



ASIAN AMERICANS
**ADVANCING
JUSTICE**
AAJC

VIA EMAIL
REVISED COMMENTS

October 31, 2016

Ms. Katherine K. Wallman
Chief Statistician
Office of Management and Budget
1800 G St., 9th Floor
Washington, DC 20503
Email: race-ethnicity@omb.eop.gov

Re: Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity
(Document Citations: 81 FR 67398)

Dear Ms. Wallman,

Asian Americans Advancing Justice – AAJC, along with the 49 undersigned organizations, academic entities, and individuals representing 15 states and the District of Columbia, submit this comment in response to the Office of Management and Budget’s (OMB) federal register notice regarding the Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity (“Standards”), 81 FR 67398 (September 30, 2016). Asian Americans and Native Hawaiian and Pacific Islanders (NHPIs) comprise vastly diverse racial groups. Without accurate data by detailed subgroup, some of the most disadvantaged in our communities are rendered invisible to policy makers, leaving their critical needs unmet. The Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity are critical to our ability to maintain or improve upon the quality of these detailed data, which are essential to informed public policy on our communities and the fair allocation of federal, state, and local funding. We write to provide comments on the four topics outlined in the notice, as well as to note our concern about the process for these revisions, specifically regarding the compressed timeframe and its impact on the public’s ability to adequately engage and provide informed, substantive comments.

Organizational Information

Advancing Justice – AAJC is a national non-profit, non-partisan organization founded in 1991. Advancing Justice – AAJC’s mission is to advance the human and civil rights of Asian Americans, and build and promote a fair and equitable society for all. Our wide-ranging efforts include

promoting civic engagement, forging strong and safe communities, and creating an inclusive society.

Advancing Justice – AAJC is part of Asian Americans Advancing Justice (Advancing Justice), a national affiliation of five nonprofit organizations in Los Angeles and San Francisco, CA, Chicago, IL, Atlanta, GA and Washington, D.C. who joined to promote a fair and equitable society for all by working for civil and human rights and empowering Asian Americans and Pacific Islanders and other underserved communities. Additionally, over 150 organizations are involved in Advancing Justice – AAJC’s community partners network, serving communities in 32 states and the District of Columbia.

Advancing Justice – AAJC considers the Census, including the American Community Survey (ACS), to be the backbone of its mission to advance the human and civil rights of Asian Americans and build and promote a fair and equitable society for all. Advancing Justice – AAJC has maintained a permanent census program monitoring census policy, educating policy makers, and conducting community outreach and education to encourage participation in the surveys conducted by the Census Bureau in conjunction with other Advancing Justice affiliates.

Key Principles re: Race and Ethnicity Data Collection

The following are overarching principles shared with the Census Bureau to guide its efforts on determining the race and ethnicity questions for the 2020 census, which we believe are pertinent to OMB’s efforts to revise its Standards. The two important, and fundamental, tenets that are centrally important for Census data collection on the race and ethnicity of U.S. persons are:

- 1) Ensuring that we do not move backwards from the detailed reporting achieved in the 2010 Census, which should serve as the baseline for effective practice and;
- 2) Ensuring the accuracy of the data collected.

Principle #1: 2010 Census as a Baseline for Effective Practice - We cannot go backwards

Any data collected in future census must meet the standard already achieved in 2010. This is a minimum or floor, with the hopes that future efforts can build on this foundation. We cannot go backwards in terms of the quality of detailed data collected on Asian American and NHPI groups. In order to honor this principle, we recommend the following practices:

- **A maximum number of checkboxes should be included, with the number used during the 2010 Census serving as a minimum** - Checkboxes capturing detailed race groups improve detailed race reporting and should be utilized for all race groups, regardless of whether or not the race and Hispanic origin questions are combined.;
- **A maximum number of examples should be included, with the number used during the 2010 Census serving as a minimum** - Examples are critical in soliciting detailed race reporting from detailed race groups not represented by checkboxes and should also be utilized;

- **NHPI response options should be clearly identified and separate from Asian American response options** – Increasing the visibility of NHPI response options will help promote their detailed race reporting, which was particularly low during the 2010 Census.

Principle #2: Accuracy

Without accurate data by detailed subgroup, the diversity in the Asian American and NHPI communities means some of the most disadvantaged in our communities are rendered invisible to policy makers, leaving their critical needs unmet. Past research has demonstrated that decreasing both the number of separate checkboxes and listings of examples for Asian American and NHPI race groups are both ineffective and a threat to accuracy. Thus, the following practices should be avoided:

- **Removing checkboxes used to capture detailed race groups also decreased the amount of detailed race reporting among Asian Americans.** Indeed, these formats yielded the lowest detailed race reporting among Asian Americans of any format tested.
- **Removing a subgroup or national origin from the list of examples for each broad race category reduced reporting for that group.** Testing conducted as part of the 2005 National Census Test¹ suggests that limiting or removing the list of examples has a negative impact on detailed reporting.

