



To National Institute of Standards and Technology, Department of Commerce

From: American Civil Liberties Union (Sarah Brannon, Patricia Yan, Kristen Lee, and Zara Haq) and Demos (Shruti Banerjee, Laura Williamson, and Brenda Wright)

Re: **Promoting Access to Voting; Request for Information; Barriers to Private and Independent Voting for People with Disabilities; Docket Number 210608-0123**

Date: July 16, 2021

Submitted electronically through www.regulations.gov

The American Civil Liberties Union (“ACLU”) and Demos write to comment on the Request for Information as detailed in the National Institute of Standards and Technology (“NIST”) Federal Register Notice published at 86 FR 32026 (June 16, 2021).¹ The Request for Information was made in response to Executive Order No. 14019 (“EO 14019”), Promoting Access to Voting,² and seeks information on barriers to voting for people with disabilities.

We recognize that people with disabilities face numerous barriers throughout the voting process, and we incorporate by reference a separate comment submitted by the ACLU (on July 16, 2021) with additional detailed proposals to promote access to voting for people with disabilities.

In this comment, we focus on a recommendation for addressing barriers to voter registration: modernizing and improving the accessibility and usability of the federal government website at www.vote.gov (“Vote.gov”),³ as well as the National Mail Voter Registration Form (“NMVRF”).⁴ Under Section 7 of EO 14019, NIST is directed to evaluate the steps needed to ensure that the NMVRF is accessible to people with disabilities.⁵ The online version of the NMVRF provided to the public by the federal government is currently housed on the website of the Election Assistance Commission (“EAC”).⁶

¹ Request for Information, National Institute of Standards and Technology, 86 Fed. Reg. 32026 (June 16, 2021), accessed at <https://www.federalregister.gov/documents/2021/06/16/2021-12619/promoting-access-to-voting>.

² Executive Order 14019, 86 Fed. Reg. 13623 (Mar. 7, 2021), accessed at <https://www.federalregister.gov/documents/2021/03/10/2021-05087/promoting-access-to-voting>.

³ VOTE.GOV, <https://vote.gov/> (last visited July 14, 2021).

⁴ *National Mail Voter Registration Form*, U.S. ELECTION ASSISTANCE COMM’N, <https://www.eac.gov/voters/national-mail-voter-registration-form> (last visited July 14, 2021); *see also* 52 U.S.C. § 20505(a).

⁵ EO 14019 at 13625.

⁶ *National Mail Voter Registration Form*, U.S. ELECTION ASSISTANCE COMM’N, <https://www.eac.gov/voters/national-mail-voter-registration-form> (last visited July 14, 2021).



One of the main interfaces that the public uses to access the NMVRF online is Vote.gov.⁷ Currently, the General Services Administration (“GSA”) is responsible for maintaining Vote.gov.⁸ In addition to requiring that NMVRF is accessible to people with disabilities, the EO also requires that GSA “take steps to modernize and improve the user experience of Vote.gov.”⁹ Specifically, the EO requires that “efforts to modernize and improve Vote.gov shall include: (i) ensuring that Vote.gov complies, at minimum, with sections 504 and 508 of the Rehabilitation Act of 1973; (ii) ensuring that Vote.gov is translated into languages spoken by any of the language groups covered under section 203 of the Voting Rights Act anywhere in the United States; and (iii) implementing relevant provisions of the 21st Century Integrated Digital Experience Act (Public Law 115-336).”¹⁰ NIST and GSA can further these goals by working to improve the interface with the NMVRF on Vote.gov.

We applaud GSA’s commitment to help eligible persons with the voting process by maintaining a website focused on voter registration, which remains a prerequisite to participating in the electoral process in almost every state.¹¹ Unfortunately, the current Vote.gov interface is extremely ineffective—particularly in how it presents the NMVRF—and this creates a significant barrier to effective voter registration for people with disabilities (and all potential voters). Improving access to voter registration opportunities through Vote.gov is an important step that the federal government can undertake to improve voting access in the country.

We recommend that NIST provide guidance to GSA to improve Vote.gov, particularly by assisting GSA with creating a version of the NMVRF that is formatted to be fully accessible to voters with disabilities and can be easily used by all potential voters. NIST should also work with GSA to help ensure that these improvements are implemented using the best potential technology processes and systems. Concurrently with addressing disability access issues, language access and the general usability of Vote.gov should also be improved—including by addressing the extremely cumbersome and confusing format of the current NMVRF.

By updating Vote.gov and correcting these problems, GSA can finally provide a version of the NMVRF that is fully accessible to all people with disabilities, while also incorporating important

⁷ VOTE.GOV, <https://vote.gov/> (last visited July 14, 2021).

⁸ GSA specifically notes funding for Vote.gov in its most recent budget request. See U.S. General Services Administration Federal Citizen Services Fund Fiscal Year 2022 Budget Request, available at https://www.gsa.gov/cdnstatic/05_FY_2022_CJ_FCSF_Narrative_Final_2.pdf, at 7 (listing Vote.gov as a “key program” under “FCSF-Funded Activities”); see also *id.* at 10 (“In FY 2021 and FY 2022, USAGov will begin the process to explore expanding voter access utilizing Vote.gov. The program also intends to stand up a new, more user-friendly website with new tools . . .”).

⁹ See EO 14019 at 13624.

¹⁰ EO at 13624–25.

