



Testimony

Before the Committee on Energy and  
Natural Resources, U.S. Senate

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**COMMONWEALTH OF  
THE NORTHERN  
MARIANA ISLANDS**

**Preliminary Observations  
on the Implementation of  
Federal Immigration Laws**

Statement of David Gootnick, Director,  
International Affairs and Trade

# GAO Highlights

Highlights of [GAO-17-593T](#), a testimony before the Committee on Energy and Natural Resources, U.S. Senate

## Why GAO Did This Study

In 2008, Public Law 110-229 established federal control of CNMI immigration. It required DHS to create a transitional work permit program for foreign workers in the CNMI and to decrease the number of permits issued annually; it presently requires that DHS reduce them to zero by December 31, 2019. To implement this aspect of the law, in 2011, DHS created a CW-1 permit program for foreign workers. In 2015, foreign workers totaled 12,784, making up more than half of the CNMI workforce.

GAO was asked to review the implementation of federal immigration laws in the CNMI. This testimony discusses GAO's preliminary observations from its ongoing work on (1) the potential economic impact of reducing the number of CNMI foreign workers to zero and (2) federal and CNMI efforts to address labor force challenges.

GAO reviewed U.S. laws and regulations; analyzed government data, including CNMI tax records since 2001; and conducted fieldwork in Saipan, Tinian, and Rota, CNMI. During fieldwork, GAO conducted semistructured interviews and discussion groups with businesses, CW-1 workers, U.S. workers, and current and former job training participants. GAO also interviewed officials from the CNMI government, DHS, and the U.S. Departments of Commerce, the Interior, and Labor.

## What GAO Recommends

GAO is not making any recommendations at this time. GAO plans to issue a final report in May 2017.

View [GAO-17-593T](#). For more information, contact David Gootnick at (202) 512-3149 or [gootnickd@gao.gov](mailto:gootnickd@gao.gov).

April 27, 2017

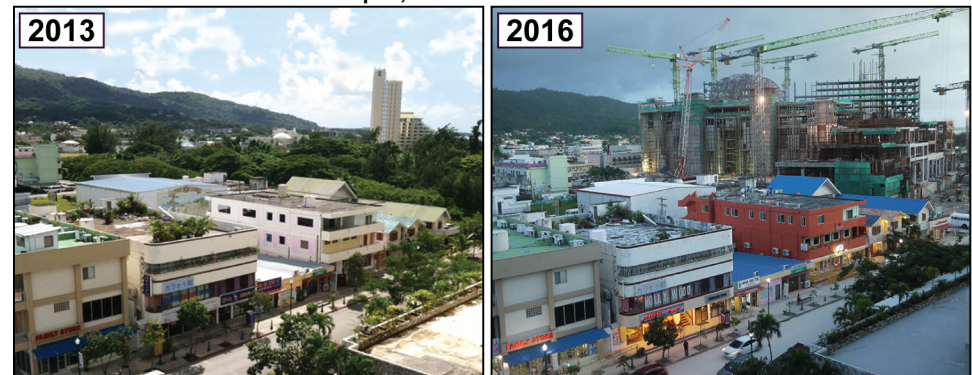
## COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

### Preliminary Observations on the Implementation of Federal Immigration Laws

## What GAO Found

If all foreign workers in the Commonwealth of the Northern Mariana Islands (CNMI) with CNMI-Only transitional worker (CW-1) permits, or 45 percent of total workers in 2015, were removed from the CNMI's labor market, GAO's preliminary economic analysis projects a 26 to 62 percent reduction in CNMI's 2015 gross domestic product (GDP)—the most recent GDP available. In addition, demand for foreign workers in the CNMI exceeded the available number of CW-1 permits in 2016—many approved for workers from China and workers in construction occupations. The construction of a new casino in Saipan is a key factor in this demand (see photos taken both before and during construction in 2016). Meanwhile, by 2019, plans for additional hotels, casinos, and other projects estimate needing thousands of new employees. When the CW-1 permit program ends in 2019, GAO's preliminary analysis of available data shows that the unemployed domestic workforce, estimated at 2,386 in 2016, will be well below the CNMI's expected demand for labor. To meet this demand, CNMI employers may need to recruit U.S.-eligible workers from the U.S. states, U.S. territories, and the freely associated states (the Federated States of Micronesia, Republic of the Marshall Islands, and Republic of Palau).

#### Construction of New Casino in Saipan, Commonwealth of the Northern Mariana Islands



Source: GAO. | GAO-17-593T

Federal and CNMI efforts to address labor force challenges include (1) job training programs and (2) employment assistance funded by the U.S. Department of Labor and implemented by the CNMI's Department of Labor. The Department of Homeland Security (DHS) collects the \$150 vocational education fee assessed for each foreign worker on a CW-1 petition and transfers the fees to the CNMI government. Results of GAO's ongoing work indicate that to support vocational education curricula and program development in fiscal years 2012 through 2016, DHS transferred to the CNMI Treasury about \$9.1 million in CW-1 fees. During this period, GAO's preliminary analysis shows that the CNMI government allocated about \$5.8 million of the \$9.1 million to three educational institutions: Northern Marianas College, Northern Marianas Trades Institute, and the CNMI's Public School System. In 2016, a U.S.–CNMI consultative process resulted in a report to Congress with six recommendations related to the CNMI economy, including one to raise the cap on CW-1 foreign worker permits and extend the permit program beyond 2019.

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Chairman Murkowski, Ranking Member Cantwell, and Members of the Committee:

Thank you for the opportunity today to discuss preliminary observations from our ongoing work looking at the implementation of federal immigration laws in the Commonwealth of the Northern Mariana Islands (CNMI).

The 1976 Covenant defining the political relationship between CNMI and the United States exempted the CNMI from certain federal immigration laws but reserved the right of the federal government to apply federal law in these exempted areas without the consent of the CNMI government. The Consolidated Natural Resources Act of 2008 amended the U.S.–CNMI Covenant to establish federal control of CNMI immigration beginning in 2009. The act established a transition period and special provisions for foreign visitors, investors, and workers. Specifically, it required the U.S. Department of Homeland Security (DHS) to establish a temporary work permit program for foreign workers and to reduce annually the number of permits issued, reducing them to zero by the end of the transition period—now set to occur on December 31, 2019. As part of the temporary work permit program, DHS collects a vocational education fee from prospective employers of those applying for special nonimmigrant visas and transfers these fees to the CNMI government for ongoing vocational programs provided by the CNMI educational entities.

This testimony discusses preliminary observations from our ongoing work on (1) the potential economic impact of reducing the number of foreign workers to zero and (2) federal and CNMI efforts to address labor force challenges. In a subsequent report, we will also discuss the changes in CNMI's labor market since federally mandated minimum wage increases began.<sup>1</sup> We plan to issue our final report in May 2017.

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<sup>1</sup>A 2007 law included a provision to apply the U.S. minimum wage to the CNMI, increasing CNMI's minimum wage in periodic increments until it reaches the federal minimum wage, which is currently \$7.25 per hour. See U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007, Pub. L. No. 110–28, § 8103(a) (May 25, 2007), codified as amended at 29 U.S.C. § 206 note, Applicability of minimum wage to American Samoa and the Commonwealth of the Northern Mariana Islands. Subsequent legislation included a provision for GAO to report on the impact of past increases in minimum wages in the CNMI. See 29 U.S.C. § 206 note. Report on the impact of past and future minimum wage increases.

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To evaluate the potential economic impact of reducing the number of foreign workers in the CNMI to zero and replacing them with domestic workers, we created a simulated mathematical model of how the CNMI's gross domestic product (GDP) would change if the number of foreign workers were reduced to zero. We also analyzed DHS data on the annual number of approved CNMI-Only transitional worker (CW-1) permits by country of birth, occupation, and business from 2014 through 2016. To evaluate the possible replacement of CW-1 workers with domestic workers, we analyzed the number of people seeking employment in 2016, in the context of labor requirements for the CNMI's planned development projects as of December 20, 2016.

To assess federal and CNMI government efforts to address labor force challenges, we reviewed the CNMI's job training programs and a report generated through a consultative process specified in section 902 of the U.S.–CNMI Covenant (hereafter, the 902 Report).<sup>2</sup> For job training programs, we analyzed the use of CW-1 vocational education fees that DHS transferred to the CNMI government in fiscal years 2012 through 2016. We also interviewed officials and reviewed documents provided by the U.S. Department of the Interior (DOI) and the CNMI government to better understand the 902 consultative process (hereafter, 902 Consultations).

