



December 8, 2021

Sheleen Dumas
Department PRA Clearance Officer
Office of the Chief Information Officer
Commerce Department

Re: Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Current Population Survey, Annual Social and Economic Supplement; Docket Number 2021-24378

Dear Ms. Dumas:

The Movement Advancement Project (MAP) and 19 other organizations dedicated to advancing equality and opportunity for all appreciate the opportunity to comment on the U.S. Census Bureau's (Census or the Bureau) proposed request for clearance from the Office of Management and Budget for the collection of data concerning the Annual Social and Economic Supplement (ASEC) to be conducted in conjunction with the February, March, and April Current Population Surveys (CPS). 86 Fed. Reg. 61,754. We also commented during the 60-day comment period for this information collection request. Then as now, our comment focuses on strengthening the survey to capture critical information on the lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI) population.

The Bureau's Household Pulse Survey's new inclusion of sexual orientation and gender identity (SOGI) questions has already generated data being used by researchers and advocates to understand the experiences of LGBT people during the COVID-19 pandemic,¹ and it has great potential for informing the development of policies that can improve the lives of LGBTQI people across the country. The success of this survey also indicates the feasibility of administering these questions. We urge the Bureau to build on this success and modify the proposed clearance request for the ASEC to add SOGI questions.

The ASEC provides essential information about poverty, income, employment, and other financial indicators (such as health insurance enrollment and childcare payments). Current data make clear that LGBTQI people fare worse than the general population in these measures, a

¹ Bianca Wilson, et al., *LGBT Renters and Eviction Risk*, UCLA School of Law Williams Institute (2021), <https://williamsinstitute.law.ucla.edu/publications/lgbt-renters-and-eviction-risk/>.

divergency which is especially acute for certain subgroups (especially transgender people) and for people with intersecting identities, including LGBTQI people of color. But the available data does not provide the kind of complete information available from a survey at the scale of the ASEC, which limits the ability of federal agencies and others to respond to these inequalities. To begin to meet this need, the Bureau should add SOGI questions to the upcoming ASEC. The resulting high-quality data would enable federal agencies to better pursue their statutory missions, such as by improving understanding of the need for federal poverty and health insurance programs and resources that benefit LGBTQI individuals and by supporting nondiscrimination enforcement. It would also support state, local, and private anti-poverty efforts and would provide a wealth of information for researchers and organizations such as ours.

The Bureau should also engage in research, development, and testing for measures that allow for the identification of intersex, nonbinary, and other sexual and diverse populations, as recommended by the National Academies of Sciences, Engineering, and Medicine.²

I. The ASEC collects and reports crucial information about the economic well-being of people in the United States.

The ASEC supplements the CPS, which is a monthly survey of about 60,000 eligible U.S. households conducted by Census for the Bureau of Labor Statistics. The CPS provides up-to-date information on the labor force status of people aged 16 and older, including demographic characteristics such as age, educational attainment, race, and Hispanic ethnicity. The ASEC is a set of supplemental questions for three months each year that collects information on economic well-being of the population.

The ASEC is the source of official annual estimates of national poverty levels and rates, as well as widely used estimates of household income, individual earnings, and the distribution of income.³ The ASEC also contains questions related to medical expenditures, and cost of a mortgage on a property, child support payments, and the amount of childcare assistance received. These questions enable analysts and policymakers to obtain better estimates of family and household income, and more precisely gauge poverty status.⁴ The Bureau of Labor Statistics publishes data from the ASEC in the annual news release, Work Experience of the Population,⁵

² National Academies of Sciences, Engineering, and Medicine. 2020. *Understanding the Well-Being of LGBTQI+ Populations*. Washington, DC: The National Academies Press. <https://doi.org/10.17226/25877>.

³ Surveys & Programs, United States Census Bureau, <https://www.census.gov/topics/income-poverty/poverty/guidance/surveys-programs.html>.

⁴ Proposed Information Collection; Comment Request; Current Population Survey, Annual Social and Economic Supplement, 83 Fed. Reg. 20,790 (May 8, 2018), <https://www.federalregister.gov/documents/2018/05/08/2018-09762/proposed-information-collection-comment-request-current-population-survey-annual-social-and-economic>.

⁵ Labor Force Statistics from the Current Population Survey: Work Experience During the Year, U.S. Bureau of Labor Statistics (last visited Oct. 28, 2021), <https://www.bls.gov/cps/lfcharacteristics.htm#workexp>.

and the annual report, *A Profile of the Working Poor*.⁶ Due to its long use, the ASEC provides a consistent historical time series beginning in 1959 at the national level and can also be used to look at state-level trends and differences (through multi-year averages) going back to 1980.⁷

II. LGBTQI people’s economic well-being is worse than the general population.

While large scale, nationally representative data is lacking, the available data reveals that LGBTQI people’s experience with the subjects the ASEC measures—poverty, employment, and health insurance enrollment—are worse than the U.S. population as a whole. There is further divergence within LGBTQI communities. Transgender people tend to fare significantly worse in those measures than others, as are other subpopulations, such as LGBTQI people of color.

In particular, research reveals that LGBT people in the U.S. experience poverty at higher rates compared to cisgender heterosexual people.⁸ Available data indicates that, nationwide, 22% of LGBT people live in poverty, compared to 16% of cisgender straight people.⁹ This divergence remains true even after accounting for other factors that may influence poverty.¹⁰ People experiencing poverty are at greater risk of food insecurity, among other negative consequences; and the overall percentage of LGBT people who report not having enough food to eat is more than twice the proportion found in the general population.¹¹ Overall, just before the COVID-19 pandemic, nearly 27% of LGBT people, an estimated 3,029,000 adults, experienced food insecurity, compared to about 11% of the general population.¹² While there is even less data

⁶ U.S. Bureau of Lab. Stat., *A profile of the working poor, 2019*, BLS Rep. (2021), <https://www.bls.gov/opub/reports/working-poor/2019/home.htm>.

⁷ *Id.*

⁸ Soon Kyu Choi et al., *State Profiles of LGBT Poverty in the United States*, UCLA School of Law Williams Institute 2 (Dec. 2019), <https://williamsinstitute.law.ucla.edu/publications/state-lgbt-poverty-us/>; M.V. Lee Badgett et al., *LGBT Poverty in the United States: A study of differences between sexual orientation and gender identity groups*, UCLA School of Law Williams Institute 2 (Oct. 2019), <https://williamsinstitute.law.ucla.edu/publications/lgbt-poverty-us/>; Christopher S. Carpenter et al., *Transgender Status, Gender Identity and Socioeconomic Outcomes in the United States*, 73 *ILR Review* 573, 573 (May 1, 2020), <https://doi.org/10.1177/0019793920902776>.

⁹ M.V. Lee Badgett et al., *LGBT Poverty in the United States: A study of differences between sexual orientation and gender identity groups*, UCLA School of Law Williams Institute (Oct. 2019), <https://williamsinstitute.law.ucla.edu/publications/lgbt-poverty-us/>.

