

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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<http://oversight.house.gov>

March 4, 2020

The Honorable Dr. Steven Dillingham
Director
United States Census Bureau
4600 Silver Hill Road
Washington, D.C. 20233

Dear Dr. Dillingham:

The Committee is seeking information on the Trump Administration's decision to exclude a Middle Eastern or North African (MENA) category from the 2020 Census. In the absence of this category, communities that fall within the MENA designation may face insufficient federal funding for essential programs, receive inadequate social services, lack data necessary to monitor discrimination, and not be considered in legislative redistricting.

The federal government has studied the possible addition of a MENA category to the census for more than a decade, and the need for this category is clear.

In the 1990s, the Office of Management and Budget (OMB) asked for public comments on standards for race and ethnicity reporting. In 1997, OMB reported that it "received a number of requests to add an ethnic category for Arabs/Middle Easterners." OMB recommended that "further research should be done to determine the best way to improve data on this population group."¹

In 2010, the Census Bureau conducted the Race and Hispanic Origin Alternative Questionnaire Experiment. The Bureau reported that study participants felt that existing categories were "wrong" or "inaccurate" and that several recommended "that there be a separate racial category for those who would identify as Middle Eastern, North African, or Arab."²

In 2015, the Census Bureau began a research effort to test a MENA category for the 2020 Census. The category went into the field for testing as part of the 2015 National Content Test. The results of the 2015 test showed that adding a distinct MENA category "appears to produce more accurate data" and "worked well to identify groups that self-identify as Middle Eastern or

¹ Office of Management and Budget, *Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity*, 62 Fed. Reg. 58782 (Oct. 30, 1997) (notice of decision).

² Census Bureau, *2010 Census Race and Hispanic Origin Alternative Questionnaire Experiment Final Report* (Feb. 28, 2013) (online at www.census.gov/2010census/pdf/2010_Census_Race_HO_AQE.pdf).

North African.” In February 2017, the Bureau concluded, “The results of this research indicate that it is optimal to use a dedicated ‘Middle Eastern or North African’ response category.” The Bureau recommended that a MENA category be added to the 2020 Census but noted that this “will ultimately be OMB’s decision.”³

In December 2017, OMB failed to make any public announcement regarding its decision on whether to add a MENA category to the Census.⁴ One month later, in January 2018, the Census Bureau announced that it would not be including the MENA category in the 2020 Census. The Bureau asserted that it had received public comments showing that “a large segment of the Middle Eastern and North African population” prefer to include MENA as an ethnicity category rather than a race category. The Bureau stated that it had tested the MENA category in questions about race and in combined questions about race and ethnicity, but not in questions solely about ethnicity. As a result, the Bureau stated that “more research and testing” was needed.⁵

On February 12, 2020, you testified before the Committee regarding the potential consequences of minority, rural, and hard-to-reach communities being undercounted in the 2020 Census. We are concerned that Middle Eastern and North African communities, like other minority communities, may be undercounted. However, without a MENA category on the Census, we will not have the data to determine the extent of this undercount.

Middle Eastern and North African communities need accurate Census representation for health research, language assistance, enforcement of civil rights laws, and reporting educational outcomes. In addition, an accurate count of these communities would enhance crime reporting and ensure fair congressional and state legislative boundaries. The continued absence of this category hurts millions of Americans who are living, working, and raising families in Middle Eastern and North African communities.

To better understand the Administration’s decision to exclude a MENA category on the 2020 Census, we request that the Census Bureau provide the following documents and information by March 18, 2020, regarding the period from January 20, 2017, to the present:

³ Census Bureau, *2015 National Content Test Race and Ethnicity Analysis Report* (Feb. 28, 2017) (online at www2.census.gov/programs-surveys/decennial/2020/program-management/final-analysis-reports/2015nct-race-ethnicity-analysis.pdf); see also *Ensuring a Fair and Accurate Count in the 2020 Census*, The Arab Institute (2019) (online at https://d3n8a8pro7vhmx.cloudfront.net/aai/pages/9805/attachments/original/1558040613/2019LD_Census_Issue_Brief.pdf?1558040613).

⁴ *Trump Administration Delays Decision on Race, Ethnicity Data for Census*, National Public Radio (Dec. 2, 2017) (online at www.npr.org/2017/12/02/567843266/trump-administration-delays-decision-on-race-ethnicity-data-for-census).

⁵ Census Bureau, *2020 Census Quarterly Program Management Review* (Jan. 26, 2018) (online at www.census.gov/library/video/2018/2018-01-26-2020-pmr.html); see also *No Middle Eastern or North African Category On 2020 Census, Bureau Says*, National Public Radio (Jan. 29, 2018) (online at www.npr.org/2018/01/29/581541111/no-middle-eastern-or-north-african-category-on-2020-census-bureau-says).

