

DEPARTMENT OF LABOR

Employment and Training Administration

Guam Military Base Realignment Contractor Recruitment
Standards

AGENCY: Employment and Training Administration

ACTION: Notice

SUMMARY: The U.S. Department of Labor (USDOL) Employment and Training Administration (ETA) is issuing this notice to announce the recruitment standards construction contractors are required to follow when recruiting U.S. workers for Guam military base realignment projects funded through the National Defense Authorization Act for Fiscal Year 2010.

I. Background: Section 2834(a) of the National Defense Authorization Act (NDAA) for Fiscal Year 2010 (Public Law 111-84, enacted October 28, 2009) amended Section 2824(c) of the Military Construction Authorization Act (Pub. L. 110-417, Division B) by adding a new subsection (6). This provision prohibits contractors engaged in construction projects related to the realignment of U.S. military forces from Okinawa to Guam from hiring non-U.S. workers unless the Governor of Guam (Governor), in consultation with the Secretary of Labor (Secretary), certifies that 1) there is an insufficient number of U.S. workers that are able, willing, and qualified to perform the work; and 2) that the

employment of non-U.S. workers will not have an adverse effect on either the wages or the working conditions of U.S. construction workers in Guam.

In order to allow the Governor to make this certification, the NDAA requires contractors to recruit workers in the United States, including in Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, the U.S. Virgin Islands, and Puerto Rico, according to the terms of a recruitment plan developed and approved by the Secretary. That recruitment plan has been reproduced in full at Section II below.

DOL has developed the Contractor Recruitment Standards in full consultation with, and with the approval of, the Guam Department of Labor (GDOL). Although DOL has developed the recruitment standards, it has assigned oversight of the contractor recruitment standards and the NDAA-required consultation with the Governor to GDOL through a Memorandum of Understanding between the U.S. Department of Labor and GDOL, effective November 22, 2011.

Under the NDAA, no Guam base realignment construction project work may be performed by a person holding an H-2B visa under the Immigration and Nationality Act before DOL issues contractor recruitment standards, and the contractor complies with the standards. Because the hiring is nearly

ready to begin, DOL is now publishing a provisional version of the recruitment standards to avoid delaying the start of projects that are essential to fulfill U.S. international obligations, the needs of the U.S. Department of Defense to begin work, the needs of the people of Guam, and to ameliorate extremely high unemployment rates among individuals with construction skills and experience. More background is provided in U.S. Department of Labor, *U.S. Department of Labor Report to Congress Required by the National Defense Authorization Act for Fiscal Year 2010* (July 29, 2011), submitted to the Senate Committees on Health, Education, Labor, and Pensions, and the Armed Services Committee; and the House of Representatives Education and the Workforce Committee, and the Armed Services Committee (this report can be found at the RegInfo.gov Web site listed below).

Publication of this Notice announces the immediate implementation of the Contractor Recruitment Standards in Section II below. To comply with the Paperwork Reduction Act of 1995 and 5 CFR 1320.13, DOL obtained approval from the President's Office of Management and Budget (OMB) for information collection pursuant to the Contractor Recruitment Standards, effective October 19, 2011 and scheduled to expire April 30, 2011. DOL is requesting a

three-year extension of this information collection request (ICR). A copy of the ICR can be obtained accessing the RegInfo.gov Web site at

http://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201108-1205-007

II. Guam Military Base Realignment Contractors Recruitment

Standards: Guam military base realignment contractors must take the following actions to recruit U.S. workers.

1. At least 60 days before the start date of workers under a base realignment contract, contractors must

a. Submit a job posting with GDOL at

<http://dol.guam.gov/index.php?>

[option=com_jobline&Itemid=0&task=add](http://dol.guam.gov/index.php?option=com_jobline&Itemid=0&task=add), or by submitting a completed Job Order (Form GES 514) in person at the Guam Employment Service office. The job posting must be posted on the GDOL Job Bank for at least 21 consecutive days;

b. Submit a job posting with the state workforce agency's (SWA) Internet job bank in American Samoa at

www.usworks.com/americansamoa/, the Commonwealth of the Northern Mariana Islands at

<https://marianaslabor.net/employer.asp> , and in the following states:

i. Alaska (www.jobs.state.ak.us);

- ii. California (www.caljobs.ca.gov);
- iii. Hawaii (www.hirenethawaii.com);
- iv. Oregon (www.emp.state.or.us/jobs); and
- v. Washington
(<https://fortress.wa.gov/esd/worksource/Employment.aspx>).

The job posting must be posted for at least 21 consecutive days. If for any reason the Internet job bank in American Samoa is not available, the contractor must place an advertisement on two Sundays in a newspaper that 1) is of general circulation in the territory; 2) has a reasonable distribution and is appropriate to the occupation; and 3) is likely to be seen by workers interested in applying for construction employment.

- c. Submit a job posting with an Internet-based job bank that is
 - i. national in scope, including the entire United States, Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, the Virgin Islands, and the Commonwealth of Puerto Rico;
 - ii. allows job postings for all occupations; and is
 - iii. free of charge for job seekers and their intermediaries in One-Stop Career Centers and the

U.S. employment service delivery system
nationwide.

d. Where the occupation or industry is customarily unionized, contact the local union in Guam in writing to seek U.S. workers who are qualified and who will be available for the job opportunity.

