



Federal Agency Voter Registration

A major purpose of President Biden’s March 7, 2021, Executive Order on voting (“Voting EO”)¹ is to promote voter registration through federal agencies – a practice already well-established in state agencies such as motor vehicle departments and public assistance offices under the National Voter Registration Act (“NVRA”).² As the Voting EO points out, the NVRA contemplates that federal agencies should provide voter registration services to persons they serve, and there are many opportunities for federal programs to do so.³

Section 1 of this document provides a summary of the steps for effective and robust voter registration services based on those state NVRA practices.⁴ Section 2 provides details on additional policy considerations related to robust federal agency voter registration. Federal agencies can meet the goals of the Voting EO by following the examples of the states and incorporating effective opportunities to register to vote into their own programs.

Section 1: Steps for Providing Effective Agency Voter Registration Services

- I. Incorporate effective and accessible voter registration services into all relevant agency interactions, including distributing voter registration applications and providing assistance to all clients and constituents
- II. Establish a system for collecting and securely transmitting completed voter registration applications to election officials
- III. Appoint a coordinator to oversee and manage voter registration services
- IV. Obtain guidance from the EAC, from state / local election officials, and, where appropriate, from community groups
- V. Provide robust, regular training for agency staff
- VI. Collect and report aggregate data on agency registrations
- VII. Provide accessible voter education materials

¹ March 7, 2021 Executive Order on Promoting Access to Voting, available at <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/03/07/executive-order-on-promoting-access-to-voting/>.

² 52 U.S.C. § 20506.

³ Voting EO at Sec. 3 and Sec. 4; *see also* 52 U.S.C. § 20506(3)(a).

⁴ President Biden’s Voting EO also directs federal agencies to accept designation as official voter registration agencies, if requested by states under the NVRA, unless they have a very good reason not to. While the recommendations in this document are based on the NVRA requirements, if agencies are designated under the NVRA, a few additional steps would likely be required. For more guidance about the specific legal requirements for NVRA designated agencies providing voter registration, please contact us.

I. Incorporate Effective and Accessible Voter Registration Services Into All Relevant Agency Interactions

Voter registration services should be incorporated into all existing transactions—including new benefits applications and returning clients seeking renewals or to update contact information—and via in-person transactions as well as those conducted online, by telephone, or through the mail. This document focuses on in-person transactions, but the principles can be applied more broadly. Online transactions in particular offer simple opportunities for voter registration; please reach out for a separate best-practices guide dedicated to effectively adding voter registration to online portals.

For in-person transactions, agency or program staff should:

- *Provide* voter registration services during all transactions, whether the client is applying for benefits, requesting renewal of benefits, or updating their address.
- *Ask* clients, in writing, whether they would like to register to vote or update their voter registration address.
- *Distribute* voter registration applications to clients who say “yes” they want to register to vote or update their registration, and to those who do not answer the question about voter registration, in a manner available to all clients.
- *Inform* clients, in writing, that no one may interfere with their right to register to vote or not register to vote, the right to privacy while registering, and the right to choose a political party for themselves if they want.
- *Assist* clients in completing the voter registration application just like the agency would assist with its own benefits forms.
- *Transmit* completed voter registration applications to the appropriate election official within 10 days after the client completes the application (and within 5 days before the voter registration deadline for federal elections).

To ensure these voter registration services are accessible to all clients, agencies should:

- Provide voter registration applications and supporting materials in all the languages in which they provide their own services. Many state voter registration applications are available in multiple languages; National Mail-in Voter Registration Form is available in 15 languages.⁵
- Offer assistance to voters with disabilities. Individuals with disabilities are entitled to the same opportunity to register to vote privately and independently as voters without disabilities.
- Provide access to usable voter registration applications.
 - During transactions, clients generally should receive a blank paper voter registration application.
 - Providing access to states’ online voter registration systems is also an option.

⁵ *National Mail Voter Registration Form*, U.S. ELECTION ASSISTANCE COMM’N, <https://www.eac.gov/voters/national-mail-voter-registration-form>; See, e.g.,

Arizona: https://azsos.gov/sites/default/files/20200417_AZ_Voter_Registration_Form_Printable_0.pdf;

Florida: <https://www.myfloridaelections.com/Voting-Elections/Register-To-Vote#App>;

Kansas: <https://www.kssos.org/forms/elections/voterregistration.pdf>;

and Maryland: https://elections.maryland.gov/voter_registration/application.html.

However, in almost all states with online voter registration, an individual without a driver's license or state ID card cannot use the system.⁶ Furthermore, not all state online systems are in languages other than English or accessible to people with disabilities. If agencies provide access to states' online voter registration systems, they should take steps to ensure all eligible individuals can use them or provide a paper option as back-up.

