DEPARTMENT OF SOCIAL SERVICES
744 P Street, Sacramento, CA 95814

May 22, 2007

REFUGEE COORDINATORS LETTER NO. 07-07

TO: COUNTY REFUGEE COORDINATORS
STATE ADVISORY COUNCIL MEMBERS
MUTUAL ASSISTANCE ASSOCIATIONS
VOLUNTARY AGENCIES

SUBJECT: PROVISIONS OF THE FEDERAL REAL ID ACT

Enclosed is the Office of Refugee Resettlement (ORR) State Letter # 07-07 dated February 23, 2007, and released on April 17, 2007, regarding the provisions of the federal REAL ID Act. This State Letter may also be found on ORR's website at: http://www.acf.dhhs.gov/programs/orr/policy/sl07-07.htm.

This State Letter provides a background of the REAL ID Act, information that must appear on drivers' licenses (DLs) or identification (ID) cards, documentation needed for issuance of DLs or ID cards, and suggested action steps to take prior to the REAL ID Act's implementation of these provisions on May 11, 2008. Please share this information with all refugee service providers.

If you have any questions regarding this State Letter, please contact Ms. Jacqueline Hom, Policy Analyst, Refugee Programs Bureau at (916) 653-8980.

Sincerely,

Thuan Nguyen

THUAN NGUYEN, Chief
Refugee Programs Bureau

Enclosure

DEPARTMENT OF HEALTH & HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIES
370 L'Enfant Promenade, S.W.
Washington, D.C. 20447

ORR State Letter

07-07 **Date: 02/23/2006**

TO: STATE REFUGEE COORDINATORS
NATIONAL VOLUNTARY AGENCIES
OTHER INTERESTED PARTIES

FROM: Martha Newton
Director
Office of Refugee Resettlement

SUBJECT: Provisions of the REAL ID Act

BACKGROUND

The **REAL ID Act of 2005** is Division B of an act of the United States Congress entitled **Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005**, Pub. L. No. 109-13, 119 Stat. 231 (May 11, 2005).

Title II Section 202 of the REAL ID Act mandates improved security for state issued driver's licenses and personal identification cards. After May 11, 2008, the REAL ID Act prohibits federal agencies from accepting state issued driver's licenses or identification cards unless such documents are determined by the Secretary to meet minimum security requirements, including the incorporation of specified data, a common machine-readable technology, and certain anti-fraud security features.

The REAL ID Act sets forth minimum issuance standards for such documents that require: (1) verification of presented information; (2) evidence that the applicant is lawfully present in the United States; and (3) issuance of temporary driver's licenses or identification cards to persons temporarily present in the U.S.

After May 11, 2008, a Federal agency may not accept, for any official purpose, a driver's license or identification card issued by a State to any person unless the State is meeting the requirements specified in the Real ID Act. States remain free to also issue non-complying driver's licenses and IDs, so long as these have a unique design and a clear

statement that they cannot be accepted for any federal identification purpose. The federal The Transportation Security Agency (TSA) is responsible for security check-in at airports, so bearers attempting to prove identity using only non-compliant state documents could not board common carrier aircraft for interstate or international travel. In order to board such aircraft, they must show an alternate identification that meets the REAL ID Act standards, such as a U.S. passport. Refugee Service Providers are not federal agencies and may accept non REAL ID-compliant licenses or IDs as proof of identity by applicants for ORR-funded services.

The REAL ID national license/ID standards cover:

- What data must be included on the card;
- What documentation must be presented before a card can be issued; and
- How the states must share their databases.

Many of these requirements are not new. They replace similar language in Section 7212 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458), which had not yet gone into effect before being repealed by the Real ID Act.

REAL ID Act Required Information That Must Appear on the License or ID Card

The REAL ID Act requires that each state issued drivers license or ID card must include, at a minimum:

- The person's full legal name.
- The person's date of birth.
- The person's gender.
- The person's driver's license or identification card number.
- A digital photograph of the person's face.
- The person's address of principal residence.
- The person's signature.
- Physical security features designed to prevent tampering, counterfeiting, or duplication of the document for fraudulent purposes.
- A common machine-readable technology, with defined minimum data elements (the details of which are not spelled out, but left to the Secretary of Homeland Security, in consultation with the Secretary of Transportation and the States, to regulate). Regulations have not been issued at this time.

REAL ID Act Required Documentation for Issuance of License or ID Card

Before a driver's license or ID card can be issued, the applicant must provide the following documentation to the issuing agency or office:

- A photo ID, or a non-photo ID that includes full legal name and birthdate.

