

Air Force Materiel Command

Classified Contracts: The Facility Clearance Process & Expectations



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Purpose

To educate the small business community on what is expected and required to perform on classified Department of Defense contracts.

Overview

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- **Background**
 - **Facility Clearance Process**
 - **Facility Clearance Maintenance**
 - **Potential Costs**
 - **Common Application Accesses**
 - **Summary**
 - **Resources**
 - **Questions**



Background

- **What is a classified contract?**
 - Any contract requiring access to classified information by a contractor or his or her employees in the performance of the contract.
 - Classified contract requirements are applicable to all phases of pre-contract activity, including:
 - Solicitations (bids, quotations, and proposals), pre-contract negotiations, post-contract activity, or other Government Contracting Activity (GCA) program or project which requires access to classified information.
- **Facility Clearance, defined**
 - An administrative determination that a company is eligible for access to classified information or award of a classified contract.
- **Cleared Contractor/Facility terminology**
- **GCA = Government Contracting Activity**



Background

- **National Industrial Security Program (NISP)**
 - Established by Executive Order (E.O.) 12829, as amended, in January 1993 (further amended by E.O. 13961) for the protection of classified information in Industry
 - A partnership between the federal government and private industry
 - Applies to all executive branch departments, agencies, cleared contractor facilities located CONUS, its Trust Territories, and possessions
 - Voluntary membership
- **Cognizant Security Agencies (CSA)**
 - Department of Defense (DoD), Department of Energy, the Nuclear Regulatory Commission, Director of National Intelligence, the Secretary of Homeland Security
- **DoD CSA delegates security authority to a Cognizant Security Office:**
 - the Defense Counterintelligence and Security Agency (DCSA) formerly known as Defense Security Service
 - Secretary of Defense entered into agreements (33 Agencies/Departments)



Background

■ DCSA

- The Under Secretary of Defense for Intelligence provides authority, direction and control over DCSA.
- Headquartered in Quantico, VA
- Field Offices throughout the United States
- Provides the military services, Defense Agencies, 33 federal agencies and approximately 13,500 cleared contractor facilities with security support services.

■ DCSA Oversight and Assistance

- Cleared contractor facilities
- Assist facilities in ensuring the protection of U.S. and foreign classified information
- Facilitates classified shipments between the United States and foreign countries and implements foreign ownership, control and influence countermeasures
- Your main interface



Background

- **Sponsorship Requirements**
 - **Government Customer**
 - **Existing cleared defense contractor (e.g. Prime Contractor)**
- **What factors determine the issuance of a facility clearance?**
 - **A valid classified contract (awarded/exceptions pre-award)**
 - **A company's willingness to submit/execute all requested/required documentation**
 - **Personnel security clearance eligibility of identified key management personnel**
 - **An analysis of business operations & Foreign Ownership, Control, or Influence (FOCI)**

If classified contract requires the storage and/or processing of classified information, authorization to do so is given by DCSA

Special Access Program and SCI contracts require additional safeguards and will have separate oversight authority



Background

- **Facility Clearance Eligibility Requirements:**
 - **Require access to classified information on a legitimate classified contract;**
 - **Must be organized and existing under laws of 50 states, DC, or Puerto Rico;**
 - **Located CONUS or its territorial areas;**
 - **Have a reputation for integrity and lawful conduct in business dealings;**
 - **Cannot be barred from participating in US government contracts; and**
 - **Not under Foreign Ownership, Control, or Influence to such a degree that the granting of the facility clearance would be inconsistent with the national interest**
- **Know the contract requirements**
 - **What level of facility clearance is required?**
 - **Will you have classified storage requirements?**
 - **Will you need an information system accredited to process classified information?**



