

April 24, 2023

Bob Sivinski
Chair, Interagency Technical Working Group
on Race and Ethnicity Standards
Office of Management and Budget
1650 17th St. NW
Washington, DC 20500

Submitted via www.regulations.gov

Re: Initial Proposals For Updating OMB’s Race and Ethnicity Statistical Standards
Docket Number: 2023-01635

Dear Chair Sivinski,

The National Council of Nonprofits (NCN) welcomes this opportunity to submit comments in response to the Initial Proposal For Updating OMB’s Race and Ethnicity Statistical Standards, Docket Number 2023-01635. The request for comments relates to updating OMB Statistical Policy Directive No. 15 (Directive 15) which determines “the minimum set of categories that all Federal agencies must use if they intend to collect information on race and ethnicity.”

The National Council of Nonprofits is the largest network of nonprofits in North America, creating a connected and powerful nonprofit community that is equipped to advance the public good. We focus on the 97% of charitable nonprofits with budgets under \$5 million – food banks, neighborhood health clinics, community theatres, domestic violence shelters, senior centers, and more – the organizations whose absence would leave huge voids in their communities. Working with our core network and other collaborative partners, we champion, inform, and connect organizations across the country to get things done for nonprofits and the people and communities they serve.

In 2020, NCN submitted an *amicus curiae* brief to the U.S. Supreme Court in a case concerning citizenship and the U.S. Census.¹ The brief, filed on behalf of NCN and its network of state associations of nonprofits and 25,000-plus member charitable nonprofits, the National Human Services Assembly, and YWCA USA, explained

¹ [Brief of National Council of Nonprofits, National Human Services Assembly, and YWCA USA as Amici Curiae in Support of Respondents, Department of Commerce, et al. v. New York, et al.](#), U.S. Supreme Court, Apr. 1, 2019.

the significance for nonprofits in ensuring the 2020 Census yielded a fair, accurate, and complete count of all persons. Many of our member state associations of nonprofits had frontline experience with the challenges of collecting data. The Supreme Court ultimately ruled in favor of the position we advanced.

Based on our experiences involving the Census, NCN submits these comments in strong support for the two proposed policy changes in OMB's Directive 15, recognizing that they would be implemented beyond just the Census: (1) to combine race and ethnicity into one question for Hispanic and Latino/Latina; and (2) to add a Middle Eastern or North African (MENA) response category. We also recommend the inclusion of additional subcategories within the Alaska Native and American Indian categories and a breakdown of Asian races and ethnicities.

Prioritize Equity from the Outset

The Proposal to combine race and ethnicity into one question for Hispanic and Latino/Latina and to include a MENA response category would appropriately advance the federal government's efforts to be more equitable in reflecting the demographics of communities. The federal government has an obligation to ensure each person living in the United States is treated the same and afforded the same opportunities regardless of race or ethnicity. Under President Biden's Executive Order On Advancing Racial Equity and Support for Underserved Communities Through the Federal Government, federal agencies are charged with the responsibility to "pursue a comprehensive approach to advancing equity for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality."² When barriers such as basic recognition of a person's race or ethnicity arise, the "whole" of the federal government must "affirmatively advanc[e] equity, civil rights, racial justice, and equal opportunity."³ NCN supports these efforts.

Historic records of how the federal government has requested and analyzed demographic data have effectively hidden the realities of who lives in the United States and how individuals identify within society. This lack of knowledge has resulted in cultural, linguistic, and systemic barriers to accessing government services and other forms of aid. For example, during the coronavirus pandemic, disparities in health, education, employment, housing, and civil rights for MENA communities was an "unseen crisis" because they were absorbed into the White category.⁴ A MENA response category on government forms and in data collection would help dispel these inequities in the future by showing who is and is not being served or receiving access to aid within those communities. And, as discussed below, recognition of these categories would more equitably unlock federal financial support during times of crisis, as well as identify ongoing needs within these communities.

² [Executive Order On Advancing Racial Equity and Support for Underserved Communities Through the Federal Government](#), Jan. 20, 2021, Section 1.

³ *Id.*

⁴ [Arab Americans, deemed 'white' in government records, suffer an unseen COVID-19 crisis](#), Marc Ramirez, *USA Today*, Feb. 28, 2021.

The current separate questions for race and ethnicity likewise undercount Hispanic and Latino/Latino populations due to confusion and misunderstanding within those communities. Many Latinos/Latinos do not see themselves as any of the race categories and, as a result, either skip the question or choose the option “Some Other Race.” The 2020 Census proved the point: 26.2 million out of 27.9 million people classified as “Some Other Race” alone were of Hispanic or Latino origin.⁵ When this occurs on the U.S. Census, the Census Bureau then “assigns” the individual a race, which may be the “White” category. This default falsely increases the responses for the White category while diminishing the proper race and ethnic categories for which that person would otherwise self-identify.⁶ A high number of individuals continuously self-identifying as “Some Other Race” is not only a statistical problem; it obscures different experiences and perpetuates inequities.