For both objectives, we conducted fieldwork in the CNMI and interviewed officials from DHS, DOI, and the Department of Labor (DOL). Our fieldwork interviews took place on the CNMI islands of Saipan, Tinian, and Rota, and included meetings with the CNMI Governor; the Mayors of Tinian and Rota; and the CNMI Secretaries of Commerce, Finance, and Labor and interviews and discussions with representatives of CNMI businesses. In Saipan, we also facilitated small-group discussions with CW-1 workers, U.S. workers currently employed by CNMI businesses, and officials, students, and graduates of CNMI job training programs. In addition to the data mentioned above, we reviewed demographic information about the employed population in the CNMI based on the CNMI tax records since 2001 and data from the 2014 CNMI Prevailing Wage & Workforce Assessment Study. We also reviewed prior GAO reports and analyzed various data sets from the U.S. Department of

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<sup>2</sup>See Special Representatives of the United States and the Commonwealth of the Northern Mariana Islands, *Report to the President on 902 Consultations* (January 2017), accessed March 10, 2017, <https://www.doi.gov/sites/doi.gov/files/uploads/902-consultations-report-january-2017.pdf>.

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Commerce (DOC), the CNMI's Departments of Finance and Commerce, and CNMI's tourism organizations. We determined that the data used in our analyses were sufficiently reliable for the purposes of our report.

We are conducting the work upon which this statement is based in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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## Background

Part of the Mariana Islands Archipelago, the CNMI is a chain of 14 islands in the western Pacific Ocean—just north of Guam and about 3,200 miles west of Hawaii. The CNMI has a total population of 53,890, according to preliminary results of the CNMI's 2016 Household, Income, and Expenditures Survey. Almost 90 percent of the population (48,200) resided on the island of Saipan, with an additional 6 percent (3,056) on the island of Tinian and 5 percent (2,635) on the island of Rota.

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## U.S.–CNMI Relations

The United States took control of the Northern Mariana Islands from Japan during the latter part of World War II. After the war, the U.S. Congress approved a trusteeship agreement making the United States responsible to the United Nations for the administration of the islands.<sup>3</sup> In 1976, the District of the Mariana Islands entered into the Covenant with the United States establishing the island territory's status as a self-governing commonwealth in political union with the United States.<sup>4</sup> This Covenant grants the CNMI the right of self-governance over internal affairs and grants the United States complete responsibility and authority

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<sup>3</sup>In 1947, the United Nations gave the United States authority to administer the Trust Territory of the Pacific Islands, which included the Northern Mariana Islands. The trusteeship over the Northern Mariana Islands was formally dissolved in 1986.

<sup>4</sup>Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, Pub. L. No. 94-241 (Mar. 24, 1976), codified as amended at 48 U.S.C. § 1801 note. See also Howard P. Willens and Deanne C. Siemer, *An Honorable Accord: The Covenant between the Northern Mariana Islands and the United States* (Honolulu: University of Hawaii Press, 2002).

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for matters relating to foreign affairs and defense affecting the CNMI.<sup>5</sup> The Covenant initially made many federal laws applicable to the CNMI, including laws that provide federal services and financial assistance programs. However, the Covenant preserved the CNMI's exemption from certain federal laws that had previously been inapplicable to the Trust Territory of the Pacific Islands, including certain federal minimum wage provisions and immigration laws, with certain limited exceptions.<sup>6</sup> Under the terms of the Covenant, the federal government has the right to apply federal law in these exempted areas without the consent of the CNMI government. Section 902 of the Covenant provides that the U.S. and CNMI governments will designate special representatives to meet and consider in good faith issues that affect their relationship and to make a report and recommendations.

Several U.S. government programs operate in the CNMI, including programs administered by DHS, DOI, and DOL.

- DHS has three primary components—U.S. Customs and Border Protection (CBP), U.S. Immigration and Customs Enforcement (ICE), and U.S. Citizenship and Immigration Services (USCIS)—that enforce federal immigration laws and maintain border control in the CNMI. CBP inspects travelers at the Saipan and Rota airports to determine whether to admit them into the CNMI. ICE enforces federal immigration laws in the CNMI, for example, by identifying, apprehending, detaining, and removing criminal foreign nationals and other foreign nationals that threaten the security of the CNMI and the United States. USCIS processes foreign nationals' applications for

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<sup>5</sup>Under the Covenant, the U.S. government may enact legislation in accordance with its constitutional processes that will be applicable to the CNMI. To respect the CNMI's right of self-government under the Covenant, certain provisions of the Covenant may be modified only with the consent of both the federal government and the CNMI government.

<sup>6</sup>Prior to November 2009, Section 506 of the Covenant applied to the CNMI certain provisions of the Immigration and Nationality Act of 1952 relating to citizenship and family-based permanent immigration. Certain other nonimmigrant provisions of the act, related to victims of human trafficking and other crimes, also applied to the CNMI. See 8 U.S.C. § 1101(a)(15)(T)-(U). In addition, the Covenant provided U.S. citizenship to legally qualified CNMI residents.

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immigration benefits, that is, the ability to live, and in some cases work, in the CNMI permanently or temporarily.<sup>7</sup>

- DOI's Office of Insular Affairs coordinates federal policies and provides technical and financial assistance to the CNMI.<sup>8</sup> The Covenant requires DOI to consult regularly with the CNMI on all matters affecting the relationship between the U.S. government and the islands.<sup>9</sup> In May 2016, President Obama designated the Assistant Secretary for Insular Affairs as the Special Representative for the United States for the 902 Consultations, a process initiated at the request of the Governor of the CNMI to discuss and make recommendations to Congress on immigration and labor matters affecting the growth potential of the CNMI economy, among other topics. The 902 Consultations resulted in a report to the President in January 2017, which we refer to as the 902 Report.
- DOL requires employers to fully test the labor market for U.S. workers to ensure that U.S. workers are not adversely affected by the hiring of nonimmigrant and immigrant workers, except where not required by law. DOL also provides grants to the CNMI government supporting youth, adult, and dislocated worker programs. From 1999 through 2015, DOL provided such grants under the Workforce Investment Act of 1998 (WIA) and the Workforce Innovation and Opportunity Act of 2014 (WIOA).<sup>10</sup>

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## The CNMI Labor Market

The CNMI's employed population consists of both foreign and domestic workers. Following consecutive annual decreases in the total number of employed workers from 2005 to 2013, CNMI employment started recovering after 2013, according to CNMI tax data. Figure 1 shows the number of employed workers and the number of foreign and domestic workers in the CNMI from 2001 to 2015 based on CNMI tax data. As the

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<sup>7</sup>The U.S. Department of State (State) also issues visas at U.S. embassies or consulates to foreign nationals who wish to come to the CNMI on a temporary or permanent basis. However, since State does not have any representatives working in the CNMI, we excluded the agency from the scope of our review.

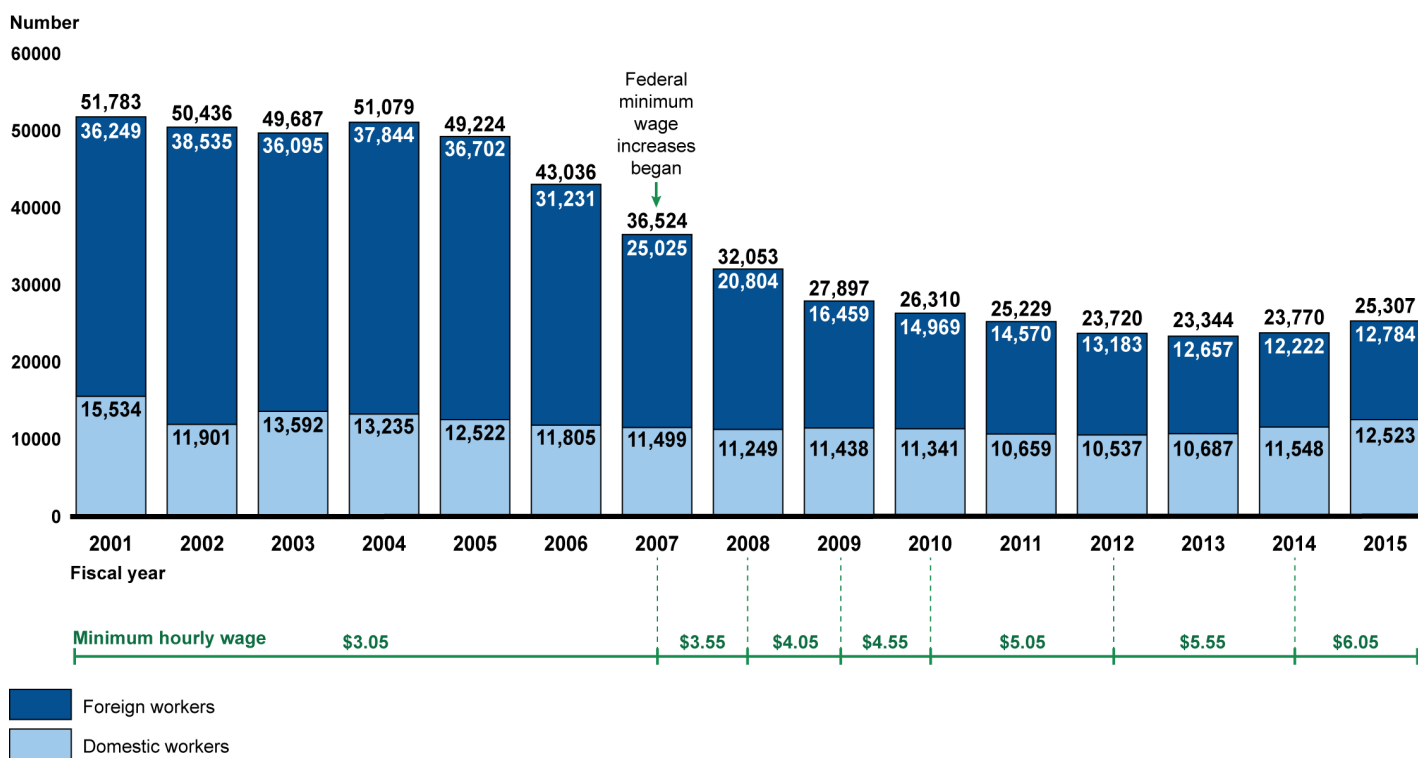
<sup>8</sup>Exec. Order No. 12572, Relations With the Northern Mariana Islands, 51 Fed. Reg. 40401 (Nov. 3, 1986).

