Priorities for
Public Participation and
Open Government

Recommendations to President Obama

Submitted by

Program for the Advancement of Research on Conflict and Collaboration (PARCC)
Maxwell School of Citizenship and Public Affairs, Syracuse University
on behalf of attendees of the
Workshop on Public Participation and Open Government*

August 2013

Contact: Dr. Tina Nabatchi, PARCC, 400 Eggers Hall, Syracuse University, Syracuse, NY 13244
Phone: (315)443-2367. Email: tnabatch@syr.edu

Priorities for Public Participation and Open Government Recommendations to President Obama

On June 19-20, 2013, more than 25 representatives of Federal agencies, civil society organizations, academic institutions, and the White House Executive Office of the President met for a workshop on public participation and open government. Public participation includes a wide range of processes that bring together stakeholders and average citizens to learn about, discuss, and act on public issues. The *Open Government Directive* notes that "Participation allows members of the public to contribute ideas and expertise so that their government can make policies with the benefit of information that is widely dispersed in society."

During the two-day workshop, the group identified priorities for strengthening the role of public participation in open government and developing metrics for assessing the public participation work of Federal agencies. Based on those priorities, the group agreed on eight top-level policy recommendations that can be implemented with executive branch action. The eight policy recommendations are divided into two broad categories: (1) recommendations for strengthening the role of participation in open government, and (2) recommendations about metrics for assessing participation. The recommendations for each category are listed below and further explained in the remainder of the document.

Recommendations for Strengthening the Role of Participation in Open Government

Many aspects of the Open Government Initiative have received attention and seen successful action. For example, there are a wide variety of programs and applications for the gathering and sharing of data; the President's *Strategy for American Innovation* has elevated the use of challenges and competitions; and civic hacking is becoming a regular feature in government, in part due to entrepreneur-in-residence programs, such as the Presidential Innovations Fellows. While these kinds of activities certainly draw on "expertise that is widely dispersed in society," they are not representative of the full range of possibilities for participation in the context of open government. Relatively little attention has been paid to the role of public participation in government decision and policy making, in part because open government programs predominantly fall within the Chief Information Officer (CIO) function of agencies. To further promote the role of participation in open government, we developed four general policy recommendations, each with a set of priority actions. The four policy recommendations are:

1. Clarify the role and goals of participation within the context of open government.
2. Help agencies develop the internal capacity to do participation.
3. Raise the bar for participation formats and use a wider variety of participation methods, including in-person, online, mobile app, and hybrid arrangements.
4. Review, and where necessary and possible, use an incremental approach to clarify or revise the legal framework for participation.

Recommendations about Metrics for Assessing Participation

To fully appraise participation activities and ensure they are achieving open government as well as agency goals, agencies need to assess aspects of both process and impact. At a minimum, agencies need to collect and report the process design characteristics of their participatory activities, as well as the impacts such activities have on individual participants, agencies and administrators, communities, policy, and civic infrastructure. However, agencies cannot do this assessment work alone, and may need to involve civil society and academic institutions. With this in mind, we developed four general policy recommendations, each with a set of priority actions, that we believe will help improve the metrics used for assessing participation. The four policy recommendations are:

1. Require agencies to explicitly address participation in their next Open Government Plans.
2. Require agencies to capture and report data about the design of participatory activities and programs, as well as about the impacts of participation on administrators, agencies, and policy.
3. Develop a generic, OMB-approved tool that all agencies can use to collect common data about individual participants for routine uses.
4. Encourage agencies to work with civil society organizations and academic institutions to assess the impacts of participation on communities and their civic infrastructure.

We strongly urge the Administration to implement these eight policy recommendations, which will continue to spur strong action and results for the Open Government Initiative. Senior leadership from the White House and Federal agencies will be critical to the success of these recommendations, and to open government as a whole.

Recommendations for Strengthening the Role of Participation in Open Government

1. Clarify the role and goals of participation within the context of open government.

Issue and Rationale:

While much progress has been made on the Open Government Initiative, there is still confusion among agency officials, civil society representatives, academics, and citizens about how participation fits into this work. Public participation is facilitated at the Federal level under many different job titles and in many different ways; however, those doing such work sometimes do not call it "participation." Others do not see the need for participation in their work. Moreover, not all recognize that participation is a process (not just a single point engagement), and that over the lifecycle of an issue, a wide range of different participatory opportunities, activities, and functions may be utilized. For these and other reasons, there is a need to clarify the roles and goals of participation within the context of open government.

