

STRENGTHENING DEMOCRACY

A Progress Report on Federal Agency Action to Promote Access to Voting



American Civil Liberties Union (ACLU)

Advancement Project

American Federation of State County and Municipal Employees

American Association of People with Disabilities

American Federation of Teachers

American Public Health Association

Asian Americans Advancing Justice | AAJC

Asian and Pacific Islander American Vote (APIAVote)

Asian Pacific American Labor Alliance, AFL-CIO

Autistic Self Advocacy Network

Black Voters Matter Fund

Campaign Legal Center

Center for Disability Rights

Clean Water Action

Demos

Fair Elections Center

Faith in Public Life

Foundation for Civic Leadership

Healthy Democracy Healthy People Initiative

Hip Hop Caucus

Hispanic Federation

Human Rights Campaign

Jewish Alliance for Law and Social Action

LatinoJustice PRLDEF

Leadership Conference on Civil and Human Rights

League of Conservation Voters

League of Women Voters of the United States

Legal Defense Fund (LDF)

NAACP

National Association of Councils
on Developmental Disabilities

National Congress of American Indians

National Council of Asian Pacific Americans
(NCAPA)

National Disability Rights Network

National Housing Law Project

National Partnership for New Americans

Native American Rights Fund

NETWORK Lobby for Catholic Social Justice

Planned Parenthood Action Fund

Presbyterian Church (USA) Office of Public Witness

Promise of Democracy Foundation

Public Citizen

Sierra Club

Society for Humanistic Judaism

SPLC Action Fund

T'ruah: The Rabbinic Call for Human Rights

The Andrew Goodman Foundation

The Hope Center for College, Community, and Justice

The Workers Circle

UnidosUS

Union for Reform Judaism

Union of Concerned Scientists

United Church of Christ, Justice and Local Church
Ministries

Young Invincibles

Endorsement is an indication of solidarity within our movement and a recognition of the urgency of these priorities. Endorsement does not necessarily mean that organizations have expertise on or are actively working towards each priority listed in this report.

EXECUTIVE SUMMARY

On March 7, 2021, President Biden issued [Executive Order 14019 Promoting Access to Voting](#), a visionary EO that has the potential to make registration and voting more accessible for millions of Americans, including many communities historically excluded from the political process. In it, President Biden directs federal agencies to “consider ways to expand citizens’ opportunities to register to vote and to obtain information about, and participate in, the electoral process.” This report evaluates 10 federal agencies on their progress in meeting the goals of this important EO. We find that, while a few agencies have made noteworthy progress, most have either made minimal progress on their initial strong commitments or have left important opportunities on the table. **Our findings are clear: most federal agencies have room for improvement in their implementation of the Voting Access EO.** Timely action by these agencies—either to follow through on their initial strong commitments or to make and follow through on new, stronger commitments—is more critical than ever, as efforts to restrict and suppress the fundamental right to vote proliferate across the country. And federal agency action can make a real difference. **We estimate that, if these agencies integrate a high-quality voter registration opportunity for the people they serve, as recommended in this report, they could collectively generate an additional 3.5 million voter registration applications per year.** Meeting the full potential of this vital EO is one of the most significant things President Biden and the leaders of federal agencies can do to promote voting rights, and doing so would leave a lasting legacy on our democracy.

INTRODUCTION

The fundamental right to vote is once again under attack across much of the country, and access to registration and voting varies widely by geographic and demographic community. According to the U.S. Census Bureau, 77% of white eligible voters are registered to vote, compared to only 69% of Black eligible voters, 61% of Latinx eligible voters, 64% of Asian-American eligible voters, and 63% of Native-American eligible voters. Only 64% of young people (ages 18-24) are registered to vote, a rate 10 percentage points lower than all other age groups.¹ Similar disparities exist in turnout rates, including for naturalized citizens, the majority of whom are people of color and who now represent one in ten eligible voters, but whose turnout rates lag behind their U.S.-born counterparts.² Barriers throughout the voting process lead to a similar persistent turnout gap among disabled voters, who represent about one in six eligible voters.³ These disparities are due to historical and present-day voter suppression, language-access barriers, intimidation and racism when accessing the ballot, and more. **During the last Presidential election, over 63 million eligible Americans were not registered to vote — many of them people of color.**⁴

With comprehensive legislation protecting the right to vote facing a difficult path to passage in this Congress, one of the most powerful tools available at the federal level to protect voting rights and strengthen our democracy is President Biden’s Executive Order 14019 Promoting Access to Voting (“Voting Access EO”). This visionary EO could further realize the potential of the National Voter Registration Act by making voter registration more accessible for millions of Americans, including many communities historically excluded from the political process.

Issued March 7, 2021, on the anniversary of Bloody Sunday—the 1965 attack on civil rights activists in Selma, Alabama that helped spark the passage of the Voting Rights Act—the Voting Access EO declares that:

“Executive departments and agencies ... should partner with State, local, Tribal, and territorial election officials to protect and promote the exercise of the right to vote, eliminate discrimination and other barriers to voting, and expand access to voter registration and accurate election information.”

A key component of the Voting Access EO directs federal agencies to “consider ways to expand citizens’ opportunities to register to vote and to obtain information about, and participate in, the electoral process.” It affords federal agencies leeway in determining how to comply with its directives, based on what is possible within their authority and what makes sense in terms of their interactions with the public.

