

Status of Pacific Islanders: Residency Determination for Tuition Purposes and Basic Financial Aid Eligibility

Introduction

The Higher Education Coordinating Board (HECB) has been asked to clarify resident tuition eligibility for individuals from Pacific Islands who plan to study in Washington. The following information was compiled from the U.S. Department of Homeland Security, State Department sources, and Washington state statutes and is provided to assist in determining resident eligibility for Pacific Islanders. This compilation is not intended to be comprehensive and is subject to change as federal immigration regulations change. Care must be taken in the classification of individuals who are not citizens of the United States but may be entitled to resident tuition.

Verification that a student's United States Citizenship and Immigration Services (USCIS) status is not inconsistent with the concept of permanency is required in order for initial consideration of a Pacific Islander as a resident for tuition purposes. Other requirements (e.g. all attachments being to the state of Washington and meeting the durational residency requirement of one year) are described in Washington statute (RCW) and the Washington Administrative Code (WAC).¹

Summary

1. Guam – Students are U.S. citizens and therefore may qualify for residency if they meet all other statutory requirements.
2. Commonwealth of the Northern Marianas (CNMI) - Students are U.S. citizens and therefore may qualify for residency if they meet all other statutory requirements.
3. American Samoa and Swains Island – Students are U.S. Nationals and have free access to the United States. They may qualify for residency if they meet all other statutory requirements. A relevant email from Anne Shaw states:

¹ RCW 28B.15.005 et seq. and WAC 250-18-010 to -060 available at <http://www.hecb.wa.gov/research/issues/residency.asp>

Date: Mon, 23 Apr 2007 11:07:30 -0700
From: "Shaw, Anne \(ATG\)" <AnneSI@ATG.WA.GOV>
Subject: [Wac250-18] US Nationals

It has come to my attention that different institutions are categorizing/coding/labeling US Nationals differently.

BCIS (immigration services) considers US Nationals to have permanent status in the US. Therefore, pursuant to RCW 28B.15.012(3)(b), US nationals should be considered residents for tuition purposes PROVIDED they have met all the other requirements for becoming a Washington resident. If you have any questions, please feel free to call me at 360-586-1197.

4. Federated States of Micronesia (FSM), Republic of the Marshall Islands (RMI), Republic of Palau (Palau) – Students from FSM, RMI, and Palau may qualify for residency if they meet all other statutory requirements.
- FSM, RMI, and Palau were previously Trust Territories of the United States.
 - FSM, RMI, and Palau are now independent nations who have signed Compacts of Free Association (CFA) with the United States.
 - Citizens of FSM, RMI, and Palau:
 - Are not citizens or nationals of the U.S.
 - Are entitled under the CFA to travel and apply for admission to the U.S. as non-immigrants without visas
 - Are not Permanent Residents of the U.S. but may apply for this if otherwise eligible under immigration laws, either through the immigrant visa process or by adjustment of status within the United States.
 - May live, study, and work in the U.S. for an unlimited length of stay as indicated on their I-94 form
 - Qualify for certain forms of Federal Financial Aid
 - May obtain a Social Security number and card
 - Are eligible to volunteer for service in the U.S. Armed Forces and expedited Permanent Resident Status if meeting certain criteria
 - Are eligible for United States consular assistance on the same basis as U.S. citizens when outside the United States.
 - The United States Supreme Court,² citing an earlier case,³ has ruled that based upon the supremacy clause of the federal constitution, individual states are required to recognize immigration and naturalization laws with regard to individuals qualifying for resident tuition. For example, individuals from the Federated State of Micronesia and the islands of Chuuk, Yap, Pohnpei, and Kosrae who hold I-94 cards are eligible

² Toll v. Moreno, 458 U.S. 1, 73 L. Ed. 2d 563, 102 S. Ct. 2977 (1982)

³ Elkins v. Moreno, 435 U.S. 647, 55 L. Ed. 2d 614, 98 S. Ct. 1338 (1978)

to work and remain in the United States indefinitely. Thus, after complying with the one-year durational requirement for residency in the state of Washington, they would be eligible for resident tuition.⁴

