DEMOCRACY FORWARD
FOUNDATION

November 15, 2021

Re: GSA-GSA-2021-0021: Comment on Request for Information on behalf of the Federal Chief Data Officers Council by the Democracy Forward Foundation

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Thank you for the opportunity to provide feedback on the important work of Chief Data Officers Council (CDOC) and General Services Administration (GSA). Democracy Forward is a non-profit public interest legal organization that opposes abuses of power, gives voice to those who are harmed, and seeks to fight for the promise of democracy on behalf of all Americans. At various points, our work has required us to engage with federal data collection and distribution processes, including in litigation over retrenchments in federal data collection efforts,[1] as well as, as described below, our work to call attention to ongoing deficiencies in the redesigned Regulations.gov website.

Our comment below primarily relates to Sections 1 and 2 of the Request for Information. Specifically, we encourage CDOC and GSA to make public user experience research and human-centered design principles a priority in all public-facing databases. As they seek to improve federal data processes, CDOC and GSA should follow best practices for user experience research and design (much of which has been developed by the federal government's own experts) and require federal contractors to incorporate best practices throughout design and implementation of federal databases.

I.   The New Regulations.gov Website

In February 2021, GSA's eRulemaking program launched a redesigned version of the website Regulations.gov, the primary access point for the public to review agency rulemaking dockets and their contents, such as proposed and final rules, supporting data, and public comments. In May, we sent a letter, joined by eight other public interest organizations, to the leadership of GSA and U.S. Digital Service (USDS) calling their attention to significant deficiencies in the functionality of the new website.[2]

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[1] *See*, *e.g.*, *California Reinvestment Coalition v. CFPB*, Democracy Forward, https://democracyforward.org/lawsuits/crc-v-cfpb-discriminatory-lending/ (last visited Nov. 15, 2021); *California Tribal Families Coalition, et al. v. Azar*, Democracy Forward, https://democracyforward.org/lawsuits/california-tribal-families-coalition-et-al-v-azar-afcars/ (last visited Nov. 15, 2021); *Latin Council for Latin American Advancement, NWLC v. OMB*, Democracy Forward, https://democracyforward.org/lawsuits/nwlc-labor-council-for-latin-american-advancement-v-omb-eeo-pay-data/ (last visited Nov. 15, 2021).

[2] Letter from Democracy Forward Foundation, et al. to Katy Kale, Acting Adm'r, U.S. Gen. Servs. Admin., et al. (May 17, 2021), https://democracyforward.org/wp-content/uploads/2021/05/Letter-to-GSA-re-Regulations-Gov-Website-5.17.21.pdf.

As a public interest legal organization, we depend heavily on Regulations.gov to access rulemaking dockets, participate in the public process, and make docket information accessible to non-government users, particularly in high-profile rulemakings with comments that may number in the thousands. Our attorneys' and clients' ability to quickly identify the comments that are submitted by expert organizations, and those that contain attachments and are likely to be highly substantive, is crucial to allowing organizations like ours to efficiently parse sprawling rulemaking dockets.

The redesigned Regulations.gov website rendered it substantially more difficult for public users such as our attorneys and paralegals to understand the landscape of stakeholders involved in federal regulatory efforts, their respective interests, and the basis for their support or opposition expressed in rulemaking records. That information is central to the decision-making of organizations like ours, as we consider our involvement in further comments or potential litigation related to a regulatory effort. As we detailed in our letter, the redesign of the website turned the process of identifying important comments in a complex docket from a straightforward review of a single downloadable spreadsheet on the old website into a heavily manual process requiring **thousands** of individual clicks from an interested user on the new website.[3] We believed that the significant retrenchment in public access to rulemaking dockets caused by the redesign of Regulations.gov implicated GSA's obligations under the E-Government Act of 2002 and the Federal Information Policy Act.[4]

After our May 2021 letter, we were pleased that GSA acknowledged our concerns and invited a variety of public interest organizations to a September 10, 2021 workshop designed to preview potential new Regulations.gov features, explain the resource constraints GSA was facing in restoring the capabilities of the old Regulations.gov website, and gather additional feedback from users. However, as GSA takes steps to improve and restore functionality to the redesigned Regulations.gov—and as CDOC and GSA consider access to government data and information more broadly per this Request—we recommend that CDOC and GSA make public-facing user experience research and design a core component of its programs, both as a focus area (relevant to Section 1 of the Request) and as a consideration in skills and workforce development (relevant to Section 2 of the Request). Agencies should prioritize public-facing usability from the outset of any new or redesigned public-facing database and should follow user-focused best practices to remediate usability problems on flawed websites. This shift in focus is crucial to ensuring that the public has full access to public data.

