



August 7, 2018

Ms. Jennifer Jessup
Departmental Paperwork Clearance Officer
U.S. Department of Commerce
Room 6616
14th St. and Constitution Avenue NW
Washington, DC 20230

RE: Comments on Proposed Information Collection on 2020 Census
Docket No. USBC-2018-0005

Dear Ms. Jessup:

The National WIC Association (NWA) is the non-profit education arm and advocacy voice of the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), the over 7 million mothers and young children served by WIC, and the 12,000 service provider agencies who are at the front lines of WIC's public health nutrition services. WIC's nutritious food package, nutrition education, and breastfeeding support improve birth outcomes and early childhood development, leading to healthier communities and healthcare cost savings. For over three decades, NWA has worked to build bipartisan and broad-based support for WIC's programmatic goals and public health mission.

NWA appreciates this opportunity to offer comments to the U.S. Department of Commerce (the Department) on the proposed inclusion of a citizenship question in the 2020 decennial Census. In administering WIC, the U.S. Department of Agriculture (USDA) relies on an accurate counting of all individuals living in the United States for both program administration and research purposes. WIC is one of the several federal programs that serves individuals regardless of immigration status – reflecting the reality that any child born in the United States, including those born to immigrant parents, are immediately conferred citizenship under the Constitution. It is therefore crucial that Census data encompass the overall population to ensure that agencies are both adequately funded and prepared to serve all eligible individuals in their local communities. For these reasons, NWA urges the Department to withdraw this proposed question.

WIC-eligible families are already at risk of being undercounted in the Census.

WIC serves pregnant women, postpartum breastfeeding women for one year, postpartum non-breastfeeding women for six months, infants, and children up to age five.¹ Outside of this categorical requirement, WIC participants must satisfy only three other eligibility criteria: a state

¹ 42 U.S.C. § 1786(d)(1).

residency requirement, an assessment of nutritional risk, and either an income threshold of less than 185% above the federal poverty line or participation in an adjunctive program such as Medicaid or SNAP.²

Federal law does not impose a barrier on WIC participation on the basis of immigration or citizenship status.³ Congress ensured that WIC – along with other child nutrition programs – would be available to non-citizen families even when enacting strict requirements on non-citizen access to other federal nutrition programs.⁴ Congress’ choice reflects both the public health imperative that adequate nutrition is accessible especially during the key developmental period of early childhood and the legal principle that all children born in the United States are conferred citizenship at birth.⁵

The introduction of a citizenship question on the decennial Census will result in an inaccurate count, especially among non-citizen populations and residents going through the process of obtaining legal status or citizenship. Studies indicate that the American Community Survey (ACS), which includes questions about citizenship, reports conflicting estimates of immigrant populations – primarily those who have lived within the United States for less than five years.⁶ Especially with the heightened rhetoric and policy changes to immigration law, it is a logical conclusion that non-citizen populations, including the undocumented population and residents going through the process of obtaining legal status, would have much to fear from disclosing citizenship status in the 2020 decennial Census.

A chilling effect on Census participation would be consistent with a chilling effect on immigrant participation in public benefits programs that WIC clinics have grappled with for the past year. With a rise in hostile rhetoric and the Administration’s commitment to increased immigration enforcement, WIC families with non-citizen members and/or members going through the process of obtaining legal status or citizenship have expressed fear of reprisals if they obtain benefits that are legally accessible to them. Since January 2017, NWA members have reported hundreds of instances where WIC participants have removed themselves from the program, returned food benefits or breast pumps, and refused WIC’s breastfeeding and nutrition support out of an abundance of caution. This unfortunate dynamic remains stubbornly persistent even when the child is an American citizen, especially in communities with heightened immigration enforcement presence.

As non-citizen families increasingly fear accessing public assistance to obtain healthcare and health services, communities now shoulder additional costs as a result of heightened use of emergency room services, increased hospitalizations, and longer-term medical care for infants

² See *id.* at § 1786(d)(2).

³ See 8 U.S.C. § 1615(b)(2)(A).

⁴ The exception in 8 U.S.C. § 1615(b)(2)(A) was included in the Personal Responsibility and Work Opportunity Reconciliation Act, Pub. L. No. 104-193 (1996). The Act contemporaneously prohibited most non-citizens from accessing benefits on the Supplemental Nutrition Assistance Program (SNAP), a move so egregious that it was later reversed in the Farm Security and Rural Investment Act, Pub. L. No. 107-171 (2002).

