

Congress of the United States

Washington, DC 20515

March 5, 2026

Sheleen Dumas
Departmental PRA Clearance Officer
Office of the Under Secretary for Economic Affairs
U.S. Department of Commerce
Washington, DC 20230

Re: 2026 Operational Test in Support of the 2030 Census (Docket No. USBC-2026-0034)

Dear Ms. Dumas,

We, the undersigned Members of Congress, write to express our strong and urgent opposition to the proposed 2026 Operational Test in Support of the 2030 Census, as set forth in Federal Register Notice USBC-2026-0034. We submit these comments pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. § 3501 et seq., and in exercise of our constitutional and statutory oversight responsibilities over the decennial census.

The decennial census is one of the most consequential acts the federal government undertakes. The Constitution mandates it precisely because it determines the foundation of representative democracy—how power and resources are distributed among every community in this nation. Census data drives the allocation of approximately \$2.8 trillion in annual federal funding for Medicaid, Medicare, Title I education grants, nutrition assistance, housing, transportation, and emergency services. It determines how 435 House seats and Electoral College votes are apportioned among the states, and it serves as the statistical backbone for virtually every major policy decision made at the federal, state, and local level for the following decade. Because census data is fixed for a full ten years, an undercount is not merely a technical error, it is a decade-long deprivation of representation and resources for every person who is missed.

The 2026 Operational Test is not a peripheral activity: it is the foundational planning exercise upon which the accuracy of the entire 2030 Census depends. The proposed test as redesigned fails on every dimension of scientific, methodological, legal, and procedural soundness.

I. The Drastic Reduction in Test Sites and Respondents Defeats the Entire Purpose of the 2026 Test

The fundamental purpose of the 2026 Operational Test is to give the Census Bureau the opportunity to learn how to count hard-to-reach communities more accurately than it did in 2020—before it is too late to correct course. The 2020 Census made plain that this mission is urgent. The Bureau's own Post-Enumeration Survey confirmed historic undercounts of communities of color, tribal populations, renters, and young children:

- Hispanic or Latino residents were undercounted at a rate of 4.99%—more than three times the 1.54% rate in 2010, and the largest such increase of any group between census cycles,¹
- Black or African American residents were undercounted at 3.30%,²
- American Indian and Alaska Native populations living on reservations were undercounted at 5.64%,³

¹ U.S. Census Bureau, 2020 Post-Enumeration Survey Report, PES20-G-01 (Mar. 2022).

² Id.

³ Id.

- Children under age five were undercounted at a rate of 5.4% nationally—the largest estimated undercount of any age group in 2020, and the only age group for which undercount has worsened in each census cycle since 1980; the undercount of very young Latino children specifically reached 8.6%,⁴⁵
- Renters were undercounted at 1.48%; and those reporting "Some Other Race" were undercounted at 4.34%.⁶

The 2026 Operational Test was explicitly designed as the Bureau's first major opportunity to develop better methods for reaching each of these undercounted populations. The original test plan—six sites selected based on thirteen distinct demographic and geographic hard-to-count criteria—was a direct, considered response to those failures. Those sites were the product of years of research to stress-test operations in precisely the kinds of environments where the census has historically struggled most: rural communities, tribal lands, military installations, areas with limited internet and cell service, fast-growing urban areas with complex housing, and regions with high concentrations of recent immigrants.⁷

The four eliminated sites were not redundant with the two that remain. Western North Carolina satisfied eight of the thirteen hard-to-count criteria—the most of any single site—and included tribal lands of the Eastern Band of Cherokee Indians. Arizona provided another critical test environment through tribal lands on the Fort Apache Reservation and the San Carlos Apache Reservation. Western Texas included rural areas with spotty cell phone and internet service, as well as colonia communities with non-standard housing, limited English proficiency, and no reliable mailing addresses.⁸ Colorado Springs featured significant new housing construction. None of these populations or conditions are present in Huntsville, Alabama, or Spartanburg, South Carolina—the only two sites that remain.⁹

The result is that the proposed test cannot generate valid operational data about how to count rural communities, tribal nations, non-English-speaking households, or geographically isolated populations—the very communities most at risk of being undercounted again in 2030. The respondent pool has also been reduced from 631,850 households to just 154,600¹⁰—a cut of more than 75%—further limiting the statistical validity of any results.

