

<sup>28</sup> U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, *Federal Financial Accountability and Transparency Act of 2006*, S.Rept. 109-329.



information to the website within 30 days of making an award. The legislation also required the new website to allow the public the opportunity to provide input on the site and recommend improvements.

Three major financial assistance databases were identified in the act as likely sources of information for the new website—the Federal Procurement Data System-Next Generation (FPDS-NG), the Federal Assistance Award Data System (FAADS), and Grants.gov.<sup>29</sup> According to the provisions in S. 2590 as initially passed by the House and Senate, a user must be able to access information from all three databases in a single search. The bill was explicit on this point; it was not acceptable merely to provide links to these or other databases, because that would force users to search for information at different websites. The “single search” provision of S. 2590 was modified by S. Con. Res. 114, allowing grants and contracts to be searched separately on the new public website. S.Con.Res. 114 also added another reporting requirement: the Government Accountability Office is to provide Congress with a compliance report on P.L. 109-282 no later than 2010.

As previously noted, the act did not require information on subcontractors and subgrantees to be included in the database until January 1, 2009. The delay reflected the fact that information on subrecipients was not collected consistently across federal agencies and programs. To address existing gaps in the data on subawards, the act required OMB to implement a pilot program that tested the feasibility of having primary recipients provide information on their subgrantees and subcontractors. There was a provision in the legislation that allowed federal award recipients and subrecipients to be reimbursed for the costs associated with collecting and reporting data on subrecipients. The act also specified that any requirements for collecting data on subawards made by state and local governments under block and formula grants be cost-effective. According to CBO, no unfunded mandate would be placed on recipients or subrecipients for complying with the act.<sup>30</sup>

The act also required OMB to submit an annual report to the Senate Committee on Homeland Security and Governmental Affairs and the House Committee on Government Reform. The report must include data on public usage of the website, an assessment of the reporting burden on federal award and subaward recipients, and an explanation of any extension of the subaward reporting deadline. The act also required OMB to post a copy of the report on the Web.

## Implementation Issues

On December 13, 2007, OMB launched the FFATA-mandated website, USAspending.gov. The website, as required by the FFATA, allows users to search for detailed information on grants, contracts, loans, and other forms of assistance. The data, however, are not complete and some

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<sup>29</sup> The Federal Procurement Data System-Next Generation (FPDS-NG) is a database of federal contracts maintained by GSA, and the Federal Assistance Award Data System is a database of federal grants maintained by the Census Bureau. Grants.gov is part of the E-Government initiative, and it permits grant seekers to find, apply for, and manage federal grants through a single Web portal. All entities that apply for federal assistance through Grants.gov are assigned a unique identifier known as a Data Universal Numbering System (DUNS) number. Complex entities, such as state or local governments, might have multiple DUNS numbers, making it difficult, at times, to link subunits to the parent entity.

<sup>30</sup> U.S. Congressional Budget Office, *S. 2590: Federal Funding Accountability and Transparency Act of 2006*, August 9, 2006, at <http://www.cbo.gov/showdoc.cfm?index=7483&sequence=0>.

observers question their accuracy. The possible cost to improve the data quality is unclear. Also unclear is the possible cost to collect information that might not currently be available, such as data on subcontractors and subgrantees, which must be available to the public through the website by January 1, 2009. The ability of users to identify earmarks through USAspending.gov also appears to be limited.

## **Reliability of Underlying Data**

A database of the breadth and depth contemplated by the Federal Funding Accountability and Transparency Act is only as useful as the quality of the information it contains. As noted previously, the act referred to three existing databases as likely sources of information for the new public database: FAADS, FPDS-NG, and Grants.gov. USAspending.org draws extensively from FAADS and FPDS-NG, but it is unclear whether data from Grants.gov is also incorporated. A number of observers have cautioned that a database of federal assistance relying on information from FAADS and FPDS-NG would be of limited value. Both government officials and knowledgeable members of the public describe significant weaknesses in FAADS and FPDS-NG—such as incomplete and inaccurate information—that cannot be quickly corrected. These observers suggest that substantial changes in the collection, reporting, and verification of information relating to federal assistance awards would likely be necessary before FAADS and FPDS-NG might be considered reliable sources of information.

