



JOHN W. SUTHERS
Attorney General

CYNTHIA H. COFFMAN
Chief Deputy Attorney General

DANIEL D. DOMENICO
Solicitor General

STATE OF COLORADO
DEPARTMENT OF LAW
OFFICE OF THE ATTORNEY GENERAL

STATE SERVICES BUILDING
1525 Sherman Street - 7th Floor
Denver, Colorado 80203
Phone (303) 866-4500

TO: The Honorable Janet Napolitano
Secretary
U.S. Department of Homeland Security

FROM: John W. Suthers
Attorney General
State of Colorado

DATE: July 5, 2012

RE: State of Colorado Request for Memorandum of Understanding to
Verify Citizenship of Individuals Registered to Vote in Colorado

This Memorandum and cover letter renews and reiterates our effort to cooperate with the Department of Homeland Security (“DHS”) in an expeditious manner to develop a Memorandum of Understanding (“MOU”) to share citizenship information to assist in our efforts to verify the accuracy of Colorado’s voter rolls. We are in receipt of your Department’s May 10, 2012 letter declining to enter an MOU with the State of Colorado. That letter, however, supplied no specific legal justification for the declination. We are interested, as we know you are also, in enabling Colorado to remove any question about the citizenship status of registrants on our voting rolls. We thank you in advance for your consideration of our request and look forward to working with your staff to resolve this situation no later than July 20, 2012.

We have discussed this subject with other states, many of whom are copied on the cover letter. They have expressed sincere interest in also cooperating with DHS to obtain access to its databases in advance of the general election in November, 2012. We are not, however, requesting an MOU on their behalf. Rather, we want to ensure you are informed about the serious nature of the multi-state interest in the legality of elections so that you may consider our request for an MOU in the proper context.

The possibility of non-citizens on Colorado’s voter rolls has received significant public attention here. The ability to confirm citizenship of those on our voter rolls will help restore faith in the integrity of our elections. Public confidence in the integrity of elections is vital to a functioning representative democracy.

1. The Secretary of State has a legal obligation to address evidence that non-citizens are registered to vote in Colorado.

As Colorado's Chief Election Officer, the Colorado Secretary of State is responsible for ensuring the integrity of elections. Of course, the Secretary works closely with the county clerks and other election officials in carrying out his duties. One important aspect of this duty is to maintain the statewide voter registration database and ensure that voting rolls include only persons who may legally vote. These rolls are regularly reviewed for their accuracy as required by law. This is important to make certain that illegal votes do not disenfranchise votes cast legally. Our goal is to ensure the integrity of our elections by confirming the accuracy of our voting rolls. To do so, we must act on credible information suggesting that certain registered voters are not illegally registered.

Last year, the Secretary of State's office compared the list of registered Colorado electors to those who provided a non-citizen document to the Colorado Department of Motor Vehicles during a driver's license transaction. This initial comparison produced 1,427 registered voters who provided documents such as permanent resident cards (I-551), employment authorization documents (EADS), or Arrival/Departure Forms (I-94). We have continued analyzing the data and the number is growing, with over 5,000 registered voters who have presented non-citizen documents during a driver's license transaction. The 5,000 registered voters include approximately 2,000 voters who have voted.¹

Additionally, Colorado's statewide voter registration system identifies 430 people who registered or attempted to register to vote, and who voluntarily self-identified themselves as non-citizens. A particularly egregious example occurred in 2003 when a woman registered to vote in El Paso County, Colorado, notwithstanding having identified herself as a non-citizen. Despite not being entitled to vote, she later voted at her polling place as part of the 2003 November election, the 2004 Primary election, the 2004 General election, and the 2006 Primary election. Following return of undeliverable mail in 2007, the county clerk deemed her an inactive voter. In 2011, she re-submitted a completed voter registration form, even indicating she wanted to permanently receive absentee mail ballots and serve as an election judge. Under the section asking, "Are you a citizen of the United States?" she checked the "No" box and even scribbled "Not yet" beside the question.

The Secretary has a duty to act on this information and resolve any issues that question the legitimacy of Colorado elections. Yet the Secretary lacks adequate tools to further investigate and resolve this problem without your immediate assistance. And while he might be able to act on egregious cases where registrants admit they are non-citizens, the Secretary wishes to remove any doubt about these individuals before considering his options. As you know, the federal government—in particular your agency—is solely responsible for maintaining citizenship information. *See, Arizona v. United States*, No. 11-182, slip op. at 7 (U.S. June 25, 2012).

