

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

FLORIDA DEPARTMENT OF STATE,
500 S. Bronough Street
Tallahassee, FL 32399-0250,

Plaintiff,

v.

Civil No. _____

UNITED STATES DEPARTMENT OF
HOMELAND SECURITY, UNITED STATES
BUREAU OF CITIZENSHIP AND
IMMIGRATION SERVICES, JANET
NAPOLITANO, in her official capacity as
Secretary of the United States Department of
Homeland Security, and ALEJANDRO
MAYORKAS, in his official capacity as Director
of the United States Bureau of Citizenship and
Immigration Services,

Defendants.

COMPLAINT FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF

Federal law confers upon Plaintiff, the Florida Department of State (“FDOS”), a statutory right of access to the Systematic Alien Verification for Entitlements Program System of Records (“SAVE Program”). Despite FDOS’s repeated requests to exercise this statutory right of access to the SAVE Program, Defendants Department of Homeland Security et al. have refused to provide FDOS with the access to which it is entitled.

Defendants’ unwarranted delay and recalcitrance in fulfilling its statutory obligation to provide SAVE Program access has unjustifiably interfered with FDOS’s ability to fulfill its own statutory obligation to protect the integrity of elections and maintain current and accurate voter registration rolls. Immediate access is, therefore, required to ensure that the SAVE Program operates as intended and “assists ... state[s] ... [in] confirm[ing] immigration status information,

to the extent that such disclosure is necessary to enable [them] to make decisions related to ... any legal purpose, such as ... voter registration.” *Notice of Revision and Republication of Privacy Act System of Records*, 76 Fed. Reg. 58525, 58528 (Sept. 21, 2011). Accordingly, FDOS, by and through Secretary of State Ken Detzner, seeks a declaratory judgment that Defendants are required by federal law to grant FDOS access to the SAVE Program and injunctive relief compelling Defendants to give FDOS immediate access to the SAVE Program.

I. **PARTIES**

1. FDOS is an agency of the State of Florida. FDOS is “suffering legal wrong because of agency action” and is “adversely affected or aggrieved by agency action within the meaning” of 8 U.S.C. § 1373(c), which provides that DHS “shall respond to an inquiry by a Federal, State, or local government agency, seeking to verify or ascertain the citizenship or immigration status of any individual within the jurisdiction of the agency for any purpose authorized by law, by providing the requested verification or status information.” FDOS is thus a proper plaintiff under the Administrative Procedure Act, 5 U.S.C. § 702.

2. Ken Detzner, in his official capacity as the Secretary of State of Florida, is Florida’s Chief Elections Officer and the head of the Department of State. Fla. Stat. §§ 20.10(1), 97.012. In his capacity as Secretary of State and Chief Elections Officer, Secretary Detzner has a responsibility under both state and federal laws to ensure that Florida’s voter registration rolls are current and accurate. *See* Fla. Stat. § 98.075 (providing that FDOS “shall protect the integrity of the electoral process by ensuring the maintenance of accurate and current voter registration records”); Fla. Stat. § 98.093 (requiring FDOS to access information from state and federal officials “[i]n order to identify ineligible registered voters and maintain accurate and current voter registration records in the statewide voter registration system”); 42 U.S.C. §

15483(a)(4) (requiring states to “ensure that voter registration records in the State are accurate” and make a “reasonable effort to remove registrants who are ineligible to vote from the official list of eligible voters”). Permitting ineligible, non-citizen voters to cast ballots undermines that mission and erodes the justified faith the electorate has in the fairness and reliability of the electoral process.

3. Defendants are the United States Department of Homeland Security, Janet Napolitano, in her official capacity as Secretary of the United States Department of Homeland Security, United States Citizenship and Immigration Services (“USCIS”), and Alejandro Mayorkas, in his official capacity as Director of USCIS, (collectively, “DHS”). Defendant United States Department of Homeland Security is a federal agency headquartered in Washington, D.C., which administers the SAVE Program through USCIS, a federal agency within the United States Department of Homeland Security that is also headquartered in Washington, D.C. Each Defendant is either an agency of the United States or an officer or employee of an agency of the United States and has acted or failed to act in an official capacity and under color of legal authority. 5 U.S.C. § 702. They are thus proper defendants under the Administrative Procedure Act.

II.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction under 28 U.S.C. § 1331, because this action arises under the Constitution and laws of the United States. This Court has authority to order declaratory relief under 28 U.S.C. §§ 2201 and 2202 because there is a live controversy between Plaintiff and Defendants that includes a dispute over whether Defendants are statutorily obligated to provide FDOS with timely access to the SAVE Program. This Court has authority to issue a Writ of Mandamus under 28 U.S.C. § 1361 because Plaintiff seeks a Writ requiring

Defendants to comply with 8 U.S.C. § 1373(c) and the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

5. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(e) and 5 U.S.C. § 703.

III. FACTS

A. Federal Law Requires DHS To Provide State And Local Governments Access To The SAVE Program To Determine Voters' Immigration Status.

6. In 1986, Congress enacted the Immigration Reform and Control Act, Pub. L. 99-603, (“IRCA”), requiring the former Immigration and Naturalization Service (“INS”), now USCIS (a Bureau within the Department of Homeland Security), to establish a system that would allow for ready verification of the immigration status of non-citizen applicants for, and recipients of, certain types of federally-funded benefits, and to make the system available to federal, state, and local benefit-issuing agencies and institutions that administer such benefit programs. INS fulfilled its statutory obligation through the creation and administration of the SAVE Program, which is now operated by USCIS.¹

7. In 1996, Congress enacted the Illegal Immigration Reform and Immigrant Responsibility Act, Pub. L. 104-208, (“IIRIRA”). Through IIRIRA, Congress mandated that INS, now USCIS, “shall respond to an inquiry by a Federal, State, or local government agency, seeking to verify or ascertain the citizenship or immigration status of any individual within the jurisdiction of the agency for any purpose authorized by law, by providing the requested verification or status information.” 8 U.S.C. § 1373(c). Notably, Section 1373(c) does not limit the number of inquiries that state agencies may make, limit the circumstances under which a state agency may inquire, nor allow DHS to limit their responses to the inquiring state agencies.

¹ The Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135 (2002), created the Department of Homeland Security, abolished the INS, and transferred INS functions to the newly created Department. See 8 U.S.C. § 1551 note; 6 U.S.C. § 291; 6 U.S.C. § 542 note.

8. As recently as 2011, DHS recognized that its SAVE Program “include[s] the implementation of Section 642(c) of IIRIRA, which obligates [DHS] to respond to inquiries ‘by a federal, state, or local government agency seeking to verify or ascertain the citizenship or immigration status of any individual within the jurisdiction of the agency for any purpose authorized by law.’” 76 Fed. Reg. 58525, 58528 (Sept. 21, 2011) (quoting 8 U.S.C. § 1373(c)).

9. DHS thus provided notice that, consistent with 8 U.S.C. § 1373(c), DHS would allow Federal, state, and local government agencies to, upon request, “use SAVE for any legal purpose, such as credentials, background investigations, and *voter registration*.” 76 Fed. Reg. 58525, 58527 (Sept. 21, 2011) (emphasis added).

B. The SAVE Program Is Intended To Give State And Local Agencies Quick Access To Accurate Federal Information In Order To Determine An Individual’s Immigration Status For Any Lawful Purpose, Including Voter Registration.

10. The SAVE Program is a “fee-based intergovernmental initiative designed to help Federal, state, tribal, and local government agencies check immigration status when granting benefits, licenses, and other lawful purposes.” 76 Fed. Reg. 58525, 58526 (Sept. 21, 2011).

11. The SAVE Program uses an online system that checks the immigration status of an individual against millions of DHS database records. The advantages of using the SAVE Program include, among others “verifying immigration status information quickly and efficiently via the online SAVE system [and] retrieving information from more than 100 million records including official immigration status data contained in Department of Homeland Security databases.” Ex. A (“About the SAVE Program”).

12. To verify a person’s immigration status through the SAVE Program, a government agency will enter an individual’s identifying information into the SAVE verification system. The SAVE Program will then check the information against DHS

databases. The SAVE Program can verify (1) nonimmigrant status; (2) immigrant status; (3) U.S. citizenship for naturalized citizens; and (4) U.S. citizenship for derived citizens.

13. The SAVE Program provides state and local agencies with the most accurate and up-to-date information regarding immigration status because it queries data from multiple sources—including databases maintained by USCIS, the Bureau of Customs and Border Protection, and the Bureau of Immigration and Customs Enforcement—some of which “are updated in real-time and others that are updated in daily uploads.” Ex. B (“Telecon Recap: Immigration Status Verification for Drivers’ Licenses, Public Benefits, and Social Security Cards: A Conversation with USCIS”).

14. In more than 90% of cases, the SAVE Program will determine the immigration status of an individual within 3 to 5 seconds. Ex. C (“Information for Noncitizens Applying for a Public Benefit”).

15. The purpose of the SAVE Program is to “assist[] Federal, state, Tribal, or local government agencies, or contractors acting on the agency’s behalf and licensing bureaus [in] confirm[ing] immigration status information, to the extent that such disclosure is necessary to enable these agencies to make decisions related to: (1) determining [the] eligibility for a Federal, state, or local public benefit; (2) issuing a license or grant; (3) issuing a government credential; (4) conducting a background investigation; or (5) any other lawful purpose.” 76 Fed. Reg. 58525, 58528 (Sept. 21, 2011).

16. In particular, the SAVE Program may be used “for any legal purpose, such as credentials, background investigations, and voter registration.” 76 Fed. Reg. 58525, 58528 (Sept. 21, 2011).

17. An agency may participate in the SAVE Program if “(1) [t]he agency is a federal, state, or local government agency or licensing bureau and (2) the agency provides a public benefit, license, or is otherwise authorized by law to engage in an activity for which the verification of immigration status is appropriate.” Ex. A.

18. As of January 2011, 715 federal, state, and local agencies participated in the SAVE Program, including 42 departments of motor vehicles, 30 federal agencies, 240 state agencies, and 403 local agencies. Ex. D (“USCIS: Executive Summary”). By the end of fiscal year 2011, more than 1,000 government agencies were participating in the SAVE Program, including the Social Security Administration, the U.S. Department of Housing and Urban Development, the Department of Education, health and human services agencies, and 47 Department of Motor Vehicle agencies (DMVs). Ex. E (“DHS’ Progress in 2011: Identify Verification”). Multiple states have mandated the use of SAVE for all public benefit granting agencies in the State. Ex. B

C. **FDOS Sought Access To The SAVE Program To Fulfill Its Obligation To Protect The Integrity Of The Electoral Process.**

19. Both state and federal law vest FDOS with both the authority and the obligation to protect the integrity of elections by maintaining accurate and up-to-date voter registration rolls.

20. In particular, Section 98.075 of the Florida statutory code gives FDOS and Secretary Detzner the affirmative duty and responsibility to “protect the integrity of the electoral process by ensuring the maintenance of accurate and current voter registration records.” Fla. Stat. § 98.075(1).

21. Similarly, 42 U.S.C. § 15483 requires FDOS “to ensure that voter registration records ... are accurate and updated regularly.” 42 U.S.C. § 15483(a)(4).

22. In mid-2011, the Florida Secretary of State's office received credible and reliable information from the Florida Department of Highway Safety and Motor Vehicles that non-citizens were registered to vote in Florida.

23. While processing this new information, it became clear that the FDOS, through the state resources available, had only a limited ability to validate a person's citizenship status.

24. FDOS thus determined that the best means of verifying the citizenship of most current and new voters, and thus to fulfill its statutory obligation to protect the integrity of the electoral process, would be to access the information contained in the SAVE Program.

D. DHS Has Refused To Provide FDOS Access To The SAVE Program.

25. On August 1, 2011, FDOS held a telephone call with DHS to discuss access to the SAVE Program. FDOS explained that it sought access to the SAVE Program to determine the eligibility of voters to be registered. FDOS requested access to perform a one-time query of all registered voters, to be followed by daily cross-checks of newly-registered voters.

26. On September 1, 2011, FDOS contacted DHS by email to request access to the SAVE Program. In response to DHS's request, FDOS identified both the use it would make of the immigration-status information and the legal authority for FDOS's request for access to the SAVE Program. DHS told FDOS that it would engage its legal counsel to prepare a response to FDOS's request for access to the SAVE Program.

27. DHS's review of an agency's legal authority is a process that ordinarily should take no more than "several weeks depending on the type of agency and the complexity of the legal authorities provided." Ex. F at 9 ("E-Verify and SAVE Overview").

28. On September 7, 2011, DHS and FDOS agreed to have a teleconference between September 12 and 14, 2011, to discuss obtaining access to the SAVE Program. The teleconference, originally set for September 13, 2011, was rescheduled at the request of DHS to

September 15, and then again to September 21, 2011. *See* Ex. G (email correspondence between Maria Matthews, Assistant General Counsel to the Florida Department of State, and the Department of Homeland Security).

29. On the morning of September 21, 2011, DHS cancelled a teleconference with FDOS scheduled for that afternoon. DHS stated that it “need[ed] to more fully consider issues relating to voter registration before addressing” FDOS’s request and that DHS would “let [FDOS] know when [it was] ready to reschedule a discussion.” Ex. G.

30. On September 28, 2011, after a week with no response from DHS, FDOS contacted DHS to inquire about when DHS would be ready to discuss FDOS’s request to access the SAVE Program. DHS told FDOS that the issue was under review and that DHS might be ready to discuss the request the following week but that it would contact FDOS when it was ready to discuss the request. Ex. G.

31. On October 14, 2011, after more than two weeks with no response from DHS, FDOS contacted DHS to obtain the status of its request to access the SAVE Program. DHS replied that the issue was still under review. Ex. G.