<sup>9</sup>Section 902 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, Pub. L. No. 94-241 (Mar. 24, 1976), codified as amended at 48 U.S.C. § 1801 note.

<sup>10</sup>WIOA, Pub. L. No. 113-128 (July 22, 2014), repealed WIA.

figure shows, from the lowest point in 2013, the number of employed workers increased by approximately 8 percent by 2015 (from 23,344 to 25,307). However, the number employed in 2015 (25,307) was still approximately 31 percent less than the number employed in 2007 (36,524).

**Figure 1: Employed Workers in the Commonwealth of the Northern Mariana Islands (CNMI), Calendar Years 2001–2015**



Source: GAO analysis of CNMI tax data. | GAO-17-593T

Notes: Domestic workers include U.S. citizens and citizens of the freely associated states—the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau. Reductions in the number of employed workers from 2007 through 2013 were likely a result of many factors, such as the disappearance of the garment industry and decline of the tourism industry. Reductions in the number of employed workers from 2007 through 2013 may not be caused by increases in the minimum wage.

Although the number and percentage of foreign workers have fallen since 2001, foreign workers are still the majority of the CNMI workforce. Of the 25,307 workers in the CNMI in 2015, slightly over half (12,784) were foreign workers, according to CNMI tax data. The number of foreign



workers fell from a peak of almost 38,000 in 2002 (roughly 75 percent of the employed workers) and was under 13,000 in 2015.<sup>11</sup> In contrast, since 2002, the number of domestic workers has fluctuated year to year, ranging from about 10,500 to about 13,500, but increased by 17 percent from 2013 to 2015.

In 2007, the minimum wage provisions of the Fair Labor Standards Act of 1938 were applied to the CNMI, requiring the minimum wage in the CNMI to rise incrementally to the federal level in a series of scheduled increases. Under current law, the next minimum wage increase will occur on September 30, 2017, and the CNMI will reach the current U.S. minimum wage on September 30, 2018 (see table 1).

**Table 1: Past and Scheduled Minimum Wage Increases in the Commonwealth of the Northern Mariana Islands, 2007–2018**

Nominal U.S. dollars

<b>Date</b>	<b>Minimum hourly wage</b>
Before July 25, 2007	3.05
July 25, 2007	3.55
May 25, 2008	4.05
May 25, 2009	4.55
September 30, 2010	5.05
September 30, 2012	5.55
September 30, 2014	6.05
September 30, 2016	6.55
September 30, 2017 (scheduled)	7.05
September 30, 2018 (scheduled)	7.25

Source: GAO analysis of Pub. L. No. 110-28, Pub. L. No. 111-244, and Pub. L. No. 113-34. | GAO-17-593T

<sup>11</sup> Although the garment industry was able to flourish in the CNMI by exporting products to other parts of the United States largely unconstrained by import quotas and duties, several developments in international trade caused the industry to decline dramatically. In January 2005, in accordance with a World Trade Organization 10-year phase-out agreement, the United States eliminated quotas on textile and apparel imports from other textile-producing countries, exposing the CNMI apparel industry’s shipments to the United States to greater competition. Subsequently, the value of CNMI textile exports to the United States dropped from a peak of \$1.1 billion in 1998 to \$677 million in 2005 and to close to zero in 2010.

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Based on our preliminary analysis, we estimate that approximately 62 percent (15,818 of 25,657) of the CNMI's wage workers in 2014, assuming they maintained employment, would have been directly affected by the federally mandated 2016 wage increase, which raised CNMI's minimum wage from \$6.05 to \$6.55 per hour.<sup>12</sup> Since 72 percent of the total foreign workers made less than or equal to \$6.55 per hour in 2014, they were more likely to have been directly affected by the 2016 wage increase than domestic workers, with only 41 percent making less than or equal to \$6.55.<sup>13</sup>

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## Changes in the Application of Federal Immigration Laws

The Consolidated Natural Resources Act of 2008 amended the U.S.–CNMI Covenant to apply federal immigration law to the CNMI, following a transition period.<sup>14</sup> Among other things, the act includes several provisions affecting foreign workers during the transition period.<sup>15</sup>

To provide for an orderly transition from the CNMI immigration system to the U.S. federal immigration system under the immigration laws of the United States, on September 7, 2011, DHS established, and currently administers, the CW permit program. Under the CW program, foreign workers are able to obtain, through their employers, nonimmigrant CW

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<sup>12</sup>We also assumed the CNMI labor market did not change from 2014 through 2016. If workers with wages over the minimum wage also received pay increases as the minimum wage increased, then the percentage of workers affected would be greater.

<sup>13</sup>In May 2017, we plan to issue a final report on our review that will include an analysis of changes in CNMI's labor market since the federally mandated minimum wage increases began in 2007.

<sup>14</sup>Consolidated Natural Resources Act of 2008, Pub. L. No. 110-229, Title VII (May 8, 2008).

<sup>15</sup>The Consolidated Natural Resources Act of 2008 and its implementing regulations also contain other special provisions, such as establishing (1) a classification for certain foreign investors lawfully admitted under the CNMI's immigration system—called E-2 CNMI Investor Status (or E-2C)—and (2) providing that asylum is inapplicable to those in the CNMI during the course of the transition period.

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status that allows them to work in the CNMI.<sup>16</sup> Dependents of CW-1 nonimmigrants (spouses and minor children) are eligible for dependent of a CNMI-Only transitional worker (CW-2) status, which derives from and depends on the CW-1 worker's status.

In accordance with the Consolidated Natural Resources Act, DHS, through USCIS, has annually reduced the number of CW-1 permits, and is required to do so until the number reaches zero by the end of a transition period.<sup>17</sup> Since 2011, DHS has annually determined the numerical limitation, terms, and conditions of the CW-1 permits (see table 2). The act was amended in December 2014 to extend the transition period until December 31, 2019,<sup>18</sup> and eliminate the Secretary of Labor's authority to provide for future extensions of the CW program.<sup>19</sup>

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<sup>16</sup>DHS deemed CW-1 status to be synonymous with "permit" referenced in the legislation. In this report, "permit" refers to CW-1 status. An employer must petition for a worker to obtain CW-1 status by submitting a Form I-129CW and all necessary fees to DHS. If the employer also requests a "grant of status" in the CNMI, then the foreign worker is allowed to obtain status without departing the CNMI and reentering through a U.S. embassy or consulate. After required security checks, if the Form I-129CW is approved, DHS will mail an approval notice to the employer who should provide a copy to the worker. The approval notice indicates whether the worker has been granted CW-1 status in the CNMI or whether the worker may proceed to a U.S. embassy or consulate abroad to seek visa processing of a CW-1 visa.

<sup>17</sup>If the Form I-129CW is approved, DHS normally grants CW-1 status for 1 year, according to the USCIS website. The employer may request an extension of status by filing a new Form I-129CW petition. A dependent's CW-2 status expires on the same day as the worker's CW-1 status and can be extended when the worker's CW-1 status is extended.

<sup>18</sup>See Consolidated and Further Continuing Appropriations Act, 2015, Pub. L. No. 113-235, § 10 (Dec. 16, 2014).

<sup>19</sup>Previously, the Secretary of Labor was authorized to extend the program for up to 5 years. For additional information, see GAO, *Commonwealth of the Northern Mariana Islands: Additional DHS Actions Needed on Foreign Worker Permit Program*, [GAO-12-975](#) (Washington, D.C.: Sept. 27, 2012).

**Table 2: U.S. Department of Homeland Security Numerical Limits on CW-1 Permits for the Commonwealth of the Northern Mariana Islands (CNMI), Fiscal Years 2011–2017**

Fiscal year	CW-1 numerical limit
2011	22,417
2012	22,416
2013	15,000
2014	14,000
2015	13,999
2016	12,999
2017	12,998

Source: U.S. Department of Homeland Security. | GAO-17-593T

Note: On September 7, 2011, the U.S. Department of Homeland Security established the CNMI-Only transitional worker (CW) permit program, administered by the U.S. Citizenship and Immigration Services. Under the CW program, qualified nonimmigrant workers are able to obtain, through their employers, nonimmigrant CW-1 status that allows them to work in the CNMI.

