

**Testimony of the Honorable Lourdes A. Leon Guerrero**  
**Governor of Guam**  
**United States Senate - Committee on Energy and Natural Resources**  
**February 26, 2019**

Hafa Adai and Si Yu'os Ma'ase for the opportunity to present testimony to this Committee. I am Lou Leon Guerrero, I Maga Hagan Guahan, the Governor of Guam. In the less than two months of my Administration, I have been working tirelessly to address issues and priorities that will provide significant and lasting change to our island and shape a brighter future for all who call Guam home --including economic diversity, public safety, education, healthcare, and financial discipline. I want to provide testimony about issues that require immediate attention from Congress.

**H-2B**

As you know, Guam is among the most patriotic places in the entire country. Per capita, we have one of the highest enlistment rates and veteran populations in the nation. We welcome the military buildup and the economic impact it will bring, but it must be done at a pace that will benefit our local people, our island, and the U.S. military.

The Department of Homeland Security's recent administrative action that removed the Philippines from a list of countries eligible for the H-2B program effective January 19, 2019 affects us greatly. While the new policy provides the U.S. Citizenship and Immigration Services (USCIS) with discretion on a case-by-case basis to approve H-2B petitions that serve the national interest, including petitions that qualify under section 1045 of the National Defense Authorization Act (NDAA) for FY 2019, it is clear that the ban on foreign skilled labor from the Philippines will have a detrimental impact in Guam.

Since the end of World War II, Guam has been a primary focus for U.S. military investment because of its high strategic value in the Asia-Pacific region. Guam is home to Naval Base Guam, Andersen Air Force Base, THAAD Missile Defense System, and, in the near future, Marine Corps Base (Camp Blaz). Alongside these strategic military investments, Guam has developed into a tourist destination with 1.7 million visitors annually and a projection to surpass the 2 million mark sometime between 2025-2027. Guam's military and civilian growth has been supported by foreign skilled labor. Given Guam's close proximity to the Philippines, local employers have come to rely on the Philippines as the primary source of supplementary skilled labor when utilizing the H-2B program.

We have already experienced the impact that a loss in skilled foreign workers has on our island. Beginning in late 2015, USCIS' seemingly arbitrary denial of nearly all H-2B petitions for Guam, which previously had routinely been approved at a 95% rate, resulted in a severe shortage of skilled foreign labor for the island's construction industry. From an average of 1,500 foreign

workers yearly prior to the blanket denials, the H-2B workforce dwindled to 252 in 2017 and 71 in 2018. In May 2018, Guam reached an unprecedented zero H-2B workers on the island.

The FY 2019 NDAA partially addressed this issue through Section 1045, but such language primarily was passed to ensure that the U.S. military and its projects funded by military construction dollars, maintained access to foreign labor. However, uncertainty of approvals on the civilian side has led to delays in ongoing projects and discouraged contractors from bidding on new ones. This scenario has driven up construction costs, stifling private sector development and causing irreparable harm to the local economy and the military buildup.

Specifically, DHS cited a national 40% overstay rate and a high volume of trafficking of visa holders from the Philippines as reasons for the country's removal from the programs. This is not the case for Guam. The island's rate of H-2B workers who intentionally overstay is negligible and there are no known trafficking cases involving Philippine citizens.

For decades and up until today, Guam understands that our location provides our country with a valued location in which to monitor and project military force in the Asia Pacific region. Whether one agrees or disagrees with U.S. military presence on our island, it is inarguable that we possess strategic value and contribute to the national security of our nation.

Because of this, I submit to this Committee that Guam's economic security is equally important to the country's national security. For many years, this Committee, and the Congress has worked to develop policies to assist all territories develop our respective economies.

Today I present to you that the more than \$8 billion of U.S. military construction dollars is generating considerable interest of others to invest in Guam. We welcome this interest and want to capitalize on this opportunity to increase the quality of life for our people, our visitors, and the military men and women who call Guam home.

Along with our military partners, we are taking a One Guam approach. However, not everyone in the federal family is on the same page. Segregating our community to further the perception of "Inside the fence" and "outside the fence" attitudes do not work on an island 30 miles long and 8 miles wide.

As Congress considers the 2020 National Defense Authorization Act, I ask for legislative or administrative clarification that Guam, along with our sister territory of the Northern Mariana Islands, be exempted from prohibitions in accessing foreign labor from the Philippines.

