



May 17, 2024

Ms. Cheryl Klein
Senior Advisor for Equity
Office of Performance and Personnel Management
Office of Management and Budget
725 17th St NW
Washington, DC 20503

Subject: OMB RFI: Methods and Leading Practices for Advancing Public Participation and Community Engagement With the Federal Government

Dear Ms. Klein and OMB Team,

We at the Environmental Data and Governance Initiative (EDGI) are thrilled to comment on the Office of Management and Budget's RFI "Methods and Leading Practices for Advancing Public Participation and Community Engagement With The Federal Government," Docket ID OMB-2024-0005. EDGI is a research collaborative promoting evidence-based policy-making and public interest science that advances the Environmental Right to Know. Since our inception in late 2016, we have documented and analyzed changes to the accessibility of federal public information, and have recently conducted research to examine and improve the public comment process. We were glad to participate in OIRA's development of its memo "Broadening Public Engagement in the Federal Regulatory Process," and are pleased to see OMB's continued focus on public participation with this RFI. We would be thrilled to be in further contact about this critical issue; please reach out to Gretchen Gehrke, gretchen.gehrke@envirodatagov.org, 917-887-4244 for questions, clarifications, or any further discussion.

Comment Highlights

EDGI appreciates OMB's initiative to build a framework agencies can implement to advance public participation and community engagement (PPCE). In order to do this effectively, EDGI stresses three key points:

- (1) To be effective and worthwhile, the primary goal of advancing PPCE must be to improve the *impact* public participation has on federal actions and activities, not simply to increase the breadth or frequency of public participation.

- (2) The OMB framework needs to design PPCE approaches that have the appropriate timing and depth of input sought such that the participating public has the opportunity to *direct* government actions as well as provide opinions on them.
- (3) Information management must be central to these efforts. A diverse range of PPCE efforts will require different types of informational resources, but there must be a minimum standard for information management so the public may always know where to find and how to share information to effectively engage with the federal government. There must be designated places on agency websites where agencies provide informational resources to support public understanding of and involvement in critical issues.

EDGI Responses to OMB Key Questions

1. Experience participating in Federal Government PPCE activities:

- *What is the Federal Government doing well when you (or your organization) participate in or try to participate in government PPCE activities? Please include any specific examples.*

There are three key actions the Federal Government takes that support us feeling eager and prepared to participate:

- (1) The agency publicizes the PPCE opportunity through multiple avenues, including the agency's website. We often learn about opportunities through agency listservs, social media, press releases, and notices on issue-specific webpages.
- (2) The agency provides information with an array of detail, from the high-level "what's the point of this" summary to the fine print of a proposed regulation, and provides information tailored to different stakeholder groups. It's critical for the agency to maintain relevant information about an issue throughout the regulatory process and beyond, even if a rule will be rescinded. When information is stripped from agency websites during active regulatory processes, [as we documented repeatedly during the Trump administration](#), it curtails public participation.¹ Rather, maintaining historical documents on an agency's website provides access and essential context to engender public understanding, particularly for issues that agencies have approached in multiple ways, like the Waters of the United States rule or EPA's greenhouse gas emissions rules.
- (3) The agency provides a forum where we can be in dialogue with the agency. The vast majority of opportunities for participation are one-directional sharing of information with the agency, with an agency bulk "response to comments" document posted to a docket months later. While this makes sense given the

¹ Environmental Data and Governance Initiative, "Access Denied: Federal Web Governance Under the Trump Administration," February 21, 2021. <https://envirodatagov.org/publication/access-denied-federal-web-governance-under-the-trump-administrati on/>.

capacity of agencies and the requirements of the Administrative Procedure Act, the most meaningful and productive engagement and participation we have is when we can be in conversation with agencies.

- *What challenges, including any physical or digital accessibility barriers, have you encountered when you (or your organization) participate in or try to participate in Federal Government PPCE activities? How could those challenges have been avoided or mitigated? Please include any specific examples.*

EDGI is a network of professional researchers and advocates, so we have encountered few physical or digital accessibility barriers that hindered our participation. The most common limiting factor for our engagement is when we learn about an opportunity too close to the deadline to prioritize engagement. There needs to be a designated place where agencies describe the issues they are working on, what stage the agency is in with regard to that issue, and when public involvement opportunities will arise. This would not replace the Federal Register (FR), but rather, would be more expansive and encompassing than the regulatory actions published in the FR, and would highlight issues the agency is researching or developing well before they are in the regulatory process.

