



U.S. Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Avenue NW
Washington, DC 20530

September 21, 2018

By ECF

The Honorable Jesse M. Furman
United States District Judge
Southern District of New York
Thurgood Marshall Courthouse
40 Foley Square
New York, New York 10007

Re: *State of New York, et al., v. U.S. Department of Commerce, et al.*, 18-cv-2921 (JMF)

Dear Judge Furman:

Pursuant to Local Rule 37.2 and this Court's Rules of Individual Practice 2.C, Defendants write to oppose Plaintiffs' letter seeking leave to depose a third-party, Mark Neuman.

Plaintiffs' motion seeking leave to depose Mr. Neuman should be denied because Plaintiffs have failed to demonstrate that it is "necessary or appropriate" to depose Mr. Neuman. At this Court's July 3, 2018 hearing in which the Court authorized discovery outside of the administrative record, the Court held that, while Plaintiffs are entitled to some extra-record discovery, the Court will limit the scope of discovery consistent with the APA. Tr.¹ at 85. The Court explicitly stated that it is "mindful that discovery in an APA action, when permitted, 'should not transform the litigation into one involving all the liberal discovery available under the federal rules. Rather, the Court must permit only that discovery necessary to effectuate the Court's judicial review; i.e., *review the decision of the agency* under Section 706.'" *Id.* (quoting *Ali v. Pompeo*, 2018 WL 2058152 at *4 (E.D.N.Y. May 2, 2018)) (emphasis added). The Court went on to explicitly limit any extra-record discovery by Plaintiffs "absent agreement of the defendants or leave of Court" to the Department of Justice and the Department of Commerce, noting that "I am not persuaded that discovery from other third parties would be necessary or appropriate; to the extent that third parties may have influenced Secretary Ross's decision, one would assume that the influence would be evidenced in Commerce Department materials and witnesses themselves." *Id.* at 86.

Plaintiffs' basis for seeking leave to depose Mr. Neuman arises primarily from references to conversations between Commerce officials and Mr. Neuman in the record. The record, including the deposition testimony of Earl Comstock and Wendy Teramoto, indicates that Mr. Neuman, who was formerly chair of the Census Bureau's National Advisory Committee and later in late 2016 and early 2017 served as a member of the administration's transition team for the Department of Commerce, ECF No. 338-5 at 11329, had a handful of conversations with Secretary Wilbur Ross and other Commerce officials about Census matters. The record indicates that such conversations were about Census matters generally and not limited to the possibility of reinstating a citizenship question to the decennial census; indeed, budgetary, operational, and personnel issues

¹ Excerpts from the July 3, 2018 hearing are attached to this response as Exhibit A.

predominated. *See* Earl Comstock depo., ECF No. 338-1, p. 124, ll. 14-20 (describing the “primary discussion points” of meetings with Mr. Neuman as census-related matters other than citizenship question); *id.* at p. 125 ll. 17-21; p. 126 ll. 8-9 (noting that Mr. Neuman briefed Ross on a number of census matters but only once on the citizenship question); Teramoto depo., ECF No. 338-8, p. 31, ll. 3-8 (noting that her suggestion that Secretary Ross meet with Mr. Neuman had “nothing to do with . . . the citizenship question”); *id.* at p. 34, ll. 3-6 (“[A] lot of the census focus was on the budget and how are you going to properly ramp up half a million employees in such a short amount of time.”). This is entirely consistent with the reasons the Secretary consulted with Mr. Neuman during the first year of the Administration: Mr. Neuman’s expertise on Census operations and administration. *See* Exhibit B (Secretary Ross, Post-Hearing Questions for the Record (Oct. 31, 2017)) at 7. Mr. Neuman has worked with multiple incoming administrations to assist leaders who are acclimating to Census Bureau management. His involvement here was no different. The record does not indicate that Mr. Neuman provided any particularly significant consultations on the citizenship question issue during his conversations with Commerce officials in 2017; indeed, the record indicates that Mr. Neuman was one of two dozen interested persons, and one of six former high-ranking Census Bureau officials, who offered to discuss census-related matters with Secretary Ross. Insofar as these 2017 conversations are the basis for Plaintiffs’ motion for leave to depose Mr. Neuman, Plaintiffs fail to meaningfully distinguish how Mr. Neuman is differently situated from Kris Kobach, who was also involved in the administration’s transition and who also had a few conversations with Secretary Ross about the decennial census nearly a year before the Secretary made his decision. This Court recently denied Plaintiffs’ motion for leave to depose Mr. Kobach, on the basis that it was not “necessary or appropriate” to depose a third-party given the “timing and nature of the communications” and that Mr. Kobach was “one of many people” with whom Commerce had correspondence about the decennial census during the time period in question. ECF No. 303. These factors apply with equal force to Mr. Neuman’s communications with Secretary Ross and other high-ranking Commerce officials in 2017.

To the extent that Plaintiffs are seeking leave to depose Mr. Neuman based upon Mr. Neuman’s conversations with Secretary Ross in March 2018 in the lead-up to Secretary Ross’s final decision reinstating a citizenship question on the 2020 Census, that argument is also unavailing. As an initial matter, Defendants note that the exhibits Plaintiffs attach to their letter motion show that there were a large number of persons from outside Commerce with whom Secretary Ross held discussions about the census. For example, on March 15, 2018, Mr. Neuman was listed as the final of eight separate persons with whom Secretary Ross was scheduled to speak with by telephone – a list that also includes one of Plaintiffs’ experts – with all calls being allocated for either five or ten minute blocks. ECF No. 338-7 at 3491. On March 22, 2018, Mr. Neuman was scheduled to be the final of three separate calls or meetings about the decennial census; his meeting was scheduled for forty-five minutes. ECF No. 338-7 at 1815. Mr. Neuman’s inclusion as one of just several calls or meetings between elected officials, business leaders, and others with Secretary Ross to discuss the decennial census indicates that he was not acting as a high-level advisor to Secretary Ross, but rather was one of a large number of people who communicated information or opinions about the census to Secretary Ross before Secretary Ross’s decision to reinstate a citizenship question.² This was confirmed by the declaration of Michael A. Cannon, who stated that the information and opinions provided by Mr. Neuman at the March 22, 2018

² To the extent Mr. Neuman did participate in any high-level deliberations, the substance of such deliberations could be protected by the deliberative process privilege.

meeting were “not considered by the Secretary in his decision to reinstate the citizenship question.” ECF No. 254 at 3 ¶ 16.

Finally, this Court should deny Plaintiffs’ motion for leave to depose Mr. Neuman because, like Mr. Kobach, his views are adequately represented by materials provided to Plaintiffs. Although Mr. Neuman provided officials his views on a range of Census matters, his views on reinstating a citizenship question in particular are already memorialized in the record. Mr. Neuman met with Secretary Ross to discuss a citizenship question on March 22, 2018. ECF No. 338-7 at 1815. At the meeting, Mr. Neuman gave Secretary Ross a PowerPoint presentation explaining how he believed that using the decennial census to gather block-level citizen voting age population data would be helpful in ensuring that Latino voters were not underrepresented by their elected officials. This PowerPoint presentation has been provided to Plaintiffs, as Plaintiffs concede in their letter motion, ECF No. 338 at 3, and is attached to this response as Exhibit C. Plaintiffs also have a September 13, 2017 communication from Mr. Neuman to Commerce attorney James Uthmeier, in which Mr. Neuman broadly outlines his concerns with differential undercounts and the need to “count every person living in America.” ECF No. 338-5 at 11329. These documents reflect the substance of Mr. Neuman’s views and concerns about reinstating a citizenship question on the decennial census. Plaintiffs note that Mr. Neuman also spoke with officials by phone or in person but offer no explanation as to why the documentary evidence of Mr. Neuman’s views in the record is inadequate to understand the views he presented. ECF No. 338 at 3. Furthermore, this Court has ruled that Plaintiffs may depose Secretary Ross as part of this litigation. ECF No. 345. While Defendants anticipate seeking mandamus review of this decision, if Secretary Ross were to be deposed, Plaintiffs would have the opportunity to ask him about conversations with Mr. Neuman, and if and to what extent those conversations impacted his decision to reinstate a citizenship question, rendering any deposition of Mr. Neuman unnecessary. Therefore, just as this Court denied Plaintiffs’ motion for leave to depose Mr. Kobach in part because of “the fact that the substance of Mr. Kobach’s views is already reflected in the record,” ECF No. 303, it should deny Plaintiffs’ motion for leave to depose Mr. Neuman because such a deposition is not “necessary or appropriate.”

Conclusion

For the foregoing reasons, Defendants request that this Court deny Plaintiffs’ letter motion requesting leave to depose Mark Neuman.

Respectfully submitted,

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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 STATE OF NEW YORK, et al.,

4 Plaintiffs,

5 v.

18 Civ. 2921 (JMF)

6 UNITED STATES DEPARTMENT OF
7 COMMERCE, et al.,

Argument

8 Defendants.

9
10 -----x
11 NEW YORK IMMIGRATION
12 COALITION, et al.,

13 Plaintiffs,

14 v.

18 Civ. 5025 (JMF)

15 UNITED STATES DEPARTMENT OF
16 COMMERCE, et al.,

Argument

17 Defendants.

18 -----x
19
20 New York, N.Y.
21 July 3, 2018
22 9:30 a.m.

23 Before:

24 HON. JESSE M. FURMAN,

25 District Judge

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(Case called)

MR. COLANGELO: Good morning, your Honor.

Matthew Colangelo from New York for the state and local government plaintiffs.

One housekeeping matter, your Honor, if I may. The plaintiffs intended to have two lawyers oppose the Justice Department's motion to dismiss; Mr. Saini argue the standing argue and Ms. Goldstein argue the remaining 12(b)(1) and 12(b)(6) arguments; and then I will argue the discovery aspect of today's proceedings. And I may ask my cocounsel from Hidalgo County, Texas, Mr. Rios, to weigh in briefly on one particular aspect of expert discovery that we intend to proffer. So with the Court's indulgence, we may swap counsel in and out between those arguments.

THE COURT: Understood. Thank you.

MS. GOLDSTEIN: Elena Goldstein also from New York for the plaintiffs.

MR. SAINI: Ajay Saini also from New York for the plaintiffs.

MR. FREEDMAN: Good morning, your Honor.

John Freedman from Arnold & Porter for the New York Immigration Coalition plaintiffs.

MR. RIOS: Rolando Rios for the Cameron and Hidalgo County plaintiffs, your Honor.

MR. SHUMATE: Good morning, your Honor.

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1 full scope of such materials. Accordingly, plaintiffs' request
2 for an order directing defendants to complete the
3 Administrative Record is well founded.

4 Finally, I agree with the plaintiffs that there is a
5 solid basis to permit discovery of extra-record evidence in
6 this case. To the extent relevant here, a court may allow
7 discovery beyond the record where "there has been a strong
8 showing in support of a claim of bad faith or improper behavior
9 on the part of agency decision-makers." National Audubon
10 Society v. Hoffman, 132 F.3d 7, 14 (2d Cir. 1997). Without
11 intimating any view on the ultimate issues in this case, I
12 conclude that plaintiffs have made such a showing here for
13 several reasons.

14 First, Secretary Ross's supplemental memorandum of
15 June 21, which I've already discussed, could be read to suggest
16 that the Secretary had already decided to add the citizenship
17 question before he reached out to the Justice Department; that
18 is, that the decision preceded the stated rationale. See, for
19 example, Tummino v. von Eschenbach, 427 F.Supp. 2d 212, 233
20 (E.D.N.Y. 2006) authorizing extra-record discovery where there
21 was evidence that the agency decision-makers had made a
22 decision and, only thereafter took steps "to find acceptable
23 rationales for the decision." Second, the Administrative
24 Record reveals that Secretary Ross overruled senior Census
25 Bureau career staff, who had concluded -- and this is at page

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1 1277 of the record -- that reinstating the citizenship question
2 would be "very costly" and "harm the quality of the census
3 count." Once again, see Tummino, 427 F.Supp. 2d at 231-32,
4 holding that the plaintiffs had made a sufficient showing of
5 bad faith where "senior level personnel overruled the
6 professional staff." Third, plaintiffs' allegations suggest
7 that defendants deviated significantly from standard operating
8 procedures in adding the citizenship question. Specifically,
9 plaintiffs allege that, before adopting changes to the
10 questionnaire, the Census Bureau typically spends considerable
11 resources and time -- in some instances up to ten years --
12 testing the proposed changes. See the amended complaint which
13 is docket no. 85 in the states' case at paragraph 59. Here, by
14 defendants' own admission -- see the amended complaint at
15 paragraph 62 and page 1313 of the Administrative Record --
16 defendants added an entirely new question after substantially
17 less consideration and without any testing at all. Yet again
18 Tummino is instructive. See 427 F.Supp. 2d at 233, citing an
19 "unusual" decision-making process as a basis for extra-record
20 discovery.

21 Finally, plaintiffs have made at least a prima facie
22 showing that Secretary Ross's stated justification for
23 reinstating the citizenship question -- namely, that it is
24 necessary to enforce Section 2 of the Voting Rights Act -- was
25 pretextual. To my knowledge, the Department of Justice and

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1 civil rights groups have never, in 53 years of enforcing
2 Section 2, suggested that citizenship data collected as part of
3 the decennial census, data that is by definition quickly out of
4 date, would be helpful let alone necessary to litigating such
5 claims. See the states case docket no. 187-1 at 14; see also
6 paragraph 97 of the amended complaint. On top of that,
7 plaintiffs' allegations that the current Department of Justice
8 has shown little interest in enforcing the Voting Rights Act
9 casts further doubt on the stated rationale. See paragraph 184
10 of the complaint which is docket no. 1 in the Immigration
11 Coalition case. Defendants may well be right that those
12 allegations are "meaningless absent a comparison of the
13 frequency with which past actions have been brought or data on
14 the number of investigations currently being undertaken," and
15 that plaintiffs may fail "to recognize the possibility that the
16 DOJ's voting-rights investigations might be hindered by a lack
17 of citizenship data." That is page 5 of the government's
18 letter which is docket no. 194 in the states case. But those
19 arguments merely point to and underscore the need to look
20 beyond the Administrative Record.

21 To be clear, I am not today making a finding that
22 Secretary Ross's stated rationale was pretextual -- whether it
23 was or wasn't is a question that I may have to answer if or
24 when I reach the ultimate merits of the issues in these cases.
25 Instead, the question at this stage is merely whether --

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1 assuming the truth of the allegations in their complaints --
2 plaintiffs have made a strong preliminary or prima facie
3 showing that they will find material beyond the Administrative
4 Record indicative of bad faith. See, for example, Ali v.
5 Pompeo, 2018 WL 2058152 at page 4 (E.D.N.Y. May 2, 2018). For
6 the reasons I've just summarized, I conclude that the
7 plaintiffs have done so.