32. On October 24, 2011, after another ten days with no response from DHS, FDOS contacted DHS to inquire about the status of its request to access the SAVE Program. FDOS informed DHS that the Secretary of State was interested in the progress of FDOS’s request. DHS called FDOS later that day and asked for the information Florida was seeking from the SAVE Program and the State’s legal authority for seeking it. Later that same day, FDOS responded to DHS and explained that it was “interested in establishing a systematic/continual process by which the State of Florida can use the SAVE Program database and any other available federal databases to check the legal status of all currently registered voters on the rolls

and/or new applicants before they become registered.” FDOS noted that both federal and state law required the State to conduct maintenance of its voter registration lists on a regular basis to determine if a registered voter remains eligible to be registered and to vote. FDOS also asked DHS a number of questions about the types of information it could receive from DHS. DHS has never provided answers to FDOS’s questions. Later that day, DHS asked a follow-up question regarding the documentation required from individuals seeking to register to vote, which FDOS responded to on the same day. Ex. G.

33. On November 3, 2011, having had another week pass without a response from DHS, FDOS contacted DHS to inquire about the progress of the request to access the SAVE Program. DHS did not respond to FDOS’s inquiry. Ex. G.

34. On December 8, 2011, after more than a month with no response from DHS, FDOS contacted DHS to inquire about the progress of the request to access the SAVE Program. DHS did not respond to FDOS’s inquiry. Ex. G.

35. On January 11, 2012, after more than two months with no response from DHS, FDOS contacted DHS to inquire about the progress of the request to access the SAVE Program. FDOS noted that it had left voicemails with multiple individuals at DHS over a period of weeks but that DHS had not returned any of these calls. FDOS stated that if DHS “need[ed] more information or would like to discuss more, [FDOS] will be happy to do so.” FDOS explained that it was “simply trying to fulfill [its] duties under federal and state law to ensure that the [voting] rolls only consist of eligible and qualified voters.” Ex. G.

36. On or about February 21, 2012, after nearly four months with no meaningful response from DHS, DHS contacted FDOS to ask about what information the State collected on its voter registration forms. On February 21, 2012, FDOS provided DHS with this information

as well as a link to the Florida Secretary of State's website where this information was publicly available. FDOS then reiterated that it "firmly believe[d] based on the law cited previously that government agencies are entitled to get access to information such as legal status in order to comply with the law." FDOS explained that it needed access to the SAVE Program "to ensure[] that only U.S. citizens are registering and/or voting and that those who have already registered are U.S. citizens." Ex. G.

37. On February 28, 2012, after a week with no response from DHS, FDOS contacted DHS to inquire about its request to access the SAVE Program. FDOS noted a recent study that found that one out of eight voter registrations in the country is inaccurate and no longer valid, and that FDOS had a strong interest in ensuring the accuracy of its voter registration rolls. DHS did not respond to this inquiry. Ex. G.

38. On March 5, 2012, after almost two weeks with no response from DHS, FDOS contacted DHS to inquire about its request to access the SAVE Program. FDOS explained that its Secretary of State and several county Supervisors of Elections were requesting an update about the request. Ex. G.

39. On March 6, 2012, DHS told FDOS that it needed more information about the types of documentation the State would use to identify citizens. That same day, FDOS responded to the inquiry and addressed the issue. Ex. G.

40. On March 8, 2012, FDOS provided additional guidance to DHS about the types of information it could provide to access the SAVE Program. FDOS stated that it "hope[d] to hear very shortly some final decision soon as to what the [federal government] can provide." FDOS offered to "hold[] a teleconference including with [its] new secretary of state if [DHS]

want[ed] to flesh out the details or get a better understanding of what [Florida] want[ed] and/or what the [federal government's] position is.” Ex. G.

41. On March 14, 2012, after more than a week with no response from DHS, FDOS contacted DHS and stated that it “would like to set up a teleconference with legal, policy advisor, and tech staff for next week to discuss the status of [its] request.” DHS stated that it would get back to FDOS with a date and time for the call. Ex. G.

42. On March 20, 2012, after almost a week with no response from DHS, FDOS contacted DHS to ask whether it had a date and time for the call. DHS did not respond to this inquiry. Ex. G.

43. On March 26, 2012, after almost two weeks with no response from DHS, FDOS contacted DHS to ask about the status of the request and whether DHS would agree to hold a teleconference to discuss the request. FDOS asked if there was anything else DHS needed from the State. Ex. G.

44. On March 26, 2012, DHS told FDOS that it “regret[ted] the slow progress of this matter,” but that there were “many issues surrounding the use of SAVE in the voter registration forum.” DHS then “assure[d] [Florida] that [DHS] will let [FDOS] know as soon as any substantive conclusions are reached, and we can move forward.” Ex. G.

45. On May 31, 2012, Secretary Detzner sent a letter to Secretary Napolitano underscoring DHS’s failure to provide FDOS with access to the SAVE Program despite FDOS’s nine months of requests and DHS’s statutory obligation to respond to those requests. Ex. H (letter from Ken Detzner, Florida Secretary of State, to Janet Napolitano, Secretary of DHS).

46. As of June 11, 2012, DHS has failed to provide FDOS with access to the SAVE Program.

IV. CAUSES OF ACTION

A. Count One: Declaratory Judgment

47. Paragraphs 1- 46 are incorporated by reference herein.

48. Under the Declaratory Judgment Act, the court “may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought.” 28 U.S.C. § 2201(a).

49. Section 1373(c) of Title 8 of the U.S. Code states that Defendants “shall respond to an inquiry by a Federal, State, or local government agency, seeking to verify or ascertain the citizenship or immigration status of any individual within the jurisdiction of the agency for any purpose authorized by law, by providing the requested verification or status information.”

50. Defendants created the SAVE Program in order to fulfill its “obligat[ion] to respond to inquiries ‘by a federal, state, or local government agency seeking to verify or ascertain the citizenship or immigration status of any individual within the jurisdiction of the agency for any purpose authorized by law.’” 76 Fed. Reg. 58525, 58528 (Sept. 21, 2011) (quoting 8 U.S.C. § 1373(c)).

51. An inquiry from a state agency for access to the SAVE Program in order to verify or ascertain the citizenship or immigration status of individuals within its jurisdiction for “voter registration” purposes is an inquiry for a purpose authorized by law. 76 Fed. Reg. 58525, 58527 (Sept. 21, 2011).

52. Because Defendants have received an inquiry from Plaintiff for access to the SAVE Program in order to verify or ascertain the citizenship or immigration status of

individuals within its jurisdiction for a purpose authorized by law, Plaintiffs are entitled to a declaration that Defendants must “respond” to the inquiry “by providing the requested verification or status information.” 8 U.S.C. § 1373(c).

B. Count Two: Administrative Procedure Act

53. Paragraphs 1-46 are incorporated by reference herein.

54. The Administrative Procedure Act (“APA”) provides for judicial review of federal agency actions. 5 U.S.C. §§ 701-706. Under the APA, a court may hold unlawful and set aside federal agency action—including the “failure to act”—when it is “in excess of statutory jurisdiction, authority, or limitations, or short of statutory right” or is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. §§ 551(13), 701(b)(2), 706(2)(A), (C).

55. Defendants’ failure to provide access to the SAVE Program in response to Plaintiff’s inquiry to verify or ascertain the citizenship or immigration status of individuals within its jurisdiction for a purpose authorized by law, 8 U.S.C. § 1373(c), exceeded Defendants’ statutory authority, and was arbitrary, capricious, and otherwise contrary to law within the meaning of 5 U.S.C. § 706.

56. Defendants’ failure to provide access to the SAVE Program in accordance with its Notice of Revision and Republication of Privacy Act System of Records, 76 Fed. Reg. 58525 (Sept. 21, 2011), was arbitrary, capricious, and otherwise contrary to law within the meaning of 5 U.S.C. § 706.

C. Count Three: Administrative Procedure Act

57. Paragraphs 1-46 are incorporated by reference herein.

58. Under the APA, a court may “compel agency action unlawfully withheld or unreasonably delayed.” 5 U.S.C. § 706(1). The APA further requires that an agency “proceed to conclude a matter presented to it” within “a reasonable time.” 5 U.S.C. § 555(b).

59. Defendants’ failure to timely provide access to the SAVE Program in response to Plaintiff’s inquiry to verify or ascertain the citizenship or immigration status of individuals within its jurisdiction for a purpose authorized by law, 8 U.S.C. § 1373(c), amounted to agency action unlawfully withheld within the meaning of 5 U.S.C. § 706.

60. Defendants’ failure to timely provide access to the SAVE Program in response to Plaintiff’s inquiry to verify or ascertain the citizenship or immigration status of individuals within its jurisdiction for a purpose authorized by law, 8 U.S.C. § 1373(c), amounted to agency action unreasonably delayed within the meaning of 5 U.S.C. § 706.

61. Defendants’ failure to timely provide access to the SAVE Program in response to Plaintiff’s inquiry to verify or ascertain the citizenship or immigration status of individuals within its jurisdiction for a purpose authorized by law, 8 U.S.C. § 1373(c), amounted to a failure to conclude a matter within “a reasonable time” within the meaning of 5 U.S.C. § 555(b).

D. Count Four: Writ of Mandamus

62. Paragraphs 1-46 are incorporated by reference herein.

63. Under the Mandamus Act, the court may “compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff.” 28 U.S.C. § 1361.

64. Defendants owed Plaintiff a clear nondiscretionary duty to provide access to the SAVE Program in response to Plaintiff’s inquiry to verify or ascertain the citizenship or immigration status of individuals within its jurisdiction for a purpose authorized by law. 8 U.S.C. § 1373(c). As a direct and proximate cause of Defendants’ failure to provide the access,

Plaintiff has been irreparably harmed and continues to suffer ongoing irreparable harm. Because Plaintiff has “a clear right to the relief sought,” Defendants have “a clear duty to do the particular act requested by the [Plaintiff],” and “no other adequate remedy is available,” mandamus relief is warranted. *See In re First Federal Sav. and Loan Ass’n of Durham*, 860 F.2d 135, 138 (4th Cir. 1988) (finding writ of mandamus appropriate to order Secretary of Treasury to pay refund to taxpayer); *see also Heckler v. Ringer*, 466 U.S. 602, 616 (1984) (holding that “common-law writ of mandamus, as codified in 28 U.S.C. § 1361,” is appropriate where plaintiff “has exhausted all other avenues of relief” and “the defendant owes him a clear nondiscretionary duty.”).

65. A writ of mandamus should issue compelling Defendants to provide Plaintiffs access to the SAVE Program pursuant to 8 U.S.C. § 1373(c).

V.
PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment in favor of Plaintiff and against the Defendants and award Plaintiff the following relief:

a. A declaration, pursuant to 28 U.S.C. § 2201, that Plaintiff is entitled to immediate access to the SAVE Program pursuant to 8 U.S.C. § 1373(c);

b. An order, pursuant to 5 U.S.C. § 706, holding unlawful Defendants’ failure to provide Plaintiff access to the SAVE Program in response to its inquiry to verify or ascertain the citizenship or immigration status of individuals within its jurisdiction for a purpose authorized by law, 8 U.S.C. § 1373(c), and compelling Defendants to provide Plaintiff immediate access to the SAVE Program;

c. Permanent injunctive relief pursuant to Fed. R. Civ. P. 65 ordering Defendants and their officers, employees and agents to immediately provide Plaintiff access to the SAVE

Program;

- d. An award of Plaintiff's costs and reasonable attorneys' fees, as appropriate; and
- e. An award of any further relief to Plaintiff that this Court deems just, proper, and equitable.

Respectfully submitted,

/s/ William S. Consovoy

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Dated: June 11, 2012

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Exhibit A



FORMS

NEWS

RESOURCES

LAWS

OUTREACH

ABOUT US

About the SAVE Program

[Who Can Use SAVE](#)

[Sign Up for SAVE Program](#)

[SAVE Access Methods & Transaction Charges](#)

[SAVE Verification Process](#)

[SAVE Governing Laws](#)

[Information for Noncitizens Applying for a Public Benefit](#)

[Request SAVE Training](#)

[Publications](#)

[Multilingual Resources for Benefit Applicants](#)

[Home](#) > [SAVE](#) > [About the SAVE Program](#)

[Printer Friendly](#)

About the SAVE Program

This section provides an overview of the Systematic Alien Verification for Entitlements (SAVE) Program, along with the advantages to using it and the processes you should be aware of when applying for the SAVE Program.

What is the SAVE Program?

The SAVE Program is an inter-governmental initiative designed to aid benefit-granting agencies in determining an applicant's immigration status, thereby ensuring that only entitled applicants receive federal, state, or local public benefits and licenses. The program is an information service for benefit-granting agencies, institutions, licensing bureaus, and other governmental entities.

What is SAVE's Mission?

The SAVE Program will provide timely customer-focused immigration status information to authorized agencies to assist them in maintaining the integrity of their programs. SAVE will promote the use of automated systems to enhance efficiency, customer service and interagency collaboration, while protecting sensitive information.

What are the eligibility requirements to participate in the SAVE Program?

An agency is eligible to participate in the SAVE Program if:

The agency is a federal, state, or local government agency or licensing bureau

AND

The agency provides a public benefit, license, or is otherwise authorized by law to engage in an activity for which the verification of immigration status is appropriate.

What are the advantages of using the SAVE Program?

The advantages of using the SAVE Program include:

Verifying immigration status information quickly and efficiently via the online SAVE system

Retrieving information from more than 100 million records including official immigration status data contained in Department of Homeland Security databases

Receiving training and customer service support tailored to an agency's needs

Complying with legislative mandates to verify applicants' immigration status and ensure that only entitled applicants receive federal, state, or local public benefits and licenses

What are the costs of participating in the SAVE Program?

