

IMPACT OF  
COMPACT  
GUAM

PACIFIC IMMIGRATION IMPACT  
Effects of P.L.99-239 on the Island of Guam  
FY 1989 to FY 1994

Office of the Governor  
Government of Guam  
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## TABLE OF CONTENTS

I.	Executive Summary .....	1
II.	History of Guam's Efforts to Secure Federal Cooperation .....	4
A.	Impact Reporting .....	4
B.	Competitive Fisheries Trade Issues .....	6
C.	Inspector General Audit Report, June 1993 .....	6
D.	Census of FSM/RMI Citizens and Their Dependents .....	7
E.	Chuuk State Conference .....	7
F.	Compact Impact Information and Education Program .....	7
G.	Executive Order 92-4 .....	8
H.	First Regional Compact Impact Discussion (June 26-30, 1992) .....	8
I.	Arrival Data .....	8
J.	Guam Department of Education Three-Year Plan for Compact Impact .....	9
K.	Compact Impact Reimbursement .....	9
III.	Federal Immigration Regulation .....	10
IV.	FSM and RMI Habitual Residents on Guam .....	12
V.	Impact on Educational Institutions .....	21
1.	Department of Education .....	21
2.	Guam Community College .....	26
3.	University of Guam .....	29
VI.	Impact on Public Safety Agencies .....	32
1.	Guam Police Department .....	33
2.	Department of Corrections .....	35
3.	Department of Law .....	37
4.	Public Defender Service Corporation .....	39
5.	Superior Court of Guam .....	41
6.	Department of Youth Affairs .....	42
7.	Department of Commerce, Division of Customs and Quarantine .....	43
8.	Guam Fire Department .....	45
9.	Civil Defense/Guam Emergency Services Office .....	46
VII.	Impact on Health, Welfare, and Housing Services .....	47
1.	Department of Public Health and Social Services .....	48
2.	Department of Mental Health and Substance Abuse .....	51
3.	Guam Memorial Hospital Authority .....	52
4.	Department of Vocational Rehabilitation .....	55
5.	Guam Housing Corporation/Guam Rental Corporation .....	56
6.	Guam Housing and Urban Renewal Authority .....	57

VIII. Impact on Employment Service Agencies .....	60
1. Agency for Human Resources Development .....	61
2. Department of Labor, Guam Employment Service .....	62
References .....	64

## I. EXECUTIVE SUMMARY

The Compact of Free Association Act of 1985 (P.L.99-239), implemented in 1986, establishes the relationship between the United States and the Federated States of Micronesia (FSM) and Republic of the Marshall Islands (RMI). Compact immigration provisions authorize unrestricted immigration into the United States, its territories and possessions, enabling FSM and RMI citizens to enter into, lawfully engage in occupations, and establish residence as nonimmigrant aliens.

The FSM government estimates a negative net migration of about 2,000 persons per year out of the FSM since enactment of the Compact. Most of the out-migrants are thought to travel to Guam, Saipan, Hawaii, and the U.S. mainland. Relatively inexpensive travel between Guam and the FSM permits frequent visits and possibly circular migration. More than 30,000 citizens of the Freely Associated States (FAS) have arrived through Guam's airport stating their intention to reside on Guam, and another 65,000 have entered as visitors. The Government of Guam estimates the habitual resident population to have increased by about 1,000 persons per year since 1986, reaching an estimated 8,000 immigrants and their children by the end of 1994.

In recognition of the possible adverse impact to Guam's economy of providing health care, education, job training and public assistance to the peoples of a foreign nation, Congress promised to appropriate sums to cover costs incurred by Guam resulting from any increased demands placed on educational and social services by immigrants from the Marshall Islands and the Federated States of Micronesia. Annual reports are to be submitted to Congress by the Department of Interior, and are to include Guam's views of impact.

Section 104(e)(1): "STATEMENT OF CONGRESSIONAL INTENT.- In approving the Compact, it is not the intent of the Congress to cause any adverse consequences for the United States territories and commonwealths or the State of Hawaii."

