

September 18, 2022

Sheleen Dumas
Department PRA Clearance Officer
Office of the Chief Information Officer
Commerce Department
Submitted via *reginfo.gov*

RE: Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Survey of Income and Program Participation (OMB Control No. 0607-1000)

To Whom It May Concern,

We are grateful for the opportunity to provide comments to the U.S. Department of Commerce (the “Department”) on its above-captioned notice announcing its intent to submit a request for review and clearance of data collection instruments to be utilized as part of its ongoing Survey of Income and Program Participation (“SIPP”). *See* 87 Fed. Reg. 51,332 (August 22, 2022).

The undersigned are scholars affiliated with the Williams Institute at the UCLA School of Law. The Williams Institute is dedicated to conducting rigorous and independent research on sexual orientation and gender identity (“SOGI”), including on the demographics and experiences of lesbian, gay, bisexual, and transgender (“LGBT”) people. The Williams Institute collects and analyzes original data, as well as analyzes governmental and private data, and has long worked with federal agencies to improve data collection on the U.S. population. These efforts include producing widely-cited best practices for the collection of SOGI information on population-based surveys.¹

We write in response to the Department’s request for comment on this data collection, specifically to recommend the inclusion of SOGI measures on the SIPP. As the Department is aware, the SIPP is a vital source of information on a variety of subjects relevant to economic disparities, including on employment and earnings, unemployment insurance, assets, education, household composition, health care coverage, and participation in government public benefits programs. Its ability to measure such participation in public programs—at both the individual and household level—makes the SIPP markedly unique among both government and private collections of data on measures of economic well-being. However, while the SIPP as previously implemented by the U.S. Census Bureau has collected demographic data about same-sex married

¹ *See, e.g.*, GENDER IDENTITY IN U.S. SURVEILLANCE (GENIUSS) GROUP, WILLIAMS INST., BEST PRACTICES FOR ASKING QUESTIONS TO IDENTIFY TRANSGENDER AND OTHER GENDER MINORITY RESPONDENTS ON POPULATION-BASED SURVEYS (2014), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Survey-Measures-Trans-GenIUSS-Sep-2014.pdf>; SEXUAL MINORITY ASSESSMENT RESEARCH TEAM (SMART), WILLIAMS INST., BEST PRACTICES FOR ASKING QUESTIONS ABOUT SEXUAL ORIENTATION ON SURVEYS (2009), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Best-Practices-SO-Surveys-Nov-2009.pdf>.

and cohabitating couples,² the utility of those data are limited to generating knowledge about an estimated 2 million LGBT adults.³ We therefore write to suggest that the Department consider amending the proposed SIPP questionnaire to enable the collection of information on the experiences of the nearly 11 million LGBT people who are not living in same-sex, cohabitating couple households in the U.S.,⁴ in turn filling critical gaps in data on the public benefits participation of LGBT populations nationwide.

The Williams Institute has conducted two large LGBTQ-specific⁵ population-based national surveys through the NIH-funded Generations (HD078526) and TransPop (HD090468) studies on sexual and gender minority people, respectively.⁶ Data collected across both studies on socioeconomic status and housing indicate disparities among LGBTQ people when compared to the U.S. general population. For example, we found that LBQ cisgender women (48.3%) and transgender people (47.7%) were more likely than GBQ cisgender men (31.5%) to be living in a low-income household, with all three groups reporting rates higher than that of the general population (30.4% in 2018).⁷ Similarly, we found that LGBTQ people are more likely to report unemployment when compared to the national average (8.1% vs. 4.1%, at the end of 2017).⁸ Likewise, 47.5% of transgender people, 39.2% of GBQ cisgender men, and 37.5% of LBQ cisgender women reported being fired or been denied a job at least once as adults.⁹ Finally, we found evidence of housing instability, with 15.2% of all LGBTQ respondents reporting moving residences three or more times in a two-year period.¹⁰

These findings are consistent with our past research on elevated rates of poverty rates and food insecurity among LGBT people.¹¹ For example, a 2019 Williams Institute study found that

² See, e.g., *SIPP Content: Family and Household*, CENSUS.GOV, https://www.census.gov/programs-surveys/sipp/about/sipp-content-information.html#par_textimage_5 (last visited Sept. 09, 2022); Wendy D. Manning et al., *Same-Sex and Different-Sex Cohabiting Couple Relationship Stability*, 53 DEMOGRAPHY 937 (2016), <https://link.springer.com/article/10.1007/s13524-016-0490-x> (analyzing SIPP data collected in 2009 and noting evidence that the “level of stability in both same-sex and different-sex cohabiting couples is not on par with that of different-sex married couples.”).

