

April 10, 2023

Colette Pollard
Reports Management Officer, QDAM
Department of Housing and Urban Development
451 7th Street SW, Room 4176
Washington, D.C. 20410-5000

Submitted electronically via [regulations.gov](https://www.regulations.gov)

Re: 60-Day Notice of Proposed Information Collection: Family Report, MTW Family Report, MTW Expansion Family Report; OMB Control No. 2577-0083

Dear Reports Management Officer Pollard,

SAGE appreciates the opportunity to publicly comment on the proposed collection of sexual orientation and gender identity data as part of the 50058 Family Report. SAGE is the country's oldest and largest organization dedicated to improving the lives of lesbian, gay, bisexual, transgender, or queer ("LGBTQ+") older adults. We are a national organization that offers supportive services and consumer resources to LGBTQ+ older adults and their caregivers, advocates for public policy changes that address their needs, and provides training for agencies and organizations that serve LGBTQ+ older adults.

LGBTQ+ older adults have faced a lifetime of discrimination and socioeconomic inequities that are further exacerbated by the complexities of aging, and they face housing discrimination at an alarming rate¹. Despite their significant need, we are unable to fully assess the extent of this exclusion because sexual orientation and gender identity (SOGI) data is neither uniformly nor consistently collected.

Overall, SAGE applauds the plan to update the data collected by the 50058 Family Report, as well as the MTW Family Report and MTW Expansion Report, and support changes being considered to facilitate the collection of SOGI data. We support changing the question regarding Sex to ask about an individual's Gender and allowing for more inclusive options to answer, as well as adding a question regarding an individual's sexual orientation. SAGE recognizes the complexities around such questions, and the privacy concerns connected to such SOGI questions. However, we feel proper planning, support, and protections can be provided to support the

¹ LGBT People and Housing Affordability, Discrimination, and Homelessness (The Williams Institute, UCLA School of Law, 2020): <https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-Housing-Apr-2020.pdf>

inclusion of long-needed SOGI data questions. Below, we outline specific rationales for the inclusion of such questions, and provide suggestions and recommendations to improve the collection of SOGI data.

Comment (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.

While SOGI data collection has historically been absent from population-based surveys, several federal entities have recognized the need to collect this data, including the U.S. Department of Health and Human Services², Centers for Disease Control and Prevention³, The Joint Commission⁴, and the National Institutes of Health⁵. HHS has explicitly recognized the importance of collecting SOGI data, writing, “Gathering data on LGBTQI+ individuals helps researchers, policy makers, health care providers, and advocates identify and address health disparities affecting the LGBTQI+ population.”⁶

Collecting SOGI data is necessary for policymakers to obtain a comprehensive understanding of LGBTQ+ older adults and their experiences when accessing housing. LGBTQ+ older adults fare worse in many measures of socioeconomic well-being than their straight and cisgender peers. Despite their significant need, these older adults are disproportionately unlikely to receive the services and supports they need to live independently. LGBTQ+ adults across the lifecourse, especially adults identifying as trans and gender non-conforming, and racially and ethnically marginalized experience discrimination in housing. For example, LGBTQ+ adults are less likely to hear back about inquiries for housing⁷ and less likely to be notified about available units⁸.

With long-term data collection, the experiences and needs of LGBTQ+ older adults can finally be proactively included in the development of housing policies and the design of housing programs for different target groups, such as older adults. Without HUD beginning to collect SOGI data, LGBTQ+ older adults will not be fully included in government policies and programs, stymying meaningful advances in housing equity.

Additionally, when viewed from an intersectionality framework, the need for SOGI data becomes increasingly critical in meeting the needs of older adults with greatest economic and

² Improving LGBT Data Collection for the LGBT Community (U.S. Department of Health and Human Services, 2011): http://minorityhealth.hhs.gov/assets/pdf/checked/1/Fact_Sheet_LGBT.pdf

³ Sexual Orientation and Health Among U.S. Adults: National Health Interview Survey, 2013 (Center for Disease Control, July 15, 2014): <http://www.cdc.gov/nchs/data/nhsr/nhsr077.pdf>

⁴ Advancing Effective Communication, Cultural Competence, and Patient- and Family-Centered Care for the LGBT Community: A Field Guide (The Joint Commission, October 2011): http://www.jointcommission.org/assets/1/18/LGBTFieldGuide_WEB_LINKED_VER.pdf

⁵ NIH FY 2016-2020 Strategic Plan to Advance Research on the Health and Well-Being of Sexual and Gender Minorities (National Institute for Health, 2016): http://edi.nih.gov/sites/default/files/EDI_Public_files/sgm-strategic-plan.pdf

⁶ U.S. Department of Health and Human Services, accessed on November 16, 2022: <https://www.hhs.gov/programs/topic-sites/lgbtqi/reports/index.html>

