



MEMORANDUM

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SUBJECT: Comment for the Department of Homeland Security and U.S. Citizenship and Immigration Services regarding the proposed modification and reissuance of the system of records notice titled "Department of Homeland Security/U.S. Citizenship and Immigration Services (USCIS)-004 Systematic Alien Verification for Entitlements Program (SAVE)."

Introduction

The Department of Homeland Security ("DHS") and U.S. Citizenship and Immigration Services ("USCIS") are soliciting public comment in response to the Notice of a Modified System of Records published in the Federal Register on October 31, 2025 (docket number USCIS-2025-0337), proposing to modify and reissue the system of records notice ("SORN") titled, "Department of Homeland Security/U.S. Citizenship and Immigration Services (USCIS)-004 Systematic Alien Verification for Entitlements Program (SAVE)." DHS should not adopt this SORN as drafted.

The modified SORN provides for an overhaul of SAVE—a system originally created for the limited purpose of helping government agencies confirm the immigration status of applicants for public benefits—to facilitate citizenship checks for voter registration, voter list maintenance, and oversight of these processes (collectively, "voter verification"), potentially for every American voter. The modified SORN

envisioning a sweeping data system including sensitive private records—including driver’s license numbers, social security numbers, immigration details, and much more—for innumerable Americans from myriad sources that would be accessible by thousands of user agencies with inadequate safeguards to ensure privacy, accuracy, or appropriate use cases. The SORN includes numerous vague references intended to permit additional expansions of this system without additional notice to the public. All of this is being done without appropriate Congressional authorization, and without regard to the Executive’s limited constitutional role in election administration.

As an initial matter, although the Privacy Act of 1974 requires DHS to issue public notice in the federal register in advance of such an expansion, the SORN memorializes modifications to SAVE that were implemented several months ago following the President’s Executive Orders 14159 (Protecting the American People Against Invasion) and 14248 (Preserving and Protecting the Integrity of American Elections). DHS announced the SAVE overhaul in April, describing it as a “comprehensive optimization” of the system “to ensure a single, reliable source for verifying noncitizen status nationwide.” DHS issued this SORN after the SAVE overhaul and absence of public notice were challenged in *League of Women Voters v. DHS*, No. 1:25-cv-03501 (D.D.C. Sept. 30, 2025).

Campaign Legal Center (“CLC”) is a nonpartisan, nonprofit organization working to protect and strengthen the U.S. democratic process across all levels of government through litigation, policy analysis and development, and public education. Consistent with that mission, CLC advocates for transparent and accessible government processes that allow Americans to participate in civic life and affect the systems that dictate how our sensitive personal data will be collected, stored, accessed, or used.

CLC opposes the proposed modification of SAVE for three main reasons. First, SAVE cannot fulfill the citizenship verification for voting service it purports to provide. The USCIS, Social Security Administration (“SSA”), driver’s license, and passport data on which SAVE relies, particularly during its initial citizenship check, contain significant gaps and inaccuracies. Those inaccuracies could result in the disenfranchisement of eligible voters. Moreover, USCIS has provided no transparency into the accuracy of its database matching mechanisms, which only adds to the likely disenfranchisement that could result from its widespread usage. Second, DHS has not demonstrated that it has implemented robust safeguards to ensure the data maintained for use by the SAVE system is secure and protects the privacy of American citizens before SAVE is used for voter verification. To the contrary, the SORN could be construed to permit the consolidation of an unprecedented amount of data on nearly all Americans and allow access to that data to thousands of user agencies. Finally, the federal government’s aggressive and unprecedented use of SAVE for voter verification exceeds the Executive Branch’s constitutional authority with respect to elections.

I. Documented issues with the SAVE datasets and DHS’s failure to demonstrate the reliability of its data matching techniques create an intolerable risk of voter disenfranchisement.

The changes made to SAVE facilitate the use of incomplete and inaccurate data to determine whether Americans can exercise their right to vote. The overhaul expands SAVE to allow state and local election officials to query historically unreliable USCIS and SSA datasets containing incomplete and outdated citizenship data to determine

voter eligibility.¹ The SORN also contemplates that SAVE may be updated to include driver’s license and passport data, and public reporting suggests that DHS is also considering soliciting data from private sources.² Given the documented issues with these datasets and sources, the SORN’s express contemplation of using SAVE for voter verification all but ensures officials will rely on faulty data to determine voter eligibility, leading to the disenfranchisement of eligible voters.³