In addition to the recommendations above regarding checkboxes and examples, we recommend the following to ensure more accurate data on the Asian American and NHPI communities:

- **Oversampling Asian Americans and NHPs by ethnic group in future testing protocols,** ensuring an adequate sample of both large and small groups across all panels;
- **Providing adequate language assistance** to ensure meaningful responses from limited-English proficient Asian Americans and NHPs and to ensure results are not biased by English-fluent respondents.

These principles are equally relevant for OMB in its exercise to revise the Standards and to the topics raised in the Federal Register notice.

The use of separate questions versus a combined question to measure race and ethnicity and question phrasing

With respect to the use of separate questions versus a combined question to capture race and ethnicity, we believe the most important factor is identifying the formation that will allow for maintaining or improving the detailed reporting for all groups achieved previously and ensuring the accuracy of the data collected. In particular, we support the format that provides the best

¹ Nicholas, Alberti, 2006. "2005 National Census Test: Analysis of the Race and Ethnicity Questions." http://www.census.gov.edgekey.net/cac/race_ethnic_advisory_committees/docs/2006_Nov_results_3_2005_test.pdf

detailed reporting on Asian American and NHPI groups. Maintaining or improving upon the quality of these data is essential to informed public policy for our communities and the fair allocation of federal, state, and local funding. For example, a decrease in detailed Asian American data could result in a failure to capture jurisdictions for the provision of language assistance during elections. The formula utilized by the Census Bureau to make Section 203 determinations relies on being able to reach the threshold by detailed group and not the Asian category as a whole.

Our recommendation is that for either format (separate vs. combined), there should be:

- A maximum number of checkboxes included, with the number used during the 2010 Census serving as a minimum
- A maximum number of examples, with the number used during the 2010 Census serving as a minimum
- NHPI response options should be clearly identified separate from Asian American response options

Additionally, our recommendations apply to all platforms through which these questions could be asked (i.e. online or paper). We are concerned with potential biases that may be introduced if checkboxes for detailed subgroups are only offered on an online version of the question(s) (Gonzalez 2014; Collins et al. 2014; Choi and DiNitto 2013). Even in recent years, as access to technology has increased dramatically, there are still barriers to access for the elderly and low-income people.² Understanding the effects of this divide is critical given that Census data is used to ensure political representation as well as healthcare services, in-language job training centers, and senior care centers (US Bureau of the Census 2010).³ Although internet-surveys are increasingly popular, response rates tend to be lower using this method than traditional survey methods, potentially biasing results (Fan and Yan 2010; Shih and Fan 2008).⁴ Extrapolating from past research, we can anticipate that those who are elderly, low-income, and less English-language proficient will be the least likely to access the internet-based survey. These are the very populations that will be more likely to access a paper version of the questions and thus must have equal access to detailed checkboxes as those responding online.

² Gonzales, Amy L. "Health benefits and barriers to cell phone use in low-income urban US neighborhoods: Indications of technology maintenance." *Mobile Media & Communication* 2.3 (2014): 233-248; Collins, Sarah A., et al. "Digital divide and information needs for improving family support among the poor and underserved." *Health informatics journal*(2014): 1460458214536065; Choi, Namkee G., and Diana M. DiNitto. "The digital divide among low-income homebound older adults: Internet use patterns, eHealth literacy, and attitudes toward computer/Internet use." *Journal of medical Internet research* 15.5 (2013).

³ <http://www.census.gov/2010census/language/english.php>

⁴ Fan, Weimiao, and Zheng Yan. "Factors affecting response rates of the web survey: A systematic review." *Computers in Human Behavior* 26.2 (2010): 132-139. Shih, Tse-Hua and Xitao Fan. "Comparing response rates in email and paper surveys: A meta-analysis." *Educational Research Review* 4.1 (2009): 26-40.

Finally, OMB must develop clear guidance on how data prior to the revised Standards should be compared to data collected following the revised Standards. The ability to compare race and ethnicity data over time is critical to our work, including civil rights enforcement. Protocols and guidance for re-aggregating data, or “bridging” sets of data collected through different formats, must accompany any revisions to the census race and ethnicity questions. In particular, OMB should revise its Standards to ensure (a) comparability of data over time (bridging); (b) consistent tabulations of data, by federal agencies and federally funded programs, collected through a combined question with respect to both race and ethnicity; and (c) clear protocols and guidance for data users to follow in comparing 2020 census race and ethnicity data with data collected earlier in time.

