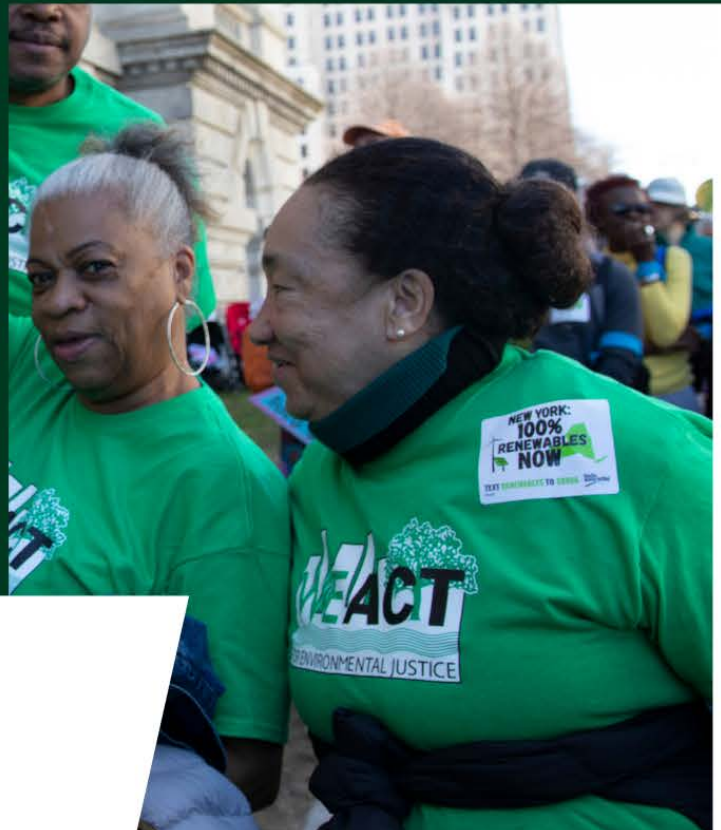




COMMUNITY ENGAGEMENT BRIEF

Ensuring environmental justice communities participate in decision-making on the Justice40 Initiative and beyond.



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INTRODUCTION

The Bipartisan Infrastructure Law and Inflation Reduction Act (2022) allocate nearly \$2 trillion in public funding throughout the country. Federal agencies and departments have a tremendous responsibility to distribute these funds equitably, and we have a tremendous opportunity to make structural changes that address the health and well-being of vulnerable people.

It is well-documented that discriminatory land-use practices and investment decisions have led to vulnerable people residing in highly polluted areas. Thus it is critical that communities of color, low-income communities, and environmental justice communities participate meaningfully in decision-making on key issues related to this legislation.

Community engagement and participation are the cornerstones to creating and implementing equitable, sound and transformational policies, projects, programs and practices. This issue brief provides guidance and highlights best practices for meaningful public participation and robust analysis that yields tangible benefits and investments in underserved and overburdened communities.

Every community has unique needs that require a tailored framework; therefore, this guidance should not be regarded as all-encompassing but rather serves as a starting point for the federal family, companies and project developers to establish a strong foundation that ensures mutually beneficial policy and project outcomes.



GUIDING PRINCIPLES

The foundational principles of environmental justice and democratic organizing established in the Principles of Environmental Justice (1991) and Jemez Principles of Democratic Organizing (1996) must be the starting point for approaching community engagement, public participation and community benefit agreements.

FUNDAMENTAL BEST PRACTICES FOR COMMUNITY ENGAGEMENT

Full and transparent community engagement is necessary to ensure just and equitable policies and project implementation, especially given the historic and current marginalization of environmental justice communities.

Engagement is not merely community involvement: True engagement fully incorporates the community into all facets of the decision-making process. Entities should therefore:

1) Identify all communities that could be directly or indirectly affected by the proposed policy or project.

