

From: Baroukh, Nader
Sent: Monday, January 08, 2018 2:47 PM
To: Symons, Craig M
Subject: FW: Election tasking

Craig,

(b)(5)

Nader Baroukh
Associate General Counsel, Immigration
Department of Homeland Security, Office of the General Counsel

(b)(6)

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From: Baroukh, Nader
Sent: Monday, January 08, 2018 7:31:16 PM
To: Symons, Craig M; Mathias, Susan
Cc: Shah, Dimple; Maher, Joseph; Browne, Rene; Davis, Mike P; Busch, Philip B
Subject: RE: Election tasking

Craig and Susan,

As discussed, attached is a short white paper

This document will be worked into a larger Brief Memo for SI. **Please provide any comments you have by 3:30pm today so I can get this back to the FO.** Sorry for the short deadline.

Nader Baroukh
Associate General Counsel, Immigration
Department of Homeland Security, Office of the General Counsel

From: Mathias, Susan
To: Baroukh, Nader; Symons, Craig M
Cc: Shah, Dimple; Maher, Joseph; Browne, Rene; Davis, Mike P; Busch, Philip B
Subject: RE: Election tasking
Date: Monday, January 08, 2018 2:32:47 PM
Attachments: Vote Integrity Legal Issues - Draft.docx

Please see attached with my comments. Susan

Susan Mathias
Assistant General Counsel for Strategic Oversight
Legal Counsel Division
Office of the General Counsel
U.S. Department of Homeland Security

(b)(6)

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To: Symons, Craig M <> Mathias, Susan
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Nader Baroukh
Associate General Counsel, Immigration
Department of Homeland Security, Office of the General Counsel

From: Barankh, Nader
To: Bartons, Chris D; Mathias, Susan
Cc: Shah, Doree; Mohr, Joseph; Roberts, Renee; Davis, Mike D; Bozch, Chilo B
Subject: RE: Election tracking
Date: Monday, January 08, 2018 11:31:16 PM
Attachments: Vote Integrity Legal Issues - Draft.docx

Craig and Susan,

(b)(5)

As discussed, attached is a short white paper [REDACTED]

[REDACTED] This document will be worked into a larger Brief Memo for S1. **Please provide any comments you have by 3:30pm today so I can get this back to the FO.** Sorry for the short deadline.

Nader Barankh
Associate General Counsel, Immigration
Department of Homeland Security, Office of the General Counsel
[REDACTED]

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Sent: Monday, January 08, 2018 2:47 PM
To: Symons, Craig M
Subject: FW: Election tasking

Craig,

[Redacted]

Nader Baroukh
Associate General Counsel, Immigration
Department of Homeland Security, Office of the General Counsel

[Redacted]

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As discussed, attached is a short white paper [Redacted]

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From: Wales, Brandon
To: Symons, Craig M
Subject: RE: Information Requested from USCIS
Date: Monday, January 08, 2018 4:59:58 PM
Attachments: Recommendations_ElectionIntegrity_OSD0118.docx
Imac011.jpg

(b)(5)

Craig,
Thank you. Can you take a look at what I have done so far. I am still waiting on a few pieces (NPPD and DHS OGC), but the section on SAVE is done. I plan on attaching both of the information packages you sent. Send along any edits ASAP.

(b)(6)

Thank!
Best,
Brandon

Brandon D. Wales
Senior Counselor to the Secretary
Department of Homeland Security

From: Symons, Craig M
Sent: Monday, January 8, 2018 5:18 PM
To: Wales, Brandon
Cc: Maher, [REDACTED]; Mahan, Dimple <[REDACTED]>
Short, Tracy <[REDACTED]>; Ries, Lora L. <[REDACTED]>; Baroukh, Nader
[REDACTED]; Busch, Philip B. <[REDACTED]>; Luong, Quan K
[REDACTED]
Subject: Information Requested from USCIS

Hi Brandon,

Attached please find a paper USCIS IRIS prepared to respond to the questions you raised on the call today regarding SAVE and voter registration/maintenance. I have also attached a fact sheet that IRIS shares with agencies applying to use SAVE for voter registration, which may be of some use. Please let us know if you have any questions.

Thank you,
Craig

Craig M. Symons
Chief Counsel | Office of the Chief Counsel
U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security

From: Baroukh, Nader
To: Wales, Brandon
Cc: Maher, Joseph; Shah, Dimple; Short, Tracy; Ries, Lora L.; Busch, Phillip B.; Liang, Guan K.; Mathias, Susan; Symons, Craig M.
Subject: RE: Information Requested from USCIS
Date: Monday, January 08, 2018 5:05:28 PM
Attachments: [imaps01.org](#)
[Vote Integrity Legal Issues - Draft v04 Final.docx](#)

(b)(6)

Hi Brandon. Sorry for the delay.

Please find attached the OGC write up.

Thanks,

Nader Baroukh
Associate General Counsel, Immigration
Department of Homeland Security, Office of the General Counsel

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From: Symons, Craig M
Sent: Monday, January 8, 2018 5:13 PM
To: Wales, Brandon
Cc: Maher, Joseph; Shah, Dimple; Short, Tracy; Ries, Lora L.; Baroukh, Nader; Busch, Phillip B.; Liang, Guan K.
Subject: Information Requested from USCIS

Hi Brandon,

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Thank you,
Craig

Craig M. Symons
Chief Counsel | Office of the Chief Counsel
U.S. Citizenship and Immigration Services

election issue and make a recommendation on a path forward. We need to get together tomorrow to discuss our approach and work through how we will walk through this with S1. Looking at the front office schedule for tomorrow, this time seemed best. Daniel will update in the morning with a room and call-in.

Tracy/Joe/Dimple, We need CIS and ICE participation as well -- probably GC and front office. Can you please forward this to the appropriate folks there?

Thanks. If anyone has any questions, please let me know.

Best,

Brandon

Lora Ries
Chief of Staff
U.S. Citizenship and Immigration Services
Department of Homeland Security

(b)(6)

From: Baroukh, Nader
To: Maher, Joseph; Mathias, Susan; Havranek, John
Cc: Shah, Dimple; Palmer, David; Chang, Hayley; Armons, Craig M.; Davis, Mike P.; Swartz, Neal
Subject: RE: Taskings from FO
Date: Friday, January 26, 2018 10:40:39 PM
Attachments: Draft Tasking Responses v01.2.doc

Joe,

Please find attached a draft memo that pulls the various questions into one document. The memo is a little long, however. I wanted to check with you regarding adding an additional section regarding the SAVE program. Please let me know if you would like a discussion of SAVE added.

Nader Baroukh
Associate General Counsel, Immigration
Department of Homeland Security, Office of the General Counsel



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From: Maher, Joseph
Sent: Tuesday, January 9, 2018 5:33 PM
To: Mathias, Susan <[redacted]>; Havranek, John <[redacted]>
Cc: Baroukh, Nader <[redacted]>; Shah, Dimple <[redacted]>; Palmer, David <[redacted]>; Chang, Hayley <[redacted]>; Armons, Craig M <[redacted]>; Davis, Mike P <[redacted]>; Swartz, Neal <[redacted]>
Subject: Taskings from FO

Contains Attorney-Client Communication

All ...

We had several requests for additional legal advice coming out of the meeting with the Secretary on election-related work. Please reach out to Nader to get any additional background, but here are the requests for our office:

- A description of the privacy-law restrictions that would be involved in an exchange of information between the federal government and States. **Susan** – could you take the lead in developing that, along with the Privacy Office? OCC CIS may also have some work already done on this topic.

From: Busch, Philip B
To: Meckley, Tammy M; Burkley, Bruce D
Cc: Gilson, Christopher; Bowen, Lee E; Henry, Laura R; Lotspeich, Katherine J; Mayhew, Michael X; Symons, Craig M; Rayner, Raymond P
Subject: RE: voting
Date: Friday, February 02, 2018 3:47:31 PM
Attachments: [Water Information OCC 02 02 2018.docx](#)

Thank you Tammy and team. In the attached new working draft I have attempted to incorporate the good input from SAVE, as well as some additional input within OCC. I would appreciate your review of it for accuracy

(b)(5)

Thanks and have a good weekend, Phil

Philip B. Busch
Senior Legal Advisor
Office of the Chief Counsel
U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security

(b)(6)

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From: Meckley, Tammy M
Sent: Wednesday, January 31, 2018 6:17 PM
To: Burkley, Bruce D
Cc: Gilson, Christopher; Bowen, Lee E; Henry, Laura R; Lotspeich, Katherine J; Mayhew, Michael X; Symons, Craig M; Busch, Philip B
Subject: RE: voting

This is what we had drafted previously. [REDACTED]

(b)(5)

[Redacted]

Best,
Tammy

Tammy M. Meckley
Associate Director
Immigration Records and Identity Services Directorate
U.S. Citizenship and Immigration Services
20 Massachusetts Avenue, NW
Washington, DC 20535

(b)(6)

[Redacted]



From: Burkley, Bruce D
Sent: Wednesday, January 31, 2018 6:13 PM
To: Meckley, Tammy M
Cc: Gilson, Christopher; Bowes, Lee F; Henry, Laura R; Lotspeich, Katherine J; Mayhew, Michael X; Symons, Craig M; Busch, Philip B
Subject: RE: voting

(b)(5)

Thank you for looking at this. Copying in Phil, who is working with OGC on this. [Redacted]
[Redacted] BB

From: Meckley, Tammy M
Sent: Wednesday, January 31, 2018 6:07:48 PM
To: Burkley, Bruce D
Cc: Gilson, Christopher; Bowes, Lee F; Henry, Laura R; Lotspeich, Katherine J; Mayhew, Michael X; Symons, Craig M
Subject: RE: voting

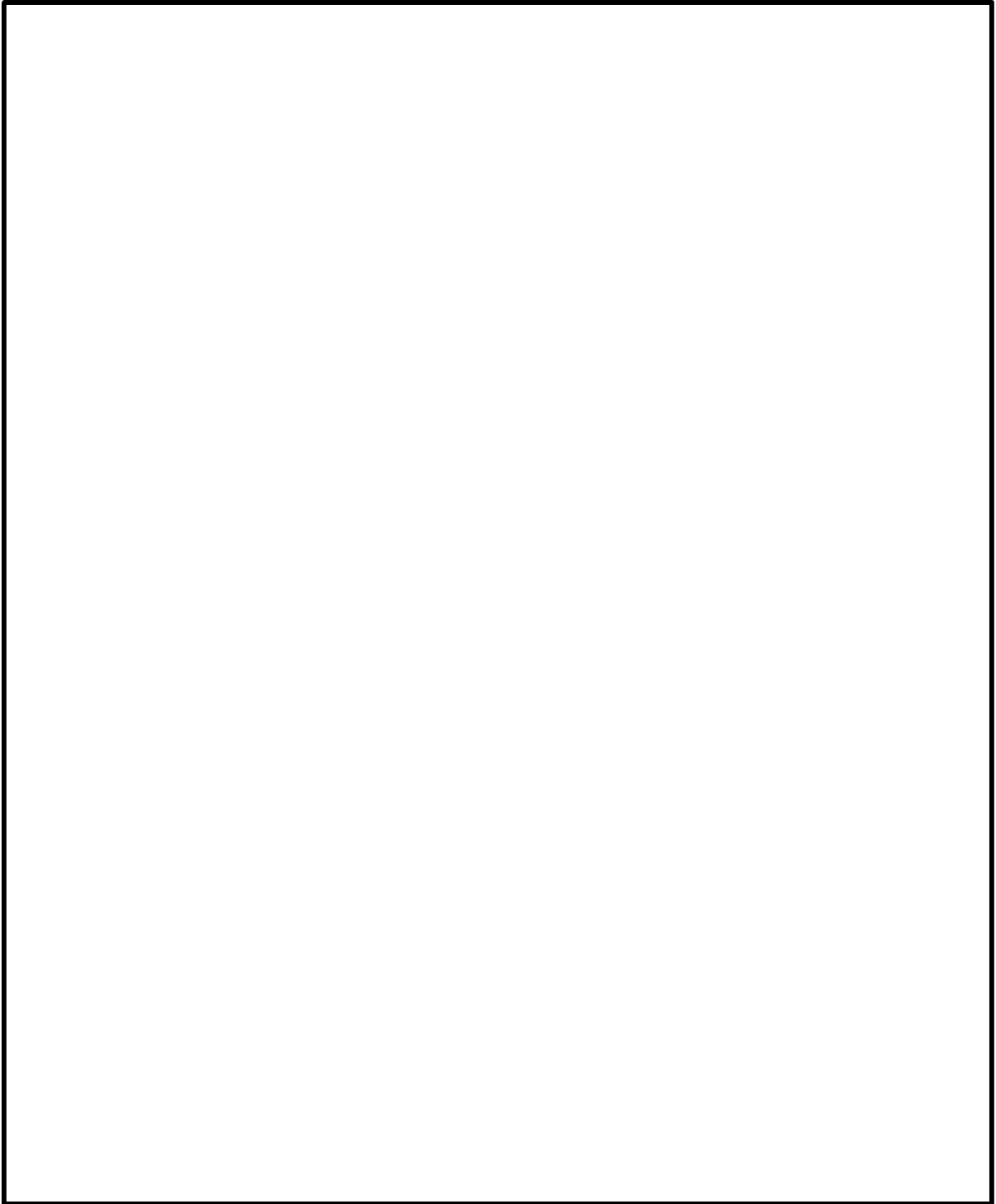
Bruce, hi there. I've reviewed the attached and think [Redacted]
[Redacted]

(b)(5)

(b)(5)

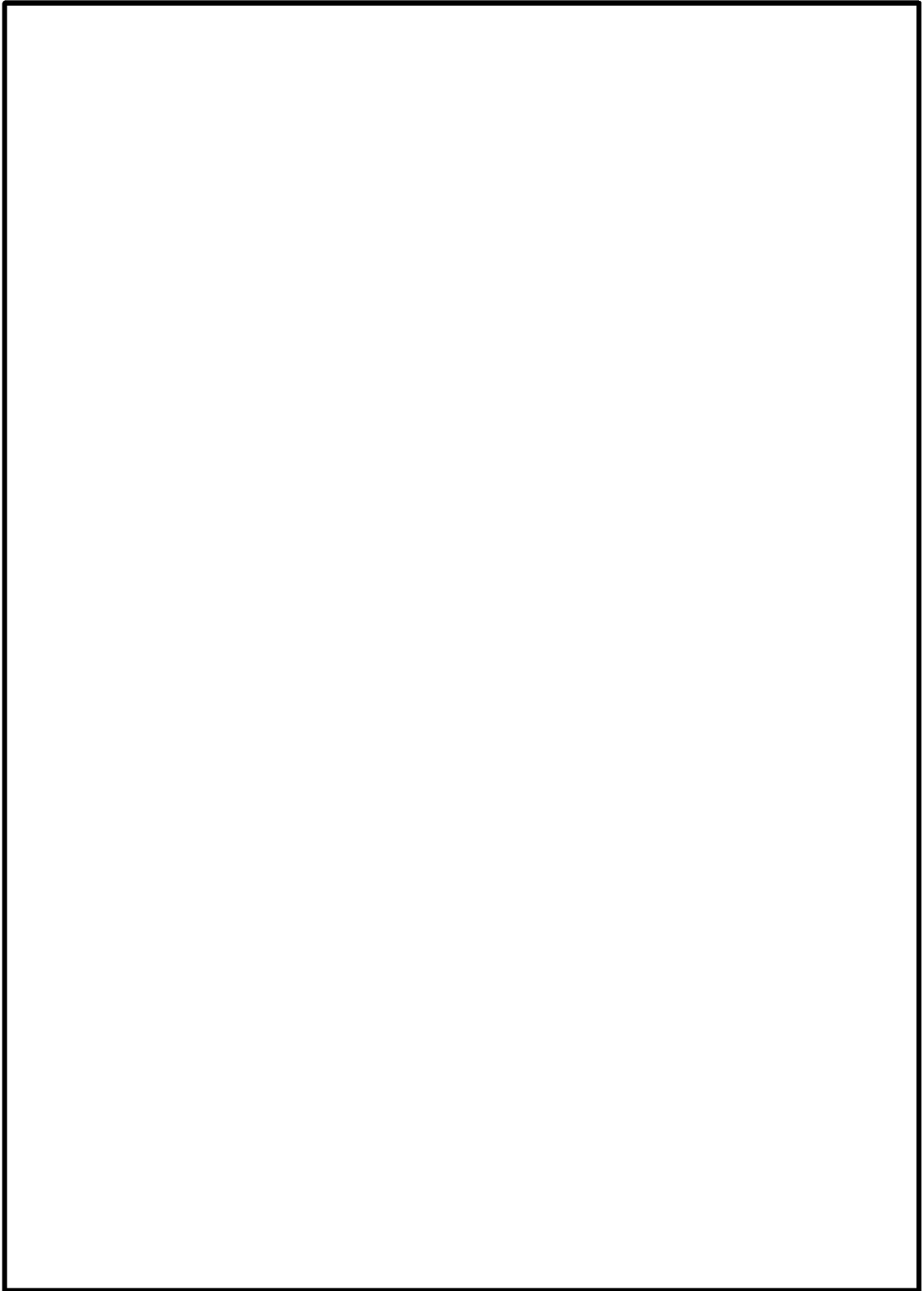
~~PRIVILEGED-ATTORNEY CLIENT COMMUNICATION~~

Office of the General Counsel
Department of Homeland Security
Washington, D.C. 20528



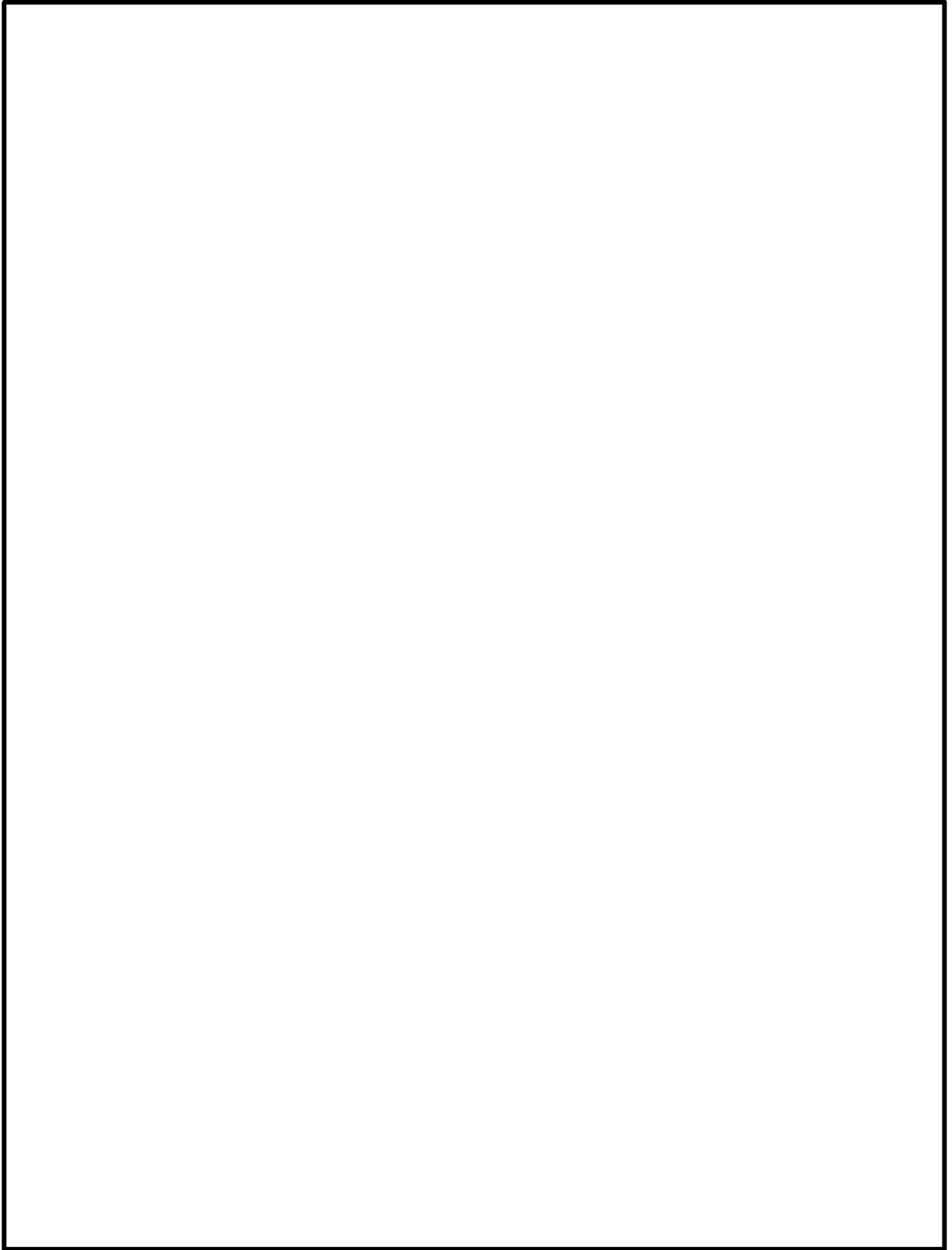
(b)(5)

~~PRIVILEGED-ATTORNEY CLIENT COMMUNICATION~~



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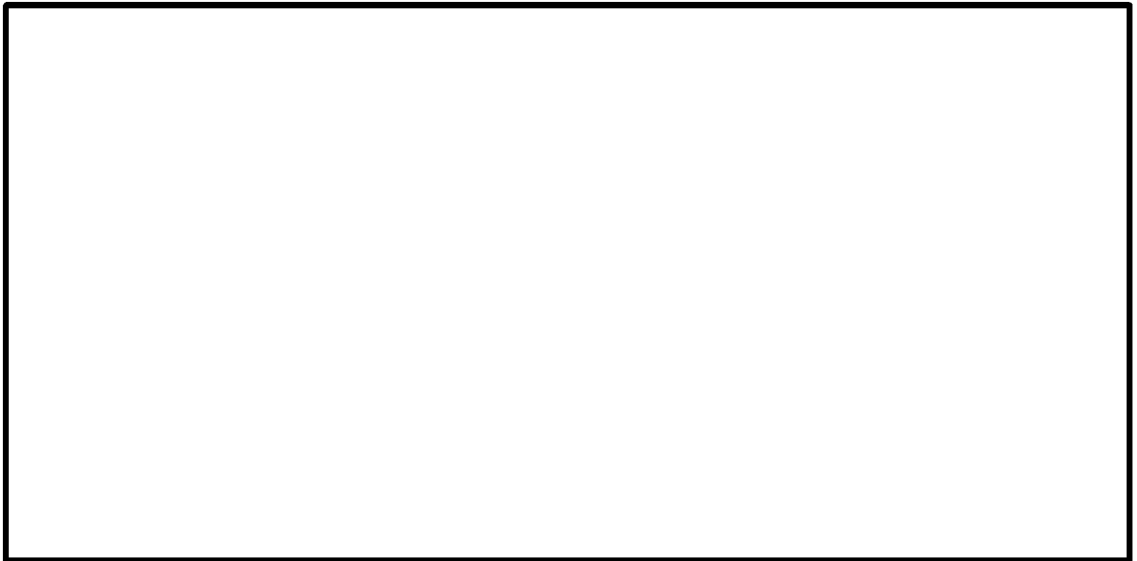
~~PRIVILEGED-ATTORNEY CLIENT COMMUNICATION~~



PRIVILEGED-ATTORNEY CLIENT COMMUNICATION



(b)(5)



Thomas, Michael A

From: Rijhwani, Sarita S
Sent: Friday, July 21, 2017 2:35 PM
To: Sawyer, Kristina S (Kristy)
Subject: RE: SAVE and disclosures

Nice, thanks!

From: Sawyer, Kristina S (Kristy)
Sent: Friday, July 21, 2017 3:25:44 PM
To: Rijhwani, Sarita S
Subject: FW: SAVE and disclosures

From: Cantor, Jonathan
Sent: Friday, July 21, 2017 3:16 PM
To: Sawyer, Kristina S (Kristy)
Cc: Hawkins, Donald K; Vogel, Lindsay
Subject: SAVE and disclosures

Kristy

In responding to another Component regarding a similar issue, we could not help but notice parallels to the questions in the media regarding the Presidential Advisory Commission on Election Integrity's (Commission) request for data from USCIS. We thought we would informally share some information with you. It is our understanding the Commission is requesting individual's immigration status to cross-reference state voting records. The purpose is presumably to identify "vulnerabilities in voting systems and practices used for Federal elections that could lead to improper voting registrations and improper voting . . ." as it is "unlawful for any alien to vote in any election held . . . for the purpose of electing a candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, Delegate from the District of Columbia, or Resident Commissioner." Exec. Order No. 13,799, 82 Fed. Reg. 22389 (May 16, 2017); 18 U.S.C. § 611(a).

Pursuant to 8 U.S.C. § 1373(c), the Department of Homeland Security (DHS) is required to respond to a government agency's request to verify or ascertain a person's immigration status for any purpose authorized by law. Under this statute, DHS has several Memoranda of Agreement (MOA) in place with state boards of election to use the Systematic Alien Verification for Entitlements (SAVE) program to verify the immigration status of individuals registering to vote. Since DHS's response includes sharing personally identifiable information relating to U.S. citizens and Lawful Permanent Residents (LPR), the information must be shared in accordance with Privacy Act requirements. DHS shares verifies immigration status for state boards of election pursuant to routine use H of the SAVE System of Records Notice, which provides notice that DHS will share information with federal, state, and local government agencies when there is a legally authorized purpose and there is a Memorandum of Agreement in place. DHS/USCIS-004 Systematic Alien Verification for Entitlements Program System of Records, 81 Fed. Reg. 78, 619 (Nov. 8, 2016).

Unlike state boards of election, the Commission is not a government agency. This assertion was argued by the U.S. Department of Justice (DOJ). In its response to the Electronic Privacy Information Center's Amended Motion for a Temporary Restraining Order and Preliminary Injunction in recently filed litigation, DOJ argued that the Commission is not an agencies within the meaning of the E-Government Act, Administrative Procedure Act, Privacy Act, or Freedom of Information Act. Memorandum in Opposition to Plaintiff's Amended Motion for a Temporary Restraining Order and

Preliminary Injunction at 26-27, *Electronic Privacy Information Center v. Commission*, No. 1:17-cv-1320 (D.D.C. July 17, 2017). As routine use H only applies to government agencies, and the Commission is not a government agency, as the Acting Chief Privacy Officer, I have determined that this routine use does not apply. I have found that there is no applicable routine use that would permit DHS to share immigration status of individuals covered by the Privacy Act with the Commission, which means that DHS may not share immigration status relating to U.S. citizens or LPRs with the commission under the existing SORN. Further, even if subject of the request is not a U.S. citizen or LPR, there may be other confidentiality restrictions on sharing information. For example, 8 U.S.C. § 1367, generally prohibits DHS from disclosing any information regarding individuals who have applied for or received immigration benefits under the VAWA, T non-immigrant status, or U non-immigrant status, unless a statutory exception applies (e.g., for legitimate law enforcement or national security purposes). This prohibition against disclosure applies to any information about the individual, not simply the information maintained in the specific petition or application for the benefit. Similarly, subject to certain exceptions, the asylum regulations at 8 C.F.R. § 208.6 generally prohibit the disclosure of information contained in or pertaining to asylum applications, any credible fear determinations conducted under 8 C.F.R. § 208.30, or any reasonable fear determinations conducted under 8 C.F.R. § 208.31. DHS has extended the application of the asylum confidentiality regulations to information contained in or pertaining to refugee applications.

If USCIS decides to share information with the Commission, prior to any sharing, the DHS Privacy Office requires an approved Privacy Threshold Analysis. Since I have already found there is no applicable routine use, it seems at a minimum that a newly updated SORN would be required. In addition, I have determined that given the enormous public interest, a stand-alone publicly-available Privacy Impact Assessment signed by the DHS Chief Privacy Officer to discuss the privacy risks and mitigations associated with the sharing would also be necessary.

Thanks
JRC

Jonathan R. Cantor, CIPP/US, CIPP/G
Chief Privacy Officer (A)
Department of Homeland Security



(b)(6)

<http://www.dhs.gov/privacy>

Want to learn more about privacy? Visit www.fpc.gov

From: [Meckley, Tammy M](#)
To: [Cissna, Francis](#)
Cc: [Symons, Craig M](#); [McCament, James W](#); [Ries, Lora L](#)
Subject: Get Backs on Voter Registration Fraud
Date: Wednesday, January 10, 2018 4:39:34 PM
Attachments: [GA Voter Registration Application.pdf](#)
[NC Voter Reg Form.pdf](#)
[FL Voter Reg Form.pdf](#)
[CO Voter Reg Form.pdf](#)
[AZ State Voter Registration form.pdf](#)
[DRAFT FINAL VA SAVE NonCitizen Cancelled #2 \(3\).docx](#)
[FINAL DRAFT SAVE VA Notice of Intent to Cancel \(3\).docx](#)
Importance: High

Good afternoon, Director. Please see below and attached responses to the questions that arose from yesterday's call with the Secretary regarding voter registration fraud. I apologize for the length, but it think you'll find all the content informative.

-

Overview:

The SAVE Program is used by some agencies to verify the citizenship of individuals registering to vote or to maintain voter rolls by verifying those already registered. The states that use SAVE for maintenance of their voter rolls compare their voter roll to the citizenship or immigration status claimed by registrants when they obtained a driver's license or state ID. They use whatever immigration number was provided by the registrant to the DMV to do the initial SAVE check. If SAVE is unable to verify their citizenship with the DMV provided information, the state voter registration agency has to follow-up with the individual for additional citizenship information.

The five states and five Arizona counties that use SAVE for list maintenance or voter registration are:

Colorado – SAVE Agreement with Secretary of State. Verifies voters already on the rolls by running DMV data through SAVE. Colorado ran 211 cases in FY 2017

Florida – SAVE Agreement with Secretary of State. Verifies voters already on the rolls by running DMV data through SAVE. Florida did not run any cases in FY 2017.

North Carolina – SAVE Agreement with State Board of Elections. Verifies voters already on the rolls by running DMV data through SAVE. North Carolina ran 10,029 cases in FY 2017.

Virginia – SAVE Agreement with Board of Elections. Verifies voters already on the rolls by running DMV data through SAVE. Virginia did not run any cases in FY 2017.

Georgia – SAVE Agreement with Secretary of State. Verification at the point of registration. Georgia did not run any cases in FY 2017.

Arizona – SAVE Agreement with Participating counties include: 1) Maricopa 2) La Paz 3) Pima 4) Yuma 5) Yavapai. They do verification at the point of registration. Yavapai County ran 23 cases in FY 2017 and Maricopa ran 494.

SAVE has also been contacted by the following states regarding voter registration (and some even started the process to register for SAVE access), but none of them completed the process of registering to use SAVE: Kansas; Michigan; Mississippi; Oregon; Tennessee; Maryland; Minnesota; New Mexico; Ohio; Pennsylvania; Texas; Washington. Iowa was registered to use SAVE at one time, but its MOA was terminated in 2015 after a Federal court struck down the administrative rule that

gave it the authority to use SAVE.

SAVE Registration:

When an agency registers to use SAVE, it provides its legal authority and copies of any standardized notice letters used to inform registrants when there is a problem with their citizenship verification. This ensures that states can legally use SAVE for the requested purpose and that it has adequate appeals and notification procedures. These authorities, procedures and letters are reviewed by OCC and necessary changes are made to the letters to ensure that the notice is adequate. Attached are copies of the initial and follow-up notice letters approved for Virginia.

SAVE Process and Voter Registration Forms:

Also, attached are voter registration forms from Arizona, Colorado, Florida, Georgia and North Carolina. With the exception of Arizona, none of these forms collect an Alien number. For the states of Colorado, Florida, and North Carolina, they are able to run the SAVE query by using DMV data since they are doing voter list maintenance. Georgia, however, uses SAVE for voter registration and the only way they could get data for a SAVE query is through an alternate processes. There is a check box on the Georgia application to indicate that individuals do not have a driver's license or Social Security number, so if they check this box they are then given the alternative to present another identifier, like an A-file number.