An additional concern that risks potential voter disenfranchisement is that data matching for voter list maintenance is historically difficult, even when systems are designed and standardized for that purpose. The datasets already added to the SAVE process under the current modification—as well as those that DHS contemplates adding—were not designed for nationwide citizenship verification nor are their data fields standardized for data matching, making them unsuitable for voter verification without meticulous accuracy testing and error-reduction procedures, made available for public review. Unfortunately, DHS has not taken steps to publicly demonstrate that the datasets have been properly matched. DHS must be transparent about its data matching procedures, accuracy testing, and review parameters to avoid disenfranchising eligible American voters and jeopardizing public trust in the federal government and the civic process.

a. The USCIS, SSA, and other datasets contemplated by DHS are well-documented as unreliable and incomplete, making them unsuitable for voter verification purposes.

i. The USCIS Datasets are unreliable.

The SORN indicates that existing USCIS datasets⁴ within SAVE can be queried to determine an individual’s citizenship status for purposes of voter verification. But USCIS’s core datasets were created to help government agencies determine the immigration or naturalization status of certain immigrant applicants for benefits—not to confirm current U.S. citizenship status for all residents or voters—and therefore cannot reliably be used to determine voter eligibility.⁵

¹ See Brennan Ctr. For Justice, *Homeland Security’s “SAVE” Program Exacerbates Risks to Voters* (July 21, 2025), <https://www.brennancenter.org/our-work/research-reports/homeland-securitys-save-program-exacerbates-risks-voters>.

² See Jen Fifield et al., *DHS asked Texas to hand over driver’s license data for citizenship checks*, The Texas Tribune (Oct. 31, 2025), <https://www.texastribune.org/2025/10/31/dhs-texas-drivers-license-citizenship/>.

³ Letter from Senators Padilla, Peters, and Merkley to U.S. Secretary of Homeland Security (July 15, 2025), *available at* https://www.padilla.senate.gov/wp-content/uploads/25.07.15-Letter-to-Sec.-Noem-re-SAVE-Program_FINAL.pdf; Letter from Senators Padilla and Durbin to Attorney General Pam Bondi (Nov. 6, 2025), <https://www.padilla.senate.gov/wp-content/uploads/25.11.06-Letter-to-AG-Bondi-re-national-voter-database-FINAL.pdf>.

⁴ This term refers collectively to the Verification Information System (VIS), Person Centric Query System (PCQS), Central Index System (CIS), Computer Linked Application Information Management System (CLAIMS 3), Computer Linked Application Information Management System (CLAIMS 4), USCIS ELIS, TECS, I-94, SEVIS, and U.S. Immigration and Customs Enforcement datasets.

⁵ U.S. Government Accountability Off., *Immigration Status Verification for Benefits: Actions Needed to Strengthen Oversight of the SAVE Program*, GAO-17-204 (Mar. 23, 2017), *available at* <https://www.gao.gov/products/gao-17-204>; U.S. Dep’t of Homeland Security, Off. of the Inspector Gen., *Improvements Needed for SAVE to Accurately Determine Immigration Status of Individuals Ordered*

As an initial matter, the USCIS datasets on which SAVE primarily relied prior to 2025 contain information about noncitizens and some naturalized citizens, but very little information about the hundreds of millions of Americans who are U.S. citizens by birth. As such, when a user agency queries the USCIS datasets, a “no record found” response indicates only that a potential voter never applied for immigration status—not that they are not a U.S. citizen.⁶ For years, both the federal government and nonprofit civic engagement organizations have warned against using SAVE, and the USCIS data, for voter verification because of the real risk of false negatives and wrongful voter purges.⁷ In 2018, the U.S. Commission on Civil Rights published a report finding that “SAVE is not a comprehensive list of U.S. citizens . . . [.] is not updated to include all naturalized citizens, and it does not include [all] derivative citizens born to U.S. parents outside the country.”⁸

Even for individuals whose information is included in USCIS datasets, the underlying information is fragmented across multiple agency systems that have never been fully integrated. For example, naturalization records may appear in only one dataset, and certain files may exist only as paper records. Naturalized citizens interact with various government agencies at different stages of the immigration and naturalization processes. These individuals often are not required to update their information with the agencies following naturalization and may never update their information on file. As a result, even USCIS data *specifically about immigration and citizenship status* has sometimes been outdated, with some records showing that an individual is a noncitizen long after they have naturalized. This creates a real concern that U.S. citizens will be erroneously identified as ineligible to vote. Indeed, the Eleventh Circuit has recognized that SAVE is not a reliable tool for determining voter citizenship status. In *Arcia v. Fla. Sec’y of State*, the Court described how Florida’s voter purge program—which relied on SAVE—identified naturalized citizens as noncitizens due to database inaccuracies and noted that its data matching poses a “real risk” of erroneous removal. 772 F.3d 1335, 1342 (11th Cir. 2014).

