

Feds: Guam's foreign worker needs not temporary

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(Photo: Pacific Marketplace file photo)

The national defense budget law, which allows up to 4,000 H-2B workers on Guam every year, is consistent with the federal government's position that the need for skilled foreign labor on Guam isn't "temporary in nature," a government lawyer said in a filing related to lawsuit on H-2B visa denials.

Congress, according to attorney Glenn M. Girdharry, enacted the Guam provision specifically to exempt employers on island from demonstrating the "temporary need" requirement under the H-2B program rules.

"Through this provision, Congress recognized that U.S. employers' need for these types of services or labor in Guam is not temporary in nature, which is consistent with the government's position in this litigation," Girdharry said in a Dec. 20 filing with the U.S. District Court of Guam.

Girdharry is among the attorneys representing the federal government in a lawsuit filed against it by the Guam Contractors Association and 11 other businesses over U.S. Citizenship and Immigration Services' nearly 100 percent denial of H-2B visa applications for Guam.

Rejections

Federal immigration officials have rejected almost 100 percent of requests for the use of temporary skilled foreign labor on Guam through the federal H-2B visa program, citing chronic abuse of the program. U.S. Citizenship and Immigration Services maintains that there's no change in policy regarding the use of H-2B workers on Guam, even after the approval of H-2B workers went from nearly 100 percent to zero.

The Guam Contractors Association and several businesses filed the lawsuit last year over the visa denials.

Guam used to employ about 1,500 H-2B visa workers a year for a variety of jobs, mainly construction. Now there are fewer than 50 H-2B workers on island. The result of the foreign worker scarcity has been higher prices for home construction, and the inability for many companies to take on new construction projects or even finish existing projects.

Buildup only

The new law allows up to 4,000 H-2B workers for Guam every year, but only for services or labor required by military buildup-related construction and other projects. Girdharry, assistant director for the U.S. Department of Justice's Office of Immigration Litigation, said petitioners on Guam seeking H-2B workers may, before Oct. 1, 2023, request the admission of such workers.

The Guam provision takes effect on April 11, 2018 or 120 days after the law's enactment. It is subject to a qualifying H-2B petition approved by the U.S. Citizenship and Immigration Services, Girdharry told the court.

Gov. Eddie Calvo's administration also said the 2018 National Defense Authorization Act exempts Guam employers from having to justify a temporary need for the use of up to 4,000 H-2B workers a year.

But Calvo said H-2B workers should be permitted not only for military projects but also for civilian -- or outside-the-fence -- projects so that residents can build or repair homes, public facilities such as hospital can be renovated, and hotels and other new businesses can be built.

Earlier this year, the governor called for a halt to the military buildup until the H-2B visa problem was resolved. In a trip to Hawaii for a U.S. Pacific Command event, Calvo said he addressed his concerns directly to President Donald Trump and that the president told him the H-2B issue will be resolved.

Reporter Haidee Eugenio covers Guam's Catholic church issues, education, business and more. Follow her on Twitter [@haidee_eugenio](https://twitter.com/haidee_eugenio) (https://twitter.com/haidee_eugenio). Follow Pacific Daily News on Facebook/GuamPDN (<http://www.facebook.com/guampdn/>) and Instagram [@guam](http://instagram.com/GuamPDN) (<http://instagram.com/GuamPDN>)mpd (<http://instagram.com/GuamPDN>)n.

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