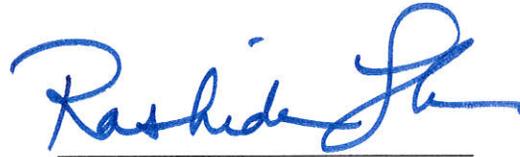
1. All documents, communications, memoranda, and reports related to the decision to exclude the MENA category from the 2020 Census, including communications within the Census Bureau and with OMB, the Department of Commerce, or others;
2. A detailed explanation of why the Census Bureau excluded the MENA category from the 2020 Census;
3. An explanation of why the Census Bureau tested MENA in questions about race and in combined questions about race and ethnicity, but not in questions solely about ethnicity;
4. The amount of money spent to study the need for a MENA category in the 2015 National Content Test; and
5. A description of current plans to consider the inclusion of a MENA category, whether as an ethnic or racial category, in the 2030 Census.

The Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate “any matter” at “any time” under House Rule X. An attachment to this letter provides additional instructions for responding to this request. If you have any questions, please contact my staff at (202) 225-5051.

Sincerely,



Carolyn B. Maloney
Chairwoman



Rashida Tlaib
Member of Congress

Enclosure

cc: The Honorable Jim Jordan, Ranking Member
Committee on Oversight and Reform

The Honorable Russell T. Vought, Acting Director
Office of Management and Budget

Responding to Committee Document Requests

1. In complying with this request, produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. Produce all documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party.
2. Requested documents, and all documents reasonably related to the requested documents, should not be destroyed, altered, removed, transferred, or otherwise made inaccessible to the Committees.
3. In the event that any entity, organization, or individual denoted in this request is or has been known by any name other than that herein denoted, the request shall be read also to include that alternative identification.
4. The Committees' preference is to receive documents in electronic form (i.e., CD, memory stick, thumb drive, or secure file transfer) in lieu of paper productions.
5. Documents produced in electronic format should be organized, identified, and indexed electronically.
6. Electronic document productions should be prepared according to the following standards:
 - a. The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - b. Document numbers in the load file should match document Bates numbers and TIF file names.
 - c. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
 - d. All electronic documents produced to the Committees should include the following fields of metadata specific to each document, and no modifications should be made to the original metadata:

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM, CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,

INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,
BEGATTACH.

7. Documents produced to the Committees should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, zip file, box, or folder is produced, each should contain an index describing its contents.
8. Documents produced in response to this request shall be produced together with copies of file labels, dividers, or identifying markers with which they were associated when the request was served.
9. When you produce documents, you should identify the paragraph(s) or request(s) in the Committees' letter to which the documents respond.
10. The fact that any other person or entity also possesses non-identical or identical copies of the same documents shall not be a basis to withhold any information.
11. The pendency of or potential for litigation shall not be a basis to withhold any information.
12. In accordance with 5 U.S.C. § 552(d), the Freedom of Information Act (FOIA) and any statutory exemptions to FOIA shall not be a basis for withholding any information.
13. Pursuant to 5 U.S.C. § 552a(b)(9), the Privacy Act shall not be a basis for withholding information.
14. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
15. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) every privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, addressee, and any other recipient(s); (e) the relationship of the author and addressee to each other; and (f) the basis for the privilege(s) asserted.
16. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (by date, author, subject, and recipients), and explain the circumstances under which the document ceased to be in your possession, custody, or control.
17. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, produce all documents that would be responsive as if the date or other descriptive detail were correct.

18. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date shall be produced immediately upon subsequent location or discovery.
19. All documents shall be Bates-stamped sequentially and produced sequentially.
20. Two sets of each production shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee on Oversight and Reform, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2105 of the Rayburn House Office Building. When documents are produced to the Committee on Financial Services, production sets shall be delivered to the Majority Staff in Room 2129 of the Rayburn House Office Building and the Minority Staff in Room 4340 of the O'Neill House Office Building. When documents are produced to the Permanent Select Committee on Intelligence, production sets shall be delivered to Majority and Minority Staff in Room HVC-304 of the Capital Visitor Center.
21. Upon completion of the production, submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control that reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, data, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone call, meeting or other inter-office or intra-office communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. A document bearing any notation not a

part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, mail, releases, electronic message including email (desktop or mobile device), text message, instant message, MMS or SMS message, message application, or otherwise.
3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.
4. The term “including” shall be construed broadly to mean “including, but not limited to.”
5. The term “Company” means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.
6. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual’s complete name and title; (b) the individual’s business or personal address and phone number; and (c) any and all known aliases.
7. The term “related to” or “referring or relating to,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.
8. The term “employee” means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.
9. The term “individual” means all natural persons and all persons or entities acting on their behalf.