

when the adjudicator determines the records to be relevant to the proceeding.

F. To appropriate agencies, entities, and persons when (1) OMB suspects or has confirmed that there has been a breach of the system of records; (2) OMB has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, OMB (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with OMB's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

G. To another Federal agency or Federal entity, when OMB determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach; or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

H. Where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law—criminal, civil, or regulatory in nature—the relevant records may be referred to the appropriate Federal, state, local, territorial, tribal, international, or foreign law enforcement authority or other appropriate entity charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law.

I. To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for OMB, when necessary to accomplish an agency function related to this system of records.

J. To the public, unless it is determined that the release of the specific information in the context of a particular case would constitute a clearly unwarranted invasion of personal privacy.

K. To such recipients and under such circumstances and procedures as are mandated by Federal statute or treaty.

L. To other agencies as necessary for the review of regulatory actions or information collection requests.

#### **POLICIES AND PRACTICES FOR STORAGE OF RECORDS:**

Records in this system are stored in electronic or paper form in secure facilities. The records may be stored on magnetic disc, tape, and digital media.

#### **POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:**

Records are retrieved by individuals' names, titles, or organizations.

#### **POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:**

These records will be managed in accordance with OMB's published records schedules as approved by the National Archives and Records Administration (NARA). All unscheduled records, meaning records without a NARA-approved records retention schedule, are retained until a records retention schedule is approved by NARA. Once a schedule is approved, all existing records will be processed according to the requirements set forth in that schedule.

#### **ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:**

All records are maintained in secure, password-protected electronic systems that use security hardware and software to include multiple firewalls, active intrusion detection, encryption, identification, and authentication of users. All security controls are reviewed on a periodic basis by external assessors. The controls themselves include measures for access control, security awareness training, audits, configuration management, contingency planning, incident response, and maintenance. Access to the information technology systems containing the records in this system is limited to those individuals who need the information for the performance of their official duties and who have appropriate clearances or permissions.

#### **RECORD ACCESS PROCEDURES:**

Individuals' requests for access to records in this system of records may be sent to OMB's FOIA Officer, by mail to Office of Management and Budget, 725 17th Street NW, Room 9204, Washington, DC 20503, or by email to [OMBFOIA@omb.eop.gov](mailto:OMBFOIA@omb.eop.gov), and should be made in accordance with OMB's Privacy Act Procedures which can be found at 5 CFR part 1302.

#### **CONTESTING RECORDS PROCEDURES:**

Individuals' requests for amendment of a record in this system of records may be sent to OMB's FOIA Officer, by mail to Office of Management and Budget, 725 17th Street NW, Room 9204, Washington, DC 20503, or by email to

[OMBFOIA@omb.eop.gov](mailto:OMBFOIA@omb.eop.gov), and should be made in accordance with OMB's Privacy Act Procedures, which can be found at 5 CFR part 1302.

#### **NOTIFICATION PROCEDURES:**

Individuals' requests for notification as to whether this system of records contains a record pertaining to them may be sent to OMB's FOIA Officer, by mail to Office of Management and Budget, 725 17th Street NW, Room 9204, Washington, DC 20503, or by email to [OMBFOIA@omb.eop.gov](mailto:OMBFOIA@omb.eop.gov), and should be made in accordance with OMB's Privacy Act Procedures, which can be found at 5 CFR part 1302.

#### **EXEMPTIONS PROMULGATED FOR THE SYSTEM:**

None.

#### **HISTORY:**

None.

**Shraddha A. Upadhyaya,**

*Senior Agency Official for Privacy, Office of Management and Budget.*

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## **OFFICE OF MANAGEMENT AND BUDGET**

### **Request for Comments on Proposed OMB Circular No. A-4, "Regulatory Analysis"**

**AGENCY:** Office of Management and Budget.

**ACTION:** Notice of availability and request for comments.

**SUMMARY:** The Office of Management and Budget (OMB) is requesting comments on proposed Circular A-4, "Regulatory Analysis."

**DATES:** Comments are requested on the proposed Circular on or before June 6, 2023.

**ADDRESSES:** The proposed Circular itself is available at <https://www.whitehouse.gov/wp-content/uploads/2023/04/DraftCircularA-4.pdf>.

A preamble to the proposed Circular is available at <https://www.whitehouse.gov/wp-content/uploads/2023/04/DraftCircularA-4Preamble.pdf>.

Please submit comments via <http://www.regulations.gov>, a Federal website that allows the public to find, review, and submit comments on documents that agencies have published in the **Federal Register** and that are open for comment. Simply type "OMB-2022-0014" in the search box, click "Search," click "Comment," and follow the instructions for submitting comments. All comments received will be posted to

<http://www.regulations.gov>, so commenters should not include information they do not wish to be posted (e.g., personal or confidential business information).

**FOR FURTHER INFORMATION CONTACT:** Office of Management and Budget, Office of Information and Regulatory Affairs, at [MBX.OMB.OIRA.A4Modernization@omb.eop.gov](mailto:MBX.OMB.OIRA.A4Modernization@omb.eop.gov).

**SUPPLEMENTARY INFORMATION:** Since 2003, *OMB Circular A-4, Regulatory Analysis*,<sup>1</sup> has provided guidance to Federal agencies on the development of regulatory analysis as required under Section 6(a)(3)(C) of Executive Order 12866 (Regulatory Planning and Review),<sup>2</sup> the Regulatory Right-to-Know Act,<sup>3</sup> and a variety of related authorities. OMB has proposed revisions to the Circular, as well as a preamble that offers further context for prospective public commenters and peer reviewers. In addition to this request for public comments, OMB will be conducting a peer review of these materials in accordance with OMB's *Final Information Quality Bulletin for Peer Review*<sup>4</sup> and the Regulatory Right-to-Know Act.

