



Subcommittee on Investigations and Oversight

HEARING CHARTER

“Justice for Whom? Examining the Justice40 Initiative’s Oversight and Implementation”

June 26, 2025

9:30 a.m.

2318 Rayburn House Office Building

PURPOSE

This hearing will examine the structure, implementation, and oversight of the Biden-Harris Administration’s Justice40 Initiative. The Committee will evaluate whether the Justice40 Initiative created confusion for grant applicants and strained administrative capability through its expansive scope, reliance on vague executive guidance, and burdensome compliance requirements. The Initiative’s decentralized structure and reliance on agency self-reporting will be assessed for alignment with federal grant accountability regulations. Additionally, the Subcommittee will evaluate the real-world outcomes for communities targeted under this program.

WITNESSES

- **Dr. Ashley Nunes**, Senior Research Associate, Center for Labor & A Just Economy, Harvard University
- **Ms. Donna Jackson**, Senior Policy Analyst, Committee for a Constructive Tomorrow
- **Dr. Michel Gelobter**, Executive Director, Yale Center for Environmental Justice

BACKGROUND

In its first week, the Biden-Harris Administration (Administration) launched the Justice40 Initiative through Executive Order (EO) 14008 on January 27, 2021.¹ The EO directed that 40% of the benefits from certain federal investments flow to “disadvantaged communities that have been historically marginalized and overburdened by pollution.”² The Administration characterized Justice40 as a “whole-of-government initiative” intended to “transform hundreds of Federal programs” by channeling resources toward communities that have “faced longstanding environmental injustices and inequities.”³ Justice40’s broad scope encompasses a wide range of federal efforts, including programs related to “climate change, clean energy and energy efficiency, clean transit, affordable and sustainable housing, workforce development, remediation of legacy pollution, and clean water and wastewater infrastructure.”⁴ In total, the initiative applies to more than 500 programs across 19 federal agencies, with implementation further supported by billions in additional funding from the Inflation Reduction Act of 2022 (IRA).⁵

HISTORY OF ENVIRONMENTAL JUSTICE POLICY

Environmental justice policy began with the Clinton Administration’s 1994 EO 12898, directing federal agencies to consider environmental justice in their programs.⁶ Implementation was uneven, and later efforts under the Obama Administration, such as the formation of an Environmental Justice Strategic Plan, sought to institutionalize previous actions.⁷ In contrast to these limited efforts, however, the Biden Administration’s Justice40 Initiative signaled a significant shift in focus toward a “whole-of-government” approach that integrates environmental justice into federal investment strategies on an unprecedented scale. Like previous environmental justice executive actions, President Biden’s Justice40 Initiative operated without explicit statutory authorization, relying instead on executive guidance provided through the Office of Management and Budget’s (OMB) M-21-28.⁸

REGULATORY COMPLEXITY

Through time-consuming and costly compliance protocols, the Justice40 Initiative imposed administrative complexities on businesses and organizations seeking federal funding.⁹ Reporting

¹Executive Office of the President, *Tackling the Climate Crisis at Home and Abroad*, FEDERAL REGISTER (Jan. 27, 2021), <https://www.federalregister.gov/documents/2021/02/01/2021-02177/tackling-the-climate-crisis-at-home-and-abroad>

² *Id.*

³ *Justice40 Initiative*, THE BIDEN WHITE HOUSE, <https://bidenwhitehouse.archives.gov/environmentaljustice/justice40/> (last visited June 12, 2025).

⁴ *Id.*

⁵ *Justice40 Initiative Covered Programs List Version 1.3* THE BIDEN WHITE HOUSE (Aug. 18, 2022), https://bidenwhitehouse.archives.gov/wp-content/uploads/2022/07/Justice40-Covered-Programs-List_v1.2_07-25-2022.pdf; *See also* H.R.5376 - *Inflation Reduction Act of 2022*, 117th Cong. (2021), <https://www.congress.gov/bill/117th-congress/house-bill/5376/text>

⁶ Congressional Research Service, *Addressing Environmental Justice Through NEPA*, CONGRESS.GOV (Sep. 21, 2021), <https://www.congress.gov/crs-product/LSB10590>

⁷ *Id.*

⁸ *M-21-28, Interim Implementation Guidance for the Justice40 Initiative*, OFFICE OF MGMT. & BUDGET (Jul. 20, 2021), <https://www.whitehouse.gov/wp-content/uploads/2021/07/M-21-28.pdf> (noting that the OMB memo does not cite to any U.S. code)

⁹ James B. Meigs, *The Big Squeeze: How Biden’s Environmental Justice Agenda Hurts the Economy and the Environment*, MANHATTAN INSTITUTE (Sep. 7, 2023), <https://manhattan.institute/article/how-bidens-environmental-justice-agenda-hurts-economy-and-environment>

indicates these requirements were integrated into many longstanding programs, fundamentally altering their structure.¹⁰ To meet the 40% benefit threshold for “disadvantaged communities,” applicants had to provide additional documentation, conduct community consultations, and maintain persistent monitoring.¹¹ This increased the cost, time, and complexity of applying for and securing federal funding.¹² Applicants also had to navigate multilayered requirements involving detailed demographic analyses, community engagement processes, and benefit distribution calculations to demonstrate alignment with Justice40’s objectives.¹³ These obligations transformed routine grant and funding applications into multi-phase processes that often required specialized expertise to satisfy eligibility criteria extending beyond traditional project merit assessments. These requirements are particularly acute for small businesses.¹⁴

