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November 2, 2026

Submitted via regulations.gov

Daniel Sweeney
Deputy General Counsel for Economic, Statistical, and Regulatory Affairs
Office of the General Counsel
Department of Commerce
4600 Silver Hill Road
Washington, DC 20746

Re: **Decennial Census of the Population of Americans; Proposed Residence Criteria and Proposed Regulations for Demographic Questions, Docket No. USBC–2026–0628; RIN 0607–AA75**

Dear Mr. Sweeney:

The National Low Income Housing Coalition (NLIHC) and the undersigned organizations submit this comment to express strong opposition to the Notice of Proposed Rulemaking, "Decennial Census of the Population of Americans; Proposed Residence Criteria and Proposed Regulations for Demographic Questions" (Proposed Rule).[1] The seismic proposed changes to the decennial Census would deprive the American people of an accurate population count in 2030, setting off numerous negative downstream consequences, including for low-income renters.

NLIHC is an organization whose members include state and local affordable housing coalitions, residents of public and assisted housing, nonprofit housing providers, homeless service providers, fair housing organizations, researchers, faith-based organizations, public housing agencies, private developers and property owners, local and state government agencies, and concerned citizens. While our members include the spectrum of housing interests, we do not represent any segment of the housing industry. Rather, we work on behalf of and with low-income people who receive or need federal housing assistance, especially extremely low-income people and people who are

[1] 91 Fed. Reg. 57,524 (Sept. 10, 2026).

homeless. NLIHC also leads *Our Homes Our Votes*, a nonpartisan campaign to register, educate, and mobilize low-income renters and affordable housing advocates to vote.

As the Census Bureau's own analysis acknowledges, in addition to congressional apportionment, Census data "also informs decisions about allocating trillions of dollars in federal funding to communities across the country."[2] This includes the allocation of federal housing and community development dollars. Furthermore, the decennial Census population count informs the American Community Survey (ACS), expanding the likely impacts of the Proposed Rule. For instance, according to the Bureau's analysis, the ACS will not provide a sufficient substitute for the decennial Census in places such as U.S. territories and for certain Tribal communities.[3]

In short, the Proposed Rule's changes, if implemented, will have serious, far-reaching consequences – including the impacts arising from foreseeable population undercounts for communities throughout the nation. The bar on questions about race, ethnicity, and sexual orientation for the decennial Census are unjustified and reflect the administration's continued hostility towards communities of color and the LGBTQ+ community.

For the reasons outlined below, we urge immediate withdrawal of the Proposed Rule.

A. The Proposed Rule Contradicts the Plain Text of the Constitution

Proposed § 60.4, which seeks to exclude from the apportionment count individuals who are not U.S. citizens or legal permanent residents, is inconsistent with the Constitution's plain text. Article 1, Section 2, which provides for both a decennial Census and apportionment, specifically references "Persons" not "citizens." Similarly, the Fourteenth Amendment requires that apportionment be based upon the "whole number of persons in each State." The text of the Constitution does not include exceptions based on a person's immigration status, nor does it require citizenship or legal permanent residence for inclusion in the decennial Census for apportionment purposes.

The discussion in the Proposed Rule's preamble incorrectly assumes that persons without a specific immigration status lack ties to their communities or do not intend to remain in their communities indefinitely. Immigrant residents, including those who are not green card holders, are pillars of their communities, pay taxes, and often have longstanding deep ties to those communities, including U.S. citizen children. The Proposed Rule has not provided an adequate rationale that the decennial Census should now depart from its longstanding approach to counting the population for purposes of apportionment.

[2] *Preliminary Regulatory Impact Analysis* at 9, available at: https://www.regulations.gov/document/USBC-2026-0628-0002.
[3] *Preliminary Regulatory Impact Analysis* at 13-15.

B. The Proposal Would Deny Fair Representation to Communities Across the Country

The Proposed Rule, if implemented, would result in undercounts within many communities, disadvantaging their states in the apportionment process and denying those states fair representation in Congress. Crucial decisions about funding federal housing programs are made by Congress. Congress also plays a role in essential oversight of departments that administer federal housing programs serving millions of Americans, such as the U.S. Department of Housing and Urban Development (HUD). In 2026, Congress passed 21st Century ROAD to Housing Act, the most significant housing legislation in a generation that addresses the need for more housing supply.

