

State of Hawaii
Department of the Attorney General



**INTERIM REPORT OF THE
COMPACTS OF FREE ASSOCIATION
TASK FORCE**

Pursuant to Senate Resolution No. 142, S.D. 1
Regular Session of 2007

*Submitted to
The Twenty-Fourth State Legislature
Regular Session of 2008*

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Interim Report of the Compacts of Free Association Task Force

I. Introduction

This report is made pursuant to Senate Resolution No. 142, S.D. 1, adopted during the regular session of 2007, which requested that the Attorney General convene a task force to investigate and coordinate the provision of medical and social services to migrants from Freely Associated States, and further requested that the task force carry out the following activities:

- (1) Consult with the Department of the Interior's Office of Insular Affairs in Hawaii regarding what federal funds and services are available to assist Freely Associated States citizens in Hawaii;
- (2) Research whether a current census exists regarding the number of Freely Associated States citizens living, working, and attending school in Hawaii, and if no data exists, consult with the United States Census Bureau on obtaining this information in future national or regional census; and
- (3) Investigate the medical, educational, housing, and social services needs of migrants from Freely Associated States including the impact these services needs have on schools, and make recommendations regarding how to plan for and coordinate the provision of services to this population.

The members of the task force, as designated in S.R. No. 142, include representatives of:

- (1) The Department of Health;
- (2) The Department of Human Services;
- (3) The Department of Education;
- (4) The Department of Labor and Industrial Relations;
- (5) The University of Hawaii - Manoa, John A. Burns School of Medicine;
- (6) The Micronesian Community Network;
- (7) Micronesians United;
- (8) The Institute for Human Services; and
- (9) The University of Hawaii - West Oahu.

In addition to the members designated pursuant to S.R. No. 142, the Task Force has included the participation of other public and private agencies, and individuals who have an interest or expertise in the issues, including but not limited to (in no particular order) representatives from:

- (1) Offices of the members of Hawaii's Congressional delegation;
- (2) Members of the State Legislature;
- (3) The Government of the Federated States of Micronesia;
- (4) The Government of the Republic of the Marshall Islands;
- (5) The Government of the Republic of Palau;
- (6) The U. S. Department of the Interior, Office of Insular Affairs;
- (7) The State of Hawaii Judiciary, Office of Equality and Access to the Courts;
- (8) The Nations of Micronesia community group;
- (9) The East-West Center;
- (10) Central Union Church;
- (11) Legal Aid Society of Hawaii;
- (12) The Hawai'i Public Housing Authority;
- (13) Catholic Charities Hawaii;
- (14) The City and County of Honolulu, Department of Community Services;
- (15) The University of Hawaii - Manoa;
- (16) Waianae Community Outreach;
- (17) The State Office of Language Access; and
- (18) Private members of the community without group affiliation.

The task force was requested to provide this interim report no later than twenty days prior to the convening of the 2008 regular session, and to submit a final report for the 2009 regular session.

II. Executive Summary

In 1986, the United States entered into a Compact of Free Association (COFA or Compact) with the Federated States of Micronesia (FSM), and the Republic of the Marshall Islands (RMI) that created a unique relationship between the United States of America and the COFA nations. See the Compact of Free Association Act of 1985, Public Law (P.L.) 99-239. In 1994, the United States entered into a similar compact with the Republic of Palau (Palau). See the Compact of Free Association with Palau Act of 1989, P.L. 101-219. The Compact with FSM and RMI was renegotiated and amended in 2003. See Compact of Free Association Amendments Act of 2003, P.L. 108-188. The Compact with Palau is currently being renegotiated, and is scheduled to be renewed in 2008.

The terms of the Compacts set out mutually beneficial rights and obligations in several areas, including economic development and defense. One right established by the Compacts that has particular significance for the State of Hawaii is the right of citizens from the COFA nations to freely travel to, and work and reside in, the United States without durational limit, as a "qualified nonimmigrant," which means "a person, or their children under the age of 18, admitted or resident pursuant to [the Compacts] as of a date referenced in the most recently published enumeration [who] is a resident of an affected jurisdiction." See P.L. 108-188, section 104(e)(2)(B).