II. The Regulations.gov Redesign Would Have Benefitted from Following Best Practices Concerning User Engagement and Customer Experience.

Our experience during the Regulations.gov transition, detailed further in Section II.A of our letter, was illustrative of the problems that can arise when the government misses the opportunity to center the user experience in its decision-making concerning collection and accessibility of data and information.

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[3] *See id.*, Appendix A at 6.

[4] 44 U.S.C. § 3506(b)(1)(C).

We noted, for example, that the public comment period for feedback on the website was extremely short (10 days), and failed to generate meaningful engagement from the public about the website's functionality. To our knowledge, the Regulations.gov website did not contain any indication to users who didn't already follow GSA notices in the Federal Register that design changes were coming (or that public feedback on those changes would be welcomed or considered) prior to the launch of the Beta website in summer 2020. Nor, to our knowledge, did GSA conduct any public-facing user experience research, such as usability testing, before retiring the old site and launching the new one. And, contrary to user-centered design principles, GSA did not put the burden of user research and testing on the team developing the new website and instead waited until members of the public complained after the launch of the flawed website. While the recent September 21 feedback session GSA held with various public interest groups was a step toward remedying the issues we identified with the redesigned website, it is unclear whether and when GSA intends to prioritize a complete usability review and fixing the substantial flaws in usability that still remain.

The Regulations.gov redesign effort would have been improved by simply following the best practices that the government itself had identified. For example, the first "Play" in the Digital Services Playbook drafted by the U.S. Digital Service recommends that government services "begin digital projects by exploring and pinpointing the needs of the people who will use the service, and the ways the service will fit into their lives" and that "policy makers must include real people in their design process from the beginning."[5] It recommends that, early on in the project, agencies "spend time with current and prospective users of the service," and that it "[t]est prototypes of solutions with real people," and continue to test with potential users throughout the process.

GSA's own best practices, detailed extensively at Usability.gov, would have counseled similar public engagement, using processes like card sorting to understand how users understand the website's information to be structured, contextual interviews to observe user patterns, or focus groups and individual interviews to understand user needs.[6] Similar results could have been achieved by following the model of other successful web development projects.[7]

Unfortunately, to our knowledge, user experience research was not included during the development of the new Regulations.gov, particularly for public users such as attorneys, paralegals, policy researchers, or journalists who use the website to access government data (rather than simply other federal employees). Without this research, GSA was not able to

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[5] *Digital Services Playbook*, U.S. Digit. Serv*.,* https://playbook.cio.gov/#play1 (last visited Nov. 15, 2021).

[6] *See User Research Basics*, GSA, https://www.usability.gov/what-and-why/user-research.html (last visited Nov. 15, 2021).

[7] See, e.g., *U.S. Transportation Command: MilMove*, Truss, https://truss.works/milmove-case-study (last visited Nov. xx, 2021) (when developing a revamped service to assist service members and their families in moving their personal belongings, the team begin with "over 100 interviews and 20 site visits to understand the needs and pain points of service members, military base office personnel, and moving companies," and then, "[f]rom that research [] designed and delivered" new solutions for their customers).

develop a product that thoughtfully considered existing user workflows or that sought to remediate existing pain points in the old website. Rather, GSA apparently conducted limited public user engagement *after* the redesigned site was launched and affected groups raised concerns. It was only then that GSA held the September 21 meeting and asked users to demonstrate to the whole group their frustrated attempts to use a website that was already hampered in its functionality.

We sought to provide GSA with a view into first-hand user experiences in Appendix A of our letter, which detailed our user experience journey as we sought to access information that had been migrated to the new website. It explained the ways the design choices of the new website were confusing, frustrating, and time-consuming to interact with, and made it difficult to find relevant information, despite the refreshed visuals. The challenging experience that we detailed, which was shared by many other customers of the Regulations.gov website, could have been prevented at the beginning of the Regulations.gov redesign effort, rather than surfaced by users after the final launch of the redesigned website.