This progress report evaluates 10 federal agencies on their progress in fully achieving the potential of the Voting Access EO. **We estimate that, if these agencies integrate a high-quality voter registration opportunity for the people they serve, as recommended in this report, they could collectively generate an additional 3.5 million voter registration applications per year.**⁵

-
- 1 U.S. Census Bureau, Voting and Registration in the Election of November 2020, April 2021, <https://www.census.gov/data/tables/time-series/demo/voting-and-registration/p20-585.html>.
 - 2 Pew Research Center, Naturalized Citizens Make Up Record One-in-Ten U.S. Eligible Voters in 2020, February 26, 2020, <https://www.pewresearch.org/hispanic/2020/02/26/naturalized-citizens-make-up-record-one-in-ten-u-s-eligible-voters-in-2020/>.
 - 3 U.S. Election Assistance Commission, Study on Disability and Voting Accessibility in the 2020 Elections, February 2021, <https://www.eac.gov/election-officials/us-election-assistance-commission-study-disability-and-voting-accessibility-2020>.
 - 4 U.S. Census Bureau, April 2021.
 - 5 Demos, Federal Agency Voter Registration Estimates of Annual Impact, February 2023, <https://www.demos.org/sites/default/files/2023-02/Voting%20Access%20EO%20Impact%20Estimates.pdf>

However, as of today, agencies are far from meeting that potential. While a few agencies have made noteworthy progress, especially toward improving access to voter registration, most have either made minimal progress on their initial strong commitments or have left important opportunities on the table. Our findings are clear: most federal agencies have room for improvement in their implementation of the Voting Access EO.

The good news is, it's not too late – but agencies must act swiftly over the next several months. As President Biden himself said, “It is our duty to ensure that registering to vote and the act of voting be made simple and easy for all those eligible to do so.” In order to meet that duty, most federal agencies must work quickly to do everything they can to make voter registration and voting more accessible to the millions of eligible voters that they interact with on a regular basis. This report provides detailed recommendations for what these agencies can do to better meet the potential of the Voting Access EO.

METHODOLOGY

Evaluation

We evaluate agencies based on both the strength of their commitments in response to the Voting Access EO and the status of their follow-through, which together represent the progress each agency has made in achieving the goals of the Voting Access EO. **Due to differences in program content, resources, and reach, agencies were evaluated against their own potential and their actions taken, not against other agencies.** We evaluate agencies' response to the Voting Access EO based on public announcements from the agency or White House and information shared by agencies with advocates.

Each agency receives checks based on the milestones they must reach to achieve the full potential of the Voting Access EO. Milestones include:

- ✓ **Making a benchmark commitment:** A benchmark is a high-impact and far-reaching activity that an agency can feasibly take to meet the full potential of the Voting Access EO. Benchmarks create effective voter registration opportunities—such as those that follow the National Voter Registration Act (“NVRA”) model, defined below—during in-person transactions and through online portals that serve millions of people. In addition, a benchmark voter registration activity specifically targets communities traditionally excluded from the political process. If an agency has made a commitment to implement at least one benchmark, they receive a check for this milestone.
- ✓ **Showing timely progress on implementation of benchmark commitments:** Agencies should make good faith efforts to fully implement benchmark commitments on a timeline suitable to their programs. *Making and implementing benchmark commitments is the most important thing an agency can do to effectively meet the goals of the Voting Access EO.* Agencies that have not just made a benchmark commitment but have also shown evidence of strong follow-through receive a check for this milestone.
- ✓ **Engaging in other effective activities:** In addition to making and implementing benchmark commitments, many agencies have engaged in additional activities that promote access to voting. Examples include sending guidance letters or providing information about voting to the public. While these activities are typically not as effective as benchmark commitments at adding people to the voter registration rolls and closing racialized and income-based registration gaps, they still contribute to promoting access to registration and voting. Agencies that have undertaken such efforts receive a check for this milestone.
- ✓ **Achieving full potential:** To achieve its full potential, an agency must commit to and fully implement all its benchmarks, resulting in the successful integration of effective voter registration opportunities into their everyday interactions with the public whenever possible. Additionally, the agency should take all possible steps to promote access to voting.

Based on their progress toward the milestones above, agencies are sorted into **three tiers**. The tiers represent where each agency is in their response to the Voting Access EO.

- I. On the right track:** Agencies in this tier made commitments that are on track to approach their full potential and will lead to the availability of voter registration services that are effective and/or reach broad populations. Additionally, they are in the process of completing implementation of those commitments. If these agencies continue on this track, they are in good shape to meet the goals of the Voting Access EO before the end of President Biden’s current term.
- II. Still have work to do:** Agencies in this tier made commitments to provide voter registration services that are effective and/or reach broad populations, but progress on implementation is sluggish or has stalled. These agencies still have a significant chance to provide meaningful voter registration opportunities, but they must prioritize follow-through to effectively correct course and begin making progress.
- III. Falling behind:** Agencies in this tier have either 1) not yet made a benchmark commitment, 2) have made negligible progress toward implementation of a benchmark commitment, and/or 3) have engaged in few other impactful activities, even though there are additional meaningful actions within their capacity. Agencies in this tier must work quickly to course correct and allow sufficient time to take advantage of their full potential before the end of President Biden’s current term. Presently, these agencies risk missing the opportunity to provide meaningful voter registration opportunities and promote access to voting for their constituencies.

The National Voter Registration Act (NVRA) Model

In addition to requiring state agencies like departments of motor vehicles to offer voter registration services, the National Voter Registration Act (NVRA) also establishes a process for state officials to designate federal agencies as NVRA voter registration agencies with the voluntary agreement of the federal agency—this process is called “NVRA designation.” Once designated, the federal agency should provide voter registration opportunities and assistance similar to state agencies. While it is not necessary for federal agencies to receive and accept NVRA designations to implement high-quality voter registration within their programs, nearly 30 years of experience with state agencies demonstrate that the NVRA provides an excellent model for how federal agencies can best incorporate nonpartisan voter registration into their programs.

