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ACCOUNTABILITY AND TRANSPARENCY IN THE AMERICAN RECOVERY AND REINVESTMENT ACT

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THE MEDIA, CONGRESS, and the White House have touted that the \$787 billion American Recovery and Reinvestment Act (Recovery Act) will contain “unprecedented accountability and transparency.”¹ This will only be true if accountability encompasses actual performance outcomes and results, in addition to preventing fraud, waste, and abuse.

BACKGROUND

THE \$787 BILLION Recovery Act was signed into law on February 17, 2009 with the purpose of preserving and creating jobs, promoting economic recovery, assisting those impacted by the recession, providing investments to spur technical advances in science and health, investing in infrastructure that will provide long-term economic benefits, and stabilizing state and local government budgets.

The Recovery Act also came with the promise of transparency and accountability. Unfortunately, so far, only a small percentage of the recovery funds are going to agencies that have established and maintained goals, objectives, and performance measures that track actual results produced by programs.

It is imperative that Congress and the White House establish strong, mandatory guidelines for agencies that will receive funding in order to determine measurable goals and outcomes and report accurate results. The disclosure of both successes and failures will help assure the public that spending decisions are made wisely and are results-oriented. Without guidelines and reporting procedures, agencies will have little incentive to measure actual results, especially if failures occur.² True transparency and public trust requires full disclosure and explanation of all outcomes.

TRANSPARENCY IN THE RECOVERY ACT

THE GOOD NEWS is that the Recovery Act includes many reporting and monitoring procedures for agencies and states receiving recovery funds. Agencies, in particular, must frequently report on the planning and actual use of funds, from agency recovery plan reports outlining expected programs and spending, to specific program plans that detail individual program spending, goals, and performance. It also gives oversight authority to the Office of Management and Budget (OMB), the Government Accountability Office (GAO), congressional oversight and appropriations committees, the Recovery Act Transparency and Accountability Board (Recovery Board), and the Recovery Independent Advisory Panel (Recovery Panel).

To help them in their tasks, these authorities should use existing frameworks and mechanisms. For instance, the Government and Performance Results Act of 1993 (GPRA) requires federal agencies to measure program outcomes.³ GPRA principles should be applied to agency recovery plans and reviewed through the OMB. By establishing and reporting on objectives, agencies can enhance project management, accountability, and results. To that end, the Mercatus Center produces an annual scorecard that ranks agencies based on their compliance with GPRA. The *Mercatus Performance Report Scorecard* evaluates agencies' annual performance reports and scores them based on transparency, public benefit, and leadership. While the scorecard assesses the quality of agencies' GPRA-mandated disclosures about their outcomes, it does not evaluate agencies' performance or outcomes.

The oversight authorities of the Recovery Act should require firm performance measures and keep up with real-time and

