



November 26, 2025

U.S. Department of Homeland Security  
Roman Jankowski, Chief Privacy Officer,  
Privacy Office, Department of Homeland Security,  
Washington, DC 20528-0655

Submitted electronically via regulations.gov  
Re: Privacy Act of 1974; System of Records  
Docket Number: USCIS-2025-0337

Dear Chief Privacy Officer Jankowski:

On behalf of the League of Women Voters (“LWV”), the League of Women Voters of Louisiana (“LWVLA”), the League of Women Voters of Virginia (“LWVVA”), and the League of Women Voters of Texas (“LWVTX”) (together, “the League”), we write in response to the Department of Homeland Security’s (“DHS”) proposal to modify and reissue a DHS system of records notice (“SORN”) titled, “Department of Homeland Security/U.S. Citizenship and Immigration Services (USCIS)-004 Systematic Alien Verification for Entitlements Program (“SAVE”),” 90 Fed. Reg. 48948 (Oct. 31, 2025). The League urges DHS to rescind the revised SAVE SORN and revert the SAVE system to its prior authorized state.

## **I. Interests of the League**

The League is a nonprofit, grassroots, membership organization whose mission is to empower voters and defend democracy. The League is nonpartisan—neither supporting nor opposing candidates or political parties at any level of government—and is committed to protecting citizens’ freedom to vote. State Leagues, including LWVLA, LWVVA, and LWVTX, provide voter outreach, education, and assistance to all eligible voters, including naturalized citizens. The League seeks to educate the public, state and local Leagues, their members, and eligible naturalized citizen voters about the risks of the overhauled SAVE system and how to mitigate them. The League provides voter registration to naturalized citizens and has naturalized citizens among their members.

The League believes that voting is a fundamental right of citizenship that must be guaranteed. The League also believes that a representative democracy depends on informed and active participation and requires that governmental bodies protect the citizen’s right to know by giving adequate notice of proposed actions, among other methods of transparency.

## II. The League opposes DHS's illegal expansion of the SAVE system.

Federal law protects all American citizens and lawful permanent residents from improper government use of their data. After months of DHS using the expanded SAVE system without legally required transparency or public input, the League writes to express serious concerns about the legality, utility, and tangible impact of DHS's expansion of the SAVE system.

In May, several months *before* publishing the revised SORN on October 31, DHS transformed SAVE into a national citizenship data bank that pools and repurposes citizenship data from the Social Security Administration ("SSA") that is known to be unreliable (as explained in greater detail below).<sup>1</sup> According to the revised SORN, SAVE now allows users to conduct bulk queries—using either a full or partial Social Security Number ("SSN")—of the "Social Security Administration Enumeration System," also known as the NUMIDENT system. This is an "expansion from the previous SAVE functionality, which limited U.S. citizenship verification to DHS records of naturalized and certain acquired U.S. citizens."<sup>2</sup> SSA's NUMIDENT system is a highly sensitive database that contains records of "each person who has applied for and to whom [SSA has] assigned an SSN,"<sup>3</sup> including more than 300 million Americans.<sup>4</sup> Although both DHS and SSA have long known of limitations of SSA's citizenship data and the challenges associated with linking it with DHS data,<sup>5</sup> the revised SAVE SORN acknowledges none of these well-documented issues.

The revised SAVE SORN also announces plans "in the foreseeable future" to integrate data from "state driver's licensing agencies and national agencies that store driver's license information for legal purposes (such as the National Law Enforcement Telecommunications System (NLETS))" in order to "allow SAVE to match against other sources to verify immigration status and U.S. citizenship."<sup>6</sup>

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<sup>1</sup> U.S. Soc. Sec. Admin., *Letter Agreement Providing for Information Sharing Between DHS, USCIS, and SSA Regarding Citizenship* (May 15, 2025), [https://www.ssa.gov/foia/resources/proactivedisclosure/2025/May%2015,%202025%20SSA-DHS-USCIS%20Agreement\\_Redacted.pdf](https://www.ssa.gov/foia/resources/proactivedisclosure/2025/May%2015,%202025%20SSA-DHS-USCIS%20Agreement_Redacted.pdf) (posted Sept. 25, 2025).

<sup>2</sup> 90 Fed. Reg. 48948, 48950 (Oct. 31, 2025).

<sup>3</sup> 90 Fed. Reg. 10025, 10026 (Feb. 20, 2025).

<sup>4</sup> U.S. Soc. Sec. Admin., *Social Security Performance*, <https://www.ssa.gov/ssa-performance> (last updated Nov. 13, 2025) (SSA "serve[s] more than 300 million Americans").

<sup>5</sup> See Letter from Nancy Morales Gonzalez, Assoc. Gen. Couns. for Gen. L., Div. 1, U.S. Soc. Sec. Admin., to Jon Sherman, Litig. Dir. & Senior Counsel, Fair Elections Ctr. 2 (July 13, 2023), <https://fairelectionscenter.org/wp-content/uploads/2025/07/SSA-Touhy-Decision-letter.July-13-2023-signed.pdf> [hereinafter "July 2023 SSA Ltr."]; Westat Report to Dep't of Homeland Sec., *Evaluation of the Accuracy of E-Verify Findings* 29, 34, 51, A-4 (July 2012), <https://www.e-verify.gov/sites/default/files/everify/data/FindingsEVerifyAccuracyEval2012.pdf> [hereinafter "July 2012 Westat Rpt."].

