

October 26, 2025

Director Michael Kratsios
Office of Science and Technology Policy
2415 Eisenhower Avenue
Alexandria, VA 22314

Re: Request for Information on Regulatory Reform on Artificial Intelligence

The undersigned civil rights advocacy and civil society organizations appreciate the opportunity to submit comments in response to the Office of Science Technology and Policy (OSTP) September 26, 2025 Request for Information (RFI) on Regulatory Reform on Artificial Intelligence (AI).¹ We commend the OSTP for seeking input on this important topic and hope our comments below will help inform the OSTP's views.

General Feedback

We appreciate OSTP's efforts to modernize federal regulations in the age of AI. We also strongly support responsible innovation, as outlined in comment letters on the AI Action Plan RFI filed by numerous organizations from the civil rights movement². Those comments reinforced the need for a strong national AI regulatory framework that incorporates civil rights principles, establishes a risk-based approach to AI regulation, promotes AI research and development, and sets global standards on AI Governance. Our commitment to rights-based AI regulatory frameworks means that we *strongly oppose* the removal or weakening of any regulations that serve to protect our civil rights. In particular, we oppose changes that diminish protections for individuals seeking housing, lending, employment, or related economic opportunities from AI-related harms and risks. Civil rights protections and responsible AI innovation are not mutually exclusive, but rather, they must go hand in hand.

We are deeply concerned that what OSTP describes as "regulatory mismatches" may actually reflect the very principles that ensure AI systems are fair, transparent, accountable, privacy-preserving, reliable, and human-centered. **Furthermore, civil-rights law is not a regulatory mismatch, it is the legal infrastructure that makes responsible AI possible.** Weakening these principles will not accelerate innovation. Rather, it will harm consumers, concentrate market power, destabilize the

¹ Notice of Request for Information; Regulatory Reform on Artificial Intelligence
<https://www.federalregister.gov/documents/2025/09/26/2025-18737/notice-of-request-for-information-regulatory-reform-on-artificial-intelligence>

² NFHA Comment Letter on the AI Action Plan RFI
https://nationalfairhousing.org/wp-content/uploads/2025/03/NFHA_RFI-on-AI-Action-Plan_03-15-2024-1.pdf

housing and lending markets, and result in AI that is untrustworthy. The more adaptive path forward is to modernize and strengthen existing protections and ensure that these are effectively applied to cover AI systems, rather than eliminating them altogether.

We welcome the guidance provided in OMB Memo M-25-21 “Accelerating Federal Use of AI through Innovation, Governance, and Public Trust,”³ as an example of the administration's continued support for trustworthy AI. Rescinding federal guidance that affirms the application of federal law to AI decision-making — such as data-generation processes essential for responsible AI in housing and lending risks or employment selection tools powered by AI⁴ — creates uncertainty for industry partners committed to ethical practices and undermines public trust in AI systems.⁵ We note that many leaders in AI have shared this view.⁶⁷ Lenders and AI developers have emphasized that clear, modernized regulations support innovation by providing certainty around permissible data use, fairness testing, and self-assessment. They view explainability, human accountability, and liability frameworks not as constraints, but as essential safeguards that enable sustainable AI deployment, drive competition, and support American-led innovation. In other words: such safeguards are not just good for consumers, but for businesses, including AI developers, long-term.

We urge OSTP to ensure that modernization efforts strengthen — not weaken — civil rights protections and consumer safety. Our recommendations center on the following priorities:

1. **Reframe “Regulatory Mismatches” as Safeguards That Enable Responsible Innovation.** Recognize that fairness, privacy, transparency, accountability, reliability, and human oversight are not barriers to progress but the very principles that ensure AI systems are trustworthy.
2. **Reaffirm Core Civil Rights Statutes and Implementing Regulations.** Reaffirm civil rights laws including the Fair Housing Act (FHA), the Equal Credit Opportunity Act (ECOA), Title VII of the Civil Rights Act, and the Americans with Disabilities Act (ADA) as the legal foundation for fair AI development, deployment and use in housing, lending, employment, and other related sectors.
3. **Preserve Protections Against Disparate Impact Discrimination.** Maintain disparate impact standards, for example through algorithmic transparency mandates, as a viable method for addressing unlawful algorithmic bias in housing, lending, employment, and other related sectors.

³ [OMB M-25-21 Accelerating Federal Use of AI through Innovation, Governance, and Public Trust](#)

⁴ [Select Issues: Assessing Adverse Impact in Software, Algorithms, and Artificial Intelligence Used in Employment Selection Procedures Under Title VII of the Civil Rights Act of 1964.](#)

⁵ [Notice of the Withdrawal of FHEO Guidance Documents.](#) U.S. Department of Housing and Urban Development (HUD), Office of Fair Housing and Equal Opportunity.

