

VIA ELECTRONIC TRANSMISSION

November 29, 2024

Hon. Shalanda Young
Director
Office of Management and Budget
The White House
1800 F ST NW
Washington, DC 20004

Re: Broadening Public Participation and Community Engagement with the Federal Government; Draft Memorandum and Toolkit (October 29, 2024).

Dear Director Young:

The undersigned trade associations welcome the opportunity to comment on the Office of Management and Budget's (OMB) draft memorandum and toolkit regarding "Broadening Public Participation and Community Engagement with the Federal Government." We appreciate OMB's efforts to improve engagement in the rulemaking process. Our associations strongly support fostering robust and inclusive public involvement, as it enhances transparency, builds trust, and leads to better-informed policies. We therefore offer the following comments on specific elements of the draft documents.

I. Background

The requirement to engage with the public in rulemaking is codified in the Administrative Procedure Act,¹ Executive Order 12866,² and other regulatory frameworks. However, a consistent, government-wide approach to meaningful engagement has yet to be fully realized. Inconsistencies persist across agencies, with some implementing robust strategies and others conducting perfunctory, procedural exercises. These disparities, often due to resource limitations, gaps in expertise, or competing priorities, hinder the goal of equitable and effective engagement.

Our trade associations³ play a vital role in ensuring that the voices of our members—including small businesses, disadvantaged enterprises, and other stakeholders—are represented in federal policymaking. By pooling resources and expertise, we provide informed, collective input that

¹ Administrative Procedure Act, 5 U.S.C. §§ 551 et seq. (1946).

² Exec. Order No. 12866, 3 C.F.R. 638 (1993).

³ Our associations represent diverse industries critical to the U.S. economy. These sectors sustain our modern standard of living and economic security. We and the businesses we represent are committed to fostering economic opportunity through good-paying jobs and community investments, alongside promoting safety, innovation, and environmental stewardship.

enhances the quality of agency decision-making. The undersigned trade associations are well-versed in advocating for transparency and collaboration throughout this process.⁴

II. Comments on the Memorandum and Toolkit

A. OMB should explicitly define “the public” to include organizations like associations.

The memorandum defines “public participation” broadly but does not explicitly define “the public.” We recommend that OMB define “the public” in a way that includes various interested parties. Agencies such as the Environmental Protection Agency have adopted inclusive definitions that account for diverse viewpoints in rulemaking, including trade associations, which OMB could use as a model.

Federal agencies must also recognize the vital role associations play in amplifying their members’ voices, particularly those who lack the resources to engage individually. Many stakeholders, especially small businesses, rely on their associations to represent their perspectives, allowing them to focus on core operations while benefiting from expert advocacy. Even with improved accessibility, many of these stakeholders will continue to trust associations to act on their behalf.

Comments submitted by associations reflect the collective expertise and perspectives of their members and should not be discounted simply because they come from a group rather than an individual. Recognizing associations as part of “the public” would help ensure agencies can leverage informed and representative input, strengthening the engagement process.

B. Agencies should clearly define their objectives before engaging with the public.

Purposeful engagement requires agencies to define their goals before initiating outreach. Many times, agencies promulgate rules only to later identify defects that could have been resolved through early, meaningful engagement. Agencies should focus on early engagement with entities directly impacted by a rule, particularly those subject to enforcement actions, to ensure a balanced and well-reasoned approach.

⁴ See e.g., Comments on Office of Management and Budget’ request for information on Methods and Leading Practices for Advancing Public Participation and Community Engagement With the Federal Government, filed on May 17, 2024, available at <https://www.artba.org/wp-content/uploads/2024/05/OMB-PPCE-Coalition-Comments-FINAL-2024.pdf>; See also Comments on Release of Achieving Health and Environmental Protection Through EPA’s Meaningful Involvement Policy, filed on January 16, 2024, available at <https://artba.org/wp-content/uploads/2024/02/EPA-Public-Involvement-Policy-Comments-FINAL.pdf>; See also Comments on Office of Science and Technology Policy Request for Information: Development of a Federal Environmental Justice Science, Data, and Research Plan, filed on January 12, 2024, available at https://artba.org/wp-content/uploads/2024/02/For-Submittal_Coalition-Comments-on-OSTP-RFI-EJ-Research-Plan-1-12-24-1.pdf; See also Comments on Agency Information and Collection Activities; Request for Comments; Information on Meetings with Outside Parties, filed on February 20, 2024, available at https://www.artba.org/wp-content/uploads/2024/02/OIRA-ICR-12866-Meetings-FINAL_2.20.24.pdf; See also, U.S. Chamber of Commerce et al., *Business Community Comments on Guidance Implementing Section 2(e) of the Executive Order of April 6, 2023 (Modernizing Regulatory Review)* (June 6, 2023), https://www.artba.org/wp-content/uploads/2024/02/Business-Community-Comments-Draft-2e-Guidance-6_6_2023.pdf.