<sup>6</sup> 90 Fed. Reg. 48948, 48951 (Oct. 31, 2025).

Troublingly, several states are already using SAVE's new bulk upload and search-by-SSN functionality to purge voter rolls and open criminal investigations of alleged noncitizen voters, including but not limited to Texas, Louisiana, and Virginia. On November 3, DHS announced that "26 states . . . have, or are in the process of establishing, a memorandum of agreement for voter verification with SAVE," and the agency is pushing every state in the country to use the system, insisting that "[g]overnment officials at all levels in all states should be committed to eliminating voter fraud and restoring faith in America's elections"<sup>7</sup>—even though extensive data debunks the myth that noncitizen voting is widespread in the United States.<sup>8</sup>

The League's mission is to empower voters and defend democracy. Intimidating eligible voters through threats to cancel their voter registration based on unreliable citizenship data and even to target them for criminal investigation severely weakens our democracy by chilling participation. Distressingly, as explained below, the Administration's efforts disproportionately target historically disenfranchised communities, including communities of color and new Americans. When voters are wrongly purged from voter rolls it decreases the number of voters, directly undermining the League's mission of increasing the number of registered voters and voter participation. When voters are intimidated or must take additional steps to register or remain registered, this impedes the League's mission of ensuring that the ballot box is accessible for all eligible voters.

### **III. The revised SAVE SORN and associated public comment period are untimely and woefully insufficient.**

DHS implemented the SAVE overhaul in May but failed to issue a SORN or solicit public comment until October 31. Under the Privacy Act, DHS is required to solicit public input *before* making major changes to systems of records like SAVE.<sup>9</sup> Yet, as of November 3, USCIS claims the "SAVE Optimization" has already "enabled state voting agencies to submit **over 46 million voter verification queries** and has also allowed federal agencies to submit over 110 million queries to help verify eligibility for federally funded benefits."<sup>10</sup> **None of these checks should have occurred without DHS first complying with the Privacy Act's transparency and public comment requirements.** DHS's untimely, after-the-fact SORN does not remedy those violations. And even now, while the comment period is pending, the overhauled SAVE system remains online. All these actions are procedurally defective and unlawful under the Privacy Act.

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<sup>7</sup> Press Release, U.S. Citizenship and Immigr. Servs., *USCIS Enhances Voter Verification Systems* (Nov. 3, 2025), <https://www.uscis.gov/newsroom/news-releases/uscis-enhances-voter-verification-systems> [hereinafter "Nov. 2025 USCIS Press Release"].

<sup>8</sup> See *infra* Part VI.

<sup>9</sup> 5 U.S.C. §§ 552a(e)(4), (e)(11).

<sup>10</sup> U.S. Citizenship and Immigr. Servs., *USCIS Enhances Voter Verification Systems* (Nov. 3, 2025), <https://www.uscis.gov/newsroom/news-releases/uscis-enhances-voter-verification-systems> (emphasis added).

DHS itself admits it haphazardly overhauled SAVE without public notice and input, and that the American people never consented to the government repurposing their data to create a massive new system for citizenship checks. In its Privacy Impact Assessment for SAVE released on October 31, 2025, DHS admits “[t]here is a risk that the new category [of] individuals covered by this assessment/notice, specifically, United States born citizens[,] do not have the opportunity to individually participate or consent in how the U.S. Citizenship and Immigration Services uses their information.”<sup>11</sup> DHS alarmingly claims it “cannot mitigate this risk” and “assumes that each [SAVE] user agency factors in the principles of notice, individual participation, and consent prior to providing information to” DHS.<sup>12</sup> But, as explained in greater detail below, this reasoning entirely disregards DHS’s own obligations under the Privacy Act to only use individuals’ records in ways “compatible with the purpose[s] for which [they were] collected,” and to provide *advance* notice and opportunity for comment on “any new use” of Americans’ personal data.<sup>13</sup> DHS has run roughshod over these critical safeguards, endangering the voting and privacy rights of League members and millions of Americans whom the League serves.

#### **IV. DHS and SSA lack any statutory or constitutional authority to create a massive inter-governmental data bank for voter eligibility checks.**

Besides DHS’s procedural violations, the SAVE overhaul is deficient for a more fundamental reason: Congress has granted no statutory authority to DHS or SSA to transform SAVE into a massive inter-governmental data bank for voter eligibility checks.

“Federal agencies are creatures of statute. They possess only those powers that Congress confers upon them.”<sup>14</sup> Here, no statute authorizes DHS to (i) collect voter roll data en masse from states, (ii) disclose that data to SSA and bulk match the data against SSA databases, (iii) cross-check the SSA search results against DHS and other agency databases, and (iv) disclose the results of this bulk interagency data matching to SAVE user agencies for voter eligibility checks.<sup>15</sup> Nor does any statute authorize DHS to integrate data from “state driver’s licensing agencies and national agencies that store driver’s license information for legal purposes (such as the National Law Enforcement Telecommunications System (NLETS))” in

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<sup>11</sup> U.S. Dep’t of Homeland Sec., No. DHS/USCIS/PIA-006(d), *Privacy Impact Assessment for the Systematic Alien Verification for Entitlements “SAVE” Program 21* (Oct. 31, 2025), <https://www.dhs.gov/sites/default/files/2025-10/privacy-pia-dhsuscis006d-save-october2025%20%28002%29.pdf> [hereinafter “2025 PIA”].

