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Office of the Secretary of State  
State Capitol  
Charleston, West Virginia 25305

**Mac Warner**  
Secretary of State  
State of West Virginia

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February 13, 2018

Honorable Kirstjen M. Nielsen  
Secretary of Homeland Security  
US Department of Homeland Security  
Washington, DC 20528

Dear Secretary Nielsen:

I am writing to make you aware of a pending request for information with your agency. When I took office in January 2016, I promised to aggressively investigate and hold individuals accountable for illegal voting. We have obtained two convictions for illegal voting thus far, but I am concerned other situations are being overlooked; cooperation from your agency can assist.

Recently, county clerks in West Virginia made me aware of cases where non-citizens have registered to vote, thus raising the possibility of non-citizens casting votes unlawfully. To ascertain the breadth of this issue, I need the assistance of the Department of Homeland Security (DHS).

Our requests for assistance with DHS date back to June 1, 2016. We made our first such request on that date to a local DHS agent, who met with our office on June 12. We provided the agent a draft Memorandum of Understanding to facilitate the exchange of information. On June 21 and June 26, DHS officials in Pittsburgh and D.C. contacted our office, but no action was taken. We were again contacted on September 5<sup>th</sup> and October 18<sup>th</sup>, but our request for assistance was not acted upon; indications were "the request was stalled in Washington."

I now ask your involvement to insure DHS examine the publicly available list of registered West Virginia voters against DHS data. Identification of non-citizens who are registered in WV will help us insure the integrity of our election process. The legal authority for this request is clear: 8 U.S.C. §1373(c) states "The Immigration and Naturalization Service [DHS] shall respond to an inquiry by a ... state ... government agency, seeking to verify or ascertain the citizenship or immigration status of any individual within the jurisdiction of the agency for any purpose authorized by law, by providing the requested verification or status information." And, the United States Supreme Court emphasized in *Arizona v. United States*, 567 U.S. 387, 412 (2012), "Congress has obligated ICE to respond to any request made by state officials for verification of a person's citizenship or immigration status."

If necessary, I stand ready to meet on the issue, and I thank you for your timely resolution of this request. The point of contact in my office is Steve Connolly, Deputy Secretary and Chief Legal Counsel in the West Virginia Secretary of State's Office with the same contact information as me.

Respectfully,

A handwritten signature in cursive script that reads "Mac Warner".

Mac Warner  
West Virginia Secretary of State



U.S. Citizenship  
and Immigration  
Services

May 14, 2018

The Honorable Mac Warner  
Secretary of the State  
State of West Virginia  
Office of the Secretary  
State Capitol  
Charleston, West Virginia 25305

Dear Secretary Warner:

Thank you for your February 13, 2018 letter. Secretary Nielsen asked that I respond on her behalf.

The Department of Homeland Security (DHS) uses the Systematic Alien Verification for Entitlements (SAVE) Program to provide naturalized or derived citizenship status information pursuant to 8 USC § 1373(c) to several agencies engaged in voter list maintenance activities. To use SAVE to verify citizenship of naturalized and derived U.S. citizens 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). The SAVE Program has a standard fee established for processing these types of queries. Enclosed is a Fact Sheet explaining how the SAVE Program is used for conducting voter registration verifications.

Thank you for your letter and interest in this matter. If you would like to discuss the possibility of using the SAVE Program, please contact Tammy Meckley, Associate Director, USCIS Immigration Records and Identity Services (IRIS) Directorate at (202) 272-8880. We look forward to working with your office on this important initiative.

Respectfully,

A handwritten signature in black ink, appearing to read "LFC", written over a horizontal line.

L. Francis Cissna  
Director

Enclosure





U.S. Citizenship  
and Immigration  
Services

# 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.<sup>1</sup> 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

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<sup>1</sup> 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 Citizenship<sup>2</sup>, 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.

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<sup>2</sup> 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 <b>does not verify as a U.S. citizen</b> on initial verification.                           | the <b>electronic additional second step verification</b> process to request additional verification: <ul style="list-style-type: none"> <li>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;</li> <li>Submit the case for additional verification.</li> </ul>  | SAVE will provide a response based on the information available in USCIS records or will direct you to “resubmit with docs.” |
| the individual <b>does not verify as a U.S. citizen</b> on electronic additional second step verification. | the <b>electronic third step or paper only Form G-845<sup>3</sup></b> verification process and submit a copy of the applicant’s immigration document showing U.S.citizenship: <ul style="list-style-type: none"> <li>attach a copy of the applicant’s USCIS issued immigration document (e.g., Certificate of Naturalization or Certificate of Citizenship);</li> <li>Submit the completed electronic third step request and/or the Form G-845.</li> </ul> | 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](mailto:SAVE.help@uscis.dhs.gov).

<sup>3</sup> 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.