



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
OFFICE OF THE SECRETARY

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TO: 16th Legislature

FROM: Cinta Kaipat, Deputy Secretary of Labor /*cmk*

DATE: April 1, 2009

SUBJECT: Interim Progress Report #8 on the Implementation of PL 15-108

Progress in U.S. Citizen Hiring: We are making good progress in placing U.S. citizens in jobs. Initially, we reported only on those U.S. citizens who came to the office in person for assistance in finding a job. However, we are improving our website so that we can report on all of the U.S. citizens who find jobs with the assistance of the Labor Department either through the website or through in-person assistance. We add features to the website very gradually so that we can stay within budget and also protect the website from any downtime due to malfunctions. Our new capabilities will allow us to review resumes posted online by persons who have not come to the office. We will be able to e-mail suggestions to the U.S. citizens who are applying for jobs on ways they can make their resumes more attractive to employers, if they wish. We are also adding the capability for employers to more easily create lists of potential U.S. citizen candidates who have the qualifications in their resumes for the job to be filled. Since October 2008, we have processed transfer requests for 615 foreign workers who have been displaced in their jobs by U.S. citizen hires. That is only one informal measure of our success because not every foreign worker who is displaced elects to request permission to transfer; some elect to be repatriated.

Progress in Peaceful Repatriations: During the last three years -- 2006, 2007, and 2008 -- the Department has processed and completed the repatriation of over 16,000 foreign workers. This has been an enormous administrative task of completing labor cases, securing repatriation tickets, and making voluntary arrangements for departures. The Department has done this work quietly and efficiently, working cooperatively with foreign workers and their representatives to accommodate hardship concerns and to honor requests for the timing of repatriation. The Department does not get involved in any non-voluntary departures. Deportations are handled only by the Immigration Division. The Department has assisted the Immigration Division by using its new automation system to generate quarterly overstayers lists. The lists, when published, assist in obtaining voluntary departures or correction of the records for those whose status entitles them to remain in the Commonwealth. The overstayers list for the third quarter of 2008 has been published and certified to the Immigration Division after a 15-day period for corrections and appeals. We have only a few corrections on these

lists and the system is working well. The list for the fourth quarter of 2008 will be published shortly.

Enforcement Against Insolvent or Unqualified Employers: The Director of Labor has subjected applications to employ foreign workers to increased scrutiny, using our new automated processes, to weed out employers who are insolvent, who lack the necessary resources to pay their foreign workers, who may not be providing a real job, or who are otherwise unqualified. There has been a large increase in the number of applications denied. Appeals of these denials have been filed in 627 cases from June 2008 through March 2009. All of these appeals have been processed efficiently by the Hearing Office, in addition to its normal caseload of labor complaints. The Director's disqualification has been upheld in many cases, and the employer has been denied permission to employ foreign workers. This has three beneficial effects: first, the number of unfit employers has been reduced very substantially, resulting in fewer labor complaints from foreign workers about not being paid; second, the number of employment scams set up solely for the purpose of allowing foreign workers to remain in the Commonwealth while unemployed has been reduced, resulting in fewer law enforcement problems; and third, the number of U.S. citizens hired has been increased because a business can hire a U.S. citizen without any scrutiny of its finances by the Labor Department.

Transfers: The success in placing U.S. citizens in jobs and disqualifying unfit employers has resulted in extensions of transfers for some workers. If a worker is displaced because a U.S. citizen applied for the job and was hired, then the foreign worker gets another chance to transfer. If we did not do this, we would have less success in getting foreign workers to help train their U.S. citizen successors. If a worker finds a transfer employer, but the Labor Department disqualifies this employer for reasons that are not the worker's fault, then the worker gets another chance to transfer. If we did not do this, we would have less success in keeping workers out of the underground economy. In addition, we sometimes give transfer extensions to skilled workers whose prospective employers need time to get the transfer papers together and secure the necessary bonding and also, on occasion, we give transfer extensions to hardship cases where, for example, the parents would be required to take their U.S. citizen children out of school near the end of the school term. The Department manages the transfer process carefully. Every transfer has to be approved in the Administrative Hearing Office and every employer has to be approved by the Director of Labor.

