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August 11, 2020

The Honorable Rodney Davis
Ranking Member
Committee on House Administration
House of Representatives
Washington, DC 20515-1313

Dear Congressman Davis:

Due to the impacts of the COVID-19 pandemic, the United States Postal Service anticipates that there will be an increased demand among voters to use the mail to participate in the 2020 General Election, and that public policy makers will choose to increasingly utilize our services as part of their administration of elections. To the extent they do, the Postal Service remains fully committed to fulfilling our role in the electoral process by doing everything we can to handle and deliver Election Mail, including ballots, in a timely manner consistent with our operational standards.

As part of that commitment, we have conducted and will continue to conduct significant outreach to election officials at the state and local levels, as well as other public officials, to ensure close coordination between the Postal Service and the policy makers who choose to use our services. This letter briefly summarizes the outreach efforts we have undertaken to date, and also notes an area of ongoing concern regarding the incompatibility of state election law deadlines with the Postal Service's delivery standards.

Each election cycle, the Postal Service conducts outreach with state and local election officials, in which we explain our services and our delivery processes, and provide guidance on how election officials can design and send their mailings in a manner that comports with postal regulations, improves mailpiece visibility, and ensures timely and efficient processing and delivery. These outreach efforts, which we have significantly intensified this year, establish solid points of contact between election officials and Postal Service personnel to foster ongoing coordination, and also provide repeated opportunities for the Postal Service to address questions and discuss our delivery standards, postage-payment options, mailpiece design issues, tracking and mailpiece-visibility services, and other matters regarding Election Mail. The purpose of this outreach is to enable policy makers and election officials to (1) make informed decisions about how to effectively utilize the Postal Service in their administration of elections, and (2) educate the public about what they can expect when using the mail to vote.

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For the 2020 election cycle, the Postal Service began conducting initial outreach meetings with election officials in February. In March, the Postal Service prepared a 2020 Official Election Kit (Kit 600) and distributed it to roughly 11,500 election officials throughout the nation. A copy of the Election Kit is available at <https://about.usps.com/kits/kit600.pdf>. In May, I sent a letter to the same group of more than 11,500 election officials and to state political-party officials, highlighting some key aspects of the Postal Service's processes and delivery standards, and providing recommendations for steps that election officials can take to ensure the efficient and timely handling of mail pertaining to elections. A copy of that letter is available at <https://about.usps.com/newsroom/national-releases/2020/2020-05-29-marshall-to-election-officials-re-election-mail.pdf>. That letter also attached a copy of Publication 632, *State and Local Election Mail – User's Guide*, which is also available, along with other Election Mail resources, at the Postal Service's Election Mail website: <https://about.usps.com/election-mail/election-mail-resources.htm>.

The Postal Service has also assigned election mail coordinators to each locality that stand ready to assist and consult with state and local election officials concerning the logistics of their mailings and the services that are available. A list of election mail coordinators may be found on our website at: <https://about.usps.com/election-mail/political-election-mail-coordinators.pdf>. In addition to the election mail coordinators, we have assigned mailpiece design analysts for each state who are available to assist election officials in designing and preparing envelopes that are consistent with postal regulations, increase mailpiece visibility, and allow officials to receive available postage discounts.

Our election mail coordinators consistently reach out to election officials in their assigned jurisdictions, and we have repeatedly encouraged election officials to contact their assigned election mail coordinators if they have questions and to discuss the services we offer and the logistics of their planned mailings. We also strongly recommend that election officials reach out to a mailpiece design analyst **before** designing and printing any mailpieces for use in upcoming elections.

These outreach efforts are ongoing and will continue through the fall. But there have already been nearly 40,000 contacts between Postal Service personnel and state and local election, public, and political party officials in 2020.

One particular area of focus concerns the interplay between deadlines set by state law and the Postal Service's delivery standards, specifically as it involves the time for mailing blank and completed ballots. To ensure that voters who wish to use the mail to vote can do so successfully, it is critical that election officials and voters are mindful of the time that it takes for us to deliver ballots, whether it is a blank ballot going to a voter or a completed ballot going back to election officials. In other words, the time required for both legs of a ballot's delivery through the mail must be taken into account.

In this regard, the Postal Service does not guarantee, and has not previously guaranteed, a specific delivery time for its classes of mail. The transit time for a given mailpiece depends on a variety of factors, including the class of mail selected and the mailpiece's place of origin and destination. However, most domestic First-Class Mail is delivered 2-5 days after it is received by the Postal Service. Marketing Mail, which some states use for transmitting blank ballots to voters despite our consistent recommendation to the contrary, has a slower delivery standard, with most mailpieces delivered 3-10 days after they are received by the Postal Service.