The classification of a Middle Eastern and North African (MENA) group and distinct reporting categories

We are supportive of efforts by advocates in the MENA community to have distinct reporting categories for the community. The following language is derived from points made in a July 2013 letter⁵ to the Census Bureau by organizations and scholars from the Middle Eastern and North African (MENA) communities on the topic, as well as feedback from a lead organization working on this issue.

Current OMB guidelines that simply classify persons from the MENA region as white by race are no longer accurate or useful. The need to disaggregate data on MENA region populations through an ethnic classification continues to intensify. The undifferentiated race classification increasingly confuses survey respondents as well as government and other agencies tasked with collecting information on and providing services to these populations.

Record numbers of persons of Arab, Iranian, Chaldean, Turkish and other Middle Eastern and North African origins chose to use the “Some Other Race” box to write-in an ethnic origin. These write-in campaigns demonstrated the importance of ethnic identity beyond race and the disconnect from White race classification felt by many in MENA immigrant and ancestry populations. We estimate that over two-third of the MENA populations do not identify with the white race. With this in mind, the MENA category should be inclusive of the rich diversity of the Arab and Middle Eastern American population. The MENA category should promote a broad a regional definition by including diverse country examples in the MENA category from the Levant, the Gulf, and North Africa. The MENA category should include the 22 countries of the League of Arab States, plus Iran, Turkey, and Israel.

Racial profiling of segments of these populations, especially since 9/11, has raised a number of complex issues related to the racial classification of MENA populations and

⁵ The July 24, 2013, letter spearheaded by Arab American organizations is available at <http://civilrightsdocs.info/pdf/general/Arab-Institute-Letter-to-Enrique.pdf>.

their inclusion in the majority white category without the ability to measure community's access to resources, disparate treatment and/or community needs in law enforcement, hospitals, schools, employment, etc.

The MENA category is practical and necessary. For example, in 2015, the Federal Bureau of Investigation implemented a revised hate crime tracking form that would provide for reporting of hate crimes based on Arab ethnicity. On a state and/or local level bias crimes or incidents committed against Americans of Middle Eastern and North African origin may currently be reported either by religious affiliation or country of origin, and many may be invisible if documented only by race. Obtaining research funding to study MENA origin populations in the U.S. is also difficult because none of the official government entities considers them as distinct populations. Researchers are unable to obtain accurate data on rates of students of MENA origin in schools and whether their cultural and learning needs are met.

All these data needs come at a time when many immigrants from the MENA region are less likely to want to cooperate with the federal government. Portions of these populations remain hard to reach because their relationship with government agencies is often characterized by fear. Immigrants from this region often lack a positive experience with government agencies in their native countries and have adopted a tendency to distrust and avoid government interaction whenever possible.... All reasons to take immediate steps to improve our tools to identify, study and serve these communities.

Government agencies look to Census data to help determine whether to provide equal opportunity services for communities, including language assistance, educational grants, funding for cultural and competency training. More importantly, the Census is a tool to ensuring civil rights protections. For example, minority language populations that are counted on the Census can receive translation services at polling places under the Voting Rights Act. Accurate data on race and ethnicity is needed to evaluate the efficacy of voting rights protections and monitor attempts to suppress and dilute the vote of minority populations. It is also needed to evaluate the fairness of political representation and redistricting.

Again, OMB must develop clear guidance on how data prior to the revised Standards should be compared to data collected following the revised Standards. OMB should revise its Standards to ensure (a) comparability of data over time (bridging); (b) consistent tabulations of data, by federal agencies and federally funded programs, collected through a combined question with respect to both race and ethnicity; and (c) clear protocols and guidance for data users to follow in comparing 2020 census race and ethnicity data with data collected earlier in time. This will be especially important with the addition of a category for people of Middle Eastern and North African origin.

The description of the intended use of minimum reporting categories

We are supportive of OMB's intention to have the Standards provide a minimum set of racial and ethnic categories for use when Federal agencies are collecting and presenting such information for statistical, administrative, or compliance purposes and have worked to encourage agencies to collect additional detailed categories over the years. We have also encountered many agencies who have mistakenly misinterpreted the Standards as stating these categories are the ONLY permissible reporting categories. We believe the language can be strengthened to encourage more collecting and reporting of detailed categories by agencies.