The NVRA model is highly effective because it includes distributing actual voter registration applications directly to clients, and providing

clients with assistance in completing those applications. It then requires that agency officials collect completed voter registration applications from clients and deliver them to state election officials, who review the applications for eligibility and complete the registration process. We refer to this model of voter registration services as “NVRA-like” voter registration throughout this report.

The NVRA always contemplated designation of federal agencies alongside state agencies, and the Voting Access EO reemphasizes that opportunity by specifically encouraging the use of this NVRA designation process, stating that “to the greatest extent practicable and consistent with applicable law, [agencies shall] agree to such designation.”

A federal agency inviting and/or accepting designation as an NVRA voter registration agency shows a clear intent to ensure that the eligible

Agency Selection

While all federal agencies must comply with the Voting Access EO to the best of their ability, this progress report evaluates a specific set of 10 agencies. We selected the agencies and their related programs for inclusion in this evaluation based on their potential for promoting access to registration and voting for large populations, feasibility of voter registration in their agency context, and capability to reach marginalized communities in our political system – especially people of color, people with disabilities, Native Americans, people with limited English proficiency, newly-naturalized citizens, students, people with low incomes, and people directly impacted by the criminal legal system. Additionally, these 10 agencies all directly oversee federal programs or services that have interactions with the public, making them well-suited to provide effective voter registration opportunities.

Agencies Included: Bureau of Prisons (BOP), Department of Education (ED), General Services Administration (GSA), Indian Health Service (IHS), Department of Health and Human Services (HHS), Department of the Interior (DOI), U.S. Marshals Service (USMS), Department of the Treasury, U.S. Citizenship and Immigration Services (USCIS), Department of Veterans Affairs (VA).

This report includes our assessment of high-impact actions each agency can take, a description of each agency’s response to the Voting Access EO, an assessment of their responses, and specific guidance for what each agency must do in order to make progress and successfully meet the goals of this important EO. We understand agencies are considering some of these actions. We hope our analysis showing that such activities would make a meaningful difference in improving access to registration and voting for the communities they serve helps these agencies make and follow through on strong commitments.

Not all federal agencies directly operate programs that interact with the public, limiting their ability to provide meaningful voter registration opportunities—including, for example, both the Department of Housing and Urban Development (HUD) and the Department of Labor (DOL). Both agencies sent guidance letters encouraging their partners in state and local governments who directly oversee and operate federal agency-funded programs with direct client engagement to explore the best ways to provide robust voter registration

assistance and to seek NVRA designations. The Department of Transportation (DOT) is similarly limited because it does not have direct contact with the public, though DOT did release materials encouraging transit providers to adopt a number of best practices to increase access to voting. We commend these efforts, but we do not include these agencies in this report because the operative decisions about expanding effective voter registration services in their programs are made by state and local officials — not the federal agency itself.

SUMMARY FINDINGS

Three agencies are *on the right track*:

- the **Department of the Interior**, for making and following through on a strong commitment to offer high-quality voter registration services at the tribal colleges and universities it operates through NVRA designations;
- the **Department of Veterans Affairs**, for making progress toward integrating a high-quality voter registration opportunity at its health facilities by working to implement NVRA designations in three states; and
- the **Department of the Treasury**, for making a concerted effort to promote voter registration access to the low-income clients of its voluntary tax preparation clinics, and sharing information about voter registration with millions of Americans through the taxpaying process.

Four agencies *still have work to do*:

- the **Department of Health and Human Services**, for making a strong initial commitment to integrate voter registration into Healthcare.gov, but which has not yet followed through on that promise;
- the **General Services Administration**, for making modest progress on updating Vote.gov in order to provide better disability and language access and be more user friendly, but which still has a long way to go;
- the **U.S. Marshals Service (part of DOJ)**, for making progress on renegotiating their contracts with state and private jail facilities to ensure eligible voters in federal pre-trial custody can exercise their voting rights, and for ensuring that new contracts include those requirements, but which has not committed to other effective activities, such as opening the door to polling places in its contracting facilities, and leveraging its contracts to ensure ballot access for all eligible voters, not just those in federal custody; and
- the **Bureau of Prisons (part of DOJ)**, for making a strong commitment to providing voter registration services to eligible people in federal prisons, but which has been very slow to implement this commitment.

Three additional agencies *are falling behind*:

- the **Indian Health Service (part of HHS)**, for initially committing to providing voter registration to patients at its facilities, but which shows no signs of follow-through on this commitment;
- the **Department of Education**, for failing to commit to integrate voter registration into the Free Application for Federal Student Aid (FAFSA) process and failing to follow through on some of the more modest commitments it already made; and
- the **U.S. Citizenship and Immigration Services (part of DHS)**, for failing to make changes within its capacity that would improve the provision of voter registration services to the hundreds of thousands of new citizens it naturalizes every year.

AGENCY PROFILES

On the Right Track

AGENCY

DEPARTMENT OF THE INTERIOR (DOI)

- ✓ *Benchmark commitment*
- ✓ *Timely progress on implementation*
- ✓ *Engaging in other effective activities*
- ✗ *Achieving full potential*

Benchmark Commitment: Provide high-quality voter registration services to the eligible people who attend the two DOI-administered tribal educational institutions, Haskell Indian Nations University in Kansas and Southwestern Indian Polytechnic Institute in New Mexico.

Response to Voting Access EO: DOI accepted designations from state officials in Kansas

and New Mexico, respectively, for Haskell Indian Nations University and Southwestern Indian Polytechnic Institute to be voter registration agencies under the NVRA.