**Richard L. Revesz,**  
Administrator, Office of Information and Regulatory Affairs.

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## OFFICE OF MANAGEMENT AND BUDGET

### Request for Comments on Guidance Implementing Section 2(e) of the Executive Order of April 6, 2023 (Modernizing Regulatory Review)

**AGENCY:** Office of Management and Budget.

**ACTION:** Notice of availability and request for comments.

**SUMMARY:** The Executive Order of April 6, 2023 (Modernizing Regulatory Review) (hereinafter, Modernizing E.O.) calls for a number of reforms to the

process through which the public requests meeting with the Office of Information and Regulatory Affairs (OIRA) on regulatory actions under review pursuant to Executive Order 12866 (E.O. 12866 meetings). These reforms are intended to facilitate the initiation of meeting requests from potential participants who have not historically requested such meetings, as well as to improve the efficiency and effectiveness of E.O. 12866 meetings. This notice announces and requests comment on guidance regarding these reforms.

**DATES:** Consideration will be given to all comments received by June 6, 2023.

**ADDRESSES:** The draft guidance is available at <https://www.whitehouse.gov/wp-content/uploads/2023/04/ModernizingEOSection2eDraftGuidance.pdf>. Submit comments by the following method:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments at the docket OMB-2022-0011. Comments submitted electronically, including attachments to <https://www.regulations.gov>, will be posted to the docket.

Please submit comments only and cite 12866 Meetings Guidance in all correspondence. To confirm receipt of your comment(s), please check [regulations.gov](https://www.regulations.gov), approximately two to three business days after your submission.

**FOR FURTHER INFORMATION CONTACT:** Office of Management and Budget, Office of Information and Regulatory Affairs, at [MBX.OMB.OIRA.EOmeetingsguidance@omb.eop.gov](mailto:MBX.OMB.OIRA.EOmeetingsguidance@omb.eop.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Executive Order 12866 of September 30, 1993, "Regulatory Planning and Review," as amended, establishes and governs the process under which OIRA reviews agencies' significant regulatory actions. E.O. 12866 meetings occur at the initiative of outside parties who request a meeting with OIRA about a regulatory action that is under OIRA review to present their views. OIRA invites to these meetings representatives from the agency or agencies that would issue the regulatory action, though participation may be limited by scheduling or other considerations.

E.O. 12866 meetings serve as listening sessions for OIRA officials. Members of the public can share their views with OIRA on a regulatory action under review, as well as any scientific,

technical, social, or economic information, or information drawn from individual experience that may be helpful to OIRA officials while reviewing a regulatory action. During such meetings, OIRA officials may ask clarifying questions but will not share deliberative or pre-decisional information about the regulatory action under review.

E.O. 12866 meetings with OIRA are not a substitute for submitting comments to the action agencies under their applicable regulatory procedures.<sup>1</sup> OIRA typically reviews regulatory actions, such as rules, undertaken by other agencies. Accordingly, OIRA is not the action agency and views shared only through the E.O. 12866 review process would not be considered properly submitted during the notice and comment period.

##### II. Overview of Reforms

The Modernizing E.O. directs the OIRA Administrator to implement reforms designed to reduce the risk or the appearance of disparate and undue influence on regulatory development. The reforms outlined here serve to facilitate meeting requests from individuals and groups that have not historically requested such meetings, including those from underserved communities, improve the efficiency and effectiveness of the regulatory review process, and increase transparency around the E.O. 12866 meetings process, while treating all members of the public—no matter their resources or viewpoints—consistently and fairly. These reforms also help to implement President Biden's Presidential Memorandum of January 20, 2021, "Modernizing Regulatory Review." That Memorandum called for the Office of Management and Budget (OMB) to "identify reforms that will promote the efficiency, transparency, and inclusiveness of the interagency review process,"<sup>2</sup> which includes E.O. 12866 meetings. Reforms under consideration include:

- a variety of strategies to provide information to facilitate the initiation of meeting requests from potential

<sup>1</sup> Office of Mgmt. & Budget, Exec. Office of the President, Circular A-4, *Regulatory Analysis* (Sept. 17, 2003), available at [https://www.whitehouse.gov/wp-content/uploads/legacy\\_drupal\\_files/omb/circulars/A4/a-4.pdf](https://www.whitehouse.gov/wp-content/uploads/legacy_drupal_files/omb/circulars/A4/a-4.pdf).

<sup>2</sup> Exec. Order No. 12866, 58 FR 51735 (Oct. 4, 1993).

<sup>3</sup> Public Law 106-554, section 624, 114 Stat. 2763A-161 (codified at 31 U.S.C. 1105 note).

<sup>4</sup> Office of Mgmt. & Budget, Exec. Office of the President, OMB M-05-03, *Final Information Quality Bulletin for Peer Review* (Dec. 16, 2004), available at [https://www.whitehouse.gov/wp-content/uploads/legacy\\_drupal\\_files/omb/memoranda/2005/m05-03.pdf](https://www.whitehouse.gov/wp-content/uploads/legacy_drupal_files/omb/memoranda/2005/m05-03.pdf).

<sup>1</sup> See Executive Order 12866 section 10, 58 FR 51735, 51744 (Oct. 4, 1993) ("This Executive order is intended only to improve the internal management of the Federal Government and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person."). The E.O. 12866 process also does not supersede the requirement to do Tribal consultation where it is required pursuant to E.O. 13175. See Executive Order 13175, 65 FR 67249 (Nov. 9, 2000).

<sup>2</sup> Modernizing Regulatory Review section 2(b)(iv), 86 FR 7223, 7224 (Jan. 26, 2021).