8 That brings me to the question of scope. On that
9 score, I am mindful that discovery in an APA action, when
10 permitted, "should not transform the litigation into one
11 involving all the liberal discovery available under the federal
12 rules. Rather, the Court must permit only that discovery
13 necessary to effectuate the Court's judicial review; i.e.,
14 review the decision of the agency under Section 706." That is
15 from Ali v. Pompeo at page 4, citing cases. I recognize, of
16 course, that plaintiffs argue that they are independently
17 entitled to discovery in connection with their constitutional
18 claims. I'm inclined to disagree given that the APA itself
19 provides for judicial review of agency action that is "contrary
20 to" the Constitution. See, for example, Chang v. USCIS, 254
21 F.Supp. 3d 160 at 161-62 (D.D.C. 2017). But, even if
22 plaintiffs are correct on that score, it is well within my
23 authority under Rule 26 to limit the scope of discovery.

24 Mindful of those admonitions, not to mention the
25 separation of powers principles at stake here, I am not

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1 inclined to allows as much or as broad discovery as the
2 plaintiffs seek, at least in the first instance. First, absent
3 agreement of defendants or leave of Court, of me, I will limit
4 plaintiffs to ten fact depositions. To the extent that
5 plaintiffs seek to take more than that, they will have to make
6 a detailed showing in the form of a letter motion, after
7 conferring with defendants, that the additional deposition or
8 depositions are necessary. Second, again absent agreement of
9 the defendants or leave of Court, I will limit discovery to the
10 Departments of Commerce and Justice. As defendants' own
11 arguments make clear, materials from the Department of Justice
12 are likely to shed light on the motivations for Secretary
13 Ross's decision -- and were arguably constructively considered
14 by him insofar as he has cited the December 2017 letter as the
15 basis for his decision. At this stage, however, I am not
16 persuaded that discovery from other third parties would be
17 necessary or appropriate; to the extent that third parties may
18 have influenced Secretary Ross's decision, one would assume
19 that that influence would be evidenced in Commerce Department
20 materials and witnesses themselves. Further, to the extent
21 that plaintiffs would seek discovery from the White House,
22 including from current and former White House officials, it
23 would create "possible separation of powers issues." That is
24 from page 4 of the slip opinion in the Nielsen order. Third,
25 although I suspect there will be a strong case for allowing a

**Post-Hearing Questions for the Record
Submitted to the Honorable Wilbur Ross
“2020 Census: Examining Cost Overruns, Information Security, and Accuracy”
October 31, 2017**

From Senator Claire McCaskill

Potential Risks and Their Costs

The recent disasters in Puerto Rico, Texas, Florida, and California could significantly impact and cause serious complications for the 2020 Census.

1. Please describe actions that the Census Bureau is taking to account for these complications in its revised 2020 Census Lifecycle Cost estimate.

The Department of Commerce’s revised lifecycle cost estimate of \$15.6 billion includes \$1.2 billion in unallocated contingency funding above the independence cost estimate of \$14.1 billion to address unknown risks. These unknown risks include the Census Bureau’s ability to respond to unforeseen circumstances such as impacts of natural disasters. The Census Bureau already is planning to conduct an additional round of in-office address canvassing in areas affected by recent natural disasters. The Census Bureau also will increase in-field address canvassing in those areas when necessary. Following Hurricanes Rita and Katrina, the Census Bureau increased some field operations for the 2010 Census.

The Census Bureau is conducting a complete address canvassing operation that covers the entire country. The important difference in the 2020 Census is that the Bureau is continually updating the address list and maps based on data from multiple sources, using a combination of aerial imagery, and administrative and programmatic data to help understand where change is occurring. This in-office address canvassing work allows the Census Bureau to reduce the amount of in-field address canvassing needed to ensure an accurate address list.

The Census Bureau has been updating its address list for Puerto Rico for the past decade as well. Nonetheless, because of the devastating impact of Hurricane Maria on the island, the Census Bureau has determined that it is in Puerto Rico’s best interest for the Census Bureau to conduct what they call “Update Leave” across the entire Commonwealth. As part of this “Update Leave” process, the complete inventory of addresses will be validated and updated where appropriate by Census Bureau staff walking every road and checking every housing unit. Census Bureau staff will leave a questionnaire package on every doorstep, and occupants will have the opportunity to respond via paper questionnaire, via telephone, or via Internet just like respondents across the country. Households that do not respond will be included in the nonresponse follow-up operation (“NRFU”).

2. How will the Census Bureau ensure accuracy in places where there has been significant displacement and devastation of homes?

On November 8, 2017, the Census Bureau extended the registration deadline for the Local Update of Census Addresses (LUCA) program to January 31, 2018 for governments that have experienced natural disasters, including the hurricane impacted areas of Puerto Rico and the Gulf/Atlantic coasts, as well as the wild fire areas. The Bureau is working closely with these communities throughout the LUCA program to ensure that the address list and spatial database in these areas are as accurate as possible.

LUCA offers an opportunity to tribal, state, and local governments to review and comment on the U.S. Census Bureau's residential address list for their jurisdiction prior to the 2020 Census. The Census Bureau relies on a complete and accurate address list to reach every living quarters and associated population for inclusion in the census. The Census Bureau is required by the Census Address List Improvement Act of 1994 (Public Law 103-430) to allow governments the opportunity to review the Census Bureau's address list prior to the Census and the LUCA operation is how we implement that directive.

As the 2020 Census approaches, the Census Bureau will work with these communities, and others impacted by natural disasters, to make operational adjustments, such as increasing field operations like Update Leave.

The revised 2020 Census Lifecycle Cost Estimate assumes a lower self-response rate than originally projected. Self-response is now estimated to be 55%, whereas the original projection was 63.5%.

3. Please explain why the new projection for self-response is significantly lower than the original estimate.

The Census Bureau reduced the estimated self-response rate for the 2020 Census from 63.5% to 60.5% due to two changes made to increase the security of the online instrument and provide stronger privacy protections for the confidential data of all respondents. Stronger privacy protections create extra steps that may dissuade some respondents from responding online. It is a tradeoff that the Census Bureau considered to be worthwhile. One specific change is the potential for additional authentication steps at the point of log-in into the Internet instrument. The second change is the removal of the save and log-out functionality, meaning that respondents cannot save a partial response and return to complete it later. This latter factor could have a particular impact on large households.

The recent upper bound lifecycle cost estimate includes funding to address the risk that the response rate could be as low as 55%. The 2020 Census Program continues to project, and manage to, an estimated self-response rate of 60.5%, but now has contingency funding in place should it be needed.

4. How does the 55% breakdown by mode of response: Internet, telephone, and paper questionnaire?

As stated above, the Census Bureau is managing to the current projected self-response rate of 60.5%. We estimate that 45.0% will respond via the Internet, 11.2% by returning a paper questionnaire, and 4.3% by phone.

5. Has a further estimate been conducted that lowers the projected self-response rate? If so, please provide additional information on the downgrade of projected self-response rate and the reasons underpinning this revision.

See answer to Question #3.

The Bureau decided to reduce the number of regional offices from 13 to 6, in large part because it was expected that the new technology would reduce the need for regional office support.

6. Given the estimated decrease in self-response rates, should the Census Bureau consider opening additional regional offices?

The Census Bureau does not believe that opening additional regional offices is necessary. The Regional Census Centers serve primarily as administrative centers for the local offices that conduct data collection. Operational support and oversight of field data collection and outreach activities continue to come from local offices. With respect to operational oversight, the Census Bureau will adopt the same approach to managing staff as in past censuses. Census enumerators will work in the communities where they live, providing critical local knowledge that increases cooperation and response. Field Supervisors who also reside in these communities and work from home will directly supervise the enumerators.

a. Should the Census Bureau consider an increase in address canvassing, and hiring more enumerators for non-response follow up? Why or why not?

The Census Bureau is conducting a complete address canvassing operation that covers the entire country. The important difference in the 2020 Census is that the Census Bureau is continually updating the addresses list and maps based on data from multiple sources, such as: USPS Delivery Sequence File; state, county, local, and tribal government partner files, through the Census Bureau's Geographic Support System program; LUCA participants; and imagery files from National Geospatial-Intelligence Agency (NGA) and the United States Department of Agriculture. It also is using a combination of aerial imagery and administrative and programmatic data to help understand where change is occurring. This in-office address canvassing allows the Census Bureau to reduce the amount of in-field address canvassing needed while ensuring an accurate address list. In areas of the country that are experiencing change, the Census Bureau still intends to hire field staff to check and add addresses as necessary. It currently estimates that this will be required for 30% of addresses in the country, and the Bureau intends to hire the staff necessary to accomplish this.

With respect to the Nonresponse Followup Operation, the Census Bureau intends to hire the staff necessary to conduct field operations, in particular interviewing nonresponding households, to ensure a complete and accurate census. As in past decennial censuses, the Census Bureau will recruit and train up to three times the number of enumerators that we plan to deploy in order to expand the workforce as necessary should self-response rates be lower than anticipated, and additional households need to be interviewed after the self-response phase of the census.

b. What additional costs would be incurred should the Census Bureau need to open additional field offices?

The Census Bureau's current estimate is that each additional Local Census Office (LCO) would cost \$4 million.

It was raised in the course of the hearing that a position of the Director of the Census is vacant and the Government Program is operating with 60% vacancy rate.

7. How is the Commerce Department addressing any issues arising from the understaffing at the Government Program Office?

The Department sent a budget adjustment request to the Appropriations Committee that includes the resources necessary to expand the program management staff so that it has the capacity and the skills required to effectively manage a program of this size and complexity and it was included in the omnibus spending bill P.L. 115-141 that the President signed into law on March 23, 2018.

8. Please explain the responsibilities of the four outside consultants you discussed in your testimony and provide information on their relevant experience.

The team of experts from outside the Census Bureau identified and accounted for major potential risks and cost drivers beyond the assumptions in the 2020 Census program's original cost estimate. The team identified potential risks and associated challenges for the 2020 Census, which include declining self-response rates, cybersecurity concerns, recruitment size and wage rate, and field management staffing ratios.

The Independent Cost Estimation (ICE) team was comprised of financial management experts from the Department of Commerce and the Office of Management and Budget. The outside consultants who provided program management expertise and analysis on program integration, major contracts, and the budget included former Census employees, two former technology executives with experience in rolling out complex systems, and other experts with extensive private sector experience.

Arnold Jackson

Arnold Jackson is CEO of AJ Management Consulting LLC, Silver Spring Maryland. Prior to founding AJ Management Consulting, Arnold was Associate Director for Decennial Census at the U.S. Census Bureau serving as the Chief Operating Officer for the 2010 Decennial Census at

the U.S. Department of Commerce, Bureau of the Census. In that role, he exercised full oversight of the \$14 billion budget as he directed the management and administration of all decennial census and geographic support plans and operations of the 2010 Census. Arnold served on the Director's executive staff and on the newly established executive steering committee for the 2020 Decennial Census. After completing the operations of the 2010 Census, he contributed to emerging Bureau executive bodies for Diversity, Data Quality, and Internal Operating Efficiencies.

Previously, he was the President and a member of the Board of Directors of James Martin Government Intelligence (1998-2002), an information management consultancy that worked primarily with defense and civilian intelligence agencies. His work there included strategic planning, enterprise architecture, technology strategies and process reengineering. He implemented programs and practices in support of the Clinger-Cohen Act; a 1996 law that was designed to improve the way the federal government acquires and manages information technology. During an earlier tenure at the Census, he was the first Associate Director and Chief Information Officer (1991-1997) to serve on the Director's executive staff at the U.S. Census Bureau, where he was also the Chief of the former U.S. Census Bureau Decennial Operations Division (1984-1991). Arnold pioneered the use of highly distributed information-technology solutions and strategic outsourcing for the decennial census by executing nationwide support for the 1990 Census. He returned to private management consulting following that experience, becoming partner and director at Ferguson-Bryan and Associates, a minority-owned business consulting firm in Washington, DC (1980--1984).

Arnold is presently serving as a Special Advisor to the Secretary of Commerce and his immediate staff. As a seasoned executive with vast experience in all phases of Decennial Censuses he is advising the Secretary on a range of risk reduction, operational and organizational matters for the 2020 Census.

Arnold is a winner of a Hammer Award for leading the team that launched the Census Bureau website in the mid-1990s. The Hammer Award is presented to teams of federal employees who have made significant contributions in support of reinventing government principles. His senior management team was awarded the Department of Commerce Gold Medal in 2011 for their widely acclaimed contributions to a most successful 2010 Decennial Census. Arnold is a graduate of Hampton University, the Harvard Business School, and the Federal Executive's Institute. He is a frequent speaker on topics including program management, management of information technology projects, performance management, and large scale data collection and analysis.

Dave Abel

David Abel served as Vice President and managing partner for public sector systems integration at IBM's global business services organization, where he oversaw the development of solutions and systems for federal, state, local, healthcare and education customers. Before that position, Mr. Abel led the company's projects with the departments of Homeland Security, Justice and State; and state, local and education clients in the eastern U.S. In that role, he addressed some of government's toughest mission challenges by deploying emerging technologies to protect and prevent threats, enhance cybersecurity, improve program outcomes, and engage citizens.

Mr. Abel has successfully managed large scale implementation programs worldwide, including North America, Africa, Asia, and Europe. Some of the programs Mr. Abel led included Customs and Border Protection's modernization and automated customs environment, a transformation program for U.S. Citizenship and Immigration Services, and software development and platform management for the Federal Emergency Management Agency's flood mapping program. He also oversaw programs involving airport operations at the Raleigh-Durham and Indianapolis airports, the Transportation Security Administration's application support and information services, financial management system deployment at the Justice Department, and programs for the New York City police and fire departments.

Prior to IBM, Mr. Abel served as a partner with PricewaterhouseCoopers, where he focused on commercial and public sector transportation, airport safety and operations planning and the banking and finance industries. He also worked on the development and deployment of automated fingerprint identification systems for law enforcement agencies.

Mr. Abel holds a bachelor's degree from the University of Virginia's McIntire School of Commerce and is a graduate of the University of Virginia's McIntire School of Commerce. He has been a guest speaker at The University of North Carolina's Keenan School of Business and Witwatersrand University in Johannesburg, SA, and also co-hosted "The Business of Government Hour." Mr. Abel sits on the Advisory Board for American University Kogod School of Business and is a former member of the board of directors of the Homeland Security and Defense Business Council.

Johnny Barnes

Mr. Barnes is a retired IBM Vice President with more than four decades of experience as one of the company's top executives. He was appointed to several IBM corporate staff positions, including several critical strategy, product, and manufacturing task forces that established the foundation of IBM's current business and technical direction. He was a critical high-level manager and leader of IBM's mid-range and high performance RISC-based products which reestablished IBM's industry leadership, and led the re-engineering of IBM's internal hardware development, global computing and telephony environments. He also grew IBM's Manufacturing, Financial, Communication and Public Sector services businesses, serving as Director of Common Tools, Vice President of Global IT Infrastructure, and Vice President and Deputy CIO. Mr. Barnes' management responsibilities included business management, strategy, architecture, design, development and deployment of both IBM and customer business solutions utilizing advance technologies and standards.