And although DHS has previously required that agencies complete additional verification steps when SAVE returns inconclusive or inconsistent results, federal oversight bodies have repeatedly found that agencies do not follow these procedures, and DHS lacks effective mechanisms to ensure compliance.⁹ Rather than emphasizing the importance of additional verification to ensure accurate results, the SORN seems

Deported, Report No. OIG-12-11 (Dec. 7, 2012), available at <https://www.oig.dhs.gov/reports/2013/improvements-needed-save-accurately-determine-immigration-status-individuals-ordered-deported-revised/oig13-11dec12>.

⁶ U.S. Dept. of Justice, Letter from Thomas E. Perez, Assist. Att’y Gen., U.S. Dep’t of Justice, to Hon. Ken Detzner, Florida Secretary of State (June 11, 2012), <https://assets.documentcloud.org/documents/805150/us-dep-ofjustice-save-letter-1.pdf>; American Immigration Council, Fact Sheet: Using the Systematic Alien Verification for Entitlements (SAVE) Program for Voter Eligibility Verification (Aug. 2, 2012), available at <https://www.americanimmigrationcouncil.org/fact-sheet/using-systematic-alien-verification-entitlements-save-program-voter-eligibility/>.

⁷ U.S. Comm’n on Civil Rights, *An Assessment of Minority Voting Rights Access in the United States* (2018), available at https://www.usccr.gov/files/pubs/2018/Minority_Voting_Access_2018.pdf?inline=1.

⁸ *Id.*

⁹ U.S. Government Accountability Office, *Immigration Status Verification for Benefits: Actions Needed to Strengthen Oversight of the SAVE Program*, GAO-17-204 (Mar. 23, 2017), available at <https://www.gao.gov/products/gao-17-204>.

to contemplate additional verification as optional in SAVE's new batch mode. The SORN states that "if SAVE is unable to provide an initial automated response verifying the benefit applicant's immigration status or U.S. citizenship, SAVE will provide instructions on actions the user agency *may* take" (emphasis added) and that "agencies are *not prompted* to institute additional verification when using [batch mode] but are instructed to resubmit with additional information when the process is unable to return a response." As such, user agencies are able to upload multiple cases at once without being required, or even prompted, to complete additional verification for ineligible or inconclusive responses. The gaps in USCIS data and lack of oversight create an increased risk that use of the SAVE system for voter verification will produce false noncitizen matches and subject eligible voters to undue scrutiny or disenfranchisement.

ii. The SSA Dataset is incomplete and outdated.

The SORN also indicates that the Social Security Administration's master file (the "SSA dataset") has been incorporated into SAVE and made accessible for voter verification queries. The SSA dataset was not designed to verify citizenship and is not appropriately used for this purpose.

According to SSA itself, the SSA dataset does not have complete citizenship data for U.S.-born citizens born before 1981. SSA did not consistently collect citizenship information before then and "approximately $\frac{1}{4}$ of those records do not have an indication of citizenship present."¹⁰ This means that U.S.-born citizens aged approximately 45 and older—a staggering portion of voting-aged adults—may not have sufficient data in the SSA dataset to confirm their citizenship status for voter verification.

Additionally, the SSA dataset does not reflect current citizenship information. SSA only affirmatively collects citizenship data from individuals at the time that they apply for a Social Security Number ("SSN") and the corresponding card, or when they apply for benefits. The citizenship indicator in an individual's file reflects what they self-reported at the time. SSA does not update an individual's file unless they inform SSA of a change in their citizenship status. As such, SSA does not necessarily have current information about any individual's citizenship status and has itself admitted that its system does not—and cannot—provide "definitive information about an individual's citizenship status."¹¹ As of a 2006 audit by SSA's Office of Inspector General, there were an estimated 3.3 million naturalized U.S. citizens incorrectly identified in SSA's system as noncitizens "because [they] had become U.S. citizens after obtaining their SSN" and "had not updated their records with SSA."¹² That number has undoubtedly grown. This represents millions of U.S. citizens that are at risk of being disenfranchised if SAVE, relying on the SSA dataset, produces outdated information in response to a user agency's query for voter verification.

¹⁰ Letter from SSA Off. of Gen. Counsel to Fair Elections Ctr. 2 (July 13, 2023), <https://fairelectionscenter.org/wp-content/uploads/2025/07/SSA-Touhy-Decision-letter.July-13-2023-signed.pdf>.

