MEMORANDUM FOR DIRECTORS OF DEFENSE AGENCIES
DEPUTY FOR ACQUISITION AND BUSINESS MANAGEMENT,
ASN(RD&A)/ABM
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(CONTRACTING), SAF/AQC
DEPUTY ASSISTANT SECRETARY OF THE ARMY (PROCUREMENT)
DEPUTY DIRECTOR (ACQUISITION), DEFENSE LOGISTICS AGENCY

SUBJECT: Contractor Use of Nonimmigrant Aliens--Guam

We have amended the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 390 of the National Defense Authorization Act for Fiscal Year 1998 (Pub. L. 105-85), which requires that base operations support contracts performed on Guam prohibit performance of any work under the contract by any alien worker issued a visa or otherwise provided nonimmigrant status under Section 101(a)(15)(H)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)).

The attached interim DFARS rule is effective immediately and will be included in a future Defense Acquisition Circular.

Eleanor R. Spector
Director, Defense Procurement

Attachment

cc: DSMC, Ft. Belvoir
DFARS Case 97-D318 - Contractor Use of Nonimmigrant Aliens--Guam
Interim rule. All below are additions to the DFARS.

[SUBPART 222.73--BASE OPERATIONS SUPPORT FOR MILITARY
INSTALLATIONS ON GUAM

222.7300 Scope of subpart.

(a) This subpart implements Section 390 of the National Defense

(b) This subpart applies to base operations support contracts
that--
(1) Are to be performed on Guam; and
(2) Are entered into or modified on or after November 18,
1997.

222.7301 General.

Work under a contract for base operations support on Guam
may not be performed by any alien who is issued a visa or
otherwise provided nonimmigrant status under Section
101(a)(15)(H)(ii) of the Immigration and Nationality Act
(8 U.S.C. 1101(a)(15)(H)(ii)).

222.7302 Contract clause.

Use the clause at 252.222-7005, Prohibition on Use of
Nonimmigrant Aliens--Guam, in all solicitations and contracts
subject to this subpart.]

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[252.222-7005 Prohibition on Use of Nonimmigrant Aliens--Guam.

As prescribed in 222.7302, use the following clause:

PROHIBITION ON USE OF NONIMMIGRANT ALIENS--GUAM (JUN 1998)

The work required by this contract shall not be performed by
any alien who is issued a visa or otherwise provided nonimmigrant
status under Section 101(a)(15)(H)(ii) of the Immigration and
Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)).

(End of clause)]