¹ Our March 8 letter to you cited 2,000 such cases. That number was a set of individuals who presented a non-citizen document, are registered to vote, and have voted.

2. The Secretary of State's office has attempted to obtain citizenship information from DHS for one year.

A. July 28, 2011—The Secretary of State first requested assistance from Immigration and Customs Enforcement.

The Secretary of State first requested cooperation from the Office of the Chief Counsel in our local Immigration and Customs Enforcement (ICE) office. The letter explained the comparison of voter rolls with Department of Motor Vehicle data that brought into question the citizenship of individuals registered to vote in Colorado. The analysis raised the concern that approximately 1,500 persons may have mistakenly registered to vote or may even have intended to illegally register. ICE responded by letter on August 8, 2011, redirecting the request to U.S. Citizenship and Immigration Services (USCIS), another agency of DHS.

B. August 8, 2011—The Secretary's office sent a separate letter to USCIS renewing Colorado's request for assistance.

Following the August 8 letter, Secretary Gessler's office engaged in unsuccessful discussions with USCIS to exchange information and reach an agreement for assistance. Those discussions were not fruitful because USCIS said in November 2011 that our requests for assistance could not be accommodated in light of database "operational issues" and there existed a "long-standing policy [against conducting] verifications when only name and birth date are available." We have never been provided any such written policy and are unable to locate such a policy ourselves. Further, it is our understanding that many immigration checks are conducted by law enforcement using information in the possession of DHS based solely on name and date of birth information. Voter fraud is undoubtedly a law enforcement issue though the Secretary has refrained from making any criminal referrals. It even appears DHS agrees information in certain databases, like the Systematic Alien Verification for Entitlements (SAVE) database, should be made available for voter registration purposes.² Regardless, USCIS staff became unresponsive when the Secretary's office attempted to work toward a resolution of the "operational issues."

C. March 8, 2012—The Secretary's office sent another letter directed to you, again seeking assistance in obtaining citizenship information.

Four more months passed as the Secretary's office worked with members of Congress to make contact with someone at DHS that could assist on this important issue. At the request of the DHS Office of Intergovernmental Affairs, on March 8, 2012 Secretary Gessler again renewed his request for assistance by letter directed to you. The request remained the

² See Privacy Impact Assessment for the Systematic Alien Verification for Entitlements (SAVE) Program, DHS/USCIS/PIA-006 Section 2.1 (August 26, 2011).

same: a plea for assistance to verify citizenship of individuals on the voter rolls who had presented non-citizen documents to the DMV.

One significant change occurred in the interim—we alerted you that the number of persons with suspect registrations was growing. In light of the impasse that occurred in November 2011, the letter also offered to share any information we have, including the name, date of birth, and the nine-digit alien registration number of individuals on the list. This additional information was offered specifically to address concerns expressed by USCIS that minimum matching criteria are important to reduce the possibility of false positives. The letter also reiterated our State’s strong interest to work with DHS cooperatively to resolve any technological constraints or database capabilities that might hinder our request.

D. May 10, 2012—USCIS Director Mayorkas declined to enter into an MOU, leaving no path toward a solution to Colorado’s situation.

After a three month-delay, on May 10, 2012, USCIS Director Mayorkas finally responded. Despite our offer to not only provide alien registration numbers but to cooperate with DHS to address any database operational needs, he inexplicably stated that, “While this additional information *may* facilitate the use of SAVE for this verification purpose, *we must further assess serious legal and operational issues that remain before we can make a determination on your request.*” Based on these unexplained “serious legal and operational issues,” Director Mayorkas declined to enter an MOU with the State of Colorado.

The May 10 response left no indication about how we could obtain citizenship information. The letter lacked any specifics on the legal, systemic, or other impediments; lacked any suggestion of a cooperative way to move forward together; and was completely open-ended. After nearly a year of attempts to cooperatively work with your Department, Director Mayorkas’ response was extremely disappointing.

A deputy attorney general in my office also attempted to engage your department and the Department of Justice to gain a better understanding of the specific legal and operational concerns, but to no avail. We have yet to receive any specifics about how to proceed expeditiously. As you know, the general election will occur on November 6, 2012. Time is of the essence.

