

Congress of the United States
Washington, DC 20515

February 26, 2010

The Honorable Gene L. Dodaro
Acting Comptroller General of the United States
GAO Headquarters
441 G Street, NW
Washington, D.C. 20548

Dear Mr. Dodaro:

We write to respectfully request the Government Accountability Office (GAO) comprehensively evaluate federal funds granted annually to certain state and territorial governments to aid in their defraying of costs resulting from demands placed on them due to the residence or presence in their jurisdiction of nonimmigrants from the Federated States of Micronesia (FSM), the Republic of the Marshall Islands (RMI), and the Republic of Palau (ROP). We are interested in receiving, as a result of such evaluation, recommendations for improving both the adequacy and effectiveness of such federal funding.

Section 141 of each of the Compacts of Free Association between the United States and the FSM, the RMI, and the ROP, affords admission into the United States of their respective citizens to lawfully engage in occupations and establish residence as nonimmigrants without regard to visa requirements and other restrictions normally applying to such persons under the Immigration and Nationality Act (8 U.S.C. 1182(a)(5) and (7)(B)(i)(II)). The immigration terms were included in the Compacts in furtherance of the special and unique bilateral relationship the United States maintains with each Freely Associated State.

Due largely to their proximity to the Freely Associated States (FAS) and as previously documented by the GAO (GAO-02-40), migration to the United States under the terms of the Compacts has been historically most directly experienced in Guam, the State of Hawaii, and the Commonwealth of the Northern Mariana Islands (CNMI). As a result, in enacting the Compact of Free Association Amendments Act of 2003 (P.L. 108-188) the Congress appropriated to the Secretary of the Interior \$600,000,000 equally divisible across 20 years, from fiscal year 2004 through 2023, for grants to these three affected jurisdictions in addition to American Samoa for the purpose of helping defray costs borne by them in providing certain services to and related infrastructure used by such nonimmigrants. The Act also requires the Secretary of the Interior conduct no less frequently than every five years an enumeration of nonimmigrants in each of these affected jurisdictions. The enumeration serves as the basis for the Secretary's allocation of the \$30,000,000 each year between the four jurisdictions eligible to receive the grants.

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We are now in the seventh year of this mandatory spending arrangement, and the Secretary of the Interior has completed two enumerations in accordance with the Act: one prior to 2004 that was the basis for the allocations made in fiscal years 2004 through 2009, and another in 2008 that was the basis for the allocations made for the current year and presumably that may be the basis for allocations through fiscal year 2014.

Given the time that has passed since the enactment of P.L. 108-188, we believe a meaningful evaluation of the administration and expenditure of these federal funds is feasible and warranted. Secondly, many leaders in the affected jurisdictions continue to assert that the allocation for their jurisdiction of the annual \$30,000,000 in Compact-impact assistance is significantly deficient in offsetting the actual costs incurred as result of the migration. Questions also remain about standardization of the enumeration methodology employed in the allocation. Third, FAS migration is impacting communities beyond the four affected jurisdictions eligible for Compact-impact assistance under the Department of the Interior program, namely in the State of Arkansas.

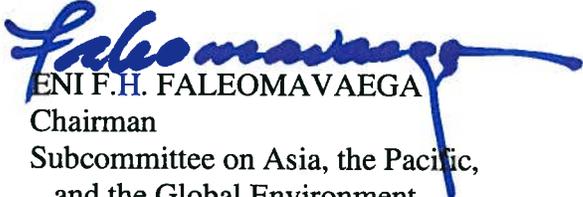
Therefore, in furtherance of our oversight responsibility and due to our continued interest in policy affecting Compact-impact assistance, we request this study and enclose a proposed scope of work detailing objectives and key questions. Your work would help us make informed decisions relating to our oversight of the Compacts of Free Association and to policy affecting Compact-impact assistance.

We intend to revisit Compact-impact policy during our anticipated consideration of legislation renewing the terms of the Compact of Free Association between the United States with the ROP. Those negotiations were recently concluded, and we anticipate soon receiving a formal transmittal of the legislation from the Administration. Therefore, your working to respond to our request as expeditiously as possible would be most appreciated.

Thank you for your consideration.