The postings are separate and distinct requirements – i.e., a posting under Section 1(b) cannot be used to satisfy the posting requirement under Section 1(c).

2. Each job posting in (1)(a) through (d) must include, at a minimum, the following:

- a. The contractor's name and appropriate contact information for applicants to inquire about the job opportunity or to send applications and/or résumés directly to the employer;
- b. The geographic area of employment, with enough specificity to apprise applicants of any travel requirements and where applicants will likely have to reside to perform the services or labor;
- c. If applicable, a statement that daily transportation to and from the worksite(s) will be provided by the employer;
- d. A description of the job opportunity with sufficient information to apprise U.S. workers of the services or

labor to be performed, including the duties, the minimum education and experience requirements, the work hours and days, and the anticipated start and end dates of the job opportunity;

e. If applicable, a statement that on-the-job training will be provided to the worker;

f. If applicable, a statement that overtime will be available to the worker and the wage offer for working any overtime hours;

g. The wage offer, and the benefits, if any, offered;

h. A statement that the position is temporary; and

i. The total number of job openings the employer intends to fill.

3. During the 28-day recruitment period, which begins on the earliest date of posting, contractors must interview all qualified and available Guam and U.S. construction workers who have applied for the employment opportunity.

4. After the close of the recruitment period, and no later than 30 days before the start date of workers under a contract, the contractor must provide a report including the following information via e-mail to GDOL at ndaa.recruitment@dol.guam.gov documenting its efforts to recruit U.S. workers from the United States and all U.S. territories:

- a. A description of all the recruitment approaches used to recruit realignment workers. The description must include identification of the Internet job banks where the postings occurred, the occupation or trade, a description of wages and other terms and conditions of employment, the date of each posting, and the job order or requisition number. If newspaper advertisements were used, the description must also include the dates that these ads appeared in the newspaper;
- b. A copy of each job posting;
- c. A detailed description of how each response to the job postings was handled, including:
 - i. the number of job applications received;
 - ii. the name of each applicant;
 - iii. the position applied for;
 - iv. the final employment determination for each applicant or job candidate; and
 - v. for each U.S. job applicant not hired, a description of the specific, lawful, job-related reason for rejecting the applicant for employment, which includes a comparison of the job applicant's skills and experience against the terms listed in the original job posting.

III. USDOL Recruitment Support Activities: Separate from the contractor recruitment standards, DOL's Employment and Training Administration (ETA) will facilitate a nationwide outreach and recruitment effort to maximize hiring of U.S. construction workers, including outreach to its workforce investment system. ETA will do the following:

- develop and issue a Training and Employment Notice, and hold an Internet-based training session ("Webinar") to inform contractors, state workforce agencies, state and local workforce investment boards, and One-Stop Career Centers of the anticipated construction employment opportunities on Guam and how these opportunities will be posted;

(Interested individuals can automatically receive notice of the Training and Employment Notice by going to <http://wdr.doleta.gov/directives> and clicking on the last bullet, stating "To be added to the ETA Advisory electronic distribution list" click here;")

(Interested individuals can automatically receive notice of the Webinar by registering for ETA's Workforce30one by going to <https://www.workforce30one.org/register.aspx>, then going to the fourth category (Newsletters and Updates) and checking the box for "Webinars/Live Events," and should also check both boxes under "Reemployment

Works" in the preceding category (labeled "Join Communities");

- develop telephone scripts for a Toll-Free Help Line directing job seekers to the GDOL job bank;
- ensure that USDOL offices "including the Office of Unemployment Insurance, the Office of Apprenticeship, the Office of Job Corps, the Veterans' Employment and Training Service, and the YouthBuild program" are informed of the construction employment opportunities; and
- brief pertinent inter-governmental and labor organizations (including the National Governors Association, National Conference of State Legislatures, and building trades unions) so that they can assist in spreading information about the U.S. worker outreach effort.

IV. Public Burden Statement: These Recruitment Standards have been approved under the Paperwork Reduction Act of 1995. Persons are not required to respond to this collection of information unless it displays a valid OMB control number (1205-0484). Public reporting burden for this collection of information is estimated at three hours per job order, including the time for reviewing instructions, searching existing data sources, gathering and

maintaining the data needed, and completing and reviewing the collection of information. Further information on this ICR can be accessed using the above control number at the RegInfo.gov Web site at www.reginfo.gov/public/do/PRAMain. For further information, contact Anthony D. Dais, U.S. Department of Labor, Employment and Training Administration, 200 Constitution Avenue, N.W., Room S-4231, Washington, D.C. 20210; Telephone (202) 693-2784 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1-877-889-5627 (TTY/TDD). Fax: 202-693-3015. E-mail: dais.anthony@dol.gov.

SIGNED: at Washington, D.C. this xxx of XXX, 2011.

Jane Oates
Assistant Secretary for
Employment and Training

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