⁶ [Developing and deploying AI responsibly: elements of an effective legislative framework to regulate AI](#)

⁷ Sam Altman “I think that [we need regulation for] models that are above a certain power threshold. I think models like that need to be reported to the government. They should have the oversight of the government. They should be audited by external orgs. They should be required to pass a set of evaluations for some of the safety issues.” [TIME’s Interview With OpenAI CEO Sam Altman](#)

4. **Restore and Clarify AI Guidance.** Reinstate prior guidance by the Department of Housing and Urban Development, the Equal Employment Opportunity Commission, and others to promote clarity, accountability, and lawful innovation and clarify existing guidance to incorporate the use of emerging technologies.
5. **Establish Mandatory Audits, Transparency Standards, and Human Oversight for High-Stakes AI Systems.** AI systems used in high-stakes AI systems — such as those in housing, lending, employment, public benefits and services, or criminal justice — should be subject to independent bias audits and impact assessments, with public disclosure of findings and required remediation of any civil rights risks.

Innovation does not need to come at the expense of consumer safety, in the words of the National Fair Housing Alliance’s president: “The U.S. must lead the world in ensuring technologies are fair and beneficial; do not harm people and communities; and promote ideals of freedom, equality, and equity.”⁸

I. **Reframe “Regulatory Mismatches” as Safeguards That Enable Responsible Innovation**

While OSTP’s RFI identifies “regulatory mismatches” such as explainability, liability, and human oversight as potential barriers to innovation, we urge the Administration to recognize that these requirements are not obstacles but essential safeguards. These safeguards are not new, for example, lenders are required to provide an explanation about how a lending decision was made, food labels provide information to help people make decisions, and car manufacturers and makers of consumer goods are held accountable for ensuring their products are safe. The principles in these requirements, and the harms they seek to protect, should not be diminished. We therefore urge OSTP to modernize these safeguards, not remove them. For example:

- **Mandate human-in-the-loop oversight** that is commensurate with the risks of high-stakes AI systems such as those that directly affect access to housing or credit. Additionally, identify categories of unacceptable risk where AI use should be outright prohibited – for example, when severe abuses from AI systems can not be ameliorated by meaningful human review⁹.
- **Update liability frameworks:** Suggest updates to liability frameworks to incentivize pre-deployment testing, documentation, and ongoing monitoring — practices that improve both fairness and model quality – and that reflect the additional role of developers in creating AI tools that impact our daily lives.

⁸ Lisa Rice’s Testimony Before the Fourth Bipartisan Senate Forum on Artificial Intelligence
<https://nationalfairhousing.org/lisa-rices-testimony-before-the-fourth-bipartisan-senate-forum-on-artificial-intelligence/>

⁹ [Article 14: Human Oversight | EU Artificial Intelligence Act](#)

- **Ensure public data access:** Regulations should mandate public availability of key data, consistent with privacy protections, as the lack of such data hampers efforts to develop responsible automated systems in housing and financial services. At the same time, ensure that these are compliant with existing data security standards and expectations including the Federal Information Security Modernization Act (FISMA)¹⁰ and the Gramm-Leach-Bliley Act (GLBA).¹¹

II. Protect Civil Rights Statutes

As mentioned, civil-rights laws are not a regulatory mismatch when it comes to AI, they are the legal infrastructure that makes responsible AI possible. AI systems that determine access to housing, credit, and essential services are directly governed by existing civil rights laws. For example, the Fair Housing Act¹² and the Equal Credit Opportunity Act¹³, implemented through HUD and CFPB Regulation B (12 C.F.R. Part 1002),¹⁴ are not outdated. Similarly, Title VI,¹⁵ Title VII,¹⁶ and the Americans with Disabilities Right Act¹⁷ are foundational civil rights laws. Each of these statutes remain important tools for ensuring that automated decision-making in housing and lending, employment, and more is transparent, explainable, and accountable.

OSTP should affirm that these statutes are adaptive by design. Civil rights laws and frameworks remain essential and applicable to emerging technologies like AI. In other words, these laws are not limited to a pre-AI world and reinterpreting them as obstacles to innovation would be antithetical to their purpose¹⁸.

Any reform initiative must therefore:

- Refrain from proposing repeal, narrowing, or “reinterpretation” of FHA, ECOA, Title VI, Title VII, the ADA, and related civil rights authorities;
- Preserve and reaffirm agency authority to apply and enforce foundational civil rights law to AI decision-making, such as HUD’s authority to regulate algorithmic housing and tenant-screening systems and CFPB’s oversight of AI-driven credit and lending systems under Regulation B.