¹¹ As of the date of this comment, only North Dakota does not require voter registration. See *National Mail Voter Registration Form, General Instructions*, U.S. ELECTION ASSISTANCE COMM’N, https://www.eac.gov/sites/default/files/eac_assets/1/6/Federal_Voter_Registration_ENG.pdf, at 1 (last visited July 14, 2021).



web design principles of usability (designing an effective and user-friendly website) and inclusion (designing a website for a diverse group of web users, including through translated language options¹²). As explained by the World Wide Web Consortium (“W3C”) Web Accessibility Initiative, which publishes the widely-used Web Content Accessibility Guidelines (“WCAG”): “Accessibility, usability, and inclusion are closely related aspects in creating a web that works for everyone. Their goals, approaches, and guidelines overlap significantly. It is most effective to address them together when designing and developing websites and applications.”¹³ Other web accessibility groups have also described how these principles can intersect: “Meeting the accessibility needs of a website serves its usability experience; when the user experience is simple, intuitive, and easy to navigate, it lends itself to being more inclusive of users who have visual, cognitive, or mobility impairments. . . . Many initiatives that improve a website’s accessibility for people with disabilities also improve general usability and vice versa.”¹⁴ NIST should issue recommendations and work with GSA to implement these principles of accessibility, usability, and inclusion for Vote.gov.

This comment proposes some specific solutions to improve Vote.gov and format of the NMVRF, but also generally recommends that NIST, GSA, and other federal agencies continue to consult with stakeholders and experts in the field of disability access, language access, and usability. Federal agencies should focus especially on soliciting input directly from these impacted communities, not only as a required step of the official rulemaking process, but also as a valuable resource throughout the implementation of this Executive Order. Under EO 14019, this administration has the chance to significantly improve accessibility, usability, and inclusion so that Vote.gov can reach the full potential of the valuable voter registration resource that it can and should be.¹⁵

¹² The principle of inclusion also considers factors such as web users’ differing levels of age, education, computer literacy, economic status, access to Internet connectivity, and different cultural backgrounds. *See Accessibility, Usability, and Inclusion*, W3C WEB ACCESSIBILITY INITIATIVE, <https://www.w3.org/WAI/fundamentals/accessibility-usability-inclusion/> (last updated May 6, 2016).

¹³ *Accessibility, Usability, and Inclusion*, W3C WEB ACCESSIBILITY INITIATIVE, <https://www.w3.org/WAI/fundamentals/accessibility-usability-inclusion/> (last updated May 6, 2016).

¹⁴ *Accessibility vs. Usability vs. Inclusion*, BUREAU OF INTERNET ACCESSIBILITY (May 14, 2019), <https://www.boia.org/blog/accessibility-vs-usability-vs-inclusion>.

¹⁵ Implementing these improvements to Vote.gov at this time is especially important because, per the requirements of Section 3(a)(i), (iii), and 4(c) of EO 14019, many federal agencies are currently considering ways to provide their clients with access to voter registration services. If Vote.gov were more broadly accessible and user-friendly, and thus presented an effective opportunity to register to vote, agencies could accomplish some of the goals of EO 14019 by providing a link to Vote.gov during their transactions. Furthermore, Section 4 of EO 14019 requires that if agencies receive requests from state election officials to be designated as Voluntary Voter Registration Agencies under Section 7(a)(3)(B)(ii) of the National Voter Registration Act, 52 U.S.C. § 20506(a)((3)(B)(ii) (“NVRA”), they shall accept these designations. The NVRA imposes very specific requirements on how and to what extent voter registration services must be provided by designated Voluntary Voter Registration Agencies. 52 U.S.C. § 20506(a) (4). Because Vote.gov does not currently provide effective or comprehensive access to voter registration opportunities, it cannot help designated agencies comply with those requirements. But if the changes to Vote.gov



Disability Accessibility

As mentioned above, Vote.gov currently relies on the NMVRF that is housed on the EAC website¹⁶ (and this is the only version of the NMVRF that Vote.gov provides). This interface, however, is not accessible to many individuals with disabilities. Among other things, the current PDF form that is provided by the EAC does not comply with the WCAG 2.0 Level A and Level AA standards. These standards require that web content, including PDFs, be perceivable (e.g., alternate text should be available for images and other non-textual content); operable (e.g., all functionality should be available from a keyboard); and understandable; and robust (e.g., able to be interpreted reliably by a wide variety of user agents, including assistive technologies).¹⁷ The EAC's PDF of the NMVRF does not comply with these standards. Moreover, when applying the Accessible Name & Description Inspector ("ANDI") tool to the EAC webpage that hosts the NMVRF, there were 33 accessibility alerts (across many different types of features: focusable elements, graphics, structures, hidden content, etc.). ANDI is a free, open-source tool created by the Social Security Administration's Accessible Solutions Branch.¹⁸ It is a manual inspection tool used in part of an interagency Trusted Tester evaluation process and is meant to serve as a sec. 508 compliance testing tool.¹⁹

Vote.gov should not be promoting or relying upon any web interface that does not provide maximum access to all voters with disabilities. Any interface with the NMVRF available to the public on Vote.gov must comply with the Revised 508 Standards, which incorporate and apply the WCAG 2.0 Level A and Level AA success criteria and conformance requirements to both web and non-web electronic content.²⁰ This includes creating a form that prints out exactly the same way that it appears on the webpage and that can be used by screen readers and other assistive technologies to review and fill-out a registration form online. NIST should provide GSA with recommendations and assist in creating a version of the NMVRF that complies with WCAG 2.0 Level A and Level AA standards and is readily usable by persons using assistive technologies. Moreover, NIST, in conjunction with GSA, should work with disability access

proposed in this comment were implemented, agencies could go a long way toward complying with the requirements of the NVRA simply by incorporating a link to Vote.gov into their existing transactions.

¹⁶ *National Mail Voter Registration Form*, U.S. ELECTION ASSISTANCE COMM'N, https://www.eac.gov/https://www.section508.gov/create/applicability-conformance_voters/national-mail-voter-registration-form (last visited July 14, 2021).