- RCW 28B.15.012 (3)(b) includes in the definition of "nonresident student"
 - A person who is not a citizen of the United States of America who does not have permanent or temporary resident status or does not hold "Refugee-Parolee" or "Conditional Entrant" status with the United States immigration and naturalization service or is not otherwise permanently residing in the United States under color of law and who does not also meet and comply with all the applicable requirements in RCW 28B.15.012 and 28B.15.013.
- Individuals from FSM, RMI and Palau fall outside the negative in this subsection - "or is not otherwise permanently residing in the United States under color of law" - and therefore, may qualify for residency tuition if they also meet and comply with all applicable requirements, along with the one-year requirement for physical presence in the state.

Residency for Pacific Islanders

Guam⁵

Guam is a territory of the United States. Students born in Guam are U.S. citizens and therefore may qualify for residency if they meet all other statutory requirements. No passport or visa is required.

Commonwealth of the Northern Marianas – CNMI^{6,7} (Includes Saipan, Rota, Tinian, and other smaller islands)

Commonwealth status gives U.S. citizenship to its residents and students may qualify for residency if they meet all other statutory requirements. No passport or visa is required.

American Samoa and Swains Island⁸ (American Samoa includes Tutuila, Rose, and Manu‘a Islands)

American Samoa and Swains Island are U.S. possessions. Students born in American Samoa or on Swains Island are U.S. Nationals and have free access to the U.S. They may qualify for residency if they meet all other statutory requirements.⁹

⁴ Based upon USCIS classifications, prior to September 11, 2001, Immigration and Naturalization Service, Bellingham.

⁵ The Guam Organic Act of 1950 conferred U.S. citizenship on Guamanians and established the territory's government. <http://www.doi.gov/oia/Islandpages/gumpage.htm> accessed June 1, 2010

⁶ Information available at U.S. Department of Interior, Office of Insular Affairs <http://www.doi.gov/oia/Islandpages/cnmipage.htm> accessed February 11, 2010.

⁷ On November 28, 2009, the Immigration and Nationality Act (INA) and other U.S. Immigration laws replaced the immigration laws of CNMI. The definition of "United States" in the INA was amended to include the CNMI – providing new privileges and easing restrictions to CNMI residents wishing to live and work in the US. See USCIS News Release: *Transition to US Immigration Law Begins in the CNMI*. November 27, 2009.

⁸ Citizenship in the United States. Research and Evaluation Division. U.S. Citizenship and Immigration Services. Office of Policy and Strategy. May 2004

Western Samoa¹⁰

Western Samoa is an independent country. Students born in Western Samoa, even though they reside permanently in American Samoa, do not have free access to the United States. Students from Western Samoa are international students - financial statements and an F-1 student visa are required for admission to the U.S.

Federated States of Micronesia – FSM¹¹ (Includes Yap, Chuuk [Truk], Pohnpei [Ponape], Kosrae, and other smaller islands.)

FSM is an independent nation that was previously a trust territory of the United States. Citizens of FSM have free access to the U.S. through the Compact of Free Association. They are not considered U.S. citizens or Nationals. They may travel to the U.S. without visa and are granted an indefinite length of stay, indicated as “D/S” or “duration of status” on their Form I-94. They qualify for certain forms of Federal Financial Assistance and may qualify for residency if they meet all other statutory requirements. The exact notation on the I-94 is subject to change, but at present it typically states “CFA/FSM” (Compact of Free Association/FSM).

Republic of the Marshall Islands – RMI¹² (Includes Majuro, Kwajalein, Enewetak, Bikini, Rongelap, and other smaller islands and atolls.)

RMI is an independent nation that was previously a trust territory of the United States. Citizens of RMI have free access to the U.S. through the Compact of Free Association. They are not considered U.S. citizens or Nationals. They may travel to the U.S. without visa and are granted an indefinite length of stay, indicated as “D/S” or “duration of status” on their Form I-94. They are eligible for certain forms of Federal Financial Assistance and may qualify for residency if they meet all other statutory requirements. The exact notation on the I-94 is subject to change, but at present it typically states “CFA/MIS” (Compact of Free Association/RMI).

