



Watchdog: Transparency advocates see tough year, growing 'Windsorgate' scandal at EPA ahead

By: Mark Tapscott - January 2, 2013

Ask leaders of Washington's thriving community of transparency advocates what most needs to be done in 2013 and they enthusiastically offer multiple proposals for making government more accountable and accessible.

But ask what they expect to be achieved to improve government transparency in the months ahead and the enthusiasm vanishes, according to an informal survey by The Washington Examiner's Watchdog Team.

The key player is likely to be President Obama, who could bring about some positive reforms this year, according to several of those interviewed.

But other transparency advocates told the Examiner that Obama's spotty first-term record on transparency concerns makes such progress unlikely.

Among Obama's first acts as president in 2009 was promising "the most honest and transparent administration in history." Then Attorney General Eric Holder told agencies to implement a lengthy list of procedural improvements for the federal Freedom of Information Act (FOIA).

Gary Bass is among those taking the more optimistic views on Obama, saying "there is a good chance that progress can be made on all fronts if the Obama administration focuses in on implementation of the policies it put in place over the first four years." Bass is executive director of the Bauman Foundation.

Bass, who founded OMB Watch in 1983 and led it until joining Bauman in 2012, sees "a strong tri-partisan coalition supporting most these items." By "tri-partisan," Bass says he means conservatives, liberals and libertarians.

Similarly, Anne Weismann, counsel for Citizens for Responsibility and Ethics in Washington (CREW), said Obama could build on his first-term directives by issuing another that would "mandate a disclosure floor" so that agencies would "disclose proactively and on an ongoing basis certain categories of information."

But Obama's first-term failures undermine such hopes, contends critics like Jim Harper, director of information policy studies for the Cato Institute, who argues that Obama's "performance in this area since taking office has been decidedly anemic."

Obama's "good-faith effort in the first half of his first term gave way to bureaucratic intransigence and business-as-usual," Harper said.

The importance of a more assertive White House role in pushing basic FOIA improvements in 2013 was suggested by the results of a National Security Archive survey last year that found "more than 60 percent of federal agencies have failed to update their FOIA regulations" despite Holder's 2009 directive, according to Patrice McDermott.

McDermott, a veteran transparency advocate who is now executive director of the Open The Government Coalition, also pointed to the fact that most agencies have not updated their FOIA procedures since a 2007 law directed them to do so.

Whatever happens in the Obama White House on such issues in 2013, hanging over it all is an emerging "Windsorgate" scandal that could prove damaging far beyond the transparency realm.

The Environmental Protection Agency Inspector General opened an investigation last month into departing EPA Administrator Lisa Jackson's recent admission that she used the alias "Richard Windsor" on a government email account to conduct official business.

Using such aliases violates federal law. Jackson claimed she only did so on internal communications at EPA.

According to Christopher Horner, a senior fellow at the Competitive Enterprise Institute (CEI), there is substantial evidence that Jackson was not the only EPA official using illegal aliases. Horner detailed that evidence in a recently published book.

The scandal could explode later this month because a federal court has ordered the Justice Department to make public an estimated 12,000 "Richard Windsor" emails.

Horner - who, with CEI, filed the litigation that led to the court's order to make the Windsorgate emails public - is determined to get answers from Jackson on key questions:

"Since you imply that you only used 'Richard Windsor' for internal correspondence, what account did you use for corresponding outside the agency," he told the Examiner.

"By what means, if any, did you copy the agency on these messages as required by law? Do you still have copies or did you destroy them? Answer specifically the one question EPA has to date ducked: Why the false identity?"