Furthermore, the proposed test limits self-response to Internet-only, available only in English. Latinos have substantially lower access to home computers and home broadband than non-Hispanic whites.¹¹ Restricting response to a single, English-only online channel while eliminating sites with large non-English-speaking populations means the test cannot generate data about how to serve these communities.

The Senate Appropriations Committee, in its report on the FY2026 Commerce, Science, and Justice Appropriations Bill, underscored the importance of conducting the test in "geographically and demographically diverse field sites nationwide, and with a nationally representative sample of households," and called on the Census Bureau to "ensure the objectives of the 2026 Census Test are fully realized."¹² The proposed test fails this standard by every measure.

II. Use of the ACS Questionnaire Is Methodologically Invalid and Will Undermine Congress's Statutory Oversight of the 2030 Census

⁴ Population Reference Bureau, *How Accurate Was the 2020 Census—and Why Should You Care?* (2022).

⁵ William O'Hare & Susana Quiros, *Undercount of Young Children in the 2020 U.S. Decennial Census*.

⁶ U.S. Census Bureau, *2020 Post-Enumeration Survey Report, PES20-G-01* (Mar. 2022).

⁷ Center for Economic and Policy Research, *The Trump Administration's Catastrophic Census Proposal* (Feb. 2026).

⁸ Science/AAAS, *Sharp cutbacks in field tests could threaten quality of 2030 U.S. census* (Feb. 2026).

⁹ *Id.*

¹⁰ 91 Fed. Reg. 4864 (Feb. 3, 2026) (Docket No. USBC-2026-0034).

¹¹ Pew Research Center, *Mobile Technology and Home Broadband 2021* (2021).

¹² U.S. Senate Committee on Appropriations, *Departments of Commerce and Justice, Science, and Related Agencies Appropriations Bill, 2026, S. Rep. No. 119-44* (2025).

A. The ACS and the Census Short Form Are Incompatible Instruments

The Notice proposes to conduct the 2026 test using the American Community Survey (ACS) questionnaire rather than the decennial census short form. The decennial census short form asks a limited set of questions designed specifically to maximize the response rate across the entire U.S. population. The ACS, by contrast, is a lengthy annual survey covering dozens of detailed topics including income, health insurance, education, transportation, plumbing, and citizenship status.¹³ These instruments serve entirely different purposes and are designed for entirely different population universes.

Leading demographers have stated unambiguously that substituting the ACS for the census short form renders the test invalid as a preparation tool for the 2030 Census.¹⁴ Using the ACS means that every data point gathered will tell the Bureau about how respondents react to the ACS—not how they will react to the census short form. The Bureau will emerge from the test with no reliable data to guide the design of the 2030 Census questionnaire.

B. The Substitution Will Corrupt the Statutory Information Flow to Congress

Under 13 U.S.C. § 141(f), the Secretary of Commerce is required to submit a report to Congress no later than three years before the census—by 2027—containing the subjects proposed to be included in the 2030 Census. A second report, specifying the actual questions, must be submitted no later than two years before the census—by 2028.¹⁵

These statutory notification requirements exist to give Congress—a co-equal branch of government with constitutional authority over the census—a meaningful opportunity to review and respond to census design decisions before they are finalized.

If the 2026 test proceeds using ACS questions, the 2027 report to Congress will be based on data that reflects how people respond to a lengthy annual survey—not how they respond to a decennial census form. Congress will receive a planning report built on a methodological mismatch, with no practical opportunity for correction before the 2030 Census design is finalized.¹⁶

We urge the Bureau to conduct the 2026 test using the actual decennial census short form so that the 2027 report to Congress reflects a genuine assessment of how census operations will function in 2030.