Litigation History:

There has been significant federal and state court litigation associated with state efforts to require proof of citizenship on voting forms, including recent battles in Alabama, Georgia, and Kansas over adding these requirements to the National Voter Registration form ("national form"). The National Voter Registration Act of 1993 (NVRA) requires state governments to offer voter registration to eligible applicants at Departments of Motor Vehicles and public assistance agencies. Additionally, Section 6 of the NVRA establishes national standards for mail-in voter registration forms and requires states to accept a federal mail-in registration form, known as the National Voter Registration form (attached). Because of the NVRA, eligible voters can use either the national form or a state mail-in form. Compare the attached National Form and Arizona State Voter Registration Form. In 2002, Congress passed the Help America Vote Act (HAVA), which vested authority related to the national form with the newly established Election Assistance Commission (EAC).

In 2005, Arizona passed Proposition 200, which required voters to provide proof of citizenship with the state's registration form. Arizona then asked the EAC to include these requirements in the national form's general instructions. The EAC denied Arizona's request, taking the position that Congress did not believe that documentary proof of citizenship was necessary or consistent with the purpose of the statute. Arizona then refused to register national form applicants who did not provide proof of citizenship with their forms, thereby creating a two-tiered voter registration system in the state. Litigation ensued and eventually made its way to the U.S. Supreme Court in *Arizona v. Inter Tribal Council of Arizona, Inc.* The Court ruled in *Inter Tribal* in June 2013 that the NVRA preempted Arizona from requiring an individual registering to vote using the national form to

provide documentation beyond that indicated on the Form. As such, states could not require applicants to provide additional documentation when using the federal form, unless the EAC approved the state's proposed changes to the instructions.

Following the Supreme Court's decision, Arizona asked the EAC to add citizenship requirements to Arizona's state-specific instructions to the national form instead of to the national form's general instructions. In 2013, Georgia and Kansas filed comparable requests. The EAC deferred all three requests, stating that they did not have a quorum to vote. More litigation ensued and in January 2014 the EAC acting director outright denied the states' requests. Kansas and Arizona pushed their case through the Court of appeals (unsuccessfully) and petitioned the Supreme Court to hear their challenge to the EAC's decision. In June 2015, the Court denied the petition for certiorari.

Despite ongoing legal battles and rulings against proof of citizenship requirements, states continued to pass legislation and issue requests to the EAC to include those requirements on the national form. After passing its citizenship requirement in 2012, Alabama issued a request to the EAC in December 2014, and Kansas issued another request in November 2015. In January 2016, newly appointed EAC Executive Director Brian Newby notified Alabama, Georgia, and Kansas that their requests were approved. This led to more litigation, which temporarily resulted in two-tiered voting registration systems in Arizona, Alabama and Kansas. These legal battles, both in state and federal courts, still remain in play in Kansas, Alabama and Georgia.

SAVE Outreach

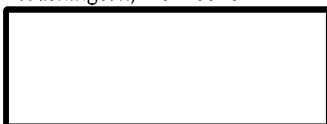
-
The SAVE program has engaged with the National Association of Secretaries of State (known as NASS, it includes members from the 37 states where the secretary of state is the chief elections officer with oversight over voter registration) and presented at their conferences in 2013 and 2017. To promote SAVE usage for voter maintenance and registration, engagement at the S1 level with NASS and the National Governors Association is recommended.

Please let me know if you have any follow-up questions.

Best,
Tammy

Tammy M. Meckley
Associate Director
Immigration Records and Identity Services Directorate
U.S. Citizenship and Immigration Services
20 Massachusetts Avenue, NW
Washington, DC 20529

(b)(6)



Voter Registration Verification by USCIS SAVE

Overview

USCIS' Systematic Alien Verification for Entitlements Program (SAVE) program is used by some state agencies to verify the citizenship of individuals registering to vote or to maintain voter rolls by verifying those already registered. The states that use SAVE for maintenance of their voter rolls compare their voter roll to the citizenship or immigration status claimed by registrants when they obtained a driver's license or state ID. The data that agencies send to USCIS for the voter registration SAVE check is whatever immigration identification number was previously provided by the registrant to the state DMV to do the initial SAVE check. If SAVE is unable to verify their citizenship with the DMV provided information, the state voter registration agency has to follow-up with the individual for additional citizenship information.

The five states and five Arizona counties that currently use SAVE for list maintenance or voter registration are:

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- North Carolina – SAVE Agreement with State Board of Elections. Verifies voters already on the rolls by running DMV data through SAVE. North Carolina ran 10,029 cases in FY 2017.
- Virginia – SAVE Agreement with Board of Elections. Verifies voters already on the rolls by running DMV data through SAVE. Virginia did not run any cases in FY 2017.
- Georgia – SAVE Agreement with Secretary of State. Verification at the point of registration. Georgia did not run any cases in FY 2017.
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SAVE Registration

When a state voter registration agency registers to use SAVE, it provides its legal authority and copies of any standardized notice letters used to inform registrants when there is a problem with their citizenship verification. This ensures that states can legally use SAVE for the requested purpose and that it provides adequate appeals and notification procedures. These authorities, procedures and letters are reviewed by USCIS counsel and necessary changes are made to the letters to ensure that the notice is adequate. Attached, for example, are copies of the initial and follow-up notice letters approved for Virginia.

SAVE Process and Voter Registration Forms

Also attached, for example, are voter registration forms from Arizona, Colorado, Florida, Georgia and North Carolina. Only Arizona and Georgia use SAVE to verify citizenship at the point of voter registration; the other states use SAVE only to maintain voter lists. Arizona's form collects an alien number ("A-file" number), which it uses to query SAVE for voter registration. The Georgia voter registration application includes a check box to indicate that individuals do not have a driver's license or Social Security number; if they check this box they are then given the alternative to present another identifier, like an A-file number. The states of Colorado, Florida, and North Carolina do voter list maintenance by running the SAVE query with DMV provided data.

Litigation History

There has been significant federal and state court litigation associated with state efforts to require proof of citizenship on voting forms, including recent battles in Alabama, Georgia, and Kansas over adding these requirements to the National Voter Registration form ("national form"). The National Voter Registration Act of 1993 (NVRA) requires state governments to offer voter registration to eligible applicants at Departments of Motor Vehicles and public assistance agencies. Additionally, Section 6 of the NVRA establishes national standards for mail-in voter registration forms and requires states to accept a federal mail-in registration form, known as the National Voter Registration Form (attached). Because of the NVRA, eligible voters can use either the national form or a state mail-in form. Compare, for example, the attached National Voter Registration Form and the Arizona State Voter Registration Form. In 2002, Congress passed the Help America Vote Act (HAVA), which vested authority related to the national form with the newly established Election Assistance Commission (EAC).

In 2005, Arizona passed Proposition 200, which required voters to provide proof of citizenship with the state's registration form. Arizona then asked the EAC to include these requirements in the national form's general instructions. The EAC denied Arizona's request, taking the position that Congress did not believe that documentary proof of citizenship was necessary or consistent with the purpose of the statute. Arizona then refused to register national form applicants who did not provide proof of citizenship with their forms, thereby creating a two-tiered voter registration system in the state. Litigation ensued and eventually made its way to the U.S. Supreme Court in *Arizona v. Inter Tribal Council of Arizona, Inc.* The Court ruled in *Inter Tribal* in June 2013 that the NVRA preempted Arizona from requiring an individual registering to vote using the National Voter Registration Form to provide documentation beyond that indicated on the Form. As such, states could not require applicants to provide additional documentation when using the federal form, unless the EAC approved the state's proposed changes to the instructions.

Following the Supreme Court's decision, Arizona asked the EAC to add citizenship requirements to Arizona's state-specific instructions to the national form instead of to the national form's general instructions. In 2013, Georgia and Kansas filed comparable requests. The EAC deferred all three requests, stating that they did not have a quorum to vote. More litigation ensued and in January 2014 the EAC acting director outright denied the states' requests. Kansas and Arizona pushed their case through the Court of appeals (unsuccessfully) and petitioned the Supreme Court to hear their challenge to the EAC's decision. In June 2015, the Court denied the petition for certiorari.

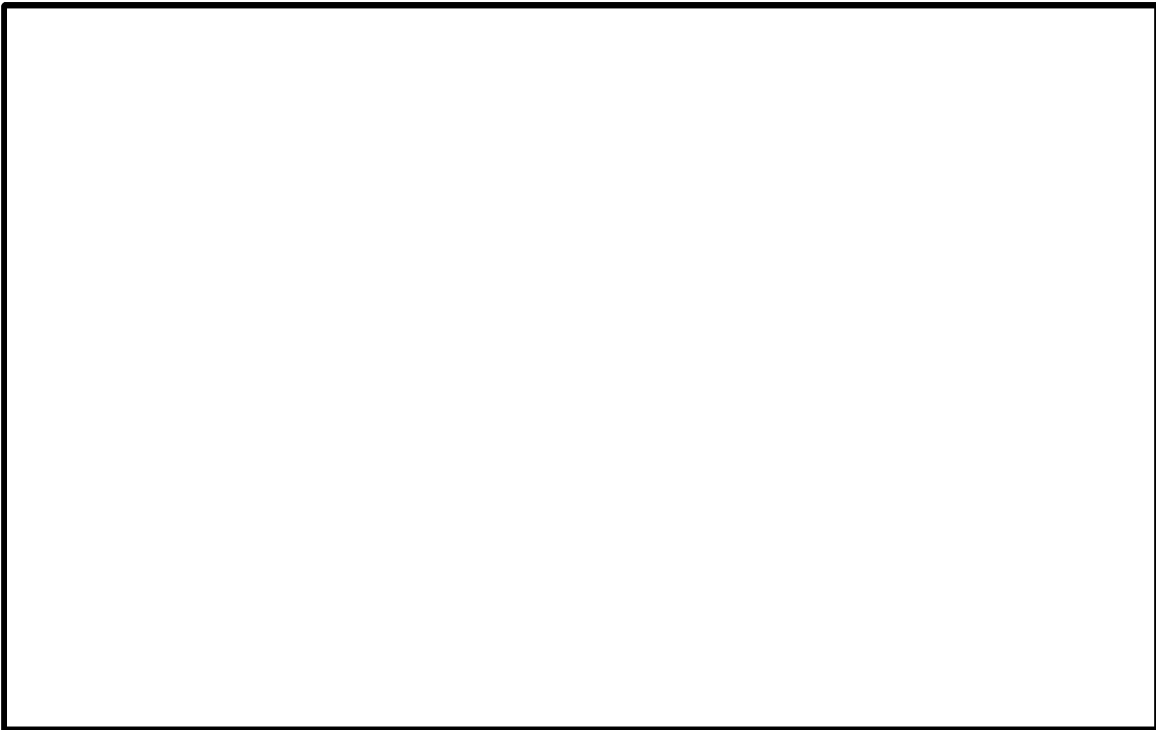
Despite ongoing legal battles and rulings against proof of citizenship requirements, states continued to pass legislation and issue requests to the EAC to include those requirements on the national form. After passing its citizenship requirement in 2012, Alabama issued a request to the EAC in December 2014, and Kansas issued another request in November 2015. In January 2016, newly appointed EAC Executive Director Brian Newby notified Alabama, Georgia, and Kansas that their requests were approved. This led to more litigation, which temporarily resulted in two-tiered voting registration systems in Arizona, Alabama and Kansas. These legal battles, both in state and federal courts, still remain in play in Kansas, Alabama and Georgia.

SAVE Outreach

USCIS SAVE program staff have engaged with the National Association of Secretaries of State (known as NASS, it includes members from the 37 states where the secretary of state is the chief elections officer with oversight over voter registration) and presented at their conferences in 2013 and 2017. To further, and more effectively, promote SAVE usage for voter maintenance and registration, engagement at the DHS Secretary level with NASS and the National Governors Association is recommended.

Potential Expansion of USCIS Role in Verifying Accuracy of Voting-Related Responses on USCIS Forms

(b)(5)



Voter Registration Verification by USCIS SAVE

Overview

USCIS' Systematic Alien Verification for Entitlements (SAVE) program is used by some state voter registration agencies to verify the citizenship of individuals registering to vote or to maintain voter rolls by verifying those already registered. The data that agencies send to USCIS for a voter registration SAVE check is either an immigration identification number (e.g. alien registration number or naturalization certificate number) provided by the individual on the voter registration form or that was previously provided by the registrant to the state DMV to do the SAVE check associated with the driver's license application. The states that use SAVE for maintenance of their voter rolls compare their voter roll to the citizenship or immigration status claimed by registrants when they obtained a driver's license or state ID. If SAVE is unable to verify the individual's citizenship with the state form or DMV provided information, the state voter registration agency has to follow-up with the individual for additional citizenship information.

The five states and five Arizona counties that currently use SAVE for list maintenance or voter registration are:

- Colorado – SAVE Agreement with Secretary of State. Verifies voters already on the rolls by running DMV data through SAVE. Colorado ran 211 cases in FY 2017
- Florida – SAVE Agreement with Secretary of State. Verifies voters already on the rolls by running DMV data through SAVE. Florida did not run any cases in FY 2017.
- North Carolina – SAVE Agreement with State Board of Elections. Verifies voters already on the rolls by running DMV data through SAVE. North Carolina ran 10,029 cases in FY 2017.
- Virginia – SAVE Agreement with Board of Elections. Verifies voters already on the rolls by running DMV data through SAVE. Virginia did not run any cases in FY 2017.
- Georgia – SAVE Agreement with Secretary of State. Verification at the point of registration. Georgia did not run any cases in FY 2017.
- Arizona – SAVE Agreement with participating counties include: 1) Maricopa 2) La Paz 3) Pima 4) Yuma 5) Yavapai. They do verification at the point of registration. Yavapai County ran 23 cases in FY 2017 and Maricopa ran 494.

SAVE has also been contacted by the following states regarding voter registration (and some even started the process to register for SAVE access), but none of them completed the process of registering to use SAVE: Kansas; Michigan; Mississippi; Oregon; Tennessee; Maryland; Minnesota; New Mexico; Ohio; Pennsylvania; Texas; and Washington. Iowa was registered to use SAVE at one time, but its MOA was terminated in 2015 after a Federal court struck down the administrative rule that gave it the authority to use SAVE.

SAVE Registration

When a state voter registration agency registers to use SAVE, it provides its legal authority and copies of any standardized notice letters used to inform registrants when there is a problem with their citizenship verification. This ensures that states can legally use SAVE for the requested purpose and that it provides adequate appeals and notification procedures. These authorities, procedures, and letters are reviewed by USCIS counsel and necessary changes are made to the letters to ensure that the notice is

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SAVE Process and Voter Registration Forms

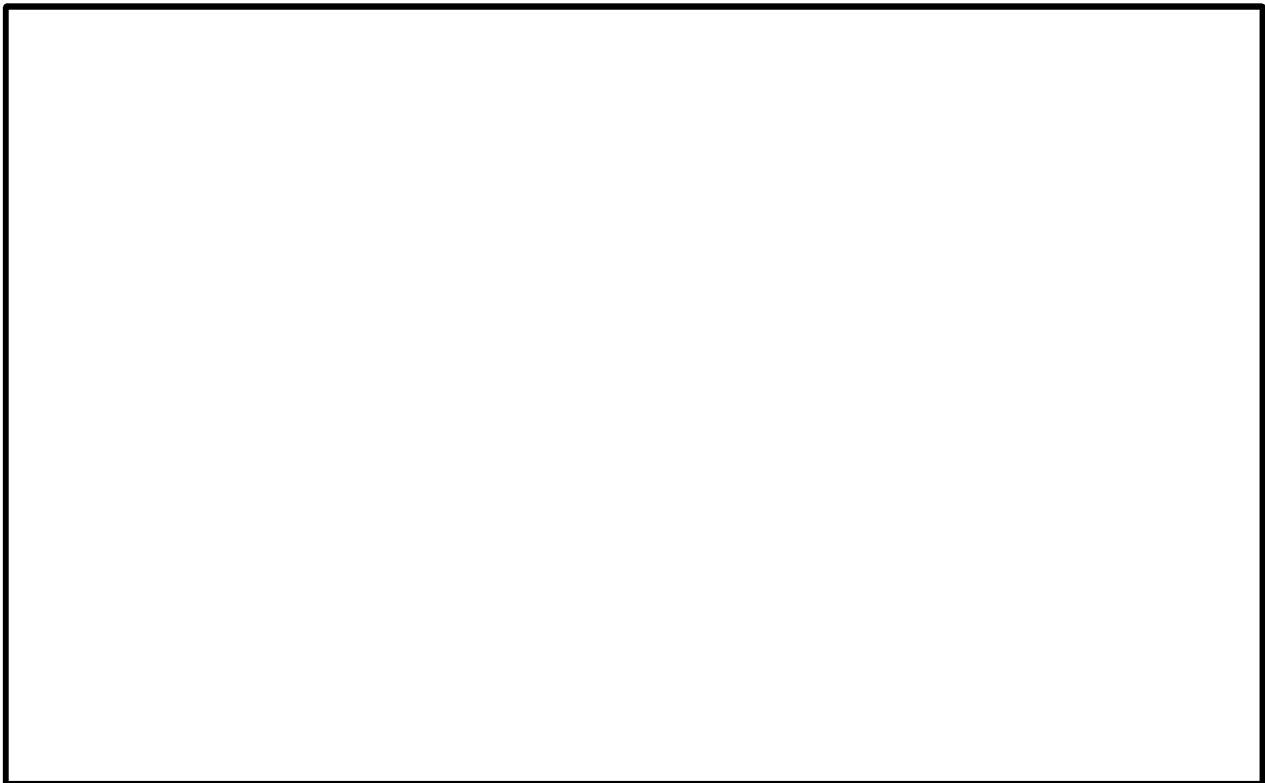
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Potential Expansion of USCIS Role in Verifying Accuracy of Voting-Related Responses on USCIS Forms

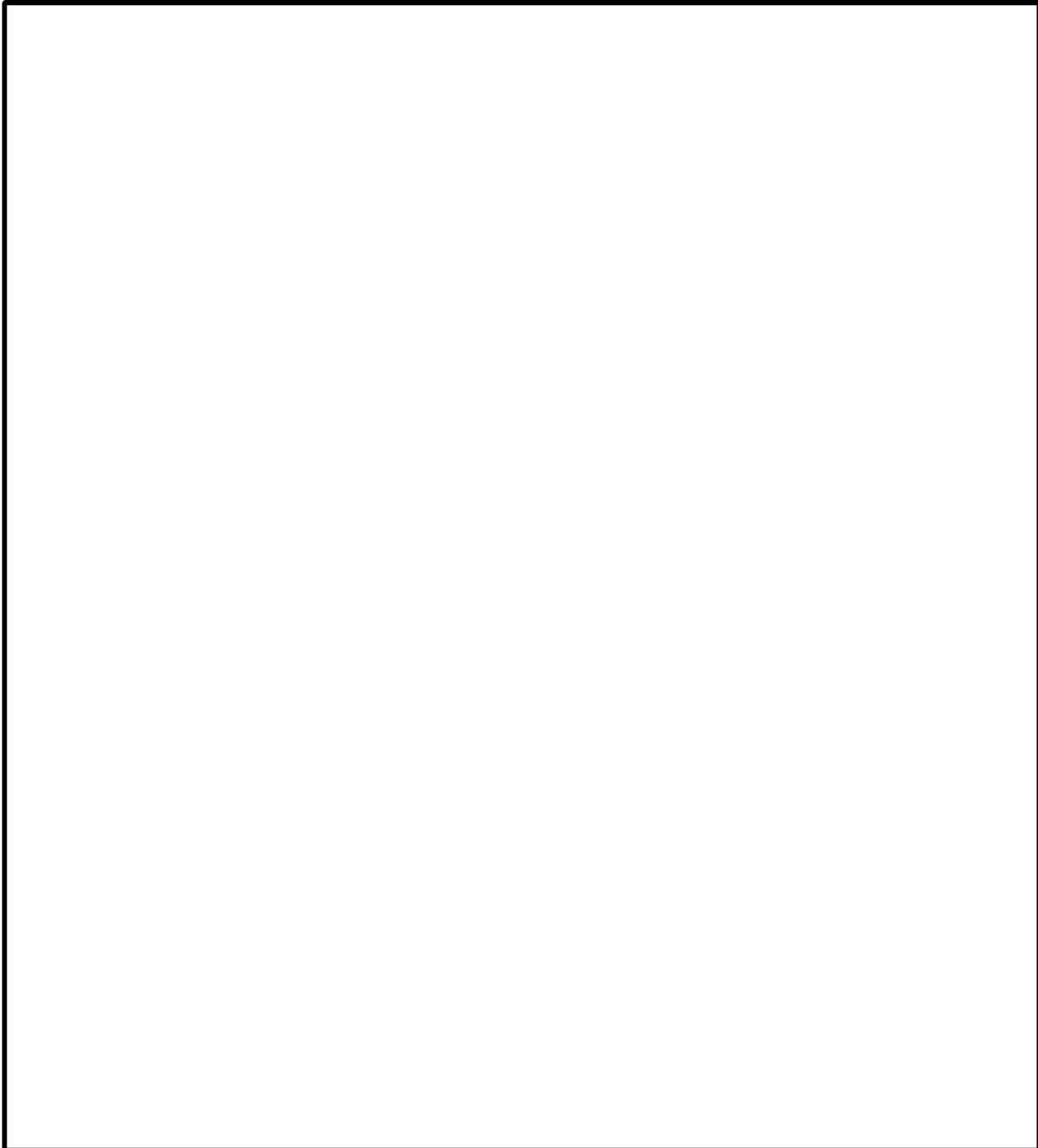




U.S. Citizenship
and Immigration
Services

Comparison of State Voter Data against USCIS Immigration Data

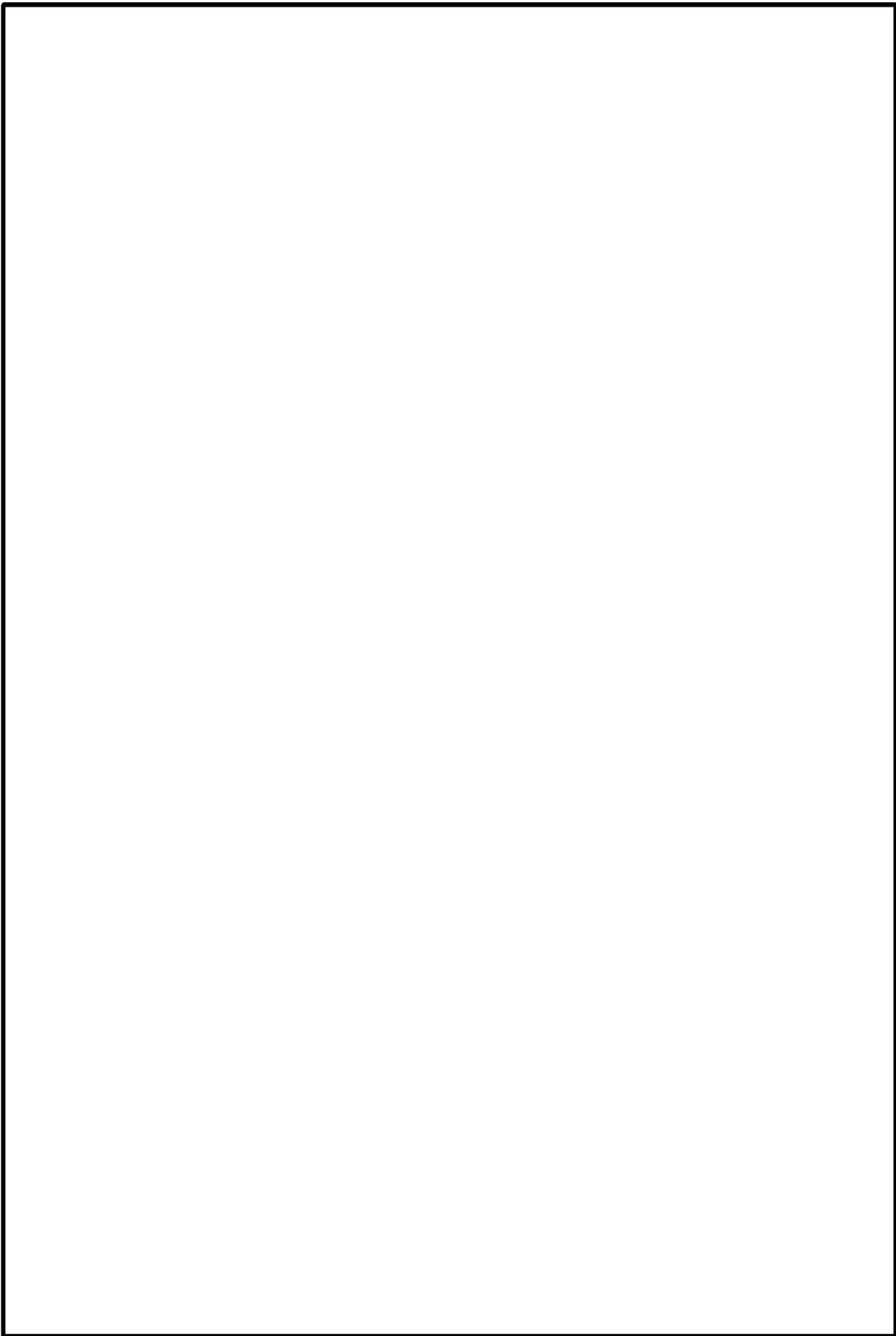
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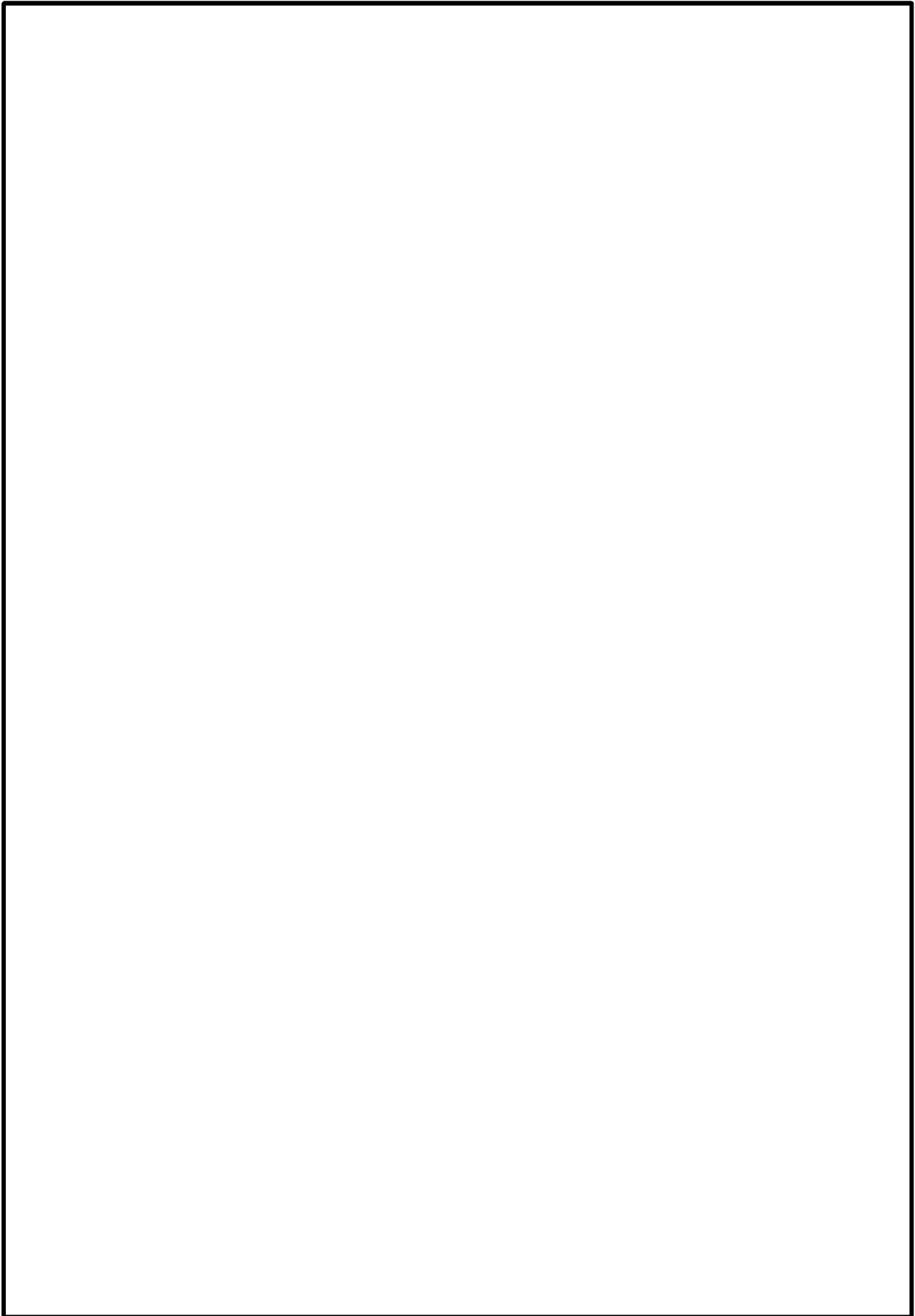
www.uscis.gov

