

Comments on Federal Register Notice 2022-18746

Agency Information Collection Activities: Request for Comment Regarding Common Disclosure Forms for the Biographical Sketch and Current and Pending (Other) Support

APA Justice
October 31, 2022

APA Justice respectfully submits the following comments in response to [Federal Register Notice 2022-18746](#) regarding (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

We highly commend the White House Office of Science and Technology Policy (OSTP) for its [August 2021 announcement](#) that “[w]e have to assiduously avoid basing policies or processes on prejudice — including those that could fuel anti-Asian sentiments or xenophobia” and [the January 2022 requirement](#) that “[a]gencies must implement NSPM-33 provisions and related requirements in a nondiscriminatory manner that does not stigmatize or treat unfairly members of the research community, including members of ethnic or racial minority groups.”

However, it is important for Federal agencies to recognize that emphasis on compliance is far less productive and effective than building partnership. There has been serious loss of public trust and confidence in recent years due to both perceived and factual profiling and discrimination against scientists and researchers of Asian descent, especially those of Chinese origin.

While it is minimally necessary to create consistency within the Federal government, fear and chilling effects will continue if there is no commitment and clarity to prevent misuse or abuse of power by law enforcement and grant-making agencies.

Evidence-based policymaking and transparency are critically important in our democracy, re-earn public trust, and heal the Asian American community. However, they are still significantly inadequate in the current implementation of NSPM-33.

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1. As much as a researcher will try to be accurate with a standardized form, it will never be complete. A researcher or a group of researchers will be vulnerable to selective or arbitrary allegations of violation when they become profiling targets, as some have in recent years.
2. There is no historical data or a measurable benchmark on the magnitude of past and existing cases, investigations, or allegations, as well as their current state and disposition at the agency and

aggregate levels. It is unclear how the performance and effectiveness of the new policies and standards can be measured without a baseline.

3. On September 30, 2022, *Science Magazine* reported that the National Science Foundation (NSF) will "soon begin crunching several large databases to see whether there are scientists who failed to disclose ties to foreign institutions in their grant applications." Will some researchers be selectively blindsided without knowledge about how this process works with the incomplete standardized forms?
4. In [her talk](#) to the American Association for the Advancement of Science on October 21, OSTP Director Dr. Arita Prabhakar cited the integrated use of data science and behavioral science to address inequity issues. On October 4, 2022, OSTP issued a "[Blueprint for an AI Bill of Rights.](#)" Taken together, they signal the increasingly important role of Big Data, Data Science, and Artificial Intelligence (AI) in the future of US science and technology. However, there has been little or no clarification about privacy, data quality, bias in algorithms, and unintended consequences that may have disparate impact and serious civil rights ramifications.
5. There has been little or no clarification on the consequences of violations of disclosure requirements. They require uniformity, consistency, and transparency across Federal research agencies. There should be an agreed-upon appeal process and penalties for proven nondisclosure. Without such clarity, even with the end of the "China Initiative," there is still the potential for infringement on civil rights.
6. On June 30, 2022, *Science Magazine* reported a possible workshop on factors affecting the classification of federally funded research. The meeting is expected to revisit a Cold War-era policy, namely National Security Decision Directive 189 (NSDD-189), that sets openness as the gold standard and says any classification of fundamental research should be kept to a minimum. It is unclear how this may impact the implementation of NSPM-33. We request the Biden Administration to reaffirm NSDD-189, as [NSF and the National Science Board](#) called for in 2018 and was done in 2010 under the Obama Administration in 2010 and in 2001 under the Bush Administration.

In summary, common disclosure forms for the biographical sketch is a positive step. However, without clarity on how it fits in a holistic approach, ambiguity remains that in our opinion will adversely impact its effectiveness. For example, researchers may hesitate to certify the disclosure forms or forgo the application for federal grants, thereby creating a potential disparate impact on researchers of Asian and especially Chinese descent that cannot be measured and studied under the current process.

Contact and Background Information

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