In April 2010, DOI recommended that Congress consider new legislation permitting guest workers who have lawfully resided in the CNMI for a minimum of 5 years—which DOI estimated at 15,816 individuals—to apply for long-term resident status under the Immigration and Nationality Act.<sup>20</sup> The DOI report stated that options under the Immigration and Nationality Act that Congress could consider include the following: (1) U.S. citizenship; (2) permanent resident status leading to U.S. citizenship (per the normal provisions of the Immigration and Nationality Act relating to naturalization), with the 5-year minimum residence spent anywhere in the United States or its territories; or (3) permanent resident status leading to U.S. citizenship, with the 5-year minimum residence spent in the CNMI. Additionally, DOI noted that under U.S. immigration law, special status is provided to individuals who are citizens of the freely associated states (Federated States of Micronesia, Republic of the Marshall Islands, and Republic of Palau). Following this model, DOI suggested that new legislation could grant foreign workers a nonimmigrant status, like that negotiated for citizens of the freely

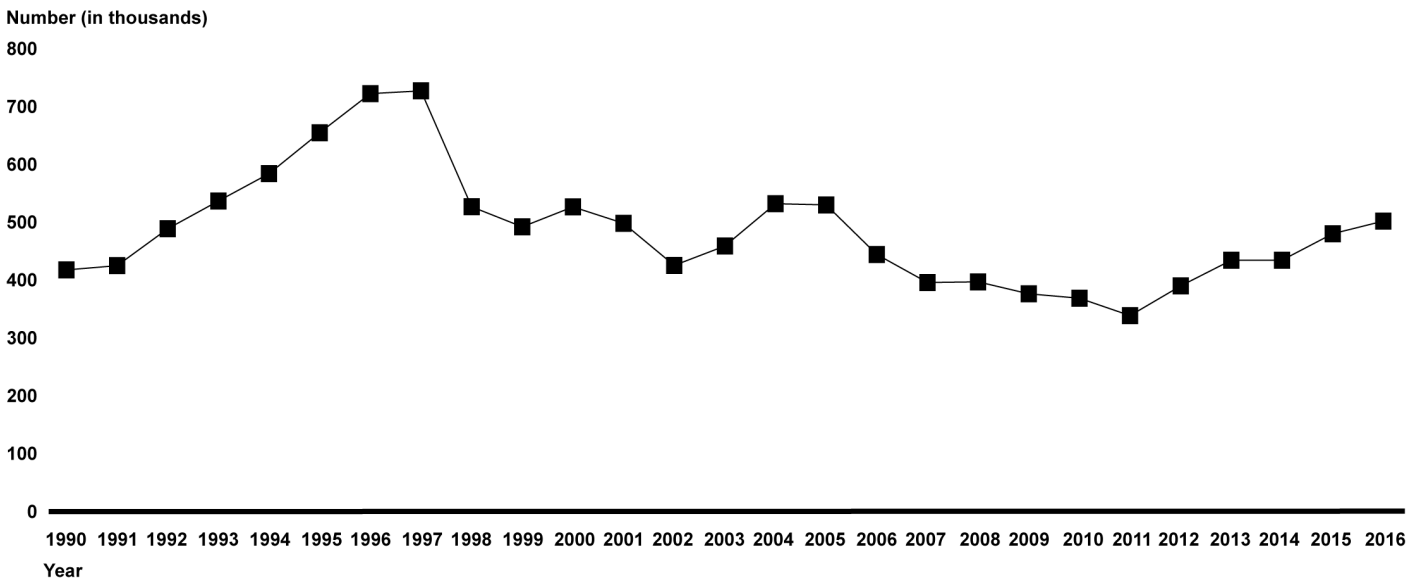
<sup>20</sup>The Consolidated Natural Resources Act required the Secretary of the Interior, in consultation with the Secretary of Homeland Security and the Governor of the Commonwealth, to report to Congress on any recommendations that the Secretary deems appropriate related to whether Congress should consider permitting lawfully admitted guest workers lawfully residing in the Commonwealth on May 8, 2008 (the date of enactment of the act,) to apply for long-term status under the immigration and nationality laws of the United States. See 48 U.S.C. § 1806(h)(5).

associated states, and could allow them to live and work either in the United States and its territories or in the CNMI only.<sup>21</sup>

## Tourism Trends in the CNMI

Since 1990, the CNMI's tourism market has experienced considerable fluctuation, as shown by the total annual number of visitor arrivals (see fig. 2). Total visitor arrivals to the CNMI dropped from a peak of 726,690 in fiscal year 1997 to a low of 338,106 in 2011, a 53 percent decline. Since 2011, however, visitor arrivals have increased by 48 percent, reaching 501,489 in fiscal year 2016.

**Figure 2: Commonwealth of the Northern Mariana Islands Annual Visitor Arrivals, Fiscal Years 1990–2016**



Source: GAO analysis of Marianas Visitors Authority data. | GAO-17-593T

Data from the Marianas Visitors Authority show that the downward trend in Japanese arrivals from 2013 to 2016 was offset by the growth in arrivals from China and South Korea. While eligible Japanese and South

<sup>21</sup>Department of the Interior, Office of the Secretary, *Report on the Alien Worker Population in the Commonwealth of the Northern Mariana Islands* (Washington, D.C.: April 2010), accessed March 10, 2017, <https://www.doi.gov/sites/doi.gov/files/uploads/2010-Report-on-the-Alien-Worker-Population-in-CNMI.pdf>.

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Korean visitors enter the CNMI under the U.S. visa waiver program,<sup>22</sup> Chinese visitors are not eligible and are permitted to be temporarily present in the CNMI under DHS's discretionary parole authority, according to DHS officials. DHS exercises parole authority to allow, on a case-by-case basis, eligible nationals of China to enter the CNMI temporarily as tourists when there is significant public benefit, according to DHS data.<sup>23</sup> From fiscal year 2011 to 2016 the percentage of travelers that arrived at the Saipan airport and were granted discretionary parole increased from about 20 percent to about 50 percent of the total travelers, according to our analysis of CBP data.<sup>24</sup>

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<sup>22</sup>Eligible citizens or nationals of the 38 countries included in the general U.S. Visa Waiver Program may stay for up to 90 days for business or pleasure in the United States without obtaining a nonimmigrant visa. These countries are Andorra, Australia, Austria, Belgium, Brunei, Chile, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, the Netherlands, New Zealand, Norway, Portugal, San Marino, Singapore, Slovakia, Slovenia, South Korea, Spain, Sweden, Switzerland, Taiwan, and the United Kingdom.

<sup>23</sup>From fiscal year 2013 through 2016, the number of visitors from Japan dropped by 58 percent from 148,423 to 62,120 visitors. Meanwhile, the number of Chinese visitors rose by 83 percent (112,570 to 206,538), and the number of Korean visitors rose by 48 percent (135,458 to 200,875).

<sup>24</sup>According to CBP data, 43,485 of 241,537 total travelers to the Saipan airport were granted parole in 2011, and 118,032 of 248,234 total travelers to the Saipan airport were granted parole in 2016.

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## Eliminating CW-1 Permits Would Negatively Affect the Economy; Current and Planned Demand for Labor Exceeds Supply of U.S. Workers

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### Preliminary Results of Our Economic Analysis and Recent Data Show That Ending the CW Program Could Have a Large Negative Effect on the Economy

If all CW-1 workers, or 45 percent of the total workers in 2015, were removed from the CNMI's labor market, our preliminary economic analysis projects a 26 to 62 percent reduction in the CNMI's 2015 GDP, depending on the assumptions made.<sup>25</sup> To estimate the possible effect of a reduction in the number of workers with CW-1 permits in the CNMI to zero—through the scheduled end of the CW program in 2019—we employed an economic method that enabled us to simulate the effect of a reduction under a number of different assumptions.<sup>26</sup>

The CNMI's 2015 GDP—the most recent year for which GDP data were available—was \$922 million. To understand the economic impact of ending the CW program, we analyzed how removing all CW-1 workers would have changed the CNMI's actual 2015 GDP. Our economic model and the results of 10,000 simulations show that had there been no CW-1 workers in 2015, there is a

- 25 percent likelihood that the CNMI's 2015 GDP would have ranged from \$583 million to \$680 million, which is 26 to 37 percent lower than the actual value;

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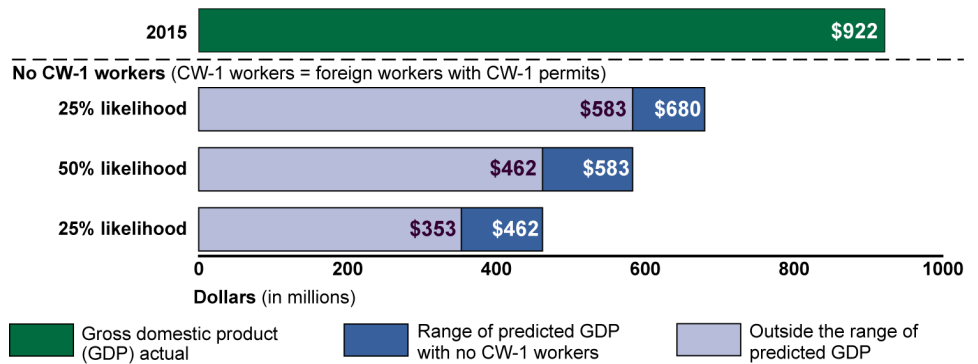
<sup>25</sup>Our analysis assumed that 45 percent of the workforce was made up of CW-1 workers, based on a combination of CNMI tax data and the CNMI's 2014 Prevailing Wage Study data.

