



June 6, 2023

Richard L. Revesz
Administrator
Office of Information and Regulatory Affairs

Re: Proposed Revisions to Circular A-4, Regulatory Analysis, and Circular A-94, Federal Spending (Docket Nos. OMB-2022-0014 & OMB-2023-0011)

Dear Administrator Revesz:

We are writing on behalf of the Appleseed Foundation, Arkansas Appleseed, Nebraska Appleseed, New Jersey Appleseed, and Texas Appleseed in support of the Office of Information and Regulatory Affairs' and Office of Management and Budget's recent proposed revisions to Circular A-4¹ and Circular A-94². The Appleseed Network is made up of justice centers across the United States and Mexico working together to reduce poverty, combat discrimination, and advance the rule of law.

Arkansas Appleseed's mission is to increase justice and opportunity for all Arkansans by developing and advancing inclusive, collective, and systemic solutions to complex issues. We prioritize those who are underserved in our state, particularly Arkansans experiencing inequities and injustices. Our ultimate goal with all of our programmatic efforts is to educate community members who have often been shut out of legal processes, and advance policy that fortifies justice and opportunity across Arkansas.

Nebraska Appleseed works on issues directly impacting Nebraskans in urban and rural communities across the state. We use multiple strategies to advance innovative solutions that uplift our communities. In collaboration with community members and leaders, elected officials, and partner organizations, we strive to solve deeply rooted, interrelated systemic issues in a holistic approach: to fight against poverty, discrimination, and reckless

¹ See OMB, Request for Comments on Proposed OMB Circular No. A-4, "Regulatory Analysis," 88 Fed. Reg. 20,915 (Apr. 7, 2023), <https://www.federalregister.gov/documents/2023/04/07/2023-07364/request-for-comments-on-proposed-omb-circular-no-a-4-regulatory-analysis>. This comment addresses both the proposed revisions to Circular A-4 and its preamble.

² See OMB, Public Comment on Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs, 88 Fed. Reg. 20,913 (Apr. 7, 2023), <https://www.federalregister.gov/documents/2023/04/07/2023-07179/public-comment-on-guidelines-and-discount-rates-for-benefit-cost-analysis-of-federal-programs>.

indifference in four focus areas.

New Jersey Appleseed is a nonprofit, legal advocacy center that represents low- and moderate- income households and communities in the State of New Jersey with respect to improving their quality of life; in particular, we take actions that hold corporate and government actors accountable with respect to inclusionary zoning, voting rights, health care and environmentally sustainable and health communities.

Texas Appleseed is a non-partisan, non-profit organization. Our mission is to promote social, racial, and economic justice for all Texans. Our goal is to ensure that all families have the opportunity to live in safe and healthy neighborhoods with equal access to educational and economic opportunity.

The application of Circulars A-4 and A-94 to proposed regulations and federal spending will affect our work in the communities we serve with respect to numerous federal programs and requirements. These include, but are hardly limited to, federal healthcare and social service programs, antihunger programs, housing and homelessness programs, disaster resilience and recovery, child welfare programs, and worker health and safety regulations.

The proposed revisions represent a much-needed update to OIRA's review of proposed regulations and spending. They bring modern economic analysis to this review and reflect the realities of how costs and benefits are experienced in the real world. Of particular importance are the incorporation of income weighting, the renewed focus on distributional effects, and the modernization of the discount rate. These updates will help policymakers more accurately define and consider the true costs and benefits of government action in the real world. We hope that through this modernization effort, the public will be able to better understand the impact of a proposed regulation or spending decision on their lives, increasing the efficiency, transparency, and inclusiveness of the policy-making process.

As to the particular changes, first, we applaud OIRA's recognition of an obvious truth: that the gain or loss of one dollar means something very different to a minimum-wage worker or a low income student than it does to a corporate CEO. Requiring agencies to consider the true benefit or cost their actions will have in the real world—not just in a mathematical formula—is common sense.

Among the many relevant examples, expanding health insurance coverage for low income people, such as current rulemakings to streamline Medicaid and CHIP enrollments³ and expand access to Medicaid, CHIP, and other programs for DACA recipients⁴, is particularly significant. Expanded access to Medicaid under the Affordable Care

3 CMS, Streamlining the Medicaid, Children's Health Insurance Program, and Basic Health Program Application, Eligibility Determination, Enrollment, and Renewal Processes, 87 Fed. Reg. 54,760 (Sept. 7, 2022).