- Account for communities that could be affected by cumulative impacts, geographic proximity, economic interconnectedness, disruption of existing social structures, etc.
- Establish collaborative processes (ex. open meetings, electronic submission forms, an online map that is open to comments, etc.) whereby communities can identify and designate themselves to be environmental justice communities and/or disadvantaged communities.
- Use the EPA EJSCREEN tool (there is an absence of federal data related to air and water quality, but state-level EJ screening tools can compensate for deficiencies.)

2) Go beyond the minimum requirements of the legislation and establish a cohesive framework for stakeholder outreach.

- Interface with community members early and frequently.
- Couple community meetings with other engagement strategies, such as “focus groups... and consultations with commissions, advisory boards, and community-based organizations.”
- Establish orientation values and principles to guide collaboration among community members and outside entities.
- Prioritize racial justice and racially equitable results when determining policy/project investments and benefits, designing processes, and defining concrete and measurable indicators of success.

FUNDAMENTAL BEST PRACTICES FOR COMMUNITY ENGAGEMENT

3) Make every effort to maximize community participation.

- Strive for multimodal outreach strategies (ex. digital and print forms, door-to-door recruitment) that make information accessible to all, especially in communities with limited broadband.
- Offer wraparound services to promote community attendance at convenings (ex. transportation options, reimbursement of childcare costs).
- Account for health conditions and disabilities that may limit in-person attendance (ex. providing hybrid and virtual options for public engagement).
- Arrange for translation services (if you stipulate that individuals request language translation services, advertise guidelines well in advance and ensure that requests are made in relevant languages.)
- Distribute technical/training/orientation materials in advance of any event, and ensure that such resources are easily understood and translated into relevant languages.
- Identify a pro-bono lawyer to assist with interpreting legal documents and reviewing technical policies.
- Guarantee that meeting places are accessible, ensure that community members have the opportunity to request accommodations and modifications in advance of any convening and incur any costs related to requested accommodations and modifications.
- Consider how convenings and information gathering are designed, scheduled and structured; for example, think about what times and locations are most convenient for community members, use handheld voting devices, collect written comments via “dyads where people ‘interview’ each other,” incorporate breakout groups, etc.
- Issue monetary or equally valuable compensation to recognize individual/community participation and acknowledge the value of information (ex. lived experience, local knowledge, community feedback).
- Create easy and accessible methods for community members and environmental justice groups to share comments and concerns during any policy, project or program phase (i.e. planning, implementation, monitoring, evaluation), giving advance notice for the start of public comment periods and ensuring that public comment periods are a minimum of 90 days.



4) Build trust by fully documenting and publishing all community engagement interactions and exchanges.

- Be clear and truthful about the information that is being collected; this is especially critical in communities where members may have varying documentation statuses and/or do not want to engage with the government or corporate entities.
- Convey how community input is impacting policy/project/program planning and implementation — transparency is essential to ensuring good faith in the process, so correspondence should include all community concerns, and offer an accompanying rationale for the inclusion or exclusion of each concern.
- Publish the outcomes of community convenings (ex. via electronic updates, summary announcements at subsequent meetings, formal reports, etc.)
- Provide community feedback and updates in a timely fashion, in writing and within 60 days.
- Credit the people and/or organizations whose ideas or feedback were incorporated in the final policy/project/program (ex. verbal or written acknowledgements, attributed comments, etc.)

2. Government Alliance on Race and Equity (GARE) "[Racial Equity Toolkit](#)"

3. The Job Accommodation Network (JAN) [Job Accommodation Network](#)

4. Government Alliance on Race and Equity (GARE) "[Racial Equity Toolkit](#)"

Who are the most affected community members who are concerned with or have experience related to this proposal? How have you involved these community members in the development of this proposal?

What has your engagement process told you about the burdens or benefits for different groups?

What has your engagement process told you about the factors that produce or perpetuate racial inequity related to this proposal?"



ENVIRONMENTAL JUSTICE ANALYSES

In the issuance of Executive Order 12898 (“Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations”) federal agencies were directed to “analyze the environmental effects, including human health, economic, and social effects, of their proposed actions on minority and low-income communities.”

