Is Government Turning a New Page in Accountability, Transparency and Intergovernmental Relations?

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“Those of us who manage the public’s dollars will be held to account—to spend wisely, reform bad habits and do our business the right way—because only then can we restore the vital trust between a people and their government.” These are the words of President Barack Obama in his inaugural address on January 20, 2009. One day later, the President announced the following guiding principles.
One month later, in response to the worst economic conditions this nation has faced since the Great Depression of the 1920s, Congress passed a stimulus bill of spending increases and tax cuts totaling $787 billion to get the economy moving again—$288 billion in tax benefits; $275 billion in contracts, grants and loans; and $224 billion in increased entitlement spending. The American Recovery and Reinvestment Act of 2009 (Recovery Act) includes unprecedented accountability and transparency provisions designed to help address the pledge in the president’s inaugural address. The Office of Management and Budget (OMB) has provided leadership from the outset, issuing its initial implementing guidance on February 18, 2009, only one day after the ink had dried on the Recovery Act, and following that up with additional guidance and continuing strong leadership. AGA has played an important role in bringing the various parties at all levels of government together and focusing on intergovernmental relations and communications to help foster successful accountability and transparency for stimulus spending.

We will explore the accountability and transparency challenges in the Recovery Act from two viewpoints:

- The federal government, which initiated the Recovery Act and established the accountability and transparency regimen underlying the use of these funds.
- State and local governments, which are the primary conduits for the spending programs, with about $280 billion of Recovery Act funds for specific programs and general purpose fiscal relief. The funding to state and local governments under the Recovery Act to help stimulate the economy in the short term is truly unprecedented. For perspective, total federal assistance to state and local governments for all programs in fiscal year 2008 was about $461 billion.

Accountability and transparency in the complex federal system should ideally be a shared enterprise. First, the federal government cannot hire enough managers and auditors to check up on the use of funds for such a wide-ranging initiative. The active involvement of the many managers in state and local governments is critical to ensuring that the stimulus legislation meets the high expectations for accountability and transparency set by the president and Congress. Second, federal grants invite state and local governments to adapt federal programs to their own unique governing environments and interests. The contest between accountability and transparency for federal priorities and flexibility for state and local needs is a time-honored tension that can be expected in any grant program.

Is This a New Era in Federal Accountability and Transparency?

The Recovery Act makes information on stimulus spending publicly available online in a way that is readily accessible. Citizens are given information as never before to enable them to weigh in and provide real-time oversight over the decisions made by federal, state and local governments on stimulus-funded projects. This is a big change. As Earl Devaney, chair of the Recovery Accountability and Transparency...
Transparency Board, established by the Recovery Act to oversee spending of stimulus funds, said, “Every citizen has the potential to become what I’m calling a Citizen IG [Inspector General].”

Does the Recovery Act signal the start of a new era in federal accountability and transparency? The jury is still out given the relative newness of the application of these concepts and the growing pains associated with any new management initiative. But, there is every indication the answer is “yes.” The administration has indicated that the public transparency model will become a standard feature of every government program in the future. Once interested parties become accustomed to receiving information at certain levels of specificity for Recovery Act spending, it is logical that they may expect the same level of information for all spending.

Vice President Joe Biden clearly signaled this intention on September 2, 2009, when he said: “Running the risk of setting myself up for a test I may not be able to pass 18 months from now … I’ve asked at the end of the day for us to put together, literally, a handbook on how … [to make] every government program that is administered from Washington be more accountable, be more transparent and done more efficiently.” … “We’ve never followed the same course of federal spending Recovery Act dollars and prudent, waste and abuse. This balance will be important to strike the right balance among these potentially conflicting priorities.

Also, key stakeholders—state and local governments, nonprofits and private companies doing business with the government—may have independent interests, priorities and allegiances. This is why continuing strong leadership from the administration and oversight by Congress is critical to help avoid the “perfect storm” of goals operating at cross-purposes; program slippages and delivery shortfalls; breakdowns in internal control leading to fraud, waste and abuse; and confusion over what is required.

Now let’s explore this further—first at the federal government level and then for state and local governments. We will then discuss the challenges ahead over the next 12 months and offer some final thoughts.