¹¹ *Id.*

¹² SSA Off. of the Inspector Gen., Cong. Resp. Rep. No. A-08-06-26100, Accuracy of the Social Security Administration's Numident File 13 (Dec. 18, 2006), https://oig-files.ssa.gov/audits/full/A-08-06-26100_0.pdf.

The SSA dataset was not designed to serve as a national citizenship database and cannot function as one. When incorporated into systems like SAVE, this data will lead to false noncitizen matches or trigger unnecessary secondary verification, disproportionately affecting naturalized citizens, U.S.-born citizens with older or incomplete records, and other individuals whose identifying information has changed over time. And while DHS has indicated that SSA records that return a non-citizen result may be secondarily verified by checking other data sources such as USCIS records, it has not demonstrated the functionality of this process. For example, DHS has not made available information about how frequently the records in the SSA dataset provide the necessary identifier for a USCIS search or how accurate the data matching is between the two datasets. Further, if an SSA record is compared with a USCIS record that is unreliable because of the concerns addressed above, it is unlikely to produce a more helpful result than the SSA record alone. Instead, the risk of erroneous results rises with the introduction of each additional dataset, none of which were designed or optimized to work together. Therefore, the SSA dataset should not be relied upon, whether alone or in conjunction with the USCIS dataset, for voter verification.

iii. Other datasets that DHS and USCIS contemplate using for voter verification are similarly flawed.

The SORN further indicates that DHS is incorporating driver's license and passport data into SAVE for voter verification. Public reporting suggests that the agencies plan to accomplish this either by requesting access to the driver's license data from each state or by relying on national data compiled by a private entity.¹³ Under either approach, this plan is deeply flawed. Like the USCIS and SSA datasets, driver's license and passport information cannot be reliably used for voter verification. And the suggestion that a private entity could be involved in data collection for this purpose is particularly alarming and raises additional accuracy and privacy concerns.

First, driver's license data alone cannot verify citizenship. At most, a driver's license record indicates an applicant's citizenship status at the time of their most recent transaction with the agency. Because citizenship status is not static, records maintained by a state's driver's license agency are not an accurate indicator of *current* citizenship status. For this reason, federal courts have rejected states' reliance on motor vehicle agency records for voter list maintenance—precisely because the underlying records contain inconsistencies, data-entry errors, and outdated information that make them unsuitable for eligibility determinations. *See, e.g., United States v. Florida*, 870 F. Supp. 2d 1346, 1350 (N.D. Fla. 2012); *Tex. League of United Latin Am. Citizens v. Whitley*, No. SA-19-CA-074-FB, 2019 WL 7938511, at *1 (W.D. Tex. Feb. 27, 2019).

Seeming to recognize this, the SORN contemplates a daisy chain of data matching for voter verification by first using a driver's license number to identify an individual, then using the driver's license record to obtain a social security number or immigration identifier and then using those identifiers to query USCIS or SSA data sources. Not only does this daisy chain scheme create myriad opportunities for false

¹³ See Abby Vesoulis & Ari Berman, *New Docs Show DHS Gathering Driver's License Data in Voter Fraud Crusade*, Mother Jones (Nov. 14, 2025), <https://www.motherjones.com/politics/2025/11/dhs-gathering-drivers-license-save-voter-fraud-crusade/>.

matches and errors, but the many underlying driver's license data sources themselves will be of dramatically differing quality, completeness, and accuracy.¹⁴ Driver's license databases contain numerous inaccuracies, including outdated addresses and name discrepancies, as well as other elements which make them a poor fit for verification, like duplicate driver's license numbers and incomplete records for individuals who do not regularly interact with motor vehicle agencies. A 2025 report from the Bipartisan Policy Center found that motor vehicle records fail to capture millions of eligible voters, particularly in young, low-income, elderly, and transient populations.¹⁵ Reporting by the Texas Tribune and ProPublica further shows that driver's license data is frequently inconsistent across jurisdictions.¹⁶

Second, passport data likewise cannot be relied on for voter verification because a substantial percentage of Americans do not hold a passport. According to the U.S. State Department, there are just over 183 million valid U.S. passports in circulation during Fiscal Year 2025—comprising approximately 51% of all Americans.¹⁷ But even for the approximately half of Americans who hold U.S. passports, the State Department's passport databases were never designed to support comprehensive citizenship registry. State Department records relating to an individual passport holder do not necessarily reflect the holder's current name or citizenship status. Like SSA or state driver's license offices, individuals are only likely to provide or verify citizenship information to the State Department when applying for a passport or renewing a passport (which generally does not expire for 10 years).¹⁸ And acquiring or renewing a passport involves significant fees.