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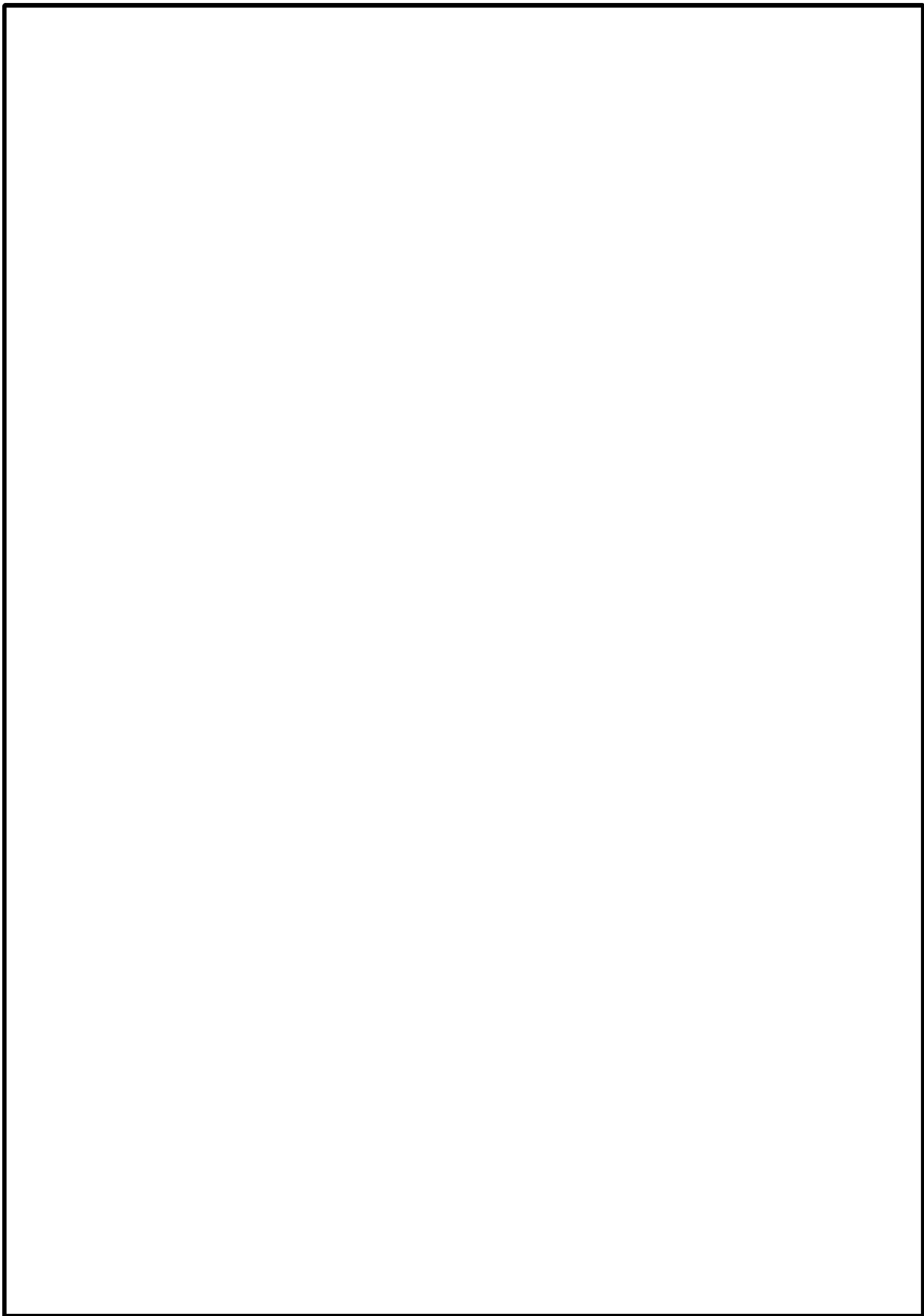
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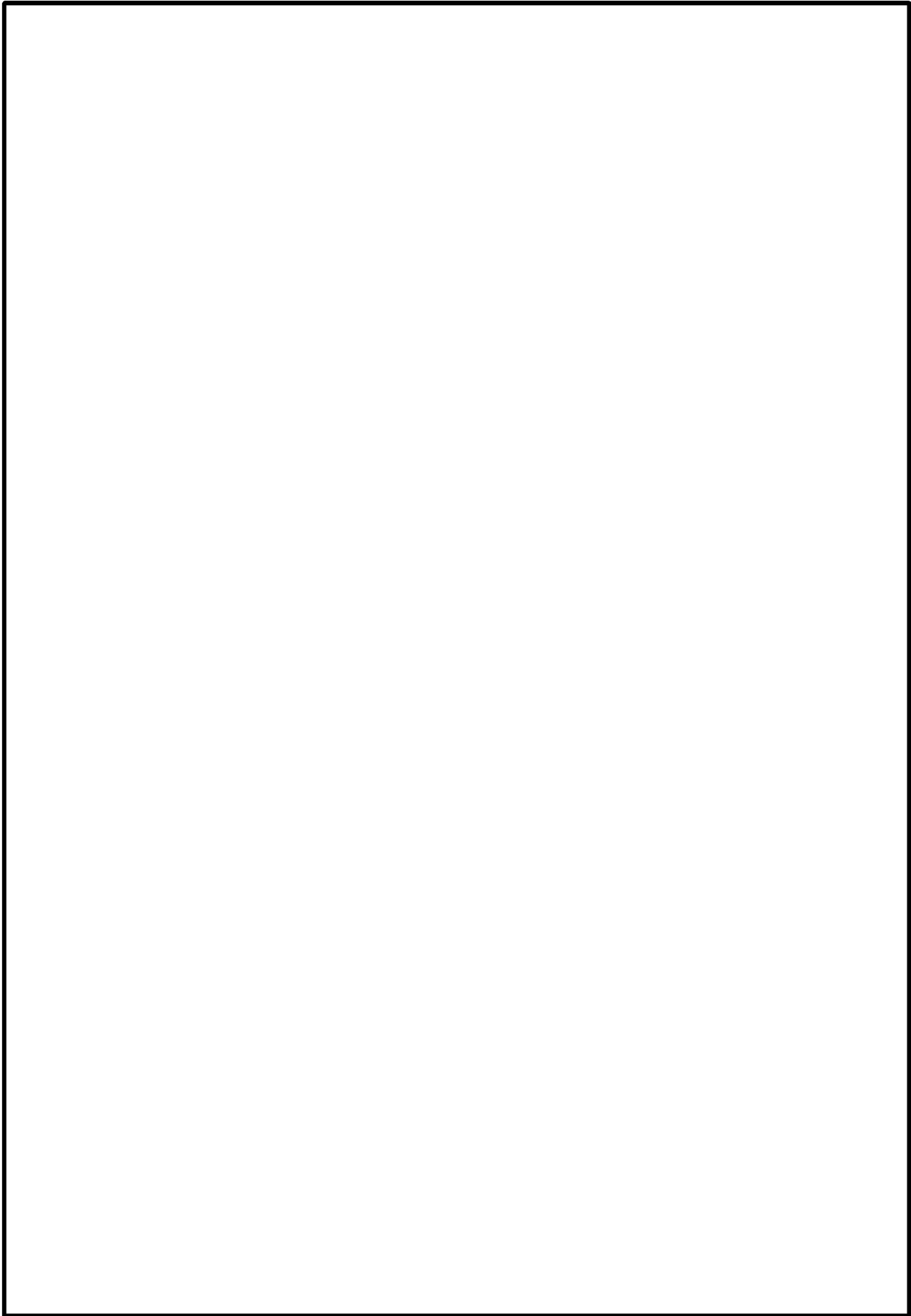
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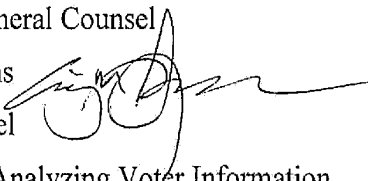


U.S. Citizenship
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October 3, 2017

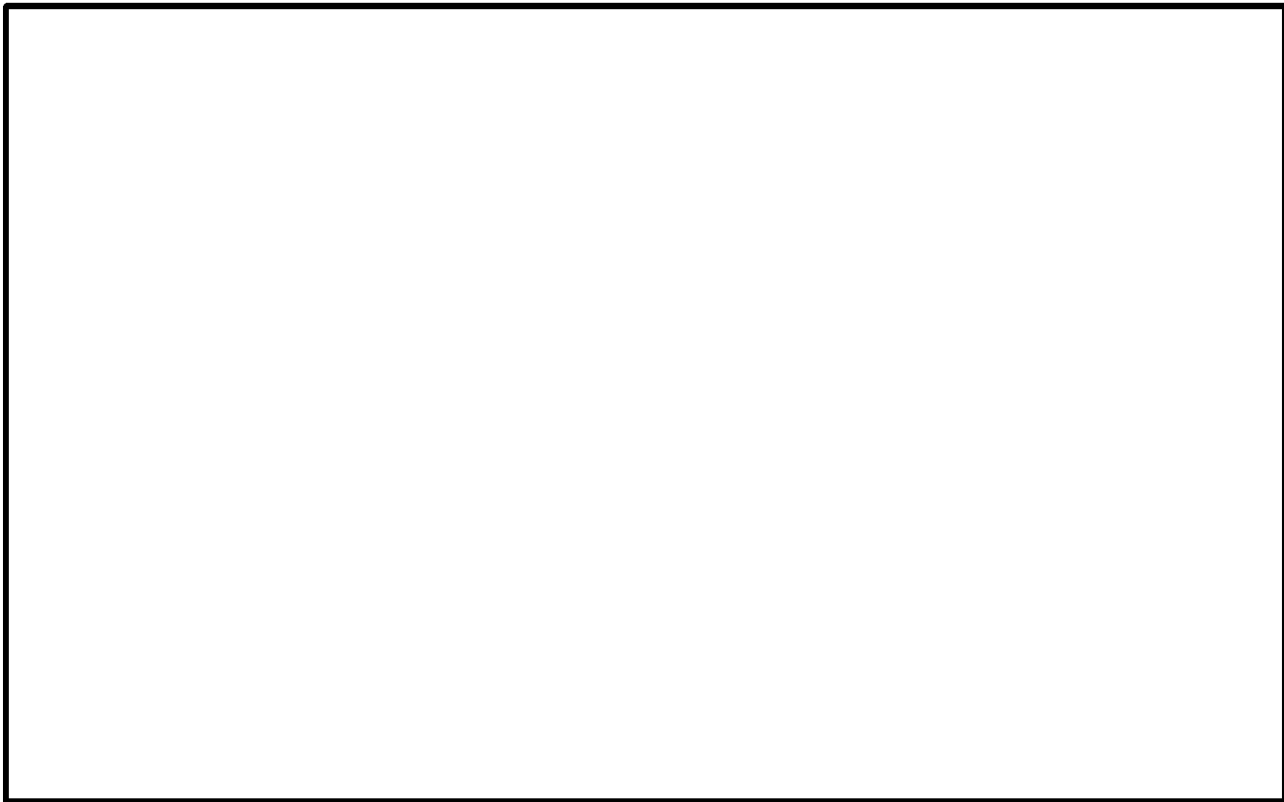
Memorandum

To: Dimple Shah
Deputy General Counsel
Office of General Counsel

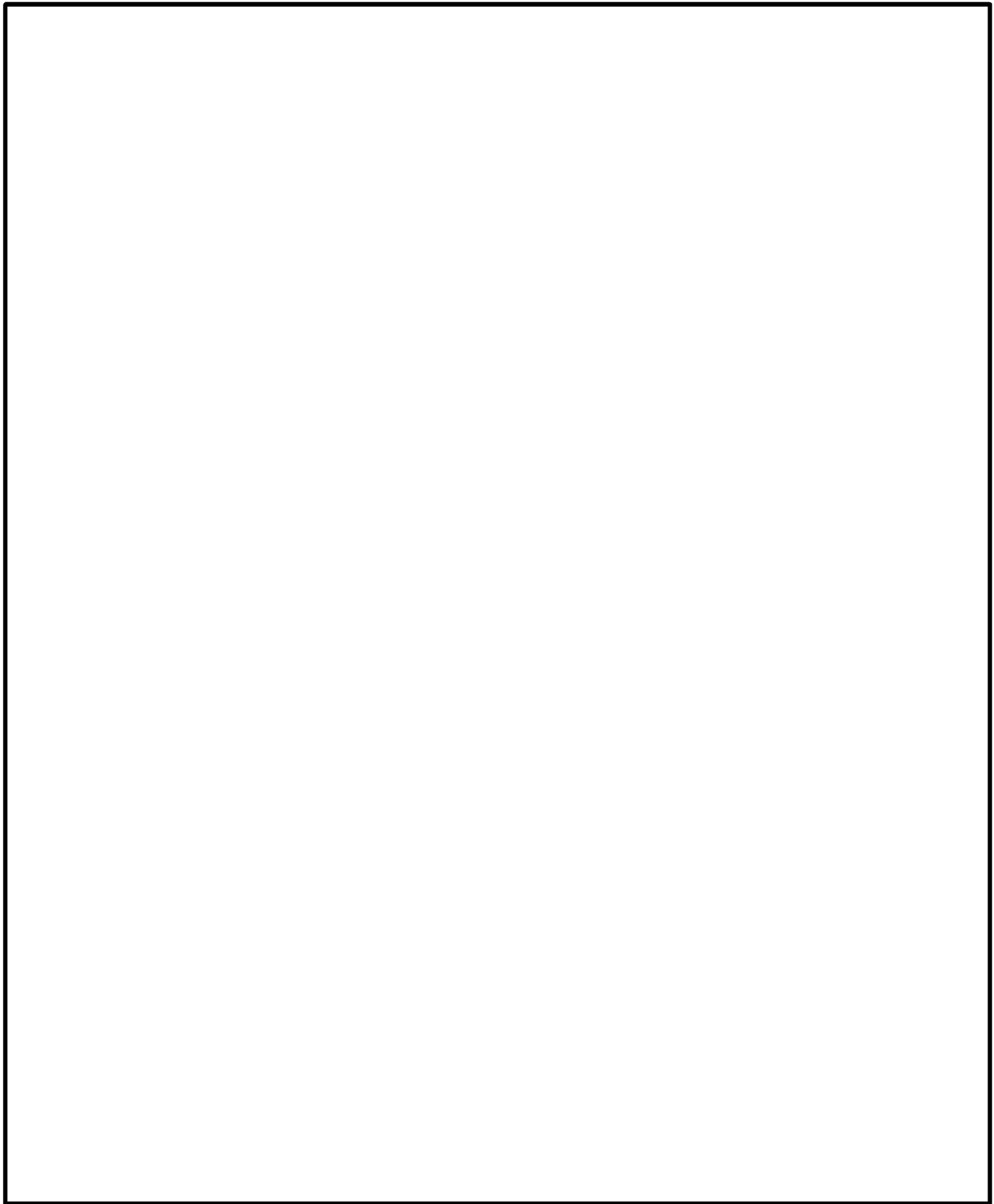
From: Craig Symons 
Chief Counsel

Re: Options for Analyzing Voter Information

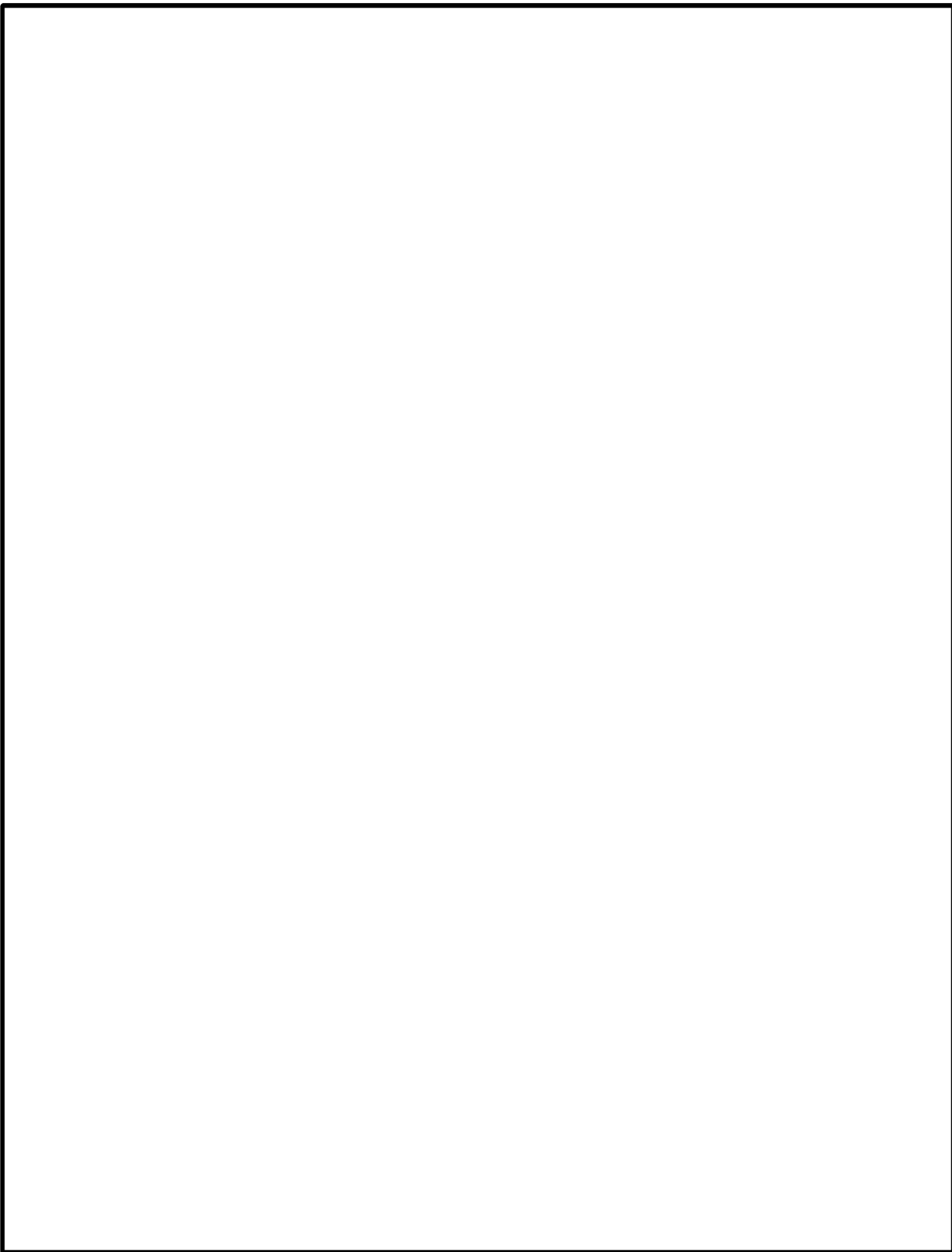
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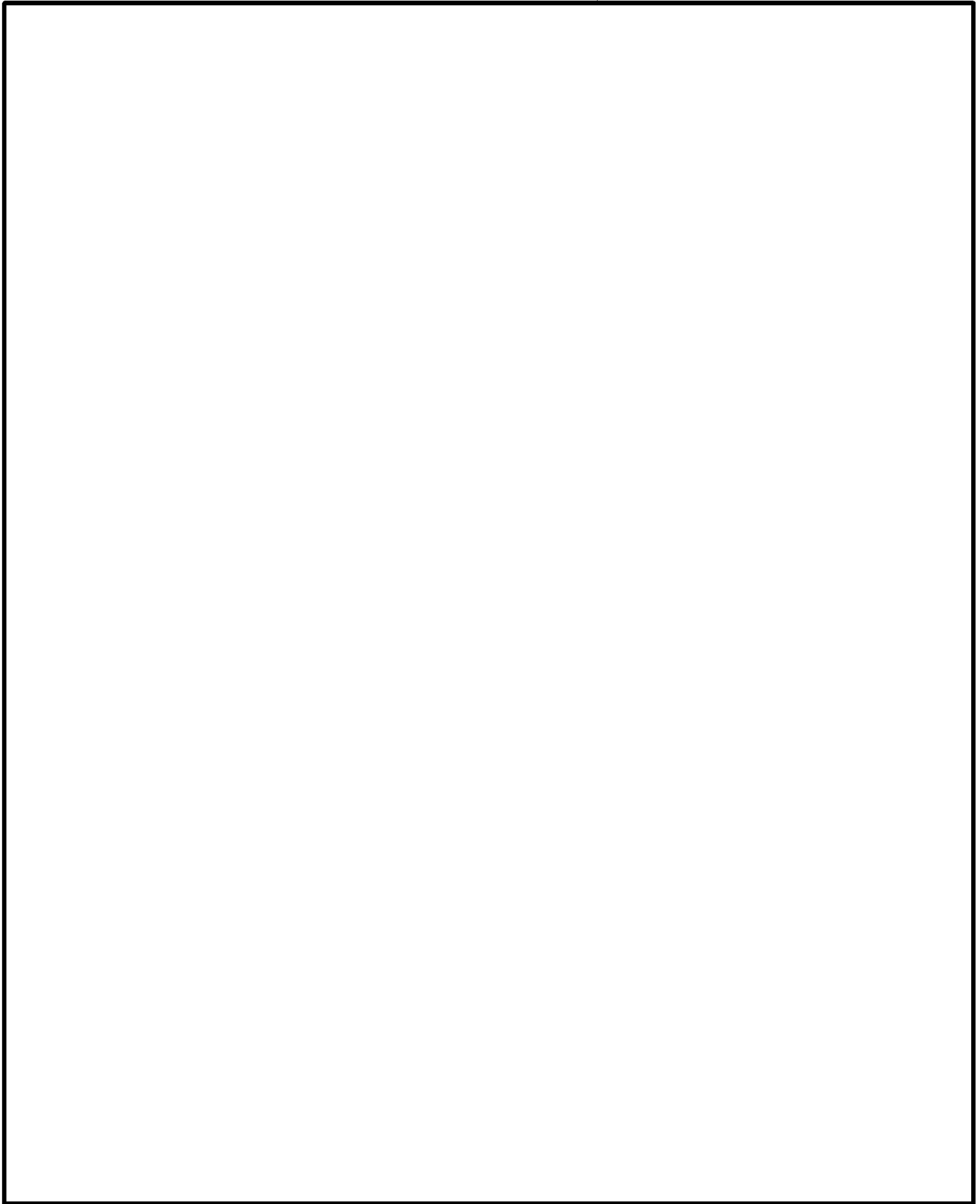


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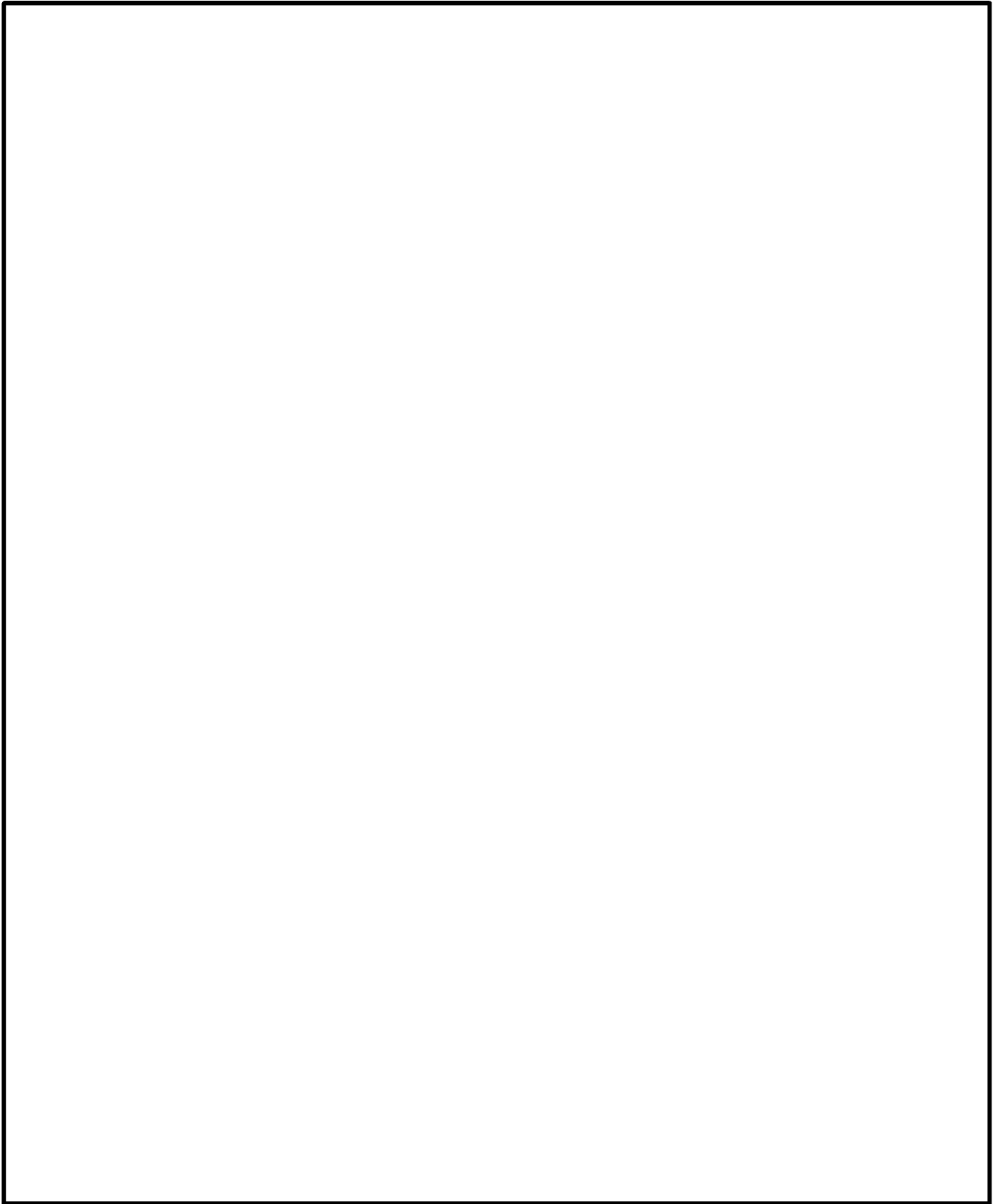
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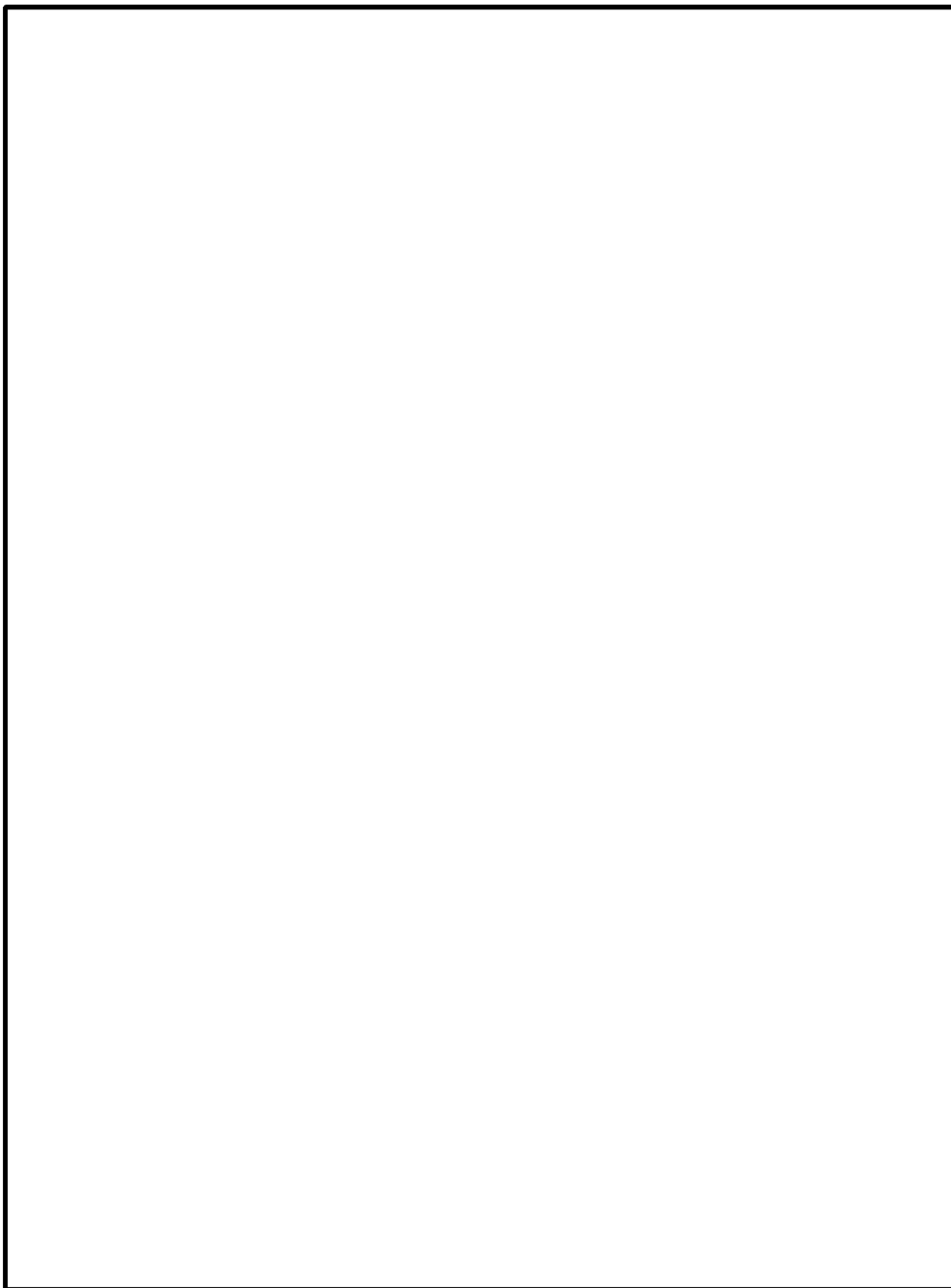
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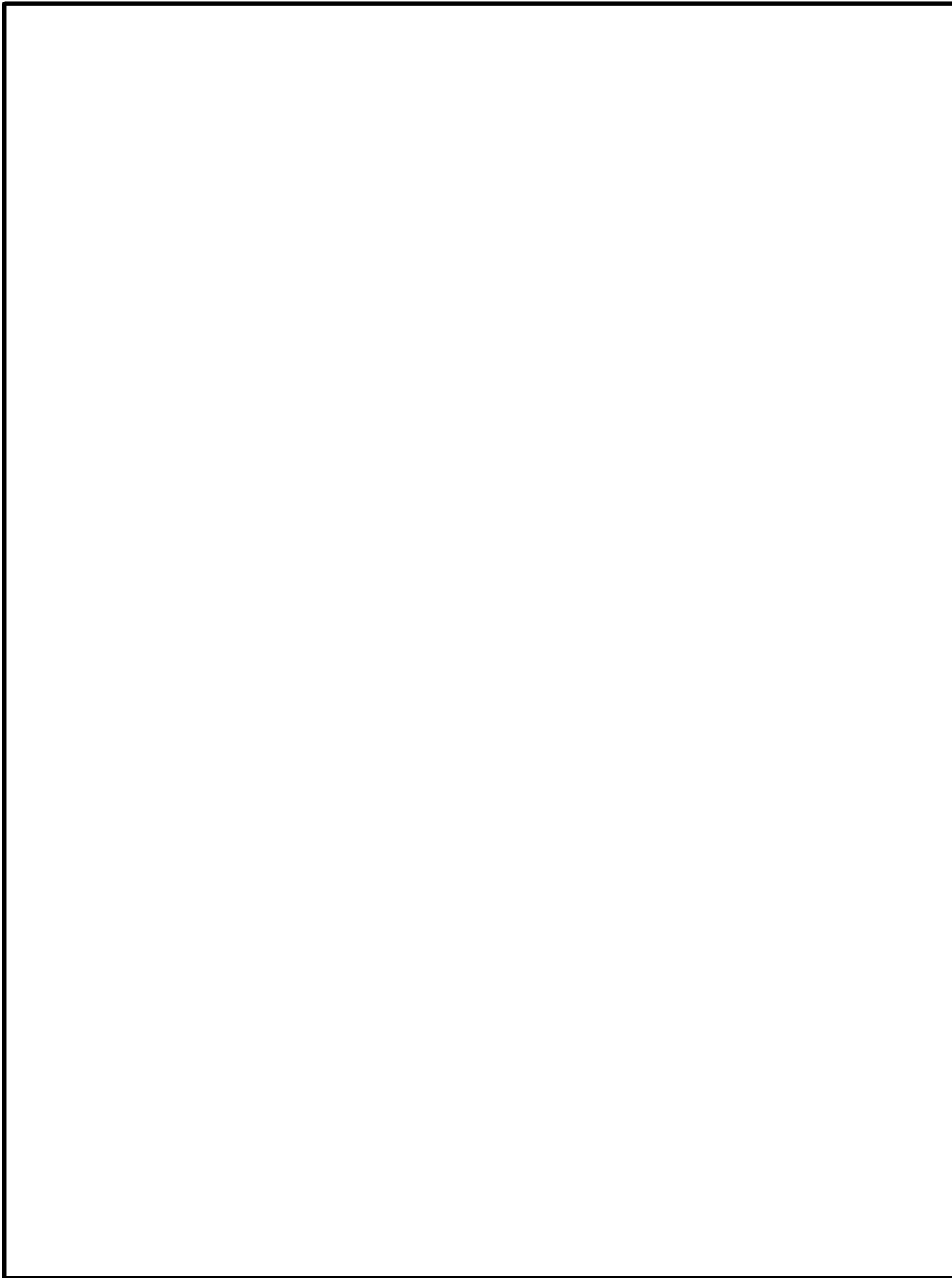


