

Congress of the United States
Washington, DC 20515

August 14, 2020

The Honorable Ruth Hughs
Secretary of State
State of Texas
P.O. Box 12887
Austin, Texas 78711

Dear Secretary Hughs:

The Select Subcommittee on the Coronavirus Crisis and the Committee on House Administration are examining preparations by Texas and other states to administer free, fair, and safe federal elections this November during the coronavirus pandemic. Problems during this year's primary elections—including closed polling places, long lines, and poll worker shortages—raise concerns that some states may not be prepared to ensure every eligible voter can freely and safely cast their ballot in the general election. The Centers for Disease Control and Prevention (CDC) has issued guidance recommending “[l]ower risk election polling settings.”¹ We are writing to request information on how your state plans to protect the right to vote in accordance with this and other public health guidance to prevent the spread of the coronavirus.

With the virus continuing to spread across much of the country, state and local election officials must safely eliminate the barriers to voting that emerged during this year's primary elections. Many voters across the country faced long lines and closed or moved polling places. In Texas, voters endured long lines with wait times up to seven hours to cast their ballots.² Higher than expected turnout overwhelmed some counties in Texas, a harbinger of potential problems in the general election when turnout is expected to be much higher.³

During the primaries, states faced shortages of poll workers because of the pandemic, a shortage that is likely to occur again during the general election. Nearly 6 in 10 poll workers in 2018 were 61 or older, with over a quarter of poll workers over 70 years old—putting them at higher risk if exposed to the coronavirus.⁴ Some states closed polling places during the primaries because they lacked enough volunteers to staff them.⁵ In Texas, election officials in three

¹ Centers for Disease Control and Prevention, *Considerations for Election Polling Locations and Voters*, (June 22, 2020) (online at www.cdc.gov/coronavirus/2019-ncov/community/election-polling-locations.html).

² *Why Did It Take So Long to Vote in Texas and California?*, New York Times (Mar. 4, 2020) (online at www.nytimes.com/2020/03/04/us/california-texas-voting-lines.html).

³ *Long Voting Lines in Texas Spotlight Concerns About Access to The Polls*, Washington Post (Mar. 4, 2020) (online at www.washingtonpost.com/politics/long-voting-lines-in-texas-spotlight-concerns-about-access-to-the-polls/2020/03/04/e729486a-5e2e-11ea-b014-4fafa866bb81_story.html).

⁴ *Older People Account for Large Shares of Poll Workers And Voters In U.S. General Elections*, Pew Research Center (Apr. 6, 2020) (online at www.pewresearch.org/fact-tank/2020/04/06/older-people-account-for-large-shares-of-poll-workers-and-voters-in-u-s-general-elections/).

⁵ *From 47 Primaries, 4 Warning Signs About The 2020 Vote*, New York Times (June 30, 2020) (online at

counties were forced to consolidate polling places for the July primary election because poll workers cancelled or did not show up to work.⁶

With over 16 million registered voters eligible to participate in the general election in Texas, it is essential for state and local officials to develop a plan to accommodate anticipated high voter turnout without putting voters' health at risk. The June 2020 CDC guidance included the following recommendations for such a plan:

- **More early voting.** CDC called for “longer voting periods (more days and/or more hours)” and “increasing the number of polling locations available for early voting and extending the hours of operation.”
- **More polling locations.** CDC called on states to “maintain or increase the total number of polling places available to the public on Election Day to improve the ability to social distance.”
- **Shorter lines & longer hours.** “Unless there is no other option, do not increase the number of potential registered voters assigned to each polling place. Minimize lines as much as possible . . . Offer early voting or extended hours.”
- **More voting options.** CDC called on states to “offer alternative voting methods that minimize direct contact and reduce crowd size at polling locations” including “alternatives to in-person voting.”⁷

No voter should be forced to wait for hours in line or risk their health to exercise their constitutionally protected right to vote. Election administrators can prevent these unacceptable outcomes by following these recommendations and offering adequate early voting, sufficient polling locations and hours, and mail-in or absentee voting options. Officials must plan now to avoid the last-minute consolidation or closure of polling sites, long lines, and shortages of poll workers.

