

April 13, 2011

M-11-15

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: Cass R. Sunstein
Administrator, Office of Information and Regulatory Affairs

SUBJECT: Final Guidance on Implementing the Plain Writing Act of 2010

In his January 21, 2009, Memorandum on Transparency and Open Government, President Obama emphasized the importance of establishing “a system of transparency, public participation, and collaboration.” Plain writing is indispensable to achieving these goals. The Plain Writing Act of 2010 (the Act) (Public Law 111-274), which the President signed into law on October 13, 2010, calls for writing that is clear, concise, and well-organized.¹ This memorandum provides final guidance on implementing the Act and is designed to promote the goals of the President’s Open Government Initiative.

As defined in the Act, plain writing is writing that is clear, concise, well-organized, and consistent with other best practices appropriate to the subject or field and intended audience. Such writing avoids jargon, redundancy, ambiguity, and obscurity.

Clear and simple communication has many benefits. Avoiding vagueness and unnecessary complexity makes it easier for members of the public to understand and to apply for important benefits and services for which they are eligible. Plain writing can also assist the public in complying with applicable requirements simply because people better understand what they are supposed to do. Plain writing is thus more than just a formal requirement; it can be essential to the successful achievement of legislative and administrative goals, and it also promotes the rule of law.

Experience has also shown that plain writing can:

- improve public understanding of government communications;
- save money and increase efficiency;
- reduce the need for the public to seek clarification from agency staff;
- improve public understanding of agency requirements and thereby assist the public in complying with them;
- reduce resources spent on enforcement;

¹ <http://www.gpo.gov/fdsys/pkg/PLAW-111publ274/pdf/PLAW-111publ274.pdf>. The Act is also found at 5 U.S.C. § 301.

- improve public understanding of agency forms and applications and thereby assist the public in completing them; and
- reduce the number of errors that are made and thus the amount of time and effort that the agency and the public need to devote to correcting those errors.

This Memorandum rescinds and replaces OMB Memorandum M-11-05, “Preliminary Guidance for the Plain Writing Act of 2010,” issued on November 22, 2010. This final guidance does not make significant substantive changes from the preliminary guidance, but it does provide further clarification of key issues. Actions that agencies have taken under the preliminary guidance will provide the foundation for the agencies’ implementation of this final guidance and of the Act’s requirements.

Implementing the Plain Writing Act of 2010

A. Overview.

(1) Applicability. The Act and this guidance apply to all “executive agencies” as defined under 5 U.S.C. § 105.²

(2) Deadlines. The Act contains the following specific deadlines and requirements:

- By July 13, 2011 (nine months after enactment), each agency must:
 - designate one or more Senior Officials for Plain Writing who will be responsible for overseeing the agency’s implementation of the Act and this guidance;
 - create a plain writing section of the agency website;
 - communicate the Act’s requirements to agency employees and train agency employees in plain writing;
 - establish a process by which the agency will oversee its ongoing compliance with the Act’s requirements; and
 - publish an initial report, on the plain writing section of the agency’s website, that describes the agency’s plan for implementing the Act’s requirements.
- By October 13, 2011 (one year after enactment), agencies must write all new or substantially revised documents in plain writing.
- By April 13, 2012 (eighteen months after enactment), and annually thereafter, each agency must publish a report that describes its continuing compliance with the Act.

² Section 105 defines “executive agency” as an “Executive department, a Government corporation, and an independent establishment.” The definitions for “executive department,” “government corporation” and “independent establishment” are found in 5 U.S.C. §§ 101, 103, and 104.

B. Getting started.

(1) Official interagency working group. The Plain Language Action and Information Network (PLAIN) is the official interagency working group designated to assist in issuing plain writing guidance. As a first step, you should consult with PLAIN to determine if your agency has a representative on this group who can help you to carry out your plain writing efforts. You can contact PLAIN's co-chairs, Amy Bunk and Kathryn Catania, at amy.bunk@nara.gov and kathryn.catania@dhs.gov to make this determination. You can learn more about PLAIN at www.plainlanguage.gov.

