

# **State Government Contract Assessment 2010 By Patrick Benton**

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## **State Government Contract Assessment**

### **By Patrick Benton**

#### **Introduction:**

In 2009, the Center for the Study of Responsive Law (CSRL) surveyed the online availability of state government contracting information for all 50 states and the District of Columbia. The CSRL examined the following:

1. Do states provide any online information about the contracts they issue?
2. Is the information presented in a format that will allow taxpayers, citizen groups and the media to analyze the way in which the government is spending tax money?
3. Which states demonstrated the "best practices" in providing complete data in a form that is user friendly?
4. Which states have done the worst job in providing online information about the contracts they issue?

In recent years the federal government has taken some important, though modest steps in making contracting information available online. The Federal Funding Accountability and Transparency Act<sup>1</sup> required the creation of a single searchable website that includes in each federal award: The name of the entity receiving the award; information on the award, including the transaction type and funding agency; and, location of the entity receiving the award. This information is now available at <http://www.USASpending.gov>.

Elaborating on the federal disclosure model, the 2009 CSRL report identified the following features as optimally included in the state-based contracting disclosure system: the name of the recipient of the contract; the full amount of the contract; the recipient's location; the parent company of the contract recipient; the agency funding the expenditure; the type of transaction; program source; the award title; the period of the contract; the place of performance; and, a competitive means of acquiring a contract from the state government. The CSRL also looked at whether the state provides the full text of the contract or a summary of the contract, and whether the online publication of information is mandated by executive order or by statute.

#### **The 2010 Survey**

The purpose of the 2010 survey is to determine whether progress had been made in one measure – the full-text, online publication of state contracts – in eleven states that did not provide this information according to the 2009 survey. Those states are: Alaska, Arizona, California, the District of Columbia, Hawaii, Kentucky, Louisiana, Maine, Massachusetts, Minnesota, and Wyoming.

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<sup>1</sup> Federal Funding Accountability and Transparency Act, S.2590, 109th Cong., Second Sess. (2006).

## **Findings**

Of the eleven states that did not publish the full text of state contracts online, no progress has been made by six states: Alaska, Hawaii, Louisiana, Maine, Minnesota, and Wyoming.

In two states, partial progress has been made. California and the District of Columbia now publish **some** contracts.

Three states now publish all state contracts online: Arizona, Kentucky, and Massachusetts. Of the three, Kentucky has made the most significant progress in online disclosure and transparency through its online portal, [opendoor.ky.gov](http://opendoor.ky.gov).

Additionally, the 2010 survey seeks to determine whether state contract disclosure is made pursuant to an agency initiative, executive order, or statute. The CSRL argues that a state statute mandating online disclosure is the best means to ensure permanent, reliable access to state contract information. We found that most states make state contract disclosures by agency initiative and that few states have statutes or executive orders that enshrine state contract disclosure as part of their transparency initiatives. In the cases of the three states that have moved to online disclosure in the last year, Massachusetts did so in compliance with a state statute; Kentucky by executive order; and, Arizona by agency initiative

## **From Worst Practices to Best Practices**

The Kentucky OpenDoor program, beginning January 1, 2009, is a transparency initiative of the state of Kentucky made through an executive order. In our 2009 survey, CSRL found that OpenDoor provided a summary of government spending, but did not provide the full text of the contract available in a searchable format. Kentucky made available information pertaining to the amount spent, the agency that spent the funds and the competitive means for obtaining the contract.

In order to understand Kentucky's progress, CSRL posed questions to Greg Haskamp, Executive Policy Advisor to the Kentucky Finance and Administration Cabinet, which administers the OpenDoor website.

*What prompted you to make changes to the OpenDoor site? Was it an agency initiative, executive order, or state statute?*

In June of 2008, Governor Steven Beshear issued an executive order (2008-508: <http://apps.sos.ky.gov/Executive/Journal/EJimages/2008-MISC-2008-0508-195890.pdf>) establishing the E-Transparency Task Force- a 17 member panel, chaired by Finance and Administration Cabinet Secretary Jonathan Miller, and charged with making recommendations to the Governor on a transparency website which would provide Kentuckians with access to a more accountable state government. The final report was issued in November of 2008, and the site was live by January 1<sup>st</sup> of 2009.