<sup>12</sup> *Id.* (alteration in original).

<sup>13</sup> See 5 U.S.C. §§ 552a(a)(7), (e)(4), and (e)(11); *infra* Part VII.

<sup>14</sup> *Judge Rotenberg Educ. Ctr., Inc. v. FDA*, 3 F.4th 390, 399 (D.C. Cir. 2021).

<sup>15</sup> 90 Fed. Reg. 48948, 48950 (Oct. 31, 2025) (describing SAVE’s new data matching against SSA’s Enumeration System).

order to “allow SAVE to match against other sources to verify immigration status and U.S. citizenship.”<sup>16</sup>

As authority for the SAVE overhaul, DHS’s SORN relies mainly on § 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (“IIRIRA”), Pub. L. No. 104-208, 110 Stat. 3009, 707 (1996) (codified at 8 U.S.C. § 1373). But the Department of Justice’s Office of Legal Counsel has long interpreted § 1373 not as providing any “affirmative authority,” but rather as a “limitation on the authority of government entities or officials to impose prohibitions or restrictions on disclosures” of certain citizenship data “by government entities or officials” *where such disclosure is otherwise authorized by law*.<sup>17</sup> That reading follows from the statute’s plain text, which confers no express authority on DHS to collect, consolidate, and match data from SSA or other federal agencies and disclose those matching results to states. Nor do the other statutes cited in the revised SORN expressly authorize the type of bulk inter-governmental data sharing and matching that SAVE now enables.<sup>18</sup>

Canons of statutory construction amply confirm that Congress has not authorized the SAVE overhaul. Most notably, while nothing in § 1373 expressly authorizes DHS’s expansion of SAVE, a *different* section of the IIRIRA *does* expressly authorize certain interagency data sharing and matching between DHS and SSA solely for purposes of determining an employee’s work-authorization status under the E-Verify program (formerly known as the “Basic Pilot Program”).<sup>19</sup> That section requires that E-Verify’s interagency data matching and sharing be conducted through “reliable, secure method[s],” strictly limits the data that SSA may share with DHS, mandates that both agencies “shall update their information in a manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information,” and prohibits the data from being used “for any other purpose other than” for E-Verify.<sup>20</sup> **The IIRIRA notably omits any similar provisions authorizing interagency data sharing and matching for the SAVE program, creating a strong presumption that Congress has conferred no such authority.** Indeed, “where Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion.”<sup>21</sup>

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<sup>16</sup> *Id.* at 48951 (describing SAVE’s new incorporation of state driver’s license data).

<sup>17</sup> Off. of Legal Couns., *Relationship Between Illegal Immigration Reform and Immigrant Responsibility Act of 1996 and Statutory Requirement for Confidentiality of Census Information* at 1999 WL 34995963, at \*4 (O.L.C. May 18, 1999), <https://www.justice.gov/opinion/file/844106/dl?inline>.

<sup>18</sup> See 90 Fed. Reg. 48948, 48952 (Oct. 31, 2025) (citing various statutes as purported “authority for maintenance of the system”).

<sup>19</sup> Pub. L. No. 104-208, § 404, 110 Stat. 3009, 665 (1996) (codified at 8 U.S.C. § 1324a note).

<sup>20</sup> *Id.* at §§ 404(e)–(h), 110 Stat. at 665.

<sup>21</sup> *United States v. Wong Kim Bo*, 472 F.2d 720, 722 (5th Cir. 1972); see *City & Cnty. of San Francisco v. EPA*, 604 U.S. 334, 344 (2025) (“We have invoked this canon time and time again.” (citing cases)).

Moreover, Congress has amended the Privacy Act several times—in 1988, 1997, 1999, 2010, and 2014—to create specific carveouts for bulk computerized matching of data across federal and non-federal agencies.<sup>22</sup> To take one example, the Affordable Care Act of 2010 amended the Privacy Act to add an exclusion for “matches performed by [HHS] or the [HHS Inspector General] with respect to potential fraud, waste, and abuse, including matches of a system of records with non-Federal records.”<sup>23</sup> These carveouts show that when Congress wants to create exceptions to the Privacy Act’s extensive restrictions on inter-governmental data sharing and matching, it does “so clearly and expressly.”<sup>24</sup> It has not done so for SAVE.

Nor could any of the statutes cited in the revised SORN be read to *implicitly* authorize such sweeping and unprecedented inter-governmental data matching. As the Supreme Court has made clear, when it comes to conferring power on agencies, Congress does not “hide elephants in mouseholes.”<sup>25</sup>

In addition to lacking statutory authorization, DHS’s overhaul of SAVE improperly arrogates powers to the Executive that the Constitution delegates to the States and Congress. As a federal court recently held in permanently enjoining provisions of the same executive order that DHS invoked to overhaul SAVE,<sup>26</sup> “[t]he Constitution assigns no direct role to the President” with respect to “the power to determine who is qualified to vote” or “the power to regulate federal election procedures.”<sup>27</sup> Rather, “the power to determine voter qualifications is left entirely with the States, subject only to the requirement that each State must adopt the same qualifications for congressional elections as it does for elections to ‘the most numerous branch’ of its own legislature.”<sup>28</sup> In other words, “determining voter qualifications ‘forms no part of the power to be conferred upon the national government.’”<sup>29</sup> And the Elections Clause empowers the States and Congress to regulate federal election procedures, but vests no such power in the Executive.<sup>30</sup> Because DHS lacks either “statutory authority” or any “background

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<sup>22</sup> See 5 U.S.C. §§ 552a(a)(8)(B)(i)–(x).

