Dear President Biden,

The National Council of Asian Pacific Americans (NCAPA) is a coalition of 47 national nonprofit organizations working to represent millions of Asian Americans and Native Hawaiians and Pacific Islanders at the federal level. Our members have worked closely with the Biden Administration across multiple issue areas and represent some of the most prominent community leaders in the country. We are committed to advancing racial equity, especially for our communities, and are particularly interested in data equity and language access, and the following provides recommendations for both.

**Recommendations on Data Equity Outcomes & Goals**

Data equity needs to be prioritized from the very start — from the planning and design of data production to ensuring the data produced is accessible to the community. The recommendations below are organized into three phases of the data production process — a). design and collection, b). analysis, and c). dissemination. Finally, we discuss our recommended framework for institutionalization through the creation of a permanent Office of Data Equity within the federal government.

**A. Design and collection of data**

1. **Ensure the collection of detailed data is required, including the minimum race and ethnic categories disaggregated by country of origin.** The Office of Management and Budget’s (OMB) Initial Proposals For Updating OMB’s Race and Ethnicity Statistical Standards from January 2023 recommends the use of a combined question with minimum and detailed categories (as specified in Figure 2 of the document), allowing the omission of detailed categories “when more detailed data collection is not feasible or justified.” We recommend the removal of the word “feasible” so that the OMB’s mandate requires agencies to provide justification for omitting the detailed categories in their data collection. Currently, the collection of detailed data is inconsistent both within and across agencies.

2. **Require agencies to develop a plan and timeline for collecting detailed group data beyond the categories currently proposed.** The detailed groups outlined in Figure 2 of OMB’s Initial Proposals For Updating OMB’s Race and Ethnicity Statistical Standards from January 2023 is a start and yet it does not suffice. For the Asian category, agencies should work towards the inclusion of check boxes for Bangladeshi, Cambodian, Hmong, Lao, and Pakistani. For the NHPI category, agencies should work towards the inclusion of check boxes for Palauan, Tahitian, Chuukese, and Pohnpeian.

   a. Require all federal agencies that collect race and ethnicity data to develop an implementation plan within 6 months on the SPD revisions being finalized.

   b. Require agencies to develop a plan to collect more detailed race and ethnicity data beyond the categories as appropriate for specific programs/geographic areas.
3. **Require all federal statistical agencies to extend language access beyond English, Spanish, and Chinese for surveys, forms, and data collection instruments (Census, ACS, etc.).** Without in-language materials or translation support, agencies leave a large proportion of AA and NHPI communities behind, undercounting and misrepresenting whole communities in national datasets. Community-based organizations see this gap and the consequences of it, and often the burden of translation and interpretation assistance lies with community-based organizations. This creates a “language tax” on community-serving organizations that are already under-resourced.

4. **Develop strategies to promote trust and transparency with community members, particularly with respect to undercounted, under-researched, and underserved populations.** As recommended in the WHIAANHPI Interagency Working Group Data and Research Subcommittee’s March 2016 report, strategic outreach with AA and NHPI “community organizations, advocates, ethnic media, and respected leaders ahead of the data collection and at multiple points leading up to the collection point” can encourage greater participation in data collection efforts. These community outreach efforts should be provided with adequate public notice, and the insights gained from these sessions should be documented and published in a transparent and timely manner. These measures are particularly important to secure trust in communities concerned that the data will be used against them.

B. Data analysis

1. **Require federal agencies to produce detailed data for AA and NHPI population groups at the state, territory, regional, and local levels.** Many AA and NHPI communities are geographically concentrated in specific states, territories, regions, and/or localities. This feature of the AA and NHPI diaspora in the United States means that geographically-specific data on ethnicities or countries of origin are particularly important.

2. **Require federal agencies to regularly consult and partner with community organizations to anticipate and mitigate the potential harms when categorizing AA and NHPI populations.** Recent concerns about the miscategorization of Hmong populations as East Asian is an example of the need for community partnership. Ongoing engagement and partnership with community organizations enables agencies to proactively anticipate harms prior to analysis and release of the data.

