

May 30, 2024

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U.S. Department of Commerce  
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Submitted via: [Public Comment \(reginfo.gov\)](https://www.reginfo.gov)

**Re: Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; 2024 American Community Survey (ACS) Sexual Orientation and Gender Identity Test**

On behalf of SAGE (Advocacy and Services for LGBTQ+ Elders), we write regarding a recent proposal by the U.S. Census Bureau's (the "Bureau") to conduct a test of sexual orientation and gender identity (SOGI) measures on the American Community Survey (the "ACS").<sup>1</sup> Given the invaluable and unique role that ACS data play in the design and implementation of policies, programs, and funding investments, as well as the enforcement of civil rights laws, enhancing data collection on LGBTQI+ populations on the ACS is a top priority. We strongly support the collection of SOGI data because we believe that providing quality programs and services in fair and equitable ways begins with a foundation of ensuring LGBTQ+ elders are counted and visible.

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.

**We appreciate the established, deliberative process the Bureau has followed to test adding SOGI measures to the ACS, to help agencies better enforce civil rights laws and advance equity goals for LGBTQI+ communities.**

We greatly appreciate the established, deliberative process that the Bureau—in consultation with federal agencies that have a statutory need for these data—has followed to add SOGI measures to the ACS. This process was initiated because multiple federal agencies submitted letters to the Census Bureau articulating the statutory and regulatory justifications for collecting data on LGBTQI+ populations and formally requesting measures that account for LGBTQI+ people to be added to the ACS. For example, the Department of Justice asserts that adding these measures to the ACS is necessary to better enforce nondiscrimination protections under Title VII of the Civil Rights Act of 1964 and the Violence Against Women Reauthorization Act, as well as to better address anti-LGBTQI+ hate crimes.<sup>2</sup> We are pleased that, after thorough review, the Bureau determined that the Department of Justice request met the strict requirements for adding new content to the

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<sup>1</sup> Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; 2024 American Community Survey (ACS) Sexual Orientation and Gender Identity Test, 89 Fed. Reg. 33,314 (Apr. 29, 2024).

<sup>2</sup> DOJ, Letter to Census Bureau Requesting SOGI Questions on the American Community Survey (Dec 9, 2022), <https://www.documentcloud.org/documents/23891611-dec-9-2022-letter-from-doj-to-census-bureau-requesting-sexual-orientation-and-gender-identity-questions-on-the-american-community-survey>.



ACS. As a result, the Bureau has initiated cognitive testing of questions about sexual orientation, gender identity, and variations in sex characteristics and has commenced planning for the 2024 ACS SOGI Test. Efforts to improve data collection on LGBTQI+ communities through the ACS align with the equity goals of Executive Order 13985<sup>3</sup>, Executive Order 14091<sup>4</sup>, Executive Order 14075<sup>5</sup> (EO14075), and similar directives designed to promote equity for underserved communities.

**We strongly support the Bureau’s proposal to conduct the 2024 ACS SOGI Test (the “Test”) and urge the Census Bureau to proceed with the Test this summer as planned.**

We believe that it is critical that the federal government’s data collection efforts consistently include measures sufficient to identify the unique needs and experiences of LGBTQI+ communities. Such data should always be collected in a safe and secure manner, in accordance with best practices and evidence-based research on this subject, and in a way that supports the development of programs, policies, and strategies that could improve LGBTQI+ people’s well-being—including by addressing widespread stigma and discrimination that LGBTQI+ communities have historically faced and is currently on the rise nationwide. 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 response and completion rates.

The Bureau’s proposal is consistent with these principles. Given the invaluable and unique role that ACS data play in the design and implementation of our nation’s policies, programs, and funding investments, as well as the enforcement of our civil rights laws to protect people from discrimination, enhancing the ACS’s data collection on LGBTQI+ populations is a top priority of our organization.

**The 2024 ACS SOGI Test exhibits high-quality, rigorous research methods needed to evaluate the best way to measure SOGI in this seminal, unique nationwide survey.**

The Bureau’s Test proposal reflects its commitment to conducting the kind of high-quality, rigorous research that is imperative when considering impactful changes to our nation’s premier survey about the U.S. population. The Test will provide evidence to inform and refine recommendations related to question wording, response options, proxy reporting, and other important research topics. In particular, we support the robust sample size and testing of measures that draw from and build upon evidence-based research. We also support the use of help text to provide information about the questions, why the Census Bureau is collecting the data, and how the Bureau is ensuring data confidentiality.

