



EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

June 7, 2019

The Honorable Mark Koumans, Acting Director
U.S. Citizenship and Immigration Services Headquarters
111 Massachusetts Avenue, N.W.
Washington, D.C. 20529

Dear Director Koumans:

The State of Hawai'i is requesting assistance from the U.S. Citizenship and Immigration Services in expediting processing of Employment Authorization Documents (EADs) for nonimmigrant residents of Hawai'i originating from Compact of Free Association (COFA) nations.

In April 2019, the Department of Homeland Security (DHS) provided guidance to the states regarding REAL ID identity and lawful status documentation requirements. Based on the clarified requirements the Hawai'i Department of Transportation (HDOT) enacted policies that require COFA nonimmigrant residents to provide either a previously issued, valid, unexpired REAL ID compliant credential; valid, unexpired passport in combination with a valid, unexpired visa and lawful record of admission (I-94); or, a valid, unexpired EAD as proof of identity (and either of the two latter documents for lawful status) for purposes of issuing a State of Hawai'i Driver's License or a State of Hawai'i Identification Card.

Due to the nature of the Compact of Free Association agreement, many COFA residents in Hawai'i do not possess the documentation now required to qualify for a state issued REAL ID compliant credential. COFA residents attempting to renew or apply for these credentials have been advised to request employment authorization from USCIS via Form I-765, but in the meantime are not able to obtain REAL ID compliant credentials needed in their daily lives. Any help your agency could provide in expediting the processing of Form I-765s for Hawai'i residents would be greatly appreciated.

With warmest regards,

David Y. Ige
Governor, State of Hawai'i



**U.S. Citizenship
and Immigration
Services**

July 19, 2019

The Honorable David Y. Ige
Governor
State of Hawaii
Executive Chambers
State Capitol
Honolulu, Hawaii 96813

Dear Governor Ige:

Thank you for your June 7, 2019 letter requesting expedited processing of Employment Authorization Documents (EADs) for nonimmigrant residents of Hawaii who are citizens of the Federated States of Micronesia, the Republic of Palau, and the Republic of the Marshall Islands (collectively known as the Freely Associated States, or FAS).

I appreciate the importance of this issue, as FAS citizens attempt to obtain state-issued driver's licenses and identification cards that comply with the requirement of the REAL ID Act of 2005 (Pub. L. 109-13). The REAL ID Act set forth security requirements for driver's license issuance that states must meet in order to have their licenses accepted for certain federal purposes. The Department of Homeland Security (DHS), which administers the REAL ID Program, remains committed to working with Hawaii and other states to provide appropriate standards consistent with the statute and assist them in coming into compliance.

As you know, most citizens of the FAS are eligible under the Compacts of Free Association (COFA) between the United States and the FAS, for admission to the United States as nonimmigrants, without a visa, to reside, study, or work for an indefinite period of time. FAS citizens are work-authorized incident to their nonimmigrant status and may apply to U.S. Citizenship and Immigration Services (USCIS) for an EAD, via Form I-765, Application for Employment Authorization, as evidence of work authorization. USCIS has long encouraged FAS citizens to apply for an EADs, especially given its utility for other purposes, such as driver's license applications, and makes EADs accessible to FAS citizens on favorable terms. For example, under current USCIS policy, the normal EAD application processing fee of \$410 is not required for FAS applicants, and the EAD is issued with up to a 5-year validity period, which is significantly longer than the validity period for most other EAD categories. Additionally, USCIS does not require biometrics to be submitted by FAS EAD applicants, thus obviating the need for interisland travel for a USCIS biometrics appointment. Importantly, FAS EAD applications are processed by a dedicated division within the USCIS Nebraska Service Center that handles priority cases for certain categories of EAD applicants who are work-authorized. As a result, the EAD processing times for FAS applicants are more typically several weeks, rather than the range of 3-5 months listed on our website for broader categories of EAD issuance.

I have carefully considered your request to categorically expedite EAD processing for FAS applicants. USCIS does have a process, described on the USCIS website, under which applicants can request expedited processing on a case-by-case basis (i.e., that their case application be taken out of line and processed ahead of others), based on evidence of severe financial loss or an urgent humanitarian reason. See <https://www.uscis.gov/forms/how-make-expedite-request>. While this process is available to FAS EAD applicants, USCIS already gives these cases priority handling that typically results in EAD issuance within weeks. Adding an additional "expedite" basis for FAS EAD processing on top of USCIS' already-existing priority processing of FAS EADs would be unlikely to result in appreciably faster processing times than what USCIS currently provides FAS EAD applicants.

In addition, DHS is currently reviewing the identity documentation requirements for REAL ID Act-compliant licenses as they apply to FAS nonimmigrants.

Thank you again for your letter and your interest in this matter. Should you require any additional assistance, please have your staff contact the USCIS Office of Legislative and Intergovernmental Affairs at (202) 272-1940.

Sincerely,

A handwritten signature in black ink, appearing to read "Ken C II". The signature is stylized and written in a cursive-like font.

Ken Cuccinelli II
Acting Director