

Comments by Advocates for Basic Legal Equality, Inc. and Reinvest Toledo on Proposals for Broadening Public Engagement in the Federal Regulatory Process

The following comments respond to the Office of Information and Regulatory Affairs' (OIRA) potential recommendations for broadening public participation in the federal regulatory process. Advocates for Basic Legal Equality, Inc. (ABLE) is a non-profit law firm that provides free, high quality legal assistance to people with low incomes in Western Ohio. Reinvest Toledo is a community coalition whose mission is to be a catalyst for neighborhood organizing led by residents, be an advocate for neighborhood investment from banks and community developers, and be a forum for neighborhood leadership to meet, plan, and strategize.

Of the recommendations in the current proposal, ABLE and Reinvest Toledo believe the following will be particularly effective in increasing public engagement in the regulatory process especially by underserved communities:

- (1) Proactively disseminating materials that explain the regulatory process by partnering with community-based organizations, trade associations, and other institutions (like public libraries) would be welcome. It will increase the possibility that people whose interests are often marginalized will have a voice in how the laws that will affect them will be enforced.
- (2) Encouraging agency review of comments received to ensure stakeholders were engaged and, if not, conducting outreach to potentially affected communities is fundamental. With input from underserved stakeholders, democracy will be strengthened and systems will be more likely to be responsive to resident needs.
- (3) Producing material in easily accessible formats, particularly in video form, will expand access and increase transparency. The Department of Labor video explaining a 2016 change in overtime exemption rules is a good example of how a video can explain a new rule in a simple and easily accessible manner. Doing more of this should help members of affected groups to better understand proposed rules and regulation and better allow them to comment on such rules and regulations.
- (4) Similarly, adapting material to mobile-friendly formats, such as cell phones, and offering alternatives to PDFs should also be an effective manner of broadening engagement because most people have a cell phone and would be able to access materials disseminated in a more mobile-friendly manner. Thus, material disseminated in this way would be more likely to reach members of disadvantaged communities.

While the above are particularly good steps in broadening the engagement of members of disadvantaged communities, ABLE and Reinvest Toledo have the following recommendations that would improve the current proposal:

- (1) Agencies should evaluate the impact of measures that they already have taken to increase public engagement. For example, if an agency has produced a video or other materials intended to explain a proposed rule or regulation in a plainer manner, the agency should monitor and record the number of people who access the video or materials.

- (2) Similarly, after enacting recommendations for broadening public engagement, agencies should evaluate whether the methods used to implement the recommendations were effective in increasing the number of comments on regulations from disadvantaged members of affected groups. Tracking the addresses of people who make comments on regulations and then compiling statistics on where commentors originate from would be one way to achieve this.
- (3) One obstacle to broader public participation not addressed by the current recommendations is lack of computer or Internet access by persons of low-income. Most of the recommendations assume that members of the affected population readily have access to a computer and an Internet connection. However, some low-income persons do not have easy access to a computer or Internet connection.

Conducting frequent in-person or telephonic sessions allowing for comment on regulations after providing adequate notice of such sessions would be one method of broadening opportunities for engagement by persons with limited access to a computer or the Internet.

- (4) Explanations of regulations tend to be word dense with lots of information included. This can make it difficult for a member of the public to understand the rule or regulation and can serve as a disincentive to commenting on a rule or regulation.

To combat this, agencies should include plenty of summaries and more concise explanations of the proposed rule or regulation in addition to in-depth descriptions. These are additional manners in which agencies can make materials accessible and usable by members of the public than the ones listed in the current proposal.

- (5) Failing to define and explain acronyms used in rule and regulation descriptions can make it difficult for members of the public to understand a proposed rule or regulation.

Agencies should be sure to define and explain acronyms used, perhaps more than once, to ensure that members of the public fully understand the proposed rule or regulation.

- (6) Failing to consider seriously comments made by members of the public can act as a disincentive to persons affected by a proposed rule or regulation from making comments in the future on similar topics.

Therefore, after the commenting period has ended and an agency has taken final action, the agency should communicate to community members the types of comments it considered in coming to its final decision on the rule or regulation concerned.

We thank you for taking on this project and already developing some effective solutions for increasing public participation in the regulatory process. Implementing our recommendations will only serve to improve this effort, especially for members of disadvantaged communities. We appreciate your taking the time and effort to consider them.

Sincerely,

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