Section 104(e)(2): "ANNUAL REPORTS AND RECOMMENDATIONS.- One year after the date of enactment of this joint resolution and at one year intervals thereafter, the President<sup>1</sup> shall report to the Congress with respect to the impact of the Compact on the United States territories and commonwealths and on the State of Hawaii. Reports submitted pursuant to this paragraph (hereafter is this subsection referred to as "reports") shall identify any adverse consequences resulting from the Compact and shall make recommendations for corrective action to eliminate those consequences. The reports shall pay particular attention to matters relating to trade, taxation, immigration, labor laws, minimum wages, social system and infrastructure, and environmental regulation. With regard to immigration, the reports shall include statistics concerning the number of persons availing themselves of the right to establish habitual residence on Guam as described in section 141(a) of the Compact

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<sup>1</sup> Executive Order No. 12569, October 16, 1986: delegates to the Secretary of the Interior the authority to report to the Congress with respect to the impact of the Compact of Free Association on the United States territories and commonwealths and on the State of Hawaii, pursuant to section 104(e)(2) of the Act.

during the year covered by each report."

Section 104(e)(3): "OTHER VIEWS - In preparing the reports, the President shall request the views of the Government of the State of Hawaii, and the governments of each of the United States territories and commonwealths, the Federated States of Micronesia, the Marshall Islands, and Palau, and shall transmit the full text of any such views to the Congress as part of such reports."

Section 104(e)(4): "COMMITMENT OF CONGRESS TO REDRESS ADVERSE CONSEQUENCES.-The Congress hereby declares that, if any adverse consequences to United States territories and commonwealths or the State of Hawaii result from implementation of the Compact of Free Association, the Congress will act sympathetically and expeditiously to redress those adverse consequences."

Section 104(e)(5): "DEFINITION OF U.S. TERRITORIES AND COMMONWEALTHS.-As used in this subsection, the term "United States territories and commonwealths" means the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands."

Section 104(e)(6): "**IMPACT COSTS.-There are hereby authorized to be appropriated for fiscal years beginning after September 30, 1985, such sums as may be necessary to cover the costs, if any, incurred by the State of Hawaii, the territories of Guam and American Samoa, and the commonwealth of the Northern Mariana Islands resulting from any increased demands placed on educational and social services by immigrants from the Marshall Islands and the Federated States of Micronesia.**"

This report re-examines the amount of assistance provided to FSM and RMI newcomers by the Territory of Guam for the period FY 1989 to FY 1994, and calculates a cost associated with those services. This report is hereby presented to the President and to the Congress as Guam's views of impact. Recommendations for improving cost calculation methodologies made through an audit by the Inspector General were considered. The data was reevaluated and updated to reflect the concerns of the Inspector General and includes additional information uncovered in the process.

The Government of Guam finds that costs incurred for providing educational and social services to citizens of the Freely Associated States is **\$68.4 million** for the period FY 1989 through FY 1994.

