

**Congress of the United States**  
**Washington, DC 20515**

May 24, 2019

The Honorable Kevin K. McAleenan  
Acting Secretary  
U.S. Department of Homeland Security  
45 Murray Lane, S.W.  
Washington, D.C. 20528

Dear Acting Secretary McAleenan:

We write of concern for citizens of the Freely Associated States (FAS) living in the United States who are facing unfair burdens in obtaining their driver's licenses or State identification cards. Due to regulations set in place by the Department of Homeland Security (DHS), Marshallese, Palauan, and Micronesian citizens legally residing in the United States experience unnecessary hardship in their attempts to comply with the REAL ID Act of 2005. We urge you to work with Congress to find a long-term solution to the current DHS guidance that is not in line with United States commitments outlined in the Compacts of Free Association with the Federated States of Micronesia and the Republics of the Marshall Islands and Palau, and to comply with the explicit intent of the REAL ID Act Modification for Freely Associated States Act (P.L. 115-323). We also urge that you immediately expedite processing of Employment Authorization Document (EAD) applications from FAS citizens until such corrections are made.

Out of the documents the Department requires to establish a person's identity, the only two that FAS migrants are required to obtain are their foreign passport and an I-94. However, a DHS 2008 regulation states that these documents must be accompanied by a visa or an EAD. FAS citizens are not required to obtain a visa, and under the 2003 amendment of the Compacts of Free Association with Micronesia, Palau, and the Marshall Islands, FAS citizens do not need an EAD to seek employment in the U.S. They are only required to show their unexpired foreign passport and U.S. documentation proving they entered into the U.S. through the Compacts.

Therefore, it makes no sense for these citizens seeking a REAL ID card to be required to provide a visa or an EAD when the Compacts approved by law do not require them to have either.

With the Department's implementation of these regulations, the unfortunate unintended negative consequence is that Compact migrants are facing economic uncertainty and hardship in applying for an EAD card they were originally told they would not have to obtain in the first place. Through the enactment of H.R. 3398, the REAL ID Act Modification for Freely Associated States Act (P.L. 115-323), FAS migrants were assured that they would not have to continue using temporary ID cards. Yet, due to current DHS guidance, until they are able to acquire a visa or EAD card (which they are legally not required to obtain), they must continue to use and apply for a temporary ID card or States can issue non-Real ID Act compliant identification, which undermines the objective of the Real ID Act of 2005. We are concerned that, if FAS migrants are unable to acquire an ID card compliant with the REAL ID Act of 2005, they will face possible negative impacts on their employment.


The Compacts agreed to between the U.S. and the FAS provide FAS citizens the right to reside and work in the United States in recognition and pursuit of the important historic and strategic relationship between our countries. It is ultimately unfair and wrong to place added burdens upon this population, who already face many other challenges.

We urge you to immediately expedite processing of EAD applications from FAS citizens, honor the intent of the 2018 law (P.L. 115-323), and work with Congress to find a long-term solution that removes the requirement for FAS migrants to obtain a visa or apply for an EAD.


Sincerely,

  
\_\_\_\_\_  
Tulsi Gabbard  
Member of Congress


  
\_\_\_\_\_  
Don Young  
Member of Congress

  
\_\_\_\_\_  
Ed Case  
Member of Congress

  
\_\_\_\_\_  
Rob Bishop  
Member of Congress

  
\_\_\_\_\_  
Michael F.Q. San Nicolas  
Member of Congress

  
\_\_\_\_\_  
Aumua Amata  
Member of Congress

  
\_\_\_\_\_  
Gregorio Kilili Camacho Sablan  
Member of Congress