<sup>23</sup> *Id.* at § 552a(a)(8)(B)(ix).

<sup>24</sup> *FCC v. NextWave Pers. Commc’ns, Inc.*, 537 U.S. 293, 302 (2003) (applying canon in different context); see also *Meghrig v. KFC Western, Inc.*, 516 U.S. 479, 485 (1996).

<sup>25</sup> *Whitman v. Am. Trucking Assns., Inc.*, 531 U.S. 457, 468 (2001).

<sup>26</sup> See 90 Fed. Reg. 48948, 48950 (Oct. 31, 2025) (citing Executive Order 14248, *Preserving and Protecting the Integrity of American Elections*).

<sup>27</sup> *League of United Latin Am. Citizens v. Exec. Off. of the President*, No. CV 25-0946 (CKK), 2025 WL 3042704, at \*2 (D.D.C. Oct. 31, 2025).

<sup>28</sup> *Id.* at \*26; see U.S. Const. art. I, § 2, cl. 1; U.S. Const. amend. XVII.

<sup>29</sup> *League of United Latin Am. Citizens*, 2025 WL 3042704, at \*3 (quoting *Arizona v. Inter Tribal Council of Arizona, Inc.*, 570 U.S. 1, 17 (2013)).

<sup>30</sup> U.S. Const. art. I, § 4, cl. 1.

constitutional authority” to transform SAVE into an inter-governmental data bank for voter eligibility checks, the SAVE overhaul violates “constitutional separation of powers principles.”<sup>31</sup>

**V. The SSA citizenship data SAVE now utilizes for voter eligibility checks is unreliable, cannot be easily linked to DHS data, and will lead to wrongfully targeting naturalized citizens, barriers to voting, and unlawful purging.**

The expanded SAVE system is not only unlawful but will also lead to naturalized citizens and other eligible voters being wrongly targeted, investigated, and forced to needlessly provide documentary proof of citizenship to vote. Due to the known unreliability of both SSA’s and DHS’s citizenship data, as well as known challenges of linking DHS and SSA data sets, the expanded SAVE system will result in eligible citizens facing additional hurdles to voting and being unlawfully purged from voter rolls due to data mismatches, user error, and inaccurate records.

**A. SAVE now utilizes SSA citizenship data that the government knows is incomplete, unreliable, and not easily linked to DHS data.**

Accessing SSA data using the overhauled SAVE system will have a disproportionate adverse effect on naturalized citizens and others for whom SSA has inaccurate data. Naturalized citizens are most at risk because their citizenship information is not static; the only citizenship data SSA possesses is provided by the individual at a single moment in time—i.e., when someone applies for an SSN and the corresponding card.<sup>32</sup> SSA has no process for automatically updating the citizenship data it maintains, but rather relies on SSN-holders to inform SSA of any change in their status, including naturalization. Correcting data via in-person appointments at SSA regional offices is burdensome and further complicated by diminished services due to recent reductions in force at SSA.<sup>33</sup>

SSA citizenship data for U.S. born citizens is also unreliable because the agency did not consistently collect and maintain this information before 1981.<sup>34</sup> According to SSA, “SSA’s assessment of its citizenship data indicates that approximately ¼ of those records do not have an indication of citizenship present.”<sup>35</sup> As SSA itself has explained, “SSA is not the agency

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<sup>31</sup> *Sierra Club v. Trump*, 929 F.3d 670, 696–97 (9th Cir. 2019).

<sup>32</sup> See July 2023 SSA Ltr., *supra* note 5, at 2.

<sup>33</sup> Jordyn Bradley, *Nearly Every US State Has Lost Social Security Field-Office Staff This Year*, Investopedia (Aug. 11, 2025), <https://perma.cc/MYB8-38PQ>.

<sup>34</sup> July 2023 SSA Ltr., *supra* note 5, at 2

<sup>35</sup> *Id.* at 3.

responsible for making citizenship determinations” and “SSA is not the custodian of U.S. citizenship records.”<sup>36</sup>

A 2006 audit by SSA’s Office of Inspector General estimated that SSA’s citizenship data inaccurately identified about 3.3 million U.S. citizens as noncitizens “because [they] had become U.S. citizens after obtaining their SSN” and “had not updated their records with SSA.”<sup>37</sup> The same audit also compared SSA data to corresponding DHS records and found discrepancies between the two (i.e., differing names, date of birth, or citizenship status) in an estimated 4.1% of the SSA NUMIDENT records reviewed.<sup>38</sup>

Despite these known data limitations, the overhauled SAVE system utilizes SSA’s unreliable citizenship data to verify voter eligibility and repurposes the data unfairly, without prior notice or consent.

