

GUAM **USA** YOUR BUSINESS SMART DESTINATION

The VENUE OF CHOICE for ARBITRATION

Guam is a superb “neutral” location for the arbitration of international contractual disputes. To create a transparent and arbitration-friendly environment on May 6, 2004, the 27th Guam Legislature (with the complete support of the Honorable Felix P. Camacho, Governor of Guam and the United Judicial Council of the Guam Supreme and Superior Courts) passed into law, Public Law 27-81 the “Guam International Arbitration Law”. Based on the United Nations Commission on International Trade Law (UNCITRAL), it is intended to govern all international commercial arbitrations in Guam. Among its most notable provisions:

1. Based on UNCITRAL Model Law and International Comity.
2. Access to the Guam courts to enforce Settlements and Awards
3. New Supreme Court of Guam rule permitting temporary practice by foreign lawyers
 - a. A “foreign lawyer” must be a member in good standing of a recognized legal profession in a foreign jurisdiction
 - b. Foreign lawyers may provide temporary services for pending or potential arbitration, mediation or other alternative dispute resolution proceeding on Guam

ALTERNATIVE DISPUTE RESOLUTION PROCEDURES:

I. ARBITRATION

Basic Default Provisions:

1. Where the number of arbitrators is not stated, a sole arbitrator will be appointed (§42301)
2. Where no place of arbitration is stated, the arbitration will be on Guam unless the arbitral tribunal decides otherwise (§42503)
3. The arbitral tribunal will determine the language to be used during the course of the arbitration (§42505)

Getting Arbitration Started:

1. Claimant can initiate the arbitral proceeding by informing the institution of the claim, or where no institution is specified, the Claimant must notify the respondent (§42504)
2. Respondent must then file a statement of defense. If respondent fails to file statement of defense monetary sanctions will be imposed and respondent will then be given an extension of time
3. If respondent is still in non-compliance after the expiration of the extension, the arbitral tribunal may enter a default award (§42508)

During the Arbitration:

1. Arbitral tribunal can appoint an expert to provide advice (§42509)
2. Arbitral tribunal has the power to issue a summons to require witnesses to attend the arbitral proceeding (§42571)
3. All hearings are in camera (§42507(d))

The Award:

1. If parties settle, the arbitral tribunal can enter the settlement as an award (§42603)
2. The form of the award is as per the New York Convention (§42604)
3. Parties have 30 days to seek correction and/or clarification of the award (§42606)
4. Successful party can seek costs, interest and expenses as part of the award (§42405, 42406)

Interim Measures:

1. Before the arbitral tribunal is constituted (§42403) – “it is not incompatible with an arbitration agreement for a party to request, before the constitution of an arbitral tribunal, from a court an interim measure of protection and for a court to grant such measure”
2. After the Arbitral Tribunal is constituted (§42402) – “provided a party can demonstrate by clear and convincing evidence that a request for such interim measures to the arbitral tribunal would prejudice its rights, any party may apply to the court...for interim relief...”

II. MEDIATION (under Guam law)

1. Statute of limitations are tolled during a mediation (§43107)
2. Statements made during a mediation not admissible in evidence (§43201)
3. Documents prepared for/pursuant to mediation cannot be compelled in later proceedings (§43201)
4. Mediators writings shall not be disclosed to the parties (unless otherwise agreed) (§43202)
5. Materials made by the mediator cannot be submitted to a court unless such disclosure is required by law (§43202)
6. The mediator can create a Mediation Settlement Agreement which must be signed by the parties (§43301(c))

Summary Enforcement of Mediation Settlement Agreements:

1. A party to a Mediation Settlement Agreement can obtain summary judgment without filing a complaint by filing a summons, a notice of motion for summary judgment and supporting papers, and a copy of the signed Mediation Settlement Agreement
2. Defendant may be required to file answering papers (defendant will have at least 30 days to prepare these)
3. Court can issue judgment based on the Mediation Settlement Agreement (§43301(c))

ABOUT GUAM

Guam is the southernmost island in the Mariana Islands archipelago which lies in the Western Pacific almost halfway between Hawaii and the Philippines. Guam is a territory of the United States of America and its indigenous people (called Chamorros) are US citizens. The island is approximately 212 sq miles with a population of 158,000 (2000 census). Besides the Chamorros, there are substantial numbers of Americans (from the US mainland), Filipinos, Chinese, Japanese, Koreans and islanders from the neighboring islands such as the Federated States of Micronesia, Palau, and the Marshall Islands.

The official languages on Guam is English and Chamorro (a mixture of Spanish and Malaysian). The currency used is the U.S. dollar. Guam has a tropical climate with a wet and dry season. The temperature rarely gets below 70°F (21°C) or above 90°F (32°C) except during the summer when it is a few degrees warmer. The warmest months are March through August.