Regrettably, it appears that Texas will not be fully adhering to the CDC guidance, as the state limits eligibility for voting by mail to voters over the age of 65, voters with disabilities, and voters who are absent from their county of residence or in jail.⁸ Recent guidance from Texas Attorney General Ken Paxton states that “an individual’s fear of contracting COVID-19 is not, by itself, sufficient to meet the definition of disability for purposes of eligibility to receive a ballot by mail.”⁹ As a result, many voters in Texas will be unable to vote by mail and will have

www.nytimes.com/2020/06/27/us/2020-primary-election-voting.html).

⁶ *Two Major Texas Counties Are Trimming Polling Locations As Workers Pull Out Over Coronavirus*, Texas Tribune (July 9, 2020) (online at www.texastribune.org/2020/07/09/texas-voting-coronavirus/); *Pandemic Among Reasons For Nearly 200 Fewer Voting Centers In Dallas County For Primary Runoff*, CBS News (July 13, 2020) (online at dfw.cbslocal.com/2020/07/13/coronavirus-pandemic-fewer-voting-centers-dallas-county-primary-runoff/).

⁷ Centers for Disease Control and Prevention, *Considerations for Election Polling Locations and Voters*, (June 22, 2020) (online at www.cdc.gov/coronavirus/2019-ncov/community/election-polling-locations.html).

⁸ Texas Secretary of State, *Application For A Ballot By Mail* (online at www.sos.texas.gov/elections/voter/reqabbm.shtml) (accessed July 21, 2020).

⁹ Letter from Ken Paxton, Attorney General, State of Texas, to County Judges and County Election Officials (May 1, 2020) (online at www.texasattorneygeneral.gov/sites/default/files/images/admin/2020/Press/Mail-

no choice but to vote in person. Texas must therefore expand in-person voting locations, hours, and options.

For these reasons, the Select Subcommittee and the Committee on House Administration request that you provide them with the following documents and information by August 28, 2020:

1. Current projections for voter turnout in the State of Texas for the general election, including projections by county and precinct;
2. Current projections for absentee voter turnout for the general election, including projections by county and precinct;
3. For each county in Texas, the number of precincts, the number of Election Day polling places, and the number of early voting locations;
4. The number of poll workers:
 - a. that are projected to be required to staff polling places during early voting and on Election Day, by county; and
 - b. who have committed to serve, by county; and
5. Current projections of the number of drop box locations for the general election, including all projections by county and precinct;

In addition, please provide written responses to the following questions by August 28, 2020:

1. What steps is the state taking to address potential poll worker shortages at polling places for the general election?
2. Does the state have plans to recruit more poll workers? If so, what are those plans?
3. What steps is the state taking to supply poll workers with personal protective equipment?
4. Please describe the state's efforts to preserve adequate social distancing at polling places to protect voters, poll workers, and other election staff members.
5. What is the state doing to ensure there are enough polling places in each county to avoid excessive wait times for voters?

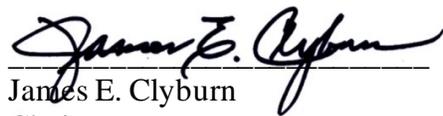
6. What guidance is the state providing to election officials to ensure they mail out ballots in a timely manner sufficient to reach voters in advance of early voting and Election Day deadlines?
7. How many absentee ballots will the state order for the general election? Will materials also be provided in Spanish?
8. Do counties have enough resources to administer the general election efficiently and effectively? If not, what resources are needed?
9. Please provide a detailed description of the state's use of the funds provided for election assistance by Congress through the CARES Act according to category of use and amount.
10. Please provide a detailed description of the state's plans to mitigate the effects of a natural disaster, weather emergency, or public health emergency on the ability of voters to vote by mail or vote in person before or on Election Day.