In a 2005 report, GAO noted that FPDS-NG users lacked confidence in the data provided, largely because there was no rigorous system in place to ensure the data were accurate and complete.<sup>31</sup> A panel of procurement experts recently attempted to use FPDS-NG in their evaluation of federal contracting operations, but reportedly found so many errors in the data that the chairman declared that “FPDS-NG is not a reliable database.”<sup>32</sup> One reason the data are inaccurate is human error; contract information might be incorrectly entered into FPDS-NG by inexperienced users who have received minimal training.<sup>33</sup> Moreover, agencies might vary in the degree to which they fill out the fields in the database, resulting in data of uneven quality. In one instance, FPDS-NG users reportedly complained that the database failed to consistently identify contracts related to Hurricane Katrina recovery efforts that were awarded without competition.<sup>34</sup> The problem has not been fixed, and gaps in FPDS-NG data are now evident in USAspending.gov. A recent editorial stated that the new database might not provide information on whether \$70 billion in FY2007 contracts was awarded with or without competition.<sup>35</sup> By OMB’s own estimation, individual agencies have submitted only 61% to 73% of the information on contracts required by the FFATA.<sup>36</sup>

Similar problems affect FAADS, the government’s primary source of grant award information. In a recent review of 86 federally funded grant programs, GAO determined that in the majority of cases, the administering agencies provided no data, incomplete data, or inaccurate data to FAADS

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<sup>31</sup> U.S. Government Accountability Office, *Improvements Needed to the Federal Procurement Data System-Next Generation*, GAO-05-960R, September 27, 2005, pp. 1-2.

<sup>32</sup> Chris Gosier, “Contracts database short on info, long on problems,” *Federal Times*, July 31, 2006, p. 5.

<sup>33</sup> *Ibid.*

<sup>34</sup> Chris Gosier, “Contracts database short on info, long on problems,” p. 5.

<sup>35</sup> “More transparency needed into contracting data,” *Federal Times* (Springfield, VA), Jan. 14, 2008, p. 22.

<sup>36</sup> USAspending.gov, at <http://www.usaspending.gov/data/dataquality.php?reptype=a>, visited January 25, 2008.

over a three-year period.<sup>37</sup> The report concluded that these problems occurred because (1) the Census Bureau lacked the resources to ensure agencies were submitting accurate and timely data, (2) agency program officials lacked knowledge of FAADS reporting requirements, and (3) agencies had not implemented sufficient oversight to ensure they were submitting accurate data. A Census Bureau official concurred with these findings, adding that a number of data elements required by S. 2590 are not uniformly captured by federal agencies or grant award recipients, such as information on subrecipients and the congressional district in which federal funds are spent.<sup>38</sup> The official also noted that agencies are currently required to update their information in FAADS on a quarterly basis, so it might take time for agencies to develop the capability to update FAADS within 30 days of making an award, as S. 2590 requires. OMB estimates that individual agencies' have submitted only 53% to 65% of the grants data required by the FFATA.

Members of Congress have also expressed concerns about FPDS-NG and FAADS. During floor debate of the bill in the House, one supporter cautioned that S. 2590's potential to improve oversight of Federal funds, while substantial, would be largely determined by the degree to which improvements in FPDS-NG and FAADS were made during implementation.<sup>39</sup> Another supporter expressed concern that the problems with FPDS-NG and FAADS were so significant, that "if the Administration is not committed to making this legislation work, all we will get is another incomplete and hard-to-use database."<sup>40</sup>

OMB, acknowledging that data submitted and posted to FPDS-NG and FAADS in the past have been "incomplete, untimely, and inaccurate," has issued guidance on improving data quality so that agency submissions meet the requirements of the FFATA. The guidance, issued November 9, 2007, required agencies to submit a plan to OMB by December 1, 2007, that identified gaps in their data on grants, contracts, and loans, and outlined their plans to address any deficiencies.<sup>41</sup> In addition, agencies were required to implement internal controls to ensure the accuracy, integrity, and timeliness of their submissions. The guidance also indicated that agency compliance with the data reporting requirements of the FFATA would be formally and publicly evaluated through inclusion in OMB's scorecard initiative, beginning in January, 2008.

## Implementation Costs

Concerns have been expressed regarding the cost of implementing USAspending.gov. Two types of costs are at issue: the costs of implementing the act as a whole and the costs associated with the development of information on subawards.

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<sup>37</sup> U.S. Government Accountability Office, *Rural Economic Development: More Assurance Is Needed that Grant Funding Is Accurately Reported*, GAO-06-294, February 24, 2006, pp. 23-34.

