

## **Motor Vehicle Division Policy Memo # 20-02**

### ***REAL ID Issuance for Citizens of Freely Associated States (the Federated States of Micronesia, the Republic of the Marshall Islands and the Republic of Palau)***

**DATE:** March 2, 2020

**FROM:** Darcy Doty, Director, Driver and Identification Services

**TO:** All Driver and Identification Services staff, Iowa County Treasurers and County Treasurer's staff  
the issue driver's licenses and non-operator's identification cards

#### **SUBJECT**

This policy memo explains a change made by the Department of Homeland Security (DHS) to the federal REAL ID regulations related to the definition of temporary lawful status, and affirms that citizens of the Federates States of Micronesia, the Republic of the Marshall Islands and Palau, commonly referred to as 'COFA migrants or citizens' residing in the United States have a lawful status of nonimmigrant (a change from the previous designation of having temporary lawful status). With this change, COFA citizens residing in the United States are eligible to be issued a full-term driver's license (DL) or non-operator's identification card (ID).

We first explained the changes made to the federal REAL ID Act in 2018 (P.L. 115-323) enacting this change in Policy Memo # 19-01, issued on January 23, 2019, and further clarified issuance procedures in Informational Memo # 19-29, issued on November 7, 2019. As explained in those previous memos, while the law had changed to allow a full-term credential to be issued to a COFA citizen, ARTS programming changes were still needed at that time to implement the change.

*We have now completed the necessary programming in ARTS to allow a COFA citizen to be issued a full-term Iowa credential and this memo further explains the steps you will need to take to complete issuance.*

#### **SUMMARY**

Under the Compacts of Free Association (COFA) between the United States and the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau, citizens of these countries are eligible to be admitted to the U.S. as nonimmigrants without a visa, and live and work in the U.S. indefinitely. The REAL ID Act Modification for the Freely Associated States authorizes states to issue full-term REAL ID DLs or IDs to COFA citizens residing indefinitely in the U.S. To implement these federal code changes, DHS amended the regulatory definition of "temporary lawful status" in the federal REAL ID regulations on September 4, 2019 to specifically exclude individuals admitted as nonimmigrants under the Compacts of Free Association between the U.S. and the specified countries. As a result, these individuals are no longer subject to the federal regulation which limits the length of validity for a REAL ID credential issued to temporary foreign nationals to less than full-term under Iowa law.

DHS regulations still require COFA migrant customers to satisfy the other requirements to be issued a REAL ID, including requirements to present or have presented documentation establishing proof of identity, date of birth, social security number, proof of lawful status and proof of residential address.

Below is a further explanation of the changes and the documentation a COFA migrant customer must present to satisfy the REAL ID requirements in light of this regulation change.

**With the adoption of this policy memo, we are rescinding PM 19-01 and IM 19-29 that were previously issued addressing REAL ID issuance for COFA citizens. This policy change is effective retroactive back to January 22, 2020.**

**LINK TO FEDERAL CODE and REGULATIONS and IOWA CODE and ADMINISTRATIVE RULES**

REAL ID Act Modification for FAS Act (P.L. 115-323):

<https://www.govinfo.gov/content/pkg/PLAW-115publ323/pdf/PLAW-115publ323.pdf>

REAL ID regulation changes issued by DHS:

<https://www.govinfo.gov/content/pkg/FR-2019-09-04/pdf/2019-19023.pdf>

Iowa Code section 321.196:

<https://www.legis.iowa.gov/docs/code/321.196.pdf>

Iowa Administrative subrules 761 IAC 601.5, 605.9 and 630. 2:

<https://www.legis.iowa.gov/docs/iac/rule/11-08-2017.761.601.5.pdf>

<https://www.legis.iowa.gov/docs/iac/rule/07-31-2019.761.605.9.pdf>

<https://www.legis.iowa.gov/docs/iac/rule/05-08-2019.761.630.2.pdf>

**HELPFUL QUESTIONS AND ANSWERS**

The following questions and answers provide information regarding new procedures that will be helpful to you as you issue REAL ID credentials for COFA citizens residing in the U.S.

**WHAT DOCUMENTATION DOES A COFA MIGRANT CUSTOMER NEED TO PROVIDE TO BE ISSUED A REAL ID CREDENTIAL FOR THE FIRST TIME IN IOWA?**

According to DHS, a COFA migrant customer can now select from the following sets of documentation to prove identity and lawful status, and be eligible for a full-term REAL ID compliant credential:

1. An Employment Authorization Document (EAD) I-766.
2. An unexpired passport from the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau and an I-94 document. No visa is required.

**WHAT IS CONSIDERED A “FULL-TERM” REAL ID CREDENTIAL?**

Under Iowa Code section 321.190 and 321.196, a full-term driver’s license or non-operator’s identification card may be issued with an 8-year expiration date. However, the 8-year expiration date only applies as long as the customer is otherwise eligible, and is not subject to a two-year expiration date due to the customer’s age or a vision or physical impairment, for example.