**IMPACT OF THE COMPACT OF FREE ASSOCIATION  
ON THE TERRITORY OF GUAM -- FY 1986 THROUGH FY 1994**

	FY 1986 to 1989	FY 1990	FY 1991	FY 1992	FY 1993	FY 1994	Total
<b>TOTAL FISCAL IMPACT</b> .....	\$6,646,119	\$6,089,912	\$10,424,793	\$13,466,564	\$18,996,232	\$23,965,447	\$79,599,067
<b>REIMBURSEMENT REQUESTED</b> .....	6,381,972	5,300,284	8,780,319	11,823,281	17,338,631	21,916,989	71,541,446
<b>REIMBURSEMENT GRANTED</b> .....	0	0	0	0	0	3,095,000	3,095,000
<b>BALANCE</b> .....	6,381,972	5,300,284	8,780,319	11,823,281	17,338,631	48,821,989	68,446,446
<b>EDUCATION</b> .....	5,356,749	3,916,493	5,881,233	7,409,097	10,498,016	12,534,750	45,595,338
1. Department of Education .....	1,948,363	2,365,872	3,365,938	4,950,330	8,110,400	9,720,640	30,451,543
2. Guam Community College .....	2,805,103	660,539	1,145,138	1,064,344	1,121,330	1,152,449	7,948,903
3. University of Guam .....	602,283	890,082	1,380,157	1,394,423	1,266,286	1,661,661	7,194,892
<b>PUBLIC SAFETY</b> .....	976,231	1,071,049	1,834,502	2,376,782	4,032,577	3,937,012	14,228,153
1. Guam Police Department .....	458,802	542,438	805,365	878,464	1,289,084	1,332,443	5,306,596
2. Department of Corrections .....	157,110	83,718	235,771	403,287	972,820	802,122	2,654,828
3. Department of Law .....	145,496	188,960	329,821	371,665	576,033	493,778	2,105,753
4. Public Defender Services Corp .....	...	...	...	...	219,150	344,390	563,540
5. Superior Court of Guam .....	...	...	...	...	9,652	...	9,652
6. Department of Youth Affairs .....	...	...	...	...	36,571	...	140,135
7. Department of Commerce .....	...	...	40,215	63,349	914,807	...	3,366,585
8. Guam Fire Department .....	209,273	247,637	411,813	632,430	14,460	950,625	81,084
9. Civil Defense / GESO .....	5,550	8,296	11,517	27,587	...	13,654	...
<b>HEALTH, WELFARE AND HOUSING</b> .....	27,351	265,785	1,024,757	1,938,748	2,674,559	5,329,331	11,260,531
1. Dept. of Pub. Hlth. and Soc. Serv. ....	...	226,204	919,225	1,875,762	2,631,369	5,290,007	10,942,557
A. Medicaid Program .....	...	15,125	42,792	376,873	498,154	1,504,220	2,437,164
B. Medically Indigent Program .....	...	73,333	633,313	645,559	444,280	848,932	2,645,417
C. Public Assistance Programs .....	...	137,746	243,120	853,330	1,688,925	2,936,855	5,859,976
2. Mental Hlth. and Substance Abuse .....	8,655	9,607	15,210	11,750	36,263	...	81,485
3. Guam Memorial Hospital Authority .....	17,576	23,515	14,522	40,839	319	0	96,771
4. Dept. of Vocational Rehabilitation .....	1,120	6,459	74,175	5,886	...	20,746	108,386
5. Guam Housing Corporation / GRC .....	...	...	1,625	4,511	6,618	18,578	31,332
<b>EMPLOYMENT</b> .....	22,641	46,957	39,827	98,654	133,479	115,866	457,424
1. Agency for Human Resources Dev. ....	6,405	9,725	12,928	65,661	63,428	61,934	220,081
2. Guam Employment Service .....	16,236	37,232	26,899	32,993	70,051	53,932	237,343
<b>DISPLACEMENT COSTS</b> .....	264,147	789,628	1,644,474	1,643,283	1,657,601	2,048,488	8,047,621
1. Guam Hous. & Urban Renewal .....	264,147	789,451	1,581,303	1,419,401	1,423,151	2,048,488	7,474,941
A. Low-Income Public Housing .....	63,762	408,945	725,249	521,376	460,964	571,906	2,752,202
B. Section 8 Housing .....	200,385	329,506	856,054	898,025	962,187	1,476,582	4,722,739
2. Gunna San Jose Program .....	...	51,177	63,171	223,882	234,450	...	572,680

Note: The Guam Memorial Hospital includes only write offs for self-pay patients listing an FSM or RMI billing address. Reimbursement request is Guam's request for cost recovery for services used by FAS habitual residents. Displacement costs are federal funds now allotted to FAS habitual residents that would otherwise have been available for Guam's permanent residents.

## II. HISTORY OF GUAM'S EFFORTS TO SECURE FEDERAL COOPERATION

The Department of Interior has been tasked with calculating and presenting to the Congress the cost of services used by FAS citizens immigrating to Guam, including studying and making recommendations for the alleviation of adverse impact. Little has been done to-date by the Department of Interior, other than offering technical assistance. Guam, on the other hand, continues to provide extensive government services to a growing number of FSM and RMI citizens, with dwindling local resources. The Government of Guam can no longer absorb the brunt of immigration costs, and seeks redress from the federal government.

### A. IMPACT REPORTING

The Compact of Free Association requires the executive branch to submit an annual report to the Congress on the impact of the Compact on Guam, with particular attention to matters relating to trade, taxation, immigration, labor laws, minimum wages, social system and infrastructure, and environmental regulation. The Government of Guam may also submit to the President a statement on any adverse consequences to Guam resulting from the implementation of the Compact. The Compact requires the President to transmit the full text of Guam's statement to the Congress.

