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OFFICE OF MANAGEMENT AND BUDGET

Office of Information and Regulatory Affairs

Procedures for Participating in the Appeals Process for the 2020 Census Local Update of Census Addresses (LUCA)

AGENCY: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Executive Office of the President.

ACTION: Notice of final procedures.

SUMMARY: As part of implementing the Census Address List Improvement Act of 1994, the Office of Management and Budget (OMB) publishes the final procedures for the 2020 Census Local Update of Census Addresses (LUCA) Appeals process, as described in the **SUPPLEMENTARY INFORMATION** section below. Tribal, state and local governments participating in the 2020 Census LUCA Operation may appeal determinations made by the Census Bureau with respect to their suggested changes to the 2020 Census Address List. Proposed procedures were published as a notice for public comment in the **Federal Register** on May 21, 2018. This final notice summarizes the comments received on the proposed procedures, and provides responses to those comments. For informational purposes, this final notice further describes the 2020 Census LUCA Feedback materials that the Census Bureau will provide to participating governments and how those governments can use the materials as the basis for an appeal.

Electronic Availability: **Federal Register** notices are available electronically at <https://www.federalregister.gov/>.

DATES: The final procedures for the 2020 Census LUCA Appeals process, which reflect revisions based on public comment received in response to the notice on proposed procedures, are effective immediately.

ADDRESSES: Please send any questions about the final procedures for the 2020 Census LUCA Appeals process to: Nancy Potok, Chief Statistician, Office of Management and Budget, 9242 New Executive Office Building, Washington, DC, 20503; email: MBX.OMB.OIRA.2020LUCAAppealsProcess@OMB.eop.gov; fax number: (202) 395-7245.

Correspondence about the Census Bureau's 2020 Census LUCA Operation should be sent to: Robin Pennington, Deputy Chief, Decennial Census Management Division Program Management Office, U.S. Census Bureau, Washington, DC, 20233; telephone: (301) 763-8132; email: robin.a.pennington@census.gov.

Because of delays in the receipt of regular mail related to security screening, respondents are encouraged to use electronic communications.

FOR FURTHER INFORMATION CONTACT: Kerrie Leslie, Office of Management and Budget, 9215 New Executive Office Building, Washington, DC, 20503; telephone: (202) 395-1093; email: MXB.OMB.OIRA.2020LUCAAppealsProcess@OMB.eop.gov, with the subject "2020 Appeals Process Question".

The 2020 Census LUCA Appeals Office can be reached at 301-763-6869 or via email at INFO@LUCA-Appeals.gov.

SUPPLEMENTARY INFORMATION:

The Census Address List Improvement Act of 1994

The Census Address List Improvement Act of 1994 (Pub. L. No. 103-430) mandates the establishment of a program to be used by the Census Bureau for developing the decennial census address list and address lists for other censuses and surveys conducted by the Bureau. The Act's provisions direct the Secretary of Commerce to: (1) publish standards defining the content and structure of address information that tribal, state and local governments may submit to be used in developing a national address list; (2) develop and publish a timetable for the Census Bureau to receive, review, and respond to submissions; and (3) provide a response to the submissions regarding the Census Bureau's determination for each address. The Act provides further that OMB's Administrator of the Office of Information and Regulatory Affairs (OIRA), acting through the Chief Statistician and in consultation with the Census Bureau, shall develop a process for tribal, state, and local governments to appeal determinations of the Census Bureau. In addition, the Act directs the U.S. Postal Service to provide the Secretary of Commerce with address information, as appropriate, for use by the Census Bureau.

The Act authorizes the Census Bureau to provide designated officials of tribal, state, and local governments with access to census address information. Prior to the 2000 Census, the Census Bureau was limited to providing block summary totals of addresses to tribal and local governments. The 2000 Census marked the first decennial census where tribal and local governments were able to review and suggest updates to the census address list. The 2010 Census was the first decennial census to invite State governments to participate in the LUCA Operation. The 2020 Census LUCA Operation marks the first time that address list materials sent to participants for review include the addresses for and designations of group quarters locations.