Compounding these risks, overhauled SAVE now enables SAVE users to conduct citizenship checks using only the last four digits of an SSN, which is not a unique identifier.<sup>39</sup> This risks misidentifying or mismatching people between the voter file and the information accessed by SAVE. Indeed, in the Privacy Impact Assessment for SAVE released on October 31, 2025, DHS admits that “due to misspelling of names, transposed numbers, or incomplete information, the SAVE Program may produce inaccurate results,” and that these risks cannot be fully mitigated when SAVE users conduct searches by SSN because DHS “does not have direct access to the Social Security Administration system to support” additional verification steps, and SAVE user agencies “may not go through all steps to ensure accuracy of information.”<sup>40</sup>

DHS wrongly claims that the known problems with SSA’s data are mitigated by SAVE’s cross-checking of results against DHS’s own citizenship records. But this ignores another well-documented problem known to DHS: the inability to effectively link DHS and SSA citizenship data. As a 2012 report to USCIS explained, “[t]he lack of a common identifier, such as the SSN, between SSA and DHS means that information about foreign-born citizens contained in USCIS naturalization databases may not be locatable when SSA information is inadequate to confirm citizenship status.”<sup>41</sup> Thus, cross-checking SSA search results against DHS databases will do little

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<sup>36</sup> *Id.* at 2.

<sup>37</sup> U.S. Soc. Sec. Admin. Off. of the Inspector Gen., No. A-08-06-26100, *Congressional Response Report: Accuracy of the Social Security Administration’s Numident File* iii (Dec. 18, 2006), [https://oig-files.ssa.gov/audits/full/A-08-06-26100\\_0.pdf](https://oig-files.ssa.gov/audits/full/A-08-06-26100_0.pdf).

<sup>38</sup> *Id.* at 5 & n.11.

<sup>39</sup> U.S. Citizenship and Immigr. Servs., *USCIS Enhances Voter Verification Systems* (Nov. 3, 2025), <https://www.uscis.gov/newsroom/news-releases/uscis-enhances-voter-verification-systems>.

<sup>40</sup> 2025 PIA, *supra* note 11, at 19–20.

<sup>41</sup> July 2012 Westat Rpt., *supra* note 5, at 34.

to mitigate risks since the databases do not “speak” to one another, and were never intended to be linked in this way.

Moreover, even *DHS’s citizenship data* queried by SAVE is known to be out-of-date and unreliable. For example, a 2017 audit by the North Carolina State Board of Elections found that a “match with the SAVE database”—which at that time only queried DHS systems—was “not a reliable indicator that a person is not a U.S. citizen because the database is not always updated in a timely manner and individuals who derived citizenship from their parents through naturalization or adoption may show up as non-citizens in SAVE.”<sup>42</sup> Federal courts have similarly found the DHS citizenship data queried by SAVE unreliable for voter eligibility checks.<sup>43</sup>

When neither SSA nor DHS databases can confirm citizenship due to bad or incomplete data, SAVE user agreements contemplate that the burden will fall on voters to prove their citizenship status. As explained below, this feature of the new SAVE process poses unnecessary and intolerable burdens on the right to vote that DHS has failed entirely to consider.

**B. DHS is pushing election officials to use the new SAVE system at a massive scale without mitigating known risks to voters.**

The massive increase in the number of voters impacted by SAVE’s new bulk upload and search-by-SSN functions (including either full or partial (last four) SSNs)) exponentially increases the risks of error and harm to the millions of voters whom the League serves. DHS states that, as of November 3, “26 states . . . have, or are in the process of establishing, a memorandum of agreement” to use SAVE for voter registration or voter list maintenance.<sup>44</sup> SAVE user agreements and the revised SAVE SORN contemplate that when SAVE fails to confirm the citizenship status of voters based on a bulk SSN search, the SAVE user agency will force voters to prove their citizenship status in order to remain on voter rolls.<sup>45</sup> And that is precisely what is happening in several states. For example:

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<sup>42</sup> N.C. St. Bd. of Elections, *Post-Election Audit Report—General Election 2016* app. 2 (Apr. 21, 2017), [https://s3.amazonaws.com/dl.ncsbe.gov/sboe/Post-Election%20Audit%20Report\\_2016%20General%20Election/Post-Election\\_Audit\\_Report.pdf](https://s3.amazonaws.com/dl.ncsbe.gov/sboe/Post-Election%20Audit%20Report_2016%20General%20Election/Post-Election_Audit_Report.pdf).

<sup>43</sup> See *Mi Familia Vota v. Fontes*, 129 F.4th 691, 709 n.3 (9th Cir. 2025) (citing evidence that “SAVE may not” have up-to-date “naturalization records,” creating the “danger” that “properly registered voters, who in fact are citizens, may have their voter registrations cancelled . . . losing their constitutional right to vote”); *Arcia v. Fla. Sec’y of State*, 772 F.3d 1335, 1341 (11th Cir. 2014) (similar).

<sup>44</sup> Nov. 2025 USCIS Press Release, *supra* note 7.

