

# The Washington Times

## Obama's transparency promises stall

By Susan Crabtree - November 4, 2012

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President Obama ran in 2008 while making big promises on transparency and ethics, including vows to ban lobbyists from working for him, to throw open negotiations on health care legislation, to speed freedom-of-information requests and to let voters have direct input before he signed bills into law.

He is making no such promises in this year's campaign, though, nor is he taking a victory lap on those old vows.

That's because while he made some progress — particularly in making White House visitor logs public — his record on the other promises falls short of what he pledged.

Freedom-of-information requests are taking even longer, dozens of lobbyists have earned waivers to work for him, the presidential public campaign finance system remains unusable and, more recently, House investigators have released documents showing the backroom deals he cut with health insurance industry players to win support for his 2010 overhaul.

“We were pretty excited when he first came in about his commitment to transparency — that seemed pretty good compared to the Bush years,” said Jennifer Lynch, an attorney with the Electronic Frontier Foundation, an open-government group. “Unfortunately, it hasn't panned out that way. If anything, the Obama administration is less transparent than prior administrations.”

A transparency report to be released Monday by the libertarian-leaning Cato Institute gives the administration an abysmal grade for “virtually ignoring” Mr. Obama's promise to post laws on the White House website for five days before the president signs them, in order to give voters a chance to email their comments.

Cato also tested all 20 Cabinet-level agencies and said 19 failed to obey the Freedom of Information Act (FOIA).

Transparency advocates held high hopes for Mr. Obama, and for much of the first two years of his tenure they said he should be given more time to show progress. When his administration was slow to begin posting legislation online in 2009, they gave him a pass.

But many of those advocates have soured on the White House.

One of Mr. Obama's most prominent vows was a promise to ban lobbyists from working for his administration. He signed an executive order to that effect, but also allowed a waiver, which he has used dozens of times.

One area where Mr. Obama fulfilled a pledge — making White House visitor logs public — turned out to be a somewhat empty victory. It turned out that officials were holding meetings with lobbyists just across the street from 1600 Pennsylvania Ave. when they wanted to keep those dealings secret.

Open-government groups say Mr. Obama even began to push back against FOIA requests, asking courts to reverse decades of precedent that held exceptions to the law should be “narrowly construed” so as to promote maximum transparency.

“We do not embrace that principle,” Assistant Solicitor General Anthony Yang told Justice Antonin Scalia in early 2011.

The admission was particularly stunning considering Attorney General Eric H. Holder Jr.'s instructions on the first day of the administration that the executive branch was going to approach FOIA requests with a presumption toward disclosure.

Ms. Lynch said she has experienced serious resistance to her requests for information about predator drone flights in the U.S. She recently filed suit against the Department of Homeland Security demanding answers about how and why it loans out its drones to other law enforcement agencies across the country.

In February, the Electronic Frontier Foundation joined four other nonprofit groups, including the American Civil Liberties Union, in complaining that the Homeland Security Department and other agencies were demanding thousands of dollars in fees to process FOIA requests, when fees for the groups had been waived in the past.

The White House has stood by its open-government initiative. It issued a report last fall citing a 10 percent reduction in FOIA exemptions claimed and boasting that a backlog of

requests at the Army were down 68 percent. But many open-government groups say the report conflicts with their experience.

Meredith McGehee, the policy director for the Campaign Legal Center, said all administrations have to cut ugly deals only to see the details eventually become public.

Where the president has really failed to live up to promises and expectations, she said, is on championing efforts to strengthen lobbying disclosure rules and overhauling the nation's campaign finance system.

In the Illinois Senate, Mr. Obama worked to pass changes to campaign finance law, and as a U.S. senator, he co-authored the stricter ethics and lobbying laws passed in response to the Jack Abramoff scandal. He refused to take contributions from registered lobbyists and political action committees and wrote legislation to create a congressional public financing system.

But after winning the Democratic presidential primary in 2008, Mr. Obama announced that he would be the first candidate to refuse to take public funds for the general election, going back on a promise to partake in the system.

At the time, Mr. Obama was shattering campaign fundraising records, and the decision freed him up to amass far more money than he could have if he opted to take public money.

“When it comes to spending one ounce of political capital to change the [money in politics] system, they’re wallowing close to a D or D-minus,” she said. “I expect the president had his folks whispering in his ear, ‘You’re going to have to run again, you’re going to have to raise \$1 billion because the other side is going to. Don’t let high-minded principles get in the way of reality.’”

The Obama administration also has aggressively gone after whistleblowers and alleged leakers, prosecuting them in unprecedented numbers in an effort some journalists believe is aimed at quashing national security stories.

In one instance, the Justice Department is trying to force a New York Times reporter to identify a confidential source who allegedly leaked him information about a botched plot against the Iranian government saying he has no legal right to keep his source's identity secret.