(2) Federal plain writing guidelines. When drafting covered documents, your agency should follow the Federal Plain Language Guidelines available at <http://www.plainlanguage.gov/howto/guidelines/bigdoc/TOC.cfm>. If your agency chooses to use or create its own guidelines, you may base them on the "Federal Plain Language Guidelines" and modify them to make them more relevant to your agency by, for example, changing the specific examples.

(3) Implementation strategies. When implemented appropriately, plain writing will help your agency achieve its mission better by improving service to the public. To implement plain writing and the requirements of the Act most effectively, agencies should:

- consider using incentives such as challenges and prizes to encourage greater use of plain writing;
- engage and collaborate with the public; and
- identify performance goals by which to measure the progress and impact of plain writing.

(4) Training. Under the Act, Senior Officials for Plain Writing are responsible for overseeing the plain-writing training that the agency provides to its employees.

- Your agency should design a plan to determine which employees would benefit the most from training in plain writing, and to what degree.
- Employees who regularly write or edit documents covered by the Act should initially be the primary recipients of this training.
- Your agency should provide training in plain writing to new employees.
- If your agency has questions on whether a particular training course appropriately addresses plain writing principles, contact your Senior Official for Plain Writing. PLAIN has training materials posted on its website www.plainlanguage.gov.

C. Meeting deadlines. The following provides additional guidance with respect to your agency's implementation of the Act's requirements.

(1) By July 13, 2011, designate one or more Senior Officials for Plain Writing. By July 13, 2011, your agency must designate one or more senior officials who are responsible for overseeing the agency's implementation of the Act and this guidance. Because these

Senior Officials will be called on periodically to brief OMB and White House officials on your agency's efforts to implement plain writing, they should:

- have cross-cutting responsibilities within the agency;
- oversee agency programs, personnel, technology, regulations, or policy; and
- be involved in agency communications.

Under the Act, Senior Officials for Plain Writing are also responsible for overseeing your agency's implementation of the additional July 13, 2011 requirements to:

- communicate the Act's requirements to agency employees;
- train employees of the agency on plain writing; and
- establish a process for the agency to oversee its ongoing compliance with the Act's requirements.

By July 13, 2011, please send an email to infopolicy-oira@omb.eop.gov with the name(s) and title(s) of your Senior Official(s) for Plain Writing. A list of these Senior Officials will be published on www.plainlanguage.gov.

(2) By July 13, 2011, establish a plain writing webpage. Under the Act, by July 13, 2011, your agency must create and maintain a plain writing section of your website that is accessible from your agency's homepage. Consistent with the goals of open government, this section must inform the public of your agency's compliance with the requirements of the Act and allow you to you receive and respond to public comments and suggestions.

- This section on your webpage must either be located on or be accessible from your open government webpage located at [www.\[agency\].gov/open](http://www.[agency].gov/open).³
- You may use a model plain writing web template and obtain information on best practices for this webpage from the Federal Web Managers Council at <http://www.howto.gov>.
- Your plain writing webpage must let the public comment on your agency's efforts to implement the Act and to nominate specific unclear documents for revision.

(3) By July 13, 2011, publish an implementation report. The Act requires each agency to publish an initial implementation report by July 13, 2011, that describes your plan for implementing the requirements of the Act. You should consider using the report template found on <http://www.plainlanguage.gov/plLaw/law/index.cfm> for your agency's initial and annual reports. Each of these reports must be published on your agency's plain writing webpage, with a means for stakeholders and the public to comment on it.

³ See the Memorandum from the OMB Director of December 8, 2009, on Open Government Directive (M-10-06) (requiring each agency to create a "/open" webpage), at http://www.whitehouse.gov/omb/assets/memoranda_2010/m10-06.pdf. In the case of an independent regulatory agency that chose not to implement the Open Government Directive, the agency's plain writing webpage must be located on a site that is easily accessible from your agency's homepage.

(4) By October 13, 2011, agencies shall use plain writing when issuing “covered documents.” Under the Act, starting October 13, 2011, agencies must use plain writing when issuing new or substantially revised documents. This requirement applies to “covered documents,” which the Act defines as those documents that:

- are necessary for obtaining any Federal Government benefit or service, or filing taxes (e.g., tax forms or benefit applications);
- provide information about any Federal Government benefit or service (e.g., handbooks for Medicare or Social Security recipients); or
- explain to the public how to comply with a requirement that the Federal Government administers or enforces (e.g., guidance on how to prepare required reports or comply with safety requirements).