Third, the suggestion that DHS might also collect data from private entities for the purpose of determining voter eligibility is particularly concerning. Private or commercial databases are typically designed for specific purposes such as marketing or consumer fraud prevention, not for citizenship checks, and their data is notoriously error prone. Address histories, name spellings, and identifying information in these files often lag well behind an individual's current circumstances, and individuals with limited digital footprints are particularly likely to be missing or misrepresented in

¹⁴ Indeed, acknowledging the likely errors in any such data matching program for voter verification, the National Voter Registration Act creates an *option* for voter identity confirmation through SSA or driver's license data but also provides a *safeguard* option allowing voters to verify their identity easily at the polls. See 52 U.S.C.A. § 20507. The SORN provides no such safeguards.

¹⁵ Bipartisan Policy Center, *Modernizing Voter List Maintenance* (Sept. 9, 2025), *available at* <https://bipartisanpolicy.org/report/modernizing-voter-list-maintenance-an-evidence-based-framework-for-access-and-integrity/>.

¹⁶ Jen Fifield et al., *DHS asked Texas to hand over driver's license data for citizenship checks*, The Texas Tribune (Oct. 31, 2025), <https://www.texastribune.org/2025/10/31/dhs-texas-drivers-license-citizenship/>; Jen Fifield, *Details of DHS Agreement Reveal Risks of Trump Administration's Use of Social Security Data for Voter Citizenship Checks*, ProPublica (October 30, 2025), <https://www.propublica.org/article/dhs-social-security-data-voter-citizenship-trump>.

¹⁷ U.S. Dept. of State, *Reports and Statistics*, <https://travel.state.gov/content/travel/en/about-us/reports-and-statistics.html> (Table: Valid Passports in Circulation by Fiscal Year (1989-2025)); Nathan Diller, *Americans want to see the world, but only 51% took this important step to do it*, USA Today (Oct. 23, 2024), <https://www.usatoday.com/story/travel/news/2024/10/23/state-department-issues-record-us-passports/75794556007/>.

¹⁸ See U.S. Dept. of State, *Renew or Replace a Passport*, <https://travel.state.gov/content/travel/en/passports/have-passport.html>; U.S. Dept. of State, *Application for A U.S. Passport For Eligible Individuals* (rev. Apr. 2025), *available at* https://eforms.state.gov/Forms/ds5504_pdf.PDF.

these datasets.¹⁹ Further, private entities do not have the same incentives as government entities like DHS to maintain accurate datasets. Private entities have an obligation to their owners or shareholders to maximize profit, which can come at the expense of other considerations like data protection and accuracy. Private entities may, depending on their discretion and tolerance for risk, determine that a certain degree of inaccuracy is acceptable as a cost of doing business. Government agencies, on the other hand, have obligations under the Constitution to protect Americans' privacy and strive to ensure the data they rely on is accurate, particularly when they are purporting to use that data to determine whether an individual American is able to exercise their fundamental right to vote. The result is that public and private databases vary widely in how the data is collected, stored, protected, and maintained. For those reasons, partnering with private entities to introduce this data into the SAVE system for the purpose of voter verification is extremely ill-advised and would amplify rather than mitigate the risks posed by the federal government's use of already incomplete and stale government records by adding additional layers of opacity and unreliability.

In short, neither driver's license nor passport data offer a viable alternative to the flawed USCIS and SSA datasets and contracting with private entities for that data would reduce, rather than improve, the accuracy of the SAVE system and introduce additional risk of disenfranchisement. Each of these sources consists of data collected for a purpose fundamentally different from voter verification, and none, individually or combined, can serve as a comprehensive record of citizenship. Using this data in place of or in addition to USCIS or SSA data would compound, rather than remedy, the risks of false mismatches and voter disenfranchisement in the expanded SAVE.

b. DHS has not taken steps to publicly demonstrate that the SAVE datasets have been properly matched.

The SORN explains that the expanded SAVE allows user agencies to check whether biographical information submitted returns a match against the underlying datasets but does not describe how the datasets are crossmatched or how inconsistent records are reconciled. Nowhere does the SORN indicate that DHS has developed a mechanism to confirm that all retrieved records *actually* correspond to the same individual or processes to resolve discrepancies between records. Data matching of this kind is difficult even under the best circumstances, but these difficulties are compounded here because the SSA, USCIS, driver's license, and passport datasets were never designed to be matched to one another or used for voter eligibility determinations.

