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Attorney: Guam may be singled out in H-2B battle

John O'Connor | The Guam Daily Post 7 hrs ago



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FOREIGN LABOR: Greg Massey, shown in the background, the administrator of the local labor department's Alien Labor Processing and Certification Division, and Melinda Swavely, speaking, an immigration attorney, speak during the regular meeting of the Guam Chamber Commerce at the Sheraton Laguna Guam Resort yesterday. John O'Connor/The Guam Daily Post



Guam may be being singled out in the national battle over H-2B workers, according to Melinda Swavely, an immigration attorney who has been voluntarily assisting local contractors with a lawsuit against the federal government.

Swavely pointed out what she called a "disturbing development," while speaking to members of the Guam Chamber of Commerce

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yesterday on Guam's foreign labor issues.

Guam has had nearly zero approvals of H-2B visa petitions since last year. The matter has had a negative impact on the local construction industry, driving up the cost of labor and causing delays in some projects. The Guam Contractors Association and several local contractors sued federal immigration officials in October 2015 with the hope of reversing the trend.

"This problem has been happening across the U.S., but now it seems to be resolving in the U.S. but it's still happening here on Guam," Swavely said. "It's more of a reason to keep pushing this litigation and do whatever we can to resolve this."

From 1,500 to 140

Guam had nearly 1,500 H-2B workers on the ground at this point last year. There are now less than 140 foreign laborers working on island, according to Gregg Massey, the administrator of the local labor department's Alien Labor Processing and Certification Division.

Guam Delegate Madeleine Bordallo said she would work to find legislative relief through the upcoming defense spending bill.

But the legislative landscape in Washington is toxic at the moment when it comes to immigration issues, according to Massey. Regardless, the H-2B issues need to be resolved because there aren't enough local workers to fill labor needs for the buildup, he added.

This turns the issue more into a matter of national defense than immigration, according to Swavely.

Easy fix

Another avenue for relief would be revising the regulation on temporary labor. This is the avenue Gov. Eddie Calvo is pursuing,

Massey said, and it should be an easy fix if others are willing to cooperate.

"This temporary need is not in the statute. All the statute says is the job must be temporary, and then the regulation says it's got to be a peak-load, one time occurrence and all this legal mumbo-jumbo about how you fit into that slot," Massey said.

"That's very easily fixed. ... If we can get someone to do rule-making, it wouldn't affect other jurisdictions, it wouldn't perk up Congress' ears because you're not touching the national stage ... it's just a matter of getting somebody to pay attention to that fix."

According to documents filed at the District Court of Guam yesterday, the plaintiffs in the H-2B lawsuit plan to file a motion for summary judgment.

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