**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION: DAYTON**

STATE OF OHIO, and
 	
FRANK LAROSE, in his official capacity as OHIO SECRETARY OF STATE,
 	
            Plaintiffs,
 	
      v.
 	
UNITED STATES DEPARTMENT OF HOMELAND SECURITY, and
 	
ALEJANDRO MAYORKAS, in his official capacity as SECRETARY OF THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY,
 	
            Defendants.
	Civil Action No. _____

COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

The State of Ohio and Ohio Secretary of State Frank LaRose, acting in his official capacity, ("Plaintiffs"), by undersigned counsel, allege as follows:

<u>NATURE OF THE CASE</u>

1. Federal law dictates that the privilege of participating in U.S. elections is reserved for U.S. citizens, and it is a crime for non-citizens to register to vote or to vote in federal elections. 18 U.S.C. §§ 611, 1015(d). The Ohio Constitution provides that "[o]nly a citizen of the United States" shall be permitted to vote at any State or local election held in the State. OH Const. art. 5, § 1.

1

2.   The State of Ohio "indisputably has a compelling interest in preserving the integrity of its election process." *Brnovich v. Democratic Nat'l Comm.*, 594 U.S. 647, 685 (2021). As Ohio Secretary of State, Frank LaRose is charged with enforcing federal and State election laws in Ohio. Ohio Rev. Code § 3501.05. Secretary LaRose's federal- and State-law duties include maintaining an accurate legal voter registration database to ensure that every citizen has the right and opportunity to vote. *See, e.g.*, 52 U.S.C. § 21083(a)(1)–(5); Ohio Rev. Code § 3501.04. His office also responds to county boards of elections' requests for verification of individual registered voters' citizenship.

3.   Congress provided a means to fulfill these duties by expressly compelling the Department of Homeland Security ("DHS") to comply with State requests to verify the immigration and citizenship status of any individual. Specifically, 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*." 8 U.S.C. § 1373(c) (emphases added). The statute refers to the Immigration and Naturalization Service ("INS"), but Congress transferred those duties to DHS. 6 U.S.C. § 202(3).

4.   This obligation is so important and nondiscretionary that Congress also expressly *outlawed* any interference—even by other federal officials—with the prompt provision of immigration information to State officials: "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, [DHS] information regarding the citizenship or immigration status, lawful or unlawful, of any individual." 8 U.S.C. § 1373(a).

5.   And yet *another* statute emphasizes this obligation's unyielding nature: "Notwithstanding any other provision of Federal, State, or local law, no State or local government entity may be prohibited, or in any way restricted, from sending to or receiving from [DHS] information regarding the immigration status, lawful or unlawful, of an alien in the United States." 8 U.S.C. § 1644.

6.   The U.S. Supreme Court has repeatedly held that these provisions "*require*[] the Federal Government to 'verify or ascertain' an individual's 'citizenship or immigration status' in response to a state request." *Chamber of Com. of U.S. v. Whiting*, 563 U.S. 582, 602 (2011) (emphasis added); *Arizona v. United States*, 567 U.S. 387, 412 (2012) ("Congress has obligated [DHS] to respond to any request made by state officials for verification of a person's citizenship or immigration status.").

7.   Secretary LaRose has repeatedly invoked the statutory right for DHS to make available to Secretary LaRose information allowing him to confirm the citizenship status of certain registered Ohio voters to confirm their eligibility to participate in federal elections.

8.   Ohio has access to DHS's Systematic Alien Verification for Entitlements ("SAVE") program, but SAVE is insufficient for verifying citizenship status for most voters because SAVE does not contain driver's license or social security identification

numbers. The only way to identify someone in SAVE is to have one of a handful of specific immigration identification numbers (like an Alien Registration Number) that States like Ohio rarely possess. *See* DHS, *Tutorial: Introduction to SAVE and the Verification Process for SAVE Users* (Mar. 2024), https://perma.cc/N62J-ESFF.

9.   At this time, it is known to the Secretary of State's office that there are individuals who have registered to vote in Ohio despite previously telling the Ohio Bureau of Motor Vehicles that they are not U.S. citizens, and whose citizenship status cannot be confirmed via the SAVE program. Many of those individuals may have become citizens in the meantime, but Ohio is simply unable to confirm one way or the other.

10.   Accordingly, on July 19, 2024, Secretary LaRose submitted a request to Secretary of Homeland Security Alejandro Mayorkas for access to federal databases and search tools, including the Person Centric Query Service ("PCQS"), to ensure that Ohio could verify the citizenship of specific registered voters whose citizenship may be the subject of dispute. Exhibit 1. PCQS draws from a much broader array of identification information, making it far easier for State officials to confirm citizenship status without having to use one of those unique immigration identifiers that States rarely possess.

11.   Secretary LaRose asked DHS to respond with its "intention to comply with this request or any objection to it by July 26, 2024, given the imminence of the integrity of the upcoming election." *Id.* at 3.

12.   But July 26, 2024, came and went with no response, so Secretary LaRose's office again contacted DHS on July 30, 2024, to follow up on its request. Exhibit 2, at 6–7. After another month of silence, Secretary LaRose's office contacted DHS for a third time on August 29, 2024. *Id.* at 5–6. This request expanded the original request to include access to the Central Index System 2 (CIS2) and the Person Centric Identity Services (PCIS), as well as any other system or data that can assist with verifying citizenship status. Still, DHS gave no response.

13.   A fourth request by Ohio on September 11, 2024, *id.* at 3–4, finally elicited an acknowledgement from DHS—an email stating that the original request had been received and transferred "as a courtesy" to another office within DHS's vast bureaucracy "for response," and DHS identified yet another DHS office that Secretary LaRose should send Ohio's request to "for the most direct and timely response," *id.* at 3.

14.   Secretary LaRose's office resubmitted its request less than an hour after receiving DHS's email. This request asked for a response by September 13, 2024. *Id.* at 1–2. No response came by that date.

15.   On September 27, 2024, Representative Jim Jordan, who is a Congressman from Ohio and Chairman of the House of Representatives Committee on the Judiciary, sent a letter to Secretary Mayorkas requesting information about why DHS had not responded to any of Secretary LaRose's requests. Exhibit 3.

16.   On October 10, 2024, nearly three months after first requesting assistance, Secretary LaRose received a response from DHS. The letter claimed that

Ohio's access to the SAVE program was sufficient—despite Ohio's previous letters explaining why SAVE is largely useless here because Ohio lacks the identifiers needed to find specific individuals in SAVE. Exhibit 4.

17.   Despite its statutory duty to provide citizenship information, DHS said it would not "offer an alternative process to any state," ostensibly because "PCQS would require manual review of the results in each case" to resolve any "disparate or conflicting results" that a search returned. *Id.* at 2. Yet the Secretary of State is willing to undertake such additional burdens, if necessary.

18.   On October 14, 2024, Ohio, through its Attorney General and joined by 15 other State Attorneys General, sent a letter to Secretary Mayorkas, *see* Exhibit 5, expressing concern about the "delayed and inadequate responses" that DHS gave to requests for assistance and "urg[ing]" DHS "to faithfully execute [its] duty to verify voter registration information to the States," *id.* at 2–3. The State Attorneys General requested that DHS "provide [them] with [DHS's] plan to provide an adequate response to the States' outstanding requests for verification of flagged, individual voter registrants" within three business days of receiving the letter. *Id.* at 3.

19.   To date, to the best of the Secretary's knowledge, DHS has not responded.

20.   By declining to provide citizenship status upon request—and by further stating it will refuse to provide access to databases like PCQS—DHS is violating its nondiscretionary statutory obligation to "respond to an inquiry" by a State agency "by providing the requested verification or status information." 8 U.S.C. § 1373(c).