As One Guam, ALL projects on Guam must be considered as associated with the military realignment and under Section 1045 of the FY 2019 NDAA. I respectfully request that further amendments to Section 1045 be made to allow for the approval of workers from the Philippines notwithstanding the regulations associated DHS's H-2B approved countries list.

## **Compacts of Free Association**

The Compacts of Free Association Act authorize unrestricted immigration of citizens from the Federated States of Micronesia (FSM), Republic of the Marshall Islands (RMI) and Palau, allowing them to work and establish residence on Guam as non-immigrant aliens. While we welcome our neighbors from the outer Micronesian islands as part of the Compacts of Free Association Act, our local social services and infrastructure have been overly taxed by their influx - while promises from Congress to cover the costs go unfulfilled.

The Compact Impact cost from FY 1987 to FY 2003 totaled \$269 million, including \$178 million for education, \$48 million for health, welfare and labor, and \$43 million for public safety. Yet Guam's request for \$200 million in debt relief was declined. Since then, a total of \$1.4 billion in costs were incurred from FY 2004 through FY 2018, with Compact Impact Assistance Grants awarded to Guam totaling only \$229.2 million.

We cannot continue to support this unfunded mandate. Our local services and infrastructure are being stretched too thin and we need the federal government to step up and keep their promise.

## **Earned Income Tax Credit**

The Government of Guam receives over 55,000 tax returns annually from taxpayers and refunds about \$120 million, with over \$50 million for Earned Income Tax Credit reimbursements. EITC is our second-largest unfunded mandate, second only to the costs associated with providing services to citizens of the Freely Associated States.

While the states are reimbursed by the federal government, Guam is required to pay EITC reimbursements from its General Fund, without federal reimbursement. EITC claims have substantially increased over the years. In tax year 2016, \$55.2M, or 43 percent of all tax reimbursements, were EITC payments. Further, while states have been reimbursed for their payments to FAS citizens living in the mainland, Guam has been burdened with paying EITC to eligible FAS citizens from its General Fund. I ask Congress to fund this mandate and ensure that the Compact reimbursement funds account for EITC payments to FAS citizens.

## **Medicaid**

The Guam Medicaid Program, like other U.S. Territories, operates differently than it does in the states. Because Guam's Medicaid operates essentially as a block grant with an annual ceiling, we would often exhaust our federal funding allocation. The Affordable Care Act changed this by increasing the federal allocation to ensure that Guam would have the resources to provide essential health services, without depleting the federal dollars in the Medicaid program.

While states' Federal Medicaid Assistance Percentage are calculated annually and use a formula that takes into account per capita income, the calculation for Guam is limited by statute. The

ACA increased the Medicaid dollar allotment and increased the FMAP by 5%, but this is not enough. Although Guam received additional funding of \$268 million to help alleviate its Medicaid funding shortfall, our government cannot provide the local match to fully expand the program and utilize the \$268 million, which will expire on September 30, 2019.

If ACA funding is not extended or replaced, the Guam Medicaid Program could be forced to decrease its income guideline and terminate more than 50 % of its current eligible population. We cannot allow our most vulnerable to fall off this fiscal cliff.

I ask Congress to raise or eliminate the Medicaid funding cap as well as the 55% Federal Medical Assistance Percentage and to give our island the highest FMAP applicable under law.

### **Guam World War II Loyalty Recognition Act**

Finally, many of you may not be aware that residents of Guam were subject to rape, severe personal injury, forced labor, forced march, internment, and even execution as a result of the occupation of Guam by Japan during World War II. The Guam World War II Loyalty Recognition Act authorizes Section 30 funds to be set aside for war claims compensation. However, the U.S. Department of Treasury is now claiming that they are unable to issue final award payments based on their interpretation that the Act does not contain appropriations language.

With this inaction, the federal government is not just withholding payments of war claims, they are withholding parity and closure for Guam's remaining survivors. I ask you to support H.R. 1141, which was introduced by Guam delegate Congressman Mike San Nicolas, that provides language for these compensation payments to be made. I ask you to right the wrongs of the past for these fellow Americans on the 75th anniversary of the Liberation of the people of Guam.

### **Closing**

We look to your leadership and assistance in addressing these issues for the island of Guam. Si Yu'os Ma'ase.