



movement advancement project ▶

July 6, 2021

Shalanda Young
Acting Director
The Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

Submitted via <https://www.regulations.gov/>

Re: Methods and Leading Practices for Advancing Equity and Support for Underserved Communities Through Government (86 FR 24029)

To Whom It May Concern:

We write to submit a comment in response to the Request for Information (RFI) from the Office of Management and Budget (OMB) regarding Executive Order 13985, *Executive Order On Advancing Racial Equity and Support for Underserved Communities Through the Federal Government* (EO 13985).¹ This comment speaks to Area 1 of the RFI (“Equity Assessments and Strategies”) and the use of data to inform equitable public policy strategies.

This letter is submitted on behalf of 56 organizations committed to advancing equality and opportunity for lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI) people in the United States. Our interest and expertise in this area compel us to communicate **the need for the OMB to expand and enhance efforts to collect demographic information on sexual orientation, gender identity, and intersex status in order to inform equitable public policy strategies**. Doing so will offer a more comprehensive, accurate, and data-driven understanding of the wellbeing of and disparities faced by LGBTQI communities and will provide critical tools in the development of evidence-based policy interventions.

The comment speaks to the current RFI and EO 13985; the existing disparities faced by LGBTQI communities; and the need to expand data collection on LGBTQI communities. While numerous partners will be submitting comments that speak to the broad range of disparities that LGBTQI communities face across key areas of life, our comment will emphasize economic disparities and the need to implement data collection mechanisms that capture sexual orientation and gender identity (including transgender and nonbinary gender identities), and the need to test and implement intersex status measures.

I. Background on EO 13985 and the current RFI

EO 13985 aims to promote equity and support for underserved communities that have been “systematically denied a full opportunity to participate in aspects of economic, social and civic life,” including LGBTQI persons, communities of color, persons with disabilities, religious minorities, people living in rural areas,

¹ See Office of Management and Budget, “Methods and Leading Practices for Advancing Equity and Support for Underserved Communities Through Government,” *Federal Register* 86 (85) (2021): 24029-24032, available at <https://www.govinfo.gov/content/pkg/FR-2021-05-05/pdf/2021-09109.pdf> and Executive Office of the President, “Advancing Racial Equity and Support for Underserved Communities Through the Federal Government,” *Federal Register* 86 (14) (2021): 7009–7013, available at <https://www.govinfo.gov/content/pkg/FR-2021-01-25/pdf/2021-01753.pdf>



and people living in poverty. In response to this EO, the OMB issued the current RFI to solicit information related to equity and assessment strategies, including the collection and use of data on underserved communities to inform equitable public policy strategies.²

II. Existing disparities faced by LGBTQI communities

Compared with the general population, LGBTQ³ communities face disproportionate economic hardships, higher rates of poverty and unemployment, income gaps, and greater vulnerability to homelessness and food insecurity.⁴ Institutional and systemic discrimination in employment, the labor market, and housing create barriers that narrow critical pathways to economic advancement and negatively contribute to the economic security and financial wellbeing of LGBTQ individuals and their households.⁵ For LGBTQI people living at the intersection of multiple marginalized identities, such as LGBTQI people of color, these disparities and challenges are even greater.⁶

² See Office of Management and Budget, “Methods and Leading Practices for Advancing Equity and Support for Underserved Communities Through Government,” *Federal Register* 86 (85) (2021): 24029-24032, available at <https://www.govinfo.gov/content/pkg/FR-2021-05-05/pdf/2021-09109.pdf>

³ While this comment calls for data collection on sexual orientation, gender identity, and intersex status (LGBTQI), this comment may also refer to other acronyms, such as LGBT or LGBTQ, depending on the language used or population(s) studied in the referenced data source.