³ Williams Institute Scholars, Comment Letter on Proposed Basic Demographic Items for the Current Population Survey (Mar. 22, 2021), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Comment-CPS-Mar-2021.pdf>.

⁴ *Id.*

⁵ Consistent with the literature on sexual and gender minority people, “LGBTQ”—with the Q representing questioning or queer—is often used to capture individuals, generally youth, who identify their SOGI using such terms, including those whose identities are less developed or more fluid. Certainly, adults question their SOGI and can identify as queer. See, e.g., *6% of Non-Transgender Sexual Minority Adults in the US Identify as Queer*, WILLIAMS INST. (Jan. 22, 2020), <https://williamsinstitute.law.ucla.edu/press/sexual-minority-queer-press-release>. However, few studies relevant to this comment include measures to allow for the identification and analysis of LGBT adults who specifically identify as queer or questioning; hence, we generally use “LGBT” when discussing sexual and gender minority adults unless supported by the underlying study.

⁶ ILAN H. MEYER, BIANCA D.M. WILSON & KATHRYN O’NEILL, WILLIAMS INST., *LGBTQ PEOPLE IN THE US: SELECT FINDINGS FROM THE GENERATIONS AND TRANSPop STUDIES 1* (2021), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Generations-TransPop-Toplines-Jun-2021.pdf>.

⁷ *Id.* at 10–11.

⁸ *Id.*

⁹ *Id.* at 19.

¹⁰ *Id.* at 11.

¹¹ See, e.g., KERITH J. CONRON, RUBEEN GUARDADO, KATHRYN K. O’NEILL & BIANCA D.M. WILSON, WILLIAMS INST., *FOOD INSUFFICIENCY AMONG LGBT ADULTS DURING THE COVID-19 PANDEMIC* (2022), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-Food-Insufficiency-Apr-2022.pdf>; BIANCA D.M.

poverty rates among transgender people were higher than those reported by cisgender heterosexual men in every age group, and were notably higher than those reported by cisgender heterosexual women for the 35–44 (42.5% vs. 21.6%) and 55–64 (25.1% vs. 12.5%) age groups.¹² In addition, we found that that poverty rates were higher for LGBT people when compared to non-LGBT people across every age group, with observed differences being statistically significant among people aged 18 to 44 years old.¹³

Despite many studies on certain indicators of economic well-being, we know relatively little about the public benefits program participation rates of LGBT populations.¹⁴ In one of our recent studies on food insecurity related to the COVID-19 pandemic, we found evidence that transgender people are under-enrolled in food resource benefits like the Supplemental Nutrition Assistance Program (“SNAP”), with only 28.7% of income-eligible transgender people being enrolled in SNAP as compared to 38.5% of income-eligible cisgender peers.¹⁵ Researchers have previously recommended that administrative systems that track usage of poverty reduction programs, along with the SIPP specifically, include means through which to evaluate the impact of such programs on the economic status of LGBT people.¹⁶ However, gaps in collected data remain. We therefore recommend the inclusion of direct SOGI measures on the SIPP, as such data are needed to ensure that LGBT people are meaningfully included in local, state, and federal government efforts to address socioeconomic, health, and other disparities across the U.S. population through their various public benefits programs.

Additionally, we note that similar to the country as a whole, the population of LGBT adults in the U.S. is demographically diverse. For example, drawing from Gallup Daily Tracking

WILSON, M. V. LEE BADGETT & ALEXANDRA-GRISSELL H. GOMEZ, WILLIAMS INST., “WE’RE STILL HUNGRY” LIVED EXPERIENCES WITH FOOD INSECURITY AND FOOD PROGRAMS AMONG LGBTQ PEOPLE (2020), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBTQ-Food-Bank-Jun-2020.pdf>.

¹² M.V. LEE BADGETT, SOON KYU CHOI & BIANCA D.M. WILSON, WILLIAMS INST., LGBT POVERTY IN THE UNITED STATES: A STUDY OF DIFFERENCES BETWEEN SEXUAL ORIENTATION AND GENDER IDENTITY GROUPS 14–15 (2019), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/National-LGBT-Poverty-Oct-2019.pdf>.

