
The Opportunity Impact Statement: Expanding the American Dream

The ongoing investments in the nation's economic recovery have the potential to revitalize our economy, but also the American promise of opportunity itself. American opportunity is based on the idea that everyone should have a fair chance to achieve his or her full potential, and that ensuring this fair chance requires not only certain basic conditions, but also the fulfillment of specific core values: equal treatment, economic security and mobility, a voice in decisions that affect us, a chance to start over after misfortune or missteps, and a sense of shared responsibility for each other as members of a common society. Fulfilling those values is not merely good policy, but part of our fundamental human rights.

An important chance to promote opportunity arises each time a governmental body supports or controls a major public or private project. Taxpayers support, and governments initiate and regulate, a wide range of projects, from highways and mass transit lines, to schools and hospitals, to land use and economic development, to law enforcement and environmental protection. These projects, in turn, can improve or restrict access to quality jobs, housing, education, business opportunities, and good health, among other opportunities. And, depending on their design and administration, they can serve all Americans fairly and effectively, or they can create and perpetuate unfairness and inequality based on race, gender, or other aspects of who we are.

The need for promoting opportunity is stronger than ever, given current efforts to revitalize the economy through the American Recovery and Reinvestment Act of 2009 (ARRA), the Troubled Assets Relief Program (TARP), and other recovery proposals under consideration by the President and Congress. These plans involve unprecedented federal spending linking multiple sectors, and create an opportunity for extraordinary and lasting investment in communities throughout America that need assistance in moving forward toward a strong economic future. It is in this context that we introduce a new and promising policy strategy designed to ensure that publicly supported projects provide equal and expanding opportunity to all communities: The Opportunity Impact Statement.

The Idea: The Opportunity Impact Statement

We envision the Opportunity Impact Statement (OIS) as a unitary evaluation instrument that public bodies, affected communities, and the private sector can use to ensure that programs and projects offer equal and expanded opportunity for everyone in a community or region, as required by law.

There are a large number of statutes, regulations, and executive orders that are designed to assure that recipients of federal funds do not discriminate—in either purpose or effect—on the basis of race, color, ethnicity, disability, gender or income. Although federal agencies are obliged to enforce these laws, existing enforcement is moribund or sorely lacking, creating an inconsistent application of the law that poses an obstacle to speedy and fair implementation of federally funded projects. Especially in cases of large federally-funded programs, such as the ARRA, that implicate a myriad of industries and sectors, the lack of a comprehensive and definitive approach to equal opportunity compliance can lead to redundancy and delay.

The Opportunity Impact Statement creates a uniform enforcement protocol with consistent metrics to facilitate compliance with anti-discrimination protections and proactively to promote greater opportunity. Drawing from best practices found in the application of other impact statements, as well as avoiding known pitfalls, the OIS will expedite the existing and legitimate equal opportunity protections that ensure the most effective application of federal funds.

On both the federal and state level, impact statements are a well-established practice, intended to ensure that legislators have full awareness of the impact of proposed rules before taking major action. Examples of impact statements include: fiscal impact statements from the Congressional Budget Office on the costs and benefits of congressional legislation; state financial analyses for legislative action or ballot initiatives;¹ racial impact statements in Iowa, Connecticut, and Minnesota that review proposed criminal justice policy changes for racially disparate impacts;² and the federal Environmental Impact Statement (EIS) found in the National Environmental Policy Act (NEPA).³ Impact statements facilitate informed, sophisticated, and democratic decision making that pursues sustainable development that serves the public interest.

The OIS is designed to promote careful consideration of significant opportunity impacts arising from proposed federally-funded projects. It creates a single formal evaluation procedure that both assures an opportunity for meaningful public participation in the agency's consideration of the proposed action and avoids duplicative or uncoordinated attempts at complying with equal opportunity mandates after the fact. The Opportunity Impact Statement will bring the voice of affected communities, structured efficiency, and balanced analysis to the table in the context of opportunity.

Four Elements of The Opportunity Impact Statement

The Opportunity Impact Statement will include four major elements:

1. Coverage of Projects Involving Public Funds or Governmental Engagement

The mechanism applies to projects intertwined with taxpayer or government resources. It does not apply to wholly private activities.

2. Data Collection and Analysis

The OIS will collect and analyze data regarding the characteristics of affected communities (e.g., employment rates and health status, socioeconomic and racial makeup, etc.), as well as the assets and opportunities currently available to those communities (e.g., access to hospitals, schools, banking, jobs, etc.), both independently, and in comparison to surrounding communities. Standardized metrics drawing upon established and available government research will expedite the evaluation of a project's impact on opportunity in five areas: economic development/jobs, health, education, housing, and infrastructure.

3. Public Comment and Participation

In the initial fact-finding stage, input from civil society will help guide information gathering regarding relevant impacts, potential alternatives, and sources of additional information. Once a preliminary assessment has been created, the public will have the opportunity to comment on the conclusions, express concerns or support, and complement factual information with practical human experiences and interaction.

4. Transparency and Accountability

The OIS process will result in a public, written report, as well as a record of the goals, data, analysis, and public comments that led to the report's conclusions. The report will guide governmental and community decision making regarding the proposed project while providing guidelines for the future development and regulation of projects that are ultimately approved. It also provides a framework for evaluation of the project. Moreover, the OIS serves as a uniform record across agencies demonstrating good faith efforts to comply with equal opportunity requirements.

In many cases, an initial Opportunity Assessment or the OIS will reveal no cause for denial or modification, and the project will go forward. Data and public comments developed in the process, however, may be part of subsequent monitoring or complaint resolution. By utilizing the uniform evaluation instrument of the OIS, agencies can avoid redundancies and facilitate coordination of equal opportunity compliance efforts.

For more information, please contact Juhu Thukral, Director of Law & Advocacy, at jthukral@opportunityagenda.org.

¹ See, e.g., Nat'l Conf. of State Legislatures, Fiscal Impact Statements, <http://www.ncsl.org/programs/legismgt/elect/FiscalImpact.htm>.

² Marc Mauer, *Racial Impact Statements: Changing Policies to Address Disparities*, 23 CRIM. JUSTICE No. 4 (2009).

³ Pub. L. 91-190, 42 U.S.C. 4321-4347, Jan. 1, 1970, as amended.