Recent GAO Reports Regarding U.S. Insular Areas and Freely Associated States

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Commonwealth of the Northern Mariana Islands

Additional DHS Actions Needed on Foreign Worker Permit Program

GAO-12-975, Sep 27, 2012

In November 2009, the United States applied U.S. immigration law to the CNMI, as required by CNRA. To minimize the potential for adverse effects on the CNMI economy, CNRA established a 5-year transition period scheduled to end in 2014. CNRA required DHS to establish a transitional work permit program for foreign workers in the CNMI and annually reduce the number of permits issued, reducing them to zero by the end of the transition period. CNRA also required DOL to determine whether to extend the transition period past 2014, based on an assessment of the CNMI's labor needs. CNRA further required GAO to report on the implementation and economic impact of federal immigration law in the CNMI. This report (1) assesses the status of federal implementation of the transitional work permit program, (2) examines economic implications for the CNMI of pending federal actions, and (3) provides the status of federal efforts to support worker training in the CNMI. GAO reviewed CNRA, U.S. regulations, and information from federal agencies and the CNMI government; and interviewed U.S. government officials and private sector representatives.

On September 7, 2011, the Department of Homeland Security (DHS) issued a final rule establishing a transitional work permit program in the Commonwealth of the Northern Mariana Islands (CNMI) for foreign workers not otherwise admissible under federal law. The final rule addressed key requirements of the Consolidated Natural Resources Act of 2008 (CNRA); for example, the rule sets the permit allocations for fiscal years 2011 and 2012. As of July 2012, DHS had processed about half of the petitions for work permits that employers submitted in fiscal year 2012. The DHS decision on its permit allocation for fiscal year 2013 and a Department of Labor (DOL) decision on whether and when to extend the transition period, both required by CNRA, are both pending.

- DHS plans to announce the permit allocation for fiscal year 2013 by the end of September 2012. DHS has identified one source of CNMI workforce data that it intends to use for its annual work permit allocations. However, the data source does not provide numbers of U.S. and foreign workers by industry, which could help DHS predict future demand for foreign workers. According to a senior DHS official, DHS has not made public the types of information, including its methodology, that it will publish with future permit allocations. Knowledge of DHS's methodology could help allay any public uncertainty regarding future access to foreign workers in the CNMI.

- DOL has not determined whether to extend the transition period, according to DOL officials, and is not required to do so until July 2014. DOL has identified multiple sources of data on the CNMI labor market, including a source that provides the number of workers in the CNMI by citizenship and industry. DOL has also identified the methodology it plans to use in making its determination. According to DOL officials, DOL plans to estimate changes in CNMI employment and gross domestic product that might result from a reduction in foreign workers. These data sources and analyses could help DHS assess workforce needs and determine its annual permit allocation.

Uncertainty about the impact of the pending DHS and DOL decisions on access to foreign workers may be limiting business investment in the CNMI. Foreign workers made up more than half of the CNMI workforce in 2012, and CNMI businesses reported challenges in finding replacements for foreign workers. Some CNMI businesses indicated that uncertainty over pending federal actions has caused them to limit their plans for future investments in the CNMI.

DOL, the Department of the Interior (DOI), and DHS made available a combined total of about $6.5 million to train workers in the CNMI in fiscal years 2010 through 2012. DOL provided annual grants that support worker services. DOI provided a grant in 2011 to support on-the-job training programs, in response to CNRA requirements. As of July 2012, DHS had transferred to the CNMI Treasury about $1.8 million it had collected through its permit program for CNMI vocational educational curricula and program development, as required by CNRA. Information on the use of DOL and DOI grants is available to Congress on request, but DHS does not collect information on the use of funds it transfers to the CNMI Treasury.

American Samoa and Commonwealth of the Northern Mariana Islands: Employment, Earnings, and Status of Key Industries Since Minimum Wage Increases Began

GAO-11-427, June 23, 2011

In 2007, the United States enacted a law incrementally raising the minimum wages in American Samoa and the Commonwealth of the Northern Mariana Islands (CNMI) until they equal the U.S. minimum wage. American Samoa's minimum wage increased by $.50 three times, and the CNMI's four times before legislation delayed the increases, providing for no increase in American Samoa in 2010 or 2011 and none in the CNMI in 2011. As scheduled, American Samoa's minimum wage will equal the current U.S. minimum wage of $7.25 in 2018, and the CNMI's will reach it in 2016. Recent economic declines in both areas reflect the closure of one of two tuna canneries in American Samoa and the departure of the garment industry in the CNMI. GAO is required to report in 2010, 2011, 2013, and biennially thereafter on the impact of the minimum wage increases. This report updates GAO's 2010 report and describes, since the increases began, (1) employment and earnings, and (2) the status of key industries. GAO reviewed federal and local information; collected data from employers through a questionnaire and from employers and workers through discussion groups; and conducted interviews during visits to each area.

