



Feedback on Broadening Public Engagement in the Federal Regulatory Process - March 2023

[Open Contracting Partnership \(OCP\)](#) is an independent non-profit based in Washington D.C. working across many sectors and levels of governments in more than 25 countries, including the U.S. – [with powerful results](#). Our mission is to make public procurement more open, inclusive, and fair by transforming public procurement into a results-driven, digital service that delivers value for people and the planet through open data, technology, advocacy, and collaboration.

We applaud the Office of Management and Budget, Information and Regulatory Affairs in its efforts to be more inclusive for the federal regulatory process and have provided specific feedback on that below:

2. Are there obstacles or barriers to greater public participation, especially for underserved communities, that are not addressed by these recommendations? If so, are there other recommendations that we should consider?

Make regulatory material more accessible and useable by members of the public

Regulation is often sprawling and littered with regulatory ‘dark matter’, such as memos, guidance, circular notes, etc., which are often outside the scope of strict regulation and oversight from any one authority. These need to be tamed. Set out clear principles to enhance clarity, enable consistent application and harmonization, and minimize the risk of conflict with other laws or regulations. Decrease the amount of this regulatory ‘dark matter’ that exists now and avoid and limit the amount moving forward. As seen in the UK Cabinet’s Office consultation response on procurement reform, more than 80% of respondents [supported this streamlining](#). The [Open Contracting Legislative Guide](#) provides guidance on how to do this.

Proactively engage communities early and throughout the regulatory process to efficiently use government and community time and resources

Administrative burden and poor customer experience are a few of the barriers to greater public participation. Rather than asking more of people, particularly underserved communities, leverage more and/or better automate feedback loops that already exist.

At Open Contracting Partnership we’ve worked with countries around the world on implementing open contracting data and civic monitoring platforms so that voices of underserved communities in particular can be heard when it comes to spending and monitoring public money.

For example, in [Buenos Aires, Argentina](#), we worked with a local civic activist group in one of the villa communities to use different tools and approaches to engage city officials and contractors in planning, prioritizing, and delivering the public works most urgently needed. Their analysis of what was working

and what was missing kickstarted a productive dialogue between the inhabitants of the settlements and the city government. And, as a result, a new centralized unit in the city government was created to strengthen monitoring and evaluation, to increase inclusion of residents in planning of projects, and to consolidate data. This model is now being expanded from to other informal settlements, reaching more than 200,000 inhabitants in the city.

3. Are there existing materials, such as guides or tools, that would be especially effective in revising and potentially implementing these recommendations? What new tools or guidance are needed?

One of the key requests from our global community is getting help to make the case for open contracting. We put together an open [contracting advocacy toolkit](#) to help navigate the tools, resources, and tips needed to navigate proposing and providing feedback on regulations and change management, specific to open contracting and procurement. This could provide ideas or precedence for this work.

4. How can intermediaries—such as trade associations or coalitions—be helpful in reaching individuals and small organizations or businesses, where have they been successful in doing so, and where might they be insufficient?

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Lack of awareness is often a barrier for providing feedback. Another big barrier is trust.

There are many examples when requests for feedback from the government felt disingenuous. For example, vendors can be skeptical about [responding to requests for information](#) in fear that their responses, and subsequently time and resources spent, will be for nothing.

This trust can be built up by working with and through these intermediaries. Individual people or businesses, oftentimes those from underserved communities, trust these intermediaries far more than they might working with or providing feedback with/to government entities.

For example, vendors turn to chambers of commerce, APEX Accelerators, or nonprofit organizations like us at Open Contracting Partnerships to provide anonymous feedback to governments on procurement and contracting practices and regulations. These vendors believe that if they give the government feedback themselves that there will be repercussions, such as lack of winning future business. The City of El Paso, and local partners, such as the El Paso Hispanic Chamber of Commerce and Contract Opportunities Center (local APEX Accelerator) is a model to explore.

In addition to building trust and increased participation in regulatory feedback, collaboration with intermediaries leads to even larger outcomes. In [Moldova](#), for example, thanks to a collaboration between civil society and government agencies procurement policies and practices have been established using multi-stakeholder engagement as well as stimulated competition in the pharmaceutical market that led to more fair prices for medicines with the country saving 15.4% on medical procurement overall in 2021.