4 CMS, Clarifying Eligibility for a Qualified Health Plan Through an Exchange, Advance Payments of the Premium Tax Credit, Cost-Sharing Reductions, a Basic Health Program, and for Some Medicaid and Children's Health Insurance Programs, 88 Fed. Reg. 25,313 (Apr. 26, 2023).

Act has provided broader than anticipated benefits, in significant part because it “relaxe[d] budget constraints of affected, low-income households, via reduced out-of- pocket health care expenses. In turn, this increase[d] the disposable income of those gaining health insurance coverage to meet other spending needs.”⁵ This additional income resulted in “gains in food security, housing security, financial wellbeing, and child support. They have also reduced crimes that can be borne out of economic despair.”^{id.} Income weighting, which helps policymakers fully account for the significant benefits of such policy changes to low income households, should positively inform current and future regulatory efforts to further expand access to health insurance coverage.

Consideration of income weighting would also enhance federal policymaking in supporting people who are returning to their communities from incarceration. The Administration recently proposed a suite of such policies, some of which would be subject to the proposed revisions through the regulatory review process or the development of spending plans.⁶ These include expanded access to health care, educational opportunities, food and subsistence benefits, and opportunities for jobs and business capital. For any particular returning citizen, the absolute monetary amount provided will be fairly low, but it represents an essential financial foundation for rebuilding a stable, productive life. This support is acutely necessary because people returning from incarceration are disproportionately poor---nearly half reported no earnings in the first several years after leaving prison and 91% were food insecure⁷ ---and they face unique barriers to finding stable employment and housing after incarceration. Accordingly, such relatively modest policy changes provide outsize benefits. The proposed revisions will help policymakers fully account for these effects.

As a final example, income weighting would also bring essential insight into federal disaster resilience and recovery programs. Numerous studies suggest that disasters, and the federal aid that follows them, disproportionately benefit wealthier and white Americans, compared to less affluent communities and communities of color.⁸ This occurs in part because federal disaster recovery and mitigation programs operated by FEMA overwhelmingly determine who is most impacted by a disaster based on property value, which de-prioritizes people and communities that are less affluent. FEMA’s regulatory and spending decisions would benefit from focusing on the especially significant need that these less affluent communities face, a change that income weighting will support, enabling FEMA to structure its disaster relief to more fully serve everyone impacted.

5 The White House, The Effects of Earlier Medicaid Expansions: A Literature Review, (June 22, 2021), <https://www.whitehouse.gov/cea/written-materials/2021/06/22/the-effects-of-earlier-medicaid-expansions-a-literature-review/>.

6 The White House, Fact Sheet: Biden-Harris Administration Takes Action During Second Chance Month to Strengthen Public Safety, Improve Rehabilitation in Jails and Prisons, and Support Successful Reentry, (Apr. 28, 2023), <https://www.whitehouse.gov/briefing-room/statements-releases/2023/04/28/fact-sheet-biden-harris-administration-takes-action-during-second-chance-month-to-strengthen-public-safety-improve-rehabilitation-in-jails-and-prisons-and-support-successful-reentry/>.

7 Alex Berger, Recovery Legislation Offers Chance to Improve Failing Re-Entry System, Center on Budget and Policy Priorities (June 8, 2021), <https://www.cbpp.org/blog/recovery-legislation-offers-chance-to-improve-failing-re-entry-system>

8 Rebecca Hersher, How Disaster Recovery Favors the Rich, National Public Radio (Mar. 5, 2019), <https://www.npr.org/2019/03/05/688786177/how-federal-disaster-money-favors-the-rich>; Junia Howell & James R. Elliott, Damages Done: The Longitudinal Impact of Natural Hazards on Wealth Inequality in the United States, 66 Oxford University Press 448 (Aug. 14, 2018), <https://academic.oup.com/socpro/advance-article/doi/10.1093/socpro/spy016/5074453>.

For similar reasons, we support OIRA's emphasis that agencies should consider distributional effects in conducting their benefit-cost analyses in appropriate circumstances. We are deeply familiar with the ways in which benefits and costs are not spread evenly across all Americans. Focusing on distributional effects is an important way of pressure-testing theoretical benefits and costs to make sure that in the real world, they are not benefiting those who need it least and costing those who can least afford to pay. This is critical not only to ensuring that disproportionate burdens aren't imposed on disadvantaged, vulnerable, or marginalized communities, but to identifying and redressing the history of deliberate government policies, practices, and funding decisions that disadvantaged some communities and benefited others.