<sup>38</sup> Telephone conversation between the author and Jerry Keffer, Chief of the Federal Programs Branch, U.S. Census Bureau, August 17, 2006.

<sup>39</sup> Rep. Danny Davis, "Federal Funding Accountability and Transparency Act of 2006" remarks in the House, *Congressional Record*, daily edition, vol. 151 (September 13, 2006), pp. H6498-H6501.

<sup>40</sup> Rep. Henry Waxman, *ibid.*

<sup>41</sup> Memorandum from Robert Shea, OMB Associate Director, to Executive Departments and Agencies, *Guidance on Data Submission under the Federal Funding Accountability and Transparency Act*, Nov. 9, 2007.

## Overall Implementation Costs

In response to concerns about the reliability and completeness of the FPDS-NG and FAADS databases, Clay Johnson, the deputy director for management at OMB, reportedly said the new database will meet the requirements of the act within the time frame established by the legislation.<sup>42</sup> Johnson was also quoted as saying that implementing the new public database will “cost a little money, not a lot” because “most of the data exists” already—a view that appears somewhat at odds with previously discussed evidence that there are significant gaps in the data.<sup>43</sup> Moreover, while the database was launched prior to the statutory deadline, the information is so incomplete that some have questioned whether it meets the objectives of the FFATA.<sup>44</sup>

According to CBO, it will cost \$15 million to establish and maintain the new database of federal assistance between 2007 and 2011.<sup>45</sup> The CBO estimate, however, was based on OMB’s assurance that “the government currently collects all of the information needed to create a comprehensive database on federal spending.”<sup>46</sup> The estimate might thus reflect the cost of simply combining existing systems without fully accounting for other costs associated with improving the quality of the data in those systems. One expert familiar with FPDS-NG and FAADS said that “an enormous amount of data cleanup” will be necessary to correct inaccurate information in those systems.<sup>47</sup> Another industry observer was quoted as saying that enhancing and integrating existing data sources to meet the requirements of the FFATA was a “complex” problem, and that implementing the database might exceed the \$15 million projected by CBO.<sup>48</sup>

## Subaward Information Costs

In a letter to Senator Coburn, the National Association of State Auditors, Comptrollers, and Treasurers (NASACT) expressed strong reservations about the potential financial and administrative burden that the bill’s reporting requirements would impose on state and local governments.<sup>49</sup> In particular, NASACT noted that collecting data on subgrantees would be “very, very costly” for state and local governments, since federal grant funds are often passed down multiple levels (e.g., a state receiving federal assistance gives a subgrant to organization A, which in turn gives a subgrant to organization B). Additional costs might be incurred under the bill, NASACT said, if state and local grant recipients were required to modify their financial systems to collect and report any other new information. After S. 2590 was amended to include the pilot program for collecting information on subgrantees, NASACT said it supported the bill with the

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<sup>42</sup> Johnathan Nicholson, “Lawmakers Pledge Oversight On New Spending Database Effort,” *Daily Report for Executives*, September 15, 2006, at <http://pubs.bna.com/NWSSTND/IP/BNA/DER.NSF/SearchAllView/A6458E8C2E0C7035852571EA000DD130?Open&highlight=SPENDING,DATABASE>.

<sup>43</sup> Ibid.

<sup>44</sup> “More transparency needed into contracting data,” editorial in *Federal Times* (Springfield, VA), Jan. 14, 2008, p. 22.

<sup>45</sup> U.S. Congressional Budget Office, *S. 2590: Federal Funding Accountability and Transparency Act of 2006*, August 9, 2006, at <http://www.cbo.gov/showdoc.cfm?index=7483&sequence=0>.

<sup>46</sup> Ibid.

<sup>47</sup> Jason Miller, “Spending database takes shape: Much work to be done to create mandatory database by the 2008 deadline,” *FCW.com*, Jul. 23, 2007, at [http://www.fcw.com/print/13\\_25/news/103293-1.html](http://www.fcw.com/print/13_25/news/103293-1.html).

<sup>48</sup> Jenny Mandel, “OMB says new search tool will reflect accurate spending data,” *GovExec.Com*, September 14, 2006, at <http://www.govexec.com/dailyfed/0906/091406m1.htm>.