⁴ Williams Institute, “Socioeconomic indicators,” available at <https://williamsinstitute.law.ucla.edu/visualization/lgbt-stats/?topic=LGBT#economic> last accessed June 2021; Badgett, M. V. L., Choi, S. K., & Wilson, B. D. M., (2019, October). *LGBT poverty in the United States: A study of differences between sexual orientation and gender identity groups*. Los Angeles, CA: The Williams Institute, available at <https://williamsinstitute.law.ucla.edu/wp-content/uploads/National-LGBT-Poverty-Oct-2019.pdf>; Wilson, B.D.M. & Conron, K. (April, 2020). *National Rates of Food Insecurity among LGBT People: LGBT People and Covid-19*. Los Angeles, CA: The Williams Institute, available at <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Food-Insecurity-COVID19-Apr-2020.pdf>; Wilson, B. D. M., Choi, S. K., Harper, G. W., Lightfoot, M., Russell, S., & Meyer, I.H. (2020). *Homelessness among LGBT adults in the U.S*. Los Angeles, CA: Williams Institute, available at <https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-Homelessness-May-2020.pdf>; National Academies of Sciences, Engineering, and Medicine, “Understanding the Wellbeing of LGBTQI+ Populations” (Washington: 2020), available at <https://www.nap.edu/read/25877/chapter/1>; Adam P. Romero, Shoshana K. Goldberg, and Luis A. Vasquez, “LGBT People and Housing Affordability, Discrimination, and Homelessness” (Los Angeles: University of California School of Law, 2020), available at <https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-Housing-Apr-2020.pdf>; Caroline Medina, Sharita Gruberg, Lindsay Mahowald, and Theo Santos, “Improving the Lives and Rights of LGBTQ People in America” (Washington: Center for American Progress, 2020), available at <https://www.americanprogress.org/issues/lgbtq-rights/reports/2021/01/12/494500/improving-lives-rights-lgbtq-people-america/>; Movement Advancement Project and National LGBTQ Workers Center, “LGBT People in the Workplace: Demographics, Experiences and Pathways to Equity” (Washington: 2019), available at <https://www.lgbtmap.org/file/LGBT-Workers-3-Page-FINAL.pdf>.

⁵ National Academies of Sciences, Engineering, and Medicine, “Understanding the Wellbeing of LGBTQI+ Populations” (Washington: 2020), available at <https://www.nap.edu/read/25877/chapter/1>; Badgett, M. V. Lee, Christopher S. Carpenter, and Dario Sansone. 2021. “LGBTQ Economics.” *Journal of Economic Perspectives*, 35 (2): 141-70, available at <https://www.aeaweb.org/articles?id=10.1257/jep.35.2.141>.

⁶ See “Anti-LGBTQ Discrimination Inflicts Disproportionate Harm on People of Color,” available at https://www.thetaskforce.org/wp-content/uploads/2021/06/LGBTQ_Discrimination_PR.pdf (last accessed June 2021); Choi, S.K., Wilson, B.D.M. & Mallory, C. (2021). *Black LGBT Adults in the U.S. LGBT Well-Being at the Intersection of Race*. Williams Institute: Los Angeles, CA, available at <https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-Black-SES-Jan-2021.pdf>; Wilson, B.D.M., Gomez, A. G. H., Sadat, M., Choi, S.K., & Badgett, M. V. L. (2020, October). *Pathways In to Poverty: Lived Experiences among LGBTQ People*. Los Angeles, CA: The Williams Institute, available at <https://williamsinstitute.law.ucla.edu/wp->



Examples of the disparities driven by these forces are clear. For example, according to a 2019 report by the Williams Institute, while poverty rates differ by sexual orientation and gender identity, LGBT people reported a poverty rate of 21.6 percent compared to 15.7 percent of cisgender straight people.⁷ The report also found LGBT people of color experienced statistically significant higher poverty rates,⁸ and a separate Williams report from 2021 found that more than two in five nonbinary LGBTQ adults live in low-income households.⁹ To meet their basic needs, LGBTQ people and their families are more likely than their non-LGBTQ counterparts to seek access to and use public programs and federal benefits, including SNAP.¹⁰ According to the Federal Reserve Board's 2019 Survey of Household Economics and Decisionmaking, LGBT households were twice as likely to receive SNAP benefits as non-LGBT households (14.6 percent compared with 7.8 percent), with rates highest among Black (21.9 percent vs. 15.8 percent) and Hispanic (20.5 percent vs. 12.3 percent) households.¹¹

