



**Report on the Alien Worker Population
in the Commonwealth of the Northern Mariana Islands**

**by
The Secretary of the Interior**

**Washington, DC
April 2010**

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EXECUTIVE SUMMARY

In title VII of Public Law 110-229, the Congress requested that the Secretary of the Interior provide information and recommendations regarding alien workers in the Commonwealth of the Northern Mariana Islands (CNMI). The requests and abbreviated responses are:

REQUEST (1): The number of aliens residing in the Commonwealth

Response: As of January 2010, the best available estimated numbers for aliens residing within the CNMI: 20,859 aliens in the CNMI, of which 16,304 are alien workers. The number of aliens was derived from an accounting performed by the Department of the Interior's Ombudsman's office, during which the Ombudsman asked aliens to register voluntarily. We believe this accounting captured the most reliable tally of aliens in the CNMI. However, as described on page 14 of this report, this number probably underestimates the true number of aliens because many of those present in the CNMI without legal status probably chose not to register.

REQUEST (2): A description of the legal status (under Federal law) of such aliens

Response: Under the *Joint Resolution to Approve the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America* (Covenant Act), the CNMI exercised control over its immigration system. Title VII of Public Law 110-229 amended the Covenant Act to provide that any aliens lawfully present in the CNMI on the transition program effective date (November 28, 2009) are not removable from the United States for being in violation of section 212(a)(6)(A) of the Immigration and Nationality Act (INA) [present without admission or parole] until the earlier of the date that is the completion of the period of the

alien's admission under the immigration laws of the CNMI or 2 years from the transition program effective date. Each alien who possessed a CNMI entry permit on November 27, 2009, was lawfully present in the CNMI on November 28, 2009 and able to avail himself or herself of the provisions contained in title VII. Based upon available data, approximately ninety-nine percent of the 20,859 aliens were legally in the CNMI and thus, are not removable under section 212(a)(6)(A) of the INA. The Ombudsman accounting is confirmed by the CNMI's self reporting to GAO and data received from CNMI government including prior CNMI alien labor reports and tax records.

REQUEST (3): The number of years each alien has been residing in the Commonwealth

Response: The following is a summary and estimation of the numbers of aliens according to differing lengths of residence in the CNMI as collected by the Department of the Interior's Federal Ombudsman:

5 years or more	15,816
3 years to 5 years	2,221
6 months to 3 years	1,979
less than 6 months	819
undeclared	24

REQUEST (4): The current and future requirements of the Commonwealth economy for an alien work force

Response: From a sample of ten Saipan Chamber of Commerce firms, the need for temporary alien workers is expected to increase by 15.9 percent between November 2009 and 2014.

REQUEST (5): Any such recommendations to the Congress, as the Secretary may deem appropriate, related to whether or not the Congress should consider permitting lawfully admitted alien workers lawfully residing in the Commonwealth on such enactment date to apply for long-term status under the immigration and nationality laws of the United States

Response: Consistent with the goals of comprehensive immigration reform, we recommend that the Congress consider permitting alien workers who have lawfully resided in the CNMI for a minimum period of five years to apply for long-term status under the immigration and nationality laws of the United States.

Report on the Alien Worker Population in the Commonwealth of the Northern Mariana Islands

I. CONGRESSIONAL REQUEST

The Consolidated Natural Resources Act (CNRA, Public Law 110-229, May 8, 2008, title VII, Section 702) requires that the “Secretary of the Interior, in consultation with the Secretary of Homeland Security and the Governor of the Commonwealth, shall report to the Congress no later than two years after the date of enactment of Public Law 110-229. The report shall include:

- (1) the number of aliens residing in the Commonwealth;
- (2) a description of the legal status (under Federal law) of such aliens;
- (3) the number of years each alien has been residing in the Commonwealth;
- (4) the current and future requirements of the Commonwealth economy for an alien work force; and
- (5) such recommendations to the Congress, as the Secretary may deem appropriate, related to whether or not the Congress should consider permitting lawfully admitted alien workers lawfully residing in the Commonwealth on such enactment date to apply for long-term status under the immigration and nationality laws of the United States.”

II. HISTORY OF THE CNMI ECONOMY AND UTILIZATION OF ALIEN WORKERS

The CNMI, a U.S. territory located in the western Pacific, is an archipelago comprised of 14 islands. The majority of CNMI’s population lives on three of the southernmost islands: its capital Saipan, Rota, and Tinian. The CNMI’s southernmost island is approximately 40 miles north of the U.S. territory of Guam.

At the end of World War II, the Northern Mariana Islands, along with all other islands in Micronesia – except for Guam, Nauru, and Kiribati – became a part of the United Nations strategic Trust Territory of the Pacific Islands (TTPI), administered by the United States. Under U.S. administration, components of the TTPI received assistance for political and economic development, while contributing significantly to the U.S. defensive posture in the Pacific.