<sup>26</sup>We used a similar model when estimating the effect of reductions in the number of foreign workers in the CNMI in 2008. See *Commonwealth of the Northern Mariana Islands: Managing Potential Economic Impact of Applying U.S. Immigration Law Requires Coordinated Federal Decisions and Additional Data*, [GAO-08-791](#) (Washington, D.C.: Aug. 4, 2008).

- 50 percent likelihood that it would have ranged from \$462 million to \$583 million, which is 37 to 50 percent lower than the actual value; and
- 25 percent likelihood that it would have ranged from \$353 million to \$462 million, which is 50 to 62 percent lower than the actual value (see fig. 3).<sup>27</sup>

**Figure 3: Estimated Decline of 2015 Gross Domestic Product of the Commonwealth of the Northern Mariana Islands (CNMI) in Response to Zero CW-1 Permits**

2015 U.S. dollars in millions



Source: GAO analysis of U.S. Department of Commerce data. | GAO-17-593T

Note: On September 7, 2011, the U.S. Department of Homeland Security established the CNMI-Only transitional worker (CW) permit program, administered by the U.S. Citizenship and Immigration Services. Under the CW program, qualified nonimmigrant workers are able to obtain, through their employers, nonimmigrant CW-1 status that allows them to work in the CNMI.

Across the full range of probable outcomes, the elimination of the CW program would result in a 26 to 62 percent decline in the CNMI's 2015 GDP, a relatively large negative effect on the economy.<sup>28</sup>

<sup>27</sup>The fall in population caused by the departure of CW-1 workers from the CNMI would result in a smaller percentage decline in per capita GDP as compared with the decline in GDP.

<sup>28</sup>In a separate retrospective economic analysis, using past CNMI GDP and employment data, from 2002 to 2015, we estimated that a 10 percent decline in the number of workers during this period was associated with an 8.3 percent decline in the size of the economy, on average. Applying this factor to an analysis of the CNMI's current economic situation suggests that a reduction in the number of foreign workers with CW-1 permits to zero—which would be equivalent to reducing the number of total workers by 45 percent, all else unchanged—would lead to a 37 percent contraction in the size of the CNMI economy as measured by GDP. This finding is within the range presented in the simulation model above.



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## Our Preliminary Analysis Shows That Recent and Planned Demand for Labor Exceeds Existing CW-1 Permits and the Supply of Local Workers

### Recent Labor Demand

The CNMI economy currently is experiencing growing demand for workers, particularly among occupations in construction and hospitality. Since fiscal year 2013, demand for CW-1 permits has doubled, and in fiscal year 2016, demand exceeded the numerical limit (or cap) on approved CW-1 permits set by DHS. Approved CW-1 permits grew from 6,325 in fiscal year 2013 to 13,299 in fiscal year 2016. In 2016, when the cap was set at 12,999, DHS received enough petitions by May 6, 2016, to approve 13,299 CW-1 permits, reaching the cap 5 months prior to the end of the fiscal year.<sup>29</sup> On October 14, 2016, 2 weeks into fiscal year 2017, DHS announced that it had received enough petitions to reach the CW-1 cap and would not accept requests for new fiscal year 2017 permits during the remaining 11 months.<sup>30</sup> In interviews, some employers reported being surprised to learn that the cap had been reached when they sought renewals for existing CW-1 workers.<sup>31</sup> See table 3 for the numerical limit of CW-1 permits and number of permits approved by fiscal year.

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<sup>29</sup>The number of approved CW-1 permits exceeded the cap in 2016 because DHS made allowances for beneficiaries requesting consular processing whose visas would be refused or otherwise unused.

<sup>30</sup>As of March 31, 2017, DHS had not finalized the number of approved CW-1 permits for fiscal year 2017. As of November 18, 2016, DHS had approved 8,486 permits toward the 2017 cap. According to DHS officials, the remaining CW-1 permits are still pending, some requiring further information from employers.

<sup>31</sup>Following the exhaustion of the fiscal year 2016 cap, DHS announced a short-term solution that it implemented without a regulatory change. According to the 902 Report, on August 29, 2016, DHS announced that certain CW-1 workers could apply for deferred action, a discretionary determination that would temporarily defer an action to remove an individual from the CNMI. As of December 13, 2016, 372 individuals had applied for deferred action, according to the 902 Report. A prior DHS regulatory change allows approved CW-1 nonimmigrants up to 240 days of continued employment authorization with the same employer past their visa expiration date as long as they have an extension application pending with DHS. See 8 C.F.R. § 274a.12(b)(20).

**Table 3: DHS Numerical Limits on CW-1 Permits for the Commonwealth of the Northern Mariana Islands, with Numbers of CW-1 Permits Approved, Fiscal Years 2011–2017**

Fiscal year	CW-1 numerical limit	CW-1 approved
2011	22,417	— <sup>a</sup>
2012	22,416	10,548
2013	15,000	6,325
2014	14,000	9,188
2015	13,999	9,715
2016	12,999	13,299 <sup>b</sup>
2017	12,998	— <sup>c</sup>

Legend: – = Not applicable; CNMI = Commonwealth of the Northern Mariana Islands; CW-1 = CNMI-Only transitional worker; DHS = U.S. Department of Homeland Security.

Source: U.S. Department of Homeland Security data. | GAO-17-593T

Note: On September 7, 2011, DHS established the CW permit program, administered by the U.S. Citizenship and Immigration Services. Under the CW program, qualified nonimmigrant workers are able to obtain, through their employers, nonimmigrant CW-1 status that allows them to work in the CNMI.

<sup>a</sup>In 2011, DHS did not approve any CW-1 permits.

<sup>b</sup>In 2016, DHS approved more CW-1 permits than allowed by the numerical limit to make up for the expected number of visa denials by the Department of State.

<sup>c</sup>As of March 31, 2017, DHS had not finalized the number of CW-1 permits approved for fiscal year 2017.

Based on DHS data on approved CW-1 permits, by country of birth, occupation, and business, from fiscal years 2014 through 2016, the number of permits approved for Chinese nationals increased, the number of permits approved for construction workers increased, and a large number of CW-1 permits were approved for three new businesses.

**Chinese nationals.** In 2016, DHS approved 4,844 CW-1 permits for Chinese workers, increasing from 1,230 in 2015 and 854 in 2014. This represents a change in the source countries of CW-1 workers, with the percentage of workers from the Philippines declining from 65 to 53 percent during this period, while the share from China rose from 9 to 36 percent (see table 4).

**Table 4: Number and Percentage of Approved CW-1 Permits by Country of Birth, Fiscal Years 2014–2016**

Country of birth	2014		2015		2016	
	Number	Percentage	Number	Percentage	Number	Percentage
Philippines	5,960	65	7,193	74	7,086	53
China	854	9	1,230	13	4,844	36
South Korea	352	4	487	5	433	3
Bangladesh	157	2	333	3	473	4
Other	1,865 <sup>a</sup>	20 <sup>a</sup>	472	5	463	3
<b>Total</b>	<b>9,188</b>	<b>–</b>	<b>9,715</b>	<b>–</b>	<b>13,299</b>	<b>–</b>

Legend: – = Not applicable; CNMI = Commonwealth of the Northern Mariana Islands; CW-1 = CNMI-Only transitional worker.

Source: GAO analysis of U.S. Department of Homeland Security data. | GAO-17-593T

Note: On September 7, 2011, the U.S. Department of Homeland Security established the CW permit program, administered by the U.S. Citizenship and Immigration Services. Under the CW program, qualified nonimmigrant workers are able to obtain, through their employers, nonimmigrant CW-1 status that allows them to work in the CNMI.

<sup>a</sup>In 2014, 1,513 CW-1 permits (or 16 percent) were approved for workers with petitions that did not specify country of birth.

**Construction workers.** In 2016, DHS approved 3,443 CW-1 permits for construction workers, increasing from 1,105 in 2015 and 194 in 2014 (see table 5).<sup>32</sup>

**Table 5: Number of Approved CW-1 Permits for Construction and Nonconstruction Occupations, Fiscal Years 2014–2016**

Occupation	2014	2015	2016
Construction <sup>a</sup>	194	1,105	3,443
Nonconstruction	8,994	8,610	9,856
Total	9,188	9,715	13,299

Legend: CNMI = Commonwealth of the Northern Mariana Islands; CW-1 = CNMI-Only transitional worker.