Priority Actions:

To help clarify the roles and goals of participation within the context of open government, the following priorities should be pursued:

- The Administration, in conjunction with relevant parties, should release a memo that clarifies the role of participation in open government and explains how and why participation is central to agency missions. This memo should lay the groundwork for a wide variety of participatory activities and explicitly connect to specific laws and mandates that require some form of participation (e.g., the Administrative Procedure Act; the National Environmental Policy Act; the President's Executive Order on Improving Customer Service and Streamlining Service Delivery; and the President's Memorandum on Modernizing Federal Infrastructure Review and Permitting Regulations, Policies, and Procedures, among others).

- Although their mandates are different, the ties between the Office of Science and Technology Policy (OSTP) and the Office of Public Engagement (OPE) should be strengthened to enable a common vision of participation and open government. As part of this effort, OSTP and OPE can work to better define public participation and public engagement, and bring together the scope of participatory activities in coherent way.

2. Help agencies develop the internal capacity to do participation.

Issue and Rationale:

Generating buy in and momentum for participation in open government requires a culture shift within and across agencies. At present, many Senior Executive Service (SES) leaders and program managers do not see participation as being central to and critical for their work. Moreover, those who do see the merits of participation often lack the knowledge, skills, and abilities to launch effective and meaningful programs. For these and other reasons, there is a need to help agencies develop the internal capacity to do participation.

Priority Actions:

To help agencies develop the internal capacity to do participation, the following priorities should be pursued:

- Identify and make available the participation point of contact in each agency.

- Support opportunities for trainings/continuing education designed to enhance the knowledge, skills, and competencies of participation. Conduct a survey of existing professional development and education opportunities to determine whether assets can be shared among agencies. Promote the creation of shareable materials.

- Support communities of practice across agencies. There is a critical need to find and convene people doing participatory work (in all of its forms) so they can engage in peer-to-peer learning, share ideas and best practices, generate innovations, and sustain momentum beyond the tenure of this Administration and other political changes.

- Create a platform that collects and reports stories of success, models of best practice, and innovations in participation at all levels of government and across civil society.

3. **Raise the bar for participation formats and use a wider variety of participation methods, including in-person, online, mobile app, and hybrid arrangements.**

Issue and Rationale:

The Open Government Initiative was, in part, intended to reshape the practices and activities of participation. However, there is still an over-reliance on traditional methods of participation that use one-way communication and focus on information sharing. Empirical and anecdotal evidence suggests that these traditional methods satisfy neither decision makers nor the public and can further strain the relationship between government and its constituents. For these and other reasons, there is a need to help agencies raise the bar for participation formats and use a wider variety of participation methods, including in-person, online, mobile app, and hybrid arrangements.

Priority Actions:

To raise the bar for public participation formats, the following priorities should be pursued:

- Agencies should be encouraged to experiment with participatory approaches, including those that use two-way and deliberative communication, and those that give higher levels of shared decision making authority to participants. At a minimum, agencies should be encouraged to explain how public input will be used and explore how to better connect public input to agency decision making.

- The White House should encourage agencies to strengthen ties to universities and civil society organizations that have experience with and knowledge about participation and that train technical and public administration officials. Shared sponsorship of participatory efforts should be investigated.

4. Review, and where necessary and possible, use an incremental approach to clarify or revise the legal framework for participation.

Issue and Rationale:

The legal framework for participation is problematic for several reasons. It consists of laws, rules, and regulations that are over thirty years old and pre-date the internet. It constrains the forms of participation and restricts the type, scope, and size of participatory processes agencies can use. It limits what agencies are able to do with information gathered through participation. In short, the laws regulating participation are in tension with the functionality and mission of agencies, as well as with the purposes and goals of participation, and the current legal framework leaves public officials and staff wondering whether the best practices in participation are in fact supported – or even allowed – by the law. For these and other reasons, the legal framework for participation should be reviewed, and where necessary and possible, an incremental approach should be used for clarification and revision.

