

[https://www.postguam.com/news/local/h--b-visa-issuance-in-other-states-to-increase/article\\_9abef6e6-5eea-11e7-9b7c-a7293840d204.html](https://www.postguam.com/news/local/h--b-visa-issuance-in-other-states-to-increase/article_9abef6e6-5eea-11e7-9b7c-a7293840d204.html)

## H-2B visa issuance in other states to increase

Guam continues to get short end of the stick

Louella Losinio | The Guam Daily Post 5 hrs ago



**APPROVALS:** Greg Massey, administrator of the Guam Department of Labor–Alien Labor Processing and Certification Division said the H-2B visa approval rate is still at 0 percent as of June. Post file photo

While the U.S. Department of Homeland Security has announced plans to issue more seasonal H-2B visas for the U.S. mainland this year, Guam industries continue to bear the impact of the dwindling number of temporary workers.

In the 2017 Consolidated Appropriations Act, a provision was included authorizing DHS to increase the H-2B visa cap for the U.S. mainland. In June, DHS spokesman David Lapan, as reported in various media, announced plans to issue more seasonal H-2B visas in the mainland as early as July. As to what the numbers would look like, Lapan said it has not yet been determined by DHS Secretary

John Kelly.

Meanwhile, on Guam, the number of H-2B workers continues to decrease, and the rate of visa issuance remains at a standstill. The lack of H-2B approvals prompted the Guam Contractors Association to initiate a class action lawsuit along with 12 small business plaintiffs.

John M. Robertson, president of AMORIENT Engineering, said that in the U.S. mainland, a coalition was formed to address the H-2B workforce issue. The coalition was supported by more than 40 national organizations, including the U.S. Chamber of Commerce, Association of Builders and Contractors, Association of General Contractors of America, and the National Association of Realtors, along with a multipage listing of regional associations.

According to Robertson, inclusion of the H-2B provision was a result of the coalition's efforts. The president signed the 2017 Consolidated Appropriations Act in May with the provision that allows DHS, in consultation with the U.S. Department of Labor, to increase the H-2B cap for fiscal 2017.

According to U.S. Citizenship and Immigration Services, the H-2B cap for the U.S. mainland for the first half of fiscal 2017 was reached in January. The cap for the second half was reached after two months.

The U.S. mainland, according to the USCIS, has a statutory cap of 66,000 for H-2B recruitment per fiscal year. During the first half of the fiscal year, the program limits the hiring of workers to 33,000. The remaining numbers are applied for the remainder of the fiscal year. Unused numbers from the first six months are carried over during the second half of the year, but not in the next fiscal year. Visa limits pass through congressional review and approval.

While the omnibus spending bill provided a solution to U.S. mainland industries seeking temporary workers, Guam continues to wait for a solution. In March 2016, the island had about 1,500 temporary workers, but visa expiration have reduced that to just around 260 by the end of February. In early June, Greg Massey, administrator of the Guam Department of Labor–Alien Labor Processing and Certification Division, said the H-2B visa approval rate is still at 0 percent. Massey said the 113 are from the last batch of approvals from 2015 and 2016. Some of the workers are appealing their visa denial.

### **Military construction projects**

The House Armed Services Committee has favorably reported out H.R. 2810 or the National Defense Authorization Act for Fiscal Year 2018, which authorizes appropriations of around \$354.65 million out

of \$9.7 billion for military construction projects – a critical component of the ongoing Marine realignment plan.

The proposed NDAA for fiscal 2018 includes funding for military infrastructure and housing projects, including \$40.87 million for housing facilities at AAFB; \$56.08 million for a water well field, and \$75.23 million for an aircraft maintenance hangar.

“The bill demonstrates Congress’ continued commitment to move forward with the realignment of Marines from Okinawa to Guam, and address related local challenges,” said Guam Delegate Madeleine Bordallo.

While previous defense appropriation acts also incorporate significant budgets for military construction to support the realignment, the limited workforce capability as a result of the spate of H-2B denials could impact the defense department's ability to meet construction targets.

According to Robertson, Guam's need of employers to supplement their workforce with foreign workers is particularly essential due to Guam's location in the far western Pacific, far removed from additional U.S. labor sources, and the territory’s relatively small population. During the past 18 months, many efforts have been made by the Guam Contractors Association and others to get relief from USCIS on this sudden change in policy, but to no avail.

“While employers in Guam have launched a number of initiatives to resolve the H-2B problem, our efforts have not been as successful as the stateside H-2B Workforce Coalition. Congresswoman Bordallo and Gov. (Eddie) Calvo have done all that could be expected of them. The Chamber of Commerce and its Armed Forces Committee made this problem the major issue for 2017 in their annual door-knocks in Washington, D.C.,” he said.

Robertson said while the lawsuit is one way of resolving the H-2B workforce issue, a more comprehensive resolution would be through an H-2B regulation change at the DHS level.

“Ultimately, Guam would likely need to seek federal legislation for a separate Guam-only visa which would take into account all of Guam’s special needs with regards to temporary foreign workers; however, this legislation may take considerable time to materialize given the reluctance in Washington, D.C., relative to immigration reform,” Robertson said.

Bordallo, in a release, said she had met with DHS Assistant Secretary for Legislative Affairs Ben Cassidy to raise concerns on the continuing H-2B visa denials, with the belief that the issue can be addressed “internally without legislative action.”

Louella Losinio