

EXHIBIT A



March 30, 2018

Via Email (census.foia@census.gov)

ATTN: FOIA Office

U.S. Census Bureau, Room 8H027

4600 Silver Hill Road

Washington, DC 20233-3700

Re: Freedom of Information Act Request – Expedited Processing Requested

To Whom It May Concern:

Pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, The Protect Democracy Project hereby requests that your office produce within 20 business days the following records:

1. Any and all communications—including but not limited to emails and memoranda—regarding the addition of a citizenship question to the decennial census between Wilbur Ross and the following Census personnel:
 - a. Ron S. Jarmin,
 - b. Enrique Lamas,
 - c. Timothy P. Olson,
 - d. Nick Orsini,
 - e. Albert E. Fontenot Jr.,
 - f. James B. Treat,
 - g. Eloise K. Parker,
 - h. John M. Abowd,
 - i. John L. Eltinge,
 - j. Tommy Wright,
 - k. Paul C. Beatty,
 - l. Patrick Cantwell,
 - m. Alan Lang,
 - n. Karen Battle,
 - o. David G. Waddington, or
 - p. Mikelyn Meyers.

2. Any and all communications—including but not limited to emails and memoranda—regarding the addition of a citizenship question to the decennial census between Karen Dunn Kelley and the following Census personnel:

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- a. Ron S. Jarmin,
 - b. Enrique Lamas,
 - c. Timothy P. Olson,
 - d. Nick Orsini,
 - e. Albert E. Fontenot Jr.,
 - f. James B. Treat,
 - g. Eloise K. Parker,
 - h. John M. Abowd,
 - i. John L. Eltinge,
 - j. Tommy Wright,
 - k. Paul C. Beatty,
 - l. Patrick Cantwell,
 - m. Alan Lang,
 - n. Karen Battle,
 - o. David G. Waddington, or
 - p. Mikelyn Meyers.
3. In addition to the records requested above, we also request records describing the processing of this request, including records sufficient to identify search terms used and locations and custodians searched, and any tracking sheets used to track the processing of this request. If your agency uses FOIA questionnaires or certifications completed by individual custodians or components to determine whether they possess responsive materials or to describe how they conducted searches, we also request any such records prepared in connection with the processing of this request.

The timeframe for this request is December 12, 2017 through the date that searches are conducted for records responsive to this FOIA request.

We ask that you search for records from all components of the Census Bureau that may be reasonably likely to produce responsive results.

EXPEDITED PROCESSING REQUEST

We request that you expedite the processing of this request pursuant to 5 U.S.C. § 552(a)(6)(E) and 15 C.F.R. § 4.6(f)(iii), (iv). This request meets the criteria for expedited processing because there is “[a]n urgency to inform the public about an actual or alleged Federal Government activity” and this request is “made by a person who is primarily engaged in disseminating information,” and because this request concerns “[a] matter of widespread and exceptional media interest in which there exist possible questions about the government’s integrity that could affect public confidence.”

The addition of a citizenship question to the 2020 decennial census is, without a doubt, a matter of widespread and exceptional media interest, with coverage especially focusing on the

decision-making process.¹ In November, a widely publicized internal Census Bureau report exposed a recent increase in respondents expressing concerns about confidentiality of data related to immigration, especially among Spanish-speaking respondents.² Subsequent media reports have highlighted the risk that certain immigrant communities will simply not respond to the decennial census.³ And, in the memorandum announcing his decision, Secretary Ross noted that Census Bureau leadership “expressed concern that Option B, which would add a citizenship question to the decennial census, would negatively impact the response rate for noncitizens.”⁴ Secretary Ross overruled career officials at the Census Bureau, who believed that a citizenship question should not be added to the decennial census.⁵ The addition of the question is, or will soon be, the subject of several high profile lawsuits involving a dozen states, which themselves are receiving media coverage.⁶

An accurate and unpoliticized decennial census is critical to our democracy: census data provides the basis for not only congressional apportionment but also billions of dollars of federal spending, including critical programs like Medicaid.⁷ An undercount resulting from the addition