Republic of Palau (Belau)¹³ (Includes Koror, Babeldaop, Peleliu, other smaller islands, and atolls.)

Palau is an independent country that was formerly a Trust Territory of the Pacific Islands (TTPI). A Compact of Free Association exists with the United States. Citizens of Palau are not citizens or nationals of the U.S. but residents of Palau may live, study and work in the U.S.

Proof of identity may be in the form of a certified birth certificate or a government issued photo-ID card or passport. They may travel to the U.S. without passports or visa and are

⁹ Appendix A provides additional information on U.S. Nationals

¹⁰ Information on Western Samoa is available at <https://www.cia.gov/library/publications/the-world-factbook/geos/ws.html>. Accessed February 11, 2010.

¹¹ Appendix B provides summary information on the Compacts of Free Association – CFA.

¹² Ibid.

¹³ Ibid.

granted an indefinite length of stay, indicated as “D/S” or “duration of status” on their Form I-94. They may qualify for residency if they meet all other statutory requirements. The exact notation on the I-94 is subject to change, but at present it typically states “CFA/PAL” (Compact of Free Association/Palau).

French Polynesia (Tahiti, Bora Bora, and many other islands), **Cook Islands, Niue, Tonga, Tokelau, Kiribati, Wallis & Futuna, Fiji, Tuvalu, New Caledonia, Vanuatu, Solomon Islands, Nauru, Papua New Guinea**¹⁴

Citizens of these Pacific islands are required to hold a valid passport from their home country. Visas are required for entry into the United States. Citizens of these countries with non-immigrant visa may not establish residency for tuition purposes.

Nationals Who are Not Citizens^{15,16}

According to Title 8 U.S. Code, Section #1408, it is possible to be a U.S. national without being a U.S. citizen. A person whose only connection to the U.S. is through birth in an outlying possession, (which as of 2005 is limited to American Samoa and Swains Island) or through descent from a person so born acquires U.S. nationality but not U.S. citizenship.

Nationals who are not citizens cannot vote or hold elected office. However, they may reside and work in the United States without restrictions and apply for citizenship under the same rules as other resident aliens.

Not all U.S. nationals are U.S. citizens but all U.S. citizens are U.S. Nationals. U.S. passports normally make no distinction between the two, mentioning only the bearer's nationality, not his/her citizenship.

The Attorney General of Washington has stated that U.S. Nationals “should be considered residents for tuition purposes PROVIDED they have met all the other requirements for becoming a Washington resident.”¹⁷

¹⁴ Information on these Pacific entities is available at https://www.cia.gov/library/publications/the-world-factbook/region/region_au.html. Accessed February 11, 2010.

¹⁵ Appendix A provides additional information on U.S. Nationals

¹⁶ Information Available to U.S. Citizens. www.uscis.gov accessed February 1, 2010.

¹⁷ Email communication from Anne Shaw, Assistant Attorney General, to Washington Residency List Serve, April 23, 2007.

Financial Aid¹⁸

Many students from Pacific Islands are eligible for Federal Student Financial Aid. Federal Aid eligibility includes the following specific requirements that relate to Pacific Island residents. More detailed information is available through school financial aid offices.

Note: Citizens of the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau are eligible only for Federal Pell Grants, Federal Supplemental Educational Opportunity Grants, or Federal Work-Study. These applicants should check with their schools' financial aid offices for more information.¹⁹

Students must be one of the following to receive federal student aid:

- U.S. Citizen (native born or naturalized). Persons born in Puerto Rico, U.S. Virgin Islands, Guam, and the Northern Mariana Islands are U.S. citizens
- U.S. National (includes natives of American Samoa or Swain's Island)
- U.S. Permanent Resident with a permanent resident card (I-151, I-551, or I-551C)

If students are not in one of these categories they must be an eligible noncitizen with an arrival departure card (I-94) from the USCIS showing one of the following designations:

- Refugee
- Asylum Granted
- Cuban-Haitian Entrant, Status Pending
- Conditional Entrant (valid only if issued before 4/1/1980)
- Victims of human trafficking, T-visa (T-2, T-3, or T-4 etc.) holder
- "Parolee" (must be paroled into the U.S. for at least one year and must be able to provide evidence from the USCIS of being in the U.S. for other than a temporary purpose and demonstrating intent to become a U.S. citizen or permanent resident. Having a notice of Approval to Apply for Permanent Residence (I-171 or I-464) does not make students eligible for federal student aid.