Data matching is inherently complex, particularly when records span long periods of time or are stored in multiple systems and used in different ways. Even small inconsistencies in spelling, formatting, or data-entry practices can result in false mismatches. As Protect Democracy has observed, "The commonality of biographical information (names and birthdays) can lead to significant false positives when two datasets being matched do not contain the same unique record-level identifier. Such false positives could incorrectly identify U.S. citizens as noncitizens...This is further complicated by unavoidable errors in large datasets that occur when people make

¹⁹ *Id.*

mistakes filling out forms or entering data into databases. Even if these mistakes are eventually corrected, incorrect data can still be propagated to other databases and systems, especially when engaging in careless matching.”²⁰ These routine errors increase each time another dataset is introduced. And these challenges are amplified when the records being matched were collected for a purpose entirely different than voter eligibility and therefore lack standard identifiers and uniform documentation needed for automatic verification.

These challenges are particularly acute in this context because the underlying datasets, from SSA enumeration records to USCIS immigration files, were never designed to be matched to one another, let alone merged into a national citizenship database upon whose accuracy millions of Americans’ fundamental constitutional right to vote could depend. As described above, the USCIS and SSA datasets contain fragmented and sometimes conflicting information. When SAVE queries these systems, it must reconcile datasets that differ in structure, purpose, and accuracy, and without proper testing, this process is ripe for inconsistent and incorrect results. DHS should not continue voter verification through SAVE until it can provide public assurances that data integration, matching logic, error-reduction procedures, and accuracy testing are robust enough to avoid the disenfranchisement of eligible voters and that user agencies are trained to conduct additional verification in the event that SAVE returns inconclusive or inconsistent results.

II. DHS must implement robust safeguards to ensure that the data held in SAVE is secure and the privacy of U.S. citizens is protected.

In addition to grave concerns about the reliability of the datasets underlying SAVE, the SORN raises concerns about the security of the data incorporated into SAVE. The SAVE overhaul is an unprecedented consolidation of the sensitive data of millions of U.S. citizens; it involves making the SSNs, names, dates of birth, driver’s license numbers, and passport data of these citizens available through one central hub. This makes SAVE an ideal target for not only hostile foreign entities with designs on manipulating U.S. elections, but also any bad actors who want to gain access to and misuse Americans’ sensitive data for their own gain. In other words, the SAVE overhaul raises the stakes for everyday Americans who provide their personal information to any state or federal agency whose data is used in SAVE, including for the purpose of registering or exercising the right to vote. Eligible voters will be forced to risk that their personal data will be consolidated and maintained without proper safeguards in order to exercise their fundamental right to vote. As such, it is imperative that DHS implement robust safeguards to ensure that the data held in SAVE is secure prior to modifying the system in the ways that the SORN contemplates. The existing proposal, however, contains nothing that should reassure American voters that their data is being handled responsibly.

The privacy and national security concerns raised by the consolidation of such large quantities of Americans’ personal data outlined in the SORN are not hypothetical. Federal courts have warned that government systems storing extensive personal data are vulnerable to misuse, unauthorized access, and cyberattacks. For example, the

²⁰ Protect Democracy, Analysis: DOGE and state voter rolls (July 15, 2025), <https://protectdemocracy.org/work/doge-and-state-voter-rolls/>.

court in *In re OPM Data Security Breach Litigation* described the Office of Personnel Management’s (OPM) centralized personnel databases as a “prime target” for hackers, whose compromise resulted in sweeping and long-term harm. 928 F.3d 42, 51 (D.C. Cir. 2019) (“*OPM*”). The Government Accountability Office (GAO) has issued similar warnings that bulk collection and aggregation of government-held data “increase the magnitude of potential harm” from breach or misuse.²¹ The SAVE overhaul creates precisely the kind of centralized data system that courts and federal agencies have identified as vulnerable to bad actors. Yet, DHS is housing the data of millions of Americans accessible by SAVE and proposes to incorporate even more, with no indication that sufficient safeguards are being implemented or even contemplated.

If bad actors gain access to this sensitive data, millions of Americans could be susceptible to identity theft and fraud—to say nothing of the serious risk that a data breach would pose to the integrity and accuracy of American elections. Litigation of the OPM data breach and other major intrusions upon sensitive data demonstrates how consolidated datasets can be used by bad actors for identity theft, counterintelligence, blackmail, or targeting of sensitive populations. The *OPM* court documented how attackers used personnel data for targeted intelligence profiling and put millions of Americans at high-risk for identity theft and fraud. *OPM*, 928 F.3d 42, 51 (D.C. Cir. 2019). GAO similarly warned that bad actors can exploit centralized government databases, especially when those systems contain personal identifiers.²² An expanded SAVE that aggregates access to USCIS, SSA, driver’s license, and passport data would give bad actors a single point of access to information that could be used to impersonate, defraud, target, or manipulate millions of Americans. Nothing in the SORN indicates how DHS plans to safeguard the data it amasses as a result of linking existing datasets and compiling new datasets.