The current Standards advise: "In no case shall the provisions of the standards be construed to limit the collection of data to the categories described above. The collection of greater detail is encouraged..." While this language is quite clear in its intent, it appears that agencies are not aligning their data collection to this principle. To address that issue, OMB should strengthen the language of the Standards to make clear that the collection of greater detail is preferred, and that the minimum standards should only be used as the last resort. For example, the Standards could say: "In most cases, the provisions of the standards shall be construed to require the collection and reporting of greater detailed data per group. Only in the cases where such collection and reporting would create undue hardship to the agency shall the minimum categories be used."

The collection of detailed data is particularly critical for Asian Americans and NHPs, who are among our nation's fastest growing and most diverse racial groups. Often viewed as homogenous, these communities include more than 50 detailed race groups that can differ dramatically across key social and economic indicators. For example, while only 6% of Filipino Americans nationwide live below the poverty line, approximately 26% of Hmong Americans are poor.⁶ Similarly, about 49% of Marshallese live below the poverty line, while only 5% of Fijians are poor.⁷ Roughly 73% of Taiwanese Americans hold a bachelor's degree, yet only 12% of Laotian Americans do.⁸ Similarly, about 18% of NHP adults have a bachelor's degree, with about 3% of Marshallese compared to 18% of Native Hawaiians having bachelor's degrees.⁹ Without accurate data by detailed race group, some of the most disadvantaged in our communities are rendered invisible to policy makers, leaving their critical needs unmet. Furthermore, data users need detailed NHP race data because each NHP community strives to improve the health, education, and welfare for its people; has a different political relationship, language, cultural practices, and identities and has a different path for achieving equity.

⁶ *A Community of Contrasts: Asian Americans in the United States: 2011*, Asian Pacific American Legal Center & Asian American Justice Center 36 (2011), available at http://www.advancingjustice.org/pdf/Community_of_Contrast.pdf. [hereinafter "Asian American Report"]

⁷ *A Community of Contrasts: Native Hawaiians and Pacific Islanders in the United States, 2014*, Asian Americans Advancing Justice & Empowering Pacific Islander Communities 18 (2014), available at http://empoweredpi.org/wp-content/uploads/2014/06/A_Community_of_Contrasts_NHPI_US_2014-1.pdf. [hereinafter "NHPI Report"]

⁸ Asian American Report at 31.

⁹ NHPI Report at 11.

Through the decennial census, American Community Survey, and other national surveys, the Census Bureau stands as the single most important producer of disaggregated data, currently providing information on the size and characteristics of 24 Asian American and 22 NHPI detailed race groups. Thus, OMB should utilize language in its Standards that makes clear that all agencies should be making every effort to collect more detailed data beyond the minimum categories.

The salience of terminology used for race and ethnicity classifications and other language in the standard

As OMB recognizes, “diversity of the U.S. continues to increase.” We agree that revising racial and ethnic terminology in light of today’s growing diversity is an important task to undertake. The terminology should be aligned to recognize the breadth of racial and ethnic communities comprising the American public today and strive to reflect the importance of all communities. To that end, we believe it is a necessary and important step for OMB to abandon the practice of using an “All Other Races” category. While the practice may have made the presentation of data easier for agencies, whereby they simply needed to present the “White” data and the “principal minority race” data (which to this point has been data on the African American community) and then presented the rest as “All Other Races” data, the practice did not serve the public at large, particularly those that comprised “All Other Races.” The practice moving forward should be to have agencies report on the data for, at a minimum, all racial categories, with the addition of data on detailed groups as available.

Concerns about timing of revision process

We have grave concerns about OMB’s proposed plan to finalize any revisions its standards on race and ethnicity through an unnecessarily truncated timeline. The effort to revise the Standards during the 1990s started in 1994 and wasn’t finalized until 1997. This time around, the process started with this Federal Register notice, issued on Sept 30, 2016, and we have been told that the plan is to have the Standards finalized by the end of the year or by mid-January. Even taking into account the claim that the scope is much narrower this time and that much of the research has already been completed, the timeline currently contemplated risks a bad outcome. Here are some of our concerns:

- The Census Bureau just released preliminary findings from the 2015 National Content Test; a detailed report on the findings will not be available until January 2017. We won’t be prepared to offer meaningful comments on proposed revisions to the Standards until we have seen and had a chance to study and consider the complete findings from this important test. This current timeline has us potentially finalizing revisions without even seeing the official results from the test.
- Rushing the process also runs the risk that the public will not have confidence in the results as the perception will be that OMB and the Census Bureau are not really interested in meaningful feedback and have already predetermined the outcome.

- Also, OMB plans to issue its proposed revisions and seeking comments during a lame duck Congress and a presidential transition (not to mention the holidays). That timing does not provide an appropriate opportunity for interested stakeholders to consider the revisions and offer thorough, meaningful feedback.
- Finally, it appears that this timeline is being driven by an arbitrary deadline - the requirement in Title 13, U.S.C., that the Census Bureau submit to Congress, by April 1, 2017, topics (not actual questions) to be covered in the 2020 Census. The Bureau can meet that obligation without finalizing the revisions to the standards.

