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NEWS

Bid to get H-2B workers approved fails

Wednesday, December 11th 2019, 5:04 PM ChST

By **Nestor Licanto**



It appears the labor shortage plaguing private sector construction projects will continue.

The latest bid by the Guam Contractors Association to force the U.S. Citizenship and Immigration Service to start approving H-2B visas has failed.

The legal battle has been going on since 2017, ever since contractors began seeing their foreign worker visa applications routinely denied, unlike previous years when they were routinely approved.

They won a court order in which Judge Frances Tydingco Gatewood ruled that U.S. CIS should revert back to its former practice, but in the mind of contractors, the federal agency has not been complying.

But the contractors' motion to hold U.S. CIS in contempt has been denied by Judge Gatewood. She wrote that the plaintiffs have failed to provide clear and convincing evidence that there were violations of her order. The judge notes that in its response to the motion, U.S. CIS now essentially concedes that its previous practice may have involved "rubber-stamping" contractor petitions, which would be unlawful if the visas were issued without determining that all statutory requirements were met.

In that case, the court wrote, "it has no authority to order a party to violate the law."

Meanwhile, local government and private sector officials have argued that the continued H-2B denials are stifling economic development. They argue that the so-called "outside the fence" construction projects should receive the same consideration as military projects.

Congress included a provision in a previous defense budget bill that provides exemptions for H-2B labor for military buildup related projects.

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