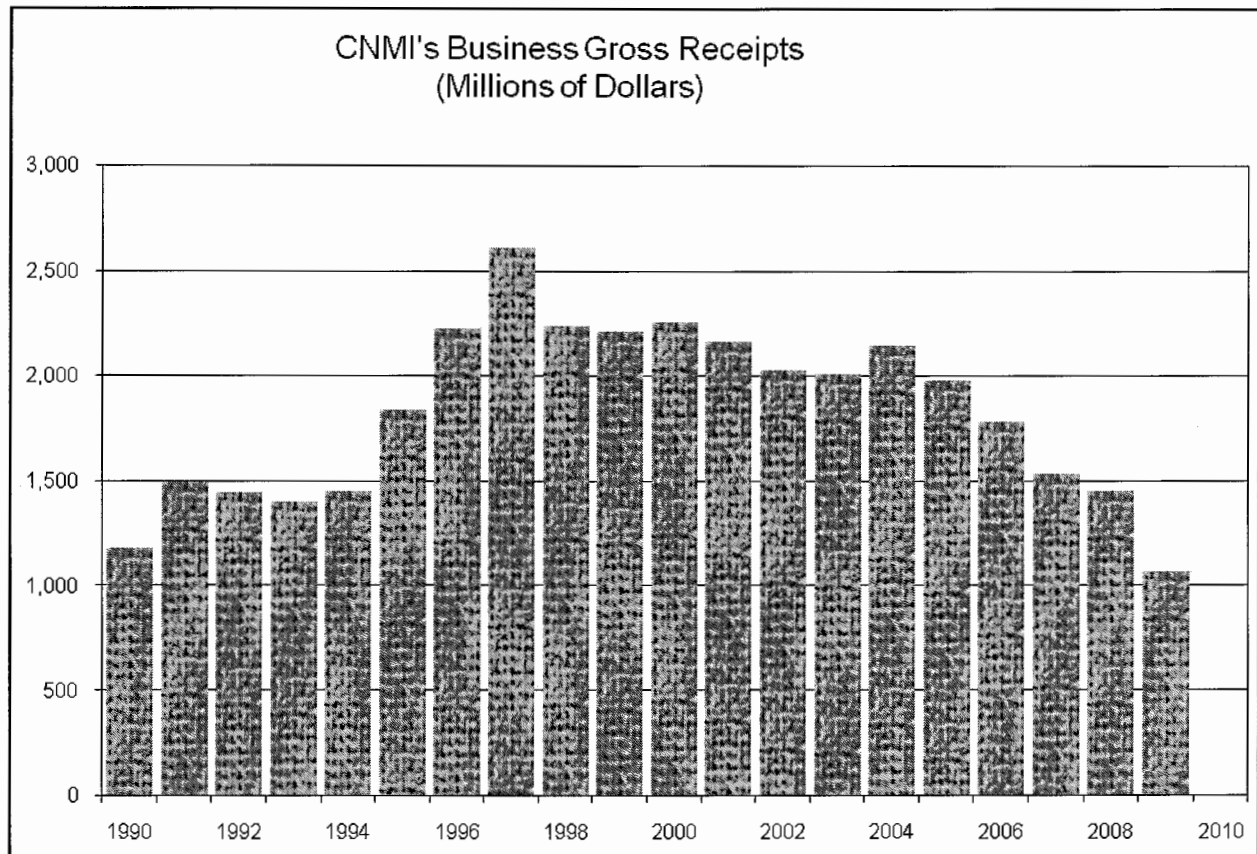
Consistent with the U.N. trusteeship agreement, the people of the Northern Mariana Islands took steps in the early 1970s to express their desire for a closer relationship with the United States and greater self-government. Negotiations on a “Covenant” between the Northern Mariana Islands and the United States were completed in 1975. After favorable consideration by the United States Congress, the Joint Resolution to Approve the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (Covenant Act) was signed into law (P.L. 94-241) in 1976 by President Gerald Ford.

The Covenant Act, which took effect in 1986, conferred U.S. citizenship upon most residents of the Northern Mariana Islands who previously had been citizens of the Trust Territory of the Pacific Islands, and provided a greater measure of self-government, and defined the relationship between the United States and the CNMI. During negotiations with the United States, Northern Mariana Islands officials expressed concern that application of certain U.S. laws would have a negative effect on their indigenous culture and people, as well as their economic development. The United States recognized the importance of this issue for the people of the Northern Mariana Islands and agreed that for a period of time the CNMI government would be responsible for determining minimum wage rates, immigration policy, and tax policy.

In the late 1980s and 1990s, the CNMI focused on developing a garment industry in addition to its growing tourism sector. To fill the needs of a labor intensive industry such as making garments, the CNMI used its local control of immigration policy to allow recruitment and entry of alien workers. The practice of recruiting alien workers was made widely available and by the end of the 1990’s, their number swelled to near 40,000 and permeated every industry and occupation in the CNMI. Throughout this period, the Reagan, Bush and Clinton administrations and the U.S. Congress expressed concern over CNMI immigration and labor policies and persistent allegations that alien workers were mistreated and exploited. Efforts

in Congress to address these concerns through the enactment of federal legislation were unsuccessful.

At the top of the business cycle that peaked in 1997, total business gross revenues (BGR) subject to CNMI tax, the best measure of business activity, reached \$2.6 billion.¹ At the end of 2008, the BGR total was down 44.4 percent from the 1997 level to \$1.5 billion. In the first six months of 2009, total BGR receipts were down to \$593.0 million. With the last three garment factories leaving the CNMI in March 2009, the most reasonable accounting would have the CNMI's BGR total for the second half of 2009 at about 20 percent less than the first half. Extrapolating, the CNMI's total BGR can be expected to be approximately \$1.07 billion for all of 2009, 59.1 percent below 1997.