SAVE assesses certain transaction charges based upon the type of query. To learn more, visit the [SAVE Access Methods and Transaction Charges](#).

How does an agency apply and register?

To learn about the application process, visit the [Sign-up for the SAVE Program](#).

Last updated: 04/19/2011

More Information

[Field Offices](#)

Multimedia

[Video: Overview of SAVE](#)

Forms

[Direct Filing Addresses for Form G-845](#)

Tools

[SAVE Registration](#)

Other USCIS Links

[E-Verify Employment Verification Program](#)

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[Visa Bulletin](#)

[Passports](#)

[E-Verify](#)

[Careers at USCIS](#)

[Site Map \(Index\)](#)

[Contact Us](#)

[Citizenship](#)

[Green Card](#)

[Family](#)

[Working in the U.S.](#)

[Humanitarian](#)

[Adoption](#)

[Military](#)

[Avoid Scams](#)

[Genealogy](#)

[U.S. Department of Homeland Security](#)

[U.S. Customs & Border Protection](#)

[U.S. Immigration & Customs Enforcement](#)

[White House](#)

[U.S. Department of State](#)

[USA.gov](#)

[Freedom of Information Act \(FOIA\)](#)

[No FEAR Act](#)

[Website Policies](#)

[Social Media Policy](#)

[Privacy and Legal Disclaimers](#)

[Accessibility](#)

[Plug-ins](#)

[Adobe Reader](#)

[Windows Media Player](#)

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[Archive](#)

Exhibit B



Telecon Recap: Immigration Status Verification for Drivers' Licenses, Public Benefits, and Social Security Cards: A Conversation with USCIS

On May 25, 2011, the Citizenship and Immigration Services Ombudsman's Office (Ombudsman's Office) hosted a public teleconference regarding the Systematic Alien Verification for Entitlements (SAVE) Program and interviewed two USCIS officials, Chief of the Office of the SAVE Program, John Roessler, and Deputy Chief, Alissar Rahi.

Mr. Roessler and Ms. Rahi provided a brief overview of the SAVE Program, as summarized below.

Why was the SAVE Program created?

Mr. Roessler explained that SAVE was designed to aid benefit-granting agencies in determining an applicant's immigration status to ensure that only entitled applicants receive certain federal, state, and local public benefits and/or licenses. SAVE does not make determinations on any applicant's eligibility for a specific benefit or license, rather, SAVE verifies immigration status data compiled from different U.S. Department of Homeland Security (DHS) data systems.

How does the SAVE Program work?

Mr. Roessler summarized how the SAVE Program uses an online system to check a benefit applicant's immigration status information against records contained in various DHS databases:

- **First Step:** SAVE begins verifying the legal status of nonimmigrants, immigrants, and naturalized citizens with an initial verification (results generated in 3–5 seconds).
- **Second Step:** Additional verification is necessary in some instances where status cannot be verified through the first step. This does not necessarily mean that the applicant is not authorized to be in the United States, or is ineligible to receive the benefit. A second verification query will be automated, but may take up to 3 -5 working days to generate a response.
- **Third Step:** A third query may be necessary where verification is not confirmed through the first and second steps. The benefit agency submits [Form G-845, Document Verification Request \(PDF - 2 pages, 101 KB\)](#), with copies of an applicant's proof of status documentation to the SAVE Program verifiers for review. This process may take 10-20 work days.

Who uses SAVE?

SAVE provides verification services to over 800 federal, state, and local benefit granting and licensing entities. SAVE customers include the Social Security Administration, U.S. Department of Housing and Urban Development, U.S. Department of Education, and state and local agencies such as the California Department of Motor Vehicles. Certain states have mandated the use of SAVE for all public benefit granting agencies in the state.

What data does USCIS use to determine an individual's immigration status that is reported in SAVE to federal, state, and local agencies?

SAVE verifies applicant data contained in DHS databases from USCIS, Customs and Border Protection (CBP), and Immigration and Customs Enforcement (ICE).

What kind of outreach information and training does USCIS provide to agencies that use SAVE?

Mr. Roessler explained that USCIS engages with the public through webinars, conferences, and informational materials. SAVE hosts an annual user forum for customer agencies to discuss program initiatives and improvements as well as to garner customer feedback.

Mr. Roessler noted that SAVE's primary relationship is with the benefit-granting agencies, but also emphasized how the public can access information on SAVE. Most recently, SAVE provided its customer agencies with an information sheet on [How to Correct Your Records](#) in 17 different languages for distribution to benefit applicants.

How quickly is a change of status reflected in the SAVE database?

Mr. Roessler noted that SAVE is not a database because it does not own any of the records upon which it queries for verification of legal status. SAVE uses an online system that queries for data from multiple sources, including those that are updated in real-time and others that are updated in daily uploads. Additionally, Ms. Rahi shared that because SAVE relies on records owned and managed by other DHS components; SAVE has no control over process speed.

How may an individual fix an erroneous record that appears in SAVE?

To correct your immigration record, individuals should contact USCIS by scheduling an InfoPass appointment, either at a local USCIS office or at the [InfoPass website](#), or by calling the National Customer Service Center at 1-800-375-5283.

If the error in an individual's immigration document occurred upon entry to the United States, Mr. Roessler suggested contacting CBP by visiting a local [Deferred Inspection Site](#) (*PDF -10 pages, 28 KB*) or a [Port of Entry or Admission](#) to have it corrected.

Who staffs the SAVE Help e-mail and 1-888 line and for what purpose can these be used?

The SAVE Help e-mail and 1-888 line are staffed by the Customer Contact Operations (CCO) in USCIS' Verifications Division and are available to SAVE customer agencies to help them with cases they have submitted. Mr. Roessler emphasized that the SAVE Help email and 1-888 line are not for individual applicants to correct erroneous records.

What is the future of SAVE? What is USCIS doing now and where is the program going?

Mr. Roessler shared that the SAVE Program has experienced increased growth as states have begun mandating its use, and anticipates this growth to continue. With this in mind, the SAVE Program is planning initiatives to improve service to customers and enhance program transparency, including:

1. performing independent evaluations of its program requirements and supporting systems to improve SAVE;
2. enhancing the capabilities for customer benefits agencies such as updating the current profile structure, connecting to additional data sources, and providing a photo tool capability; and
3. expansion of current training and outreach materials.

Where can I go for additional information on SAVE?

More information on the SAVE Program is available on the [USCIS SAVE website](#).

Callers also had the opportunity to ask questions, many of which are included below.

A caller noted inconsistencies in SAVE that negatively impact vulnerable populations. When queried, SAVE is not recognizing newly arrived refugees and asylees because their information is not updated in the databases that feed SAVE in a timely manner. As a result, these

vulnerable populations cannot access the time-sensitive benefits to which they are entitled. What is SAVE doing to protect this vulnerable population?

Ms. Rahi answered that SAVE is aware of this problem, but does not control the timeliness with which this information appears in the source databases. She did note that SAVE is working with the components who own the source data to improve connectivity and expand real time updates.

Why are foreign students experiencing problems when they try to apply for benefits at the Social Security Administration and driver's licenses at Departments of Motor Vehicles?

The Student and Exchange Visitor Information System (SEVIS) is a web-based system that tracks and monitor schools and programs, students, exchange visitors, and their dependents while approved to participate in the U.S. education system. SAVE works with SEVIS representatives to address issues that arise for foreign students studying in the United States. Mr. Roessler directed questions or issues with benefits eligibility for foreign students to the SEVIS program.

What type of oversight mechanism does SAVE use?

Ms. Rahi explained that each customer agency has a Memorandum of Understanding (MOU) with SAVE outlining the requirements for use of the SAVE business process, which includes the three steps outlined above. Each customer agency is required to use all three steps, if necessary, to complete the verification process. However, it is the agency's responsibility to initiate the additional verification, at its own expense.

SAVE's Office of Monitoring and Compliance utilizes several functions to determine efficiency and ensure compliance by benefits agencies.

What precautions does SAVE take to prevent fraud and protect privacy?

Customer agencies and SAVE both have a responsibility to implement privacy protections on behalf of benefit applicants. Every piece of information entered into, or received from, the SAVE system is considered Personally Identifiable Information (PII). All PII in the SAVE system is considered sensitive, unclassified information and must be protected to prevent unauthorized use.

What measures can an individual take to prevent the need for additional verification when applying for a benefit?

Mr. Roessler instructed listeners to have erroneous information corrected in the appropriate immigration database before applying for a benefit or license.

How do I prove my legal status in order to qualify for a driver's license in my state?

Each state has different rules for driver's licenses. SAVE does not make public benefits determinations; SAVE merely verifies legal status based on an inquiry from the benefit granting agency. Look to your state's local Department of Motor Vehicles for information on qualifying for a driver's license.

This page was last reviewed / modified on July 27, 2011.

Exhibit C



**U.S. Citizenship
and Immigration
Services**

[Home](#) | [Español](#) | [Blog](#) | [Archive](#) | [Index](#)

Search

Search

FORMS

NEWS

RESOURCES

LAWS

OUTREACH

ABOUT US

About the SAVE Program
Sign Up for SAVE Program
SAVE Access Methods & Transaction Charges
SAVE Verification Process
SAVE Governing Laws
Information for Noncitizens Applying for a Public Benefit
Request SAVE Training Publications
Multilingual Resources for Benefit Applicants

[Home](#) > [SAVE](#) > [Information for Noncitizens Applying for a Public Benefit](#)

[Printer Friendly](#)

Information for Noncitizens Applying for a Public Benefit

This page provides useful information to noncitizens regarding how the Systematic Alien Verification for Entitlements (SAVE) Program affects your application for public benefits. For foreign language versions of this page, please visit [Multilingual Resources for Benefit Applicants](#).

If you are a noncitizen or naturalized citizen, a benefit-granting agency may verify your immigration status in the United States using the SAVE Program before granting you a state-issued driver's license, Social Security card, housing assistance, Medicaid, food stamps, or other public benefit. In order to access your immigration information through SAVE, a Federal, state, and local benefit-granting agency must have the legal authority to verify your immigration status and must enter into an agreement with the SAVE Program. SAVE only provides immigration status information to the agency for the purpose of determining whether you meet their eligibility requirements. It is the responsibility of the agency to follow the SAVE verification process and determine your eligibility for the benefit.

How Your Agency Verifies Your Immigration Status by using SAVE

When you apply for a benefit at a government agency, you may be required to present the agency representative with documents that demonstrate your immigration status such as your Arrival/Departure Record (Form I-94), Permanent Resident Card (Form I-551), Employment Authorization Document (Form I-766) or Foreign Passport and Visa. The agency will enter the information from your immigration document into the SAVE verification system. SAVE will then check your information against records in the Department of Homeland Security (DHS) databases and respond electronically to the agency.

In more than 90% of cases, SAVE responds electronically to the agency with your immigration status within 3-5 seconds and no additional information is needed. However, in a few cases SAVE may request that the agency provide more information from you.

Supplying Additional Information

For cases that do not verify immediately, SAVE may need additional information and a copy of your immigration documents. This request does **not** necessarily mean that you do not have lawful status in the United States or that you are not eligible for the benefit that you are seeking. **It is your responsibility to provide the required current documents and information to the agency to ensure timely and accurate immigration status verification.** If you have recently updated your information or your immigration status has recently changed, this update may affect the verification processing time.

Once you provide this additional information to the agency, the agency will initiate an additional verification request through the SAVE system. SAVE will conduct a thorough check of your records and provide an electronic response to the benefit-granting agency within 3-5 Federal working days. In instances where a copy of your immigration document is required to complete the record search, the SAVE electronic response may take up to 20 Federal working days. For additional information on the verification process, please visit the "[SAVE Verification Process](#)" page.

If the SAVE Program cannot confirm your immigration status after completion of the verification process, you will be given an opportunity to correct your immigration record and reapply for the benefit and/or appeal the benefit-granting agency's denial of the benefit.

If you believe that the SAVE Program's response to the benefit-granting agency did not provide accurate information about your immigration status or you need to make corrections to your immigration record, please see the "[How to Correct Your Records](#)" page.

Last updated: 08/19/2011

More Information

[How to Correct Your Records](#)

Multimedia

[Video: Overview of SAVE](#)

Forms

[Direct Filing Addresses for Form G-845](#)

Tools

[SAVE Registration](#)

Other USCIS Links

[E-Verify Employment Verification Program](#)

[Add Our RSS Feed](#)

InfoPass
My Case Status

Citizenship
Green Card

U.S. Department of Homeland
Security

Freedom of Information Act (FOIA)
No FEAR Act

Change of Address	Family	U.S. Customs & Border Protection	Website Policies
Visa Bulletin	Working in the U.S.	U.S. Immigration & Customs	Social Media Policy
Passports	Humanitarian	Enforcement	Privacy and Legal Disclaimers
E-Verify	Adoption	White House	Accessibility
Careers at USCIS	Military	U.S. Department of State	Plug-ins
Site Map (Index)	Avoid Scams	USA.gov	Adobe Reader
Contact Us	Genealogy		Windows Media Player
	Visit the U.S.		Archive

Exhibit D



Executive Summary

April 21, 2011

Intergovernmental Affairs Stakeholder Engagement

Background

On January 12, 2011, the Office of Public Engagement hosted a quarterly national stakeholder engagement for state, local, tribal, and territorial government partners. The Office of Public Engagement, along with the Office of Citizenship, Verification Division and Service Center Operations Directorate provided updates on United States Citizenship Immigration and Services (USCIS) programs and initiatives that impact state and local government stakeholders.