The privacy concerns associated with the compilation of this data are compounded by oversight findings that federal agencies—including DHS—struggle to maintain and modernize information security safeguards. These are the precise concerns that motivated Congress to pass the Privacy Act and later to clarify in the 1988 amendments that they were not authorizing the creation of a national database. Congress unambiguously declared that nothing in the Privacy Act “shall be construed to authorize” the “establishment or maintenance by any agency of a national data bank that combines, merges, or links information on individuals maintained in systems of records by other Federal agencies.”²³ But that is seemingly precisely what this SORN envisions.

GAO’s most recent Federal Information Security report concluded that DHS continues to face challenges in protecting sensitive data.²⁴ The DHS Office of the Inspector General has likewise found gaps in DHS’s monitoring, protection, and incident-

²¹ U.S. Government Accountability Office, *Cybersecurity High-Risk Series: Challenges in Protecting Privacy and Sensitive Data*, GAO-23-106443 (Feb. 14, 2023), available at <https://www.gao.gov/products/gao-23-106443>.

²² U.S. Government Accountability Office, *Cybersecurity High-Risk Series: Challenges in Establishing a Comprehensive Cybersecurity Strategy and Performing Effective Oversight*, GAO-23-106415 (Jan. 19, 2023), available at <https://www.gao.gov/products/gao-23-106415>;

²³ Pub. L. No. 100-503, § 9, 102 Stat. at 2514, codified at 5 U.S.C. § 552a note.

²⁴ U.S. Government Accountability Office, *Department of Homeland Security: Key Areas for DHS and the High-Risk List*, GAO-25-108165 (Mar. 11, 2025), available at <https://www.gao.gov/products/gao-25-108165>.

response capabilities that it reported could allow unauthorized individuals to access sensitive information.²⁵ Budget cuts and decreased personnel for database maintenance created further vulnerabilities in our national cybersecurity infrastructure.²⁶ DHS must reverse course and implement robust safeguards for the data it is compiling to avoid jeopardizing the privacy and security of millions of Americans.

III. The SAVE expansion and the amassing of large quantities of sensitive data that it requires is a solution in search of a problem that exceeds the Executive Branch’s authority to regulate elections.

In addition to the data reliability and vulnerability liabilities described above, the SAVE overhaul also intrudes upon states and Congress’ constitutional and statutory authority to administer elections without a legitimate basis.

In April, DHS’s announcement made clear that the intent of the SAVE overhaul was to expand the agency’s role in elections and to target what DHS claimed (without evidence) were “illegal aliens [that] have exploited outdated systems to defraud Americans and taint our elections.” This announcement mirrored claims from some election officials that have falsely asserted that large numbers of noncitizens are registering and voting in federal elections.²⁷ These public statements also mirror the reasoning in Executive Orders 14159 and 14248: that the ends of removing alleged noncitizen voters from state voter rolls justify the means of amassing the sensitive data of millions of Americans. But the notion of widespread noncitizen voting has been repeatedly disproved, making the compilation of this data an incredibly risky and harmful solution to a vanishingly rare problem.²⁸ Further, the solution of creating a centralized citizenship database for voter verification, particularly absent any Congressional mandate or remit, likely exceeds the Executive Branch’s authority to regulate elections entirely. *See Foster v. Love*, 522 U.S. 67, 69 (1997) (states are constitutionally invested with the responsibility for the mechanics of federal elections); *see also Arizona v. Inter Tribal Council of Arizona, Inc.*, 570 U.S. 1, 9 (2013) (Congress may regulate the time, place, and manner of elections); *LULAC v. Exec. Off. of the President*, 780 F. Supp. 3d 135, 156–57 (D.D.C. 2025) (the Constitution empowers states to decide voter eligibility); *Judge Rotenberg Educ. Ctr. v. FDA*, 3 F.4th 390, 399 (D.C. Cir. 2021) (federal agencies possess only the powers Congress confers on them).

It is both a federal and state crime for noncitizens to vote in federal elections. Under federal law, a noncitizen could face up to five years in prison or even deportation simply for registering to vote. *See* 18 U.S. Code § 1015. Given the severity of the

²⁵ DHS, *Summary of Selected DHS Components That Did Not Consistently Restrict Access to Systems and Information*, OIG-24-11 (Jan. 11, 2024), <https://www.oig.dhs.gov/sites/default/files/assets/2024-01/OIG-24-11-Jan24.pdf>.

