

May 17, 2024

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Associate Director
Office of Performance and Personnel Management
Office of Management and Budget
725 17th St., NW
Washington, DC 20503

Samuel Berger
Associate Administrator
Office of Information and Regulatory Affairs
Office of Management and Budget
725 17th St., NW
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Re: Methods and Leading Practices for Advancing Public Participation and Community Engagement with the Federal Government

Dear Associate Director Schulman and Associate Administrator Berger:

The National Community Reinvestment Coalition (NCRC) appreciates the opportunity to submit written comments to the Office of Management and Budget (OMB) about methods to improve the American public's community engagement with federal agencies in the regulatory process in order for the federal government to best meet their needs.¹ NCRC and its grassroots member organizations create opportunities for people to build wealth and participate more fully in the nation's economy. We work with community leaders, policymakers and financial institutions to champion fairness and end discrimination in lending, housing and business. NCRC was formed in 1990 by national, regional and local organizations to increase the flow of private capital into traditionally underserved communities. NCRC has grown into an association of more than 700 community-based organizations that promote access to fair and affordable housing, basic banking services, entrepreneurship, job creation and vibrant communities for America's working families.

Background

NCRC commends the White House for its 2022 publication of the "Fifth U.S. Government National Action Plan," which contains steps to make the federal government more open and

¹ Federal Register, "Methods and Leading Practices for Advancing Public Participation and Community Engagement With the Federal Government," March 20, 2024, 19885-19887, <https://www.federalregister.gov/documents/2024/03/20/2024-05882/methods-and-leading-practices-for-advancing-public-participation-and-community-engagement-with-the>.

accessible when democracy has been threatened domestically and around the world.² A cornerstone of this plan is to improve federal agencies' engagement with the public, especially members of underrepresented groups, so they can understand how agencies create and implement programs.³ The White House plans to achieve this mission through several goals including but not limited to: improving access to government data, research, and information; increasing public engagement through civic engagement to request the public's feedback on rulemaking; and facilitating access to government services and benefits.⁴

Disaggregating demographic data by characteristics such as race and ethnicity is essential to the federal government addressing disparities within federal programs and policies.⁵ To achieve this objective, OMB announced last year that it would revise Federal Standards for collecting and reporting race and ethnicity by revising Statistical Policy Directive (SPD) No. 15 for the first time since 1997.⁶ In a comment letter, NCRC expressed support for OMB considering the data disaggregation of all racial categories.⁷ We also applaud OMB for recently revealing that future Censuses, American Community Surveys, and federal forms would solicit disaggregated data.⁸

Civic engagement at various stages of the federal rulemaking process is critical to demonstrating to members of the public that they have another avenue to affect change in addition to voting. We are pleased that President Biden called on OMB to “modernize the regulatory review process” by broadening public engagement.⁹ OMB has taken this guidance a step further by recommending that federal agencies engage the public when developing their annual regulatory agendas.¹⁰ Furthermore, federal agencies are trying different methods to engage the public such as regional town halls, Requests for Input (RFI), and partnerships with community-based organizations “to share regulatory priorities” to obtain community input.¹¹

² The White House, “Fifth U.S. Open Government National Action Plan,” December 2022, 1, <https://open.usa.gov/assets/files/NAP5-fifth-open-government-national-action-plan.pdf>.

³ Ibid., 2.

⁴ Ibid., 3, and 7-10.

⁵ Ibid., 3-4.

⁶ Ibid., 5 and Federal Register, “Initial Proposals For Updating OMB's Race and Ethnicity Statistical Standards,” Office of Management and Budget, January 27, 2023, 55375-5377, <https://www.govinfo.gov/content/pkg/FR-2023-01-27/pdf/2023-01635.pdf>.

⁷ Megan Haberle, Senior Director of Policy and Bruce Mitchell, Principal Researcher, National Community Reinvestment Coalition, Letter to Shalanda Young, Director, Office of Management and Budget, Re: “Initial Proposals For Updating OMB's Race and Ethnicity Statistical Standards,” 88 Fed. Reg. 5375 (January 27, 2023), OMB-2023-0001-0001. April 27, 2023, <https://www.regulations.gov/comment/OMB-2023-0001-18426>.