¹⁰ *Id.*

¹¹ Bianca Wilson and Kerith Conron, *National Estimates of Food Insecurity: LGBT People and COVID-19*, UCLA School of Law Williams Institute (Apr. 2020), <https://williamsinstitute.law.ucla.edu/publications/food-insecurity-covid19/>.

¹² *Id.* (This data preceded the COVID-19 pandemic, which exacerbated food insecurity for many, including LGBTQI people.)

available on intersex populations in the U.S., there is also evidence that like other sexual and gender minorities, intersex adults too face economic disparities.¹³

The likelihood of experiencing poverty and/or food insecurity is especially acute for subgroups of LGBTQI people. Transgender people and cisgender bisexual women experience the highest rates of economic insecurity.¹⁴ And, as the Administration has recognized, intersecting identities compound this inequality.¹⁵ Research reveals that poverty is particularly high at the intersections of racial and LGBTQI identities.¹⁶ So too, LGBT people in rural areas have higher poverty rates than both LGBT people in urban areas and straight cisgender people who live in either rural or urban areas.¹⁷

Relatedly, LGBTQI people are more likely to be unemployed than the general population.¹⁸ The COVID-19 pandemic has made this disparity even worse.¹⁹ And, again, available data reveals there are profound disparities within LGBTQI communities. Employment discrimination and the impact of social stigma contribute to very high rates of unemployment among transgender workers. Prior to the COVID-19 pandemic, the poverty rate for transgender

¹³ Caroline Medina and Lindsay Mahowald, *Key Issues Facing People With Intersex Traits*, Center for American Progress (October 2021), <https://www.americanprogress.org/issues/lgbtq-rights/news/2021/10/26/506558/key-issues-facing-people-intersex-traits/>.

¹⁴ M.V. Lee Badgett et al., *LGBT Poverty in the United States: A study of differences between sexual orientation and gender identity groups*, UCLA School of Law Williams Institute (Oct. 2019), <https://williamsinstitute.law.ucla.edu/publications/lgbt-poverty-us/>.

¹⁵ Exec. Order No. 13,988, 86 FR 7,023 (Jan. 20, 2021), <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-preventing-and-combating-discrimination-on-basis-of-gender-identity-or-sexual-orientation/> (“Discrimination on the basis of gender identity or sexual orientation manifests differently for different individuals, and it often overlaps with other forms of prohibited discrimination, including discrimination on the basis of race or disability. For example, transgender Black Americans face unconscionably high levels of workplace discrimination, homelessness, and violence, including fatal violence.”).

¹⁶ M.V. Lee Badgett et al., *LGBT Poverty in the United States: A study of differences between sexual orientation and gender identity groups*, UCLA School of Law Williams Institute 3 (Oct. 2019), <https://williamsinstitute.law.ucla.edu/publications/lgbt-poverty-us/>.

¹⁷ Id.

¹⁸ Sharita Gruberg, *Same-Sex Couples Experience Higher Unemployment Rates Throughout an Economic Recovery*, Ctr. for Am. Progress (May 5, 2020), <https://www.americanprogress.org/issues/lgbtq-rights/news/2020/05/05/484547/same-sex-couples-experience-higher-unemployment-rates-throughout-economic-recovery/>.

¹⁹ Id.

workers was three times higher than the general population (15% compared to 5%); for transgender people of color, it was higher still (20%).²⁰

The recent—and greatly appreciated—addition of SOGI demographic questions to the Bureau’s Household Pulse Survey created data that reinforces and builds upon prior evidence that LGBTQI people are disproportionately likely to live in poverty and experience economic pressure and/or food insecurity. As the Bureau reported in its results from late July and early August 2021, 37% of LGBT adults lived in a household that had difficulty paying for usual household expenses, compared to 26% of non-LGBT adults, and 13% of LGBT adults lived in a household where there was sometimes or often not enough to eat in the past seven days, compared to 7% of non-LGBT adults.²¹ This early data also suggests that as much as 23% of LGBT people and 32% of transgender people lost employment in the month prior to the survey, compared to about 16% of non-LGBT people.²²

LGBT people are also less likely to have health insurance, although the Affordable Care Act resulted in some improvement in enrollment rates.²³ Federally collected data (by the National Center for Health Statistics (NCHS)) reveals that health insurance enrollment rates vary by sexual orientation, with LGB people still less likely to be insured than heterosexual people.²⁴ While the NCHS survey data does not include gender identity questions (“an important limitation of this data set”),²⁵ other studies reveal transgender people are more likely to be uninsured than cisgender people.²⁶

²⁰ Sandy James et al., *The Report of the 2015 U.S. Transgender Survey*, National Center for Transgender Equality, 142 (2016), <https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf>.

²¹ Thom File and Joey Marshall, *LGBT Community Hit Harder by Economic Impact of Pandemic*, U.S. Census Bureau (Aug. 11, 2021), <https://www.census.gov/library/stories/2021/08/lgbt-community-harder-hit-by-economic-impact-of-pandemic.html>.

²² Kate Sosin, *LGBTQ+ Americans Greet the Biden-Harris Era with Hope, Hesitancy*, The 19th News (Jan. 21, 2021), <https://19thnews.org/2021/09/lgbtq-census-data-federal-collection-first-time/LGBT>.

²³ Arielle Bosworth et al., *Health Insurance Coverage and Access to Care for LGBTQ+ Individuals: Current Trends and Key Challenges*, Office of Health Policy, 1 (June 2021), <https://aspe.hhs.gov/sites/default/files/2021-07/lgbt-health-ib.pdf>.

²⁴ *Id.* at 5 (Explaining that “LGB+ individuals had higher rates of Medicaid or public insurance enrollment, lower rates of Medicare enrollment, and lower rates of dual eligibility compared to the non-LGB+ population, which likely reflect differences in income and age across the two groups.”).

²⁵ *Id.* at 2.

²⁶ Sandy James et al., *The Report of the 2015 U.S. Transgender Survey*, National Center for Transgender Equality, 94 (2016), <https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf>.

Significant barriers to eliminating these disparities exist. Discrimination and social stigma make it difficult to improve persistently high unemployment rates and reduce poverty. And despite their significant need, LGBTQI people often find it difficult to access social services and other government supports. LGBT older adults, for example, are “20% less likely [than their heterosexual peers] to access services such as housing assistance, meal programs, senior centers and food stamps.”²⁷ As the Administration has recognized, federal agencies must act to eliminate these “systemic barriers to opportunities and benefits for ... underserved groups,” including LGBTQI people.²⁸

III. The available data on LGBTQI economic well-being is inadequate, limiting the ability to improve well-being.

Data from large scale, nationally representative surveys of LGBTQI people is lacking. As the Federal Interagency Working Group on Improving Measurement of Sexual Orientation and Gender Identity in Federal Surveys cogently explained, “there remains a lack of data on the characteristics and well-being” of sexual and gender minority (SGM) populations and “[i]n order to understand the diverse needs of SGM populations, *more representative and better quality data need to be collected.*”²⁹ Few private organizations can collect data at the scale and quality of the federal government. The Bureau’s surveys, in particular, are the gold standard. For example, the most comprehensive, and hugely valuable, survey of the experience of transgender people, the National Center for Transgender Equity’s U.S. Transgender Survey, had almost 28,000 respondents.³⁰ In contrast, the CPS, including the ASEC, surveys approximately 60,000 households on a monthly basis.