III. Recommendations

When it comes to user-centered design, the government has an extensive array of guidance and best practices documents developed across many agencies and teams. Within GSA, a government technology and design consultancy, 18F, houses an extensive collection of tools for agencies to use for incorporating users into the design process. It recommends exercises such as cognitive walkthroughs to understand users' representative tasks, journey mapping to visualize users' major interactions with a service, prototyping, and usability testing to ensure government services are designed to be useful and accessible.[8] GSA's Digital.gov team maintains a website dedicated to usability at Usability.gov, that houses similar resources and methods for government teams to follow when building user-facing projects.[9] GSA's Office of Solutions maintains Digital.gov, which contains an extensive Customer Experience Toolkit with dozens of resources dedicated to helping agencies design digital products that effectively serve citizens' needs.[10] The U.S. Digital Service maintains a Digital Services Playbook with similar guidance for development of digital services that begins by centering user needs in the design process.[11] Despite the existence of these resources, our experience suggests that application of these principles needs to be more consistent.

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[8] *See 18F Methods*, 18F, https://methods.18f.gov/ (last visited Nov. 15, 2021).

[9] *See How To & Tools*, GSA, https://www.usability.gov/how-to-and-tools/index.html (last visited Nov. 15, 2021).

[10] *See Customer Experience Toolkit*, GSA, https://digital.gov/resources/customer-experience-toolkit/?dg (last visited Nov. 15, 2021).

[11] *See Digital Services Playbook*, *supra* n.5.

A. The CDOC and GSA Should Ensure that Public-Facing User Experience Research is Conducted at the Outset of Any Public-Facing Database.

The deployment of public-facing government services and databases should typically include user experience research, planning, testing, and refinement as a core component of their development using modern web development best practices. When the government intends to make data public, it is not sufficient for a public database to exist or for it to be theoretically possible for a user to access information in the database. The public database should perform well from the standpoint of the ordinary public user, and the government should be aware of how the database performs relative to typical usability metrics such as the number of clicks or time necessary to complete a task, page loading speed, and accessibility of the sought-after information.

To that end, we recommend that CDOC and GSA emphasize user experience research as a focus area of all new and redesigned web databases going forward, with a particular focus on ensuring that existing knowledge about user experience research is consistently incorporated into and applied to new projects. To the extent that CDOC, GSA, or other agencies currently lack the internal resources to fully deploy user experience research throughout public-facing projects, we recommend that CDOC and GSA make the expansion of these skills a priority in their workforce development.

We also recommend that, where the government relies on outside contractors to develop public-facing databases, federal agencies make user experience research an explicit component of the development process in federal contracts. Such a requirement will help ensure that all public-facing databases are developed with appropriate user design and testing thoughtfully incorporated into product design and development, in line with the government's own best practices.

B. Where Public-Facing Databases like Regulations.gov have Usability Flaws, the CDOC and GSA Should Ensure that User-Experience Research Practices Are Followed During Remediation.

Sometimes, as with Regulations.gov, public-facing user experience research, planning, testing, and refinement are not incorporated in the initial development of public databases. Such failures can lead to significant usability flaws. When this happens, CDOC, GSA, and other agencies should take remedial actions to incorporate user experience research and design principles in order to correct the flaws.

Such remedial practices could follow the same best practices already recommended by government resources such as Usability.gov, and other web design industry experts. For example, agencies or their contractors should conduct usability tests to gather candid user feedback through unbiased, one-on-one research sessions in order to better understand how users attempt to accomplish their most pressing tasks on the site.[12] And then, as advised on Usability.gov, the results of this research should be used to identify high-priority concerns and

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[12] *See, e.g., Usability Testing 101*, Nielsen Norman Group, https://www.nngroup.com/articles/usability-testing-101/ (last visited Nov. 15, 2021).

develop and test solutions that can be deployed quickly. Crucially, user experience research should be used to help set the agenda and roadmap for future improvements to ensure that areas of high concern are addressed as quickly as possible.

In addition to implementing the processes and best practices discussed in this section, as described above, to the extent that CDOC, GSA, and other agencies currently lack sufficient user-centered design professionals to champion these processes, agencies should add such professionals as a core workforce development priority.

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Thank you for your consideration of these comments. If you have any questions or would like to discuss the information in this comment, please contact Aman George (ageorge@democracyforward.org) or Samara Spence (sspence@democracyforward.org).

Respectfully submitted,

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