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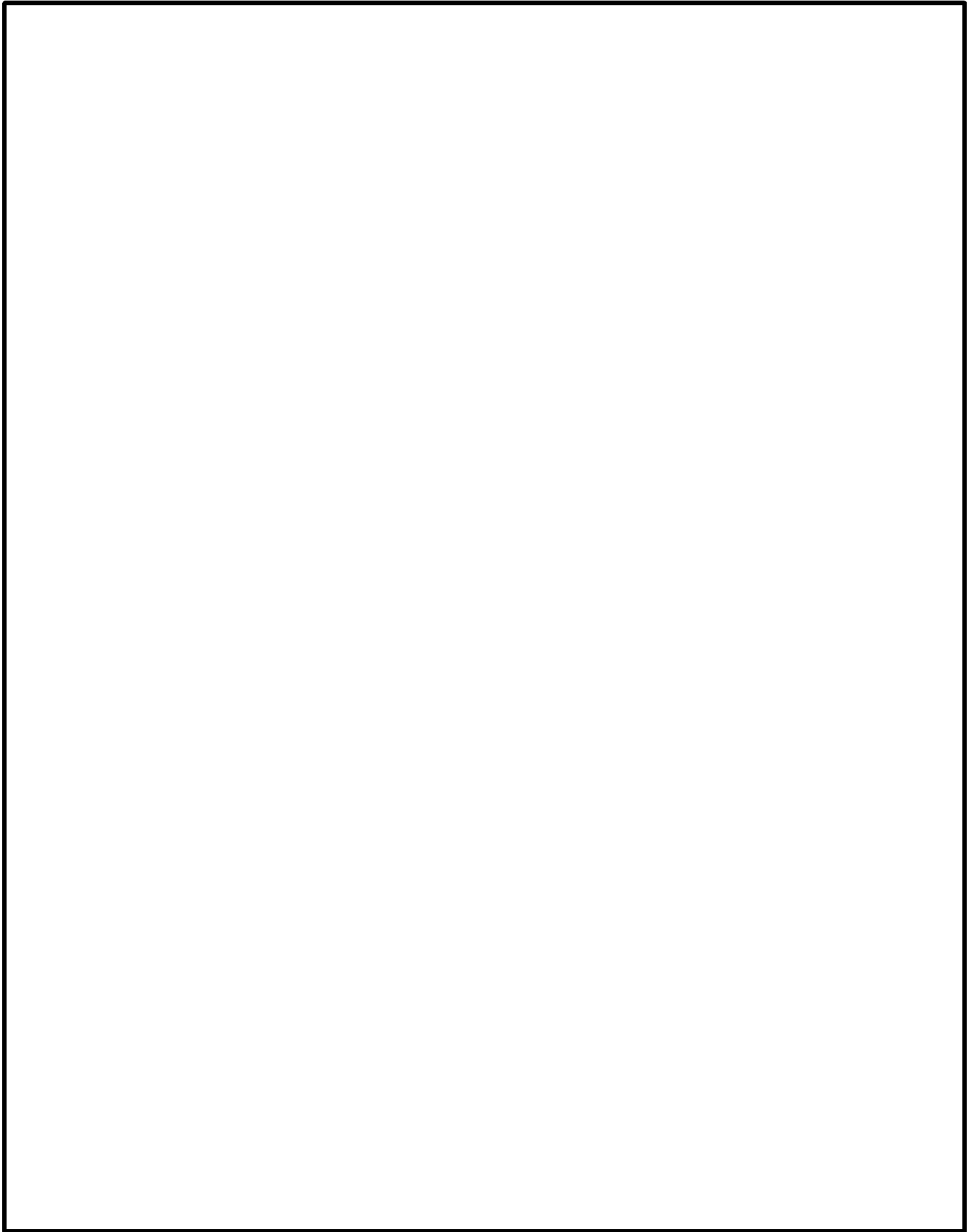
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Voter Integrity



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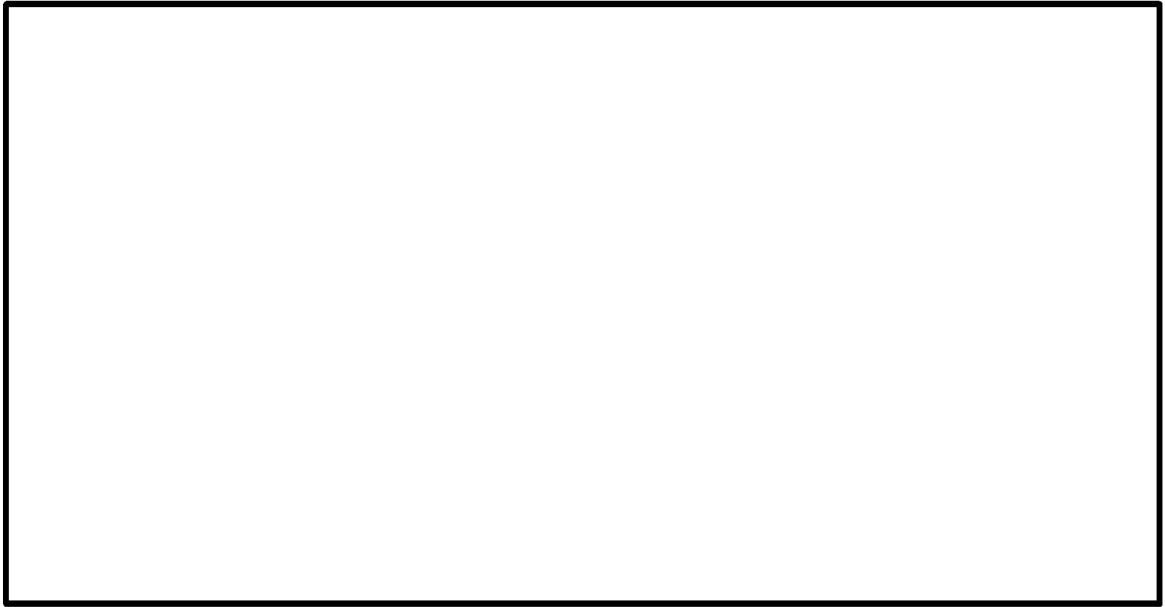
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Privileged Attorney-Client Communication and Attorney Work-Product



Fact Sheet

Information for Voter Registration Agencies: Conducting Verifications Through SAVE

Background

Agencies registered with the U.S. Citizenship and Immigration Services (USCIS) SAVE Program are authorized to conduct verifications to maintain their state's voter registration rolls. This authorization is identified in each agency's memorandum of agreement (MOA). Although the large majority of SAVE registered agencies sign a standard MOA, the voter registration MOA (VRMOA) is tailored to address verifications for voter registration purposes. This Fact Sheet provides general guidance for interpreting the VRMOA requirements, but VRMOAs may vary slightly due to each state's laws or policies. Therefore, if you have any questions about interpreting this Fact Sheet, please contact SAVE.

SAVE's Operational Limitations for Verifying the Citizenship Status

SAVE has the following limitations and requirements:

- SAVE cannot verify U.S. born citizens under any circumstances.
- SAVE's ability to verify citizenship is limited to naturalized and derived citizens.¹ USCIS only has comprehensive records on naturalized and, provided that they have acquired Certificates of Citizenship and updated their records with USCIS, derived U.S. citizens.
- SAVE requires at minimum the benefit applicant's name, date of birth, and current immigration document number related to his or her claimed status.
- SAVE cannot verify an individual's naturalized or derived citizenship status based on a Social Security Number, driver's license number, U.S. passport number or other document number not issued by a component of the Department of Homeland Security or USCIS' predecessor, Immigration and Naturalization Service.

Verifying the Citizenship Status of Voters

To use SAVE to verify citizenship of naturalized and derived U.S. citizens registering or registered to vote, a user agency **must** provide SAVE with the numeric identifiers (i.e., alien registration number and/or certificate number) found on the individual's immigration-related documents (e.g., Certificate of Naturalization or Certificate of Citizenship). Refer to Section IV.B.1.a. of the standard VRMOA, which

¹ Derived citizens are persons born abroad who derive U.S. citizenship at birth from one or both U.S. parents who meet the requirements of U.S. law for transmission of citizenship to their children. These citizens may, but are not required to, apply to USCIS for a Certificate of Citizenship evidencing their U.S. citizenship. The term 'derived citizen' is also frequently used to refer to citizens who automatically acquired U.S. citizenship after birth but under the age of 18 under certain provisions of U.S. naturalization law. Additionally, although derived citizens may have U.S. passports issued by the U.S. Department of State demonstrating their U.S. citizenship, SAVE cannot verify them as citizens using the passport.

states that the user agency **must**:

(a) Provide to the SAVE Program the information the SAVE Program requires to respond to User Agency requests for verification of immigration or naturalized or derived citizenship status information, including (1) information from the registrant's immigration or DHS citizenship documentation, i.e., Alien Registration, Naturalization Certificate or Certificate of Citizenship number, for initial automated verification, (2) additional information obtained from the registrant's immigration or DHS citizenship documentation for automated additional verification, and (3) completed Forms G-845 and other documents and information required for manual additional verification, if necessary. *Institute additional verification for any registrant that does not verify as a naturalized or derived citizen on initial verification* (emphasis added). If SAVE is unable to verify the registrant as a naturalized or derived citizen after conducting the second step additional verification, *the User Agency will contact the registrant to obtain proof of citizenship in accordance with the provisions of this MOA* (emphasis added). For manual only verification, ensure that Forms G-845 and other documents and information required for manual verification are provided.

As indicated, the user agency **must conduct second step additional verification for any individual that does not verify as a U.S. citizen after initial verification**. To comply with the VRMOA, a user agency cannot terminate the SAVE verification process after initial verification when an individual does not verify as a U.S. citizen. This requirement to institute additional verification applies to situations where SAVE returns **any response other than U.S. citizen**, such as a response indicating the applicant is a lawful permanent resident.

If an individual **does not verify as a U.S. citizen after second step additional verification**, the user agency **must** contact the individual and request proof of citizenship, i.e., a copy of the Certificate of Naturalization or Certificate of Citizenship², unless the agency has **a copy of the necessary immigration document to submit for third step additional verification**. To comply with the VRMOA, the user agency **must** also follow other related provisions. Accordingly, the VRMOA states the following at Section IV.B.1.f.

(f) Ensure all Users perform any additional verification procedures the SAVE Program requires and/or the registrant requests after the User Agency initiates a request for verification.

This provision has two aspects: **1) the user agency must perform additional verification required by SAVE; 2) the user agency must also conduct additional verification requested by the individual being verified**. It is not appropriate for a user agency to conduct verifications if it does not intend to complete the verification process. However, an individual may request that the user agency not conduct additional verification procedures. The following are examples of when a user agency may not need to conduct additional verification after contacting the individual being verified:

- When the individual returns an authorized attestation form stating that the individual is not a U.S. citizen.
- When the individual provides proof of citizenship accepted by the user agency without verification by SAVE, such as a U.S. passport.
- When the individual does not respond within applicable timeframes to the the user agency inquiry for attestation or proof of citizenship.

² It is always best to provide SAVE with the alien registration number and the Certificate of Naturalization or Certificate of Citizenship number whenever possible. It is also best to submit a copy of the appropriate Certificate for third step additional verification. However, SAVE may be able to verify citizenship based upon an alien registration number on any document issued by USCIS.

Section IV.B.1.l. states that the user agency **must**:

(l) Create standardized correspondence to request that a registrant provide a Naturalization Certificate or Certificate of Citizenship to complete SAVE verification and submit that correspondence to SAVE for approval prior to use with registrants.

Every user agency that enters into a VRMOA **must** prepare **standard notification correspondence and provide it for DHS approval**. This provision becomes significant:

- after a second step additional verification is conducted;
- the individual does not verify as a U.S. citizen; and,
- the user agency does not have a copy of the necessary immigration document.

Under those circumstances, the user agency **must** use this correspondence to contact the individual to request proof of citizenship.

Sections IV.B.1.m & n. may also apply at this stage of the verification process. These sections state that the user agency **must**:

(m) Provide all registrants who do not verify as a citizen under the terms of the MOA with adequate written notice that their citizenship could not be verified and the information necessary to contact DHS-USCIS (*see attachment 1: Fact Sheet, which is subject to revision and reposting on the SAVE Website and Online Resources (emphasis added)*) so that such individuals may obtain a copy of their Naturalization Certificate or Certificate of Citizenship or correct their records in a timely manner, if necessary;

(n) Provide all registrants who are not verified as citizens based solely or in part on the SAVE response with the opportunity to use the user agency's existing process to appeal the denial and to contact DHS-USCIS to correct their records prior to a final decision, if necessary.

According to Section IV.B.1.m, quoted above, the user agency **must** provide the individual with the Fact Sheet, "**Information for Registrants: Verification of Citizenship Status and How to Obtain Your Document or Correct Your Record with USCIS**", as part of the notification. As part of the VRMOA negotiation process and approval of the notification correspondence, USCIS evaluated the appeals process of each user agency. Accordingly, Section IV.B.1.n requires that the individual **must** also **have the opportunity to appeal the determination that he or she is not a citizen** using the user agency's existing process.

Finally, note that Section IV.B.d. incorporates other requirements that user agencies **must** follow to comply with the VRMOA. The section states that the user agency **must**:

(d) Ensure all Users performing verification procedures *comply with all requirements* contained in the SAVE Program Guide, web-based tutorial, and this MOA, and updates to these requirements (emphasis added).

SAVE periodically updates its processes and requirements. Accordingly, the user agency **must** understand and monitor these requirements (including this Fact Sheet), **and any updates** thereto, as they relate to voter registration verification requests.

Instructions for Conducting Voter Registration Verifications

If...	Use...	Then...
the individual does not verify as a U.S. citizen on initial verification.	<p>the electronic additional second step verification process to request additional verification:</p> <ul style="list-style-type: none"> • Identify in the “comment” field on the “Request Additional Verification” page that the request is to determine if the individual is a U.S. citizen; • Submit the case for additional verification. 	SAVE will provide a response based on the information available in USCIS records or will direct you to “resubmit with docs.”
the individual does not verify as a U.S. citizen on electronic additional second step verification.	<p>the electronic third step or paper only Form G-845³ verification process and submit a copy of the applicant’s immigration document showing U.S.citizenship:</p> <ul style="list-style-type: none"> • attach a copy of the applicant’s USCIS issued immigration document (e.g., Certificate of Naturalization or Certificate of Citizenship); • Submit the completed electronic third step request and/or the Form G-845. 	SAVE will provide a response based on the information available in USCIS records.

If you have any questions regarding this guidance or would like to request training please contact the SAVE Program at SAVE.help@uscis.dhs.gov.

³ If SAVE returns a second step response indicating that an individual has an immigration status other than U.S. citizen, e.g., lawful permanent resident, the user agency **must** use the paper Form G-845 to submit the USCIS issued document to SAVE for third step additional verification. Always identify in the “comment” field on the Form G-845 that the request is to determine if the individual is a U.S. citizen. Please follow all instructions for submitting a paper Form G-845.



The Use of SAVE for Voter Registration

Background

The Systematic Alien Verification for Entitlements (SAVE) program is an inter-governmental initiative using a web-based service to help federal, state and local agencies that issue public benefits determine the citizenship and immigration status of applicants. SAVE is not itself a database, but is only a system that accesses Department of Homeland Security (DHS) and other agency databases containing information regarding the status of nonimmigrants, immigrants, and certain naturalized and derived U.S. citizens.

SAVE originally existed as a pilot program, implemented over two years by the Immigration and Naturalization Service (INS) in voluntary cooperation with the states, and was then permanently authorized in Section 121(c) of the Immigration Reform and Control Act of 1986 (IRCA), Pub. L. No. 99-603. IRCA prohibited the granting of specified federal public benefits to certain non-U.S. citizens and imposed obligations upon benefit granting agencies to determine the citizenship and/or immigration status of applicants for these benefits.

IRCA also required that each benefit applicant declare in writing whether he or she is a citizen or national of the United States. If the applicant is not a citizen or national of the United States, the applicant must show that, he or she is in a satisfactory immigration status, as set forth by federal law, to receive that benefit. IRCA required the establishment of an automated system for verifying the immigration status of noncitizen applicants for certain federal benefits, originally including only the follow federal programs:

- Temporary Assistance to Needy Families (TANF) Program
- Medicaid Program
- Certain Territorial Assistance Programs
- Food Stamps
- Unemployment Compensation Program
- Title IV Educational Assistance Programs
- Certain Housing Assistance Programs

About a decade after SAVE was created, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Pub. L. No. 104-193, provided additional restrictions for certain programs funded by federal, state, and local governments. PRWORA established stricter citizenship or immigration status eligibility requirements for many programs and rendered certain categories of non-U.S. citizen ineligible for many benefits. Near the same time, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. No. 104-208, as amended, expanded SAVE's purview by requiring DHS to respond to inquiries by federal, state, and local government agencies seeking to verify or determine the citizenship or immigration status of any individual within the

jurisdiction of the agency for any lawful purpose. See 8 U.S.C. § 1373(c). Accordingly, SAVE is now required, by statute, to respond to inquiries made by federal, state, or local government agencies seeking to verify or ascertain citizenship or immigration status of any individual within the jurisdiction of the agency “for any purpose authorized by law.” This is the legal authority SAVE relies upon when performing verification in association with state voter registration and state voter list maintenance. Federal law (the Help America Vote Act) also requires State election officials to maintain and update computerized voter registration lists to ensure voter eligibility while maintaining voter’s rights. 52 U.S.C. § 21083; see 52 U.S.C. § 20507.

With respect to the mechanics of using SAVE, the SAVE Program currently provides verification services to over one thousand agencies. Only federal, state, and local benefit-granting agencies may register for the SAVE Program. The agency must be authorized by law to engage in an activity or provide a benefit for which immigration status verification is required.

SAVE requires the agency to submit electronic copies of all applicable legal authorities authorizing the agency to:

- Issue the stated benefit or license or engage in other activity; and
- Verify immigration status before issuing the stated benefit or license or pursuant to engaging in the other activity.

The SAVE Program reviews the submitted legal authorities to ensure that the agency is authorized to participate in the program. If the agency meets the eligibility criteria to participate in the SAVE Program, the agency is required to enter into a Memorandum of Agreement (MOA) with DHS/USCIS outlining the purpose and the responsibilities for participation in the program.

SAVE charges user agencies a fee based on the number and type of transactions they perform. If an agency’s account does not make any transactions in a given month, then SAVE does not charge that account. However, if an agency’s account makes any transaction in a given month, SAVE automatically charges a minimum monthly service transaction fee of \$25.

- Initial Verification: \$0.50
- Retry Initial Verification: \$0.50
- Additional Verification: \$0.50
- Maximum Charges for electronic cases: \$1.50
- Paper-based Form G-845, Document Verification Request: \$2.00

The SAVE program monitors the accuracy of its responses by performing monthly quality assurance audits. SAVE meets its goal for 99 percent legal instrument examiner accuracy on a monthly basis. The SAVE program is also undergoing a modernization effort to decrease the percentage of cases requiring a manual review and is eliminating paper based requests in FY 2018.

The SAVE Verification Process and Voter Registration Agencies

Before gaining access to SAVE for voter registration, the state agency must provide USCIS with all applicable legal authorities and voter registration procedures that authorize the agency to engage in voter registration activities. These authorities are reviewed by the USCIS Office of the Chief Counsel and the DHS Office of the General Counsel (OGC) is also notified of the state’s request. The state’s application to use SAVE for voter registration or voter list maintenance is not approved until the state

demonstrates that they have adequate notification and appeal processes in place to ensure that any voter denied registration has adequate due process.

Once an agency is approved, SAVE's role in verifying voter registration eligibility is limited to verifying naturalized or derived citizenship. **SAVE cannot verify U.S. born citizens under any circumstances.** To use SAVE to verify naturalized or derived citizenship of individuals registering or registered to vote, a user agency **must** provide SAVE with the numeric identifiers (e.g., Alien or USCIS number, I-94 arrival/departure document number, certificate or naturalization number) found on an individual's immigration-related documents (e.g., a Certificate of Naturalization or a Certificate of Citizenship), first and last name, and date of birth. There are various other limitations related to the information necessary to conduct verifications:

- SAVE cannot conduct verifications based on Social Security numbers.
- Derived citizens often do not have a document of any type to show U.S. citizenship and in these cases no citizenship record will exist with DHS.
- Department of State-adjudicated derived citizens may not have a record with USCIS and U.S. Passports cannot be verified in SAVE.¹

SAVE can take up to three possible verification steps in order to reach a final verification result. The first step is electronic and takes only three to five seconds. If SAVE cannot verify the individual as a U.S. Citizen, the requesting voter registration agency must perform any additional verification procedures the SAVE Program requires and/or the applicant requests. Accordingly, when the initial response is "Institute Additional Verification" or the individual requests additional verification because the status returned does not match their claimed citizenship status, second step additional verification is required. If the second step verification does not match their claimed citizenship status, the voter registration agency must submit a copy of the document (Naturalization Certificate or Certificate of Citizenship) for a third step verification. The additional verification steps must be performed in these situations because it allows USCIS staff to manually check data sources and provide a correct response. If the requesting agency has any concerns about a SAVE additional verification, it may call USCIS to discuss the verification. If an agency has alternative processes upon which to base its decision regarding the individual's citizenship status, additional verification is not required.

Voter Registration and Voting List Maintenance Current Enrollees and Issues

SAVE is currently used by a limited number of agencies for voter registration related verifications (either at point of registration or later for voter roll maintenance):

- a. Arizona Counties – 1) Maricopa 2) La Paz 3) Pima 4) Yuma 5) Yavapai. They do verification at the point of registration. SAVE is in negotiations with the State of Arizona to provide all 15 Arizona counties with access under a single uniform Memorandum of Agreement (MOA) with the state.
- b. Colorado – Secretary of State. Verifies voters already on the rolls.
- c. Florida – Secretary of State. Verifies voters already on the rolls.
- d. North Carolina – State Board of Elections. Verifies voters already on the rolls.
- e. Virginia – Board of Elections. Verifies voters already on the rolls.
- f. Georgia – Secretary of State. Verification at the point of registration.

¹ SAVE is only able to verify information that relates to information found in the databases accessed by the system. Accordingly, if an individual with derived citizenship status has not applied for a Certificate of Citizenship with USCIS, the agency may not have that individual's citizenship status in its databases, and SAVE will not be able to confirm that individual's derived citizenship status. However, many derived citizens have received U.S. passports from the Department of State (DOS). If the DOS has provided USCIS with a record of the passport citizenship adjudication and USCIS has updated the individual's alien file, SAVE would be able to find the citizenship record with the individual's Alien number.

These agencies represent only a small fraction of the 1,150 agencies registered to use SAVE and only 0.07 percent of SAVE's total query volume. Only four of the ten agencies used SAVE in FY 2017 for voter registration and list maintenance, and the state of North Carolina was responsible for 93 percent of the query volume.

As indicated by the above list of voter registration agencies using SAVE, they will either use SAVE at the point of registration or to verify the immigration status of individuals already on voter rolls registered against State Department of Motor Vehicle records. For voter registration, the agency is usually limited by federal and state legal requirements concerning the information and documentation that they can collect from the individual to show citizenship. For list maintenance, the agencies are limited by the information contained within the Department of Motor Vehicle records, and they will have no direct contact with the individual before running a SAVE verification. It is almost never the case that a voter registration agency initiating a verification will have all of the information and/or documents available to them to complete all three steps of a SAVE verification, if necessary. Accordingly, the requesting agency may need to take extra steps to request additional information and documentation from the individual in order to satisfactorily complete a SAVE verification.

Please see below and attached responses to the questions that arose from yesterday's call with the Secretary regarding voter registration fraud. I apologize for the length, but I think you'll find all the content informative.

Overview:

The SAVE Program is used by some agencies to verify the citizenship of individuals registering to vote or to maintain voter rolls by verifying those already registered. The states that use SAVE for maintenance of their voter rolls compare their voter roll to the citizenship or immigration status claimed by registrants when they obtained a driver's license or state ID. They use whatever immigration number was provided by the registrant to the DMV to do the initial SAVE check. If SAVE is unable to verify their citizenship with the DMV provided information, the state voter registration agency has to follow-up with the individual for additional citizenship information.

The five states and five Arizona counties that use SAVE for list maintenance or voter registration are:

Colorado – SAVE Agreement with Secretary of State. Verifies voters already on the rolls by running DMV data through SAVE. Colorado ran 211 cases in FY 2017

Florida – SAVE Agreement with Secretary of State. Verifies voters already on the rolls by running DMV data through SAVE. Florida did not run any cases in FY 2017.

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SAVE has also been contacted by the following states regarding voter registration (and some even started the process to register for SAVE access), but none of them completed the process of registering to use SAVE: Kansas; Michigan; Mississippi; Oregon; Tennessee; Maryland; Minnesota; New Mexico; Ohio; Pennsylvania; Texas; Washington. Iowa was registered to use SAVE at one time, but its MOA was terminated in 2015 after a Federal court struck down the administrative rule that gave it the authority to use SAVE.

SAVE Registration:

When an agency registers to use SAVE, it provides its legal authority and copies of any standardized notice letters used to inform registrants when there is a problem with their citizenship verification. This ensures that states can legally use SAVE for the requested purpose and that it has adequate appeals and notification procedures. These authorities, procedures and letters are reviewed by OCC and necessary changes are made to the letters to ensure that the notice is adequate. Attached are copies of the initial and follow-up notice letters approved for Virginia.

SAVE Process and Voter Registration Forms:

Also, attached are voter registration forms from Arizona, Colorado, Florida, Georgia and North Carolina. With the exception of Arizona, none of these forms collect an Alien number. For the states of Colorado, Florida, and North Carolina, they are able to run the SAVE query by using DMV data since they are doing voter list maintenance. Georgia, however, uses SAVE for voter registration and the only way they could get data for a SAVE query is through an alternate processes. There is a check box on the Georgia application to indicate that individuals do not have a driver's license or Social Security number, so if they check this box they are then given the alternative to present another identifier, like an A-file number.

Litigation History:

There has been significant federal and state court litigation associated with state efforts to require proof of citizenship on voting forms, including recent battles in Alabama, Georgia, and Kansas over adding these requirements to the National Voter Registration form ("national form"). The National Voter Registration Act of 1993 (NVRA) requires state governments to offer voter registration to eligible applicants at Departments of Motor Vehicles and public assistance agencies. Additionally, Section 6 of the NVRA establishes national standards for mail-in voter registration forms and requires states to accept a federal mail-in registration form, known as the National Voter Registration form (attached). Because of the NVRA, eligible voters can use either the national form or a state mail-in form. Compare the attached National Form and Arizona State Voter Registration Form. In 2002, Congress passed the Help America Vote Act (HAVA), which vested authority related to the national form with the newly established Election Assistance Commission (EAC).

In 2005, Arizona passed Proposition 200, which required voters to provide proof of citizenship with the state's registration form. Arizona then asked the EAC to include these requirements in the national form's general instructions. The EAC denied Arizona's request, taking the position that Congress did not believe that documentary proof of citizenship was necessary or consistent with the purpose of the statute. Arizona then refused to register national form applicants who did not provide proof of citizenship with their forms, thereby creating a two-tiered voter registration system in the state. Litigation ensued and eventually made its way to the U.S. Supreme Court in *Arizona v. Inter Tribal Council of Arizona, Inc.* The Court ruled in *Inter Tribal* in June 2013 that the NVRA preempted Arizona from requiring an individual registering to vote using the national form to provide documentation beyond that indicated on the Form. As such, states could not require applicants to provide additional documentation when using the federal form, unless the EAC approved the state's proposed changes to the instructions.

Following the Supreme Court's decision, Arizona asked the EAC to add citizenship requirements to Arizona's state-specific instructions to the national form instead of to the national form's general instructions. In 2013, Georgia and Kansas filed comparable requests. The EAC deferred all three requests, stating that they did not have a quorum to vote. More litigation ensued and in January 2014 the EAC acting director outright denied the states' requests. Kansas and Arizona pushed their case through the Court of appeals (unsuccessfully) and petitioned the Supreme Court to hear their challenge to the EAC's decision. In June 2015, the Court denied the petition for certiorari.

Despite ongoing legal battles and rulings against proof of citizenship requirements, states continued to pass legislation and issue requests to the EAC to include those requirements on the national form. After passing its citizenship requirement in 2012, Alabama issued a request to the EAC in December 2014, and Kansas issued another request in November 2015. In January 2016, newly appointed EAC Executive Director Brian Newby notified Alabama, Georgia, and Kansas that their requests were approved. This led

to more litigation, which temporarily resulted in two-tiered voting registration systems in Arizona, Alabama and Kansas. These legal battles, both in state and federal courts, still remain in play in Kansas, Alabama and Georgia.

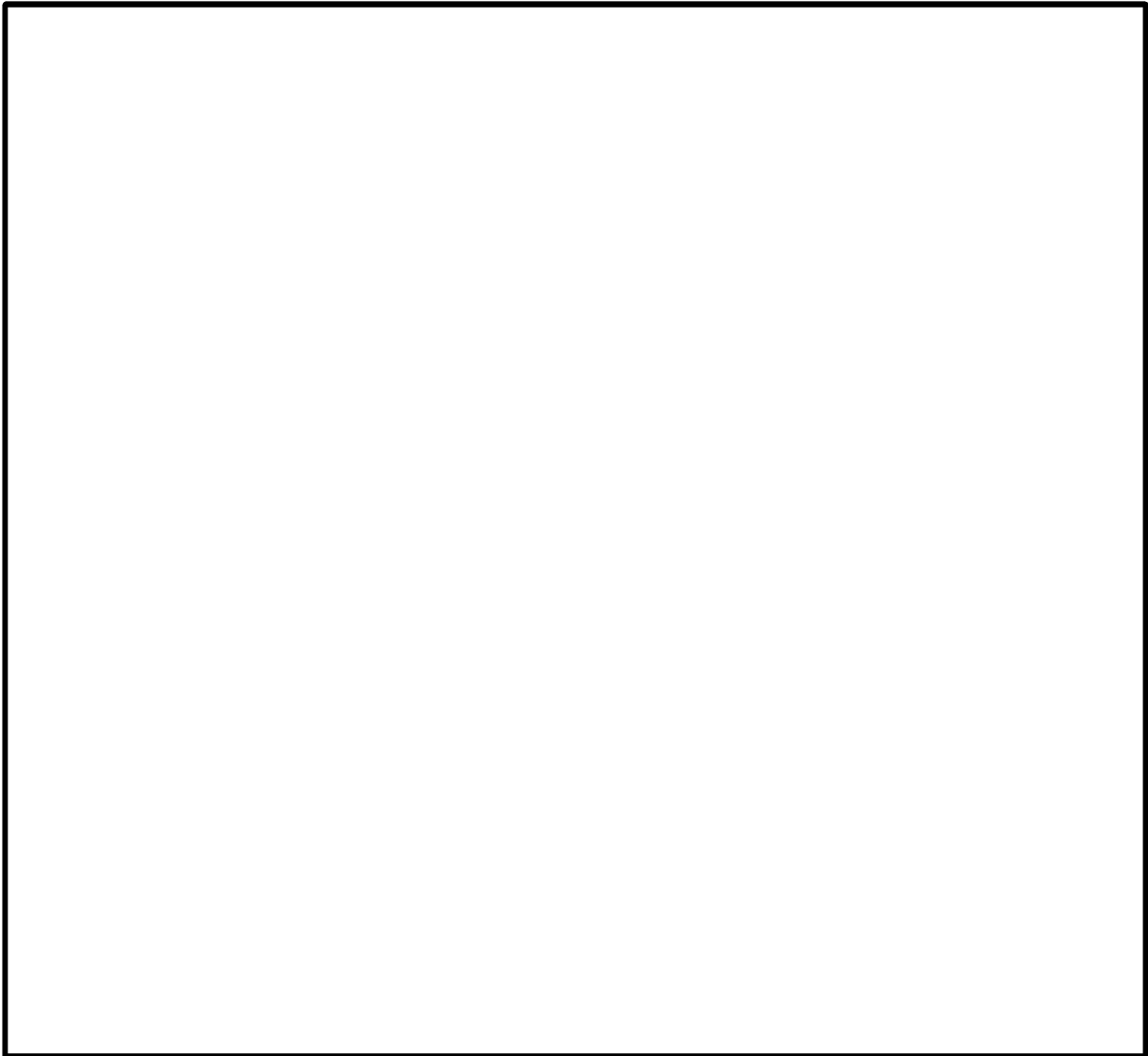
SAVE Outreach

The SAVE program has engaged with the National Association of Secretaries of State (known as NASS, it includes members from the 37 states where the secretary of state is the chief elections officer with oversight over voter registration) and presented at their conferences in 2013 and 2017. To promote SAVE usage for voter maintenance and registration, engagement at the S1 level with NASS and the National Governors Association is recommended.