Environmental justice analyses are vital components of both community engagement and formal environmental reviews (which evaluate distributional impacts). When considering the unprecedented funding for climate mitigation programs in the Bipartisan Infrastructure Law and Inflation Reduction Act, it is vital that environmental justice analyses be conducted to offer a complete picture of possible project and policy impacts on already overburdened communities. For example, though the White House Environmental Justice Advisory Council has identified numerous climate mitigation strategies that could harm communities yet , projects with these identified harms have already been funded.

Environmental justice analyses are critical to minimize harms and protect environmental justice communities. Environmental justice analyses must be completed before project/policy implementation and even prior to issuing Requests for Information (RFIs), Requests for Proposals (RFPs), or other introductory enquiries. Additionally, environmental justice analyses should be performed by a vetted environmental justice scientific consultant and financed by the project developer or agency.

When conducting environmental justice analyses, entities should:

1) Identify pre-existing environmental, social and economic stressors in the community to contextualize potential impacts and areas of concern that should be addressed.

- Use national and state-level environmental justice screening tools – including but not limited to EJSCREEN (EPA) and CEJST (Climate and Economic Justice) – to determine if the community is an environmental justice community.
- Engage community members in ground-truthing to remedy deficiencies in the state and federal environmental justice screening tools; researchers define ground-truthing as a “community-based participatory strateg[y]... in which community partners, supported by researchers, gather data about pollution sources and their proximity to ‘sensitive receptors.’”
- Layer health-equity data into analyses of environmental justice communities to provide a more comprehensive picture of environmental burdens.

ENVIRONMENTAL JUSTICE ANALYSES

2) Determine the specific ways the proposed policy/project could interact with environmental justice issues that are unique to the community, paying particular attention to cumulative impacts; the EPA cites cumulative impacts to be “the total burden – positive, neutral, or negative – from chemical and non-chemical stressors and their interactions that affect the health, well-being, and quality of life of an individual, community, or population at a given point in time or over a period of time.”

- Perform a cumulative impact/risk assessment to identify compounding interactions, exacerbations and mitigations (Note: While “cumulative impacts” and “cumulative risks” are often used interchangeably, the scientific data that supports each term is different; in this document, both of these terms reference the cumulative burden of various emitting sources and pollutants.)

Box 2 outlines three different approaches to conducting a cumulative impact/risk assessment.

Technical Guidance for Assessing Environmental Justice in Regulatory Analysis” (pg. 42)

“Proximity of regulated sources to minority populations, low-income populations, and/or [I]ndigenous peoples; Number of sources that may be impacting these populations; Nature and amounts of different pollutants that may be impacting these populations; Any unique exposure pathways associated with the pollutant(s) being regulated; Stakeholder concern(s) about the potential regulatory action; and History of EJ concerns associated with the pollutant(s) being regulated.”

Note: If the policy/project is already implemented and the environmental justice analysis is being performed retroactively, slightly different questions should be asked (pg. 35).

From “Cumulative Impacts Recommendations for ORD Research” (pg. 6)

“Community role throughout the assessment, and in particular, identifying problems and potential intervention decision points to improve community health and well-being...Combined impacts across multiple chemical and non-chemical stressors...Multiple sources of stressors from the built, natural, and social environments...Multiple exposure pathways across media...Community vulnerability...Past exposures, especially during vulnerable ages or life stages...Individual variability and behaviors...Health and well-being benefits/mitigating factors... Evaluation of potential interventions that reduce cumulative impacts and improve community health and well-being”

From the Framework for Cumulative Risk Assessment (pg. 10)

“Multiple stressors. Consideration of how the stressors act together rather than individually. Population-focused assessment... mean[ing] that the population needs to be defined and multiple stressors are assessed with regard to impact on that population, although not every individual will see the same (or all) effects...Multiple durations, pathways, sources, or routes of exposure. Multiple effects or impacts. Nonconventional stressors or risk factors (e.g., lifestyle, access to healthcare). These in general need continued research. Quantification of risks.”