The Act also requires agencies to use plain writing in every paper or electronic letter, publication, form, notice, or instruction. When an agency prepares a specialized or technical publication, the agency should take into account the subject expertise of the intended audience. For purposes of the Act, the “public” means anticipated readers or recipients, including any external stakeholders affected by your agency’s mission or with whom your agency is seeking to communicate.

It is important to emphasize that agencies should communicate with the public in a way that is clear, simple, meaningful, and jargon-free.⁴ A lack of clarity may prevent people from becoming sufficiently aware of programs or services, and the prospect of confusing or complex forms may discourage people from applying for benefits and services for which they are eligible. Similarly, a lack of clarity may make it difficult for people to understand whether particular requirements apply to them, and if so, what they are supposed to do.

While the Act exempts regulations from covered documents, rulemaking preambles are not exempted, and long-standing policies currently in effect require regulations to be written in a manner that is “simple and easy to understand.”⁵

(5) By April 13, 2012, submit the first annual compliance report. By April 13, 2012, and annually thereafter, each agency must publish on its website a report that describes the agency’s continuing compliance with the Act. Prior to publication, agencies are encouraged to solicit feedback from the public and stakeholders on their implementation of the Act in the previous year, to post written comments on the agency’s plain writing webpage, and to respond to substantive comments in the annual report.

⁴ See the Memorandum from the OIRA Administrator of June 18, 2010, on Disclosure and Simplification as Regulatory Tools, at http://www.whitehouse.gov/sites/default/files/omb/assets/inforeg/disclosure_principles.pdf.

⁵ Executive Order 12866, “Regulatory Planning and Review.” Section 1(b)(12) (“Each agency shall draft its regulations to be simple and easy to understand, with the goal of minimizing the potential for uncertainty and litigation arising from such uncertainty”), at <http://www.archives.gov/federal-register/executive-orders/pdf/12866.pdf>. More recently, Executive Order 13563, “Improving Regulation and Regulatory Review,” states that regulations must be “accessible, consistent, written in plain language, and easy to understand,” at <http://www.gpo.gov/fdsys/pkg/FR-2011-01-21/pdf/2011-1385.pdf>.

D. Encouraging public participation.

You should, on an ongoing basis, obtain direct feedback from the public and your stakeholders on how to improve your implementation of the Act and how to identify those documents that require plain writing improvements. You can use your plain writing webpage for this purpose, along with other interactive online tools and social media. The following guidance documents can help you with the public feedback process:

- Memorandum from the OIRA Administrator of April 7, 2010, on Social Media, Web-Based Interactive Technologies, and the Paperwork Reduction Act⁶
- Memorandum from the OIRA Administrator of May 28, 2010, on Paperwork Reduction Act – Generic Clearances⁷
- Memorandum from the OMB Director of June 25, 2010, on Guidance for Online Use of Web Measurement and Customization Technologies (M-10-22)⁸
- Memorandum from the OMB Director of June 25, 2010, on Guidance for Agency Use of Third-Party Websites and Applications (M-10-23)⁹

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For agency questions on plain writing, please contact your Senior Official for Plain Writing or the PLAIN co-chairs mentioned above.

For other agency questions on this Memorandum, please contact OMB's Information Policy Branch, located in the Office of Information and Regulatory Affairs, at infopolicy-oir@omb.eop.gov.

Thank you.

⁶ http://www.whitehouse.gov/sites/default/files/omb/assets/inforeg/SocialMediaGuidance_04072010.pdf

⁷ http://www.whitehouse.gov/sites/default/files/omb/assets/inforeg/PRA_Gen_ICRs_5-28-2010.pdf

⁸ http://www.whitehouse.gov/sites/default/files/omb/assets/memoranda_2010/m10-22.pdf

⁹ http://www.whitehouse.gov/sites/default/files/omb/assets/memoranda_2010/m10-23.pdf