

## Defense Acquisition Regulations System, DOD

222.7401

and maintaining the property after closure (such as security and fire prevention services).

### 222.7102 Contract clause.

Use the clause at 252.222-7001, Right of First Refusal of Employment—Closure of Military Installations, in all solicitations and contracts arising from the closure of the military installation where the contract will be performed.

## Subpart 222.72—Compliance with Labor Laws of Foreign Governments

### 222.7201 Contract clauses.

(a) Use the clause at 252.222-7002, Compliance with Local Labor Laws (Overseas), in solicitations and contracts for services or construction to be performed outside the United States and its outlying areas.

(b) Use the clause at 252.222-7003, Permit from Italian Inspectorate of Labor, in solicitations and contracts for porter, janitorial, or ordinary facility and equipment maintenance services to be performed in Italy.

(c) Use the clause at 252.222-7004, Compliance with Spanish Social Security Laws and Regulations, in solicitations and contracts for services or construction to be performed in Spain.

[62 FR 34122, June 24, 1997, as amended at 70 FR 35545, June 21, 2005]

## Subpart 222.73—Limitations Applicable to Contracts Performed on Guam

SOURCE: 64 FR 52672, Sept. 30, 1999, unless otherwise noted.

### 222.7300 Scope of subpart.

This subpart—

(a) Implements Section 390 of the National Defense Authorization Act for Fiscal Year 1998 (Pub. L. 105-85); and

(b) Applies to contracts for base operations support on Guam that—

(1) Are awarded as a result of a competition conducted under OMB Circular A-76; and

(2) Are entered into or modified on or after November 18, 1997.

[72 FR 20764, Apr. 26, 2007]

### 222.7301 Prohibition on use of non-immigrant aliens.

(a) 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)) is prohibited from performing work under a contract for base operations support on Guam.

(b) Lawfully admitted citizens of the freely associated states of the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau are not subject to the prohibition in paragraph (a) of this section.

[64 FR 52672, Sept. 30, 1999, as amended at 72 FR 20764, Apr. 26, 2007]

### 222.7302 Contract clause.

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

[72 FR 20764, Apr. 26, 2007]

## Subpart 222.74—Restrictions on the Use of Mandatory Arbitration Agreements

SOURCE: 75 FR 27947, May 19, 2010, unless otherwise noted.

### 222.7400 Scope of subpart.

This subpart implements section 8116 of the Defense Appropriations Act for Fiscal Year 2010 (Pub. L. 111-118).

### 222.7401 Policy.

(a) Departments and agencies are prohibited from using funds appropriated or otherwise made available by the Fiscal Year 2010 Defense Appropriations Act (Pub. L. 111-118) for any contract (including task or delivery orders and bilateral modifications adding new work) in excess of \$1 million, unless the contractor agrees not to—

(1) Enter into any agreement with any of its employees or independent contractors that requires, as a condition of employment, that the employee or independent contractor agree to resolve through arbitration—

(i) Any claim under title VII of the Civil Rights Act of 1964; or

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(ii) Any tort related to or arising out of sexual assault or harassment, including assault and battery, intentional infliction of emotional distress, false imprisonment, or negligent hiring, supervision, or retention; or

(2) Take any action to enforce any provision of an existing agreement with an employee or independent contractor that mandates that the employee or independent contractor resolve through arbitration—

(i) Any claim under title VII of the Civil Rights Act of 1964; or

(ii) Any tort related to or arising out of sexual assault or harassment, including assault and battery, intentional infliction of emotional distress, false imprisonment, or negligent hiring, supervision, or retention.

(b) After June 17, 2010, no funds appropriated or otherwise made available by the Fiscal Year 2010 Defense Appropriations Act (Pub. L. 111-118) may be expended unless the contractor certifies that it requires each covered subcontractor to agree not to enter into, and not to take any action to enforce, any provision of any agreement, as described in paragraph (a) of this section, with respect to any employee or independent contractor performing work related to such subcontract.

### 222.7402 Applicability.

This requirement does not apply to the acquisition of commercial items.

### 222.7403 Waiver.

The Secretary of Defense may waive the applicability of paragraphs (a) or (b) of 222.7401, in accordance with PGI 222.7403, to a particular contract or subcontract, if the Secretary or the Deputy Secretary personally determines that the waiver is necessary to avoid harm to national security interests of the United States, and that the term of the contract or subcontract is not longer than necessary to avoid such harm. The Secretary of Defense shall transmit the determination to Congress and simultaneously publish it in the FEDERAL REGISTER, not less than 15 business days before the contract or subcontract addressed in the determination may be awarded.

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### 222.7404 Contract clause.

Use the clause at 252.222-7006 Restrictions on the Use of Mandatory Arbitration Agreements, in all solicitations and contracts valued in excess of \$1 million utilizing funds appropriated or otherwise made available by the Fiscal Year 2010 Defense Appropriations Act (Pub. L. 111-118), except in contracts for the acquisition of commercial items, including commercially available off-the-shelf items.

## PART 223—ENVIRONMENT, ENERGY AND WATER EFFICIENCY, RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

### Subpart 223.3—Hazardous Material Identification and Material Safety Data

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223.302 Policy.  
223.303 Contract clause.  
223.370 Safety precautions for ammunition and explosives.  
223.370-1 Scope.  
223.370-2 Definition.  
223.370-3 Policy.  
223.370-4 Procedures.  
223.370-5 Contract clauses.

### Subpart 223.4—Use of Recovered Materials

223.405 Procedures.

### Subpart 223.5—Drug-Free Workplace

223.570 Drug-free work force.  
223.570-1 Policy.  
223.570-2 Contract clause.

### Subpart 223.8—Ozone-Depleting Substances

223.803 Policy.

### Subpart 223.70 [Reserved]

### Subpart 223.71—Storage and Disposal of Toxic and Hazardous Materials

223.7100 Policy.  
223.7101 Procedures.  
223.7102 Exceptions.  
223.7103 Contract clause.

### Subpart 223.72—Safeguarding Sensitive Conventional Arms, Ammunition, and Explosives

223.7200 Definition.  
223.7201 Policy.