²⁶ *See* Elizabeth MacBride, *Trump budget cuts, agency gutting, leave Americans and economy at greater risk of being hacked, experts warn*, CNBC (Nov. 7, 2025), <https://www.cnbc.com/2025/11/07/trump-government-budget-cuts-cybersecurity-hacking-risks.html>.

²⁷ *See* Brennan Ctr. For Justice, *Noncitizen Voting Isn’t Affecting State or Federal Elections — Here’s Why* (Apr. 12, 2024), *available at* <https://www.brennancenter.org/our-work/analysis-opinion/noncitizens-are-not-voting-federal-or-state-elections-heres-why>.

²⁸ *Id.*

penalties of violating these laws, it is unsurprising that noncitizen voting rarely happens and has never altered the result of an election.²⁹ Courts and independent experts reviewing claims of widespread noncitizen voting have found no credible evidence supporting these claims. Studies of national datasets have similarly concluded that noncitizen voting accounts for a negligible fraction of ballots cast and can often be attributed to administrative error rather than intentional misconduct.³⁰ Because existing evidence demonstrates that noncitizens almost never vote, there is no factual basis to justify this extreme expansion of SAVE.

To the extent that the federal government has substantiated concerns about election crimes, the expansion of SAVE is not a viable solution because it exceeds the Executive Branch's power to regulate elections. In the absence of independent constitutional authority, the Executive Branch's only role in the realm of elections is to faithfully execute the laws and policy decisions of Congress. Federal agencies like DHS "possess only those powers that Congress confers upon them." *FDA*, 3 F.4th at 399; *LULAC*, 780 F. Supp. 3d at 170 (D.D.C. 2025) ("The President's power, if any, to issue [an executive] order must stem either from an act of Congress or from the Constitution itself."). "If no statute confers authority to [DHS], it has none." *Id.* But Congress has never authorized DHS to maintain a national citizenship registry or to determine voter eligibility, and federal courts have repeatedly affirmed that states are primarily responsible for regulating elections. When it comes to verifying voters' eligibility and maintaining accurate voter registration lists, Congress has consistently and expressly left those duties to the states. For example, in enacting the National Voter Registration Act (NVRA), Congress required that "each State shall establish procedures to register to vote," 52 U.S.C. § 20503(a), and that "each State shall . . . conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters" on the basis that the registrant died or changed residence, *id.* § 20507(a). Similarly, when it enacted the Help America Vote Act (HAVA), Congress specified that "each State, acting through the chief State Election official, shall implement . . . a single, uniform, official, centralized, interactive computerized statewide voter registration list." 52 U.S.C. § 21083(a)(1)(A). Congress was clear about who is responsible for the creation and operation of a database of eligible voters: state governments and their chief state election officials. Congress was also clear that "other agency databases within the State" should be coordinated to maintain voter lists, omitting any direction to DHS to manage state and federal databases from the top down for the purpose of voter verification. 52 U.S.C. § 21083(a)(1)(A)(iv). DHS lacks the mandate and the expertise to expand SAVE to circumvent these constitutional and statutory frameworks.

Given the minimal incidence of confirmed cases of noncitizen voting, the absence of statutory authorization, and the serious voting rights, privacy, accuracy, and national security risks associated with broad data aggregation, DHS should not use SAVE as a voter verification tool. This use creates an unprecedented federal role in election

²⁹ *Id.*

³⁰ See Brennan Ctr. For Justice, Noncitizen Voting Isn't Affecting State or Federal Elections — Here's Why (Apr. 12, 2024), *available at* <https://www.brennancenter.org/our-work/analysis-opinion/noncitizens-are-not-voting-federal-or-state-elections-heres-why>; Brennan Ctr. For Justice, Courts Confront the Noncitizen Voting Lie (Oct. 30, 2024), *available at* <https://www.brennancenter.org/our-work/analysis-opinion/courts-confront-noncitizen-voting-lie>.

administration without congressional approval, threatening established constitutional and statutory boundaries. Any change of this magnitude must come from Congress, following public debate and legislative deliberation – not from DHS’s reinterpretation of SAVE as outlined in a modified SORN issued months after the contemplated changes have been made.

IV. Conclusion

For the reasons explained above, CLC strongly opposes the proposed modification of SAVE. DHS should not adopt the proposed SORN.

Respectfully submitted,

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