Real people and groups fall through the cracks when they are miscounted or are improperly lumped into the wrong category, which is what has been happening with MENA, Hispanic, Latino/Latina, and other races and ethnicities. Individuals from the Middle East and North Africa have never been recognized as a distinct group within the U.S. for data and statistical purposes. Thus, no federal agency has developed a complete understanding and full view of MENA individuals. People with shared lived experiences have been unrecognized in federal demographic data and excluded from the design and implementation of policies and programs intended to address issues of civil rights and racial equity. This lack of accurate information has adverse effects and impacts on the MENA community and on the nonprofits that serve that community.

Allocate More Equitable Funding to the Communities That Need It Most

All efforts must be made to ensure data collection is fair, accurate, and complete, particularly for the U.S. Census. As NCN explained in its *amicus curiae* brief before the U.S. Supreme Court, “The census exists to be a fair and impartial mechanism to count the people in the United States.” That brief further stated that “anything less than a fair, accurate and complete count undermines the ability of charitable nonprofits to provide vital services and breaches the public’s trust in their government.”⁷

When the federal government fails to count a person, that person still exists. When a person is misidentified or improperly labeled through confusing questions about race and ethnicity, that person still exists. When a question is confusing or misleading, and a respondent fails to respond appropriately, that person still exists. Lack of data on those persons, including MENA communities and Hispanic and Latino/Latina communities, effectively excludes those persons from consideration in government policies and programs as well as their

⁵ [Improved Race and Ethnicity Measures Reveal U.S. Population Is Much More Multiracial](#), U.S. Census Bureau, Aug. 12, 2021.

⁶ See [Fact sheet: Why do we need a combined race and ethnicity question?](#), The Leadership Conference Education Fund, Apr. 4, 2023.

⁷ [Brief of National Council of Nonprofits, National Human Services Assembly, and YWCA USA as Amici Curiae in Support of Respondents](#), *Department of Commerce, et al. v. New York, et al.*, U.S. Supreme Court, Apr. 1, 2019.

inclusion in implementation, resources, and outcomes. The solutions provided in this Proposal would help account for those persons.

For each person or community member that the census fails to count, governments allocate fewer dollars to that community. This shifts governmental burdens onto charitable, religious, and philanthropic organizations that address the needs of those who are counted and those who are not counted. Census data are utilized to apportion more than \$1.5 trillion among states and localities,⁸ which partner with nonprofits through grants and contracts to deliver services. Overcounted populations, particularly those identified as White, receive unfair additional funding while undercounted “hidden” populations receive little to none. When persons who identify as MENA or within the Hispanic and/or Latino/Latina communities are improperly included in the White category, this bloats the White category and provides outsized and unfair portions of the pie to that population. Similar misallocations occur with the distribution of political power as well via redistricting and reapportionment.

The MENA community’s lack of designation in federal data means its members are not included in funding opportunities for data-based programs. Likewise, Hispanic and Latino/Latina-centered communities are misrepresented within or locked out of funding opportunities when the data are skewed due to misunderstandings or confusion by the respondents in the data collection. Nonprofits must then additionally raise funds for private studies to inform programming for these communities. For example, relief funding was set aside during the pandemic for charitable nonprofits serving minority communities like those who identify as MENA. Yet, when MENA groups were lumped into the White category, they were not able to access this pot of money. Charitable nonprofits had to divert severely strained resources away from educating the MENA communities about vaccine availability to instead educate lawmakers on the effects of the pandemic on the MENA community.

Charitable nonprofits and philanthropy do not have the authority, capacity, or scale to fill financial gaps that result when the federal, state, and local government funding fails to go to the communities most in need. People seeking charitable nonprofit services secure them wherever they are. However, if that community does not receive its proper allocation of federal funding, and charitable nonprofits and governments are not properly partnering to bring those services, that person suffers. For example, people must eat to survive and so may turn to the federal Supplemental Nutrition Assistance Program (“SNAP,” formerly known as the Food Stamp Program), which distributes funding to the states based on census data. If census data are incorrect or fail to recognize certain populations like MENA or Latino/Latina groups, the funding may not be there for those communities. Food banks and soup kitchens are often then expected to fill this gap.

Another recent example arises under the American Rescue Plan Act of 2021 (ARPA). The \$350 billion in Coronavirus State and Local Fiscal Recovery Funds (CSLFRF) from ARPA can be used for governments to

⁸ See [Counting for Dollars 2020: The Role of the Decennial Census in the Geographic Distribution of Federal Funds](#), Brief #7B, GW Institute of Public Policy, Updated Apr. 29, 2020.

support nonprofits that experienced “negative economic impacts or disproportionate impacts of the pandemic.”⁹ The U.S. Treasury Department categorizes “Disproportionately Impacted Nonprofits” as those operating in a Qualified Census Tract, which has a concentration of households living below the poverty rate. For nonprofits operating in those Census Tracts, it is not enough to know the economic conditions of the Tract in which they are based. Demographic information is needed for these groups to be successful in their communities by knowing whether disparities are addressed and if funds are supporting an equitable recovery. In the event another funding source like CSLFRF is created, it would be both fairer and easier to know where the greatest needs exist, and where to allocate those funds without overlooking households or individuals.

