

Congress of the United States
Washington, DC 20515

December 4, 2019

The Honorable Lisa Murkowski
Chairman
Senate Committee on Energy and Natural
Resources
304 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Joe Manchin
Ranking Member
Senate Committee on Energy and Natural
Resources
304 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Raúl M. Grijalva
Chairman
House Natural Resources Committee
1324 Longworth House Office Building
Washington, DC 20515

The Honorable Rob Bishop
Ranking Member
House Natural Resources Committee
1329 Longworth House Office Building
Washington, DC 20515

Dear Chairman Murkowski, Ranking Member Manchin, Chairman Grijalva and Ranking Member Bishop:

We write to request that you work with us to address misallocations of Compact impact funding resulting from implementation errors in the 2013 and 2018 enumerations of Compact of Free Association (COFA) citizens. These errors placed inequitable burdens on Hawaii, undercutting the state's ability to provide important services to its residents as well as COFA citizens living in Hawaii. Any solution to this problem should ensure that Hawaii receive its fair allocation of mandatory assistance without harming the other affected jurisdictions.¹ Neither Hawaii nor any of the other affected jurisdictions were responsible for the mistakes made.

Under the *Compact of Free Associations Amendment Act of 2003* (P.L. 108-188), Congress authorized \$30 million annually in mandatory assistance "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" that support COFA citizens through fiscal year 2023. To aid in the annual allocation of mandatory funding, the Department of the Interior (DOI), supervised by the Census Bureau, conducts an enumeration of COFA citizens in each affected jurisdiction.

This count occurs every five years, most recently in 2013 and 2018. However, in both of those years, the Census Bureau undercounted the number of COFA citizens in Hawaii, causing the state to receive less in assistance from DOI than it should have received during fiscal years 2015 through 2020. Simultaneously, DOI provided overpayments to Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa.

In order to address the erroneous allocations that occurred from fiscal years 2015 through 2020, and to comply with the statutory allocation requirements outlined in PL. 108-188, DOI has

proposed providing retroactive payments to Hawaii over the next three fiscal years, and underpaying the three other affected jurisdictions during those fiscal years.

This is an untenable solution for American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands because of the existing unmet needs in these jurisdictions. Any underpayment to the affected jurisdictions will further strain their ability to provide services both to their residents and COFA citizens residing in their jurisdictions. In a 2013 analysis by the Government Accountability Office (GAO) of affected jurisdictions' Compact impact reports from 2004 through 2010, Hawaii incurred over \$628 million in costs to public services due to COFA citizens over that 6 year period. In total, the GAO report found that the combined cost for all affected jurisdictions from 2004 to 2010 was over \$1 billion.

This episode highlights a larger problem: the authorized level of mandatory assistance is insufficient to meet the costs of services provided by the affected jurisdictions. It is similarly insufficient to carry out the broader responsibility of the U.S. government to the compact nations. A statutory increase in this mandatory account will allow DOI to provide corrected funding to Hawaii without reducing the already inadequate amounts received by the other jurisdictions. We urge you to work with us to resolve this issue prior to the disbursement of fiscal year 2021 Compact impact funds.

We look forward to working with you to help both the affected jurisdictions and the COFA citizens residing in them. Thank you for your attention to this matter.

Sincerely,



BRIAN SCHATZ
United States Senator



MAZIE K. HIRONO
United States Senator



TULSI GABBARD
Member of Congress



ED CASE
Member of Congress



MICHAEL F.Q. SAN NICOLAS
Member of Congress



GREGORIO KILILI CAMACHO SABLAN
Member of Congress

Aumua Amata

AUMUA AMATA COLEMAN RADEWAGEN
Member of Congress

ⁱ The affected jurisdictions, as defined in P.L. 108-188 are: Hawaii, Guam, Northern Mariana Islands, and American Samoa.