II. Establish a System for Collecting and Transmitting Completed Voter Registration Applications

To ensure clients complete the voter registration process, it is critical that agencies *collect* completed voter registration applications from their clients and *transmit* them to the appropriate election officials. When clients take voter registration applications home to complete later or to mail on their own, they often do not finish the process. Collecting completed applications and transmitting them directly to election officials simplifies the process for clients and provides them with a compelling reason to complete the registration process at the time of their transaction. Years of experience by state agencies providing voter registration services has established that collecting and transmitting completed applications from clients results in significantly higher rates of voter registration than when applications are distributed but not collected.

A secure and efficient system for collecting and transmitting voter registration applications includes:

- Maintenance of all completed, collected voter registration applications in a secure place, until they are transmitted to election officials.
- Determination of the delivery method of completed applications to election officials – by mail or by some other method, such as drop off at the appropriate elections office.
 - Note that the National Mail Voter Registration Form⁷ provides an address for delivery of completed voter registration forms in almost all states.
- Designation of and special training for the person(s) responsible for transmitting completed applications to election officials, whether by mail or in person.
- Establishment of a clear time frame for transmitting applications in a timely fashion, so that all eligible voters are registered to vote by any applicable state registration deadlines;⁸
- Both transmitting and maintaining a cover sheet that records how many applications are transmitted to elections officials when and by whom.

III. Appoint a Coordinator to Oversee and Manage Voter Registration Services

Agencies should designate a “voter registration coordinator” within the agency or relevant program, whose job is

⁶ *Online Voter Registration*, NAT'L CONFERENCE OF STATE LEGISLATURES, <https://www.ncsl.org/research/elections-and-campaigns/electronic-or-online-voter-registration.aspx>.

⁷ *National Mail Voter Registration Form*, U.S. ELECTION ASSISTANCE COMM'N, <https://www.eac.gov/voters/national-mail-voter-registration-form>; see also 52 U.S.C. § 20505(a).

⁸ The NVRA is again a good model for this. It requires agencies to transmit completed voter registration applications to the appropriate election official within 10 days after the client completes the application (and within 5 days before the voter registration deadline for federal elections).

to ensure high quality voter registration services are provided to clients.⁹ Having a point person who is responsible for oversight, i.e. ensuring that voter registration happens during the appropriate interactions, makes a significant difference in how effective voter registration plans are in reaching people.

The voter registration coordinator should have sufficient training to ensure they can complete their duties and can orient new staff and provide guidance to existing staff at their office on proper voter registration procedures. Their duties should include, at a minimum:

- Ensuring adequate training for all agency staff engaged in providing voter registration services.
- Being responsible for maintaining voter registration supplies (such as blank voter registration applications).
- Ensuring voter registration services are being offered during relevant transactions and providing quality control of those services.
- Setting up and monitoring a system for delivering completed applications to election officials.
- Collecting and making publicly available data on the number of people registered through the program or agency.

IV. Obtain Guidance from the EAC and from State / Local Election Officials

In addition to this guidance, agencies should consult with the Election Assistance Commission (EAC) and/or state and local election officials about how best to provide voter registration services and to ensure registration applications are received by the appropriate election authorities. Agencies might also consider contacting representatives of the communities they serve as they develop voter registration procedures, especially in thinking about language access. In some cases, these organizations may have been providing non-partisan voter registration services to their communities for years and will have insights on how voter registration can be most effective.

V. Provide Robust, Regular Training for Agency Staff

All staff engaged in any step in the voter registration process should complete training upon beginning in their role and should complete refresher training at least annually. Training should be developed in consultation with NVRA experts and agency constituency representatives. At a minimum, trainings for staff should include:¹⁰

- At a conceptual level, the importance of ensuring all eligible people have access to registration and voting, the presence of registration gaps faced by the population an agency

⁹ This need not be a full-time position; voter registration oversight can be added to the duties of a person who is already playing a supervisory or oversight role within the applicable program.

¹⁰ Samples of voter registration trainings for agency staff from state government agencies are available and can be used as a resource.

serves (if relevant), and the role federal agency registration can play in removing barriers to democratic participation.

- The specific process for distributing a voter registration application, offering assistance in completing the application, collecting the application, and transmitting it to elections officials in the context of the program, facility, and/or event through which members of public interact with the agency.
- General information about who is eligible to register to vote in the state, including that an individual must be a U.S. citizen to vote.
 - The National Mail Voter Registration Form and state voter registration applications describe the eligibility requirements to register to vote.¹¹
- Description of the fields in the voter registration application, including which fields are required for the registration to be complete and accepted, and what information should be supplied for each required field.
- Answers to commonly asked questions about filling out the voter registration application and about voting.
- Information on how clients can contact state or local election officials if they have additional questions about voter registration or voting.¹²
- How to ensure that the voter registration application is completely filled out and legible, before accepting and transmitting the application to the appropriate election official.
- The strict prohibition on partisanship and the strict rules around confidentiality.