Additionally, students must:

- Have a valid Social Security Number (unless from the Republic of the Marshall Islands, the Federated States of Micronesia or the Republic of Palau).
- Register with the Selective Service Administration if a male and 18 to 25 years of age (unless exempt).²⁰

¹⁸ <http://www.fafsa.ed.gov/faq003.htm> accessed February 10, 2010.

¹⁹ <http://studentaid.ed.gov/PORTALSWebApp/students/english/Glossary.jsp#elegiblenoncitizen> accessed June 10, 2010.

²⁰ <http://www.sss.gov/FSwho.htm> accessed February 10, 2010.

- Residents of Guam and the Commonwealth of the Northern Mariana Islands are U.S. Citizens and must register. Citizens of American Samoa are nationals and must register when they are habitual residents in the U.S.²¹
- Students are exempt if they are female, under 18, born before 1960, or on active duty in the U.S. Armed Forces.
- Citizens of the Federated State of Micronesia or the Republic of the Marshall Islands or permanent residents of the Republic of Palau must register if they are habitual residents of the U.S.²²
- Have a high school diploma or a General Education Development (GED) Certificate or pass an exam approved by the U.S. Department of Education.
- Be enrolled or accepted for enrollment as a regular student working toward a degree or certificate in an eligible program at a school that participates in the federal student aid programs.
- Not have a drug conviction for an offense that occurred while receiving federal student aid (such as grants, loans, or work-study).

Also:

- Must not owe a refund on a federal grant or be in default on a federal student loan.
- Must demonstrate financial need (except for unsubsidized Stafford Loans).

Other requirements may apply. Contact the school financial aid office for more information.

Additional financial aid information:²³

- Citizens of the Freely Associated States (Micronesia, Palau and Marshall Islands) meet the non-citizenship eligibility requirement.
 - These students should complete the FAFSA as an “eligible noncitizen” and leave the A-Number blank.
 - If the student doesn’t have an SSN, enter 888 and a number will be provided.
 - Citizens of the Freely Associated States are eligible for Pell grants, but not for federal loans.
 - Citizens of Palau are also eligible for Federal Work Study and FSEOG

²¹ Habitual residence is presumed whenever a national or citizen of the Republic of the Marshall Islands or the Federated States of Micronesia resides in the United States for more than one year in any status, except as a student or employee of the government of his homeland.

²² Ibid.

²³ Per Rachelle Sharpe, Associate Director Student Financial Assistance, HECB. February 10, 2010.

Appendix A

United States Citizens and Nationals**Citizens and Nationals**²⁴

Citizens and nationals are members of a political community. According to the Immigration and Nationality Act (INA) of 1952, the term "national" means "a person owing permanent allegiance to a state."²⁵ The law states:

The term "national of the United States" means: (a) a citizen of the United States, or (b) a person who, though not a citizen of the United States, owes permanent allegiance to the United States.²⁶

Thus, citizens of the United States are individuals who are loyal to the United States and who are entitled to its protection. In general, persons born in the United States or to at least one U.S. citizen parent are, at birth, both citizens and nationals of the United States at birth.²⁷

Other individuals are considered nationals, but not citizens, of the United States. A national also is entitled to the protection of the U.S. Government but does not enjoy all of the rights of citizenship. Persons born in outlying possessions of the United States are considered nationals of the United States. For example, the people of the U.S. territory of American Samoa²⁸ are U.S. nationals, who, like U.S. citizens, owe allegiance to the United States. American Samoa is an unincorporated and unorganic territory of the United States, meaning that it has not been fully incorporated into the union as one of the States and that Congress has not provided an organic act for it (i.e., an act to organize its government tying it to the U.S. Federal government).²⁹