III. Inclusion of a Citizenship Question Is Constitutionally Suspect, Legally Dubious, and Will Cause a Chilling Effect Across Communities

A. The 14th Amendment Requires Counting All Persons

The Fourteenth Amendment requires that apportionment of congressional seats be based on "the whole number of persons in each State." The Supreme Court has consistently interpreted this language to mean all persons residing in each state, regardless of citizenship or immigration status. No apportionment since ratification of the Fourteenth Amendment has excluded persons based on their immigration status.¹⁷

B. The Administration's Approach Attempts to Circumvent the Supreme Court's 2019 Ruling

¹³ Congressional Research Service, *The 2026 Census Test*, In Focus IF12623 (2025).

¹⁴ Mark Mather, Population Reference Bureau, quoted in PBS NewsHour (Feb. 5, 2026); Terri Ann Lowenthal, quoted in Science/AAAS (Feb. 2026).

¹⁵ 13 U.S.C. § 141(f)(1)-(2).

¹⁶ CEPR, *supra* note 7.

¹⁷ U.S. Const. amend. XIV, § 2; *Franklin v. Massachusetts*, 505 U.S. 788, 804 (1992); *Evenwel v. Abbott*, 578 U.S. 54 (2016).

In *Department of Commerce v. New York*, 588 U.S. 752 (2019), the Supreme Court held that the Secretary of Commerce violated the Administrative Procedure Act by providing a pretextual rationale for adding a citizenship question to the 2020 Census.¹⁸ The Court found that the stated reason—facilitating enforcement of the Voting Rights Act—"appears to have been contrived" and was therefore legally insufficient. The administration subsequently dropped the question.¹⁹

By substituting the ACS—which already carries authorized citizenship questions under Title 13—for the census short form, the administration avoids the formal APA process that the Supreme Court held must accompany such a decision. The ACS questionnaire has also been reordered so that the citizenship item appears earlier than it does on the standard ACS.²⁰

C. The Chilling Effect Will Harm U.S. Citizens and All Minority Communities

The Census Bureau's own prior research found that even the presence of a citizenship question—before it was added to the 2020 form—depressed participation intentions among immigrant households and mixed-status families.²¹ Census Bureau Director Robert Santos stated directly that the extensive public attention to the citizenship question attempt "may well have had an impact" on the documented surge in undercount rates for Hispanic Americans.²² In fact, a 2019 report from the U.S. Census Bureau found that "there were statistically significant lower self-response rates for the test questionnaire with the citizenship question than for the test questionnaire without the citizenship question."²³

The same chilling effect will fall on U.S. citizens living in mixed-status households—citizens who have non-citizen spouses, parents, or children. In an environment of aggressive immigration enforcement and uncertain cross-agency data sharing, the population most likely to be deterred includes not only undocumented immigrants but legal permanent residents, Deferred Action for Childhood Arrivals (DACA) recipients, visa holders, naturalized citizens with foreign-born family members, and U.S.-born citizens across Latino, Asian American and Pacific Islander, African immigrant, and other communities.

Critically, the test's two remaining sites—Huntsville and Spartanburg—have small immigrant populations. Testing a citizenship question exclusively in sites where it is unlikely to deter participation will mask its harmful effects and generate false assurance that the question is operationally benign.²⁴

IV. The USPS Pilot Raises Serious Title 13 Confidentiality Concerns and Endangers Public Trust in the Census

A. Title 13 Protections Do Not Automatically Extend to USPS Employees

Title 13 of the U.S. Code imposes strict statutory protections on all individually identifiable census responses. Section 9 prohibits the Census Bureau from sharing any information that could identify an individual with any other agency—including law enforcement and immigration authorities. Section 214 imposes criminal penalties on Census Bureau employees for unauthorized disclosure. These protections are the legal cornerstone of the public trust that makes a voluntary census possible.²⁵

¹⁸ *Dep't of Commerce v. New York*, 588 U.S. 752 (2019).