<sup>45</sup> See U.S. Citizenship and Immigr. Servs., *SAVE Voter Verification Agency Sample MOA Draft 4* (revised June 9, 2025), <https://www.uscis.gov/sites/default/files/document/brochures/SAVE%20MOA%20Voter%20Registration%20and%20List%20Maintenance%20Sample.pdf> [hereinafter “SAVE MOA Draft”] (instructing that “[i]f the [SAVE] User Agency does not request additional verification or SAVE does not verify the registrant or registered voter as a U.S.

- **Texas** has instructed numerous counties to send notices to thousands of individuals flagged by SAVE as “potential” noncitizens, and is requiring them to provide proof of citizenship within 30 days or else have their voter registrations cancelled.<sup>46</sup> The Secretary of State has instructed counties that, “[i]n accordance with our [SAVE] Memorandum of Understanding with USCIS, if a voter provides proof of citizenship documentation, the county must send a copy of that documentation to the Secretary of State’s office to be provided to USCIS.”<sup>47</sup> Early reports indicate a high error rate, with numerous eligible voters being wrongfully identified as noncitizens and forced to re-prove their citizenship status to the state and USCIS.<sup>48</sup>
- **Louisiana** claims to have removed nearly 400 voters from their voter rolls using the SAVE system.<sup>49</sup> In September, the Secretary of State’s office sent notices to those individuals claiming that the State has reason to believe they are noncitizens and requiring them to prove their citizenship status within 21 days or else be removed from voter rolls.<sup>50</sup>
- **Virginia** is likewise requiring its voter rolls to be run through SAVE to identify potential noncitizens.<sup>51</sup> An October 2025 report by the Virginia Department of Elections says that

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citizen after conducting additional verification, the User Agency must contact the registrant or registered voter to obtain proof of U.S. citizenship, if necessary under the circumstances to fulfill the purpose of this MOA and in accordance with the provisions of this MOA and Federal and State law”); 90 Fed. Reg. 48948, 48951 (Oct. 31, 2025) (agencies using SAVE’s new bulk search-by-SSN function “are not prompted to institute additional verification . . . but are instructed to resubmit with additional information when the process is unable to return a response.”).

<sup>46</sup> Press Release, Tex. Sec’y of State, *Texas Completes Citizenship Verifications in the SAVE Database* (Oct. 20, 2025), <https://www.sos.state.tx.us/about/newsreleases/2025/102025.shtml>; see also *id.* (follow “county-level breakdown of this data can be found here (PDF)” hyperlink, <https://www.sos.state.tx.us/about/newsreleases/2025/potential-non-citizens.pdf>) (last visited Nov. 17, 2025)); Tex. Sec’y of State, Form 12-50, *Notice To Registered Voter For Proof Of Citizenship (USCIS Verification)* (Oct. 2025), <https://www.sos.state.tx.us/elections/forms/pol-sub/21-50f.pdf>.

<sup>47</sup> Email from Tex. Sec’y of State Elections Div. to Voter Registrars/Election Administrators re *List Maintenance Activity Involving Potential Non-United States Citizens* (Oct. 21, 2025), <https://perma.cc/X9MN-ZTVJ>.

<sup>48</sup> Natalia Contreras, *Texas counties look into ‘potential noncitizens’ on voter rolls. Here’s what they’re finding*, Votebeat Tex. (Oct. 31, 2025), <https://www.votebeat.org/texas/2025/10/31/county-election-officials-investigate-potential-noncitizens-flagged-save-database/>.

<sup>49</sup> La. Sec’y of State, *Louisiana Secretary of State’s Post*, Facebook (Oct. 27, 2025 at 11:49 am), <https://www.facebook.com/Louisianasos/posts/in-a-recent-letter-president-donald-trump-praised-secretary-landrys-commitment-t/1321314536690125/>.

<sup>50</sup> Jude Joffe-Block and Miles Parks, *33 million voters have been run through a Trump administration citizenship check*, NPR (Sep. 11, 2025), <https://www.npr.org/2025/09/10/nx-s1-5477367/save-election-citizenship-data-trump>.

<sup>51</sup> Dean Mirshahi, *Youngkin signs order directing removal of non-citizens from voter rolls*, VPM (Sep. 18, 2025), <https://www.vpm.org/elections/2025-09-18/election-2025-youngkin-executive-order-voter-removal-homeland-security-beals>.

between September 1, 2024, and August 31, 2025, 1,644 voter registrations were cancelled as a result of SAVE citizenship checks.<sup>52</sup>

The upshot of this process is that DHS—through its SAVE user agreements with state election agencies—has imposed a back-door documentary proof-of-citizenship (“DPOC”) requirement on many registered voters. DHS seeks to minimize this aspect of the SAVE process as mere “additional verification.” **But DHS has failed entirely to consider that requiring DPOC of registered naturalized citizen voters *itself* burdens the right to vote and needlessly risks that eligible voters will be disenfranchised.**

Indeed, for many Americans, proving their citizenship with documents is burdensome and time-consuming. Over 9% of voting-age citizens—nearly 21.3 million people—cannot readily access documentary proof of citizenship, according to the University of Maryland Center for Democracy and Civic Engagement.<sup>53</sup> And not all citizens would be impacted equally by a requirement to provide paperwork showing their citizenship. For example, an estimated 69 million American women who lack paperwork with their current name due to name changes during marriage—such as a passport— would be unable to use documents like their birth certificate to prove their citizenship.<sup>54</sup>

