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Philippine H-2B visa cut could delay Guam projects, hurt economy



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By Nestor Licanto

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The loss of temporary skilled Filipino workers could have a dramatic effect not just on the local construction industry, but on the Guam economy as a whole, according to the head of the Guam Contractors Association said.

The surprise announcement by the Department of Homeland Security to remove the Philippines from the H-2B labor program has the Leon Guerrero administration scrambling to mitigate the impact.

The notice appeared in the Jan. 18 *Federal Register*. The Philippines was one of three countries declared no longer eligible for the H-2B program. But Contractors Association president James Martinez said Filipinos make up the majority of the foreign workers who are brought in, mostly for construction jobs that aren't able to be filled locally. He said if projects have to be delayed or costs increase it may discourage investment.

"We're in between a rock and a hard place," he said. "The Philippines got a huge population base so they can actually that's one of their number one exports is labor."

In removing the Philippines, DHS cited a "high over-stay rate and concerns over a "high volume of human trafficking victims who were originally issued H-2B visas."

"It's a little early to know exactly how they're going to treat us in our applications," Labor Director David Dellisola said "But I know that the governor is taking this to task and is making phone calls to Homeland Security, the secretary of state, and the White House to see if she can get some kind of exemptions or just kind of get some feedback on what their feelings are."


Guam has received exemptions in the past, like the recent defense spending bill which provides easier visa approvals for military-related projects. And that also apparently applies with the new decision.

"They've seen the need-- it's just a matter of getting that need effectuated through Congress," Alien Labor Certification Administrator Greg Massey said. "I know that the governor office, they're gonna be working with Mike San Nicolas in trying to see what he can do in Congress. It's an uphill battle though. We've been dealing with this for the past couple of years."

"The contractors association has been fighting U.S.Citizenship and Immigration

Service over a nearly 100-percent visa denial rate for non-military projects. This new development just adds to the challenges. But labor officials said the high overstay rate and human trafficking concerns don't apply here, which may work in Guam's favor in seeking an exemption. The decision is effective for one year and does not affect current H-2B workers.

Federal Affairs committee chair Sen. Regine Biscoe Lee calls the removal unfair. She pledged to work with the administration to find a solution.



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Notices

Federal Register
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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF HOMELAND SECURITY
[Docket No. DHS-2011-0108]
RIN 1601-ZA11

Identification of Foreign Countries Whose Nationals Are Eligible To Participate in the H-2A and H-2B Nonimmigrant Worker Programs

AGENCY: Office of the Secretary, DHS.
ACTION: Notice.

SUMMARY: Under Department of Homeland Security (DHS) regulations, U.S. Citizenship and Immigration

shall be without effect after January 18, 2020.

FOR FURTHER INFORMATION CONTACT: Eric B. Johnson, Office of Strategy, Policy, and Plans, Department of Homeland Security, Washington, DC 20526, (202) 282-8652.

SUPPLEMENTARY INFORMATION:
Background: Generally, USCIS may approve H-2A and H-2B petitions for nationals of only those countries that the Secretary of Homeland Security, with the concurrence of the Secretary of State, has designated as participating countries. Such designation must be published as a notice in the **Federal Register** and expires after one year. In designating countries to include on the list, the Secretary of Homeland Security, with the concurrence of the Secretary of State, will take into account factors including, but not limited to: (1) The country's cooperation with respect to issuance of travel documents for citizens, subjects, nationals, and residents of that country who are subject to a final order of removal; (2) the

(H-2B nonimmigrants), as applicable; (2) evidence that the beneficiary has been admitted to the United States previously in H-2A or H-2B status; (3) the potential for abuse, fraud, or other harm to the integrity of the H-2A or H-2B visa program through the potential admission of a beneficiary from a country not currently on the list; and (4) such other factors as may serve the U.S. interest. See 8 CFR 214.2(h)(5)(i)(F)(1)(ii) and 8 CFR 214.2(h)(6)(i)(E)(2).

In December 2008, DHS published in the **Federal Register** two notices, "Identification of Foreign Countries Whose Nationals Are Eligible to Participate in the H-2A Visa Program," and "Identification of Foreign Countries Whose Nationals Are Eligible to Participate in the H-2B Visa Program," which designated 28 countries whose nationals were eligible to participate in the H-2A and H-2B programs. See 73 FR 77043 (Dec. 18, 2008); 73 FR 77729 (Dec. 19, 2008). The notices ceased to have effect on January 17, 2010, and

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