Federal Agencies Faced Four Primary Implementation Challenges

In implementing the accountability and transparency provisions of the Recovery Act, to varying degrees, federal agencies faced four primary challenges from the outset. These challenges are not mutually exclusive and closely interrelate.

Balancing Conflicting Program Goals. As touched on earlier, the Recovery Act called for the federal agencies to get the money into the economy quickly to combat the economic crisis, while spending the funds wisely and avoiding fraud, waste and abuse. This required federal managers to strike the proper balance between rapid outflow of Recovery Act dollars and prudent, measured spending decisions and internal control to help prevent fraud, waste and abuse. This balance will need to be periodically recalibrated as the program evolves.

• Improve the quality of information. Agencies are to designate a high-level senior official to be accountable for the quality to the agency’s spending information. OMB is to issue a framework for the quality of federal spending data and a strategy for reporting agency progress in improving information quality.

• Create and institutionalize a culture of open government. Agencies are to develop an Open Government Plan and the federal chief information officer and chief technology officer are to publish an Open Government Dashboard.

• Create an enabling policy framework for open government. OMB policies, such as implementing guidance for the Paperwork Reduction Act, are to be reviewed with a goal of making it easier for federal agencies to comply with the Open Government Directive.

It will be challenging to square the high national expectations for accountability and transparency in the Recovery Act with the realities of implementing a complex set of national goals through the highly decentralized federal system. The Recovery Act itself is not a single program, but rather a highly complex assembly of separate programs and tools for stimulating the economy. For instance, the Recovery Act’s public accountability and transparency provisions cover more than 300 specific programs. Classic managerial challenges typically associated with implementing ambitious federal goals are made even more challenging because of the highly specific, and sometimes somewhat conflicting goals and objectives in the Recovery Act. For example, the goal of rapidly spending Recovery Act funds to stimulate the economy can conflict with other goals, such as requiring compliance with detailed federal standards, avoiding fraud, waste and abuse, and investing funds in new areas, such as high speed rail and health technology, which can require establishment of new administrative delivery structures. It will be important to strike the right balance among these potentially conflicting priorities.

• Publish government information online. Agencies are to identify and publish three high-value data sets, not previously available online in a format that can be retrieved, downloaded, indexed and searched using commonly used web applications and are to create an Open Government web page.
Immediate Implementation of the Recovery Act. Implementation was real time as the program went live on day one. Also, because day one was very early in the administration, in most federal agencies a number of key management positions, such as the chief financial officer (CFO), had not yet been filled. The enhanced accountability and transparency requirements presented a host of challenges for which many federal agencies were not yet prepared to address effectively, efficiently and rapidly. They faced:

- Intergovernmental coordination and reporting responsibilities, with almost 90,000 units of state and local government potentially involved in some way with Recovery Act spending. Adding to that are subrecipients, contractors and subcontractors. For the first quarterly reporting cycle, more than 130,000 entities reported to Recovery.gov.

- The need for additional program and financial controls related to the Recovery Act.

- The requirement in the law to segregate Recovery Act funds in budget accounts.

- Programs for which funding may have been increased several fold overnight. For example, funds available for the energy conservation and weatherization program skyrocketed from about $300 million in 2007 to $5 billion under the Recovery Act.

- A shortage of people, systems and business processes to address not only the range of new requirements but the “surge” nature of the Recovery Act. For example, the financial management systems and processes were not designed with Recovery Act reporting in mind.

- Already-large administrative workloads associated with the existing mission activities that still had to be carried out even with the added requirements of the Recovery Act. Some federal CFOs were barely keeping their head above water before the Recovery Act.

The Recovery and Transparency Board on December 15, 2009, is revision of the policy for correcting reported recipient information. Under initial federal guidance in effect for the first reporting cycle on October 10, 2009, recipient mistakes in quarterly reports could be corrected only during a 20-day period after the submission process closed. Beginning January 30, 2010,

“Citizens can now see how their tax dollars are being spent, even down to the ZIP code of the recipient.”

One major change announced by the Recovery and Transparency Board on December 15, 2009, is revision of the policy for correcting reported recipient information. Under initial federal guidance in effect for the first reporting cycle on October 10, 2009, recipient mistakes in quarterly reports could be corrected only during a 20-day period after the submission process closed. Beginning January 30, 2010,
which ties into the close of the second quarterly reporting cycle, recipients can correct mistakes on a continuing basis. This change also permits federal disbursing agencies to view recipient reports and suggest corrections on a continuing basis.