A study team from the Office of Territorial and International Affairs, Department of the Interior, determined in 1987 that Guam's data and data gathering systems were inadequate to accurately measure 'increased demand' for services. OTIA agreed some time later to develop project plans for measuring Compact migration and for identifying possible adverse consequences.

Although the law has required eight reports to date, the Department of Interior has submitted only one document to the Congress, in 1989<sup>2</sup>. This was more of a status report on efforts to comply with the law than a report on the required information. The lack of information has been used by Administration officials as a justification for not recommending any reimbursement of costs, but Guam does not find this to be an acceptable excuse. During 1994, OTIA provided the Government of Guam with guidelines on data collection in the form of a review of the Territory's May 1994 views of impact<sup>3</sup>. These guidelines do not specify the best method for calculating costs.

In September 1994, the Department of Justice and the Office of Management and Budget (OMB) commissioned the Urban Institute to audit the fiscal impacts of undocumented aliens on incarceration, educational, and Medicaid costs as reported by seven states (California, Florida, Texas, New York, Illinois, Arizona, and New Jersey)<sup>4</sup>. The study developed several theoretical frameworks for the reporting of fiscal impact: mean costs, marginal costs, and net costs methodologies.

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<sup>2</sup> "A Report on the Impact of the Compact of Free Association on the United States Insular Areas Pursuant to Section 104(e) Public Law 99-239", Territorial and International Affairs, 1989.

<sup>3</sup> Letter from Leslie M. Turner, Assistant Secretary, Territorial and International Affairs to Governor Joseph F. Ada, June 10, 1994

<sup>4</sup> Clark, Rebecca, et al. "Fiscal Impacts of Undocumented Aliens: Selected Estimates for Seven States". The Urban Institute, September 1994.

## Effects of P.L.99-239 on the Island of Guam

FY 1989 to FY 1994

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**Mean** costs were defined as total expenditures for a service divided by the number of users. Mean costs are affected by variable costs such as the number of individuals using the service, and by fixed costs such as interest payments on bonds used to finance already existing buildings and certain administrative costs like personnel. **Marginal** costs are the potential cost savings from preventing an individual from using a service. Mean costs may or may not be higher than marginal costs depending on circumstances. For instance, the cost of adding a student to an under-capacity school would be less than the cost of constructing new facilities in a school district unable to absorb any new students. The Urban Institute also concluded that the cost of adding undocumented aliens, who are less likely to speak English fluently and are more likely to be poor than other students, would be more costly than adding an equal number of students who are not economically disadvantaged and/or less than English proficient.

The **net** costs method of cost calculation is the most difficult, requiring a full assessment of fiscal impacts, including detailed analysis of indirect impacts. These include job creation and job loss, revenues, the further effects of spending by these aliens on the economy, trade impacts, and job retention effects. A full assessment might also include the long-term impacts of today's aliens, that is, services these aliens and their children will use in the future, taxes paid by these aliens as they improved their economic positions, and revenue streams generated by their children.

OMB specifically requested the Urban Institute to calculate costs based on the mean cost method, primarily because some of the data necessary for the other methods were partially or entirely lacking. For education costs, the Urban Institute estimated the size of the school age undocumented alien population in each state multiplied by average per pupil costs. For prison costs, the Urban Institute conducted a point-in-time prison census multiplied by the average annual cost of incarceration for each state. For Medicaid, the Urban Institute estimated expenditures by weighting the average per capita Medicaid costs for eligible legalized aliens by the estimated number of undocumented aliens in the State.

In Guam's case, Congress stated that it will cover the costs of increased demand for services, not increased net demand. Therefore, Guam has developed methodologies defined by the Urban Institute as mean and marginal cost computations. Guam obtains data from administrative records from the school district and the prison to determine the number of persons, and applies the mean cost method to calculate costs involved with education and incarceration. The costs of welfare and medical payments, including Medicaid, are based on the marginal costs methodology, that is, actual benefit payments. The amount being spent on welfare, Medicaid, and the Medically Indigent programs do not include administrative or other overhead costs, and would be saved if FAS citizens did not use the services. The actual payment made is downloaded from the financial management database of the Department of Public Health and Social Services. Costs for other government services were not explored by the Urban Institute.