COFA migrants in the State often arrive with serious medical needs, and because of the right to freely travel to the United States, there is no provision for requiring health screening prior to entry or upon entry in the State. In addition a significant number of COFA migrants may need financial assistance or housing assistance, because of the relative lack of resources they have available. The State provides services to address the social services, education, public safety, and medical needs of COFA citizens who legally reside in the State, just as it provides them to other legal residents. The State has consistently reported increasing costs each year for the services provided to COFA migrants, the majority of which were not reimbursed by the federal government. See Governor's Report, dated September 17, 2007. In 2006, the cost reported by the State agencies to provide services for COFA migrants was over \$91,000,000, while the federal assistance to the State was approximately \$10,600,000. See State of Hawaii Compact Impact, Summary of Reported State Agency Costs for 2006, Attachment A to this report. The Task Force believes that the number of COFA migrants and the associated costs will continue to increase for the duration of the Compacts.

Congress explicitly stated in the Compacts that this federally created relationship with the COFA nations was not intended to have an adverse impact on the State of Hawaii, thus the Compacts provided authorization for appropriations to assist the State of Hawaii with any financial impact that might arise from the in-migration of citizens from the COFA nations to Hawaii. See P.L. 108-188, section 104. Despite that authorization, Congress rarely exercised its authority to provide Compact Impact assistance to Hawaii prior to the 2003 amendments to the Compacts.

The task force is concerned that its discussions and this report often center on the lack of funding, which may be perceived as complaints about a problem created by the COFA migrants. The task force wants to be clear that it is not the intent of the task force to imply that the COFA migrants themselves are a problem. Rather the task force acknowledges that COFA migrants face challenges in their lives for which they need assistance, as do many other residents of the State, and those challenges may be complicated by the fact of being non-citizens in a foreign country. The convening of this task force is a recognition of the increasing population of COFA migrants in the State, and the limited resources available to the service providers that assist them, and provides an opportunity for the State and private agencies to attempt to address the needs of this migrant community in a comprehensive and coordinated manner.

III. The Issues

The issues presented by S.R. No. 142 were reviewed and expanded upon by the task force to include some information that goes beyond the three specific questions set forth in the resolution. The task force has redefined the questions to encompass three general areas, and created subcommittees to address each area, including: (1) funding; (2) census; and (3) services.

A. Funding

1. Available Federal Money.

When the Compacts were initially executed, Congress recognized there could be a significant effect on the resources of the places to which the COFA citizens migrated and stated that “it is not the intent of Congress to cause any adverse consequences for an affected jurisdiction.” P.L. 108-188, section 104(e)(1). For purposes of the Compacts, “the term 'affected jurisdiction' means American Samoa, Guam, the Commonwealth of the Northern Marina Islands, or the State of Hawaii.” P.L. 108-188, section 104(e)(2)(A).

The Compacts thus authorize federal money to be spent “for grants to affected jurisdictions to aid in defraying costs incurred by affected jurisdictions as a result of increased demands placed on health, educational, social, or public safety services or infrastructure related to such services.” P.L. 108-188, section 104(e)(3). The money is intended to be “used only for health, educational, social, or public safety services, or infrastructure related to such services, specifically affected by qualified nonimmigrants.” P.L. 108-188, section 104(e)(3)(B).

When the Compacts with FSM and RMI were renegotiated, Congress included a permanent appropriation for twenty years, of \$30,000,000 per year from 2004 to 2023, to be shared by the affected jurisdictions. P.L. 108-188, Section 104(e)(3). This Compact Impact assistance is to be allocated to each affected jurisdiction proportionally, based on the most recent census, by dividing the number of migrants in each jurisdiction by the total number of migrants in all the affected jurisdictions. P.L. 108-188, section 104(e)(5). Hawai'i's share of the annual assistance is approximately \$10,600,000.

In addition to this Compact Impact assistance funding, the Compacts authorize other money to be appropriated specifically for health programs. P.L. 108-188, section 104(m). Further, the Compacts authorize money for non-governmental entities specifically for additional “sums to reimburse health care institutions” for certain health-related costs. P.L. 108-188, section 104(e)(6).

