

# Marine base project highlights drop in foreign labor due to H-2B visa denials for Guam

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(Photo: Pacific Marketplace file photo)

The military's announcement Friday that work will soon begin in earnest on the new Marine Corps base in Dededo has raised the questions of who will do the work, and at what cost. According to the Guam Department of Labor, few large projects have been completed on Guam without the support of skilled foreign labor.

And those workers, here on temporary visas, have nearly vanished during the past year or so.

Five years ago, during the month of June 2012, more than 1,000 temporary foreign workers — mostly from the Philippines — were on Guam, holding visas through the federal government's H-2B program, according to a report compiled by the Guam Department of Labor's Alien Labor Processing Division.

This July, that number had dropped to only 92 — the result of the federal government's decision, starting more than a year ago — to deny nearly all requests by Guam businesses for the use of temporary foreign labor.

"This is the lowest it's ever been," said Alien Labor Processing Division Administrator Greg Massey, who has worked with the Labor Department since 1990.

The previous low was 96 foreign workers, in 2002, during an economic downturn and lull between large construction projects, Massey said.

"H2 numbers do go up and down with economic activity," he said.

Nearly a year ago, the Guam Contractors Association, along with 11 businesses concerned about the inability to hire new foreign workers or to renew the visas of their existing workers, sued the federal government in the District Court of Guam. They accused federal immigration officials of unlawfully changing U.S. Citizenship and Immigration Service policy.

The federal government, in court documents, has argued that the visa petitions were properly rejected, and that Guam businesses for years have been abusing a program intended to be used only for temporary labor.

The case continues. A federal judge last week recommended that the court deny a temporary injunction requested by the Guam businesses, while at the same time acknowledging that the visa issue is hurting businesses and the local economy.

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(<http://www.guampdn.com/story/money/2017/07/14/h-2-b-class-action-motion-delayed/478073001/>)

The plaintiffs are unlikely to win their case against the federal government, Magistrate Judge Joaquin Manibusan stated in his report and recommendations, because federal immigration officials have shown a rational connection between the rules and their decisions.

"USCIS has always adhered to the principle that the employment which was sought should be temporary and one that will end in the near, definable future," he stated.

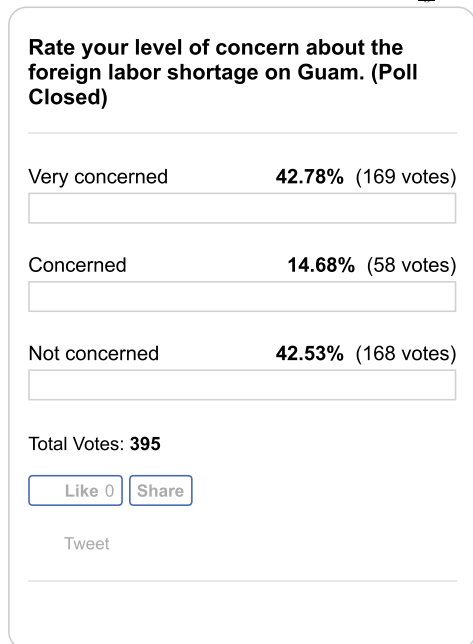
As the wheels of justice slowly turn — a status conference in the case is scheduled for Aug. 24 — the companies who sued continue to see the foreign workers number plummet.

Of the 11 companies who sued last October, eight no longer have any H-2B employees working for them, according to the Labor Department's report for this June.

Of the remaining three plaintiffs: 5M Construction continued to employ 23 foreign laborers, cement masons and carpenters; Landscape Management Systems employed two landscape gardeners; and Guam Radiology Consultants employed two ultrasound technicians.

The pending Guam military buildup, which is expected to require a large number of temporary foreign workers to complete more than \$8 billion in construction projects, could play a factor in resolving the issue.

The poll, *Rate your level of concern about the foreign labor shortage on Guam* (<https://polldaddy.com/poll/9812198/>), will close at 5 p.m., Aug. 20, 2017.



Caps on the use of H-2B labor were lifted for Guam in anticipation of the buildup, but that action is now meaningless because of the high denial rate for visa petitions.

Gov. Eddie Calvo in April said he withdrew his support for the buildup, citing the labor problem and its impact on residents and the economy.

“Despite the military’s and the federal government’s acknowledgement in the Record of Decision of the need for additional foreign laborers to augment the local work force, the Obama administration adopted a new interpretation of labor policies that has created a chokehold on our economy,” Calvo said.

Until now, the notion that the labor shortage would impact the buildup was only theoretical, as only smaller construction projects related to the buildup have been awarded.

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But the stakes got higher Friday, after the military announced a \$165.89 million contract to start building roads and other infrastructure at the site of the new Marine Corps base.

As a result, Guam businesses and officials concerned about the alien labor shortage might have an ally in the armed forces.

“We understand that skilled labor is a real concern, it’s a legitimate concern for the governor and the island and ourselves as well,” said Marine Maj. Timothy Patrick, public affairs officer for Marine Corps Activity, Guam. “This is something that we’ve worked up to the highest levels of the Department of Defense, and as soon as we get a solid answer from them that is something we’re ready to march on,” he said.

“We have addressed it to our higher commands ... They realize it’s a real issue for the governor and they realize it’s a real issue for us, too. I mean, you have to have skilled labor here, and they understand the economics of it, and they’ve got people looking into it.”

**READ MORE:**

[Guam buildup project for Marine Corps base construction awarded](#)

(<http://www.guampdn.com/story/news/2017/08/18/contract-awarded-marine-corps-guam-buildup/578376001/>)

Guam Del. Madeleine Bordallo on Friday also commented on the foreign labor shortage in relation to the military buildup.

"I am committed to ensuring that Guam's workforce issues are resolved to support all civilian and military construction needs on Guam. I will continue to push for my provision in the (defense budget) to give USCIS flexibility in approving H-2B visas for workers in our military construction and health care industries, as well as efforts to provide a broader solution for Guam and the region," Bordallo said. "I look forward to the awardee partnering with local businesses and providing opportunities for our people as the contract is carried out."

Replacing foreign laborers with U.S. laborers for the buildup projects is not a solution, the Labor Department stated last year, in a briefing to the Guam Chamber of Commerce on the visa issue.

"It is highly likely that future DOD projects would experience massive construction delays and quadrupled construction cost do to importation of U.S. workers at very high pay rates, with unusually high benefit, relocation and repatriation packages," the Labor Department reported. "The lack of skilled workers in the common construction trades on Guam is real and cannot be fixed by importing U.S. workers. History has proven this fact. Since the end of World War II, very few large facilities have been built without supplementation by foreign workers."

**READ MORE:**

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