Mr. Barnes' professional experience includes several years of business and technical management of products, customer solution contracts, and IBM worldwide organizations. He was responsible for the definition of IBM's Manufacturing Industries' Worldwide Technical Strategy and the development of key components of the strategy. As the Vice President and CTO of IBM's Public Sector, Mr. Barnes was responsible for successful recovery of a troubled strategic government agency infrastructure program and integration of advanced technology solutions into multiple agencies. Mr. Barnes is recognized worldwide as an accomplished executive leader and technologist. During his IBM career, he received eight patents, three IBM invention achievement awards, and an array of IBM awards for his technical and management

contributions. Mr. Barnes also has numerous publications on a wide variety of technical areas. He was recognized nationally by DOD Continuous Acquisition and Life-cycle Support (CALs), the National Eagle Leadership Institute (NELI) and National Society of Black Engineers (NSBE). NSBE awarded Mr. Barnes the Black Engineer of the Year award in 2011. In addition, he was a director on the board of SCRA Advance Technology International and is on the board of STEM Premier (Chairman).

Mr. Barnes holds a B.S. in Electrical Engineering from the University of Houston and attended graduate school at the University of Texas concentrating on software engineering and manufacturing automation. He is Project Management (PMP®) and IT Infrastructure Library (ITIL®) V3 certified. In addition, Mr. Barnes has a TS/SCI CI polygraph clearance level with the federal government. Currently, as the owner of an IT consulting and services company, Mr. Barnes provides leadership and consulting to companies and government agencies globally.

A. Mark Neuman

In addition to the three paid consultants, I have continued to seek advice from my advisor on Census issues during the presidential transition, A. Mark Neuman, who has worked on 1990, 2000, and 2010 Decennial Censuses.

Neuman also advised previous Secretaries of Commerce on Census issues, including Secretary Mosbacher, Secretary Daley, and Secretary Evans. Neuman also worked on the Census Executive Staff during the 1990 Decennial Census and worked closely with seven different directors of the Census. Neuman has worked with most of the stakeholders in the Decennial Census: The Bureau, the Department of Commerce, Congressional Oversight and Appropriations Committees, GAO, NAS, the Census Advisory Committees, and numerous other stakeholders including NALFO, MALDEF, and the Leadership Conference on Civil Rights.

Neuman has extensive experience in strategies to effectively count hard-to-count populations (including Spanish and other non-English speaking populations, as well as American Indians living on Reservations). He is focused on the need to further reduce and eliminate the black-white differential undercount and ensure that we count every person living in America one time and at the correct address.

Neuman's advisory capacity is modeled on the previous advisory role performed by John Thompson for Secretary Carlos Gutierrez during President George W. Bush's second term.

Revised 2020 Census Lifecycle Costs

The Commerce Department recently revised the 2020 Census Lifecycle Cost Estimate because of ineffective planning and problematic management that created significant cost overruns. The Department now estimates the costs will total \$15.6 billion, which is \$3 billion more than originally estimated. The Department is also requesting a \$187 million increased in funding for FY 2018.

9. What steps will the Census Bureau take to control any further cost growth?

My staff and I are closely involved with the planning and execution of the 2020 Census. We meet regularly with the Census Bureau team and their contract partners to bring oversight and accountability into the Decennial operation. These meetings help me ensure that we are on track, on time, and on budget.

My staff also conducts weekly 2020 Census oversight reviews, which include tracking metrics and program execution status on a real-time basis. In addition, they hold monthly meetings with the Office of Management and Budget, Census program managers, and Commerce's 2020 leadership team, headed by Under Secretary Karen Dunn Kelley, who is also performing the nonexclusive duties of the Deputy Secretary of Commerce, to review issues related to the programs budget, scope, schedule, and risks. These management meetings include detailed reviews of the evolving budget and lifecycle cost estimate for the 2020 Census. The results of these meetings are reported directly to me by Under Secretary Kelley and her staff so that I can personally oversee the progress of the Decennial Census.

10. What specific 2020 Census programs will benefit from the \$187 million in additional funding for FY 2017? Is the \$187 million sufficient to cover the expense of 2020 Census program requirements?

The additional \$187 million will be allocated to the critical activities necessary to keep the Census Bureau on track for a successful 2020 Census. The funding is primarily allocated to the major IT contracts, including the Technical Integrator contract and the Census Questionnaire Assistance contract, and program management, systems engineering and operational development. These funds allow us to make a significant course correction to keep crucial programs on track and provide much-needed financial oversight and better management at the Census Bureau. The Census Bureau and the Department of Commerce are accountable to manage the 2020 Census efficiently.

11. Please identify and list the qualifications of the experts who participated in the process to revise the 2020 Census Lifecycle cost estimate.

Several teams were involved in the process to revise the 2020 Lifecycle cost estimate. Each team was led by an individual who has decades of experience in the relevant fields, including acquisitions, management, cost analysis, engineering, public policy, and major systems development. Members included the Senior Procurement Executive and Director of Acquisition Management at the Office of Acquisition Management of the Department of Commerce, the Deputy Director for Acquisition, Grant and Risk Program Management at the Office of Acquisition Management of the Department of Commerce, the Senior Leader, Director for Cost Analysis at the Office of Acquisition Management of the Department of Commerce, and a Detailee and Presidential Management Fellow at the Office of Acquisition Management of the Department of Commerce.

Cancelled Tests

Earlier this year, the Census Bureau cancelled three important 2017 field tests—a Spanish language test in Puerto Rico, a test on the Colville Indian Reservation and Off-Reservation Trust Land in Washington State, and a test on Standing Rock Reservation in North and South Dakota. These tests would have provided data and best information for obtaining a more accurate count in important, historically undercounted minority, rural, and tribal communities.

12. Has the Census Bureau done an analysis to see if it could possibly restore funding for these cancelled tests to ensure that these populations and systems are tested prior to 2020? If not, why?

There are no plans to conduct testing in Puerto Rico. Systems that are critical to the 2020 Census, both in Puerto Rico and nationwide, are being tested in the 2018 End-to-End Test, including the Update Leave and Group Quarters operations. The Spanish language Internet Self-Response instrument is currently deployed for the peak operations in Providence, Rhode Island, where 19% of the population speaks Spanish. The Census Bureau has determined the results of the Providence End-to-End test of the Internet Self-Response instrument will be sufficient to understand any issues that arise. In addition, field staff in the End-To-End test will be using data collection instruments with both English and Spanish language functionality.

The 2018 End-to-End Census Test began in August 2017 in Pierce County, Washington; Providence County, Rhode Island; and the Bluefield-Beckley-Oak Hill, West Virginia area with the implementation of an address canvassing operation. This operation allowed the Census Bureau to test systems in areas without internet connectivity and hone the critical address list development operations in a wide range of geographical situations similar to those in Puerto Rico and tribal areas. In addition, the Census Bureau was able to test management systems in areas without internet connectivity, which will be very important in rural and tribal areas. Census field staff were able to receive their assignments and submit their payroll and operational data at the beginning or end of their shifts when they could connect to the Internet, but they did not require Internet access while they were actually doing their work.

Finally, the Census Bureau selected Providence County, Rhode Island, for peak operations of the 2018 End-to-End Test for a multitude of factors, but primarily because its diverse population presents unique challenges that the Census Bureau will face in 2020. Providence County's demographics mirror those of the nation and therefore offer a microcosm of the 2020 Census experience. Its population of over 600,000 (626,667) includes historically hard-to-count populations, more than a quarter-million housing units (264,048) and 110,734 Spanish speakers.

13. If restoring funding to these cancelled tests is not feasible, what efforts will the Census Bureau make to mitigate this issue to ensure that these hard-to-count populations are fairly and accurately counted in the 2020 Census?

The Census Bureau is planning a robust communications and partnership program to help reach the hard-to-count populations for the 2020 census. Efforts include advertising in multiple languages and working with trusted voices in communities across the nation to encourage

responses to the 2020 Census. Census partners include national organizations, churches and other faith-based organizations, health clinics, legal aid centers, and other support organizations that traditionally undercounted populations rely on. The Census Bureau will also provide support and response options, including Internet and telephone response options, in up to 12 languages. All mail materials and paper questionnaires will be in both English and Spanish. In addition, Census enumerators will be well trained and provide support in multiple languages.

Contract Oversight: 43 IT Systems Integration

The redesign of the 2020 Census principally depends on the effectiveness of the Census Bureau plans to integrate new and legacy information technology (IT) systems and infrastructure. GAO has warned that the development of these systems is woefully behind schedule and that not all of the systems will be fully operational by for the 2018 End-to-End Census Test. According to GAO, development and testing is behind schedule for 39 of the 43 IT systems that must be in place for the 2020 Census.¹

14. How confident are you that these systems will be completed and fully tested before they are needed for the test? What actions are you taking to ensure that they are ready in time?

The Census Bureau has developed a robust schedule for developing and integrating the key systems for the 2018 End-to-End Census Test. Each system has its own well-defined scope, requirements, schedule, and costs, and each system is overseen by experienced project management teams. As they enter the peak operations of the Test, 40 out of the 44 systems supporting the test have been deployed, and a majority of them have completed integration testing. No system will be released without completing the necessary integration testing, and all 44 are on track to be fully integrated and deployed when they are needed to support the applicable operations.

GAO and the Census Bureau have been working closely together to ensure that they have a consistent understanding of the status of systems readiness, and they are monitoring final development and testing of the remaining systems needed for the 2018 End-to-End Test. They also are looking closely at the developmental work needed for the 2020 Census. Based on GAO's recommendations the Census Bureau has taken a closer look at operations that could reuse existing systems instead of developing new ones, such as the field component of the Post Enumeration Survey, where the decision has been made to use systems that are already supporting existing Census Bureau current survey operations.

My staff and I are in constant communication with both the Census Bureau and GAO. In fact, Under Secretary Karen Dunn Kelley (who is performing the duties of the Deputy Secretary) has met with both teams and encouraged them to work together to ensure that GAO best practices are being implemented by the Census Bureau.

¹ Government Accountability Office, *Continued Management Attention Needed to Oversee Innovations, Develop and Secure IT Systems, and Improve Cost Estimation* (GAO-18-141T) (Oct. 2017).

15. How is the Census Bureau holding contractors accountable for these delays?

Decennial Senior Leadership conducts a weekly contract review meeting to assess the contractors' performance against the technical and schedule milestones of each contract.

16. GAO reported that, during the 2017 Test, the Census Bureau assumed increased risk when systems were deployed before security assessments could be completed as planned. What is the status of the authorizations to operate for the 43 systems being used in the 2018 End-to-End Test given that 33 of them contain personally identifiable information?

The Census Bureau is following its Authority to Operate (ATO) process for systems involved in the 2018 End to End test, and the status of the authorizations as of March 23, 2018 is 86% (38 systems) complete with 14% (6 systems) in progress to obtaining an ATO. The Census Bureau is on schedule to ensure that all systems used in the 2018 End-to-End test are authorized prior to use. The authorizing officials are made aware of any risks identified in the ATO process and systems with ATOs will have their cybersecurity maintained through continuous monitoring.

Contract Oversight: Mobile Devices and Bid Protest

The Government Accountability Office (GAO) recently issued its decision on a bid protest of the \$283 million contract for mobile devices for the 2018 End-to-End test and the 2020 Census. GAO found that the Census Bureau, "conducted unequal and misleading discussions, and failed to adequately document its evaluation and selection decision." GAO recommended the Census Bureau reopen the competition, conduct discussion, accept and evaluate revised proposals, and make a new decision.

17. What is the status of the bid protest on the device-as-a-service contract? Does the Census Bureau still plan to test the devices in that contract during the 2018 End-to-End Test? If not, what plans do you have in place to test them prior to 2020?

GAO's October 5, 2017, decision sustaining the protest of the Decennial Device as a Service (dDaaS) contract award included recommendations for corrective action. The Census Bureau takes GAO's recommendations seriously and immediately began examining all potential paths forward to enable the Census Bureau to proceed with this important program without endangering the critical path for the 2020 Decennial Census. As part of that process, the Census Bureau began developing an action plan to implement GAO's recommended corrective action. The Census Bureau also convened a meeting with the awardee and the protestor to describe the steps it was taking and to facilitate a dialogue between the two. On November 7, the awardee notified the Census Bureau that it and the protestor had executed a subcontracting agreement. On November 8, the Census Bureau provided notice to GAO that, in light of the subcontracting agreement, the Census Bureau intended to lift the stop work order on the contract that had been in place since August. On November 9, the Census Bureau authorized the contractor to resume performance of the dDaaS contract. Work is underway and on track to successfully provide dDaaS services for the 2018 End-to-End Test and the 2020 Decennial Census, including testing the devices during the 2018 End-to-End Census Test.

Internet Response: Users

18. For the first time this census count will heavily rely on Internet self-responses. The Census Bureau's goal is that 55% of the response rate will come from the Internet and budgeted based on that number. How will the Census Bureau meet the 55% Internet-self response rate goal?

Although the Census Bureau has estimated the cost of a potential 55% self-response rate as a lower-bound estimate, the Census Bureau continues to project, and manages to, an estimated self-response rate of 60.5%. It estimates that 45.0% will respond via the Internet, 11.2% by returning a paper questionnaire, and 4.3% by phone. These projections are based on the tests the Census Bureau has been conducting throughout the decade and on self-response rates in the 2010 Census, the American Community Survey, and other surveys.

Every household will receive multiple mailings from the Census Bureau encouraging response via the Internet. Households in areas without an Internet connection, or those that are not likely to respond via the Internet, will also receive a paper questionnaire in the first mailing. All households that do not initially respond to the Census will receive a paper questionnaire. The Census Bureau is prepared to expand paper processing and telephone response capacity if Internet response rates are lower than projected.

In addition, the Internet Self Response (ISR) operation works to make the application content accessible to a wide range of people with disabilities, including blindness and low vision, deafness and hearing loss, learning disabilities, cognitive limitations, limited movement, photosensitivity, and combinations of these. To maximize accessibility, the ISR application is being developed following Web Content Accessibility Guidelines 2.0 with a "AA" level of success. Each page of the application is assessed for conformance to the applicable guidelines.

The Census Bureau is committed to making all of its electronic and information technology accessible to all individuals. They leverage the knowledge and expertise of their Section 508 Coordination Council, the General Services Administration (GSA) Refresh Toolkit, and interagency best practices. All application systems, especially those supporting the 2020 Census, will be in compliance with the Section 508 standards. The 2020 Census Program has allocated Section 508 requirements to systems and continuously certifies and validates compliance through testing.

On January 18, 2018, revised Section 508 standards went into effect. The 2020 decennial census performed an analysis of these revised standards and is integrating them with the prior Section 508 guidance. This integration includes an assessment of each application system's level of compliance with the revised standards. Revised requirements will be allocated to each application system as applicable.