Clearly articulating the specific information sought, the decisions to be informed, and how public input will influence outcomes, allows the regulated community to provide targeted, relevant feedback. The memorandum and toolkit should emphasize that purposeful planning is critical to achieving effective public participation.

C. Prioritizing staff training is essential to fostering meaningful engagement.

Agency personnel are essential to fostering constructive public engagement, but there is significant variation in how agencies approach participation due to differences in staff expertise and limited practical knowledge of complex regulatory issues.

While the toolkit highlights training resources, it should emphasize key areas for development: using plain language to simplify regulations, engaging early with directly impacted entities, and fostering collaborative relationships with all stakeholders, including those with differing views.

The toolkit provides valuable guidance, but additional emphasis on partnering with trade associations and other organizations would enhance its practical application. Our associations can extend agencies' outreach by acting as trusted intermediaries and facilitating meaningful participation. Many of our members have deep ties with the communities in which they operate. Thus, we can offer insights into regulated entities' needs, convene members for agency engagement, and facilitate agency education of our members to enhance the effectiveness of public participation. OMB can bolster the toolkit by including case studies or examples of successful agency collaborations to further strengthen its utility and ensure agencies are engaging existing structures for partnerships.

D. Evaluating meetings and engagement activities are key to strengthening accountability.

Agencies should utilize tools to assess the effectiveness of public meetings and engagement activities. Post-meeting surveys that evaluate clarity, inclusiveness, and responsiveness can help refine these processes. Publicly reporting these evaluations enhances transparency and builds trust. Additionally, clearly explaining how public comments influenced agency actions reinforces the importance of participation. Too often, agencies fail to explain how comments received were incorporated into a particular policy. This may disincentivize participants, as they are unclear as to whether they have been heard.

E. OMB should emphasize longer comment periods, and timely publication of documents in the *Federal Register*.

Effective public participation depends on sufficient time for stakeholders to provide meaningful input. The short comment period (30 days) for this memorandum and toolkit may limit the ability of interested parties to consult with groups or members, synthesize feedback, and develop detailed responses. We recommend a minimum of 60 days for public comment periods, with extensions for complex initiatives or those where significant supplemental materials are added to the docket. In limited situations where a longer comment period is not needed, the agency should

discuss what outreach has already been conducted as justification. When the agency receives an extension request, every effort should be made to grant such request, and responses should be provided in a timely manner, but before the end of the comment period.

Additionally, agencies should ensure that by the start of the comment period all documents subject to public review⁵ are published in the *Federal Register* and maintained on accessible dockets in [Regulations.gov](https://www.regulations.gov). These documents should not solely be placed on the agency website. This consistency aligns with OMB's own guidance and improves stakeholder awareness of engagement opportunities

III. Conclusion

We appreciate OMB's commitment to broadening public participation and ensuring that engagement is purposeful, inclusive, and transparent. OMB's efforts can be further enhanced by explicitly recognizing the role of all interested parties, including associations and other organizations. Additionally, OMB should direct agencies to emphasize clear objectives when conducting outreach, prioritize staff training, implement evaluation tools, provide additional time for commenting, and promote transparency in publication. Our associations are available to partner with OMB and federal agencies to advance these efforts.

Should you have any questions or require additional information, please contact Prianka Sharma at psharma@artba.org.

Sincerely,

Alliance for Chemical Distribution
American Coke and Coal Chemicals Institute
American Farm Bureau Federation
American Road & Transportation Builders Association
Associated General Contractors of America
Essential Minerals Association
National Asphalt Pavement Association
National Lime Association
National Mining Association
National Stone, Sand and Gravel Association
Portland Cement Association
PRINTING United Alliance
The Aluminum Association
Treated Wood Council
USA Rice
U.S. Chamber of Commerce

⁵ This includes but is not limited to guidance documents, implementation memos, toolkits and handbooks etc.