¹⁷ See *Web Content Accessibility Guidelines (WCAG) 2.0*, PDFLIB.COM, <https://www.pdfliab.com/pdf-knowledge-base/pdfua/wcag-20/> (last visited July 16, 2021); see also <https://www.w3.org/TR/UNDERSTANDING-WCAG20/intro.html>.

¹⁸ See *Introduction to Understanding WCAG 2.0*, W3C WORKING GROUP NOTE, <https://www.w3.org/TR/UNDERSTANDING-WCAG20/intro.html> (last visited July 16, 2021).

¹⁹ See *ANDI (Accessible Name & Description Inspector)*, SOCIAL SECURITY ADMINISTRATION, <https://www.ssa.gov/accessibility/andi/help/install.html> (last visited July 16, 2021).

²⁰ See *Section 508 ICT Testing Baseline*, SECTION 508 COORDINATORS, <https://section508coordinators.github.io/ICTTestingBaseline/> (last visited July 16, 2021).



experts to assist in this goal, and to audit the implementation of any proposed changes to Vote.gov.

Additionally, as discussed below, making Vote.gov more generally user-friendly could also significantly improve the web experience for people with disabilities. For example, by making small common-sense adjustments to the format of the NMVRF form so that it is only a few pages long (with only the relevant instructions for a voter’s state) rather than a twenty-seven-page form (with unnecessary instructions for all fifty states), this document can be much more accessible and manageable, including for persons who are navigating the document with screen readers and for persons who have low literacy.

Language Accessibility

While planning improvements to ensure the accessibility of Vote.gov and other online resources for voters with disabilities, GSA and other federal agencies should also make these websites accessible to voters with limited English proficiency (“LEP”).²¹ As noted, the EO specifically requires that GSA shall ensure that Vote.gov is translated into languages spoken by any of the language groups covered under Section 203 of the Voting Rights Act anywhere in the U.S.²²

Indeed, many voters (including LEP voters with disabilities) would require or benefit from translating Vote.gov into additional languages. Currently, the Vote.gov website only offers a Spanish translation. While a Spanish language option is certainly very helpful, the lack of other language options represents a significant missed opportunity, especially since the EAC already provides versions of the NMVRF translated into *fourteen* languages other than English: (1) Arabic, (2) Bengali, (3) Chinese, (4) French, (5) Haitian Creole, (6) Hindi, (7) Japanese, (8) Khmer, (9) Korean, (10) Portuguese, (11) Russian, (12) Spanish, (13) Tagalog, and (14) Vietnamese.²³ Because the NMVRF and its corresponding state instructions have already been translated into these fourteen languages, GSA would need only translate a relatively small amount of text on the actual Vote.gov website in order to maintain a web interface that these LEP voters could fully access and navigate: a minor upfront investment that would have long-lasting results.²⁴

²¹ In Section 208 of the federal Voting Rights Act (“VRA”), disability access and language access are considered together in a provision allowing voting assistance for voters who are blind, disabled, or cannot read or write (including LEP voters). See Voting Rights Act of 1965, Section 208, 52 U.S.C. § 10508. In the context of both disability and language access, this provision recognizes that providing access to voting should not just be a hollow gesture, and that voters only have meaningful access to the electoral process if they can fully comprehend and complete the voting process.

²² EO at 13624–25.

²³ See *National Mail Voter Registration Form*, U.S. ELECTION ASSISTANCE COMM’N, <https://www.eac.gov/voters/national-mail-voter-registration-form> (last visited July 14, 2021).

²⁴ By keeping the language on the Vote.gov website short, simple, and standardized (as it currently is), once initially translated into a particular language, the translation would likely require little maintenance over time (if any).



Any link to translate the Vote.gov website should be written out in the relevant languages (for example, “Español” or “中文”), and should be prominently featured at or near the top of each Vote.gov webpage. Access to these translations should not be provided through a drop-down menu, as the heading in a drop-down menu is usually only in English, making it hard for an LEP voter to even know that the additional languages are available. We also recommend continued monitoring of potential new translated language options to add for both the NMVRF and the Vote.gov website itself. Website translations should not rely on Google Translate, and should be proofread by members of that language minority community to avoid mistranslations and ensure accuracy and completeness.²⁵

Vote.gov as a Clearinghouse with Information about State Websites and Accessibility

Currently, Vote.gov first asks users what state they live in and then re-directs them to a landing page with voter registration information for their specific states. This is appropriate, as voter registration is ultimately controlled by state election officials, and we recommend keeping this approach. But the resources provided to individuals once they reach their state landing page could be much improved. Through Vote.gov, the federal government can provide much-needed guidance and assistance to help facilitate the voter registration process. This includes providing assistance to voters with disabilities, LEP voters, and ultimately providing all potential voters with all the information needed to determine what voter registration options are best for them.

Once on the state-landing page, if the state has online voter registration,²⁶ the current Vote.gov interface provides a link to that system as the first option.²⁷ But no information is provided about the requirements for using the state’s online voter registration system. Additionally, as described further below, only limited information is provided about the language accessibility of the state’s online voter registration system. And access to the NMVRF is only provided on

²⁵ While improving Vote.gov would have many benefits for voter registration (e.g., increasing access, efficiency, and accuracy), we also recognize that there is a “digital divide” in which some communities, including people with disabilities or LEP, are less likely to access or benefit from online resources like Vote.gov. To address this, federal agencies should continue to think through additional plans for in-person and other voter registration opportunities.

²⁶ According to the National Conference of State Legislatures, “[a]s of July 2021, a total of 40 states and D.C. offer online registration.” *Online Voter Registration*, NAT’L CONFERENCE OF STATE LEGISLATURES, <https://www.ncsl.org/research/elections-and-campaigns/electronic-or-online-voter-registration.aspx> (last visited July 15, 2021).