3. DHS exclusively maintains information that can resolve suspicions over registered voters and restore trust in the integrity of Colorado elections.

It is our understanding that DHS maintains several different databases housing non-citizen information. Each was built for a specific purpose and is used in different ways. In our efforts to obtain citizenship information to verify the accuracy of our voter rolls, we have been directed to focus on two: (1) the Systematic Alien Verification for Entitlements (SAVE) program and (2) the Law Enforcement Support Center (LESC) database. Unfortunately, your office has issued conflicting information about which is most appropriate for our purposes.

Apparently, LESC “is the single national point of contact that provides timely immigration status and identity information and real-time assistance to local, state, and federal law enforcement agencies on aliens suspected, arrested, or convicted of criminal activity.”³ ICE wrote that “having reviewed the issue you have described, we believe Colorado would be better served by verifying the immigration status of its voters through the [SAVE] program. In fact, DHS has encouraged customer agencies to use SAVE for any legal purpose, including background investigations and voter registration. Please note that U.S. Citizenship and Immigration Services (USCIS), not ICE, handles all inquiries about the immigration status of individuals seeking government benefits through the SAVE program.” *Id.*

LESC may be the most appropriate database for Colorado to obtain the information needed to maintain Colorado’s voter rolls. Federal and Colorado law charges the Secretary of State with maintaining the accuracy of the statewide voter registration database.⁴ Further, Colorado law authorizes the Secretary to “enforce the provisions of [the election] code.”⁵ There are several provisions of Colorado law—based on the type of infraction an individual may engage in—that can be criminally charged. One such example is Colo. Rev. Stat. § 1-13-704.5, *Voting by persons not entitled to vote*, which states that any person “voting in any election provided by law knowing that he or she is not entitled to vote in such election commits a class 5 felony.” Such criminal violations would clearly qualify for use of the LESC process. The Attorney General’s office has jurisdiction to investigate and prosecute such infractions based on credible information provided by the Secretary of State, though no investigations have occurred to date because it is our preference to verify the accuracy of our voter rolls without involving criminal law enforcement resources.

Other states have been able to resolve questions of voter citizenship through cooperation with ICE. During a September 21, 2011 press conference, Maine Secretary of State Charlie Summers outlined his office’s work with the local ICE office to investigate voters who presented non-citizen documents at the DMV. Through discussions with the Nebraska Secretary of State’s office, we also learned that its local ICE office investigated the citizenship status of individuals who presented non-citizen documents during a DMV transaction—ostensibly using the LESC database administered by ICE. These examples stand in stark contrast to the response Colorado received in August 2011 from our local ICE office, declining to work toward a solution and deflecting any responsibility in the matter toward USCIS.

³ See DHS White Paper (undated) sent to U.S. Committee on House Administration staff member Karin Moore on November 4, 2011, from Kate Christensen Mills, ICE Deputy Assistant Director, Office of Congressional Relations. Ms. Moore had inquired about DHS databases at the request of the Colorado Secretary of State’s office.

⁴ 42 U.S.C. § 15483; Colo. Rev. Stat. §§ 1-1-107, 1-2-101, 301 and 302.

⁵ Colo. Rev. Stat. § 1-1-107(b)

Separately, the SAVE database seems to also offer a solution to Colorado's analysis of possible non-citizens on the voter rolls. The SAVE program has been described as "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 and local public benefits and licenses."⁶

It has been explained to us that the SAVE program has limitations. We acknowledge that the information in the SAVE database is largely based on documents provided when an immigrant applies for a driver's license; thus, a fraudulent document used by an individual to obtain driving credentials may not be discovered through SAVE checks because SAVE merely verifies the status as it relates to the document and not the actual person.

But SAVE seems particularly well suited to address some cases of potential non-citizens on Colorado's voter rolls. Colorado's analysis compared individuals who presented non-citizen documents during a DMV transaction with individuals registered to vote. From our understanding—which includes the use of SAVE to verify immigration documents for our notary public program—SAVE contains information on individuals and documents for all legal non-citizens. Therefore, any individual who at one time presented a non-citizen document would be included in the SAVE program. So SAVE seems like the most logical database to help resolve any questions about individuals who at one time presented non-citizen documents but are currently registered to vote.