ENVIRONMENTAL JUSTICE ANALYSES

- Research how environmental justice communities were affected by similar and/or past policies/projects by looking at academic studies, literature reviews and lived experiences (e.g. public comments, feedback collected from town halls, interviews, reports from local organizations).
- Include a climate impact assessment if the proposed policy/project will alter the greenhouse gas emissions in the community.
- Conduct extensive community engagement to form concrete goals for how the proposed policy/project will relieve environmental injustices, and include final outcomes in Community Benefit Agreements (detailed below).
- Connect federal environmental justice regulations (e.g. Executive Order 12898, the Justice40 Initiative) to proposed policies, and use this relationship to inform and shape environmental justice goals.

3) Utilize mixed methods (quantitative and qualitative) when collecting data to best record the environmental justice impacts of the policy/project.

- Research what analytical methods have been used in similar and/or past policy/project implementation; these could include “proximity-based approaches, risk-assessment, mixed methods, and more.”
- Collect, analyze and present data through the lenses of race/ethnicity and income level to most accurately identify environmental injustices and determine potential long term health effects (race/ethnicity, in particular, is a key indicator of environmental injustices, research shows that race is a better indicator of exposure to air pollution than income); if results cannot be quantified by race/ethnicity or income, structure data collection in another way that “sheds light on potential EJ [environmental justice] concerns.”
- Establish “comparison groups” to illustrate whether the policy/project is causing differential impacts among various populations and/or communities (these groups should be chosen early in the process to maximize the breadth of collected data.)
- Employ precautionary principles to “bridge the gap between weakly understood causes of environmental damages and potentially costly policy interventions”; the four components of precautionary principles are “taking preventative action in the face of uncertainty, shifting the burden of proof to the proponents of an activity, exploring a wide range of alternatives to possibly harmful actions and increasing public participation in decision-making.”
- Follow EPA practices for data collection and analysis.

ENVIRONMENTAL JUSTICE ANALYSES

Note: Steps 2 and 3 will likely work in tandem.

4) Follow the Fundamental Best Practices for Community Engagement (detailed above) when performing environmental justice analysis, and disseminating collected data and findings.



COMMUNITY BENEFITS AGREEMENTS

Community Benefit Agreements (CBAs) are “legal agreements between community groups and developers, stipulating the benefits a developer agrees to fund or furnish in exchange for community support of a project.”

Often, for a CBA to be successful, community organizations must form a united front among different stakeholders and enforce the legal provisions in the document. The following guidelines offer ways an external entity can create a community contract in good faith, to unburden communities from taking on a disproportionate share of the work and guarantee full adherence to the CBA .

1) Ensure there is a shared understanding of a CBA, with a focus on what should be contributed, and the measurable outcomes that determine successful implementation.

- Have unaffiliated negotiator(s)/facilitator(s) with a strong understanding of environmental justice present proposed projects to the community, which curtails project owner/developer bias.
- Provide easily accessible and comprehensible educational materials on CBAs and their benefits, ensuring that materials are highly publicized and available in both electronic and printed formats.
- Organize forums during the CBA deliberation process to discuss the merits and deficits of past CBAs, and take note of community feedback.
- Collaborate with community members to determine the best quantifiable results for measuring CBA success, for example, monetary investment goals, emission reduction targets, pollution mitigation metrics, etc.
- Come to a legal agreement with the community about potential consequences and repercussions for CBA compliance failure; these could include financial restitution, pollution mitigation and remediation, project termination, etc.

2) Prioritize and maximize the participation of disadvantaged community members and/or community subsets.

- Make sure that the CBA includes concrete steps and measurable goals for advancing racial justice and equity.
- Identify the unique barriers that underprivileged community members may have with respect to CBA participation, and address these using the **Fundamental Best Practices for Community Engagement** (detailed above).

