



## IMPACTED JURISDICTIONS NEED COFA STRATEGIES

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The United States has maintained relationships of free association with the Republic of the Marshall Islands, Federated States of Micronesia, and the Republic of Palau for decades. Over the next few years, the federal government is expected to start renegotiating the terms of these relationships. In a recent article, I [argued](#) that the federal government should take this opportunity to redefine the Compact of Free Association (COFA) provisions in a way that maximizes the vital interests of the United States. Similarly, states and territories should take this opportunity to try to redefine the COFA provisions in a way that maximizes their own vital interests. To make this happen, state leaders will need to decide on the future outcomes and strategic approaches that their states and territories want the federal government to adopt. Then, their governor's offices and congressional delegations will need to advocate for these positions at the national level.

The Compacts of Free Association and associated agreements create a special kind of political and military relationship between the United States and the freely associated States. First and foremost, these agreements establish the Republic of the Marshall Islands, Federated States of Micronesia, and the Republic of Palau as sovereign states in the international political system. In perpetuity, they also grant the United States the authority to ensure the security of the freely associated States in exchange for the right of the citizens of those States to work, study,

and reside in the United States as non-immigrant aliens. The security provisions permit the United States armed forces access and to deny access by armed forces of other states to the freely associated States. The immigration provisions exempt the citizens of freely associated States from the visa and certification requirements imposed on foreigners by federal immigration legislation. Since these immigration provisions went into effect, tens of thousands of citizens of those States have established residence in the United States and its dependent territories.

The migration of COFA citizens to the United States has had a significant impact on many states and territories of the United States. Consider the state of Hawai'i. There are [reportedly](#) 16,680 COFA migrants currently residing in the state. While many of these COFA migrants make significant contributions to their local communities, including the payment of a variety of taxes, Hawai'i also spends a significant amount of state funds on the basic needs of COFA migrants. According to Gov. David Ige, Hawai'i [spent](#) an estimated \$163 million to provide state services to COFA migrants in 2014. This included over \$87 million to provide education for COFA students, \$66 million for health and social services for COFA migrants, and \$1 million to incarcerate COFA migrants. Unfortunately, these adverse consequences completely overshadow the positive contributions of COFA migrants in the state-level discourse on COFA migration.

The United States Congress has long recognized that COFA migration would impose adverse consequences on American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and Hawai'i. In the Compacts of Free Association Acts of 1985, the Congress authorized the appropriation of funds to cover the costs resulting from increased demands placed on their state-funded services. The Compact of Free Association Act of 2003 went even further by authorizing and appropriating \$30 million in annual funds to defray the costs of state-funded services in these affected jurisdictions. It also directed the Department of the Interior to distribute these funds in proportion to the most recent enumeration of COFA migrants in the

affected jurisdictions. This funding provision is set to expire in Fiscal Year 2023.

The renegotiation of the COFA agreements provides an opportunity to reconsider the enduring commitments of the United States to the freely associated States and the financial commitments of the United States to the states and territories impacted by the COFA agreements. Over the next few years, as the federal government is expected to start renegotiating the terms of its relationships with the freely associated States, it should adopt a strategic approach that aligns with a desired future for those relationships. States and territories with large populations of COFA migrants have a vital interest in reducing the negative impacts of COFA migration on their local communities. The federal government almost certainly shares this point of view.

There are many strategic approaches that the federal government could adopt to try to achieve that desired future. Each of these approaches carries different consequences for states and territories, making it quite possible that there will be a political struggle over those choices. One approach would be to try to amend the enduring commitments of the United States to the freely associated States. For example, one could try to eliminate the immigration provisions at the center of these agreements. Or, one could try to impose additional restrictions that would reduce the number of citizens of freely associated States that qualify for non-immigrant status. Another approach would be to amend the financial commitments of the United States to the states and territories impacted by the COFA agreements. For example, one could try to authorize the appropriation of more funds to defray (or even reimburse) the costs of providing educational and social services to COFA migrants in the affected jurisdictions. Or, one could try to expand the list of affected jurisdictions so that more states and territories with large populations of COFA migrants qualify for impact funding.

The choice of strategic approach could have a significant impact on the adverse consequences of COFA migration across the United States. Consider an approach that expands the list of affected jurisdictions. Under the current agreements, American Samoa, CNMI, Guam, and Hawai`i count

as affected jurisdictions, qualifying them for impact funds to defray the costs of supporting COFA migrants. But, other states with large COFA migrant populations -- Arkansas, California, Oregon, Texas, and Washington -- do not. This is remarkable given that these states have much larger populations of COFA migrants than American Samoa. Expanding the list of affected jurisdictions to include the other states with significant COFA migrant populations would mitigate the adverse consequences of COFA migration in more states and territories, but it would simultaneously reduce the amount of funding available to mitigate the adverse consequences in American Samoa, CNMI, Guam, and Hawai`i.

As shown by this example, the choice of strategic approach could have a significant impact on the distribution of power and influence across the United States. It is not just that the interests of states and territories with large populations of migrant populations are not the same as the interests of other states and territories with small populations of migrant populations. It is also that the interests of some states with large populations of migrant populations are not the same as the interests of some other states with large populations of migrant populations. The likely outcome is that the interests of many states will not align with the interests of the federal government when it comes to renegotiating the COFA agreements.

The expected renegotiation of the terms of the United States' relationships with the freely associated States will provide state-level actors an opportunity to shape the desired future that will be pursued by the federal government. All states and territories have an interest in taking advantage of these opportunities. However, states and territories with large populations of COFA migrants have an even greater interest in taking advantage of these opportunities. For these reasons, the senior political leadership of every state or territory should develop a COFA strategy that harmonizes the future outcomes and strategic approaches that their state or territory wants to see adopted by the federal government. Then, they need their governor's office and congressional delegation to strongly advocate these positions at the national level. This should happen as early in the renegotiation process as possible. Otherwise, their voices might not

be heard before the federal government takes a stance on its desired future and strategic approach.

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