

## 222.7301

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

### 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—

(1) A military construction project on Guam; or

(2) 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.

### 222.7302 Exception.

The prohibition in 222.7301(a)(1) does not apply to a military construction project if—

(a) There is no acceptable offer in response to a solicitation for the project;

(b) The Secretary concerned makes a determination that the prohibition is a significant deterrent to obtaining offers on the project; and

(c) Another solicitation is issued for the project.

### 222.7303 Contract clause.

Use the clause at 252.222-7005, Prohibition on Use of Nonimmigrant Aliens-Guam, in solicitations and contracts subject to this subpart, except those issued in accordance with 222.7302.

## PART 223—ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

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- 223.7200 Definition.
- 223.7201 Policy.
- 223.7202 Preaward responsibilities.
- 223.7203 Contract clause.

AUTHORITY: 41 U.S.C. 421 and 48 CFR chapter 1.

SOURCE: 56 FR 36365, July 31, 1991, unless otherwise noted.

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

#### 223.300 Scope of subpart.

DoD procedures for use in acquisitions involving ammunition and explosives are in 223.370.

#### 223.302 General.

(b) Successful offerors are also required to submit hazard warning labels under the clause at 252.223-7001, Hazard Warning Labels.

(e) The contracting officer shall also provide hazard warning labels received from apparent successful offerors to the cognizant safety officer or other designated official in order to facilitate—

(i) Inclusion of relevant data in the department/agency's material safety

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data sheet information system or label information system; and

(ii) Other control, safety, or information purposes.

[56 FR 67215, Dec. 30, 1991]

### 223.303 Contract clause.

Use the clause at 252.223-7001, Hazard Warning Labels, in solicitations and contracts which require submission of hazardous material data sheets (see FAR 23.302(c)).

[56 FR 67215, Dec. 30, 1991]

### 223.370 Safety precautions for ammunition and explosives.

#### 223.370-1 Scope.

(a) This section applies to all acquisitions involving the use of ammunition and explosives, including acquisitions for—

- (1) Development;
- (2) Testing;
- (3) Research;
- (4) Manufacturing;
- (5) Handling or loading;
- (6) Assembling;
- (7) Packaging;
- (8) Storage;
- (9) Transportation;
- (10) Renovation;
- (11) Demilitarization;
- (12) Modification;
- (13) Repair;
- (14) Disposal;
- (15) Inspection; or

(16) Any other use, including acquisitions requiring the use or the incorporation of materials listed in paragraph (b) of this subsection for initiation, propulsion, or detonation as an integral or component part of an explosive, an ammunition, or explosive end item or weapon system.

(b) This section does not apply to acquisitions solely for—

- (1) Inert components containing no explosives, propellants, or pyrotechnics;
- (2) Flammable liquids;
- (3) Acids;
- (4) Oxidizers;
- (5) Powdered metals; or
- (6) Other materials having fire or explosive characteristics.

#### 223.370-2 Definition.

*Ammunition and explosives*, as used in this section, is defined in the clause at 252.223-7002, Safety Precautions for Ammunition and Explosives.

#### 223.370-3 Policy.

(a) DoD policy is to ensure that its contractors take reasonable precautions in handling ammunition and explosives so as to minimize the potential for mishaps that could—

- (1) Interrupt DoD operations;
- (2) Delay project or product completion dates;
- (3) Adversely impact DoD mission readiness, production base, or production capabilities;
- (4) Damage or destroy DoD property; or
- (5) Cause injury to DoD personnel.

(b) This policy is implemented by DoD Manual 4145.26-M, DoD Contractors' Safety Manual for Ammunition and Explosives, which is incorporated into contracts under which ammunition and explosives are handled. The manual contains mandatory safety requirements for contractors. When work is to be performed on a Government-owned installation, the contracting officer may use the ammunition and explosives regulation of the DoD component or installation as a substitute for, or supplement to, DoD Manual 4145.26-M, as long as the contract cites these regulations.

#### 223.370-4 Procedures.

(a) *Preaward phase*—(1) *Waiver of the mandatory requirements*. (i) Before either omitting the clause at 252.223-7002, Safety Precautions for Ammunition and Explosives, from solicitations and contracts or waiving the mandatory requirements of the manual, obtain approval of—

(A) The safety personnel responsible for ammunition and explosives safety; and

(B) The head of the contracting activity.

(ii) If the contracting officer decides to waive the mandatory requirements before award, the contracting officer shall set forth in the solicitation, or in an amendment of the solicitation, the specific requirements to be waived.