

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) requires 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. Because federal law restricts states' ability to confirm the citizenship status of voter-registration applicants, Texans are increasingly concerned about the possibility of non-U.S. citizen voting. The Office has a responsibility to uphold the integrity of our elections. A critical component of ensuring secure elections is ensuring that only eligible voters are registered to vote.

Attached is a list containing public information (name, address (street address, city, zip code), birth year, and sex) of certain persons on the Office's computerized list of voters that the Office is required to maintain under 52 U.S.C. § 21083. The Office is unable to conclusively determine the citizenship or immigration status of the persons on the list without USCIS's assistance. Pursuant to your obligations under federal law as set forth below, please verify or ascertain the citizenship or immigration status of each person on the list no later than September 25, 2024. The Office requires this information for the lawful purpose of complying with federal law by removing ineligible voters from the voter rolls and to ensure that only U.S. citizens vote. USCIS is required by federal law to provide this assistance.

Together, federal and state law prohibit non-U.S. citizens from registering to vote 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 laws 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). Texas 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-U.S. 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.

More specifically, when Texans use their driver's license or state-issued identification card to register to vote, either on the front end when they obtain the driver's license or ID card, or on the back end if they use their driver's license or ID card as identification when they register, their citizenship status is automatically checked via routine procedures. This check is necessary because non-U.S. citizens lawfully present cannot legally vote but can lawfully apply for and receive a driver's license or ID card. Consequently, the Office is not asking for the citizenship of anyone on the Office's computerized list who used a driver's license or ID card to register to vote. Approximately 90% of the voters on the Office's computerized list used a driver's license or ID card to register, and the Office does not seek citizenship status for any of them at this time.

The people on the attached list—approximately one million people—did not use a driver's license or ID to register to vote, so their citizenship status has never been checked. While it is certain that many people on the list are citizens who are eligible to vote, the Office cannot confirm their citizenship status except by exercising its legal right to request that information from USCIS.

Federal law entitles state and local officials to receive citizenship status information from USCIS for any purpose authorized by law. 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, the Office may request citizenship information of persons on the Office’s computerized list, and USCIS must provide it.

To that end, the Office asks for current citizenship or immigration status information from USCIS for the individuals on the attached list. Each person on this list is registered to vote in Texas, but their citizenship status is unconfirmed, and the Office has no way of confirming their citizenship status except via the procedure in 8 U.S.C. § 1373(c), quoted above. Again, the “purpose authorized by law” is the purpose of discharging the Office’s responsibility under federal law to “perform list maintenance with respect to the computerized list,” and “[t]he list maintenance ... shall be conducted in a manner that ensures that voters ... who are not eligible to vote are removed from the computerized list.” 52 U.S.C. § 21083(a)(2)(A). Upon receipt of information from USCIS, the Office will 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.

In making this request, I note the Office’s understanding that the U.S. Department of Homeland Security routinely shares citizenship status information with the Texas Department of Public Safety 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,

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