⁵ U.S. Const. amend. XIV.

⁶ Jennifer Van Hook and James Bachmeier, “How Well Does the American Community Survey Count Naturalized Citizens?” 29 *Demographic Research* 1 (2013), 1-32.

and children.⁷ These costs can be curtailed or avoided entirely through robust access to preventative services like WIC, which reduces instances of pre-term birth, low-birthweight, infant mortality, and other birth complications.⁸ There are real consequences – both in health outcomes and economic terms – to the heightened fear in non-citizen communities.

Therefore, it is evident that the Department’s proposal to include this question will erode public confidence in the decennial Census as a neutral undertaking. Despite the strong confidentiality protections that govern the Department’s data collection,⁹ the escalation of arbitrary immigration enforcement activities in communities with high populations of immigrants has stoked a culture of fear where non-citizen families are now distrustful of government officials, regardless of their relationship to enforcement agencies. The Department’s proposal diminishes the Census by linking an independent statistical survey to the Administration’s most controversial agenda.

Even among citizen populations, WIC-eligible families remain at a high risk of an undercount. Young children, especially those living in low-income households, are especially vulnerable to being undercounted in the decennial Census. Children aged 0 to 4 are consistently the most undercounted age group in the Census, with a net undercount rate of 4.6 percent in the 2010 decennial Census.¹⁰ While a net undercount of children aged 0-4 has precedent in previous iterations of the Census, this rate has tripled since the 1980 Census.¹¹ The Department’s resources are best used in reassuring concerned communities and conducting outreach to hard-to-reach tracts, rather than including divisive questions that are likely to deter accurate completion of Census forms.

WIC relies on accurate Census data to distribute appropriated funding to state agencies.

Like other federal programs, WIC relies on accurate Census data to determine the distribution of appropriated funds to state health departments. As WIC’s federal funding formula relies on estimates tabulated using Census data, an inaccurate count would result in state agencies being granted either an inadequate amount to fund the program or additional funds that were distributed at the expense of another state. Either scenario leads to an unfair result and deprives state agencies of the resources they need to efficiently administer WIC in local communities.

Specifically, USDA relies on Census data to develop eligibles projections – estimates of all individuals who are eligible to participate in WIC. USDA issues an annual report with revised eligibles estimates and uses these estimates to assess WIC’s reach in each state.¹² USDA

⁷ See Sarita Mohanty, et al., “Health Care Expenditures of Immigrants in the United States: A Nationally Representative Analysis,” *95 Am. J. Public Health* 1431 (2005).

⁸ K.R. Fingar, et al., “Reassessing the Association between WIC and Birth Outcomes Using a Fetuses-at-Risk Approach,” *21 Maternal Child Health J.* 825 (Apr. 2017).

⁹ 13 U.S.C. § 9(a).

¹⁰ William O’Hare, “Assessing Net Coverage Error for Young Children in the 2010 U.S. Decennial Census,” *Survey Methodology* #2014-02 (Mar. 2014), <https://www.census.gov/srd/papers/pdf/ssm2014-02.pdf>.

¹¹ William O’Hare, “Historical Examination of Net Coverage Error for Children in the U.S. Decennial Census: 1950 to 2010,” *Survey Methodology* #2014-03 (Mar. 2014), <https://www.census.gov/srd/papers/pdf/ssm2014-03.pdf>.

¹² USDA, *National and State-Level Estimates of Special supplemental Nutrition Program for Women, Infants, and Children (WIC) Eligibles and Program Reach in 2015* (Feb. 2018), <https://fns-prod.azureedge.net/sites/default/files/ops/WICEligibles2015-Volume1.pdf>

regulations require the eligibles estimates to be drawn from “the best available, nationally uniform, indicators,”¹³ and that requirement has historically aligned with Census data. These Census-informed eligibles estimates are then employed by USDA to develop a “fair share target funding level” for each state, based on each state’s share of the total eligible population.¹⁴ The fair share target funding level can result in the distribution of additional funds – used almost exclusively for the purposes of providing food for mothers and babies in need¹⁵ – to state agencies or, in the absence of sufficient appropriations, can serve as the measure for pro-rata reductions in funding.¹⁶

