

June 17, 2022

Hon. Joseph R. Biden
President
United States of America

Via email: democracysummit@state.org

Re: Transparency Commitments for the Summit for Democracy That Relate To the Rule of Law

Dear President Biden:

We, a coalition of civil society organizations based in the United States, were asked to indicate our top three requests for the United States government to commit to implementing as part of the Summit for Democracy with respect to federal transparency. They are as follows:

First, the U.S. government must address the creation of and reliance upon secret law embodied in final legal opinions issued by the Department of Justice's Office of Legal Counsel (OLC). Specifically, the administration should commit to proactively disclose all final legal opinions to the maximum extent possible, and in those unusual circumstances where the opinions cannot be proactively disclosed, the government should publish a list of the opinions.¹

Second, the U.S. government must reinvigorate its commitment to improving its implementation of the Freedom of Information Act. Specifically, agencies must procure better technology to facilitate expeditious review of FOIA requests and publication of the answers as open government data, adopt the presumption of openness, and allocate more resources and staff to clear backlogs while simultaneously requesting further support from Congress.²

Third, the U.S. Government must improve transparency around federal spending, building on the reforms and infrastructure developed over the past two decades. Trillions of dollars of pandemic aid have gone out, and more than a trillion dollars in infrastructure spending is now starting to move into implementation as well. The government must increase the reliability and the level of granularity of data concerning federal spending.³

¹ See *Civil Society Letter to Assistant Attorney General for the Office of Legal Counsel Christopher Schroeder* (May 16, 2021), available at https://s3.amazonaws.com/demandprogress/letters/Letter_Assistant_Attorney_General_OLC_2021-05-26.pdf

² See *FOIA Advisory Committee Recommendations*, available at <https://www.archives.gov/ogis/foia-advisory-committee/dashboard>

³ See *Blueprint to Fix Reporting of Federal Spending*, Project on Government Oversight (August 2021), available at <https://www.pogo.org/analysis/2021/08/blueprint-to-fix-reporting-of-federal-spending/>; see also *Federal Spending Transparency: Opportunities Exist to Further Improve the Information Available on USAspending.gov*, Government Accountability Office (November 2021), available at <https://www.gao.gov/products/gao-22-104702>.

Over the last dozen years, civil society made numerous recommendations for transformative change and identified “low hanging fruit” that could be undertaken by the United States government. We have made many recommendations and expressed our concerns when they were overlooked.⁴ We also met quarterly with the U.S. Open Government Working Group, back when it existed, and participated in workshops and consultations related to the Open Government Directive and U.S. commitments to the Open Government Partnership. We welcome further in-depth discussion on these issues or other significant reforms, but we can no longer engage in conversations with U.S. government officials that are in “listening mode” only. We are ready to engage and we expect government officials to be ready to engage as well.

Civil society will judge the success of the Democracy Summit and this administration’s efforts to strengthen our democracy based upon whether the United States government makes and implements significant commitments with respect to transparency in the United States.

To discuss this further, please contact Sean Moulton, senior policy analyst, Project on Government Oversight at smoulton@pogo.org; Daniel Schuman, policy director, Demand Progress at daniel@demandprogress.org; Alex Howard, director, Digital Democracy Project at alex@governing.digital.

Sincerely yours,

Americans for Prosperity
Center for Media and Democracy
Citizens for Responsibility and Ethics in Washington (CREW)
Demand Progress Education Fund
Digital Democracy Project
Government Accountability Project
Government Information Watch
National Freedom of Information Coalition
National Security Archive
New England First Amendment Coalition
Open The Government
Project On Government Oversight (POGO)

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⁴ See, for example, the *Openness Floor*, published by a coalition of civil society organizations in 2010, available at <https://pogoblog.typepad.com/pogo/2010/07/setting-the-standard-for-government-transparency-the-openness-floor.html>. See also *Letter to President Obama* concerning his transparency legacy (March 2016), available at https://s3.amazonaws.com/demandprogress/letters/2016-03-22_Obama_Openness_Legacy.pdf.