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October 22, 2026

The Honorable Howard Lutnick
Secretary of Commerce
U.S. Department of Commerce
1401 Constitution Ave, NW
Washington, D.C. 20230

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

Dear Secretary Lutnick:

The U.S. Conference of Catholic Bishops (USCCB) appreciates the opportunity to provide public comment regarding the U.S. Census Bureau's (the Bureau) proposed changes to the regulations governing the decennial census, published in the *Federal Register* on September 10, 2026.¹ The USCCB also appreciates the extended comment period, which facilitates our ability to provide meaningful recommendations to the Bureau.

The USCCB is a nonprofit corporation whose members are the active Catholic bishops of the United States, representing nearly 200 autonomous dioceses in all 50 states and the U.S. Virgin Islands. The USCCB advocates according to, and promotes the pastoral teachings of, the U.S. Catholic bishops in diverse areas of the nation's life. Through its Committee on Domestic Justice and Human Development, the USCCB advances the social mission of the Church, including policy analysis, education, and outreach in support of the Church's anti-poverty efforts. Similarly, the USCCB's Committee on Migration furthers the Church's engagement on issues within its mandate.

The Catholic Church maintains that our obligations to one another flow from the inalienable dignity of every human person, as created in the image and likeness of God. A just society, then, upholds this dignity by promoting the "common good," a concept of Catholic social teaching with ancient origins that expects society to support conditions that allow for the flourishing of its people. Pope Leo XIV has stated that social justice is "characterized by the capacity of a social, economic

¹ Decennial Census of the Population of Americans; Proposed Residence Criteria and Proposed Regulations for Demographic Questions, 91 Fed. Reg. 57,524 (Sept. 10, 2026) [hereinafter Proposed Rulemaking].

and political order to allow everyone—particularly the weakest—to live a truly dignified life, without leaving anyone behind. . . . [S]ocial justice requires us to look at individuals and communities, starting with the most vulnerable: the poor, migrants, refugees, internally displaced persons, victims of violence and people living in urban or existential peripheries.”²

The decennial census is a crucial exercise for our country and not only because it is mandated by the U.S. Constitution. Its primary and most obvious purpose is of course to provide for the apportionment of seats within the U.S. House of Representatives. However, as the Bureau itself acknowledges, the importance of an accurate census goes well beyond this function:

The results of the census help determine how trillions of dollars in federal funding, including grants and support to states, counties and communities are spent every year for the next decade. It helps communities get its fair share for schools, hospitals, roads, and public works. That funding shapes many different aspects of every community, no matter the size, no matter the location. These funds are based on population totals and breakdowns by sex, age, race and other factors. Your community benefits the most when the census counts *everyone*.³

In light of this, the need for an accurate census—and for it to be conducted in a manner free from political or ideological bias—cannot be understated as it relates to furthering the common good for the benefit of all our communities.

As discussed below, we believe that the Bureau’s proposed changes, to the extent they seek to exclude all noncitizens living in the United States unless they have lawful permanent resident (LPR) status,⁴ conflict with our fundamental belief in the equal dignity of every person, the obligations of a just society, and legal precedent. We also have concerns about the Bureau’s rationale for prohibiting certain demographic questions, especially given the ways this information is heavily utilized for just and worthy purposes beyond congressional apportionment. We thus request that the Bureau withdraw these proposed changes in their entirety.

I. Proposed Residence Criteria

Through this proposed rulemaking, the Bureau contends, in reference to the Census Act, that “illegal aliens (among others) should not be included in the apportionment count, as they are not true inhabitants, members of the body politic, or persons with a ‘usual residence’ in the United

² Pope Leo XIV, *Magnifica Humanitas*, no. (2026), <https://www.vatican.va/content/leo-xiv/en/encyclicals/documents/20260515-magnifica-humanitas.html>.

³ U.S. Census Bureau, *Why We Conduct the Decennial Census of Population and Housing*, <https://www.census.gov/programs-surveys/decennial-census/about/why.html> (last updated Sept. 23, 2026) (emphasis added).

⁴ Proposed Rulemaking, *supra* note 1 at 57,529.

States due to their lack of a sufficient tie and allegiance to the United States.” We dispute this novel view on several grounds.

The most relevant portion of the proposed regulations (15 C.F.R. § 60.4) states:

(a) Citizens of foreign countries who are also either citizens or lawful permanent residents of the United States as of April 1 of a decennial census year. Counted at their usual residence in accordance with § 60.2.