Therefore not all provisions of the U.S. Constitution apply to the territory. As a result, American Samoans do not enjoy all the rights of U.S. citizens.³⁰

²⁴ CITIZENSHIP IN THE UNITED STATES. Research and Evaluation Division. U.S. Citizenship and Immigration Services. Office of Policy and Strategy. May 2004

²⁵ Immigration and Nationality Act, § 101(a)(21) (June 27, 1952), 8 U.S.C. 1101.

²⁶ *Id.* at § 301(a)(22) (June 27, 1952), 8 U.S.C. 1401.

²⁷ *Id.* at § 301 (June 27, 1952), 8 U.S.C. 1401.

²⁸ The United States obtained the territory of American Samoa under the Treaty of Berlin of 1899 from the United Kingdom and Germany. The matai (chiefs) formally ceded the islands in 1900 and 1904. These deeds of cession were formally ratified by Congress in 1929. Swains Island became part of American Samoa by joint resolution of Congress in 1925. U.S. Department of the Interior, Office of Insular Affairs (OIA), "The Islands," <http://www.doi.gov/oia/Islandpages/asgpage.htm>.

²⁹ Congress has not provided the territory with an organic act, which organizes the government much like a constitution would. Instead, Congress granted plenary authority over the territory to the Secretary of the Interior, who in turn allowed American Samoans to draft their own constitution under which their government functions. OIA, "The Islands."

<http://www.doi.gov/oia/Islandpages/asgpage.htm>.

³⁰ The Office of Insular Affairs of the Department of the Interior notes that many American Samoans have become naturalized American citizens. Further, according to their website: "In 1995, the territory's population was approximately 59,600, primarily ethnic Samoan. The population has increased despite a large out-migration of Samoans to the United States (a continuous out-migration trend of about 382 migrants per year since 1974). It is estimated that 15,000 Samoans reside in Hawaii and 32,000 in California and 4,000 in Washington (1990)." OIA, "The Islands." <http://www.doi.gov/oia/Islandpages/asgpage.htm>.

The distinction between citizen and national was pertinent in the late 1800s and the first half of the 1900s when the United States obtained several territories, including American Samoa, Cuba, Guam, the Philippines, Puerto Rico, the Virgin Islands, and the Trust Territory of the Pacific Islands.³¹ Because these possessions were not fully incorporated into the United States, persons living there were not accorded the full rights of citizenship.³² However, with the several political changes in the latter half of the 20th century, citizenship rights were granted to the inhabitants of Puerto Rico, Guam, the Northern Mariana Islands, and the Virgin Islands.³³ In addition, the Philippines were granted full independence in 1946. Cuba had achieved independence from U.S. administration in 1902. Thus, today there are relatively few noncitizen U.S. nationals – primarily in American Samoa – and as such, the distinction between national and citizen is often blurred or overlooked.³⁴

Nationals who are not citizens³⁵

According to Title 8 U.S. Code, Section #1408, it is possible to be a U.S. national without being a U.S. citizen. A person whose only connection to the U.S. is through birth in an outlying possession, (which as of 2005 is limited to American Samoa and Swains Island) or through descent from a person so born acquires U.S. nationality but not U.S. citizenship. This was formerly the case in only four other current or former U.S. overseas possessions.

Nationals who are not citizens cannot vote or hold elected office. However, they may reside and work in the United States without restrictions and apply for citizenship under the same rules as other resident aliens. Note: not all U.S. nationals are U.S. citizens; however, all U.S. citizens are U.S. nationals. U.S. passports normally make no distinction between the two, mentioning only the bearer's nationality, not his/her citizenship.