Source: GAO analysis of U.S. Department of Homeland Security data. | GAO-17-593T

Note: On September 7, 2011, the U.S. Department of Homeland Security established the CW permit program, administered by the U.S. Citizenship and Immigration Services. Under the CW program, qualified nonimmigrant workers are able to obtain, through their employers, nonimmigrant CW-1 status that allows them to work in the CNMI.

<sup>a</sup>Construction occupations are those specifically defined by CNMI employers on their Form I-129CW petitions as construction trade. We did not include occupations such as building services; handlers; helpers; laborers; machine operators; technicians; or other occupations in architecture, engineering, and surveying, which may also be considered construction occupations.

**New businesses.** In 2016, DHS approved 3,426 CW-1 permits for three construction businesses, representing 26 percent of all approved permits.<sup>33</sup> Two of these businesses had not previously applied for CW-1 permits. The third business was new in 2015 and was granted only 62 CW-1 permits that year.

A key factor in the additional demand for labor in 2016 was the construction of a new casino in Saipan. In August 2014, the CNMI government entered into a casino license agreement with a business to build a phased development project within 8 years with a minimum of 2,004 guest rooms and areas for gaming, food, beverage, retail, and entertainment, among other things. The total investment cost of the project was estimated at \$3.14 billion (2014 dollars). The agreement required that construction of the initial gaming facility be completed no

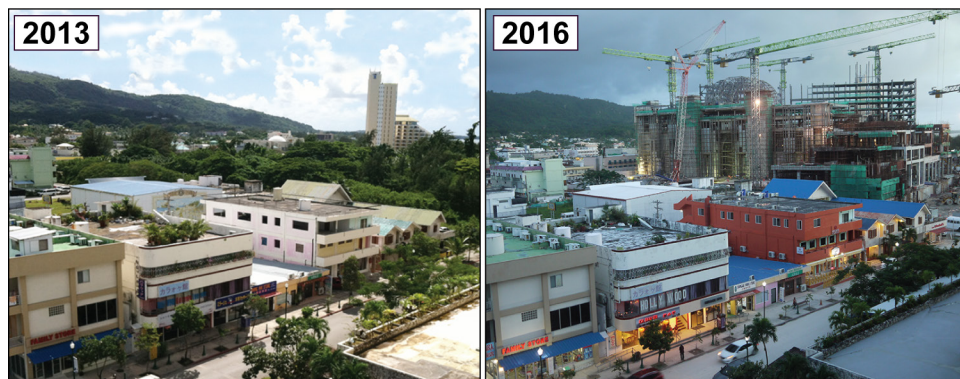
<sup>32</sup>Because of the number of foreign workers with approved CW-1 permits working in the construction industry, the CNMI government’s Strategic Economic Development Council estimated that reaching the CW-1 cap in fiscal year 2016 resulted in the loss of at least 3,670 foreign workers in other industries, including some long-term guest workers with decades of employment.

<sup>33</sup>We did not obtain data on the occupations for these businesses.

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later than 36 months from the date of the license, or by August 2017.<sup>34</sup> See figure 4 for photos showing the initial gaming facility's development site in Saipan both before and during construction.

**Figure 4: Construction of New Casino in Saipan, Commonwealth of the Northern Mariana Islands**



Source: GAO. | GAO-17-593T

The firms contracted to build the new casino under construction in Saipan have primarily employed Chinese workers. According to the CNMI government, while CNMI law and regulations require businesses operating in the CNMI to attempt to employ at least 30 percent U.S. workers, the casino operator and construction firms received an exemption from this requirement from the CNMI Department of Labor.<sup>35</sup> The Consolidated Natural Resources Act of 2008 allows CNMI employers to petition for H-2 visas and bring temporary workers, such as construction workers, to the CNMI without counting against the numerical

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<sup>34</sup>The casino agreement includes the stated objective to have permanent U.S. residents be at least 65 percent of all employees.

<sup>35</sup>Northern Mariana Islands Administrative Code § 80-30.2-120(c) – Private sector workforce participation objective of 30 percent of those who are a U.S. citizen, CNMI permanent resident, U.S. permanent resident, or an immediate relative of a U.S. citizen, CNMI permanent resident, or U.S. permanent resident.

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restriction for such visas.<sup>36</sup> However, China is not listed as an eligible country for H-2 visas.<sup>37</sup>

## Planned Labor Demand

Amid the uncertainty of the future availability of foreign labor, the CNMI government has granted zoning permits to planned projects that will require thousands of additional workers. Twenty-two new development projects, including six new hotels or casinos in Saipan and two new hotels or casinos in Tinian, are planned for construction or renovation by 2019.<sup>38</sup> Beyond the construction demand created by these projects, the CNMI's Bureau of Environmental and Coastal Quality estimates that at least 8,124 employees will be needed to operate the new hotels and casinos.<sup>39</sup>

According to data provided by the bureau, most of this planned labor demand is for development on the island of Tinian, where two businesses plan to build casino resorts, with an estimated labor demand of 6,359 workers for operations—more than twice the island's population in 2016.<sup>40</sup> According to the Department of Treasury, the existing casino and hotel on Tinian closed in 2015 after having been fined \$75 million by the U.S.

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<sup>36</sup>In 1952, the Immigration and Nationality Act authorized the H-2 temporary worker program, which established visas for foreign workers to perform temporary services or labor in the United States (see 15 Pub. L. No. 82-414, § 101(a)(15)(H)(ii) (June 27, 1952)). The Immigration Reform and Control Act of 1986 amended the Immigration and Nationality Act and divided the H-2 program into two programs: the H-2A program for agricultural workers and the H-2B program for nonagricultural workers (see Pub. L. No. 99-603, § 301(a) (Nov. 6, 1986)). Both visas are for jobs to fill a temporary or seasonal need, generally defined as lasting not longer than 12 months for H-2A workers and 10 months for H-2B workers (see 19 20 C.F.R. §§ 655.6(c), 655.103(d)).

<sup>37</sup>On October 26, 2016, DHS announced the H-2B country list for 2017, which does not include China. Asian countries on the list include the Philippines, South Korea, and Thailand, among others. See 81 Fed. Reg. 74,468 (Oct. 26, 2016). Although an employer can still request an H-2B visa for a worker from a country not on that list if the employer shows that it is in the U.S. interest to grant the H-2B status (see 8 C.F.R. § 214.2(h)(6)(i)(E)(2)), from fiscal year 2012 to 2016, no CNMI employers petitioned for any Chinese workers to obtain H-2B visas, according to DHS data.

<sup>38</sup>Only development projects that obtained CNMI zoning permits are included in this total. There may be other ongoing and planned development projects that do not require zoning permits because of their distance from the CNMI coastline.

<sup>39</sup>This total includes the estimated number of employees needed for operations and excludes the estimated number of employees needed for construction, according to the CNMI Bureau of Environmental and Coastal Quality. By 2021, the direct labor needed for operations of these facilities is estimated at 11,613 workers, according to the 902 Report.

<sup>40</sup>One of the businesses shows prospective investors how the resort will look once it is completed in a video on its website (see <http://www.altercitygroup.com/en/col.jsp?id=110>).

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Department of the Treasury for violations of the Bank Secrecy Act of 1970.<sup>41</sup> One of the two Tinian developments offers overseas immigration services, including assistance with obtaining employment or investment-based immigration to the United States.<sup>42</sup> We observed a billboard advertisement in Tinian with Chinese writing indicating that by investing in a new development in Tinian, an investor's family members would all get American green cards. This resort development, whose plans estimate a labor force of 859, has undertaken site preparation, while the other larger resort project, whose plans estimate a labor force of 5,500, had not initiated construction as of December 2016.

Currently, the CNMI government does not have a planning agency or process to ensure that planned projects are aligned with the CNMI's available labor force, according to CNMI officials. In January 2017, a bill was introduced in the CNMI Senate to establish an Office of Planning and Development within the Office of the Governor.

## Available Domestic Labor

Our preliminary analysis shows that the current number of unemployed domestic workers in the CNMI is insufficient to replace the existing CW-1 workers or to fill all the nonconstruction jobs that planned development projects are expected to create once their business operations commence.

- In 2016, 9,856 of the 13,299 CW-1 permits approved by DHS were allocated to workers engaged in nonconstruction-related occupations.<sup>43</sup> When the CW program ends in 2019, available data

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<sup>41</sup>According to a news release by the U.S. Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) on June 3, 2015, FinCEN fined the Tinian Dynasty Hotel and Casino \$75 million for failing to develop and implement an anti-money laundering program. The casino accommodated patrons wanting to conduct financial transactions with large amounts of cash without the casino reporting the transactions as required by U.S. law, according to FinCEN.

<sup>42</sup>According to USCIS, foreign nationals may be eligible for employment-based (EB-1) immigration if they have an extraordinary ability, such as an outstanding professor or researcher, or are a multinational executive or manager, or for investment-based (EB-5) immigration if they make the necessary investment in a commercial enterprise in the United States and plan to create or preserve 10 permanent full-time jobs for qualified U.S. workers.

<sup>43</sup>Nonconstruction-related occupations include all occupations other than construction trade occupations, such as building services; handlers; helpers; laborers; machine operators; technicians; or other occupations in architecture, engineering, and surveying that some may consider construction related.