ENFORCEMENT AND IMPLEMENTATION CHALLENGES

Justice40 relied on unclear and inconsistently applied terminology. The terms “benefits” and “disadvantaged communities” throughout the guidance were vague and susceptible to subjective interpretation.¹⁵ “Benefits” were broadly described to encompass a wide range of outcomes, including emission reductions, flood mitigation, and job creation, but the guidance provided no specific criteria or thresholds for determining whether an outcome qualified.¹⁶ This lack of clarity granted agencies significant discretion to define and measure what constituted a benefit, potentially leading to outcomes that reflected individual agency priorities and ideological goals rather than consistent standards.¹⁷ Similarly ambiguous, “disadvantaged communities” remained ill-defined and dependent upon subjective agency determinations based on arbitrary socioeconomic and environmental “indicators”. Still, the guidance left many parameters ambiguous and dependent on dynamic demographic statistics.¹⁸ Experts have noted that these inputs do not effectively identify or target disadvantaged communities.¹⁹

The Biden-Harris Administration's Environmental Justice Scorecard reveals the extent of these definitional challenges. Environmental justice advocates note that the scorecard “was not user-friendly” and failed to show “the public what the intentions of the scorecard are.”²⁰ Analysis of

¹⁰ Joseph Simonson, *How the Biden Administration Put Race at the Center of Government Spending*, THE WASHINGTON FREE BEACON (Jan. 8, 2024), <https://freebeacon.com/biden-administration/how-the-biden-administration-put-race-at-the-center-of-government-spending/>

¹¹ *Id.*

¹² *Supra* at 10.

¹³ *Implementation of Justice40: Challenges, Opportunities, and a Status Update*, Report 24-01, RESOURCES FOR THE FUTURE (Jan. 2024), https://media.rff.org/documents/Report_24-01.pdf

¹⁴ Thaddeus Swanek, *A Majority of Small Businesses Say Regulations Hinder Growth*, U.S. CHAMBER OF COMMERCE (Dec. 16, 2024), <https://www.uschamber.com/small-business/a-majority-of-small-businesses-say-regulations-are-hindering-growth>

¹⁵ *Supra* at 9.

¹⁶ *Id.*

¹⁷ Ariana Richmond, *While We’re Here: Acknowledging Harm in Federal Green Initiatives*, VERMONT JOURNAL OF ENVIRONMENTAL LAW, <https://vjel.vermontlaw.edu/beacon/2025/02/12085/> (showing how some of the green energy programs directly harm marginalized communities).

¹⁸ *Supra* at 9.

¹⁹ Daren Bakst and Donna Jackson, *Low-income Communities Need Affordable Energy, Not Biden’s ‘Environmental Justice’*, WASHINGTON EXAMINER (Jun. 4, 2023), <https://www.washingtonexaminer.com/opinion/beltway-confidential/2742782/low-income-communities-need-affordable-energy-not-bidens-environmental-justice/>

²⁰ Naveena Sadasivam, *Biden’s environmental justice scorecard offers more questions than answers*, GRIST (Apr. 11, 2024), <https://grist.org/equity/biden-environmental-justice-scorecard/>

agency-reported data shows significant discrepancies in information quality, with some agencies reporting figures that appear incorrect, including one department noting 12,000 funding announcements despite listing only 65 Justice40 programs.²¹ Perhaps most concerning, the scorecard fails to capture whether the promised 40% of benefits reached disadvantaged communities.²² This lack of definitional clarity and data reliability underscores the potential for inconsistent or superficial implementation.

TRANSPARENCY AND OVERSIGHT GAPS

The Justice40 Initiative also suffered from shortcomings in transparency and accountability. OMB M-21-28 provided general implementation guidance without establishing binding rules, intentionally leaving considerable room for interpretation among participating agencies.²³ This arrangement resulted in policies that gave individual program offices broad discretion to interpret OMB's directives individually. While this memo directed covered agencies to supply their own methodologies, definitions, and guidance to OMB, it is unclear how many agencies complied.²⁴ Additionally, the guidance did not create or authorize an independent oversight body to audit the allocation of granted funds meeting Justice40's requirements or determine how benefits were provided to designated disadvantaged communities.²⁵

A 2024 Government Accountability Office (GAO) report highlighted deficiencies in the agencies' ability to track Justice40 performance metrics. It noted that the White House could not enforce compliance or ensure funds reached targeted communities.²⁶ The GAO recommended establishing clear performance metrics and accountability mechanisms, which would have supported oversight and consistent implementation across agencies. It's clear these recommendations were not adopted.²⁷ Instead, the Initiative continued to rely on executive guidance and self-reporting.

Finally, this approach may conflict with longstanding federal grant management regulations, including mandates for comprehensive monitoring and federal award reporting standards. Federal regulations require recipients and subrecipients to “monitor their activities under Federal awards to ensure they are compliant with all requirements and meeting performance expectations,” with monitoring covering “each program, function, or activity.”²⁸ Justice40 was built upon a decentralized structure and relied solely on self-reporting. Thus, the initiative appears inconsistent with relevant federal regulations, highlighting the need for external oversight.

²¹ *Supra* at 18.

²² *Id.*; See also *The Justice40 Scorecard Remains Scoreless*, <https://docs.google.com/document/d/1889gqo0tFvE3BJI5TbwGXlPS54N7spxo/edit?pli=1&tab=t.0>

²³ *Supra* at 9.

²⁴ *Supra* at 8.

²⁵ *Id.*

²⁶ *JUSTICE40: Use of Leading Practices Would Strengthen Efforts to Guide Environmental Justice Initiative*, GAO-24-105869, U.S. GOVT. ACCOUNTABILITY OFF. (Jan. 2024), <https://www.gao.gov/assets/870/867996.pdf>

²⁷ *Id.*

²⁸ See 2 CFR § 200.