At the time, Kentucky was one of a handful of states that was providing a real-time search of state expenditures; improvements for the site were planned and the site would be progressively improved. The Open Door website has always been administered by the Finance and Administration Cabinet, directed by Secretary Miller, and Greg Haskamp, Executive Policy Advisor, using existing staff and resources- no outside appropriations were available.

Shortly after the site launched, the American Recovery and Reinvestment Act of 2009 (ARRA) became law in February, and both federal and state governments were called on to provide unprecedented levels of transparency and accountability with those funds.

Despite early successes with Open Door in the areas of expenditure and budget information, contract data wasn't part of the early site due to technical hurdles which needed time to be cleared. Kentucky's existing e-procurement website was difficult for the average citizen to find let alone use, and it was evident Open Door needed to provide contract information if it was to become the valuable taxpayer resource it was intended to be. Governor Beshear made running a more efficient and accountable state government among his top priorities when he first took office. It became clear that change was needed to meet the challenges ahead. Kentucky's site was evolving and improving with time; administration priorities, federal expectations with the ARRA, and user feedback helped catalyze our efforts to push even harder in producing our Open Door website. Taxpayers have a right to information about their government, and we knew these calls would be getting louder as state and national fiscal crises worsened.

*What challenges did you face? Was it harder or easier than expected?  
How long did it take?*

Kentucky's challenges were mostly technical, and operational. Like many other states across the country, Kentucky was facing historic budget challenges and therefore any work on Open Door was necessarily handled through existing staff and resources within the state and through existing contracts. Kentucky was lucky in the sense that we use a centralized accounting system for the majority of transactions. Yet, even with a centralized repository the challenge was to overcome technical customizations that allowed details to be tracked extensively in a drill down function, but didn't necessarily roll back up into a general overview that makes sense to the general public. We constantly had to keep checking if what we would be displaying is an accurate picture that the general public would be able to access and understand.

Our efforts involved six departments internal to the Finance Cabinet, and procurement officials and legal counsels from every agency in state government. Once it was clear how we wanted to display contract information, the logistics of working with independent agencies across the executive branch came into play including some which have independent procurement practices. Without clear willingness from every level of the Administration it would have been impossible to produce the contract tool we now have. Once both technical and legal reviews were completed, a substantial amount of

effort was poured into assuring data quality. Working with programmers and on-the-ground employees a number of practices had to be evaluated or changed to ensure that a complete picture was being displayed, for example once it became clear that pdf copies of all contracts were desired some internal processes had to be altered so that the copies would link properly once displayed in the search.

From start to finish the process took approximately six months to get everything in place (Jan-June 2009) updates are made daily, and functionality in the search itself continues to be updated regularly.

*What was the cost of initiating/maintaining the site? Was it more or less than anticipated?*

The site was created and is maintained using existing staff and resources, there is no additional cost for the site to taxpayers. It is estimated that by handling operations in-house and through website administrators Kentucky was able to save upwards of approximately \$100,000. The only recurring costs are minimal and relate to the storage space of site records, these are approximately \$10,000 annually and are mitigated by using existing server space. The costs to produce and maintain the site are substantially lower than were originally estimated. Additionally, a number of positive benefits have been realized since the information came online. Both local and state agencies seeking to make purchases off existing contracts can locate the information easier, and outside requests for contract information can now be referred to the online resource. There are plans in the immediate future to refine the contract search to make it even more user-friendly and to include a look-up by contract number; these changes should reduce administrative costs associated with information requests.

*What recommendations do you have for other states?*

Don't overlook existing resources. Even in the worst fiscal environment in recent memory, states like Kentucky are looking to improve services by becoming more efficient. Transparency efforts are low cost, but they provide huge benefits in restoring the public trust and reducing administrative costs. Since the American Recovery and Reinvestment Act, all states have been involved in transparency efforts with mixed success. A number of outside companies have seized upon the need for software and resources to increase taxpayer transparency, making resources much more available than when Kentucky first began its path. Kentucky chose to develop its resources in house, for us it's proven to be a cost effective and wise choice, but the bottom line is that taxpayers have a right to information about their government. Contract disclosures are a vital way that governments can communicate about the efficacy of their systems, a state that chooses to disclose more information to its citizens is more accountable to their needs.