

November 12, 2024

The Honorable Robin Carnahan
U.S. General Services Administration
Office of Government-wide Policy
Comments submitted via <https://www.regulations.gov>

Re: Sixth U.S. Open Government National Action Plan, Docket GSA-GSA-2024-0016

Dear Administrator Carnahan:

This letter responds to the request for comments to assist development of the Sixth U.S. Open Government National Action Plan.¹ The letter signatories are civil society organizations that are concerned about the problems of corruption and illicit finance, and seek to build on commitments made in the Fifth U.S. Open Government National Action Plan (2022), on the theme, “Counter Corruption and Ensure Government Integrity and Accountability to the Public.”

Among other measures, the commitments made in that part of the 2022 plan were to issue regulations to implement a new U.S. Treasury beneficial ownership registry, anti-money laundering (AML) rules for the real estate industry and other vulnerable sectors, and Section 885 beneficial ownership disclosure requirements for those seeking to bid on federal contracts or grants. While major progress was made on key aspects of those commitments, more work is needed. Given the two-page limit on comment letters, we offer the following limited description of recommended next steps and can provide additional information upon request.

(1) Continue to Strengthen the Beneficial Ownership Registry. We recommend that the Sixth U.S. Open Government National Action Plan include the following commitments:

- Propose a rule by Jan. 1, 2025, in line with the congressionally mandated timeline to bring Treasury’s existing Customer Due Diligence (CDD) rule in line with the Corporate Transparency Act requirements. Finalize this rule in 2025.
- Finalize a rule and establish working portals in 2025, to give registry access to state and local law enforcement, foreign law enforcement, financial institutions, and registry auditors.
- Create a registry webpage in 2025, to inform the public of:
 - basic registry information, such as the number of company reports filed or updated and the number of beneficial owners per company;
 - how to report erroneous or outdated information in a company report;
 - how to file comments on registry problems with the Treasury Inspector General; and
 - the plans, status, and conclusions of registry audits.
- Hold meetings with all 50 states in 2025, to encourage support for the registry, including by offering programs to publicize the registry and model state legislation to (a) terminate companies that fail to register; and (b) apply beneficial ownership registry requirements to businesses otherwise exempt from state registration requirements, because their only in-state activity is to open a bank account, assume a mortgage, or buy real estate within the state.

¹ GSA Request for Information, <https://www.federalregister.gov/documents/2024/09/12/2024-20702/seeking-public-input-for-the-6th-us-open-government-national-action-plan>.

(2) Continue to Strengthen AML Efforts in Vulnerable Sectors. We recommend the following commitments:

- Conduct a 2026 Treasury audit to determine whether real estate professionals are filing the new, required beneficial ownership reports for residential real estate sales.
- Finalize a rule in 2025, requiring similar reports for commercial real estate sales.
- Finalize a rule in 2025, to establish CDD requirements for investment advisers.
- Finalize a rule in 2025, to establish AML program requirements for antiquity dealers.
- Establish specialized AML examination teams at the Securities and Exchange Commission, Commodity Future Trading Commission, and Internal Revenue Service to review AML programs at covered financial institutions, modeled after the specialized AML examination teams already used by bank regulators.

(3) Implement Sections 885 and 847. The commitment to finalize Section 885 has experienced no progress since the law’s enactment in 2021 or the Fifth National Action Plan in 2022. We recommend specifically renewing this commitment in the next National Action Plan by calling on the Federal Acquisition Regulatory (FAR) Council to finalize a rule in 2025, implementing Section 885’s requirement that prospective federal contractors and grantees disclose their beneficial owners in the System for Award Management (sam.gov). The Sixth National Action Plan should also call on the Department of Defense (DOD) to issue rules implementing Section 847 (2019), requiring companies with DOD contracts valued at more than \$5 million to disclose their beneficial owners.² The Open Government Secretariat should meet with FAR and DOD officials to ensure progress on both transparency measures.

(4) Funding. Increasing government transparency, as outlined above, requires federal expertise, time, and resources, especially at Treasury’s Financial Crime Enforcement Network (FinCEN) and the Department of Justice’s KleptoCapture Task Force. We urge that the Sixth U.S. Open Government National Action Plan commit to working with Congress to provide significant additional funding to these offices to carry out open government tasks.

Thank you for this opportunity to provide recommendations for designing the next U.S. Open Government National Action Plan. If possible, we would like to meet with members of the Open Government Secretariat and the Open Government Federal Advisory Committee to discuss these recommendations. For more information or to arrange a meeting, please contact Erica Hanichak at the FACT Coalition, ehanichak@thefactcoalition.org.

Sincerely,

Accountability Lab
Anti-Corruption Data Collective (ACDC)
Citizens for Responsibility and Ethics in Washington (CREW)
Earth League International (ELI)

² U.S. Department of Defense, “Open DFARS Cases as of 10/28/2024,” October 28, 2024, p. 9, <https://www.acq.osd.mil/dpap/dars/opencases/dfarscasenum/dfars.pdf>; see also Project on Government Oversight, “Time for the Pentagon to Implement the Law,” March 23, 2023, <https://www.pogo.org/fact-sheets/fact-sheet-time-for-pentagon-to-implement-the-law>.

Financial Accountability and Corporate Transparency (FACT) Coalition
Friends of Angola
Friends of the Earth
Global Financial Integrity
Main Street Alliance
Never Again Coalition
Open Contracting Partnership
Project on Government Oversight (POGO)
RISE Economy
Rutgers Institute on Anti-Corruption Studies
Transparency International U.S.