Yet the Proposed Rule would guarantee undercounts and an accompanying loss of political accountability for certain states. Counting only persons who are citizens or green card holders for the purposes of apportionment would leave states with large immigrant populations at risk of losing seats in the House of Representatives.

Similar issues will likely arise with states that have large populations experiencing homelessness or housing insecurity, as the Proposed Rule states that a person's "usual residence" (i.e., where people are counted for the purposes of the decennial Census) should be consistent with and evidenced by "tax records."[4] Tax returns may not necessarily indicate where someone actually resides (and thus where they should be counted). For people who are housing-insecure, who are experiencing homelessness, who do not file taxes, who are seasonal workers, or who are escaping domestic violence, for example, it may be difficult to match where they are actually living against their tax records. In fact, the Proposed Rule acknowledges that use of tax returns and other administrative data will be "situation dependent"[5] but fails to clarify how this approach would ensure accuracy and minimize errors or undercounts.

Ultimately, fair representation is crucial to elevating housing needs to lawmakers who can be held politically accountable. The loss of representation that would result from implementation of the proposed Census changes will reduce the ability of some states and their communities to inform federal housing policy.

C. The Proposed Rule Would Create Uncertainty Within Federal Housing Programs that Rely on Accurate Census Data

An inaccurate population count in the 2030 Census would also create uncertainty across important housing and community development programs that states and communities rely upon. This can happen directly, such as when a formula has a variable for decennial Census population. Or, this can happen indirectly, such as through estimates that are ultimately derived from the

[4] Proposed 15 C.F.R. § 60.2(a).
[5] 91 Fed. Reg. at 57,528 at n7.

decennial Census, such as ACS estimates. According to the Census Bureau's own analysis, under the Proposed Rule, the accuracy of ACS total population estimates "may decline because the ACS will not have an updated full count of the U.S. population," and ACS sampling weights and population estimates will "become less reliable."[6] In other words, both the decennial Census and ACS would be less accurate under the Proposed Rule's exclusion of noncitizen immigrants who are not green card holders.

Inaccurately counting the population will in turn create uncertainty within the allocation of federal housing dollars, as both the decennial Census and ACS population estimates (calculated with weights based on decennial Census-derived population controls) would be less reliable. These changes would impact housing programs that serve low-income renters. For example, the Community Development Block Grant uses decennial Census data in one of its funding formulas. HUD also uses decennial Census data to designate Qualified Census Tracts and Difficult to Develop Areas, which inform the awarding of Low-Income Housing Tax Credits.[7] Key housing metrics and programmatic tools, such as fair market rents, rely on ACS data. And a FY2021 Census report[8] identified numerous HUD programs in a listing of federal funds that had been distributed using decennial Census programs data[9] – underscoring the potential for ripple effects stemming from population undercounts.

An inaccurate Census raises the possibility of a mismatch between the resources a community receives and what it needs.

D. Changes Regarding Information Matching and Legal Status Inquiries Would Create Distrust in the Census, Harming Census-Based Research

The Proposed Rule announces that the Census Bureau is considering changes that would likely create distrust not only in the decennial Census, but other Census efforts such as the ACS. First, the Proposed Rule raises the potential of relying on administrative data, including tax returns, to fill in or confirm information about an individual. Second, the Proposed Rule notes that the Census Bureau is considering adding a "legal status" question to the decennial Census.