The COVID-19 pandemic has exacerbated financial hardship for many LGBTQ people, particularly given that roughly 40% of LGBTQ individuals work in highly impacted occupations and industries, such as food services, hospitals, K-12 and higher education, or retail – compared to just 22% of non-LGBTQ individuals.¹² Similarly, 30% of LGBTQ Americans faced reduced work hours during the pandemic, compared to 23% of the general population,¹³ while 66% of LGBTQ households have experienced financial problems during the pandemic, compared to 44% of non-LGBTQ households.¹⁴

[content/uploads/Pathways-Overview-Sep-2020.pdf](https://www.americanprogress.org/issues/lgbtq-rights/reports/2020/10/06/491052/state-lgbtq-community-2020/); Sharita Gruberg, Lindsay Mahowald, and John Halpin, “The State of the LGBTQ Community in 2020: A National Public Opinion Study” (Washington: Center for American Progress, 2020), available at <https://www.americanprogress.org/issues/lgbtq-rights/reports/2020/10/06/491052/state-lgbtq-community-2020/>; The National LGBTQ Anti-Poverty Action Network, “Poverty at the End of the Rainbow,” available at <https://nclr.turtl.co/story/poverty-at-the-end-of-the-rainbow/> (last accessed June 2021).

⁷ Badgett, M. V. L., Choi, S. K., & Wilson, B. D. M., (2019, October). LGBT poverty in the United States: A study of differences between sexual orientation and gender identity groups. Los Angeles, CA: The Williams Institute, available at <https://williamsinstitute.law.ucla.edu/wp-content/uploads/National-LGBT-Poverty-Oct-2019.pdf>.

⁸ Ibid.

⁹ Wilson, B.D.M. & Meyer, I.H. (2021). Nonbinary LGBTQ Adults in the United States. Los Angeles: The Williams Institute, available at <https://williamsinstitute.law.ucla.edu/publications/nonbinary-lgbtq-adults-us/>.

¹⁰ Caitlin Rooney, Charlie Whittington, and Laura E. Durso, “Protecting Basic Living Standards for LGBTQ People” (Washington: Center for American Progress, 2018), available at <https://www.americanprogress.org/issues/lgbtq-rights/reports/2018/08/13/454592/protecting-basic-living-standards-lgbtq-people/>.

¹¹ Center for LGBTQ Economic Advancement & Research, “The Economic Well-Being of LGBT Adults in the U.S. in 2019” (San Francisco, CA; 2021), available at <https://lgbtq-economics.org/wp-content/uploads/2021/06/The-Economic-Well-Being-of-LGBT-Adults-in-2019.pdf>

¹² Human Rights Campaign, “The Lives and Livelihoods of Many in the LGBTQ Community are at Risk Amidst COVID-19” (Washington: March 2020), available at <https://assets2.hrc.org/files/assets/resources/COVID19-IssueBrief-032020-FINAL.pdf? ga=2.105560000.293143299.1609796026-867693953.1600960438>.

¹³ Human Rights Campaign, “The Economic Impact of COVID-19 Intensifies for Transgender and LGBTQ Communities of Color” (Washington: June 15, 2020), available at <https://assets2.hrc.org/files/assets/resources/COVID19-EconImpact-Trans-POC-061520.pdf? ga=2.261217677.101365554.1610721289-867693953.1600960438>.

¹⁴ Movement Advancement Project, “The Disproportionate Impact of COVID-19 on LGBTQ Households in the U.S.” (Washington: December 2020), available at <https://www.lgbtmap.org/file/2020-covid-lgbtq-households-report.pdf>



III. The need for the OMB to expand data collection on LGBTQI communities

Most major U.S. population surveys administered by the federal government still do not collect demographic information on sexual orientation, gender identity, and intersex status.¹⁵ Though some surveys, such as the decennial Census and the American Community Survey, now count cohabitating same-sex spouses and unmarried couples, this is a limited proxy measure for sexual orientation and results in a nonrepresentative sample of the LGBTQI population.¹⁶ For example, according to 2021 Gallup data, just 9.6% of LGBT adults in the U.S. are married to a same-sex spouse, while 7.1% live with a same-sex domestic partner,¹⁷ meaning that only approximately 1 in 6 LGBT adults – only those in cohabitating same-sex couples – can be identified from U.S. Census Bureau data.¹⁸