Assessment: DOI has made significant progress in meeting the goals laid out by the Voting Access EO. By accepting NVRA designations for the tribal institutions it operates, DOI has moved to ensure that eligible students who attend these institutions have regular access to high-quality voter registration services. Notably, DOI is improving access to registration and voting among a population that has long been excluded—Native Americans. DOI has further helped to raise awareness about the unique barriers facing Native voters by translating the landmark report of the Interagency Steering Group on Native American Voting Rights into six Native languages, in writing and by audio: Navajo, Yup'ik, Ojibwe, Cherokee, Lakota, and Native Hawaiian.

Recommendation: Now that it has formalized the status of the two tribal institutions as NVRA voter registration agencies, DOI should continue its work to provide high-quality voter registration services to the eligible students at these schools as soon as possible. DOI should consider whether there are any other effective activities it can undertake to advance access to registration and voting for the communities it serves, especially Native Americans.

AGENCY

DEPARTMENT OF VETERANS AFFAIRS (VA)

- ✓ *Benchmark commitment*
- ✓ *Timely progress on implementation*
- ✓ *Engaging in other effective activities*
- ✗ *Achieving full potential*

Benchmark Commitments: Increase voter registration opportunities through the VA's medical services and assistance for veterans experiencing homelessness; and add voter registration opportunities to online transactions for vocational rehabilitation, employment services, and applications for disability compensation.

On the Right Track continued

Response to Voting Access EO: The VA conducted a survey sent to over 12 million veterans to better understand their experience with the voter registration process, and to better assist veterans in overcoming challenges to voter registration. The VA developed a website with nonpartisan information about voter registration and elections specifically for veterans. Most importantly, the VA is working on pilot programs for VA health facilities to receive and accept NVRA designations, and it made specific commitments to accept designations from Kentucky, Michigan, and Pennsylvania.

Assessment: The VA's follow-through on the benchmark commitment—providing robust voter registration services to veterans interacting with its health facilities by securing NVRA designations—has the potential to be extremely impactful. Additionally, while the VA has not yet started work on adding voter registration information and opportunities to other programs, it has committed to exploring how to expand access to voter registration resources within its online benefits applications once the NVRA designations are fully implemented.

Recommendation: The VA must continue to work closely with election officials in Kentucky, Michigan, and Pennsylvania to finalize NVRA designation agreements to ensure veterans in those states receive the high-quality voter registration services required by the NVRA. Further, the VA should work to secure designations in additional states and follow through on its commitment to fully explore adding voter registration to its online benefits applications. Moreover, the VA should also take steps to assist veterans experiencing homelessness with registration and voting, and provide assistance with voter registration to veterans with past felony convictions wherever allowed by applicable state law.

AGENCY

DEPARTMENT OF THE TREASURY

- ✓ ***Benchmark commitment***
- ✓ ***Timely progress on implementation***
- ✓ ***Engaging in other effective activities***
- ✗ ***Achieving full potential***

Benchmark Commitments: Incorporate voter registration assistance into the services provided through the tax clinic assistance program, Volunteer Income Tax Assistance (VITA), which provides tax assistance to low income individuals across the county. Make the provision of voter registration services to clients a requirement for all grantees who receive federal funding to administer these tax clinic assistance programs.

Response to Voting Access EO: In 2021, the Internal Revenue Service (IRS) sent out guidance to VITA grantees explaining that grantees were permitted to provide voter registration assistance to their clients. The IRS also started tracking the number of VITA grantees who provided such assistance as part of their programs. In 2022, the IRS added robust information about providing voter registration assistance to their mandatory training for all VITA grantees and volunteers, and it added information about voter registration and access to Vote.gov to many of the VITA program materials, including the form that all taxpayers must complete as part of the program registration process. The IRS has also included voter registration information

On the Right Track continued

referring taxpayers to Vote.gov in the Form 1040 Instructions both online and in print. Treasury added a tagline on mailers to certain benefit recipients encouraging them to register to vote.

Assessment: The Department of the Treasury is making good progress toward meeting the goals of the Voting Access EO. While the IRS has not made voter registration services a mandatory part of the VITA grant services, it was very timely in achieving the benchmark commitment of incorporating voter registration into the VITA program. By focusing on the VITA program, Treasury is helping to address persistent income-based gaps in voter registration by improving access to voter registration among people with low incomes.

Recommendation: Treasury should make voter registration services a mandatory part of the VITA program or take further steps to encourage more grantees to provide voter registration services, for example, by implementing pilot voter registration assistance programs at some sites to demonstrate their feasibility and efficacy, which can then be scaled to additional sites over time.

Still Have Work to Do

AGENCY

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

- ✓ *Benchmark commitment*
- ✗ *Timely progress on implementation*
- ✓ *Engaging in other effective activities*
- ✗ *Achieving full potential*

Benchmark Commitment: Effectively integrate voter registration into the actual application for benefits on Healthcare.gov, including providing assistance with voter registration by navigators and other customer service representatives.

Response to Voting Access EO: The Health Resources and Services Administration within HHS issued guidance for nearly 1,400 federally-funded community health centers, clarifying the ways in which those health centers are permitted to support voter registration efforts. These health

centers have more than 14,000 service delivery sites providing primary care to nearly 29 million patients in underserved areas in every state across the country. The Office of Disease Prevention and Health Promotion (ODPHP) is assessing inclusion of voter participation as a core objective in Healthy People 2030, which identifies the nation's public health priorities for a decade. The Administration for Community Living committed to launching a new voting access hub to connect older adults and people with disabilities to information, tools, and resources to help them understand and exercise their right to vote. Most significantly, in December 2021, the Centers for Medicare & Medicaid Services (CMS) committed to the benchmark goal of providing voter assistance to users of Healthcare.gov by making

Still Have Work to Do continued

it easier for consumers using HealthCare.gov to connect to voter registration services and receive voter registration assistance.