Until the Household Pulse Survey, the Bureau has not included SOGI questions in any of its surveys. The Bureau has collected data on same-sex couples for some time, and in so doing, contributed to breaking down stereotypes about those couples, where they live, and what their

²⁷ Sara J. Czaja et al., *Concerns about Aging and Caregiving Among Middle-Aged and Older Lesbian and Gay Adults*, 20 *Aging & Mental Health* 1107, 1107 (Nov. 2016), <https://doi.org/10.1080/13607863.2015.1072795>; see also LGBT Movement Advancement Project (MAP) et al., *Improving the Lives of LGBT Older Adults*, 5 (Mar. 2010), <https://www.lgbtmap.org/file/improving-the-lives-of-lgbt-older-adults.pdf>.

²⁸ Exec. Order No. 13,950, 86 FR 57,849 (Oct. 19, 2021), <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government/>.

²⁹ *Toward a Research Agenda for Measuring Sexual Orientation and Gender Identity in Federal Surveys: Findings, Recommendations, and Next Steps*, Fed. Interagency Working Grp. on Improving Measurement of Sexual Orientation and Gender Identity in Fed. Surv., 2 (Oct. 20, 2016), https://s3.amazonaws.com/sitesusa/wp-content/uploads/sites/242/2014/04/SOGI_Research_Agenda_Final_Report_20161020.pdf (emphasis added).

³⁰ *U.S. Transgender Survey*, National Center for Transgender Equality (last visited Oct. 28, 2021), <https://transequality.org/issues/us-trans-survey>.

families look like.³¹ But this data leaves out significant portions of the LGBTQI community, notably unmarried people, who are likely to have different economic indicators than married people.

The lack of comprehensive federal data on LGBTQI people's economic well-being hinders efforts to improve that well-being. Developing and assessing targeted programs to reduce disparities, as has been done for racial and ethnic groups, is "substantially hindered by a lack of data about LGBT disparities."³² As the authors of the report discussing LGB+ health insurance enrollment discussed above explained earlier this year, "Data collection on LGBTQ+ individuals is less consistent in federal and state data sources than other demographic information... As a result, our understanding of healthcare issues faced by this population is more limited than for other groups, a factor which itself can contribute to disparities."³³

It is similarly difficult to assess the effectiveness of antidiscrimination laws and determine enforcement priorities, without baseline data.³⁴ To this end, more comprehensive data focused on economic well-being is especially important given the historic myth of gay affluence and power. While available research reveals it to be unfounded, the stereotype of LGBTQ people as politically powerful and wealthy continues. Perniciously, this myth has been used to slow or stop civil rights advancements.³⁵

IV. The ASEC's collection of SOGI data would facilitate numerous federal agencies' work, especially as it relates to the Administration's goal of promoting equity in the administration of federal programs.

Data from a nationally representative, large-scale, Bureau-administered survey providing data about LGBTQI peoples' incomes, employment status, health-insurance enrollment status, and other measures of economic well-being will enable various federal agencies to effectuate their statutory obligations. With this data, the Bureau of Labor Statistics (BLS), which collaborates on the ASEC, could publish more comprehensive data on the labor force. The many agencies that administer programs tied to national poverty measures derived from the ASEC would be better able to measure the success of those programs and target needy populations. Agencies that enforce nondiscrimination mandates would have robust baseline measures to inform their investigations. All told, collection of SOGI data in the ASEC will help agencies do

³¹ *The Evolution of Data Collection for Same-Sex Married Couple Households*, Census, <https://www.census.gov/content/dam/Census/library/visualizations/2019/demo/Same-sex-Married-Couple-Timeline.pdf>.

³² Kyle C. Velte, *Straightwashing the Census*, 61 B.C. L. Rev. 69, 106 (2020), <https://lawdigitalcommons.bc.edu/bclr/vol61/iss1/3>.

³³ Bosworth et al., at 2, <https://aspe.hhs.gov/sites/default/files/2021-07/lgbt-health-ib.pdf>.

³⁴ Kyle C. Velte, *Straightwashing the Census*, 61 B.C. L. Rev. 69, 110-11 (2020); see also Kellan Baker & Laura E. Durso, *Filling in the Map: The Need for LGBT Data Collection*, Ctr. for Am. Progress (Sept. 16, 2015), <https://www.americanprogress.org/issues/Agbt/news/2015/09/16/121128/filling-in-the-map-the-need-for-lgbt-data-collection/>.

³⁵ *Id.*

their jobs and is entirely consistent with the Administration’s direction to federal agencies broadly to assess and improve equity in their programs.³⁶

First, BLS’s statutory mission is to “acquire and diffuse. . . useful information on subjects connected with labor, in the most general and comprehensive sense of that word. . . especially. . . the earnings of laboring men and women.”³⁷ Among other ways in which it fulfills this mission, BLS publishes annual information drawn from the ASEC on the U.S. population’s work experience, disaggregating it by sex and race and ethnic groups,³⁸ and reports profiling the working poor, disaggregating that description by sex, race, and ethnicity, education levels, occupation, and family status.³⁹ Adding SOGI questions to the ASEC would enhance the utility of these reports by revealing more detailed information about working people in the country, notably by providing significantly more robust and detailed information on LGBTQI employment and develop a more complete and nuanced understanding of what current research reveals about their relative disadvantages.

Adding SOGI data to the ASEC would also enable agencies that rely on the Official Poverty Measure (or derivative measures of poverty) to better pursue their statutory missions, as the ASEC is the basis for this measure. By statute, the Department of Health and Human Services derives its poverty guidelines from the Official Poverty Measure.⁴⁰ These poverty guidelines are used as an eligibility criterion by numerous federal programs, including the following:⁴¹

- **Department of Health and Human Services**

- Medicaid
- Medicare Part D Low Income Subsidies
- Children’s Health Insurance Program
- Consolidated Health Centers (CHCs), including Federally Qualified Health Centers (FQHCs)
- Maternal and child health services
- Title X Family Planning Program
- Older Americans Act Nutrition Program

³⁶ Exec. Order No. 13,950, 86 Fed. Reg. 57,849 (Oct. 19, 2021), <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government/>.

³⁷ 29 U.S.C. § 1.

³⁸ *Work Experience of the Population—2019*, Bureau of Labor Statistics (Dec. 9, 2020), <https://www.bls.gov/news.release/pdf/work.pdf>.

³⁹ U.S. Bureau of Lab. Stat., *A profile of the working poor, 2019*, BLS Rep. (2021), <https://www.bls.gov/opub/reports/working-poor/2019/home.htm>.

⁴⁰ 42 U.S.C. § 9902(2).

⁴¹ *Programs that Use the Poverty Guidelines as a Part of Eligibility Discrimination*, Dep’t of Health and Hum. Serv. (last visited Oct. 28, 2021), <https://www.hhs.gov/answers/hhs-administrative/what-programs-use-the-poverty-guidelines/index.html>.