²⁷ We recommend continuing to prioritize of the option to register to vote using an online state system. If the state has online voter registration, this would be by far the best and most streamlined option for any individuals who can effectively use that system. Online voter registration is the most effective and accurate way to register to vote, the most cost-efficient for state and local election officials, and would not require registrants to take additional steps to print or mail a registration for. See Cobb, R. Scholar Strategy Network, “The Many Benefits of Online Voter Registration”, Feb. 27, 2014, available at <https://scholars.org/contribution/many-benefits-online-voter-registration> (last visited July 13, 2021) (“Providing an online tool that eligible citizens can use to register to vote reduces administrative costs, minimizes data entry errors, and increases the accuracy of state voter lists.”); see also *Online Voter Registration: Trends in Development and Implementation*, available at https://www.pewtrusts.org/~media/Assets/2015/05/OVR_2015_brief.pdf?la=en (last visited, July 16, 2021).



landing pages for states that do not have online voter registration, under a section at the bottom titled “Other ways to register to vote in [STATE].”

Information about their state’s voter registration on-line system should be provided before individuals are re-directed to their state website, including whether the state website is accessible to people with disabilities and LEP, and what identification or other documents they would need to complete their state’s online voter registration process.²⁸ In many circumstances, not all individuals can take advantage of the resources on their state election website. For example, in most states, an individual without a driver’s license or other identification issued by that state cannot use the online voter registration system.²⁹ Some states additionally require individuals to provide the last four digits of their Social Security number (SSN), which some do not feel comfortable providing online. Still others would struggle to use certain states’ online voter registration websites that are not accessible to people with disabilities or LEP. The state-specific landing pages should provide individuals with the information needed to determine whether they would be able to access and complete their state online registration process before they use the state link and leave the Vote.gov website. And the option to use the NMVRF should be available on all state-specific landing pages on Vote.gov, in order to better accommodate individuals who would not be able to complete their state’s online voter registration process (due to disability, language, and/or identification documents). But as detailed further below, the accessibility and usability of the NMVRF must first be improved.

Vote.gov could serve a unique function by providing users with important information about the available resources on their state websites. To some extent, Vote.gov already performs a similar function. When individuals utilize the Spanish version of Vote.gov and choose their state, the state-specific landing page includes a quick note when the state website links will re-direct to a website in English,³⁰ or when their state website will also have an option to select Spanish.³¹ A

²⁸ While it can be a hindrance to anyone not to know in advance what documents they will need to register to vote, this could be especially difficult for people with disabilities, who may benefit more from being able to collect and prepare any needed documents beforehand.

²⁹ *Online Voter Registration*, NAT’L CONFERENCE OF STATE LEGISLATURES, <https://www.ncsl.org/research/elections-and-campaigns/electronic-or-online-voter-registration.aspx> (last visited July 15, 2021). Unfortunately, millions of Americans do not have identification cards. Eleven percent of U.S. citizens do not have any form of government-issued photo identification. See BRENNAN CENTER FOR JUSTICE, *Citizens without Proof: A Survey of Americans’ Possession of Documentary Proof of Citizenship and Photo Identification* (New York: Brennan Center for Justice, 2006), available at http://www.brennancenter.org/sites/default/files/legacy/d/download_file_39242.pdf, at 1 (last visited July 16, 2021). Even more do not have driver’s licenses or state identification cards.

³⁰ For example, Vote.gov users who choose Alabama are directed to a state-specific landing page with a link to “Start your online registration on Alabama’s election website.” *Register to Vote in Alabama*, VOTE.GOV, <https://vote.gov/register/al/> (last updated June 29, 2021). But persons using the Spanish version of this site can see an additional parenthetical note that Alabama’s online registration website is in English. See *Regístrate para votar en Alabama*, VOTE.GOV, <https://vote.gov/es/registrar/al/> (last updated June 29, 2021).

³¹ For example, Vote.gov users who choose Arizona are directed to a state-specific landing page with a link to “Start your online registration on Arizona’s election website.” *Register to Vote in Arizona*, VOTE.GOV,



similarly simple format could be followed for additional language translations of the Vote.gov website. Because Vote.gov is already periodically updated (including to assess Spanish language options for state websites), this could be expanded so that Vote.gov could serve as a clearinghouse to provide more information potential voters may need to guide them to their best voter registration option. If certain Vote.gov users realize they cannot complete the online registration through their own state voter registration website (due to issues with disability access, language access, and/or identification documents), they should have the option to choose to use the NMVRF instead.

Improving the Format of the National Mail Voter Registration Form

In order to fully utilize the NMVRF (as provided through Vote.gov), the format must be more accessible and user-friendly. As explained, the current format of the NMVRF provided through Vote.gov is not accessible to many voters with disabilities, and this must be corrected. Moreover, the current interface with the NMVRF is extremely cumbersome for any potential voter. We hope that while working to improve accessibility of the NMVRF, GSA will also engage in additional changes to improve the general usability of the form for all potential voters.