(b) All other citizens of foreign countries as of April 1 of a decennial census year. Not counted for apportionment.⁵

Such an approach strains the ordinary meaning of “usual residence.” Under the proposed rule, the dual citizen or LPR who spends at least one hour at his or her U.S. residence on just over half of the days from January 3 to April 1 during a decennial census year, but spends most of the remainder of the year outside of the country, would be counted for purposes of apportionment. Meanwhile, the noncitizen lawfully and continuously residing for that entire period, and similarly so within a broader multi-year timespan (e.g., a noncitizen in the country on an R-1 visa for five years), would be excluded for purposes of apportionment. From a legal perspective, this lacks support. From a statistical perspective, it is neither rational nor practical because it does not capture all those regularly residing in the country, and the Bureau offers little to explain how it would identify those it deems fit for inclusion.

The Bureau justifies its approach by reinterpreting the meaning of “usual residence,” which traces its origins back to the Census Act of 1790.⁶ Otherwise detached from this or any other federal statute, however—or even pointing to relevant census-specific practice previously followed at some point in the nation’s history—the Bureau seeks to conflate “usual residence” with permanent legal immigration status. In doing so, the Bureau does not have the clear foundation of the Constitution, statute, or jurisprudence to rely upon. Meanwhile, the historical sources cited by the Bureau do not provide clear and convincing support for constraining the word “persons” as used in the Census Clause to specifically exclude noncitizens besides those with LPR status.⁷ This is true even so far as “persons” was actually understood to be “largely informed by (and synonymous with)” the term “inhabitants” at the time of the Constitution’s ratification.

Citing a handful of references discussing, in general terms, the “body politic” to assert “inhabitants” as being historically understood to be “members of the body politic” does not provide the level of support necessary for the highly consequential changes the Bureau is seeking to implement here, especially because “body politic” itself is not self-defining. As Chief Justice John Roberts recently

⁵ *Id.* at 57,529.

⁶ *Id.* at 57,524–7.

⁷ *See id.* at 57,524–5.

wrote, quoting Frederick Douglass in the Supreme Court’s *Trump v. Barbara* decision, “‘The Constitution knows all the human inhabitants of this country as the people,’ he explained, no matter their ‘color, class, or clime.’”⁸

The Bureau points to the “criticism” that exists within the government itself regarding the “counting of illegal aliens for apportionment purposes” (all but one of the examples of which are recently introduced pieces of legislation, none having passed in either chamber of Congress to date).⁹ In so doing, the Bureau implies misgivings about the requirements of the Constitution are themselves sufficient justification for taking action contrary to its plain language. They are not.¹⁰

In 2019, following a previous effort to exclude noncitizens from the census count, the USCCB underscored the need for every “person” to be included, stemming from our belief in the equal dignity of all, regardless of immigration status.¹¹ Consistent with this, the USCCB has observed that excluding noncitizens from the census count would be contrary to the plain language of the Constitution, which explicitly requires an accounting of “persons,” not “citizens,” in both the Census Clause and, by extension, the Fourteenth Amendment.¹² Excluding from the census noncitizens without LPR status, including but not limited to members of the undocumented population, is effectively to deny they are “persons.” This denial of personhood recalls the “overtly sinful and gravely unjust” Three-Fifths Compromise,¹³ which the Bureau itself acknowledges as “rightly rejected” by the Fourteenth Amendment.¹⁴

Refusing to count noncitizens without LPR status as “true inhabitants” also runs contrary to generations of censuses. Every census dating back to the very first in 1790 has included noncitizens without LPR status (or permanent legal immigration status more broadly), and the Bureau offers no sources to indicate this was contested or controversial during the early years of the Republic or most of the 250 years since its founding.

In addition to its flawed application of “usual residence”, the Bureau fails to explain how it would rely upon tax records to verify a person’s usual residence from January 3 to April 1 of a census

⁸ *Trump v. Barbara*, No. 25-365 (U.S. June 20, 2026) (internal quotation marks and citations omitted).

⁹ See Proposed Rulemaking, *supra* note 1 at 57,525.

¹⁰ See, e.g., *Marbury v. Madison*, 5 U.S. 137, 177 (1803) (“The Constitution is either a superior, paramount law, unchangeable by ordinary means, or it is on a level with ordinary legislative acts, and, like other acts, is alterable when the legislature [or, in this case, the executive branch] shall please to alter it.”).

¹¹ Press Release, USCCB, Bishops Urge that All People Count and Must Be Included in Census Efforts (Apr. 23, 2019), <https://www.usccb.org/news/2019/bishops-urge-all-people-count-and-must-be-included-census-efforts>.

¹² See Brief for United States Conf. of Cath. Bishops as Amicus Curiae, *Trump v. New York*, 592 U.S. 125 (2020), <https://www.usccb.org/resources/2020-11-16-Census-Amicus-Brief-FINAL.pdf>.

