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USCIS 'will comply' with court decision

1,398 petitions for H-2B visas filed

Kevin Kerrigan | Guam Daily Post 8 hrs ago



DELEGATION: Rep. Bob Goodlatte, R-VA, chairman of the House Judiciary committee, speaks during the congressional delegation's briefing with Del. Madeleine Bordallo and military leaders Monday at the Hilton Guam Resort & Spa. Photo courtesy of the office of Del. Madeleine Bordallo

John Robertson, chairman of the committee overseeing the Guam Contractors Association's lawsuit on foreign worker hiring under H-2B visas, said on Monday that he has been advised that U.S. Citizenship and Immigration Services will not appeal the decision that the contractors won in federal court last month.

Chief Judge Frances Tydingco-Gatewood of the District Court of Guam issued a preliminary injunction against USCIS on Jan. 23, ordering the agency to reverse its previous denials of H-2B worker petitions, and to stop the blanket denial of future petitions, at least temporarily, until the merits of the case have been decided.

Robertson, who is president of AmOrient Engineering, told The Guam Daily Post that the Colorado-

based lead attorney in their lawsuit, Jeffery Joseph, emailed him last week to say USCIS "will not be pursuing" a ruling to overturn the injunction.

Joseph's email stated USCIS will comply with the judge's order, according to Robertson.

"That's really good news," said Robertson. The email from Joseph also "encouraged employers that need H-2B workers to file right away – get moving."

Many already have, according to Greg Massey, administrator for the Department of Labor's Alien Labor Processing and Certification Division.

"There's a bunch of positive developments," said Massey, who pointed to the Friday announcement from USCIS that it is now accepting applications for H-2B visas for work directly related to the military buildup. He also pointed to USCIS' recent approval of 1,044 H-2B visas for Imperial Pacific International, the developer of a massive casino on Saipan.

Petitions filed for 1,398 skilled foreign workers

As of Monday, Massey said, seven local employers already had filed petitions with DOL for labor certifications for 1,398 skilled foreign workers.

He said these applications were filed beginning in January, in anticipation of the USCIS announcement that it would start accepting H-2B applications specifically for the military buildup. In the 2018 National Defense Authorization Act, up to 4,000 H-2B visas are authorized each year.

"We're kind of optimistic," Massey said. "The sigh of relief will come when we see the first worker hit the ground."

Massey said DOL is nearly finished certifying the applications that have been received. The governor then issues a labor certification, which is given to the employer, who in turn takes that certification and files its petition with USCIS for an H-2B visa.

All the applications filed by the employers seeking new H-2B workers have start dates beginning in May, said Massey. He doesn't think any new workers will arrive before May 1, provided that USCIS follows through and approves the applications.

"Both paths are open now," Robertson said. Employers can apply for H-2B workers for military and

outside-the-fence jobs.

"My take on this is that (USCIS) finally woke up that they were going to lose this battle," he said.

"They've been ruining our economy and there is no reason for it."

However, the court case will go on, said Robertson. They're still seeking class-action status, he said. The preliminary injunction issued by Tydingco-Gatewood applies to only GCA members and the 11 businesses that joined in the lawsuit. The plaintiffs are also seeking to make her temporary injunction permanent.

More than \$110,000 has been spent on legal fees, Robertson said.

"We're going to have to do more fundraising."

Labor issues top CODEL meeting

Meanwhile, Del. Madeleine Bordallo met with a visiting congressional delegation Monday at the Hilton Guam Resort & Spa, telling them that "a broader solution is necessary to meet Guam's civilian labor demands."

The delegation, led by Virginia Rep. Bob Goodlatte, is meeting with civilian and military leaders and learning about defense readiness, as well as the workforce challenges facing the island.

In a release, Bordallo noted that the provision allowing for 4,000 H-2B visas that she included in the NDAA "provides some relief" for buildup-related projects, but more needs to be done to meet the needs of the civilian community.

"We need additional legislation for civilian workers not related to the Marine relocation," Bordallo said.

The buildup involves building a base for almost 5,000 Marines and their dependents who are being moved from Okinawa.