6

21. As a result, Ohio and Secretary LaRose remain unable to verify citizenship and to respond to all requests by local officials to confirm citizenship status of specific individuals registered to vote, in compliance with federal law. 18 U.S.C. § 611.

22. By ignoring these requests for months, DHS has left Plaintiffs with no choice but to sue to obtain the information that Congress long ago mandated DHS to provide.

23. The Court should grant an injunction and/or writ of mandamus ordering Defendants (1) immediately to provide Plaintiffs access to the information to which they are entitled under 8 U.S.C. § 1373, and (2) to cease and refrain from interfering with the production of that information, *see* 8 U.S.C. § 1373(a).

JURISDICTION AND VENUE

24. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1346, 1361, 2201, and 2202, as well as 5 U.S.C. §§ 702, 705, and 706(1). The claims asserted herein arise under and are pursuant to 8 U.S.C. §§ 1373 and 1644.

25. Venue is proper in this District and Division pursuant to 28 U.S.C. § 1391(e)(1) because Ohio resides in every district within its borders, *see, e.g.*, *Holmseth v. Goddard*, No. 2:23-cv-11, 2023 WL 5519714, at *5 (E.D. Tenn. Aug. 25, 2023) (citing *California v. Azar*, 911 F.3d 558, 570 (9th Cir. 2018)), and there is no real property involved in the action.

THE PARTIES

26. Plaintiff the State of Ohio "indisputably has a compelling interest in preserving the integrity of its election process." *Brnovich*, 594 U.S. at 685 (internal quotations omitted). Ohio has both a sovereign duty and a federal statutory obligation to protect the franchise. *See* 52 U.S.C. § 21083(a)(1)–(5).

27. Plaintiff Frank LaRose is acting in his official capacity as the Ohio Secretary of State. He is "the chief election officer of the state, with such powers and duties relating to the registration of voters and the conduct of elections as are prescribed" in Ohio law. Ohio Rev. Code § 3501.04. Ohio law makes the Secretary of State responsible for "[c]ompel[ling] observance by election officers … of the requirements of the election laws." Ohio Rev. Code § 3501.05(M).

28. Defendant the U.S. Department of Homeland Security is the federal agency responsible for working with State and local governments to ensure the security and integrity of federal elections. *See, e.g.*, 8 U.S.C. §§ 1373, 1644; DHS, *Election Security*, https://perma.cc/MXQ8-RME2 (visited Oct. 10, 2024).

29. Defendant Alejandro Mayorkas is Secretary of the U.S. Department of Homeland Security, which is responsible for providing State and local governments with information to ensure the security and integrity of federal elections. *See, e.g.*, 8 U.S.C. §§ 1373, 1644; DHS, *Election Security*, *supra*. He is sued solely in his official capacity.

BACKGROUND

A. Federal Law Prohibits Non-Citizens from Voting in Federal Elections—and Mandates DHS to Respond to States' Inquiries Regarding Citizenship Status.

30.   It is "unlawful for any alien to vote in any [federal] election." 18 U.S.C. § 611(a). This means that lawful permanent residents and illegal aliens may not legally vote in federal elections. *E.g.*, U.S. Citizenship & Immigr. Servs. ("USCIS"), *Rights and Responsibilities of a Green Card Holder (Permanent Resident)*, https://perma.cc/7QVA-4HHL (visited Oct. 19, 2024).

31.   Congress created a mandatory duty for Defendants to respond to State requests for immigration and citizenship status. As explained above, 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." 8 U.S.C. § 1373(c); *see also* 8 U.S.C. § 1644.

32.   Congress went even further by dictating that "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, [DHS] information regarding the citizenship or immigration status, lawful or unlawful, of any individual." 8 U.S.C. § 1373(a).

B. Ohio Is Entitled to Access to Citizenship Information.

33.   On July 19, July 30, August 29, and September 11, 2024, Secretary LaRose invoked his statutory right to obtain access to citizenship information to

ensure the eligibility of Ohio registered voters. Exhibits 1, 2. On October 14, 2024, Ohio's Attorney General likewise sought access to such information on behalf of the State. *See* Exhibit 5.

34.   Plaintiffs thus seek access to "citizenship" information for "any purpose authorized by law," triggering Defendants' statutory obligations to "respond … by providing the requested verification or status information" and to avoid "in any way restrict[ing]" Plaintiffs' "recei[pt]" of "such information." 8 U.S.C. § 1373.

35.   DHS's October 10, 2024, letter refusing to do so is conclusive evidence that Defendants are violating—and intend to continue violating—their obligations under 8 U.S.C. § 1373.

36.   DHS claims that Ohio's access to the SAVE program is sufficient, Exhibit 4, but Ohio's letters have already explained that SAVE access rarely provides the information needed, Exhibits 1, 2, 5. SAVE was not designed to implement 8 U.S.C. § 1373's mandate that DHS provide State governments with requested citizenship information for any lawful purpose. 76 Fed. Reg. 58,525, 58,526 (Sept. 21, 2011). Rather, SAVE "is a fee-based intergovernmental initiative" that was "designed to assist benefit-granting Federal, state, tribal, and local government agencies [to] determine if non-U.S. citizen applicants are entitled to receive … public benefits." *Id.* at 58,526–27.

37.   Most importantly, SAVE requires a unique immigration identifier, such as an Alien Registration Number, but Plaintiffs rarely have access to these identifiers, which are not typically included on federal election voter registration

forms. USCIS, *About SAVE–Verification Process*, https://perma.cc/ATX6-4X2X (visited Oct. 17, 2024); DHS, *Tutorial: Introduction to SAVE, supra.*

38. SAVE does not allow searching based on name, date of birth, and the last four digits of a social security number, which are identifiers that the State is likely to possess.

39. The Ohio Secretary of State's office has also found that, even when a unique immigration identifier is available, SAVE is sometimes inconclusive because individuals' naturalization records are not always linked to the SAVE system.

40. These limitations leave Plaintiffs unable to confirm that certain individuals are actually citizens, as required by federal law to register to vote—inquiries that have arisen and are likely to continue arising as the election nears and in future elections.

41. At this time, there are individuals who have registered to vote in Ohio despite previously telling the Ohio Bureau of Motor Vehicles that they are not U.S. citizens, and whose citizenship status cannot be confirmed via the SAVE program.

42. To resolve these situations where a registered voter's citizenship can be neither proven nor disproven with available documentation, Ohio requested that DHS grant it access to PCQS, which can determine a person's citizenship by searching multiple USCIS information systems and databases using search terms like name, date of birth, and social security number—information that Ohio typically has for individuals whose citizenship status may be disputed for voter-registration purposes. *See* DHS, DHS/USCIS/PIA-010(a), *Privacy Impact Assessment Update for*

the Person Centric Query Service (Apr. 6, 2018), https://perma.cc/N6Z5-5D2Z; Exhibit

1, at 2. This request was eventually expanded to include access to the CIS2 and PCIS,

as well as any other system or data that can assist with verifying citizenship status.

43. But Defendants have refused access to PCQS, claiming it "is not an

option for state and local agencies to use for voter verification purposes" because it

"would require manual review of the results in each case to determine immigration

status, as the systems may return disparate or conflicting results." Exhibit 4.

44. The potential need for manual review, however, does not excuse DHS

from its unflagging statutory obligation to "respond" to Ohio's requests for

verification of individuals' "citizenship or immigration status … by providing the

requested verification." 8 U.S.C. § 1373(c).

45. Although Defendants have this nondiscretionary obligation to provide

Plaintiffs with citizenship information, Defendants have now formally refused to do

so. Exhibit 4.

CLAIMS

COUNT 1: AGENCY ACTION UNLAWFULLY WITHHELD OR UNREASONABLY DELAYED (VIOLATION OF 8 U.S.C. §§ 1373, 1644)

(Injunctive Relief)

46. Plaintiffs reallege each and every allegation above as if fully set forth

herein.