Acknowledging the need to address the lack of data on LGBTQI populations and explore best methodological practices of sexual orientation and gender identity (SOGI) data collection, the OMB convened the Federal Interagency Working Group on Measuring Sexual Orientation and Gender Identity.¹⁹ This Working Group has published four groundbreaking reports on improving measurement of sexual orientation and gender identity in federal surveys.²⁰ These resources, in addition to other critical studies – such as the Sexual Minority Assessment Research Team [SMART] 2009 report and the Gender Identity in U.S. Surveillance [GenIUSS] Group report of 2014 – demonstrate that SOGI and intersex status questions can be readily used on federally funded and other surveys, and these resources also provide a valuable roadmap for the federal government to follow when including such vital questions.²¹

¹⁵ Federal Interagency Working Group on Improving Measurement of Sexual Orientation and Gender Identity in Federal Surveys, “Measurements of Sexual Orientation and Gender Identity in Federal Surveys,” available at <https://nces.ed.gov/FCSM/pdf/buda5.pdf> (last accessed March 2021).

¹⁶ National Academies of Sciences, Engineering, and Medicine, “Understanding the Wellbeing of LGBTQI+ Populations” (Washington: 2020), available at <https://www.nap.edu/read/25877/chapter/1>.

¹⁷ Jeffrey M. Jones, “One in 10 LGBT Americans Married to Same-Sex Spouse,” Gallup, February 24, 2021, available at <https://news.gallup.com/poll/329975/one-lgbt-americans-married-sex-spouse.aspx>.

¹⁸ Calculations by Center for American Progress based on the most recent Gallup statistics of LGBTQI+ individuals and households, released in February 2021 (<https://news.gallup.com/poll/329975/one-lgbt-americans-married-sex-spouse.aspx>). 9.6% of LGBTQI+ individuals are married to a same-sex spouse, and an additional 7.1% live with a same-sex partner, making them identifiable by current Census Bureau data. Roughly 83% of individuals, those who do not fall in either of the above categories, would not be identifiable.

¹⁹ Federal Interagency Working Group on Improving Measurement of Sexual Orientation and Gender Identity in Federal Surveys, “Measurements of Sexual Orientation and Gender Identity in Federal Surveys,” available at <https://nces.ed.gov/FCSM/pdf/buda5.pdf> (last accessed March 2021).

²⁰ See The Federal Committee on Statistical Methodology, “Measuring Sexual Orientation and Gender Identity Research Group,” available at <https://nces.ed.gov/FCSM/SOGI.asp> (last accessed March 2021); National Institute of Health Sexual & Gender Minority Research Office, “Methods and Measurement in Sexual & Gender Minority Health Research,” available at <https://dpcpsi.nih.gov/sgmro/measurement> (last accessed June 2021).

²¹ Sexual Minority Assessment Research Team (SMART). 2009. Best Practices for Asking Questions about Sexual Orientation on Surveys. Los Angeles, CA: The Williams Institute, UCLA School of Law. Available from: <http://williamsinstitute.law.ucla.edu/wp-content/uploads/SMART-FINAL-Nov-2009.pdf>; The GenIUSS Group. (2014). Best Practices for Asking Questions to Identify Transgender and Other Gender Minority Respondents on Population-Based Surveys. J.L. Herman (Ed.). Los Angeles, CA: The Williams Institute; National Academies of Sciences, Engineering, and Medicine, “Understanding the Wellbeing of LGBTQI+ Populations” (Washington: 2020), available at <https://www.nap.edu/read/25877/chapter/1>; The Williams Institute, “Sexual Orientation and Gender Identity (SOGI) Adult Measures Recommendations FAQs” (Los Angeles: University of California Los Angeles School of Law, 2020), available at <https://williamsinstitute.law.ucla.edu/wp-content/uploads/SOGI-Measures-FAQ-Mar-2020.pdf>.



