

March 10th, 2023

OIRA, Office of Management and Budget
725 17th St NW
Washington, DC 20503

RE: Broadening Public Engagement in the Federal Regulatory Process

Dear Biden-Harris Administration Colleagues,

Thank you for the opportunity to share recommendations and feedback on Office of Information and Regulatory Affairs and Office of Management and Budget's summary of learnings and potential recommendations on broadening public engagement in the Federal regulatory process.

CLASP is a national, non-partisan, anti-poverty organization that has advocated for policy solutions that support the needs of people with low incomes for over 50 years. We develop practical yet visionary strategies for reducing poverty, promoting economic opportunity, and addressing barriers faced by people of color. We work at the federal, state, and local levels to fight poverty and promote racial equity. CLASP has deep expertise on programs across HHS including Medicaid, behavioral and mental health, and child care assistance.

We respond to these questions posed in your post:

1. Which of the following recommendations would most effectively broaden public engagement in the Federal regulatory process, especially from members of underserved communities and those who do not typically participate in the regulatory process? Are there recommendations that are not helpful?

CLASP is generally supportive of the recommendations put forth by OMB. We appreciate the administration's commitment to increasing the likelihood that members of the public will learn about opportunities for public comment by using plain language in all materials, disseminating information in forms other than the written word, ensuring all websites are mobile-friendly, and including pop-ups on agency websites that encourage the people most impacted to share their opinions. These recommendations also acknowledge the vital role of people directly impacted by a rule in formulating regulatory priorities, shaping rules before they are even published, and ensuring it will meet their communities' needs once proposed. We are strongly supportive of the recommendation to review whether robust public engagement occurred in the rulemaking process, conducting outreach where there are gaps.

All the recommendations made by OMB are much needed, but they will likely not be sufficient in encouraging *robust* public engagement, especially among underserved populations who have learned from hard experience to distrust government's genuine interest in their perspectives. We hope that our comment illuminates additional strategies federal agencies can pursue to earn back trust from people

who have been exploited or underserved by government.

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 the comment period more accessible to non-English speakers. We appreciate the recommendation that members of the public should be able to provide input in multiple formats, such as through recorded video or audio submissions in addition to written submissions. However, we are greatly concerned by the omission of a recommendation to allow submission of comments in languages other than English. We have worked hard to engage members of immigrant communities in commenting on a range of rules that have great impact on them, such as the public charge rule and the DHS fee schedule, and the requirement to submit comments only in English has been highly burdensome.

Standardize the length of time people have to respond to comments and normalize re-opening the comment period. In general, to allow for greater public participation, 90-day comment periods should be standard, and 30-day comment periods should only be used under exceptional circumstances. 30-day comment periods amplify the power of professional lobbyists and large corporations who have people on staff whose only job involves monitoring relevant legislation or proposed rules. Underserved communities often need additional time to, first, learn about comment opportunities, and then prepare a response on a timeline that works for their busy schedules. This flexibility is especially needed when comment periods fall over holidays. The currently open rule on asylum policies is an example of a rule where impacted populations will be less heard because of the short time limit. In instances where members of the community miss an important rule that impacts their lives, agencies should consider re-opening or extending comment periods.

Ensure that opportunities to engage in the regulatory process beyond comment-writing are accessible. It is particularly important to be mindful of the many, everyday competing priorities that underserved populations have to navigate, especially if they are experiencing poverty. To minimize the “time tax” of participation in public engagement efforts beyond just comment-writing, agencies could:

- Not using first-come first-serve to fill spaces when there is limited opportunity for participation in public engagement opportunities;
- Allow people to record and submit their remarks without having to sit in a meeting for hours while others speak;
- Hold multiple short listening sessions at variety of times and locations rather than just a few longer ones;
- Trust local community advisors on scheduling and locating events; they will be better equipped to answer questions like “Is transit available?” or “Will people of different cultural backgrounds be comfortable in this setting?”

Weave relationship-building into the regulatory process. To achieve robust community engagement in the regulatory process, OMB has correctly identified that agencies must engage communities early and at each stage of rulemaking. However, robust—as in honest and non-transactional—public participation requires agencies to be intentional about healing the relationship between governments and underserved or exploited communities. This deep engagement requires time and intentional

relationship-building, which may not be possible within the constraints of notice and comment rulemaking.

OMB should encourage agencies to engage impacted communities early in the process of policy development, as they are shaping their proposals. Often, the intermediary between agencies and impacted people are community-based organizations (CBOs). Agency staffers should be expected to build relationships with CBOs who work closely with the populations that their programs serve, even if they are not program grantees. OMB could support this process by designing a contact map of CBOs so that agencies can communicate information to them directly. Continued engagement over a long period of time will help humanize the agency to CBOs and the communities they serve, in turn demystifying the regulatory process.

Be purposeful when choosing between mass engagement and repeat engagement strategies. In the regulatory process, there are several steps before a rule is officially proposed in the federal register. As OMB has flagged, each agency sets priorities in the biannual Regulatory Agenda, and national nonprofits like CLASP are frequently in contact with agencies as rules are being drafted. When setting priorities for the year, it may be more equitable for agencies to pursue a mass engagement strategy, compiling as many diverse perspectives as possible. Agencies could host (or support intermediaries to host) listening sessions in communities across the U.S and online. On the other hand, seeking community input on the nuances of rules may demand a repeat engagement strategy, including time to educate people on the existing rules and how programs would be affected so they can provide informed opinions. Repeat engagement with the same group of people can lead to more thorough input so long as the group is representative of all identities who may be most impacted by the rule change.

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?

We highly recommend HHS/ASPE's resources on engaging people with lived experience in federal research, programming, and policymaking: <https://aspe.hhs.gov/lived-experience>

Other useful resources include:

- [10: Engaging People with Lived/Living Experience: A Guide for Including People in Poverty Reduction](#)
- [Fighting Hunger by Connecting Cross-Sector Partners and Centering Lived Expertise](#)
- ["Why am I always being researched?" A guidebook for community organizations, researchers, and funders to help us get from insufficient understanding to more authentic truth](#)
- [Accessible Digital Engagement:](#)
- [Working with Grassroots Groups](#)
- [Fostering Partnerships for Community Engagement](#)

To increase participation from underserved or exploited communities, agencies may need support identifying relevant CBOs, direct service organizations, or other intermediaries. OMB could support this relationship-building effort by designing a contact map of organizations who serve the populations

impacted by each federal agency's programs. Such a map would enable agencies to communicate information about opportunities to engage in the regulatory process to people more directly.

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?

Intermediaries that are trusted by underserved or exploited communities can be highly successful in reaching individuals, explaining the potential impacts of a proposed rule, and demystifying the regulatory process. CLASP was a co-chair of the Protecting Immigrant Families campaign that helped generate very large numbers of individual comments on the public charge rule. However, this was an unusually visible rule, where foundations were able to provide financial support to allow for the development of physical and online materials, translations, and in some cases, the hiring of organizers to work directly with members of impacted communities. Community based organizations do not have the resources to provide this sort of support, and they should not be asked to do so without being paid for their work. Depending on the type of public engagement process, they may also need to compensate people with lived experience for the costs of transportation, child care, and missed wages.

We appreciate the opportunity to provide feedback on input in such a critically important process. If you have any additional questions or follow ups, please contact us below.

Best,

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