

## **Using the Systematic Alien Verification for Entitlements (SAVE) Program for Voter Eligibility Verification**

The evidence of non-citizens [voting](#) [1] is sparse and appears subject to much exaggeration. Despite this, many states are asking the federal government for access to immigration data in order to determine whether non-citizens are on the voter registration rolls. For instance, in July 2012, the Director of U.S. Citizenship and Immigration Services (USCIS)—a division of the Department of Homeland Security (DHS)—advised the Florida Secretary of State that states, under limited circumstances, may use the Systematic Alien Verification for Entitlements (SAVE) program for verification of the citizenship status of registered voters. This issue, however, goes beyond Florida. Other states have expressed an interest in using SAVE in a similar fashion. This new development has heightened misconceptions about the SAVE program and its purpose.

The Immigration Policy Center's previously issued [fact sheet](#) [2] about the SAVE program focuses on whether SAVE can actually verify whether an individual is in the country lawfully or not. This fact sheet focuses on whether the SAVE program can be used to accurately verify voter eligibility. It explains why SAVE is not a database of all non-citizens, why using SAVE to verify the status of individuals who have registered to vote is a misuse of the program, and how using SAVE for this purpose could lead to denying U.S. citizens the right to vote.

### **What is the SAVE program?**

- The [Systematic Alien Verification for Entitlements](#) [3] (SAVE) program is an electronic, fee-based system operated by USCIS to verify that a person has the immigration status his documents indicate or that the immigration information he has provided is accurate for government benefits and licensing agencies or other lawful purposes.

The SAVE program has traditionally been used as a support system for verifying eligibility for benefits or services **at the time** an application is initially filed. Proposals to use the SAVE program to identify non-citizens registered to vote flips that process, as any queries to the system would likely be based on immigration information in a state's records that had been previously submitted for other purposes.

### **Is the SAVE program a database or list of non-citizens?**

- No. Many news reports have incorrectly described the SAVE program as a database or list of non-citizens. It is instead a system used to check DHS's immigration databases and records, but is not itself a database or list.

### **Will the SAVE program provide access to a complete list of U.S. citizens?**

- No. There is no national database of all citizens that states can check to prove U.S. citizenship or voter eligibility.
- The SAVE program can only verify information contained in immigration records. A naturalized citizen or a person who has obtained a certificate of citizenship from USCIS (or its predecessor) would have a record in immigration files. But native-born citizens would not have such a record because they are not in the system at all.
- Undocumented persons who have no immigration records will not be identified through SAVE because they are not in the system at all.
- According to [news reports](#) [4], DHS officials had previously declined to allow the use of SAVE for the purpose of verifying the citizenship or immigration status of registered voters because

the information is “incomplete and does not provide comprehensive data on all eligible voters.”

## What requirements has USCIS imposed for use of SAVE in the voter registration context?

- USCIS has indicated that access to SAVE for voter registration verification purposes is limited. In his July letter to the Florida Secretary of State, the USCIS Director stated that “states will be able to access SAVE to verify the citizenship status of individuals who are registered to vote in that state provided the requesting state be able to supply for each individual it seeks to verify (1) a specific type of unique identifier like an alien number or certificate number that appears on immigration-related documentation, and (2) a copy of the immigration-related documentation in question.” [emphasis added]
- Thus, states cannot simply run a SAVE check on all persons on their voter registration rolls, nor may they run a SAVE check without providing the requisite immigration number and immigration documents.

## How will Florida use SAVE in the voter registration context?

- Florida cannot use voter registration rolls alone to satisfy SAVE’s requirement that the state supply an alien number and immigration documentation for verification to take place. Immigration information is not required for voter registration and therefore is not part of voter registration records.
- Non-citizens in Florida do have to provide an alien number and immigration documents when they apply for a driver’s license. Thus, Florida will compare the names of non-citizens who applied for driver’s licenses to the voter registration rolls, hoping to identify individuals who are registered to vote now but who were non-citizens at the time they applied for a driver’s license. Florida’s intention is to then verify through SAVE any names that are both in the driver’s license records as non-citizens and in the voter registration records in order to identify non-citizens who are ineligible to vote.

## What are the potential problems for voter registration if SAVE verification is based on matching different databases created at different times?