Summary of and Responses to Comments Received on the Proposed Procedures for Participating in the Appeals Process for the 2020 Census Local Update of Census Addresses Operation (LUCA)

The proposed procedures for participating in the appeals process for the 2020 Census LUCA Operation were published in the **Federal Register** on May 21, 2018 (83 FR 23,487). That notice sought public comment on the proposed procedures. OMB received 24 comments in response to the notice and, of those, 23 advocated for a less burdensome approach to the appeals process for both the participants appealing the Census Bureau's determinations and the 2020 Census LUCA Appeals Office staff. Ten comments requested that the participants have longer than 45 days to review the Census Bureau determinations and file an appeal. One comment was out-of-scope.

Summary of and Responses to Comments:

- 1) The burden described in most of the comments was related to providing supporting documentation for each appealed address individually. It was suggested that it would be extremely expensive and time-consuming for tribal, state, and local governments to provide documents such as those recommended in the procedures for every address that they appeal. It was suggested that a more generalized approach be used for documenting the validity of their appealed addresses.

Response: To help alleviate the burden that participants noted in their comments, the 2020 Census LUCA Appeals procedures have been revised to allow a variety of approaches for providing supporting documentation for appealed addresses. For example, the same set of supporting evidence may be applied to a group of

addresses instead of requiring unique documentation for each address (see Section 3 on Supporting Documentation).

- 2) Comments related to the duration of the appeals process noted that 45 days was not enough time for participants to complete the process.

Response: While commenters suggested that the 45-day review and submission period was not ample time to complete the process, no changes will be made to the 45-day period. The 2020 Census LUCA Appeals Office staff must be afforded sufficient time to review the appealed addresses and make a determination. This, in conjunction with the strict deadline for accepted appeals to be included in the Census Bureau's nonresponse follow-up operation, is the reason the 45-day timeframe cannot be extended. Thus, the timeframe for submitting an appeal to the 2020 Census LUCA Appeals Office remains 45 days from the date an eligible government receives their LUCA Feedback materials.

The Census Bureau's 2020 Census LUCA Operation—Background

The 2020 Census LUCA Operation was available to tribal, state, and local governments located in areas for which the Census Bureau develops an address list in advance of the census. This operation provided for a review and update of the 2020 Census LUCA Address List. The Census Bureau issued final procedures for participation in the 2020 Census LUCA Operations in a **Federal Register** Notice on November 7, 2016 (81 FR 78,109). This section provides more detail on the process that tribal, state, and local governments used to participate in the 2020 Census LUCA Operation.

For the 2020 Census LUCA Operation, participating governments (participants) review and provide updates to the census address list. Participants opted to receive

materials in paper or computer-readable formats, or to use Census Bureau supplied software to update their jurisdiction's map features and address list. Participating governments with more than 6,000 addresses were required to use a computer readable address list or the Census Bureau's supplied software. All LUCA participants were required to geocode each address they added (i.e., identify for an individual address its correct geographic location including the latitude/longitude coordinate location or the correct state, county, census tract, and census block codes). Additionally, all LUCA participants could make updates and corrections to the features on the Census Bureau-supplied maps or digital shapefiles.

All participants were required to sign a Confidentiality Agreement in accordance with Section 9 of Title 13 of the United States Code to maintain the confidentiality of the census address information they received from the Census Bureau for review.

Participants received the full 2020 Census Address List, an Address Count List, and census maps or digital shapefiles of their jurisdiction. Participants were required to have the means to secure the census address list containing Title 13 information, including through the time the 2020 Census LUCA Appeals process is complete (should the participant file an appeal).