⁸ Federal Register, “Revisions to OMB's Statistical Policy Directive No. 15: Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity,” March 29, 2024, 22192, <https://www.govinfo.gov/content/pkg/FR-2024-03-29/pdf/2024-06469.pdf>.

⁹ The White House, “Fifth U.S. Open Government National Action Plan,” December 2022, 8.

¹⁰ Ibid.

¹¹ Ibid.

Making it easier for the public to access benefits allows them to directly see the way that the federal government impacts their daily lives. As part of Executive Order 13985, Federal agencies are required to develop and execute equity action plans.¹² These plans include a summary of obstacles that underserved communities endure when trying to access federal benefits, services, and contracting opportunities.¹³

Barriers to accessing government services and benefits in a timely manner often undermine public trust in government.¹⁴ The White House correctly observes in its plan that these barriers ultimately contribute to individuals' loss of belief in democratic institutions.¹⁵ For this reason, it is significant that many agencies are: 1) finding new ways to engage the public beyond "passive collection of public input" to more "proactive" examples of community engagement and 2) will report on their progress quarterly so the government and average Americans can learn how well it does or does not provide benefits and services.¹⁶

Recommendations

While federal agencies including OMB have taken several steps to make the government more accessible to the American public, we have some recommendations for how OMB can improve communication between federal agencies and the American people.

1. Hold Listening Sessions on Weekends Instead of Weekdays

Over the past year or so, some agencies held listening sessions on dates and at times that were inaccessible to average, hard-working Americans. For example, HUD's listening sessions about its proposed rule on revisions to the Community Development Block Grant (CDBG) and Indian Community Development Block Grant Program (ICDBG) took place on the following dates and at the following times¹⁷:

- February 20th from 11:00 A.M.-12:00 P.M. EST
- February 28th from 1:30 P.M.-2:30 P.M. EST
- March 4th from 2:00 P.M.-3:00 P.M. EST
- March 7th from 1:30 P.M.-2:30 P.M. EST

¹² Ibid.

¹³ Ibid.

¹⁴ Ibid., 9.

¹⁵ Ibid.

¹⁶ Ibid., 8 and 10.

¹⁷ HUD Exchange, "Last Chance to Register: CDBG/ICDBG Proposed Rule Listening Session – March 7, 2024," March 7, 2024, <https://www.hudexchange.info/news/cdbg-icdbg-proposed-rule-listening-sessions/>.

All of these dates are weekdays and all of these times are in the middle of the day, which are days and times when most Americans are at work. If federal agencies want to engage with the public in a meaningful way, they will hold more listening sessions on weekends, when many Americans have time off from work. In a July 2023 memo, OMB acknowledged that Americans' work schedules are a barrier to providing public feedback, especially if they are members of underserved communities.¹⁸

By contrast, OMB provided the public with a weekend option to offer feedback on SPD 15. OMB held 3 virtual town halls on Tuesday, March 14, 2023; Friday, March 17, 2023; and Saturday, March 18, 2023.¹⁹ It is possible that hosting a virtual town hall on a Saturday may have contributed to OMB receiving over 20,000 public comments as of April 27, 2023.²⁰ Therefore, we recommend that more federal agencies emulate OMB's example and hold more listening sessions on Saturdays to allow more Americans to participate.

2. Congress Should Allocate More Funding to All Federal Agencies Including OMB to Spur Community Engagement

OMB also identified a lack of funding, staff, training, and lack of community contacts and cultural competence as an obstacle to "additional public participation."²¹ Federal agencies' dearth of resources is significant because agencies should have enough staff "to meet engagement needs" including staff to "build trusted relationships with communities affected by a regulation."²² Congress should allocate more funding to all federal agencies. Increased funding would allow these agencies to hire more staff, train them to engage with the public in a culturally competent manner and provide more opportunities to engage with the American public, especially underserved communities.