For a number of reasons, the current version of the NMVRF is almost unusable in practice. While the actual voter registration application is only one page, the current form of the NMVRF that is available online includes two versions of this application page—one of which is a read-only PDF (on page 6/27) and one of which is a fillable pdf (on page 4/27), where an individual can type directly into the PDF.³² But there is no explanation provided as to why there are two separate but seemingly identical PDF options, nor is there any explanation that users can type into one of the forms. Additionally, while there is one page of General Instructions and one page of Application Instructions that provide necessary information for all voters, the current NMVRF PDF document also provides state-specific instructions for all fifty states and the District of Columbia, even though potential voters only need the instructions for their own states (which are usually only a few paragraphs). The entire document prints out at twenty-seven pages, even though an individual should only need four pages at most: the one-page application, the one-page General Instructions, the one-page Application Instructions, and their brief state-specific instructions.³³ Confusingly, the current PDF also includes two versions of a mailing page, but

<https://vote.gov/register/az/> (last updated June 29, 2021). But persons using the Spanish version of this site can see an additional parenthetical note that Arizona’s online registration website also includes an option to select Spanish. See *Regístrate para votar en Arizona*, VOTE.GOV, <https://vote.gov/es/registrar/az/> (last updated June 29, 2021).

³² See *National Mail Voter Registration Form*, U.S. ELECTION ASSISTANCE COMM’N, <https://www.eac.gov/voters/national-mail-voter-registration-form> (last visited July 14, 2021). However, even the fillable PDF appears to have glitches and may be of limited use; for example, clicking into the form’s check boxes may not successfully mark the boxes (including the questions about meeting citizenship and age eligibility requirements).

³³ Current guidance from the EAC is clear that the application portion of the NMVRF can be separated from the instructions—in other words, the instructions can be presented separately and in a format different from the 27-page NMVRF. See *National Mail Voter Registration Act FAQs*, available at <https://www.eac.gov/voters/national-voter->



without providing a mailing address or mailing instructions. Even if an individual completed the form and successfully printed out this long document, it could still be difficult to figure out how to actually mail the completed form.³⁴

But GSA can create an accessible and user-friendly version of the NMVRF and provide access to the public on Vote.gov. There are several good models that have been created by groups outside the government, which are in regular use [though please note: these websites do not appear to be WCAG 2.0 AA compliant]. These examples include:

- Rock The Vote, <https://www.rockthevote.org/how-to-vote/register-to-vote/>,
- Turbo Vote, <https://turbovote.org/>,
- Vote.org, <https://www.vote.org/register-to-vote/>, and
- Trigger the Vote, <https://www.triggerthevote.org/register-to-vote/>.

These systems are designed to help facilitate individuals completing the NMVRF by asking them simple questions and pre-populating their voter registration forms accordingly: the end product looks the same as if an individual printed out a blank paper copy of the NMVRF and completed the relevant portions by hand. These systems have been in place for many years and local election officials have accepted forms created by these systems without any issue, as they are required by the National Voter Registration Act (“NVRA”) to process all NMVRFs.³⁵ Rock the Vote, for example, first put out a version of the NMVRF in an online tool in 1999, and its current portal has been in place for the last twelve years. NIST should provide GSA with recommendations and assistance to create a version of the NMVRF that builds upon these models.

Per the NVRA, the content of the NMVRF is determined by the EAC.³⁶ But GSA can change the *format* of the form. None of our recommendations involves changing any of the content of the NMVRF—we are not proposing changing any of the language used by the form or the content of any instructions or any questions currently contained within the form. Similarly, all of

[registration-act](#) (last visited July 13, 2021). For example, the EAC states that when conducting a voter registration drive, it is permissible to photocopy and hand out “only the voter registration applications,” while the instructions can be “enlarged” into posters and “posted at the registration site.” *Id.* While the content of the language of the NMVRF is precisely specified, the *format* is flexible. This can be seen in the different ways that the NMVRF is presented on many different websites as discussed herein.

³⁴ Because the instructions are not clear, if an individual thought the entire twenty-seven page PDF needed to be included when mailing the application, the weight of this document would surpass the standard weight limit for a typical postage stamp, possibly resulting in failure to mail the document due to insufficient postage.

³⁵ 52 U.S.C. § 20508. The NVRA only applies to 46 states and the District of Columbia. 52 U.S.C. § 20503. But the vast majority of states accept and process the NMVRF, with only a few exceptions: “New Hampshire town and city clerks will accept this application only as a request for their own absentee voter mail-in registration form. North Dakota does not have voter registration. Wyoming law does not permit mail registration.” See *National Mail Voter Registration Form, General Instructions*, U.S. ELECTION ASSISTANCE COMM’N, https://www.eac.gov/sites/default/files/eac_assets/1/6/Federal_Voter_Registration_ENG.pdf, at 1 (last visited July 14, 2021).

³⁶ 52 U.S.C. § 20508.



these models cited above use the exact language provided by the EAC for the NMVRF, but merely change the interface to be much more user-friendly. By leaving the NMVRF content untouched and only changing the format and interface of the form, these systems are consistent with EAC guidance about presenting the NMVRF.³⁷ GSA, with guidance from NIST, should create a user-friendly interface of the NMVRF and house it on Vote.gov.

Additionally, with NIST assistance, GSA should improve the process by which individuals access their completed NMVRF, and provide clear mailing instructions. First, the portal should provide very clear instructions that the process is not finished until the individual prints out, signs, and mails their voter completed application. Second, the system should be configured to encourage individuals to either print or download their completed form immediately, including by providing instructions about how to download and save the completed form onto an individual's own system (with the option of printing later). This would be a secure transaction for the user because the data provided to complete the registration form would not be saved or shared. As soon as users download their completed form to their own system and exit the Vote.gov webpage, all their personal information should immediately be erased, and would never be collected or maintained by Vote.gov.

Furthermore, NIST should provide recommendations and assistance to GSA to create a user-friendly format for the paper documents that will be created and printed out by the system. The actual completed application and mailing address should be configured so that they can be printed on a single page, front-and-back. And the state-specific mailing address, which is provided for each state as part of the NMVRF instructions, should be pre-populated onto the printed form. This way, the potential voter does not have to fill in the address of where to mail their form—it would automatically be provided as appropriate for their state. And very clear instructions should be provided on a second page explaining again the need to sign, fold, and mail the form,. The systems cited above all provide good models for this.