COMMUNITY BENEFITS AGREEMENTS

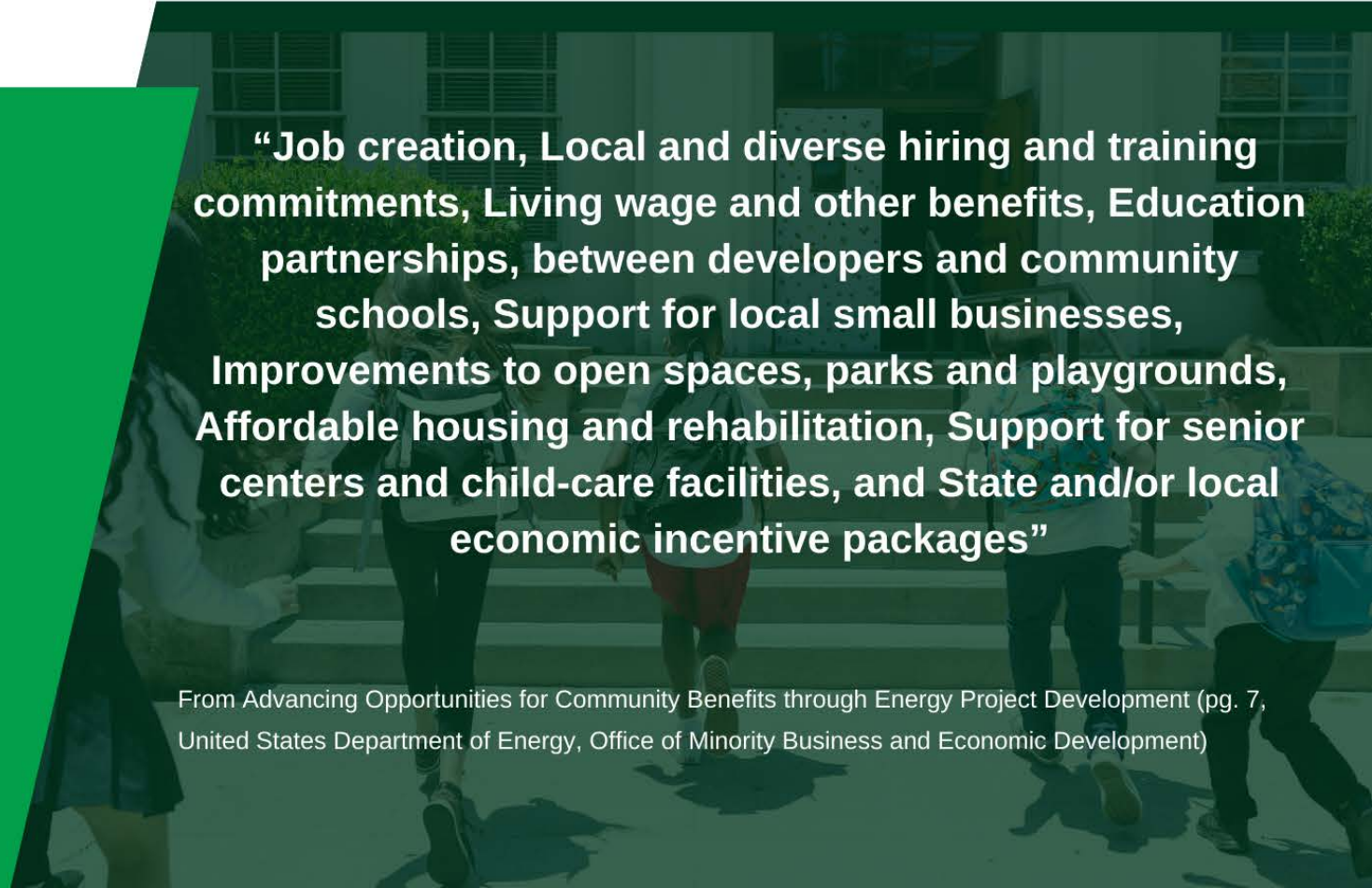
3) Ensure that a large cross section of community members, groups and organizations agree on the CBA terms (because limited adoption is insufficient to begin project implementation).