47. Congress has given this Court jurisdiction over federal questions under

28 U.S.C. § 1331, as well as agencies' refusal to act or unreasonable delay in acting

in accordance with law under 5 U.S.C. §§ 702, 705, and 706(1).

48.   This Court has authority to issue affirmative injunctions to "compel agency action unlawfully withheld or unreasonably delayed." 5 U.S.C. § 706(1).

49.   Defendant the Department of Homeland Security is a federal government agency. 5 U.S.C. § 701(b).

50.   Defendants have an unwavering statutory obligation under 8 U.S.C. §§ 1373 and 1644 to provide citizenship information, but they have formally refused to do so. That qualifies as agency action unlawfully withheld or unreasonably delayed.

51.   Plaintiffs satisfy the requirements for both a preliminary and a permanent injunction. The preliminary injunction standard asks: "(1) whether the movant has a 'strong' likelihood of success on the merits; (2) whether the movant would otherwise suffer irreparable injury; (3) whether issuance of a preliminary injunction would cause substantial harm to others; and (4) whether the public interest would be served by issuance of a preliminary injunction." *McPherson v. Mich. High Sch. Athletic Ass'n, Inc.*, 119 F.3d 453, 459 (6th Cir. 1997) (en banc) (internal quotations omitted). "The standard for a preliminary injunction is essentially the same as for a permanent injunction with the exception that the plaintiff must show a likelihood of success on the merits rather than actual success." *Amoco Prod. Co. v. Vill. of Gambell*, 480 U.S. 531, 546 n.12 (1987).

52.   On the first element, as explained above, Plaintiffs are certain to prevail on the merits of this claim, as Defendants have an unwavering statutory obligation to provide citizenship information, but they have formally refused to do so. Plaintiffs

thus meet the first element of the standards for both a permanent and preliminary injunction. The remaining elements are the same for both types of relief. *Id.*

53.   On the second element, Plaintiffs have a compelling interest in election integrity, and the prospect of non-citizens voting in the federal election presents an irreparable harm. *See Summit Cnty. Democratic Cent. & Exec. Comm. v. Blackwell*, 388 F.3d 547, 551 (6th Cir. 2004).

54.   That harm is also imminent because the upcoming federal election is less than two weeks away. Even after election day, this information is needed to verify that only citizens voted in the election and to generally ensure the integrity of Ohio's elections. Defendants' months-long delay has unfortunately—and unnecessarily— yielded this problem. If DHS had followed its statutory obligation or made clear months ago that it would refuse to do so, Plaintiffs would not have been placed in this untenable situation.

55.   When the federal government is the defendant, elements three and four merge. *Nken v. Holder*, 556 U.S. 418, 435 (2009). There is no harm to anyone— governmental or private—by compelling disclosure of citizenship statuses to Plaintiffs pursuant to a federal statutory obligation, and the public has a strong interest in seeing that the federal government follows the law. *Ala. Ass'n of Realtors v. Dep't of Health & Hum. Servs.*, 594 U.S. 758, 765–66 (2021).

COUNT 2: WRIT OF MANDAMUS (VIOLATION OF 8 U.S.C. §§ 1373, 1644)

56.   Plaintiffs reallege each and every allegation above as if fully set forth herein.

57.   "The district courts shall have original jurisdiction of any action in the nature of mandamus to 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. Given the mandatory and unwavering language of 8 U.S.C. §§ 1373 and 1644, as confirmed by Supreme Court precedent, Defendants owe "a duty to the [P]laintiff[s]" to respond to their requests "by providing the requested verification or status information." Defendants' failure to do so is unlawful, and this Court is expressly empowered to "compel" them to comply with their statutory obligations.

58.   Plaintiffs have also "exhausted all other avenues of relief," because DHS has refused to provide access to the information they seek, and no regime exists for appealing refusals or denials—presumably because Congress made pellucidly clear that Defendants have a nondiscretionary duty to comply with Plaintiffs' requests. *See Heckler v. Ringer*, 466 U.S. 602, 616 (1984). Further, USCIS controls access to PCQS. *See* DHS, *Privacy Impact Assessment Update, supra.* Plaintiffs are accordingly entitled to mandamus relief.

COUNT 3: AGENCY ACTION NOT IN ACCORDANCE WITH LAW AND IN EXCESS OF AUTHORITY

59.   Plaintiffs reallege each and every allegation above as if fully set forth herein.

60.   Under the Administrative Procedure Act, a court shall hold unlawful and set aside 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).

61.   Defendants' decision to use only the SAVE program to respond to inquiries under 8 U.S.C. §§ 1373(c) and 1644—even though they possess additional information not available through that program—is contrary to their statutory obligations.

62.   Section 1373(c) requires Defendants to "*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 … *by providing the requested verification or status information.*" 8 U.S.C. § 1373(c) (emphases added); *see also id.* § 1373(a) (forbidding federal entities and officials to "prohibit, or in any way restrict" States from "receiving" "information regarding the citizenship … status … of any individual"); *id.* § 1644 (prohibiting any restrictions on communication between State/local governments and DHS regarding immigration status of aliens).

63.   These requirements apply to Plaintiffs' requests to verify immigration or citizenship status of a person even when they cannot verify through the SAVE program, and even when using the PCQS program or other systems discussed above would require manual verifications or other work.

64.   Defendants' decision to limit their responses to inquiries that can be made via the SAVE program violates 8 U.S.C. § 1373(c) and is therefore "not in accordance with law," 5 U.S.C. § 706(2)(A).

16

COUNT 4: DECLARATORY JUDGMENT

65.   Plaintiffs reallege each and every allegation above as if fully set forth herein.

66.   Under the Declaratory Judgment Act, a 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).

67.   Section 1373(c) 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." 8 U.S.C. § 1373(c); *see also id.* § 1644.

68.   When a State office requests verification of an individual's citizenship or immigration status because it cannot conduct a SAVE inquiry or a SAVE inquiry is inconclusive, Defendants owe a nondiscretionary duty under 8 U.S.C. § 1373(c) to "respond" to that inquiry "by providing the requested verification or status information" in some other way. There is no exception just because the response may require Defendants to provide access to a different search tool or because it would require additional confirmation steps.

69.   Plaintiffs are entitled to a declaration that Defendants have violated their statutory obligations and that Defendants must "respond" to Plaintiffs' inquiries "by providing the requested verification or status information." 8 U.S.C. § 1373(c); *see id.* § 1644.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request that this Court provide the following relief:

A. An order holding unlawful Defendants' failure to provide Plaintiffs with access to confirm the citizenship of individuals for a purpose authorized by law, 8 U.S.C. § 1373(c); *id.* § 1644;

B. A declaration that Plaintiffs are entitled to a response to their inquiries under 8 U.S.C. § 1373(c); *id.* § 1644;

C. Preliminary and permanent injunctive relief compelling Defendants immediately and continuingly to provide citizenship status of Ohio voters requested by Plaintiffs, including if needed by providing access to PCQS, CIS2, and/or PCIS;

D. A writ of mandamus compelling Defendants immediately to provide citizenship status of Ohio voters requested by Plaintiffs, including if needed by providing access to PCQS, CIS2, and/or PCIS;

E. An award of costs, attorneys' fees, and other expenses, including pursuant to 28 U.S.C. § 2412(d)(1)(A) because Defendants were not substantially justified in refusing to comply with their nondiscretionary statutory duty; and

F. Any other relief as the Court deems just and proper.

Dated: October 24, 2024

Respectfully submitted,

/s/ R. Trent McCotter
R. TRENT MCCOTTER (*pro hac vice* forthcoming)

/s/ Nicholas A. Cordova
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Exhibit 1

Frank LaRose
Ohio Secretary of State

Exhibit 1

July 19, 2024

The Honorable Alejandro Mayorkas
Department of Homeland Security
245 Murray Lane, SW
Mail Stop 0485
Washington, DC 20528-0485

Re: Request for citizenship verification of registered voters.