Below please find the summary you requested on the verification option. Please let us know if you have any questions.

Thank you,
Craig

(b)(5)



(b)(5)





U.S. Citizenship
and Immigration
Services

(b)(5)



Comparison of State Voter Data against USCIS Immigration Data

PURPOSE

USCIS was asked to assist DHS in determining the feasibility and utility of comparing state voter registration data against immigration data. The objective of this request is to determine the extent that such a comparison can identify voter fraud.

PROPOSED ACTION

(b)(5)



U.S. Citizenship
and Immigration
Services

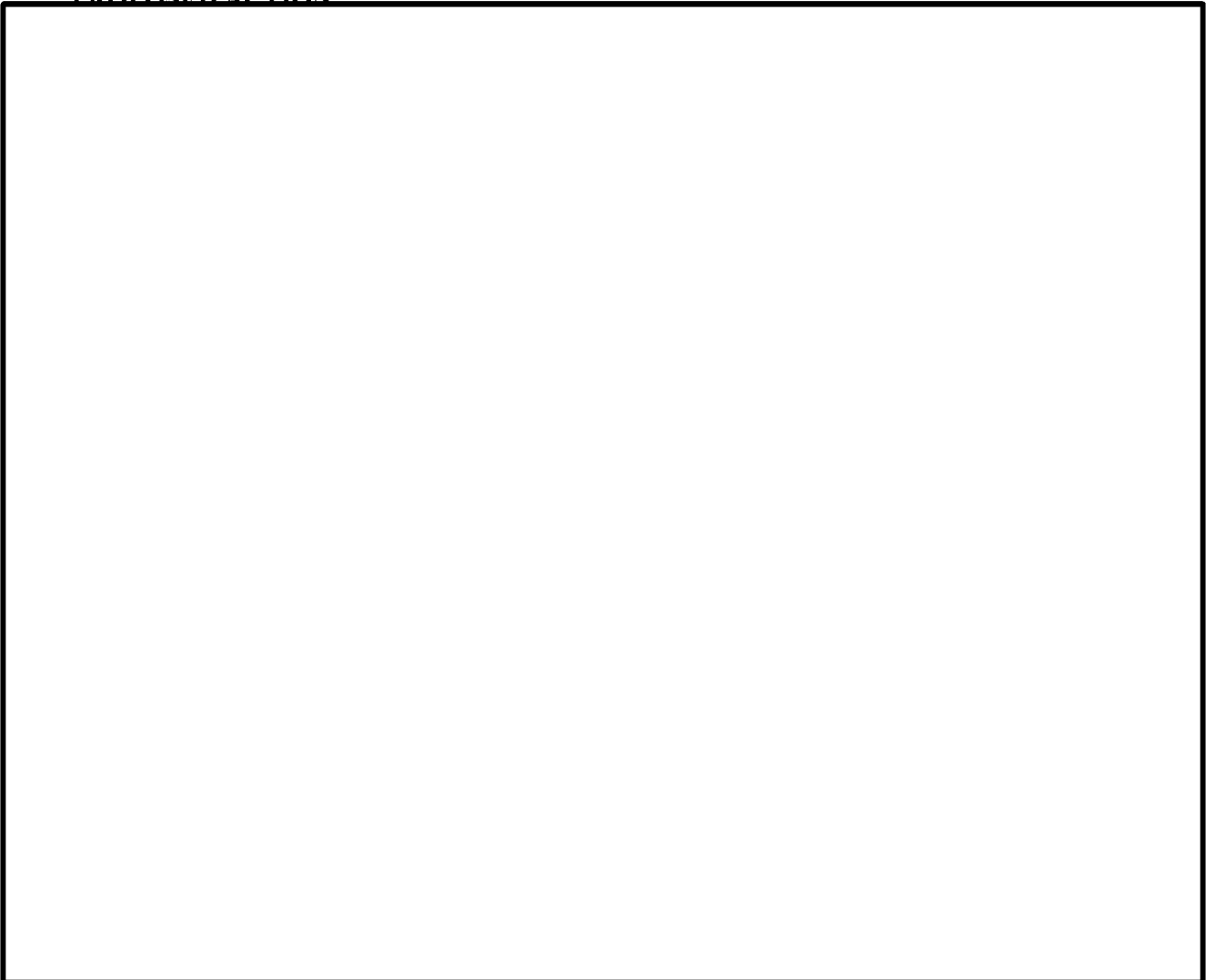


Comparison of State Voter Data against USCIS Immigration Data

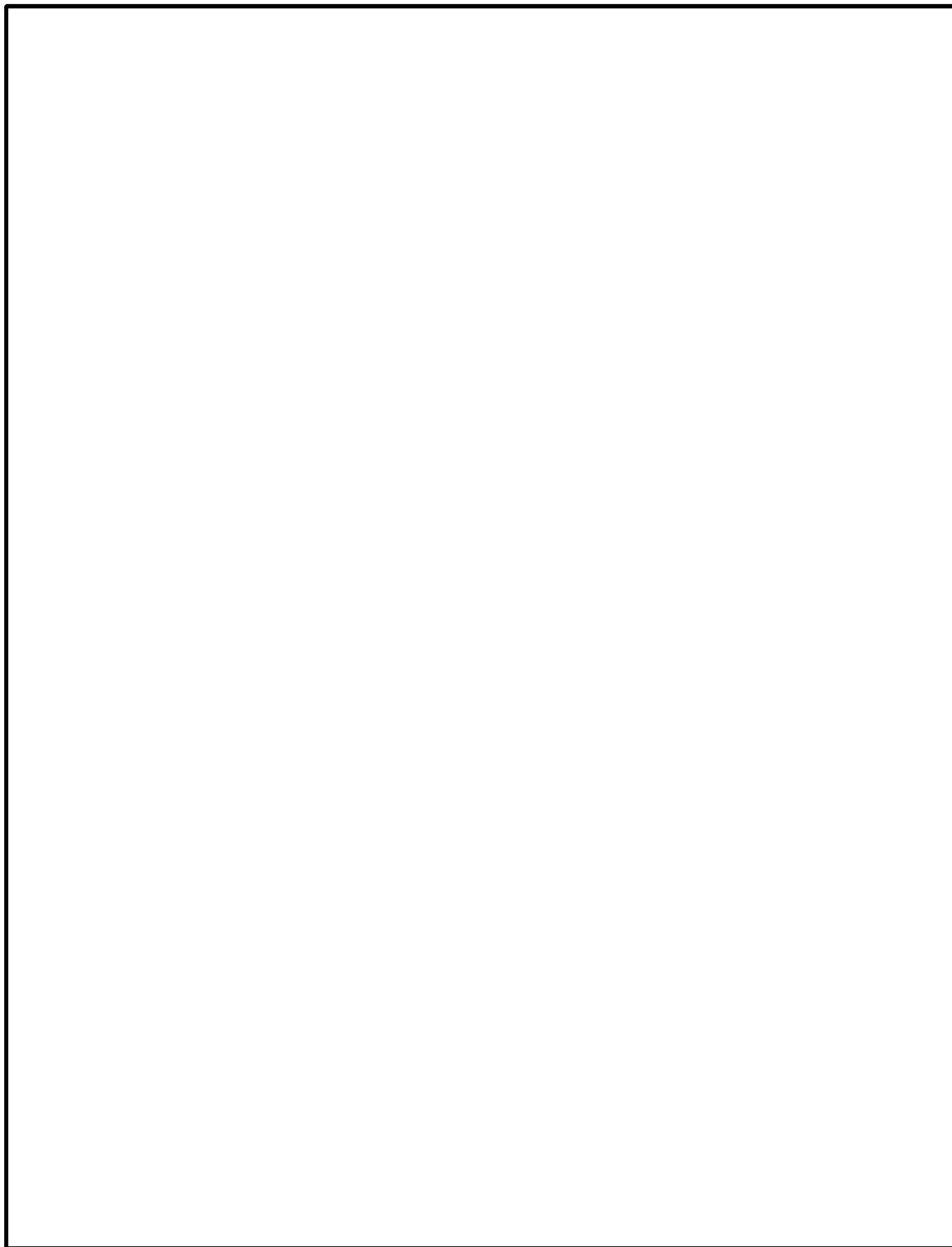
PURPOSE

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PROPOSED ACTION

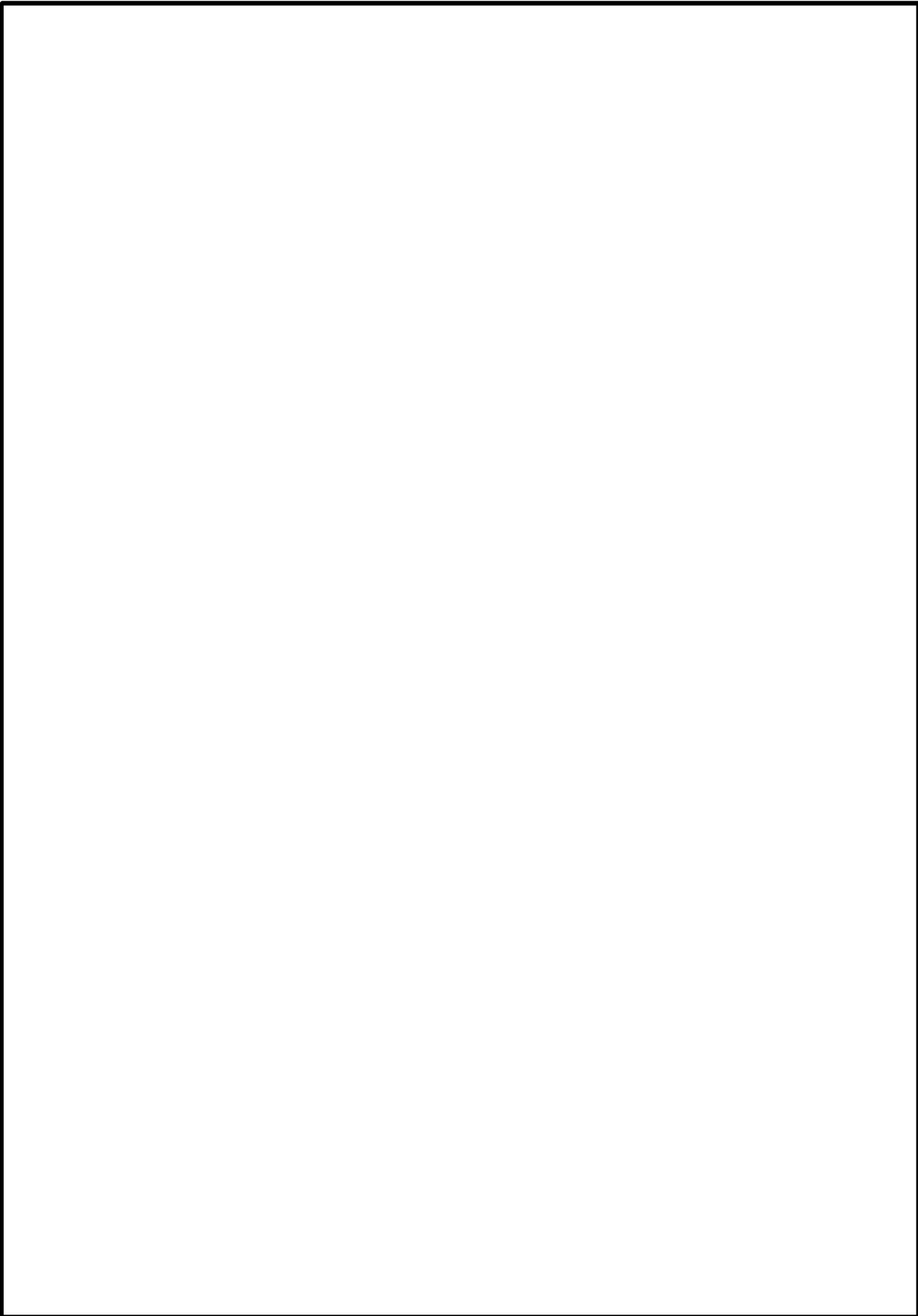


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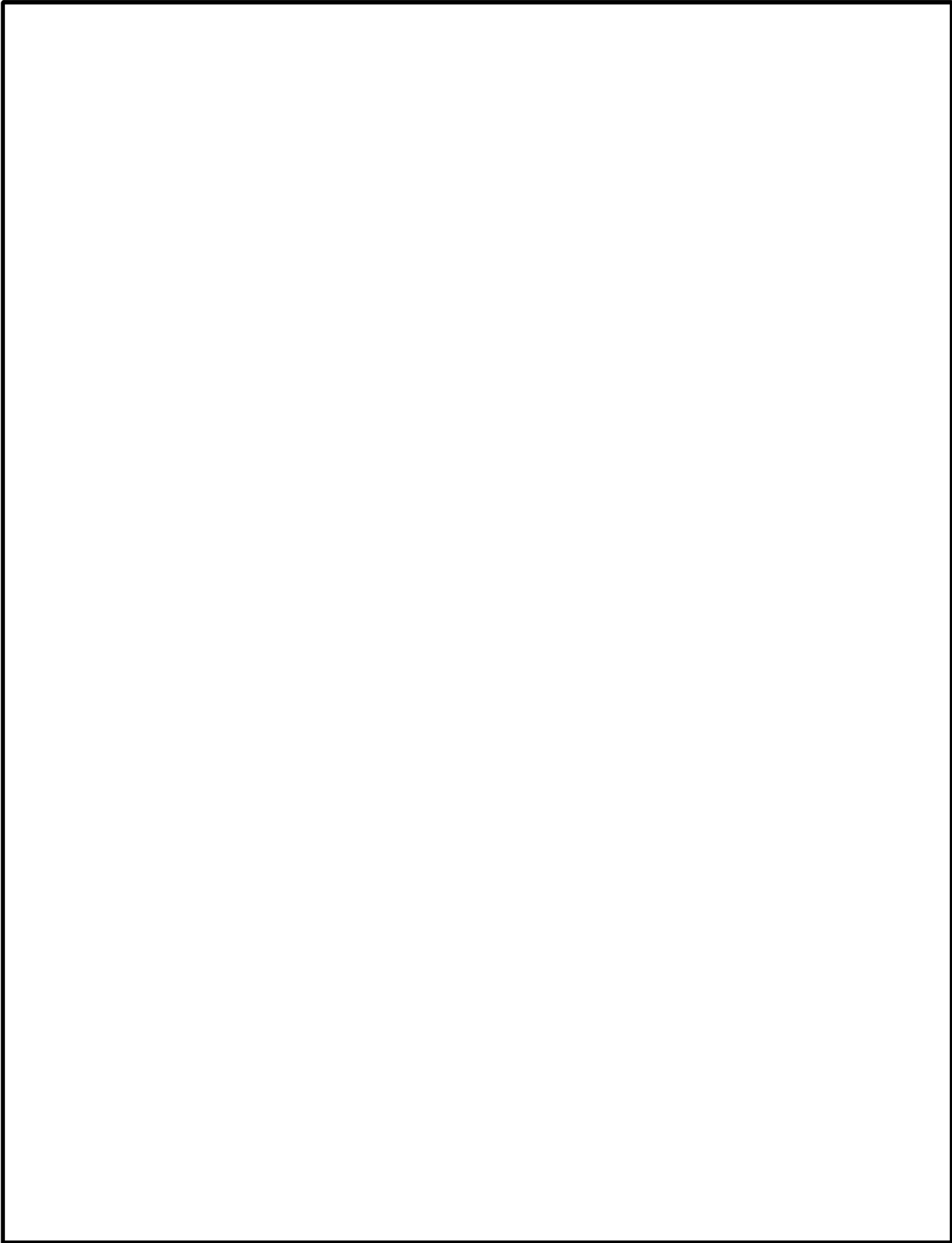
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DO NOT RELEASE WITHOUT EXPRESS PRIOR AUTHORIZATION OF
THE OFFICE OF THE CHIEF COUNSEL**

(b)(5)



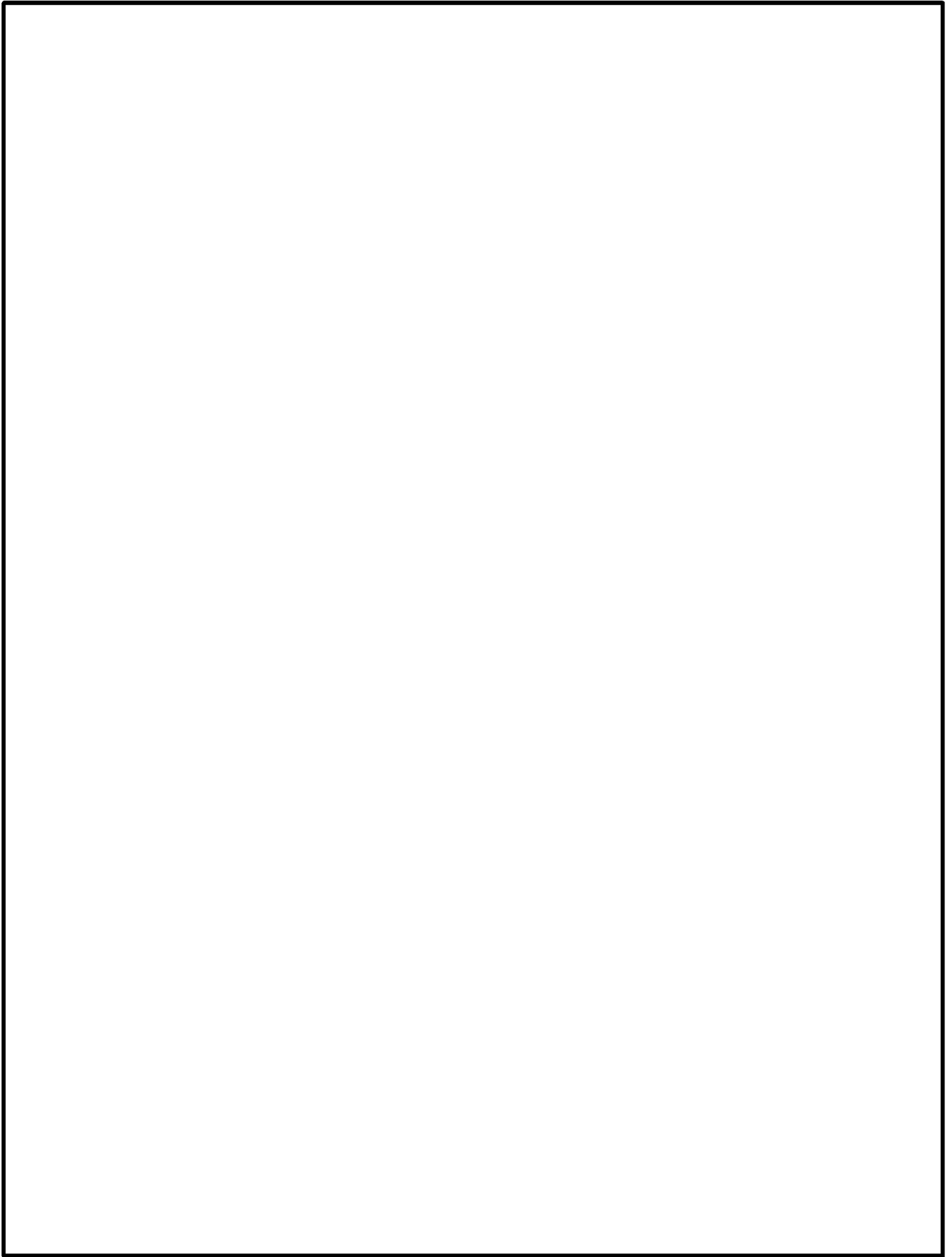
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(b)(5)



**PRIVILEGED ATTORNEY-CLIENT COMMUNICATION AND ATTORNEY WORK PRODUCT
DO NOT RELEASE WITHOUT EXPRESS PRIOR AUTHORIZATION OF
THE OFFICE OF THE CHIEF COUNSEL**

From: [Meckley, Tammy M](#)
To: [Symons, Craig M](#)
Cc: [Ries, Lora L](#)
Subject: RE: Election Integrity Decisions/Tasks from S1 Meeting
Date: Thursday, January 11, 2018 7:32:32 AM

Here's the list of query volume broken down by state. It was in the email I sent to you and D1 last night.

-
Colorado – SAVE Agreement with Secretary of State. Verifies voters already on the rolls by running DMV data through SAVE. Colorado ran 211 cases in FY 2017.

Florida – SAVE Agreement with Secretary of State. Verifies voters already on the rolls by running DMV data through SAVE. Florida did not run any cases in FY 2017.

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Tammy M. Meckley
Associate Director
Immigration Records and Identity Services Directorate
U.S. Citizenship and Immigration Services
20 Massachusetts Avenue, NW
Washington, DC 20529

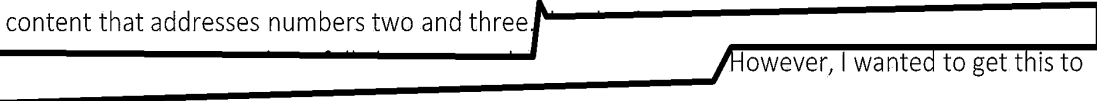
(b)(6)



From: Meckley, Tammy M
Sent: Thursday, January 11, 2018 8:25 AM
To: Symons, Craig M
Cc: Ries, Lora L
Subject: RE: Election Integrity Decisions/Tasks from S1 Meeting

Craig, I pulled responses from other SAVE voter documents that we've written and pasted the content that addresses numbers two and three

(b)(5)



However, I wanted to get this to

you first.

Best,
Tammy

(b)(5)



- a. Arizona Counties – 1) Maricopa 2) La Paz 3) Pima 4) Yuma 5) Yavapai. They do verification at the point of registration. SAVE is in negotiations with the State of Arizona to provide all 15 Arizona counties with access under a single uniform Memorandum of Agreement (MOA) with the state.
- b. Colorado – Secretary of State. Verifies voters already on the rolls.
- c. Florida – Secretary of State. Verifies voters already on the rolls.
- d. North Carolina – State Board of Elections. Verifies voters already on the rolls.
- e. Virginia – Board of Elections. Verifies voters already on the rolls.
- f. Georgia – Secretary of State. Verification at the point of registration.



Best,
Tammy

Tammy M. Meckley
Associate Director
Immigration Records and Identity Services Directorate
U.S. Citizenship and Immigration Services
20 Massachusetts Avenue, NW
Washington, DC 20529

(b)(6)



(b)(6)



From: Symons, Craig M
Sent: Wednesday, January 10, 2018 8:13 PM
To: Meckley, Tammy M
Cc: Ries, Lora L
Subject: FW: Election Integrity Decisions/Tasks from S1 Meeting

Hi Tammy,

Please see task numbers 2 and 3 below. Can your office take those on? It looks like the three of us will have to look at number 4. I think we'll have a better idea about that item once we meet with Texas.

Thanks,
Craig

Craig M. Symons
Chief Counsel | Office of the Chief Counsel
U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security

(b)(6)



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From: Wales, Brandon
Sent: Wednesday, January 10, 2018 7:49:03 PM
To: Krebs, Christopher; Shah, Dimple; Maher, Joseph; Baroukh, Nader; Symons, Craig M; Ries, Lora L; Blank, Thomas; Petyo, Briana; Short, Tracy; Dougherty, Michael; Hoffman, Jonathan
Cc: Wolf, Chad; Neumann, Elizabeth
Subject: Election Integrity Decisions/Tasks from S1 Meeting

All,

Sorry for the delay in getting this out, but I wanted to document yesterday's meeting with S1 on election integrity and make sure everyone knows what is expected.

DECISIONS

1. We will maintain a clear distinction between our work to enhance election infrastructure security

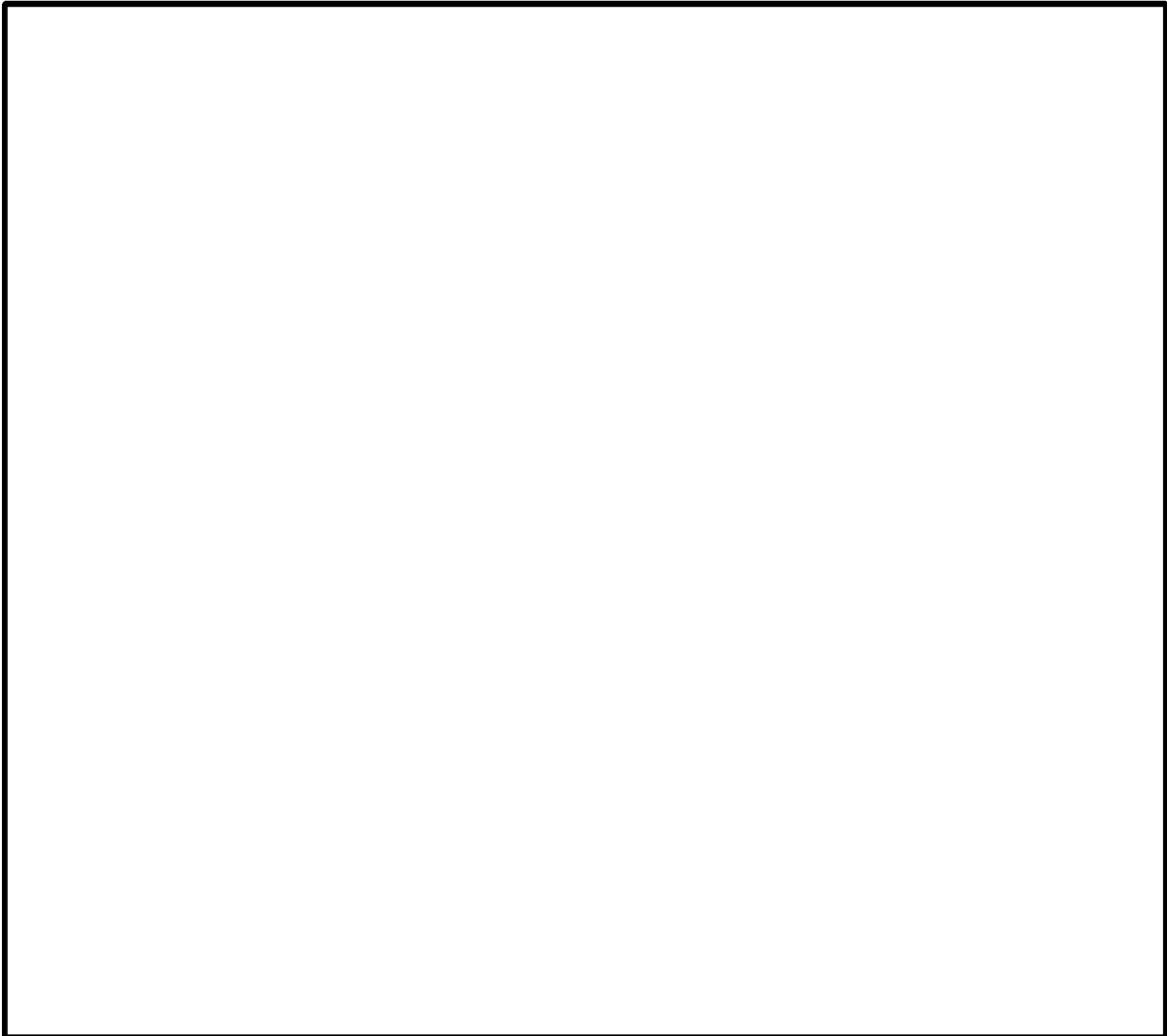
and our efforts to enhance election integrity.

2. The Department will not independently conduct a nation-wide investigation into potential voter fraud.

3. Long-term responsibility for coordination and oversight of this effort will transition to PLCY at the appropriate time.

TASKS

(b)(5)



That's what I have. If anyone has something I missed, please send it along. Also, as Chad said at today's Chiefs meeting, this is a high priority for the WH and S1, and we need rapid completion on assigned tasks. Unless I hear otherwise from you, I will assume you will complete your task by next Friday, but sooner is always appreciated. As work is completed, please send it to me and I will share, as appropriate, with this group.

If anyone has any questions or concerns, please let me know.

Best,

Brandon

Brandon D. Wales

Senior Counselor to the Secretary

Department of Homeland Security

(b)(6)



From: [Meckley, Tammy M](#)
To: [Symons, Craig M](#)
Cc: [Ries, Lora L](#)
Subject: RE: Election Integrity Decisions/Tasks from S1 Meeting
Date: Wednesday, January 10, 2018 7:55:22 PM

(b)(5)



From: Symons, Craig M
Sent: Thursday, January 11, 2018 1:37:12 AM
To: Meckley, Tammy M
Cc: Ries, Lora L
Subject: RE: Election Integrity Decisions/Tasks from S1 Meeting

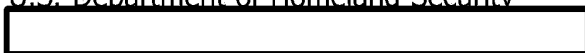
Hi Tammy,

Sorry - I'm working backwards on e-mails and just saw your extensive response at 5:40 pm. Looking at the USCIS tasks below, do you think your 5:40 pm e-mail is already sufficiently responsive to numbers 2 and 3 or are there changes / additions you'd like to make before we send this on to Brandon?

- Craig

Craig M. Symons
Chief Counsel | Office of the Chief Counsel
U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security

(b)(6)



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From: Symons, Craig M
Sent: Wednesday, January 10, 2018 8:12:43 PM
To: Meckley, Tammy M
Cc: Ries, Lora L
Subject: FW: Election Integrity Decisions/Tasks from S1 Meeting

Hi Tammy,

Please see task numbers 2 and 3 below. Can your office take those on? It looks like the three of us will have to look at number 4. I think we'll have a better idea about that item once we meet with Texas.

Thanks,
Craig

Craig M. Symons
Chief Counsel | Office of the Chief Counsel
U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security

(b)(6)

[Redacted]

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From: Wales, Brandon
Sent: Wednesday, January 10, 2018 7:49:03 PM
To: Krebs, Christopher; Shah, Dimple; Maher, Joseph; Baroukh, Nader; Symons, Craig M; Ries, Lora L; Blank, Thomas; Petyo, Briana; Short, Tracy; Dougherty, Michael; Hoffman, Jonathan
Cc: Wolf, Chad; Neumann, Elizabeth
Subject: Election Integrity Decisions/Tasks from S1 Meeting

All,

Sorry for the delay in getting this out, but I wanted to document yesterday's meeting with S1 on election integrity and make sure everyone knows what is expected.

DECISIONS

1. We will maintain a clear distinction between our work to enhance election infrastructure security and our efforts to enhance election integrity.
2. The Department will not independently conduct a nation-wide investigation into potential voter fraud.
3. Long-term responsibility for coordination and oversight of this effort will transition to PLCY at the appropriate time.

TASKS

[Redacted]

(b)(5)

(b)(5)



That's what I have. If anyone has something I missed, please send it along. Also, as Chad said at today's Chiefs meeting, this is a high priority for the WH and S1, and we need rapid completion on assigned tasks. Unless I hear otherwise from you, I will assume you will complete your task by next Friday, but sooner is always appreciated. As work is completed, please send it to me and I will share, as appropriate, with this group.

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Best,
Brandon

Brandon D. Wales
Senior Counselor to the Secretary
Department of Homeland Security

(b)(6)



From: [Meckley, Tammy M](#)
To: [Cissna, Francis](#)
Cc: [Symons, Craig M](#); [McCament, James W](#); [Ries, Lora L](#)
Subject: Get Backs on Voter Registration Fraud
Date: Wednesday, January 10, 2018 4:39:34 PM
Attachments: [GA Voter Registration Application.pdf](#)
[NC Voter Reg Form.pdf](#)
[FL Voter Reg Form.pdf](#)
[CO Voter Reg Form.pdf](#)
[AZ State Voter Registration form.pdf](#)
[DRAFT FINAL VA SAVE NonCitizen Cancelled #2 \(3\).docx](#)
[FINAL DRAFT SAVE VA Notice of Intent to Cancel \(3\).docx](#)
Importance: High

Good afternoon, Director. Please see below and attached responses to the questions that arose from yesterday's call with the Secretary regarding voter registration fraud. I apologize for the length, but it think you'll find all the content informative.