- Identify community subsets (e.g. “minority-owned small businesses, low-income transit riders, subsistence fishers,” etc.) and make sure that their voices are represented at CBA deliberations.
- Support any coalition-building efforts that will streamline communication between the outside entity and the community at-large.

4) Update the community about CBA implementation on a regular basis.

- Capture and document project progress in plain language.
- Issue reports on project progress, and ensure that these reports are highly publicized, available in both electronic and physical formats, and appropriately translated.
- Hold forums where community members can provide feedback on the trajectory of the CBA, and incorporate this input into subsequent implementation steps.

POSSIBLE COMMUNITY BENEFITS



“Job creation, Local and diverse hiring and training commitments, Living wage and other benefits, Education partnerships, between developers and community schools, Support for local small businesses, Improvements to open spaces, parks and playgrounds, Affordable housing and rehabilitation, Support for senior centers and child-care facilities, and State and/or local economic incentive packages”

From Advancing Opportunities for Community Benefits through Energy Project Development (pg. 7, United States Department of Energy, Office of Minority Business and Economic Development)

PUBLIC PARTICIPATION WITHIN THE NEPA PROCESS

The NEPA process mandates environmental review, and every time “a federal agency develops a proposal to take a major federal action,” the NEPA process is initiated.

This can be an opportunity for impacted communities to provide critical input for the just and sustainable implementation of a project that could significantly affect their health and the surrounding environment. Recent changes in NEPA have restricted avenues for public participation and dismissed considerations of cumulative impacts on EJ communities. Therefore, it is critical for agencies that complete the NEPA process to actively expand community input on proposed projects. Several best practices for encouraging public participation as a federal agency are listed below.

1) Ensure that there is a shared conception of the NEPA process, the duties and scope of your agency, and the proposed project.

- Provide easily accessible and understandable educational materials on these three topics. These should be highly publicized, and available for both electronic and physical access.
- Organize forums before or early on in the NEPA process to convey the cited information.

2) Open a continuous stream of communication between your agency and the impacted communities.

- Establish multiple opportunities early on for community input throughout the NEPA process.
- Give at least 90 days for public comment once the public comment period is open.
- Designate a member of the agency to act as an outreach leader; they (and potentially their team) should be available as often as possible to receive community feedback via highly publicized channels, for example, from a manned call/text line or email address, P.O. Box, contact form on the agency website, etc.
- Examine and work to overcome barriers community members may have in engaging with communication efforts; barriers can be “cultural, institutional, geographic, economic, historical, linguistic, or other,” and it is critical to listen to the community about what these barriers may be.

PUBLIC PARTICIPATION WITHIN THE NEPA PROCESS

3) Ensure that participation occurs at multiple levels within the agency and among different groups within the affected community or communities.

- Establish “leadership positions” specifically for community members; these positions can be part of high-level, collaborative boards, committees, etc.
- Identify and reach out to subsets within a community, such as “minority-owned small businesses, low-income transit riders, subsistence fishers,” etc.

4) Follow the Fundamental Best Practices for Community Engagement (detailed above) in all community engagement efforts undertaken by the agency.

Work with communities when:

- 1) Defining the affected environment**
- 2) Identifying potentially affected minority and low-income populations**
- 3) Assessing potential impacts to minority and low-income populations**
- 4) Assessing potential alternatives**
- 5) Determining whether potential impacts to minority populations and low-income populations are disproportionately high and adverse**
- 6) Developing mitigation and monitoring measures.**



WE ACT FOR ENVIRONMENTAL JUSTICE

1854 Amsterdam Avenue, 2nd Floor, New York, NY 10031 // 212-961-1000

50 F Street, NW, Suite 550, Washington, DC 20001 // 202-800-5896

Web: weact.org // Facebook: [weactforej](https://www.facebook.com/weactforej) // Twitter: [weact4ej](https://twitter.com/weact4ej) // Instagram: [weact4ej](https://www.instagram.com/weact4ej)

For more information reach out to: Naadiya Hutchinson, naadiya.hutchinson@weact.org