Dear Secretary Mayorkas:

As Ohio Secretary of State, I am charged with enforcing Ohio's election laws, which include ensuring every citizen has the right and opportunity to vote. This charge entails maintaining accurate legal voter rolls, which requires access to information that is currently only at the disposal of the Department of Homeland Security (DHS). Congress provided a means to accomplish these safeguards by compelling DHS to comply with state requests to verify voter registration information. I am now exercising that right. Accordingly, I formally request that DHS verify the citizenship status of Ohio registered voters. This information is paramount to ensuring the integrity of this November's election.

The privilege of participating in U.S. elections is reserved for U.S. citizens. Federal law prohibits noncitizens from registering to vote or voting in federal elections and imposes criminal sanctions for violators.[1] Ohio, accordingly, affords the right to register to vote and vote to qualified U.S. citizens through state legislation and, as of 2022, a constitutional amendment ratified by popular vote.[2]

Ohio "indisputably has a compelling interest in preserving the integrity of its election process."[3] That sovereign duty is reinforced by statutory obligation. Both federal and state law provide election mechanisms to enforce the citizenship requirement. Federal law prohibits states from processing noncitizen ballots or from accepting any voter registration application for federal elections without proof of government identification.[4] States also must maintain a voter database to enable State officials to verify the accuracy of voter registrations and ensure only eligible electors are permitted to cast ballots.[5]

Ohio, in turn, has created the requisite election infrastructure to protect the integrity of elections in the State and fulfill its statutory obligations. As a result, our state is widely recognized for its

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[1] 18 U.S.C. §611(a)–(c).
[2] Ohio Const. art. V, §1; Ohio Rev. Code §3503.07.
[3] *Brnovich v. Democratic Nat'l Comm.*, 594 U.S. 647, 685 (2021)
[4] 52 U.S.C. §21083(a)(5)(A).
[5] *Id.* §21083(a)(1)–(4).

leadership on secure and transparent elections. Ohioans seeking to participate in elections must show government identification to both register and cast their ballot.[6] Ohio also maintains a statewide voter registration database, reviewed annually to identify any noncitizens on the list.[7] However, my office needs access to federal data to ensure the accuracy of its voter registration database and to fully comply with our federal obligations.

Congress anticipated this need and provided the tools to satisfy federal election safeguards. Your department is required to coordinate with my office to verify voter registration information. This federal-state cooperation is mandatory—not optional. Federal law obligates DHS to provide States with data for voter verification upon request.

DHS is charged with carrying out functions formerly vested in the Immigration and Naturalization Service[8] and ordered to respond to State inquiries regarding citizenship status. Specifically, 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.[9]

Federal law makes clear that States are authorized to receive DHS information regarding the status of noncitizens, and that no contrary rule may restrict that guaranteed access.

> Notwithstanding any other provision of Federal, State, or local law, no State or local government entity may be prohibited, or in any way restricted, from sending to or receiving from the Immigration and Naturalization Service information regarding the immigration status, lawful or unlawful, of an alien in the United States.[10]

While DHS has provided access to the Systematic Alien Verification for Entitlements (SAVE) Program, there are several technical obstacles that stand in the way of effective use of that information. The program requires the use of a DHS identifier to perform a search – like an Alien Registration Number or other immigration associated number. This information is not readily available to our office. Furthermore, SAVE does not process social security or driver's license numbers, which are the ID numbers provided for voter registration purposes. Furthermore, the fees associated with the use of SAVE provide a barrier to citizenship information in the federal government's control. Accordingly, SAVE does not provide access to all the information required to verify the citizenship of registered voters.

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[6] Ohio Rev. Code §§3503.14(A), 3503.19(C), 3509.06(D)(3a)(v), 3505.181(A)(7).
[7] *Id.* §§3503.151, 3503.152.
[8] 6 U.S.C. §202(3).
[9] 8 U.S.C. §1373(c) (emphasis added).
[10] *Id.* §1644.

Your department already can verify an individual's citizenship without a numeric identifier. The Person Centric Query System (PCQS) database maintained by DHS provides a way to quickly identify citizenship status using only a name and date of birth. That means not only do you have the legal obligation to provide this information, but you also have the means to do so.

Pursuant to this authorization, I request that you provide verification of Ohio registered voters in advance of the November 2024 election. I trust you appreciate the significance of our need for timely access to this information so that we can carry out our unequivocal legal obligations. I ask that you promptly indicate your intention to comply with this request or any objection to it by July 26, 2024, given the imminence of the integrity of the upcoming election. Thank you for your prompt attention to this matter. My office stands by to discuss this request in more detail, as needed.

Yours in service,

Frank LaRose
Ohio Secretary of State

Exhibit 2

Outlook

Exhibit 2

RE: [EXTERNAL] RE: Letter from the Ohio Secretary of State to Homeland Security Secretary Mayorkas

From Burns, Kimberly ███████

Date Wed 9/11/2024 11:06 AM

To KNOTT, CURSTEN ██████████████ ; MARX, JACOB ███████████ Collins-Mandeville, Aimee ████████████████ for

Cc Obhof, Larry ████████ ; Shaffer, Grant ███████████ McClelland, Angelika ███████ Shehy, Stephan ████████

📎 1 attachments (348 KB)

Letter to DHS Secretary Mayorkas.pdf;

Dear Secretary Mayorkas –

I am following up on four prior requests for assistance from the Department of Homeland Security with verifying the citizenship status of registered Ohio voters through the Person Centric Query System (PCQS), Central Index System 2 (CIS2) and the Person Centric Identity Services (PCIS). Those prior requests are attached below.

As of today, we have not received a response to these requests from either you or your office. On behalf of the Ohio Secretary of State, we are once again requesting your assistance in ensuring access to information needed to verify the citizenship status of Ohio registered voters. Additionally, we are sharing this request with members of the Ohio Congressional delegation.

As we have explained in our prior requests for assistance, the Ohio Secretary of State has a statutory duty to enforce Ohio's election laws. This includes a number of responsibilities, such as ensuring the accurate registration of eligible voters, the removal of non-eligible registrations, the administration of voter identification requirements, and the application of election integrity protocols. As such, we want to do everything possible to ensure a seamless voting process for all eligible, lawfully registered citizens, especially those whose citizenship status might have recently changed. The continued failure of your office to even acknowledge such correspondence demonstrates a denial of access to the required records. Please be advised that we will request Ohio's Attorney General consider legal recourse, if necessary, to ensure access to this important information.

We respectfully ask that you respond by Friday, September 13, 2024. We look forward to hearing from you.

Kimberly Burns

logo for the Office of Frank LaRose Ohio Secretary of State

Kimberly A. Burns | Chief Operating Officer and Assistant Secretary of State
Office of the Ohio Secretary of State

OhioSoS.gov

From: KNOTT, CURSTEN
Sent: Wednesday, September 11, 2024 10:27 AM
To: Burns, Kimberly <   MARX, JACOB
Collins-Mandeville, Aimee
Cc: Obhof, Larry <   Shaffer, Grant
McClelland, Angelika   Shehy, Stephan

Subject: [EXTERNAL] RE: Letter from the Ohio Secretary of State to Homeland Security Secretary Mayorkas

****Secretary of State Security Notice****
This e-mail is from an external source. Think before you click links or open attachments.

Ms. Burns,

The July 19, 2024, correspondence from the Honorable Frank LaRose was forwarded as a courtesy to the DHS Office of the Executive Secretary for response.