Sincerely,


MADELEINE Z. BORDALLO
Chairwoman
Subcommittee on Insular Affairs,
Oceans and Wildlife


ENI F.H. FALEOMAVEGA
Chairman
Subcommittee on Asia, the Pacific,
and the Global Environment

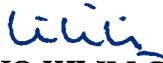
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NEIL ABERCROMBIE
Member of Congress



MAZIE K. HIRONO
Member of Congress



GREGORIO KILILI CAMACHO SABLAN
Member of Congress



VIC SNYDER
Member of Congress



JOHN BOOZMAN
Member of Congress



MIKE ROSS
Member of Congress

Enclosure

ENCLOSURE
PROPOSED SCOPE OF WORK AND KEY QUESTIONS

This document is an enclosure to the Congressional letter of February 26, 2010 requesting an evaluation of Compact-impact grant assistance and recommendations for improving such assistance. Below is a proposed scope of work and key questions for consideration by the Government Accountability Office (GAO).

- I. Impact reporting: A review of all reports submitted to the Secretary of the Interior or other federal authorities by the Governors of Guam, the State of Hawaii, the CNMI, and American Samoa documenting impacts of the Compacts on their respective jurisdiction, to include all reports that have been submitted in specific conformance to the process authorized by Sec. 104(e)(8) of P.L. 108-188. Such review should address:
 - a. the methodology used by each jurisdiction to identify, measure and report impact;
 - b. the degree to which such reported impact is auditable or is audited based on generally accepted accounting principles;
 - c. the consistency in the reporting approach adopted by the respective jurisdictions both year-to-year and in comparison to one another; and
 - d. the manner, frequency and consistency in which the Secretary of the Interior or other applicable federal authorities have reviewed, responded to or taken any particular action on such reports, including in compliance with the process authorized by Sec. 104(e)(8) of P.L. 108-188.

Corresponding Questions of Interest:

1. Overall adequacy of current Compact-impact assistance: To what degree is the current level of \$30,000,000 per year in federal Compact-impact assistance reasonably reimbursing the four affected jurisdictions for actual, substantiated and projected levels of impact? If considerably inadequate, what would be a more suitable and adequate level of assistance and what additional budget authority or other innovative means could be identified by which the federal government could better assist affected jurisdictions in recovering actual costs associated with the residence and presence of FAS nonimmigrants?
2. Past costs associated with Compact-impact: Are there substantiated, auditable or audited Compact-impact costs incurred on the part of any affected jurisdiction prior to the awarding of any Compact-impact grant in fiscal year 2004 and that were not recovered by any previously received Compact-impact assistance? What opportunities are there for the federal government to reimburse the affected jurisdiction(s) for such costs? What considerations should be given if Congress were to explore providing for the option of debt relief and cancellation to satisfy previously accrued and un-reimbursed impact expenses along the lines of what was provided for by Sec. 104(e)(9) of P.L. 108-188?

3. Quality of impact reporting: What tools and processes could the federal government and the affected jurisdictions utilize to better identify, understand and respond to the needs of FAS nonimmigrants? How can the affected jurisdictions strengthen the impact of their reporting and better assess and quantify the direct and indirect fiscal impacts of FAS nonimmigrants?
 4. Positive impact: In what ways are FAS nonimmigrants contributing to the revenues or tax base of the affected jurisdictions? Are such contributions measured or taken into account by the affected jurisdictions? What other positive impacts do FAS nonimmigrants bring for the communities in which they reside and are present?
- II. Compact-impact grant administration: A review of the regulations, policies and procedures, internal and otherwise, established by the Office of Insular Affairs (OIA) at the Department of the Interior for the awarding and administration of grants from funds appropriated by the Congress in Sec. 104(e)(3) of P.L. 108-188. Such review should include:
- a. a description of the process utilized by OIA for awarding and administering such grants, and how such process has varied, if at all, year-to-year;
 - b. a listing of all such grants awarded since fiscal year 2003 to include a comparison to the expenditure of discretionary Compact-impact assistance appropriated in years previous to fiscal year 2004;
 - c. observations of how each jurisdiction is prioritizing, proposing and executing its Compact-impact projects with such grants among the purposes authorized by Sec. 103(e)(3)(B) of P.L. 108-188 (i.e. in the areas of health, educational, social, public safety services and related infrastructure), and any correlation of such projects to these areas of measured or reported impact.