¹⁸ Richard L. Revesz, Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, Memorandum for the Heads of Executive Departments and Agencies, Re: "Broadening Public Participation and Community Engagement in the Regulatory Process," July 19, 2023, 6, 7, and 17, <https://www.whitehouse.gov/wp-content/uploads/2023/07/Broadening-Public-Participation-and-Community-Engagement-in-the-Regulatory-Process.pdf>.

¹⁹ OMB Interagency Technical Working Group on Race and Ethnicity Standards, "Public Engagement," <https://spd15revision.gov/content/spd15revision/en/get-involved.html>.

²⁰ Ibid. and Federal Register, "Revisions to OMB's Statistical Policy Directive No. 15: Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity," 22184.

²¹ Revesz, Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, Memorandum for the Heads of Executive Departments and Agencies, Re: "Broadening Public Participation and Community Engagement in the Regulatory Process," 8.

²² Ibid., 18.

3. Congress Should Allocate Funding to Help Community-Based Organizations Partner with Federal Agencies to Boost Community Engagement

Just as federal agencies need additional funding to better engage communities, community-based organizations need additional funding to facilitate relationship building between federal agencies and communities. Community-based organizations are often understaffed and underfunded. If they are expected to help federal agencies improve their engagement with the public, Congress should allocate funding to help these organizations hire additional staff and provide additional resources and training. This funding can help ensure that these organizations have the resources they need to help federal agencies improve their engagement with the American public.

4. Ensure Materials are Accessible to All Americans Regardless of Language and Digital Literacy

Language Access

Ensuring that regulatory materials are produced in various languages is imperative to increasing public participation in the regulatory process. If regulatory materials are not available to Americans in the languages they speak, then they cannot participate in federal rulemaking.²³ As mentioned in OMB's July 2023 memo, Executive Order 13166 requires federal agencies to identify whether there is a need to make services they provide available to people with limited English proficiency (LEP) and develop systems to provide services to people with LEP.²⁴ OMB asks agencies to consider whether implementation of this Executive Order can include the translation of regulatory outreach materials to languages that "are relevant to affected communities."²⁵ The President should amend Executive Order 13166 to require federal agencies to make all materials, including regulatory materials, available to persons with LEP.

Plain Language

Another barrier to community engagement is the jargon that agencies use in the RFIs and other regulatory materials. Inaccessible, overly technical language makes it difficult for many individuals to engage with the federal government. In its memo, OMB recommends that federal agencies should write regulation materials in plain language that the Plain Writing Act requires

²³ Ibid., 7.

²⁴ Ibid. 16-17 and U.S. Department of Justice, Civil Rights Division, "Executive Order 13166," <https://www.justice.gov/crt/executive-order-13166>.

²⁵ Revesz, Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, Memorandum for the Heads of Executive Departments and Agencies, Re: "Broadening Public Participation and Community Engagement in the Regulatory Process," 16-17.

and ensure that these documents contain summaries.²⁶ NCRC agrees with OMB’s recommendation about writing regulations in plain language and its assessment that the public may be more likely to engage with public regulations if given the option of shorter-form content.²⁷ Infographics, videos, and fact sheets may allow Americans with different learning styles to understand the information in the way that best meets their needs.²⁸ If federal agencies also highlight the specific questions and issues on which they seek input, it may allow a broader portion of the American public to engage with federal agencies.²⁹ NCRC agrees with OMB’s guidance that calls for federal agencies to allow Americans to submit public comments in multiple forms of media such as video submissions, audio submissions, and via telephone that aligns with the way that many Americans use various forms of technology to communicate.³⁰

Digital Access

Federal agencies may inadvertently exclude large segments of the American public from participating in the regulatory process due to the format of regulatory materials. This barrier might have a particularly detrimental effect on Americans who lack access to or do not know how to use the Internet. Americans who lack access to the Internet or who are not proficient users of the Internet might not be able to access the *Federal Register*. Three places where the *Federal Register* is available to read online are the *Federal Register*’s website, regulations.gov, and govinfo.gov.³¹ Approximately 24 million Americans — or 7% of the nation’s population — do not have access to high-speed internet.³² Moreover, approximately 23% of Americans in rural areas and 28% of Americans on Tribal lands also lack access to high-speed internet.³³

²⁶ Ibid., 16 and 18.