We believe many individuals who presented non-citizen documents in the past may have become citizens and are thus properly registered to vote. Access to citizenship information would allow us to confirm this belief and ensure their lawful participation in the election process. And Colorado already has access to the SAVE database for other purposes. A SAVE terminal is already available to the Secretary of State to verify the status of public notaries. If the SAVE program can lawfully be used for this ministerial task, it surely should be made available to verify the right of a citizen to vote. Colorado also uses the SAVE database for issuing driver's licenses, for individuals claiming Medicaid, and for our state's Indigent Care Program. It should be a simple process to modify the state's MOU to enable queries for voter purposes if there is any credible doubt surrounding an individual's right to vote.

A cooperative agreement that provides the Secretary of State's office with access to citizenship information will help restore faith in the integrity of elections here in Colorado. Public confidence is integral to our elections because citizens are more likely to participate if they believe the election results reflect the true will of the people. Public policy is better crafted by lawmakers with a clear mandate from the electorate—a mandate issued without any questions about its validity.

⁶ Electronic mail from Ms. Cheryl Grant, SAVE Program, Verification Division, USCIS, to Mr. Don Wright, North Carolina State Board of Elections General Counsel, dated May 10, 2011.

4. Federal law requires DHS to provide citizenship information to the Colorado Secretary of State so that the Secretary can maintain the statewide voter registration database and enforce the state election code.

It is well established that the states cannot make citizenship determinations. The states and the federal government, however, are required to engage in a cooperative manner on all immigration issues. Congress addressed this issue by requiring an exchange of information between the states and DHS when it passed the requirement found in 8 U.S.C. § 1373(c).

This statute requires your office 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 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). Even according to legal analysis done by your office, this language creates “an affirmative duty to respond to ... requests.” See *Arizona Contractors Ass’n v. Candelaria*, 534 F. Supp. 2d 1036, 1060 (D. Ariz. 2008), *aff’d*, 544 F.3d 976, *amended and superseded on denial of rehearing*, 558 F.3d 856, *petition for cert. filed*, 2009 WL 2251297; see also 3A Am. Jur. 2d Aliens and Citizens § 11 (“The federal immigration bureau is required to respond to an inquiry by a federal, state or local government agency....”).⁷ This interpretation is consistent with the apparent Congressional intent that there be no impediment to the flow of information because “[t]he conferees believe that immigration law enforcement is as high a priority as other aspects of Federal law enforcement, and that illegal aliens do not have the right to remain in the United States undetected and unapprehended.”¹ H.R. Conf. Rep. No. 104-725, at 383 (1996), U.S. Code Congr. & Admin News 1996, pp. 2183, 2771. “The conferees intend to give State and local officials the authority to communicate with the INS regarding the presence, whereabouts, or activities of illegal aliens. This provision is designed to prevent any State or local law, ordinance, executive order, policy, constitutional provision, or decision of any Federal or State court that prohibits or in any way restricts any communication between State and local officials and the INS.” *Id.*

Our understanding, apparently shared by your department, was recently reiterated by the Supreme Court in its opinion in *Arizona v. United States*.⁸ “Congress has made clear that no formal agreement or special training needs to be in place for state officers to ‘communicate with the [Federal Government] regarding the immigration status of any individual, including reporting knowledge that a particular alien is not lawfully present in the United States.’ 8 U. S. C. §1357(g)(10)(A). And Congress has obligated ICE to respond to any request made by state officials for verification of a person’s citizenship or

⁷ See DHS White Paper (undated) sent to U.S. Committee on House Administration staff member Karin Moore on November 4, 2011, from Kate Christensen Mills, ICE Deputy Assistant Director, Office of Congressional Relations.

⁸ *Arizona v. United States*. No. 11–182 (U.S. June 25, 2012).

immigration status. *See* § 1373(c) [further citations omitted].”⁹ While the Supreme Court was addressing a specific Arizona statute, the mandatory nature of Section 1373(c) is applied to DHS broadly to include requests for “any individual within the jurisdiction of the [State or local] agency for **any purpose authorized by law.**”