In a meeting of the task force, the United States Department of the Interior (DOI) clarified that the DOI itself cannot increase the \$30,000,000 appropriation amount without a statutory amendment, and there are currently no plans by DOI to request increased funding, but that Congress may attempt to increase it at any time. As to other funding that might be available, the DOI is not aware of other available funding at this time, but is willing to work with the task force to explore other funding options.

2. Federal Benefits.

In 1997, Congress passed the Personal Responsibility Work Opportunities Reconciliation Act (PRWORA), a groundbreaking piece of legislation that reformed the welfare system. See P.L. 104-193. With the enactment of PRWORA, most non-citizens in the United States, with some limited exceptions, became ineligible for federally funded welfare programs including Temporary Assistance for Needy Families (TANF),

Medicaid, Food Stamps, and Supplemental Security Income (SSI). See P.L. 104-193, sections 401-412. COFA migrants were among the non-citizen groups excluded, and not included as one of the exceptions, despite the fact that they are legal residents in the United States, and are more like citizens than immigrants or other legally resident non-citizens, in terms of their ability to reside, work and attend school in the United States. The State has continued to make the services available through equivalent State-funded services.

The federal government created the relationship with these nations that allows their citizens to freely reside in the U.S. with few limitations. The Task Force believes that extending eligibility for federal assistance to the COFA migrants would better support the purposes underlying the COFA. Providing federal assistance for COFA migrants additionally would alleviate much of the burden on the State's budget while still maintaining the same level of services for the COFA migrants.

In 2007, Senators Akaka and Inouye introduced a bill into the United States Senate, S. 1676, which would extend the above-mentioned federal benefits to the COFA migrants. Representatives Abercrombie and Hirono also introduced a companion bill in the United States House of Representatives, HR. 4000. The DOI did not have a position regarding the bills at the time of this report.

B. Census

1. Background.

The DOI is mandated by the Compacts to conduct a periodic enumeration, often referred to as a census, of the COFA migrants in each affected jurisdiction, no less than every five years, beginning in 2003. See P.L. 108-188, section 104(e). The enumeration is to be supervised by the United States Bureau of the Census or such other organizations as DOI may select. *Id.* After 2003, the census is to be funded by DOI by deducting such sums as are necessary, but not to exceed \$300,000, as adjusted for inflation per enumeration, from funds appropriated for Compact Impact assistance to the affected jurisdictions. *Id.* In December 2007, the DOI informed the task force that the Census Bureau is estimating a cost of \$1,300,000 to conduct the required enumerations for all the affected jurisdictions in 2008. The amount in excess of the \$300,000 authorized by the Compact will not reduce the Compact Impact assistance to the affected jurisdictions.

2. Previous Census

The Census Bureau conducted the first census pursuant to the Compacts in 2003. See *The Status of Micronesian Migrants in the Early 21st Century*, by Michael J. Levin, U.S. Census Bureau, 2004 (Levin Report). The enumeration counted 8,357 persons from the COFA nations in Hawai'i, but reported that only 7,297 of those were actually present under the terms of the Compacts. See Levin Report, page 16.

The Levin Report acknowledges that the number of COFA migrants in Hawaii was largely undercounted, for several reasons. See Levin Report, page 43. Because of the limitations of the 2003 enumeration as identified by the Census Bureau, the Task Force believes a more thorough enumeration is necessary both for purposes of allocating the Compact Impact assistance more fairly, as well as for obtaining data that can be used to plan and coordinate the provision of services to COFA migrants in the future.

3. Proposal by UH

A group from the University of Hawaii (UH) at Manoa, has proposed to conduct for the Census Bureau, the enumeration of COFA migrants in Hawaii scheduled for 2008. UH proposes that a full enumeration be conducted on all the islands, organized by the Department of Sociology at UH-Manoa, and utilizing resources and personnel from the other UH and community college campuses on each island, to the greatest extent possible.

The UH group proposal for the cost of the enumeration in Hawaii is estimated very roughly to be \$350,000, in order to conduct a full survey with the kinds of questions that the State agencies and community groups would find helpful in planning and policy-making. The UH proposal estimates that a somewhat more modest enumeration, which would exclude questions regarding services to the COFA migrants, would require more than \$250,000. Even the crudest enumeration proposed by the UH group, with minimal demographic information, is still estimated to require in excess of \$150,000.