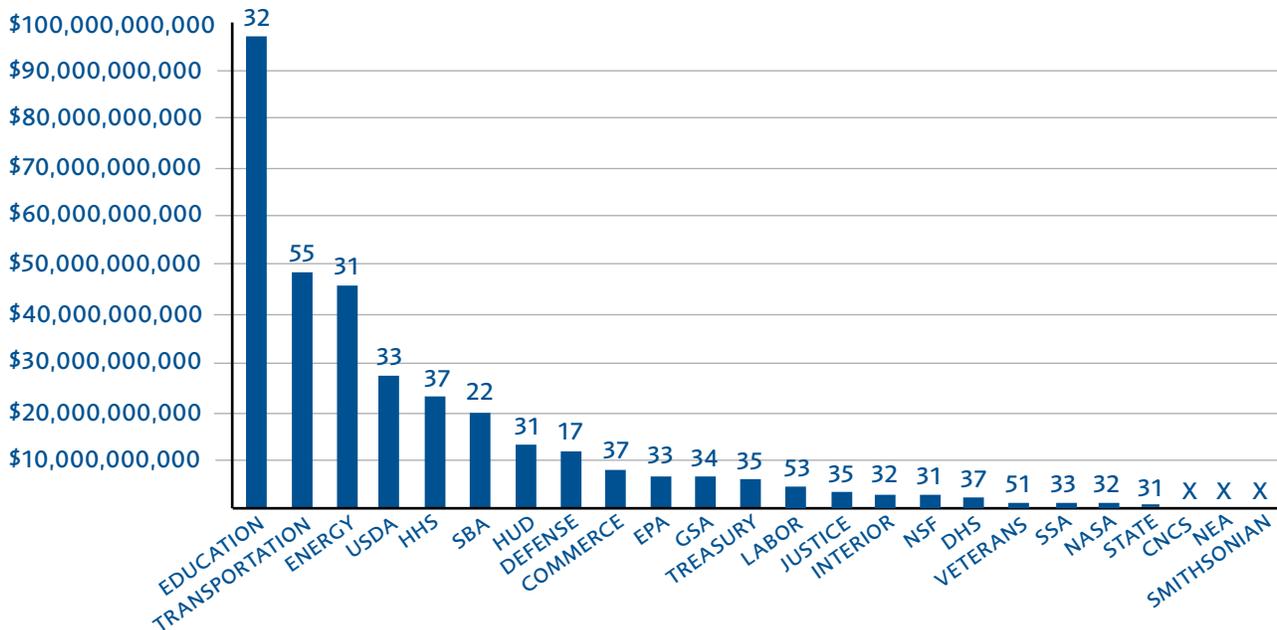
ex-post analysis of the benefits that go beyond output measures. The government oversight authorities should actively examine outcomes, analyze how spending under the Recovery Act will advance agencies' GPRA goals, and determine whether existing goals and objectives are adequate or need improvement.

HOW ARE THEY DOING SO FAR?

AS THE OMB'S budget guidance document, *Circular A-11*, notes, "Outcomes describe the intended results of carrying out a program or activity. They define an event or condition that is external to the program or activity and that is of direct importance to the intended beneficiaries and/or the public."⁴ Output measures, on the other hand, refer to things produced by a program. The creation of jobs, infrastructure, and schools are outputs; improved standards of living, safety, and education are outcomes. While outputs are reasonable, necessary, and valuable measures, they must lead to an intended outcome in order to provide real performance results.

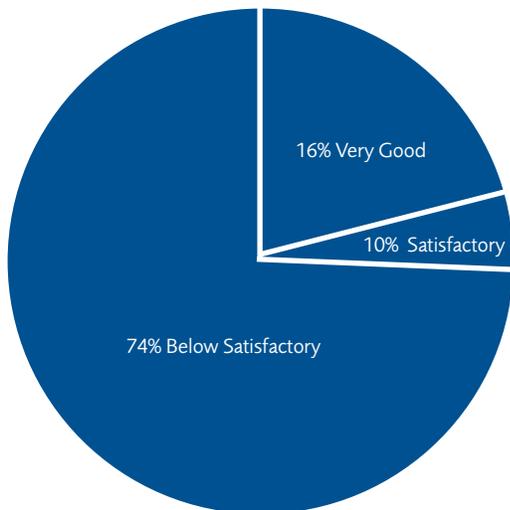
OMB issued an initial Recovery Act guidance document for agencies on February 18, 2009.⁵ The guidance suggests agencies should measure the effects of recovery spending according to existing program goals and GPRA strategic plans, but does not include strong requirements or penalties for failure to measure these effects. The OMB guidance document is off to a good start but needs improvement. It is not just the responsibility of the individual agency to make sure that the outputs and outcomes are correctly defined, but it is also the responsibility of the oversight authorities to require and monitor such goals and measures.

FIGURE 1: DIVISION A RECOVERY ACT FUNDS BY FEDERAL AGENCY INCLUDING 2007 MERCATUS PERFORMANCE REPORT SCORECARD RESULTS



Sources: Author's calculations based on data from the Recovery Act, the Congressional Budget Office, and the 2007 Mercatus Performance Report Scorecard

FIGURE 2: DIVISION A APPROPRIATIONS BY SCORE QUALITY



Sources: Author's calculations based on data from the Recovery Act, the Congressional Budget Office, and the 2007 Mercatus Performance Report Scorecard

WILL APPROPRIATIONS BE ACCOUNTABLE?