## B. COMPETITIVE FISHERIES TRADE ISSUES

There can be little room for doubt that the Federated States of Micronesia's policy of refusing to allow its licensees to freely transship in Guam has an adverse affect on Guam. The volume of tuna transshipped in Guam has declined significantly during the past three years. This is in part due to market conditions such as the strengthening of the yen and the depressed price, and impacts from Typhoon Omar and the earthquake. However, the express intent of the FSM to prevent any fish caught from the FSM's waters from being transshipped outside an FSM port is negatively impacting the business in Guam. In 1990, 12,729 tons were transshipped from Guam representing a gross economic benefit of \$33 million. By 1993, the volume had decreased to 7,120 tons representing a decline of over \$15 million in gross economic benefits (based on statistics published in the Guam Economic Impact from the Longline Fishing Industry by the Guam Department of Commerce). In addition, all fish transshipped from the Federated States of Micronesia must utilize air cargo space in Guam and Saipan. The available air space for Guam operators has been reduced by more than 30 percent to accommodate shipments originating in the FSM.

## C. INSPECTOR GENERAL AUDIT REPORT, JUNE 1993

The Inspector General, Department of Interior conducted an audit of Guam's annual views of impact. The audit was highly critical of Guam's impact cost calculation methodology, stating that "Guam (1) did not restrict its calculation to only those costs related to increased demands for services, (2) included costs of programs already financed with Federal funds, and (3) included costs that were not supported. A factor contributing to this condition was that the Office of Territorial and International Affairs had not established and provided guidelines for determining the Compact's impact. As a result, we concluded that Guam's claimed impact costs for fiscal years 1989 through 1991 were overstated by at least \$15.9 million.<sup>5</sup>" The Government of Guam does not concur with most of the findings of the Inspector General.

The report recommends that the Assistant Secretary, Territorial and International Affairs:

1. Develop and disseminate guidelines and procedures for use in determining Guam's Compact impact costs, and
2. Develop and implement policies and procedures to ensure that the annual reports required by Compact Section 104(e) are submitted to the U.S. Congress in a timely manner.

Although OTIA has not developed actual guidelines and procedures for use in determining Guam's impact costs, Interior has reviewed Guam's May 1994 report covering the FY 1989 to FY 1993 period and has provided comments on the contents of that report.

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<sup>5</sup> "Audit Report, Impact of the Compact of Free Association on the Government of Guam, Report No. 93-I-1195", U.S. Department of the Interior, Office of Inspector General, June 1993.

#### D. CENSUS OF FSM/RMI CITIZENS AND THEIR DEPENDENTS

The University of Guam received financial assistance from OTIA to census FSM and RMI citizens and their dependents residing on Guam in August 1992. The project ran into considerable difficulties because of a super-typhoon that hit the island soon after the start of the project, with four additional typhoons before the project was completed. The storms are thought to have resulted in considerable relocation of persons to other households on-island and off-island, and probably caused hardships such as lost homes, lost jobs, decreased income, and decreased school enrollment (Typhoon Omar struck during the first week of the fall 1992 semester). These difficulties affected the survey enumerators, as well as the survey respondents, slowing enumeration even further. Data collected by the survey may not represent the same 'snapshot' of the FSM and RMI population on Guam as would have resulted without the disasters.

#### E. CHUUK STATE CONFERENCE

The Governor of Guam hosted a group of legislators from Chuuk State in the FSM to discuss Compact impact and other matters of mutual interest. Specifically, the Chuuk legislators had heard that there were problems involving their citizens residing in Guam and desired to learn first-hand about these potential difficulties.

The thrust of the discussions was to study and make recommendations regarding Compact impact both in Guam and in Chuuk. As a result of these discussions, the Government of Guam instituted an education/orientation program for FSM and RMI citizens immigrating to Guam.

#### F. COMPACT IMPACT INFORMATION AND EDUCATION PROGRAM

A Technical Assistance Grant in the amount of \$630,000 in three separate increments was approved by OTIA covering the period from August 1991 to April 1995 to develop an education and orientation program for FSM and RMI citizens: \$150,000 was received for the first year, \$301,000 for the second year, and \$179,000 was approved in April 1994.