- Head Start
- Health professions student loans and scholarships
- Community Services Block Grant
- Social Services Block Grant (Including Transfers from TANF)
- Low-income Home Energy Assistance

- **Department of Agriculture**
 - Supplemental Nutrition Assistance Program (SNAP)
 - National School Lunch Program
 - Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)
 - Child and Adult Care Food Program
 - School Breakfast Program
 - Summer Food Service Program
 - Commodity Supplemental Food Program
 - Food Distribution Program on Indian Reservations (FDPIR)
 - Senior Farmers' Market Nutrition Program (SFMNP)
 - Special Milk Program for Children

- **Department of Education**
 - TRIO Programs
 - Educational stipends for the Native Hawaiian Career and Technical Education Program (NHCTEP)
 - Educational stipends for the Native American Career and Technical Education Program (NHCTEP)
 - D.C. School Choice Incentives
 - Federal Student Aid - Income-Driven Plans

- **Department of Energy: Weatherization Assistance Program**

- **Department of Labor**
 - Job Corps
 - Workforce Innovation and Opportunity Act (WIOA)
 - Senior Community Service Employment Program (SCSEP)

- **Department of Treasury**
 - Health Insurance Premium Tax Credits
 - Low-Income Taxpayer Clinics (LITC)
 - Fee waiver for Offer in Compromise
 - Reduced user fee for Installment Agreements

- **Corporation for National and Community Service**
 - Foster Grandparent Program
 - Senior Companion Program

- **Federal Communications Commission:** LifeLine
- **Legal Services Corporation:** Legal Services

Each of these programs could be better administered with more complete information about the demographic profile of eligible populations—including LGBTQI people. For example, if one of the many agencies listed above understands the percentage of the eligible population for a particular program that is LGBTQI, it will be able to assess, and when necessary, improve, its ability to serve LGBTQI communities via this program. It may be able to determine whether its services are reaching LGBTQI recipients—including discrete or intersecting subgroups of that population or LGBTQI people outside of urban areas for example—at the same rate as the total population, and it will be able to better target outreach. As HHS previously explained, “[f]ully understanding the human service needs of LGBT populations. . . will require expanding the number of survey and administrative data sources that directly and accurately measure sexual orientation and gender identity.⁴² Adding the SOGI data collection is accordingly essential to meet the Administration’s mandate to improve equity in the administration of federal programs through better collection and use of data.

Similarly, some state and local governments have chosen to use the federal poverty guidelines in some of their own programs and activities. Examples include financial guidelines for child support enforcement and determination of legal indigence for court purposes. Some private companies (such as utilities, telephone companies, and pharmaceutical companies) and some charitable agencies also use the guidelines in setting eligibility for their services to low-income persons.⁴³ These entities would also be able to better assess their success in serving eligible LGBTQI program recipients if the ASEC provides them with baseline demographic poverty data.

The ASEC also collects data regarding health insurance coverage, including detailed information about federal insurance programs including Medicare, Medicaid, SCHIP, and coverage through the Military or Indian Health Service.⁴⁴ Policy makers currently use this data to understand ways in which certain demographic groups are able or unable to access such coverage. They generally cannot do so currently for LGBTQI people, despite their persistent health disparities and disproportionate lack of insurance. Adding the SOGI data collection, and developing intersex measures, would be a major step to facilitate better understanding about the lack of insurance for LGBTQI people.

⁴² Andrew Burwick et al., *Human Services for Low-Income and At-Risk LGBT Populations: An Assessment of the Knowledge Base and Research Needs*, OPRE Report 19, https://www.acf.hhs.gov/sites/default/files/documents/opre/lgbt_hsneeds_assessment_reportfinal_1_12_15.pdf.

⁴³ *Programs that Use the Poverty Guidelines as a Part of Eligibility Discrimination*, Dep’t of Health and Hum. Serv. (last visited Oct. 28, 2021), <https://www.hhs.gov/answers/hhs-administrative/what-programs-use-the-poverty-guidelines/index.html>.

⁴⁴ Current Population Survey Annual Social and Economic Supplement (CPS-ASEC), U.S. Census Bureau (Sep. 10, 2019), <https://www.census.gov/topics/health/health-insurance/guidance/cps-asec.html> (at “Flow Chart”).

This data is also essential for better administering federal insurance programs with respect to covered LGBTQI people. As the Centers for Medicare & Medicaid Services (CMS) and HHS explained, “[d]ata at the census block or individual level would help the above offices understand and improve care for the subpopulations of Medicare, Medicaid, and dual Medicare-Medicaid (federally insured) enrollees who are lesbian, gay, bisexual, or transgender (LGBT).”⁴⁵ Similarly, the Federal Coordinated Health Care Office, established by the Affordable Care Act to coordinate between Medicare and Medicaid, has a statutory goal to “[i]mprov[] the quality of health care and long-term services for dual [Medicare and Medicaid] eligible individuals.” As it previously explained, “[w]ithout information on sexual orientation and gender identity, FCHCHO will be disadvantaged in fulfilling this goal for federally insured LGBT individuals.”⁴⁶

Collecting SOGI data via the ASEC would also facilitate enforcement of statutory nondiscrimination protections by numerous agencies. Section 1557 of the Affordable Care Act, for example, prohibits discrimination in health programs or activities receiving Federal financial assistance on the basis of sex—including sexual orientation and gender identity—among other protected characteristics.⁴⁷ SOGI data is necessary to effectuate this mission. As CMS previously explained, “the lack of information on sexual and gender identity prevents the study of whether sexual and gender minorities are experiencing discrimination in the receipt of CMS services.”⁴⁸ Similarly, both the Department of Justice and the Equal Employment Opportunity Commission enforce Title VII of the Civil Rights Act of 1960’s prohibitions against sex discrimination—including sexual orientation and gender identity—in employment.⁴⁹ Additional baseline ASEC employment data would facilitate these missions.

V. ASEC collection of SOGI data would also benefit private researchers and advocates.

The addition of SOGI data to the ASEC, and the resulting inclusion of this demographic information in publications based on ASEC data (such as employment rates, poverty rates, health insurance rates, etc.) would be of significant utility to private researchers and advocates. The following are examples of the way in which the signatories to this letter would be able to advance their work with this data:

⁴⁵ Letter from CMS to Census Bureau (June 29, 2016), <https://www.documentcloud.org/documents/3894328-Letter-from-CMS-to-Census-Bureau-June-29-2016.html>.

⁴⁶ *Id.*

⁴⁷ 42 U.S.C. § 18116(a).

⁴⁸ Letter from CMS to Census Bureau (June 29, 2016), *available at* <https://www.documentcloud.org/documents/3894328-Letter-from-CMS-to-Census-Bureau-June-29-2016.html>.

⁴⁹ 42 U.S.C. § 2000e-2; *see also* Letter from DOJ to Census Bureau (Nov. 4, 2016), at 2, <https://apps.npr.org/documents/document.html?id=3892167-DOJ-to-Census-Bureau-2016-11-04-Edit>.

