

The State of Texas

Executive Division
Capitol Building, 1E.8
P.O. Box 12697
Austin, Texas 78711-2697



Phone: 512-463-5770
Fax: 512-475-2761
Dial 7-1-1 For Relay Services
www.sos.texas.gov

Jane Nelson
Secretary of State

September 18, 2024

Ur M. Jaddou
Director
U.S. Citizenship and Immigration Services
5900 Capital Gateway Drive
Camp Springs, Maryland 20746

Dear Ms. Jaddou:

The Office of the Texas Secretary of State (the Office) requests the assistance of the United States Citizenship and Immigration Services (USCIS) as the State of Texas continues to fulfill its obligations to ensure compliance with federal and state election laws prohibiting non-U.S. citizens from voting.

Together, federal and state law prohibit non-U.S. citizens from registering to vote and voting in any election in Texas. Federal law provides that “[i]t shall be unlawful for any alien to vote in any election held solely or in part for the purpose of electing a candidate for” federal office. 18 U.S.C. § 611(a). Accordingly, federal rules governing registration to vote require the form for federal elections to state “each eligibility requirement (including citizenship),” 52 U.S.C. § 20504(c)(2)(C)(i), and make it a crime to lie about citizenship when registering to vote “in any Federal, State, or local election,” 18 U.S.C. § 1015(f). *Cf.* 8 U.S.C. § 1182(a)(10)(D). State law, likewise, provides that “to be eligible to vote in an election in this state,” a person must be “a United States citizen.” TEX. ELEC. CODE §§ 11.001(a)(1), 11.002(a)(2), 13.001(a)(2); *see also* TEX. CONST. art. VI, § 2. In Texas, therefore, it is a state jail felony to lie about citizenship status when registering to vote, TEX. ELEC. CODE § 276.018, and it is a second-degree felony for a non-citizen to cast a vote, TEX. ELEC. CODE § 64.012.

Consistent with these restrictions, federal law requires the State of Texas to perform list maintenance with respect to its voter registration list and to conduct the maintenance “in a manner that ensures that . . . voters . . . who are not eligible to vote are removed” from the list. 52 U.S.C. § 21083(a)(2)(A), (a)(2)(B); *see also* 52 U.S.C. § 20507 (recognizing a state’s obligation to conduct programs to remove ineligible voters from the rolls). Likewise, Texas law contains numerous provisions that direct county voter registrars to investigate whether voters are eligible for registration and to remove ineligible voters from the list of registered voters. *See, e.g.,* TEX. ELEC. CODE §§ 16.001, 18.068 (death); 16.003 (felony conviction); 16.002 (mental incapacity); 16.0332, 18.068 (non-U.S. citizenship).

Through its years-long efforts, Texas is leading the way in instituting measures to ensure the integrity of our elections, including by removing non-U.S. citizens from the State’s voter rolls and preventing non-U.S. citizen voting—all of which are undertaken in compliance with the requirements of federal and state law. For example, the Office regularly obtains data from the Texas Department of Public Safety (DPS) and clerks of courts related to potential non-U.S.

citizens, which the Office compares against the statewide voter registration list and sends to county voter registrars for investigation of eligibility. *See* TEX. ELEC. CODE §§ 16.0332, 18.068. In addition, Texas law requires registrars to review their voter registration records and send notices to any voter whom the registrar reasonably believes—based on information obtained through any lawful means—is not eligible for registration, including due to non-U.S. citizenship. *See id.* § 16.033.

In furtherance of these obligations, federal law entitles state and local officials to receive citizenship status information from USCIS. Specifically, federal law says state governments may not be prevented from requesting citizenship information from USCIS:

Notwithstanding any other provision of Federal, State, or local law, a Federal . . . government entity or official may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual.

8 U.S.C. § 1373(a) (emphasis added): *see also id.* § 1644 (similar). Federal law also requires USCIS to fulfill such information requests:

The Immigration and Naturalization Service shall respond to an inquiry by a Federal, State, or local government agency, seeking to verify or ascertain the citizenship or immigration status of any individual within the jurisdiction of the agency for any purpose authorized by law, by providing the requested verification or status information.

Id. § 1373(c) (emphasis added). In other words, States may request citizenship information, and USCIS must provide it.

To that end, the State of Texas wishes to obtain current citizenship or immigration status information from USCIS for certain individuals who are registered to vote in Texas but have not yet validated their citizenship through DPS or another state agency in Texas. Upon receipt of information from USCIS, the Office would provide data to county voter registrars to prevent non-U.S. citizen voting consistent with federal and state law. *See, e.g.*, 52 U.S.C. §§ 20507(c)(2), 21083(a)(2); TEX. ELEC. CODE § 16.033.

Accordingly, pursuant to 8 U.S.C. § 1373, I hereby request your assistance in verifying or ascertaining the citizenship or immigration status of certain individuals on the State of Texas's voter rolls. The Office is in the process of compiling a list of individuals on Texas's voter rolls whose citizenship cannot be verified using existing state sources. Please inform my staff immediately of the appropriate procedures for the Office to provide you with identifying information for these individuals. I ask that you provide all of the requested citizenship information by October 2, 2024.

In making this request, I note the Office's understanding that the U.S. Department of Homeland Security routinely shares citizenship status information with DPS in connection with driver license transactions and for law enforcement purposes. I am confident that you will provide information to me as well, as you are obligated to by the federal laws referenced above.

Thank you for your attention to this request.

Sincerely,

A handwritten signature in black ink that reads "Jane Nelson". The signature is written in a cursive, flowing style.

