



SEP 26 2011

Richard Theroux  
Office of Management and Budget  
Office of Information and Regulatory Affairs  
Transportation and Security Branch  
725 17th Street, NW  
Washington, DC 20503

Dear Mr. Theroux:

The Department of Labor, Employment and Training Administration (ETA), Office of Workforce Investment is requesting a review using emergency procedures review in accordance with the 5 CFR 1320.13. This emergency clearance is needed in order to obtain information from Guam military base realignment and base buildup contractors regarding the recruitment of U.S. construction workers as required by the National Defense Authorization Act (NDAA) for Fiscal Year 2010 (Public Law 111-84, enacted October 28, 2009). The NDAA requires an expanded effort to recruit U.S. workers for employment on Guam military base realignment construction projects. The recruitment process description was published in the Federal Register on Friday, September 23, 2011 and can be viewed at <http://www.gpo.gov/fdsys/pkg/FR-2011-09-23/pdf/2011-24483.pdf>.

This emergency clearance is needed to address reporting arising from NDAA. Specifically, the NDAA section 2834 (a)(6)(A) and (C)(i), prohibits work performed by a person holding a visa described in section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C.1101(a)(15)(H)(ii)(b) unless there is a certification by the Governor of Guam, in consultation with the Secretary of Labor, that there are not sufficient United States workers who are:

1. available, willing, and qualified;
2. available at the time of application for a visa and admission to the United States; and
3. available at the place where the persons holding the visas are to perform such skilled and unskilled labor.

The emergency approval is necessary because the Department of Defense has resolved much faster than anticipated several issues with the Government of Guam related to;

- environmental impacts (sewage, water, and population),
- historic preservation, and
- potential inundation of Guam's emergency and non-emergency medical infrastructure and other facilities.

ETA has closely monitored the Internet, has been in contact with Department of Defense officials about the base build-up status, and it was ETA's understanding that the issues would take so long to resolve that the need to obtain OMB approval for this information collection

under the Paperwork Reduction Act was still far off. Such a delay would have allowed normal clearance procedures to have been used.

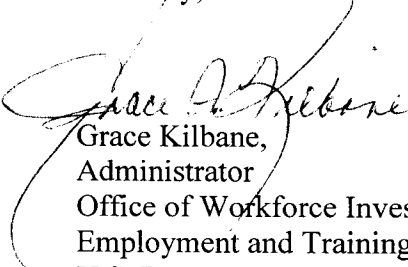
However, recent reports on the successful execution of Guam and Department of Defense program agreements will now allow work to begin. In addition, Naval Facilities Engineering Command (NAVFAC) Pacific recent press releases indicate that an additional \$200 million in new contract awards have been made pushing the total to approximately \$800 million for various construction projects. These two events signal the imminent need to hire workers as projects move from the design to construction phase. Additional details are contained in the supporting statement.

It is unlikely that public harm will occur if the normal clearance procedures are not followed. However, delay could negatively impact the expanded contractor recruitment of U.S. construction workers, and make it impossible for contractors to meet their workforce requirements if foreign workers are needed due to the prohibitions specified in the NDAA.

The ETA is not currently collecting data for this Information Collection Request. However, ETA has worked closely with the Guam Department of Labor to develop the expanded recruitment process. Other states will be alerted to the recruitment procedures and the expected construction work employment opportunities on Guam to aid in meeting the base build-up workforce need, as described in the FRN.

In closing, the Department urges that this emergency request be approved by October 19, 2011 in order that the recruitment process may be effectively implemented and monitored. If you have specific questions regarding this program and this emergency review submission, please contact me (202-693-3980) or Anthony Dais (202-693-2784).

Sincerely,



Grace Kilbane,  
Administrator

Office of Workforce Investment  
Employment and Training Administration  
U.S. Department of Labor