OMB HAS DIRECTED agencies to use their GPRA goals and measures when planning and monitoring the use of recovery funds. But how much accountability does GPRA provide? By linking the recovery appropriations with the quality of agencies' GPRA reporting, we can determine how much transparency and accountability is likely to accompany the expenditures.

We have categorized appropriations from Division A of the Recovery Act by agency (see figure 1)⁶ and compared them to how well these federal agencies' annual GPRA reports fared in the 2007 *Mercatus Performance Report Scorecard* (see figure 2).⁷ Seventy-four percent of Division A appropriations go to agencies scoring below "satisfactory" (a score of 36 or higher) on the *Scorecard*. Seventy-one percent goes to agencies scoring below the 2007 average of 34.5. Sixteen percent of stimulus spending goes to agencies that scored in the "very good" category (with a score of 48 or higher).

The second-highest funds recipient is the Department of Transportation (DOT), which has also earned high scores on past years' *Scorecards*.⁸ The DOT's focus on outcome-oriented results increases the odds that the department will be accountable for actions taken with Recovery Act funds. For example, the DOT has some excellent outcome goals and measures for infrastructure—such as fewer transportation-related accidents, deaths, and injuries resulting from building better roads.⁹ These outcome measures clearly demonstrate the public benefits the DOT achieves and need to be used to assess the effectiveness of new expenditures under the Recovery Act.

The Department of Education receives the largest chunk of Division A appropriations, and yet its *Scorecard* grade is below satisfactory. In order to know whether this spending will achieve real results, the department needs to put in place better

goals for the funding and better measurement of the effects of new and better schools on children's education. Other agencies with low 2007 *Scorecard* scores that will receive large amounts of recovery funds are the Small Business Administration and the Departments of Defense, Energy, and Agriculture. Existing GPRA goals and measures require significant improvement before these agencies will be adequately held accountable for producing outcomes with recovery money.

Unfortunately, only 16 percent of the Recovery Act spending has been appropriated to agencies that received a "very good" rating. The oversight authorities must focus on the performance measures and results so the American people will know whether this money is being spent wisely and efficiently. To meet the public's expectation of unprecedented accountability, all agencies should strive for a "very good" reporting rating on performance goals and measures.

Accountability and performance measures should apply not only to the Recovery Act's Division A appropriations, but to Division B direct spending and tax provisions as well. In fact, Division B makes up 60.5 percent of the Recovery Act (\$475.9 billion of the total \$787.2 billion) and lacks an explicit transparency and accountability section. Additionally, there is virtually no GPRA accountability for outcomes of tax policy changes (\$212 billion of the Recovery Act). Tax policy accountability needs improvement in order to assess results of this legislation.

PREVENTING THE ACCOUNTABILITY DEFICIT

THE RECOVERY ACT gives the Recovery Board wide-ranging authority to monitor expenditures and performance. By using GPRA's existing framework, time and resources will be spent improving performance measures and focusing on good results. The following suggestions are directed to the Recovery Act oversight authorities as well as federal agencies, states, and localities which receive recovery funding. We suggest that agencies:

- Determine real outcome measures for program goals and strategies.
- Implement these metrics in examining actual results in a useful and transparent fashion.
- Discontinue or improve programs that do not appear to hold up to performance measures and public expectations.

Agencies could vastly improve transparency by defining outcome measures, linking funds spent to their individual performance measures (not just to program goals), determining actual results, and redefining the structure and implementation of unsuccessful programs in order to meet goals and outcomes.¹⁰

In addition, each oversight authority has specific roles in reviewing the spending of Recovery Act funds. We suggest that:

- The OMB should insist that agencies use GPRA outcome measures to track Recovery Act results and require agencies that do not currently have good outcome measures to rapidly revise and improve them.
- When examining the periodic reports commissioned by the Recovery Act, GAO should analyze whether goals were met and what benefit was provided to American citizens as well as comment on how agencies can improve.

Congressional oversight committees should demand that agencies study the outcomes produced by Recovery Act expenditures, rather than just measure outputs and activities such as money spent, people hired, or projects completed. The Recovery Act Transparency and Accountability Board should insist that all entities that produce reports furnish outcome information and publish it on the web.