⁷ Five Facts about Housing Access for LGBT People (The Urban Institute, November 16, 2022): <https://housingmatters.urban.org/articles/five-facts-about-housing-access-lgbt-people>

⁸ An Estimate of Housing Discrimination Against Same-Sex Couples (U.S. Department of Housing and Urban Development, June 18, 2013): https://www.huduser.gov/portal/Publications/pdf/Hsg_Disc_against_SameSexCpls_v3.pdf

social need. Many LGBTQ+ older adults encounter several barriers to accessing services, which in turn increases their vulnerability as they age. This is particularly true for LGBTQ+ older adults with marginalized racial and ethnic identities⁹. It is important that these factors not be viewed in isolation. Collecting SOGI information will help providers recognize the needs specific to constituents' sexual orientation and gender identity, in turn equipping HUD with the best possible information to meet their housing needs effectively and efficiently.

The comprehensive collection of SOGI data will help HUD more efficiently target the agency's limited resources. SOGI data can be used to tailor outreach plans and materials to better reach the most underserved communities, including LGBTQ+ individuals disproportionately experiencing homelessness or housing insecurity, such as older adults, Black, Indigenous, and other People of Color, and trans and gender non-conforming individuals. Long-term SOGI data collection will also allow better budgeting of appropriate funds for LGBTQ+ people's needs based on data-driven evidence of their participation in HUD programs. It will, in turn, also aid in the updating of policies and processes to reduce barriers and disparities experienced by LGBTQ+ individuals searching for affordable housing or homeless services.

Comment (2) ways to enhance the quality, utility, and clarity of the information to be collected.

While we understand that survey burden is a concern, SAGE supports expanding upon the demographic data already collected to make program participants feel included, affirmed, and safe. In one study, more than half of LGBTQ+ older adults reported being discriminated against in employment and/or housing¹⁰, and in another study, 34 percent of LGBTQ+ older adults worried about having to hide their identity to access senior housing¹¹. Research has shown that many LGBTQ+ older adults have experienced a lifetime of discrimination, including verbal and physical abuse¹². These are factors that may contribute to under-representation and under-reporting when given the opportunity to self-disclose.

It is important to remember that LGBTQ+ older adults have only recently started seeing SOGI-related data questions on surveys, applications, and intake forms. A lifetime of keeping one's LGBTQ+ identity concealed, as a protective measure, will take time to overcome. However, a recent study showed that providers and clients have starkly different views regarding how patients would react to being asked for SOGI data. While 80 percent of healthcare providers surveyed said that they expected that patients would be offended if asked to provide information about their sexual orientation or gender identity, only 11 percent of the patients said that they

⁹ Chen, J., McLaren, H. Jones, M., & Shames, L. (2022). The Aging Experiences of LGBTQ Ethnic Minority Older Adults: A Systematic Review. *The Gerontologist*, 62(3), e162-e167. <https://pubmed.ncbi.nlm.nih.gov/32941597/>

¹⁰ Fredriksen-Goldsen, K. I., Kim, H.-J., Emlet, C. A., Muraco, A., Erosheva, E. A., Hoy-Ellis, C. P., Goldsen, J., Petry, H. (2011). *The Aging and Health Report: Disparities and Resilience among Lesbian, Gay, Bisexual, and Transgender Older Adults*. Seattle: Institute for Multigenerational Health.

¹¹ *Maintaining Dignity: Understanding and Responding to the Challenges Facing Older LGBT Americans* (AARP, 2018): <https://www.lgbtagingcenter.org/resources/pdfs/maintaining-dignity-lgbt.pdf>

¹² Fredriksen-Goldsen, K. I., Kim, H.-J., Emlet, C. A., Muraco, A., Erosheva, E. A., Hoy-Ellis, C. P., Goldsen, J., Petry, H. (2011). *The Aging and Health Report: Disparities and Resilience among Lesbian, Gay, Bisexual, and Transgender Older Adults*. Seattle: Institute for Multigenerational Health.

actually would be offended¹³. This is further bolstered by recommendations from the Office of the Chief Statistician of the United States which found that while “there may be some concern that adding SOGI questions to a survey will cause respondents to skip questions or abandon the survey altogether... current surveys collecting SOGI data show that respondents are unlikely to skip SOGI questions...especially compared to other sensitive data items.”¹⁴

Inclusion of SOGI questions can signal to LGBTQ+ individuals that their identities and experiences are valued, facilitating greater response rates to these questions the longer they are asked. LGBTQ+ individuals will see the SOGI data questions as a sign of inclusion that will in turn lead to increased comfort levels for disclosing this information, and potentially greater participation.