19. The federal government has a mixed record with developing and debuting online platforms. Please discuss whether the Census Bureau has conducted any testing to ensure that the site will be able to handle heavy response traffic.

The Census Bureau issued a technical directive to the Technical Integrator to perform scalability testing on the Internet Self Response (ISR) System that is built on the Pega Platform. The test results showed successful scaling of the ISR System, in the Cloud, to meet the number of concurrent users requirement defined by the external demand models. Based on the results, the Census Bureau believes that the ISR solution will be able to handle heavy response traffic. In addition, the Census Bureau's IT experts are working closely with other federal government experts and private sector experts to ensure that the Internet Self-Response system is as resilient as possible. The Census Bureau is testing the Internet self-response platform in numerous ways. It was successfully deployed in the 2017 Census Test, and it is now being utilized during the peak operations of the 2018 End-to-End test in Providence County, Rhode Island. The Census Bureau will continue to perform load tests based on demand models on the Internet self-response platform. They also are implementing enough redundancy to ensure continuity of operations (for example, every cluster of hardware in the system is duplicated and placed in two availability zones).

20. Please describe the contingency plans the Bureau has adopted, or intends to adopt in the event that the online system does not perform as intended.

The Census Bureau is designing all of its systems with failover capabilities to provide seamless operational readiness. By establishing multiple modes for the public to respond, the Census Bureau is creating a backup in case there are problems with any one particular response option. Self-response will be available by Internet, telephone, or paper. If problems arise in the Internet response option, the Census Questionnaire Assistance contract allows for collection of interviews via telephone. The Census Bureau also has the capability to scale up call centers and staff operations to meet increased demand. Finally, there is redundancy in the paper questionnaire self-response capabilities so that work can be shifted between the Census Bureau's two facilities, allowing the Census Bureau to accommodate a much higher volume of paper responses. In addition, if aggregate response rates are lower than expected, the Census Bureau can increase the staff conducting interviews with nonresponding households and extend the duration of the Nonresponse Follow-up operations as it has done in the past.

21. Will the online version require people to complete the questionnaire in one sitting or will it allow people to stop in the middle and come back to it? How will it account for "break-off," which is when people start filling something out but don't complete it?

Because the Census Bureau has increased the security of the online instrument to provide stronger privacy protections on the confidential data of all respondents, the Internet self-response system will not allow people to save a partial response and return to it at a later time. The Census Bureau expects and is planning an increase in telephone response.

22. How will the online platform accommodate non-English speakers?

The Census Bureau is planning to offer Internet response options in 12 languages covering over 80% of limited English speaking households.

Internet Response: Cybersecurity**23. What preventative measures is the Census Bureau taking to ensure that Americans do not fall victim to phishing attacks from emails and websites that appear authentic but instead are malicious when filling responding to the 2020 Census survey?**

Phishing attacks are one example of the many cybersecurity threats facing the Census Bureau that target consumers. To help provide services to resolve these external threats, the Census Bureau plans to partner with industry and other federal agencies. Additionally, the Census Bureau will use proactive public communications to educate and reinforce typical cybersecurity measures (virus protection, keyloggers, phishing etc.) to protect respondent's own data and increase their confidence that they are using the websites and tools from the Census Bureau. In addition, the Census Bureau will proactively monitor for websites impersonating the Census Bureau and will not send emails directly to respondents.

24. Given the significant reduction in field operations for the 2018 End-to-End Census Test, what IT capabilities have been cut from the test? When will these capabilities be tested? For example, what fraud detection capabilities were originally planned for the 2018 End-to-End Test and what will actually be delivered?

The reduction from three sites to one site for the peak operations of the 2018 End-to-End Census Test did not have a significant impact on the IT capabilities being tested to support the operations. The planned fraud detection capabilities have not changed, except for the Post Enumeration Survey and the Integrated Partnership and Communications Program. The systems supporting these operations will be tested in late 2018 and 2019.

25. To date, has the Census Bureau developed a formal cybersecurity policy or plan to ensure the security of the system? If so, please provide. If not, when will the Census Bureau develop a formal cybersecurity policy or plan?

The Census Bureau has a formal cybersecurity policy to ensure Census systems are developed with the appropriate security requirements. The Bureau of Census Information Security Program and Policy (BOC ITSP) specifies the mandatory requirements for the Census Bureau IT security Program that implement Federal Requirements as outlined by FISMA. The policy also addresses the security requirements for authorization of information systems in accordance with federal best practices as outlined by DOC's National Institutes of Standards and Technology (NIST) in its NIST SP 800-37, Guide for Applying the Risk Management Framework to Federal Information Systems.

For the 2020 Census Program, the Technical Integrator (TI) contractors have developed an overall 2020 Census System of Systems Security Plan (current version 4.0) ensuring

confidentiality, integrity and availability of 2020 Census system boundaries (On-Premise, Cloud and Field) in accordance with the TD-008 security requirements and BOC ITSSP. The On-Premise, Cloud and Field references the various infrastructure that is supported by the 2020 Census System of Systems Security Plan. The On-Premise infrastructure is hardware/software and telecommunications that the Census Bureau purchased for the physical data center in the Bowie Computer Center. The Cloud refers to the Amazon GovCloud service that the Bureau procured. The Field infrastructure refers to equipment that was purchased and housed in the Regional Census Centers. TI will be developing NIST 800-53 Rev 4 based System Security Plan (SSPs) for each infrastructure/security component and specific security plans such as Incident Response Plan, Disaster Recovery Plan, Contingency Plan and Vulnerability Management Plan as part of the ATO process.

The Bureau's Office of Information Security (OIS) manages the ATO process within the Bureau, including contractor operated systems. The Census Bureau uses the same process for all systems; Decennial and non-Decennial systems follow this process.

26. Will the Census Bureau conduct risk-limiting audits to ensure that census responses are being accurately recorded and the system is maintaining its integrity? Please explain.

The Census Bureau takes the integrity of data and systems seriously. It has implemented checks on database schemas, service bus, applications, etc., that would trigger events indicating data inconsistencies in relation to the responses. It has these checks at various levels, such as client side, middleware, and backend components, and it is ensuring compliance with Risk Management Framework with the objective of data integrity in relation to response data. It also runs security scans regularly on all appropriate components of their systems.

Additionally, the Bureau is implementing a fraudulent response detection system and operation center. This system will be responsible for determining whether fraudulent returns have been submitted from internet self-response, telephone interviews conducted by Census Questionnaire Assistance staff, and paper self-response. In addition to establishing criteria and thresholds to identify potentially fraudulent responses, the operation is responsible for determining the appropriate follow-up action for investigating and resolving cases of suspected fraud.

Fraud detection will identify:

- Individual Fraud: A single person submits a small number of fraudulent responses
- Targeted Fraud: An individual or group submits a large number of fraudulent responses in a particular state or locality in an attempt to fraudulently inflate Census counts in a particular area
- Widespread Fraud: An individual or organization submits a large number of fraudulent responses—potentially by automated hacking techniques, and not concentrated in a particular locality—in an effort to affect the overall counts

Fraud detection components will include:

- Modeling/algorithms – a statistical approach to ferret out potential fraud, including individual response scoring, outlier detection, and trend analysis
- Spatial analysis – examination of the geographic distribution of responses as a component determining suspected fraud cases
- Social media monitoring strategy – analytics to identify suspicious patterns which will be ranked, sorted, and displayed on a dashboard to inform the analytical work
- Case management – a system to create workloads for analysts and potential follow-up
- Business intelligence (BI)/visualization strategy - approach for condensing the data points from the multiple fraud analysis modes into relevant key performance indicators (KPIs)
- Feedback loop activities – continuous improvement in the Fraud Detection System

Resolution of suspected fraudulent responses will include:

- Investigation by fraud detection analysts to determine whether suspected cases identified through automated detection methods can be deemed acceptable by the analyst based on established rules, or require field follow-up to determine final disposition.

For cases referred by fraud detection analysts, field follow-up will occur as a component of Nonresponse Follow-up work. In work similar to the quality control efforts for enumerators, the respondent will be asked a series of questions to determine the level of consistency between the original response data and their current response. If necessary (e.g., significant differences are noted in the initial questions, such as household count), a complete interview (i.e., all questions on the census questionnaire) can be conducted to ensure accuracy of the response data for a household.

27. Does the Census Bureau have dedicated cybersecurity staff in place, if so, what are their specific roles and responsibilities?

Yes, the Census Bureau has dedicated cybersecurity staff in place. The Office of Information Security is responsible for ensuring the IT/Cybersecurity posture of the Census Bureau in accordance with the Federal Information Security Management Act (FISMA) and is directly responsible for six areas:

- 1) Policy and Compliance
- 2) Security Engineering
- 3) Security Assessment and Continuous Monitoring
- 4) Providing Information System Security Officer (ISSO) support
- 5) Situational Awareness/Security Operations Center
- 6) Cybersecurity incident handling

Within the Census Bureau, IT system owners and business authorizing officials can be located in the program areas and outside of the IT Directorate. OIS works closely with those program areas

to make sure they understand security requirements and that they are trained for the roles in which they operate.

28. Securing people's personally identifiable information (PII) is essential as the Census Bureau moves to modernize the census.

a. Please discuss the federal partners the Census Bureau working with to ensure that its systems will be secure and ready to accept large amounts of data. Is the Census Bureau working with the Department of Homeland Security or any other executive agencies to monitor efforts to interfere with or undermine the Bureau's data collection efforts?

The Census Bureau has been working closely with the National Institute of Standards and Technology (NIST) and the Department of Homeland Security (DHS). With NIST, the Census Bureau has been collaborating on the following topics: Cloud Computing Architectures, IT security risk management framework, and the Derived Credential initiative allowing the Bureau to use HSPD-12 required authentication for its general field force. With DHS, the Census Bureau has been working on the following initiatives: 2020 Census System Architecture review, Strengthening Incident Management Capabilities: Federal Incident Response Evaluation (FIRE) assessment (Completed 11/2017); 2020 Census System Penetration testing (Planned first quarter CY 2018); and Obtaining classified threat information (First report planned for First Quarter CY 2018).

The Census Bureau is also working with DHS to coordinate a table top exercise that simulates a Census-related cyber incident. This exercise will give Census the opportunity to walk through their cyber incident response procedures as well as better understand what resources are available across government to assist in their response.

The Census Bureau will continue to work with DHS and the Office of Management and Budget (OMB), which were engaged through the Federal Cyberstat Process, to determine what additional federal cybersecurity assistance the Census Bureau can receive.

b. Please describe whether the Census Bureau's public education campaign will demonstrate to Americans that they can be confident their information will be collected and stored securely.

The Census Bureau has official messaging on this topic and plans to share it with the 2020 Census communications contractor, Young & Rubicam, NY (Y&R), to ensure that the messaging being used demonstrates to everyone in the United States and its territories (including Puerto Rico, American Samoa, the Commonwealth of Northern Mariana Islands, Guam, and the US Virgin Islands) that their information will be securely collected and stored. Additionally, the Census Bureau continues to directly communicate this to the public. Its extended network of trusted voices (e.g. State Data Centers (SDCs), Census Information Centers (CICs), Advisory Committee Members, etc.) also play an invaluable role in communicating these key messages to their audiences to help ensure public awareness. Under Secretary Kelley and I are also working very closely with the Census Bureau to leverage additional communications opportunities.

29. In the event of a data breach, what are the Census Bureau's data breach notification requirements?

The Census Bureau implements incident response within its environment following guidelines established by the United States Computer Emergency Readiness Team (US CERT), the NIST Computer Security Incident Handling Guide (NIST SP 800 – 61 rev. 2), DOC's Breach Response and Notification Plan, and supporting directives from OMB. These directives allow the Census Bureau to create an incident response policy, incident response plan, a response committee (the Census Bureau Data Breach Response Committee), and incident response procedures applicable to its environment. At the Census Bureau, the policy is reviewed and approved by the Data Stewardship Executive Policy Committee (DSEP) and signed by the DSEP Chair. Incidents follow an incident response framework, which includes preparation, detection, analysis, containment, eradication, recovery and post-incident activity. The Remedy Case Management (RCM) system is used for tracking and documenting incidents at the Census Bureau. Broadcast messages enterprise-wide from OIS are used when appropriate to notify all Census employees of potential security impacts. In addition, notification of security alerts to program areas are made through their respective Information System Security Officers (ISSOs). The Technical Security Staff collaborates with US CERT and the DOC Enterprise Security Operations Center (ESOC) and Computer Incident Response Team (CIRT) and its sub agencies commonly called FEDCIRT. Vendors supporting the Census Bureau are required to report incidents to the Bureau of Census Computer Incident Response Team (BOC CIRT) following procedures in the incident response policy and plan.

For Cybersecurity incidents and breaches that meet the criteria of a major incident, the Census Bureau, like all federal agencies, must notify the appropriate congressional committee and its Office of Inspector General (OIG) no later than seven days after the agency has reasonably concluded that a major incident has occurred. Pursuant to Presidential Policy Directive-41 (PPD-41), if an incident is a major incident, it is also a "significant cyber incident", which will trigger the interagency coordination mechanisms outlined in PPD-41 and potentially require participation and actions from a Cyber Unified Coordination Group. Privacy incidents are included in these procedures for responding to a data breach, including a breach of personally identifiable information (PII). In addition, in the event of a Federal Tax Information data breach, reporting requirements will be guided by the Internal Revenue Service (IRS) 1075, Tax Information Security Guidelines.

Administrative Records

In 2020, the Census Bureau plans to rely heavily on administrative records and third party data to reduce costs and to obtain missing information about unresponsive households in order to minimize field-canvassing operations.

30. Please discuss the specific administrative records and third party data the Census Bureau will use.

Throughout the decade, the Census Bureau has been planning and testing the use of administrative records for the enumeration of occupied nonresponding households.

Administrative records include data from the IRS, the Social Security Administration (SSA), Medicare and Medicaid, the Indian Health Service, and other data sources. Administrative records also include data from prior Decennial Censuses and the American Community Survey (ACS). The Secretary has also directed the Census Bureau to obtain as many additional Federal and state administrative records as possible to provide more comprehensive information for the population. Additionally, the Census Bureau uses private sector data, where applicable.

31. Also, please discuss the contingency plans the Census Bureau has to ensure that traditionally undercounted populations, who may not have the same body or quality of administrative records and third-party data as other groups, are counted in the 2020 Census.

Throughout the decade, the Census Bureau has been planning and testing the use of administrative records for the identification of vacant housing units and the enumeration of occupied nonresponding households. Administrative records include data from the IRS, the Social Security Administration (SSA), Medicare and Medicaid, the Indian Health Service, and other data sources. Administrative records also include data from prior Decennial Censuses and the American Community Survey (ACS). Additionally, the Census Bureau uses state, local and private sector data for well-defined purposes, such as establishing census block boundaries and supporting address list compilation. The Secretary has also directed the Census Bureau to obtain as many additional Federal and state administrative records as possible to provide more comprehensive information for the population.

