

MAIL IN BALLOT

Executive Order Analysis

Institute *for*
Responsive
Government

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On March 31, 2026, President Trump announced an executive order entitled “Ensuring Citizenship Verification and Integrity in Federal Elections.” As the Institute for Responsive Government has previously noted, the president cannot unilaterally change mail-in balloting procedures and mail ballots are fundamentally secure.

American elections are run by state and local governments, and the federal government’s role – set by Congress under the Constitution, not the president – is limited. Congress has established certain requirements for maintenance of state voter rolls, primarily through the National Voter Registration Act and the Help America Vote Act, but the federal government has no authority to create, directly control, or maintain voter lists.

In addition, when the Postal Service recently updated its policy manual, it noted:

While the Proposed Rule contains information of potential relevance to election officials and to citizens who choose to vote by mail, the Postal Service does not administer elections, establish the rules or deadlines that govern elections, or determine whether or how election jurisdictions utilize the mail or incorporate our postmark into their rules. The Postal Service also does not advocate for or against any particular voting practices (including mail-in voting). Instead, the Postal Service collects, processes, transports, and delivers mail and packages that are mailable under federal law. As part of that role, we deliver the nation’s Election Mail when public policy makers and election officials choose to use the mail as a part of their election system and when citizens choose to utilize our services to participate in an election.

Of note, the timelines set forth in this executive order are essentially impossible to implement prior to the 2026 election, and the order will also be challenged promptly in court.

Below is a summary of the executive order:

Section 1: **Purpose and Policy.**

This section lays out background information for the executive order, citing laws that forbid non-citizen voting, and federal systems – the Social Security Administration (SSA) and the DHS Systematic Alien Verification for Entitlements (SAVE) Program – that the order says can verify citizenship.

Section 2: **Establishment and Transmission of State Citizenship Lists and Prioritization of Investigations and Prosecutions Related to Election Fraud.**

This section directs the DHS secretary, “in coordination with the Commissioner of SSA” to provide to each state a “state citizenship list” drawing from federal databases. This state citizenship list would be sent to states at least 60 days before each federal election. It is unclear what, if any, obligation states would then have regarding this state citizenship list. The order notes that all current federal and state laws and procedures regarding registration must still be followed.

This section also directs the attorney general to to prioritize “investigation” and “prosecution” of state and local officials “who issue federal ballots to individuals not eligible to vote in a Federal election” and similarly prioritize investigating and prosecuting “public or private entities” that take various actions that could provide a ballot to an ineligible voter.

Section 3: **United States Postal Service Rulemaking on Mail-In and Absentee Ballots.**

This section directs USPS to start a rulemaking process to achieve several stated objectives:

1. Outbound ballot envelopes must be marked as “Official Election Mail.”
2. Outbound ballot mail is “automation-compatible and bears a unique Intelligent Mail barcode.”
3. Envelopes mailed by election officials are reviewed by USPS for compliance with the above.
4. At least 90 days before a federal election, states “may choose to notify the USPS” that it will have mail-in balloting, and in that notification state whether they will send a list to USPS of voters eligible to vote by mail at least 60 days before an election.
5. USPS would only provide mail ballots to individuals on a USPS list, set up under the next provision.
6. From the previous provision, USPS would provide states with a list called the “Mail-In and Absentee Participation List,” which will include voters “enrolled with USPS” under a process that will be spelled out in this rulemaking.
7. Procedures for states “to routinely supplement and provide suggested modifications or amendments” to the USPS list in the previous provision.

The rulemaking must be initiated within 60 days of the executive order (by May 30, 2026). Any final rule must be issued by no later than 120 days from the date of the executive order (by July 29, 2026).

It is unclear if the lists discussed in points 4 and 6 are fully separate lists or somehow related. There is also nothing discussing any interaction between these lists and the “state citizenship list” discussed in Section 2.

Section 4: **Implementation.**

This section orders the DHS secretary, postmaster general, and SSA commissioner to coordinate on implementation. The attorney general must:

- Provide guidance to election officials, contractors, any other person or entity involved in mail voting (including ballot / envelope printing vendors).
- Enforce compliance with “the applicable federal statutes.”

The DHS secretary has 90 days to “establish the infrastructure” needed for the state citizenship lists and designate a coordinator within DHS for the lists. The SSA commissioner must cooperate with DHS to populate the state citizenship lists.

Section 5: **Enforcement.**

This section purports to condition federal funding on “noncompliance with federal law” but limits this language to funding where “such withholding is authorized by law.” The section does not specify which funds or which laws are covered.

Notably, current federal election funding under the Help America Vote Act has specific conditions in law, and those conditions are the basis for providing or withholding those funds.

This section also states that, “States and localities should preserve, for a 5-year period, all records and materials — excluding ballots cast — evidencing voter participation in any federal election (e.g., ballot envelopes, regardless of carrier).” Notably, current federal law only requires preservation of election materials for 22 months.

Section 6: **Severability.**

This section provides that if any one provision is struck down, other provisions of the executive order still apply.

Section 7: **General Provisions.**

This section is boilerplate language that appears in federal executive orders. Among other provisions, this section states that the executive order “shall be implemented consistent with applicable law and subject to the availability of appropriations.”