The task force shared with the DOI, at a task force meeting in December 2007, that UH was proposing to conduct the enumeration for the United States Census Bureau. The DOI representatives were not aware whether the Census Bureau was considering the UH proposal, or if the Census Bureau would use its own resources or select another entity to conduct the enumeration. The Task Force requested that DOI consult with the Census Bureau to ensure that the Census Bureau considers the State's interests in deciding how to conduct the enumeration.

C. Services

The task force subcommittee on Services has begun to investigate the medical, educational, housing and social services needs of the COFA migrants, and already has some sense of what the basic needs are through the community partners and participants in the task force meeting, without conducting a formal needs assessment. Still, the task force believes that more information on the actual use of services will be helpful in planning for expected increases in the population over the life of the Compacts.

The task force also has a sense that the migrant population generally has access to necessary services, but that the delivery of services can be improved, coordinated, and made more effective. Recognizing the contributions that any new migrant group has to offer our multicultural community in Hawaii, the task force strives to keep the following core values in mind as we consider development of service delivery strategies to new

community members from the COFA nations, including: (1) internal empowerment of the COFA migrant community; (2) cultural sensitivity to preferred communication modalities; (3) trust-building between this "newcomer" population and other Hawaii residents; (4) practicality of strategies considered; and (5) ultimate goal of integration into the local community and long term self-sufficiency.

With the core values in mind, the task force has developed four guiding principles to organize the service delivery strategies: (1) COFA migrant leadership development; (2) coordinated service delivery infrastructure with language access; (3) development of resources in the COFA nations; and (4) planning and development of resources for increased COFA migration.

1. COFA Migrant Leadership Development

In order to effectively work with the COFA migrant population, the task force believes the public and private agencies providing services will need to better promote the local leadership of community and government members. The COFA migrants may be more likely to engage in activities that are presented or supported by representatives of their own migrant community.

2. Coordinated Service Delivery Infrastructure With Language Access

Even though the COFA migrants may be utilizing available services, the task force believes that it is necessary to develop better-coordinated service delivery infrastructure with appropriate language access.

3. Development of Resources in the COFA Nations

The task force feels it is important to coordinate and encourage the development of resources in the COFA nations in order to address certain medical and social issues prior to the COFA migrants arrival in Hawaii. This engagement "back home" would have the dual effect of providing important information and services to persons who migrate to Hawaii to better prepare them for culture differences and reduce the need for them to seek health and social services in Hawaii, as well as improve the health of those who remain in the COFA nations.

The task force explored the role the DOI has in the development of resources in the COFA nations, and will continue to look at how the State can actively participate in developing those resources to the mutual benefit of the State and the COFA citizens. The DOI already administers grants to the COFA nations, including money that is designated for health care. The DOI does not have a particular role in providing information to COFA citizens who plan to or may migrate to the United States.

The task force is also aware that other United States agencies may have funding or programs that the State could partner with to develop resources in the COFA nations. The task force will continue to pursue those as well as the DOI funding and programs.

The task force believes that the United States government and the COFA nations' governments may be interested in and willing to implement some programs in the COFA nations on a voluntary basis. There may also be interest in requiring participation in certain programs, for instance health screening for persons entering the United States, which would involve amendments to the Compacts that would require the agreement of the COFA nations' governments and the United States government.

4. Planning and Development of Resources for Increased COFA Migration.

The task force believes that while there is some understanding of the needs and challenges faced by the COFA migrants in Hawaii, additional information may be essential to adequately prepare for the anticipated increase in migration over the life of the Compacts. An increase in population will likely result in an increase in service utilization that will require ever more funding and capacity to deliver services. The task force feels that the census may provide a unique opportunity to gather demographic information beyond a simple enumeration, that would be useful in planning and policy development.