The 2020 Census LUCA Address Validation Process

Addresses submitted by 2020 Census LUCA participants were validated by Census Bureau staff. During LUCA validation, Census Bureau staff reviewed address updates (additions, corrections, and deletions) supplied by the participants, including confirming that the addresses are listed in the correct census block. Census Bureau staff then verified, modified, or rejected the updates submitted, and when appropriate, added,

deleted, or corrected entries on the 2020 Census LUCA Address List. Corrections to census maps based on LUCA participant submissions were also processed. For the 2020 Census LUCA Operation, the Census Bureau will provide feedback to LUCA participants, conveying the Bureau's determinations of their submission of additions and updates to the census address information, during the summer of 2019.

The 2020 Census LUCA Feedback Materials

The 2020 Census LUCA Feedback materials will reflect the determinations made by the Census Bureau. For the 2020 LUCA Appeals process, the participants will be able to appeal addresses rejected from their submission during the Census Bureau's LUCA review or those deleted by another level of government also participating in the 2020 Census LUCA Operation. Addresses may not be added or corrected during the appeals process. New addresses resulting from new construction should have been included in the 2020 Census Address List by participating in the Census Bureau's New Construction Program.

The Census Bureau will provide 2020 Census LUCA Feedback materials to qualifying governmental jurisdictions in the same media format requested for the initial LUCA review materials. The Census Bureau will create these materials over the span of approximately 6 weeks starting in July 2019 and ending in September 2019. The 2020 Census LUCA Feedback materials are to be used by participants as the basis for any appealed addresses.

The Census Bureau will provide 2020 Census LUCA Feedback materials to tribal, state, or local governments that took part in any of the following actions:

- 1) Submitted updates (i.e., additions, corrections, deletions) to city-style (house number and street name) addresses on the LUCA Address List, or
- 2) Certified to the Census Bureau at the end of their 2020 Census LUCA review that the LUCA Address List was correct and needed no update.

The 2020 Census LUCA Feedback materials that the Census Bureau will provide to each participating government will document which local address additions and updates the Census Bureau accepted or did not accept. The 2020 Census LUCA Feedback materials will use the same census blocks and mapped boundaries as in the review phase of the operation (i.e., with a reference date of January 1, 2017).

The 2020 Census LUCA Feedback materials will include:

- 1) A Detailed Feedback Address List that shows each correctly formatted address record addition and update submitted by the participant and a processing code that identifies a specific action taken by the Census Bureau on that address record.
- 2) A Full Address Count List that shows the current residential address counts, including those for housing units and group quarters, for each census block within the participant's jurisdiction.
- 3) A Feedback Address Update Summary Report that displays the tallies of actions taken by the Census Bureau for all of the address updates submitted by the participant.
- 4) Feedback maps that include feature updates provided by the participant.

Since the issuance of the May 21, 2018, **Federal Register** notice (83 FR 23,487) on the proposed procedures for the 2020 Census LUCA Appeals process, the Census Bureau made a decision not to include the full address list as part of the 2020 Census LUCA

Feedback materials. The Census Bureau determined based on 2020 Census LUCA participant experiences during the 2020 Census LUCA review phase that the full address list may be more burdensome than beneficial to participants as part of the 2020 Census LUCA Feedback materials.

The OMB Office of Information and Regulatory Affairs Administrator's Final 2020 Census LUCA Appeals Process

To ensure that tribal, state, and local governments participating in the 2020 Census LUCA Operation have a means to appeal the Census Bureau's determinations, the Census Address List Improvement Act of 1994 requires that the Administrator of OMB's Office of Information and Regulatory Affairs (OIRA), acting through the Chief Statistician and in consultation with the Census Bureau, develop an Appeals Process to resolve any disagreements that may remain after participating governments receive the Census Bureau's LUCA Feedback materials and make a final decision on the inclusion of appealed addresses. This Appeals Process will be carried out through a temporary federal entity, the 2020 Census LUCA Appeals Office. This section describes the final procedures for the Appeals Process.