Corresponding Questions of Interest:

1. Compact-impact grant process: In what ways might the current process of awarding and administering Compact-impact grants be improved?
 2. Areas of impact: Does the focus in law on grants in areas of health, educational, social, public safety services and related infrastructure exclude any major area of experienced impact or cost on the part of any affected jurisdiction?
- III. OIA Compact-impact enumeration methodology: A review of the options considered and the decisions made by the Secretary of the Interior for conducting the periodic enumerations required by Sec. 104(e)(4) of P.L. 108-188. Such review should include:
- a. an evaluation of the reliability and statistical significance of methodology for such enumerations, and the consistency of the adopted approach across the affected jurisdictions;

- b. an analysis of the degree to which the methodology and approach is fulfilling the intent of Congress and assisting each affected jurisdiction in recovering actual and reported costs associated with Compact migration; and
- c. an analysis of recent trends in migration and residence patterns among FAS nonimmigrants (with a particular focus on the current demographic and socio-economic characteristics of this population in each of the affected areas) to include a comparison of such trends against historical data
- d. an analysis of impact to and migration experienced in other communities, including in the State of Arkansas, within the United States beyond and apart from the four affected jurisdictions eligible to receive Compact-impact grants.

Corresponding Questions of Interest:

1. Frequency of and methodology for enumerations: In what ways might the timing and process for the required enumerations be improved? Is the current methodology fair to all affected jurisdictions? To what degree are the affected jurisdictions consulted with in the selection of the enumeration methodology, and in the development and execution of the enumeration strategy?
 2. Adequacy of and ancillary benefits of the enumeration: Are important data needs of the affected jurisdictions and data collection opportunities with the enumeration exercise maximized? In what ways is the data collected from the enumeration being utilized for beneficial purposes other than allocating the Compact-impact grants, if any?
 3. Compact-impact in other jurisdictions: Notwithstanding American Samoa, is there measurable and substantially similar impact in U.S. jurisdictions other than Guam, the State of Hawaii, the CNMI? To what comparable proportion of overall or otherwise relevant state resources are being committed to address such impact? Should Compact-impact assistance be extended by the federal government to jurisdictions other than Guam, the State of Hawaii, the CNMI, and American Samoa?
- IV. FAS eligibility for federal, state and territorial social services: An analysis of the historic and current availability or non-availability of federal, state and territorial social welfare and other assistance programs to FAS nonimmigrants lawfully residing or present in the United States, including at a minimum:
- a. Medicaid;
 - b. Temporary Assistance for Needy Families (TANF), the Child Care and Development Fund, and the Child and Adult Care Food Program;
 - c. Aid to the Aged, Blind and Disabled (AABD) and Supplemental Security Income (SSI);
 - d. Supplemental Nutrition Assistance Program (SNAP) and School Lunch and Breakfast Programs;

- e. Low-Income Home Energy Assistance Program (LIHEAP) and Weatherization Assistance Program (WAP);
- f. Section 8 Housing Choice Voucher Program and other tenant-based rental assistance;
- g. Federal Pell Grant Program, Federal Work-Study Program, and other related education assistance;
- h. and all related programs authorized at the state, territorial and local levels.

The analysis should reference statute affecting eligibility of FAS nonimmigrants for such assistance, and note changes in eligibility as may have been experienced over the years since the Compacts of Free Association were first entered into force and as they may differ by FAS citizenship or state or territory in which such persons are lawfully residing or present. The analysis should also reveal the degree to which, in cases of eligibility, each of the respective federal programs is addressing, in whole or in part, the impact of FAS migration in the particular affected jurisdiction or alternatively, displacing or otherwise constraining the provision of such limited federal assistance among its otherwise eligible residents or U.S. citizens (or nationals in the case of American Samoa).