While work continues to further enhance Recovery.gov and better ensure the reliability and completeness of the underlying information reported by recipients, the website already goes far beyond what was previously available to the public on federal spending.

Risk Management. While realistically never fully achievable in any program or operation, the public has zero tolerance for government fraud, waste, and abuse, especially for an initiative like the Recovery Act. Given its size, even a small error rate places billions of dollars of total Recovery Act funding at risk. Over $300 million was expressly provided in the legislation for oversight by the federal IGs and GAO and for the work of the Recovery Accountability and Transparency Board, including the establishment and operation of Recovery.gov. However, comparable funding was not provided across the board for managers struggling to meet the increased accountability, transparency, and program delivery demands placed on them under the Recovery Act. While the Act originally provided that 0.5 percent of all Recovery Act funds could be spent for administrative costs, this provision was dropped during deliberation on the legislation. This had the effect of pouring (some have said fire-hosing) an additional hundreds of billions of dollars into government programs and, thereby, further straining an already-stretched financial management capability.

Among the challenges federal agencies face in risk management related to the Recovery Act are:

- The ability to track and report benefits realization through meaningful and reliable performance measures and outcomes.
- The establishment of effective and efficient internal controls over all Recovery Act spending.
- Fraud and improper payment prevention, detection and reporting through the adoption of continuous auditing/continuous monitoring programs, which use automated forensic tools to identify anomalies and weaknesses in internal control.
- Realizing the Single Audit Act’s full potential as an effective oversight tool for Recovery Act programs as called for by GAO and being addressed through OMB’s Single Audit Internal Control Project.

State and Local Governments Face a Range of Challenges

The requirements for accountability and transparency we just spoke about for the federal government also apply to state and local governments, which represent about $280 billion of Recovery Act spending. Mayors and governors have to certify that the Recovery Act funds are being properly spent, and signing one’s name to the bottom line provides a powerful dose of accountability. Not only are state and local governments on the hook for reporting to Recovery.gov, they are also at the center of addressing fraud, waste, and abuse.

Helping State and Local Governments Cope With Budget Shortfalls While Stimulating the Economy

It is important to keep in mind that a primary non-tax strategy used to stimulate the economy was assisting state and local governments with their fiscal problems. At the time the Recovery Act was enacted, state and local governments faced significant budget shortfalls, with the prospect of major cuts in vital services, such as education. Without federal action to provide financial support, state and local laws and policies requiring a balanced budget can trigger job cuts and/or tax increases during a recession—actions that can exacerbate economic downturns.

Clearly, the Recovery Act significantly reduced the immediate fiscal gaps facing state and local governments by providing a short-term lifeline. When compared with previous recessions, the Recovery Act provided far greater direct assistance to fill fiscal gaps than ever before. Nearly $100 billion of the grant assistance was provided for general-purpose fiscal relief that states were free to use anywhere in their budget. The enhanced Medicaid match of about $87 billion freed up state matching funds to be used elsewhere in the state budget. According to National Conference of State Legislatures, nearly all states that responded to their survey reported that Recovery Act funds would close at least 20 percent of state deficits for fiscal year 2010.

We emphasize that this is a short-term lifeline. It is important to remember that the Recovery Act was not directed at fixing structural, longer-term fiscal problems presently facing many state and local governments. State and local governments face wrenching decisions when federal stimulus funding ends. The potential negative impact becomes more severe where stimulus funds are being used to pay for the core costs of the state and local government. It is anticipated that some state and local governments may be headed to the edge of a cliff in fiscal year 2011, when, for example, the enhanced Medicaid and higher education federal funding under the Recovery Act will end.

It is also important to note that Recovery Act funds to state and local governments came with some strings attached. For example, states had to agree to maintain their own spending for elementary, secondary and higher education at fiscal year 2006 levels to receive federal education stimulus.
money. Other categorical programs, such as special education, have even more stringent maintenance-of-effort provisions, requiring states to continue their spending at prior years’ levels. Also, the fiscal stabilization grants under the Recovery Act levy new education requirements on the states for high-quality teachers and other reforms, positioning the U.S. Department of Education with more centralized policy-making authority.