Nationals may become citizens without first becoming a Permanent Resident. Any time spent residing in American Samoa or Swains Island counts the same as time residing with a State of the United States. To qualify for citizenship, Nationals must be at least 18 years old, a resident of any State, and otherwise qualified for naturalization.³⁶

³¹ In 1947, the United Nations created the Trust Territory of the Pacific Islands (TTPI) and named the United States as the TTPI's administering authority. The TTPI originally included six districts, which now comprise four island (insular) jurisdictions: the Commonwealth of the Northern Mariana Islands, which is still under the sovereignty of the United States, and three freely associated states, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau. OIA, "The Islands." See also, National Bipartisan Commission on Cuba, "U.S. - Cuba History," <<http://www.uscubacommission.org/history.html>>; U.S. Central Intelligence Agency, *World Factbook*, <<http://www.cia.gov/cia/publications/factbook/index.html>>.

³² Charles Gordon, Stanley Mailman, and Stephen Yale-Loehr, *Immigration Law and Procedure*, vol. 7, ch. 91 § 91.01.

³³ These changes include (1) the incorporation of Guam in 1950, (2) the establishment of Puerto Rico as a commonwealth in 1952, (3) the change in the Virgin Islands to a democratically elected form of government in 1970, and (4) the full implementation of the "Covenant to Establish a Commonwealth of the Northern Mariana Islands (CNMI) in Political Union with the United States" on November 3, 1986, pursuant to Presidential Proclamation no. 5564, which conferred U.S. citizenship on legally qualified CNMI residents. See OIA, "The Islands."

³⁴ Gordon, et. al., vol. 7, ch. 91 § 91.01. When some territories received their independence from the United States, residents were offered the choice of becoming local citizens or remaining nationals of the United States. Thus, noncitizen nationals may live in other areas, such as the Philippines and the Marshall Islands.

³⁵ Information Available to U.S. Citizens. www.uscis.gov accessed February 1, 2010.

³⁶ *A Guide to Naturalization*. USCIS publication M-476, revised February, 2010.

Current Immigration and Nationality Act language regarding Nationals³⁷

INA: Act 325 – Nationals but not Citizens of the United States; Residence within Outlying Possessions

Sec. 325. [8 U.S.C. 1436] A person not a citizen who owes permanent allegiance to the United States, and who is otherwise qualified, may, if he becomes a resident of any State, be naturalized upon compliance with the applicable requirements of this title, except that in applications for naturalization filed under the provisions of this section residence and physical presence within the United States within the meaning of this title shall include residence and physical presence within any of the outlying possessions of the United States.

³⁷ See Appendix C. for links to Immigration and Nationality Act accessed June 7, 2010.

Appendix B**Background on Compacts of Free Association³⁸**

The Compacts with the RMI and FSM contain different provisions relating to immigration status than the Compact with Palau. Therefore, reference materials for RMI/FSM only to those jurisdictions and materials for Palau apply only to Palau.

Republic of the Marshall Islands and the Federated States of Micronesia

The Compact of Free Association Act of 1985 (Public Law 99-239) set forth a joint resolution between the United States and the Republic of the Marshall Islands and the Federated States of Micronesia (RMI/FSM) regarding the termination of the U.S. trusteeship over the former Trust Territory of the Pacific Islands (TTPI). The resolution further established the FSM and the RMI as independent nations, and established a special relationship between the United States and these nations. The Compact of Free Association (CFA) between the United States and the RMI took effect on October 21, 1986, and the Compact of Free Association between the United States and the FSM took effect on November 3, 1986.

The Compact of Free Association Amendments Act of 2003 (Public Law 108-188) amended the Compacts in a number of significant ways, including changes to the immigration provisions. The Compacts, as amended, became effective for the RMI on May 1, 2004, and for the FSM on June 30, 2004.

Citizens of the RMI and FSM

- Are not citizens or nationals of the U.S.
- Are entitled under the CFA to travel and apply for admission to the U.S. as nonimmigrants without visas
- May live, study and work in the U.S.
- Currently are granted an unlimited length of stay

Travel Documentation

In order to seek admission to the United States under the amended Compacts, a citizen of the FSM or the RMI must possess a valid, unexpired FSM or RMI passport. This is a new requirement, which did not apply under the original Compact. An FSM or RMI citizen applying for admission under the Compacts does not need a U.S. visa, or any other travel documentation.

