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## **Engaging in 2020 Census Outreach and Get Out the Vote Activities**

This memorandum outlines guidelines to follow and considerations to address as nonprofit organizations decide whether and how to integrate their 2020 Census outreach and their Get Out the Vote (“GOTV”) plans.<sup>1</sup> By extending to October 31, 2020 the deadline for returning Census questionnaires because of COVID-19, there are more opportunities for integrating Census outreach with GOTV work. However, combining these efforts raises serious legal issues and other considerations for nonprofit organizations.

This overview summarizes aspects of the legal issues; it is not intended to be comprehensive, nor is it intended to provide legal advice. When developing plans, organizations should consult their own lawyers, because the legal treatment will depend on each organization’s particular facts and circumstances. It is also advisable to check your organization’s written grant agreements to ensure there are no restrictions on using funding to support 2020 Census outreach or GOTV activities; many funders restrict use of grants for voter registration, but not for other types of GOTV.

### Considerations by Type of Organization

- Section 501(c)(3) public charities may not intervene in an election in support of, or in opposition to, any candidate for public office. They must conduct their activities in a nonpartisan manner, without directly or indirectly benefiting a candidate. Permissible activities include:
  - Census outreach, because it is educational, furthers nonpartisan civic purposes and helps the government conduct its activities; and
  - Nonpartisan voter registration and other activities to encourage voting, as long as they are conducted consistently with the IRS rules (e.g., registering all eligible voters who want to register; not screening based on partisanship or issue preference; targeting efforts to reach “historically underrepresented populations,” but not based on prohibited characteristics).
- Section 501(c)(4) and 501(c)(5) organizations (social welfare organizations and labor unions) are subject to different limitations regarding electoral activities. They may conduct partisan activities but may not use section 501(c)(3) organizations’ resources to do so.

### Legal Issues versus Optics

When setting their plans, organizations should consider not only legal compliance but also big-picture strategy. Not all legally permissible programs are strategically smart. Consider communications issues,

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<sup>1</sup> For purposes of this memo, “GOTV” broadly encompasses voter registration activities as well as other civic engagement efforts intended to encourage people to vote.

public perception, coalition politics, and public health and employee safety related to COVID-19, among other potential challenges.

### Integrating Census Outreach into your GOTV Plan

501(c)(3) Permissible Activities and Census Counts' Recommended Ways to Combine Census and Voting Asks:

- *Participate in the 2020 Census and register to vote.*
- *Participate in the 2020 Census and request an absentee or vote-by-mail ballot (or other voter access asks)*
- *Participate in the 2020 Census and pledge to vote (or other traditional GOTV).*

For these activities to be permissible for 501(c)(3) organizations, the voter engagement must use permissible non-partisan messaging that is not targeted based on ideology, issues, or partisanship, consistent with the IRS rules. In addition to the IRS restrictions, the U.S. Census Bureau imposes rules on third-party Census outreach efforts.

- Canvassers or others conducting nonprofit Census outreach should identify the organization they represent and state that they are not from the U.S. Census Bureau.
- The [Census Counts GOTC Toolkit](#) states that canvassers should limit their activities to handing out flyers and/or talking about the importance of the 2020 Census – not collecting responses from people at their door. [The U.S. Census Bureau](#) provides outreach guidance in their fact sheet “Questions and Answers for Stakeholders Supporting the 2020 Census” (published before COVID-19).
- The [U.S. Census Bureau](#) discourages organizations from conducting other surveys in connection with census outreach, because the survey could confuse a respondent, who might think their survey answer fulfilled their census obligation.
- Organizations that use text- and phone-outreach tools must comply with the federal [Telephone Consumer Protection Act \(TCPA\)](#).

#### **Not Permitted:**

- *Combining 2020 Census outreach with a request to vote for a specific candidate.*
- *Coordinating 2020 Census outreach or 501(c)(3) GOTV efforts with a political party, campaign or PAC.*
- *Collecting any 2020 Census responses.*

### Integrating GOTV into a Census Outreach Plan

As long as the GOTV activity is 501(c)(3)-permissible, an organization may integrate it into the organization’s activities to support participation in the 2020 Census.

### Outreach to Individuals who are Not Eligible to Vote

- *Non-citizens.* Census outreach to non-citizens, including undocumented individuals and those who have another immigration status, is critically important but should *not* be combined with GOTV efforts. Because non-citizens, including undocumented individuals, are not eligible to vote, efforts to deliver a GOTV message while conducting Census outreach to non-citizens could create serious problems for an organization and confuse individuals. Additionally, these efforts may confuse individuals and result in harmful immigration consequences if non-citizens register to vote and/or

vote as a result of this confusion. Consider separating outreach and clearly outlining the requirements for registering to vote and training your volunteers extensively on this point.

- *Formerly incarcerated individuals.* When determining whether to conduct GOTV outreach to formerly incarcerated individuals, consult state law to determine their voting eligibility.

### Nature of Activities

- **Tabling or Canvassing (Door-to-Door)** – While such activities are likely to be extremely limited in many jurisdictions over the next months due to COVID-19, review and follow guidance from the U.S. Census Bureau and the [Census Counts campaign](#) guidance carefully. Find additional information on how to adapt outreach in the wake of COVID 19 on the [Census Counts website](#). Have all personnel start each conversation by identifying their organization and stating that they are not associated with the Census. Do not collect Census responses..
  - **P2P** – All texting activities must comply with applicable laws, including the [TCPA](#), which generally prohibits robotexts without the recipient’s express prior consent.
  - **Phone Banks** – Ensure the effort complies with all [TCPA restrictions](#) and other laws.
  - **Zoom Calls and Check-Ins** – Have all personnel start each conversation by identifying their organization and stating that they are not associated with the U.S. Census Bureau.
  - **In person engagement** – Consistent with guidance from the U.S. Census Bureau and the Census Counts campaign, making devices available at doors for the purpose of collecting census responses is not permitted as it could confuse householders. However, organizations may make devices available at events or public locations, such as community centers, where community members may input their own Census responses. The person overseeing the device should tell respondents that they are not an employee or representative of the U.S. Census Bureau.
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This memorandum was drafted in coordination with the Census Counts Campaign.

The Census Counts campaign, which is housed at The Leadership Conference Education Fund, brings together community-based organizations across a wide spectrum of advocacy: civil rights, immigrant, LGBTQ, disability, infant and child, poverty and homelessness, faith-based, labor, health care, education, youth, and more.

Through education, training, organizing, and outreach, these organizers and advocates are working to ensure communities the census has historically missed are counted in the 2020 Census. The campaign has three main action groups:

- The national Get Out the Count (GOTC) coalition
- The States Count Action Network
- Census Champions: A network of elected officials and library trustees working to ensure a fair and accurate count

Find more at [CensusCensus.org](https://www.CensusCensus.org).