Priority Actions:

To review and clarify the legal framework for participation, the following priorities should be pursued:

- The Office of Management and Budget (OMB), perhaps in conjunction with the collaborative governance research project of the Administrative Conference of the United States, should examine the legal framework for participation. Attention should be paid to the specific laws, executive orders, and other mandates that require participation, as well as to the laws that govern the implementation of participation, such as Federal Advisory Committee Act (FACA), Paperwork Reduction Act (PRA), and Section 508 of the Rehabilitation Act, among others. OMB should look to the efforts of the Working Group on Legal Frameworks for Public Participation, which includes representatives from state and local governments, professional organizations, and academic institutions.

- In the near term, OMB should issue a policy guidance memo that clearly states what *is* and *is not* allowed under the current legal framework. This memo should include guidance for participation in the rulemaking process and specifically address timelines for when engagement is permitted throughout the rulemaking lifecycle. Many officials are uncomfortable experimenting with participatory innovations for fear of breaking the law. Such guidance would go a long way toward alleviating concerns.

- Over the longer term, the Administration should consider drafting new legislation that explicitly authorizes participatory processes – something akin to the Administrative Dispute Resolution Act of 1996. Such legislation should ensure that agencies have the authority to conduct robust, meaningful, and innovative participatory processes, use the input gathered through participation, and disclose to the public the policy and decision processes surrounding the issue(s) of concern.

Recommendations about Metrics for Assessing Participation

1. Require agencies to explicitly address participation in their next Open Government Plans.

Issue and Rationale:

As noted previously, many SES leaders and program managers do not see participation as being central to or critical for their work, and often agency officials lack the knowledge, skills, and abilities needed to launch effective and meaningful participatory programs. These and other problems could, at least in part, be remedied if participation was clearly addressed in agency Open Government Plans. Doing so could help agencies determine whether and how participation is useful in the achievement of their missions, set goals and standards for participation, and develop benchmarks and metrics for assessing programs. Such plans could also help stimulate the cultural shift needed for participation to become both central to the Open Government Initiative and institutionalized in the regular work of government. For these and other reasons, there is a need to require agencies to address participation in their Open Government Plans.

Priority Actions:

To help with the requirement for agencies to address participation in their next Open Government Plans, the following priorities should be pursued:

- OSTP and OPE should issue clarifying guidance for the 2014 update of agency Open Government Plans. This guidance could be formal or informal, but should provide clear requirements for how agencies should address the participation requirements of the Open Government Directive and provide more concrete actions to improve participatory experiences. OSTP and OPE should work with the Federal Executive Board (FEB) on this effort to ensure the open government and participation maintain momentum apart from political cycles.

- This guidance could address several useful issues, including but not limited to:
  - Statements about the agency's commitment to the principles of participation and the usefulness of and goals for participation in terms of agency missions.
  - Descriptions of participation projects and/or programs, including successes and challenges and whether participation is conducted at the project level or infused throughout the agency.
  - Assessments about agency capacity to conduct participation (e.g., budgets; technological, human, and other resources; training, etc.).
  - Explanations about whether and how participation is included in individual development plans and/or performance evaluations.

2. Require agencies to capture and report data about the design of participatory activities and programs, as well as about the impacts of participation on administrators, agencies, and policy.

Issue and Rationale:

Capturing and reporting information about how participatory programs are designed, as well as about their impacts on administrators, agencies, and policy, will be crucial for developing a robust body of knowledge about when, where, why, and how participation works best at the Federal level. Such information can be easily collected and assessed by agencies if agency reporting structures are sharpened and made more specific.

Priority Actions:

To assist agencies with the capturing and reporting of data about participatory designs and impacts on administrators, agencies, and policy, the following priorities should be pursued:

- The Administration should convene a working group to determine the best formats and measures for data collection and analysis. Data collection and analysis should not place excessive burden on already busy public administrators. Moreover, the group should examine the standardized metrics that exist in this area. (Academics and representatives of civil society can help identify these metrics.)
- Several areas of information about program design should be considered, such as:
  - Process choices such as participant selection and recruitment; participation mode (e.g., in-person, online, mobile app, hybrid); level of shared decision making authority (e.g., informing, obtaining feedback, collaborative co-creation); and communication modes (e.g., one-way, two-way, deliberative), among others.
  - Agency requirements to launch the program (e.g., staffing, budgets, other inputs).
  - Whether implementation of the project/program matched its design and achieved mission-specific outcomes.
- Several areas of information about impacts on administrators and agencies should be considered, such as:
  - Satisfaction of policy makers, managers, and staff.
  - Contributions of the participatory program/project to the agency participation plan.
  - Cost or time-savings generated through participation.
  - Impact of program/project on agency capacity.
- Several areas of information about impacts on policy should be considered, such as:
  - The usefulness of participants' input.
  - Whether and how participant input was used in policy or decision making.
  - Whether and how information was shared with public about how input shaped the policy or decision.

3. Develop a generic, OMB-approved tool that all agencies can use to collect common data about individual participants for routine uses.

Issue and Rationale:

One of the most important reasons for conducting participation is that it gives citizens a voice in the work of government. To determine the success of participation, it is critical that the impacts on individual participants be assessed. However, several laws, rules, and regulations limit agencies' ability to collect and use individual-level data. Without such information, agencies are severely restricted in their ability to evaluate, learn from, and improve their methods of participation. For these and other reasons, a generic, OMB-approved tool should be developed that all agencies can use to collect common data about individual participants for routine uses.

Priority Actions:

To develop a generic, OMB-approved tool that all agencies can use to collect common data about individual participants, the following priorities should be pursued:

- OMB should explore and affirmatively clarify whether such a tool fits under the fast-track clearance process outlined in OMB M-11-26 (see: http://www.whitehouse.gov/sites/default/files/omb/memoranda/2011/m11-26.pdf). In making these clarifications, OMB should also address any Privacy Act concerns associated with such a tool, such as developing a model Privacy Impact Assessment (PIA) and associated model System of Records Notice (SORN), as was done when OMB approved social media and Web 2.0 tools for use by agencies.

- The Administration should convene a working group of OSTP, OPE, and agency officials to determine what individual-level data should be collected, as well as the best methods for collecting such data. This group should begin with an assessment of what data is already approved for collection from website usage, and examine standardized metrics. (Academics and representatives of civil society can help identify these metrics.) OMB should approve the generic use of this tool, while also ensuring that the tool does not place excessive burden on agency administrators or individual participants.

- Several common areas of individual-level assessment should be considered, including but not limited to: *demographic information* (e.g., age, gender, race, ethnicity/nationality, socio-economic status, education), *participant satisfaction* (e.g., satisfaction with outcomes, process, discussions), and *changes in attitudes and behaviors* (e.g., trust in government, learning, efficacy, opinion change, willingness to take action). These and similar data are commonly used to assess the quality of a participation in terms of representation, inclusion, and individual impacts.

4. Encourage agencies to work with civil society organizations and academic institutions to assess the impacts of participation on communities and their civic infrastructure.

Issue and Rationale:

Most participatory exercises are conducted at the local level, often with intended positive impacts for the community and its civic infrastructure (defined as the systems and structures that give people the power and the tools to solve their community's problems and shape its future). However, the time lag between the participatory event and its community-level impacts is long, which makes this area of evaluation particularly challenging. Nevertheless, assessing the impacts of participation on communities and their civic infrastructure will be critical for institutionalizing participation as part and parcel of the regular work of government. This work is probably not best done by agencies alone. For these and other reasons, agencies should be encouraged to work with civil society organizations and academic institutions to assess the impacts of participation on communities and their civic infrastructure.

Priority Actions:

To help agencies work with civil society and academic organizations to assess the impacts of participation for communities and their civic infrastructure, the following priorities should be pursued:

- The Administration should ask Federal agencies to make assessments of community-level and civic infrastructure impacts part of grantee reporting requirements.

- Several areas of information about <u>community-level and civic infrastructure impacts</u> should be considered, including but not limited to:
    - Number, composition, and capacity of civic groups in the community.
    - Changes in community capacity to address issue(s) of concern.
    - Changes in the density of networks (live and virtual) involved in program/project.
    - Creation of new organizations and increased capacity of existing organizations.
    - Number and capacity of spaces for civic work.
    - Number of individuals with skills and training in participatory work.