There appears to be no economy in the Pacific that has experienced this extreme degree of business expansion and subsequent contraction since the Asian financial crisis of the mid-1990s shook Asian markets. The main reason for this rare

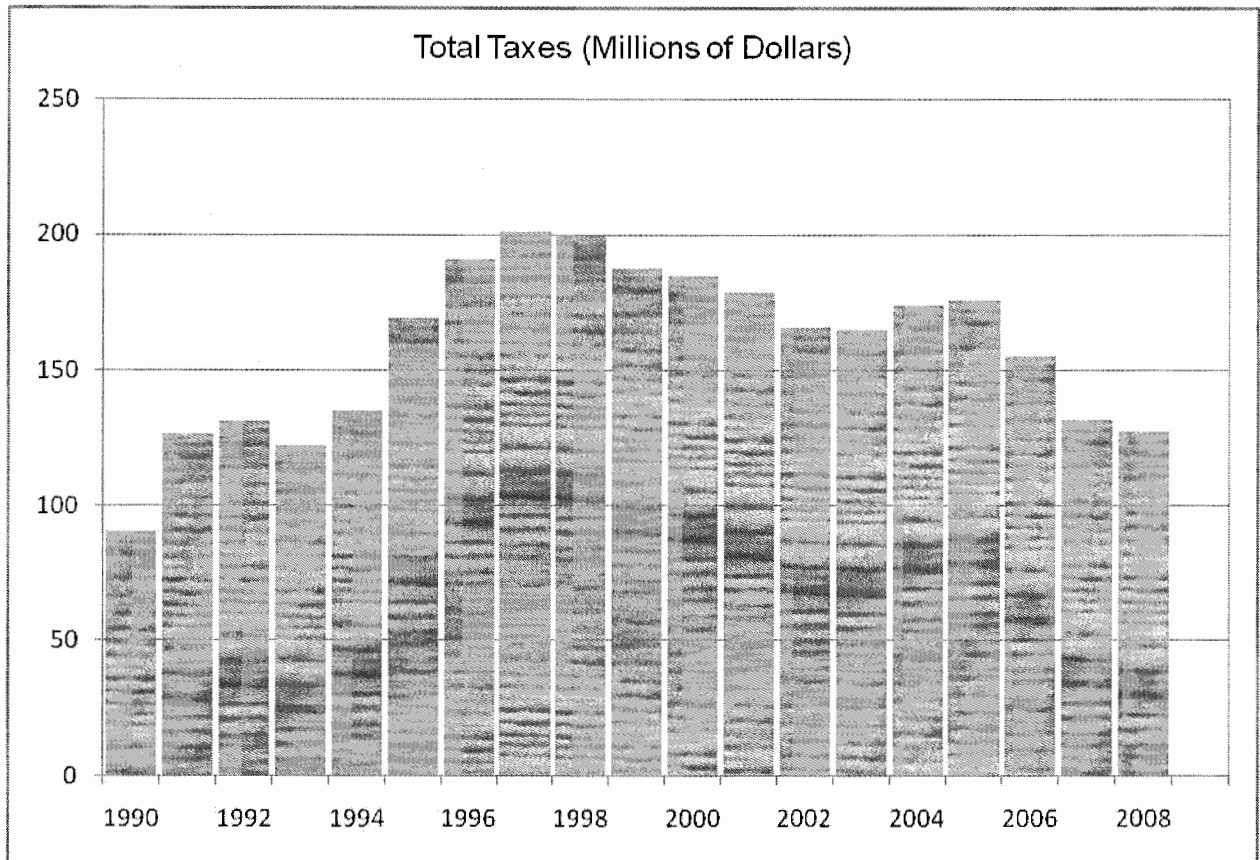
¹ CNMI Department of Finance.

business and economic decline was the collapse of the CNMI's garment industry. The garment industry developed from the mid-1980s to peak production and distribution levels (as well as contribution to the CNMI's treasury) in 1999-2000. With the adoption of new global trade rules, which took effect in January 2005, came removal of quotas and changes in duties on imports that set in motion the process that would end the CNMI's garment industry.