Principal Themes

USCIS Initiative to Combat the Unauthorized Practice of Immigration Law (UPIL)

The unauthorized practice of immigration law adversely impacts members of the immigrant community and undermines the integrity of our immigration system. The objectives of the UPIL initiative are to:

- Better inform the public on how to find qualified legal advice and representation when seeking immigration benefits from USCIS;
- Increase the number legal representatives that are recognized by the Board of Immigration Appeals (BIA) via the BIA's Recognition & Accreditation Program; and
- Provide information on how to report individuals and businesses that engage in the unauthorized practice of immigration law to federal, state, and local agencies.

From December 2010 through February 2011, USCIS hosted meetings with federal, state, and local government partners and stakeholder engagement sessions in seven pilot cities: New York, Baltimore, Atlanta, Detroit, San Antonio, Fresno and Los Angeles. After the completion of the pilot period, USCIS will seek to expand our efforts to other USCIS districts and will launch a nationwide public education campaign.

New and Revised USCIS Forms and Other Documents

In October 2010, USCIS released a redesigned naturalization certificate. The old certificates remain valid. Therefore, state benefit granting agencies may use the old or new certificates as proof of citizenship. More information about the features of the new certificate is available at www.uscis.gov.

In November 2010, coinciding with the implementation of a new fee rule, USCIS released its first-ever fee waiver form. Applicants can use this standard form to request waivers on USCIS fees.

In December 2010, USCIS released a revised Form N-648, Medical Certification for Disability Exceptions. This form assists individuals with disabilities who are seeking exceptions from the English

and civics requirements for naturalization. The revisions are intended to clarify the requirements and standardize the adjudication process for Form N-648.

New USCIS Mailbox for State and Local Government Stakeholders

USCIS is pleased to announce a new mailbox solely for inquiries from state, local, tribal and territorial government stakeholders: USCIS-IGAOutreach@dhs.gov. Please feel free to email the IGA team at USCIS headquarters or your local community relations officer with any questions or concerns you may have.

T/U/VAWA Updates

In support of the Department of Homeland Security (DHS) Blue Campaign, USCIS will offer in-person and webinar training for state and local governments, law enforcement and community-based organizations on the immigration options available to victims of trafficking, domestic violence and other crimes, and the role of law enforcement in the visa application process.

If your organization or agency is interested in receiving training on the relief options for victims of human trafficking and others crimes, please send a request to T-U-VAWATraining@dhs.gov.

Systematic Alien Verification for Entitlements (SAVE) Program

The Systematic Alien Verification Entitlements (SAVE) Program is an inter-governmental initiative designed to aid benefit-granting agencies in determining an applicant's immigration status, and thereby ensure that only entitled applicants receive federal, state, or local public benefits and licenses. The SAVE online system verifies a benefit applicant's immigration status against multiple databases based on the document presented to the benefit-granting agency during the application process.

As of January 2011, 715 federal, state, and local agencies participate in the SAVE Program. These include 42 departments of motor vehicles, 30 federal agencies, 240 state agencies, and 403 local agencies. SAVE processed over 11.7 million queries in FY2010 and, as of January 2011, had processed over 2.9 million queries in FY2011.

The SAVE Program uses an online system to check a benefit applicant's immigration status information against records contained in the DHS databases. The first step in the process in initial verification, returns results in three to five seconds. If an applicant's status is not verified on initial verification, the agency should institute additional verification, which may be automated (3-5 federal work days) or paper-based (10-20 federal work days). Throughout FY2010, more than 94% of cases that resolved with an immigration status did so without requiring additional verification.

If the SAVE Program cannot confirm a benefit applicant's immigration status after completing of the verification process, the individual may need to make corrections to his or her immigration record. More information is available at www.uscis.gov/save on the "How to Correct your Records" page. Individuals needing to correct their records may also schedule an appointment for an in-person interview at a local USCIS office at the InfoPass Web site, <http://infopass.uscis.gov>, or by calling the National Customer Service Center at (800) 375-5283.

The SAVE Program have several training tools available for customers, including:

- Translated documents for benefit applicants;
- Web-3 FAQs with the answers to customer agencies' frequently asked questions;
- Fact Sheet for SAVE customer agencies processing TPS beneficiaries and;

- New “train the trainer” course providing an in-depth overview of the SAVE Program, information on setting up an agency with the online SAVE system, instructions for running a SAVE query, descriptions of common responses, and privacy responsibilities.

To request a free monthly webinar or customized training, please visit www.uscis.gov/save.

The SAVE Program also provides case status support, additional training opportunities, and technical support. For additional information, please visit www.uscis.gov/save, e-mail the SAVE Help Box (SAVE.help@dhs.gov), or call (888) 464-4218.

E-Verify Updates

E-Verify is an online system that allows employers to verify the work authorization of their employees after an offer of employment has been made and accepted. There are currently 830,000 worksites using E-Verify. In January 2011, USCIS published a new Handbook for Employers (M-274), which provides instructions on completing Form I-9, Employment Eligibility Verification. The handbook is available on the E-Verify website, www.dhs.gov/e-verify. In October 2010, the E-Verify system was enhanced to include verification of passport data. Currently, E-Verify allows for verification of photographs from permanent resident (green) cards, employment authorization documents, and passports. To request outreach, training and permission to use the E-Verify logo, state and local governments may contact the E-Verify Outreach Branch at e-verifyoutreach@dhs.gov. All general inquiries may be directed to e-verify@dhs.gov or (888) 464-4218.

Office of Citizenship Updates

The FY2011 Citizenship and Integration Grant Program will offer funding for two direct services and one national capacity building program. One direct service grant will provide funding for citizenship instruction only; the other will provide funding for citizenship instruction and naturalization preparation, including legal services. The national capacity building grant will fund national, regional, and statewide organizations that provide technical assistance for organizations developing new programs. The FY11 grant program totals 8 million dollars with 50 awards and closed on April 1, 2011. State and local governments can apply for any of the grants, but must be directly providing services or have the branch office structure required for the national capacity building grants. The USCIS Citizenship Resource Center includes citizenship preparation resources, videos, information for CBOs and applicants and can be found at www.uscis.gov/citizenship.

Temporary Protected Status

The Secretary of Homeland Security may designate a foreign state (or any part of a foreign state) for Temporary Protected Status (TPS) if certain conditions are met that would prevent nationals of that state who are present in the U.S. from returning safely to that foreign state. This includes a threat to personal safety due to ongoing armed conflict, extraordinary and temporary conditions, or a substantial (but temporary) disruption of living conditions in the country due to an environmental disaster. Designations of TPS are initially made for periods of 6 to 18 months and may be extended depending on conditions in the country.

When an individual applies for TPS for the first time, it is called an initial registration. In some cases, a country's TPS designation is extended. When this occurs, TPS beneficiaries from that country must re-register with USCIS to maintain TPS.

TPS beneficiaries are authorized to work while they hold TPS and may obtain an Employment Authorization Document (EAD) from USCIS for purposes of employment or continued employment. Some state and local public benefits may also be available to TPS beneficiaries, as determined by the particular state or local government.

USCIS issues I-797 receipt notices for Form I-821, Application for Temporary Protected Status, and Form I-765, Application for Employment Authorization, once the TPS application has been accepted for processing. However, USCIS does not always issue an I-797 approval notice when an I-821 or an I-765 application is approved. Applicants filing for initial registration will always receive an approval notice for Form I-821. If approved, applicants filing for re-registration will receive *either* an I-797 approval notice, *or* if they have requested an EAD, the EAD will be delivered as evidence of the TPS re-registration approval. When Form I-765 is approved, the applicant does not receive an approval notice, but will receive his or her EAD.

For Haiti, USCIS is currently sending out an I-797 approval notice for every Form I-821 approval. This is because all individuals filing Form I-821 are seeking initial registration.

Honduras, Nicaragua, El Salvador, Somalia, and Sudan are different from Haiti because they are in extension periods. Please see the chart below for information on when USCIS sends approval notices.

If	Then
The applicant submits Form I-821 for a late initial registration	The applicant will receive an approval notice for Form I-821
The applicant submits Form I-821 for a re-registration and does not apply for an employment authorization document (EAD)	The applicant will receive an approval notice for Form I-821
The applicant submits Form I-821 and does apply for an EAD	The applicant will not receive an approval notice for Form I-821. Instead, the applicant will receive a mailer that informs the applicant that the I-765 was approved and the EAD is being produced and mailed. The mailer further goes on to state that the EAD is proof that TPS re-registration has been approved by USCIS. Furthermore, the EAD is considered proof of TPS re-registration approval.

In some cases, USCIS automatically extends the validity of EADS for TPS beneficiaries because USCIS is unable to process the re-registration applications and issue new EADs before the original EADs expire. Unless TPS has been denied or withdrawn, TPS beneficiaries will continue to have work authorization during the automatic extension period. For employment purposes, if the EAD has been automatically extended pursuant to a Federal Register notice and if the document appears genuine, the expired but automatically extended EAD is sufficient to prove TPS status.

State and local government agencies can contact SAVE or the Office of Public Engagement (OPE) at USCIS-IGAOutreach@dhs.gov for further assistance or questions. SAVE and OPE will in turn contact the TPS Program when necessary.

For more information and assistance, employers may contact the Department of Justice Office of Special Counsel for Immigration Related Unfair Employment Practice at (800) 255-8155 or the USCIS TPS hotline at (202) 272-1533. Employers enrolled with E-Verify may also contact the E-Verify hotline at (888) 464-4218.

Exhibit E



DHS' Progress in 2011: Identity Verification

Highlighting Our Progress in 2011

Department of Homeland Security

- U.S. Citizenship and Immigration Services (USCIS) processed more than 17 million E-Verify queries in FY 2011. E-Verify continues to grow rapidly with more than 294,000 employers representing more than 960,000 hiring sites enrolled in the program and an average of more than 1,000 new employers enrolling weekly. USCIS also strengthened the efficiency, accuracy and integrity of E-Verify in FY 2011 by:
 - Implementing customer focused system enhancements, including improved navigational tools to increase ease-of-use and a streamlined enrollment process to save time.
 - Launching the Records and Information from DMVs for E-Verify (RIDE) Program in Mississippi to further increase the accuracy of E-Verify and assist in preventing identity theft. RIDE allows E-Verify to confirm the validity and authenticity of Mississippi driver's licenses.
 - Issuing more than 39,000 compliance assistance actions (telephone calls, letters and emails) in response to potential system misuse.
- USCIS processed more than 12 million immigration status verification queries submitted by federal, state and local government agencies through its Systematic Alien Verification for Entitlements (SAVE) Program. More than 1,000 government agencies currently participate in the SAVE Program, including the Social Security Administration, the U.S. Department of Housing and Urban Development, health and human services agencies and 47 Department of Motor Vehicle agencies (DMVs). In FY 2011, USCIS further increased the ability of DMVs to effectively and efficiently verify the lawful status of applicants by developing new capabilities, such as a photo matching tool, verification of U.S. Passport information and web-based access to SAVE for DMVs in U.S. territories.
- USCIS announced the launch of an enhanced Employment Authorization Document (EAD) and a redesigned Certificate of Citizenship (Form N-560) with new security features in order to deter counterfeiting, obstruct tampering, and facilitate quick and accurate authentication.
- DHS and USCIS launched E-Verify Self Check—a voluntary, free, fast and secure online service that allows individuals in the U.S. to check their employment eligibility status before formally seeking employment. E-Verify Self Check is now available in 21 states and the District of Columbia and is available in Spanish.

Learn More

[Highlighting the Department's Progress in 2011](#)

This page was last reviewed / modified on December 21, 2011.

Exhibit F

VERIFICATION DIVISION



U.S. Citizenship
and Immigration
Services

E-Verify and SAVE Overview

Washington, D.C.

May 19, 2010

Verification Division

Vision

As the trusted source for reliable, credible, and easy-to-use information, we deliver employment and immigration status verification with innovation and unparalleled customer service.

Mission

To enhance the integrity of our nation's legal immigration system by providing information resources and services that:

- enable government agencies to verify benefit-seeking applicants' immigration statuses
- allow employers to verify that their new employees are U.S. work-authorized

Verification Division Programs

E-Verify

Provides electronic employment authorization of newly-hired employees to participating employers. Information is inputted directly from the Form I-9 into the E-Verify system.

Systematic Alien Verification for Entitlements (SAVE) Program

Provides electronic immigration status verification information to federal, state, and local benefit-issuing agencies.

*The Verification Information System (VIS) is the underlying technical system supporting both SAVE and E-Verify

SAVE Program

SAVE

- Allows benefit-granting agencies to determine an applicant's immigration status
- Helps to ensure that only entitled applicants receive federal, state, or local public benefits and licenses
- Services benefit-issuing agencies, institutions, licensing bureaus, and other governmental entities
- The SAVE Program verifies:
 - Non-immigrant status
 - Immigrant status
 - U.S. Citizenship for naturalized and derived citizen status

Goals

- Provide customers with a secure, dependable means of accurately and efficiently verifying immigration status
- Enable participants to easily verify immigration status and subsequently determine benefit eligibility

NOTE: The SAVE Program does not make determinations on any applicant's eligibility for a specific benefit or license.

Legislation Governing the use of SAVE

- **Immigration Reform and Control Act (IRCA) of 1986**—Required that a system to verify immigration status of applicants applying for certain types of federally-funded benefits be created and made available to federal, state, and local benefit-issuing agencies. The law, as amended, mandates that certain federal programs verify an applicant's immigration status.
- **Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996**—Restricts immigration status eligibility for certain programs funded by federal, state, and local government.
- **Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996**—Requires the U.S. Citizenship and Immigration Services (USCIS) [formerly INS] to respond to inquiries by federal, state, and local benefit-issuing agencies seeking to verify citizenship or immigration status of an individual for any lawful purpose.
- **REAL ID Act of 2005**—Establishes certain minimum standards for issuing driver's licenses and state identification cards, and requires states to verify the lawful status of applicants by using the SAVE Program.