The Secretary has met all requirements for accessing information under § 1373(c). Secretary Gessler is the proper agent of the State as the elected official charged with ensuring the integrity of the state’s elections. Under 42 U.S.C. § 15483, and Colo. Rev. Stat. §§ 1-2-301 and 302, Secretary Gessler must maintain the master list of registered electors “in a manner that ensures that... the names of voters who are not registered or who are not eligible to vote are removed from the computerized statewide voter registration list...” Colo. Rev. Stat. § 1-2-302(1.5)(b). This provision places a dual responsibility on the Secretary. He must facilitate removal of names of persons who are not eligible to vote and it gives him the authority, in fact requires him, to seek out the information. This obligation satisfies the second prong of § 1373(c). Further, Colo. Rev. Stat. § 1-1-107(b) authorizes the Secretary of State to “enforce the provisions of [the election] code.” One aspect of this code is Colo. Rev. Stat. § 1-2-101(1)(a) that only allows United States citizens to register to vote. Thus, our request is unquestionably designed to lawfully verify the citizenship of some 2,000 individuals within the jurisdiction of the State of Colorado and the United States for the purpose of ensuring legal participation in the November 2012 election.

5. The concern about non-citizens on the voter rolls is not isolated to Colorado—several other states have indicated similar concerns. But the federal government’s response to these concerns has been confusing and contradictory, leaving no clear path forward for Colorado to act.

Several states have conducted similar comparisons of voter rolls with DMV non-citizen data. Yet the ability to resolve the findings of these comparisons has been varied. There seems to be an uneven application of policy across the states, leaving Colorado with no clear path forward to resolve its predicament.

North Carolina moved forward with removing individuals from their voter rolls without confirmation of citizenship status from DHS. This state requested and received pre-clearance from the U.S. Department of Justice (DOJ) because it contains counties covered by Section 5 of the Voting Rights Acts. North Carolina sent letters to individuals on its voter

⁹ *Id.*, slip op. at 20. Two of the three dissenting Justices also agreed that DHS must provide immigration information when queried by a state for a legitimate purpose. *See* Thomas, J., dissenting, p 2 (federal law imposes an “affirmative obligation” to respond to immigration queries pursuant to §1373(c)); Alito, J., dissenting, p. 3 (“And while these provisions preserve the authority of state and local officers to seek immigration status information from the Federal Government, another federal statute, §1373(c), requires that the Federal Government respond to any such inquiries ‘by providing the requested verification or status information.’”).

rolls who had at one time presented non-citizen documents at the DMV. If the letters were not returned with proof of citizenship, North Carolina removed the individuals from the voter rolls.

We are aware that Michigan has requested assistance from DHS in verifying citizenship of individuals on its voter rolls and has likewise been unable to agree to an MOU with DHS. A December 5, 2011 letter from USCIS to Michigan Secretary of State Ruth Johnson stated, “The SAVE Program requires all participating agencies to provide numeric identifiers and biographic information found on immigration-related documents, such as a Certificate of Naturalization, to process verifications related to applicable federal and state voter registration laws.” This further confuses our own attempts to receive assistance as Secretary Gessler has offered to provide your Department with numeric identifiers and biographic information for individuals who presented non-citizen documents in Colorado.

As noted above, Nebraska and Maine have apparently been able to obtain cooperation with a DHS agency when they encountered evidence of potential non-citizens on their voter rolls.

Colorado is unaware of any legal impediment to gaining access to DHS’s information and to ensuring DHS’s continued assistance to the states. If such an impediment exists, it has never been articulated to us or to any other state that we are aware of. To the contrary, some states have been able to gain assistance yet we cannot identify any way to distinguish our situation from theirs. And if DHS is cooperating with other states, we certainly would expect the same commitment to our requests for assistance. In situations with states that have not been able to gain assistance, the only hurdles seem to focus on purely logistical issues, sometimes referred to as “operational issues,” which we have offered repeatedly to overcome.

6. Colorado is not burdened by the other legal questions surrounding this issue, but time is running out to resolve this matter before the National Voter Registration Act deadline prior to the November election.

Other states—particularly Florida—received a great deal of media attention in its efforts to seek citizenship information for individuals on the voter rolls. In light of this, we think it appropriate to explain why Colorado’s request is not burdened by the legal questions that must be faced in Florida.

Most prominently, there is no jurisdiction in Colorado that is subject to the Voting Rights Act (VRA) oversight under Section 5 or any other enforcement action brought by the DOJ. Also, DOJ has recently filed a complaint against the State of Florida to enforce Section 8 of the National Voter Registration Act of 1993 (NVRA), 42 U.S.C. § 1973gg-6. According to DOJ, Florida has engaged in “systematically removing the names of ineligible voters from the official lists of eligible voters” within 90 days of an election for Federal office. 42 U.S.C. § 1973gg-6(c)(2)(A). The complaint alleges that this is an express violation of the NVRA. The court, however, disagreed, holding recently that “the NVRA does not require a state to allow a

noncitizen to vote just because the state did not catch the error more than 90 days in advance.” *United States v. Florida*, No. 12-cv-285, slip op. at 9 (N.D. Fla. June 28, 2012).