¹³ *Id.*

¹⁴ *See, e.g.*, CAITLIN ROONEY CHARLIE WHITTINGTON & LAURA E. DURSO, CTR. AM. PROGRESS, PROTECTING BASIC LIVING STANDARDS FOR LGBTQ PEOPLE, <https://americanprogress.org/wp-content/uploads/2018/08/LGBT-BenefitCuts-report.pdf> (2018) (finding that, among a nationally-representative sample, LGBTQ respondents reported that they or their family received SNAP benefits at more than twice the rate of non-LGBTQ respondents); TAYLOR N.T. BROWN, ADAM P. ROMERO & GARY J. GATES, WILLIAMS INST., FOOD INSECURITY AND SNAP PARTICIPATION IN THE LGBT COMMUNITY (2016), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Food-Insecurity-SNAP-July-2016.pdf>; (analyzing various government data sources common to find that LGBT individuals and adults in same-sex couples “often experience food insecurity and SNAP participation at higher levels than their non-LGB/T and different-sex couple counterparts.”); SANDY E. JAMES, JODY L. HERMAN, SUSAN RANKIN, MARA KEISLING, LISA MOTTET & MA’AYAN ANAFI, NAT’L CTR. FOR TRANSGENDER EQUALITY, THE REPORT OF THE 2015 U.S. TRANSGENDER SURVEY 141–42 (2016), <https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf>. (reporting rates of participation in various programs—such as SNAP and the Special Supplemental Nutrition Program for Women, Infants, and Children—among respondents to the largest survey of transgender people in the U.S. to date).

¹⁵ KERITH J. CONRON & KATHRYN K. O’NEILL, WILLIAMS INST., FOOD INSUFFICIENCY AMONG TRANSGENDER ADULTS DURING THE COVID-19 PANDEMIC 7 (2022), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Trans-Food-Insufficiency-Update-Apr-2022.pdf>;

¹⁶ Kerith J. Conron, Shoshana K. Goldberg & Carolyn T. Halpern, *Sexual Orientation and Sex Differences in Socioeconomic Status: A Population-Based Investigation in the National Longitudinal Study of Adolescent to Adult Health*, 72 J. EPIDEMIOLOGY & COMMUNITY HEALTH 1016, 1025 (2018), <https://jech.bmj.com/content/72/11/1016>.

data collected between 2015 and 2017, we've estimated that 58% of LGBT adults are female.¹⁷ Likewise, we've estimated that 21% of LGBT adults identify as Latino/a or Hispanic, 12% as Black, and 5% as more than one race.¹⁸ Similarly, in a recent study, we documented evidence consistent with other population-based samples that Latinx people, American Indian or Alaska Native people, and biracial/multiracial groups appear more likely than White people to identify as transgender.¹⁹ Our research also suggests that certain economic and other disparities are particularly pronounced for those who are transgender or LGBT people of color. For example, data collected between 2016 and 2019 show that 8% of transgender people experienced homelessness within the prior year, compared to 3% of cisgender LGB people and 1% of non-LGBT people.²⁰ Among those LGB adults, Black respondents had significantly higher rates (6%) of recent housing instability.²¹ The collection of data on respondents' SOGI would therefore likely enhance the quality of existing data collected through the SIPP allowing for analysis of differential economic outcomes, such as along lines of sex, race, and Hispanic origin.²²

Finally, we note, in light of the upcoming SIPP's inclusion of questions on the impact of the COVID-19 pandemic,²³ that our research has found that the pandemic has had a severe economic impact on LGBT adults—and particularly on LGBT people of color.²⁴ In a study based on data collected through the Ipsos-Axios survey between August and December 2020, we found that LGBT respondents were more likely than their non-LGBT counterparts to report being laid off (12.4% vs. 7.8%) or furloughed (14.1% vs. 9.7%) from their jobs; to report problems affording basic household goods (23.5% vs. 16.8%); and to report problems paying their rent or mortgage (19.9% vs. 11.7%).²⁵ LGBT people of color were more than twice as likely to report that their ability to pay for household goods got worse (28.7% vs. 14.2%), and were over three times as likely to report that their ability to pay their rent or mortgage (26.3% vs. 8.8%) got worse, as compared to non-LGBT White people.²⁶ More than half (63.1%) of LGBT people of color were very concerned about their ability to pay their bills, as compared to 42.4%

¹⁷ *LGBT Demographic Data Interactive*, WILLIAMS INST. (Jan. 2019), <https://williamsinstitute.law.ucla.edu/visualization/lgbt-stats/?topic=LGBT#demographic>.