- Family Equality will utilize this data in initiatives to support low-income LGBTQ families, particularly families of color and those in rural states and areas, to help address economic and health disparities they face. (Family Equality)
- Central to understanding the experiences of LGBTQI people—and addressing disparities through policy intervention—is data collection on large, nationally representative surveys like the Current Population Survey. The Movement Advancement Project is excited to leverage this data to help the public, policymakers, and the media understand who LGBTQI people are and the challenges they experience. The Census Bureau is uniquely situated to do this work with its resources and know-how, as well as the vast reach of the surveys, which is needed to reach these populations. (MAP)
- This data would create opportunities for us to target our healthcare policy interventions and research agenda to address sources of inequity. (Whitman-Walker)
- Nationally, about one in five LGBTQ+ families are enrolled in the Supplemental Nutrition Assistance Program (SNAP) and Medicaid—programs that are funded based on census results—which is double the rate of non-LGBTQ+ families. Too often, California’s diverse LGBTQ+ community finds ourselves undercounted—which denies us power, representation and funding for programs that the most vulnerable members of our community need to survive for the next 10 years. (Equality California)

VI. SOGI questions have been effective on the Household Pulse Survey and Bureau research shows they can work for the CPS.

We encourage the Bureau to modify the current request for approval of the ASEC to include the addition of SOGI questions modeled on the Household Pulse Survey questions. In order to implement the change quickly, we recommend adopting the same questions used in the Household Pulse Survey, which have revealed themselves to be reasonably feasible and effective and the Bureau has indicated they will continue to be asked in the next phase of the Household Pulse Survey.

Additionally, the questions included on the Household Pulse Survey are nearly identical to the questions that were used in cognitive testing in 2017 by the Census Bureau, the Bureau of Labor Statistics, and an outside marking firm.⁵⁰ The results of that testing show that the questions are well understood and can be effectively used in the CPS.

⁵⁰ Renee Ellis et al., Assessing the Feasibility of Asking About Sexual Orientation and Gender Identity in the Current Population Survey: Results from Cognitive Interviews, U.S. Census Bureau & Bureau of Labor Statistics (Sep. 29, 2017), <https://www.bls.gov/osmr/research-papers/2017/html/st170210.htm>.

VII. The Bureau’s reasons for not adopting the requested SOGI questions are not persuasive.

We submitted substantially the same comment in response to the 60-Day notice for this information collection. The Bureau responded to this comment in its revised Supporting Statement A.⁵¹ It declined to add the requested SOGI questions because:

Although the sample size for the LGBTQI community may be sufficient in size to produce reliable estimates, collecting accurate survey data on sexual orientation presents many challenges with measurement and methodology. Specifically, the small population of people in some demographic groups compared to others suggests that sampling or reporting errors could lead to significant errors in estimates. Also, sexual orientation can be a sensitive topic, and the privacy and confidentiality of respondents and respondent data must be handled with care. Finally, surveys such as the CPS that collect data by proxy (that is, one person answers questions about everyone in their household) face additional challenges, as people may not know the sexual orientation of other household members or feel comfortable answering sexual orientation questions about them.⁵²

First, the Bureau discusses only sexual orientation in its response, not questions regarding gender identity, which suggests that it has not evaluated the feasibility of adding the questions we request in significant detail.

Most importantly, while methodological challenges are likely present with any new survey question, these challenges may be overcome here and should not prevent the Bureau from adding the requested SOGI questions. Significant research has been done on how to collect accurate survey data on sexual orientation and gender identity,⁵³ which the Bureau does not engage with in its response. The Bureau’s own success with the Household Pulse Survey, discussed above, makes clear that the stated concerns in Supporting Statement A regarding small

⁵¹ The Bureau originally omitted our comment from its Supporting Statement, but upon our notification of the omission, responded to us with a revised Supporting Statement A. As of the time of submission of this comment, the Bureau had not updated the text of Supporting Statement A on [reginfo.gov](https://www.reginfo.gov). The revised Supporting Statement A provided to us by email by the Bureau is attached as Exhibit A.

⁵² Exhibit A at 7.

⁵³ Andrew Park, *Reachable: Data Collection Methods for Sexual Orientation and Gender Identity*, UCLA School of Law Williams Institute 3 (Mar. 2016), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/SOGI-Data-Collection-Mar-2016.pdf> (“Researchers and governments have begun to consider integrating methodologies to gather data about the demographic characteristics of individuals of diverse sexual orientation, gender identity, and intersex status. As all people have a sexual orientation and a gender identity, these methodologies can be used to collect data about the sexual orientation and gender identity of all members of any given population.”); *Collection of Sexual Orientation and Gender Identity (SOGI) Data: Considerations for Medicaid and Spotlight on Oregon*, State Health & Value Strategies (Oct. 2021), https://www.shvs.org/wp-content/uploads/2021/10/SOGI-Data-Collection-in-Medicaid_SHVS-Issue-Brief_Revised.pdf.

populations of people in some demographic groups and the need for privacy and confidentiality can be overcome. And the ASEC’s success in maintaining privacy and confidentiality of the other sensitive data it collects—sensitive household financial information for example—reveals that this concern is resolvable.

As for the question of SOGI data collection by proxy, the administrators of the CPS have been conducting qualitative research on this since 2016.⁵⁴ Indeed, the same 2017 BLS report cited later in Supporting Statement evaluated the possibility of collecting SOGI data by proxy, and concluded “*[c]ognitive interviews suggest that proxy response may be effective for sexual orientation and gender identity questions*, with respondents generally being willing and able to answer the questions about other household members.”⁵⁵ That study concluded, along with noting its limitations, that it “did not identify any significant issues that would make collecting SOGI information in the CPS infeasible.”⁵⁶

The need for SOGI data collection is pressing, and the Bureau should not delay improving the ASEC indefinitely in a misguided effort to seek perfection in methodology.

VIII. The Bureau should engage in and promote research, development, and testing for expanded measures that allow for the identification of intersex, nonbinary, and other sexual and minority populations.

Adding existing, tested SOGI measures is an essential and immediate step to understand and address the needs of LGBTQI people and their families—including by better informing federal programs, policies, and investments. While this step can and should be taken immediately, it is also critical that the Bureau, in coordination with NCHS, National Institutes of Health, and other agencies, work to develop expanded or additional measures to identify sexual and gender minority populations who cannot be identified with current SOGI measures.

A recent consensus study by the National Academies of Sciences, Engineering, and Medicine noted that “[p]opulation-based data on intersex populations are generally not available at all,” calling this “a significant gap in terms of identifying and understanding the well-being of intersex populations.”⁵⁷ The consensus study “emphasizes that there is an urgent need for robust scientific evidence that includes not just lesbian, gay, bisexual, and transgender people, but also

⁵⁴ Federal Committee on Statistical Methodology, *Toward a Research Agenda for Measuring Sexual Orientation and Gender Identity in Federal Surveys: Findings, Recommendations, and Next Steps*, Nat’l Ctr. for Educ. Stats. 6 (Oct. 20, 2016), https://nces.ed.gov/FCSM/pdf/SOGI_Research_Agenda_Final_Report_20161020.pdf.