Assessment: The guidance to federally-funded community health centers was very helpful, allowing for increased access to voter registration assistance to millions of Americans with lower incomes. Recognition of voter participation as a public health priority in Healthy People 2030 will facilitate the ability of HHS to promote civic engagement by its constituents. And CMS' commitment to the benchmark of integrating voter registration into HealthCare.gov is tremendous. This step would mean that each year more than 8 million users in states that use the federal exchange, HealthCare.gov would have a meaningful voter registration opportunity. Many of these people have moderate or low incomes, and most of them live in states where voter registration is relatively difficult. However, progress on this transformative step has been very slow-moving. Additionally, while the commitment to create a voting access hub to connect older adults and people with disabilities to voting information will be impactful, it is similarly unclear whether there has been any follow-through on implementation.

Recommendation: HHS should immediately take steps to ensure that updates to HealthCare.gov to include a voter registration opportunity within the application are fully operational by the open enrollment period starting in the fall of 2023. HHS should continue the Secretarial approval process for the Healthy People 2030. HHS should also do whatever is necessary to launch the promised voting information hub for older adults and people with disabilities.

AGENCY

US MARSHALS SERVICE, PART OF THE DEPARTMENT OF JUSTICE (USMS)

- ✓ *Benchmark commitment*
- ✓ *Timely progress on implementation*
- ✗ *Engaging in other effective activities*
- ✗ *Achieving full potential*

Benchmark commitment: Improve access to registration and voting for all eligible people detained by USMS in federal facilities by 1) amending all USMS contracts with state and private jail facilities that hold individuals in federal pre-trial custody to include commitments from state jail officials to provide voter registration and voting assistance to all eligible individuals; 2) ensuring that all new contracts include this language; and 3) pursuing additional methods of expanding access to the ballot, such as encouraging facilities to become polling places.

Response to Voting Access EO: The USMS issued a directive to expand access to voting for people in USMS custody. USMS has also disseminated a memo directing that all contracts be modified to include language requiring the facility to provide individuals held in federal custody education materials related to voter registration and voting access, upon request and “to the extent practicable and appropriate,” and to facilitate voting by mail. All new state contracts now include those access to voting provisions. It has issued modifications on some of its contracts and agreements and estimates that 86% of the individuals held in USMS custody are in facilities covered by the voter access clauses.

Still Have Work to Do continued

The USMS has also elaborated on its vision for voting access for individuals in federal custody: providing educational materials (on request), facilitating voting by mail, and a commitment to working with state and local election officials. And the USMS has committed to evaluating the extent to which the detention facilities with which it contracts are providing meaningful voting access in its annual reviews.

Assessment: USMS has held true to its commitment to issue contract modifications and ensure that all new contracts include voter access requirements, which represents a significant step in promoting voting access among eligible people in its custody. However, it has not made the specific language of those directives public. Moreover, based on its description of its voting access policies, there is much room for improvement. Progress on this significant commitment would go a long way toward facilitating access to registration and voting among a population—disproportionately people of color and people with low incomes—that is all too often locked out of democratic participation. Additionally, USMS’ commitment to annual evaluation of facility compliance is an important step, though the results of these reviews will not be made public, making it harder for advocates to ensure compliance and accountability to the voting access changes USMS is endeavoring to make.

Recommendation: The USMS should ensure that its contracts include provisions requiring facility-wide voting access mechanisms, not just actions targeted towards individuals in federal custody. Further, its directives should make assistance available for accessing ballots in the ordinary course of operations, not just when requested. The language in its contracts should also leave room for facilities to become polling places, the gold standard of ballot access for incarcerated people, rather than specifying that it will help people vote by mail only. Finally, the USMS should commit to making public its annual assessment of voter access at covered facilities.

AGENCY

BUREAU OF PRISONS, PART OF THE DEPARTMENT OF JUSTICE (BOP)

- ✓ *Benchmark commitment*
- ✗ *Timely progress on implementation*
- ✓ *Engaging in other effective activities*
- ✗ *Achieving full potential*

Benchmark Commitments: Provide voter registration services to all people in federal prison who remain eligible to vote in their home state, regardless of where they are imprisoned. Provide information to individuals throughout their incarceration and upon their release from custody about their voting eligibility and, for those who lost eligibility while incarcerated, about the pathway to restoration of their voting rights.

Response to Voting Access EO: BOP committed to facilitating assistance with voter registration and voting for all eligible incarcerated voters. BOP also made available some resources, including forms and information, on their Trust Fund Limited

Still Have Work to Do continued

Inmate Computer System (TRULINCS), in order to assist eligible voters in BOP custody with voter registration and voting. And in March 2022, BOP issued an informational handout, “Voting Rights for Incarcerated Individuals,” that provides information for incarcerated people about their voting rights and the voting process.

Assessment: BOP’s commitment is exemplary. If comprehensively implemented, it should significantly increase voting access for eligible voters incarcerated in BOP facilities—who face some of the highest hurdles to participating in our democracy. Many eligible voters with felony convictions do not even know they remain eligible to vote, in addition to the lack of opportunity to register or vote. Further, because our criminal legal system targets people of color for arrest and harsh sentencing, disenfranchised people in prison are disproportionately people of color, and many are people with low incomes. While BOP issued some helpful materials and has been working on making changes to provide voter registration services to eligible individuals under federal custody or control, they have been slow to implement such changes.

Recommendations: BOP should implement policies reflecting the best practices provided by advocacy groups to ensure that all eligible individuals in federal prison across the country have access to robust voter services by the end of 2023. BOP should also ensure that high-quality information about voting rights is consistently provided during incarceration and when individuals are released from custody.