In the case of households that do not respond after our repeated efforts, the Census Bureau expects to be able to enumerate up to six million households in the 2020 Decennial Census entirely with federal administrative records. This will be done only when the Census Bureau has a high level of confidence that the federal administrative records are of high quality, can corroborate the information with other high-quality records, and when the information can be accurately applied to the addresses and persons in question. One type of household that could be enumerated using administrative records is that of an elderly couple who have lived at the same address for many years, who file their taxes regularly, and who have signed up for Medicare. Where it does not have high quality and high confidence in the data, such as when the data in the federal administrative records is inconsistent or missing, the household will become part of the Census Bureau's Nonresponse Follow-up operation (NRFU) for a direct follow up by census enumerators. Moreover, to ensure the success of the NRFU Operation, the Census Bureau intends to support this operation through the Integrated Partnerships and Communications Program to reach those who do not self-respond and cannot be enumerated through federal administrative records.

Integrated Partnership and Communications Program

Earlier this year, the Census Bureau paused crucial advertising and partnership campaigns. Civil rights advocacy organizations have warned that the Census Bureau's decision to pause this campaign and delay the publishing of a comprehensive communication plan will adversely affect public outreach efforts, particularly with respect

to the hard-to-count populations. Moreover, this could cause self-response rates to decrease and potentially lead to increased costs.

32. What is the status of the advertising and partnership campaign effort?

The Census Bureau's approach to developing the Partnership Program staff is driven by their past experience. The 2010 Census initially planned for a total of 680 partnership specialists. When it received funding from the American Reinvestment and Recovery Act they invested an additional \$120 million in the Partnership Program. This primarily was used to increase partnership specialists to 786, and to add an additional 1,750 partnership assistants. These additional staff were added late in the process, and looking back the Census Bureau felt that the partnership assistants, in particular, were not as effective as the more seasoned partnership specialists. For the 2020 Census, the Census Bureau has increased the number of partnership specialists planned to 1,000, which is a significant increase relative to the base funding for the 2010 Census. The Census Bureau believes that this will allow for a strong Partnership Program.

The 2020 Partnership Program began in 2015 with eight partnership specialists to support the 18 tribal consultations and 2016 Census Test. This is the earliest the Census Bureau has started the partnership program. The 2010 Census did not begin to hire partnership specialists until 2008. Currently, there are over 40 Partnership Specialists across the country. The staff are now working with tribal, state and local governments to form State Complete Count Commissions and Complete Count Committees. These are formal partnerships with tribal, state and local governments that the Census Bureau can leverage the local trusted voices and expertise to extend the partnership staff reach to the hard-to-count populations.

The Census Bureau plans to ramp up to 1,000 Partnership Specialists beginning in October 2018.

An extensive communications and advertising campaign will also be launched, as was done in the prior two decennials. The 2020 Census Integrated Communications plan can be found here: https://www.census.gov/programs-surveys/decennial-census/2020-census/planning-management/planning-docs/integrated_com_plan.html.

There were nearly 3,000 partnership specialists for the 2010 Census, however, the Census Bureau only plans to hire 1,000 partnership specialists for the 2020 Census. According to a 2010 GAO report, “[t]he Bureau better positioned itself to reach out to and enumerate HTC populations in 2010 in part by . . . significantly expand[ing] the partnership program by hiring about 2,800 partnership staff in 2010 compared to around 600 in 2000. As a result, staff were not spread as thin. Also, the number of languages they spoke increased from 35 in 2000 to 145 for the 2010 Census.”²

² Government Accountability Office, *Key Efforts to Include Hard-to-Count Populations Went Generally as Planned; Improvements Could Make the Efforts More Effective for Next Census* (GAO-11-45 2010) (Dec. 2010).

33. What steps will the Census Bureau take to ensure that the 1,000 partnership specialists will be able to replicate the broad outreach to hard-to-count populations that the partnership specialists achieved in 2010?

See answer to Question #32.

34. What additional resources will be available to the decreased number of partnership specialists?

The Census Bureau will be working closely with its communications contractor, Young and Rubicam, and its sub-contractors, collectively referred to as Team Y&R (TYR), to develop materials and tools for the partnership specialists. This will be based on TYR's research, including the Census Barriers, Attitudes and Motivators Survey (CBAMS). CBAMS will inform the messaging and support materials that partnership specialists will use in their work. TYR will also be launching an extensive advertising campaign, including online and targeted advertising. The Census Bureau also has a robust database of existing partner organizations, and is developing a partnership engagement platform which will provide a wide range of toolkits and models that will support the program.

In the hearing, you testified that the draft communication plan had finally been released four days prior to the hearing—five months behind schedule.

35. When will the Census Bureau release its final comprehensive communications plans?

The Census Bureau released the initial version of the Communications Plan last Fall. It can be found here: https://www.census.gov/programs-surveys/decennial-census/2020-census/planning-management/planning-docs/integrated_com_plan.html. The next iteration of the Communications Plan will be completed in the summer of 2019.

36. What role, if any, do the partnership specialists have in drafting the communication plan?

Partnership specialists, and staff with extensive partnership program experience were consulted in the development of the initial draft of the plan. They will continue to be involved as the plan further develops.

37. How does the Census Bureau intend to reach a variety of audiences?

The Census Bureau is planning a robust communications and partnership program. It will advertise in multiple languages, and work with the trusted voices in communities across the nation. Digital media will allow Census to reach hard-to-count populations. Census partners include national organizations, churches and other faith-based organizations, health clinics, legal aid centers, and other support organizations. The Census Bureau also will provide support and response options, including Internet and telephone response options for 12 languages. All mail materials and paper questionnaires will be in both English and Spanish. In addition, Census enumerators will provide support in multiple languages.

38. How will the Census Bureau engage with state and local officials to promote and encourage self-response efforts?

State and local governments play a key partnership role in educating and motivating residents to participate in the 2020 Census. When community members are informed they are more likely to respond to the census. Evaluations of the last two decennial census communications programs show a direct correlation between increased awareness and increased census participation. State and local officials are key to increasing awareness by engaging with their constituents about the importance of responding to the census. The Census Bureau has been meeting with state and local governments to discuss forming Complete Count Committees, which were instrumental in the success of the 2000 and 2010 Censuses. Complete Count Committees are comprised of a broad spectrum of government and community leaders from education, business, healthcare and other community organizations. These state and local trusted voices develop and implement 2020 Census awareness campaigns in coordination with the Census Bureau.

Census High Risks Status: Open GAO Recommendations

In February, GAO placed the 2020 Census on the 2017 High Risk List because the cost of the census has been escalating for the last few decades. The 2010 Census cost approximately \$12.3 billion, and resulted in several billion dollars in cost overruns. GAO has made 84 recommendations in 23 reports to the Department of Commerce and the Census Bureau regarding 2020 Census preparations. Though the Census Bureau agreed with these recommendations, to date, it has not implemented 36 of these recommendations.

39. When will the Census Bureau implement these recommendations?

2020 Census GAO Recommendations

Topics	Total Recommendations	Closed Recommendations	Open Recommendations	Recommendations with Action Plan Due Date in Future
Life Cycle Cost Estimate	14	10	4	-
Schedule	12	6	6	-
IT & IT Security	23	18	5	-
Field Training, Workforce & Recruitment/ Integrated Partnership and Communications	18	5	13	4
Other*	17	14	3	
TOTAL	84	53	31	4

*Other includes the following topics: Project Management, Oversight, United States Postal Service, Nonresponse Follow-up, Address Canvassing, and Census Coverage Measurement.

GAO has made 84 recommendations since 2007 about the 2020 Census. Action plans are in place for all recommendations.

- 53 Have been closed by GAO.
- 4 Have due dates in the future (4 in 2018).
- 14 Relate to ongoing audits on the Lifecycle Cost Estimate, the Schedule and our efforts to enumerate Hard-to-Count populations. GAO will not close these until the ongoing audits are complete.
- 12 Artifacts have been provided to GAO, and we are working with GAO to identify the additional documentation they need to close these out. We expect progress on these in the near future.
- 1 This recommendation GAO is likely to close as “Not Fully Implemented” because, while artifacts have been provided, discussions with GAO clearly indicate our efforts to date, or planned, will not fulfill the recommendation.

40. How will the Census Bureau work with GAO to make sure that the remaining recommendations are implemented before Census Day 2020?

The Census Bureau’s 2020 Census communications staff meets with GAO weekly to review the status of open recommendations and the progress being made to address them. The 2020 Executive leadership meets with GAO bi-weekly to address ongoing audits and issues of concern to both the Census Bureau and GAO. Open recommendations are periodically addressed in this meeting as well. Ron Jarmin and Enrique Lamas, performing the non-exclusive duties of the Director and Deputy Director respectively, meet with GAO regularly as well. Additionally, Under Secretary Kelley closely monitors the Census Bureau’s work to address all GAO recommendations, and she updates me regularly on the progress the Census Bureau is making to address them.

From Senator Kamala Harris

Sexual Orientation and Gender Identity

On May 22, Sen. Carper and I sent a letter asking for information about why the Census Bureau decided not to include a question about sexual orientation or gender identity.

41. What is the status of the response to that letter?

A response to your letter was transmitted via email on Thursday, February 22, 2018, and a hard copy was hand delivered to your office on Friday, February 23, 2018.

42. You stated on October 12 before the House Oversight and Government Reform Committee that a question area around sexual orientation and gender identity would not be included on the 2020 Census because “it was concluded that that particular set of questions did not meet the requirements for being put in.” How specifically did this question area not meet the requirements to be included?

Federal agencies routinely request additional questions to be considered in the American Community Survey (ACS), and Census considers them pursuant to a longstanding process that involves the Office of Management and Budget (OMB). The Census Bureau received requests from the Department of Justice (DOJ), Environmental Protection Agency (EPA), the Department of Housing and Urban Development (HUD), and the Department of Health and Human Services (HHS) to consider a new question in the 2020 ACS that would collect sexual orientation and gender identity (SOGI) data. The Census Bureau and the Department evaluated the requests, working with the requesting agencies and OMB.

On March 7, 2017, DOJ withdrew its SOGI data request before the Department completed its analysis of the need for the content and the Census Bureau concluded that there was no independent basis to alter or amend the current content.

43. You also said that, “one of the problems with adding questions is it reduces response rates.” However, the Federal Interagency Working Group on Improving Measurement of Sexual Orientation and Gender Identity in Federal Surveys found that “most surveys incorporating SOGI (sexual orientation and gender identity) items have not found higher nonresponse rates than other ‘sensitive’ questions, such as personal or household income.” Please provide the data related to sexual orientation and gender identity on which your statement is based.

It is our understanding that the statement by the Federal Interagency Working Group has been quoted out of context. That statement does not reflect the views of the Census Bureau, and it was not used by the Census Bureau as the basis in making policy decisions.

As previously explained, following the Department of Justice's decision to withdraw its SOGI data request, the Census Bureau concluded that the topics to be included in the 2020 Census and the ACS should be unchanged from the 2010 Census. The proposal, which was delivered to the Congress on March 28, 2017, did not include sexual orientation or gender identity.

Partnership Program

During the hearing you testified that the Census will be hiring 1,000 partnership specialists. You noted that the Census hired “some fairly junior people” to support partnership specialists in 2010, and indicated that a decision has been made “to instead increase qualified people from 800 to 1,000” for 2020 efforts.

44. Please provide me with the metrics the Census Bureau used to determine the current workforce modeling for partnership program staff, including position descriptions, and

any cost benefit analysis and comparison related to a reduction in the partnership positions hired in 2010.

The Census Bureau's approach to developing the Partnership Program staff is driven by past experience. In the 2010 Census it initially planned for a total of 680 partnership specialists. Additional funding received in FY2009 allowed the Census Bureau to invest an additional \$120 million in the Partnership Program. This primarily was used to increase partnership specialists to 786, and to add an additional 1,750 partnership assistants. These staff were added late in the process, and looking back the Census Bureau felt that the partnership assistants, in particular, were not as effective as the more seasoned partnership specialists. For the 2020 Census, the Census Bureau has increased the number of partnership specialists to 1,000, which is a significant increase relative to the base funding for the 2010 Census. The Census Bureau believes that this will allow for a strong Partnership Program. The position descriptions you requested are attached.

2020 Census Advisory Committee

The previous Census Director was moving forward with the creation of a 2020 Census Advisory Committee to ensure stronger partnerships with stakeholders, greater transparency, and greater accountability. This effort stopped under this Administration.

45. Please explain why.

The Census Bureau believes that it can successfully accomplish the goals of reviewing and evaluating 2020 Census operations and programs (i.e. partnerships), and receive timely recommendations through the existing Census-focused advisory committees: the Census Bureau National Advisory Committee on Racial, Ethnic, and Other Populations and the Bureau of the Census Scientific Advisory Committee.

Combined Hispanic Origin and Ethnicity Question

The previous Census questionnaire had one question about whether the respondent was of Hispanic origin and another question about race. Following thorough testing, the Census has been moving forward to combine these questions to increase Latino response rates and ensure a more accurate count.

46. Is this still the case and is the Census still waiting on OMB review? If so, when does the Census expect an OMB determination?

On January 26, 2018, the Census Bureau announced the 2020 Census Program decision to continue to use the two separate question format for collecting data on race and ethnicity in the 2018 End-to-End Census Test and the 2020 Census.

The Census Bureau adheres to the Office of Management and Budget's *Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity*, last revised in 1997, providing a minimum standard for maintaining, collecting, and presenting data on race and

ethnicity for all Federal reporting purposes. (<https://www.gpo.gov/fdsys/pkg/FR-1997-10-30/pdf/97-28653.pdf>)

47. During the FAQ portion of the last 2020 Census Quarterly Program Management Review, a Census Bureau representative said, while responding to a question, that if the Office of Budget and Management (OMB) did not approve the combined Hispanic Origin-Ethnicity question, that the 2020 Census Bureau would default to having two questions, as was done in during the 2010 Census. After the extensive testing that the Census Bureau has done on combining these two questions, why would the 2020 Census default to separate questions absent an adverse position or statement from OMB?

The Census Bureau adheres to the Office of Management and Budget's *Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity*, last revised in 1997, providing a minimum standard for maintaining, collecting, and presenting data on race and ethnicity for all Federal reporting purposes. In keeping with these standards, the planned race and ethnicity questions for the 2020 Census will follow a two-question format for capturing race and ethnicity for both the 2018 End-to-End Census Test and the 2020 Census.

A similar question was raised at the January 2018 Program Management Review (<https://www.census.gov/programs-surveys/decennial-census/2020-census/planning-management/program-briefings/2018-01-26-pmr.html>).

Census Bureau Staffing

48. How many unfilled positions are at the Census Bureau?

There are approximately 600 appropriated vacant positions at the Census Bureau. We are working to fill these vacancies as quickly as possible and expect all vacancies to be filled prior to the 2020 Census.