¹ See, e.g., Michael Sherer, *Potential Citizenship Question in 2020 Census Could Shift Power to Rural America*, Wash. Post (Jan. 24, 2018), available at https://www.washingtonpost.com/politics/potential-citizenship-question-in-2020-census-could-shift-power-to-rural-america/2018/01/23/c4e6d2c6-f57c-11e7-beb6-c8d48830c54d_story.html?utm_term=.6c95ce06c2ab; Justin Elliot, *Trump Justice Department Pushes for Citizenship Question on Census, Alarming Experts*, ProPublica (Dec. 29, 2017), available at <https://www.propublica.org/article/trump-justice-department-pushes-for-citizenship-question-on-census-alarming-experts>; Justin Elliot, *Census Rushes to Respond to Request to Add Citizenship Question*, ProPublica (Feb. 23, 2018), available at <https://www.propublica.org/article/census-rushes-to-respond-to-request-to-add-citizenship-question>; Emily Baumgaertner, *Despite Concerns, Census Will Ask Respondents if They Are U.S. Citizens*, N.Y. Times (Mar. 26, 2018), available at <https://www.nytimes.com/2018/03/26/us/politics/census-citizenship-question-trump.html>.

² Mikelyn Meyers, *Respondent Confidentiality Concerns and Possible Effects on Response Rates and Data Quality for the 2020 Census* (Nov. 2, 2017), available at <https://www.propublica.org/article/wilbur-ross-overruled-career-officials-at-census-bureau-to-add-citizenship-question>.

³ Hansi Lo Wang, *Adding Citizenship Question Risks ‘Bad Count’ For 2020 Census, Experts Warn*, N.P.R. (Jan. 10, 2018), available at <https://www.npr.org/2018/01/10/575145554/adding-citizenship-question-risks-bad-count-for-2020-census-experts-warn>; Miriam Jordan, *If Census Asks About Citizenship, Some Already Have an Answer: No Comment*, N.Y. Times (Mar. 27, 2018), available at <https://www.nytimes.com/2018/03/27/us/census-undocumented-immigrants.html>; Anna Maria Barry-Jester, *The Census’s New Citizenship Question Could Hurt Communities That Are Already Undercounted*, FiveThirtyEight (Mar. 29, 2018), available at <https://fivethirtyeight.com/features/the-census-new-citizenship-question-could-hurt-communities-that-are-already-undercounted/>.

⁴ Memorandum from Wilbur Ross, Secretary of Commerce to Karen Dunn Kelley, Under Secretary for Economic Affairs, Re: Reinstatement of a Citizenship Question on the 2020 Decennial Census Questionnaire (March 27, 2018) at 3, available at <https://assets.documentcloud.org/documents/4424701/Wilbur-Ross-memo-2018-03-26-2.pdf>.

⁵ Mikelyn Meyers, *Respondent Confidentiality Concerns and Possible Effects on Response Rates and Data Quality for the 2020 Census* (Nov. 2, 2017), available at <https://www.propublica.org/article/wilbur-ross-overruled-career-officials-at-census-bureau-to-add-citizenship-question>.

⁶ See, e.g., Michael Wines & Emily Baumgaertner, *At Least Twelve States to Sue Trump Administration Over Census Citizenship Question*, N.Y. Times (Mar. 27, 2018), available at <https://www.nytimes.com/2018/03/27/us/census-citizenship-question.html>; Matthew Haag, *Eric Holder Says He’ll Sue to Block Citizenship Question on Census*, N.Y. Times (Mar. 29, 2018), available at <https://www.nytimes.com/2018/03/29/us/politics/eric-holder-times-talks.html>.