Both changes would likely dissuade individuals from filling out the Census out of concerns about individual privacy, and questions about how the federal government would use their individual information. In an environment where individuals have real concerns about the role of

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[6] *Preliminary Regulatory Impact Analysis* at 12-13.
[7] *See generally* Statutorily Mandated Designation of Difficult Development Areas and Qualified Census Tracts for 2027, 91 Fed. Reg. 63,573 (Oct. 6, 2026).
[8] Ceci Villa Ross, *Uses of Decennial Census Programs Data in Federal Funds Distribution: Fiscal Year 2021*, ("Census Programs Report") (2023), https://www2.census.gov/library/working-papers/2023/decennial/census-data-federal-funds-fy-2021.pdf
[9] The report defines "Decennial Census Programs data" to include "data produced by the decennial census, the ACS, and geographic programs supporting the decennial census and ACS." *Census Programs Report*, at 4.

technology in our lives, including the use of artificial intelligence, the Proposed Rule's reference to the Census' vast access to government data -- without noting appropriate guardrails that would be in place -- would likely dissuade, not encourage, participation in Census efforts. Furthermore, past Census Bureau research has connected inclusion of a citizenship question with reduced response rates, particularly within households with undocumented household members.[10] Questions about the accuracy of federal records, as evidenced by errors in the SAVE system that failed to properly identify registered voters as U.S. citizens,[11] may lead to even lower response rates more broadly.

Both the decennial Census and ACS provide important information for understanding the state of housing in the United States, such that impacts on these Census products will harm housing research efforts. For example, the ACS collects information such as household income and costs. NLIHC uses ACS data for two of its seminal annual research reports: *Out of Reach*,[12] which calculates the "Housing Wage," or what a full-time worker would need to make in order to afford a modest rental, and *The Gap*, which measures the supply of affordable and available rental housing across income groups.[13] Accurate Census data is crucial and relies upon household responses. Undermining public trust in the Census will harm important research needed to better understand the state of our nation's housing, particularly for renters with the lowest incomes.

E. The Proposed Bar on Certain Demographic Questions Would Harm Civil Rights Enforcement and Lead to Lower-Quality Federal Data, Without Justification

The Proposed Rule's changes barring certain demographic questions would negatively impact civil rights enforcement. Specifically, the Census Bureau is proposing to bar the collection of race, ethnicity, and sexual orientation[14] data on the decennial Census. As the Census itself said in 2017, race and ethnicity data "are required for federal and state programs and are critical factors in the basic research behind numerous policies, particularly for civil rights," adding that these data "are also used to evaluate government programs and policies to ensure they fairly and equitably serve the needs of all racial and ethnic groups and to monitor

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[10] J. David Brown and Misty L. Heggeness, *Citizenship Question Effects on Household Survey Response* (June 2024), https://www2.census.gov/library/working-papers/2024/adrm/ces/CES-WP-24-31.pdf.

[11] Jen Field, ProPublica, and Zach Despart, ProPublica and The Texas Tribune, "A federal tool to check voter citizenship keeps making mistakes. It led to confusion in Texas." (Feb. 13, 2026), available at: https://www.texastribune.org/2026/02/13/save-voter-citizenship-tool-mistakes-confusion/. For one Texas county, the same news report calculated that a SAVE error rate "of at least 14%," as twelve of the 84 voters identified as potential noncitizens provided proof of citizenship. The report concluded that more than 5% of voters flagged by SAVE were in fact U.S. citizens across the Texas counties for which the news organizations received data.

[12] https://nlihc.org/oor

[13] https://nlihc.org/gap

[14] Importantly, the current decennial Census does not include a standalone question asking individuals to identify their sexual orientation.

compliance with antidiscrimination laws, regulations, and policies."[15] Enforcement of core civil rights statutes, including the Fair Housing Act and the Voting Rights Act, depend on Census race and ethnicity data.[16] And although the Proposed Rule is not prohibiting such demographic questions for the ACS, as noted above, gaps would remain, such as in smaller communities with fewer than 65,000 people.[17]