Background

- You are able to bid on a classified contract even though the company does not have an active facility clearance (always refer to the contract documentation requirements)
- If a classified contract is awarded and the facility clearance is in process, company personnel **are prohibited** from performing on the classified aspects of the contract until DCSA grants the appropriate facility clearance. **Unclassified** performance only
 - Just because one of your employees may have an active personnel security clearance **does not** give him/her permission to perform on a classified contract
- If classified storage and/or processing is required, DCSA **must** approve this capability
 - Just because a facility clearance is issued **does not authorize** classified storage and/or classified processing at your contractor location
 - This does not apply for classified storage requirements on a USAF installation
- Sole proprietorships/Consultants, see DCSA guidance (Industrial Security Letter 2006-02)



The Facility Clearance Process



The Facility Clearance Process

- **Sponsored for a facility clearance?**
 - **Adhere to process outlined in the Facility Clearance Orientation Handbook published by DCSA**
 - **Follow all instructions/directions provided during early interactions with DCSA**
 - **CAGE code required (see www.sam.gov)**
 - **Additional CAGE code information found at <https://cage.dla.mil>**
- **DCSA will initiate contact**
- **The use of the National Industrial Security System (NISS) database to upload required information (.pdf format)**
- **Initial personnel security clearances will be processed for you by DCSA, as applicable**
- **No set timeframe as to when a facility clearance is issued (from start to finish)**



