

April 26, 2024

Submitted via www.regulations.gov

U.S. Census Bureau, Department of Commerce
4600 Silver Hill Road
Washington, DC 20233

Re: IRS Docket No. USBC–2024–0005, “Collection of State/Local Administrative Records and Third-Party Data”

To Whom It May Concern,

The National Immigration Law Center (NILC) urges the U.S. Census Bureau (“Bureau”) to withdraw its proposed regulation (USBC–2024–0005) to request a new clearance for acquiring administrative records, including state, local, and third-party data, to improve efficiency and accuracy in their data collections and to improve measures of the population and economy. Although we endorse the broader aim of improving the accuracy of statistical data collection about U.S. populations, these approaches must also consider the potential for the misuse of identifying data about immigrant populations by a future administration.

NILC supports the proposed rule’s overall goals and efforts that would improve the enumeration of undercounted populations, such as foreign-born populations and communities of color. An accurate census of the U.S. population is critical to ensuring fair access to federal resources and apportionment in Congress. However, NILC opposes the sharing of administrative records that could be used to create maps or resources that identify, at a Census block level, non-citizens or mixed-status households where undocumented immigrants live alongside citizens and lawfully present immigrants.

Several categories of administrative data are of particular concern, including driver’s license records, school records, public benefits and health care utilization information, and data about beneficiaries of in-state tuition rates. Not only could these be used for immigration enforcement purposes, but they could also be weaponized by an administration hostile to immigrant communities to deter foreign-born populations from accessing public benefits, education, or health care to make their families healthier

and stronger. Although Census Bureau data is protected by strong confidentiality protections,¹ NILC opposes efforts that could result in adverse consequences for immigrants and their families.

In particular, the knowledge that state, local, or third-party administrative data will be shared with federal agencies could result in a “chilling effect” within immigrant communities. In this context, a chilling effect refers to the phenomenon where individuals or groups avoid accessing public programs because they are worried that participation will lead to data sharing with immigration enforcement agencies. The chilling effect of the Trump administration’s policies targeting immigrants on immigrant participation in public benefit programs has been well documented. During the Trump presidency and in the years that followed, immigrant families avoided public benefit programs due to immigration concerns.² If immigrants are made aware that the data they provide when applying for driver’s licenses or public benefits will be shared with federal agencies, they could be deterred from accessing benefits they are entitled to under the law.

President Trump established a historical precedent for the misuse of administrative data with the goal of denying federal resources and fair apportionment of Congressional representation to non-citizen U.S. residents. In July 2019, President Trump also issued an executive order on collecting information about citizenship status in connection with the decennial census, which ordered all agencies to share information requested by the Department of Commerce to the maximum extent permissible under law.³ In 2019 and 2020, at least four states (Iowa, Nebraska, South Carolina, and South Dakota) shared driver’s license and state identification card information with the Trump Administration.⁴

In conclusion, NILC urges the U.S. Census Bureau to withdraw the proposed rule.

Respectfully,
Jackie Vimo, National Immigration Law Center

¹ 13 U.S.C. § 214; 18 U.S.C. § 3559(a); 18 U.S.C. § 3571(b).

² Jennifer M. Hayley et al., “One in Five Adults in Immigrant Families with Children Reported Chilling Effects on Public Benefit Receipt in 2019” (Urban Institute, June 18, 2020), <https://www.urban.org/research/publication/one-five-adults-immigrant-families-children-reported-chilling-effects-public-benefit-receipt-2019>; Dulce Gonzalez, Jennifer M. Hayley, and Genevieve M. Kenney, “One in Six Adults in Immigrant Families with Children Avoided Public Programs in 2022 Because of Green Card Concerns | Urban Institute” (Urban Institute, November 30, 2023), <https://www.urban.org/research/publication/one-six-adults-immigrant-families-children-avoided-public-programs-2022>; Randy Capps Batalova Michael Fix, Jeanne, “Anticipated ‘Chilling Effects’ of the Public-Charge Rule Are Real: Census Data Reflect Steep Decline in Benefits Use by Immigrant Families” (Migration Policy Institute, December 21, 2020), <https://www.migrationpolicy.org/news/anticipated-chilling-effects-public-charge-rule-are-real>.

³ Exec. Order No 13880. 84 FR 33821.

<https://www.federalregister.gov/documents/2019/07/16/2019-15222/collecting-information-about-citizenship-status-in-connection-with-the-decennial-census>

⁴ Hansi Lo Wang, “Iowa, Neb., SC, SD Share Driver’s License Info For Trump Request,” *NPR* (blog), July 14, 2020, <https://www.npr.org/2020/07/14/890798378/south-dakota-is-sharing-drivers-license-info-to-help-find-out-who-s-a-citizen>.