- Ordinarily, SAVE verification takes place at the time that an individual applies for a benefit or license, using information provided by the individual at that time regarding immigration status.
- In Florida, the state will request verification based on information provided by an individual to another agency for another purpose in the past, without the individual’s knowledge or consent, and without informing the individual that the verification is taking place or how to seek redress if mistakes are made.
- This after-the-fact verification may imperil the right to vote of persons who satisfied all of the requirements of the voting registration process, and will impose special burdens on some U.S. citizens to prove their entitlement to vote. For example, a naturalized U.S. citizen who obtained a driver’s license before she became a citizen will be singled out for verification and possible loss of the right to vote.
- The matching process between different agency records itself creates a risk of errors. A U.S. citizen who is eligible to vote whose identity is matched with a non-citizen who is ineligible to vote may be denied the right to vote.
- The registered voter may learn of a problem or error only when she seeks to vote or with too little time before an election to correct any errors with USCIS or the state.
- A voter registration process that subjects some citizens, including naturalized citizens, to separate documentation requirements or singles out some citizens for special attention, is likely to invite lawsuits.

## Has USCIS previously authorized use of SAVE to verify voter eligibility?

- USCIS previously approved use of SAVE by voting registrars in five Arizona counties. [Arizona law](#) [5] required proof of U.S. citizenship at the time people registered to vote and mandated verification of citizenship with federal immigration authorities when a person presented a naturalization number (and not a naturalization document) to prove citizenship.
- This front-end process did not involve a backward look at registered voters, nor did it involve matching information from different state agencies. It is unclear how or whether the five counties actually used the verification process.
- The Arizona verification requirement is part of a broader provision requiring proof of U.S. citizenship to register to vote. The 9<sup>th</sup> Circuit Court of Appeals recently [struck down](#) [6] that entire provision for use with federal election registration, because it violated federal law by requiring proof of U.S. citizenship. The U.S. Supreme Court has refused to stay that ruling.

## How will USCIS ensure that SAVE verification does not become the basis for the denial of the right to vote?

- That is not clear. DHS created a [Monitoring and Compliance Unit](#) [7] in 2008, but the document authorizing its creation made no mention of SAVE's use beyond the benefits or licensing context nor how it would monitor that use.
- A 2011 DHS [Privacy Impact Assessment](#) [8] of SAVE did not include any due process or privacy protections regarding how the system will be used by state and local government agencies for purposes beyond benefits and licenses, such as notice to affected individuals, redress if a benefit is wrongly denied or if SAVE is misused, or any evaluation of how the system is used or if it is accurate.
- SAVE has not been subjected to independent evaluations or audits to determine the accuracy of the system or the efficacy of any procedures to correct errors in immigration records.
- USCIS has not publicly announced any due process or privacy protections that would protect the rights of citizens who are entitled to vote or whose right to vote has been impaired by the SAVE verification process or state processes that underlie SAVE verification.
- The standard [Memorandum of Understanding](#) [9] between state agencies and USCIS for use of the SAVE program does not refer to a back-end use of SAVE, such as is proposed by Florida to verify the status of persons who have registered to vote, using immigration information obtained in a different transaction with the state.

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[1] <http://www.immigrationpolicy.org/just-facts/chicken-little-voting-booth-non-existent-problem-non-citizen-%E2%80%9Cvoter-fraud%E2%80%9D>

[2] <http://www.immigrationpolicy.org/just-facts/systematic-alien-verification-entitlements-save-program-fact-sheet>

[3] <http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnnextoid=1721c2ec0c7c8110VgnVCM1000004718190aRCRD&vgnnextchannel=1721c2ec0c7c8110VgnVCM1000004718190aRCRD>

[4] <http://www.suntimes.com/news/washington/13784760-452/feds-give-florida-access-to-list-of-resident-noncitizens.html>

[5] <http://law.justia.com/codes/arizona/2011/title16/section16-166/>

[6] <http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CFcQFjAA&url=http%3A%2F%2Fwww.ca9.uscourts.gov%2Fdatastore%2Fopinions%2F2012%2F04%2F17%2F08-17094.pdf&ei=Ry4MULK4HenC2wX43KTwDw&usg=AFQjCN G-FBvHf06QFYjyxFANZbyRSMXnAQ&sig2=b4BEwSmmuESTd6VzfxupZg>

[7] <http://www.gpo.gov/fdsys/pkg/FR-2009-05-22/pdf/E9-11967.pdf>

[8] <http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=6>

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[9]

<http://search.uscis.gov/search?affiliate=82601b2ec&query=memorandum+of+understanding>

[10] <http://www.immigrationpolicy.org/sites/default/files/docs/usingthesaveprogramsforvotereligibilityverification.pdf>