-

Overview:

The SAVE Program is used by some agencies to verify the citizenship of individuals registering to vote or to maintain voter rolls by verifying those already registered. The states that use SAVE for maintenance of their voter rolls compare their voter roll to the citizenship or immigration status claimed by registrants when they obtained a driver's license or state ID. They use whatever immigration number was provided by the registrant to the DMV to do the initial SAVE check. If SAVE is unable to verify their citizenship with the DMV provided information, the state voter registration agency has to follow-up with the individual for additional citizenship information.

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gave it the authority to use SAVE.

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SAVE Process and Voter Registration Forms:

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U.S. Citizenship
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Services



The Use of SAVE for Voter Registration

Background

The Systematic Alien Verification for Entitlements (SAVE) program is required, by statute, to respond to inquiries made by federal, state, or local government agencies seeking to verify or ascertain citizenship or immigration status of any individual within the jurisdiction of the agency “for any purpose authorized by law.” SAVE’s origins are found in the Immigration Reform and Control Act of 1986 (IRCA), Public Law (Pub. L.) No. 99-603. IRCA prohibited certain federal agencies from granting specified federal public benefits to certain non-U.S. citizens, and imposed obligations upon those benefit granting agencies to determine the citizenship and/or immigration status of benefit applicants. The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. No. 104-208, as amended, expanded SAVE’s purview by requiring DHS to respond to inquiries by federal, state and local government agencies seeking to verify or determine the citizenship or immigration status of any individual within the jurisdiction of the agency for any lawful purpose. See 8 U.S.C. § 1373(c).

The SAVE Verification Process

Before gaining access to SAVE for voter registration, the state agency must provide USCIS with all applicable legal authorities and voter registration procedures that authorize the agency to engage in voter registration activities. These authorities are reviewed by the USCIS Office of Chief Counsel and the DHS Office of the General Counsel (OCC) is also notified of the state’s request. The state’s application to use SAVE for voter registration or voter list maintenance is not approved until the state demonstrates that they have adequate notification and appeal processes in place to ensure that any voter denied registration has adequate due process.

Once an agency is approved, SAVE’s role in verifying voter registration eligibility is limited to verifying naturalized or derived citizenship. SAVE cannot verify U.S. born citizens under any circumstances. To use SAVE to verify naturalized or derived citizenship of individuals registering or registered to vote, a user agency **must** provide SAVE with the numeric identifiers (i.e., alien registration number and/or certificate number) found on the individual’s immigration-related documents (e.g., a Certificate of Naturalization or a Certificate of Citizenship), first and last name, and date of birth. There are various other limitations related to the information necessary to conduct verifications:

- SAVE cannot conduct verifications based on Social Security Number.
- Derived citizens often do not have a document of any type to show U.S. citizenship and in these cases, no citizenship record will exist with DHS.
- Department of State-adjudicated derived citizens may not have a record with USCIS and U.S. Passports cannot be verified in SAVE.¹

SAVE can take up to three possible verification steps in order to reach a final verification result. The first step is electronic and takes only 3-5 seconds. If SAVE cannot verify the individual as a U.S. Citizen, the requesting voter registration agency must perform any additional verification procedures the SAVE Program requires and/or the applicant requests. Accordingly, when the initial response is “Institute Additional Verification” or the individual requests additional verification because the status returned does not match their claimed citizenship status, second step additional verification is required. If the second step verification does not match their claimed citizenship status, the voter registration agency must submit a copy of the document (Naturalization Certificate or Certificate of Citizenship) for a third step verification. The additional verification steps must be performed in these situations because it allows USCIS staff to manually check data sources and provide a correct response. If the requesting agency has any concerns about a SAVE additional verification, it may call USCIS to discuss the verification. If an agency has alternative processes upon which to base its decision regarding the individual’s citizenship status, additional verification is not required.

Current Enrollees

SAVE is currently used by a limited number of agencies for voter registration related verifications (either at point of registration or later for voter roll maintenance):

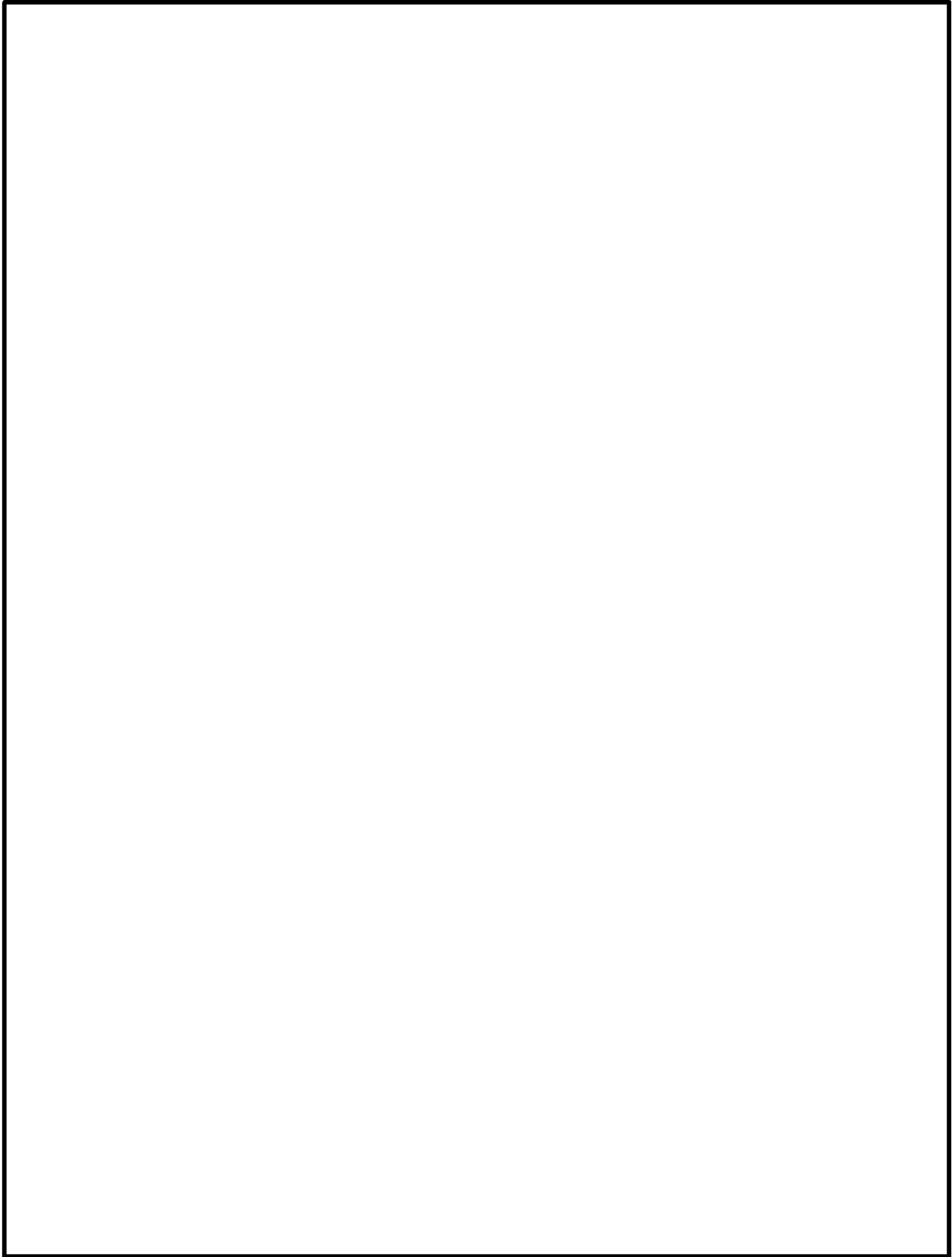
- a. Arizona Counties – 1) Maricopa 2) La Paz 3) Pima 4) Yuma 5) Yavapai. They do verification at the point of registration. SAVE is in negotiations with the State of Arizona to provide all 15 Arizona counties with access under a single uniform Memorandum of Agreement (MOA) with the state.
- b. Colorado – Secretary of State. Verifies voters already on the rolls.
- c. Florida – Secretary of State. Verifies voters already on the rolls.
- d. North Carolina – State Board of Elections. Verifies voters already on the rolls.
- e. Virginia - Board of Elections. Verifies voters already on the rolls.
- f. Georgia – Secretary of State. Verification at the point of registration.

¹ SAVE is only able to verify information that relates to information found the databases accessed by the system. Accordingly, if an individual with derived citizenship status has not applied for a Certificate of Citizenship with USCIS, the agency may not have that individual’s citizenship status in its databases, and SAVE will not be able to confirm that individual’s derived citizenship status. However, many derived citizens have received U.S. passports from the Department of State (DOS). If the DOS has provided USCIS with a record of the passport citizenship adjudication and USCIS has updated the individual’s alien file, SAVE would be able to find the citizenship record with the individual’s Alien number.

(b)(5)

DRAFT

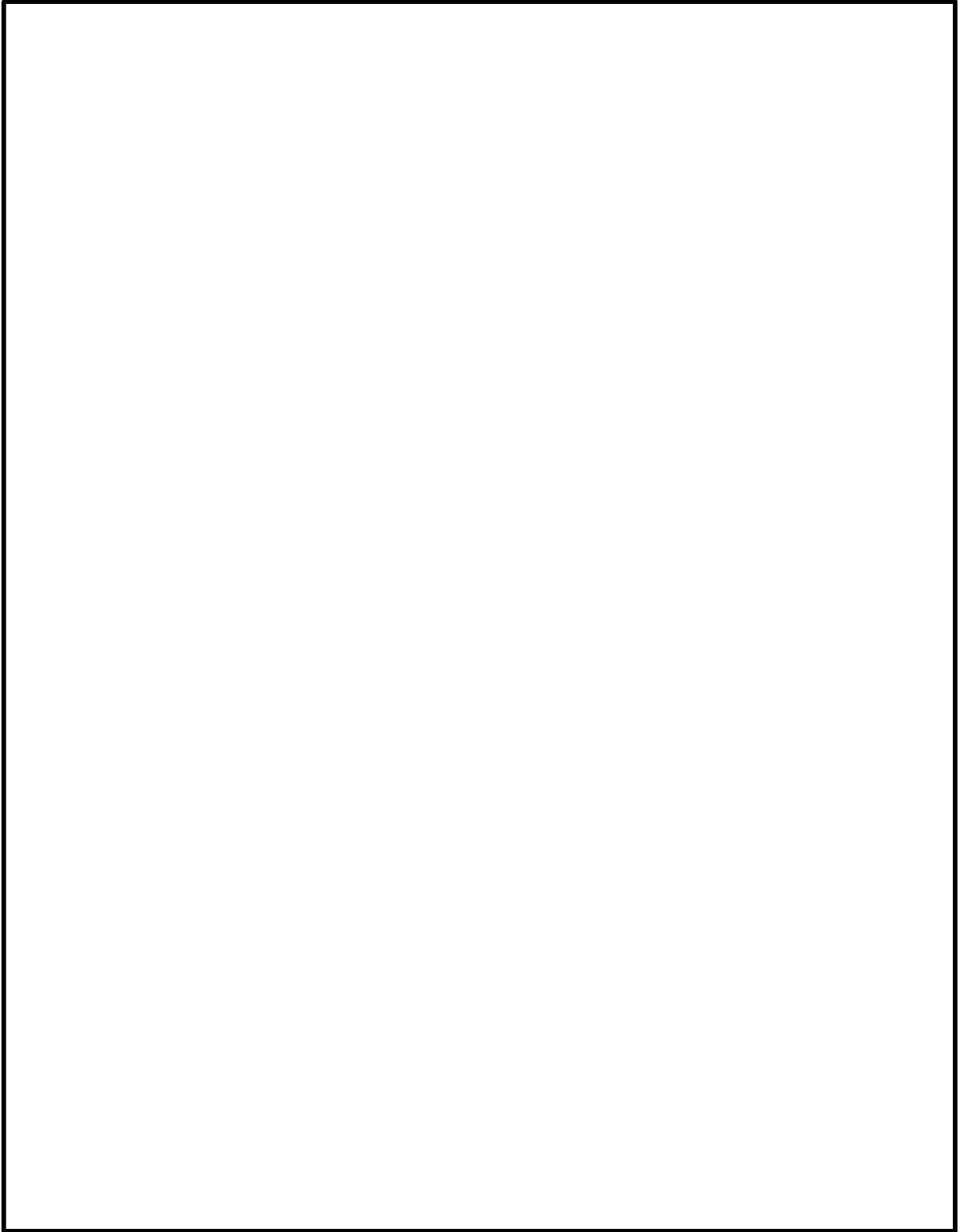
Voter Integrity



(b)(5)

Privileged Attorney-Client Communication and Attorney Work-Product

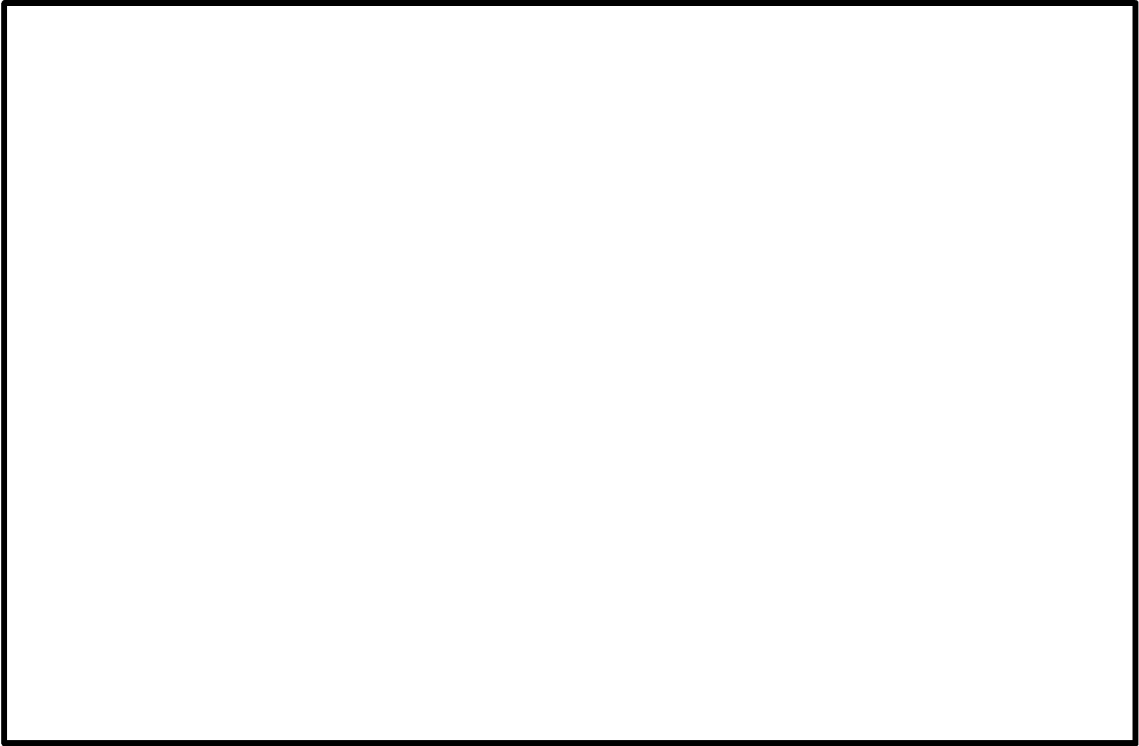
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DRAFT





Fact Sheet

Information for Voter Registration Agencies: Conducting Verifications Through SAVE

Background

Agencies registered with the U.S. Citizenship and Immigration Services (USCIS) SAVE Program are authorized to conduct verifications to maintain their state's voter registration rolls. This authorization is identified in each agency's memorandum of agreement (MOA). Although the large majority of SAVE registered agencies sign a standard MOA, the voter registration MOA (VRMOA) is tailored to address verifications for voter registration purposes. This Fact Sheet provides general guidance for interpreting the VRMOA requirements, but VRMOAs may vary slightly due to each state's laws or policies. Therefore, if you have any questions about interpreting this Fact Sheet, please contact SAVE.

SAVE's Operational Limitations for Verifying the Citizenship Status

SAVE has the following limitations and requirements:

- SAVE cannot verify U.S. born citizens under any circumstances.
- SAVE's ability to verify citizenship is limited to naturalized and derived citizens.¹ USCIS only has comprehensive records on naturalized and, provided that they have acquired Certificates of Citizenship and updated their records with USCIS, derived U.S. citizens.
- SAVE requires at minimum the benefit applicant's name, date of birth, and current immigration document number related to his or her claimed status.
- SAVE cannot verify an individual's naturalized or derived citizenship status based on a Social Security Number, driver's license number, U.S. passport number or other document number not issued by a component of the Department of Homeland Security or USCIS' predecessor, Immigration and Naturalization Service.

Verifying the Citizenship Status of Voters

To use SAVE to verify citizenship of naturalized and derived U.S. citizens registering or registered to vote, a user agency **must** provide SAVE with the numeric identifiers (i.e., alien registration number and/or certificate number) found on the individual's immigration-related documents (e.g., Certificate of Naturalization or Certificate of Citizenship). Refer to Section IV.B.1.a. of the standard VRMOA, which

¹ Derived citizens are persons born abroad who derive U.S. citizenship at birth from one or both U.S. parents who meet the requirements of U.S. law for transmission of citizenship to their children. These citizens may, but are not required to, apply to USCIS for a Certificate of Citizenship evidencing their U.S. citizenship. The term 'derived citizen' is also frequently used to refer to citizens who automatically acquired U.S. citizenship after birth but under the age of 18 under certain provisions of U.S. naturalization law. Additionally, although derived citizens may have U.S. passports issued by the U.S. Department of State demonstrating their U.S. citizenship, SAVE cannot verify them as citizens using the passport.

states that the user agency **must**:

(a) Provide to the SAVE Program the information the SAVE Program requires to respond to User Agency requests for verification of immigration or naturalized or derived citizenship status information, including (1) information from the registrant's immigration or DHS citizenship documentation, i.e., Alien Registration, Naturalization Certificate or Certificate of Citizenship number, for initial automated verification, (2) additional information obtained from the registrant's immigration or DHS citizenship documentation for automated additional verification, and (3) completed Forms G-845 and other documents and information required for manual additional verification, if necessary. *Institute additional verification for any registrant that does not verify as a naturalized or derived citizen on initial verification* (emphasis added). If SAVE is unable to verify the registrant as a naturalized or derived citizen after conducting the second step additional verification, *the User Agency will contact the registrant to obtain proof of citizenship in accordance with the provisions of this MOA* (emphasis added). For manual only verification, ensure that Forms G-845 and other documents and information required for manual verification are provided.

As indicated, the user agency **must conduct second step additional verification for any individual that does not verify as a U.S. citizen after initial verification**. To comply with the VRMOA, a user agency cannot terminate the SAVE verification process after initial verification when an individual does not verify as a U.S. citizen. This requirement to institute additional verification applies to situations where SAVE returns **any response other than U.S. citizen**, such as a response indicating the applicant is a lawful permanent resident.

If an individual **does not verify as a U.S. citizen after second step additional verification**, the user agency **must** contact the individual and request proof of citizenship, i.e., a copy of the Certificate of Naturalization or Certificate of Citizenship², unless the agency has **a copy of the necessary immigration document to submit for third step additional verification**. To comply with the VRMOA, the user agency **must** also follow other related provisions. Accordingly, the VRMOA states the following at Section IV.B.1.f.

(f) Ensure all Users perform any additional verification procedures the SAVE Program requires and/or the registrant requests after the User Agency initiates a request for verification.

This provision has two aspects: **1) the user agency must perform additional verification required by SAVE; 2) the user agency must also conduct additional verification requested by the individual being verified**. It is not appropriate for a user agency to conduct verifications if it does not intend to complete the verification process. However, an individual may request that the user agency not conduct additional verification procedures. The following are examples of when a user agency may not need to conduct additional verification after contacting the individual being verified:

- When the individual returns an authorized attestation form stating that the individual is not a U.S. citizen.
- When the individual provides proof of citizenship accepted by the user agency without verification by SAVE, such as a U.S. passport.
- When the individual does not respond within applicable timeframes to the the user agency inquiry for attestation or proof of citizenship.

² It is always best to provide SAVE with the alien registration number and the Certificate of Naturalization or Certificate of Citizenship number whenever possible. It is also best to submit a copy of the appropriate Certificate for third step additional verification. However, SAVE may be able to verify citizenship based upon an alien registration number on any document issued by USCIS.

Section IV.B.1.l. states that the user agency **must**:

(l) Create standardized correspondence to request that a registrant provide a Naturalization Certificate or Certificate of Citizenship to complete SAVE verification and submit that correspondence to SAVE for approval prior to use with registrants.

Every user agency that enters into a VRMOA **must** prepare **standard notification correspondence and provide it for DHS approval**. This provision becomes significant:

- after a second step additional verification is conducted;
- the individual does not verify as a U.S. citizen; and,
- the user agency does not have a copy of the necessary immigration document.

Under those circumstances, the user agency **must** use this correspondence to contact the individual to request proof of citizenship.

Sections IV.B.1.m & n. may also apply at this stage of the verification process. These sections state that the user agency **must**:

(m) Provide all registrants who do not verify as a citizen under the terms of the MOA with adequate written notice that their citizenship could not be verified and the information necessary to contact DHS-USCIS (*see attachment 1: Fact Sheet, which is subject to revision and reposting on the SAVE Website and Online Resources (emphasis added)*) so that such individuals may obtain a copy of their Naturalization Certificate or Certificate of Citizenship or correct their records in a timely manner, if necessary;

(n) Provide all registrants who are not verified as citizens based solely or in part on the SAVE response with the opportunity to use the user agency's existing process to appeal the denial and to contact DHS-USCIS to correct their records prior to a final decision, if necessary.

According to Section IV.B.1.m, quoted above, the user agency **must** provide the individual with the Fact Sheet, "**Information for Registrants: Verification of Citizenship Status and How to Obtain Your Document or Correct Your Record with USCIS**", as part of the notification. As part of the VRMOA negotiation process and approval of the notification correspondence, USCIS evaluated the appeals process of each user agency. Accordingly, Section IV.B.1.n requires that the individual **must** also **have the opportunity to appeal the determination that he or she is not a citizen** using the user agency's existing process.

Finally, note that Section IV.B.d. incorporates other requirements that user agencies **must** follow to comply with the VRMOA. The section states that the user agency **must**:

(d) Ensure all Users performing verification procedures *comply with all requirements* contained in the SAVE Program Guide, web-based tutorial, and this MOA, and updates to these requirements (emphasis added).

SAVE periodically updates its processes and requirements. Accordingly, the user agency **must** understand and monitor these requirements (including this Fact Sheet), **and any updates** thereto, as they relate to voter registration verification requests.

Instructions for Conducting Voter Registration Verifications

If...	Use...	Then...
the individual does not verify as a U.S. citizen on initial verification.	<p>the electronic additional second step verification process to request additional verification:</p> <ul style="list-style-type: none"> • Identify in the “comment” field on the “Request Additional Verification” page that the request is to determine if the individual is a U.S. citizen; • Submit the case for additional verification. 	SAVE will provide a response based on the information available in USCIS records or will direct you to “resubmit with docs.”
the individual does not verify as a U.S. citizen on electronic additional second step verification.	<p>the electronic third step or paper only Form G-845³ verification process and submit a copy of the applicant’s immigration document showing U.S.citizenship:</p> <ul style="list-style-type: none"> • attach a copy of the applicant’s USCIS issued immigration document (e.g., Certificate of Naturalization or Certificate of Citizenship); • Submit the completed electronic third step request and/or the Form G-845. 	SAVE will provide a response based on the information available in USCIS records.

If you have any questions regarding this guidance or would like to request training please contact the SAVE Program at SAVE.help@uscis.dhs.gov.

³ If SAVE returns a second step response indicating that an individual has an immigration status other than U.S. citizen, e.g., lawful permanent resident, the user agency **must** use the paper Form G-845 to submit the USCIS issued document to SAVE for third step additional verification. Always identify in the “comment” field on the Form G-845 that the request is to determine if the individual is a U.S. citizen. Please follow all instructions for submitting a paper Form G-845.



The Use of SAVE for Voter Registration

Background

The Systematic Alien Verification for Entitlements (SAVE) program is an inter-governmental initiative using a web-based service to help federal, state and local agencies that issue public benefits determine the citizenship and immigration status of applicants. SAVE is not itself a database, but is only a system that accesses Department of Homeland Security (DHS) and other agency databases containing information regarding the status of nonimmigrants, immigrants, and certain naturalized and derived U.S. citizens.

SAVE originally existed as a pilot program, implemented over two years by the Immigration and Naturalization Service (INS) in voluntary cooperation with the states, and was then permanently authorized in Section 121(c) of the Immigration Reform and Control Act of 1986 (IRCA), Pub. L. No. 99-603. IRCA prohibited the granting of specified federal public benefits to certain non-U.S. citizens and imposed obligations upon benefit granting agencies to determine the citizenship and/or immigration status of applicants for these benefits.

IRCA also required that each benefit applicant declare in writing whether he or she is a citizen or national of the United States. If the applicant is not a citizen or national of the United States, the applicant must show that, he or she is in a satisfactory immigration status, as set forth by federal law, to receive that benefit. IRCA required the establishment of an automated system for verifying the immigration status of noncitizen applicants for certain federal benefits, originally including only the follow federal programs:

- Temporary Assistance to Needy Families (TANF) Program
- Medicaid Program
- Certain Territorial Assistance Programs
- Food Stamps
- Unemployment Compensation Program
- Title IV Educational Assistance Programs
- Certain Housing Assistance Programs

About a decade after SAVE was created, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Pub. L. No. 104-193, provided additional restrictions for certain programs funded by federal, state, and local governments. PRWORA established stricter citizenship or immigration status eligibility requirements for many programs and rendered certain categories of non-U.S. citizen ineligible for many benefits. Near the same time, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. No. 104-208, as amended, expanded SAVE's purview by requiring DHS to respond to inquiries by federal, state, and local government agencies seeking to verify or determine the citizenship or immigration status of any individual within the

jurisdiction of the agency for any lawful purpose. See 8 U.S.C. § 1373(c). Accordingly, SAVE is now required, by statute, to respond to inquiries made by federal, state, or local government agencies seeking to verify or ascertain citizenship or immigration status of any individual within the jurisdiction of the agency “for any purpose authorized by law.” This is the legal authority SAVE relies upon when performing verification in association with state voter registration and state voter list maintenance. Federal law (the Help America Vote Act) also requires State election officials to maintain and update computerized voter registration lists to ensure voter eligibility while maintaining voter’s rights. 52 U.S.C. § 21083; see 52 U.S.C. § 20507.

With respect to the mechanics of using SAVE, the SAVE Program currently provides verification services to over one thousand agencies. Only federal, state, and local benefit-granting agencies may register for the SAVE Program. The agency must be authorized by law to engage in an activity or provide a benefit for which immigration status verification is required.

SAVE requires the agency to submit electronic copies of all applicable legal authorities authorizing the agency to:

- Issue the stated benefit or license or engage in other activity; and
- Verify immigration status before issuing the stated benefit or license or pursuant to engaging in the other activity.

The SAVE Program reviews the submitted legal authorities to ensure that the agency is authorized to participate in the program. If the agency meets the eligibility criteria to participate in the SAVE Program, the agency is required to enter into a Memorandum of Agreement (MOA) with DHS/USCIS outlining the purpose and the responsibilities for participation in the program.

SAVE charges user agencies a fee based on the number and type of transactions they perform. If an agency’s account does not make any transactions in a given month, then SAVE does not charge that account. However, if an agency’s account makes any transaction in a given month, SAVE automatically charges a minimum monthly service transaction fee of \$25.

- Initial Verification: \$0.50
- Retry Initial Verification: \$0.50
- Additional Verification: \$0.50
- Maximum Charges for electronic cases: \$1.50
- Paper-based Form G-845, Document Verification Request: \$2.00

The SAVE program monitors the accuracy of its responses by performing monthly quality assurance audits. SAVE meets its goal for 99 percent legal instrument examiner accuracy on a monthly basis. The SAVE program is also undergoing a modernization effort to decrease the percentage of cases requiring a manual review and is eliminating paper based requests in FY 2018.

The SAVE Verification Process and Voter Registration Agencies

Before gaining access to SAVE for voter registration, the state agency must provide USCIS with all applicable legal authorities and voter registration procedures that authorize the agency to engage in voter registration activities. These authorities are reviewed by the USCIS Office of the Chief Counsel and the DHS Office of the General Counsel (OGC) is also notified of the state’s request. The state’s application to use SAVE for voter registration or voter list maintenance is not approved until the state

demonstrates that they have adequate notification and appeal processes in place to ensure that any voter denied registration has adequate due process.

Once an agency is approved, SAVE's role in verifying voter registration eligibility is limited to verifying naturalized or derived citizenship. **SAVE cannot verify U.S. born citizens under any circumstances.** To use SAVE to verify naturalized or derived citizenship of individuals registering or registered to vote, a user agency **must** provide SAVE with the numeric identifiers (e.g., Alien or USCIS number, I-94 arrival/departure document number, certificate or naturalization number) found on an individual's immigration-related documents (e.g., a Certificate of Naturalization or a Certificate of Citizenship), first and last name, and date of birth. There are various other limitations related to the information necessary to conduct verifications:

- SAVE cannot conduct verifications based on Social Security numbers.
- Derived citizens often do not have a document of any type to show U.S. citizenship and in these cases no citizenship record will exist with DHS.
- Department of State-adjudicated derived citizens may not have a record with USCIS and U.S. Passports cannot be verified in SAVE.¹

SAVE can take up to three possible verification steps in order to reach a final verification result. The first step is electronic and takes only three to five seconds. If SAVE cannot verify the individual as a U.S. Citizen, the requesting voter registration agency must perform any additional verification procedures the SAVE Program requires and/or the applicant requests. Accordingly, when the initial response is "Institute Additional Verification" or the individual requests additional verification because the status returned does not match their claimed citizenship status, second step additional verification is required. If the second step verification does not match their claimed citizenship status, the voter registration agency must submit a copy of the document (Naturalization Certificate or Certificate of Citizenship) for a third step verification. The additional verification steps must be performed in these situations because it allows USCIS staff to manually check data sources and provide a correct response. If the requesting agency has any concerns about a SAVE additional verification, it may call USCIS to discuss the verification. If an agency has alternative processes upon which to base its decision regarding the individual's citizenship status, additional verification is not required.

Voter Registration and Voting List Maintenance Current Enrollees and Issues

SAVE is currently used by a limited number of agencies for voter registration related verifications (either at point of registration or later for voter roll maintenance):

- a. Arizona Counties – 1) Maricopa 2) La Paz 3) Pima 4) Yuma 5) Yavapai. They do verification at the point of registration. SAVE is in negotiations with the State of Arizona to provide all 15 Arizona counties with access under a single uniform Memorandum of Agreement (MOA) with the state.
- b. Colorado – Secretary of State. Verifies voters already on the rolls.
- c. Florida – Secretary of State. Verifies voters already on the rolls.
- d. North Carolina – State Board of Elections. Verifies voters already on the rolls.
- e. Virginia – Board of Elections. Verifies voters already on the rolls.
- f. Georgia – Secretary of State. Verification at the point of registration.

¹ SAVE is only able to verify information that relates to information found in the databases accessed by the system. Accordingly, if an individual with derived citizenship status has not applied for a Certificate of Citizenship with USCIS, the agency may not have that individual's citizenship status in its databases, and SAVE will not be able to confirm that individual's derived citizenship status. However, many derived citizens have received U.S. passports from the Department of State (DOS). If the DOS has provided USCIS with a record of the passport citizenship adjudication and USCIS has updated the individual's alien file, SAVE would be able to find the citizenship record with the individual's Alien number.

