

By Michael Shanahan*

When Barack Obama was elected, Americans demanding a more transparent US government cheered and broke out the champagne to celebrate. More than any other presidential candidate in modern times, Obama had pledged to communicate freely and honestly with the citizens he serves.

On his first full day in office, Obama promised an “unprecedented level of openness” and announced an Open Government Project that would allow citizens the opportunity to express views online regarding a new policy transparency.

As Obama approaches one year in office, many transparency advocates are still glad he won. But for others, the champagne has gone flat. “A lot of us have been disappointed and confused,” said Anne L. Weismann, chief counsel for Citizens for Responsibility and Ethics in Washington (CREW), which advocates for open government.

What is Transparency?

The new administration has adopted new technologies that will provide unprecedented access to information about how the government operates and spends its money. This is a stark contrast with the reflexive secrecy during former President Bush’s eight years in office. And the White House is experimenting with new online technologies that allow citizens to weigh in on administration policies as they are being formulated. This includes a review of ways to make the government more transparent.

But in many areas, especially White House policy making and lingering battles over documents about Bush-era national security fights and human rights violations, Obama officials have fought tooth and nail to preserve a wall of secrecy that directly contradicts the new president’s campaign promises. “Some of the attitudes are mimicking the anti-transparency attitudes of the Bush administration,” said Weismann. Particularly at the Justice Department, she said, “This is a culture that has not changed in many ways.”

Critics also cite initial refusal by the White House to reveal the identities of coal and health industry executives who met with White House officials about pending energy and health reform legislation. Only after transparency advocates went to court did the White House offer a partial

list of the coal industry lobbyists, a list that critics said was inadequate.

On September 4, 2009, Obama reversed course and announced that records of visitors to the White House would be made public unless identification threatened national security. But it took the legal challenge — settled out of court — from Citizens for Responsibility and Ethics in Washington to change the policy.

Denying access to the identities of those who lobby the White House on politically tough issues like energy and health reform is particularly sensitive. The memory is still fresh of former Vice President Dick Cheney's adamant refusal to disclose the names of energy industry lobbyists who met with him in the White House — a fight that went all the way to the Supreme Court.

“What this tells me is that they (White House officials) don't want to give away anything up front so they can withhold information later when they feel they need to,” said Meredith Fuchs, general counsel at the National Security Archive, a group that files lawsuits under the Freedom of Information Act to obtain federal documents. “There have been a series of incidents and decisions that have not been as transparent as we would have liked,” she said.

Information Release

Fuchs said lawyers in the Obama Justice Department also have fiercely battled efforts by transparency advocates to obtain the release of documents explaining the origins of the Bush administration's warrantless wiretaps targeting US citizens. “We are asking for legal memos, but they weren't willing to give them up,” she said.

In yet another legal battle, Fuchs said her group is at odds with the Obama administration over release of information about the torture, seizure and delivery of alleged terrorists to other nations. Fuchs says the government argues the information about torture and the so-called rendition policy is so secret and potentially harmful to national security that those who were tortured should not be permitted to file lawsuits or go to court. In other words, not even a judge should be permitted to see the material.

Another decision that stunned many Obama supporters was Obama's refusal — at the urging of US Defense Secretary Robert Gates — to release additional photos of suspected Iraqi terrorists abused by US troops at the Abu Ghraib prison in Baghdad. At the time, Obama said the release of the photos “would inflame anti-American opinion

and allow our enemies to paint U.S. troops with a broad, damning and inaccurate brush, thereby endangering them in theaters of war.”

That statement contrasted sharply with Obama’s release of four US Justice Department memos that provided the Bush administration’s previously secret legal rationale for harsh interrogation of terror suspects, as well as a decision to permit photographs at Dover Air Force Base in Delaware of the coffins of dead US soldiers returning from Iraq or Afghanistan.

Shortly after Obama took office, Fuchs said, she and other lawyers filed a lawsuit asking for access to White House e-mails from the Bush era, only to be stunned when Obama’s White House lawyers and the Justice Department asked a judge to dismiss the lawsuit.

Obama advisers did not respond to requests for a response to this story, but White House spokesman Robert Gibbs has repeatedly dismissed criticisms that the president is not meeting his campaign promises. “I think the president underscored his commitment to transparency on his first day in office,” Gibbs said at a White House briefing in July 2009.

One story about a federal grant to set up a website allowing citizens to track spending from Obama’s \$787 billion stimulus bill is telling. Advocates filed a Freedom of Information Act request to get information about the company that won the contract to build the website (www.recovery.gov) and its accompanying search mechanism.

That request was bounced to the federal General Services Administration, which, in turn, sent it to Smartronics Inc., the company that won the contract to set up the website. Company executives returned the documents that were requested, but blacked out nearly all the information on them, including the number of Americans who are expected to use the website.

Gary Bass, executive director of OMB Watch, another transparency watchdog group, says it will take time for Obama to overcome a longtime pattern of secrecy that has been imbedded in the federal bureaucracy. “The culture in government is that you typically don’t give out information that you don’t have to,” Bass said.

For example, the Associated Press reported in August 2009 that President Obama’s order to federal officials to publicly report contacts with lobbyists seeking funds from

economic recovery projects has largely been ignored. Across the sprawling federal bureaucracy, officials acknowledged just eight meetings with lobbyists seeking money from \$88 billion in stimulus funds covered by the president's order.

Use of Technology

These disputes often reflect sharp differences over what it means to be transparent. Advocates say Obama and his advisers believe that using online technologies to better communicate with the public and offer more participation in developing policy will make them transparent.

"Obama is the first president to come to office in an era of online social media and real opportunities for manipulating and sharing huge databases full of government information," said OMB Watch's Bass. "He grew up with that," Bass said, "and so expectations are extremely high. That is Obama's pedigree. We haven't had a president who understood the value of that approach."

But Fuchs, with the National Security Archive, said thinking of transparency in technological terms misses the point. "We can use all these technologies to better communicate with the public and that's great, but that's not really what transparency is all about," she said. "Transparency is the ability to know who made the big decisions in government and what was the basis for making those decisions, and there is still a lot of resistance to that idea."

Some transparency advocates are optimistic that by the time Obama leaves office, any fair judgment must recall the years of secrecy under Bush. "The administration has taken many of the right steps to make government more transparent and accountable," said Daniel Schuman, policy counsel of the Sunlight Foundation. "They also have a long way to go, but this is night and day compared to Bush," he said.

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