²⁷ Ibid., 1 and 15-16.

²⁸ Ibid., 16.

²⁹ Ibid., 15-16.

³⁰ Ibid., 16.

³¹ National Archives, *Federal Register: The Daily Journal of the United States Government*, <https://www.federalregister.gov/>; Regulations.Gov: Your Voice in Federal Decision Making, <https://www.regulations.gov/>; and GovInfo, “Federal Register,” <https://www.govinfo.gov/app/collection/fr>.

³² Anna M. Gomez, Commissioner, Federal Communications Commission, “Re: Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, GN Docket No. 22-270, 2024 Section 706 Report (March 14, 2024),” FCC 24-27, <https://docs.fcc.gov/public/attachments/FCC-24-27A6.pdf>; FCC: 24 Million Americans Still Lack High Speed Internet,” CNN, March 15, 2024, <https://www.abccolumbia.com/2024/03/15/fcc-24-million-americans-still-lack-high-speed-internet/>; and Federal Communications Commission, “FCC Increases Broadband Benchmark,” March 14, 2024, 1, <https://docs.fcc.gov/public/attachments/DOC-401205A1.pdf>.

³³ Federal Communications Commission, “FCC Increases Broadband Benchmark,” March 14, 2024, 1.

Physical copies of the *Federal Register* are currently available for purchase from the Government Publishing Office’s online store or to read at Local Federal Deposit Libraries.³⁴ Very few of the Local Federal Deposit Libraries across the country are public libraries — approximately 171.³⁵ Others are located at state libraries, federal agency libraries, university libraries, court libraries, and other institutions that individuals may not access frequently in daily life.³⁶ NCRC recommends that federal agencies place more physical copies of the *Federal Register* in public libraries.

5. AI and the Comment Process

Misuse of AI presents hazards for the public comment process. It could be weaponized to submit comments in large numbers supporting a particular position. While form comments have long existed, a comment with similar language is usually bucketed with others and they are collectively counted as a single comment.³⁷

Even prior to the popularization of AI, fake public comments were a threat to the regulatory process. While CEO of OneWest Former Comptroller of the Currency Joseph Otting allegedly solicited hundreds of false public comments to support the 2014 OneWest/CIT merger.³⁸

If misused, AI has even more potential to wreak havoc on the comment process than fraudulent emails. AI offers the ability to create thousands of unique comments that all support a specific position, yet escape being bucketed together. This presents a threat to the comment process in general, and reduces the impact of individual Americans who want to submit a comment.

6. Make Summaries of Key Regulations Available in Public and Civic Venues

In its July 2023 memo, OMB observed that even if citizens are “aware of the regulatory process” they might not be aware of specific regulations if agencies only publish them in *The Federal*

³⁴ GovInfo, “Federal Register,”; GPO: U.S. Government Bookstore, <https://bookstore.gpo.gov/catalog/federal-register-print> and GPO, “Welcome to the Federal Depository Library Directory (FDLD),” <https://ask.gpo.gov/s/FDLD>.

³⁵ GPO, “Contact Us,” [https://ask.gpo.gov/s/fdldsearch?type=advanced&advanced=%7B%22Library_Type_c%22%3A%22Public%20Library%20\(PU\)%22%7D](https://ask.gpo.gov/s/fdldsearch?type=advanced&advanced=%7B%22Library_Type_c%22%3A%22Public%20Library%20(PU)%22%7D).

³⁶ GPO, “Contact Us,” <https://ask.gpo.gov/s/fdldsearch?type=searchAll>.

³⁷ Paulina Gonzalez-Brito, Executive Director, California Reinvestment Coalition, “Fake It Till They Make It: How Bad Actors Use Astroturfing to Manipulate Regulators, Disenfranchise Consumers and Subvert the Rulemaking Process: Oral Testimony of Paulina Gonzalez-Brito, Executive Director, California Reinvestment Coalition,” *California Reinvestment Fund*, February 6, 2020, 2, <https://calreinvest.org/wp-content/uploads/2020/02/2.7.2020-PGB-HFSC-Final-Oral-Testimony.pdf>.

³⁸ *Ibid.*, 2.