When it comes to concerns around privacy and security, such considerations for SOGI data are important, but are generally similar to other important demographic data, and should not be a roadblock to collecting any demographic information. As noted by the National Academies of Sciences, Engineering, and Medicine, “sex assigned at birth, gender identity, and sexual orientation are not the only types of potentially sensitive information that need to be collected respectfully and confidentially and used appropriately in administrative settings.”¹⁵ SOGI data should be handled using the same standards and safeguards that already exist to collect information by local, state, and federal governments. An example of an agency protocol that could be applied to protect personal identifying information is the Department of Homeland Security’s Fair Information Privacy Practices policy, which lays out core principles for handling sensitive data.¹⁶

In addition to applying the same privacy and security standards, it must be made clear that answering SOGI questions, is optional. HUD already collects voluntary data on other demographic groups experiencing discrimination, and as with these other groups, individuals may choose not to provide SOGI information, or to provide it in a way that minimizes their concerns about privacy and safety. Ensuring such questions are optional will provide individuals with the ability to share only what information they feel comfortable, while still providing an important SOGI data for policy makers.

¹³ See Lau, Brandyn. Emergency Department Query for Patient-Centered Approaches to Sexual Orientation and Gender Identity: The Equality Study (June 2016). A summary of the study is available at <http://www.equalitystudy.com/academyhealth-presentation>.

¹⁴ Recommendations on the Best Practices for the Collection of Sexual Orientation and Gender Identity Data on Federal Statistical Surveys, Office of the Chief Statistician of the United States, (January 2023) <https://www.whitehouse.gov/wp-content/uploads/2023/01/SOGI-Best-Practices.pdf>

¹⁵ Measuring Sex, Gender Identity, and Sexual Orientation; National Academies of Sciences, Engineering, and Medicine. 2022. Measuring Sex, Gender Identity, and Sexual Orientation. Washington, DC: The National Academies Press. <https://doi.org/10.17226/26424>

¹⁶ Memorandum from Hugo Teufel III, Chief Privacy Officer, U.S. Dep’t of Homeland Sec., The Fair Information Practice Principles: Framework for Privacy Policy at the Department of Homeland Security (Dec. 29, 2008), https://www.dhs.gov/xlibrary/assets/privacy/privacy_policyguide_2008-01.pdf.

Comment (3) Updating the field for Sex to Gender and allowing for inclusion of X-Non-Binary/Transgender, NR-No Response/Prefer not to answer, and the option to pick more than one response.

SAGE strongly supports HUD’s consideration of adding a question regarding gender identity, and the understanding from HUD that how to ask a question is just as important as whether to ask the question. SAGE supports including SOGI questions with comprehensive response options, as outlined in “A Guide for Collecting Data on Sexual Orientation and Gender Identity” by the National LGBTQIA+ Health Education Center, supported by the Health Resources and Services Administration (HRSA) of the U.S. Department of Health and Human Services (HHS) as part of the award U30CS22742¹⁷.

Ideally, approaches to this question should include expanding the gender identity question options to include a two-step question. First, “What sex were you assigned at birth, on your original birth certificate?” with response options: “Female”, “Male”, “Intersex”, “Don’t know”, and “Prefer not to answer.” Second, “What is your current gender?” with response options: “Female”, “Male”, “Transgender”, “[If respondent is American Indian or Alaska Native] Two-spirit”, “I use a different term. Please specify: _____”, and “Prefer not to answer”.

However, we recognize that a two-step question may not be feasible at this time. If necessary, we feel proceeding with the proposed one-step gender question is still an important step in the right direction, provided that individuals are permitted to choose more than one option if they prefer. Providing the option to pick more than one response is important. For example, someone who has transitioned from female to male (FTM) might not only describe themselves as transgender but might also wish to describe themselves as male. Likewise, someone who has transitioned from male to female (MTF) might not only describe themselves as transgender but might also wish to describe themselves as female.

The option to select No Response/Prefer not to answer is also very important, and must be included and clearly offered as a choice.

Comment (4) Whether a field about a household member's sexual orientation should be added, and whether the categories are accurate. HUD is considering the following categories: Straight/Heterosexual, Gay, Lesbian, Bisexual, Other, and No Response/Prefer not to answer.

Adding a sexual orientation question is an important component to fully capture SOGI data. SAGE strongly supports HUD’s consideration of adding a question regarding sexual orientation. Overall, we feel the categories proposed represent a comprehensive set of choices, but recommend providing an open-ended option for individuals who may choose Other, and are willing to provide more information. Similar to the question on gender identity, SAGE supports including such a question with comprehensive response options as outlined in “A Guide for

¹⁷ A Guide for Collecting Data on Sexual Orientation and Gender Identity” by the National LGBTQIA+ Health Education Center, supported by the Health Resources and Services Administration (HRSA) of the U.S. Department of Health and Human Services (HHS) as part of the award U30CS22742(11). Accessed on September 14, 2022 at https://www.lgbtqihealtheducation.org/wp-content/uploads/2022/05/TFIE-64_Updates2022_ReadySetGo_10_18_22.pdf

Collecting Data on Sexual Orientation and Gender Identity” by the National LGBTQIA+ Health Education Center, supported by the Health Resources and Services Administration (HRSA) of the U.S. Department of Health and Human Services (HHS) as part of the award U30CS22742¹⁸.