Additionally, an option to also print out the complete instructions, including the General Instructions, the Application Instructions and the appropriate state-specific instructions, should be provided.³⁸

³⁷ See supra n.33.

³⁸ NIST should also assist GSA in making sure that Vote.gov is compatible with smart phone technology. A recent study by the Pew Research Center found that 26% of Americans making less than \$30,000 per year had a smart phone but no internet access at home. See Vogels, E., "Digital divide persists even as Americans with lower incomes make gains in tech adoption" (June 22, 2021), available at <https://www.pewresearch.org/fact-tank/2021/06/22/digital-divide-persists-even-as-americans-with-lower-incomes-make-gains-in-tech-adoption/> (last visited July 13 2021).



Option to Receive Their Completed Voter Registration Application by Email or Mail

NIST should also evaluate if it is possible for Vote.gov to securely provide an additional option to email the completed form to the user, and NIST should provide specific recommendations about how that might be accomplished. Vote.gov users could be asked if they would like to receive a copy of their completed form through email so that they could have a copy to print at a later time (since many users may not have immediate access to printers). If so, they would be asked to provide an email address and GSA could email the completed form, along with the mailing instructions. Through this process, the federal government still should not retain any information provided during the voter registration process. Information sent via email should not be sent as a live link back to Vote.gov, but as a separate file like an attached PDF. Once the email is generated and sent to the user, GSA and Vote.gov should automatically and completely delete the content from all meta-data and other potential storage locations. NIST should research and evaluate the best way to provide users with this email option while still ensuring that their personal information is secure and not retained by the federal government.

Notably, many people—including many people with disabilities, lower incomes persons, or younger and older people—may not be able to access a printer to print their NMVRF. To be inclusive of these and other groups, Vote.gov should also provide an option for users to request copy of their NMVRF through the mail after they have complete the application on the portal. NIST should make recommendations and assist GSA in developing a system to allow GSA to mail individuals their NMVRF with all their information after they have completed in online. The mailing should be a version of the NMVRF that only includes the instructions relevant to that particular user, depending on their state. This should include the completed voter registration application form (double-sided, with the mailing information on the back side of the page), the General Instructions, the Application Instructions, and the state-specific instructions for that user's state. The user should also be presented with the option to choose among the translated versions of the NMVRF, in case they would prefer to receive the form in a non-English language. Ideally, this form could also be sent with the mailing address for the user's election official already provided.³⁹

Additionally, to accommodate people with vision impairments, Vote.gov should also provide an opportunity for these users to request a specialized paper version of their NMVRF that was pre-populated while they were using the NMVRF interface on Vote.gov. NIST should make recommendations and assist GSA in developing this system, but this could potentially be accomplished through programming to recognize when an individual is using a screen reader to access Vote.gov and the NMVRF, and to prompt those individuals with the option to receive an accessible completed copy of their form. These paper forms could also include a row of braille in the signature block, so that people with visual impairments could more easily find where they

³⁹ At a minimum, an option should be provided to allow an individual to request a blank paper NMVRF formatted to include only their state-specific instructions for their state through the mail.



should sign their voter registration application to complete their otherwise completed forms before mailing them. Mailing instructions should also be included in braille.

Vote.gov as a Clearinghouse for Information on Restoration of Voting Rights

In the spirit of expanding voting access—particularly to those who face the greatest barriers to voting—Vote.gov should also provide or direct justice-impacted individuals, including those with felony convictions, on parole, and in pre-trial detention, to relevant and trustworthy information to find out about their eligibility to register to vote, or how to restore their right to vote if necessary.

As rights restoration rules are state-specific and range widely—from no disenfranchisement all the way to restoration of rights only after completion of all sentence terms and an official pardon—Vote.gov should provide different information and ask different questions for each state. This information could be part of the initial state landing page, or potential voters could be asked a simple question about whether they need this information, and then redirected to a second state landing page. After consulting with relevant stakeholders and experts, NIST should make recommendations to GSA about the best way to present this information.

In states where felony convictions do not result in disenfranchisement, the website should clearly state that persons with felony convictions do not lose their eligibility to vote. In states where there is automatic restoration of rights, the website should explain when persons with felony convictions would become eligible to register or re-register to vote. In states where additional steps are needed to restore the right to vote, the website should link to state-specific resources on restoration. Each state-specific landing page should link to that state’s own elections and rights restoration guidance for more detailed information.

For reference, we provide the following breakdown of current state rights restoration policies:

Locations where felony convictions do not result in disenfranchisement: District of Columbia; Maine; Vermont; and Puerto Rico.

Locations where the right to vote can be automatically restored after release from incarceration:

<ul style="list-style-type: none"> • California • Colorado • Connecticut • Hawaii • Illinois 	<ul style="list-style-type: none"> • Indiana • Maryland* • Massachusetts • Michigan • Montana 	<ul style="list-style-type: none"> • Nevada • New Hampshire • New Jersey • New York • North Dakota 	<ul style="list-style-type: none"> • Ohio • Oregon • Pennsylvania • Rhode Island • Utah • Washington
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Locations where the right to vote can be automatically restored after completion of sentence, including parole/probation:

<ul style="list-style-type: none"> • Alaska • Arkansas • Georgia • Idaho 	<ul style="list-style-type: none"> • Kansas • Louisiana • Minnesota • Missouri 	<ul style="list-style-type: none"> • New Mexico • North Carolina • Oklahoma • South Carolina 	<ul style="list-style-type: none"> • South Dakota • Texas • West Virginia • Wisconsin
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Locations where the right to vote can be restored after completion of sentence, including parole/probation, and/or an additional waiting period/action to restore the right to vote:

<ul style="list-style-type: none"> • Alabama • Arizona • Delaware 	<ul style="list-style-type: none"> • Florida* • Iowa • Kentucky 	<ul style="list-style-type: none"> • Mississippi • Nebraska • Tennessee 	<ul style="list-style-type: none"> • Virginia • Wyoming
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*Exceptions based on type of offense.