SAVE Program Participants

- Examples of Agencies and benefits they administer
 - Social Security Administration (SSA) – Enumeration and Supplemental Security Income
 - Department of Health and Human Services (HHS) – Medicaid and Food Stamps
 - Office of Personnel Management (OPM) - Background Investigations
 - Department of Motor Vehicles (DMVs) - Driver's Licenses/Identification Cards
 - State and Local Agencies – e.g. Professional Occupational Licenses

- As of May 7, 2010, the number of agencies participating in the SAVE Program: 487
 - Department of Motor Vehicles (DMV)—37
 - Federal Agencies—28
 - State Agencies—203
 - Local Agencies—219

How does SAVE work?

- The SAVE Program offers two methods, electronic and paper, for accessing information to verify an applicant's status when requesting public benefits.
- The SAVE Program uses an online system that checks a benefit applicant's immigration status information against millions of Department of Homeland Security database records.
- Agencies that do not have access to an automated system may submit a paper verification request by using Form G-845, Document Verification Request.

SAVE Program Registration Process

The registration process for the program is a three-step process for new agencies

- **STEP 1: Apply for SAVE Program**
 - Agency requests to register via the online SAVE system (accessed via www.uscis.gov/SAVE)
 - If the agency meets the initial eligibility criteria, SAVE will contact the POC requesting the agency's legal authorization to participate in SAVE
 - A SAVE policy team member, in coordination with the Office of Chief Counsel, reviews the authorities for legal sufficiency. (This step may take several weeks depending on the type of agency and the complexity of the legal authorities provided.)
- **STEP 2: Review and Sign Agreements**
 - SAVE and the agency must sign a Memorandum of Agreement and an Anticipated Collections Addendum
 - Memorandum of Agreement defines the responsibilities for payment and use of the program
 - Anticipated Collections Addendum establishes the agency's financial obligation
 - Agency Returns Signed MOA and Anticipated Collections Document
- **STEP 3: SAVE Access Granted**
 - SAVE sets up agency in the online system
 - SAVE sends agency a copy of the registration documents and system user ID and password

The Verification Process

Step	Description	System Response	General Response Time
Initial Verification	▪Agency submits query electronically based upon information provided by the applicant. ▪System response provides applicant's immigration status or prompts agency to "Institute Additional Verification".	Electronic	3-5 seconds
2nd step/ Additional Verification	▪Agency provides additional information on the applicant and submits electronically. ▪System response provides applicant's immigration status or prompts agency to "Resubmit with Docs".	Electronic	3-5 federal working days
3rd Step Verification	▪Agency submits electronic request which generates a pre-populated Form G-845, Document Verification Request. ▪Agency prints Form G-845 and mails it with photocopies of the applicant's immigration documents to the designated Status Verification Office.	Electronic	10-20 federal working days

Electronic Verifications

SAVE Electronic Verifications: as of 05/10/2010

	Initial	Additional	Third	Total
FY '09	10,909,054	1,025,862	79,598	12,014,514
FY '10 to date	6,041,453	585,273	75,971	6,929,456

- Over 90% of queries that are resolved as lawful status resolve during the initial verification
- 97% of automated additional verification requests are resolved within 3 business days

Transaction Charges:

- Agencies that access the SAVE Program are charged \$0.50 per transaction
- Paper-based Requests on Form G-845 (Document Verification Request) are \$2.00

Accomplishments

FY 2009

- Exceeded the SAVE Program revenue goal from customer agency usage by 14.5%
- Increased the SAVE Program growth rate by 25% with enrollment reaching over 300 agencies
- Piloted with AAMVA to process driver's license data
 - Indiana has successfully used AAMVAnet since June 2009

FY 2010

- Developed high-level requirements for registration reengineering and implemented streamlined registration process for Georgia Municipal Association
- Developed interactive customer training and reference materials
- Developed SAVE informational video currently available on website
- Improved SAVE website content with program information, additional registration guidance, training opportunities, and more user-friendly navigation
- Nevada successfully became the second AAMVA pilot state in January 2010

Customer Service and Training Options

Customer Contact Options:

- USCIS Information Services:
(888) 464-4218
- Technical Assistance:
(800) 741-5023
- SAVE WEBSITE:
www.uscis.gov/save
- USCIS WEBSITE:
www.uscis.gov
- SAVE E-Mail:
SAVE.help@dhs.gov

Customer Training Options:

- On-line Tutorials
- On-Site Training
- Webinar Training
- User Guides
- Reference Materials

E-Verify Program

E-Verify

- Mandated by Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA)
- Partnership between the Department of Homeland Security (DHS), Social Security Administration (SSA) and Department of State (DOS)
- Provides a means for participating employers to verify the employment eligibility status of newly-hired employees

Goals

- **Reduce** unauthorized employment
- **Minimize** verification-related discrimination
- **Be quick** and non-burdensome to employers
- **Protect** civil liberties and employee privacy

E-Verify: How it Works

- Users submit information provided on the **Form I-9**
- System queries databases of:
 - Social Security Administration
 - Department of Homeland Security
 - Department of State

Department of Homeland Security U.S. Citizenship and Immigration Services			Form I-9, Employment Eligibility Verification	
Read instructions carefully before completing this form. The instructions must be available during completion of this form.				
ANTI-DISCRIMINATION NOTICE: It is illegal to discriminate against work-authorized individuals. Employers CANNOT specify which document(s) they will accept from an employee. The refusal to hire an individual because the documents have a future expiration date may also constitute illegal discrimination.				
Section 1. Employee Information and Verification <i>(To be completed and signed by employee at the time employment begins.)</i>				
Print Name: Last		First	Middle Initial	Maiden Name
Address (Street Name and Number)			Apt. #	Date of Birth (month/day/year)
City		State	Zip Code	Social Security #
I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form.			I attest, under penalty of perjury, that I am (check one of the following): ☐ A citizen of the United States ☐ A noncitizen national of the United States (see instructions) ☐ A lawful permanent resident (Alien #) ☐ An alien authorized to work (Alien # or Admission #) _____ until (expiration date, if applicable - month/day/year)	
Employee's Signature			Date (month/day/year)	
Preparer and/or Translator Certification <i>(To be completed and signed if Section 1 is prepared by a person other than the employee.) I attest, under penalty of perjury, that I have assisted in the completion of this form and that to the best of my knowledge the information is true and correct.</i>				
Preparer's/Translator's Signature			Print Name	
Address (Street Name and Number, City, State, Zip Code)				Date (month/day/year)
Section 2. Employer Review and Verification <i>(To be completed and signed by employer. Examine one document from List A OR examine one document from List B and one from List C, as listed on the reverse of this form, and record the title, number, and expiration date, if any, of the document(s).)</i>				
List A	OR	List B	AND	List C
Document title:				

E-Verify

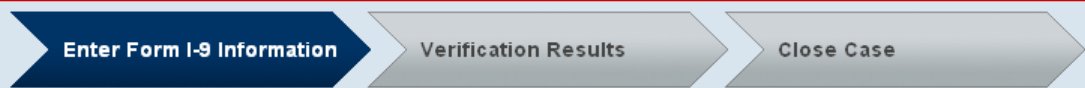
Employment Eligibility Verification



Welcome Yasser Benadada User ID YBEN1050 Last Login 10:26 AM - 04/14/2010 [Log Out](#)

- Home
- My Cases**
 - New Case
 - View Cases
- My Profile**
 - Edit Profile
 - Change Password
 - Change Security Questions
- My Company**
 - Edit Company Profile
 - Add New User
 - View Existing Users
 - Close Company Account
- My Reports**
 - View Reports
- My Resources**
 - View Essential Resources
 - Take Tutorial
 - View User Manual
 - Contact Us

Verify Employee



What citizenship status did the employee choose in Section 1 of Form I-9? [?](#)
Select one, then click **Continue**.

- ☒ A citizen of the United States
- ☐ A noncitizen national of the United States
- ☐ A lawful permanent resident
- ☐ An alien authorized to work

Continue

E-Verify

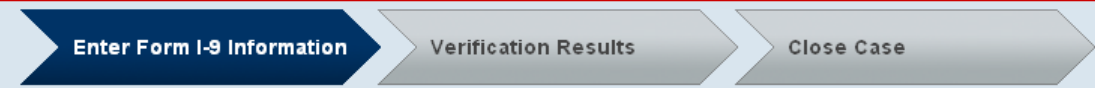
Employment Eligibility Verification



Welcome Yasser Benadada User ID YBEN1050 Last Login 10:26 AM - 04/14/2010 [Log Out](#)

- Home
- My Cases**
 - New Case
 - View Cases
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 - Edit Profile
 - Change Password
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 - View Reports
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 - Take Tutorial
 - View User Manual
 - Contact Us

Verify Employee



What documents did the employee present for Section 2 of Form I-9? [?](#)
Select one, then click **Continue**.

- ☐ List B and C Documents
- ☒ Unexpired U.S. Passport or U.S. Passport Card

[Back](#) [Continue](#)



E-Verify

Employment Eligibility Verification

Welcome
Yasser BenadadaUser ID
YBEN1050Last Login
01:22 PM - 04/14/2010[Log Out](#)[Home](#)**My Cases**[New Case](#)[View Cases](#)**My Profile**[Edit Profile](#)[Change Password](#)[Change Security Questions](#)**My Company**[Edit Company Profile](#)[Add New User](#)[View Existing Users](#)[Close Company Account](#)**My Reports**[View Reports](#)**My Resources**[View Essential Resources](#)[Take Tutorial](#)[View User Manual](#)[Contact Us](#)

Verify Employee

Enter Form I-9 Information

Verification Results

Close Case

Enter employee Form I-9 information, then click **Continue**. * - required

* Last Name ?

Jefferson

* First Name

Thomas

Middle Initial

Maiden Name

* Date of Birth

Apr 20 1962

* Social Security Number

000 - 00 - 0007

Citizenship Status

A citizen of the United States

Document Type

Unexpired U.S. Passport or U.S.
Passport Card

* Document Number ?

C99999999

Document Expiration Date

Month Day Year

* Hire Date ?

Jan 01 2010

Employer Case ID ?

[Back](#)[Continue](#)

E-Verify: How it Works *(continued)*

- Initial verification will return one of three results within seconds:
 - **Employment Authorized**
 - The employee is authorized to work
 - **SSA Tentative Nonconfirmation**
 - There is an information mismatch with SSA
 - **DHS Verification in Process**
 - DHS will usually respond within 24 hours with either an Employment Authorized or DHS Tentative Nonconfirmation

E-Verify

Employment Eligibility Verification



Welcome User ID Last Login
Yasser Benadada YBEN1050 01:22 PM - 04/14/2010 [Log Out](#)

[Home](#)**My Cases**[New Case](#)[View Cases](#)**My Profile**[Edit Profile](#)[Change Password](#)[Change Security Questions](#)**My Company**[Edit Company Profile](#)[Add New User](#)[View Existing Users](#)[Close Company Account](#)**My Reports**[View Reports](#)**My Resources**[View Essential Resources](#)[Take Tutorial](#)[View User Manual](#)[Contact Us](#)**Verify Employee**

Employee Name
Jefferson, Thomas

Case Verification Number
2010104142559HM

 [View/Print Case Details](#) Enter Form I-9 Information Verification Results Close Case**Case Closed****Employment Authorized**[View/Print Case Details](#)

You have closed case 2010104142559HM. Record this case verification number on the employee's Form I-9 or print the case details and keep on file.

Last Name
Jefferson

First Name
Thomas

Middle Initial
--

Maiden Name
--

Date of Birth
April 20, 1962

Social Security Number
*** ** 0007

Citizenship Status
A citizen of the United States

Document Type
Unexpired U.S. Passport or
U.S. Passport Card

Document Number
C99999999

Document Expiration Date
--

Hire Date
January 01, 2010

Employer Case ID
--

Submitted By
YBEN1050

Submitted On
April 14, 2010

[E-Verify Home](#)[New Case](#)

E-Verify: Case Resolution

- If **Employment Authorized**, the employer records the system-generated verification number on the Form I-9.
- If **Tentative Nonconfirmation**, the employee can contest the finding and resolve the discrepancy with the appropriate agency.
- If the employee *chooses not to contest*, it is considered a **Final Nonconfirmation** and the employer may terminate the employee and resolve the case.



- Home
- My Cases**
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- Close Company Account
- My Reports**
- View Reports
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- Contact Us

Verify Employee

Employee Name
One, Numident

Case Verification Number
2010073154340RL

[View/Print Case Details](#)

Enter Form I-9 Information

Verification Results

Close Case

Employment Eligibility:

SSA Tentative Nonconfirmation (TNC) ?

Print, Review & Sign
TNC Notice

Confirm Employee
Decision

Refer Employee

Print, Review & Sign
Referral Letter

Print, Review & Sign TNC Notice

Review the SSA TNC with the employee. Follow the steps listed below.

- 1 Print the SSA Tentative Nonconfirmation Notice

Notification to Employee of SSA Tentative Nonconfirmation ?

Choose which language to print

English

Print Notice

- 2 Review the SSA TNC privately with the employee.
- 3 Have the employee indicate whether he or she will contest the SSA TNC on the SSA Tentative Nonconfirmation Notice.
- 4 Ensure that you and the employee sign and date the SSA Tentative Nonconfirmation Notice. Indicate that the employee has been notified by selecting the check box below.

You must confirm that you have notified the employee of the TNC to continue.

Confirm Employee Notification

☐ I have notified this employee of the TNC.