¹⁸ *Id.*

¹⁹ JODY L. HERMAN, ANDREW R. FLORES & KATHRYN K. O'NEILL, WILLIAMS INST., HOW MANY ADULTS AND YOUTH IDENTIFY AS TRANSGENDER IN THE UNITED STATES? 6 (2022), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Trans-Pop-Update-Jun-2022.pdf>.

²⁰ BIANCA D.M. WILSON, SOON KYU CHOI, GARY W. HARPER, MARGUERITA LIGHTFOOT, STEPHEN RUSSELL & ILAN H. MEYER, WILLIAMS INST., HOMELESSNESS AMONG LGBT ADULTS IN THE US 1 (2020), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-Homelessness-May-2020.pdf>.

²¹ *Id.*

²² See, e.g., *SIPP Content: Demographics*, CENSUS.GOV, https://www.census.gov/programs-surveys/sipp/about/sipp-content-information.html#par_textimage_10 (last visited Sept. 09, 2022); PEW RESEARCH CTR., WEALTH GAPS RISE TO RECORD HIGHS BETWEEN WHITES, BLACKS, HISPANICS (2011), <https://www.pewresearch.org/social-trends/2011/07/26/wealth-gaps-rise-to-record-highs-between-whites-blacks-hispanics/> (analyzing SIPP data collected in 2005 and 2009 and noting evidence of wealth gaps between racial and ethnic groups around the time of the Great Recession).

²³ 87 Fed. Reg. at 51,332.

²⁴ See, e.g., BRAD SEARS, KERITH J. CONRON & ANDREW R. FLORES, WILLIAMS INST., THE IMPACT OF THE FALL 2020 COVID-19 SURGE ON LGBT ADULTS IN THE US (2021), <https://williamsinstitute.law.ucla.edu/publications/covid-surge-lgbt>.

²⁵ *Id.* at 9.

²⁶ *Id.* at 10.

of LGBT White and 33.2% of non-LGBT White people.²⁷ Health generally follows a socioeconomic gradient;²⁸ thus, these findings indicate that as observed elsewhere in the U.S.,²⁹ data collected through the SIPP inclusive of LGBT populations may provide valuable insight into their economic needs and disparities as informed by the pandemic and consistent with the purposes of this proposed collection.

Research on federal implementation of SOGI measures suggests that respondents are unlikely to consider SOGI information to be particularly sensitive, and would therefore provide such information if asked.³⁰ Similarly, studies suggest that sexual minority people are not a population that is difficult to survey.³¹ Questions measuring sexual orientation have been included on federal surveys for over two decades, including in large-scale, population-based surveys administered by the Census Bureau and other agencies.³² Questions used to identify transgender respondents have been included on state and investigator-led surveys for some time, with more common use of both sexual orientation and gender identity questions, including in federal surveys, over the last decade.³³ The federal government has long engaged in its own review of best practices for the measurement of SOGI, including through its Federal Interagency Working Group on Improving Measurement of Sexual Orientation and Gender Identity in Federal Surveys organized through the Federal Committee on Statistical Methodology.³⁴

The federal government has also supported others' research on this topic, including by funding the research of an ad hoc panel formed by the National Academies of Sciences, Engineering, and Medicine focused on SOGI-related methodological issues (the "NASEM Panel").³⁵ The NASEM Panel recently released a consensus study report offering guidance and best practices for collecting data on SOGI, as well as on variations in sex characteristics, in population-based surveys, as well as clinical and administrative settings.³⁶ The NASEM Panel's

²⁷ *Id.*

²⁸ See, e.g., NAT'L CTR. FOR HEALTH STATISTICS, HEALTH, UNITED STATES, 1998 WITH SOCIOECONOMIC STATUS AND HEALTH CHARTBOOK (1998), <https://www.cdc.gov/nchs/data/hus/hus98.pdf>.