State and Local Governments Face Implementation Challenges Similar to the Federal Government

From the outset, state and local governments faced implementation challenges similar to the federal government. One way to look at it is that they are on the Recovery Act “hot seat,” since the state and local level is where the bulk of the stimulus funds are actually being spent. What are some of the specific accountability and transparency challenges facing state and local governments?

- Questions about the capacity to perform the range of accountability and transparency duties may be even more pronounced at the state and local level. Budget cuts that pre-dated the Recovery Act left some state and local finance organizations seriously short-handed at the outset. Also, no funds were set aside for administration of Recovery Act spending by state and local governments, similar to the situation for federal agencies. Subsequent legislation introduced in the House of Representatives would have permitted 0.5 percent of the funds to be used to cover state and local administrative costs as was originally considered for the Recovery Act. This bill has not moved forward at the time this article was written. However, OMB has allowed for the recovery of certain administrative costs of Recovery Act activities up to 0.5 percent.22

- While the Recovery Act provided over $300 million to the federal IGs, GAO and the Recovery Accountability and Transparency Board to provide oversight, the Recovery Act did not similarly provide funds to state and local government auditors for oversight.

- OMB’s Recovery Act reporting guidance requires state and local governments to report early and often on program activities and results in uniform ways. For example, stimulus funds are required to be tracked separately to avoid commingling with other federal and state or local funds. The posting of grant awards and individual projects to Recovery.gov is mandatory. Also, state and local governments are required to document the extent to which Recovery Act spending created jobs. The first major reporting cycle occurred on October 10, 2009, and the next key reporting date was January 10, 2010. Data completeness and quality will be
a continuing challenge. As stated in OMB Memorandum 09-21, dated June 22, 2009, “Data quality is an important responsibility of key stakeholders identified in the Recovery Act. Prime recipients as owners of the data submitted have the principal responsibility for quality of the information submitted.” This places most of the onus squarely on state and local governments—principally on state governments, which are usually the prime recipients.

• As with any new government spending initiative, especially given the size and speed with which the Recovery Act was implemented, it is difficult to imagine that there won’t be some fraud, waste and abuse. In fact, the Recovery Accountability and Transparency Board reported that as of September 30, 2009, it and the federal IGs had received 382 complaints and had completed 163 audits, inspections, evaluations and reviews related to the Recovery Act, with 11 cases accepted for prosecution. For this reason, it will be important that state and local governments be able to place any findings of fraud, waste and abuse in context. For example, do they represent isolated incidents that can befall any large enterprise, or are they indicative of a more systemic failing in program delivery and internal control? Also, are timely actions taken to address any identified problems?

• It can be a big challenge to trace the impacts of specific federal funds as they travel through the labyrinth of what can be a very complex, multilayered government system. It can be especially difficult when federal funds are designated for broad purposes to programs in which state and/or local governments are already providing the vast majority of funding. Also, the funds provided through the nearly $100 billion in general fiscal relief in the Recovery Act are “fungible” to help fill in state and local budget shortfalls. Depending on how a program is structured and funded, tracing the actual uses of federal grants can be as difficult as tracing the impact of pouring a thimble full of water into a swimming pool. The funds will undoubtedly have a fiscal impact, but it may be to bolster the broader fiscal position of states and local government and may not be attributable to a specific program.

• How will state and local governments obtain an understanding of the impact of stimulus funds in those situations when their primary use is not to create new services or outputs but rather to prevent an already bad situation from getting worse? Audits and management assessments can capture factual evidence of programmatic impacts, but typically do not assess the counterfactual—what would have happened in the absence of these new funds to state and local government services? One challenge will be to document which cuts in services and jobs were avoided due to the federal stimulus dollars. The issue of reporting jobs created and jobs retained by Recovery Act-funded projects and activities, which is an important reporting requirement in the law and the guidance for reporting issued by the President’s Council of Economic Advisors and OMB, has been a challenge to some state and local governments given the variety of possible scenarios and situations. We expect that clarity will evolve over time as the reliable measurement of impact is a key element of accountability and transparency.