- 5 After these steps are complete, click **Continue**.

If you created this case in error or no longer need to continue this verification, click **Close Case** ?

To return to this case at a later time, click **Save Case and Exit** ?

Close Case

Save Case and Exit

Continue

[Home](#)

My Cases

[New Case](#)

[View Cases](#)

My Profile

[Edit Profile](#)

[Change Password](#)

[Change Security Questions](#)

My Company

[Add New User](#)

[View Existing Users](#)

[Edit Company Profile](#)

[Close Company Account](#)

My Reports

[View Reports](#)

My Resources

[View Essential Resources](#)

[Take Tutorial](#)

[View User Manual](#)

[Contact Us](#)

Verify Employee

Employee Name
Test, Mike

Case Verification Number
2010074154157AE

[View/Print Case Details](#)

Enter Form I-9 Information

Verification Results

Close Case

Employment Eligibility:

Employee Referred to SSA

Print, Review & Sign
TNC Notice

Confirm Employee
Decision

Refer Employee

Print, Review & Sign
Referral Letter

Print, Review & Sign Referral Letter

This employee was referred to SSA on **March 15, 2010**. The employee must visit a SSA field office within 8 federal government workdays. To complete the referral process follow the steps below.

1 Print the SSA Referral Letter.

SSA Referral Letter

Choose which language to print

English

Print Letter

2 Review the SSA Referral Letter privately with the employee.

3 Ensure that you and the employee sign and date the SSA Referral Letter.

4 Give the employee the signed SSA Referral Letter. The employee will need to bring the letter to the SSA field office.

5 After you complete these steps, click **Continue**.

If you created this case in error or no longer need to continue this verification, click **Close Case** .

To return to this case at a later time, click **Save Case and Exit** .

Close Case

Save Case and Exit

Continue

E-Verify: TNC Case Resolution

- **Employee continues to work** while the case is being resolved
- Once the employee resolves the discrepancy in his or her records, they should inform the employer.
- With both a **SSA TNC** and a **DHS TNC**, a response is electronically sent to the employer through the system. The employer should check E-Verify periodically for the response.
- The employer will receive one of four results:
 - **Employment Authorized**
 - **Review and Update Employee Data**
 - **Final Nonconfirmation**
 - **DHS No Show**
- The employer then resolves the case in E-Verify.

E-Verify: Photo Screening Tool

- The E-Verify photo tool enables employers to match the photo on an employee's Employment Authorization Document (EAD) or Permanent Resident Card ("green card") to the photo that USCIS has on file for that employee.
- Assist employers to detect instances of document fraud
- Photo tool was incorporated into E-Verify for all employers in September 2007

Employer Responsibilities

- E-Verify **must ONLY be used to verify NEW hires**, and must be initiated after the employee accepts the position (hire date) and within 3 days of the employee's actual start date unless you are a Federal Contractor with FAR E-Verify Clause
 - Federal Contractors with the FAR E-Verify Clause may choose to verify their entire existing workforce, initiating verification within 180 calendar days.
- E-Verify procedures **must be applied to ALL new hires**, regardless of citizenship status
- Employer must **display the E-Verify Poster** in an area visible to prospective employees to show that it is an **E-Verify Participant (English and Spanish Versions)**
- Employer must display an **Anti-Discrimination Poster** issued by the Office of Special Counsel for Immigration – Related Unfair Employment Practices, Department of Justice (DOJ) in an area visible to prospective employees **(English and Spanish Versions)**

E-Verify and DOJ-OSC Posters

This Employer Participates in E-Verify

This employer will provide the Social Security Administration (SSA) and, if necessary, the Department of Homeland Security (DHS), with information from each new employee's Form I-9 to confirm work authorization.

IMPORTANT: If the Government cannot confirm that you are authorized to work, this employer is required to provide you written instructions and an opportunity to contact SSA and/or DHS before taking adverse action against you, including terminating your employment.

Employers may not use E-Verify to pre-screen job applicants or to re-verify current employees and may not limit or influence the choice of documents presented for use on the Form I-9.

In order to determine whether Form I-9 documentation is valid, this employer uses E-Verify's photo screening tool to match the photograph appearing on some permanent resident and employment authorization cards with the official U.S. Citizenship and Immigration Services' (USCIS) photograph.

If you believe that your employer has violated its responsibilities under this program or has discriminated against you during the verification process based upon your national origin or citizenship status, please call the Office of Special Counsel at 1-800-255-7688 (TDD: 1-800-237-2515).

NOTICE:

Federal law requires all employers to verify the identity and employment eligibility of all persons hired to work in the United States.

Employment Verification. **Done.**

For more information on E-Verify, please contact DHS at:
1-888-464-4218

E-VERIFY IS A SERVICE OF DHS AND SSA

IF YOU HAVE THE RIGHT TO WORK, Don't let anyone take it away.

If you have a legal right to work in the United States, there are laws to protect you against discrimination in the workplace.

You should know that -

No employer can deny you a job or fire you because of your national origin or citizenship status.

In most cases employers cannot require you to be a U.S. citizen or permanent resident or refuse any legally acceptable documents.

If any of these things have happened to you, you may have a valid charge of discrimination that can be filed with the OSC. Contact the OSC for assistance in your own language.

Call 1-800-255-7688, TDD for the hearing impaired is 1-800-237-2515.

In the Washington, D.C., area, please call 202-616-5594, TDD 202-616-5525

Or write to:
U.S. Department of Justice
Office of Special Counsel - NYA
950 Pennsylvania Ave., N.W.
Washington, DC 20530

**U.S. Department of Justice
Civil Rights Division**

Office of Special Counsel for
Immigration-Related Unfair
Employment Practices

E-Verify Growth

Statistics

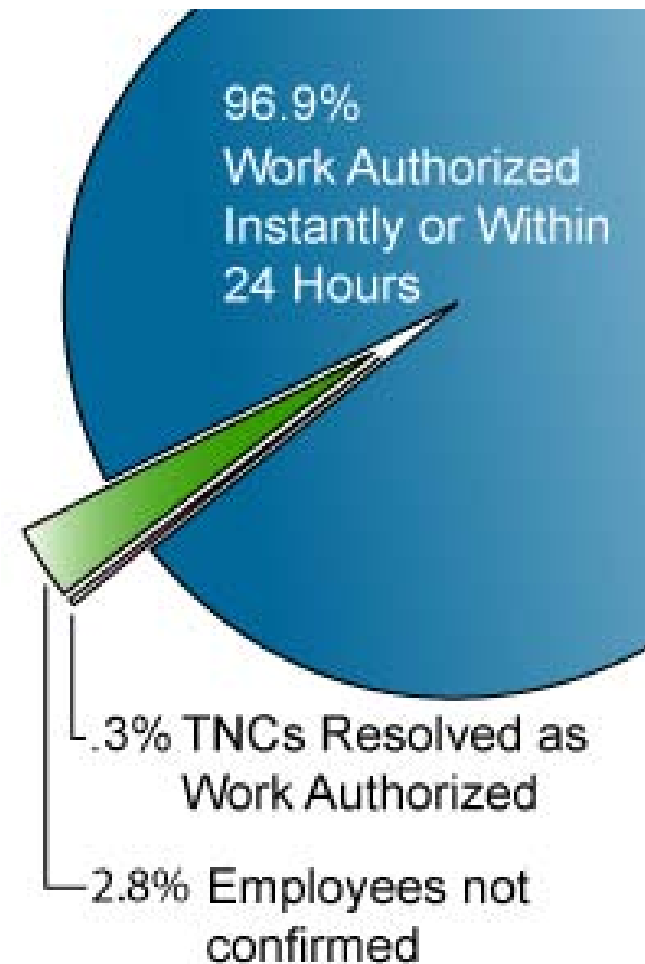
- Over 200,000 participating employers
- So far in FY2010, there have been over 8.8 million queries run
- Nearly 3 million queries run in FY 2007; just over 6.6 million in FY 2008; more than 8.7 million in FY09

- Top Industries Using E-Verify
 - Professional, Scientific, and Technical Services
 - Administrative and Support Services
 - Food Services and Drinking Places
 - Specialty Trade Contractors

- Federal Contractors Total Currently Enrolled
 - 28,047 currently enrolled
 - 16,703 *with* FAR clause
 - 11,344 *without* FAR clause

E-Verify: It Works!

- 96.9% of all queries run through the E-Verify program are verified automatically with no further action required by the employer or the employee
- The remaining 3.1% of employees receive TNCs that need to be resolved through SSA
 - Of this 3.1%, 2.8% eventually receive a Final Nonconformation (FNC) and are consequently not verified as authorized to work through the program
 - .3% of these TNCs eventually result in an employment authorization



Accomplishments

FY 2009

- Monitoring and Compliance Program: Launched a Compliance Tracking and Management System (CTMS) which sent 1020 non-compliance letters to employers in FY09
- Added U.S. passport data, which has reduced mismatches for naturalized and derivative citizens
- Implemented the Federal Contractor Rule: As of September 8th, 2009, Federal contracts containing the FAR E-Verify Clause must use E-Verify as a condition of its contract

FY 2010

- Launched Employee Rights Initiative
 - Memorandum of Agreement with DOJ Office of Special Counsel which establishes the relationship and process for referrals between agencies regarding discrimination, employer misuse, abuse or fraudulent use of E-Verify.
 - Employee Hotline: a toll-free telephone number dedicated to employee inquiries, issues and complaints.
 - Collaborated with the Office of Civil Rights and Civil Liberties on the creation of informational videos that provide guidance to employers and employees about the E-Verify program.

Accomplishments *(continued)*

FY 2010

- Opened the Buffalo Verification Operations Center (BVOC) in Buffalo, NY which focuses on monitoring and compliance efforts and secondary verifications for the E-Verify and SAVE programs in November 2009
- Extended Photo Tool to all Designated Agents in December 2009
- As part of Monitoring & Compliance efforts and have conducted over 9,000 compliance activities in FY10
- In FY10, M&C provided detection reports that monitors the following compliance behaviors:
 - Multiple Use of SSNs
 - Fails to Use E-Verify
 - Terminates an Employee who Receives a TNC
 - Fails to Perform Verification Within 3 Business Days of Hire
 - Verifies Existing Employees
 - Verifies Hires Prior to 1986 (Federal Contractor Rule)

For More Information...

- USCIS Website
 - <http://www.uscis.gov>
- E-Verify Website
 - <http://www.uscis.gov/e-verify>
- Customer Support
 - Monday - Friday 8am - 5pm EST
 - Telephone: 1-888-464-4218
 - Email: e-verify@dhs.gov
- Employee Hotline
 - Monday - Friday 8am - 5pm EST
 - Telephone: 1-888-897-7781

Disclaimer

- Immigration law can be complex and it is impossible to describe every aspect of the process
- This presentation provides basic information to help you become generally familiar with the rules and procedures. For more information, or the law and regulations please see our website: **www.dhs.gov/E-Verify**

Exhibit G

Nordby, Daniel E.

From: Roth, Howard S <Howard.S.Roth@uscis.dhs.gov>
Sent: Monday, March 26, 2012 3:24 PM
To: Matthews, Maria I.
Subject: Re: DHS/Legal status issue/Voter registration-Florida

Thanks Maria.

From: Matthews, Maria I. [mailto:Maria.Matthews@DOS.MyFlorida.com]
Sent: Monday, March 26, 2012 03:18 PM
To: Roth, Howard S
Cc: John.Roessler@dhs.gov <John.Roessler@dhs.gov>; Paul.M.Johnson1@dhs.gov <Paul.M.Johnson1@dhs.gov>; Rayner, Raymond P
Subject: RE: DHS/Legal status issue/Voter registration-Florida

Thanks, Howard. I will let the Secretary Detzner et al. know.

Respectfully,

Maria Matthews
Assistant General Counsel
Florida Department of State
850.245.6520 (direct line)
850.245.6127 (fax)

From: Roth, Howard S [mailto:Howard.S.Roth@uscis.dhs.gov]
Sent: Monday, March 26, 2012 2:32 PM
To: Matthews, Maria I.
Cc: 'John.Roessler@dhs.gov'; 'Paul.M.Johnson1@dhs.gov'; Rayner, Raymond P
Subject: Re: DHS/Legal status issue/Voter registration-Florida

Hi Maria - I regret the slow progress of this matter. However, as I am sure you are aware, there are many issues surrounding the use of SAVE in the voter registration forum. CIS is working with several other agencies to come to a resolution on the matter. I assure you that we will let you know as soon as any substantive conclusions are reached, and as we can move forward. I appreciate your patience. Thanks, Howard

From: Matthews, Maria I. [mailto:Maria.Matthews@DOS.MyFlorida.com]
Sent: Monday, March 26, 2012 02:28 PM
To: Roth, Howard S
Cc: John.Roessler@dhs.gov <John.Roessler@dhs.gov>; Paul.M.Johnson1@dhs.gov <Paul.M.Johnson1@dhs.gov>; Rayner, Raymond P
Subject: RE: DHS/Legal status issue/Voter registration-Florida

Hi Howard:

What is the status of the Florida Department of State's request and any word on when we can hold this teleconference? Is there anything else you need from us to set something up?

Look forward to hearing from you.

Respectfully,

Maria Matthews

Assistant General Counsel
Florida Department of State
850.245.6520 (direct line)
850.245.6127 (fax)

From: Matthews, Maria I.
Sent: Tuesday, March 20, 2012 1:14 PM
To: 'Roth, Howard S'
Cc: 'John.Roessler@dhs.gov'; 'Paul.M.Johnson1@dhs.gov'; 'Rayner, Raymond P'
Subject: RE: DHS/Legal status issue/Voter registration-Florida

Howard:

I'm back in the office. Do you have a date and time for the call? Who else on your team would be present on the call? Who specifically from legal and policy?