Bonding: In this Administration, we have had very, very few defaults on bonds. As has now been experienced on a vastly larger scale in the United States, bonding companies may fail in bad economic times. The recession in the Commonwealth has been going on since 2005, and we have had some bonding company failures as a result. Although we have monitored the bonding situation very carefully over the past three years and we have largely prevented defaults on current bonds, we do have a problem with older defaults. The Superior Court has ruled that we must treat these defaults under the old Nonresident Worker Act, and we are

taking steps right now to put into place a procedure to deal with this. I will have a further report for you on this subject in a few weeks.

Budget Measures: We are working hard to get into compliance with the 2009 budget enacted this month by the Legislature. We have an excellent administrator, Bobbie Sablan, who maintains detailed documentation of all of our personnel and expenditure decisions. The Department has decreased its staffing from 86 in 2006 to 72 in 2007 to 46 in 2008. At the same time, we have increased the capability of our automation system and expanded our website so that service to the community has not suffered. The Department is a revenue-generating agency, so it is important that budget cuts not adversely affect revenue collections. If we are slowed down in our administrative processes by lack of staff, we are also slowed down in our revenue generation for the Commonwealth Treasury. With only 46 positions (down from 85 in 2006), we are now at that point. We have reorganized and cut down positions through our own processes. Hopefully, we will not be bundled with agencies that have resisted change and subjected to arbitrary cuts.

Extension of the Automation System: In order to meet the Department's workload with decreased personnel, we have systematically extended our new automation system to cover additional functions. The automation system was initially applied only to Labor Processing as our biggest task was to reduce the backlog of applications. This past week, the Director of Labor reported that the staff had once again achieved a zero backlog. All applications pending in the system had been processed by the end of the week. We have added the TWA unit to the automation system, and all TWA requests and grants are being handled through the system. We have cut the number of TWAs to the present total of 78. We are now rolling out the extension of the automation system to Employment Services and the Hearing Office. Increasingly, all of the work of these units will be handled through the automation system. This means that more and more of our records are retained digitally and are retrievable without a lot of staff time spent looking through paper files.

Federal Stimulus Funding Grants: We think that the Employment Services and Labor Enforcement areas of the Department may qualify for grants under the federal stimulus funding. We are working on three proposals, and we expect to have them submitted shortly.

Coordination with Federal Authorities on Labor Matters: Now that we have the 180-day extension in hand, there is less urgency about any transition with respect to labor matters, and we can await the outcome of the federalization lawsuit without employers and workers having to adjust their affairs in the interim. However, we have been meeting regularly with the federal authorities since last fall (and Lynn Knight continues to meet with them now) to explain exactly what we are doing, how we are making decisions, and why our procedures are working effectively. I believe we have good lines of communication and that the federal authorities have much better and more current information about our activities than has been the case in past years.

New Labor Counsel: We are very pleased to welcome Eli Golob as our new labor counsel. Eli was sworn in as a member of the bar last week, and appeared in court on several cases a few days later. He formerly practiced in Arizona and New York and is experienced in trial work and administrative hearings. Now that Eli is on board, we can reduce the backlog of labor cases pending in the Superior Court. We expect to be current within about six to eight weeks. We are grateful to the courts and opposing counsel who granted continuances while we were in the process of hiring Eli. Eli will also be working on reducing the backlog of claims originating from workers in the Commonwealth at the EEOC, the U.S. Labor Relations Board, and the U.S. Department of Labor. These federal agency backlogs are not the result of any delay at the CNMI Labor Department, but we are going to urge the agencies to move along and terminate TWAs as possible in cases where the agencies continue their undue delays.

Internet Videoconferencing for Rota and Tinian Proceedings: Budget restrictions have prevented the Hearing Office from traveling to Rota and Tinian for mediations and hearings. We are still working on an acceptable substitute. We have started testing the free Skype service, but we are having some bandwidth issues. We may have to move to a low-cost web conferencing alternative or some other alternative. We hope to have some non-travel capability operational soon.

Coordination With the Legislature: The Department would like to work closely with all legislators to deal quickly with any problems that constituents may have with our processes. Send me an e-mail at depsec2@gmail.com or call me at 236-0908, and I will direct it to the proper person and follow up personally to be sure things get done. If you need information or have questions, please let me know. I am here to work with you as efficiently as I can.

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Thank you.

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cc: The Honorable Benigno R. Fitial, Governor
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Members of the 16th Legislature
April 1, 2009
Page 5 of 5

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