Several international and commuter airlines connect Guam with the Philippines, Australia, Bali, Korea, Taiwan and numerous destinations throughout Japan, Asia, and the U.S. mainland. The major carriers are All Nippon Airways, Continental Airlines, Japan Airlines, Korean Air and Northwest Airlines. The flight times from major destinations are: San Francisco and Los Angeles to Honolulu to Guam is 12 hours; Honolulu to Guam is 7 hours; Tokyo to Guam is 3.5 hours; Bali, Brisbane to Guam is 5 hours; Taipei, Seoul and Sapporo to Guam is 4 hours.

The time difference between Guam and other locations in the Far East is small as Guam is located on the same side of the International Date Line. Tokyo, Korea, and Okinawa are one hour behind Guam's time. Manila, Taipei, and Hong Kong are two hours behind. Thus, there are no problems with jet lag.

Guam has major international hotels such as the Hilton, Hyatt, Marriott, and Holiday Inn. there are world class golf courses including one specially designed by Jack Nicklaus and Arnold Palmer. There is a mix of large retail stores and designer boutiques. Guam has internationally acclaimed wreck diving and snorkeling. Approximately one million tourists visit Guam each year.

Guam is linked to the rest of the world by satellite and fiber optics. A full range of telecommunication services such as direct dial telephone, facsimile and internet services are available to all overseas points 24 hours a day. The Antonio B. Won Pat Guam International Airport is a modern, spacious, tri-level complex located only two miles from luxury hotels. The air terminal features car rental agencies, a currency exchange facility, hotel telephones, a large duty free shop, as well as a cocktail lounge, restaurant, coffee shop and nine food and beverage outlets.

Guam is home to familiar brand restaurants - Hard Rock Café, Planet Hollywood, Sam Choy, Outback Steak House, Hy's Steak House, Tony Roma's Ribs, Burger King, Subway, Taco Bell, Baskin Robbins, among many others.

Guam is home to six PGA golf courses, an international auto & motorcycle race track, water-parks, dog races, parasailing, sky diving, horseback riding, Las Vegas Style shows, Guam Symphony, Multi-plex movie theaters, underwater observatory, indoor shooting ranges, submarine cruises, in-door theme parks, and many cultural attractions.

Links:

- Guam Chamber of Commerce – www.guamchamber.com.gu
- Guam Visitors Bureau – www.visitguam.org
- Guam Hotel & Restaurant Association – www.ghra.org

The Visa Waiver Program (VWP)

The Visa Waiver Program (VWP) enables citizens of certain countries to travel to the United States for tourism or business for 90 days or less without obtaining a visa. Visitors entering on the Visa Waiver Program cannot work or study while in the US and cannot stay longer than 90 days or change their status to another category. Not all countries participate in the VWP and there are some restrictions that apply to this program.

NOTE: Representatives of the foreign press, radio, film, journalists or other information media, engaging in that vocation while in the U.S., require a nonimmigrant Media (I) visa cannot travel to the U.S. on the visa waiver program and cannot travel using a visitor visa, seek admission by the Department of Homeland Security immigration inspector, at the U.S. at the port of entry.

Visa Waiver Program - 27 Participating Countries

Andorra (MRPP)	Iceland	Norway
Australia	Ireland	Portugal
Austria	Italy	San Marino
Belgium (MRP)	Japan	Singapore
Brunei (MRP)	Liechtenstein (MRP)	Slovenia (MRP)
Denmark	Luxemburg	Spain
Finland	Monaco	Sweden
France	the Netherlands	Switzerland
Germany	New Zealand	United Kingdom

Guam has additional Participating Countries

(The following passport holders are eligible)

Indonesia	Solomon Islands
Republic of South Korea	Taiwan
Malaysia	Vanuatu
Nauru	Western Samoa
Papua New Guinea	

To enter the U.S. on this Visa Waiver Program, travelers from participating countries must:

1. Have a valid passport issued by the participating country and be a citizen of that country;
2. Be seeking entry for 90 days or less as a temporary visitor;
3. If entering by air or sea, have a round-trip transportation ticket issued on a carrier that has signed an agreement with the U.S. government to participate in the VWP, and arrive in the U.S. aboard such a carrier.
4. Have proof of financial solvency and hold a completed and signed visa waiver arrival/departure form I-94W, on which s/he has waived the right to a hearing of exclusion or deportation. These forms are available from participating carriers, from travel agents, and at land-border ports-of-entry.

The Student and Exchange Visitor Information System (SEVIS):

The Student and Exchange Visitor Information System (SEVIS) is a government, computerized system that maintains and manages data about foreign students and exchange visitors during their stay in the United States. It is part of the Student and Exchange Visitor Program (SEVP). This program is managed by the U.S. Immigration and Customs Enforcement (ICE).

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