The OIRA memo “Broadening Public Engagement in the Regulatory Process,” recommended that agencies use the Unified Agenda to provide information about public engagement opportunities. Unfortunately, the Unified Agenda is onerous to search and filter, and agency personnel that we’ve spoken with have pointed out that the Unified Agenda is often out of date before it is even published. Rather than making the Unified Agenda the key place for the public to seek out information, we recommend that each agency have a central landing page where agencies can provide more context for each issue and include more diverse issues, such as frameworks or guidelines and programmatic initiatives, and issues at earlier stages of agency research.

- *What might the Federal Government do to make it easier or more likely for you (or your organization) to participate and engage with the Federal Government to inform government decision-making (e.g., to share concerns, recommendations, experience, knowledge, or expertise on government policies, regulations, programs, plans, priorities, and services)?*

Four foundational steps the Federal Government can take to facilitate greater public participation are to:

- (1) Create a clear path for engagement, including for engagement initiated by members of the public. Agencies should have designated points of contact – public engagement units – for each center or national program that the public can

contact to identify problems and priorities. These public engagement units should be able to route people to the appropriate person(s) to speak with about their issue. The public engagement units should also host lists of topics the agency is working on, including issues that are further upstream than what is published in the Unified Agenda or Federal Register, which they can share with members of the public.

- (2) Build in more early engagement opportunities in the regulatory process. Instead of only seeking public comment at the proposed rule stage, agencies should include a Request for Information step when the agency first delves into an issue. This would aid the agency in gathering public input for both problem and solution identification, and would make it easier for the agency to be responsive to public input, before it has devoted months or years to pursuing a particular regulatory path.
 - (3) Offices within agencies that *can* be more responsive, should be. For example, the Office of Environmental Justice in the EPA doesn't have the regulatory responsibilities that many other offices do, and it should leverage that flexibility to be responsive to public input.
 - (4) Adopt strong website governance and information management practices to provide the public with relevant, applicable, accessible information geared toward a variety of audiences, and that can support the public in deepening their understanding of an issue and the government's approaches to it. Maintain that information, ensuring that government research is kept in the public domain, through live websites or appropriately maintained online archives. Prioritize making information easy to find and use for the public.
- *What is your understanding of how individuals and organizations can engage with the Federal Government to inform government decision-making, and of various opportunities (both past and present) to do this? What can the Federal Government do to reach and include a broader and more diverse range of people and groups, especially those who might typically be missed?*

The key to reaching more diverse people and broadening engagement is to make public engagement worth the public's time investment to engage. In our experience working with nonprofit organizations, grassroots environmental groups, and individuals, people will engage if they see tangible outcomes from their engagement. Agencies should engage diverse stakeholders, especially impacted communities, early enough that those stakeholders can see the agency's application of the information they shared.

Developing regulatory approaches that are fundamentally responsive to public input may be very challenging and even require a paradigm shift in how an agency carries out its mission. However, agencies can begin by developing highly responsive programmatic approaches.

2. Content in a Federal framework for PPCE:

- *What types of content (e.g., methods, tools, definitions, research on the value of participation and engagement, promising practices) could OMB include in a Federal framework for PPCE that would be effective and informative for Federal agencies to initiate or improve their participation and engagement activities, including those carried out with underserved communities? Please share any specific examples.*

There is remarkably little scholarly research about public participation and its effects on government actions. We recommend that OMB fund research to examine how agencies respond to public input, specifically exploring: (1) the types of information and evidence contributed by the public and whether and how agencies utilize those types of information, and (2) the relative influence of public participation for different types of agency actions (e.g. frameworks and guidelines versus programs and services versus regulations), and (3) how different agencies respond differently to public input. We recommend agencies document characteristics of public contributions and their responses to enable further research. For example, we recommend agencies tally changes to proposed rules and incorporation of public comment suggestions, track different types of contributions (e.g. personal experiences versus citation of research), track the characteristics of individuals and organizations who submit comments and engage in other forms of public participation.

- *How might OMB facilitate agencies adopting and effectively applying such practices, given the wide range of possible PPCE activities and focus areas?*

The underlying key to effective and productive PPCE is information management. Each agency needs to be able to tailor its practices to ensure that its public engagement strategy and tactics are appropriate for the agency's specific actions. A central component of any and every PPCE strategy, however, is provision of information. There needs to be a consistent place on each agency website where the public can learn about issues the agency is researching or addressing, opportunities for public participation, and avenues for proactive information sharing by members of the public.

