

No Summer Vacation for Effort to Improve Federal Financial Transparency: President Obama Signs Executive Order 13576 and the House and Senate Introduce Competing Versions of the DATA Act

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In the past month, both President Barack Obama and Congress have attempted to accelerate efforts to prevent and identify fraud and abuse in government spending.

First, in a move that builds upon the focus on transparency ushered in by the American Recovery and Reinvestment Act of 2009, President Obama signed [Executive Order 13576](#), "Delivering an Efficient, Effective, and Accountable Government," June 13, 2011. The order establishes the Government Accountability and Transparency Board (Board), which will be composed of 11 members designated by the President and which will work in consultation with the Director of the Office of Management and Budget. The order also requires that the Board work with the [Recovery Accountability and Transparency Board](#) (RATB) to apply the approaches developed by the RATB across government spending and to recommend within six months how the many systems that support the collection and display of government spending data can be integrated.

Further, on the same day and in a complementary effort, House Oversight and Government Reform Committee Chairman Darryl Issa, R-California, and others introduced [H.R. 2146](#), the Digital Accountability and Transparency Act of 2011 (DATA Act). The DATA Act was approved by the Committee with modifications on June 22, 2011. The DATA Act establishes yet another new board named the Federal Accountability and Spending Transparency Board (FAST Board), and requires each person or state, local, or tribal government that receives federal appropriated funds, either directly or as a subcontractor or subgrantee, to report at least once quarterly each receipt and use of such funds to the FAST Board. The DATA Act also requires, with some exceptions, that each executive agency report all federal obligations and expenditures to the FAST Board. Additionally, the DATA Act obligates the FAST Board to establish one or more websites for the publication of all information submitted by recipients and agencies to serve as a public portal for federal financial information.

On June 21, 2011, Senator Mark Warner, D-Virginia, introduced [S. 1222](#), companion legislation to H.R. 2146. S. 1222 is relatively similar to H.R. 2146 but does not include section 306 of H.R. 2146 "Government Accountability Office Improvement," which gives authority to obtain information and to administer oaths to witnesses when auditing and settling accounts referred to the Committee on Homeland Security and Governmental Affairs.

Federal government contractors and grantees should monitor the selection of the members of the Board and the actions undertaken by the Board over the next six months. Because of the short timeframe the Board has been given, the Board's ideas on how to achieve its mandate will likely materialize quickly and will prompt federal agencies to take action as well. Notably, on June 17, 2011, within a week of Executive Order 13576's signing, the Center for Medicare and Medicaid Services (CMS) announced that, starting July 1, 2011, it will begin using innovative predictive modeling technology to fight Medicare fraud. According to CMS's [press release](#), predictive modeling is "similar to technology used by credit card companies" and "helps identify potentially fraudulent Medicare claims on a nationwide basis." Furthermore, if the DATA Act gains traction, federal contractors and grantees should follow proposals as to how the FAST Board might



implement a single, government-wide reporting system, and how the creation of such a system could alter or multiply their current reporting requirements.

Opportunities to comment on proposed approaches and requirements should be taken by affected parties; unsolicited comments, as well as other strategies, might also be advantageous. The Reed Smith Public Policy & Infrastructure group can assist in all aspects of developing response strategies.

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