• The Recovery Act has specific provisions related to a range of requirements for which state and local governments must comply, such as The Federal Medical Assistance percentage, The Davis-Bacon Act wage rates and The Buy-American Act.

The Challenges Ahead: The Next 12 Months

The next year will tell us a lot more about the success of the Recovery Act in meeting its intended goals with respect to accountability and transparency. In the meantime, the following challenges face government at all levels.

• Continuing the work of the Recovery Accountability and Transparency Board to further enhance the capabilities of Recovery.gov.

• Continuing the Recovery Accountability and Transparency Board’s focus on improving data quality—both completeness and reliability—at all levels of government.

• Capitalizing on lessons learned so that the expectations for accountability and transparency are well
understood and that execution becomes commonplace through effective and efficient systems and processes that provide useful information to government managers and the public.

- Looking at this as not just a passing management phenomenon, but as a way to rethink how government communicates with the public and holds itself accountable.

The challenges will be compounded by the fact that all levels of government, to some degree, face resource constraints and use management information systems that were not designed to accommodate Recovery Act reporting requirements. The level of detailed information provided directly to the public on government expenditures in Recovery.gov is truly unprecedented. Governments face the challenge of improving data accuracy and completeness. As Earl Devaney has said, “Inaccurate information sets the cause of transparency back.” Going forward, the public will expect greater levels of information and involvement in government programs—the bar has been raised.

Government managers will be challenged to respond to these new pressures, while at the same time satisfying their stewardship responsibilities to take proper care to follow laws, regulations and leading management practices. Noted diplomat, educator, author and recipient of the Presidential Medal of Freedom, Harlan Cleveland,29 once described public administrators as the “get-it-all-together gang.” They have the unique burden to synthesize the many different demands on the public sector from various executive, legislative, media and interest group sources. The juggling of these multiple pressures will become even more challenging as the accountability and transparency movement increases the expectations for effective and speedy responses to new public oversight in other areas of government.

High-performing managers at all levels of government will view the Recovery Act accountability and transparency provisions as an opportunity for government to “shine brightly,” by demonstrating to the public that Recovery Act monies are being well-managed and spent responsibly for the betterment of the country. The stakes have rarely been higher, and the performance of public managers has now become more visible than ever.

Is government turning a new page in accountability, transparency and intergovernmental relations? Will the important progress and leadership we have witnessed in the past year be sustained? The journey will take time, and there may be some twists, turns and bumps in the road ahead. But public management has reached an important crossroads in the long-running struggle to promote public accountability and transparency in governance. There may be literally no turning back. It will be up to the government management and accountability communities to find new and creative ways to meet the account-
ability and transparency goals of the Recovery Act and satisfy a public that is more insistent than ever on knowing what it is getting for its tax dollars and how its government is performing.

End Notes
2. Recovery.gov, See Where the Money is Going.
6. OMB, Analytical Perspectives, FY 2010, p. 94.
7. At the time of his selection by the President as Chair of the Recovery Accountability and Transparency Board, Devaney was serving as inspector general at the U.S. Department of the Interior.
11. U.S. Census Bureau, 2007 Census of Governments, Table 416, Number of Governmental Units by Type.
12. Recovery.gov, Track the Money, Recipient Reported Data.
16. $210 million for the federal IGs; $25 million for GAO; and $84 million for the Recovery Accountability and Transparency Board.
29. A noted diplomat, educator and author, who served as U.S. Ambassador to NATO, U.S. Assistant Secretary of State for International Organization Affairs, president of the University of Hawaii, the founding dean of the University of Minnesota’s Hubert H. Humphrey Institute of Public Affairs and dean of the Maxwell School of Citizenship and Public Affairs, he authored 12 books, including The Knowledge Executive (1985) and Nobody in Charge: Essays on the Future of Leadership (2002), and was awarded 22 honorary degrees and the U.S. Presidential Medal of Freedom.
30. Jeffrey C. Steinhoff, CGFM, CPA, CFE, an AGA Past National President and member of the Northern Virginia and Washington, D.C. Chapters, is the executive director of the KPMG Government Institute.
31. Paul L. Posner, Ph.D., is director of the Public Administration Program, George Mason University, and president of the American Society for Public Administration.
32. This article represents the views of the authors only, and does not necessarily represent the views or professional advice of KPMG LLP.