Ensure that Usability Experts are Looped into The Process of Upgrading Vote.gov

In implementing the changes proposed in this Comment, we strongly recommend that NIST work with a usability expert at every step to advise GSA about how best to incorporate all necessary information in the most efficient and easily understandable way. There are many resources available to help ensure that the design of the Vote.gov portal is user-friendly to the public. These include 18F, a technology and design consultancy for the U.S. Government, which is housed within GSA, and “partners with federal agencies to improve the user experience of government services”;⁴⁰ the U.S. Digital Service, which aims “to deliver better government services to the American people through technology and design”;⁴¹ and the Center for Civic Design.⁴²

Vote.gov’s Focus on Voter Registration

Currently, Vote.gov focuses only on information related to voter registration, and we strongly recommend that this particular platform should remain a streamlined resource for voter registration. We understand there may be interest in adding more voter information to Vote.gov. And while we know that voter registration is just the first step in the voting process, we believe Vote.gov will be most effective if it continues to focus on this specific element of the process where the federal government is particularly well-suited to take a proactive and leading role.

⁴⁰ See 18F: Digital service delivery, GENERAL SERVICE ADMINISTRATION, <https://18f.gsa.gov/> (last visited July 13, 2021).

⁴¹ See Homepage, UNITED STATE DIGITAL SERVICE, <https://www.usds.gov/> (last visited July 13, 2021).

⁴² See CENTER FOR CIVIC DESIGN, <https://civicdesign.org/> (last visited July 16, 2021).



There is a need for the federal government to provide an accessible, user-friendly platform that provides a meaningful opportunity to register to vote. As discussed, there are already other non-governmental portals that provide assistance with voter registration using the NMVRF, but the federal government can reach new voters who may be less inclined to use these other voter registration portals. For example, the voter registration process requires individuals to provide personal identifying information and contact information, and the non-governmental organizations hosting these portals usually retain such information for other communications or recruitment purposes. To avoid prompting such additional contact from these or other organizations, some people may refrain from using these portals. And while most of these non-governmental portals are maintained by 501(c)(3) nonpartisan nonprofit organizations, some people may still be reluctant to participate if they even perceive these organizations as partisan. Vote.gov would be an independent and nonpartisan government resource that would not retain any personal information provided by registrants during the voter registration process. And while government websites are unlikely to link directly to a particular non-governmental organization's portal for voter registration (regardless of how effective or user-friendly it may be), Vote.gov can follow the models of these other portals and serve as the default voter registration link to be included for various federal government website transactions. In making Vote.gov more user-friendly and robust, GSA and the federal government have a unique opportunity to provide a secure, neutral, and efficient online resource for individuals to register to vote.

Furthermore, general information about voting is already available at many online sources.⁴³ Additionally, as seen from the compilations on the National Conference of State Legislatures' State Elections Resources page, state election officials have already posted a substantial amount of non-registration-related election information and resources online.⁴⁴ We acknowledge that the quality of these sources varies by jurisdiction, but we do not believe that federal agencies are currently better positioned than boards of election and other groups to provide access to resources to help local voters (such as polling place locators).

Moreover, because the NVRA requires that the EAC create and maintain the federal NMVRF that can be used to register to vote in almost every state,⁴⁵ voter registration is one area where the federal government has a unique opportunity to play a more interactive and thus more impactful role. Utilizing Vote.gov, GSA can create a system that not only provides information but also

⁴³Some of these resources include: Google, <http://elections.google/#engaging-voters>; Vote.org, <https://www.vote.org>; and the National Conference of State Legislatures ("NCSL"), <https://www.ncsl.org/research/elections-and-campaigns/election-laws-and-procedures-overview.aspx>.

⁴⁴ See *NCSL State Election Resource*, NATIONAL CONFERENCE OF STATE LEGISLATURES, available at <https://www.ncsl.org/research/elections-and-campaigns/election-laws-and-procedures-overview.aspx>. (last visited July 15, 2021).

⁴⁵ See 52 U.S.C. § 20508; see also https://www.eac.gov/sites/default/files/eac_assets/1/6/Federal_Voter_Registration_ENG.pdf; see also supra n.35.



actively facilitates voter registration (hopefully on a large scale, if Vote.gov and the NMVRF can be incorporated into many new federal government transactions, as per the intent and directive of EO 14019).

Finally, to maintain Vote.gov's focus on voter registration, we strongly recommend against consolidating the voter registration resources on Vote.gov and the other voting information on USA.gov into a single website. If Vote.gov begins to house too much information and too many different links, the voter registration information and opportunities could get lost in the shuffle, and Vote.gov's usability and user-friendly interface could suffer. Currently, the content included on Vote.gov's state-specific landing pages is relatively lean and concise, and the information is all particularly pertinent to voter registration (and should thus remain on these pages): specifically, in addition to links to register to vote, the landing pages provide information about state voter registration deadlines and links to check voter registration status (where available). Beyond this information, we generally would not recommend adding further voting information to Vote.gov, other than the aforementioned additional resource about state voting rights restoration rules, which is directly related to registration.