Further compounding these risks, none of the states’ SAVE Memoranda of Agreement (MOAs) for voter registration or list maintenance purposes address the known unreliability and incompleteness of SSA citizenship data or the risk of error in using it for voter citizenship checks. And historically, SAVE users have not even followed SAVE’s additional verification procedures. For instance, a 2017 GAO report found that “the majority of SAVE user agencies that received a SAVE response prompting them to institute additional verification did not complete the required additional steps.”<sup>55</sup> DHS itself recognizes, in its October 2025 Privacy Impact Assessment for SAVE, the risk that SAVE user agencies “may not go through all steps to ensure accuracy of information.”<sup>56</sup> DHS’s unexplained dismissal of these risks—which it belatedly identified several months *after* dramatically expanding SAVE—reflects a sharp

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<sup>52</sup> Va. Dep’t of Elections, *Annual List Maintenance Report September 1, 2024 - August 31, 2025* 19 (2025), <https://www.elections.virginia.gov/media/formswarehouse/maintenance-reports/2025-Annual-List-Maintenance-Report.pdf>.

<sup>53</sup> Jillian Andres Rothschild, et al., *Who Lacks ID in America Today? An Exploration of Voter ID Access, Barriers, and Knowledge*, Univ. of Md. Ctr. for Democ. and Civic Engagement 6 (June 2024), <https://fairelectionscenter.org/wp-content/uploads/2025/02/Voter-ID-survey-Key-Results-June-2024.pdf>.

<sup>54</sup> League of Women Voters, *The Safeguard American Voter Eligibility (SAVE) Act is a Trick* (Mar. 25, 2025), <https://www.lwv.org/blog/safeguard-american-voter-eligibility-save-act-trick>.

<sup>55</sup> U.S. Gov’t Accountability Off., GAO-17-204, *Immigration Status Verification for Benefits: Actions Needed to Improve Effectiveness and Oversight* 17 (Mar. 2017), <https://www.gao.gov/assets/gao-17-204.pdf>.

<sup>56</sup> 2025 PIA, *supra* note 11, at 20.

departure from the agency's acknowledgment just last year of "very serious consequences of the results produced by SAVE and its import in ensuring the right to vote for U.S. citizens."<sup>57</sup>

## **VI. DHS's justification for expanding SAVE is based on the debunked myth of widespread noncitizen voting.**

DHS's overhaul of SAVE is a solution in search of a problem. DHS's rationale for expanding the system is based on the empirically false premise that noncitizen voting is widespread in the United States.<sup>58</sup> But as USCIS itself acknowledged in an October 2024 letter, "[f]ederal law prohibits non-U.S. citizens from registering and voting in Federal elections," and the "evidence is clear that these laws are working as intended—it is extremely uncommon for noncitizens to vote in Federal elections."<sup>59</sup>

Indeed, extensive data shows that verified cases of noncitizen voting are vanishingly rare and statistically insignificant. For instance, a recent study by the nonpartisan Center for Election Innovation and Research reviewed suspected cases of noncitizen voting in all 50 states, and found that the "vast majority of allegations of noncitizen registration or voting appear to arise from misunderstandings, mischaracterizations, or outright fabrications about complex voter data."<sup>60</sup> Similarly, the Heritage Foundation's nationwide database of alleged instances of voter fraud identifies just 99 total cases of suspected noncitizen voting going back to the 1980s.<sup>61</sup> And a 2018 decision by a federal district court in a case brought by, among others, the League of Women Voters of Kansas, was "unable to find empirical evidence that a substantial number of noncitizens successfully registered to vote." Though the court found a small number of noncitizens had registered, those instances were "largely explained by administrative error, confusion, or mistake" and the court declined to "rely on extrapolated numbers from tiny sample sizes and otherwise flawed data."<sup>62</sup>

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<sup>57</sup> Letter from U.S. Citizenship and Immigr. Servs. Director Ur M. Jaddou to Ohio Sec'y of State Frank La Rose (Oct. 10, 2024), <https://perma.cc/8SN3-C88W> [hereinafter "USCIS Ohio Ltr."].

<sup>58</sup> See Press Release, U.S. Citizenship and Immigr. Servs., *USCIS Deploys Common Sense Tools to Verify Voters* (May 22, 2025), <https://perma.cc/HBZ5-RW2E> ("For years, states have pleaded for tools to help identify and stop aliens from hijacking our elections . . . Under the leadership of President Trump and Secretary Noem, USCIS is moving quickly to eliminate voter fraud.").

<sup>59</sup> USCIS Ohio Ltr., *supra* note 57.

<sup>60</sup> See Ctr. for Election Innovation & Rsch., *Review of Allegations of Noncitizen Registrants and Voters* (July 2025), <https://electioninnovation.org/research/noncitizen-analysis/>.

<sup>61</sup> Heritage Found., *Election Fraud Map, Explore the Data* (last accessed Nov. 25, 2025), <https://electionfraud.heritage.org/search> (sort search results by "Fraud Sub-category" of "Alien").

<sup>62</sup> *Fish v. Kobach*, 309 F. Supp. 3d 1048, 1102 (D. Kan. 2018), *aff'd sub nom. Fish v. Schwab*, 957 F.3d 1105 (10th Cir. 2020), *cert. denied*, 141 S. Ct. 965 (2020).

