

United States Senate

WASHINGTON, DC 20510-1104

May 15, 2019

The Honorable Lee Francis Cissna
Director
U.S. Citizenship and Immigration Services
20 Massachusetts Avenue N.W.
Washington, DC 20529

Mr. Chad Wolf
Senior Official Performing the Duties of the
Under Secretary
Office of Strategy, Policy, and Plans
2707 Martin Luther King Jr. Avenue S.E.
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Dear Director Cissna and Mr. Wolf,

I write to express my concern and urge you to take immediate action regarding recent reports of citizens of the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau (the Freely Associated States, or FAS), which are critical national security partners of the United States, being denied access to REAL ID Act-compliant driver's licenses and identification cards ("REAL ID Act-compliant IDs").¹ The REAL ID Act establishes national standards for state-issued driver's licenses and identification cards and prohibits federal agencies from accepting noncompliant IDs for official purposes. Without access to REAL ID Act-compliant IDs, FAS citizens face challenges maintaining employment and accessing critical services.

Under recent guidance provided by the Department of Homeland Security (DHS), citizens of the Freely Associated States have been blocked from obtaining REAL ID Act-compliant IDs without a visa or an Employment Authorization Document (EAD). As you are aware, however, under decades-old defense treaties, known as the Compacts of Free Association, Americans and FAS citizens can live and work in each other's countries indefinitely as non-immigrants without FAS citizens having to obtain visas or employment authorization documents in the United States. The Compacts also allow FAS citizens to serve in the U.S. military, and FAS citizens enlist to serve at per capita rates higher than most U.S. states.²

¹ Anita Hofschneider, *New Federal Rules Block Driver's Licenses For Micronesians In Hawaii*, HONOLULU CIVIL BEAT (May 6, 2019), <https://www.civilbeat.org/2019/05/new-federal-rules-block-drivers-licenses-for-micronesians-in-hawaii/>.

² See, e.g., <https://www.state.gov/r/pa/ei/bgn/1839.htm>; <https://www.state.gov/r/pa/ei/bgn/26551.htm>; <https://www.state.gov/r/pa/ei/bgn/1840.htm/>.

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Last year, Congress unanimously passed the REAL ID Act Modification for Freely Associated States Act, which was signed into law in December 2018. The stated purpose of this law was “[t]o amend the Real ID Act of 2005 to permit Freely Associated States to meet identification requirements under such Act, and for other purposes.”³ The DHS guidance to implement this law, however, points to regulations issued in 2008—before the REAL ID Act was amended to accommodate FAS citizens.⁴ These regulations require an unexpired visa or EAD as evidence of identity to obtain a REAL ID Act-compliant ID, and strictly applying them to FAS citizens has generated significant confusion since many FAS citizens have neither a visa nor an EAD. Moreover, FAS citizens who have been able to apply for an EAD face a current backlog of an estimated 3.5 to 5.5 months to obtain an EAD.⁵

These challenges that FAS citizens face in accessing REAL ID Act-compliant IDs create hardships not only for FAS citizens, but also for the many U.S. employers who rely on FAS workers. While FAS citizens may currently apply for expedited consideration of an EAD application, which requires detailed documentation, requiring applications on an individual basis could create another backlog that would further delay FAS citizens’ access to necessary ID cards or driver’s licenses. In Hawaii alone, there are an estimated 17,205 FAS citizens, according to the U.S. Census Bureau.⁶

Accordingly, given the urgency of the situation, I ask that you immediately expedite processing of EAD applications from FAS citizens on a categorical basis until October 2020, when all states are expected to complete implementation of the REAL ID Act.⁷ I also ask that you continue working with my office to develop a longer-term solution to this issue.

Sincerely,



MAZIE K. HIRONO
United States Senator

³ REAL ID Act Modification for Freely Associated States Act, Pub. L. No. 115-323 (2018).

⁴ See, e.g., Department of Homeland Security, *REAL ID Frequently Asked Questions for State Implementation*, <https://www.dhs.gov/real-id-faq-implementation>.

⁵ United States Citizenship and Immigration Services (USCIS), <https://egov.uscis.gov/processing-times/>.

⁶ Department of Interior, *Interior, Census Launch 2018 Enumeration of Compact Migrants in Hawaii, Guam, Northern Mariana Islands and American Samoa*, <https://www.doi.gov/oia/interior-census-launch-2018-enumeration-compact-migrants-hawaii-guam-northern-mariana-islands>.

⁷ Department of Homeland Security, *REAL ID*, <https://www.dhs.gov/real-id>.