¹⁰ <https://www.cisa.gov/topics/cyber-threats-and-advisories/federal-information-security-modernization-act>

¹¹ <https://www.ftc.gov/business-guidance/privacy-security/gramm-leach-bliley-act>

¹² 42 U.S.C. Chapter 45: Fair Housing <https://uscode.house.gov/view.xhtml?path=/prelim@title42/chapter45&edition=prelim>

¹³ Equal Credit Opportunity Act <https://www.justice.gov/crt/equal-credit-opportunity-act-1>

¹⁴ 12 CFR Part 1002 – Equal Credit Opportunity Act (Regulation B) <https://www.consumerfinance.gov/rules-policy/regulations/1002/>

¹⁵ 42 U.S.C. § 2000d.

¹⁶ 42 U.S.C. § 2000e.

¹⁷ 42 U.S.C. § 12101 et seq.

¹⁸ <https://nationalfairhousing.org/lisa-rices-testimony-before-the-fourth-bipartisan-senate-forum-on-artificial-intelligence/>

III. Preserve Protections Against Disparate Impact Discrimination

Disparate impact theory remains a cornerstone of modern civil-rights enforcement. It ensures that algorithms producing unequal outcomes can be scrutinized even when intent is hidden. Disparate impact protections are already in use today in industries such as financial services. They have not led to industry collapse, on the contrary, these protections help safeguard consumers and allow businesses to maintain a degree of trust and legitimacy with their customers.

AI systems frequently rely on data, such as military service record, ZIP code, education level, or digital behavior, that may inadvertently replicate redlining and other structural inequities. Because these AI systems often operate as “black boxes,” disparate impact standards remain a critically-important *method* for detecting and preventing discrimination. Moreover, the intent necessary for the disparate *treatment* analysis that the administration has emphasized is often hidden, not readily available, or essentially impossible to access in AI systems. Similar concerns arise in the employment context, where automated résumé screening or productivity monitoring tools can unintentionally disadvantage applicants and employees from protected classes¹⁹. Disparate impact testing remains an essential mechanism to detect and remedy these harms. Recent attempts by the administration to overturn the disparate impact theory²⁰ and criticism of disparate impact as a burden to industry are unwarranted. Disparate impact analysis is the law of the land. It requires that when an AI-driven policy produces harmful outcomes on a prohibited basis, the entity must determine whether a less discriminatory alternative could achieve the same legitimate goal. This is not punitive; it is pragmatic and common sense.

We urge OSTP to:

- Affirm that the disparate impact standard is a lawful and necessary method of evaluating AI systems under the FHA, ECOA, and Title VII;
- Protect HUD’s 2023 Restored Disparate Impact Rule²¹ and the CFPB’s interpretive guidance applying disparate impact standards to algorithmic credit models;²²
- Restore EEOC’s guidance regarding application of the ADA and Title VII to AI employment selection tools;
- Reverse determinations by the DOJ that it interprets Title VI to foreclose disparate impact enforcement; and

¹⁹ Brookings Institute. Gender, Race, and Intersectional Bias in Resume Screening via Language Model Retrieval <https://www.brookings.edu/articles/gender-race-and-intersectional-bias-in-ai-resume-screening-via-language-model-retrieval/>

²⁰ Executive Order 14281: Restoring Equality of Opportunity and Meritocracy <https://www.whitehouse.gov/presidential-actions/2025/04/restoring-equality-of-opportunity-and-meritocracy/>

²¹ Reinstatement of HUD’s Discriminatory Effects Standard <https://www.federalregister.gov/documents/2023/03/31/2023-05836/reinstatement-of-huds-discriminatory-effects-standard>

²² CFPB Issues Guidance on Credit Denials by Lenders Using Artificial Intelligence <https://www.consumerfinance.gov/about-us/newsroom/cfpb-issues-guidance-on-credit-denials-by-lenders-using-artificial-intelligence/>

- Reject any framing that treats disparate impact standards as a regulatory burden rather than a lawful, common sense civil rights safeguard.

Weakening disparate impact protections would not streamline innovation — it would permit discrimination to occur.

IV. Restore and Clarify AI Guidance

Regulatory clarity, not deregulation, is what promotes lawful, efficient AI adoption. The rescission of prior guidance has left regulated entities uncertain about their obligations while exposing consumers to greater risk and may, in fact, increase the complexity of entities' legal burden.