The DHS Office of Legislative Affairs serves as primary liaison to Members of Congress and their congressional staff and is responsible for responding to inquiries from Congress.

The DHS Office of Intergovernmental Affairs serves as the primary liaison for state, local, tribal, and territorial (SLTT) governments. Correspondence from Governors, State Homeland Security Advisors (HSAs), state agencies, Mayors, Deputy Mayors, local emergency managers, City Councilors, County Commissioners, and other local officials should be sent to ████████████████████ the most direct and timely response.

Respectfully,

CK

Mr. Cursten L. Knott
(A) Deputy Assistant Secretary - House
Office of Legislative Affairs
U. S. Department of Homeland Security
████████████ █ ████████

From: Burns, Kimberly ████████████████
Sent: Wednesday, September 11, 2024 9:54 AM
To: MARX, JACOB ████████████████████ Pal, Shiek ████████████████; KNOTT, CURSTEN ████████████████ Collins-Mandeville, Aimee ████████████
Cc: Obhof, Larry ████████ Shaffer, Grant ████████████ McClelland, Angelika ████████████████ Shehy, Stephan ████████████
Subject: RE: Letter from the Ohio Secretary of State to Homeland Security Secretary Mayorkas

> **CAUTION:** This email originated from outside of DHS. DO NOT click links or open attachments unless you recognize and/or trust the sender. Contact your component SOC with questions or concerns.

Dear Secretary Mayorkas –

I am following up on three prior requests for assistance from the Department of Homeland Security with verifying the citizenship status of registered Ohio voters through the Person Centric Query System (PCQS), Central Index System 2 (CIS2) and the Person Centric Identity Services (PCIS). Those prior requests are attached below.

As of today, we have not received a response to these requests from either you or your office. On behalf of the Ohio Secretary of State, we are once again requesting your assistance in ensuring access to information needed to verify the citizenship status of Ohio registered voters. Additionally, we are sharing this request with members of the Ohio Congressional delegation.

As we have explained in our prior requests for assistance, the Ohio Secretary of State has a statutory duty to enforce Ohio's election laws. This includes a number of responsibilities, such as ensuring the accurate registration of eligible voters, the removal of non-eligible registrations, the administration of voter identification requirements, and the application of election integrity protocols. As such, we want to do everything possible to ensure a seamless voting process for all eligible, lawfully registered citizens, especially those whose citizenship status might have recently changed. The continued failure of your office to even acknowledge such correspondence demonstrates a denial of access to the required records. Please be advised that we will request Ohio's Attorney General consider legal recourse, if necessary, to ensure access to this important information.

We respectfully ask that you respond by Friday, September 13, 2024. We look forward to hearing from you.

Kimberly Burns

logo for the Office of Frank LaRose Ohio Secretary of State

Kimberly A. Burns | Chief Operating Officer and Assistant Secretary of State
Office of the Ohio Secretary of State

O:

OhioSoS.gov

From: Burns, Kimberly
Sent: Thursday, August 29, 2024 4:03 PM
To: @hq.dhs.gov; @hq.DHS.gov; @hq.DHS.gov; @hq.DHS.gov
Cc: Obhof, Larry < ; Shaffer, Grant McClelland, Angelika
Subject: RE: Letter from the Ohio Secretary of State to Homeland Security Secretary Mayorkas

Dear Secretary Mayorkas –

I once again am following up on our office's prior request for assistance from the Department of Homeland Security with verifying the citizenship status of registered Ohio voters through the Person Centric Query System (PCQS). Our extremely urgent request remains unanswered by your department. I also expand the original request to include access to the Central Index System 2 (CIS2) and the Person Centric Identity Services (PCIS), as well as any other system or data that can assist our office with this important work.

Once again, this request is urgent, as we are attempting to clarify the status of these voters and therefore mitigate any obstacles to voting for lawfully registered Ohio electors who plan to participate in the upcoming presidential election.

The Ohio Secretary of State has a statutory duty to enforce Ohio's election laws, including the accurate registration of eligible voters, the removal of non-eligible registrations, the administration of voter identification requirements, and the application of election integrity protocols. As such, we want to do everything possible to ensure a seamless voting process for all eligible, lawfully registered citizens, especially those whose citizenship status might have recently changed.

The Ohio Constitution expressly states that only citizens of the United States may vote in Ohio's elections. The PCQS database is the only known resource available that can assist our office with quickly verifying citizenship or immigration status as part of our duty to administer the upcoming November general election. Therefore, I am restating our prior request for access to this database and requesting the additional access to CIS2 and PCIS.

Thank you for your assistance with helping the eligible citizens of Ohio participate in our democratic process.

From: Burns, Kimberly
Sent: Tuesday, July 30, 2024 2:28 PM
To: ▇▇▇▇▇▇ @hq.dhs.gov; ▇▇▇▇▇▇ @hq.DHS.gov; ▇▇▇▇▇▇ @hq.DHS.gov; ▇▇▇▇▇▇▇▇▇ @hq.DHS.gov
Subject: RE: Letter from the Ohio Secretary of State to Homeland Security Secretary Mayorkas

Dear Secretary Mayorkas –

I am following up on our office's prior request for assistance from the Department of Homeland Security with verifying the citizenship status of registered Ohio voters through the Person Centric Query System (PCQS).

This request is urgent, as we are attempting to clarify the status of these voters and therefore mitigate any obstacles to voting for lawfully registered Ohio electors who plan to participate in the upcoming presidential election.

The Ohio Secretary of State has a statutory duty to enforce Ohio's election laws, including the accurate registration of eligible voters, the removal of non-eligible registrations, the administration of voter identification requirements, and the application of election integrity protocols. As such, we want to do everything possible to ensure a seamless voting process for all eligible, lawfully registered citizens, especially those whose citizenship status might have recently changed.

The Ohio Constitution expressly states that only citizens of the United States may vote in Ohio's elections. The PCQS database is the only known resource available that can assist our office with quickly verifying citizenship or immigration status as part of our duty to administer the upcoming November general election. Therefore, I am restating our prior request for access to this database.

Thank you for your assistance with helping the eligible citizens of Ohio participate in our democratic process.

logo for the Office of Frank LaRose Ohio Secretary of State

Kimberly A. Burns | Chief Operating Officer and Assistant Secretary of State
Office of the Ohio Secretary of State

OhioSoS.gov

From: Burns, Kimberly
Sent: Friday, July 19, 2024 4:18 PM
To: ██████████@hq.dhs.gov; ████████l@hq.DHS.gov; ██████████@hq.DHS.gov; ████████@hq.DHS.gov
Subject: Letter from the Ohio Secretary of State to Homeland Security Secretary Mayorkas

Dear Homeland Security Partners —

Attached please find a letter from Ohio Secretary of State LaRose to Homeland Security Secretary Alejandro Mayorkas requesting that the Department of Homeland Security verify the citizenship status of Ohio registered voters prior to the November General Election. An original letter is being sent via mail. We look forward to working with the Department of Homeland Security to ensure a secure and successful election.

Thank you,

Kim

logo for the Office of Frank
LaRose Ohio Secretary of State

**Kimberly A. Burns | Chief Operating Officer
and Assistant Secretary of State**
Office of the Ohio Secretary of State

OhioSoS.gov

Exhibit 3

ONE HUNDRED EIGHTEENTH CONGRESS

Congress of the United States
House of Representatives
COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515–6216

(202) 225–6906
judiciary.house.gov

Exhibit 3

September 27, 2024

The Honorable Alejandro Mayorkas
Secretary
U.S. Department of Homeland Security
3017 7th St. S.W.
Washington, DC 20528

Dear Secretary Mayorkas:

The Committee on the Judiciary is continuing its oversight of the Biden Administration's compliance with federal immigration law. On July 19, 2024, pursuant to federal law, Ohio Secretary of State Frank LaRose requested access to federal citizenship verification records to verify the citizenship status of registered Ohio voters.[1] In total, Secretary LaRose has "sent four appeals to [you] asking the Biden-Harris administration to grant access to additional [Department of Homeland Security (DHS)] databases, specifically the Person Centric Query Service (PCQS) database, the Person Centric Identity Services (PCIS) database, and the Central Index System 2."[2] To date, you have ignored these requests.[3] Especially in light of the open-border policies of the Biden-Harris Administration, we write to request information about DHS's failure to comply with the Ohio Secretary of State's requests for federal citizenship information.