49. What is the timeline for filling these positions?

The Census Bureau is prioritizing vacancies for the 2020 Census in line with the needs of the program, and they are working to fill the high priority positions as soon as possible. It also maintains continuous postings on USAJOBS for Survey Statisticians, Program Managers and IT Specialists, the most important positions for the 2020 Census Program, which helps with this process. We are seeking to fill all of the positions allocated to the 2020 Program by the end of FY 2019 so that the program will be fully staffed for the 2020 Census.

50. We have a tighter labor market than we did the last time the Census was done, what are the plans to recruit and hire the roughly 500,000 temporary workers for 2020?

a. How will the census ensure that they have a diverse and culturally competent workforce?

The Census Bureau will rely on innovative approaches and time-proven techniques to attract a skilled and diverse workforce throughout the nation.

An important consideration to recruiting is establishing a competitive and attractive pay rate. Through ongoing work with labor economists at the Census Bureau's Center for Economic Studies using wage data from the Bureau of Labor Statistics, the Census Bureau is developing a variable pay structure that reflects the local labor market in counties across the United States. It is also incorporating a strategy to quickly adjust pay rates, including considering increasing pay rates, to ensure that pay does not become an impediment to recruiting workers.

In addition, the Census Bureau is making it simpler for applicants to apply for jobs. Unlike the 2010 Census—where applicants completed onerous paper applications and took proctored tests in a classroom-like setting—the Census Bureau is using an online application and assessment system for the 2020 Census. Those interested can apply at their convenience.

Similarly, the Census Bureau is planning to promote the availability of Census jobs through a variety of means, including traditional advertising and social media. It also plans to engage partners and their established networks to communicate job opportunities. This will help the Census Bureau reach applicants from groups with special required competencies, including language skills and experience working with hard-to-count populations and groups, such as students, veterans, and seniors.

Fundamental to the recruiting and hiring effort will be an effort to “hire locally.” The Census Bureau wants Census takers to be familiar with the neighborhoods where they work and it wants the people living in those neighborhoods to be comfortable with the person that comes to their door. To enhance its ability to hire locally and to meet its recruiting targets, the Census Bureau will incorporate technology into its recruiting efforts for the 2020 Census. Automated tools will help closely monitoring recruiting at very small geographic levels. In late 2019 and early 2020, thousands of recruiting staff across the Nation will use mobile devices to assess and respond to any local recruiting challenges in their communities.

Communications Efforts

An effective communications plan is critical to ensure an accurate census through reaching hard-to-count populations such as African-Americans, Latinos, Asian-Americans, Native-Americans, and those in rural areas.

51. In 2010, much of the communications budget was dedicated to hard-to-count populations. What portion of your communications budget will go to these efforts?

The goal of the IPC is to reach everyone and encourage them to self-respond (see pages 22-24 of the 2020 Census Integrated Communications plan which can be found here:

https://www.census.gov/programs-surveys/decennial-census/2020-census/planning-management/planning-docs/integrated_com_plan.html). The Census Bureau is currently revising its lifecycle budget to be in line with the increase in funds allocated to the communications contract. While the lifecycle budget will include an estimated amount for paid media in general, it will not contain details around allocations to specific media channels (tv, radio, print, digital) or for specific audiences, including those considered hard-to-count. This

level of detail is dependent upon research currently in progress, predictive modeling, and segmentation. These inputs will help define the target audiences on which we will focus, and the audiences will drive the media channels that will be used. The Census Bureau does not anticipate having this level of detail until later in FY19.

52. Minority and rural communities have less access to affordable broadband Internet connectivity, but have higher rates of participation on social media- particularly among millennials of color. How much of the communications budget will be focused on digital communications and is there a plan to reach these groups in particular?

See answer to question #51.

53. Using ethnic and local media is critical to reaching minority communities. How much of your budget will be focused on this area?

See answer to question #51.

54. Will you commit to providing me a detailed communications plan for hard-to-count populations within the next month?

The 2020 Census Integrated Communications Plan can be found here:

https://www.census.gov/programs-surveys/decennial-census/2020-census/planning-management/planning-docs/integrated_com_plan.html.

Cybersecurity

The Census involves collecting personal information from hundreds of millions of Americans. In order to get an accurate census, respondents need reasonable assurances that the information they submit will not be accessed through illegal intrusions. Studies by the GAO in August and November 2016 highlighted a number of cybersecurity challenges associated with the upcoming Census, including properly handling millions of web responses and hundreds of thousands of mobile devices. More recent work by the GAO warned that the Census Bureau is still building the IT systems that will be used for the 2020 Census, which is just 30 months from now.

55. What steps is the Census Bureau taking to address the legitimate concerns that the GAO has raised, and will those steps be implemented and validated in the 2018 End-to-End Test?

Cybersecurity is a paramount concern for the Census Bureau. The Census Bureau has protected personal information for previous decennial censuses and although data collection using an Internet Response mechanism is new, the Bureau is taking several steps to protect the information collected. The Census Bureau intentionally designed publicly facing systems, such as the Internet Self Response website, with many layers and levels of isolation to isolate data and systems from each other in the infrastructure, with monitoring that enables the Census Bureau to respond immediately to contain an issue if and when a threat is identified or detected. The

Census Bureau's approach has specific steps to detect and contain an issue before it becomes a breach. The Census Bureau's publicly facing systems for Internet Self Response have been tested by independent contractors and reviewed by our federal intelligence partners and no weaknesses have been identified. DHS conducted systems testing in February 2018 to further test portions of the Census Bureau's publicly facing systems and also found no significant issues. The Census Bureau's non-publicly facing systems are within data centers and cloud-provided infrastructure already secured through strict network and access controls (firewalls, routers, security software etc.) and continuously managed and maintained through the Federal Authority to Operate process ensure their security.

For additional information, please see the attached slides.

56. How many Census Bureau employees and contractors are working full-time on cybersecurity for the 2020 Census?

The Census Bureau's OIS has approximately eight government full-time employees (FTEs) and 39 support contractors working full time on cybersecurity for the 2020 Census.

In addition, the 2020 Census Program Technical Contract will have a total of 68 FTEs in the cybersecurity organization. Here is the breakdown based on the different groups.

Team	Filled	Open	Total
Security Operations Center (SOC)/Active Cyber Defense (ACD)	13	11	24
Security Engineering and Architecture	10	5	15
Risk Management (RMF) and Compliance	17	4	21
Security Testing	2	0	2
Governance and Management	5	1	6
Total	47	21	68

57. Which executive on your management team is responsible for the cybersecurity aspects of the Census data collection?

Rod Turk, the Acting Chief Information Officer (CIO) at the Department of Commerce, is responsible for the cybersecurity portion of the Census Bureau's data collection activities. Mr. Turk has years of experience in this field; prior to being named Acting CIO, he was the Chief Information Security Officer (CISO) and Deputy Chief Information Officer, responsible for the Department's compliance with the Federal Information Security Management Act (FISMA) and implementation of IT security best practices. Before his tenure at the Department of Commerce, he was the Associate Chief Information Officer for Cybersecurity at the Department of Energy.

58. Please provide auditing plans for every system that will handle personal information for the 2020 Census?

The Census Bureau takes the integrity of data and systems seriously. It has implemented checks on its database schemas, service bus, applications, etc., that would trigger events indicating data inconsistencies in relation to the responses. It also has these checks at various levels, such as client side, middleware, and backend components and is ensuring compliance with the Risk Management Framework with the objective of data integrity in relation to response data. Security scans are run regularly on all appropriate components of our systems. Additionally, the Census Bureau is implementing a fraudulent response detection system and operation center.

Audits of all information systems follow the Census Bureau ITSPP policy, which is in alignment with the NIST 800-37 Risk Management Framework and is performed through continuous monitoring to ensure that appropriate security controls are being followed during system production operations. Security controls include areas such as ensuring systems have up to date configurations including, "patching," and are addressing known vulnerabilities.

59. Has the Census Bureau implemented a vulnerability reporting policy or a "bug bounty" program to enable independent security testing of the Bureau's systems?

The Census Bureau is in the process of identifying the requirements necessary to implement a "bug bounty" system. It is working closely with OMB in this process. OMB recently collaborated with the Department of Defense to establish the appropriate procedures for implementing this approach in the Federal Government, and DOD is advising the Census Bureau as it explores the options for adapting this approach to the 2020 Census Program.

From Senator Maggie Hassan

60. At the Committee's hearing on October 31st, you stated that you had no knowledge of any transactions Paul Manafort made through the Bank of Cyprus. A few days later on November 3rd, Bloomberg reported Mr. Manafort and his associate Rick Gates had at least 15 accounts with the Bank of Cyprus and a bank it acquired in 2013, the Cyprus Popular Bank. This information was provided by the Government of Cyprus in response to a June 7th request from investigators in the Office of Special Counsel Robert Mueller. Can you confirm that during your time as Vice Chairman of the Bank of Cyprus from September 2014 to March 2017 you were unaware of Mr. Manafort's transactions with the Bank?

As I stated during the hearing, I was not aware of any of Mr. Manafort's transactions with the Bank of Cyprus.

61. Several Democratic Senators wrote you various letters earlier this year regarding your involvement in the Bank of Cyprus, including possible ties to Russian investors and executives in the bank. Do you plan on providing timely written responses to these letters?

I have answered questions regarding my involvement in the Bank of Cyprus on multiple occasions. As I have previously stated, the Russians who invested in the Bank of Cyprus were

not my partners. The Bank of Cyprus is a publicly traded company listed on the London Stock Exchange. I had never had dealings with any of them prior to my investment in the Bank.

From Senator Heitkamp

62. In the 2010 census, on reservation American Indians were undercounted by 4.88%. This is after experiencing an over-count of 0.88% in the 2000 census. In preparation for 2020, former Director Thompson took steps to ensure accurate counts in Indian Country. This work was set to culminate with the 2017 tests at the Standing Rock Reservation and the Colville Indian Reservation and Off-Reservation Trust Land, which were cancelled for budgetary reasons. These tests would have examined the promoted tribal enrolment and self-identification questions, as well as the systems for the Update Enumerate operation.

a. The final questions that will appear on the 2020 Census are due to Congress in less than six months. How can you be sure that any new language utilized on census forms will not do more harm than good without substantial testing?

For the 2020 Census, the response category for American Indian or Alaska Native will not change. The only difference for 2020 is that the Census Bureau will list examples of tribes that can be entered on the questionnaire. The addition of examples and the wording of the question has been tested throughout the decade, including in the 2015 National Content Test.

In response to findings from the 2007 American Indian and Alaska Native Tribal Consultations and a 2014 request from the Department of Housing and Urban Development (which was subsequently rescinded), the Census Bureau explored the feasibility of collecting data on tribal enrollment in a Census environment. The Census Bureau received valuable input from the tribes at the tribal consultations both in favor and against collecting tribal enrollment data. However, a large majority of the tribes opposed the use of collecting tribal enrollment data and stated it was not the responsibility of the Federal Government. Some tribes expressed concern that collecting this information would tread on their tribal sovereignty.

During the 2016 National Congress of American Indian's (NCAI) midyear conference in Spokane, Washington, NCAI released a resolution opposing the use of a question on tribal enrollment in the 2020 Census or in the American Community Survey. Before it ended the 2020 Census tribal consultation meetings, the Census Bureau decided not to add a tribal enrollment question to the 2020 Census or in the American Community Survey, and this was conveyed during a few of the last meetings conducted in 2016.

Accordingly, there will be no changes to the language concerning response options available to the American Indian Alaskan Native populations.

b. As stated above, not only would these Indian country tests examine language choices, but they would have provided a useful opportunity to practice enumerating hard to count populations with unique characteristics. The Census' own materials recognize the lack of reliable Internet connectivity in Indian country. Now however, the ability to encounter and trouble shoot this issue is gone. What is the Census Bureau's plan to combat this

technological challenge, and will the provided alternative be tested before being put into the field in 2020?

The Census Bureau announced on July 1, 2015, that it would seek input from tribal leaders for the 2020 Census. The Census Bureau conducted 18 tribal consultation meetings that started two years earlier than those conducted for the 2010 Census. These meetings requested input on topics like geography, data collection operations, and tribal enrollment. Connectivity issues were discussed in these meetings, and the Census Bureau continues to explore ways to ensure that it has measures in place to address them. This includes opening up tribal offices, schools, and health facilities, all of which have designated computer areas with strong Internet connectivity that will allow for self-response, as well as working with designated tribal government liaisons. The Census Bureau also plans to partner with federal agencies, such as the Bureau of Indian Affairs and the Indian Health Service, to have a designated computer available to assist tribal citizens in filling out their questionnaire during their visits to those agency facilities.

However, it is important to stress that the Census Bureau works with officials from each tribe to implement the operation best suited to their situations, as it has done in previous censuses. In many cases, the Census Bureau will use the Update Leave Operation as it will do in rural areas across the country. Census questionnaires will be delivered directly to households in this operation, while the address list is checked and updated in the process. Households that do not respond will be included in the NRFU Operation. In other areas an Update Enumerate Operation will be used during which each household is interviewed directly.

The Census Bureau is sensitive to the fact that many households being contacted and encouraged to respond via mail do not have good Internet connectivity. Those households will receive a paper questionnaire on the first mailing. All nonresponding households will receive a paper questionnaire on the fourth mailing as well.

63. The public's general distrust of the government worries me. When the federal government's historic mistreatment of American Indians is taken into account, it is no wonder that Indian country suffers from undercounts. A program promoted during the Tribal Consultations was the Tribal Government Liaison. The Census Bureau has recognized that this position had been vital and has encouraged all tribal governments to designate a liaison to serve as a representative. In light of cost overruns and underfunding, will these liaisons remain a Census Bureau priority? What steps are being taken to effectively support these positions?

The tribal government liaison program will be continued for the 2020 Census and was promoted during the tribal consultation meetings in 2015/2016. Each region is conducting one-on-one meetings with the tribal leaders to update them on the 2020 Census, and how they can help with recruiting and other field operation programs, discussing tribal geography programs, discussing setting up a Tribal Complete Count Committee, and requesting that a tribal liaison be selected. If a tribal liaison is not identified by July 1, 2018, a letter will be sent by the regional director.

64. In your statements during the hearing, you noted the efforts of the Census Bureau to work in partnership with the United States Postal Service to improve response rates during the 2020 Census. Considering that postal carriers are members of the communities in which they work, and are not perceived through the same lens of most government employees, this is a novel concept worthy of consideration. However, there are many obstacles that must be overcome prior to moving forward with such a complex plan.

a. This would require considerable coordination and cooperation between the Census Bureau, the United States Postal Service, employee unions and the Office of Personnel Management. What types of actions are currently under way to assess the feasibility of such a program?

The Census Bureau and the U.S. Postal Service (USPS) already have established a partnership and have been actively working together to explore ways to increase efficiency. For example, there is the USPS-Census Bureau enterprise partnership that was established in November of 2016.