A. Overview of the Final 2020 Census LUCA Appeals Process

Governmental jurisdictions that participated in the 2020 Census LUCA Operation and completed a review of LUCA materials may file an appeal if they meet the eligibility criteria. When filing an appeal, eligible governments must include evidence in the form of supporting documentation that substantiates the existence and location of appealed addresses. (Eligible governments are those that participated in the 2020 Census LUCA Operation and have addresses that are considered to be eligible for appeal, as described

later in this Notice.) For the 2020 Census LUCA Appeals process, the same set of supporting evidence may be applied to a group of addresses instead of requiring unique documentation for each address. Eligible tribal, state, and local governments may file an appeal with the 2020 Census LUCA Appeals Office and must submit their appeal within 45 calendar days from the time of their 2020 Census LUCA Feedback material receipt. Appeals submitted after the 45-day period are no longer eligible. The 2020 Census LUCA Appeals Office staff will notify the submitting eligible government and the Census Bureau of receipt of the eligible government's submission.

For both the 2000 Census LUCA Appeals process and the 2010 Census LUCA Appeals process, the appeals process afforded 15 calendar days for the Census Bureau to provide information to the LUCA Appeals Office to support the determination made for an address or group of addresses. For the 2020 Census LUCA Appeals process, the Census Bureau has decided proactively to provide to the 2020 Census LUCA Appeals Office staff read-only access to all documentation supporting the address determination made by the Census Bureau. This will include read-only access to the LUCA production control system, the LUCA master table, and each participating government's LUCA Feedback material. For this reason, the 15-day period for the Census Bureau to provide any additional information to support their determination is no longer necessary.

Appeal decisions will be based on a review of a written explanation and supporting documentation provided to the 2020 Census LUCA Appeals Office staff by the eligible government and a review of the documentation supplied proactively by the Census Bureau explaining how they made their address determination. The 2020 Census LUCA Appeals Office is scheduled to conclude its review no later than January 3, 2020,

to ensure that its decisions are reflected in the 2020 Census Address List used for the nonresponse follow-up operation. The decisions made by the 2020 Census LUCA Appeals Office will be final.

The final eligibility criteria and detailed requirements for appeal submissions are provided below. New addresses or corrections to previously submitted addresses will not be accepted as part of the Appeals Process.

B. Final 2020 Census LUCA Appeals Procedures for LUCA Participants

Eligibility Criteria for Filing an Appeal

Participants who either returned additions or corrections to the 2020 Census LUCA Address List or certified to the Census Bureau after their LUCA review that the 2020 Census LUCA Address List was correct and required no update are eligible to file an appeal.

Eligible governments may appeal addresses that were provided during the LUCA operation that the Census Bureau did not accept. They may also appeal addresses that were not commented on during their initial LUCA review that were since deleted from the 2020 Census LUCA Address List either by the Census Bureau during subsequent internal census operations or by another level of government participating in LUCA. However, eligible governments may not use the Appeals Process to provide corrections to previously submitted addresses.

When filing an appeal, eligible governments must provide:

- 1) Contact information for the governmental jurisdiction filing the appeal, along with a Confidentiality Agreement Form for any staff member participating in the 2020 Census LUCA Appeals submission who has not yet completed one;

- 2) Correctly formatted address record information for each address being appealed;
and
- 3) Supporting documentation that independently or collectively authenticates both the existence and location of addresses being appealed.

Each of these components are described in further detail below:

1) Contact Information and Confidentiality Agreement Forms

Eligible governments must provide the following contact information for the governmental jurisdiction filing an appeal:

- a) Name of the governmental jurisdiction, and
- b) Name, mailing address, telephone number, and electronic mail address (if any) of that jurisdiction's contact person for the appeal.
- c) In addition, all staff members participating in the 2020 Census LUCA Appeals submission must have a completed Confidentiality Agreement Form on record. Eligible governments must provide completed Confidentiality Agreement Forms for any staff member who did not previously complete one for the 2020 Census LUCA Operation.