³⁸ USCIS Fact Sheet – Status of the Citizens of the Freely Associated States of the Federated States of Micronesia and the Republic of the Marshall Islands. Revised February 13, 2008. Available at www.uscis.gov.

Documentation of Admission to the United States

Upon admission at a U.S. Port of Entry, FSM and RMI citizens (and non-FSM/RMI citizen military family members) will receive a Form I-94 (Arrival/Departure Card) issued by the Bureau of Customs and Border Protection (CBP), U.S. Department of Homeland Security. On the I-94, a BP inspector will make a notation reflecting that the person's admission is pursuant to the Compacts.

The exact notation may vary and is subject to change, but at the present time typically states "CFA/MIS" for an RMI citizen, and "CFA/FSM" for an FSM citizen. The I-94 may be used, together with a valid passport, to establish employment authorization in the United States. In addition, the I-94 is evidence of alien registration. All foreign visitors to the United States over the age of 18 (including FSM and RMI citizens) are required under penalty of law to have this evidence in their personal possession at all times.

In response to authorized requests for an alien registration number, a person admitted under the Compacts should provide the 11-digit printed admission/departure number which appears on the I-94.

Admission under the Immigration and Nationality Act and Lawful Permanent Residence

FSM and RMI citizens admitted to the United States under the Compacts may reside, work and study in the United States, but they are not "lawful permanent residents" (also known as "green card holders") under the Immigration and Nationality Act. They are not precluded, however, from becoming lawful permanent residents if otherwise eligible under the immigration laws, either through the immigrant visa process or by adjustment of status within the United States. A person must be granted lawful permanent resident status in the United States if he or she eventually wishes to apply for naturalization as a U. S. citizen.

Employment Authorization – Documentation

FSM and RMI citizens admitted under the Compacts may freely seek employment in the United States. Under the Compacts, citizens of the RMI and the FSM no longer need to apply for, possess, or renew a U.S. Government-issued "Employment Authorization Document" (Form I-766 or "EAD").

Social Security Card

A person admitted under the Compacts may obtain a Social Security number (SSN) and SSN card from the nearest Social Security Administration (SSA) office.

Military Service

Under section 341 of the Compacts, FSM and RMI citizens entitled to admission to the United States under the Compacts are eligible to volunteer for service in the U.S. Armed Forces.

U.S. Consular Assistance Abroad

Section 126 of the Compacts provides that at the request of the Government of the FSM or the RMI and subject to the consent of the foreign country, the United States shall extend consular assistance on the same basis as for U.S. citizens to citizens of the FSM and the RMI outside the United States.

The Republic of Palau³⁹

The Republic of Palau (Palau) is a sovereign nation located in the Western Pacific Ocean, between Guam and the Philippines. The Compact of Free Association Approval Act (Public Law (99-658, Nov. 14, 1986) set forth a joint resolution between the United States and Palau regarding the termination of the U.S. trusteeship over the former Trust Territory of the Pacific Islands (TTPI). The resolution further provided the basis for Palau to be established as a sovereign nation with a special relationship with the United States. After the necessary approval by the voters of Palau in a 1993 referendum and further diplomatic agreement regarding the termination of the U.S. trusteeship over Palau, the Compact of Free Association between the United States and the new Republic of Palau took effect on October 1, 1994.

Citizens of Palau

- Are not citizens or nationals of the U.S.
- Are entitled under the Compact to travel and apply for admission to the U.S. as nonimmigrants without passports or visas
- May live, study and work in the U.S.
- Currently are granted an indefinite length of stay, with their I-94 noted as “CFA/PAL.”

Travel Documentation

In order to seek admission to the United States under the Compact, a citizen of Palau is not required to have a passport. A Palauan citizen may also be admitted to the U.S. with other proof of citizenship, such as a certified birth certificate and proof of identity, which may be in the form of a government issued photo-ID card. Palauans are strongly advised to travel to the U. S. with a valid passport. A Palauan citizen applying for admission under the Compact does not need a U.S. visa.