This program, known as the Compact Impact Information and Education Program (CIIEP), was established by the Government of Guam to develop and implement information, educational and organizational activities to assist FSM and RMI citizens in receiving the support and assistance they require to achieve their maximum potential for maintaining cultural integrity, integration, equity, and productivity.

Under this program, the Sagan Fanasodda'an ("Meeting Place" in the Chamoru language) was established at the University of Guam with the purpose of serving as an information and referral center and as a site for educational training and outreach activities. It is also serving as headquarters and meeting place for the various Mutual Assistance Associations which the Program has helped form. Program activities include:

Development of collaborative referral arrangements negotiated with government, not-for-profit, and private sector service providers;

Development of a Cultural Orientation (CO) curriculum for use by both the FSM and RMI local communities, including local history and geography; housing; employment in Guam; health, medical, social and other community services; education; social roles and behavior; consumerism and finance; and local law and the legal system.

Development of a multi-media public information campaign for initial implementation in the Federated States of Micronesia. Through the use of television and radio announcements and informational literature, the campaign will have the following goals:

1. to increase awareness of specific problems and possible solutions involved in a potential move to Guam,
2. to affect attitudes among FSM and RMI citizens to create support for individual and collective actions to resolve problems that a move to Guam presents, and
3. to reinforce positive knowledge, attitudes, and beliefs among FSM and RMI citizens migrating to Guam that will help in the transition.

#### G. EXECUTIVE ORDER 92-4

Executive Order 92-4, signed on January 17, 1992, established the Compact Impact Information and Education Program (CIIEP) Steering Committee. The first meeting of the committee was held on January 28, 1992. The committee provides oversight to the CIIEP and is comprised of ten (10) board members. In addition, five subcommittees were appointed involving some 65 persons from both the public and private sectors.

#### H. FIRST REGIONAL COMPACT IMPACT DISCUSSION (June 26-30, 1992)

The Governor of Guam, Joseph F. Ada, invited representatives from the FSM, RMI and the Department of Interior to attend a two-day conference in Guam to develop long-term regional strategies to resolve mutually perceived problems. While the Department of Interior did not attend, the conference was attended by eight participants from the FSM national government and thirteen from state governments within the FSM, four participants from the CNMI, and more than 40 from Guam. This conference covered a variety of areas and culminated in the signing of eight joint resolutions: Public Information and Education Program, Micronesian Meeting Place, Compact Impact Steering Committee, Joint Guam/FSM/CNMI Actions, Identification and Data Collection, Federal Assistance for Compact Impact, FSM Action on Health and Community Organizations, and Cultural Exchange.

#### I. ARRIVAL DATA

P.L. 99-239, Section 104(e)(2), Annual Reports and Recommendations, mandates the Executive branch to provide Congress with information on the number of persons availing themselves of the

right to immigrate. Because the U.S. Immigration and Naturalization Service has been unable to supply this information, the Government of Guam developed a project to collect data from the Guam Customs and Quarantine Division of the Department of Commerce with technical assistance from OTIA. The Government of Guam project involves a computerized database of the names and country of citizenship of Compact citizens who have entered Guam through the Guam International Airport after 1986.

The arrival database contains 101,436 entries, including 31,875 intended and returning residents; the number of intended and returning residents for FY 1993 was 9,059 persons.

#### J. GUAM DEPARTMENT OF EDUCATION THREE-YEAR PLAN FOR COMPACT IMPACT

To meet the additional demands of FSM and RMI citizens of mandatory school age, the Guam Department of Education developed a three-year plan to assist non-English speaking children and their families. The plan covers such areas as Head Start/Early Childhood Services, Instructional Support, and Staff Development to provide comprehensive early childhood education programs that will mitigate many of the potential problems children of low income families face. The Office of Territorial and International Affairs provided Technical Assistance in the amount of \$592,440 in FY 1992 and \$594,000 in FY 1993.