VI. Collect and Report Aggregate Data on Agency Registrations

Federal agencies providing voter registration services should set up a system to track the *aggregate* number of completed voter registration applications they collect from clients and transmit to state election officials by program and location. A tracking and reporting system allows supervisors within these agencies to ensure that their employees are providing the intended voter registration services; allows agency staff and leadership to measure the impact of integrating voter registration into their services; and facilitates measuring the impact of the President's Voting EO.¹³

VII. Provide Accessible Voter Education Materials

In addition to ensuring that the agency's programs and facilities provide robust voter registration services, it is also important to provide voter education materials whenever possible. Such materials can include posters with information on how to vote and where to find one's voting location, palm cards with election dates and voting options, and information on how to contact local and state

¹¹ *Supra* note 5.

¹² This contact information is maintained by the General Services Agency on USA.gov, <https://www.usa.gov/election-office>.

¹³ The aggregate numbers of total voter registration applications processed is the only information that should be tracked and saved. At no point should agencies retain any personal identifying information about the individuals who decided to register to vote and provide completed voter registration forms to agency staff for submission to election officials.

election officials with questions.¹⁴ Like the voter registration services, all voter education materials should be accessible to people with disabilities and translated into the languages spoken by the communities the agency serves. The General Services Agency maintains information about elections on its USA.gov website.¹⁵

Section 2: Additional Policy Considerations

Following these best practices for agency registration has myriad policy benefits that help fulfill the goals of the Voting EO. Providing robust agency voter registration through the steps described above can:

- I. Close persistent registration gaps and promote full participation
- II. Protect against registration of ineligible individuals
- III. Protect clients from undue pressure and agency staff from uncomfortable interactions
- IV. Protect client confidentiality
- V. Ensure all voter registration services are provided in a nonpartisan way
- VI. Protect the agency from liability

I. Close Persistent Registration Gaps and Promote Full Participation

According to the Census Bureau, as of 2018, there were 76 million eligible Americans not registered to vote. There are significant racial, ethnic and economic disparities in registration rates.¹⁶ Voter registration barriers are a significant factor in not turning out to vote.¹⁷

Federal agencies can help improve the voter registration rates in America overall and help reduce disparities for underrepresented groups. Federal agencies and their partners interact directly with millions of Americans through the programs they run and the services they provide. As described above, the opportunity to register to vote or update a voter registration address can be added into agencies' transactions when they are interacting with the public, particularly when individuals are applying for federal benefits or services, or renewing current benefits and services, using the NVRA as a model.

¹⁴ Useful content for these materials includes information about the process for voting in that state, including the length of an early-voting period (if applicable), how to request a mail-in ballot, the documents required for voting by mail or in person, etc.

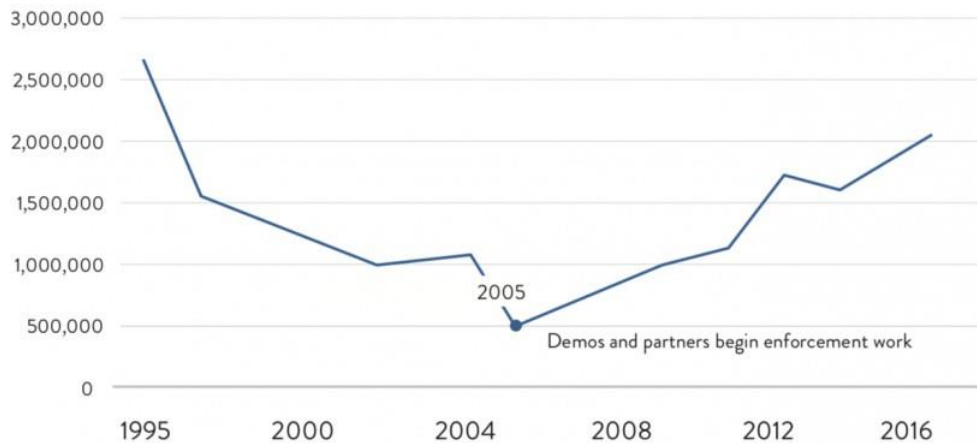
¹⁵ See <https://www.usa.gov/voting>. Because these laws dictating the voting process can change over time, these materials should be reviewed annually for major changes and updated when necessary to ensure the information clients get is accurate.