In addition, the Select Subcommittee and the Committee on House Administration request a staff briefing from your office on these issues by August 21, 2020.

These requests are consistent with House Resolution 935, which established the Select Subcommittee on the Coronavirus Crisis "to conduct a full and complete investigation" of "issues related to the coronavirus crisis," including "preparedness for and response to the coronavirus crisis," and with Clause 1(k) of House Rule X, which provides the Committee on House Administration jurisdiction over "Federal elections generally."

An attachment to this letter provides additional instructions for responding to the Select Subcommittee and Committee on House Administration's request. If you have any questions regarding this request, please contact Select Subcommittee staff at (202) 225-4400.

Sincerely,



James E. Clyburn
Chairman
Select Subcommittee on the Coronavirus
Crisis



Zoe Lofgren
Chairperson
Committee on House Administration

Enclosure

cc: The Honorable Steve Scalise, Ranking Member
Select Subcommittee on the Coronavirus Crisis

The Honorable Ruth Hughs
Page 5

The Honorable Rodney Davis, Ranking Member
Committee on House Administration

Responding to Oversight Committee Document Requests

1. In complying with this request, produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. Produce all documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party.
2. Requested documents, and all documents reasonably related to the requested documents, should not be destroyed, altered, removed, transferred, or otherwise made inaccessible to the Committee.
3. In the event that any entity, organization, or individual denoted in this request is or has been known by any name other than that herein denoted, the request shall be read also to include that alternative identification.
4. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, thumb drive, or secure file transfer) in lieu of paper productions.
5. Documents produced in electronic format should be organized, identified, and indexed electronically.
6. Electronic document productions should be prepared according to the following standards:
 - a. The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - b. Document numbers in the load file should match document Bates numbers and TIF file names.
 - c. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
 - d. All electronic documents produced to the Committee should include the following fields of metadata specific to each document, and no modifications should be made to the original metadata:

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM, CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,

INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,
BEGATTACH.

7. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, zip file, box, or folder is produced, each should contain an index describing its contents.
8. Documents produced in response to this request shall be produced together with copies of file labels, dividers, or identifying markers with which they were associated when the request was served.
9. When you produce documents, you should identify the paragraph(s) or request(s) in the Committee's letter to which the documents respond.
10. The fact that any other person or entity also possesses non-identical or identical copies of the same documents shall not be a basis to withhold any information.
11. The pendency of or potential for litigation shall not be a basis to withhold any information.
12. In accordance with 5 U.S.C. § 552(d), the Freedom of Information Act (FOIA) and any statutory exemptions to FOIA shall not be a basis for withholding any information.
13. Pursuant to 5 U.S.C. § 552a(b)(9), the Privacy Act shall not be a basis for withholding information.
14. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
15. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) every privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, addressee, and any other recipient(s); (e) the relationship of the author and addressee to each other; and (f) the basis for the privilege(s) asserted.
16. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (by date, author, subject, and recipients), and explain the circumstances under which the document ceased to be in your possession, custody, or control.
17. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, produce all documents that would be responsive as if the date or other descriptive detail were correct.

18. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date shall be produced immediately upon subsequent location or discovery.
19. All documents shall be Bates-stamped sequentially and produced sequentially.
20. Two sets of each production shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2105 of the Rayburn House Office Building.
21. Upon completion of the production, submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control that reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Definitions

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, data, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone call, meeting or other inter-office or intra-office communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, mail, releases, electronic

message including email (desktop or mobile device), text message, instant message, MMS or SMS message, message application, or otherwise.

3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.
4. The term “including” shall be construed broadly to mean “including, but not limited to.”
5. The term “Company” means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.
6. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual’s complete name and title; (b) the individual’s business or personal address and phone number; and (c) any and all known aliases.
7. The term “related to” or “referring or relating to,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.
8. The term “employee” means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.
9. The term “individual” means all natural persons and all persons or entities acting on their behalf.