3. **Retain and report data on an increasingly multiracial and multiethnic AA and NHPI populations.** Respondents need to be able to select all racial and ethnic categories that apply in surveys and forms; analysts need to be attentive to both “alone” and “in combination” results. The 2020 Census has highlighted the increasingly multiracial and multiethnic composition of the U.S. population. “Asian in combination with another race” group grew by 56 percent while “NHPI in combination with another race group” grew by 31 percent between 2010 and 2020. For example, the NHPI population counts more than doubles when accounting for multiracial NHPI individuals. The 2020 Census counted 689,966 people identified as NHPI alone, a number that swells to 1.6 million when including those who identify as NHPI in combination with another race group.

4. **Data Privacy and Small Populations.** It is essential that we make data available for small populations in particular. At the same time, privacy policies must produce reliable, usable data for small groups.
C. Data use and access

1. Ensure high-quality microdata and analytic results are available soon after data collection.
   Agencies should make announcements on the data that will be available and the timeline in which datasets and data products will be available. Whenever possible, datasets and data products should be published within 12 months of the completion of data collection.

2. Ensure datasets are accessible to users at all skill levels. As outlined in the WHIAANHPI Interagency Working Group Data and Research Subcommittee’s March 2016 report, “[a]t times, data products and datasets from federal surveys and administrative records are released in a manner where primarily the seasoned or “power” data users can best navigate and utilize the data.” Potential strategies offered by the Interagency Working Group to make data accessible for all include:
   a. Providing materials to assist users in working with data and datasets, release public use files, and arrange special access for researchers who require analysis of the full microdata.
   b. Including disaggregated data on AA and NHPIs in public use files with clear and complete documentation.
   c. Partnering with approved research centers to provide on-site access to data.
   d. Establishing a custom tabulation program for users who may not have the expertise to analyze public use files or microdata.
   e. Updating, publicizing, and making more prominent and accessible federal statistical datasets allowing disaggregation of Asian, Native Hawaiian and Pacific Islander communities as currently provided through a 2018 web page of the National Center for Education Statistics: https://nces.ed.gov/fCSM/ICSP_Agencies.asp

3. Maintaining ongoing communication and engagement with community organizations about the data products available, the release timeline, and the accessibility support needed. As outlined in the WHIAANHPI Interagency Working Group Data and Research Subcommittee’s March 2016 report, agencies should “[p]artner with communities to develop data releases to ensure they are culturally and linguistically appropriate and that they can reach the intended audiences for the intended uses.” The Interagency Workgroup asserts that “[c]ommunity-based partners who are trusted by community members can significantly increase the uptake and use of data and research results, as well as be valuable featured speakers and endorsers of the data.”

Recommended Framework

1. The Biden administration should create an Office of Data Equity that makes permanent the work of the Equitable Data Working Group, and that coordinates implementation of Updated OMB SPD-15 across federal agencies.
   b. Equitable Data Working Group refers to the entity established on the first day of the Biden-Harris Administration under Executive Order 13985, Advancing Racial Equity and Support for Underserved Communities Through the Federal Government. As noted in a White House briefing from July 27, 2021 from the Equitable Data Working Group, “a first
step to promoting equity in Government action is to gather the data necessary to inform that effort.”

c. In order to ensure institutional continuity, the Equitable Data Working Group should be preserved beyond your current. We believe the Office of Data Equity could be the durable vehicle by which to continue the efforts of the Equitable Data Working Group.

d. In order to ensure adequate institutional commitment and accountability, and given the “all of government” approach embodied in SPD-15, the Office of Data Equity be housed under the Office of Management and Budget (OMB). Alternatively, the agency can be housed under the Office of Science and Technology Policy, or jointly between OMB and OSTP with dual reporting authority to each office.