We believe that the timing of this process must be recalibrated to allow for appropriate and meaningful engagement by interested stakeholders, including Congress, civil rights organizations and citizens. Our recommendation is to revise the timeline as follows:

- Wait until the full results of the 2015 National Content Test have been released by the Census Bureau before issuing the second federal register notice (the proposed revisions). The release of the report on the 2015 National Content Test is currently scheduled for January 2017.
- Provide a 90 or 120-day comment period for the 2nd federal register notice (the proposed revisions) once it is issued.
- Aim to issue the 3rd (and presumably final) federal register notice by or before Fall 2017, in order to inform submission of final 2020 Census questions to Congress by April 1, 2018.

Conclusion

Thank you for this opportunity to comment on the Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity as OMB strives to update its standards while keeping up with changes in society and population realities. Because FAdvancing Justice – AAJC believes this is an important topic that is being addressed, it strongly urges OMB to slow down the process for collecting input and feedback from the public to ensure that all interested stakeholders are able to weigh-in with informed, substantive comments. If you have any questions, please feel free to contact me at tminnis@advancingjustice-aaajc.org or (202) 296-2300 x127.

Sincerely,



Terry Ao Minnis
Director of Census and Voting Programs
Asian Americans Advancing Justice – AAJC

Additional Signatories

APIs CAN! (Massachusetts Asian Pacific Islanders Civic Action Network) (MA)
Asian American Federation (New York, NY)
Asian American Psychological Association (Fremont, CA)
Asian American Resource Workshop (Boston, MA)
Asian American Studies Program, University of Maryland, College Park (College Park, MD)
Asian American Studies, San Francisco State University (San Francisco, CA)
Asian Americans Advancing Justice - Asian Law Caucus (San Francisco, CA)
Asian Americans Advancing Justice – Atlanta (Atlanta, GA)
Asian Americans Advancing Justice – Chicago (Chicago, IL)
Asian Americans Advancing Justice – Los Angeles (Los Angeles, CA)
Asian Americans United (Philadelphia, PA)
Asian Community Development Corporation (Boston, MA)
Asian Pacific American Institute for Congressional Studies (APAICS) (Washington, D.C.)
Asian Services In Action, Inc. (ASIA) (Akron, OH)
Association for Asian American Studies (College Park, MD)
Association of Asian Pacific Community Health Organizations (AAPCHO) (Washington, D.C.)
Boston Chinatown Neighborhood Center (BCNC) (Boston, MA)
Cambodian Mutual Assistance Association (CMAA) (Lowell, MA)
Center for APA Women (San Francisco, CA)
Center for Asian American Studies, University of Massachusetts Lowell (Lowell, MA)
Chinatown Residents Association (Boston) (Boston, MA)
Chinese American Citizen Right Alliance (Quincy, MA)
Chinese Culture Connection, Inc. (Malden, MA)
Chinese for Affirmative Action (San Francisco, CA)
Chinese Progressive Association (Boston, MA)
Department of Asian American Studies, UC Irvine (Irvine, CA)
EMBARC (Johnston, IA)
Greater Malden Asian American Community Coalition, Inc. (Malden, MA)
Momi Imaikalani Fernandez (HI)
National Asian American Pacific Islander Mental Health Association (Denver, CO)
National Asian Pacific American Bar Association (NAPABA) (Washington, D.C.)
National CAPACD (Washington, D.C.)
National Center for Transgender Equality (Washington, D.C.)
National Congress of American Indians (Washington, D.C.)
National LGBTQ Task Force (Washington, D.C.)

National Queer Asian Pacific Islander Alliance (NQAPIA) (Washington, D.C.)
New Mexico Asian Family Center (Albuquerque, NM)
NMAC (Washington, D.C.)
OCA - Asian Pacific American Advocates (Washington, D.C.)
OCA Greater Phoenix Chapter (Scottsdale, AZ)
Papa Ola Lokahi (Honolulu, HI)
Reappropriate (New Haven, CT)
Sexuality Information and Education Council of the U.S. (SIECUS) (Washington, D.C.)
South Asian Americans Leading Together (SAALT) (Washington, D.C.)
Southeast Asian Coalition of Central Massachusetts (Worcester, MA)
Transcend Legal (New York, NY)
University of California, Irvine (Newport Beach, CA)
University of Washington (Seattle, WA)
Witness to Mass Incarceration (New York, NY)