In any event, the NVRA 90-day restriction does not apply to Colorado until August 8, 2012. In fact, we are unaware of any concerns from DOJ regarding how Colorado’s elections have been administered. This is unsurprising, as Colorado follows the letter and spirit of the law in each and every election. Nonetheless, Colorado is sympathetic to Florida’s plight as we understand they—like us—sought access to immigration information for more than one year before the recent lawsuits were filed. It is unfortunate that Florida is in the predicament of being subject to a Department of Justice Civil Rights Section enforcement action in part because it appears the parties could not cooperate with one another.

Colorado is proud of our efforts to comply with State and Federal laws to ensure the full participation of all its citizens to exercise their right to vote. For example, Colorado has made great strides in its NVRA compliance. Recently, Project Vote’s election counsel Teresa James said, “Project Vote congratulates in particular the Office of the Secretary of State in Colorado for providing the leadership, training, and performance monitoring necessary to ensure that the NVRA is implemented fairly and effectively.” Secretary Gessler continues to work with Colorado Governor John Hickenlooper and his cabinet to facilitate better delivery of voter services through his public assistance agencies.

In addition, Secretary Gessler also works with the Pew Center on behalf of the states as a founding member of the Electronic Registration Information Center (ERIC). The project aims to improve the accuracy of voter registration systems throughout the country while inviting greater voter participation. This project begins its inaugural year in 2012. And Colorado is piloting cutting edge technology to provide ballot-on-demand access for military and overseas voters this year, going above and beyond statutory requirements to serve these voters.

7. We again request your timely assistance to enter into an MOU no later than July 20, 2012 so that we can resolve this longstanding issue before the November election.

As noted above, the integrity of our elections is the foundation of our system of government. We request to enter a formal MOU with the DHS, ICE and/or USCIS to obtain immigration information that will enable our compliance with federal and state laws as described above.

Given the immense attention paid to this issue recently, with dueling lawsuits between Florida and the federal government, there can be no doubt but that a great deal of work and analysis has been focused on how to legally work with the states on this issue. And this does not include the months of work we have engaged in with your department. DHS (perhaps with assistance from DOJ) must have at its fingertips all the legal and operational information necessary to quickly address our appeal. Therefore, we respectfully

request to hear back from you or your designee as soon as possible. Please contact Deputy Attorney General David Blake with a response or any questions. Mr. Blake can be reached at (303) 866-5792 or david.blake@state.co.us.

In any response, we need confirmation that an agency within your Department will work aggressively to agree to an MOU no later than July 20, 2012. This will ensure we have at least two weeks to run the checks, process the results, make notifications and remove names, if any, from the voter registration lists and guarantee we avoid any questions about the applicability of the 90-day requirements under the NVRA.¹⁰ In order to assist our discussions, we have attached a draft MOU to this memorandum for your consideration.

We look forward to working with your Department to meet the required deadlines though we acknowledge it is unfortunate that this issue requires such expedited consideration. We know you agree with our primary interest of guaranteeing legal voters their ability to cast a ballot in the general election. We are equally confident that you will agree more than a year of back and forth between our agencies is an unacceptable way to process such an important issue. If we do not hear from you in a timely manner, we will consider any and all other options legally available to us to ensure our compliance with federal and state mandates.

We thank you in advance for your consideration and cooperation.

CC: The Honorable Eric H. Holder
U.S. Attorney General

Mr. Thomas E. Perez
Assistant Attorney General
U.S. Department of Justice Civil Rights Division

Mr. Alejandro Mayorkas
Director
U.S. Citizenship and Immigration Services

Mr. John Morton
Director
U.S. Immigration and Customs Enforcement

¹⁰ While the Secretary may be able to take efforts to remove noncitizens from the voting rolls even within the NVRA 90-day window, *United States v. Florida*, No. 12-cv-285, slip op. at 9 (N.D. Fla. June 28, 2012), he wishes to take action outside the 90-day window to remove all doubt about the appropriateness of his actions.