In 2014, the U.S. Election Assistance Commission issued a 46-page Memorandum rejecting requests by Arizona, Georgia, and Kansas to add a DPOC requirement to the federal voter registration form, citing the exceedingly small number of noncitizens who had illegally registered to vote, which it found were attributable to a level of human error that is nearly unavoidable in such a bureaucratic process.<sup>63</sup> And a 2024 review of Georgia voter rolls by state election officials identified just 20 noncitizens of the 8.2 million people—just .0002%—that were registered to vote in the state.<sup>64</sup>

DHS’s justification for expanding SAVE thus lacks any empirical or rational basis.

## **VII. The SAVE SORN’s new Routine Use L violates the Privacy Act’s compatibility requirement.**

Under the Privacy Act, the primary way a record is disclosed is pursuant to a pre-published “routine use,” defined as “the use of [a] record for a purpose which is compatible with the purpose for which it was collected.”<sup>65</sup> “Compatibility” requires “a dual inquiry into the purpose for the collection of the record in the specific case and the purpose of the disclosure.”<sup>66</sup>

Here, DHS’s revised SAVE SORN adds new “Routine Use L” for disclosure of SAVE records “[t]o the Social Security Administration and other federal, state, tribal, territorial, local, governments and other authorized entities to assist user agencies determine U.S. citizenship and immigration status of an individual when a DHS approved agreement is in place between DHS and the entity.” But this new routine use enables mass repurposing of millions of Americans’ sensitive data in ways that are fundamentally incompatible with the reasons for which that data was collected.

Specifically, SSA collected the citizenship data now being used by SAVE for its own program purposes concerning work authorization and eligibility for SSA benefits.<sup>67</sup> SSA did not

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<sup>63</sup> Post by Election Assistance Comm’n, Dkt. No. EAC-2013-0004-0429, *Memorandum of Decision Concerning State Requests to Include Additional Proof-of-Citizenship Instructions on the National Mail Voter Registration Form 28–37*, *Regulations.gov* (Jan. 20, 2014), <https://www.regulations.gov/document/EAC-2013-0004-0429>.

<sup>64</sup> *Georgia citizenship audit finds few noncitizens on voter rolls*, Associated Press (Oct. 23, 2024), <https://apnews.com/article/georgia-noncitizens-voter-rolls-14532ef49b66f9cbf34ff483d2534280>.

<sup>65</sup> 5 U.S.C. §§ 552a(a)(7), (b)(3).

<sup>66</sup> *Britt v. Naval Investigative Serv.*, 886 F.2d 544, 548–49 (3d Cir. 1989); see also *Townsend v. United States*, 236 F. Supp. 3d 280, 318 (D.D.C. 2017) (“The compatibility requirement is satisfied if a concrete relationship or similarity, or some meaningful degree of convergence exists between the disclosing agency’s purpose in gathering the information and in its disclosure.”) (cleaned up).

<sup>67</sup> See Social Security Amendments of 1972, Pub. L. 92-603, 86 Stat. 1329 (codified as amended in scattered sections of 42 U.S.C.); U.S. Soc. Sec. Admin., *Program Operations Manual System (POMS)*, GN 00303.001

collect the data for disclosure to DHS and state and local agencies for voter eligibility checks, nor does that use meaningfully converge with the reasons for SSA's data collection. In fact, SSA has explicitly cautioned that while its "citizenship information is accurate for SSA's program purposes, if used later for other purposes, it may not be current" because "SSA is not the custodian of U.S. citizenship records."<sup>68</sup>

Similarly, SAVE state and local user agencies collected the voter roll data now being bulk uploaded into SAVE for use by *state* officials. They did not collect the data to be fed into a massive inter-governmental data bank for the *federal government* to conduct voter eligibility checks or, as SAVE user agreements broadly authorize, for "any [other] purpose permitted by law, including, but not limited to, the prosecution of violations of Federal administrative or criminal law."<sup>69</sup>

The overhauled SAVE system therefore significantly repurposes millions of Americans' protected data without advance notice, consent, opportunity for public input, or legal authorization.

## VIII. Conclusion

The League urges DHS to rescind the revised SAVE SORN, revert the SAVE system to its prior authorized functionality as set out in the prior SAVE SORN, and operate the system strictly within the confines of DHS's legal authority. DHS and other agencies lack any statutory or constitutional authority to create such a multi-agency data pool, and DHS has failed to sufficiently consider and mitigate the significant risks to eligible voters in implementing the expanded system.

For questions, please contact the League through its counsel Nikhel Sus at Citizens for Responsibility and Ethics in Washington, [nsus@citizensforethics.org](mailto:nsus@citizensforethics.org), or Michelle Kanter Cohen at Fair Elections Center, [mkantercohen@fairelectionscenter.org](mailto:mkantercohen@fairelectionscenter.org), counsel in *League of Women Voters v. DHS*, No. 25-cv-3501 (D.D.C.).

Respectfully submitted,

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(Requirement of United States (U.S.) Citizenship or Appropriate Alien Status) (Feb. 23, 2024); 20 C.F.R. § 422.104(a)(3).

<sup>68</sup> See July 2023 SSA Ltr., *supra* note 5, at 2.

<sup>69</sup> SAVE MOA Draft, *supra* note 45, at 9.

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