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show that the unemployed domestic workforce,<sup>44</sup> estimated at 2,386 in 2016,<sup>45</sup> will be well below the number of workers needed to replace currently employed CW-1 workers in nonconstruction-related occupations.

- In addition, our preliminary analysis indicates that the unemployed workforce would fall far short of the demand for additional workers in nonconstruction related occupations needed to support the ongoing operations of planned development projects—currently estimated at 8,124 workers by 2019.

Narrowing this gap would require CNMI employers to recruit domestic residents present in the CNMI but not currently in the labor force. Key sources of additional labor force entrants to replace current CW-1 workers or fill new positions are as follows:

- **High school or college graduates.** In 2016, CNMI high schools graduated 678 students and the Northern Marianas College graduated 204 students. In addition, a smaller number of students leave high school or the college without a diploma and join the labor force.
- **Domestic residents not in the CNMI labor force.** According to the CNMI's 2016 Health Survey, there are 9,272 U.S. citizens and permanent residents over the age of 16 who are not currently in the labor force. In addition to students, this group consists largely of homemakers, retired workers, seasonal workers in an off-season, the institutionalized, and those doing unpaid family work, according to the census. Overall, the survey found that labor force participation was lower for the population born in the CNMI (57 percent) compared with the overall population (69 percent).
- **Other U.S.-eligible workers.** Workers could be recruited from U.S. states, U.S. territories, and the freely associated states (Federated States of Micronesia, Republic of the Marshall Islands, and Republic

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<sup>44</sup>The domestic workforce includes U.S. citizens, permanent residents, and individuals from the freely associated states (Federated States of Micronesia, Republic of the Marshall Islands, and Republic of Palau).

<sup>45</sup>While the overall rate of CNMI unemployment was 14 percent, it was 20 percent for the population born in the CNMI. The survey states that “unemployed” consists largely of CNMI residents in the labor force who are not working but are looking for work and who are U.S. citizens and permanent residents over the age of 16. The unemployment rate was obtained by dividing those not working but looking for work by the number in the labor force.



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of Palau). For example, in 2003, 1,909 freely associated state workers were employed in the CNMI as compared with 677 of these workers in 2015, according to CNMI tax data. Moreover, many citizens from the freely associated states migrate to the United States each year, including to nearby Guam.<sup>46</sup> Guam and Hawaii, the closest U.S. areas to the CNMI, both have higher local minimum wages than the CNMI, currently at \$8.25 and \$9.25 per hour, respectively, according to DOL.

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### While Some Employers Report Successes, Others Report Facing Multiple Challenges in Efforts to Recruit and Retain U.S. Workers

Employers in the CNMI are required to attempt to recruit and hire U.S. workers. The CNMI government has a goal that all employers hire at least 30 percent U.S. workers, and employers are generally required to post all job openings to the CNMI Department of Labor's website.<sup>47</sup> However, the CNMI government can and has granted exemptions to this requirement. From May 8, 2015, to May 27, 2016, seven businesses were granted exemptions, according to data provided by the CNMI Department of Labor. In addition, all employers that apply for CW-1 permits must attest that no qualified U.S. worker is available for the job opening. However, during our ongoing work, some of the CNMI employers with whom we met reported that they face the following challenges in recruiting and retaining U.S. citizens, among others: unsatisfactory results of job postings, high costs of recruiting, and difficulty in retaining U.S. workers.

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<sup>46</sup>GAO, *Compacts of Free Association: Improvements Needed to Assess and Address Growing Migration*, GAO-12-64 (Washington, D.C.: Nov. 14, 2011).

<sup>47</sup>U.S. workers include U.S. citizens, U.S. permanent residents, and CNMI permanent residents and the immediate relatives of citizens, U.S. permanent residents, and CNMI permanent residents.

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## Federal and CNMI Efforts to Address Labor Force Challenges Include Job Training Programs and a Consultative Process

The federal and CNMI governments support programs seeking to address the CNMI's labor force challenges. These programs include job training funded by employers' CW-1 vocational education fees that DHS transfers to the CNMI government and employment and training assistance funded by DOL.<sup>48</sup> Our preliminary analysis shows that in recent years, on average, DHS transferred about \$1.8 million per year in CW-1 vocational education fees and DOL provided about \$1.3 million per year to the CNMI for employment and training programs.

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## Fees Collected by CW Program Support Job Training

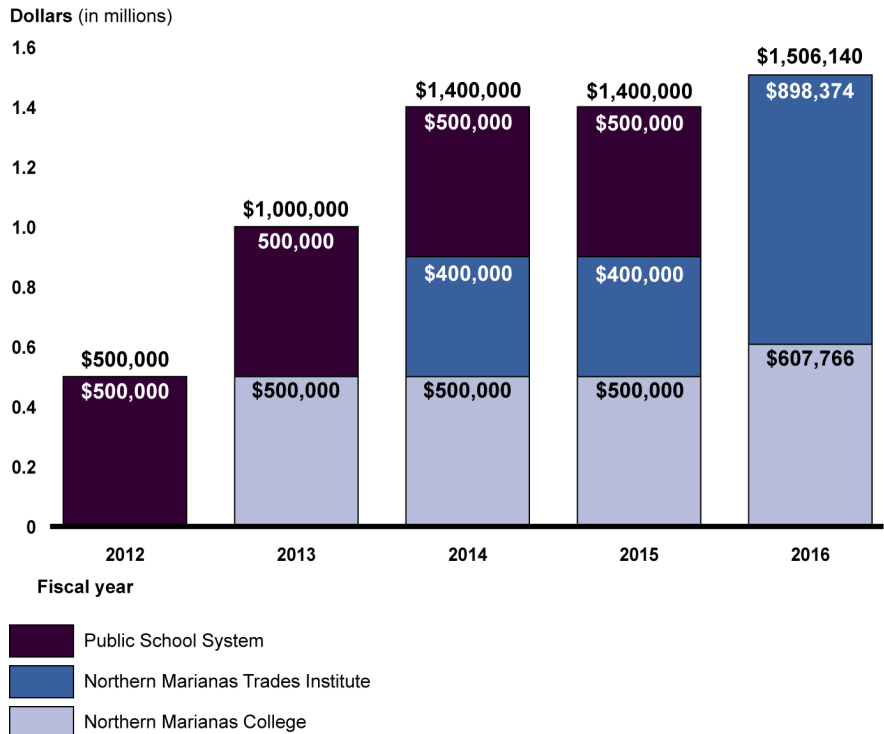
DHS collects the \$150 vocational education fee assessed for each foreign worker on a CW-1 petition and typically transfers the fees to the CNMI government each month. Results of our ongoing work indicate that to support vocational education curricula and program development in fiscal years 2012 through 2016, DHS transferred to the CNMI Treasury about \$9.1 million in CW-1 fees.<sup>49</sup> In fiscal years 2012 through 2016, the CNMI government allocated about \$5.8 million of the \$9.1 million in CW-1 vocational education fees to three educational institutions (see fig. 5). At present, the CW-1 fees support job training programs at Northern Marianas College and Northern Marianas Trades Institute and in recent years also funded job training provided by CNMI's Public School System. All three institutions reported using a majority of the CW-1 fees to pay the salaries and benefits of faculty and staff members involved in job training programs.

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<sup>48</sup>Two other workforce development efforts are CNMI scholarship programs funded by the CNMI government and local license fees for gaming machines and technical assistance funded by DOI. Our May 2017 report will provide additional details on these activities.

<sup>49</sup>DHS collects these supplemental fees and transfers the funds to the CNMI government pursuant to the Consolidated Natural Resources Act of 2008, Pub. L. No. 110-229 § 702(a) (May 8, 2008), codified at 48 U.S.C. § 1806(a)(6).

**Figure 5: Annual Allocations of CNMI-Only Transitional Worker (CW-1) Vocational Education Fees to Commonwealth of the Northern Mariana Islands (CNMI) Educational Entities, Fiscal Years 2012–2016**



Source: GAO analysis of data provided by the Commonwealth of the Northern Mariana Islands Department of Finance. | GAO-17-593T

Note: The U.S. Department of Homeland Security collects a vocational education fee from prospective employers of those applying for special CW-1 permits and transfers these fees to the CNMI government for the CNMI educational entities' ongoing vocational programs.

- Northern Marianas College.** In fiscal years 2013 through 2016, the college, the CNMI's only U.S.-accredited institution of higher learning, received \$2.1 million in CW-1 funding and prepared annual reports describing how the funds were used to train the CNMI workforce for occupations in which foreign workers currently outnumber U.S. workers. According to the annual report for fiscal year 2016, the college used its CW-1 funding to provide vocational courses and services in business, nursing, community development, and information technology. The college reported using its CW-1 funding to support 457 students in the fall of 2015, 434 such students in the spring of 2016, and 228 students in the summer of 2016.
- Northern Marianas Trades Institute.** In fiscal years 2014 through 2016, the institute—a private, nonprofit facility for vocational education

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established in 2008—received \$1.7 million in CW-1 funding. The institute specializes in training youths and adults in construction, hospitality, and culinary trades. The institute’s senior officers told us that in fiscal year 2016, 300 students were enrolled in the institute’s fall, spring, and summer sessions, and as of November 2016, 132 of these students had found employment after completing their training.