AGENCY

GENERAL SERVICES ADMINISTRATION

- ✓ *Benchmark commitment*
- ✗ *Timely progress on implementation*
- ✓ *Engaging in other effective activities*
- ✗ *Achieving full potential*

Benchmark commitments: Improve Vote.gov as an accessible platform that effectively serves voters of all backgrounds, capabilities, language abilities, and geographies. This should include, among other things, providing meaningful assistance to potential voters who cannot use online voter registration systems or live in states without online voter registration. Make a commitment to continuous improvement over time, to ensure for the optimal customer experience on USA.gov and Vote.gov.

Response to Voting Access EO: GSA committed to making Vote.gov (with its companion page on USA.gov) a user-friendly portal for Americans to find the information they need most to register, vote, and understand elections. It also committed to expanding language access and disability access to Vote.gov and USA.gov.

Assessment: GSA has made significant strides in improving the language accessibility of Vote.gov – there are currently 12 languages available on Vote.gov, including two Native American and Alaska Native languages, with more on the way. Despite GSA’s benchmark commitment and appointment

Still Have Work to Do continued

of dedicated staff to improve the usability and disability access of Vote.gov, until recently, very little progress has been made on these goals due to unforeseen circumstances. Currently, GSA is working with the Election Assistance Commission to make a more accessible digital federal voter registration form. GSA is also developing a series of voter registration guides to assist individuals who experience barriers to voting, including individuals who are unhoused, new U.S. Citizens, and individuals with felony convictions. Improvement to the accessibility and usability of Vote.gov, and the federal voter registration form, are especially important to the overall success of the Voting Access EO because several agencies are pointing potential voters to Vote.gov as a resource for voter registration.

Recommendation: GSA should expedite its modernization work so these current projects can be completed by the end of 2023, and it should conduct additional accessibility and usability improvements in an ongoing way after that. Beyond the voter registration guides already planned, GSA should include a voter guide for people with disabilities and should make sure its voter guidance will be readily available and accessible to users of USA.gov and Vote.gov. In pursuing accessibility, GSA should look to the recommendations made by the National Institute of Standards and Technology (NIST) in its report on *Promoting Access to Voting: Recommendations for Addressing Barriers to Private and Independent Voting for People with Disabilities* (NIST Special Publication 1273), researched and written in response to the Voting Access EO. The report includes recommendations on making voter registration forms and online voter information and registration portals accessible, and NIST consulted with organizations with expertise on voting access for people with disabilities in compiling the report. GSA should also explore signature capture to expand voter registration access to people in states without online voter registration. Finally, GSA should make sure that Vote.gov improvements address general usability and effectiveness in addition to the very important improvements to accessibility.

Falling Behind

AGENCY

INDIAN HEALTH SERVICE, PART OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES (IHS)

- ✓ *Benchmark commitment*
 - ✗ *Timely progress on implementation*
 - ✗ *Engaging in other effective activities*
 - ✗ *Achieving full potential*
-

Benchmark Commitment: Utilize its unique presence in Indian Country to promote access to voting by 1) offering high-quality voter registration services, including assistance, to patients at federally-run IHS facilities, 2) supporting tribes to offer similar voter registration services at tribally-run IHS facilities; and/or 3) working with states and tribes to designate IHS & tribally-run facilities as NVRA voter registration agencies.

Response to Voting Access EO: IHS committed to offering its patients assistance with voter registration.

Assessment: Unfortunately, there is no evidence to date that IHS has done any work to follow through on this commitment, which would be transformative for increasing voter access in Indigenous communities, where eligible voters face some of the highest hurdles to voting and experience some of the lowest registration rates in the country. IHS serves approximately 2.6 million American Indian and Alaska Native people each year, many of whom are not registered to vote and would likely take advantage of the opportunity to register alongside their routine visits to IHS-run and tribally-run facilities (also known as 638-compacting facilities).

Recommendation: IHS should begin working to provide NVRA-like voter registration services immediately. If offering voter registration at all IHS-run facilities is impractical at this time, IHS should identify a handful of facilities where integrating voter registration assistance is possible, and it should pursue pilot programs at these facilities, possibly through initial NVRA designations, with the goal of eventually expanding to all facilities (although designation is not required for IHS to follow through on its benchmark commitment). Further, IHS should work with interested tribes to support the integration of voter registration opportunities at health facilities run by tribes.

AGENCY

DEPARTMENT OF EDUCATION (ED)

- ✗ *Benchmark commitment*
- ✗ *Timely progress on implementation*
- ✓ *Engaging in other effective activities*
- ✗ *Achieving full potential*

Benchmark Commitments: Improve access to voter registration opportunities for students by 1) adding information about voter registration in the Free Application for Federal Student Aid (FAFSA) application process, both by including a link to Vote.gov in both the electronic and hard copy Student Aid Report (SAR) that students receive after submitting their FAFSA applications, and by including a voter registration form with every mailed copy of the SAR; 2) providing clear guidance to institutions of higher learning about the use of work-study funds for civic engagement

work done by nonpartisan organizations not affiliated with the institutions; and 3) providing robust guidance to institutions of higher learning about their legal obligations to provide voter registration under the Higher Education Act (“HEA”), which includes best-practice examples.

Response to Voting Access EO: In September 2021, ED committed to providing a toolkit that addresses effective ways institutions of higher learning can meet their HEA obligations and provide assistance with voter registration, along with additional guidance about providing access to registration and voting information in education environments beyond institutions of higher learning. Additionally, ED sent a letter to institutions of higher education highlighting their responsibilities under the HEA to make a good faith effort to distribute voter registration forms to the more than 18 million students enrolled in these institutions. The letter addressed voter registration, offered guidance about federal work-study for on-campus voter registration, recruiting poll workers from the campus community, and encouraging institutions to serve as voting sites.