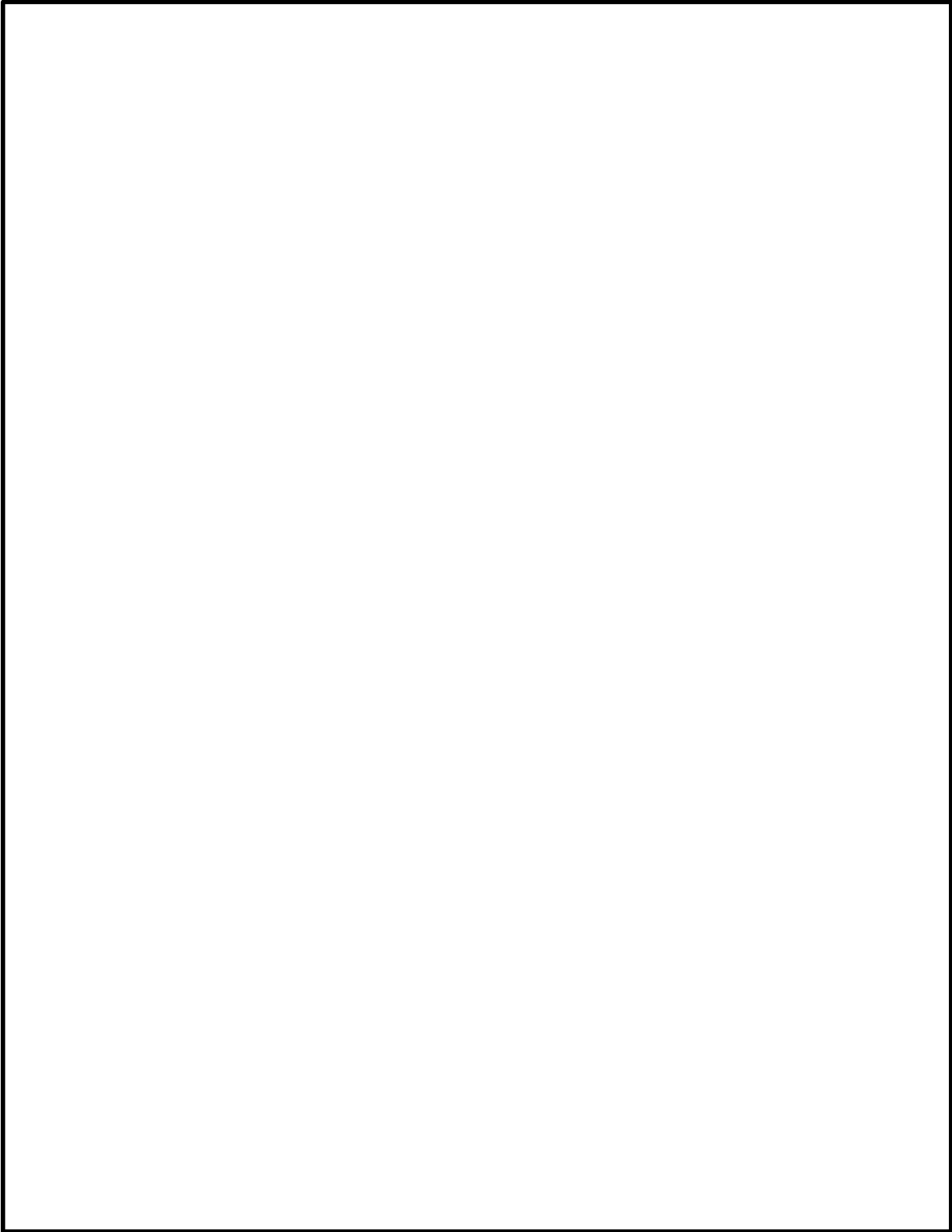
These agencies represent only a small fraction of the 1,150 agencies registered to use SAVE and only 0.07 percent of SAVE's total query volume. Only four of the ten agencies used SAVE in FY 2017 for voter registration and list maintenance, and the state of North Carolina was responsible for 93 percent of the query volume.

As indicated by the above list of voter registration agencies using SAVE, they will either use SAVE at the point of registration or to verify the immigration status of individuals already on voter rolls registered against State Department of Motor Vehicle records. For voter registration, the agency is usually limited by federal and state legal requirements concerning the information and documentation that they can collect from the individual to show citizenship. For list maintenance, the agencies are limited by the information contained within the Department of Motor Vehicle records, and they will have no direct contact with the individual before running a SAVE verification. It is almost never the case that a voter registration agency initiating a verification will have all of the information and/or documents available to them to complete all three steps of a SAVE verification, if necessary. Accordingly, the requesting agency may need to take extra steps to request additional information and documentation from the individual in order to satisfactorily complete a SAVE verification.

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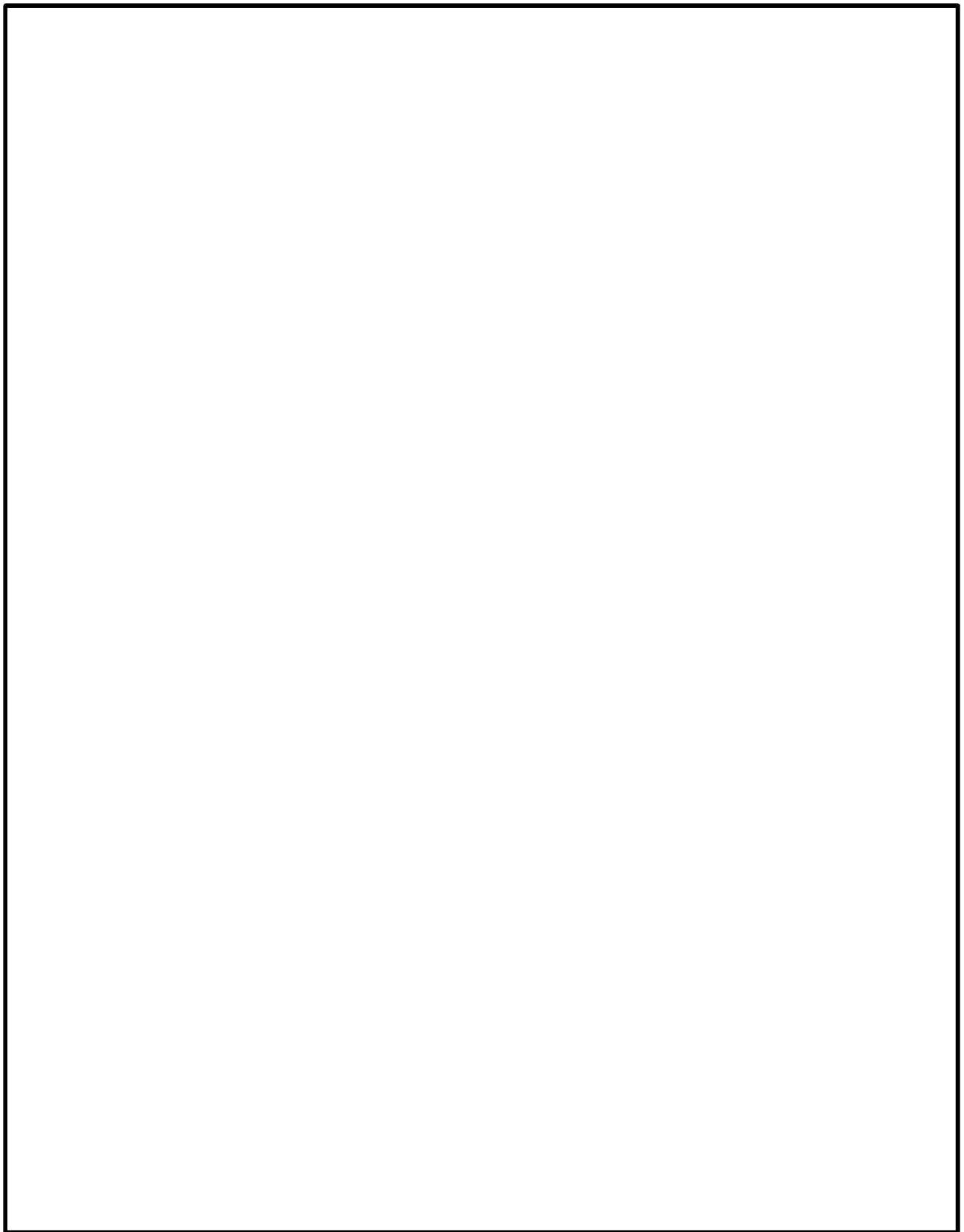
Voter Integrity



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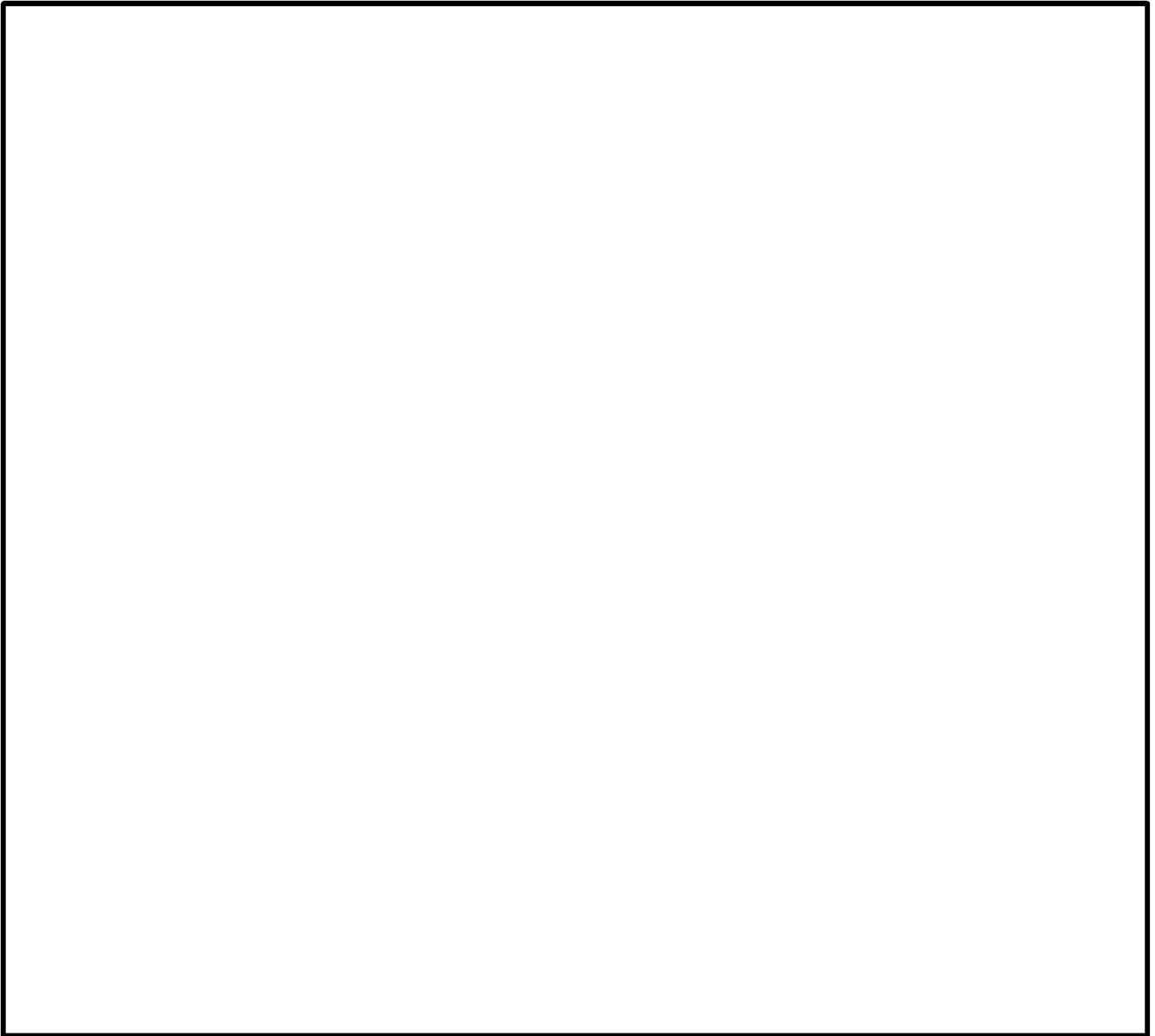
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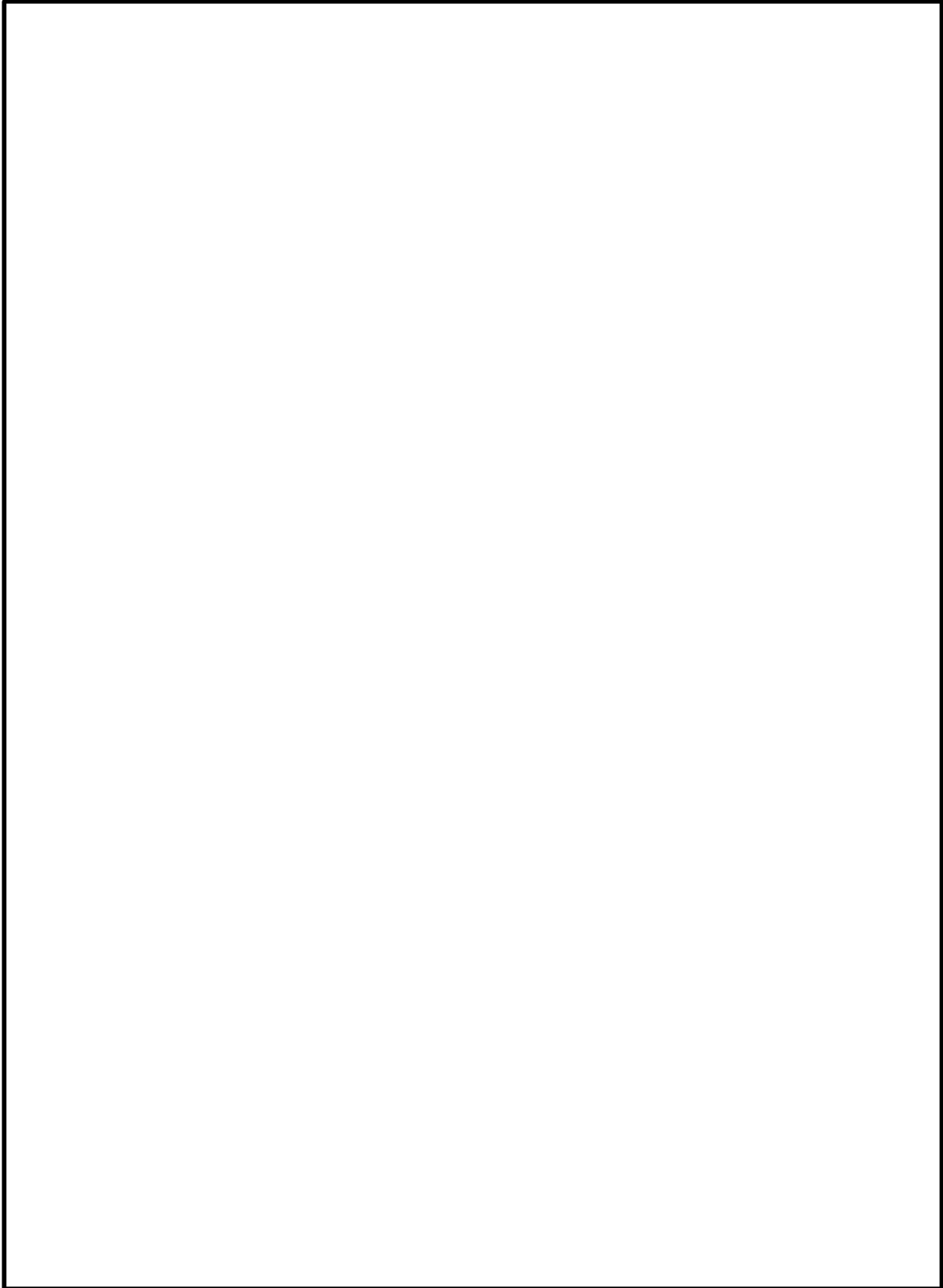
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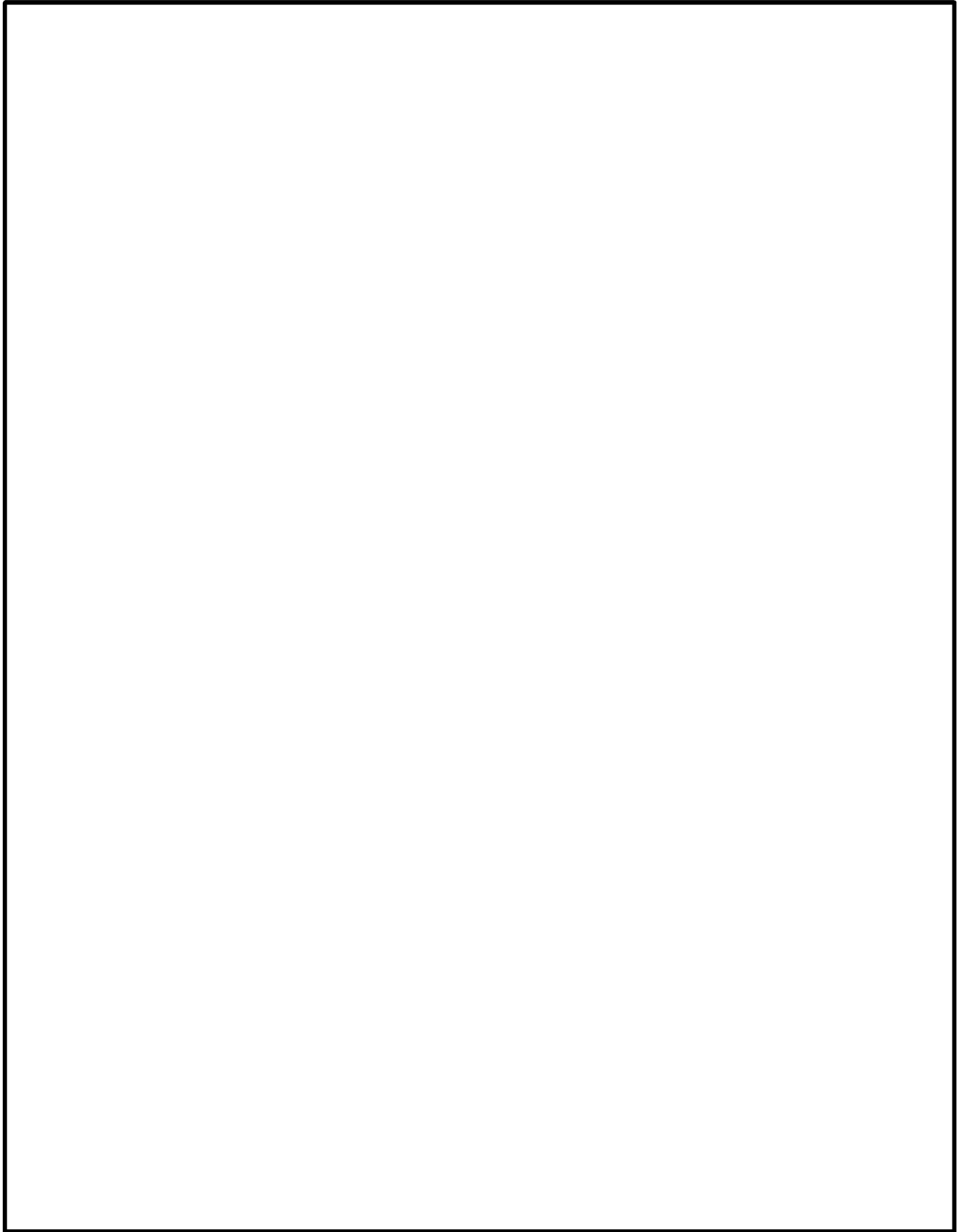
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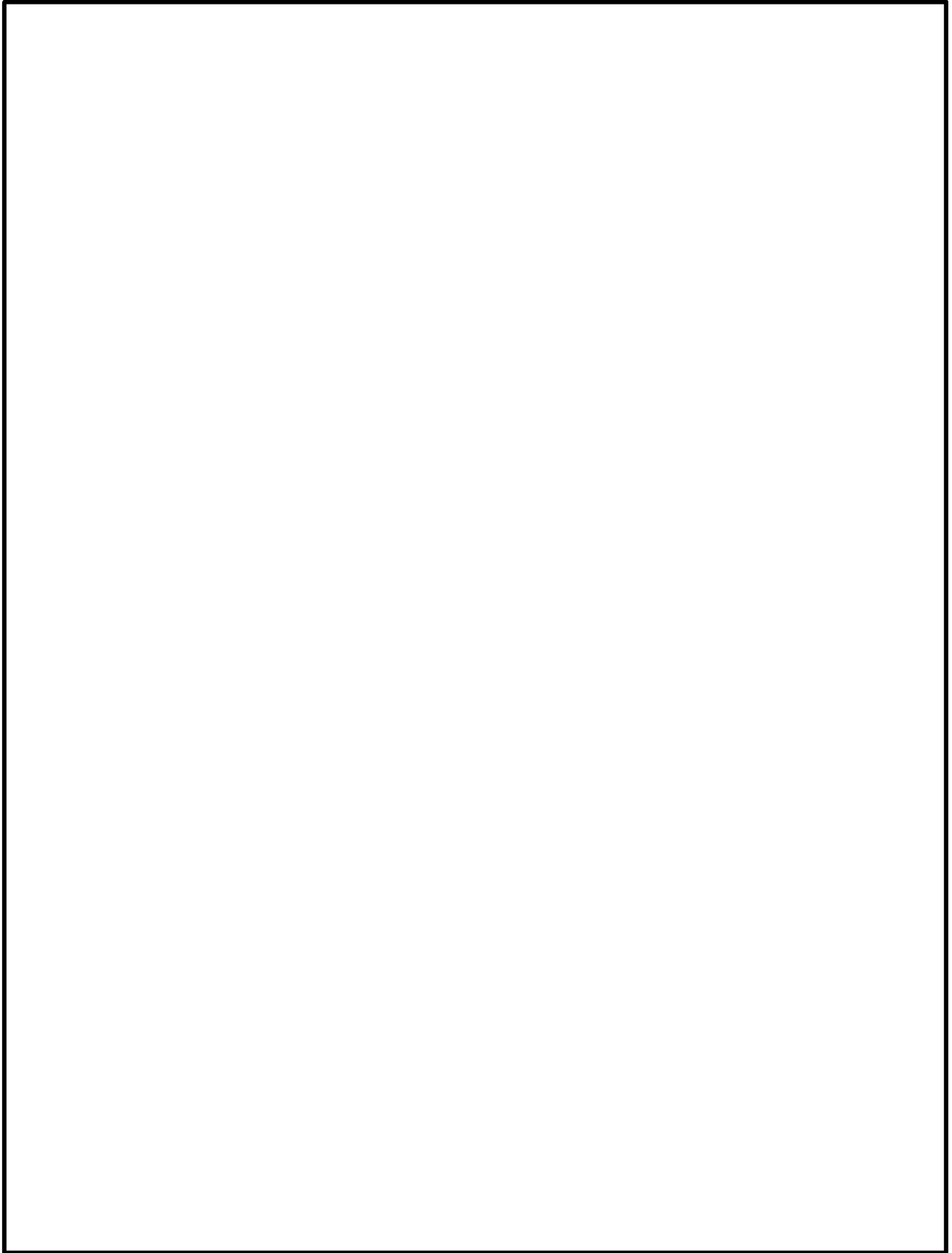
Election Integrity Recommendations



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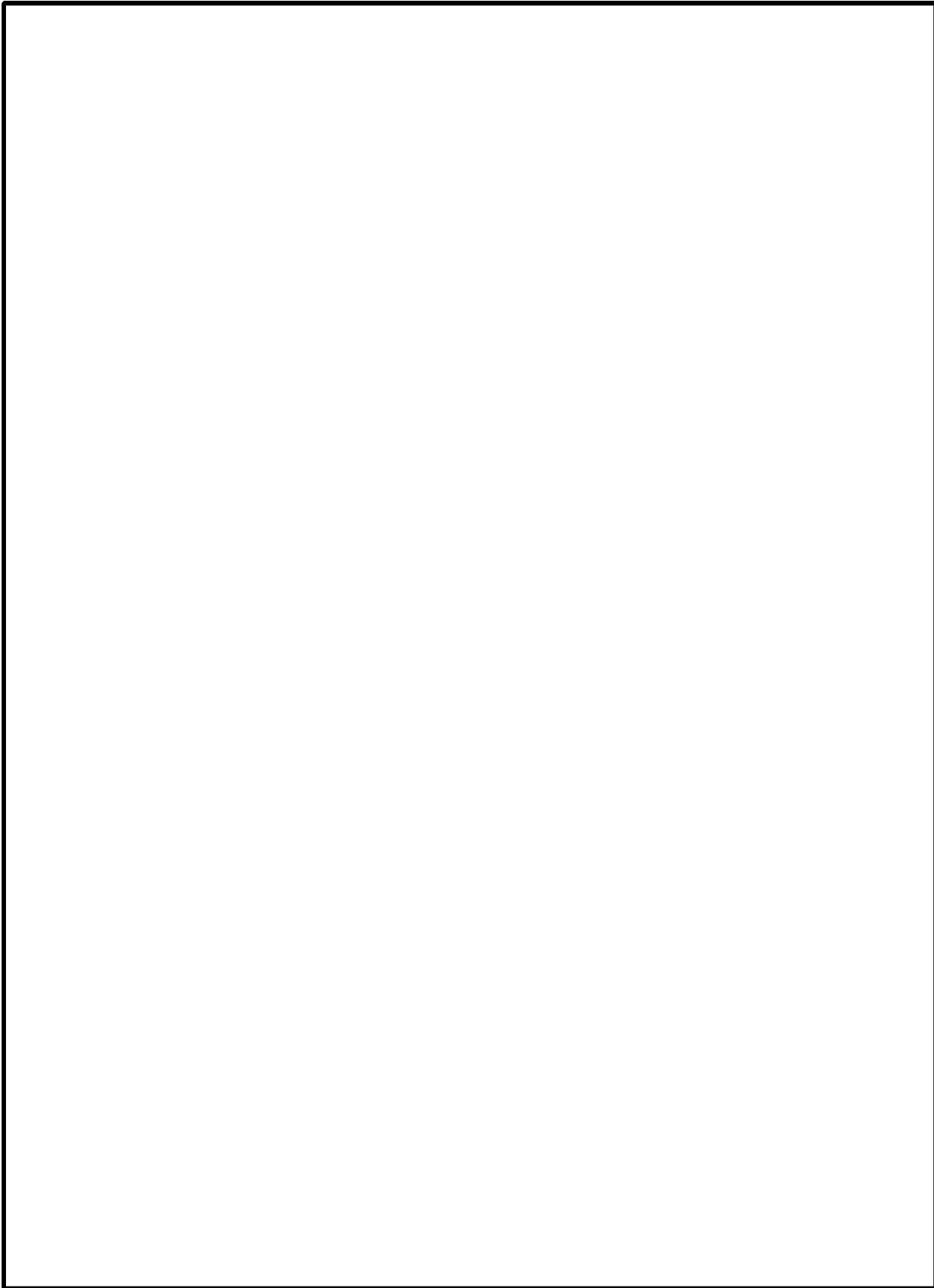
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provide documentation beyond that indicated on the Form. As such, states could not require applicants to provide additional documentation when using the federal form, unless the EAC approved the state's proposed changes to the instructions.

Following the Supreme Court's decision, Arizona asked the EAC to add citizenship requirements to Arizona's state-specific instructions to the national form instead of to the national form's general instructions. In 2013, Georgia and Kansas filed comparable requests. The EAC deferred all three requests, stating that they did not have a quorum to vote. More litigation ensued and in January 2014 the EAC acting director outright denied the states' requests. Kansas and Arizona pushed their case through the Court of appeals (unsuccessfully) and petitioned the Supreme Court to hear their challenge to the EAC's decision. In June 2015, the Court denied the petition for certiorari.

Despite ongoing legal battles and rulings against proof of citizenship requirements, states continued to pass legislation and issue requests to the EAC to include those requirements on the national form. After passing its citizenship requirement in 2012, Alabama issued a request to the EAC in December 2014, and Kansas issued another request in November 2015. In January 2016, newly appointed EAC Executive Director Brian Newby notified Alabama, Georgia, and Kansas that their requests were approved. This led to more litigation, which temporarily resulted in two-tiered voting registration systems in Arizona, Alabama and Kansas. These legal battles, both in state and federal courts, still remain in play in Kansas, Alabama and Georgia.

SAVE Outreach

-
The SAVE program has engaged with the National Association of Secretaries of State (known as NASS, it includes members from the 37 states where the secretary of state is the chief elections officer with oversight over voter registration) and presented at their conferences in 2013 and 2017. To promote SAVE usage for voter maintenance and registration, engagement at the S1 level with NASS and the National Governors Association is recommended.

Please let me know if you have any follow-up questions.