I saw this article today about Secretary of State Gessler for Colorado asking DHS to ID noncitizens in a March 8, 2012 letter. http://www.denverpost.com/recommended/ci_20192007#.T2eRnjtgYIE.email. Any update on what DHS intends to do?

Thanks.

Respectfully,

Maria Matthews

Assistant General Counsel
Florida Department of State
850.245.6520 (direct line)
850.245.6127 (fax)

From: Roth, Howard S [<mailto:Howard.S.Roth@uscis.dhs.gov>]
Sent: Wednesday, March 14, 2012 5:20 PM
To: Matthews, Maria I.; 'John.Roessler@dhs.gov'; 'Paul.M.Johnson1@dhs.gov'; Rayner, Raymond P
Subject: Re: DHS/Legal status issue/Voter registration-Florida

Maria - That should be no problem. I will get back to you with a date/time ASAP

Thanks, Howard

From: Matthews, Maria I. [<mailto:Maria.Matthews@DOS.MyFlorida.com>]
Sent: Wednesday, March 14, 2012 05:19 PM
To: Roth, Howard S; Roessler, John E <John.Roessler@dhs.gov>; Paul.M.Johnson1@dhs.gov
<Paul.M.Johnson1@dhs.gov>; Rayner, Raymond P
Subject: DHS/Legal status issue/Voter registration-Florida

Howard: We would like to set up a teleconference with legal, policy advisor, and tech staff for next week to discuss the status of our request. The Secretary of State and Assistant Secretary, General Counsel and Division Director may also sit in. Please let me know as soon as possible.
I will be out of the office Thursday and Friday but I will have access to e-mail. Thanks.

Respectfully,

Maria Matthews
Assistant General Counsel
Florida Department of State
850.245.6520 (direct line)
850.245.6127 (fax)

From: Matthews, Maria I.
Sent: Thursday, March 08, 2012 10:10 AM
To: 'Roth, Howard S'
Cc: 'Rayner, Raymond P'; Johnson, Paul M (Paul.M.Johnson1@dhs.gov); Roessler, John E
Subject: RE: DHS/Legal status issue/Voter registration-Florida

Howard:

As an update to your earlier inquiry about the types of information we could provide to access SAVE and/or any other DHS database, I don't recall if I had said that we would be able to get the alien registration number or admissions number as made available from our Department of Highway Safety and Motor Vehicles.

We hope to hear very shortly some final decision soon as to what the feds can provide. If it would help in anyway, we are certainly amenable to holding a teleconference including with our new secretary of state if you want to flesh out the details or get a better understanding of what we want and/or what the feds position is. Let me know. Thanks.

Respectfully,

Maria Matthews
Assistant General Counsel
Florida Department of State
850.245.6520 (direct line)
850.245.6127 (fax)

From: Matthews, Maria I.
Sent: Tuesday, March 06, 2012 9:20 AM
To: 'Roth, Howard S'
Cc: Rayner, Raymond P
Subject: RE: DHS/Legal status issue/Voter registration-Florida

Howard:

We would direct the Supervisors to rely on the REAL ID documentation that the DHSMV relies upon to establish identity as U.S. citizen as set forth below (and excerpted from its website at: <http://www.flhsmv.gov/realid/>):

- Valid, unexpired U.S. passport
- Original or Certified copy of a birth certificate
- Consular Report of Birth Abroad

- Certificate of Naturalization issued by DHS
- Certificate of Citizenship

As similarly noted, if the current name and the name on the document above were different, the person would probably have to bring in documentation that shows a clear trail for the name change such as:

- Marriage certificate, issued by the courts and/or
- Divorce decree, issued by the courts

We would seek DHSMV's guidance on any other documentation.

Does this mean at a minimum that SAVE (or other available databases in DHS) could be used through DHSMV or on our own to cross-check legal status of registered voters identified against DHSMV's database as non-U.S. citizens to be sure they have not become U.S. citizens?

Respectfully,

Maria Matthews
Assistant General Counsel
Florida Department of State
850.245.6520 (direct line)
850.245.6127 (fax)

From: Roth, Howard S [<mailto:Howard.S.Roth@uscis.dhs.gov>]
Sent: Tuesday, March 06, 2012 7:55 AM
To: Matthews, Maria I.
Cc: Rayner, Raymond P
Subject: RE: DHS/Legal status issue/Voter registration-Florida

Hi Maria – Before we can move forward, I will still need detailed information as to the documents that will be verified. As we discussed, we will need an "A number" and Natz Certificate number before we can verify a status in SAVE. Please let me know if you have any additional questions. Thanks, Howard

From: Matthews, Maria I. [<mailto:Maria.Matthews@DOS.MyFlorida.com>]
Sent: Monday, March 05, 2012 4:46 PM
To: Roth, Howard S
Cc: Rayner, Raymond P
Subject: DHS/Legal status issue/Voter registration-Florida

Howard and Raymond:

Any update? I have a meeting on Wednesday at which this issue will be discussed. The new Secretary of State, Ken Detzner (whose name I misspelled below) and several county Supervisors of Elections will request an update. I am also ree to discuss on the phone between 12-2 and 3-5:30 tomorrow. Thanks.

Respectfully,

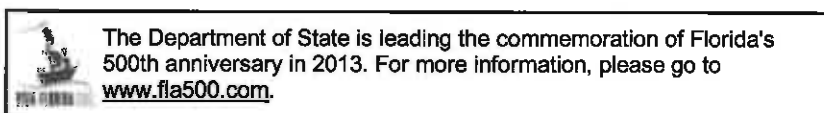
Maria Matthews
Assistant General Counsel
Florida Department of State
R.A. Gray Building

500 S. Bronough Street
Tallahassee, Florida 32399
850.245.6536 (office)
850.245.6127 (fax)

This response is provided for reference only and does not constitute legal advice or representation. As applied to a particular set of facts or circumstances, interested parties should refer to the Florida Statutes and applicable case law, and/or consult a private attorney before drawing any legal conclusions or relying upon the information provided.

Please note: Florida has a very broad public records law. Written communications (including e-mail content and addresses) to or from state officials regarding state business constitute public records and are available to the public and media upon request unless the information is subject to a specific statutory exemption. If you do not want your e-mail address released in response to a public-records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

**Florida is headed in the
right direction!**
Click to Enlarge



The Department of State is committed to excellence.
Please take our [Customer Satisfaction Survey](#).

From: Matthews, Maria I.
Sent: Tuesday, February 28, 2012 8:52 AM
To: Roth, Howard S (Howard.S.Roth@uscis.dhs.gov)
Cc: Rayner, Raymond P (Raymond.P.Rayner@uscis.dhs.gov)
Subject: DHS/Legal status issue/Voter registration-Florida

Hello Howard and Raymond,

I was wondering if there was any update. I'm sure you are aware of the Pew Report on Upgrading Voter Registration http://www.pewcenteronthestates.org/initiatives_detail.aspx?initiativeID=51334 in which of the one main points was that 1 in 8 registrations in the country are inaccurate or no longer valid. We obviously have an interest in ensuring the accuracies of our voter registration rolls.

By the way, we have a new Secretary of State, Ken Dentzler, who replaces Secretary Kurt Browning. Secretary Dentzler is very interested to know what DHS can offer and what we can establish.

Thanks as always.

Respectfully,

Maria Matthews
Assistant General Counsel
Florida Department of State
850.245.6520 (direct line)

From: Matthews, Maria I.
Sent: Tuesday, February 21, 2012 2:17 PM
To: Roth, Howard S (Howard.S.Roth@uscis.dhs.gov)
Cc: Rayner, Raymond P (Raymond.P.Rayner@uscis.dhs.gov)
Subject: DHS/Legal status issue/Voter registration-Florida
Importance: High

Hello Howard,

Thanks for calling me back as to the ongoing discussion about our state's access to any or all of the DHS's USCIS, ICE and CPE Bureau databases to use to vet the legal status of our voter registration applicants and/or registered voters (11,217,384 registered voters as of book closing for Presidential Preference Primary Election 2012). We have not had nor have any established programmatic means to do so. Per your request on the call, these are the following key data fields that we would have available in our registration records:

- First name
- Middle name
- Last name
- Date of birth format: MM-DD-YYYY
- Race (this is optional so it may not be on all records): Categories are:
 - ☐ American Indian/Alaskan Native
 - ☐ Asian/Pacific Islander
 - ☐ Black, *not of* Hispanic Origin
 - ☐ Hispanic
 - ☐ White, *not of* Hispanic Origin
 - ☐ Other:
 - ☐ Multi-racial
- State or country of birth (optional so it may not be in all records)
- Telephone number (optional so it may not be in all records)
- Personal identifying number which will be either the Florida driver's license number, the Florida identification card number or the last 4 digits of the social security)
- Residential address (Street, Apt/Lot/Unit, City, County, zip code)
- Mailing address (including street/po. box or other delivery, city, state and zip code)
- Signature

This is also a link to our voter registration application: <http://election.dos.state.fl.us/pdf/webappform.pdf>

As we have stated before, the law requires us to conduct maintenance of our voter registration rolls so that only eligible voters are registered. We firmly believe based on the law cited previously below

that government agencies are entitled to get access to information such as legal status in order to comply with the law. We do not have recourse to any other government source to such information. Even we could not establish a programmatic match process (which would obviously be the most effective and efficient), we could still benefit from real-time access to one or more of the databases as a cross-check to ensuring that only U.S. citizens are registering and/or voting and that those who have already registered are U.S. citizens.

I look forward to hearing from you soon. Thank you.

Respectfully,

Maria Matthews
Assistant General Counsel
Florida Department of State
850.245.6520 (direct line)
850.245.6127 (fax)

From: Matthews, Maria I.
Sent: Wednesday, January 11, 2012 3:26 PM
To: 'Roth, Howard S'; 'Rayner, Raymond P'
Cc: 'Paul.M.Johnson1@dhs.gov'; Roessler, John E
Subject: DHS/Legal status issue/Voter registration-Florida
Importance: High

Hi Howard and Raymond:

I have left messages for you both today following one two weeks ago to either one or both of you. I would appreciate a call back. Please provide me an update on where our request as detailed in prior e-mails below is and whether any progress has been made to be able to work something out. If you need more information or would like to discuss more, I will be happy to do so. We are simply trying to fulfill our duties under federal and state law to ensure that the rolls only consist of eligible and qualified voters. Thank you.

Hope you are both doing well.

Respectfully,

Maria Matthews
Assistant General Counsel
Florida Department of State
R.A. Gray Building
500 S. Bronough Street
Tallahassee, Florida 32399
850.245.6520 (direct line)
850.245.6536 (office)
850.245.6127 (fax)

This response is provided for reference only and does not constitute legal advice or representation. As applied to a particular set of facts or circumstances, interested parties should refer to the Florida Statutes and applicable case law, and/or consult a private attorney before drawing any legal conclusions or relying upon the information provided.

Please note: Florida has a very broad public records law. Written communications (including e-mail content and addresses) to or from state officials regarding state business constitute public records and are available to the public and media upon request unless the information is subject to a specific statutory exemption. If you do

From: Matthews, Maria I.
Sent: Thursday, December 08, 2011 9:43 AM
To: 'Roth, Howard S'; 'Rayner, Raymond P'
Subject: DHS/Legal status issue/Voter registration

Hi Howard and Raymond:

Like a pesky gadfly, I am now back in the office after being out of the country for almost a month. Before I left, I had sent an e-mail requesting an update on Florida's request to establish a systematic/continual process using SAVE and any other available federal databases to check on the legal status of registered voters and/or applicants (before they become registered). I have not seen anything in response but honestly with over 500 e-mails to cull through I may have overlooked it.

Can you provide me an update on whether the matter is and whether any progress has been made and whether a teleconference is in order? Thank you.

Hope you are both doing well.

Respectfully,

Maria Matthews
Assistant General Counsel
Florida Department of State
850.245.6520 (direct line)
850.245.6127 (fax)

From: Matthews, Maria I.
Sent: Thursday, November 03, 2011 10:02 AM
To: Roth, Howard S
Cc: Rayner, Raymond P
Subject: RE: Teleconference: DHS/Legal status issue

Hi Howard, Any update or progress yet? Thanks. -Maria

From: Roth, Howard S [<mailto:Howard.Roth@dhs.gov>]
Sent: Tuesday, October 25, 2011 7:59 AM
To: Matthews, Maria I.; Roth, Howard S
Cc: Rayner, Raymond P
Subject: RE: Teleconference: DHS/Legal status issue

Thank you Ms Matthews.

From: Matthews, Maria I. [<mailto:Maria.Matthews@DOS.MyFlorida.com>]
Sent: Monday, October 24, 2011 3:42 PM
To: Roth, Howard S
Cc: Rayner, Raymond P
Subject: RE: Teleconference: DHS/Legal status issue

Howard,

Current law does not allow Supervisors of Elections to require an applicant to submit proof of citizenship at the time of registering. Although Supervisors of Elections are required to determine whether applicants are eligible in one part of the law, in another, the law says an application is deemed complete if its signed, all the required checkboxes are checked (i.e., the boxes for U.S. citizenship, felony conviction status, and mental incompetency), and all other information necessary to establish eligibility is given (name, date of birth, address and personal identifying number – FL DL, FL ID, or last SSN4 for verification of identification. See section 97.053, F.S. In practice, Supervisors would deny the application even if complete only upon getting information from some reliable source that the person is otherwise not eligible despite what he or she has filled out on the application. Once that happens, the applicant is sent notice of the denial and the reason for the denial, and that's it. See section 98.045, 97.073, F.S. So conceptually, what would happen if an SOE or State had access to federal databases that identified non-U.S. citizens, it would match on a set of criteria and then the person would be notified that he or she is ineligible and that would be it. The law does not provide for more than that.