¹³ *Id.*

¹⁴ Proposed Rulemaking, *supra* note 1 at 57,527.

year.¹⁵ The lack of transparent explanation regarding the Bureau’s intended methodology and practices prompts serious concerns about the eventual accuracy of the Bureau’s approach, especially given the importance of a reliable census and the societal harm that could ensue if significant doubt were to be sewn about its accuracy among members of the American public. And as discussed further below, by apparently seeking (for the first time) to cross-reference census data with tax records, the Bureau risks associating census responses with the very sort of data it hopes to avoid collecting for fear of privacy concerns. This internal inconsistency further counsels against adopting the Bureau’s proposed approach.

Beyond these more fundamental considerations, the exclusion of noncitizens without LPR status affects census-based data usage more broadly than congressional apportionment. This means communities across every state in the country would suffer from diminished access to federal resources and services through the exclusion of wide swaths of people living in the United States. The impact extends to those lawfully residing there, not just people who are undocumented. As the Bureau acknowledges, census data helps direct trillions of dollars annually to key programs designed to advance the common good, especially with respect to strengthening families, reducing poverty, and supporting infrastructure projects (which are equally relied upon by citizens and noncitizens of all statuses).¹⁶

Besides the role they so often play—often at the government’s request—in helping to implement aforementioned government programs guided by census data, Catholic ministries, along with countless others providing important services to their neighbors, also rely on this data to understand community needs and effectively serve vulnerable populations through their own initiatives.¹⁷

Given the above, it is worth noting there exists a lack of clarity in the proposed regulations regarding whether the Bureau is seeking to include noncitizens besides those with LPR status in the *census generally* if not the *apportionment base specifically*. For example, proposed 15 C.F.R. § 60.4(b) states noncitizens without LPR status are “[n]ot counted *for apportionment*” (emphasis added), but 15 C.F.R. § 60.8(b) states babies born after Census Day are “[n]ot counted in the *census*” (emphasis added). The proposal offers nearly nothing to clarify this discrepancy, perhaps with the

¹⁵ *Id.* at 57,527–29 (“A person’s ‘usual residence’ is the residence at which they have lawfully spent the greatest number of days during the census enumeration period. A person’s ‘usual residence’ should be consistent with, and evidenced by, their tax records (e.g., tax returns, W-2 forms)”).

¹⁶ See U.S. Census Bureau, *The Importance of the American Community Survey and the Decennial Census*, <https://www.census.gov/programs-surveys/acs/about/acs-and-census.html> (last updated Oct. 1, 2026) (“Local communities depend on information from the American Community Survey, as well as the decennial census, to decide where schools, highways, hospitals, and other important services are needed. The data collected through the American Community Survey and the 2020 Census help inform how trillions of dollars in federal funds are distributed each year.”).

¹⁷ See Press Release, *supra* note 11.

exception of one footnote in the preamble,¹⁸ though that point can be contrasted with the Bureau’s introductory assertion that the “sole Constitutional purpose” of the decennial census is apportionment.¹⁹ Whether this discrepancy is merely the result of haphazard and imprecise drafting or a distinction is intentionally being made between those counted in the census but not the apportionment base, it remains our position that the Constitution, as written, clearly requires inclusion of every “person” for the census in relation to apportionment. At the very least, the Bureau should conform its proposed rule to this fundamental requirement.

II. Proposed Restrictions on the Inclusion of Certain Demographic Questions in the Decennial Census Operation

While the Bureau acknowledges that demographic questions have been asked in every census ever conducted and it is generally authorized to collect such information,²⁰ the Bureau contends through this proposal that “such data does not, by itself, advance the fundamental, Constitutional purpose of the decennial census, which is to conduct an enumeration to ascertain the population count for apportionment.”²¹ It goes even further, however, than simply electing not to ask certain demographic questions. Instead, it seeks here to codify in regulation prohibitions on questions about race and ethnicity, among other information.

Somewhat ironically, the Bureau states—ostensibly, as a reason not to ask these demographic questions—that “the more questions that are included on the decennial census questionnaire, the lower the overall response rate,” according to its own testing and operational metrics.²² And yet, the Bureau offered no such consideration for the potential adverse impacts on the response rate produced by other changes being proposed, including to exclude from the census noncitizens without LPR status, among others, and new practices that would be needed to determine whether someone’s “usual residence” conforms with their legal immigration status. In fact, there is significant literature indicating that previous attempts to factor citizenship/immigration status into the census have an adverse effect on the response rate—including findings from research commissioned by none other than the Census Bureau itself.²³ When the proposed rule’s changes undermine the very justification for removing demographic data in the first place, the Bureau risks its justification being found arbitrary and capricious.

