



VIA EMAIL

October 11, 2022

ATTN: Elections Bureau/SERVIS
The Hon. Maggie Toulouse Oliver
New Mexico Secretary of State
25 Don Gaspar, Suite 300
Santa Fe, NM 87501
Email: elections@sos.nm.gov

RE: NVRA Request

Dear Secretary Toulouse Oliver:

I am writing on behalf of the Public Interest Legal Foundation to request inspection (or production) of voter list maintenance records and reports maintained in New Mexico's SERVIS.

The Public Interest Legal Foundation is a nonpartisan, nonprofit, public-interest law firm that studies voter list maintenance procedures throughout the Nation.

The National Voter Registration Act of 1993 ("NVRA"), 52 U.S.C. §§ 20501 *et seq.*, requires each state and the District of Columbia to make available for public inspection "all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters." 52 U.S.C. § 20507(i)(1).

Pursuant to Section 20507(i) of NVRA, we request that your office reproduce or provide the opportunity to inspect the following records:

1. Copies of any procedural guide or employee training manual containing instructions for processing and completing a New Mexico Voter Data Request under 1.10.35 NMAC Rule *et seq.* for voter information records with voting history in electronic format as outlined on the NMSOS website¹;
2. Records showing costs covered under the "\$15.00 Setup Fee" for SERVIS-related requests²;

¹ <https://www.sos.state.nm.us/voting-and-elections/data-and-maps/voter-data-information/>

² *Ibid.*

3. A copy of the current and accurate listing of registered voter counts by county as was originally offered on the NMSOS website (the hyperlink to this information on the SERVIS webpage is broken as of today³); and,
4. A copy of the most current listing of SERVIS data (active and inactive/suspense) in electronic form with voting history. SERVIS data (i.e., the voter roll) is public data under the NVRA.⁴ The NVRA allows states to charge requestors for only the “reasonable cost” of “photocopying.” 52 U.S.C. § 20507(i)(1). SERVIS data that can be produced electronically therefore must be produced at no cost to the requestor.

To better defray reproduction costs borne by your office in processing the request, a representative for PILF will appear on November 1, 2022, to provide necessary storage media resources and applicable hardware to complete the data transfer.

Should further clarification be required, send email to lchurchwell@publicinterestlegal.org.

Thank you for your assistance in advance.

Sincerely,



Logan Churchwell
Research Director
Public Interest Legal Foundation

³ https://www.sos.state.nm.us/Elections_Data/Voter_Registration_Statistics.aspx

⁴ “Faced with the need to decide the issue, the Court concludes that the Voter File is a ‘record[] concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters’ within the meaning of the Public Disclosure Provision and thus is subject to disclosure under the NVRA. 52 U.S.C. § 20507(i)(1). In making this determination, the Court finds persuasive and adopts the relevant reasoning of the Fourth Circuit and a federal district court in Maryland. *See Project Vote/Voting for America v. Long*, 682 F.3d 331, 335-36 (4th Cir. 2012); *Judicial Watch, Inc. v. Lamone*, 399 F. Supp. 3d 425, 437-38 (D. Md. 2019).” *Pub. Interest Legal Found., Inc. v. Bellows*, No. 1:20-cv-00061-GZS, 2022 U.S. Dist. LEXIS 38875, at *13 (D. Me. Mar. 4, 2022).