#### K. COMPACT IMPACT REIMBURSEMENT

The Department of Interior granted Guam \$600,000 in technical assistance for the period January 1994 to March 1995. "This grant will provide special funds to the Government of Guam to assist in the mitigation of impacts of the migration of residents of the freely associated states who have relocated to Guam. The FY 1994 funds will be used in accordance with a detailed program plan submitted to OTIA for review and approval."<sup>6</sup>

While the mitigation of impacts is important, the federal government must honor its commitment to cover the costs incurred by increased demands on government services by Compact citizens. As government resources become scarcer, Guam's ability to provide services to all residents of the territory becomes more and more strained; impacts are beginning to affect the entire population. Therefore, Guam used the \$600,000 in technical assistance to partially reimburse expenditures made by the Department of Public Health for the Medicaid Program, the Medically Indigent Program, and Public Assistance Programs on behalf of FSM and RMI citizens, totalling \$2,806,155 in FY 1993<sup>7</sup>.

P.L. 103-332 appropriated \$2,495,000 in Compact reimbursement on September 30, 1994. The funds were transferred to the Governor by the Department of Interior through Memorandum of Understanding. The Territory's reimbursement request has been adjusted by the \$3,095,000 received in reimbursement.

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<sup>6</sup> Application for Technical Assistance Funds, G-78, Office of Territorial and International Affairs, January 11, 1994.

<sup>7</sup> Letter from Joseph F. Ada, Governor of Guam, to Leslie Turner, Assistant Secretary for Territorial and International Affairs, April 15, 1994.

### III. FEDERAL IMMIGRATION REGULATION

Guam is governed by Title 8, Chapter 12 (8 U.S.C. 1101-1525) Immigration and Nationality. Its purpose is to control the entry of aliens into the United States, including Guam, and to provide for the exclusion and expulsion of aliens not authorized to enter or remain in the United States; and to provide for the naturalization of aliens and noncitizen nationals as citizens of the United States, for acquisition of U.S. citizenship or nationality at birth, and for the loss of nationality. The Immigration and Nationality Act applies to Guam and accords to it for the most part the same treatment as it accords to the States<sup>8</sup>.

The Immigration and Naturalization Service has created different legal statuses designating the terms of entry for non-U.S. citizens. The terms designate the length of residence permitted (temporary or permanent), and whether the applicant may work, apply for citizenship, or receive public benefits. Permanent statuses fall into three general types: 1) legal immigration, 2) humanitarian immigration (refugee, asylee, and parolee), and 3) unauthorized, or illegal, immigration. Foreigners can also enter the country temporarily as a nonimmigrant under a broad array of legal categories such as tourist, student, and visitor, or as an illegal alien. The State Department is responsible for issuing visas for permanent, or immigrant, residence, and temporary, or nonimmigrant, residence<sup>9</sup>.

The Federated States of Micronesia and the Marshall Islands are outside the "United States" for the purposes of the Immigration and Nationality Act. Their citizens are aliens as to the United States and are subject to the Federal laws that restrict alien entry.<sup>10</sup> The Compact of Free Association Act makes special provision for the admission of citizens of the Federated States and the Marshalls to the "the United States and its territories and possessions" in section 141 of the Compact. Such citizens may enter, "lawfully engage in occupations, and establish residence" with out regard to the passport, visa, and work permit requirements of the Immigration and Nationality Act<sup>11</sup>. Article IV, Section 141 (a) of P.L. 99-239 provides that FSM and RMI citizens:

"... may enter into, lawfully engage in occupations, and establish residence as a nonimmigrant in the United States and its territories and possessions without regard to paragraphs (14), (20), and (26) of section 212(a) of the Immigration and Nationality Act, 8 U.S.C. 1182(a) (14), (20), and (26)."

The Compact waives the visa requirement for the entry of FSM/RMI citizens as nonimmigrants. However, the INS has the authority to prevent certain categories of persons from entering the country based on criteria established in United States immigration law. These criteria include infection with AIDS, a history of criminal activity, or the likelihood of becoming a public charge, i.e. becoming

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<sup>8</sup> Van Cleve, Ruth. The Application of Federal Laws in ... American Samoa, Guam, the Northern Mariana Islands, the U.S. Virgin Islands: Volume 1 - U.S. Code Titles 1-16. Department of the Interior, Office of the Solicitor, October 1993, p. 125.

<sup>9</sup> Dunlap, Jonathan C. America's Newcomers, A State and Local Policymakers' Guide to Immigration and Immigrant Policy. National Conference of State Legislatures. 1993.

<sup>10</sup> Van Cleve, p.125.

<sup>11</sup> Dunlap, p.19.