Conclusion

Implementing the recommendations above could make Vote.gov more accessible to millions of U.S. citizens. And there is a great need to expand and improve the opportunities that citizens have to register to vote. According to recent Census data, there are over 41 million U.S. citizens who reported having a disability,⁴⁶ and over 13 million U.S. citizens who are limited English proficient.⁴⁷ Furthermore, while the turnout in the 2020 presidential election was historically high, only 66.3 percent of the eligible population voted⁴⁸—so there is still a huge gap in voter participation. Lack of voter registration is a large reason for low participation rates. For example, the Census Bureau determined that 35.4 percent of eligible citizens were not registered to vote in 2014.⁴⁹ Additionally, there are meaningful disparities by race and income among those who are registered to vote and those who are not. According to data from the Census

⁴⁶According to ACS 2019 1-year estimates, there are 41,857,480 US citizens who reported having a disability. See *ACS 1-Year Estimates-Public Use Microdata Sample*, U.S. CENSUS BUREAU, available at <https://data.census.gov/mdat/#/search?ds=ACSPUMS1Y2019&cv=DIS&rv=CIT&wt=PWGTP> (last visited July 16, 2021).

⁴⁷ According to ACS 2019 1-year estimates, there are 13,153,053 US citizens who are limited English proficient. The term Limited English Proficient refers to any person age 5 and older who reported speaking English less than "very well," as classified by the Census Bureau. See *ACS 1-Year Estimates-Public Use Microdata Sample*, U.S. CENSUS BUREAU, available at <https://data.census.gov/mdat/#/search?ds=ACSPUMS1Y2019&cv=ENG&rv=CIT&wt=PWGTP> (last visited July 16, 2021).

⁴⁸ Schaul, K. et al., WASHINGTON POST, "2020 turnout in the highest in over a century" (Dec. 28, 2021), available at <https://www.washingtonpost.com/graphics/2020/elections/voter-turnout/> (last visited July 16, 2021).

⁴⁹ File, T., "Who Votes? Congressional Elections and the American Electorate: 1978-2014" (July 16, 2015), available at <https://www.census.gov/library/publications/2015/demo/p20-577.html> (last visited July 13, 2021).



Bureau's Current Population Survey, 74.2 percent of the White voting age population is registered to vote, while only 69 percent of the Black voting age population, 63.8 of the Asian American voting age population, and 61.1 percent of the Hispanic voting age population are registered to vote.⁵⁰ Furthermore, there are even larger disparities by income. Per Census Bureau data, only 60 percent of individuals with a reported income of less than \$20,000 per year are registered to vote, as compared to 85.2 percent of individuals with a reported income of over \$75,000 per year.⁵¹ The federal government should be doing everything that it can to help improve voter registration rates, particularly among lower income communities of color, voters with disabilities and limited English proficiency, and other marginalized groups.

And as more citizens turn to the option of online voter registration, it becomes even more important to modernize Vote.gov to make this process easier and more accessible. According to census data, online voter registration increased significantly from the 2016 Presidential election to the 2020 Presidential election—in 2016, 6% of voters reported registering to vote online, compared to 12% of voters in 2020.⁵² While some of this increase may have been prompted by the COVID-19 pandemic, this still highlights the importance of offering a wide range of accessible and user-friendly options to register to vote, particularly for those who face the most challenges in this regard, whether due to disability, limited English proficiency, income level, or a wide variety of other factors—including public health concerns in light of a global pandemic.

Additionally, there was a notable increase in misinformation surrounding the 2020 Presidential election, including misinformation and disinformation on online platforms, such as social media and email blasts.⁵³ The increase in misinformation campaigns makes it even more important to modernize Vote.gov to highlight this platform as a trusted resource to provide accessible and reliable information that combats misinformation around voter registration deadlines and procedures.

The federal government should improve and modernize Vote.gov and the National Mail Voter Registration Form, in order to take the lead in ensuring that all citizens have access to reliable, accurate, and up-to-date information about voter registration in their state.⁵⁴

⁵⁰ U.S. CENSUS BUREAU, *Voting and Registration in the Election of November 2020 tables*, available at <https://www.census.gov/data/tables/time-series/demo/voting-and-registration/p20-585.html> (last visited July 16, 2021).

⁵¹ *See id.*

⁵² U.S. CENSUS BUREAU, *Voting and Registration in the Election of November 2016 and 2020, Table 12*, available at <https://www.census.gov/data/tables/time-series/demo/voting-and-registration/p20-585.html>, (last visited on July 16, 2021).

⁵³ *See, e.g.,* Fessler, P., NPR, “Robocalls, Rumors And Emails: Last-Minute Election Disinformation Floods Voters” (Oct. 24, 2020), available at <https://www.npr.org/2020/10/24/927300432/robocalls-rumors-and-emails-last-minute-election-disinformation-floods-voters> (last visited July 16, 2021).

⁵⁴ As changes are (hopefully) made to Vote.gov so that it can be an effective resource to address the voter registration gap in America, it is important that GSA keep up its efforts in tracking website usage metrics to better understand how people are using the website. *See* <https://www.usa.gov/policies> (last visited July 13, 2021). This



will be important in evaluating the impact of implementing any of these proposed improvements to Vote.gov, and we hope that NIST will make recommendations and assist GSA as needed in developing this tracking. To assess the effectiveness of Vote.gov, it would be helpful to know:

- How many users click through to their state online voter registration system?
- How many users take advantage of the newly updated NMVRF portal?
- How many users download or print out their completed NMVRF?
- If an option is provided, how many users request to have their complete NMVRF emailed to them? (Or how many users request to have a blank NMVRF mailed to them?)
- For users with screen readers who are provided with this option, how many request to have their complete and accessible NMVRF mailed to them?
- How many users take advantage of the different language translation options provided?

Per GSA policies, any data collected should only be general web traffic statistics that are anonymous and collected in the aggregate.