- Documentation of birthdate.
- Proof of Social Security Number or verification that the applicant is not eligible for one.
- Documentation showing name and principal residence address.

Documentation showing that the applicant is lawfully present in the US in one of the following categories:
1. a citizen or national of the United States;
2. an alien lawfully admitted for permanent or temporary residence in the United States;
3. has conditional permanent resident status in the United States;
4. has an approved application for asylum in the United States or has entered into the United States in refugee status;

5. has a valid, unexpired nonimmigrant visa or nonimmigrant visa status for entry into the United States;
6. has a pending application for asylum in the United States;
7. has a pending or approved application for temporary protected status in the U.S.;
8. has approved deferred action status; or
9. has a pending application for adjustment of status to that of an alien lawfully admitted for permanent residence in the United States or conditional permanent resident status in the United States.

If an applicant presents evidence described by clauses 5 through 9 above, the State may only issue a temporary driver's license or temporary identification card to the person. The temporary driver's license or temporary identification card shall be valid only during the period of time of the applicant's authorized stay in the United States **or, if there is no definite end to the period of authorized stay, a period of one year**. The temporary driver's license or temporary identification card shall clearly indicate that it is temporary and shall state the date on which it expires.

A temporary driver's license or temporary identification card may be renewed only upon presentation of valid documentary evidence that the status by which the applicant qualified for the temporary driver's license or temporary identification card has been extended by the Secretary of Homeland Security.

The state must verify each of the above documents with the issuing agency. The only foreign document that may be accepted for any of the above items is an official passport.

REAL ID Act and Applications by ORR Population for State Driver's Licenses or ID Cards

What are the consequences of the REAL ID Act on ORR-served populations when they apply for state driver's licenses or ID cards? After May 11, 2008 a refugee, asylee, Cuban/Haitian Entrant or Certified Victim of a Severe Form of Trafficking in Persons who seeks to apply to a DMV for a driver's license or state ID in a REAL ID Act compliant state, may not possess the photo ID required for the license application by

REAL ID. Many refugees, asylees, and Cuban/Haitian Entrants initially possess no photo ID, and for many their first photo ID is the Employment Authorization Document (EAD). Though an EAD would suffice for REAL ID purposes as photo ID and proof of lawful presence in the U.S., there can be delays in the processing of initial, replacement, or renewal EADs.

Here are some steps that members of the ORR population might take, that **may** help them to comply with REAL ID driver's license and ID application documentation requirements for photo ID. These are steps that are best undertaken well in advance of the REAL ID implementation date of May 11, 2008, but nonetheless at a time to ensure the continued validity of the issued document past that date:

Apply for a passport from their country of origin;
Apply for an Employment Authorization Document (EAD) by filing the Form I-765 with USCIS;
Apply for a driver's license or state ID card now, before the REAL ID Act takes effect May 11, 2008. After this date, this pre-REAL ID driver's license or ID might be acceptable to the DMV as photo ID as required by REAL ID;
Secondary and post-secondary students may apply for photo ID cards at their educational institution, depending on the institution's policy;
Request one's employer to issue a photo ID, where practical and appropriate.

The REAL ID Act is extensive and complex and this state letter contains only a brief overview of one set of provisions of the Act. Here is a link to the full legislation: http://thomas.loc.gov/cgi-bin/bdquery/z?d109:h.r.00418:

(Please ensure you include the colon after "8" at the end)

Here is the link to a May 25, 2005 Report by the Congressional Research Service entitled "Immigration: Analysis of the Major Provisions of the REAL ID Act": http://www.fas.org/sgp/crs/homesec/RL32754.pdf

State Refugee Coordinators and Refugee Service Providers may want to closely monitor proposed or pending legislation in their respective states in response to the REAL ID Act. Some states may propose legislation with driver's license and ID standards that are more, or less, restrictive than those found in the REAL ID Act. State Refugee Coordinators and Refugee Service Providers may wish to consult the National Conference of State Legislatures (NCSL) for information about the REAL ID Act, its likely consequences for the states, and state legislative responses. On the NCSL website, the NCSL, the National Governors Association (NGA), and the American Association of Motor Vehicle Administrators (AAMVA) provide a section-by-section review of the REAL ID Act, and an analysis of its impact. The link to the website of the National Conference of State Legislatures (NCSL) is: http://www.ncsl.org/
The link to the REAL ID Act section of the NCSL website is: www.ncsl.org/RealID

If you have questions, please contact Thomas S. Pabst at (202) 401-5398