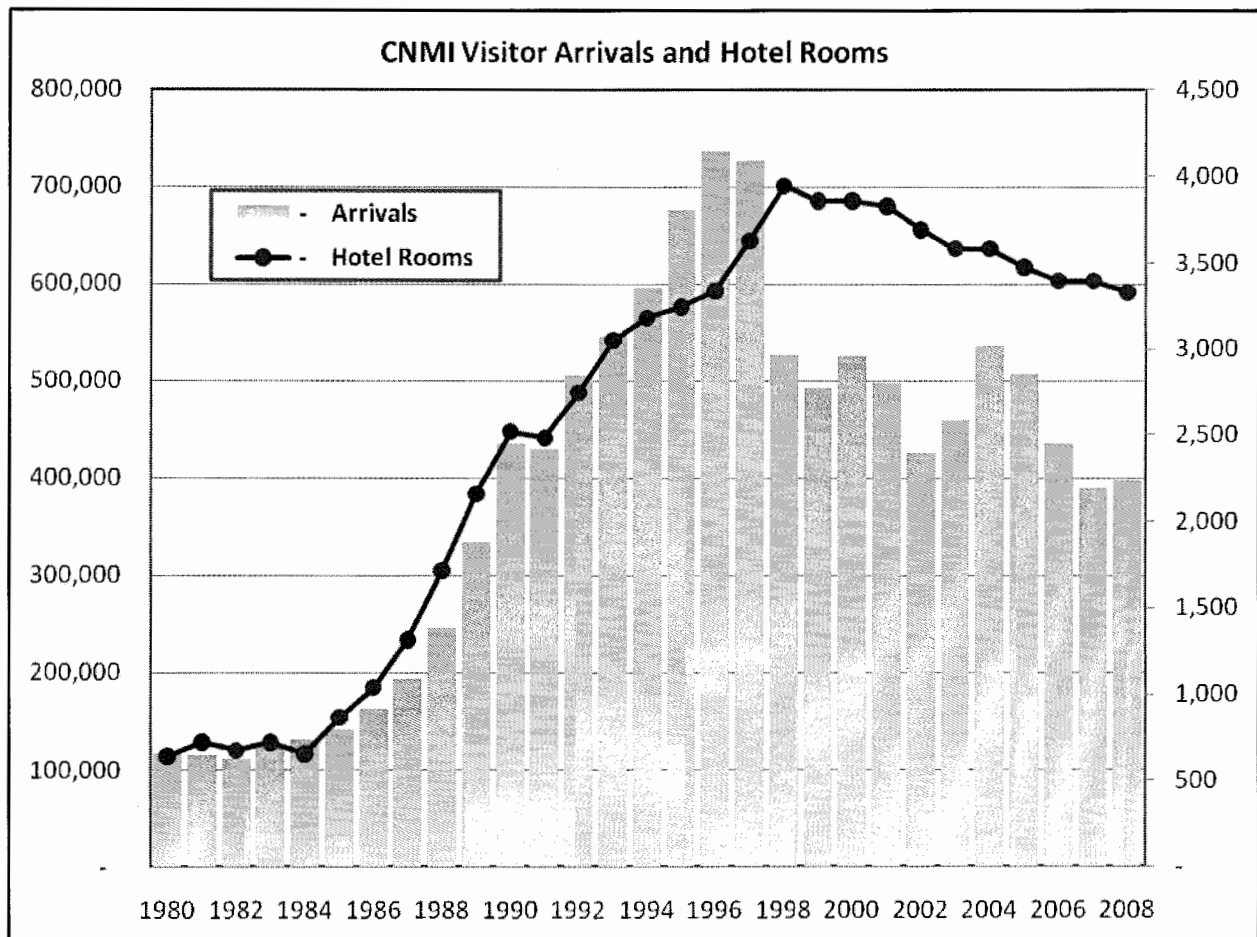
The end of the CNMI's garment industry was precipitated by actions the World Trade Organization took to increase global trade and benefit consumers. With removal of quotas and lower import duties, especially for garment products, large producers, especially those with lower labor costs in China, overwhelmed small producers such as the CNMI factories. Although production costs in the CNMI were lower than in the rest of the United States, because the CNMI garment producers were allowed to pay less than U.S. minimum wages, they were much higher than in markets such as China where labor costs were even lower.

The CNMI's tourism has also suffered in the last few years. One of the factors in the decrease in the number of tourists to the CNMI has been the realignment of regional and global carriers, these carrier's costs of doing business, and how these carriers intend to serve the destinations that produce the most revenue per passenger mile.

With the collapse of the garment industry and the decline of tourism, the CNMI economy must rediscover and develop its main comparative economic advantages: its association with the United States, its climate, and its proximity to Asia's dynamic markets. In 1980, two years after the CNMI began to be administered like a U.S. territory, it received 117,149 tourists. In 1996, the year before the peak of the last business cycle, the CNMI received a record 736,117 tourists. A decade later, the count was down to 434,494 and slipping. In 2007, the CNMI had fewer than 400,000 tourists for the first time since 1989. In 2008, it made progress, but did not cross the 400,000 threshold.



Japan Air Lines (JAL) which carried nearly a third of all Japanese tourists to the CNMI for decades withdrew from the CNMI market in October 2006. Since JAL's withdrawal, no other air carrier has stepped forward to fill the gap.



CNMI LABOR FORCE DATA

Unlike the 50 states, Guam, Puerto Rico and the U.S. Virgin Islands, the CNMI does not participate in the national unemployment insurance program and its reporting requirements. The CNMI's labor force statistics are not organized and reported in the same manner as the 50 states, Guam, Puerto Rico and the U.S. Virgin Islands. The CNMI has not compiled current data on the various segments of the labor force such as employed, unemployed and looking for work, discouraged workers and others such as part-time and self-employed workers. The CNMI is the only U.S. labor market where more than half of payroll workers are temporary alien workers who are present in the CNMI on permits issued by the CNMI. Its labor force data consist of two main components: (1) work permits for those entering the CNMI as temporary alien workers and, (2) payroll tax withholding (W-2 form) data that the CNMI collects by industry and by worker nationality.

Work permits have been issued to potential alien workers before they enter the CNMI. Such a permit, however, has not always meant that the holder actually arrived and worked in the CNMI in the job for which the permit was issued. By and large, most permit-holders do arrive in the CNMI to work in the jobs for which they applied. Because work permits were mainly passports for entry, their aggregate number can be relied on only as an estimate of the number of alien workers in the CNMI. Also, a permit holder working more than one job is normally counted as a single permit holder because there has been no systematic tracking of permit holders after they arrive and occupy their jobs. The CNMI also collected information on alien work permits upon renewal. Because there is no complete and systematic information on permit holders and because of changes in status of individual permit holders, their aggregate number is always subject to a great deal of uncertainty.

III. ALIEN WORKERS CURRENTLY IN THE CNMI – CONGRESSIONAL REQUESTS 1, 2, AND 3

The Department of the Interior was tasked by the Congress with providing statistics on aliens in the CNMI: (1) their number, (2) their legal status, and (3) their years of residence in the Commonwealth.

Interior had hoped to utilize a registration of aliens by the Department of Homeland Security (DHS) that was authorized in title VII of Public Law 110-229. However, DHS, in examining its operational and fiscal needs, determined that it would not undertake a registration program prior to the transition program effective date.