Allow for Better Business Decision-Making and Reduced Burdens

Without fair, accurate, and complete understanding of demographics of persons in the U.S., charitable nonprofits cannot fully meet the needs of their communities or make informed business decisions. This need for reliable data holds truer for communities that have historically been invisible within federal datasets like MENA and Latino/Latino groups. As geographic communities shift demographically, charitable nonprofits must adjust to those shifts in real time while also preparing for the future. For example, an education or after-school program may wish to include classes in additional languages or incorporate more cultural days to their calendars. Better collection and statistical analysis will allow groups to be better represented and feel a deeper sense of belonging.

Include Additional Subcategories to Reflect Race and Ethnicity Distinctions

Inclusion of the MENA category and the combination of the race and ethnicity question would avoid the improper erasure of intersecting identities. It would also stop the treatment of these communities as a monolith despite their distinct cultures and identities. For the same reasons, NCN also strongly encourages the inclusion of additional subcategories within the Alaska Native and American Indian categories and a breakdown of Asian races and ethnicities. A new report details that Asian Americans, Native Hawaiians, and Pacific Island (AANHPI) communities were likely undercounted in the 2020 Census.¹⁰ “It is critical that we do not rest on the laurels of hearing that the AANHPI communities were most likely overcounted at the national level because we know how often segments of communities are missed when treated as a monolith,” said Christopher Dick, founder of Demographic Analytics Advisors, in the press release for the report.¹¹

Further, the Brookings Institution (“Brookings”), while supportive of the two changes proposed, further addresses the problem of monolithic categories by claiming the changes “don’t improve data representation for a group that has long been misrepresented: American Indian and Alaska Natives (here collectively referred

⁹ [Coronavirus State & Local Fiscal Recovery Funds: Overview of the Final Rule](#), U.S. Department of the Treasury, Jan. 6, 2022.

¹⁰ See The [Qualify of the Decennial Census for Asian American and Native Hawaii and Pacific Islander Communities: An Expanded Approach](#), Asian Americans Advancing Justice, Mar. 30, 2023.

¹¹ [New Report New Report Finds Census Undercounted Certain Asian American and Pacific Islander Communities Despite Marginal Net National Overcount](#), Asian Americans Advancing Justice, Mar. 30, 2023.

to as ‘Native Americans’).”¹² The Native American category presents a unique problem as it can be both a “political and legal identity in addition to a racial one.”¹³ Brookings continues by addressing the problem with Directive 15 and the current process of grouping data specifically. “This system has historically worked for most Americans, because the vast majority of the three largest racial groups in the United States – white, Black, and Asian – identify as one race alone. However, Native Americans identify as two or more races at significantly higher rates than those larger groups.”¹⁴ Separate subcategories would help alleviate some of these challenges.

Greater specificity is needed both for clarity purposes and to alleviate challenges for respondents. The inclusion of additional subcategory options would reduce the likelihood that a respondent will choose “Some Other Race” or a race that may align somewhat with their self-identification but is not truly accurate. More subcategories allow for persons to feel seen and properly reflected in data and statistical reports and outcomes. This is particularly important for people who may not identify directly with their country of origin or who have descended from countries that no longer exist. As our country becomes more diverse in every way, more subcategories provide a more fair, accurate, and complete count for the U.S. Census and other datasets and allow for a greater understanding of the communities that nonprofits serve.

Prepare Communities for the Future

Directive 15 is crucial to collecting accurate data that will inform better statistical analyses, improve subsequent tracking, and enable more equitable public policies and allocation of resources. Implementing the Proposal and updating Directive 15 to combine race and ethnicity into one question for Hispanic and Latino/Latina and add a Middle Eastern or North African (MENA) response category would result in better demographic data. The Proposal changes would empower historically undercounted and overlooked persons, so they are seen and accounted for by governments at all levels, as well as every charitable nonprofit, every for-profit business, and, indeed, everyone in society.

Standardized data collection across all federal agencies that includes the MENA category, while also clarifying responses for those who identify as Hispanic or Latino/Latina, plus the additional categories and subcategories (as recommended herein), lay the foundation for resources to provide for a continuity of measurement. Data are critical to advocating for additional protections and ensuring equitable access and equal protection for all persons. Ultimately, accurate information provides a clearer picture of the demographic makeup of our country and communities.

¹² See [Why the federal government needs to change how it collects data on Native Americans](#), Robert Maxim, Gabriel R. Sanchez, and Kimberly R. Huyser, The Brookings Institution, Mar. 30, 2023.

¹³ *Id.*

¹⁴ *Id.*

NCN supports the combination of the race and ethnicity question and the addition of the MENA response category. We urge OMB to adopt the revised Directive 15 by the proposed timeline of Summer 2024 and to provide federal agencies with clear implementation guidance to ensure information will be documented accurately.

We stand ready to work with OMB and federal agencies to ensure MENA, Hispanic, and Latino/Latina communities, as well as other subcategories, are fairly, accurately, and completely counted in all federal data collection and statistical analysis.

Sincerely,



Tiffany Gourley Carter
Policy Counsel
tcarter@councilofnonprofits.org



Jessica Mendieta
Policy Associate
jmendieta@councilofnonprofits.org