¹⁶ See <https://www.census.gov/data/tables/time-series/demo/voting-and-registration/p20-583.html>. As of 2018, 71 % of White non-Latinx people were registered to vote, while only 64% of Black people were registered to vote, 55% of Native Americans, 54% of Latinx people and 53% of Asian Americans. Moreover, as of 2018, only 59% of individuals making less than \$30,000 dollars annually were registered to vote, but 80% of individuals making more \$100,000 annually were registered to vote.

¹⁷ Laura Williamson, Pamela Cataldo, Brenda Wright, *Toward a More Representative Electorate: The Progress and Potential of Voter Registration Through Public Assistance Agencies*, Demos (December 21, 2018), <https://www.demos.org/research/toward-more-representative-electorate>.

We know that including a *robust* opportunity to register to vote, or to update a voter registration address, with these services and benefits application transactions can be very effective thanks to the success of the public assistance agency requirements of the NVRA. However, the history of the NVRA demonstrates that for the opportunity to register to vote to be most effective, it must include the specific steps described above. After a spike in voter registration applications from public assistance agencies immediately following implementation of the NVRA in the mid 1990’s, compliance with the specific requirements of the law waned, and the numbers of voter registrations submitted by agencies also started to drop. After voting rights groups started to push for better compliance with the requirements of the NVRA through litigation and advocacy, the number of voter registrations originating from state public assistance agencies started to rise again significantly, as the chart below shows.¹⁸

TOTAL VOTER REGISTRATION APPLICATIONS RECEIVED FROM PUBLIC ASSISTANCE AGENCIES, 1995 -2016



II. Protect Against Registration of Ineligible Individuals

Following these best practices when providing voter registration services will help to protect non-eligible individuals in three important ways:

- Asking about voter registration in writing allows the agency to also provide information about the eligibility requirements, including the fact that to register to vote a person must be a U.S. Citizen. Note:
 - The recommendations made here for providing effective agency voter registration involve clients voluntarily completing a separate voter registration form on their own. All state voter registration applications and the National Mail Voter Registration Form list the eligibility requirements.¹⁹

¹⁸ *Id.*

¹⁹ *Supra* note 5.

- State departments of motor vehicles and public assistance agencies have been assisting their clients with voter registration pursuant to the NVRA for over 20 years. Hundreds of millions of American citizens have registered to vote through the NVRA processes over that time,²⁰ and instances of non-eligible individuals registering through these agency transactions and then voting are vanishingly rare.
- Providing language assistance with voter registration services and voting information helps to ensure the individuals understand exactly what they are being asked about and the specific eligibility requirements.
- Providing training to staff about the basic steps of voter registration and about how their clients can obtain assistance from election officials if they have complicated questions, including residency or restoration of rights concerns, also helps to protect clients because it gives them additional resources to help better understand questions about eligibility.

III. Protect Clients from Undue Pressure and Agency Staff from Uncomfortable Interactions

Providing the voter registration opportunity in writing with additional information modeled after the required language from NVRA helps to ensure that clients do not feel pressured to register to vote, which in turn ensures smooth interactions with agency staff or intermediaries. The NVRA requires that clients are clearly told that it is their choice to register to vote, that their decision to register to vote will not affect their benefits, and that if they want to register to vote they can do so in private. Following this model helps ensure that clients do not feel pressured to register to vote.

IV. Protect Client Confidentiality

Training ensures staff understand they are required to keep confidential any information they learn through assisting clients with voter registration and/or handling completed voter registration applications for submission to election officials.

V. Ensure All Voter Registration Services are Provided in a Nonpartisan Way

Robust and regular training helps to ensure agency staff understand that any discussions about voting and voter registration must be strictly nonpartisan. With thorough training, staff understand what it means to be nonpartisan and that they should not try to influence the choice of their client to register to vote or to pick the political party of their choice. Note:

- State department of motor vehicles and public assistance agencies that provide assistance to their clients with voter registration pursuant to the NVRA are nonpartisan government entities and successfully train their staff to remain non-partisan while providing these services.

²⁰ See NVRA Reports to Congress, <https://www.eac.gov/research-and-data/studies-and-reports>.

VI. Protect the Agency from Liability

While federal agencies can play an important role in improving access to voter registration services, a federal agency providing its clients with the opportunity to fill out a voter registration application does not represent the full process or responsibility of registering individuals to vote. The ultimate responsibility for registering voters rests with election officials, who evaluate individuals' eligibility to register to vote and actually register voters after they receive completed applications. Individual clients, not the agency official, affirm their eligibility to register to vote directly for themselves through the voter registration process. State agencies have been facilitating access to voter registration opportunities for clients since the NVRA went into effect in 1995 and have not been responsible for any inadvertent mistakes that occasionally occur.