⁵⁵ Renee Ellis et al., *Assessing the Feasibility of Asking About Sexual Orientation and Gender Identity in the Current Population Survey: Executive Summary*, U.S. Census Bureau & Bureau of Labor Statistics 2 (Sep. 29, 2017), <https://www.bls.gov/osmr/research-papers/2017/pdf/st170220.pdf> (emphasis added).

⁵⁶ *Id.* at 3.

⁵⁷ National Academies of Sciences, Engineering, and Medicine, *Understanding the Well-Being of LGBTQI+ Populations*, The National Academies Press (2020) at 54, 67.

intersex people, people with same-sex or same-gender attractions or behaviors, and people who identify as asexual, Two Spirit, queer, or other terms under the SGD umbrella.”⁵⁸

The report therefore recommends that “Federal statistical agencies ... should fund and conduct methodological research to develop, improve, and expand measures that capture the full range of sexual and gender diversity in the population—including but not limited to intersex status and emerging sexual and gender identities.”⁵⁹ We look forward to working with the Bureau and other statistical agencies to build on the addition of current SOGI measures for future survey years.

If you have any questions or would like to discuss the information in this comment, please contact Robin Thurston, counsel for MAP, at 202-701-1775 or rthurston@democracyforward.org.

Respectfully submitted,

American Atheists

Athlete Ally

Center for American Progress

CenterLink: The Community of LGBT Centers

Equality California

Equality Federation

Family Equality

FORGE, Inc.

GLSEN

Howard Brown Health

interACT: Advocates for Intersex Youth

MomsRising/MamásConPoder

Movement Advancement Project

National LGBT Cancer Network

National Women’s Law Center

Oasis Legal Services

⁵⁸ *Id.* at 398.

⁵⁹ *Id.* at 402.

PowerOn, a program of LGBT Technology
Institute

The Trevor Project

Union for Reform Judaism

URGE: Unite for Reproductive and Gender
Equity

Whitman-Walker Institute

Exhibit A

OMB Information Collection Request
Supporting Statement A
U.S. Department of Commerce
U.S. Census Bureau
Annual Social and Economic Supplement
to the Current Population Survey
OMB Control Number (0607-0354)

A. JUSTIFICATION

1. Circumstances Making the Collection of Information Necessary

This request is for a revision of a currently approved collection. The Annual Social and Economic Supplement (ASEC) is currently approved through December 31, 2021, with OMB Control Number 0607-0354.

The U.S. Census Bureau has conducted the ASEC annually for over 70 years, and will conduct it in conjunction with the February, March, and April Current Population Survey (CPS). The following authorities establish the legal sufficiency for conducting this work.

For the U.S. Census Bureau: 1) Title 13, United States Code, Sections 141 and 182; and for the Bureau of Labor Statistics, 2) Title 29, United States Code, Sections 1-9. See Attachment L for the full text of these statutes.

For the Bureau of Labor Statistics (BLS) who co-sponsors this supplement, and on whose behalf the U.S. Census Bureau will conduct this survey, Title 29, United States Code, Sections 2 and 8, authorizes the collection, collation, and reporting of statistics related to labor force conditions (Section 8 is specific to unemployment for those of Hispanic origin).

The proposed supplement, as it will appear in the CPS instrument, is shown in Attachment A. The instrument questionnaire, which is mostly unchanged since its redesign in 2015, will consist of some changes compared to the collection in 2021. These changes are highlighted in Attachment A (pp. 121-122, 133-134) and are summarized here.

- A minor wording change to the legacy free and reduced school lunch question (Q83) to reflect current program rules.
- A modification to the pandemic school meals question (ECVDPEBT) to capture receipt of debit cards under the P-EBT program and expand the universe for the question to include all households with children 5 to 18.
- Simplify the stimulus payment question (ECVD_EIP) related to the Economic Impact Payment from the Federal Government, and remove two follow-up questions

asking about who was covered and the dollar amount (ECVD_COV and ECVD_AMT).

- Addition of a question asking about Advanced Child Tax Credit payments received.

The slight change to the free and reduced school lunch question is necessary to reflect USDA FNS's Community Eligibility Provision (CEP). CEP allows the nation's highest poverty schools and districts to serve breakfast and lunch at no cost to all enrolled students without collecting household applications. For the 2021-2022 school year, more than 30,000 school were eligible for the program.

Pandemic Electronic Benefit Transfer (P-EBT) is part of the U.S. government response to the COVID-19 pandemic. The Families First Coronavirus Response Act of 2020 (PL 116-127), as amended by the Continuing Appropriations Act 2021 and Other Extensions Act (PL 116-159), the Consolidated Appropriations Act 2021 (PL 116-260), and the American Rescue Plan Act of 2021 (PL 117-2) provides the Secretary of Agriculture authority to approve state agency plans to administer P-EBT. Through P-EBT, eligible school children receive temporary emergency nutrition benefits loaded on EBT cards that are used to purchase food. Children who would have received free or reduced-price meals under the National School Lunch Act if their schools were not closed or operating with reduced hours or attendance for at least 5 consecutive days are eligible to receive P-EBT benefits.

The expanded and newly-advanceable Child Tax Credit was authorized by the American Rescue Plan Act, enacted in March 2021. For 2021 this credit has been expanded to \$3,000 per child for dependents ages 6 through 17 and \$3,600 per child for dependents age 5 and under, up from \$2,000 per child in the past. Also, the credit is fully refundable for 2021. Before this year, the refundable portion was limited to \$1,400 per child. From July through December 2021, up to half the credit will be advanced to eligible families by Treasury and the IRS. Eligible families can choose to decline receiving the advance payments. The IRS estimated that in the first month roughly \$15 billion was paid out to families that include nearly 60 million eligible children. Experts have projected the American Rescue Plan will lift more than five million children out of poverty this year, cutting child poverty by more than half.

This request also asks for clearance for the forms that are used in conjunction with the ASEC supplement. These forms include:

<u>Form No.</u>	<u>Description</u>	<u>Attach ment</u>
BC-1428	Confidentiality Brochure.	F
BC-1428 (SP)	Same letter as above translated into Spanish.	G
CPS-580 (ASEC)(L)	Advance letter sent to each household in sample.	H

<u>Form No.</u>	<u>Description</u>	<u>Attachment</u>
CPS-580 (L)SP	Same letter as above translated into Spanish.	I
CPS-676	Pamphlet with information from the ASEC.	J
CPS-676 (SP)	Same pamphlet as above but in Spanish.	K

These forms are made available so that the respondents will have a clear understanding of the purpose and uses of the CPS ASEC supplement.