USDA regulations also permit special exceptions for Indian state agencies.¹⁷ In addition to the fifty geographic states, USDA recognizes thirty-four Indian tribal organizations (ITOs) as state agencies and distributes WIC grants through these ITOs. American Indian tribes that are not recognized by USDA for WIC purposes are organized under geographic state agencies, such as in Alaska. American Indians have been consistently undercounted in past iterations of the decennial Census, even as the Census Bureau develops new strategies to connect with “hard-to-reach” Census tracts, particularly those on reservations.¹⁸ When developing the funding formula, USDA recognized the inadequacy of demographic data to measure eligibles in ITOs.¹⁹ As a result, USDA vests in itself the authority to oversee negotiations between state agencies to shift funds to ITOs,²⁰ and an undercounting could affect the position of ITO state agencies in these negotiations. The proposed citizenship question has not been properly vetted or tested for use in the 2020 decennial Census, and it is unclear what impact this question would have on American Indian respondents.

USDA, NWA, and research institutions rely on accurate Census data to conduct research and to evaluate WIC.

In addition to the use of the eligibles estimates in the federal funding formula, USDA conducts significant research and evaluation relating to WIC. USDA publications include a biennial study on WIC Participant and Program Characteristics that draws from Census data to reach its wide-ranging analysis of WIC’s reach.²¹ These studies are a comprehensive overview of the demographic composition and nutritional needs of WIC participants, and the report serves as a key information source for state agencies on target populations that are not being reached, serving as the foundational resource for programmatic outreach efforts.

¹³ 7 C.F.R. § 246.16(c)(3)(i)(A).

¹⁴ *Id.*

¹⁵ The fair share target funding level is calculated for distribution of WIC’s food grant. Nutrition services and administrative (NSA) funds – which cover programmatic administration, nutrition education, breastfeeding support, and WIC’s other services – are calculated under a separate funding formula.

¹⁶ 7 C.F.R. § 246.16(c)(3)(ii).

¹⁷ *Id.* § 246.16(c)(3)(v).

¹⁸ Carol Chiago Lujan, “American Indians and Alaska Natives Count: The US Census Bureau’s Efforts to Enumerate the Native Population,” 38 *American Indian Quarterly* 3 (Summer 2014), pg. 319-341.

¹⁹ USDA, *Special Supplemental Food Program for Women, Infants and Children (WIC); Food Funding Formula Rule*, 59 Fed. Reg. 193 (Oct. 6, 1994).

²⁰ 7 C.F.R. § 246.16(c)(3)(v).

²¹ USDA, *WIC Participant and Program Characteristics 2016* (Apr. 2018), <https://fns-prod.azureedge.net/sites/default/files/ops/WICPC2016.pdf>.

In addition to the Participant and Program Characteristics report, other USDA publications also rely on accurate Census data, many of which are used by nonprofits and research institutions conducting WIC research. These research studies – of which several are presently in the field – play a role in policy decisions related to the food available in the WIC food package, how best to conduct outreach to potential participants, how to ensure full redemption of WIC benefits, and how to assist and retain retail grocers as WIC-authorized vendors. USDA alone has over twenty studies in the field through USDA’s [Economic Research Service](#) and [Food and Nutrition Service](#).

The integrity of ongoing research and evaluation projects relies on Census data that accurately reflects the composition of communities served by WIC. An undercounting of the decennial Census will undermine USDA and non-profit studies that are used to inform WIC policy and the practices employed by WIC clinics across the nation.

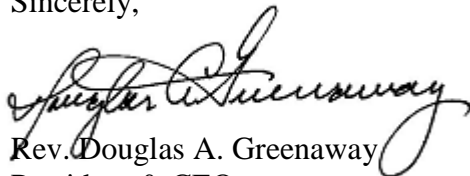
Conclusion

Federal programs like WIC rely on the Department to conduct a neutral and fair counting that strives for accuracy, not alienation. The politicization of the Census by weaving in partisan questions about citizenship status threatens a significant undercounting of non-citizen populations and residents going through the process of obtaining legal status or citizenship. As a result, certain states will face diminished resources for domestic programs – including the child and maternal health and nutrition services provided through WIC. States should not have to serve more people with fewer resources as a result of the Administration’s senseless and ceaseless efforts to undermine non-citizen communities.

For these aforementioned reasons, the Department should withdraw the proposed question about citizenship on the 2020 decennial Census.

NWA appreciates this opportunity to comment and express our views in full.

Sincerely,



Rev. Douglas A. Greenaway
President & CEO
National WIC Association