We urge OSTP to recommend that agencies restore and update the following:

- HUD's 2023 Guidance on the Application of the Fair Housing Act to Advertising and Digital Platforms,²³ which explained how targeted algorithms can produce discriminatory outcomes in housing and credit marketing;
- The Equal Employment Opportunity Commission's (EEOC) 2023 technical assistance on algorithmic fairness in employment,²⁴ which provides critical direction on how Title VII and ADA obligations apply to automated employment decisions, to reflect emerging use cases.
- Cross-agency fair-lending testing guidance, clarifying that AI models must be evaluated for discriminatory impact even when model logic is complex or proprietary;
- The Blueprint for an AI Bill of Rights, which articulated clear principles: safe and effective systems, algorithmic discrimination protections, data privacy, and notice and explanation that remain vital to public trust.²⁵

V. Establish Mandatory Audits, Transparency Standards, and Human Oversight for High-Stakes AI Systems

²³Notice of the Withdrawal of FHEO Guidance Documents

<https://www.consumerfinancialserviceslawmonitor.com/wp-content/uploads/sites/880/2025/09/HUD-memo-Notice-of-Withdrawal-of-FHEO-Guidance-Documents-9.17.2025.pdf>

²⁴ Assessing Adverse Impact in Software, Algorithms, and Artificial Intelligence Used in Employment Selection Procedures Under Title VII of the Civil Rights Act of 1964

<https://www.lawandtheworkplace.com/2023/05/eeoc-releases-technical-document-on-ai-and-title-vii/>

²⁵ Blueprint for an AI Bill of Rights: Making Automated Systems Work for the American People

<https://bidenwhitehouse.archives.gov/ostp/ai-bill-of-rights/>

The Administration, through the Office of Management and Budget, is already leading on ensuring that high-stakes AI in government is safe and trustworthy. High-stakes AI systems that influence access to housing, credit, employment, public benefits and services, or criminal justice decisions must be subject to rigorous oversight to ensure consumer trust and safety. Without standardized bias audits and impact assessments, these systems risk amplifying historical discrimination and undermining civil rights protections. Independent pre-deployment audits—paired with public reporting and mandatory remediation of identified harms—are essential to prevent inequitable outcomes and to ensure that AI use aligns with existing anti-discrimination laws.

Equally important, agencies should require transparency and explainability standards that allow affected individuals and regulators to understand how AI systems reach their decisions. Explainability tools such as feature importance analysis and counterfactual reasoning provide critical insights into whether automated systems are acting consistently with statutory obligations. To maintain public trust and uphold due process, regulators must also guarantee accessible redress mechanisms and require that any federally funded or contracted AI system include clear human-in-the-loop oversight for decisions with significant individual or social impact. For AI deployed by the federal government, OMB’s memorandum M-25-21 has already mandated many of these protections, and the administration should ensure that its mandates are robustly observed.

Therefore, any reform initiative should build on memorandum M-25-21:

1. Mandate independent, third-party bias audits and impact assessments before deployment and post-deployment in high-stakes application areas;
2. Require public disclosure of aggregate audit findings and model performance disaggregated by protected class;
3. Establish enforceable transparency and explainability standards for all consequential AI systems; and
4. Condition federal funding and procurement eligibility on demonstrable compliance with human oversight and redress requirements.

Robust auditing, transparency, and human accountability mechanisms are not barriers to innovation; they are the foundation of responsible AI that strengthens equity, consumer protection, and public confidence in emerging technologies.

Responsible lenders agree that clearer expectations around AI fairness testing would reduce compliance ambiguity and have cautioned that the absence of interpretive guidance discourages proactive testing, even by firms seeking to exceed compliance baselines. Updating agency guidance to affirm that continuous self-testing and disparate-impact evaluation are required, not prohibited, would align regulators and industry around a shared objective: expanding fair credit access through explainable and accountable AI.

Restoring these frameworks would not hinder innovation; it would equip developers, lenders, and housing providers with the clarity they need to design AI systems that not only comply with existing law but help to ensure the trustworthiness of those systems.

Thank you for considering our views,

Sincerely,

1. National Fair Housing Alliance
2. The Leadership Conference on Civil and Human Rights
3. Common Cause
4. League of United Latin American Citizens (LULAC)
5. Equal Rights Advocates
6. Consumer Action
7. Secure Justice
8. Autistic Self Advocacy Network
9. UltraViolet Action
10. Consumer Federation of America
11. Americans for Financial Reform
12. Electronic Privacy Information Center (EPIC)
13. Long Island Housing Services, Inc.
14. National Consumer Law Center (on behalf of our low-income clients)
15. Kapor Center Advocacy
16. The Tech Oversight Project
17. American Civil Liberties Union
18. National Association of Consumer Advocates
19. United Church of Christ Media Justice Ministry
20. National Hispanic Media Coalition
21. Asian Americans Advancing Justice | AAJC
22. Japanese American Citizens League
23. Metropolitan Interfaith Council on Affordable Housing (MICAHA)
24. Integrated Community Solutions, Inc

- 25. Center for Oil & Gas Organizing
- 26. The Greenlining Institute
- 27. National Employment Law Project
- 28. TechEquity Action
- 29. American Association of People with Disabilities (AAPD)
- 30. Center for AI and Digital Policy (CAIDP)
- 31. Color Of Change
- 32. Center for Democracy & Technology
- 33. National Action Network
- 34. Legal Defense Fund