2. Purposes and Uses of the Information Collection

The ASEC questionnaire can be divided into five logical series of questions as follows:

a. Work Experience (See Attachment A: Items Q29A-Q4788)

The work experience items provide a unique measure of the dynamic nature of the labor force as viewed over a 1-year period. These items produce statistics that show movements in and out of the labor force by measuring the number of periods of unemployment experienced by people, the number of different employers worked for during the year, the principal reasons for unemployment, and part-/full-time attachment to the labor force. We can make indirect measurements of discouraged workers and others with a casual attachment to the labor market.

b. Personal Income and Noncash Benefits (See Attachment A: Items Q48AA-Q52Cs1 Q56a-Q73A1Rc, Q74a)

The ASEC supplement collects data on a number of personal income and noncash benefit sources as listed below:

Sources of Income

- Earned Income
- Unemployment and Workers' Compensation
- Social Security and Supplemental Security Income
- Public Assistance and Veterans Payments
- Survivor Benefits and Disability Income
- Pensions, Annuities, and Retirement
- Income-Earning Accounts outside of Retirement and Property Income
- Education Assistance
- Child Support
- Regular Financial Assistance and Other Income

Data from the ASEC are used for statistical purposes only and cannot be used to reveal a person's identity or responses to the survey. Analysis of the data is performed in a variety of ways by various users. The income data from the ASEC are used by social planners, economists, government officials, and market researchers to gauge the economic well-being of the country as a whole and of selected population groups of interest. Government planners and researchers use these data to monitor and evaluate the effectiveness of various assistance programs. Market researchers use these data to identify and isolate potential customers. Social planners use these data to forecast economic conditions and to identify special groups that seem to be especially sensitive to economic fluctuations. Economists use ASEC data to determine the effects of various economic forces, such as inflation, recession, recovery, and so on, and their differential effects on various population groups. A prime statistic of interest is the classification of people in poverty and how this measurement has changed over time for various groups. Researchers evaluate ASEC income data not only to determine poverty levels but also to determine whether government programs are reaching eligible households.

The health insurance items (pages 104-117 in Attachment A) collect data on five possible categories of health insurance coverage, as listed below:

- 1) Coverage provided through a current or former employer.
- 2) Coverage through a private health insurance plan purchased directly.
- 3) Coverage on any health insurance plan, including that of a nonhousehold member.
- 4) Government-sponsored coverage, including medicare, medicaid, and State Children's Health Insurance Program (SCHIP).
- 5) State-specific coverage for low-income uninsured individuals.

c. Household Noncash Benefits (See Attachment A: Items Q80-Q94)

These items collect data on participation in the school lunch, public housing, Supplemental Nutrition Assistance Program (SNAP), and fuel assistance programs. The questions (Q80 and Q83) concerning school lunches identify households with children who participated in the Federal School Lunch Program during the previous year. These data allow for more effective analyses of the program and, along with the SNAP benefits data, show where the client groups of the two food nutrition programs overlap.

The questions (Q85 and Q86) on public housing identify households that are owned by a housing authority or other public agency and households where a government agency is paying for part of the rent. These data allow for more effective analysis of public housing programs and measure the extent of participation among eligible families. Item SPHS8 determines the specific source of housing assistance.

The questions (Q87r through Q88) on the SNAP benefits identify which household members received SNAP benefits during the previous year. These data, along with the detailed supplemental income data, allow for a more comprehensive evaluation of the SNAP benefits program and measure the extent of participation among eligible families.

Items Q93-Q94r² provide a measurement of the number of households that have received government heating or cooling assistance in the previous calendar year, and the amount of such assistance. State agencies provide the only other available data relevant to the energy assistance program in the form of summary counts of households receiving this type of assistance, cross-classified by their annual income levels. The ASEC is the only current data set capable of cross-tabulating fuel assistance recipients/nonrecipients with their socioeconomic characteristics. This allows analysts to determine whether funds are reaching eligible households.

d. Supplemental Poverty Measures (See Attachment A: Items VALPROP-SMORTYN)

Questions designed to produce a supplemental poverty measure can be divided into four parts: 1) Property value and presence of mortgage; 2) Medical expenditures; 3) Child support paid; and 4) Child care expenses paid.

Many agencies use poverty data from the Census Bureau, including the U.S. Department of Health and Human Services, the U.S. Department of Housing and Urban Development, and the U.S. Department of Agriculture. Each of these agencies, and many more, are eager for the Census Bureau to release improved poverty measures so they can ascertain how such a measure can enhance their ability to provide assistance and services to those in need. Agencies which publish documents based on the traditional (current) poverty measure are encouraged to also produce information based on a supplemental poverty measure to the fullest extent possible.

Information on health care expenditures is important to the Bureau of Economic Analysis as it develops its health care satellite account in response to the growing economic importance of health care spending in the United States.

e. Migration (See Attachment A: Items MIGSAM-NX1OTH)

The migration questions refer to one year ago and collect information on residency including state, county, and city. Private and government analysts use migration statistics from this supplement to determine the mobility of the country's population. Specifically, it is important to determine which areas are losing/gaining in population over the decade and to monitor the population shifts between regions and between cities, suburbs, and nonmetropolitan areas of the country. These migration patterns provide researchers the ability to predict future population decline/growth and general socioeconomic conditions for these areas.

Information quality is an integral part of the pre-dissemination review of the information disseminated by the Census Bureau (fully described in the Census Bureau's Information Quality Guidelines). Information quality is also integral to the information collections conducted by the Census Bureau and is incorporated into the clearance process required by the Paperwork Reduction Act.

3. Use of Internet Technology and Burden Reduction

We deem the use of personal visits and telephone interviews, using computer-assisted telephone interviewing and computer-assisted personal interviewing, the most appropriate collection methodology given existing available information technology. We are examining the Internet as a reporting option, but have not yet determined whether the Internet is feasible for a complex demographic survey such as the CPS, and CPS supplements such as the ASEC.

4. Efforts to Identify Duplication and Use of Similar Information

The ASEC and the Survey of Income and Program Participation (SIPP) contain similar content, but the ASEC remains a vital data source. It provides a database for measuring economic activity dating back to 1947. The ASEC is often matched to the other CPS supplements conducted in adjacent months, thereby greatly enhancing the utility of those datasets at minimal cost to the sponsors without increasing respondent burden. ASEC provides a higher level of statistical reliability than SIPP because the SIPP sample size is smaller than the CPS. However, SIPP collects considerably more detail on program benefits and assets, which enables measurements of wealth and well-being.

The ASEC focuses on accurate cross-sectional data (providing a clear snapshot), while SIPP focuses on accurate longitudinal data (providing a moving picture). A number of independent surveys and supplements to the CPS have contained selected income and noncash benefit items. Until the implementation of the SIPP, however, no other data source was available that provided the depth and scope of information of the kind described in Question 2.

The American Community Survey (ACS) also collects information on health insurance, however, this information was not collected prior to 2008. The CPS ASEC is the most widely used source of data on health insurance coverage in the United States, with a consistent time series of estimates from 1999 to 2012 and another time series that begins with 2013.

5. Impacts on Small Businesses or Other Small Entities

This collection does not involve small businesses or other small entities

6. Consequences of Collecting the Information Less Frequently

We collect the ASEC annually to detect shifts in household composition, labor force activity, migration patterns, and income levels. These measurements are very sensitive to the general economic climate, and to collect these data less frequently would mask some trends and disrupt time series analyses.

7. Special circumstances

There are no special circumstances. We collect the CPS and ASEC data in a manner that is consistent with the Office of Management and Budget (OMB) guidelines.