The USPS-Census Bureau enterprise partnership currently benefits from a permanent institutional structure and governance processes to ensure that it functions as a source of ongoing coordination and cooperation for both organizations. A central Coordination Team that is staffed by USPS and Census Bureau employees and contractors has been established for the key partnership. This Coordination Team is tasked with implementing and monitoring the new institutional structure and governance to ensure ongoing collaboration. In addition to the Coordination Team, five subject-matter themed Working Groups, co-chaired by Postal Service and Census Bureau staff, are regularly meeting and serving as permanent, visible forums for communication.

The Census Bureau looked into the feasibility of using postal carriers to assist with 2020 Census enumeration. The Bureau and DOC have requested a dual employment waiver from OPM in preparation for the 2020 Census. This waiver would allow current or retired USPS employees to perform work for the Census Bureau. In addition, we also worked with USPS to assess the feasibility of a pilot test of Postal Carriers as Census Enumerators, but there are legal obstacles that make this untenable at this time.

Title 13, United States Code, (Title 13) requires the Census Bureau to keep confidential all information collected from or on behalf of respondents. Specifically, 13 U.S.C. § 8(b) provides that the Secretary may only release statistical materials which “do not disclose the information reported by or on behalf of any particular respondent.” Under 13 U.S.C. § 9, no official or employee of the Department of Commerce (“Department”) may: (1) use the information furnished under the provision of Title 13 for any purpose other than the statistical purposes for which it is supplied; (2) make any publication whereby the data furnished by any particular establishment or individual under this title can be identified; or (3) permit anyone other than the sworn officers or employees of the Department or (or its bureaus and agencies) to examine the individual reports. Section 9 further states that census information is immune from legal process. 13 U.S.C. § 9(a). Finally, Title 13 provides that the information collected may not be used to the

detriment of any respondent or other person to whom such information relates, except in the prosecution of alleged violations of Title 13. 13 U.S.C. § 8(c).

In *Baldrige v. Shapiro*,³ the United States Supreme Court directly addressed the confidentiality provisions of Title 13. The Court held that respondent names and addresses, from whatever source obtained or compiled, are part of the raw census data intended by Congress to be protected from disclosure under Title 13.⁴ The Court also found that information not commonly considered to be traditional “responses,” such as vacancy status, are also confidential.⁵ The Court also held that the Census Bureau has no discretion to decide whether to disclose confidential data.⁶ Rather, data becomes confidential at collection by operation of law.⁷ If the Census Bureau acquires information from or on behalf of a respondent and makes that information available to an individual that is not sworn to uphold the confidentiality provisions of Title 13, such as a U.S. Postal worker, then that release is a wrongful disclosure under 13 U.S.C. § 214. Violations of 13 U.S.C. § 214 are punishable by criminal fine and imprisonment. In order to participate in the collection of data under Title 13, an individual must be either a Census Bureau employee or a temporary employee with Special Sworn Status (“SSS”). Specifically, 13 U.S.C. § 23(c) states:

The Secretary may utilize temporary staff, including employees of Federal, State, or local agencies or instrumentalities or employees of private organizations to assist the Bureau in performing the work authorized by this title, *but only if such temporary staff is sworn to observe the limitations imposed by section 9 of this title.* (Emphasis added).

Therefore, the Census Bureau can only engage postal carriers to assist the Census Bureau in conducting the End-to End test authorized by Title 13 if those postal carriers obtain SSS pursuant to 13 U.S.C. § 23(c). To do so, the postal carriers must take an oath of nondisclosure to protect the information they collect and to comply with the requirements set forth in Title 13.

While USPS did not object to the concept of participating postal carriers obtaining SSS, it became clear during the course of the Census Bureau’s discussions with USPS that its carriers would be unable to comply with that oath. USPS advised that participating postal carriers would remain USPS employees and therefore be required to comply with all USPS policies, even when the carriers were conducting enumeration activities for the Secretary of Commerce under Title 13. We understand that these USPS policies, which may be incorporated into USPS collective bargaining agreements, would require postal carriers to disclose name, address, and other information about census respondents in instances and for purposes determined by USPS, including law enforcement. These uses would be non-statistical and would advance activities unrelated to Title 13 and would therefore violate Title 13. The Department defers to USPS to provide any additional information about the specific policies at issue.

³ 455 U.S. 345 (1982).

⁴ *Id.* at 355.

⁵ *Id.* at 349.

⁶ *Id.* at 355.

⁷ 13 U.S.C. § 9.

Nonetheless, the Census Bureau and USPS are actively partnering in a number of ways to save money and increase efficiency as part of the 2018 End-to-End Census Test and 2020 Census. This includes:

1. Delivery of the USPS Delivery Sequence File to the Census Bureau, which adds 500,000 new addresses to the Census address list each year.
2. Delivery of the USPS “Undeliverable as Addressed” file to the Census Bureau, which allows questionnaires addressed to these undeliverable residences to be removed from the Nonresponse Followup workload.
3. Exploration of the installation of Internet kiosks within Post Office retail spaces to enable self-response.
4. Exploration of the use of the USPS Informed Delivery technology to increase and accelerate Internet self-response.
5. Installation of census messaging and advertisements within Post Office retail spaces.
6. Automation of census mail tracking through use of the USPS Informed Visibility technology.

b. Census field workers are, by nature, temporary employees of the federal government. Thus, their compensation and workplace protections are not commensurate with those of vested federal employees. What feedback have you received from the employee unions regarding expectations of carriers, as well as willingness of members, to sign up to take on these additional responsibilities?

Early USPS management conversations with leadership from the National Letter Carriers Association and National Rural Letter Carriers Association indicated that there will be significant interest from their members in volunteering for this Census work. The Census Bureau is open to hiring them as census enumerators as it has in the past. However, the Census Bureau is no longer exploring a pilot test of the feasibility of having postal carriers work as census enumerators in their capacity as USPS employees because there are legal obstacles that make this untenable at this time.

c. While I see a pathway for success in communities with door-to-door service, I am curious how much help such a plan would provide in areas where door-to-door service does not exist – such as on rural routes -- and where postal workers would have less direct interaction with people. Why does the Census Bureau believe a partnership with the Postal Service in such areas will improve non-response follow up? In these areas, will it make a difference if the person employed by the Census Bureau is a postal worker?

The Census Bureau always tries to hire people familiar with the areas where they are conducting field activities. In many areas, even where door-to-door service does not exist, retired postal workers can be very helpful.

d. The 2018 End-to-End test's address canvassing has already been completed, and the only testing remaining will take place in Rhode Island. How will you be able to test this proposition in a rural setting before 2020?

As mentioned above in question 12, the 2018 End-to-End Census Test began in August 2017 in Pierce County, Washington; Providence County, Rhode Island; and the Bluefield-Beckley-Oak Hill, West Virginia area with the implementation of an address canvassing operation. Address canvassing allowed the Census Bureau to test systems in areas without internet connectivity and hone the critical address list development operations in a wide range of geographical situations, including rural areas. The Census Bureau will continue to develop and conduct small scale testing of systems to ensure they function effectively in rural areas.

e. The option of outreach to retired postal employees was also discussed. Again, such an effort would require significant preparation. Ensuring the annuity offset rule is waived, was mentioned by Mr. Dodaro during the hearing is an impediment to this plan. While this is just one example, what other burdens would need to be addressed in order to ensure that retired carriers are not subject to potentially punitive measures?

The Census Bureau will engage with USPS human resource staff to identify what potentially punitive measures would need to be mitigated as part of an effort to recruit USPS retired annuitants as census enumerators.

From Senator Rand Paul

65. Secretary Ross, in March 2017, I wrote to you in support of the proposed changes to Rule 13(f) of the Residence Rules and Residence Situations that was originally published on June 30, 2016. As you are aware, Rule 13(f) would count deployed services members "at the U.S. residence where they live and sleep most of the time."

This rule change is very important to my constituents that live in the region surrounding Fort Campbell, Kentucky, and other military bases that have large amounts of deployable service members.

My constituents understand this first hand because starting in late 2009 and continuing through 2010, members of the 1st, 2nd, 3rd, and 4th Brigade Combat Teams of the 101st, the 101st Sustainment Brigade, the 159th and 101st Combat Aviation Brigades were all deployed to sustain the military "surge" in Afghanistan. It is estimated that at least 10,000 service members were deployed at the collection time of the 2010 Census. Those service members then returned to Fort Campbell at the end of their deployment, yet we counted in other regions of the country.

Will you be issuing the final rule and implement the proposed changes to Rule 13(f) of the "2020 Residence Rules and Residence Situations" as drafted?

Will you commit to having the rule finalized by Jan. 2018?

The Census Final 2020 Census Residency Criteria and Residence Situations Notice published on February 8, 2018 (83 R.F. 5525, <https://www.gpo.gov/fdsys/pkg/FR-2018-02-08/pdf/2018-02370.pdf>). Military personnel deployed overseas will be counted where they were living before they deployed.

From Senator Gary C. Peters**Census Bureau Funding**

66. Secretary Ross: A few weeks ago, you told the House Oversight & Government Reform Committee that you now estimate that the decennial effort will cost \$15.6 billion — \$3.3 billion more than earlier estimates of the lifecycle cost by the Census Bureau. From my understanding, you have the ability to reprogram funding from other agencies in the Department of Commerce for the Census Bureau. Can you tell me where you plan that increase in funding to come from? Will it be reprogrammed within the Commerce Department budget from other agencies or will it come from Congress?

The additional funding requested and needed to support the 2020 Census in FY 2018 came from a mixture of offsets to other Commerce Department agencies and through the regular process of preparing the President's Budget. The Department's request for an adjustment to the FY 2018 President's Budget of \$187 million will provide funding particularly for large technology contracts that the Census Bureau needs this fiscal year to maintain critical path activities this year, all of which is offset by proposed reductions within the Commerce Department. The FY 2018 Omnibus P.L. 115-141 that was passed March 23, 2018 provides the funding that the Census Bureau needs for the 2020 Census. The report language accompanying the Omnibus describes the intended uses for this funding. To ensure that the Census Bureau has the necessary resources to immediately address any issues discovered during the 2018 End-to-End Census test and to provide a smoother transition between FY 2018 and FY 2019, the agreement provides half of the amount needed for those two years and includes the \$50 million contingency requested by the Secretary in FY 2018.

Cybersecurity and Information Protection

67. Secretary Ross: Over the last several years, we have seen an unprecedented level of cyberattacks and compromises targeting the nation's critical infrastructure, federal networks, and private companies. And because this is the first decennial census where the Internet will be leveraged on a large scale for the self-response option, ensuring adequate cybersecurity is of paramount importance. The 2016 Australian census, which was largely conducted online, experienced major denial-of-service attacks targeting the online form and was made unavailable for over 40 hours. If a similarly, highly-coordinated attack was perpetrated against our 2020 Census, it could have wide-ranging disrupting effects, not the least of which include the legal and constitutional deadlines associated with the Census. With the Bureau expecting to receive tens of millions of online responses beginning in just a

few days, can you tell me how the Bureau plans to ensure an uninterrupted Internet response period?

The Census Bureau has been in close contact with IT and program managers in Australia, Canada, and other countries that have moved to Internet Self-Response for their censuses and surveys. It has gained valuable information about the issues they faced, which included public concerns about privacy and phishing, and the problems they had to overcome, including denial of service attacks. Census also learned a great deal from the solutions they developed, particularly in Australia. The Census Bureau's IT experts are working closely with other federal government experts and private sector experts to ensure that the Internet Self-Response system is as resilient as possible to prolonged outages. Census is testing the self-response platform in numerous ways, including during the 2018 End-to-End test in Providence County, Rhode Island. It is performing load tests based on demand models on the self-response platform. It also is implementing enough redundancy to ensure continuity of operations (for example, every cluster of hardware in the system is duplicated and placed in different locations, and AWS maintains two data centers). The Census Bureau also has contingency plans in place should a prolonged outage occur including expanding NRFU or directing more responses to Census Questionnaire Assistance. If the Internet Self-Response platform becomes unavailable for a prolonged period, Census can add up to six surge call centers to allow for additional telephone response, and the paper data capture centers also can add shifts to process more paper questionnaires. Additionally, the Census Bureau can increase the staff conducting interviews during the nonresponse follow-up operation, and the operation itself can be extended to absorb a greater workload.

Local Offices

68. Secretary Ross: It is my understanding that the Census Bureau may not be opening as many local census offices for the 2020 Census as it has done historically for previous decennial censuses. Can you tell me the Census Bureau's plan for opening local census offices in Michigan and across the country for the 2020 Census? How many do you plan to open?

The Census Bureau will open an Area Census Office in Detroit and four additional ones in Michigan to support data collection and outreach efforts for the 2020 Census. Similar to the 2010 Census, these offices will be the primary management centers for most field data collection activities on the 2020 Census. The efficiencies gained with automation and the reduction in paper-based activities will allow us to reduce our footprint to support the work of census enumerators. The Census Bureau still plans to hire staff locally and in sufficient numbers to ensure it counts everyone.

Detroit Regional Office

69. Secretary Ross: After the 2010 Census, the Census Bureau closed its Detroit Regional Office, which played a critical role in improving participation in censuses and surveys, especially in some of historically undercounted populations that we have in southeast Michigan. However, I am concerned that with the closure of the Detroit office, many of these successful census partnership programs will cease and there will be an undercount in

communities in Southeast Michigan and across Michigan. Can you tell me how you plan to build-up a presence in states like Michigan that have reduced offices to ensure a full and accurate count?

The Census Bureau will open and operate an Area Census Office in Detroit. Regional offices serve primarily as administrative centers for the local offices that conduct data collection. Just as it will in cities across the nation, operational support and oversight of field data collection and outreach activities in Detroit will continue to come from local staff. With respect to operational oversight, the Census Bureau will adopt the same approach to managing staff as it has done in the past. Census enumerators will work in the neighborhoods where they live and are familiar with, providing a critical element of local knowledge that increases cooperation and response. The direct supervision of these enumerators is administered by Field Supervisors who also live in these communities and work from home. These supervisors will report to managers located in the five offices located throughout Michigan, which will report to the Regional Census Center located in Chicago, IL.

The Census Bureau has begun its outreach efforts earlier in the decade. For the 2020 Census, the Census Bureau began hiring partnership staff in Fiscal Year 2016—a full year earlier than it did for the 2010 Census. These staff have already begun engaging officials throughout Michigan on early planning activities for the 2020 Census, with a particular focus on participation in the LUCA program. The Census Bureau plans to hire a similar number of outreach staff overall for the 2020 Census as was planned for the 2010 Census.

From Senator Jon Tester

We always talk about leveraging existing government resources wherever we can in order to save money and increase efficiency. One of the efficiencies the Census Bureau could further utilize is the U.S. Postal Service. While Americans may be distrustful of other Federal government agencies, a majority of Americans trust their local letter carrier. Moreover, this labor force is already experienced and knowledgeable of the people they are delivering to. As I understand, the Census Bureau already utilizes Postal Service data.

70. What other ways is the Census Bureau looking to partner with the Postal Service to save money and increase efficiency?