Assessment: The letter the Department sent was impactful and helped to significantly encourage institutions of higher learning to improve their compliance with HEA obligations. However, ED is missing a huge opportunity. Even though ED is currently working on updates to the SAR, the agency has not committed to adding voter registration information to the updated SAR. Such an update would reach millions of individuals. For example, according to data from the Department of Education in the 2020-2021 Application Cycle, almost 18 million individuals submitted FAFSA applications. According to the most recent National Postsecondary Student Aid Study, 84% of Black students, 74% of Hispanic students, 68% of Asian students, and 75% of Native American students complete the FAFSA. Integrating voter registration into the FAFSA application process would help to reach young voters who often have difficulties navigating the onerous registration process. Even more concerning, ED has not completed the only benchmark to which it committed: its September 2021 commitment to distribute a voter registration toolkit. Because this toolkit has not been released yet, it is not possible to evaluate if it will achieve the benchmark of providing the needed robust guidance to institutions of higher learning about their legal obligations under HEA.

Recommendation: ED should commit to and follow through on adding voter registration opportunities to the SAR. ED should also immediately issue the long-promised toolkit, with robust guidance to institutions of higher learning about legal obligations to provide voter registration under the HEA, and useful information for providing voter registration opportunities in other educational environments. ED should also provide improved guidance on the use of work-study funds. If ED successfully implements these options, it could significantly improve youth voter registration and meet the goals of the Voting Access EO.

AGENCY

U.S. CITIZENSHIP AND IMMIGRATION SERVICES, PART OF THE DEPARTMENT OF HOMELAND SECURITY (USCIS)

- ✗ *Benchmark commitment*
- ✗ *Timely progress on implementation*
- ✓ *Engaging in other effective activities*
- ✗ *Achieving full potential*

Benchmark Commitment: Improve existing operations to ensure new citizens have a high-quality opportunity to register to vote immediately after taking their oath of citizenship by: 1) requiring USCIS staff to offer NVRA-like voter registration services at naturalization ceremonies if state/local election officials or third-party nonprofits cannot be present to offer services, or 2) creating an alternative process for transferring voter information to state and local officials and agencies, for all new citizens who opt to be registered. Whichever option USCIS pursues, it must also offer similar services and opportunities to new citizens naturalized at

judicial ceremonies at federal courthouses (the current policy only covers administrative ceremonies). Additionally, mandate that USCIS staff take steps to facilitate the effectiveness of voter registration conducted by state/local election officials and third-party groups at naturalization ceremonies, such as announcing the presence of those who can help new citizens register post-naturalization, and allowing those entities to set up tables in a prominent location.

Response to Voting Access EO: DHS re-stated that it would invite state and local governments and nonpartisan, nonprofit organizations to register voters at the end of the naturalization ceremonies facilitated by USCIS. USCIS said it will develop a new online resource on voting for recently naturalized citizens. And USCIS sent a short letter to all field offices reminding them about the existing policies on voter registration services.

Assessment: USCIS has not committed to any of the benchmarks that could meet the goals of the Voting Access EO. DHS/USCIS' commitment to date is simply a restatement of its existing policy; USCIS staff are already required to invite state and local governments and nonpartisan, nonprofit organizations to register voters after naturalization ceremonies. This existing policy sets USCIS apart, and in some ways ahead, of other agencies who do not currently offer any voter registration opportunities. Yet, there is more USCIS can and should do. Further, the online resource for new

Falling Behind continued

citizens is minimal—simply a reminder that they are now eligible to vote and a link to [Vote.gov](https://www.vote.gov)—and is not likely to result in the registration of many newly naturalized citizens, particularly because language assistance for the voter registration information is only available in Spanish. The letter the agency sent to USCIS field offices alone will not be nearly enough for USCIS to reach its potential or meet the goals of the Voting Access EO. USCIS is unique among federal agencies in that it operates a program—the naturalization program—that involves direct interaction with hundreds of thousands of people who, by nature of being new citizens, are eligible to vote but unregistered. And USCIS’ strong positioning to lead on this has only increased as the agency has made significant reductions to the citizenship application backlog and as it increases naturalizations (with 855,000 naturalizations in Fiscal Year 2021 and 1,023,200 naturalizations in Fiscal Year 2022). Critically, many of these new potential voters represent communities marginalized in the democratic process, including people with limited English proficiency, people of color, people with low incomes, young people, and others.

Recommendation: We commend USCIS for beginning to offer voter registration services to some newly naturalized citizens many years ago, and we encourage them to commit to, and follow through on, one or more of the benchmark commitment opportunities described here as soon as possible, so that all newly naturalized citizens who want it have a meaningful opportunity to register to vote. USCIS should also invite and accept NVRA designations of its local offices.

CONCLUSION

President Biden’s Executive Order on Promoting Access to Voting offers an unprecedented opportunity to expand access to voter registration to millions of eligible voters, especially in communities traditionally marginalized in our democracy. Many federal agencies have begun highly impactful projects that, if completed, would achieve the goals of the EO to improve voter education and increase access to registration and voting. However, for the EO to have the most meaningful and far-reaching impact, federal agencies must prioritize implementation, and in some cases, make stronger commitments that embrace their full potential. We urge these 10 federal agencies to enact the recommendations outlined in this report. Moreover, all federal agencies – including those not covered in this report – should reexamine what is possible in order to further the vital goals of this EO and help increase participation in our democracy.

SOURCES

National Voter Registration Act of 1993, 52 U.S.C. §§ 20501 *et seq.*, May 20, 1993, *see also* § 20506(a)(3)(B).