2. The Office of Data Equity should have an associated Presidential Advisory Commission on Data Equity that includes experts from community organizations and research organizations that cover the major racial and ethnic groups covered by the Updated SPD-15.

   a. The Presidential Advisory Commission on Data Equity should provide the Office of Data Equity with strategic and timely guidance that is informed by community expertise and research expertise. This expertise should be grounded in community leadership and policy expertise from around the country, as well as in ongoing advancements in data science.

   b. The Presidential Advisory Commission should include at least 21 individuals as specified below.

      i. The Presidential Advisory Commission should include at least two individuals (including at least one community organization member and one research organization member) from each of the Minimum categories specified in Updated SPD-15. These Minimum Categories include White, Hispanic or Latino, Black or African American, Asian, American Indian or Alaska Native, Middle Eastern or North African, and Native Hawaiian or Pacific Islander.

      ii. Additionally, the Presidential Advisory Commission should include at least one individual (community organization member or research organization member) from one of the nine Detailed Categories for each of the Minimum Category groups as specified in Figure 2 of Updated SPD-15, and one individual of a Minimum Category who is not from one of the according nine Detailed Categories. Members who qualify under the detailed category rules as specified in this provision can also qualify under provision 2(b)(1) above.

3. The Office of Data Equity should have at least 3 full-time staff. Important functions of staff will include, but not be limited to:

   a. Convening an interagency working group of all federal statistical agencies that meets on a regular basis, to provide informational updates, share insights, and provide support on improving implementation of SPD-15 and related data- and research-related infrastructure and process.

   b. Building, maintaining, and updating a centralized website on federal statistical datasets allowing disaggregation of population data by Minimum Categories and Detailed Categories.

   c. Working directly with community organizations and research organizations across the country to ensure that implementation of SPD-15 proceeds in an effective, timely, and equitable manner.
d. Working directly with state governmental entities to ensure that implementation of SPD-15 proceeds in an effective, timely, and equitable manner on matters that require, or would benefit from, state cooperation and state collaboration on data equity efforts.

e. Supporting the operations of the Presidential Advisory Commission on Data Equity, including activities related to appointment, onboarding, meetings, and follow-on tasks from meeting recommendations.

f. Producing a five-year strategic plan for successful implementation of SPD-15, with important review and evaluation milestones that include the Presidential Advisory Commission on Data Equity.

   i. The strategic plan should include implementation guidance for Detailed Categories that go beyond the six check-box categories and three write-in categories as specified in Figure 2 of Updated SPD-15.

   ii. The strategic plan should include plans and recommendations for future work related to SPD-15 and other matters related to data equity in the subsequent five-year period.

**Recommendations on Language Access Outcomes & Goals**

As of 2022, 65 million limited English proficient (LEP) people live in the United States. According to the American Community Survey, almost three quarters of AAs and NHPIs speak a language other than English at home, 31 percent reporting speaking English as less than “very well.” Under the Biden Administration real progress has been made in improving language access across the federal government; and we believe more must be accomplished in order to advance racial equity for immigrant and LEP communities.

In March 2022, the National Council of Asian Pacific Americans (NCAPA) submitted language access recommendations to the White House for consideration (included herewith). While we are encouraged by the progress made, we stand ready to continue the work and offer the following additional recommendations for consideration.

**Key points and requests:**

- Implement an Executive Order (EO) that expands and updates EO 13166.
  - Update the Interagency Working Group on Limited English Proficiency to be co-led by the Domestic Policy Council, Office of Management and Budget and the Department of Justice; ensure the White House Initiative on Asian Americans, Native Hawaiians, and Pacific Islanders (WHIAANHPI) is explicitly made a member of the interagency working group.
  - Create a community advisory panel for the interagency working group.
  - Set minimum standards for all federal agencies to abide by for LEP translations, interpretation services, interpreters, and translators that rely on geographic tests to ensure LEP investments, efforts and outreach match community needs across the U.S., including the U.S. territories. These standards should also require a permanent Language Access Coordinator in each federal agency.
  - Lay out strategy and guidance on appropriation needs in future federal budgets across agencies.
  - Improve agency outreach, content, and websites for language access resources.
  - Consider mechanism(s) to pilot expansion of additional language translations in the future.
Update EO 13166
EO 13166 is in need of modernization that both recognizes the progress that has been made, while also acknowledging that limited English proficient communities continue to struggle to fully access government services and opportunities.