Corresponding Questions of Interest:

1. Ambiguity in current law: Are there varying interpretations or ambiguities in current law affecting FAS citizen eligibility for federal social welfare or other support programs that could be clarified?
2. Variance among U.S. jurisdictions: Does eligibility for relevant federal social welfare or other support programs depend upon residence or presence of a FAS nonimmigrant in a particular state or territory? To what degree is there variance between state and territorial law in providing for social welfare for FAS nonimmigrants? How does such variance affect migration decisions and patterns?
3. Federal programs as means for addressing Compact-impact: Eligibility of FAS nonimmigrants for which federal programs would most measurably mitigate direct impact on the affected jurisdictions?
4. Other federal financial assistance programs for the states: In what ways might it be consistent with Congressional intent and program purpose, and to help mitigate direct impact if the affected jurisdictions were to be made eligible to receive assistance under the federal Impact Aid program administered by the U.S. Department of Education on the account of enrolled children of FAS nonimmigrants; the State Criminal Alien Assistance Program (SCAAP) administered by the U.S. Department of Justice on account of incarcerated FAS nonimmigrants; and other like programs? What should the Congressional considerations be in evaluating amendments to the various authorizing laws for such purposes?

5. Access to Department of Defense (DoD) medical facilities: What is the status of implementing arrangements and other protocols between civilian and DoD authorities affecting the referral of FAS citizens for medical diagnosis and treatment? To what extent are such referrals possible and realized under current law? How is DoD interpreting authority provided by Sec. 104(e)(7)(A) and in annual appropriations law affecting treatment of FAS citizens in Army medical facilities located in the State of Hawaii? What is the comparison of referral policy affecting FAS citizens between U.S. Naval Hospital, Guam and Tripler Army Medical Center, Honolulu, Hawaii?
 6. Impact on private health care providers: To what extent have and do private health professionals and providers in the affected jurisdictions furnish care for FAS nonimmigrants? How are the costs for such care billed and recovered?
- V. Compact-impact mitigation with U.S. assistance to the FAS: An analysis of how direct U.S. assistance to each of the Freely Associated States, especially in the areas of health and education, has mitigated or can mitigate adverse migration impacts in the affected jurisdictions.

Corresponding Questions of Interest:

1. Evaluating implementation of previous recommendations: To what degree was executive action recommended by the GAO in the October 5, 2001, report titled “*Migration From Micronesian Nations Has Had Significant Impact on Guam, Hawaii, and the Commonwealth of the Northern Mariana Islands*” (GAO-02-40) implemented?
 2. JEMCO, JEMFAC and five-year review: To what extent has the U.S.-FSM Joint Economic Management Committee (JEMCO) and the U.S.-RMI Joint Economic Management and Financial Accountability Committee (JEMFAC) either directly or indirectly addressed areas of U.S. economic assistance from the perspective of mitigating adverse impact from FAS migration to the United States? To what extent were areas associated with adverse impact from migration addressed as part of the five-year review required by Sec. 104(h)(2) of P.L. 108-188?
- VI. Federal interagency cooperation for screening and admissibility: A review of interagency, intergovernmental and diplomatic cooperation for examining the suitability and admission into the United States of FAS citizens in accordance with the Compacts of Free Association and applicable provisions of the Immigration and Nationality Act. Such review should encompass:
- a. any established, proposed or potential screening protocols addressing communicable diseases and other public health and national security interests to the United States; and

- b. any instances of denied or delayed admission or deportation of an FAS citizen on account of such concerns, other grounds for inadmissibility as provided for in Section 141(f) of the U.S.-FSM and U.S.-RMI Compacts or other applicable law, including as a result of a public charge.

Corresponding Questions of Interest:

1. National health service corps: To what extent have the services of the National Health Service Corps been made available to the residents of FSM, the RMI, and the ROP pursuant to Sec. 104(e)(7)(B) of P.L. 108-188? How have such services improved the state of public health in each FAS and mitigated adverse impact from migration?
2. Communicable disease control and prevention: What specific areas of bilateral cooperation have been pursued to control for and prevent the spread of communicable diseases resultant from FAS migration? How has the Secretary of Health and Human Services and the Secretary of the Interior exercised authority provided by Sec. 105(m) of P.L. 108-188 or other authority to address communicable disease control and prevention?
3. Pre-entry or pre-admission screening: What recommendations are there for improving the pre-entry and pre-admission screening process for FAS citizens migrating to the United States?