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Response to Comments Raised in Guam Senator Cruz Letter Re: Guam Military base Contractor Recruitment Standard

As to Senator Cruz's comment in the last paragraph of page 1 of his letter, we would like to clarify that the recruitment plan proposed by the U.S. Department of Labor is not a substitute for Guam's existing H-2B labor certification requirements. The National Defense Authorization Act (NDAA) of 2010 specifically imposes additional recruitment requirements on contractors engaged in construction projects related to the realignment of U.S. military forces from Okinawa to Guam. Therefore, the recruitment plan is in addition to, and not in lieu of, the H-2B labor certification requirements set forth by the Governor of Guam.

As to Senator Cruz's four additional comments on p. 2 of his letter, ETA makes the following responses.

In general, USDOL has made every effort to avoid requiring Guam base realignment contractors or their sub-contractors to duplicate steps they would need to take in compliance with other employment statutes and regulations. USDOL regards such duplication as creating an unnecessary additional burden on these contractors.

USDOL fully concurs with Senator Cruz's statement about "the need to have local and U.S. workers fill job opportunities which will avail as a result of the Guam military alignment." USDOL believes that its recruitment procedure and the activities undertaken by USDOL itself will more than fulfill the outreach envisioned by Senator Cruz.

1. Chapter 7 of the Guam Administrative Rules and Regulations and the Guam Alien Labor Processing and Certification Division procedures already require posting job listing in newspapers. Since the recruitment plan requirements are in addition to, and not in lieu of, Guam's existing H-2B labor certification requirements, USDOL does not believe it is necessary to duplicate this in the NDAA recruitment requirement.
2. As required by section III of the Guam Military Base Realignment Contractor Recruitment Standards (USDOL Recruitment Support Activities), USDOL will undertake a nationwide outreach and recruitment effort that includes issuing a Training and Employment Notice and Webinar invitation. These will be shared with the 579 state and local workforce investment boards. The Workforce Investment Act requires that every state and local workforce investment board must include a labor representative thus assuring that in addition to the construction

contractor's recruitment effort, labor representatives nationwide will be alerted to the construction employment opportunities on Guam.

3. USDOL will adjust the contractor recruitment standard to indicate that the job posting information should also be shared with labor unions to ensure that construction labor unions obtain the same information available on job openings in Guam Job Bank and on the Internet. In addition, the contractor's recruitment requirement is consistent with the USDOL standard in its H-2B Notice of Proposed Rulemaking. USDOL disagrees that separate outreach efforts should be conducted for community colleges, which do not inherently conduct labor exchange activities. The postings required by USDOL's recruitment rules would already be accessible to community colleges as well as the state and local workforce investment boards and in approximately 2,900 Workforce Investment Act-funded One-Stop Career Centers nationwide. Indeed, many community colleges operate One-Stop Career Centers.
4. USDOL will send the Webinar invitations to the National Governors Association and the National Conference of State Legislatures. USDOL will research other appropriate vehicles for getting the information to the elected officials in the territories, including those specified by Senator Cruz.