Furthermore, prohibiting collection of race and ethnicity data in the decennial Census would lead to lower quality federal data more broadly, such as less reliable ACS estimates. Decennial Census population counts of race and ethnicity "are relied upon" by a variety of data sources, including "essential inputs for countless research projects across academia, government, and the private sector."[18] For example, population estimates from the decennial Census, including by race and Hispanic origin, serve as base population controls for weighting in the ACS. Inaccurate or incomplete population controls could negatively impact the quality of race and ethnicity estimates from the ACS. In addition, the Census' own analysis acknowledges that there are "no other comparably accurate, comprehensive, and reliable sources" of this race and ethnicity information aside from the decennial Census.[19] The same analysis says that leaving race and ethnicity questions off of the 2030 Census would mean that subsequent race-related estimates would rely on "a base population derived from outdated and/or less accurate data."[20] As noted above, NLIHC relies on ACS data for its *Out of Reach* and *Gap* publications. The proposed changes would lead to less reliable inputs for these reports about the state of housing nationwide with respect to race and ethnicity -- such as, for example, highlighting the fact that larger percentages of Black, Latino, and American Indian or Alaska Native renter householders are extremely low-income, when compared to white renter households.[21]

The Proposed Rule fails to justify barring collection of race, ethnicity, and sexual orientation information and instead provides an internally contradictory rationale. The preamble identifies purported concerns about lower response rates, privacy, and the "sensitive" nature of inquiries about race, ethnicity, or sexual orientation. Yet, the Census Bureau is seeking to bar these three, and only these three, demographic questions for the decennial Census – a change that coincides with the broader administration's civil rights roll backs with respect to communities of color and the LGBTQ+ community. The proposed regulatory text makes no mention of barring other "sensitive" categories, such as questions about one's "legal status," nor does the preamble meaningfully grapple with the privacy concerns raised by using administrative data to connect individuals to their "usual residence." And, as noted above, research has shown the connection

[15] *Subjects Planned for the 2020 Census and American Community Survey*, at 11 (Mar. 2017), https://www2.census.gov/library/publications/decennial/2020/operations/planned-subjects-2020-acs.pdf
[16] https://civilrights.org/resource/facts-about-the-census/
[17] *See Preliminary Regulatory Impact Analysis* at 13.
[18] *Preliminary Regulatory Impact Analysis* at 15.
[19] *Preliminary Regulatory Impact Analysis* at 15.
[20] *Preliminary Regulatory Impact Analysis* at 15.
[21] *Out of Reach* (2026), at 20.

between a citizenship question on the Census and decreased response rates. In short, the attempted justifications for these proposed changes ring hollow.

F. The Current Comment Period Is Too Short Given the Significant Implications of the Proposed Changes

Given the wide number of stakeholders who are impacted by changes to the decennial Census, the current comment period is simply insufficient. We respectfully ask for a comment period of at least 120 days to ensure that there is enough time to fully assess the impacts of the proposed changes, and so that all interested can submit comments.

For the above reasons, we urge the Census Bureau to withdraw the Proposed Rule in its entirety. Thank you for your consideration of our comments.

Sincerely,

National Low Income Housing Coalition

Multi-State or National Organizations

A Way Home America
ADAPT National
Affordable Homes & Communities
Christian Church Homes
Coalition on Human Needs
Consumer Action
Corporation for Supportive Housing
Gem City Hilltop Community Development & Housing, Inc.
Homes For All South
Lawyers' Committee for Civil Rights Under Law
Minnesota Housing Partnership
National Center for Healthy Housing
National Coalition for Asian Pacific American Community Development (National CAPACD)
National Coalition for the Homeless
National Fair Housing Alliance
National Homelessness Law Center
PolicyLink
Praxis Consulting Group, LLC
Save Section 9
The Elevated Studio, Inc.
The Redress Movement
The Summit Group
Urban Focus