Meanwhile, as you are undoubtedly aware, each state establishes its own requirements for whether and when voters may cast a vote by mail, including deadlines for when a ballot must be requested and/or mailed to voters and when the voter must return the completed ballot. The

Postal Service is not involved in and does not control the design of the state's election systems, including ballot request and return deadlines. However, we are concerned that many states have designed their election systems without considering the ordinary timeframes required by the Postal Service to process and deliver mail. In many instances, based upon our reading of the relevant state laws, ballot request and return deadlines appear to be incompatible with the Postal Service's delivery standards mentioned above. Where such incompatibility exists and the mail is used to transmit ballots to and from voters, there is a significant risk that, at least in certain circumstances, ballots may be sent to voters in a manner that is consistent with a state's election rules and returned promptly by voters, and yet not received by election officials in time to be counted.

In particular, we have identified several instances where the gap in time between a state's deadline for voters to request a mail-in ballot and the state's deadline by which the completed ballot must ultimately be received is shorter (and, in some cases, considerably shorter) than the time it reasonably takes for a blank ballot to be mailed to a voter, completed, and then mailed and delivered back to the applicable election official. In other instances, a state law may provide that a completed ballot must be "postmarked" by Election Day *and* received by election officials by a specific date that is only a few days after Election Day. There is a significant risk in such instances that a ballot mailed by voters on or near the "postmark" deadline will be delivered in a manner fully consistent with our delivery standards but will nevertheless fail to be delivered in time to satisfy the state's "receipt" deadline.

For your reference, the attached chart contains a high-level overview of our understanding of each state's general deadlines for ballot requests (where applicable), timeframe (if any) in which election officials must transmit a ballot in response to a request, and the date by which a completed ballot must be "postmarked" and/or "received" by election officials in order to be counted. While we by no means represent ourselves to be experts on state election law, or hold out our analysis as a definitive interpretation of such laws, our review certainly seems to reveal significant inconsistencies between our processing and delivery standards, and the deadlines established within these laws, which should cause significant concerns.

To highlight and address these concerns, and in furtherance of our approach noted above of working proactively with election officials, I sent letters in late July to the chief election official in each state and the District of Columbia, noting instances in which, under our reading of that particular jurisdiction's election law, there appeared to be an incongruity between the election-law deadlines and the Postal Service's delivery standards. Those individual letters made clear that we were not purporting to offer a definitive interpretation of state law, and also did not advocate or recommend that the state's law be changed to accommodate the Postal Service's processes and delivery standards. At the same time, however, we emphasized that the Postal Service cannot alter its processes and delivery standards to accommodate the unique requirements of any individual state's election law, although we certainly do everything we can to ensure that Election Mail is processed and delivered in conformity to our normal standards. Despite our intense focus on Election Mail processing and delivery and our commitment to ensuring that it is processed and delivered, we do not offer and have never offered a different delivery standard specific to mail containing ballots.

Our letters focused on three core components of mail-in ballot transmission: the voter's request for a ballot (or, in states that automatically send blank mail-in ballots to eligible voters, the voter's submission or updating of his or her registration information); the state's transmission of a blank ballot to voters; and the voter's return of the completed ballot to his or her designated election official. To account for the Postal Service's delivery standards and to allow for contingencies (e.g., weather issues or unforeseen events), the Postal Service strongly recommends that states adhere to the following timeframes:

- **Requests for ballots (or registration information in states that automatically transmit ballots):** Where voters will both receive and send a ballot by mail, they should submit their ballot request early enough so that it is received by their election officials at least 15 days before Election Day at a minimum, and preferably long before that time. In states that intend to automatically send blank mail-in ballots to eligible voters, voters who intend to cast a ballot using the mail should ensure, whenever possible, that their registration information is up-to-date in time to have a blank ballot sent to them in the state's initial scheduled mailing.
- **Mailing blank ballots to voters:** In mailing blank ballots to voters, whether in response to a ballot request or as part of a larger mailing to eligible voters, election officials should consider that the ballot needs to be in the hands of the voter so that he or she has adequate time to complete it and put it back in the mail stream so that it can be processed and delivered by the applicable deadline. Accordingly, the Postal Service recommends that election officials use First-Class Mail to transmit blank ballots and allow 1 week for delivery to voters. Using Marketing Mail will result in slower delivery times and will increase the risk that voters will not receive their ballots in time to return them by mail.
- **Mailing completed ballots to election officials:** To allow enough time for ballots to be returned to election officials, domestic voters should generally mail their completed ballots at least one week before the state's due date. In states that require ballots to be returned by Election Day, this means voters should mail their ballot at least one week before Election Day. In states that allow mail-in ballots to be counted if they are *both* postmarked by Election Day *and* received by election officials by a specific date that is less than a week after Election Day, voters should mail their ballots at least one week before they must be received by election officials. In states that require mail-in ballots to be *both* postmarked by Election Day *and* received by election officials by a specific date that is one week or more after Election Day, voters may generally mail their ballot on or before Election Day. However, voters who mail in their ballots on Election Day must be aware of the posted collection times on collection boxes and at the Postal Service's retail facilities. Ballots entered after the last posted collection time on a given day will not be postmarked until the following business day.

While these recommendations broadly apply to nearly all voting regimes that allow ballots to be transmitted to and from voters, we understand that jurisdictions may have unique requirements or procedures that allay some of our concerns.

Again, the purpose of these letters was not to definitively interpret state law, but to alert state election officials of a potential mismatch between state mail-in deadlines and our delivery standards, and to ask election officials to keep the Postal Service's delivery standards and recommendations in mind when making decisions as to the appropriate means used to send a piece of Election Mail to voters, and when informing voters how to successfully participate in an election where they choose to use the mail. It is particularly important that voters be made aware of the transit times for mail so that they can make informed decisions about whether and when to (1) request a mail-in ballot, and (2) mail a completed ballot back to election officials.

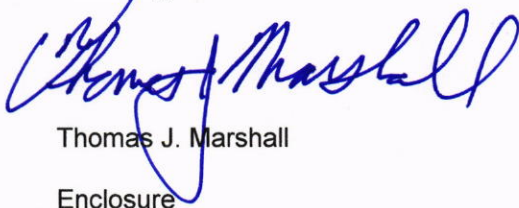
Finally, the Postal Service does not postmark or cancel every piece of mail in our system in the normal course of operations, since the primary purpose of cancellation is to ensure that postage cannot be reused, and some categories of postage is pre-cancelled before it enters the mail stream. While it is Postal Service policy to try to ensure that every ballot receives a postmark and we instruct our employees throughout the country to adhere to that practice in recognition of the importance that the election laws in some states place on postmarks, such practice deviates from normal procedures, and therefore we acknowledge that circumstances can arise that prevent ballots from receiving a legible postmark. As such, we advise elections officials that use of automation-compatible, letter sized envelopes increases the operational likelihood that a mailpiece will receive a legible postmark.

The Postal Service remains fully committed to sustaining the mail as a secure, efficient, and effective means to allow citizens to participate in the electoral process when election officials determine to utilize the mail as a part of their election system. The Postal Service also remains fully committed to delivering Election Mail in a timely manner, consistent with our delivery standards. In this regard, we have ample capacity to handle the increased volume of Election Mail that will occur because of the pandemic.

But, to the extent that states choose to use the mail as part of their elections, they should do so in a manner that realistically reflects how the mail works. For the mail to be successfully used as part of an election, state and local election officials must understand and take into account our operational standards and recommended timelines. We will continue to provide outreach so that election officials have the information they need to make informed decisions and educate their voters accurately about what they can expect from the Postal Service.

We hope the information contained in this letter is helpful, and please let me know if you have any questions or concerns.

Sincerely,



Thomas J. Marshall

Enclosure

cc: The Honorable Nancy Pelosi, Speaker of the House
The Honorable Mitch McConnell, Senate Majority Leader
The Honorable Kevin McCarty, House Minority Leader
The Honorable Charles Schumer, Senate Minority Leader
The Honorable Carolyn Maloney, Chairwoman, House Committee on Oversight and Reform
The Honorable James Comer, Ranking Member, House Committee on Oversight and Reform
The Honorable Ron Johnson, Chairman, Senate Committee on Homeland Security and Governmental Affairs
The Honorable Gary Peters, Ranking Member, Senate Committee on Homeland Security and Governmental Affairs
The Honorable Roy Blunt, Chairman, Senate Committee on Rules and Administration
The Honorable Amy Klobuchar, Ranking Member, Senate Committee on Rules and Administration
The Honorable Zoe Lofgren, Chairwoman, House Committee on Administration
Mark Meadows, White House Chief of Staff