<sup>49</sup> Letter from R. Thomas Wagner, Jr., President of NASACT, to Sen. Tom Coburn, July 5, 2006, at [http://www.nasact.org/techupdates/downloads/CRC/LOC/07\\_06-NASACT\\_coburn.pdf](http://www.nasact.org/techupdates/downloads/CRC/LOC/07_06-NASACT_coburn.pdf).

new language, but also noted that it still believed “obtaining all the required information will be a challenge.”<sup>50</sup>

Some trade groups have made similar arguments regarding the collection of subcontractor information. The Council of Defense and Space Industry Associations (CODSIA), for example, has reportedly stated that prime contractors do not normally collect subcontractor information at the level of detail required by the FFATA, and that doing so would become a significant administrative burden on both contractors and subcontractors.<sup>51</sup>

## Identification of “Earmarks”

Although one of the stated purposes of the legislation was to enable the public to use the on-line database to identify congressional “earmarks,” it is unclear how users of USAspending.gov might actually do this, since neither FAADS nor FPDS-NG collect that information. Not all grants, loans, or contracts are congressionally directed; some are at the discretion of the responsible federal agency. Unless the congressionally-directed items in the new database are specifically identified as such, the database will be of limited value for purposes of earmark identification.

Also, the manner in which a funding action is described under the “award title” field might lead the public to draw different conclusions about the value of a given federally funded project. For example, an earmarked project that some believe has merit might be described in a manner that puts it in an unfavorable light. In this way, award descriptions might influence the public’s perception of whether a funding action is “wasteful” or not.

## Concluding Observations

As noted previously, the underlying logic of the Federal Funding Accountability and Transparency Act is that, by providing citizens with information on federal assistance awards through an online database, government officials will be less likely to fund earmarks and arguably “wasteful” projects. To put this argument succinctly: greater transparency will yield greater accountability. Most observers agree that in order for a public database of federal awards to provide maximum transparency, it must encompass as broad a range of financial assistance categories as possible. The FFATA database would presumably provide substantial transparency, since it covers all forms of federal financial assistance, including contracts. Arguably, the database would also provide transparency by phasing in information on subcontractors and subgrantees, thus allowing the public to track the flow of federal funds down to the level of the ultimate recipient.

Although the creation of the database might require more time or money than some estimates suggest, President Bush, the deputy director of OMB, and Senator Coburn have all indicated they will provide support and oversight during implementation. In remarks prior to signing the legislation, President Bush said the act was an “important step” that “empowers the American

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<sup>50</sup> Letter from Jan I. Sylvis, President of NASACT, to Sen. Tom Coburn, September 5, 2006.

<sup>51</sup> “Contractor Groups Oppose Proposed Rule on Subcontract Reporting Pilot Under FFATA,” *Daily Report for Executives*, June 7, 2007, at <http://pubs.bna.com/ip/BNA/DER.NSF/9311bd429c19a79485256b57005ace13/ce82937ada96f25a852572f300101015?OpenDocument>.

taxpayer” with information that can be used to “demand greater fiscal discipline” from both the executive and legislative branches of government.<sup>52</sup> The President also linked the act to a broader agenda of increasing accountability in federal spending, including earmark reform and the line-item veto. President Bush’s comments suggest that the Administration is committed to the act and might be prepared to provide the resources needed to implement the database with complete and accurate information, even if the costs exceed OMB’s current expectations. The Administration’s commitment might also be reflected in OMB’s guidance that required agencies to develop and implement data quality improvement plans. The original sponsor of S. 2590, Senator Coburn, was also quoted as saying that “there will be oversight to make sure we’re making progress” implementing the database in accordance with the legislation.<sup>53</sup>

Finally, the new law might direct attention to increased transparency on the revenue side of federal fiscal operations. In the Senate report accompanying S. 2590, the additional views of Senators Coburn and Lautenberg included the statement that, “Transparency in government decision-making should not be limited to simply spending; it should be extended ... to the tax code.” This sentiment was echoed by Senator Obama, who said during floor debate on the bill that “greater transparency of targeted tax benefits” was another step in improving government accountability and performance.<sup>54</sup> Given this objective, legislation seeking to increase transparency in the tax code might be supported by some of the same government officials and advocacy groups that supported S. 2590.

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<sup>52</sup> The White House, Office of the Press Secretary, “President Bush Signs Federal Funding Accountability and Transparency Act,” press release, September 26, 2006.

<sup>53</sup> Ibid.

<sup>54</sup> *Congressional Record*, vol. 152 (September 7, 2006), p. S9211.

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