¹⁹ *Id.* at 784.

²⁰ CEPR, *supra* note 7.

²¹ NPR, 2026 Census Test Forms May Include a Citizenship Question (Feb. 5, 2026); CEPR, *supra* note 7.

²² Census Bureau Director Robert Santos, statement at Mar. 10, 2022 Post-Enumeration Survey press conference, quoted in PBS NewsHour (Mar. 10, 2022).

²³ United States Census Bureau, 2019 Census Test Report (Jan. 3, 2020).

²⁴ Science/AAAS, Sharp cutbacks in field tests could threaten quality of 2030 U.S. census (Feb. 2026).

²⁵ 13 U.S.C. §§ 9, 214.

We understand that the Census Bureau and the U.S. Postal Service (USPS) signed an interagency agreement on January 6, 2026, which purportedly requires USPS participants to complete the same training and sign the same confidentiality agreements as Census Bureau enumerators, including Title 13 training. The Bureau has also indicated that results of the test will not be published and will not be shared outside the agency.²⁶ Nevertheless, serious questions remain. USPS employees acting in an enumerating capacity are not Census Bureau employees, and a contractual obligation to undergo Title 13 training is not the same as statutory coverage under Title 13 itself. We request the Bureau to produce the interagency agreement for congressional review and to provide a legal analysis explaining whether and how USPS enumerators are brought within the scope of Title 13's protections—not merely trained on its requirements.

B. The Administration's Record on Agency Data-Sharing Heightens These Concerns

The significance of the potential Title 13 gap cannot be assessed in a vacuum. This administration has demonstrated a willingness to blur long-established privacy firewalls between agencies in ways that have alarmed Congress and triggered multiple federal lawsuits. Many of the undersigned Members of Congress have actively fought the administration's improper data-sharing practices, including in litigation challenging the IRS's disclosure of taxpayer data, on the principle that when the government collects sensitive personal information under statutory guarantees of confidentiality, it must honor those guarantees in full.²⁷

Even with Title 13 training, the use of postal workers to collect census data—including citizenship status—while immigration enforcement is at historic levels and cross-agency data sharing has been challenged in court raises serious questions and will be perceived as a threat to respondents' safety, potentially leading to much lower self-response rates.

V. The Truncated Comment Period and Disbanded Advisory Committees Undermine the Regulatory Process and Call into Question the Legality of Proceeding

The Bureau published the revised test plan with a 30-day public comment period, despite the standard requirement under Paperwork Reduction Act regulations and OMB Circular A-130 of a 60-day comment period for proposed information collections of this scope, without any stated justification.²⁸

A 30-day comment period for a proposal that will determine the quality of the 2030 Census is facially inadequate. The affected communities, advocacy organizations, academic researchers, and state and local governments who need to understand and respond to these changes have been given half the time typically provided—with no emergency, statutory urgency, or good cause finding offered.

The procedural deficiencies go further. The Census Bureau's 2030 Census Advisory Committee—comprising representatives of civil rights organizations, tribal nations, local governments, and academic researchers—was terminated on February 28, 2025, before these sweeping test revisions were announced and without any replacement mechanism. The Bureau has also refused to provide regular briefings to the congressional committees responsible for its oversight.²⁹

The combination of a shortened comment period, disbanded advisory committees, and refusal to brief Congress suggests a deliberate strategy to limit the scrutiny these changes would otherwise receive. We are deeply concerned that this test may proceed through a fundamentally defective regulatory process before the serious

²⁶ Census Bureau, Privacy Act Notice; System of Records Notice, Census-5 Decennial Census Program, <https://www.commerce.gov/node/4939>; Privacy Impact Assessment, Associate Director for Decennial Census Programs (ADDCP) Decennial (signed July 2025), <https://www.commerce.gov/opog/privacy/PIA/Census-PIA>.