- **CNMI’s Public School System.** In fiscal years 2012 through 2015, the Public School System—which consists of 20 public schools, including 5 high schools that graduated 662 students in the 2014–2015 school year—received \$2 million in CW-1 funds for its cooperative education program designed to prepare high school students for the CNMI’s job market. By the end of the 2014–2015 school year, 452 students were enrolled in the cooperative education program, according to the federal programs officer for the Public School System.

As part of our ongoing work, we facilitated group discussions with current and former students of the CW-1-funded programs at each of the three institutions. Several participants told us that the training had helped them find jobs. Participants also identified specific benefits of the training they received, such as increased familiarity with occupations they intended to enter, learning communication skills tailored for specific work environments, and maintaining and improving skills in a chosen career path. However, the employers we interviewed in the CNMI told us that the benefits of the job training programs supported by the CW-1 vocational education fees were limited to Saipan and that programs run by Northern Marianas College and Northern Marianas Trades Institute were unavailable on Tinian and Rota.

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With DOL Funding, the CNMI Government Provides Job Search Assistance, Career Counseling, and Training

Preliminary results of our ongoing work show that from July 2012 through June 2016, DOL provided about \$5.3 million in grants under the Workforce Investment Act of 1998 (WIA) and the Workforce Innovation and Opportunity Act of 2014 (WIOA) to the CNMI Department of Labor's Workforce Investment Agency for job search assistance, career counseling, and training.<sup>50</sup> That agency carried out WIA programs in the CNMI and now administers programs under WIOA. DOL's Employment and Training Administration conducts federal oversight of these programs. Providers of DOL-funded worker training include Northern Marianas College, Northern Marianas Trades Institute, CNMI government agencies, and private businesses. Examples of training provided by these entities include courses toward certification as a phlebotomy technician, a nursing assistant, and a medical billing and coding specialist.

The CNMI developed a state plan outlining a 4-year workforce development strategy under WIOA and submitted its first plan by April 1, 2016.<sup>51</sup> The plan and the WIOA performance measures took effect in July 2016. According to its state plan, the CNMI Department of Labor has formed a task force to assess approaches for using workforce programs to prepare CNMI residents for jobs that will be available because of ongoing reductions in the number of foreign workers and the eventual expiration of the CW program.

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<sup>50</sup>WIOA, Pub. L. No. 113-128 (July 22, 2014), repealed WIA, Pub. L. No. 105-220 (Aug. 7, 1998). Among other changes, WIOA established new performance measures; the new measures took effect in July 2016. See GAO, *Workforce Innovation and Opportunity Act: Performance Reporting and Related Challenges*, [GAO-15-764R](#) (Washington, D.C.: Sept. 23, 2015) and *Workforce Innovation and Opportunity Act: Information on Planned Changes to State Performance Reporting and Related Challenges*, [GAO-16-287](#) (Washington, D.C.: Mar. 7, 2016).

<sup>51</sup>Under WIOA, states are required to submit state plans outlining their overall strategy for workforce development and how that strategy will meet identified skill needs for job seekers and employers. All states submitted their first plans under WIOA to DOL and the Department of Education by April 1, 2016. According to DOL and Department of Education officials, they approved all of the state plans with conditions that each state needed to address to meet requirements. In July 2016, these plans and the WIOA performance measures took effect. WIOA requires that states submit state plans to DOL every 4 years and revisit these plans every 2 years, submitting their planned modifications to the relevant federal agencies for approval. For additional information, see GAO, *Workforce Innovation and Opportunity Act: Selected States' Planning Approaches for Serving Job Seekers and Employers*, [GAO-17-31](#) (Washington, D.C.: Nov. 15, 2016).

Recently Completed 902 Consultative Process Resulted in Recommendations to Congress and DHS

In December 2016, after 8 months of official 902 Consultations, informal discussions, and site visits to locations in the CNMI, the Special Representatives of the United States and the CNMI transmitted a report to the President that included six recommendations agreed to by the Special Representatives on immigration and labor matters:<sup>52</sup>

1. Extending the CW program beyond 2019 and other amendments, such as raising the CW-1 cap and restoring the executive branch’s authority to extend the CW program.
2. Providing permanent status for long-term guest workers.
3. Soliciting input on suggested regulatory changes to the CW program.
4. Considering immigration policies to address regional labor shortages.
5. Extending eligibility to the CNMI for additional federal workforce development programs.
6. Establishing a cooperative working relationship between DHS and the CNMI.

Table 6 lists these six recommendations and summarizes proposed next steps toward implementing them that could be taken, according to the report.

**Table 6: Recommendations and Proposed Next Steps of the Special Representatives as Outlined in the Joint 902 Report by the Commonwealth of the Northern Mariana Islands (CNMI) and the U.S. Government**

Recommendation	Proposed next steps
(1) Extend the CW program beyond 2019, raise the CW-1 cap, provide DHS authority to extend the CW program further. <sup>a</sup>	Amend the statutory authority for the CW program to provide DHS with the authority to extend the CW program, to raise the CW-1 cap to 18,000, to extend E-2 CNMI Investor Status (or E-2C) investor visa category for the CNMI and Guam, to exempt the CNMI from national caps for H-visas, to analyze the continued ban on asylum claims, and to allow DHS and CNMI stakeholders to comment before a decision is made on this issue.
(2) Provide permanent status for long-term guest workers.	Amend relevant U.S. immigration laws as part of a comprehensive immigration reform bill or as part of a stand-alone bill dealing with CNMI-specific immigration issues to make long-term guest workers and their families with significant equities in the CNMI eligible for lawful permanent resident status with a path to citizenship.

<sup>52</sup>Our May 2017 report will provide additional details on the 902 Report.

Recommendation	Proposed next steps
(3) Solicit suggested regulatory changes to the CW program.	Publish a Request for Information to solicit ideas on how various issues that can potentially be addressed by regulatory changes to the CW system, including prioritizing renewals of CW-1 permits over new CW-1 applications, establishing a numerical allocation for long-term CW-1 workers, and allocating set amounts of available permits by industry.
(4) Consider immigration policies to address regional labor shortages.	Consider extending and expanding existing immigration policies or developing new policies to address systemic regional workforce challenges currently being experienced in both Guam and the CNMI. Those to be considered for extension, expansion, or further development are three provisions in the Consolidated Natural Resources Act of 2008 (Pub. L. No. 110-229: (1) a provision that provides an exception to the numerical limitation in section 214(g) of the Immigration and Naturalization Act, or the H-visa category; (2) a provision that allows the Governors of Guam and the CNMI to request that DHS study the feasibility of establishing additional Guam-only or CNMI-only nonimmigrant visa categories that are not provided for under current immigration law; and (3) the Guam/CNMI Visa Waiver Program.
(5) Extend eligibility to the CNMI for an additional federal workforce development program, Trade Adjustment Assistance, and the Earned Income Tax Credit.	Extend Wagner-Peyser Act assistance to the CNMI, <sup>b</sup> and make the CNMI eligible for Trade Adjustment Assistance and the Earned Income Tax Credit. <sup>c</sup>
(6) Establish a cooperative working relationship between DHS and the CNMI.	DHS and the CNMI work cooperatively to exchange information and continue existing efforts to educate employers about applying for alternative nonimmigrant visas in place of CW-1 visas when appropriate.

Legend: 902 Report = report generated through a consultative process specified in section 902 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America; CNMI = Commonwealth of the Northern Mariana Islands; CW-1 = CNMI-Only transitional worker classification; DHS = Department of Homeland Security.

Source: GAO analysis of 902 Report recommendations. | GAO-17-593T

<sup>a</sup>On September 7, 2011, DHS established the CW permit program, administered by the U.S. Citizenship and Immigration Services. Under the CW program, qualified nonimmigrant workers are able to obtain, through their employers, nonimmigrant CW-1 status that allows them to work in the CNMI.

<sup>b</sup>The Wagner-Peyser Act of 1933 established a nationwide system of public employment offices collectively known as the Employment Service.

<sup>c</sup>According to the U.S. Department of the Interior, the CNMI tax code mirrors the U.S. tax code.

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Chairman Murkowski, Ranking Member Cantwell, and Members of the Committee, this concludes my prepared statement. I would be pleased to respond to any questions you may have at this time.

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## GAO Contacts and Staff Acknowledgments

For further information regarding this statement, please contact David Gootnick, Director, International Affairs and Trade at (202) 512-3149 or [gootnickd@gao.gov](mailto:gootnickd@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. Individuals making key contributions to this testimony included Emil Friberg (Assistant Director), Julia Ann Roberts (Analyst-in-Charge), Sada Aksartova, David Blanding, Benjamin Bolitzer, David Dayton, and Moon Parks. Technical support was provided by Neil Doherty, Mary Moutsos, and Alexander Welsh.



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