2) Address Information

Address information may be submitted in computer-readable form or on paper. The eligible government must provide the complete address record as it appears in the Detailed LUCA Feedback Address List for each appealed address. This action ensures that the unique Control ID number as well as the address and geographic location are retained with the record. The participant action code also must be provided. This record should be consistent with items listed below:

- a) Complete address (including the house number, unit designator (if applicable), street name, and Zip Code) or if there is no address for a location, a physical description of the housing unit or living quarters.
- b) Control ID number, as provided by the Census Bureau for each address record as part of the feedback address list.
- c) Participant submitted action code.
- d) Census Bureau processing code.
- e) State code, County code, census tract number, census block number, and Latitude/Longitude coordinate location.

Additional details for submitting an appeal are provided in Chapter 3 of the 2020 Census LUCA Feedback Respondent Guides, available at <https://www.census.gov/programs-surveys/decennial-census/about/luca.html>.

3) Supporting Documentation

The 2020 Census LUCA Appeals Office requires eligible governments to provide evidence of existence and location for appealed addresses. To this end, eligible governments must provide the supporting documentation for appealed addresses as specified in a) through c) below.

For the 2020 Census LUCA Appeals process, the same set of supporting evidence may be applied to a group of addresses instead of requiring unique documentation for each address. For example, eligible governments may supply one set of supporting evidence for related addresses such as those associated with a single housing development or complex if the set of supporting evidence substantiates the existence of the full set of linked addresses. In other cases, a set of addresses may be supported by a

written description of a detailed process to review and verify the appealable addresses using reliable sources. This narrative must be supplemented with a selection of appealed addresses associated with an exact location and proven with one of the evidence types suggested by item c) below.

Eligible governments must submit the following supporting documentation with their appeals:

- a) A written explanation of the eligible government's position that the Appeals Office staff should adopt its recommendations.
- b) A detailed description of the address source(s) that help to verify the existence of the address or group of addresses. For each address source used to support the existence of the address or group of addresses, the description should include the following:
 1. date of address source;
 2. how often the address source is updated;
 3. methods used to update the source;
 4. quality assurance procedure(s) used in maintaining the address source; and
 5. how the address source is used by the eligible government and/or by the originator of the source.
- c) Evidence to support the existence of the appealed address. The evidence must be linked directly to a particular appealed address or particular set of appealed addresses. Useful types of supporting evidence include, but are not limited to:
 1. Documentation of on-site inspection or interview of residents or neighbors;

2. Issuance of recent occupancy permit(s) for unit(s). Building permits are not acceptable, as they do not ensure that a unit has been built;
3. Provision of utility records (electricity, gas, sewer, water, telephone, etc.) for the addresses; these records should show that the address is not a service to a commercial unit, or an additional service to an existing address (such as a second telephone line).
4. Provision of other governmental services (housing assistance, welfare, etc.) to residents of the unit(s);
5. Photography including aerial photography or satellite imagery;
6. Land use maps;
7. Local 911 emergency lists, if they distinguish residential from commercial units;
8. Tax assessment records, if they distinguish residential from commercial units.

C. Deadline for an Eligible Government to File an Appeal

The filing date for appeals by the eligible government must be within 45 calendar days after that government's receipt of the 2020 Census LUCA Feedback materials.

"Receipt" as used herein is defined as the delivery date reported to the Census Bureau by the delivery service that transmits the feedback materials to the government. The "filing date" for the appeals shall be the date the appeal is transmitted, and all appeals filed after the 45-calendar day deadline are not eligible.

In order to safeguard the confidential address materials covered by Title 13, the transmitting of an appeal to the 2020 Census LUCA Appeals Office must adhere to the

Census Bureau's specific guidelines for handling materials supplied with the feedback materials, and must keep a record of the date it transmits these materials to the 2020 Census LUCA Appeals Office.

D. Where to File an Appeal

Appeals must be sent to the 2020 Census LUCA Appeals Office either electronically using the secure web-incoming module described in the feedback materials or by mail to this address:

2020 Census LUCA Appeal Office

Attn: LUCA Appeals Office

1201 E. 10th Street

Jeffersonville, IN 47132

Upon receipt of an appeal, the 2020 Census LUCA Appeals Office will send a confirmation of receipt to the eligible jurisdiction. The 2020 Census LUCA Appeals Office also will notify Census Bureau staff of the filed appeal.