Best,
Tammy

Tammy M. Meckley
Associate Director
Immigration Records and Identity Services Directorate
U.S. Citizenship and Immigration Services
20 Massachusetts Avenue, NW
Washington, DC 20529

(b)(6)



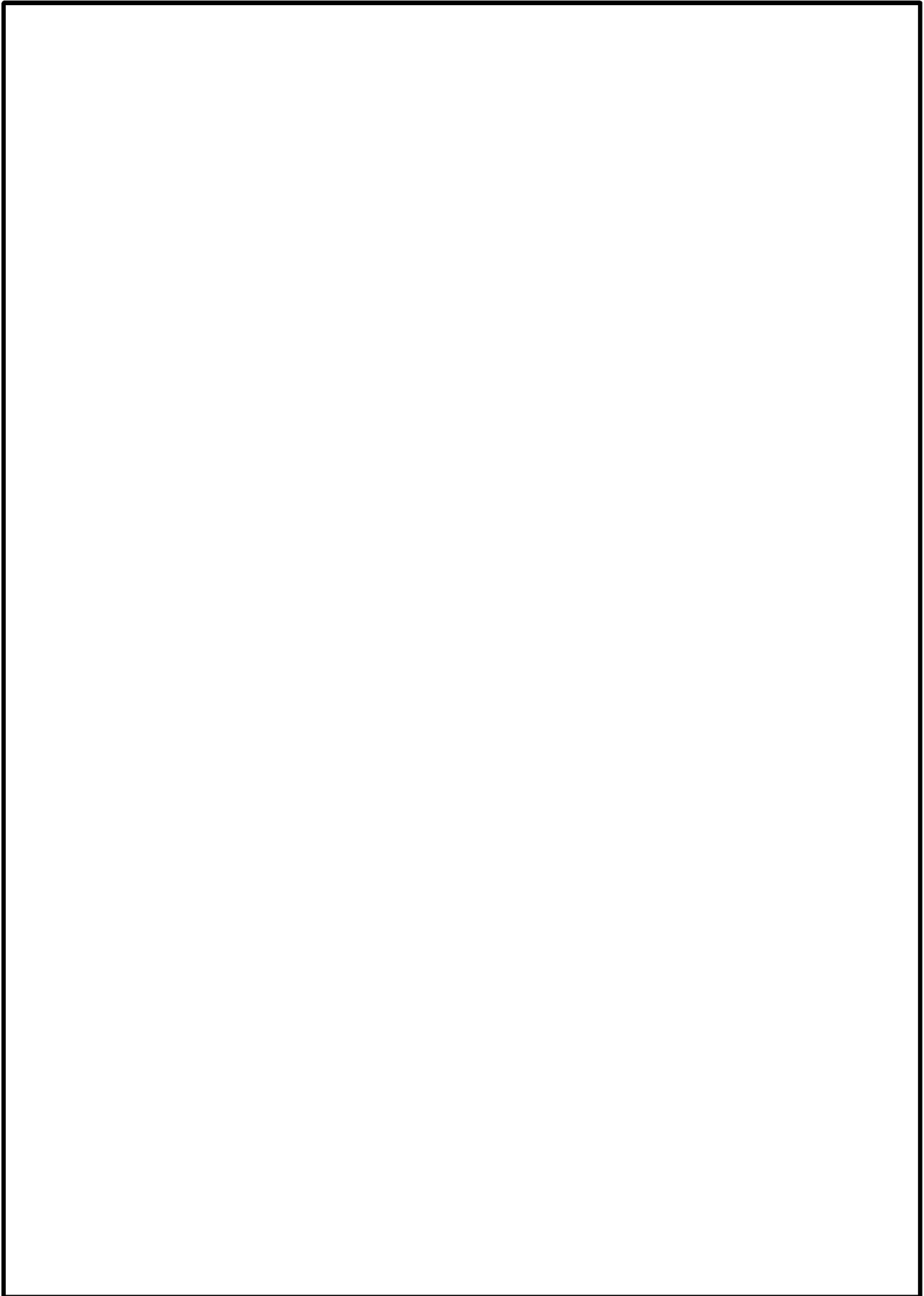
Election Integrity Recommendations

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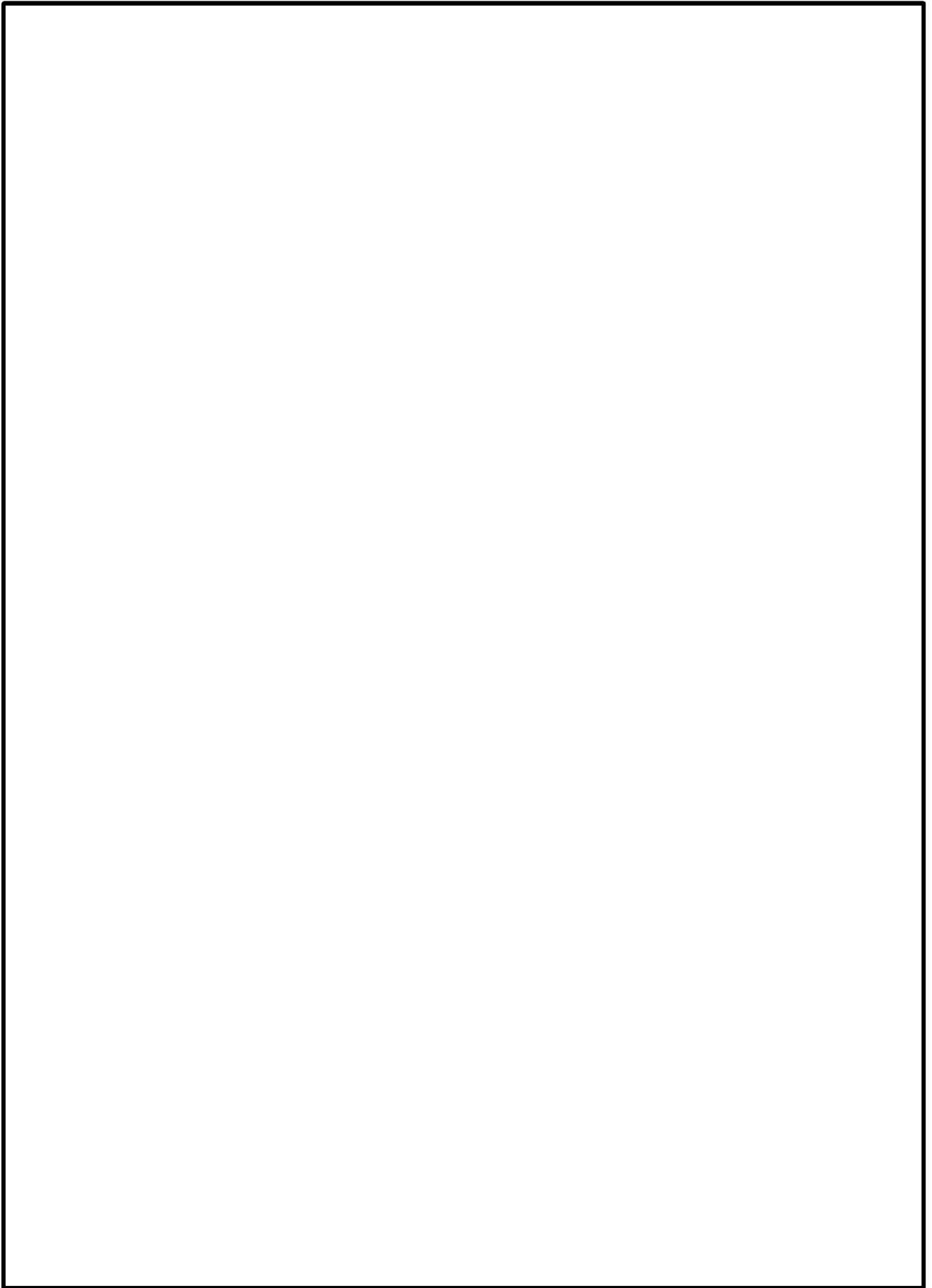
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Email: michael.shoaseged@uscis.dhs.gov

Telework: Mondays (Alternating), Tuesdays and Fridays

From: Johnson, Paul M
Sent: Friday, July 11, 2014 10:53 AM
To: Mandanas, Maria J (Joy); Burkley, Bruce D
Cc: Shoaseged, Michael; Rahi, Alissar K; Rayner, Raymond P
Subject: RE: Amendment of Fremont, Nebraska, SAVE MoA

Joy:

Here is a request from City of Fremont to amend their MOA to include asphalt and occupancy licenses. Note that the occupancy license provision was challenged in court, but apparently that has been resolved in Fremont's favor.

I'm afraid I was not on the original email to Alissar so I don't have the attachments, but Michael can send you the current MOA. We will forward the other materials ASAP.

Thanks.

Paul M. Johnson
Chief, SAVE Policy & Guidance
SAVE Program, Verification Division
U.S. Citizenship & Immigration Services
Department of Homeland Security

Tel: 202.443.0136

Cel: 202.725.6658

Telework: Alternating Monday and Friday

From: Johnson, Paul M
Sent: Thursday, July 10, 2014 5:03 PM
To: Rahi, Alissar K; Rayner, Raymond P
Cc: Shoaseged, Michael
Subject: Re: Amendment of Fremont, Nebraska, SAVE MoA

Ray:

Let's discuss when you're back on Monday.

Paul Johnson
Chief, Policy & Guidance
SAVE Program, Verification Division
U.S. Citizenship & Immigration Services
Department of Homeland Security
Desk: 202.443.0136

From: [Symons, Craig M](#)
To: [Busch, Phillip B](#)
Subject: FW: E-Mail Trail RE: Voter Information
Date: Thursday, January 04, 2018 8:49:08 AM
Attachments: [State Voter Data Comparison to USCIS Data.doc](#)
[image001.png](#)

Craig M. Symons

Chief Counsel | Office of the Chief Counsel
U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security
Tel. (202) 272-1440 | Cell (703) 919-2170



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From: Meckley, Tammy M
Sent: Thursday, September 14, 2017 1:26 PM
To: Emrich, Matthew D; Busch, Philip B; Renaud, Daniel M
Cc: Valverde, Michael; Davidson, Andrew J; Nuebel Kovarik, Kathy; Symons, Craig M; Gentry, Anthony E; Muzyka, Carolyn L
Subject: RE: E-Mail Trail RE: Voter Information

Hi, Matt. To Phil's point this ask seems to be in line with a criminal investigation regarding voter registration fraud. However, the department has been in discussions with USCIS on whether we could take state voter registration data (first and last name, address and DOB) and compare it to immigration data in our systems. While these may be two separate efforts, the end state is the same. This paper outlines our recommended approach and the legal considerations that was brief to the department. Also, please note that to date nothing has been done.

Best,
Tammy

Tammy M. Meckley
Associate Director
Immigration Records and Identity Services Directorate
U.S. Citizenship and Immigration Services

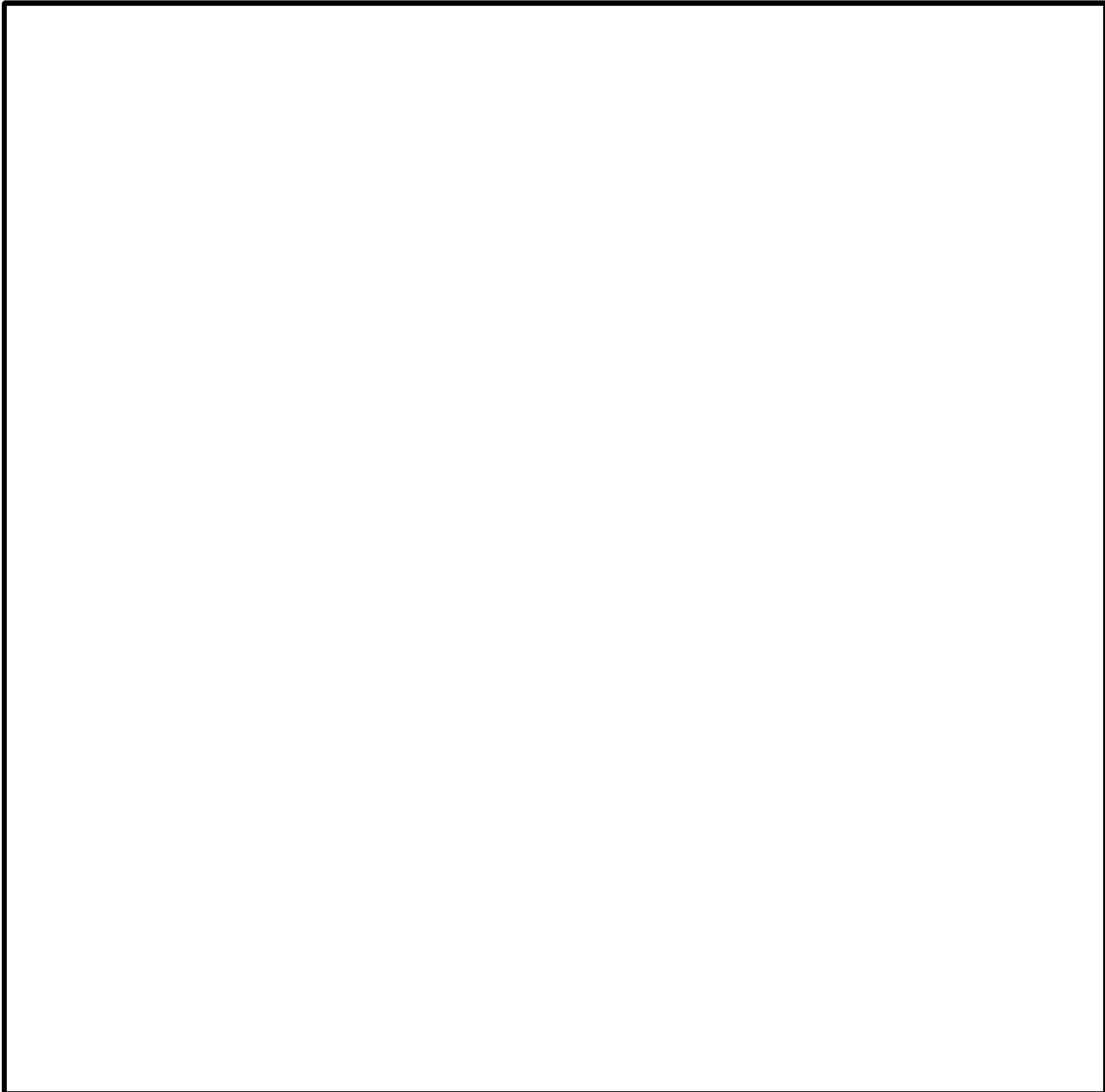


U.S. Citizenship
and Immigration
Services



Comparison of State Voter Data against USCIS Immigration Data

(b)(5)

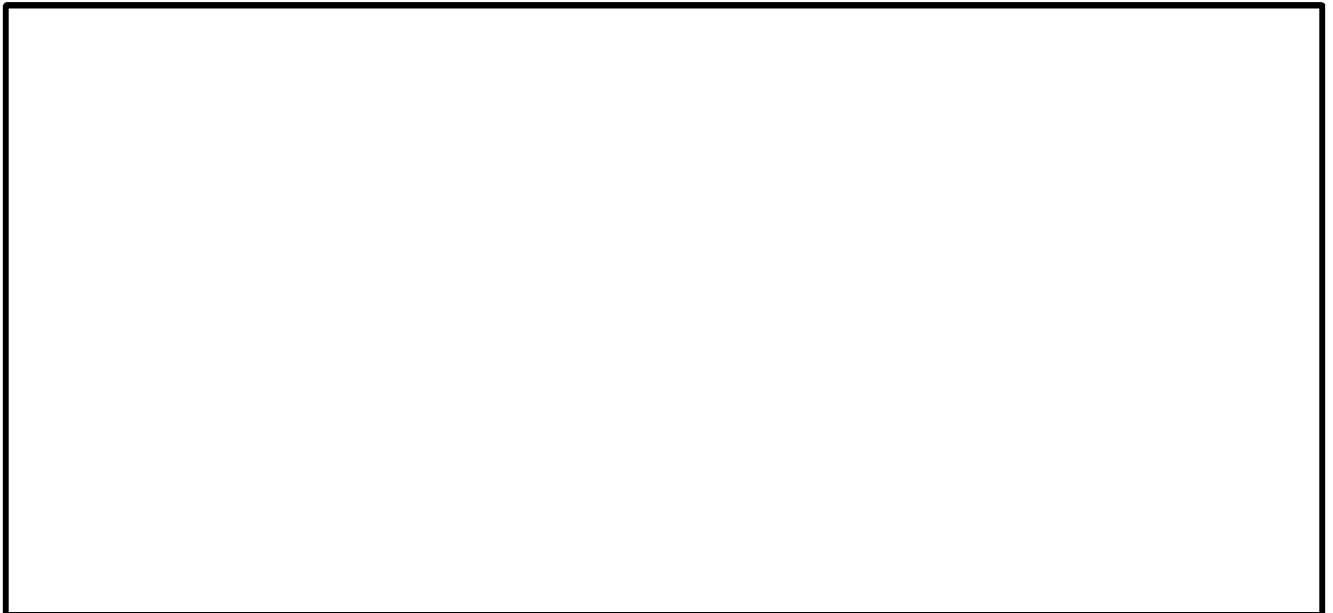


LEGAL CONSIDERATIONS (USCIS OCC)

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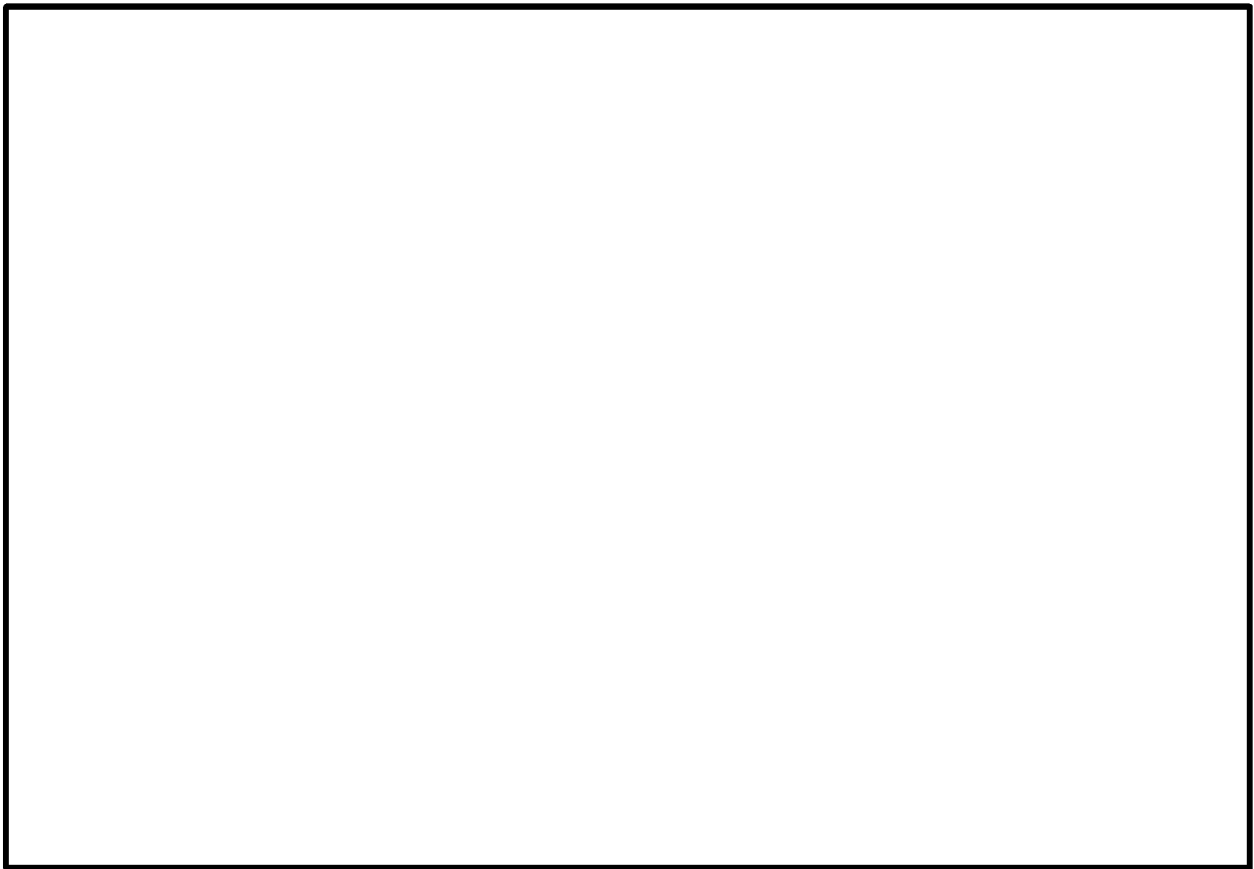


B. Privacy Act Considerations



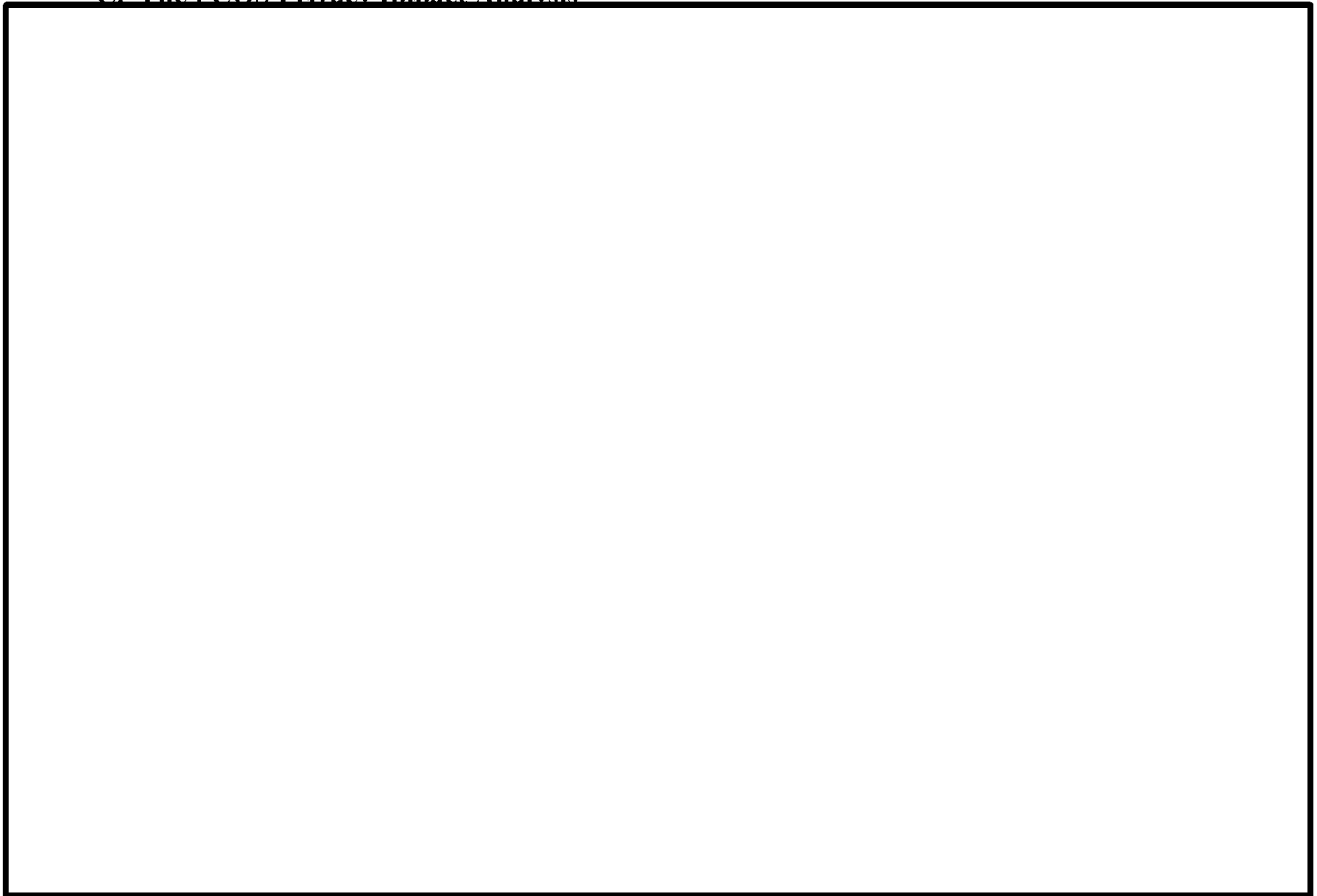
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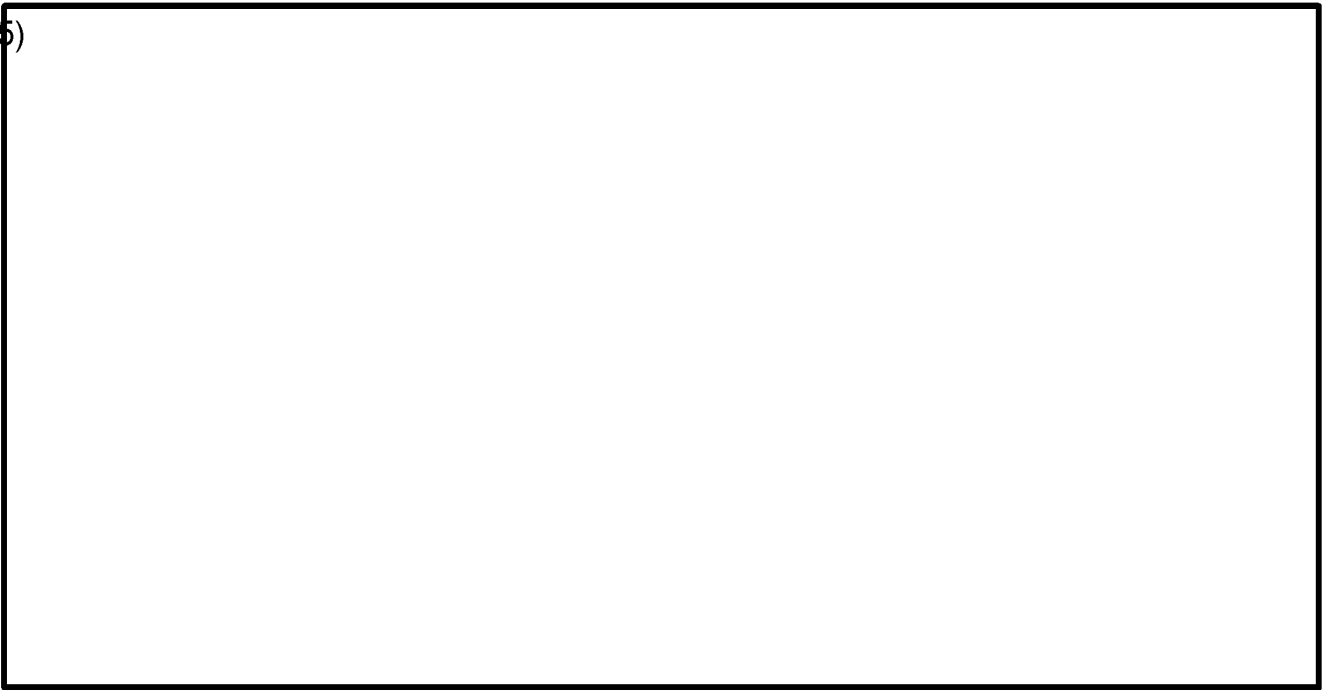
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C. The PCOS Privacy Impact Analysis



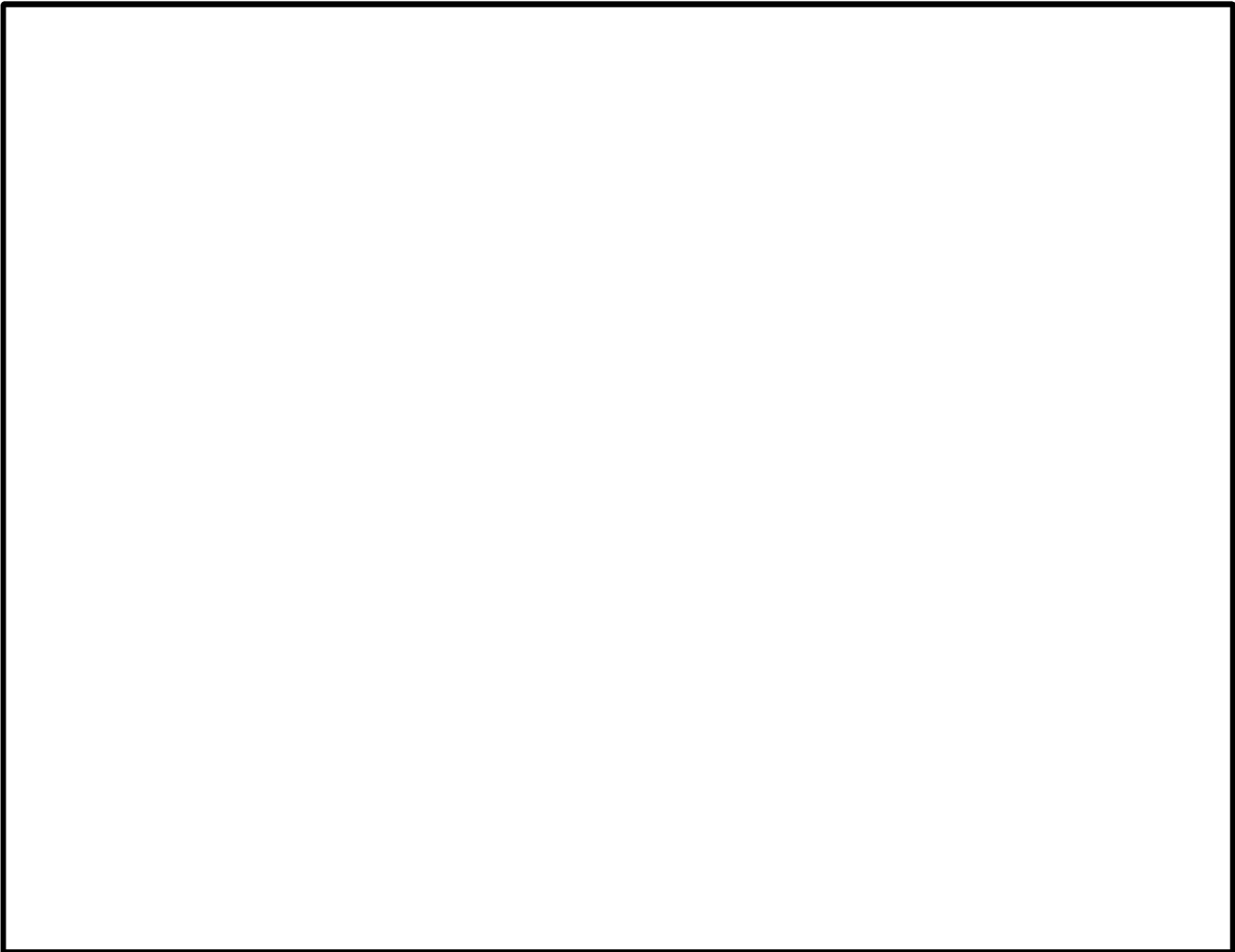
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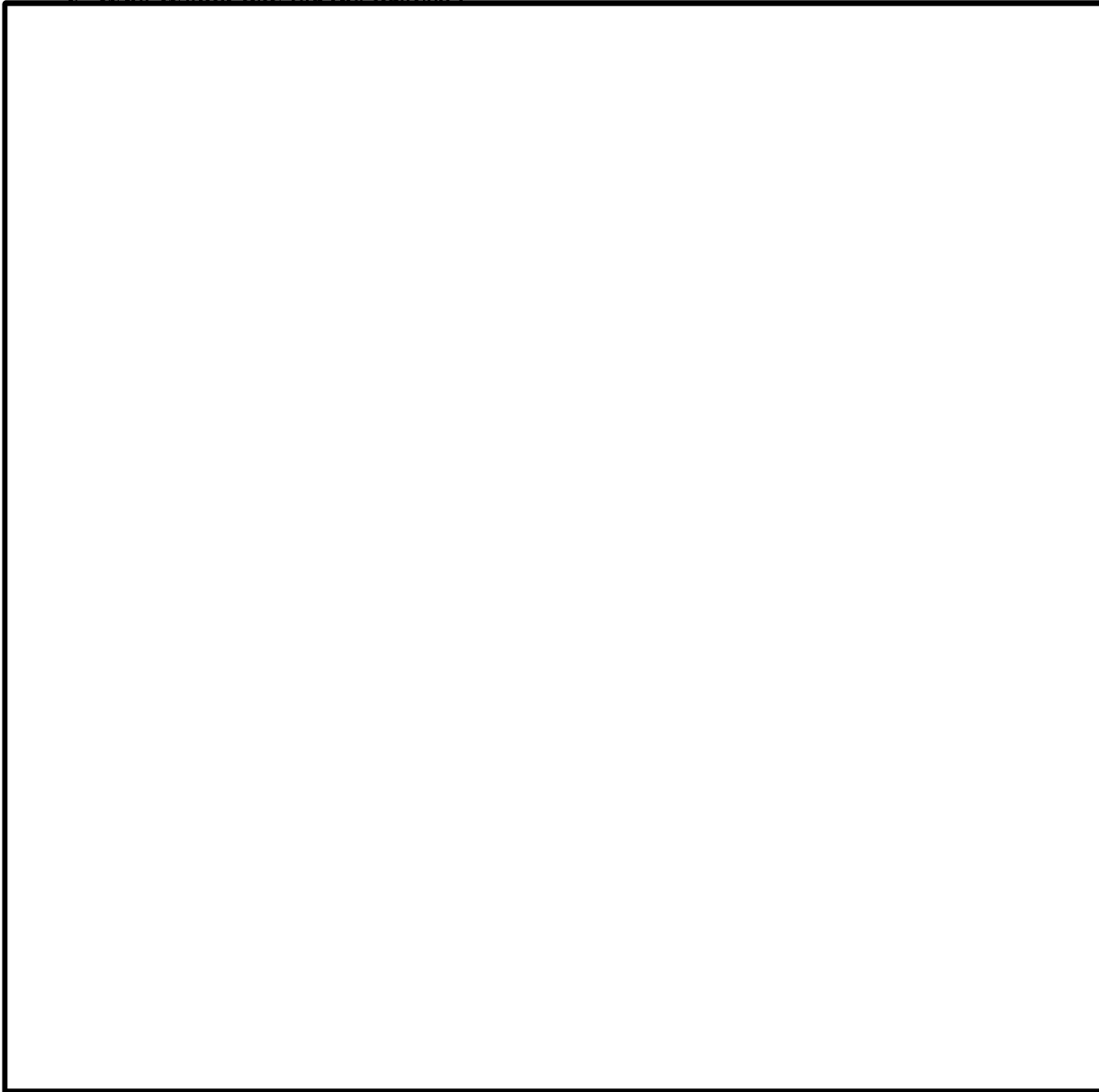
D. The Role of the Presidential Advisory Commission on Election Integrity and Litigation Risk

(b)(5)



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