It is also critical that the federal government provide relevant and useful information to the public about issues the agency is researching or addressing. Currently, the development of informational resources for public consumption are mostly ad hoc, and the resources vary widely. The public should be able to come to rely on agencies to provide informational resources that support public learning. There should be a rubric for which types of resources are developed, so the public can know what to expect and how to find information that may assist their participation.

Website governance rules also must be developed to stipulate when informational resources about an issue can be added, altered, and removed. With very limited federal information policies, agencies are currently allowed to alter any and all information on their websites at any time. Under a previous administration, [EDGI observed agencies strip public informational resources about regulatory issues during active regulatory proceedings](#), undermining public understanding and participation. Information management policies should address this vulnerability.

- *What are effective ways for the Federal Government to provide updates to the public about the feedback it receives during, and decisions made after, PPCE activities? Please include any specific promising practices.*

For PPCE activities relating to regulatory issues, we recommend more proactive agency management of the docket. Specifically, there should be a posted schedule detailing the date by which all comments (that pass agency approval for appropriate content) that were received during a public comment period will be made publicly available on Regulations.gov. Currently, agency working groups have discretion about when they post comments to the docket to be viewed publicly, and often comments are not posted until the final rule is posted. We strongly recommend making the public's comments available to the public shortly after they are submitted. We also recommend that video recordings as well as transcripts of public meetings and hearings be made public in the docket shortly after their conclusion. Finally, we recommend that OMB stipulate that agencies *must* post their official Responses to Comments in rules' dockets. Critical documents like the Responses to Comments frequently fail to be posted to the docket and are notably challenging for the public to find. Ensuring timely and consistent posting of the agency responses will help the public learn whether they swayed an agency through their comments as well as compare how agencies have responded to public input in the past..

- *What goals and objectives should OMB consider when developing a Federal framework for PPCE?*

The primary goal OMB should consider when developing a Federal framework for PPCE is making public participation more meaningful. The goal should not be to broaden and expand public participation, but to design approaches to decision-making that are coextensive with PPCE, such that the public's participation substantially influences agencies' actions. Agencies should seek to incorporate public input as much as possible, not as much as reduces legal liability. The timing of PPCE and the depth at which agencies share information with and engage the public should be designed with the intent to maximize the public's contributions to the agency's work. Agency responsiveness to the public should become a key metric of overall agency performance.

- *What guidance might OMB provide to agencies for developing their own goals and objectives for participation and engagement? What metrics could OMB suggest to help agencies assess the success and/or impact of their PPCE activities (e.g., participant diversity, breadth and saturation of reach, new or unique perspectives gained, engagement quality, engagement satisfaction, usability of feedback on government decision-making)?*

EDGI recommends that agencies develop metrics for how meaningful the engagement was and for agency responsibility. For example, we recommend agencies develop metrics for:

- New issues identified that the agency agrees to probe, investigate, or address
- Alternative solutions proposed that the agency will consider
- New agency actions spurred for an ongoing, known issue
- Agency actions halted for reexamination because of concerns raised by the public

3. Collaborative process to co-develop a Federal framework for PPCE:

- *In co-developing a Federal framework for PPCE, what specific steps should OMB take that involve the Federal Government and the public, especially engaging members of underserved communities, to ensure collaborative development of the framework? Please share any promising practices and successful examples.*

To ensure collaborative development of the framework that is informed by underserved communities, EDGI recommends that OMB proactively recruit participants in the framework development process that reflect the diversity of participants OMB hopes to usher in to engage with the government through the new PPCE practices.

In order to do this well, we strongly recommend OMB design a process that allows for varying levels of participation. Especially in underserved and overburdened communities, people's time may be at a premium, and some may only be able to attend one meeting and offer their wisdom by speaking for a few minutes. Others may be able and ready to be a steady presence for several months. Allow contributors to self-select into different levels of participation. In our experience, focus groups with leaders of stakeholder groups, including one for larger nonprofits and one for grassroots organizations, can be very productive venues for episodic participation.

We suggest that OMB identify programs within federal agencies that have substantial experience with PPCE with frontline and underserved communities, such as the EPA's Superfund program, and ensure that representatives from those programs are key members of the framework development team. Additionally, we suggest OMB consult

with NGOs and networks that have been raising issues related to these, particularly those in the open government movement, to tap into the deep wisdom and experience these organizations can share.