²⁷ Center for Taxpayer Rights v. IRS, No. 1:25-cv-00457

²⁸ 5 C.F.R. § 1320.8(d); OMB Circular A-130 (2016).

²⁹ CRS, *supra* note 13; NPR, 2026 Census Test Cut Back with New Role for Postal Workers (Feb. 2, 2026).

legal, methodological, and constitutional questions raised here have received meaningful public or legislative review.

VI. Conclusion

The 2026 Operational Test, as currently proposed, is a census test in name only. It cannot generate valid data to inform the 2030 Census. It will deter participation by the communities most at risk of being undercounted. It raises serious constitutional, statutory, and confidentiality concerns that have not been addressed. And it was announced through a truncated, inadequate regulatory process that has foreclosed meaningful public and congressional review.

We therefore urge the Department of Commerce to:

- Restore all six originally planned test sites to ensure the test addresses the full range of hard-to-count populations and geographic environments that must be reached in 2030;
- Use only the decennial census short form for the 2026 test—not the ACS questionnaire—to ensure test results are methodologically valid for 2030 Census planning;
- Remove the citizenship question from the 2026 test instrument in its entirety;
- Provide the interagency confidentiality agreement between the USPS and the Census Bureau for congressional review and publish a full legal analysis of how respondent data privacy will be protected under Title 13 protections;
- Restore the full 60-day public comment period consistent with Paperwork Reduction Act requirements and OMB guidelines;
- Reinstate testing of mail, phone, and multilingual self-response modes;
- Reconstitute or replace the 2030 Census Advisory Committee and resume regular briefings to congressional oversight committees; and
- Publish a transparent account of the rationale for each change made to the original test design.

The census belongs to every person in this country. Every decade, it is our shared instrument for ensuring that power and resources are distributed fairly and that every community is seen and counted. The communities that were undercounted in 2020 deserve better. Every American deserves better.

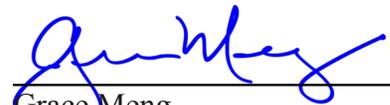
Sincerely,



Adriano Espaillat
Chair
Congressional Hispanic Caucus



Robert Garcia
Ranking Member, Committee on
Oversight
and Government Reform



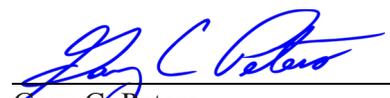
Grace Meng
Chair, Congressional Asian Pacific
American Caucus



Ruben Gallego
United States Senator



Andy Kim
Ranking Member, Subcommittee
on Disaster Management, District
of Columbia, and Census
Committee on Homeland Security
and Governmental Affairs



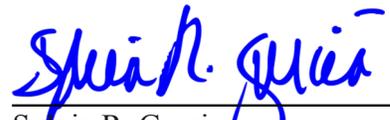
Gary C. Peters
United States Senator
Ranking Member, Committee on
Homeland Security and
Governmental Affairs



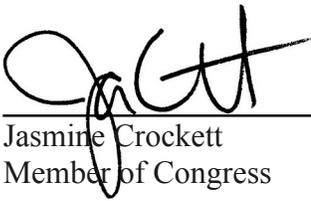
Eleanor Holmes Norton
Member of Congress