As Ohio's chief election officer, Secretary LaRose has the statutory duty to enforce Ohio's election laws, including adopting the rules for the removal of ineligible voters from statewide voter rolls and ensuring the integrity of Ohio elections.[4] Accordingly, Secretary LaRose's statutory obligations require that he maintain a seamless and secure voting process for all lawfully registered citizens in Ohio.

Federal law requires DHS to respond to Secretary LaRose's inquiry. Specifically, 8 U.S.C. § 1373 states 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

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[1] *See* Letter from Hon. Frank LaRose, Ohio Sec'y of State, to Hon. Alejandro Mayorkas, Sec'y, U.S. Dep't of Homeland Sec. (July 19, 2024) [hereinafter "LaRose Letter"].

[2] Press Release, Ohio Secretary of Sate Frank LaRose, Secretary LaRose Urges Congress to Support Ongoing Citizenship Audits of State Voter Rolls (Sept. 11, 2024).

[3] *Id.*

[4] *See generally* Ohio Rev. Code § 3501.05 (delineating Ohio Secretary of State's duties and powers). *See also* LaRose Letter, *supra* note 1, at 1.

The Honorable Alejandro Mayorkas
September 27, 2024
Page 2

individual within the jurisdiction of the agency for any purpose authorized by law, by providing the requested verification or status information."[5] To this end, the statute is crystal clear that "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, [DHS] information regarding the citizenship or immigration status, lawful or unlawful, of any individual."[6] Given Secretary LaRose's state and federal statutory responsibilities to guarantee that only lawfully registered citizens vote in Ohio federal elections, his request for access to DHS's citizenship verification databases is a "purpose authorized by law,"[7] and you must grant it accordingly.

The Biden-Harris border crisis has allowed an unprecedented number of illegal aliens into the country,[8] including at least 99 on the terrorist watchlist.[9] Federal law is clear that only eligible U.S. citizens may vote in federal elections.[10] Accordingly, to assist the Committee with our continued oversight of federal immigration policy and procedures, we ask that you provide answers to the following questions:

1. Why have you failed to respond to Secretary LaRose's four requests for access to DHS's citizenship verification databases?

2. When will you respond to Secretary LaRose's requests for this access?

3. Will you permit Secretary LaRose access to the requested databases at least 30 days prior to the November 5, 2024, presidential election, as required by law?

In addition, please provide the following documents for the period January 1, 2024, to the present:

1. All documents and communications between or among DHS employees referring or relating to a request from a secretary of state, including but not limited to Secretary LaRose, for federal citizenship information; and

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[5] 8 U.S.C. § 1373(c).

[6] § 1373(a).

[7] § 1373(c).

[8] STAFF OF H. COMM. ON THE JUDICIARY AND SUBCOMM. ON IMMIGR., SEC., AND ENF'T, 118TH CONG., THE CONSEQUENCES OF THE BIDEN-HARRIS ADMINISTRATION'S OPEN-BORDER POLICIES: THE CASE OF THE ILLEGAL ALIEN WHO BRUTALLY ASSAULTED A DEVELOPMENTALLY DISABLED WOMAN 2 (2024) ("In less than four years, the Biden-Harris Administration has released into the United States more than 5.6 million illegal aliens, with another 1.9 million illegal alien 'gotaways' escaping into the country during the same time.").

[9] STAFF OF H. COMM. ON THE JUDICIARY AND SUBCOMM. ON IMMIGR., SEC., AND ENF'T, 118TH CONG., TERROR AT OUR DOOR: HOW THE BIDEN-HARRIS ADMINISTRATION'S OPEN-BORDERS POLICIES UNDERMINE NATIONAL SECURITY AND ENDANGER AMERICANS 8 (2024) ("Under the Biden-Harris Administration, of the more than 250 illegal aliens on the terrorist watchlist who were encountered at the border just between fiscal years 2021 and 2023, DHS has released into American communities at least 99, with at least 34 others in DHS custody but not yet removed from the United States.").

[10] *See, e.g.,* National Voter Registration Act, P.L. 103-31, 107 Stat. 77 (1993) (requiring voter registration forms to obtain information on registrant's eligibility, including citizenship). *See also* 18 U.S.C. § 611 (criminal statute subjecting aliens who vote in federal elections to up to one year in prison or a fine).

The Honorable Alejandro Mayorkas
September 27, 2024
Page 3

2. All documents and communications between or among DHS employees, Executive Office of the President employees, Office of the Vice President employees, or other executive branch employees referring or relating to a request from a secretary of state, including but not limited to Secretary LaRose, for federal citizenship information.

Please provide this information as soon as possible but no later than 5:00 p.m. on October 11, 2024. Pursuant to the Rules of the House of Representatives, the Committee on the Judiciary is authorized to conduct oversight of federal immigration policy and procedures.[11] If you have any questions, please contact Committee staff at (202) 225-6906.

Thank you for your prompt attention to this matter.

Sincerely,

Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

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[11] Rules of the U.S. House of Representatives, R. X (2023).

Exhibit 4

Exhibit 4

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of the Director
Camp Springs, MD 20588-0009

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

October 10, 2024

Frank La Rose
Ohio Secretary of State
180 Civic Center Dr.
Columbus, OH 43215

Dear Secretary LaRose:

Thank you for your July 19, 2024, letter to Secretary Mayorkas requesting a process to check Ohio's voter registration against USCIS's data and systems. I am responding on his behalf. My staff has discussed with your team that the Systematic Alien Verification for Entitlements (SAVE) program is the most secure and efficient way to reliably verify an individual's citizenship or immigration status, including for verification regarding voter registration and/or voter list maintenance.

In June 2024, your office expressed interest in entering into an agreement to use the SAVE program. That agreement was finalized on July 2, 2024, and your office has been using the SAVE program for voter registration purposes since then.

Federal law prohibits non-U.S. citizens from registering and voting in Federal elections; violators are removable and face up to five years in prison.[1] The evidence is clear that these laws are working as intended—it is extremely uncommon for noncitizens to vote in Federal elections.

As you know, SAVE is a Congressionally-mandated online service implemented broadly in 1986 to help state and local agencies determine certain point-in-time immigration and citizenship information on individuals seeking benefits and licenses. Several agencies in the State of Ohio currently participate in the SAVE program to verify immigration status for 12 different benefits.[2]

Since 2009, SAVE has been used by elections authorities in states for voter registration and/or voter list maintenance. Ohio is one of ten states that have registered to use SAVE for these purposes.[3] The process has been the same since the program's inception. By inputting an

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[1] 18 U.S.C. §§ 611, 1015; 8 U.S.C. §§ 1182(a)(6)(C)(ii), 1227(a)(3)(D), 1227(a)(6).

[2] This information is available to the public at https://www.uscis.gov/save/agency-search-tool

[3] In addition to Ohio, Arizona, Colorado, Florida, Georgia, Idaho, Mississippi, South Carolina, Tennessee, and Virginia use SAVE for voter registration and/or voter maintenance purposes.

Secretary Frank LaRose
Page 2

individual's name, unique DHS-issued immigration identifier,[4] and birthdate, registered agencies can determine whether that person obtained U.S. citizenship through the naturalization process or, for certain other individuals born abroad, whether USCIS has information confirming their U.S. citizenship. Each registered agency determines the best process to obtain the required identifiers.