Register or biannually in the *Unified Agenda of Federal Regulatory Actions*.³⁹ OMB should encourage federal agencies to make summaries of regulations readily available to the public.

NCRC agrees with OMB's recommendation to make information about regulations available in public libraries.⁴⁰ More specifically, agencies should make available annually summaries of 5-10 of the most impactful regulations on underserved communities. The summaries should contain 1-2 bullet points about the regulation, 1 bullet point about how the regulation will impact the community where the regulation is posted, and a final bullet point about how residents can share feedback on the regulation. Making summaries of regulations more available in public libraries has the potential to increase public participation in government.

7. Partner with Civil Rights, Labor, and Other Community-Based Organizations to Raise Awareness of Regulations and the Regulatory Process

In its July 2023 memo, OMB encouraged federal agencies to partner with community-based organizations to overcome underserved communities' barriers to participation.⁴¹ NCRC agrees that federal agencies should partner with civil rights, labor, and other community-based organizations to host in-person and virtual informational sessions at various stages of the rulemaking process since these organizations may have more frequent contact with and are more familiar to underserved communities than federal agencies. NCRC also agrees with OMB that federal agencies should clearly present the issue the regulation hopes to resolve, the information the agency wants to collect in the rulemaking, its application to local communities, and how the public can participate in the process.⁴² Perhaps local chapters of various civil rights, labor, civic, and other community-based organizations can host multiple meetings with Federal agencies and community members on weekends to maximize participation.⁴³

8. Publicize Rulemaking Through Television and Online Campaigns

Federal agencies should advertise rulemaking to adapt to the way that many Americans consume news — through social media. According to a 2023 study from Pew Research Center, 33% of American adults sometimes consumed news through social media while 17% of American adults

³⁹ Revesz, Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, Memorandum for the Heads of Executive Departments and Agencies, Re: "Broadening Public Participation and Community Engagement in the Regulatory Process," 7 and 10.

⁴⁰ *Ibid.*, 18.

⁴¹ *Ibid.*, 9-10 and 18.

⁴² *Ibid.*, 17.

⁴³ *Ibid.*, 18-19.

often consumed news through social media in 2022.⁴⁴ Federal agencies should consider partnerships with YouTube, Instagram, TikTok, and Facebook to simultaneously livestream webinars featuring Federal agency officials discussing the rulemaking process at various stages. Federal agencies should also request that these social media platforms heavily advertise these webinars to engage as many people as possible.

Moreover, federal agencies are no stranger to working with the Ad Council to amplify important messages to the American public. Notably, federal agencies collaborated with the non-profit during the depths of the COVID-19 pandemic.⁴⁵ In March 2020, the Ad Council collaborated with the White House, Centers for Disease Control (CDC), and Department of Health and Human Services (HHS) to produce coronavirus Public Service Announcements (PSAs).⁴⁶ These ads provided pivotal information to the American public about how to protect themselves from COVID-19, especially if they were members of a high-risk group.⁴⁷ Federal agencies should also consider a partnership with the Ad Council to launch online and television ad campaigns to illustrate how participating in the rulemaking process can supplement voting to make Americans' voices heard.

Thank you for your consideration of our recommendations on this important issue. Please contact Nichole Nelson, Senior Policy Advisor, at nnelson@ncrc.org with any questions.

Sincerely,
Jesse Van Tol
National Community Reinvestment Coalition

⁴⁴ Jacob Liedke and Luxuan Wang, "Social Media and News Fact Sheet," *Pew Research Center*, November 15, 2023, <https://www.pewresearch.org/journalism/fact-sheet/social-media-and-news-fact-sheet/>.

⁴⁵ Jeanine Poggi, "Ad Council, Top Media Companies, White House Partner on Coronavirus PSAs," *Ad Age*, March 16, 2020, <https://adage.com/article/advertising/ad-council-top-media-companies-white-house-partner-coronavirus-psas/2244766> and Ad Council, "Our History," <https://www.adcouncil.org/our-story/our-history>. Scroll down to the year, "2020."

⁴⁶ *Ibid.*

⁴⁷ Poggi, "Ad Council, Top Media Companies."