

Congress of the United States
Washington, DC 20515

January 26, 2010

Ms. Sandra L. Strokoff
Legislative Counsel
Office of the Legislative Counsel
U.S. House of Representatives
136 Cannon House Office Building
Washington, DC 20515

Mr. James W. Fransen
Legislative Counsel
Office of the Legislative Counsel
U.S. Senate
668 Dirksen Senate Office Building
Washington, DC 20510

Mr. Edward G. Grossman
Deputy Legislative Counsel
Office of the Legislative Counsel
U.S. House of Representatives
136 Cannon House Office Building
Washington, DC 20515

Mr. William F. Jensen
Deputy Legislative Counsel
Office of the Legislative Counsel
U.S. Senate
668 Dirksen Senate Office Building
Washington, DC 20510

Dear Ms. Strokoff, Mr. Fransen, Mr. Grossman, and Mr. Jensen:

As the representatives of the five U.S. territories—Puerto Rico, Guam, the U.S. Virgin Islands, the Commonwealth of the Northern Mariana Islands, and American Samoa—we write to respectfully request that you review and, if necessary, revise your drafting procedures with respect to the territories. In particular, we ask that Legislative Counsel, upon receiving a drafting request from a Member, take the following steps:

First, when applicable, we ask that you clarify with the requestor whether the requestor intends for the proposed bill to include or exclude the territorial governments, individuals residing in the territories and/or entities located in the territories. Legislative Counsel should honor the choice made by the requestor.

Second, if the requestor does not respond to this specific inquiry, expresses ambivalence, or states a desire to defer to Legislative Counsel, then Legislative Counsel's default drafting position should be to explicitly include the territories in all legislation of national scope, absent a compelling reason for not doing so. Such procedure would promote consistent interpretations of enacted law by implementing agencies and reviewing courts.

We believe adoption of this procedure by Legislative Counsel is both prudent and necessary. At present, each of our offices is compelled to expend substantial resources to determine whether the benefits of a particular bill extend to our constituents—a process we must repeat hundreds of times each session. Often, legislative text is silent or ambiguous on the question of our inclusion. In other cases, a reasonably clear answer can be ascertained, but only after a complex and time-consuming inquiry requiring reference to multiple statutes, calls to the Congressional Research Service, and outreach to the sponsor's office.

The problem goes further. If a bill was not—or does not appear to have been—drafted to include the territories, it is generally impossible to determine the reason we were excluded and by whom. In other words, there is no simple way to verify whether the exclusion was the result of a purposeful decision by the requestor or, alternatively, owed to an inadvertent oversight by the requestor and Legislative Counsel. If our proposed procedure is adopted by Legislative Counsel, we will know that any future bill that excludes our constituents does so at the specific instruction of the requestor, not because of an oversight or omission. This knowledge will help us focus any effort we undertake to modify the bill's language.

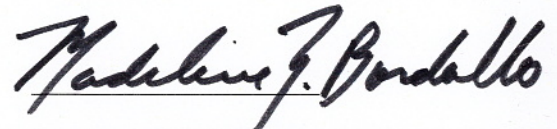
Accordingly, we ask that you please provide us with (1) an explanation of your office's current policy with respect to this issue and (2) your response to our proposal.

We thank you in advance for your prompt attention to this important matter.

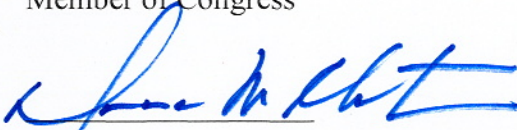
Sincerely,



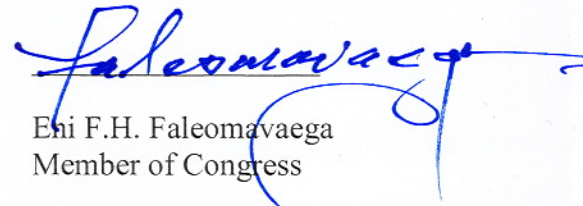
Pedro R. Pierluisi
Member of Congress



Madeleine Z. Bordallo
Member of Congress



Donna M. Christensen
Member of Congress



Eni F.H. Faleomavaega
Member of Congress



Gregorio Kilili Camacho Sablan
Member of Congress

cc: The Honorable Harry Reid, Majority Leader, U.S. Senate
The Honorable Nancy Pelosi, Speaker, U.S. House of Representatives
The Honorable Steny Hoyer, Majority Leader, U.S. House of Representatives
The Honorable Jeff Bingaman, Chairman, Senate Committee on Energy and Natural Resources
The Honorable Nick J. Rahall II, Chairman, House Committee on Natural Resources