Given the very serious consequences of the results produced by SAVE and its import in ensuring the right to vote for U.S. citizens, USCIS takes this process very seriously and has confidence in the SAVE program.

We currently cannot offer an alternative process to any state. The process you referenced—using the Person Centric Query Service (PCQS) to perform voter verification—does not return a definitive answer on immigration status and thus is not an appropriate use for voter registration and/or list maintenance purposes.[5]

We appreciate your feedback and will review whether there are possible changes to our process and technology that might improve the convenience of using our systems. Likewise, we will continue to engage with and develop resources that educate elections authorities in states with an interest in using SAVE for voter registration and/or voter list maintenance.

Your letter also mentioned the fees associated with the use of SAVE as a barrier to obtaining information. Unlike most other federal agencies, USCIS is almost entirely fee funded; only about 4% of its overall funding is from congressional appropriations. The transaction cost is necessary to support program costs as required by law and Federal agency guidance.

Thank you again for your letter and interest in this issue. Should you or your staff have any other questions, please feel free to contact my staff.

Sincerely,

Ur M. Jaddou
Director

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[4] *I.e.*, USCIS/Alien Registration Number; Form I-94 Arrival/Departure Record Number; Student and Exchange Visitor Information System (SEVIS) ID Number; Naturalization/Citizenship Certificate Number; or Card Number/I-797 Receipt Number.

[5] PCQS returns aggregated results across many different immigration systems and can only perform one query at a time. Using PCQS would require manual review of the results in each case to determine immigration status, as the systems may return disparate or conflicting results. As such, PCQS is not an option for state and local agencies to use for voter verification purposes.

Exhibit 5

Exhibit 5

DAVE YOST
OHIO ATTORNEY GENERAL

SOUTH CAROLINA
ATTORNEY GENERAL'S OFFICE

Administration
Office 614-466-8980
Fax 614-466-5087

October 14, 2024

Alejandro Mayorkas
Department of Homeland Security
245 Murray Lane, SW
Mail Stop 0485
Washington, DC 20528-0485

  Re: Request for verification of voter registration information.

Dear Secretary Mayorkas:

The 16 undersigned state attorneys general write to raise grave concerns that by failing to work with States to verify voter registration information, your office has failed to discharge its duty ahead of a national election. Americans may differ about the best result in the upcoming election, but we trust that all Americans of goodwill should agree that the right to vote in American elections belongs to American citizens alone. Federal law endows citizens with the exclusive right to say who governs them.[1] And it likewise obligates your office to coordinate with the States to protect the franchise by verifying the immigration status of any registered voter upon request.

The States "indisputably ha[ve] a compelling interest in preserving the integrity of [their] election process[es]."[2] Not only do the States have a sovereign duty to protect the franchise: they are statutorily obligated to

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[1] Federal law prohibits noncitizens from registering to vote or voting in federal elections and imposes criminal sanctions for violators. 18 U.S.C. §611(a)–(c).

[2] *Brnovich v. Democratic Nat'l Comm.*, 594 U.S. 647, 685 (2021).

1

do so. Federal law prohibits States from processing noncitizen ballots or from accepting any voter registration application for federal elections without proof of government identification.[3] States also must maintain a voter registration database and ensure that only citizens with valid government identification serve as electors.[4]

The States, in turn, need access to federal databases to ensure accuracy and comprehensiveness in their voter registration databases and to fully comply with their federal obligations. Congress anticipated this need and provided the tools with which States may satisfy federal election safeguards. To that end, the Department of Homeland Security is required to coordinate with States to verify voter registration information upon request. This federal-state cooperation is mandatory—not optional. Specifically, 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.[5]

Congress has made clear that States are authorized to receive DHS information regarding the status of noncitizens and that no contrary rule may restrict that guaranteed access.[6]

Despite your federal obligation, your office has provided delayed and inadequate responses to requests by several of the undersigned States for assistance in verifying voter registration information.[7] We are deeply troubled by DHS's refusal to grant access to its Person Centric Query Service (PCQS) database based on its unsubstantiated claim that the information is not "appropriate" to verify voter registrants.[8] DHS's

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[3] 52 U.S.C. §21083(a)(5)(A).

[4] *Id.* §21083(a)(1)–(4).

[5] 8 U.S.C. §1373(c) (emphasis added).

[6] *Id.* §1644.

[7] *See* Letter from Ohio Sec'y of State to Sec'y Mayorkas (July 19, 2024); Letter from South Carolina Election Comm'n Exec. Dir. to Dir. Meckley (Aug. 1, 2024).

[8] *See* Letter from Dir. Jaddou to S.C. Election Comm'n Executive Dir. (Oct. 10, 2024).

statutory mandate to provide information to the States does not depend on DHS's view on how useful that information may be.

Contrary to DHS's assertion, State access to the Systematic Alien Verification for Entitlements (SAVE) Program alone is insufficient. SAVE requires use of a DHS identifier to perform a search—information not readily available to our offices—and does not process social security or driver's license numbers, the identification numbers provided to States for voter registration purposes. Further, the fees associated with use of SAVE pose a barrier to accessing citizenship information that is in the federal government's control. Your department can verify an individual's citizenship without a numeric identifier. The PCQS database that DHS maintains provides a way to quickly identify citizenship status using only a name and date of birth. That means you not only have the legal obligation to provide citizenship verification upon request; you also have the means to do so.

DHS's cooperation in responding to the States' requests and providing the citizenship information is essential to State efforts to ensure a fair election this November. It is also information that the States are entitled by statute to receive.
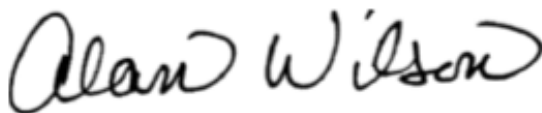
We urge you to faithfully execute your duty to verify voter registration information to the States immediately, given the imminence of the upcoming election. At a minimum, we ask that you provide us with your plan to provide an adequate response to the States' outstanding requests for verification of flagged, individual voter registrants and any future, similar requests within **three (3) business days of receipt of this letter**.

The privilege of participating in U.S. elections belongs to U.S. citizens alone, and the election looms closer by the day while early voting has already begun in Ohio and many other states. Your office is required to aid in protecting that right, not obstruct State efforts to comply with federal law and ensure election integrity.

Yours,

Dave Yost
Ohio Attorney General

Alan Wilson
South Carolina Attorney General

Tim Griffin
Arkansas Attorney General

Ashley Moody
Florida Attorney General
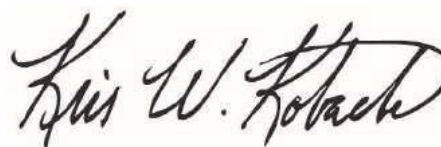
Chris Carr
Georgia Attorney General

Todd Rokita
Indiana Attorney General

Brenna Bird
Iowa Attorney General

Kris Kobach
Kansas Attorney General

Austin Knudsen
Montana Attorney General

Mike Hilgers
Nebraska Attorney General

4

Gentner Drummond
Oklahoma Attorney General

Marty Jackley
South Dakota Attorney General

Ken Paxton
Texas Attorney General

Sean D. Reyes
Utah Attorney General

Patrick Morrisey
West Virginia Attorney General

Bridget Hill
Wyoming Attorney General

5

JS 44 (Rev. 03/24)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS

State of Ohio; Ohio Secretary of State, Frank LaRose

DEFENDANTS

US Dept Homeland Security; DHS Secretary Alejandro Mayorkas

(b) County of Residence of First Listed Plaintiff __All Counties in Ohio__
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
R. Trent McCotter, Nicholas A. Cordova, Boyden Gray PLLC, 800 Connecticut Ave NW #900, Washington, DC 20006, 202-955-0620

Attorneys *(If Known)*

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- [ ] 1 U.S. Government Plaintiff
- [ ] 3 Federal Question *(U.S. Government Not a Party)*
- [x] 2 U.S. Government Defendant
- [ ] 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	[ ] 1	[ ] 1	Incorporated *or* Principal Place of Business In This State	[ ] 4	[ ] 4
Citizen of Another State	[ ] 2	[ ] 2	Incorporated *and* Principal Place of Business In Another State	[ ] 5	[ ] 5
Citizen or Subject of a Foreign Country	[ ] 3	[ ] 3	Foreign Nation	[ ] 6	[ ] 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

Click here for: [Nature of Suit Code Descriptions](#).