In American Samoa, employment fell 19 percent from 2008 to 2009 and 14 percent from 2006 to 2009. Data for 2010 total employment are not available. GAO questionnaire responses show that tuna canning employment fell 55 percent from 2009 to 2010, reflecting the closure of one cannery and layoffs in the remaining cannery. Average inflation-adjusted earnings fell by 5 percent from 2008 to 2009 and by 11 percent from 2006 to 2009; however, the hourly wage of minimum wage workers who remained employed increased by significantly more than inflation. Private sector officials said the minimum wage was one of a number of factors making business difficult. In the tuna canning industry, future minimum wage increases would affect the wages of 99 percent of hourly-wage workers employed by the two employers included in GAO's questionnaire. The employers reported taking cost-cutting actions from June 2009 to June 2010, including laying off workers and freezing hiring. The employers attributed most of these actions largely to the minimum wage increases. Cannery officials expressed concern in interviews about American Samoa's dwindling global competitive advantage. Available data suggest that relocating tuna canning operations to a tariff-free country with lower labor costs would significantly reduce operating costs but reduce American Samoa jobs; however, maintaining some operations in American Samoa would allow continued competition for U.S. government contracts. Some workers said they were disappointed by the 2010 minimum wage increase delay; however, more workers expressed concern over job security than favored a wage increase with potential for layoffs.

In the CNMI, employment fell 13 percent from 2008 to 2009 and 35 percent from 2006 to 2009. Average inflation-adjusted earnings rose by 3 percent from 2008 to 2009 and remained largely unchanged from 2006 to 2009. Over the same periods, the hourly wage of minimum wage workers who remained employed increased by significantly more than inflation. In discussion groups, private sector employers said minimum wage increases imposed additional costs during a time in which multiple factors made it difficult to operate. In the tourism industry, scheduled minimum wage increases through 2016 would affect 95 percent of workers employed by questionnaire respondents. Tourism employers reported that they took cost-cutting actions from June 2009 to June 2010 and planned to take additional actions, including laying off workers. Few of these tourism employers attributed past actions largely to the minimum wage increases, and one half or less did so for each of the planned actions. Available data suggest that hotels generally absorbed minimum wage costs rather than raise room rates. Hotel payroll will represent an increasing share of total operating costs due to the minimum wage increases. In discussion groups, some tourism employers expressed concern about the minimum wage increases, but others said the increases were needed and manageable and that the primary difficulty was the CNMI tourism industry's decline. Workers participating in GAO's CNMI discussion groups expressed mixed views regarding the minimum wage increases and said they would like pay increases but were concerned about losing jobs and work hours. GAO shared the report with relevant federal agencies and the governments of American Samoa and the CNMI. While generally agreeing with the findings, they raised a number of technical concerns that have been incorporated as appropriate.

Compact of Free Association

Proposed U.S. Assistance to Palau through Fiscal Year 2024

GAO-12-798T, September 10, 2012

The Compact of Free Association between the United States and the Republic of Palau, which entered into force in 1994, provided for several types of assistance aimed at promoting Palau's self-sufficiency and economic advancement. Included were 15 years of direct assistance to the Palau government; contributions to a trust fund meant to provide Palau $15 million each year in fiscal years 2010 through 2044; construction of a road system, known as the Compact Road; and federal services such as postal, weather, and aviation. U.S. agencies also provided discretionary federal programs related to health, education, and infrastructure. In 2008, GAO projected that total assistance in fiscal years 1994 through 2009 would exceed $852 million.

In September 2010, the United States and Palau signed an agreement (the Agreement) that would, among other things, provide for additional assistance to Palau beginning in fiscal year 2011 and modify its trust fund. Currently, there are two bills pending before Congress to implement the Agreement.

In this testimony, GAO updates a November 2011 testimony on (1) the Agreement's provisions for economic assistance to Palau, (2) its impact on the trust fund's likelihood of sustaining scheduled payments through fiscal year 2044, (3) the projected role of U.S. assistance in Palau government revenues, and (4) the pending legislation to implement the Agreement. GAO reviewed current trust fund data and new pending legislation for this testimony.

The Agreement would provide decreasing assistance, totaling approximately $215 million through fiscal year 2024 and includes the following:

- direct economic assistance ($107.5 million) for Palau government operations;
- infrastructure project grants ($40 million) to build mutually agreed projects;
- infrastructure maintenance fund ($28 million) for maintaining the Compact Road, Palau's primary airport, and certain other major U.S.-funded projects;
- fiscal consolidation fund ($10 million) to assist Palau in debt reduction; and
- trust fund contributions ($30.25 million) in addition to the $70 million contributed under the compact

Under the Agreement, the United States would contribute to the trust fund in fiscal years 2013 through 2023, and Palau would reduce its withdrawals by $89 million in fiscal years 2010 through 2023. GAO projects that the fund would have a 90 percent likelihood of sustaining payments through fiscal year 2044 with these changes, versus 40 percent without these changes.

