



U.S. Department of Justice

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Washington, D.C. 20530

MAR 7 2002

**MEMORANDUM FOR BUREAU PROCUREMENT CHIEFS**

**FROM:**

  
H.B. Myers  
Assistant Director  
Procurement Policy and Review

**SUBJECT:**

DOJ Procurement Guidance Document 02-2  
Non-U.S. Citizens Prohibited from Access to DOJ Information Technology (IT)  
Systems

Attached is a memorandum from the Assistant Attorney General for Administration to Component Chief Information Officers and Directors of Procurement advising them that it is the policy of the Department of Justice to prohibit non-U.S. citizens from access to DOJ IT systems. Included is guidance on how the policy is to be applied to new and existing contracts and commitments.

This policy is based on Department of Justice Order 2640.2D Information Technology Security , dated July 12, 2001, which establishes uniform policy, responsibilities, and authorities for the implementation and protection of Department of Justice information technology systems that store, process or transmit classified and unclassified information. The Order applies to all DOJ components, personnel, and IT systems to include hardware, software and media, facilities and to contractors acting on behalf of DOJ. It also applies to any outside organizations, or their representative, who are granted access to DOJ IT resources, such as other Federal agencies.

DOJ contracting personnel need to be aware of two key requirements in the Order. The first is the considerable amount of security requirements that apply to DOJ systems. Contracting officers need to work closely with their program counterparts to assure that statements of work and resulting contractual documents address those requirements. The second is a restriction on the use of non-U.S. citizens (the term "foreign nationals" is construed to mean persons who are not United States citizens). The restriction, contained in Paragraph 24 of the Order, is repeated here verbatim:

“Foreign Nationals shall not be authorized to access or assist in the development, operation, management or maintenance of Department IT systems, unless a waiver has been granted by the Department CIO.”

This restriction shall be applied to all types of contractual documents and commitments in the manner described below. In this context, “contract” and “commitment” are meant in their broadest sense. This includes modifications, task and delivery orders, orders placed under blanket purchase agreements or basic ordering agreements, grants, and intergovernmental agreements authorizing access to DOJ IT resources.

The attached memorandum contains specific guidance and suggested language to be used in new and existing contracts and commitments. A copy of DOJ Order 2640.2D can be found on the DOJ intranet at the following URL: <http://10.173.2.12/dojorders/doj2640-2d.htm>

Please make this information available to your staff and add this document to your collection of DOJ Procurement Guidance Documents. Questions about the procurement aspects of this guidance should be directed to H.B. Myers at 202/616-3758.

Attachment



Washington, D.C. 20530

MAR - 4 2002

**MEMORANDUM FOR COMPONENT CHIEF INFORMATION OFFICERS  
AND DIRECTORS OF PROCUREMENT**

**FROM:** Robert F. Diegelman  
Acting Assistant Attorney General  
for Administration

**SUBJECT:** Non-U.S. Citizens Prohibited from Access to DOJ Information Technology (IT) Systems

Department of Justice Order 2640.2D Information Technology Security , dated July 12, 2001, establishes uniform policy, responsibilities, and authorities for the implementation and protection of Department of Justice information technology systems that store, process or transmit classified and unclassified information. The order contains many security requirements for DOJ IT systems, including a restriction on the access of Foreign Nationals to such systems. More specifically it provides that Foreign Nationals "shall not be authorized to access or assist in the development, operation, management or maintenance of Department IT systems, unless a waiver has been granted by the Department CIO."

If you have not already done so, please implement this policy as follows:

1. The term "Foreign Nationals" means persons who are not United States citizens.
2. The restrictions on the use of Non-U.S. Citizens shall be applied to all types of contractual documents and commitments in the manner described below. In this context, "contract" and "commitment" are meant in their broadest sense. This includes modifications, task and delivery orders, orders placed under blanket purchase agreements or basic ordering agreements, grants, and intergovernmental agreements authorizing access to DOJ IT resources.
3. All new contracts or commitments to which this security restriction applies must contain a statement the same or essentially the same as the following:

The Department of Justice does not permit the use of Non-U.S. citizens in the performance of this contract or commitment for any position that involves access to or development of any DOJ IT system. By signing the contract or commitment document,

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the contractor agrees to this restriction. [In those instances where other non-IT requirements contained in the contract or commitment can be met by using Non-U.S. citizens, those requirements shall be clearly described]

4. Existing contracts or commitments must be modified to contain a statement the same or essentially the same as the following:

The Department of Justice (DOJ) will no longer permit the use of Non-U.S. citizens in the performance of this contract or commitment for any position that involves access to or development of any DOJ IT system. By signing the contract or commitment document, the contractor agrees to this restriction with respect to all new employees utilized directly to perform duties on the contract. Non-U.S. citizens currently employed under this contract or commitment may continue performance unless otherwise directed by the Department of Justice. No new, replacement, or additional Non-U.S. citizens may be added to the contract without the express approval of the Department of Justice. [In those instances where other non-IT requirements contained in the contract or commitment can be met by using Non-U.S. citizens, those requirements shall be clearly described]

5. In order to mitigate the impact of this new policy on ongoing domestic operations, I will grant a waiver to accommodate Non-U.S. citizens working on existing contracts performed in the United States to a component when it can certify to me that it has accomplished items 3 and 4 above, and that the component CIO has reviewed the use of non-citizen personnel on its sensitive IT contracts and that the situations pose an acceptable level of risk.

6. In order to mitigate the impact of this new policy on ongoing operations outside of the continental United States, I am prepared to grant waivers on a one year basis to components who review their foreign operations, take action to mitigate risk to IT systems and articulate a compelling need to utilize Non-U.S. citizens on their IT systems. It is my intention to make full implementation of the policy in foreign countries a priority next year, after we have implemented the policy in the domestic context.

7. In other cases, waivers will be granted only in exceptional and unique circumstances. Waivers will not be granted for access to classified systems.

The CIO for the Department of Justice is the Assistant Attorney General for Administration. A copy of DOJ Order 2640.2D can be found on the DOJ intranet at the following URL:  
<http://10.173.2.12/dojorders/doj2640-2d.htm>

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Please make this information available to appropriate personnel within your organization.  
Questions about this guidance should be directed to Jim Gallagher, Acting Deputy Assistant  
Attorney General, Information Resources Management.