It is quite different in the case of a person who is potentially identified as not a U.S. citizen after he or she has already registered because obviously at that point, his or her right to vote has vested/ripened. Due process procedures are clearly in place in law. So the way it would work conceptually in this scenario, if an SOE or State had access to federal databases that identified non-U.S. citizens through some automated match process, is that the potentially ineligible registered voter must be given notice and the opportunity to be heard and prove otherwise to the Supervisor of Elections. That process is set out in section 98.075(7), F.S. We would work with the Department of Highway Safety and Motor Vehicles (DHSMV) to help us to determine what list of acceptable documents would be considered adequate proof of citizenship since DHSMV is already collecting as of January 2006 proof of legal status documents as mandated by the REAL ID Act.

I hope this is answers what you were asking.

Respectfully,

Maria Matthews
Assistant General Counsel
Florida Department of State
850.245.6520 (direct line)
850.245.6127 (fax)



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[DOS Customer Satisfaction Survey](#)

From: Roth, Howard S [<mailto:Howard.Roth@dhs.gov>]
Sent: Monday, October 24, 2011 2:53 PM
To: Matthews, Maria I.; Roth, Howard S
Cc: Rayner, Raymond P
Subject: RE: Teleconference: DHS/Legal status issue

Thank you Ms. Matthews –

Could you provide information as to how, as a practical matter, those applying to vote would establish citizenship during registration? Is there a list of documents that will be necessary for registration? Any assistance you can provide will be helpful.

Thanks, Howard

From: Matthews, Maria I. [<mailto:Maria.Matthews@DOS.MyFlorida.com>]
Sent: Monday, October 24, 2011 1:18 PM
To: Roth, Howard S
Cc: Rayner, Raymond P
Subject: Teleconference: DHS/Legal status issue

Howard,

Thank you for returning my call from last week. Per your request, this is what the State of Florida is seeking based on our initial request in July or August.

Scope of Request: The State of Florida's is interested in establishing a systematic/continual process by which the State of Florida can use the SAVE program database and any other available federal databases to check the legal status of all currently registered voters on the rolls and/or new applicants before they become registered. Florida's registration system contains almost to 12 million registered voters.

Legal Authority: I was asked previously to provide the legal basis by which we could access this information or database(s). Under federal and state law the State is responsible for conducting list maintenance on a regular basis to determine if a registered voter remains eligible to be registered and to vote. See 42 U.S.C. 1973gg-6(a)(3)-4(National Voter Registration Act); s. 303(a) of the Help America Vote Act, and section 97.075, Florida Statutes. Obviously, one of the grounds for ineligibility under our state law is that a person cannot be registered or vote unless he or she is U.S. citizen.

Both state governmental agencies and the Supervisors of Elections (our local registration officials) are authorized under 8 U.S.C. 1373 (see excerpted text in red), to ask for and get from the federal government (which we would presume to include any databases from DHS' USCIS, ICE, and CBP's offices (successors to the Immigration and Naturalization Service)) verification or the ability to ascertain at a minimum whether a person is not a U.S. citizen:

Sec. 1373. Communication between government agencies and the Immigration and Naturalization Service

- (a) In general. Notwithstanding any other provision of Federal, State, or local law, a Federal, State, or local government entity or official may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual
- (b) Additional authority of government entities
Notwithstanding any other provision of Federal, State, or local law, no person or agency may prohibit, or in any way restrict, a Federal, State, or local government entity from doing any of the following with respect to information regarding the immigration status, lawful or unlawful, of any individual:
 - (1) Sending such information to, or requesting or receiving such information from, the Immigration and Naturalization Service.
 - (2) Maintaining such information.
 - (3) Exchanging such information with any other Federal, State, or local government entity.
- (c) Obligation to respond to inquiries
The Immigration and Naturalization Service shall respond to an inquiry by a Federal, State, or local government agency, seeking to verify or ascertain the citizenship or immigration status of any individual within the jurisdiction of the agency for any purpose authorized by law, by providing the requested verification or status information.

Specifics of Access: As to accessing the SAVE program alone, we understand that it will cost 50 cents per name hit for the initial automated search, and 50 cents more for any additional secondary review), and that high percentage ought to be verifiable in the 1st round.

We also were told that the SAVE program alone is not going to necessarily include persons here illegally.

The limitation with the State only accessing SAVE database is that it obviously will not include persons who are here illegally. Moreover, we were told that any programmatic match requires the alien registration or resident number. This is a significant obstacle as the State of Florida does not collect and is not authorized to ask an applicant for proof of his or her legal status in the U.S. Obviously, if someone provided that number, he or she is not a U.S. citizen and he or she would not or should not be registering or voting in the first place unless becoming a U.S. citizen.

So given the aforementioned:

1. Can we get access to SAVE and any other available DHS databases to conduct checks of the legal status of new applicants and/or registered voters in order to ensure that the person is not registered and/or voting in contravention of state and federal law?
2. Can comparisons or search of SAVE program data be done without the alien registration/legal permanent resident number? The fields we do have are Last Name, First name, date of birth, Florida driver's license number or state identification card number, or the last 4 digits of the social security number, gender, address. If it is possible, would the Department of Homeland Security consider and approve the State of Florida's access to SAVE program to conduct a one-time check of all voters currently registered in our statewide voter registration database and to conduct systematic daily checks of all newly registered voters.
3. Assuming that it may be possible to access SAVE without the alien registration number/legal permanent resident number, or assuming we could obtain alien registration numbers from another source, would the Department of Homeland Security consider and approve the State of Florida's access to SAVE program to conduct a one-time check of all voters currently registered in our statewide voter registration database and to conduct systematic daily checks of all newly registered voters and/or applicants thereafter.
4. Assuming the answer to 3. is yes, is it possible to establish a program between DHS' SAVE program and our technical staff to create an automated match process even if it is a batch process? If so, what is the contact information for technical staff so that our technical staff could determine the logistical feasibility? What agreements would need to be executed? What steps would we have to take to initiate that? What is the process time for setting it up?
5. Are there other federal government databases from DHS that may contain information regarding persons who are in the States illegally and have been identified by virtue of some other illegal/criminal activity? If so, is it under the U.S. Immigration and Customs Enforcement (IC) and/or U.S. Customs and Border Protection (CBP)? And can we get access to that information to identify persons illegally registered to vote or trying to illegally register to vote.
6. If the State or Supervisors of Elections cannot have access to SAVE or other federal database programs, what would be the process for the State or the Supervisors of Elections to follow to get the information they need per 8 U.S.C. 1373?

That's it in a big walnut shell. I look forward to hearing from you as soon as possible. Thank you.

Respectfully,

Maria Matthews
Assistant General Counsel

Florida Department of State
R.A. Gray Building
500 S. Bronough Street
Tallahassee, Florida 32399
850.245.6536 (office)
850.245.6127 (fax)

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(d) From: Matthews, Maria I.
Sent: Monday, October 24, 2011 11:33 AM
To: Rayner, Raymond P
Cc: Johnson, Paul M; Roth, Howard S; Roessler, John E
Subject: RE: Teleconference: DHS/Legal status issue

Hi Raymond,

The Secretary of State has been inquiring as to whether your office has any update on our request. Please let me know. I left a message for you Howard on Friday.

Respectfully,

Maria Matthews
Assistant General Counsel
Florida Department of State
850.245.6520 (direct line)
850.245.6127 (fax)

From: Rayner, Raymond P [<mailto:Raymond.Rayner@dhs.gov>]
Sent: Friday, October 14, 2011 12:34 PM
To: Matthews, Maria I.
Cc: Johnson, Paul M; Roth, Howard S; Roessler, John E
Subject: RE: Teleconference: DHS/Legal status issue

Maria,

The issue is still under review in OCC. If you would like additional details, you can contact Howard Roth of OCC at 202-272-9667 on Monday 10/17/2011.

Enjoy your weekend.

Ray

From: Matthews, Maria I. [<mailto:Maria.Matthews@DOS.MyFlorida.com>]
Sent: Friday, October 14, 2011 9:17 AM
To: Rayner, Raymond P
Cc: Johnson, Paul M; Roth, Howard S; Roessler, John E
Subject: Teleconference: DHS/Legal status issue

Hello Raymond,

I just wanted to follow up on OCC's review status of our request. Hope all is well. Thanks.

Respectfully,

Maria Matthews
Assistant General Counsel
Florida Department of State
850.245.6520 (direct line)
850.245.6127 (fax)



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From: Rayner, Raymond P [<mailto:Raymond.Rayner@dhs.gov>]
Sent: Thursday, September 29, 2011 12:58 PM
To: Matthews, Maria I.
Cc: Johnson, Paul M; Roth, Howard S; Roessler, John E
Subject: RE: Teleconference: DHS/Legal status issue

Maria,

I have been advised by OCC that it is still under review and that they may be ready next week. I will be out next week, but someone will contact you if OCC is ready to discuss the request while I am out.

Thanks

Ray

From: Matthews, Maria I. [<mailto:Maria.Matthews@DOS.MyFlorida.com>]
Sent: Wednesday, September 28, 2011 4:02 PM

To: Rayner, Raymond P
Subject: Teleconference: DHS/Legal status issue

Hi Raymond,

Just following up on the off chance that the Office of Chief Counsel might now have a date in the near future to discuss our request as last re-iterated to Ms. Rahi on September 2, 2011.

Hope you are doing well.

Respectfully,

Maria Matthews
Assistant General Counsel
Florida Department of State
R.A. Gray Building
500 S. Bronough Street
Tallahassee, Florida 32399
850.245.6536 (office)
850.245.6127 (fax)



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From: Matthews, Maria I.
Sent: Wednesday, September 21, 2011 10:33 AM
To: Browning, Kurt S.; Kennedy, Jennifer L.; Salas, Gisela (Gisela.Salas@dos.myflorida.com); Boynton, John
Subject: FW: Teleconference

FYI. Please see below. Teleconference today at 1:30 has been cancelled.

From: Matthews, Maria I.
Sent: Wednesday, September 21, 2011 10:32 AM
To: 'Rayner, Raymond P'
Cc: Roth, Howard S; Johnson, Paul M; Roessler, John E
Subject: RE: Teleconference

Thanks Raymond. We appreciate the fullest consideration of our request. We'll await a new schedule date.

Respectfully,

Maria Matthews
Assistant General Counsel

Florida Department of State
850.245.6520 (direct line)
850.245.6127 (fax)

From: Rayner, Raymond P [<mailto:Raymond.Rayner@dhs.gov>]
Sent: Wednesday, September 21, 2011 10:30 AM
To: Matthews, Maria I.
Cc: Roth, Howard S; Johnson, Paul M; Roessler, John E
Subject: RE: Teleconference
Importance: High

Maria,

Please accept my apologies, but we are going to have to cancel the teleconference scheduled for this afternoon. The Office of Chief Counsel has advised that they need to more fully consider issues relating to voter registration before addressing your request to access SAVE. We will let you know when we are ready to reschedule a discussion. Please let me know if you have any questions.

Thanks

Ray
202-443-0137

Exhibit H



FLORIDA DEPARTMENT of STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

May 31, 2012

Secretary Janet Napolitano
Department of Homeland Security
U.S. Department of Homeland Security
Washington, D.C. 20528

Dear Secretary Napolitano:

As Florida's Secretary of State and Chief Elections Officer, I have a duty under both state and federal laws to ensure that Florida's voter registration rolls are current and accurate. If my department receives credible and reliable information that ineligible voters are registered to vote, we must take the appropriate actions to ensure the integrity of Florida's voter rolls.

As you may be aware, my department has received credible and reliable information from the Florida Department of Highway Safety and Motor Vehicles (DHSMV) indicating non-citizens may be registered to vote in Florida. While processing this new information, it became clear that our department's ability to validate a person's legal status as up-to-date was limited. To the best of our knowledge, the Department of Homeland Security's Systematic Alien Verification for Entitlements (SAVE) Program has the information we need, and by federal law, we are entitled to request and receive legal status information from the federal government.

Federal law expressly requires your agency to respond to state inquiries seeking to verify or ascertain the citizenship or immigration status of any individual within its jurisdiction for any purpose authorized by law. (8 U.S.C. s. 1373(c)). Additionally, DHS has recently stated that the SAVE database could be used for voter registration purposes. See, e.g., 76 Fed. Reg. 58525, 58527 (September 21, 2011). Yet after nine months of requests, we have not been granted access to that information or any other available DHS database.

Our state partner, the Florida Department of Highway Safety and Motor Vehicles (DHSMV), has access to the SAVE database and explored the possibility of using SAVE to update their information about the potential non-citizens, which would have given us the confirmation we need to identify ineligible voters. However, the agreement between your agency and DHSMV does not allow DHSMV to continually update their records, leaving my department, again, without a means to obtain directly or indirectly the information we need and are entitled to receive.



R. A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399
Telephone: (850) 245-6500 • Facsimile: (850) 245-6125 www.dos.state.fl.us
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Page 2

As I have already stated, I have a duty to ensure Florida's voter registration rolls are current and accurate. I hope you will understand the importance of making sure the vote of an eligible voter is not diminished by the vote of an ineligible voter and provide my department the access it needs to the SAVE database.

I will make time in my schedule to meet with you at your office at your earliest convenience. Until that time, I will be available, as will my staff, to discuss this issue with you further.

Thank you for your understanding of the importance of our elections process.

Sincerely,

A handwritten signature in dark ink, appearing to read "Ken Detzner". The signature is stylized with a large, looped "K" and a cursive "Detzner".

Ken Detzner, Secretary
Florida Department of State