For example, the REAL ID Act has created particular difficulties for the communities in which we work. These underserved communities face disproportionate barriers to obtaining valid accurate state identification, which the Act compounds.⁹ Lack of accurate identification is profoundly limiting, affecting the ability to access housing, healthcare, voting registration, education, and other fundamental needs and rights. When the Department of Homeland Security issued implementing regulations for that Act, had it considered the impact of those regulations on underserved communities, it might not have so easily dismissed commenters' arguments that more flexibility about documentation was needed for certain groups to be able to obtain a REAL ID.¹⁰ We are hopeful that the proposed changes will facilitate policymaking that more fully accounts for the needs of such underserved communities in the future.

We are also deeply aware of the historical neglect or differential treatment of low-income communities, particularly communities of color with respect to transportation infrastructure and environmental impacts of development. Enhanced consideration of distributional effects would help licensing and permitting regulatory schemes better account for such environmental justice considerations.

Finally, we support OIRA's proposal to modernize the use of discount rates. Modern policy making should fully and accurately account for longer term benefits and costs, but these consequences have been artificially discounted by the existing review process. In particular, the proposals would empower policymakers to consider the long term benefits of expanding access to health insurance coverage.¹¹ This understanding would reinforce many HHS policy decisions, including the rulemakings with respect to Medicaid and CHIP mentioned earlier. Similarly, there is robust evidence revealing the long-term benefits of anti-hunger programs like the Supplemental Nutrition

9 Movement Advancement Project, *The ID Divide: How Barriers to ID Impact Different Communities and Affect Us All*, (Nov. 2022), <http://www.mapresearch.org/id-documents-report>.

10 See, e.g., *Minimum Standards for Driver's Licenses and Identification Cards Acceptable by Federal Agencies for Official Purposes*, 73 Fed. Reg. 5272, 5295 (Jan. 29, 2008) (rejecting commenters' suggestions that certain documents, such as Native American Tribal Documents, be sufficient to establish identity and that requiring multiple proofs of residence was burdensome on certain individuals, such as people experiencing homelessness).

11 American University School of Public Affairs, *Research finds long-term benefits to Medicaid expansion*, (Aug. 27, 2020), <https://www.american.edu/spa/news/research-finds-long-term-benefits-to-medicaid-expansion.cfm>

Assistance Program (SNAP)¹², access to safe and affordable housing¹³, and access to affordable childcare and high quality early childhood education¹⁴. The proposed revisions would empower policymakers to consider all the benefits of investing in such programs and promulgating regulations facilitating access to them.

Thank you for taking the time to consider our views. We encourage you to finalize the proposed revision promptly. Please do not hesitate to reach out with any questions.



Sincerely,

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¹² Executive Office of the President, Long-Term Benefits of the Supplemental Nutrition Assistance Program (Dec. 2015), https://obamawhitehouse.archives.gov/sites/whitehouse.gov/files/documents/SNAP_report_final_nonembargo.pdf; Steven Carlson & Josephn Llobrera, SNAP Is Linked With Improved Health Outcomes and Lower Health Care Costs, Center on Budget and Policy Priorities (Dec. 14, 2022), <https://www.cbpp.org/research/food-assistance/snap-is-linked-with-improved-health-outcomes-and-lower-health-care-costs>.

¹³ United States Interagency Council on Homelessness, The Importance of Housing Affordability and Stability for Preventing and Ending Homelessness, (May 2019), https://www.usich.gov/resources/uploads/asset_library/Housing-Affordability-and-Stability-Brief.pdf

¹⁴ Taryn Morrissey, Addressing the need for affordable, high-quality early childhood care and education for all in the United States, Washington Center for Equitable Growth (Feb. 8, 2020), <https://equitablegrowth.org/addressing-the-need-for-affordable-high-quality-early-childhood-care-and-education-for-all-in-the-united-states/>; Douglas Rice et al., Child Care and Housing: Big Expenses With Too Little Help Available, Center on Budget and Policy Priorities (Apr. 26, 2019), <https://www.cbpp.org/research/housing/child-care-and-housing-big-expenses-with-too-little-help-available>.