Interior then decided to pursue other avenues for gathering information for this report. First, it sought the use of existing statistics: (1) CNMI alien worker permits, and (2) W-2 withholding data collected by the Division of Taxation and Revenue in the CNMI Department of Finance. While this information was useful, it was for calendar year 2008 and somewhat dated, especially in light of further garment company closings in early 2009.

OMBUDSMAN’S ACCOUNTING OF ALIENS IN THE CNMI

Seeking more accuracy, Interior officials turned to its Federal Ombudsman in the CNMI for a more direct accounting of aliens in the CNMI. The Federal Ombudsman’s Office was authorized by the U.S. Congress in 1998, “to provide

workers with the opportunity to state claims to a federal official who can then assist the worker in the appropriate handling of such claims by a local or federal agency.”

On December 9, 2009, given the lack of a DHS registration and the refusal of the CNMI government to provide access to its border management system (BMS) and labor and immigration identification system (LIIDS), the Ombudsman’s office commenced counting the number of aliens present in the CNMI in order to provide the most accurate data for this report. Public notices regarding the accounting were posted in Chinese, Tagalog, English, and Korean, requesting all persons who did not hold U.S. passports or U.S. permanent resident cards to report to the Ombudsman. Citizens of freely associated states² and other Pacific islands were considered alien (hereinafter “FAS citizens”) for purposes of the accounting. Meetings to brief major business leaders were conducted during this same period to reiterate the dual goals of the effort: obtain the most accurate count possible, while causing the minimum disruption to businesses in the CNMI.

One hundred and twenty two pages of data were gathered by the Ombudsman with the assistance and cooperation of not only major businesses but also the Catholic Diocese of Chalan Kanoa, the Philippine Consul General, the Japanese Consulate, the Korean Association, the Palauan Consulate and the leaders of alien workers’ groups such as the United Workers Group. Field enumeration began in Tinian on December 11, 2009, in Rota on December 12, 2009, and in Saipan on December 14, 2009. Because of the cooperative efforts of so many individuals and groups, over 21,000 aliens participated in the registration which ended on December 31, 2009.

Based on best available information the numbers of aliens in the Ombudsman’s accounting appear accurate for all categories and areas, except for the FAS citizens. The FAS numbers reflected in the chart are far smaller than the number reported by the U.S. Census Bureau in its April 24, 2009 report³. U.S. Census estimated that in 2008 there were 2,100 FAS citizens in the CNMI. Only 149 registered with the Ombudsman. Many simply did not know of the accounting, or, because of close FAS relations with the United States, many may not have considered themselves “alien”. Other than this FAS population, the remaining

² The Republic of the Marshall Islands, the Federated States of Micronesia and the Republic of Palau are sovereign countries in free association with the United States whereby the United States provides military protection and funding in return for the right to deny third country entry. These three countries are called freely associated states.

³ United States Department of Commerce, Economic and Statistics Administration, U.S. Census Bureau, *Final Report; 2008 Estimates of Compact of Free Association (COFA) Migrants*, April 2009.

numbers conform to expectations from prior Commonwealth reports submitted in 2003, 2004, 2005, 2006, 2008, and 2009 and tax records provided to Interior for this report. For example, when the accounting was commenced, the Korean community estimated about 2,000 Korean citizens residing in the CNMI. As shown in the charts, 1,887 Koreans registered.

The accounting did not specifically identify aliens with immigration status under Federal law, including (1) aliens with U.S. lawful permanent resident (LPR) status granted either before or after the November 28, 2009 CNRA transition date to Federal immigration law or (2) aliens with nonimmigrant status or parole granted by DHS on or after November 28, 2009. While the number of aliens described in (2) above was low (with the exception of recent tourist arrivals) at the time of the accounting because it was very soon after the transition date, that number is steadily rising, particularly due to the use of parole under section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)). As of April 14, 2010, USCIS had issued more than 1,000 paroles and more than 1,000 advance parole authorizations to aliens residing in the CNMI (there is overlap between these numbers as some aliens have received both parole and advance parole).

CONGRESSIONAL REQUEST (1): The number of aliens residing in the Commonwealth

Response: The Ombudsman’s accounting of the number of aliens residing in the CNMI shows the approximate total number of aliens in the Commonwealth as 20,859.

The background data that supports the answer above comes from the Ombudsman’s accounting, which shows the following categories and numbers of aliens, including FAS citizens in the Commonwealth:

Legal Aliens in the CNMI

Alien Workers	16,304
Alien Business Owners and Investors	548
Alien Immediate Relatives of Aliens and U.S. Citizens	2,933
Alien Students	<u>869</u>
Subtotal Number of Legal Aliens	20,654
Illegal Aliens in the CNMI	<u>205</u>
Total Aliens Residing in the CNMI	20,859

Under title VII of Public Law 110-229, legal aliens may continue to work (if work authorized) in the CNMI for the duration of their permits or until November 27, 2011, whichever occurs sooner.

The 205 illegal aliens in the Commonwealth appears to be a low number, and is likely due to (1) a failure of some illegal aliens to voluntarily report in the Ombudsman's accounting of aliens, and (2) the issuance of umbrella⁴ permits by the CNMI Department of Labor to any alien willing to apply for an umbrella permit and pay applicable fees.

Confirmation of Ombudsman's Count

Permits and W-2s

Interior's original effort and method to secure a count of alien workers, which relied on existing data from two sources, supports the findings of the Ombudsman's accounting. The first of these two sources was permits that the CNMI issued to all alien workers who were present in the CNMI to work in 2008, the most recent complete year for which such data were available. The second source is 2008 tax withholding (W-2 forms) data which the Division of Taxation and Revenues, a unit of the CNMI Department of Finance, compiles annually by wage brackets, industries and countries of origin of all taxpayers.