Youth RISE Foundation

State, Territorial, and Local Organizations

50501 St Louis
Advocacy and Training Center
Advocates for Basic Legal Equality Inc.
Azteca Economic Development and Preservation Corporation
Baltimore Regional Housing Partnership
Boston Area Youth-Cash Assistance for Stable Housing (BAY-CASH)
BRAVE
Bridge Communities
Bringsthem Home
Bryan/College Station Habitat for Humanity
Building Changes
California Coalition for Rural Housing
California Housing Partnership
Catholic Charities (Rohnert Park, California)
City of Battle Creek Community Development
City of Berkeley (California)
Clinton Hill Community Action
CNY Fair Housing
CoAction
Coalición de Coaliciones
Coalition for the Homeless (Louisville)
Colorado Coalition for the Homeless
Colorado Cross-Disability Coalition
Colorado Poverty Law Project
Community Care Alliance
Compass Family Services
Connecticut Legal Services, Inc.
Connections for the Homeless
Corporación La Fondita de Jesús
County of Hawaii Office of Housing & Community Development
Creative Compassion, Inc.
Design Champions
Destination Transformation
Disability Rights Nebraska
East Bay Housing Organizations
Ecosocial Commons
Empire Justice Center
Eutaw Housing Authority
Fair Housing Center for Rights & Research
Fair Housing Center of Central Indiana
Family Promise of Greater Rochester
Family Promise of Morris County

Family Support Center of South Sound
Florida Alliance for Community Solutions, Inc.
Franklin County Dial Self Inc.
Georgia Advancing Communities Together, Inc.
Golden Valley Affordable Housing Coalition
Grandmothers' Village Project, Inc.
Great Lakes ADA Center of Michigan
Harm Reduction Ohio (HRO)
Harris County Dometic Violence Coordinating Council
Health Students Taking Action Together (H-STAT Georgia)
HOME Line
Homeless and Housing Coalition of Kentucky
Homeless Coalition of Hays County
Homeownership SF (dba Home SF)
Housing Action Illinois
Housing Alliance Delaware
Housing Alliance of Pennsylvania
Housing Authority of Myrtle Beach
Housing Greenfield
Housing Justice Center
Housing Oregon
Housing Task Force
HousingWorks RI
HPI (The Housing Partnership)
Indera, Inc.
Indivisible Neighborhood Network 19380
Inland Abundant Housing
Interfaith Denton
Kentucky Housing Corporation
Lake Cumberland Diversity Collective
Lenawee Financial Stability Coalition
Long Island Latino Teachers Association
Mahogany House
Maryland Network Against Domestic Violence
Maui Housing Hui
Micaiah's Gaming Mansion
Michigan Coalition Against Homelessness
Mid Michigan Community Action
Mobilization for Justice
Monterey County Renters United
More Neighbors Ann Arbor
Mountain CAP of WV, Inc., a CDC
MS Communities United for Prosperity (MCUP)
NAACP DeKalb County Branch
NC Statewide Independent Living Council
Nevada Homeless Alliance

New Destiny Housing
New Jersey Future
OnePA-Renter's United
OPAL Community Land Trust
Open Communities
Orion Industries
Our Community Place
Park Planning & Sustainability, LLC
Partnership for Strong Communities
Philadelphia Association of Community Development Corporations
Philly Neighborhood Networks
Public Advocates
Public Housing Association of Residents
Rochester Housing Authority
Ruby's Vision Inc.
Saginaw County Community Mental Health Authority
SF Tenants Union
Silver Valley Community Resource Center (SVCRC)
Sisters of St. Francis, Sylvania
Skagit Legal Aid
Small Sums
Southern California Association of NonProfit Housing
Southern Oregon Housing for All
Springfield Housing Authority (Illinois)
St. Matthew Trinity Lunchtime Ministry
Struggle for Miami Affordable and Sustainable Housing
Supportive Housing Association of NJ
Texas Housers
The Affordable Housing Alliance
The Colorado Health Foundation
The David & Rebecca Barron Center for Men
The End and Prevention of Homelessness
The Gray House Inc.
Tunefoolery Music Inc
University Park Neighborhood Association
Ventura County Office of Education (VCOE) (California)
Volunteers of America - Greater New York
WA State Coalition for Inclusive Emergency Planning (WA-CIEP)
Washington Housing Alliance
Washington Physicians for Social Responsibility
Washtenaw Housing Alliance
Wesley Housing Development Corporation
West Indianapolis Development Corp
Western MA Network to End Homelessness
White Rabbit Grove RDNA
Whole Health Community Collaborative

Window to the Wild
Women's Community Revitalization Project
Working Partnerships USA