8. Comments in Response to the Federal Register Notice/Outside Consultation

A notice of intent to ask the ASEC supplement questions was published in the April 1, 2021 edition of the Federal Register (86 FR, p. 17121). A second notice was published in the September 3, 2021 edition of the Federal Register, asking for comments on questions added to the data collection. Both notices invited comments on the necessity and practicality of the data collection and comments on various other aspects of the proposed collection. In response to the notices, we received a comment from the Bureau of Economic Analysis, supporting the collection of this information.

We also received a comment from the Movement Advancement Project and 19 other organizations dedicated to advancing equality and opportunity for all, which focused on strengthening the survey to capture critical information on the lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI) population. Although the sample size for the LGBTQI community may be sufficient in size to produce reliable estimates, collecting accurate survey data on sexual orientation presents many challenges with measurement and methodology. Specifically, the small population of people in some demographic groups compared to others suggests that sampling or reporting errors could lead to significant errors in estimates. Also, sexual orientation can be a sensitive topic, and the privacy and confidentiality of respondents and respondent data must be handled with care. Finally, surveys such as the CPS that collect data by proxy (that is, one person answers questions about everyone in their household) face additional challenges, as people may not know the sexual orientation of other household members or feel comfortable answering sexual orientation questions about them.

For the past several years, the federal statistical community has been researching how to best measure sexual orientation and gender identity, and BLS and the Census Bureau, as sponsors of the CPS and many other data collections, have taken an active role. In 2017, Census and BLS survey methodologists investigated the feasibility of measuring sexual orientation in the CPS. A high level description of the research findings can be found

here: <https://www.bls.gov/osmr/research-papers/2017/st170220.htm>. More detailed descriptions of the findings are available at <https://www.bls.gov/osmr/research-papers/2017/st170210.htm>.

The following individuals have contributed to the development of the ASEC supplement by providing valuable feedback on the usefulness of the data for policymaking:

Dori Allard
Bureau of Labor Statistics
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In addition, a statement soliciting comments for improving this supplement is prominently placed in all Census Bureau publications that cite ASEC data and a similar statement is included in the technical documentation that accompanies the ASEC microdata files.

Finally, advance letters (see Attachments D and H) provide respondents with an address at the Census Bureau and at the OMB to which they can submit general comments on the survey, specifically those regarding respondent burden.

9. Explanation of Any Payment or Gift to Respondents

We do not pay the CPS respondents or provide them with gifts.

10. Assurance of Confidentiality Given to Respondents

We will collect these supplemental data in compliance with the Privacy Act of 1974. Each sample household will receive an advance letter approximately one week before the start of the initial CPS interview (see Attachments D & E). The letter includes the information required by the Privacy Act of 1974, informs each respondent of the voluntary nature of the survey, and states the estimated time required for participating in the survey.

Additionally, interviewers must ask each respondent if he/she received the advance letter and, if not, will provide a copy of the letter to each respondent and allow sufficient time for him/her to read its contents. Upon request, interviewers also provide households with the pamphlet on "How the Census Bureau Keeps Your Information Strictly Confidential," which reaffirms the confidentiality assurances and mentions the Census Bureau's past performance in assuring confidentiality (see Attachments F & G). All information given by respondents to Census

Bureau employees is held in strict confidence under Title 13, United States Code, Section 9. Each Census Bureau employee has taken an oath to that effect and is subject to a jail penalty and/or a substantial fine if he/she discloses any information given to him/her.

11. Justification for Sensitive Questions

The sources of income and assets are among the kinds of data collected and possibly considered of a sensitive nature. The Census Bureau takes the position that the collection of these types of data is necessary for the analysis of important policy and program issues, and consequently has structured the questions to lessen their sensitivity. The Census Bureau pledges its commitment to keep all survey responses confidential (Attachment D), and response is voluntary, however, each unanswered question lessens the accuracy of the final data.

12. Estimates of Annualized Hours and Cost Burden

The total estimated respondent burden is 32,500 hours for fiscal year 2022. We base this estimate on previously conducted ASEC supplements and previous use of automated interviewing procedures in the CPS. The actual interview time is dependent upon the size of the household.

For the ASEC, there will be approximately 78,000 households interviewed with one respondent per household. The average time of the interview is 25 minutes; therefore, the total estimated respondent burden is 32,500 hours for fiscal year 2022. See Part B for a size breakdown of the various segments of the sample.

The estimated total annual respondent cost burden based on these hours is \$2,307,240. For individuals, the wage rate is \$29.58 per hour based on hourly earnings for employees as reported by the Bureau of Labor Statistics.

12A. Estimated Annualized Burden Hours

Type of Respondent	Expected Number of Respondents	Number of Responses per Respondent	Average Burden per Response (in hours)	Total Burden Hours
CPS Household Respondent	78,000	1	0.4167	32,500

12B. Estimated Annualized Burden Costs

Type of Respondent	Total Burden Hours	Hourly Wage Rate	Total Respondent Costs (rounded to nearest dollar)
Household Respondent	78,000	\$29.58	\$2,307,240
Total	78,000		\$2,307,240

13. Estimates of Other Total Annual Cost Burden to Respondents

There are no direct costs to the respondents other than that of their time to respond.

14. Annualized Cost to the Federal Government

We estimate the cost to the government of the CPS program to be \$88 million in fiscal year 2022. The costs are to be borne by the Census Bureau, BLS, and other government agencies, if involved. The estimated cost of including the ASEC questions is \$2 million in fiscal year 2022 and is borne by the Census Bureau and the BLS.

15. Explanation for Program Changes or Adjustments.

There is no change in burden.

16. Plans for Tabulation, Publication, and Project Time Schedule

We will conduct the CPS, of which this supplement is a part, during the months of February, March, and April. Processing of this supplement will commence in May. The Public Use file will be released in September. We will publish advance reports based on the CPS data in September. Final reports will follow throughout the middle of the following year.

ASEC Publications

The following publications are released annually based on the ASEC data:

- a) *Income and Poverty in the United States*
- b) *Health Insurance in the United States*
- c) *Alternative Income Estimates in the United States*
- d) *America's Families and Living Arrangements*
- e) *Geographic Mobility*
- f) *Educational Attainment* (since 1947).
- g) In addition to the Census Bureau publications listed above, BLS has published yearly results from the ASEC supplement (educational attainment, marital history, and work experience) in news releases, articles in the *Monthly Labor Review*, and special bulletins.

17. Reason(s) Display of OMB Expiration Date is Inappropriate.

The ASEC Supplement is administered as part of the CPS monthly interview. However, this supplement (as well as all the CPS supplements) bears an OMB control number and expiration date which is different from the basic CPS interview. The OMB control number for the CPS basic interview is included in the advance letter we give respondents (see Attachment D). Because of these complexities and the anticipated respondent confusion involved with expressing a separate control number and expiration date to respondents for the supplement questions, we request a waiver of the requirement to display the OMB control number and expiration date for the CPS ASEC Supplement.

18. Exceptions to the Certification for Paperwork Reduction Act Submissions

There are no exceptions to the certification.