The CNMI Department of Labor provided to the CNMI Department of Commerce two separate displays of alien worker permits for the period of January 1, 2008 to December 31, 2008. Permits by citizenship are shown in Table 1-A.

⁴Between October and November 2009, in preparation for the implementation of Federal immigration control under P.L. 110-229, the CNMI Department of Labor issued two-year entry permits to certain aliens in the CNMI. These two-year entry permits are commonly known as "umbrella permits" and all have an expiration date of November 27, 2011.

Table 1-A: Permits Issued to Alien Workers – Tabulated by Citizenship

Country	Number of Permits Issued
Bangladesh	653
China	5,483
Japan	900
Korea (South)	2,593
Philippines	18,500
Thailand	710
Others	861
Total	29,700

This total of 29,700 permits for 2008 included 22,917 permits for alien workers. The rest was divided among 10 categories of which the large ones were alien immediate relatives of U.S. citizens (2,409), alien immediate relatives of aliens (1,006), long-term tourists (1,424), foreign students (491), long-term business (255), missionaries (157) and others such as short-term business stays. Permits issued by country of citizenship and industry are shown in Table 1-B.

Table 1-B: Permits Issued to Alien Workers Tabulated by Citizenship and Industry

Industry	Total	Philippines	China	Japan	Korea	Thailand	Bangladesh	Others
Total	23,110	15,769	4,569	538	729	574	333	598
Banking	11	9	2	-	-	-	-	-
Construction	2,372	1,921	307	3	59	15	26	41
Fishing	70	63	6	-	1	-	-	-
Garments	2,189	111	1,563	-	18	450	15	32
Hotel	2,672	1,999	223	98	68	16	25	243
CNMI Government	193	167	2	1	-	-	-	23
Night Club/Bar	453	340	86	2	13	-	2	10
Farmer	658	452	115	-	-	8	65	18
Private Household	2,357	2,197	92	-	1	33	12	22
Restaurant	1,186	827	263	23	30	10	5	28
Services	10,224	7,367	1,858	243	412	42	135	167
Tourism	469	112	52	168	127	-	6	4
Manpower	8	8	-	-	-	-	-	-
Security	248	196	-	-	-	-	42	10

Source: CNMI Department of Labor, Employment Data Section

Payroll data obtained from the Division of Taxation and Revenue show W-2 withholdings by major industry and country of origin. W-2 data are contained in Table 1-C.

Table 1-C: W-2 Forms – tabulated by Citizenship and Industry

Industry/Citizenship	Total	U.S.	Non U.S.	China	Philip.	Korea	Japan	Palau	RMI	FSM	Bngldsh	Other
Government	4,552	4005	547	11	319	5	3	73	3	78	3	52
Retail Trade	3,634	1275	2,359	480	1,364	164	54	59	2	59	26	151
Construction	2,191	221	1,970	70	1,753	37	10	5	1	1	27	66
Hotel	3,267	697	2,570	238	1,626	74	105	56	2	80	26	363
Banking and Finance	541	336	205	10	173	6	3	3	0	0	1	9
Wholesalers	771	232	539	96	362	25	5	13	0	2	17	19
Garment Manufacturing	3,040	165	2,875	2,208	121	19	0	5	0	53	25	444
All other industries	17,911	5,404	12,507	2,306	8,050	499	505	189	2	113	352	491
Totals	35,907	12,335	23,572	5,419	13,768	829	685	403	10	386	477	1,595

Source: Division of Taxation and Revenue, Department of Finance, Government of the CNMI

Table 1-C shows there were 35,907 W-2 forms filed in 2008, of which 12,335 (34.4 percent) were U.S. citizens and 23,572 (65.6 percent) were non-citizens. Since W-2s may be filed by workers who hold more than one job, their totals do not necessarily correspond with permits. However, the three numbers (22,917 work permits issued, 23,110 permits by industry and citizenship and 23,572 W-2 forms filed by alien workers) converge to suggest that the number of permit holders in 2008 was somewhere between 22,000 and 24,000.

In a W-2 compilation by wage brackets for calendar year 2008, the CNMI Division of Revenues and Taxation reported a total of 32,053 forms, of which 21,438 were for alien workers and 10,615 for U.S. workers. The difference between W-2s by industry for 2008 and W-2s by wage brackets for alien workers was 2,134 (10 percent), a relatively small number given the nature of the labor force data system in place in the CNMI. The small difference between the two W-2 data sets suggests that the actual number of alien workers is closer to the Ombudsman's accounting.

In 2008, four or five garment factories were in business, which employed, according to W-2 data by industry, 3,040 workers. When the last garment factory closed in February-March 2009, however, more than just the 3,040 garment workers lost their jobs. Others employed at firms that provided support for the garment factories lost their jobs, too. There is no official data on this indirect job loss.

GAO Report

The Ombudsman's accounting was further confirmed in the February 16, 2010 U.S. Government Accountability Office (GAO) Report *CNMI Immigration and Border Control Databases* (GAO-10-345R) on the CNMI's systems for tracking aliens within the CNMI, which was sent to the Senate Committee on Energy and Natural Resources. According to the GAO, the CNMI Department of Labor reported that it had issued 19,404 umbrella permits in the fall of 2009.⁵ The 19,404 umbrella permits issued by the CNMI Department of Labor included (1) alien worker permits, including ministers and missionaries and government workers and (2) permits to immediate relatives of alien permanent residents and U.S. citizens residing in the CNMI. The CNMI Department of Labor numbers do not include those umbrella permits issued by the CNMI Department of Commerce for students and the various foreign investors and business owners. The umbrella permits issued by the CNMI Department of Commerce are not included in GAO's report.