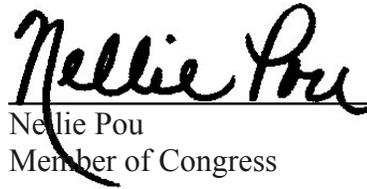
Stephen F. Lynch
Member of Congress



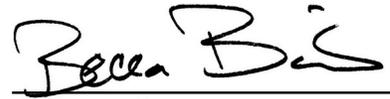
Sylvia R. Garcia
Member of Congress



Jasmine Crockett
Member of Congress



Nellie Pou
Member of Congress



Becca Balint
Member of Congress



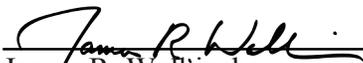
Lateefah Simon
Member of Congress



Gwen S. Moore
Member of Congress



Nanette Diaz Barragan
Member of Congress



James R. Walkinshaw
Member of Congress



Rashida Tlaib
Member of Congress



Dave Min
Member of Congress



Mary Gay Scanlon
Member of Congress



Yassamin Ansari
Member of Congress



Juan Vargas
Member of Congress



Marilyn Strickland
Member of Congress



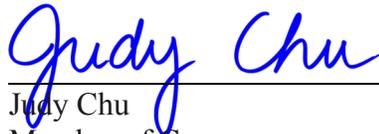
Kevin Mullin
Member of Congress



John Garamendi
Member of Congress



Raja Krishnamoorthi
Member of Congress



Judy Chu
Member of Congress



Jan Schakowsky
Member of Congress



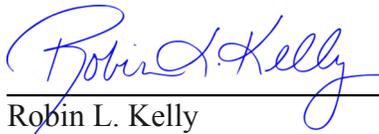
Angela D. Alsobrooks
United States Senator



Sean Casten
Member of Congress



Darren Soto
Member of Congress



Robin L. Kelly
Member of Congress



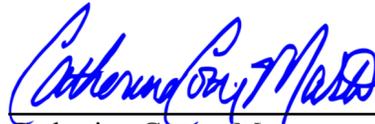
Emily Randall
Member of Congress



Yvette D. Clarke
Chair
Congressional Black Caucus



Paul D. Tonko
Member of Congress



Catherine Cortez Masto
United States Senator



Bonnie Watson Coleman
Member of Congress



Madeleine Dean
Member of Congress



Luz M. Rivas
Member of Congress



Andrea Salinas
Member of Congress



Salud Carbajal
Member of Congress



Pramila Jayapal
Member of Congress



Mark Kelly
United States Senator



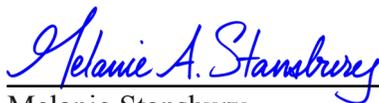
Michael F. Bennet
United States Senator



Maxwell Alejandro Frost
Member of Congress



Tammy Duckworth
United States Senator



Melanie Stansbury
Member of Congress



James P. McGovern
Member of Congress



Henry C. "Hank" Johnson, Jr.
Member of Congress



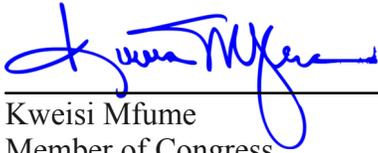
Greg Casar
Member of Congress



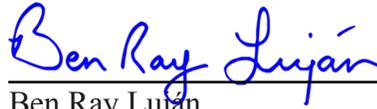
Wesley Bell
Member of Congress



Ted W. Lieu
Member of Congress



Kweisi Mfume
Member of Congress



Ben Ray Lujan
United States Senator



Jacky Rosen
United States Senator



Alex Padilla
United States Senator



Adam B. Schiff
United States Senator



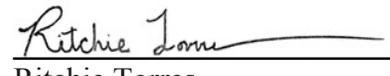
Jahana Hayes
Member of Congress



Patty Murray
United States Senator



Chris Van Hollen
United States Senator



Ritchie Torres
Member of Congress



Martin Heinrich
United States Senator



Angie Craig
Member of Congress



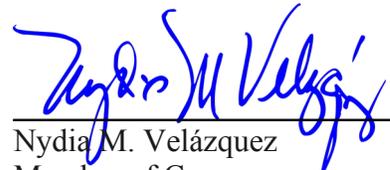
Mark DeSaulnier
Member of Congress



Ro Khanna
Member of Congress



Adelita S. Grijalva
Member of Congress



Nydia M. Velázquez
Member of Congress