E. Documentation and Supporting Evidence Provided by the Census Bureau

For both the 2000 Census and the 2010 Census, the LUCA appeals process afforded 15 calendar days for the Census Bureau to provide information to the LUCA Appeals Office to support the determination made for an address or group of addresses. For the 2020 Census LUCA Appeals process, the Census Bureau has decided to provide proactively to the LUCA Appeals Office staff read-only access to all documentation supporting the address determination made by the Census Bureau. This will include read-only access to the LUCA production control system, the LUCA master table, and each participating government's LUCA Feedback material. For this reason, the 15-day period

for the Census Bureau to provide any additional information to support its determination is no longer necessary.

F. The Appeals Review and Final Decision Process

The Appeals Process will be administered by staff in the 2020 Census LUCA Appeals Office. The 2020 Census LUCA Appeals Office will operate for approximately 15 months as a temporary Federal entity and will include Appeals Officers who are trained in the procedures for processing an appeal and in the examination and analysis of address information, locations of addresses and housing units, and supporting materials. For each appeal, the 2020 Census LUCA Appeals Officers will review the Census Bureau's feedback materials and the written explanation and supporting evidence submitted by the eligible government, and any materials supplied by the Census Bureau. No testimony or oral argument will be received by the 2020 Census LUCA Appeals Office. The 2020 Census LUCA Appeals Officers will apply the following principles in conducting their review:

- 1) The Appeals Officer shall consider the quality of the supporting evidence provided by the eligible government as the basis for determining the validity of an address (or group of addresses) and its (their) location(s). Indicators demonstrating quality of supporting evidence may include, but are not limited to, timeliness, update methods and frequency of update, provenance, and congruence with other sources. For example, useful supporting evidence may include, but would not be limited to, local data sources like recent documentation of an on-site inspection, aerial photography, or a provision of utilities to the residence.

- 2) For any address for which the Appeals Officer determines that the quality of the supporting evidence supplied by the eligible government and the Census Bureau is of equal weight, the Appeals Officer shall decide in favor of the eligible government.
- 3) For any address submitted by more than one governmental entity for which the Appeals Officer determines the quality of the supporting evidence submitted by both parties is of equal weight, the Appeals Officer will decide in favor of the lower level of government.

At the conclusion of the review of an appealed address (or group of appealed addresses), the Appeals Officer will prepare a draft written analysis for review by the Director or Deputy Director of the 2020 Census LUCA Appeals Office. The Director or Deputy Director will issue a written final determination to both the eligible government and the Census Bureau. The written final determination will include a brief explanation of the 2020 Census LUCA Appeals Office decision, and will specify which appealed addresses were accepted and which were not accepted. Each written final determination shall become part of the administrative record of the 2020 Census LUCA Appeals Process. The decision of the 2020 Census LUCA Appeals Office is final. The Census Bureau will include all addresses accepted as a result of the Appeals Process in the 2020 Census Address List, and will attempt to enumerate them all during the nonresponse follow-up operation. Inclusion in this operation does not guarantee that a successful enumeration will occur, or that the address will be included in the final 2020 Census data summaries.

G. Completion of the Appeals Process

The 2020 Census LUCA Appeals Process is scheduled to be completed by the end of January 2020. Appeals will be reviewed and completed on a flow basis, with the written final determination issued to the concerned parties as soon as possible.

Executive Orders 12866 and 13771

This final procedural notice is not a significant regulatory action under Executive Order 12866. In addition, this final notice is not an E.O. 13771 regulatory action.

Paperwork Reduction Act

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act (PRA), Chapter 35 of Title 44 of the United States Code, unless that collection of information displays a current, valid Office of Management and Budget (OMB) control number. In accordance with the PRA, the Census Bureau requested, on November 14, 2016, and OMB granted, on December 15, 2016, clearance for the information collection requirements of this operation (OMB Control Number 0607-0994).

Nancy Potok,

Chief Statistician,

Office of Management and Budget.

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