²⁹ SOON KYU CHOI, M.V. LEE BADGETT & BIANCA D.M. WILSON, WILLIAMS INST., STATE PROFILES OF LGBT POVERTY IN THE UNITED STATES (2019), <https://williamsinstitute.law.ucla.edu/publications/state-lgbt-poverty-us>; Kevin C. Heslin & Jeffrey E. Hall, Ctrs. for Disease Control & Prevention, *Sexual Orientation Disparities in Risk Factors for Adverse COVID-19-Related Outcomes, by Race/Ethnicity — Behavioral Risk Factor Surveillance System, United States, 2017–2019*, 70 MORBIDITY & MORTALITY WKLY. REP. 149 (2021), https://www.cdc.gov/mmwr/volumes/70/wr/mm7005a1.htm?s_cid=mm7005a1_w.

³⁰ See NAT'L ACADEMIES OF SCIENCES, ENGINEERING, & MED., MEASURING SEX, GENDER IDENTITY, AND SEXUAL ORIENTATION 55, 67 (2022), <https://nap.nationalacademies.org/catalog/26424/measuring-sex-gender-identity-and-sexual-orientation>.

³¹ *Id.* at 52–55.

³² *Id.* at 19, 32.

³³ *Id.*

³⁴ See generally *Measuring Sexual Orientation and Gender Identity Research Group*, FED. COMM. STAT. METHODOLOGY (2018), <https://nces.ed.gov/FCSM/SOGI.asp>; FEDERAL INTERAGENCY WORKING GROUP ON IMPROVING MEASUREMENT OF SEXUAL ORIENTATION AND GENDER IDENTITY IN FEDERAL SURVEYS, CURRENT MEASURES OF SEXUAL ORIENTATION AND GENDER IDENTITY IN FEDERAL SURVEYS (2016), https://cpb-us-e1.wpmucdn.com/sites.northwestern.edu/dist/3/817/files/2017/01/WorkingGroupPaper1_CurrentMeasures_08-16-1xnai8d.pdf.

³⁵ *Measuring Sex, Gender Identity, and Sexual Orientation for the National Institutes of Health*, NAT'L ACADEMIES OF SCIENCES, ENGINEERING, & MED., <https://www.nationalacademies.org/our-work/measuring-sex-gender-identity-and-sexual-orientation-for-the-national-institutes-of-health> (last visited Sept. 09, 2022).

³⁶ NAT'L ACADEMIES OF SCIENCES, ENGINEERING, & MED., *supra* note 30.

report also provides guiding principles for such data collection, specifically inclusiveness, precision, respecting autonomy, collecting only necessary data, and a dedication to confidentiality.³⁷ Notably, the measures recommended by the NASEM Panel are consistent with those utilized by the Census Bureau beginning with phase 3.2 of its Household Pulse Survey measuring the impact of the COVID-19 pandemic.³⁸

As scholars with experience in measurement development and testing, we would recommend that the Department assess the performance of SOGI measures, and all other demographic items, on the SIPP and to make revisions as needed. Likewise, we note our concern with potential harm to respondents due to breach of confidentiality and request that the Department ensure that all data are collected and reported using all appropriate privacy standards. All entities responsible for SIPP data collection ought to ensure the confidentiality of respondents' information.

Thank you for your consideration. Please direct any correspondence, including questions, to vasquezl@law.ucla.edu.

Respectfully submitted,

Luis A. Vasquez, J.D.
Staff Attorney
The Williams Institute
UCLA School of Law

Christy Mallory, J.D.
Legal Director
The Williams Institute
UCLA School of Law

Brad Sears, J.D.
Founding Executive Director
The Williams Institute
UCLA School of Law

Elana Redfield, J.D.
Federal Policy Director
The Williams Institute
UCLA School of Law

³⁷ *Id.* at S-4.

³⁸ Thom File & Jason-Harold Lee, *Phase 3.2 of Census Bureau Survey Questions Now Include SOGI, Child Tax Credit, COVID Vaccination of Children*, CENSUS.GOV (Aug. 05, 2021), <https://www.census.gov/library/stories/2021/08/household-pulse-survey-updates-sex-question-now-asks-sexual-orientation-and-gender-identity.html>.

William Tentindo, J.D.
Renberg Law Fellow
The Williams Institute
UCLA School of Law

Bianca D.M. Wilson, Ph.D.
Rabbi Barbara Zacky Senior Scholar of Public Policy
The Williams Institute
UCLA School of Law

Jody L. Herman, Ph.D.
Reid Rassmussen Senior Scholar of Public Policy
The Williams Institute
UCLA School of Law