Jane Nelson
Secretary of State

cc:

Tammy Meckley, Associate Director, Immigration Records and Identity Services Directorate
A. Ashley Tabaddor, Chief Counsel, Office of Chief Counsel



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 18, 2024

The Honorable Jane Nelson
Texas Secretary of State
P.O. Box 12060
Austin, TX 78701

Dear Secretary Nelson:

As the 2024 election nears, no issue is more important than election integrity. As Secretary of State, you stand on the front lines of the battle to protect the sanctity of the ballot box. I am proud to serve with you in that effort, and I appreciate everything you have done to help keep Texas elections secure.

As you know, the federal government continues to be the most significant challenge we face in securing Texas elections. Texas has acutely felt the pain of nearly four years of the Biden-Harris administration's disastrous open-border policies, which have led to a flood of illegal immigration both in Texas and nationwide. At the same time, federal law has made it nearly impossible for states to verify the citizenship of voter-registration applicants. Although it is a crime for a non-citizen to register to vote, federal law restricts states from requiring proof of citizenship, and state agencies like those we lead have limited means to verify voter citizenship in many cases.

But those same laws place obligations on the federal government to help us identify potential non-citizen voters. And the Office of the Secretary of State possesses the legal authority to demand the federal government do its job in helping states maintain the integrity of their voter rolls. I have attached a letter for your consideration that would demand the federal government's assistance in verifying the citizenship of a relatively small percentage of currently registered voters that registered to vote through means by which citizenship cannot be confirmed.

This letter, along with an accompanying transmittal of registered-voter information that is already public information, would trigger the federal government's statutory duty to help your office—and all of Texas—verify the citizenship of the registered voters who will decide our next election. My office stands ready to assist you in this effort however we can.

Thank you for your service to the people of Texas.

For Texas,

A handwritten signature in black ink that reads "Ken Paxton". The signature is written in a cursive, flowing style.

Ken Paxton
Attorney General

cc: The Honorable Greg Abbott, Texas Governor
The Honorable Dan Patrick, Texas Lieutenant Governor



**U.S. Citizenship
and Immigration
Services**

October 10, 2024

Jane Nelson
Secretary of State
Texas State Capitol
P.O. Box 12697
Austin, TX 79722-2697

Dear Secretary Nelson:

Thank you for your September 18, 2024, letter to U.S. Citizenship and Immigration Services (USCIS) requesting a process to check Texas's voter registration against USCIS's data and systems. The Systematic Alien Verification for Entitlements (SAVE) program is the most secure and efficient way to reliably verify an individual's citizenship or immigration status, including for verification regarding voter registration and/or voter list maintenance.

Federal law prohibits non-U.S. citizens from registering and voting in Federal elections; violators are removable and face up to five years in prison.¹ The evidence is clear that these laws are working as intended—it is extremely uncommon for noncitizens to vote in Federal elections.

As you know, SAVE is a Congressionally-mandated online service implemented broadly in 1986 to help state and local agencies determine certain point-in-time immigration and citizenship information on individuals seeking benefits and licenses. Numerous agencies in the State of Texas currently participate in the SAVE program to verify immigration status for 24 different benefits.²

Since 2009, SAVE has been used by elections authorities in states for voter registration and/or voter list maintenance. Currently, ten states are registered to use SAVE for these purposes.³ The process has been the same since the program's inception. By inputting an individual's name, unique DHS-issued immigration identifier,⁴ and birthdate, registered agencies can determine whether that person obtained U.S. citizenship through the naturalization process or, for certain other individuals born abroad, whether USCIS has information confirming their

¹ 18 U.S.C. §§ 611, 1015; 8 U.S.C. §§ 1182(a)(6)(C)(ii), 1227(a)(3)(D), 1227(a)(6).

² This information is available to the public at <https://www.uscis.gov/save/agency-search-tool>

³ Arizona, Colorado, Florida, Georgia, Idaho, Mississippi, Ohio, South Carolina, Tennessee, and Virginia

⁴ *I.e.*, USCIS/Alien Registration Number; Form I-94 Arrival/Departure Record Number; Student and Exchange Visitor Information System (SEVIS) ID Number; Naturalization/Citizenship Certificate Number; or Card Number/I-797 Receipt Number.

U.S. citizenship. Each registered agency determines the best process to obtain the required identifiers.

To ensure compliance with federal law and privacy protections, USCIS uses a SAVE Memorandum of Agreement (MOA) to maintain protocols and procedures with the registered agencies that access the more than 100 million records SAVE uses to verify a person's status. For voter registration purposes, this MOA includes a requirement that states provide written notice to any applicants and registered voters that their citizenship may be verified against federal immigration records. The state elections authority must provide any individual who is not verified as a U.S. citizen through SAVE the opportunity to show documentation of their U.S. citizenship.⁵

Given the very serious consequences of the results produced by SAVE and its import in ensuring the right to vote for U.S. citizens, USCIS takes this process very seriously and has confidence in the SAVE program.

We currently cannot offer an alternative process to any state. The processes you referenced—routine sharing of citizenship status information with the Texas Department of Public Safety in connection with driver license transactions and state ID issuance—are conducted using SAVE.

We appreciate your feedback and will review whether there are possible changes to our process and technology that might improve the convenience of using our systems. Likewise, we will continue to engage with and develop resources that educate elections authorities in states with an interest in using SAVE for voter registration and/or voter list maintenance.

Thank you again for your letter and interest in this issue. If you are interested in a SAVE MOA or have any other questions, please feel free to contact my staff.

Sincerely,

A handwritten signature in black ink, appearing to read "Ur M. Jaddou", with a long horizontal flourish extending to the right.

Ur M. Jaddou
Director

⁵ In addition, the National Voter Registration Act (NVRA), requires covered states to complete systematic programs intended to remove the names of ineligible voters from registration lists by no later than 90 days before federal elections. 52 U.S.C. § 20507(c)(2).