The White House, *Executive Order 14019 Promoting Access to Voting*, March 7, 2021, <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/03/07/executive-order-on-promoting-access-to-voting/>

The White House, Press Release, *Fact Sheet: Biden Administration Promotes Voter Participation with New Agency Steps*, September 28, 2021, <https://www.whitehouse.gov/briefing-room/statements-releases/2021/09/28/fact-sheet-biden-administration-promotes-voter-participation-with-new-agency-steps/>

The White House, Press Release, *Fact Sheet: The Biden-Harris Administration is Taking Action to Restore and Strengthen American Democracy*, December 8, 2021, <https://www.whitehouse.gov/briefing-room/statements-releases/2021/12/08/fact-sheet-the-biden-harris-administration-is-taking-action-to-restore-and-strengthen-american-democracy/>

The White House, Press Release, *Fact Sheet: Biden-Harris Administration Releases Report on Native American Voting Rights*, March 24, 2022, <https://www.whitehouse.gov/briefing-room/statements-releases/2022/03/24/fact-sheet-biden-harris-administration-releases-report-on-native-american-voting-rights/>

American Council on Education, *Race and Ethnicity in Higher Education: A Status Report*, 2019, Chapter Seven: How Students Finance Undergraduate Study, Figure 1.7: FAFSA Completion Rates, by Race and Ethnicity: 2015–16, <https://www.equityinhighered.org/indicators/how-students-finance-undergraduate-study/fafsa-completion-rates/>

Centers for Medicare & Medicaid Services, *2022 Marketplace Open Enrollment Period Public Use Files*, June 2022, <https://www.cms.gov/research-statistics-data-systems/marketplace-products/2022-marketplace-open-enrollment-period-public-use-files>

Demos, Federal Agency Voter Registration Estimates of Annual Impact, February 2023, <https://www.demos.org/sites/default/files/2023-02/Voting%20Access%20EO%20Impact%20Estimates.pdf>

Health Resources and Services Administration, Voter Registration and Health Centers, March 2022, <https://bphc.hrsa.gov/compliance/scope-project/voter-requirements>

Indian Health Service, IHS Profile, *Population Serve*, January 2020, <https://www.ihs.gov/newsroom/factsheets/ihsprofile/>

National Institute for Standards and Technology, NIST Special Publication 1273 Promoting Access to Voting: Recommendations for Addressing Barriers to Private and Independent Voting for People with Disabilities, March 2022, <https://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.1273.pdf>

National Student Clearinghouse Research Center, *Current Term Enrollment Estimates: Fall 2022*, <https://nscresearchcenter.org/current-term-enrollment-estimates/>

Pew Research Center, Naturalized Citizens Make Up Record One-in-Ten U.S. Eligible Voters in 2020, February 26, 2020, <https://www.pewresearch.org/hispanic/2020/02/26/naturalized-citizens-make-up-record-one-in-ten-u-s-eligible-voters-in-2020/>

U.S. Census Bureau, *Voting and Registration in the Election of November 2020*, April 2021, <https://www.census.gov/data/tables/time-series/demo/voting-and-registration/p20-585.html>

U.S. Citizenship and Immigration Services, Citizenship Resource Center, *New U.S. Citizens*, September 24, 2021, <https://www.uscis.gov/citizenship-resource-center/new-us-citizens>

U.S. Election Assistance Commission, Study on Disability and Voting Accessibility in the 2020 Elections, February 2021, <https://www.eac.gov/election-officials/us-election-assistance-commission-study-disability-and-voting-accessibility-2020>

U.S. Department of Education, National Center for Education Statistics, The National Postsecondary Student Aid Study (NPSAS), 2016, <https://nces.ed.gov/surveys/npsas/>

U.S. Department of Housing and Urban Development, Office of Public and Indian Housing, *Letter to Public Housing Authorities on Voter Registration Activities*, February 9, 2022, https://nlihc.org/sites/default/files/PIH_Announcement.pdf

U.S. Department of Justice, *BOP Voting Handout: Voting Rights for Incarcerated Individuals*, March 23, 2022, https://www.justice.gov/d9/fieldable-panel-panes/basic-panes/attachments/2022/03/23/bop_voting_handout.pdf

U.S. Department of Labor, Press Release, *U.S. Department of Labor issues guidance to states, territories to designate American Job Centers as voter registration agencies*, March 25, 2022, <https://www.dol.gov/newsroom/releases/eta/eta20220325>

U.S. Department of Transportation, Federal Transit Administration, *Transit Programs Increase Access to Voting*, July 1, 2022, <https://www.transit.dot.gov/funding/grants/transit-programs-increase-access-voting>

U.S. Department of Veterans Affairs, News Release, VA promotes greater access to voter information to Veterans and Families, March 24, 2022, <https://www.va.gov/opa/pressrel/pressrelease.cfm?id=5776#:~:text=VA%20launched%20a%20survey%20to,addressing%20and%20overcoming%20any%20challenges>

U.S. Department of Veterans Affairs, *How Veterans Can Register to Vote*, October 12, 2022, <https://www.va.gov/initiatives/vote/>

U.S. Federal Bureau of Prisons, *Voting Resources*, https://www.bop.gov/inmates/custody_and_care/voting_resources.jsp

U.S. Federal Register, U.S. Department of Education, 87 FR 10347, Docket No. ED-2022-SCC-0024, *Agency Information Collection Activities; Comment Request; 2023-2024 Free Application for Federal Student Aid (FAFSA)*, February 24, 2022, <https://www.federalregister.gov/documents/2022/02/24/2022-03868/agency-information-collection-activities-comment-request-2023-2024-free-application-for-federal>