Notably, evidence shows that data collection on sexual orientation, gender identity, and intersex status is feasible in large-scale federally funded surveys such as the American Community Survey, Current Population Survey, and Census; that this information is not considered especially difficult or sensitive for survey respondents to report;²² and that securing participation of LGBTQI+ populations does not require higher levels of effort.²³ In fact, the Census Bureau’s Household Pulse Survey recently announced the planned addition of SOGI measures to the survey’s forthcoming Phase 3.2, beginning in mid-July 2021.²⁴

The information gathered by these data collection tools shape major policy decisions and allocations of critical resources related to health care, housing, employment, education, and other services and benefits, affecting the everyday lives of LGBTQI people, making the need to adopt sexual orientation, gender identity, and intersex status measures even more urgent. Collecting SOGI and intersex status data will bring visibility to the experiences of LGBTQI people and will support intersectional analysis of LGBTQI communities of color, persons with disabilities, rural communities, and other populations. Doing so will enable researchers and policymakers to engage in data-driven research and to design evidence-based policy solutions to address existing disparities and discrimination.

IV. Conclusion

For the reasons explained above, the undersigned organizations respectfully urge the OMB to expand and enhance efforts to collect demographic information on sexual orientation, gender identity, and intersex status in order to inform equitable public policy strategies.

Please do not hesitate to contact Naomi Goldberg (Naomi@lgbtmap.org) if you need any additional information. Thank you for your time, and we look forward to continuing this discussion with you.

Signed in partnership,

- | | |
|----------------------------------------|-------------------------------------------------------------|
| 1. Advocates for Youth | 9. Center for LGBTQ Economic Advancement & Research (CLEAR) |
| 2. American Psychological Association | 10. CenterLink: The Community of LGBT Centers |
| 3. Athlete Ally | 11. CrescentCare |
| 4. Aunt Rita’s Foundation | 12. Equality California |
| 5. Bayard Rustin Liberation Initiative | 13. Equality Florida |
| 6. BiNet USA | 14. Equality Ohio Education Fund |
| 7. Campus Pride | |
| 8. The Center for HIV Law and Policy | |

²² Kellan E. Baker et al., “Ensuring That LGBTQI+ People Count - Collecting Data on Sexual Orientation, Gender Identity, and Intersex Status,” *New England Journal of Medicine* 384 (2021): 1184-1186, available at <https://www.nejm.org/doi/full/10.1056/NEJMp2032447>.

²³ Nancy Bates and others, “Are Sexual Minorities Hard-to-Survey? Insights from the 2020 Census Barriers, Attitudes, and Motivators Study (CBAMS) Survey,” *Journal of Official Statistics* 35 (2019): 709-729, available at <https://sciendo.com/article/10.2478/jos-2019-0030>.

²⁴ “Department of Commerce, Census Bureau, Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Household Pulse Survey.” 86 FR 33214 (June 24, 2021), available at <https://www.govinfo.gov/content/pkg/FR-2021-06-24/pdf/2021-13454.pdf>.



movement advancement project ▶

15. Equality Utah
16. Family Equality
17. The Fenway Institute
18. FORGE, Inc.
19. FreeState Justice
20. Funders for LGBTQ Issues
21. Gender Spectrum
22. Genders & Sexualities Alliance Network
23. GLBTQ Legal Advocates & Defenders (GLAD)
24. GLMA: Health Professionals Advancing LGBTQ Equality
25. GLSEN
26. interACT: Advocates for Intersex Youth
27. Justice in Aging
28. The Lesbian, Gay, Bisexual, & Transgender Community Center (New York, NY)
29. Los Angeles LGBT Center
30. MAZON: A Jewish Response to Hunger
31. Mazzone Center
32. Montana Human Rights Network
33. Movement Advancement Project (MAP)
34. National Association of Social Workers
35. National Black Justice Coalition
36. National Center for Lesbian Rights
37. National Center for Transgender Equality
38. National Council of Jewish Women
39. National Equality Action Team (NEAT)
40. National LGBT Cancer Network
41. National LGBTQ Task Force
42. Northwestern University Institute for Sexual and Gender Minority Health and Wellbeing - The Evaluation, Data Integration, and Technical Assistance (EDIT) Program
43. One Colorado
44. Out and Equal
45. Phoenix Transition Program
46. PowerOn, A Program of LGBT Technology Institute
47. SIECUS: Sex Ed for Social Change
48. Southwest Center
49. Take on Wall Street
50. Texas Data Quality Coalition
51. TransOhio
52. The Trevor Project
53. The Vaid Group LLC
54. Whitman-Walker Institute
55. Witness to Mass Incarceration Inc.
56. Wyoming Equality