As briefly mentioned above, the Bureau also notes concerns about the potential for demographic questions to increase “the likelihood that the data of certain people who do respond will be

¹⁸ Proposed Rulemaking, *supra* note 1 at n.5 (“The Census Bureau maintains and publishes statistics separate from those for apportionment, and the Census Bureau expects to continue doing so in the future.”).

¹⁹ *Id.* at 57,524.

²⁰ *Id.* at 57,527.

²¹ *Id.*

²² *Id.*

²³ See J. DAVID BROWN & MISTY L. HEGGENESS, U.S. CENSUS BUR., CES 24-31, CITIZENSHIP QUESTION EFFECTS ON HOUSEHOLD SURVEY RESPONSE (June 2024).

identifiable in the resulting published data, in violation of their privacy and the law.”²⁴ Again, no such concerns are mentioned with respect to the additional changes it proposes for excluding certain individuals on the basis of immigration status, nor the corresponding steps the Bureau would explicitly and inherently need to take to realize them when conducting the census.

Beyond these inconsistencies related to what the Bureau does note, we also have concerns based on what it seems to ignore entirely. That is, given what has been stated about the importance of data collected through the census for ensuring American communities receive support proportionate to their populational needs, the Bureau does not even attempt to address how the proposed restrictions on the collection of demographic information could adversely impact such support, particularly related to inequities based on race and ethnicity.²⁵

Relevant to this concern for identifying inequity, the U.S. Catholic bishops’ pastoral letter on racism states:

To work at ending racism, we need to engage the world and encounter others—to see, maybe for the first time, those who are on the peripheries of our own limited view. . . . This demands that we go beyond ourselves, opening our minds and hearts to value and respect the experiences of those who have been harmed by the evil of racism. . . . Love should then move us to take what we learn from our encounters and examine where society continues to fail our brothers and sisters, or where it perpetuates inequity, and seek to address those problems.²⁶

In other words, demographic data can help identify and address inequity. To the extent the Bureau now believes the inclusion of demographic questions related to race and ethnicity would be so inconsistent with the decennial census’ fundamental purpose that it now needs to promulgate regulations proscribing their inclusion entirely, we believe the impact of the corresponding data no longer being available for just and lawful purposes warrants at least *some* discussion beyond simply observing it may be attainable otherwise.²⁷ Moreover, in assessing that impact, the Bureau should also consider the readily available and less stringent alternative: including the option

²⁴ Proposed Rulemaking, *supra* note 1 at 57,527.

²⁵ See, e.g., Drishti Pillai & Samantha Artiga, *Proposed Changes to Demographic Data Collection in the Census Could Impact Efforts to Address Health and Health Care Disparities* (Sept. 25, 2026), <https://www.kff.org/racial-equity-and-health-policy/proposed-changes-to-demographic-data-collection-in-the-census-could-impact-efforts-to-address-health-and-health-care-disparities/>.

²⁶ USCCB, *Open Wide Our Hearts: The Enduing Call to Love* (Nov. 2018), https://www.usccb.org/resources/open-wide-our-hearts_0.pdf.

²⁷ Even Congress itself has affirmed the importance of collecting information beyond that needed for “bare enumeration” through the decennial census. See CECI VILLA ROSS, *USES OF DECENNIAL CENSUS PROGRAMS DATA IN FEDERAL FUNDS DISTRIBUTION: FISCAL YEAR 2021*, 4–5 (June 2023), <https://www2.census.gov/library/working-papers/2023/decennial/census-data-federal-funds-fy-2021.pdf> (showing, for example, that federal financial regulators use demographic census data to monitor whether mortgage and business lenders discriminate against loan applicants with certain demographic characteristics).

“prefer not to disclose” as a formal choice available to respondents. This approach would still arguably be consistent with the language and spirit of 13 U.S.C. § 221.

In these ways, we have serious doubts about the rationales provided by the Bureau and the adequacy of its analysis related to the proposed restrictions on demographic questions, including its consideration of available alternatives, such that it’s difficult to see how this rulemaking would not be considered arbitrary and capricious under the Administrative Procedure Act.²⁸

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For these reasons, we urge the Bureau to withdraw these proposed changes in their entirety. Thank you for taking our views into consideration.

Respectfully,

A handwritten signature in black ink, appearing to read "William J. Quinn". The signature is fluid and cursive, with the first name "William" and last name "Quinn" clearly distinguishable.

William Quinn
General Counsel
U.S. Conference of Catholic Bishops

²⁸ See *Motor Vehicle Mfrs. Ass’n v. State Farm Mutual Ins. Co.*, 463 U.S. 29 (1983).