Harmonizing the Methods for Counting Aliens

The 2008 data (22,917 work permits issued, 23,110 permits by industry and citizenship and 23,572 W-2 forms filed by alien workers) appear consistent with the Ombudsman's 16,304 alien workers reported in 2010. The 23,000 alien workers present in 2008 were likely diminished by the 3,040 who lost garment jobs in 2009. The remaining difference of 4,000 can be explained by the loss of jobs ancillary to the garment factories that closed in 2009 and the general decline in the economy. It is reasonable to conclude that the Ombudsman's actual accounting is reliable.

The self-reporting of the CNMI Department of Labor to GAO shows that it issued 19,404 umbrella permits from October to November 2009. Accepting this number as accurate, it appears to track the Ombudsman's total of 19,237 alien workers and immediate relatives in the CNMI only weeks later.

Interior is confident that the actual accounting performed by the Ombudsman's office captured the best available tally of aliens in the CNMI as of January 2010. The accounting concludes that there are 20,859 aliens in the CNMI, of which 16,304 are alien workers.

⁵ GAO-10-345r CNMI Immigration and Border Control Databases.

CONGRESSIONAL REQUEST (2): A description of the legal status (under Federal law) of such aliens

Response: Title VII of Public Law 110-229 amends the Covenant Act to provide that any alien lawfully present in the CNMI on the transition program effective date (November 28, 2009) is not removable from the United States for being in violation of section 212(a)(6)(A) of the INA [present without admission or parole]. Each alien worker in the CNMI who possessed a CNMI work permit on November 27, 2009 was lawfully present in the CNMI on November 28, 2009 and able to avail himself or herself of the provisions contained in title VII. Ninety-nine percent of the 20,859 aliens, that were counted by the Ombudsman, were legally in the CNMI and thus, are not removable under section 212(a)(6)(A) of the INA.⁶

We recognize that the methodology used by the Ombudsman likely undercounted the number of illegals who may have avoided being counted for fear of deportation. Persons who were illegally present in the CNMI (also referred to as “out of status”) just prior to the implementation of Federal administration on November 28, 2009 remain illegal.

CONGRESSIONAL REQUEST (3): The number of years each alien has been residing in the CNMI

Response: The Ombudsman’s accounting shows that 20,859 aliens, both legal and illegal, were present in the CNMI in late December 2009. The Ombudsman’s accounting contains information on the duration of residence of each individual alien.

⁶ An alien may be removable on another ground such as a criminal ground, or a health-related ground, under Federal law.

The following is a summary of the numbers of aliens according to differing lengths of residence in the Commonwealth as collected by the Federal Ombudsman:

5 years or more	15,816
3 years to 5 years	2,221
6 months to 3 years	1,979
less than 6 months	819
undeclared	24

While these residence periods were self-reported, the residence periods were confirmed by the Ombudsman on a random basis by review of an alien's supporting documents, such as entry stamps in passports, initial employment contracts and disembarkation forms.

IV. SURVEY TO DETERMINE THE CNMI'S FUTURE NEED FOR ALIEN WORKERS – CONGRESSIONAL REQUEST 4

METHOD UTILIZED TO MEASURE THE FUTURE NEED FOR ALIEN WORKERS IN THE CNMI

The Ombudsman's accounting, alien work permits, and W-2 payroll withholding data do not necessarily tell the same story regarding the CNMI's labor force. A convenient method would have been to extrapolate current permit or W-2 data into the future, based on some scenarios of business and government spending growth (loss). However, making such projections in the midst of a major structural economic and financial decline, which apparently has continued after all the garment factories closed, would likely be misleading. Constructing a complicated econometric model was not an option either because of time and resource constraints.

Any projection of future labor needs, in an economic and business environment dominated by losses and a great deal of uncertainty, is extremely difficult. To make the job of estimating future demand for alien workers, as Public Law 110-229 requires, as practical as possible, Interior started with the Saipan Chamber of Commerce (SCC). Information gathered through the SCC provides a relatively good representation of business interests in the CNMI. Since Saipan represents over 91 percent of the CNMI population, it was deemed a sufficient domain for the survey.⁷

The SCC provided information that was representative of businesses that can reasonably be classified as small (fewer than 10 employees), mid-size (10-100 employees) and large (over 100 employees). To make this effort as practical as possible for the Saipan business community, efforts to classify business workers by national or international standards such as the North American Industry Classification System were deemed impractical. Instead, the SCC was advised to choose a sample on the basis of business size as well as types so that major segments of business would be represented. The SCC formed a list of 15 of its members, selected from the three subgroups (small, mid-size and large) to which the SCC's membership was divided. Ten of the 15 businesses responded with written answers.

CONGRESSIONAL REQUEST (4): The current and future requirements of the Commonwealth economy for an alien work force

Response: The results of the SCC's survey in which 10 businesses responded on the need for alien workers are presented in the following table.

⁷ A study conducted by the U.S. Bureau of the Census and funded by the Office of Insular Affairs found that the CNMI's total population was 65,927 in 2005. Saipan's population was 60,608 (91.9 percent) in 2005, followed by Tinian with 2,829 (4.3 percent) and Rota with 2,490 (3.8 percent).

