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No H-2 visa approvals

Since December

John O'Connor | Post News Staff 6 hrs ago



IMPACT: Guam Delegate Madeleine Bordallo has already expressed concerns about the increasing rates of denial for renewing H-1 and visas and the impact this would have on the military buildup. Post file photo

There have been virtually no approvals of H-2B visa applications or extension requests since December 2015, according to Greg Massey, administrator of the Department of Labor's Alien Labor Processing and Certification Division.

In addition, nearly 400 petitions have been denied from June 2015 through February 2016 and nearly 2,000 are still waiting to hear from the U.S. Citizenship and Immigration Services.

While foreign workers can remain and work on Guam as they wait for a decision on their petitions, the reason for the delay could have negative consequences for Guam's industries, especially the construction industry.

According to Massey, most of the petitions have been issued a request for evidence (RFE). Such requests are for clarification on certain aspects of the petition and the process can take a long time.

"The RFEs kind of hold up the case versus a straight outright denial," Massey said. But regardless of the time it takes, the issuance of an RFE is essentially a precursor to a denial, he added.

To date, 16 employers have experienced denials affecting 372 positions. About 30 employers are within the RFE process for both incoming new workers and current workers needing extensions. About 1,922 positions are being affected by this holding pattern. As of March, there were 1,514 H-2B visa workers on island. About 99 percent of foreign workers come from the Philippines.

Impact

Massey said the employers affected are primarily in the construction industry which could see the most impact as there is a shortage of skilled construction workers on island.

"The 1,922 (petitions) possibly could be approved, but we're not seeing that right now," Massey said. "We're seeing zero approvals and those trickles that are coming in have all been denials."

The denials could affect the upcoming military buildup.

In a letter dated Feb. 26, Guam Delegate Madeleine Bordallo wrote to USCIS Director Leon Rodriguez about "increasing rates of denial for renewing H-1 and H-2 visas."

Bordallo alluded to the impact denials would have on the buildup.

"It is expected that Guam would need to leverage H-2B visa workers to help keep the construction pace on track to accomplish this strategic endeavor. In fact, this is the reason Congress has kept Guam and the CNMI's H-2B visa quota separate from the national quota," Bordallo wrote in her letter.

A statement from the Office of the Governor in March noted what seemed to be "more intense scrutiny" of H-2B applications which had resulted in an unusual increase of denials for Guam. It was a trend seen throughout the mainland, the statement added.

Shift

The governor had requested GDOL to work with the U.S. Department of Labor and USCIS to determine the cause for the scrutiny. Massey said yesterday that USCIS had indicated that there were no changes to rules or procedures at the office. Massey attributed the increased scrutiny to a shift in thinking by USCIS adjudicators.

"You can interpret rules a certain way. They choose right now to interpret it in the most severe way," Massey said. He added that in the last 20 years Guam has had a nearly 100 percent approval rate for petitions.

The situation has also affected the island's health industry as the Guam Regional Medical City has experienced some denials, Massey said.

Bordallo's letter in February referenced these denials, stating that a USCIS response at the time did not give a clear reason for denying the H-2B visa renewals for those GRMC employees.

The hospital initially brought in about 70 nurses on H-2B visas, Massey said. Employment is typically for a year and extendable up to three years. Inquiries were sent regarding how many nurses were denied visa extensions but GRMC had not responded by press time.

Not yet

At this point, Massey said there does not seem to be much of an impact on Guam's economy as foreign workers are able to work while waiting on their USCIS decisions. Regardless of the time it is taking, he said a solution would eventually materialize partly through the needs of the Department of Defense.

Massey said that without foreign workers, "there will be no buildup."

The only other way to generate a workforce for the buildup's construction projects would be to try to attract U.S. workers with wages four or five times that of foreign workers, a situation Massey said he did not believe the military would be willing to indulge.

"The military is committed to the buildup," he said. "One way or the other it's going to be fixed. ... The big worry is how long it's going to take."

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