**HOW CAN I TELL IF A CUSTOMER IS A COFA MIGRANT?**

If the customer presents a passport, it will be clearly marked as from the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau. If the customer only presents an EAD card, it should also be clearly marked with the customer being from one of these 3 countries. If the EAD card does not clearly identify the customer’s country, you may ask the customer to provide you with a copy of their passport. If you have questions about whether the document presented is from one of these 3 countries, please work with your supervisor or county liaison to further review the documentation.

**ARE THERE ANY EXAMPLES OF A PASSPORT ISSUED BY MICRONESIA, MARSHALL ISLANDS AND PALAU THAT COULD BE PROVIDED?**

Yes, we have attached redacted examples of passports from the Republic of the Marshall Islands and the Federated States of Micronesia to the end of this memo for your reference. We do not have a sample passport from the Republic of Palau to share, but you should be able to clearly identify on the passport if it is issued by the Republic of Palau.

**WHAT IF THE CUSTOMER IS A COFA MIGRANT AND IS SEEKING TO RENEW THEIR REAL ID CREDENTIAL ?**

If a customer is seeking to renew their previously issued Iowa driver’s license or identification card, they will need to provide documentation or have documentation in their ERMS file from one of the following categories:

1. An Employment Authorization Document (EAD) I-766.
2. A passport and an I-94 document. No visa is required.

If the customer either has the required documentation in their ERMS file or provides it to you, and when you run the documentation and receive a validation from SAVE, the customer is eligible to be issued a full-term REAL ID credential. This also means that for a renewal, if the customer has an expired identity document, either in-hand or in the ERMS file, we can still use that expired identity document to initiate the SAVE case, and if we receive validation, the customer is eligible to be issued the REAL ID credential. This is consistent with the guidance we have previously issued in PM # 18-01, which provides a guide for initiating SAVE cases for customers with expired or no documentation at renewal.

### **HOW WILL THE ISSUANCE PROCESS WORK FOR A COFA MIGRANT CUSTOMER?**

If there is a current COFA passport in the customer maintenance identification, then the customer will be treated as “Perm INS” and will be calculated for a full-term credential pending verification of the documents in VLS. If the customer doesn’t have a passport on file, but does have the EAD and the Country of Birth is listed as the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau, then they again are to be treated as a ‘Perm INS’ and authorized a full-term credential.

If the VLS document provided has to go to additional verification through Web 3, the VLS Supervisor tool will allow the document to be approved and apply a full-term credential as long as the condition of a passport or verified EAD are met.

If the customer is a citizen of one of the Freely Associated States (Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau) and entered as a ‘Temp INS’ with the passport or EAD conditions met, a red stop sign will flash indicating they should be a ‘Perm INS’. To avoid additional programming issues, the system will not stop you from issuing a two-year license if the customer is entered as ‘Temp INS.’ *Therefore, it is extremely important that you enter the customer as ‘Perm INS’ if you see the red stop sign appear so that you don’t needlessly issue the customer a credential with a two-year expiration date, assuming they are not otherwise required to have a license with a two-year expiration date.*

### **WILL THERE BE ANY TRAINING DOCUMENTS OUTLINING THE ISSUANCE STEPS FOR COFA MIGRANT CUSTOMERS?**

Yes, the VLS training guide and screen shots will be ready for everyone to use on January 22, 2020.

### **DO I STILL NEED TO INITIATE A SAVE CASE FOR AN COFA MIGRANT CUSTOMER?**

We are always required to verify anyone’s lawful status, regardless of citizenship status. The first verification level is to always run VLS (verification of lawful status). If VLS does not ‘verify’ or returns a response of ‘additional verification required’ then you must initiate the next step of verification by entering the information necessary to create a SAVE case. Without this, we cannot confirm the customer’s lawful status.

For a COFA migrant customer with valid lawful status in the U.S., you may still see a “duration of stay” response in the “date admitted” filed on the SAVE response. It is very important that even if you see a response of “duration of stay” for a COFA migrant customer, that you remember they are eligible for a full-term credential in accordance with the above.

### **WHAT IF THE RESPONSE FOR A COFA MIGRANT CUSTOMER IN ARTS IS DEFAULTED TO TWO YEARS?**

You may run into old SAVE responses for COFA migrant customers after the January 22, 2020 programming is in place to allow for a full-term credential to be issued. If a customer is

defaulted to a two-year credential, but should be allowed a full-term credential, please contact your Supervisor, County Liaison or the County Contact to correct the duration of the credential under the VLS Supervisor's Tools.

**WHAT HAPPENS IF I JUST RECENTLY ISSUED A COFA MIGRANT CUSTOMER A CREDENTIAL WITH A TWO-YEAR EXPIRATION DATE WHEN THEY WOULD NOW BE ELIGIBLE FOR A FULL-TERM CREDENTIAL?**

Unfortunately, once the customer's credential has been issued, we cannot change the expiration date until they renew.

**DOES THIS NEW GUIDANCE APPLY TO A CUSTOMER WITH TEMPORARY LAWFUL STATUS WHO IS NOT A COFA MIGRANT?**

No. The recent REAL ID regulation change only addressed proof of identify and lawful status for COFA migrants. This guidance does not apply to a customer who is not a COFA migrant.