On August 11, 2000, President Bill Clinton signed Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency," which requires federal agencies to examine the services they provide, identify any need for services to those with limited English proficiency, and develop and implement a system to provide those services so LEP persons can have meaningful access to them. Currently, the Interagency Working Group on Limited English Proficiency is housed under the Federal Coordination and Compliance Section ("FCS") in the Civil Rights Division of the Department of Justice ("DOJ").

The DOJ issued a Policy Guidance Document, "Enforcement of Title VI of the Civil Rights Act of 1964 - National Origin Discrimination Against Persons With Limited English Proficiency" in 2002 that sets forth the compliance standards that recipients of federal financial assistance must follow to ensure that their programs and activities normally provided in English are accessible to LEP persons and thus do not discriminate on the basis of national origin in violation of Title VI of the Civil Rights Act’s prohibition against national origin discrimination. While we appreciate the Attorney General’s November 2022 memorandum regarding “Strengthening the Federal Government’s Commitment to Language Access”, there has not been another policy guidance document provided by the DOJ since 2002, which we believe is sorely needed.

1. **Expand the Interagency Working Group on Limited English Proficiency.**
   We believe that the White House should take a more active leadership role in coordinating the interagency working group on LEP. We recommend that the Domestic Policy Council and Office of Management and Budget should co-lead the interagency working group. We continue to recognize the critical role the DOJ plays in enforcement and their leadership to this point.

   We would also believe that WHIAANHPI should be explicitly made a member of the working group, given their importance to the AA and NHPI community, and their previous focus on the issue of language access.

2. **Create a community advisory panel for the interagency working group.**
   Community advocates and practitioners are in the strongest position to provide critical feedback to the government on the impact policy is having on end users. For decades, AA and NHPI community members have observed the ways in which current language access efforts have been both successful and fallen short.

   By creating a community advisory panel of properly vetted advocates, academics and community leaders, the working group would have a direct line of communication to test, troubleshoot and assess policy changes aimed at advancing language access.

3. **Determine appropriations needs.**
   NCAPA recognizes that advancing language access requires meaningful investments and part of the reason some agencies have lagged in furthering this goal is because they face real budget constraints. It is our hope that the expanded EO will lay out a path or strategy about how to navigate these
limitations. We believe the President’s Budget should account for these crucial advancements across all agencies moving forward.

4. **Set minimum standards for language access across the federal government and create permanent language access coordinator positions within each federal agency.**

We have observed numerous times where agencies have advanced language access based on total population size across the AA and NHPI community. While this is significant progress considering the near-zero investments made previously, we believe that a geographically-driven approach would yield more equitable results.

Just as our community is incredibly diverse, we are spread across the country and into U.S. territories that have been shaped by differing migration patterns. Simply translating into a predetermined set of AA and NHPI languages might prove useful for states like California, New York, or Texas; however, in certain states where there are underrepresented parts of the community, these resources provide far less utility.

If federal agencies are presumably striving to better understand the local communities they serve, this approach should align with that goal. Agencies that have field offices and regional presences should rely on this infrastructure to inform their decision-making as it relates to language access materials, services, and programs that will best serve the community.

As agencies like the DOJ and HHS have already done, it’s necessary to appropriate funds for a permanent Language Access Office in each federal agency. We believe the Offices of Minority and Women Inclusion (OMWIs), mandated under the Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L. 111-203), serve as a strong reference point for more deeply institutionalizing language access across federal agencies. In order to implement language access standards, as well as monitor and make changes to serve underrepresented communities, it is crucial that every agency have a full-time employee committed to the public’s shifting language access needs.

Finally, we would refer you to our previous recommendations that also provide examples of where we have observed the greatest progress in language access to also inform your thinking around the issue.