⁷ United States Census Bureau, *Uses of Census Bureau Data in Federal Funds Distribution* (Sept. 2017), available at <https://www2.census.gov/programs-surveys/decennial/2020/program-management/working-papers/Uses-of-Census->

of a citizenship question impacts all Americans, and public confidence in the government—particularly in the Department of Commerce and the Census Bureau—is at stake. In addition, the public has an urgent need to know whether there were objective and compelling reasons to not include such a question—including the alleged overruling of career professionals at the Census Bureau. Secretary Ross submitted the citizenship question to Congress on March 29, 2017,⁸ and the Census Bureau must begin preparing census materials soon. Time is of the essence.

The Protect Democracy Project intends to disseminate the information obtained in response to this request. As the District Court for the District of Columbia “easily” determined in recent litigation in a separate FOIA request, “Protect Democracy satisfied these standards” of being “primarily engaged in disseminating information.” *Protect Democracy Project, Inc. v. U.S. Dep’t of Def.*, 263 F. Supp. 3d 293, 298 (D.D.C. 2017). The Protect Democracy Project operates in the tradition of 501(c)(3) good government organizations that qualify under FOIA as “news media organizations.” Like those organizations, the purpose of The Protect Democracy Project is to “gather information of potential interest to a segment of the public, use its editorial skills to turn the raw materials into distinct work, and distribute that work to an audience.” *Nat’s Sec. Archive v. Dep’t of Defense*, 880 F.2d 1381, 1387 (D.C. Cir. 1989). Indeed, The Protect Democracy Project has routinely demonstrated the ability to disseminate information about its FOIA requests to a wide audience.⁹ The Protect Democracy Project will disseminate information and analysis about this request—and any information obtained in response—through its website (protectdemocracy.org); its Twitter feed (@protctdemocracy), which has more than 13,000 followers; its email list of approximately 20,000 people; and sharing information with other members of the press.

Because it concerns a subject of intensive media interest implicating public confidence, and about which there is an urgent need to inform the public, this request meets the requirements of 5 U.S.C. § 552(a)(6)(E) and 15 C.F.R. §§ 4.6(f)(iii), (iv). It is therefore incumbent upon your

Bureau-Data-in-Federal-Funds-Distribution.pdf; Amanda Michelle Gomez, *The 2020 Census Citizenship Question Will Affect Your Health Care*, ThinkProgress (Mar. 27, 2018), available at <https://thinkprogress.org/citizenship-2020-census-health-programs-401cb870dbf2/>; Emily Baumgaertner, *A Citizenship Question on the Census May Be Bad for Your Health*, N.Y. Times (Feb. 14, 2018), available at <https://www.nytimes.com/2018/02/14/us/politics/citizenship-question-census-public-health.html>.

⁸ United States Census Bureau, Questions Planned for the 2020 Census and American Community Survey (March 2018), available at <https://www2.census.gov/library/publications/decennial/2020/operations/planned-questions-2020-acr.pdf>.

⁹ See, e.g., Lisa Rein, *Watchdog Group, Citing “Integrity of Civil Service,” Sues Trump to Find Out if Feds Are Being Bullied*, Wash. Post (Apr. 27, 2017), <https://www.washingtonpost.com/news/powerpost/wp/2017/04/27/watchdog-group-citing-integrity-of-civil-service-sues-trump-to-find-out-if-feds-are-being-bullied/>; Ben Berwick, *Going to Court for Civil Servants*, Take Care (April 28, 2017), <https://takecareblog.com/blog/going-to-court-for-civil-servants>; Charlie Savage, *Watchdog Group Sues Trump Administration, Seeking Legal Rationale Behind Syria Strike*, N.Y. Times (May 8, 2017), <https://nytimes.com/2pX82OV>; Justin Florence, *What’s the Legal Basis for the Syria Strikes? The Administration Must Acknowledge Limits on its Power to Start a War*, Lawfare (May 8, 2017), <https://www.lawfareblog.com/whats-legal-basis-syria-strikes-administration-must-acknowledge-limits-its-power-start-war>; Allison Murphy, *Ten Questions for a New FBI Director*, Take Care (June 6, 2017), <https://takecareblog.com/blog/ten-questions-for-a-new-fbi-director>.