In addition, the task force is aware of the particular challenge of providing services in a culturally meaningful way, including the need for translation and interpretation for persons with limited English proficiency, and the difficulty with providing translation in six major languages (Marshallese, Chuukese, Kosraean, Pohnpeian, Yapese, and Palauan), and multiple distinct dialects. Unlike immigrant groups in the past, COFA migrants may have a more transitory relationship with the State, and thus may not assimilate the language and culture as readily as those earlier immigrant populations. The ability to travel freely between the United States and the COFA nations allows them to retain more of the language and traditions of their home countries, and so the need for language assistance may not decrease over time, even for persons who have lived in the State for long periods.

While interpretation services may help gain initial access to services, a basic understanding of English, which is spoken by a majority of the general population in Hawaii, would help COFA migrants to have more ready access to available services over time. In addition, developing broad access to language education, and encouraging COFA migrants to participate, would help them more easily engage with the broader community.

IV. Related Activities

The Governor contacted each of the members of the Hawaii Congressional delegation in 2007 to request and support the extension of federally funded benefits to COFA migrants. Additionally, the Governor proposed a plan for health screening and assessments and treatment in the COFA nations that would address certain health issues before a COFA citizen leaves his or her country and enters the United States. This would improve the health of citizens in the COFA nations, and help reduce the impact on the

State's medical and social services. The Hawaii Congressional delegates have been responsive to the Governor's concerns, and have offered to meet with the Governor or members of the administration and the task force, to pursue our mutual goals.

The Governor also has contacted the United States Secretary of the Interior in 2007, to report on the Compact Impact costs, and to request that the DOI encourage the Census Bureau to utilize the State's resources, i.e. the University of Hawaii, to conduct the 2008 enumeration.

The State DOH, on behalf of the Governor and in conjunction with the Task Force, contacted the United States Department of Health and Human Services (DHHS), the United States Center for Disease Control (CDC) and the United States Surgeon General in 2007, to initiate a plan for the proposed health screening program.

V. Recommendations

Based on its initial information gathering and discussions, the task force makes the following preliminary recommendations:

A. Funding

One or more of the stakeholders, including the task force, the Governor, the Legislature, and community groups or individuals, should:

1. Request that Congress raise the total amount of funding in the appropriation for Compact Impact assistance, above the current \$30,000,000, to cover the actual costs.

2. Request assistance from the DOI in finding additional money, outside of the Compact Impact assistance, as well as from other Federal agencies that have grants that may be applied to health, education, and human services issues of the COFA migrants in Hawaii.

3. Support the Federal legislation introduced by Hawaii's Congressional delegates to extend eligibility for federal benefits to COFA migrants in the United States through continued lobbying by the Governor and her administration, concurrent resolutions by the State legislature, and lobbying by private agencies and community groups. This may also include cooperation with the COFA nations' governments, as well as other states in the United States that are beginning to see COFA migration in their jurisdictions recently.

B. Census

One or more of the stakeholders should:

1. Assist the UH-Manoa group to coordinate the proposal for the 2008 enumeration with the DOI and Census Bureau.
2. Request that the DOI and the Census Bureau provide adequate funding to ensure an accurate and thorough enumeration, including all the islands.
3. Explore funding through other state and federal agencies, supplemental to funds from DOI, in order to enhance the census and thus provide more data beyond a simple enumeration. These data are critical for planning purposes.

C. Services

1. Recommendations for immediate implementation.

The task force encourages all service providers to consider implementing the following general recommendations immediately:

- a. Identify and encourage COFA migrants in Hawaii to take leadership in efforts to empower members of their community, including developing a pool of interpreters from within the migrant community.
- b. Focus on supporting development of skills necessary for accessing resources, networking, community-building, and leadership.
- c. Apply a mentoring model to develop a trusting relationship between COFA leadership and the migrant community at-large.