Documentation of Admission to the United States

Prior to seeking admission at a U.S. Port of Entry, Palauan citizens will be asked to complete a Form I-94 (Arrival/Departure Card) issued by the Bureau of Customs and Border Protection (CBP). On the Form I-94, a CBP officer will make a notation reflecting that the person’s admission is pursuant to the Compact.

³⁹ USCIS Fact Sheet – Status of Citizens of the Republic of Palau. Revised February 13, 2008. Available at www.uscis.gov

The exact notation is subject to change, but at the present time it typically states “CFA/PAL” (Compact of Free Association/Palau). The I-94 will serve as evidence of alien registration. All foreign visitors to the United States over the age of 18 (including Palau citizens) are required under penalty of law to have this evidence in their personal possession at all times.

The Form I-94 includes a printed admission/departure number, which should be provided in response to authorized requests for the alien registration number for immigration status verification purposes.

Admission under the Immigration and Nationality Act and Lawful Permanent Residence

Palauan citizens admitted to the United States under the Compacts may reside, work and study in the United States, but they are not “lawful permanent residents” (also known as “green card holders”) under the Immigration and Nationality Act. They are not precluded, however, from becoming lawful permanent residents if they are otherwise eligible under the immigration laws, either through the immigrant visa application process or by adjustment of status within the United States. A person must be granted lawful permanent resident status in the United States if he or she eventually wishes to apply for naturalization as a U. S. citizen.

Employment Authorization and Documentation

Palauan citizens admitted under the Compact are eligible to be employed in the United States. Palauan citizens desiring to work should apply for a U.S. Government-issued “Employment Authorization Document” (Form I-766 or “EAD”), by filing a Form I-765 application for an EAD with USCIS. An EAD also qualifies as evidence of alien registration.

Social Security Card

A person admitted under the Compact may obtain a Social Security number (SSN) and SSN card from the nearest Social Security Administration (SSA) office.

Military Service

Under section 341 of the Compact and section 504 of title 10, U.S. Code, Palauan citizens entitled to admission to the United States under the Compact are eligible to volunteer for service in the U.S. Armed Forces.

U.S. Consular Assistance Abroad

Section 128 of the Compact provides that at the request of the Government of Palau, and subject to the consent of the foreign country, the United States shall extend consular assistance on the same basis as for U.S. citizens to citizens of Palau outside the United States.

Appendix C**Source Documents**

The following source documents were used in collecting information for this document. The primary source for these documents is the United States Citizenship and Immigration Services (USCIS) division of the U.S. Department of Homeland Security. Links are susceptible to change as sites are modified. If the following links are no longer active go to the USCIS portal located at <http://www.uscis.gov/portal/site/uscis> and search on document names.

Commonwealth of the Northern Marianas (CNMI) News Release: Transition to U.S. Immigration Law Begins in the CNMI. November 27, 2009 accessed June 7, 2010.

<http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=a0f7f4c882635210VgnVCM100000082ca60aRCRD&vgnnextchannel=a2dd6d26d17df110VgnVCM1000004718190aRCRD>

A Guide to Naturalization (M-476). USCIS. Accessed June 7, 2010 at

<http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=4df39ddf801b3210VgnVCM100000b92ca60aRCRD&vgnnextchannel=4df39ddf801b3210VgnVCM100000b92ca60aRCRD> .

Immigration and Nationality Act. Accessed June 7, 2010 at

<http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=f3829c7755cb9010VgnVCM10000045f3d6a1RCRD&vgnnextchannel=f3829c7755cb9010VgnVCM10000045f3d6a1RCRD>

Federal Financial Aid. Citizens of the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau are eligible only for Federal Pell Grants, Federal Supplemental Educational Opportunity Grants, or Federal Work-Study. These applicants should check with their schools' financial aid offices for more information.

<http://studentaid.ed.gov/PORTALSWebApp/students/english/Glossary.jsp#elegiblenoncitizen>