The option to select No Response/Prefer not to answer is also very important, and must be included and clearly offered as a choice.

Comment (5) Specific comments on what guidance would be helpful if HUD does implement this change to ensure accuracy in collecting and maintaining this information.

In order to build trust, it is important to actively engage with community partners on why SOGI questions are being asked. A March 2023 report by the National Science and Technology Council’s Subcommittee on Equitable Data encouraged the engagement local communities in conversations around data. The report noted that “much of the work in engaging representatives of the communities that access and participate in federal programs is happening in agencies that provide direct services.”¹⁹ Information should be provided through community partners, and directly to the individuals answering questions, that the information is part of an effort by HUD to better understand the diverse housing needs of program participants, and to better combat housing discrimination. Resources on the expanded definition of ‘sex’ following the *Bostock* decision and how the Fair Housing Act’s protections have been extended to cover sexual orientation and gender identity will help individuals understand both their rights and the need for greater LGBTQ+ representation in federal data collection.

This information should serve as resource to both the individuals providing the data, and the entities collecting the data. It is vital that HUD provide clear and explicit guidance that this information is to be kept secure, and that HUD will enforce all applicable federal laws if data privacy rules are not followed, or any form of discrimination is permitted to occur.

Comment (6) If SOGI fields are added, should they be limited to specific household members (e.g., adult members or head of household)?

SAGE recognizes the complexities around this issue, but does not believe it should be allowed to block the addition of sexual orientation or gender identity questions. Normally, we recommend relying solely on participant self-reporting, not allowing survey facilitators or others to secondarily make assumptions and identifications based on their observations. Observers can and do make incorrect assumptions based on preconceived beliefs, stereotypes, and lack of understanding, posing another potential for compromising validity of the data.

However, regarding gender identity and sexual orientation questions, we believe factors allow for a broader collection of data. While we recommend self-reporting wherever possible, in

¹⁸ “A Guide for Collecting Data on Sexual Orientation and Gender Identity” by the National LGBTQIA+ Health Education Center, supported by the Health Resources and Services Administration (HRSA) of the U.S. Department of Health and Human Services (HHS) as part of the award U30CS22742(11). Accessed on September 14, 2022 at https://www.lgbtqiahealtheducation.org/wp-content/uploads/2022/05/TFIE-64_Updates2022_ReadySetGo_10_18_22.pdf

¹⁹ “Progress on Implementation of the Recommendation of the Equitable Data Working Group” A Report by the Subcommittee on Equitable Data of the National Sciences and Technology Council (March 2023) <https://www.whitehouse.gov/wp-content/uploads/2023/03/Progress-on-Equitable-Data-Mar2023.pdf>

circumstances where it is not, we endorse proxy data collection. A recent study from the Census Bureau²⁰ suggests that “collecting SOGI data via proxy may be feasible in federal large-scale, general population surveys”. If HUD proceeds with the proposed one-step gender identity and sexual orientation questions, we feel it makes sense to allow for the head of household to provide information for the entire household in order to set a precedent gathering these demographics. However, given recommendations from the US Census Bureau, we caution HUD to limit their interpretation, sharing, and use of this data, especially for transgender, gender non-conforming, and non-binary individuals.²¹

Thank you for considering our submission. If you have any questions or would like to discuss the information in this comment, please contact Josh Dubensky (jdubensky@sageusa.org) or myself, Elise Hernandez (ehernandez@sageusa.org).

A handwritten signature in black ink, appearing to read 'Elise Hernandez', written over a horizontal line.

Sincerely,
Elise Hernandez, PhD, MSW
Director, Research and Impact, SAGE

²⁰ Holzberg, J., Ellis, R., Kaplan, R., Virgile, M., and Edgar, J. (2019) Can They and Will They? Exploring Proxy Response of Sexual Orientation and Gender Identity in the Current Population Survey. *Journal of Official Statistics*, 35(4) pp.885-911. <https://sciendo.com/article/10.2478/jos-2019-0037>

²¹ “Evaluating Proxy Response for Sexual Orientation and Gender Identity: Paired Cognitive Interviews for the Current Population Survey” by the Center for Survey Measurement, U.S. Census Bureau and the Office of Survey Methods Research, Bureau of Labor Statistics (May 2018). <https://www.census.gov/content/dam/Census/newsroom/press-kits/2018/aapor/aapor-presentation-proxy-gender.pdf>