Ensuring the privacy and confidentiality of ACS responses is of paramount importance. Fortunately, the unique statutory protections for decennial census program data (including the ACS) under Title 13 represent the strongest confidentiality safeguards in federal law and provide robust protection against misuse of data. In accordance with Title 13, each household in the Test sample is assured of the confidentiality of their answers; however, we appreciate the Bureau adopting and implementing additional disclosure avoidance procedures and other measures to assure respondents of their confidentiality and data security.

**Adding SOGI measures to the ACS is important for effectively serving LGBTQI+ communities.**

If ACS SOGI data were available, SAGE and our partners and collaborators across the country would leverage the data in a myriad of ways. For example, the National Resource Center on LGBTQ+ Aging

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<sup>3</sup> Advancing Racial Equity and Support for Underserved Communities Through the Federal Government, Exec. Order 13985, 88 Fed. Reg. 7009 (Jan. 20, 2021).

<sup>4</sup> Exec. Order 14091, Further Advancing Racial Equity and Support for Underserved Communities Through the Federal Government, 88 Fed. Reg. 10,825 (Feb. 16, 2023).

<sup>5</sup> Exec. Order 14075, Further Advancing Equality for Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Individuals, 87 Fed. Reg. 37,189 (June 15, 2022).



produces numerous resource guides and fact sheets to help local service providers better serve LGBTQ+ elders. SOGI data can be used to tailor outreach plans and materials to better reach the most underserved communities, including LGBTQ+ individuals disproportionately experiencing housing insecurity, poverty, and mental health issues, among other challenges. This would be especially true for identifying disparities among multiply marginalized LGBTQ+ elders, such as Black, Indigenous, and other People of Color, trans and gender non-conforming individuals, and people living in rural communities. Consistent SOGI data collection in the ACS will also allow SAGE's research team and our academic research partners to track how the LGBTQ+ populations needs are changing over time, informing how our organization and other organizations across the country can innovate, refine, and improve programs and services to meet those changes.

Furthermore, the availability of ACS SOGI data facilitate the justification of increased and targeted funding for LGBTQ+ aging communities. This would mean budgeting and appropriations at local, state, and national levels of government can be based on nationally representative estimates. The figures are also critical in SAGE and other local and national organizations' pursuit of foundation, corporate, federal, and private funding to sustain and expand critical programs and services. It will, in turn, also aid in the updating of policies and programs to reduce barriers and disparities experienced by LGBTQ+ individuals searching for affordable housing or homeless services. Additionally, SOGI data available through the ACS would allow SAGE to better advocate for aging services and supports for LGBTQ+ older people who have faced a lifetime of stigma and discrimination.

### **Recommendations to the Bureau**

Overall, we recommend that the Bureau proceed with the Test as planned and move swiftly to evaluate and report on the results. In addition, we encourage the Bureau to continue working with federal agencies to have them articulate their needs for ACS-derived estimates on the prevalence of people with intersex traits in the United States, and ask that the Bureau continue its preliminary cognitive testing research on the measurement of variations in sex characteristics to help prepare for a subsequent field test in the meantime.

We are pleased that, in this strained fiscal environment, the Bureau will prioritize allocating the total \$10 million cost necessary to conduct a robust 2024 ACS SOGI Test. However, we are concerned that due in part to budgetary and operational constraints, the Bureau plans to delay the Test's nonresponse follow-up activities until spring 2025. We strongly urge the Bureau to ensure that the timeline for the nonresponse follow-up portion of the Test does not slip any further than early Spring 2025.

We feel strongly that the deliberative scientific and consultation process the Bureau is following should not be derailed or unnecessarily delayed as these data are critical to ensuring the health, safety, and well-being of our communities. Additionally, the Bureau's research to improve responsible data collection on LGBTQI+ communities through the ACS should not be held to a different, higher standard than other changes to this important survey.

Thank you for your consideration of our comments. If there is any additional information we can provide, please do not hesitate to contact Aaron Tax, Managing Director of Government Affairs & Policy Advocacy, at [atax@sageusa.org](mailto:atax@sageusa.org).

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