CONTRACT
- [ ] 110 Insurance
- [ ] 120 Marine
- [ ] 130 Miller Act
- [ ] 140 Negotiable Instrument
- [ ] 150 Recovery of Overpayment & Enforcement of Judgment
- [ ] 151 Medicare Act
- [ ] 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- [ ] 153 Recovery of Overpayment of Veteran's Benefits
- [ ] 160 Stockholders' Suits
- [ ] 190 Other Contract
- [ ] 195 Contract Product Liability
- [ ] 196 Franchise

REAL PROPERTY
- [ ] 210 Land Condemnation
- [ ] 220 Foreclosure
- [ ] 230 Rent Lease & Ejectment
- [ ] 240 Torts to Land
- [ ] 245 Tort Product Liability
- [ ] 290 All Other Real Property

TORTS
PERSONAL INJURY
- [ ] 310 Airplane
- [ ] 315 Airplane Product Liability
- [ ] 320 Assault, Libel & Slander
- [ ] 330 Federal Employers' Liability
- [ ] 340 Marine
- [ ] 345 Marine Product Liability
- [ ] 350 Motor Vehicle
- [ ] 355 Motor Vehicle Product Liability
- [ ] 360 Other Personal Injury
- [ ] 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- [ ] 365 Personal Injury - Product Liability
- [ ] 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- [ ] 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- [ ] 370 Other Fraud
- [ ] 371 Truth in Lending
- [ ] 380 Other Personal Property Damage
- [ ] 385 Property Damage Product Liability

CIVIL RIGHTS
- [ ] 440 Other Civil Rights
- [ ] 441 Voting
- [ ] 442 Employment
- [ ] 443 Housing/ Accommodations
- [ ] 445 Amer. w/Disabilities - Employment
- [ ] 446 Amer. w/Disabilities - Other
- [ ] 448 Education

PRISONER PETITIONS
Habeas Corpus:
- [ ] 463 Alien Detainee
- [ ] 510 Motions to Vacate Sentence
- [ ] 530 General
- [ ] 535 Death Penalty
Other:
- [ ] 540 Mandamus & Other
- [ ] 550 Civil Rights
- [ ] 555 Prison Condition
- [ ] 560 Civil Detainee - Conditions of Confinement

FORFEITURE/PENALTY
- [ ] 625 Drug Related Seizure of Property 21 USC 881
- [ ] 690 Other

LABOR
- [ ] 710 Fair Labor Standards Act
- [ ] 720 Labor/Management Relations
- [ ] 740 Railway Labor Act
- [ ] 751 Family and Medical Leave Act
- [ ] 790 Other Labor Litigation
- [ ] 791 Employee Retirement Income Security Act

IMMIGRATION
- [ ] 462 Naturalization Application
- [ ] 465 Other Immigration Actions

BANKRUPTCY
- [ ] 422 Appeal 28 USC 158
- [ ] 423 Withdrawal 28 USC 157

INTELLECTUAL PROPERTY RIGHTS
- [ ] 820 Copyrights
- [ ] 830 Patent
- [ ] 835 Patent - Abbreviated New Drug Application
- [ ] 840 Trademark
- [ ] 880 Defend Trade Secrets Act of 2016

SOCIAL SECURITY
- [ ] 861 HIA (1395ff)
- [ ] 862 Black Lung (923)
- [ ] 863 DIWC/DIWW (405(g))
- [ ] 864 SSID Title XVI
- [ ] 865 RSI (405(g))

FEDERAL TAX SUITS
- [ ] 870 Taxes (U.S. Plaintiff or Defendant)
- [ ] 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- [ ] 375 False Claims Act
- [ ] 376 Qui Tam (31 USC 3729(a))
- [ ] 400 State Reapportionment
- [ ] 410 Antitrust
- [ ] 430 Banks and Banking
- [ ] 450 Commerce
- [ ] 460 Deportation
- [ ] 470 Racketeer Influenced and Corrupt Organizations
- [ ] 480 Consumer Credit (15 USC 1681 or 1692)
- [ ] 485 Telephone Consumer Protection Act
- [ ] 490 Cable/Sat TV
- [ ] 850 Securities/Commodities/ Exchange
- [ ] 890 Other Statutory Actions
- [ ] 891 Agricultural Acts
- [ ] 893 Environmental Matters
- [ ] 895 Freedom of Information Act
- [ ] 896 Arbitration
- [x] 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- [ ] 950 Constitutionality of State Statutes

V. ORIGIN *(Place an "X" in One Box Only)*

- [x] 1 Original Proceeding
- [ ] 2 Removed from State Court
- [ ] 3 Remanded from Appellate Court
- [ ] 4 Reinstated or Reopened
- [ ] 5 Transferred from Another District *(specify)*
- [ ] 6 Multidistrict Litigation - Transfer
- [ ] 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity)*:
28 U.S.C. §§ 1331, 1361; 5 U.S.C. §§ 702, 705, 706(1)

Brief description of cause:
Action seeking to secure federal agency's compliance with mandatory statutory obligations to provide States with citizenship-status information.

VII. REQUESTED IN COMPLAINT:

- [ ] CHECK IF THIS IS A **CLASS ACTION** UNDER RULE 23, F.R.Cv.P.

DEMAND $ _____

CHECK YES only if demanded in complaint:
JURY DEMAND: [ ] Yes [x] No

VIII. RELATED CASE(S) IF ANY
(See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE: Oct 24, 2024

SIGNATURE OF ATTORNEY OF RECORD: /s/ Nicholas A. Cordova

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT
for the

Southern District of Ohio

STATE OF OHIO and FRANK LAROSE, OHIO SECRETARY OF STATE	))))))	
Plaintiff(s)	)	
v.	))	Civil Action No.
UNITED STATES DEPARTMENT OF HOMELAND SECURITY and ALEJANDRO MAYORKAS, in his official capacity as SECRETARY OF HOMELAND SECURITY	)))))	
Defendant(s)	)	

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*   United States Department of Homeland Security
c/o Merrick B. Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530-0001

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: R. Trent McCotter
Nicholas A. Cordova
Boyden Gray PLLC
800 Connecticut Ave NW, #900
Washington, DC 20006

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

_____
Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No.

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❒ Other *(specify):*

My fees are $ _____ for travel and $ _____ for services, for a total of $ __0.00___ .

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Server's signature

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Printed name and title

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Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT
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STATE OF OHIO and FRANK LAROSE, OHIO SECRETARY OF STATE *Plaintiff(s)* v. UNITED STATES DEPARTMENT OF HOMELAND SECURITY and ALEJANDRO MAYORKAS, in his official capacity as SECRETARY OF HOMELAND SECURITY *Defendant(s)*	))))))))))))) Civil Action No.

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Plaintiff(s)

v.

UNITED STATES DEPARTMENT OF HOMELAND
SECURITY and
ALEJANDRO MAYORKAS, in his official capacity as
SECRETARY OF HOMELAND SECURITY

Defendant(s)

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