5. **Improve agency outreach, content, and websites for language access resources.**

The level of agency outreach and engagement with the AA and NHPI community has improved dramatically since the Biden Administration took office—this progress should not be overlooked. However, despite this robust engagement, we have continued to observe inconsistencies agency-to-agency. As noted above, it is unclear how agencies are determining which AA and NHPI languages to invest in translations and interpreters for, if at all. Additionally, agencies that have created in-language landing websites are oftentimes poorly-maintained or hidden behind multiple layers and clicks on their websites.

LEP.gov itself, is in need of updating and at minimum, federal agencies should have a standardized, clear way of linking from their pages to this site, as well as including, and regularly updating the most relevant resources and services from each agency to increase accessibility.
6. **Consider mechanism(s) to pilot expansion of additional language translations in the future.**

As we noted, we believe a geographically-driven approach to language access should be seriously considered; however, we also want to ensure that expanding language access is viewed as an ongoing, dynamic process throughout the federal government. Our community speaks over 100 different languages so there should be some mechanism for the working group to consider ways to further innovate and expand translations of federal resources as well as provide bilingual frontline staff and access to interpreters.

This is where community input is crucial as we have continued to see ethnic subgroups within broader categories like Southeast Asian, or Pacific Islander or Middle Eastern and North African (MENA), fall through the cracks and not receive the recognition they too deserve.

**Recommended Framework**

**Expansion of DOJ Interagency Working Group on Language Access.**

Since publishing EO 13166, U.S. Department of Justice Coordination and Review Division (COR) is the coordination entity for reviewing and providing feedback to federal agencies on their implementation of EO 13166. COR executes and facilitates a language access working group which shares best practices. This working group is composed of all individuals from federal agencies working on language access. Some of the federal agencies host ethnic-specific initiatives such as the White House Initiative on Asian Americans Native Hawaiians and Pacific Islanders. These specific initiatives have built extensive lists of community-based stakeholders who can inform language access initiatives. Therefore, The Director of the Office of Coordination and Review will expand the interagency working group to include the following agencies:

a. White House Initiative on Asian Americans Native Hawaiians and Pacific Islanders
b. White House Initiative on Hispanic Americans and Educational Excellence
c. White House Initiative on Black Americans
d. Office of Refugee Resettlement

**Creation of a Community Advisory Body.**

a. The Director of Coordination and Review will also stand up a community advisory council.
b. Community Advisory members will be nominated by the White House Presidential Personnel Office (PPO) and the Director of Coordination and Review will review and finalize members.
c. Community Advisory members will be responsible for the following:
   1. Reviewing and Assessing agency methods of determining translation of materials.
   2. Piloting translations of critical materials in languages with high percentages of people with Limited English Proficiency (LEP), such as recent refugee populations and Pacific Islander communities.
   3. Developing a program with agencies to track and register fluent bilingual and multilingual federal employees as interpreters and individuals who can provide quality control on translated materials.

**Modernization and digitalization of language access compliance.**

a. The Director of Coordination and Review will stand up a new working group which will complete the following:
   1. Develop standards on LEP and digital media, including websites and social media.
2. Update www.lep.gov regularly, prioritizing the following content: language access plans of hospitals and other grantees receiving federal funds; language access plans of courts who have collaborated with the Office of Coordination and Review.

Allocating Federal Resources for Language Equity Effectively and Efficiently.

a. The White House Domestic Policy Council (DPC) and Office of Management and Budget (OMB) will develop a guide on language access for grantmaking offices which includes the following:
   1. Templates which demonstrate how discretionary grantmaking agencies can include language access costs in federal Request for Proposals (RFP) and Notice of Funding Opportunities (NOFO).
   2. Budget samples that include interpretation and translation costs for both grantmakers and non-governmental organizations.

b. Agencies which disseminate more than $1 million each fiscal year shall provide a report at the end of the fiscal year to DOJ Director of Coordination and Review with the following information:
   1. Which federal recipients and grantees included language translation and interpretation in their grant budgets.

We thank you for your continued partnership and are confident these recommendations for data equity and language access will further advance your efforts to achieve racial equity for Asian American, Native Hawaiian, and Pacific Islander communities.

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