Table 2: Current and Projected Alien Worker Needs of Selected Saipan Businesses

Alien Workers				
Business Type	Employed in November 2009	Needed in 2010	Needed in 2012	Needed in 2014
Tourist gift shop	0	8	10	14
Food Processing	70	77	85	95
A Diversified Firm	66	72	95	141
Auto Sales/Service	26	26	28	31
Photography	3	6	8	10
Accounting	6	7	9	11
Retailer	22	22	28	35
Computer Services	5	5	5	5
Insurance	18	18	11	10
Hotel	200	184	156	130
All Businesses	416	425	435	482
Increase				15.9%

Source: Saipan Chamber of Commerce (SCC), November 20, 2009, Saipan.

The salient figure in Table 2 is the 15.9 percent increase in temporary alien labor demand that the sample of 10 SCC businesses as a group expects in 2014 over temporary alien labor employed in November 2009. Assuming that the sample of 10 firms is representative, business for the whole of the CNMI would expect their demand for temporary alien workers to increase 15.9 percent between 2009 and 2014. The main reason for this apparently optimistic expectation is that most businesses in the CNMI consider the current period to be the bottom of the current business cycle, which, from its previous peak in 1997, has seen one of the sharpest losses among the Pacific's small economies.

The surprises of the survey were the insurance and hotel needs, which, contrary to the expectations of the other eight businesses, would reduce their alien worker payrolls. Between these two, hotels were a bigger surprise because hotels, among the most labor-intensive of businesses and employers, would seemingly hire as many alien workers as they could find to reduce labor costs. It is possible to read

this as the hotel industry's recognition that the Federal minimum wage⁸ rate increases for the CNMI will push labor costs upward in the next several years. Businesses that expect to be in business in the CNMI in the long run, hotels the most likely among them, are required to make the adjustment to the new minimum wage regime and hire more U.S. citizens and permanent residents.

It is important to view the numbers in Table 2 as merely indicative of the direction of hiring of alien workers in the CNMI. Because a large number of employers are not represented, no legislation should be based on these specific figures. Any regime for determining the need for alien labor must not be the form of some static five-year plan, but rather must be dynamic, reflective of the needs at any particular point of time in the future.

The Secretary of Labor, in consultation with the Secretary of Homeland Security, the Secretary of Defense, the Secretary of the Interior, and the Governor of the Commonwealth, has the authority to extend the transition period for up to five years based on labor market needs.

V. RECOMMENDATIONS

CONGRESSIONAL REQUEST (5): Recommendations to the Congress, as the Secretary may deem appropriate, related to whether or not the Congress should consider permitting lawfully admitted alien workers lawfully residing in the CNMI on such enactment date to apply for long-term status under the immigration and nationality laws of the United States.

Response: Consistent with the goals of comprehensive immigration reform, we recommend that the Congress consider permitting alien workers who have lawfully resided in the CNMI for a minimum period of five years to apply for long-term status under the immigration and nationality laws of the United States.

⁸ Public Law 110-28 made the Federal minimum wage contained in the Fair Labor Standards act applicable to the CNMI and American Samoa by way of 50-cent annual increases until the minimum wages in the two territories reach the U.S. minimum wage, which is anticipated to occur in 2014 and 2015, respectively.

Statuses under the INA that could be considered include (but are not necessarily limited to):

- (1) alien workers could be conferred United States citizenship by Act of Congress;
- (2) alien workers could be conferred a permanent resident status leading to U.S. citizenship (per the normal provisions of the INA relating to naturalization), with the five-year minimum residence spent anywhere in the United States or its territories; or
- (3) alien workers could be conferred a permanent resident status leading to U.S. citizenship, with the five-year minimum residence spent in the CNMI.

Additionally, under U.S. immigration law special status is provided to aliens who are citizens of the freely associated states. Following this model,

- (1) alien workers could be granted a nonimmigrant status like that negotiated for citizens of the freely associated states, whereby such persons may live and work in the United States and its territories; or
- (2) alien workers could be granted a nonimmigrant status like that negotiated for citizens of the freely associated states, whereby such persons may live and work in the CNMI only.

Precedent for the Congress granting long-term status to nonimmigrant workers was set by Public Law 97-271 (1982) when the Congress, citing its special responsibility and authority with respect to territories and the establishment of immigration policy granted the opportunity to apply for U.S. permanent residence to more than 20,000 legal, long-time (more than seven years continuous residence), alien workers in the U.S. Virgin Islands.

In P.L. 97-271, the Congress found that “in order to eliminate the uncertainty and insecurity of aliens who legally entered the Virgin Islands of the United States as nonimmigrants for employment under the temporary alien labor program, ha[d] continued to reside in the Virgin Islands for long periods (some for as long as twenty years), and have contributed to the economic, social, and cultural development of the Virgin Islands and ha[d] become an integral part of the society

of the Virgin Islands, it is necessary and equitable to provide for the orderly adjustment of their immigration status to that of permanent resident aliens.” Congress also found that the immigration of family members of these workers would likely be detrimental to the Virgin Islands, and sharply limited the opportunity of family members not already long-term residents of the Virgin Islands to immigrate based upon the workers’ new status. Congress also significantly limited the entry of new temporary workers into the Virgin Islands. There may be some similarities between the alien workers’ situation in the CNMI and that of the Virgin Islands pre-P.L. 97-271.

We raise the precedent of P.L. 97-271 not to suggest that it is necessarily an appropriate specific model for a provision for the CNMI. Any legislation providing long-term status to workers in the CNMI would need to be carefully considered and drafted to provide appropriate provisions with respect to the extent of derivative eligibility for family members of workers and other important aspects of the program.