The Recovery Independent Advisory Panel should require reporting and publishing of outcomes and results and recommend changes and improvements the Recovery Board could implement in order to keep agencies on track towards outcome-based accountability.

CONCLUSION

THE RECOVERY ACT, by its nature and design, requires rapid and enormous spending. The public is rightly concerned about how the government will spend this money and what the results of that spending will be. It is not enough for agencies to simply spend money; they must also spend it prudently, in ways that have a substantial and real public benefit. The development and tracking of outcome-based performance measures will help the public and decision makers evaluate progress toward the Recovery Act's goals. While output measures are informative, real outcome measures will enhance public knowledge and perception of the Recovery Act and determine the real success or failure of its goals.

Congress¹¹ and the media¹² have praised the “unprecedented accountability” of this bill; it is time to make this a fact and not just a catchy tagline. While fraud, waste, and abuse are serious matters, holding government accountable for producing actual results is just as serious. Unless outcome-based measures are implemented, the results of this massive spending bill will never be known. Government oversight authorities—including the OMB, the GAO, congressional oversight and appropriations committees, and the Recovery Board and Panel—should actively ask about outcome measures and assess agency outcomes and results.

ENDNOTES

1. For the text of the American Recovery and Reinvestment Act of 2009, see <http://thomas.loc.gov/cgi-bin/query/z?c111:H.R.1.enr.>

2. James Buchanan and Gordon Tullock, *The Calculus of Consent* (Ann Arbor: University of Michigan Press, 1962).
3. *Government Performance Results Act of 1993*, Public Law 103-62, U.S. Statutes at Large 107 (1993), 285, <http://georgewbush-whitehouse.archives.gov/omb/mgmt-gpra/gplaw2m.html>.
4. Office of Management and Budget, *Circular A-11* (Washington, DC: OMB, June 2008), http://www.whitehouse.gov/omb/circulars/a11/current_year/s200.pdf.
5. Peter Orszag, "Memorandum for the Heads of Departments and Agencies," OMB memorandum, February 18, 2009, <http://www.recovery.gov/files/Initial%20Recovery%20Act%20Implementing%20Guidance.pdf>.
6. Douglas Elmendorf, "Cost estimate for the conference agreement for H.R. 1," CBO letter, February 13, 2009, <http://www.cbo.gov/ftpdocs/99xx/doc9989/hr1conference.pdf>. In order to categorize recovery funding by agency, we took dollar figures from Division A of the Recovery Act and then compared our results to calculations made by the Congressional Budget Office.
7. Henry Wray, Jerry Ellig, and Maurice McTigue, *9th Annual Performance Report Scorecard—FY 2007: Which Federal Agencies Best Inform the Public?* (Arlington, VA: Mercatus Center at George Mason University, May 13, 2008), <http://www.mercatus.org/PublicationsDetails.aspx?id=16102>. [Hereinafter *Scorecard*.]
8. *Scorecard*, 48. The Department of Transportation has ranked in the top three since the conception of the *Scorecard* in 1999.
9. United States Department of Transportation, *Performance and Accountability Report* (Washington, DC: DOT, 2007), <http://www.dot.gov/perface2007/index.htm>.
10. *Scorecard*. Agencies that have demonstrated this level of transparency have done well in the *Scorecard* based on the criteria for transparency and public benefits. Examples are highlighted in the summaries section of the *Scorecard*.
11. House Committee on Appropriations, "Summary: American Recovery and Reinvestment," press summary, January 15, 2009, <http://appropriations.house.gov/pdf/PressSummary01-15-09.pdf>. There are four articles on the congressional record that cite "unprecedented accountability;" one is cited above. Also, the Recovery Act website discusses stringest accountability. Recovery.gov, "Accountability & Transparency," <http://www.recovery.gov/?q=content/accountability-and-transparency>.
12. Elizabeth Newell, "Stimulus bill includes battery of accountability measures," Government Executive, January 16, 2009, http://www.gov-exec.com/story_page.cfm?articleid=41823&ref=relink.

The Mercatus Center at George Mason University is a research, education, and outreach organization that works with scholars, policy experts, and government officials to connect academic learning and real-world practice.

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