2. Recommendations for future implementation.

The following proposals were developed and considered in the discussions of the task force, and the task force will continue to refine these ideas:

- a. Establish a cultural center model in order to standardize the service delivery process and promote accessibility through a number of designated sites statewide. Intake sessions at one of these cultural centers may include standardized assessments, presentation of materials, and review of services available. The centers would be culturally sensitive and may take on one or more formats such as: virtual service centers with public access to electronic information; multi-purpose outreach service centers; centers in existing public housing community centers, health clinics, or shelters; or mobile service delivery centers.
- b. Develop case managers within the community by training a group of COFA migrants to assist others with acculturation and self-sufficiency services. Case managers may, among other things: develop service plans targeting competencies that are likely to promote successful community integration and independence; provide intake and assessment for referral to social services; provide access to improved health

services (including communicable disease screening, and alcohol abuse prevention and intervention); assist with child education; and provide support with literacy goals.

c. Utilize the expertise of current service providers within the State in lieu of developing new centers. Some potential providers that work with immigrant and migrant populations that the Task Force has already identified include: the Enterprise and Development Resources for the Pacific (formerly Samoan Service Provider); the Goodwill Industries Hawaii; Catholic Charities Immigrant Services; the Susannah Wesley Center; and Pacific Gateway Center.

d. Develop co-op housing based in existing housing developments.

e. Develop and implement an acculturation program to better inform COFA migrants of resources available to them. Utilize multi-media campaigns to communicate information needed to increase chances of success in Hawaii, for instance through brochures disseminated by community or church groups, or public service announcements on KNDI Radio in the FSM, which currently hosts three COFA language radio stations including Marshallese, Chuukese, and Pohnpeian, as well as Olelo programming.

f. Develop and distribute “success kits” in an effort to build individual capacity among migrants. The kits, interpreted into the several languages, could be made available in Hawaii and the COFA nations, and might include a list of available services on topics such as health, education, housing, life skills, money management, safe refuge for children, and interpretation.

g. Develop and implement a health screening and treatment program, in the COFA nations, with Federal and COFA governmental partners to address health issues, particularly regarding communicable diseases such as TB, cholera, Hansen's disease, hepatitis B, and STD, for persons in the COFA nations and those who may migrate to the United States.

h. Develop a plan to build the necessary resources needed to deal with the projected increase in COFA migration in all following areas: housing; education; employment; and health.

i. Continue to build on early efforts to collect information. The planned census is a key element in planning, and therefore ideally should include collection of as much demographic information as possible regarding the need for and utilization of services by COFA migrants. Alternate methods of collecting this data in a standardized way will be necessary if the census is not sufficiently funded, or if the United States Census Bureau fails to consider the interests of the State in conducting the census.

j. Develop coordinated language translation and interpreter resources that are generally accessible and can be utilized by all the State and private agencies and service providers.

k. Strengthen language education for children and adults by providing, among other things: enhanced curricula including individualized instruction, possibly through computer-based one-on-one programs; enhanced education for English as a Second Language instructors with cultural components; and enhancing mentorship programs for COFA migrant students in DOE schools.

l. Review the allocation and use of the Compact Impact assistance the State receives from DOI, to determine if there is a way to spend it that would have a more effective long-term impact.

VI. Conclusion

The task force recognizes that many of the "Services" recommendations need to be developed through further investigation of the "impact" of COFA migration and through discussion with the interested stakeholders. Nevertheless, some of the recommendations may require immediate action. Due to the timing of the legislative and congressional appropriations, action on the "Funding" recommendations should be taken as soon as possible. Likewise with the "Census" issues, since the census is scheduled for 2008. Several of the other recommendations may require legislative appropriations to allow the agencies or the task force to begin implementing some of the recommendations in 2008. The task force will continue to meet to address these and new issues as they come to the attention of the task force.

STATE OF HAWAII COMPACT IMPACT

SUMMARY OF REPORTED STATE AGENCY COSTS FOR 2006

DOE Department of Education	\$ 45,765,686
DHS Department of Human Services	39,230,578
DOH Department of Health	3,074,892
UH University of Hawaii	1,422,376
DLIR/OCS Department of Labor and Industrial Relations/Office of Community Services	951,200
PSD Public Safety Division	629,100
DBEDT Department of Business, Economic Development and Tourism	279,000
JUD The Judiciary	70,723
DOD Department of Defense	19,511
TOTAL	\$ 91,443,066

COMPILED BY THE DEPARTMENT OF THE ATTORNEY GENERAL
FOR THE COFA TASK FORCE 2007

ATTACHMENT A