See answer to Question #64.

When it comes to the Census, folks in rural states like Montana get concerned about not being counted. This kind of thing happens with limited access to rural broadband. Especially among Native American communities in my State.

71. What has the Census Bureau done to improve its outreach to Native American communities in the U.S. since you became Secretary?

The Census Bureau has partnership staff working directly with tribes, and it plans to expand this staff next year. The communications contractor, Young and Rubicam (Y&R), provides

extensive experience reaching American Indian and Alaska Native populations, and Census has increased funding for this contract in its lifecycle cost estimate.

72. Has this outreach improved since the 2010 Census? Do you still have concerns?

The Census Bureau announced on July 1, 2015, that it would seek input from tribal leaders for the 2020 Census. The Census Bureau conducted 18 tribal consultation meetings that started two years earlier than last decade. These meetings requested input on topics like geography, data collection operations, and tribal enrollment. This is an important priority and the Census Bureau has a robust program in place to ensure outreach to the American Indian populations.

To ensure continued dialogue following the tribal consultations, Census Bureau regions have been meeting with tribes individually and continue to conduct one-on-one tribal consultation meetings at the request of the tribe within their region. Our tribal partnership specialists have been keeping tribes apprised of programs that require input and participation such as the Local Update of Census Addresses and Type of Enumeration Area to be conducted for 2020.

We currently have 52 tribal government liaisons identified. These liaisons are the point of contact that work with our tribal partnership specialists. We are planning a number of activities in each state and would be happy to come brief your office on what we are doing for your constituents.

**BLOCK-LEVEL DATA on
Citizen Voting Age Population Data (CVAP)
is needed to ensure ONE PERSON ONE VOTE**

March 22, 2018

The only way to **ACCURATELY** collect block-level CVAP data is to **RESTORE** a question about citizenship to the 2020 Decennial Census.

Without block-level CVAP data, the way that Congressional Districts are drawn will CONTINUE to effectively UNDERREPRESENT the Latino community in the United States.

After the 2020 Census, U.S. legislative districts will be redrawn as part of the next redistricting cycle.

Without CVAP data:

- Legislative districts will be drawn to encompass large numbers of Latino residents, BUT many of those residents will likely be *ineligible to vote*, mostly due to their non-citizen status.
- Because of the high number of residents who are ineligible to vote, these districts will be **UNLIKELY** to elect a Latino representative, thereby **DILUTING** the Latino community's voice in public office.

With CVAP data:

- By restoring a citizenship question to the 2020 Decennial Census, block-level CVAP data can be used to help draw up legislative districts that *accurately* reflect the Latino voting population.
- Thus achieving the vital goal of **ONE PERSON ONE VOTE**.

8 Is this person a citizen of the United States?

☐ Yes, born in the United States → *SKIP to question 10a*

☐ Yes, born in Puerto Rico, Guam, the U.S. Virgin Islands, or Northern Marianas

☐ Yes, born abroad of U.S. citizen parent or parents

☐ Yes, U.S. citizen by naturalization – *Print year of naturalization* ↗

☐ No, not a U.S. citizen

The snapshot above was taken from the 2016 American Community Survey. Currently, the 2020 Decennial Census does *not* include a question regarding citizenship or naturalization.

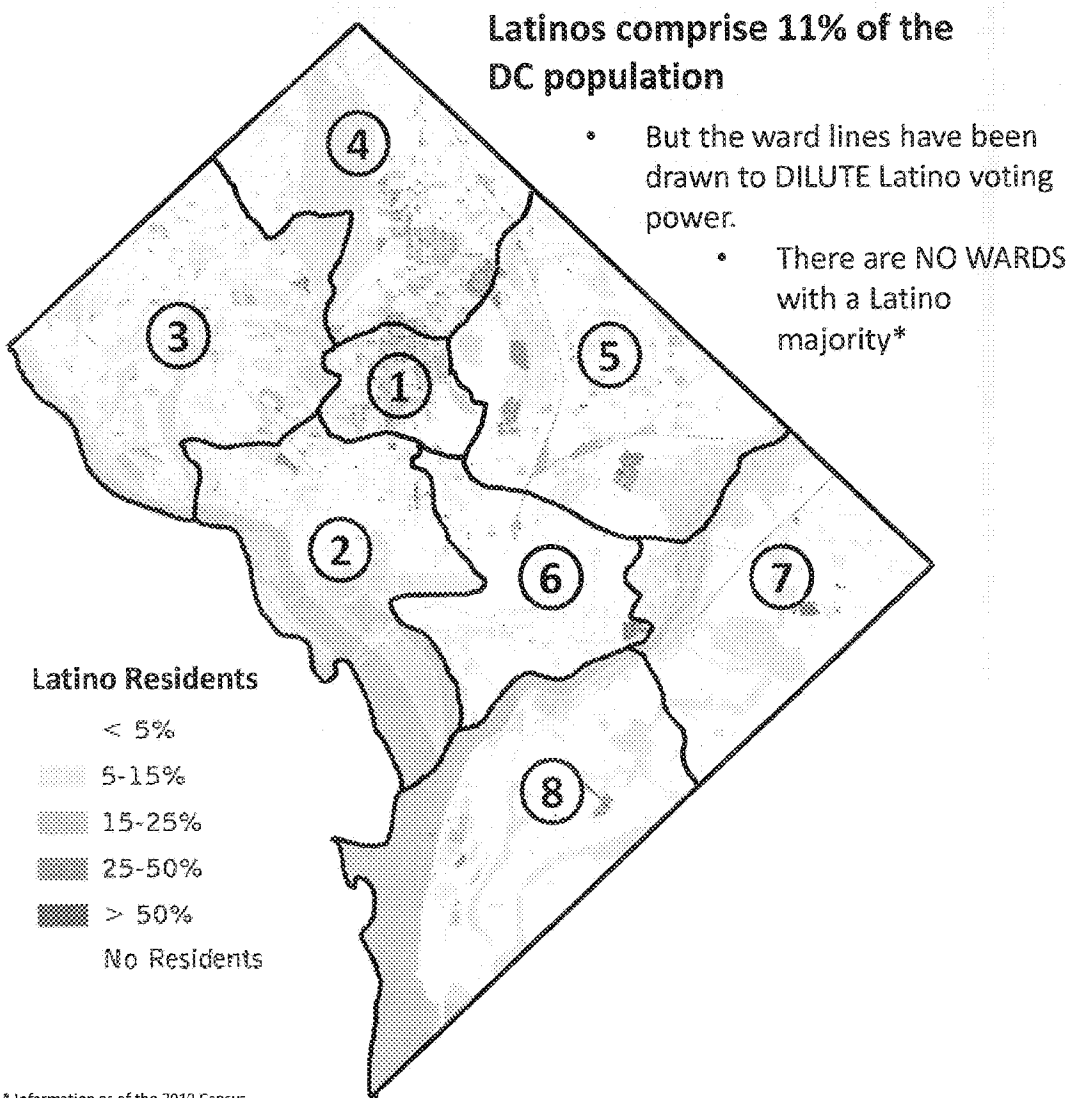
State	District	Latino Share of Total Population	Latino Share of Voting Population	Representative
Texas	15	89%	73%	Vincente Gonzalez (D)
California	40	89%	78%	Lucille Roybal-Allard (D)
Texas	34	86%	77%	Filemon Vela (D)
Texas	16	84%	74%	Beto O'Rourke (D)
Florida	27	83%	72%	Ileana Ros-Lehtinen (R)
Texas	29	82%	62%	Gene Green (D)
Texas	28	80%	68%	Henry Cuellar (D)
Florida	25	76%	63%	Mario Diaz-Balart (R)
California	21	76%	59%	David Valadao (R)
Texas	20	75%	64%	Joaquin Castro (D)
California	35	74%	61%	Norma Torres (D)
Florida	26	74%	64%	Carlos Curbelo (R)
Illinois	4	74%	56%	Luis Gutierrez (D)
California	44	73%	58%	Nanette Barragan (D)
California	51	73%	60%	Juan Vargas (D)
Texas	23	72%	55%	Will Hurd (R)
California	29	71%	56%	Tony Cardenas (D)
New York	15	70%	61%	José Serrano (D)
Arizona	7	70%	48%	Ruben Gallego (D)
California	46	70%	48%	Lou Correa (D)
Texas	33	67%	43%	Marc Veasey (D)
Texas	35	67%	51%	Lloyd Doggett (D)
California	34	67%	51%	Jimmy Gomez (D)
Arizona	3	67%	51%	Rafael Grijalva (D)
California	32	65%	54%	Grace Napolitano (D)
California	38	65%	56%	Linda Sanchez (D)
California	41	63%	47%	Mark Takano (D)
New York	13	61%	47%	Adriano Espaillat (D)
California	18	61%	45%	Jim Costa (D)
New Jersey	8	60%	47%	Albio Sires (D)
California	20	55%	34%	Jimmy Panetta (D)
California	31	54%	42%	Pete Aguilar (D)
Texas	27	54%	45%	Blake Farenthold (R)
New Mexico	2	54%	45%	Steve Pearce (R)
California	36	53%	35%	Raul Ruiz (D)
Florida	9	52%	42%	Darren Soto (D)
New York	14	52%	33%	Joe Crowley (D)

State	District	Black Share of Total Population	Black Share of Voting Population	Representative
Tennessee	2	66%	68%	Steve Cohen
Mississippi	2	66%	64%	Bennie Thompson
Alabama	7	63%	62%	Terri Sewell
Louisiana	2	62%	63%	Cedric Richmond
Georgia	4	59%	67%	Hank Johnson
Georgia	5	59%	61%	John Lewis
Pennsylvania	2	58%	58%	Dwight Evans
Georgia	13	58%	64%	David Scott
South Carolina	6	57%	58%	Jim Clyburn
Michigan	13	57%	59%	Brenda Lawrence
Illinois	2	56%	59%	Robin Kelly
Michigan	13	56%	55%	Vacant (formerly John Conyers)
New York	8	55%	63%	Hakeem Jeffries
Maryland	7	54%	55%	Elijah Cummings
Ohio	11	54%	52%	Marcia Fudge
Florida	20	53%	66%	Alcee Hastings
Maryland	4	53%	63%	Anthony Brown
New Jersey	10	53%	61%	Donald Payne Jr.
Georgia	2	52%	51%	Sanford Bishop
Illinois	1	51%	52%	Bobby Rush
Florida	24	51%	62%	Frederica Wilson

The **LACK** of block-level Citizen Voting Age Population data for LATINO-majority Congressional Districts suggests that the result has been a **diminution** of Latino representation in Congress.

0010239

Latinos comprise 11% of the DC population. WHY then is there NOT ONE Latino on the 13-member City Council?



*There are ZERO Latino representatives on DC's
13-Member City Council*



* Information as of the 2010 Census

Sources: <https://www.sensus.gov/mcdc/>; <http://www.neighborhoodinfodc.org/wardfiles/ward1.html>; <http://dcrcouncil.us/council>

Having block-level CVAP data would facilitate drawing legislative districts where Latino candidates could have a fair shot at being elected to office.

1

Rep. Luis Gutiérrez
(RETIRING)



5

5

out of Illinois' 118-Member State House of Representatives is LATINO

3

Rep. Bobby Rush Rep. Robin Kelly Rep. Danny Davis



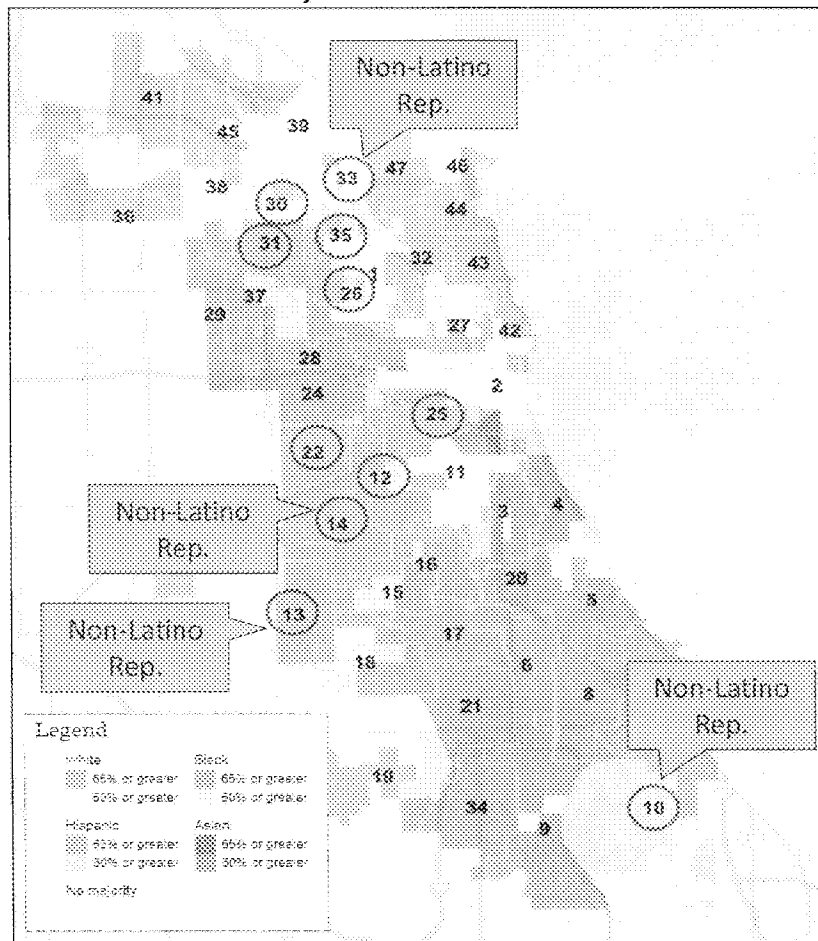
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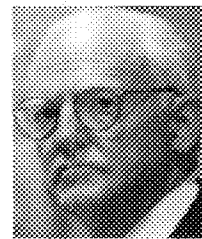
out of Illinois' 118-Member State House of Representatives is BLACK

In Chicago, 11 wards have a LATINO majority. WHY then are 4 of these wards represented by NON-LATINOS?

Chicago has 11 Latino-majority wards
BUT 4 of those wards are represented
by NON-LATINOS.



*OVER ONE-THIRD of the Councilmembers representing
Latino-majority wards are
NON-LATINO.*



Ward 14:
88% Latino
Ed Burke



Ward 13:
72% Latino
Marty Quinn



Ward 10:
63% Latino
Susan Sadlowski
Garza



Ward 33:
54% Latino
Deb Mell

Latinos are the **LARGEST** minority group in Chicago (~30%), yet they are **UNDER-REPRESENTED** in the City Council.

- Chicago's City Council has 50 seats.
- LATINO Councilmembers comprise LESS THAN A QUARTER (12/50).

**The lack of CVAP data DIMINISHES the
VOTING POWER of Latinos in Chicago,
DESPITE being the dominant minority group.**