Estimates prepared for the Palau government project declining reliance on U.S. assistance under the Agreement—from 28 percent of government revenue in fiscal year 2011 to 2 percent in fiscal year

2024—and growing reliance on trust fund withdrawals and domestic revenues. The estimates show trust fund withdrawals rising from 5 percent to 24 percent and domestic revenues rising from 40 to 59 percent, of total government revenue. According to the estimates, U.S. assistance in fiscal years 2011 through 2024 would total $427 million, with discretionary federal programs accounting for about half of that amount.

Congress has not approved legislation to implement the Agreement as of September 2012. Pending Senate legislation would implement the Agreement and appropriate funds to do so. Pending House legislation would implement the agreement, apply an inflation adjustment to assistance payments, and shift the timing of certain assistance payments to reflect the fact that 2011 has passed.

Compacts of Free Association

Improvements Needed to Assess and Address Growing Migration

GAO-12-64, November 14, 2011

U.S. compacts with the freely associated states (FAS)--the Federated States of Micronesia (FSM), the Marshall Islands, and Palau--permit FAS citizens to migrate to the United States and its territories (U.S. areas) without regard to visa and labor certification requirements. Thousands of FAS citizens have migrated to U.S. areas (compact migrants)--particularly to the Commonwealth of the Northern Mariana Islands (CNMI), Guam, and Hawaii, which are defined as affected jurisdictions. In fiscal year 2004, Congress appropriated $30 million annually for 20 years to help defray affected jurisdictions' costs for migrant services (compact impact). Though not required, affected jurisdictions can report these costs to the Department of the Interior (Interior), which allocates the $30 million as impact grants in proportion to compact migrant enumerations required every 5 years. This report (1) describes compact migration, (2) reviews enumeration approaches, (3) evaluates impact reporting, and (4) reviews Interior grants related to compact impact. GAO reviewed U.S. agency data, recent enumerations, impact reports, and grants and it also interviewed officials, employers, and migrants in the affected jurisdictions.

Combined data from the U.S. Census Bureau's (Census) 2005-2009 American Community Survey (ACS) and the required enumeration in 2008 estimate that a total of roughly 56,000 compact migrants from the FSM, the Marshall Islands, and Palau--nearly a quarter of all FAS citizens--were living in U.S. areas. Compact migrants resided throughout U.S. areas, with approximately 58 percent of all compact migrants living in the affected jurisdictions. According to the 2008 required enumeration, compact migrant populations continued to grow in Guam and Hawaii and were roughly 12 percent of the population of Guam and 1 percent of the population of Hawaii.

Working under agreements with Interior, Census used a different approach for the most recent enumeration than for prior enumerations, employing two methods in 2008: (1) a one-time survey in Guam and the CNMI and (2) a tabulation of existing multiyear ACS data for Hawaii. The affected jurisdictions opposed the change in approach. The 2008 approach allowed for determining the precision of the estimates but did not yield comparable results across jurisdictions or detailed information on compact migrants. Interior and Census officials have a preliminary plan for the required 2013 enumeration but Interior has not determined its cost or assessed its strengths and limitations.

The methods used by affected jurisdictions to collect and report on compact impact have weaknesses that reduce their accuracy. For fiscal years 2004 through 2010, Hawaii, Guam and the CNMI reported more than $1 billion in costs associated with providing education, health, and social services to compact migrants. However, some jurisdictions did not accurately define compact migrants, account for federal funding that supplemented local expenditures, or include revenue received from compact migrants. Although Interior is required to report to Congress any compact impacts that the affected jurisdictions report to Interior, it has not provided the affected jurisdictions with adequate guidance on estimating compact impact. Compact migrants participate in local economies through employment, taxation and consumption, but data on these effects are limited.

From fiscal years 2004 to 2010, Interior awarded approximately $210 million in compact impact grants to the affected jurisdictions, which used the funds primarily for budget support, projects, and purchases in the areas of education, health, and public safety. In Guam and Hawaii, government officials, service providers, and compact migrants discussed approaches to more directly address challenges related to migration by bridging language barriers, providing job training, and increasing access to services. The amended compacts also made available $808 million in sector grants for the FSM and the Marshall Islands from fiscal years 2004 to 2010. Sector grants are jointly allocated by the joint U.S.-FSM and U.S.-Marshall Islands management committees and have been used primarily in the FAS for health and education. Few sector grants directly address issues that concern compact migrants or the affected jurisdictions. The committees had not formally placed compact impact on their annual meeting agendas until 2011 and have not yet allocated any 2012 sector grant funds to directly address compact impact. GAO recommends that Interior assess the 2013 enumeration approach, disseminate adequate guidance on estimating compact impact, and encourage uses of grants that better address compact migrants' impact and needs. Interior generally agreed with the report but did not support the recommendation on grant uses.

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