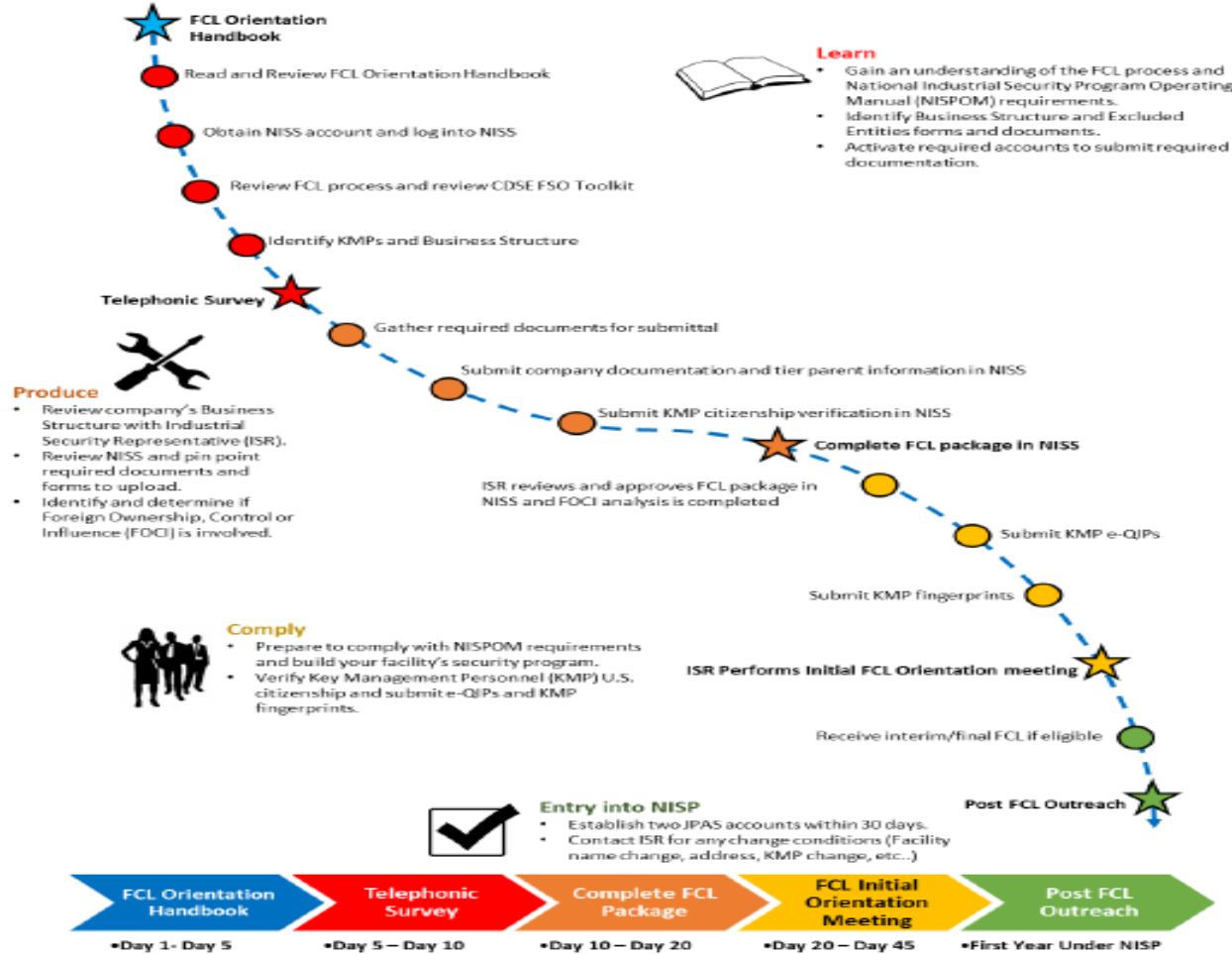
The Facility Clearance Process



Defense Security Service

FCL Orientation Handbook

3.0 FCL Roadmap





The Facility Clearance Process

- **Required forms**
 - **SF328, Certificate Pertaining to Foreign Interests**
 - **Information asked ranges from citizenship of officers/members of your company to all foreign involvement (e.g. OCONUS assets/finances/business located)**
 - **DCSA may require additional information regarding responses**
 - **DD Form 441, Department of Defense Security Agreement**
 - **DD Form 441-1, Appendage to Department of Defense Security Agreement**
 - **Only if a division/branch location requires a facility clearance**
 - **DD Form 254, Department of Defense Contract Security Classification Specification**
 - **No DD Form 254 = Not a classified contract**
 - **SF312, Classified Nondisclosure Agreement**
- **NISPOM and Industrial Security Letters**



The Facility Clearance Process

- **Recommended information to gather:**
 - **Business documentation in accordance with business structure (examples below)**
 - **Corporation: By laws, Articles of Incorporation, Certificate of Incorporation, Certificate of Good Standing**
 - **LLC: Operating Agreement, Articles of Organization, Certificate of Organization**
 - **Ownership information: Financial ledgers, stock certificates, etc.**
 - **Organizational chart , if one does not exist**
 - **Key management personnel citizenship documentation**
 - **Birth Certificate (s) or US Passport (s)**
 - **The FCL Orientation Handbook, section 5.0, contains additional information**



The Facility Clearance Process

- Be proactive with publically available information on www.dss.mil and www.cdse.edu
 - Small Business Guide Facility Clearance Process pamphlet
 - Facility Clearance Orientation Handbook / Facility Clearance Checklist
- Know your business structure
 - Keep in mind: A Joint Venture must be a legal entity, not a “handshake”
- Be prepared to discuss the management and control of your company
- Be aware of how your business documentation is drafted and implemented
- Be prepared to provide additional information upon request
 - Examples: Financial ledgers, foreign activity, organizational charts, management citizenship information, birth certificates, passports.



Facility Clearance Maintenance



Facility Clearance Maintenance

- You are expected to begin implementing industrial security requirements from Day 1
- Assigned DCSA Industrial Security Representative (ISR), Counterintelligence Special Agent (CISA), and Information System Security Professional (ISSP), as applicable
- All identified company key management personnel **must** maintain the appropriate level of personnel security clearance eligibility for the duration of the active facility clearance
- You will be subjected to oversight security vulnerability assessments (see DD Form 441 terms)
 - Rated against the Security Vulnerability Assessment Rating Matrix
- Must maintain an effective Industrial Security Program with management support
- Obtain and maintain an active DISS account and associated records



Facility Clearance Maintenance

- **Uphold Reporting Requirements**
 - **Adverse information / Suspicious Contact Reporting / Security Violations**
 - **Changed conditions**
- **Training Requirements (online)**
 - **FSO Training (ISL 2012-03)**
 - **DISS Training Requirements for users**
 - **Initial / Annual**
 - **Insider Threat Personnel**
 - **Information Systems (as applicable)**
 - **Derivative Classification (as applicable)**
 - **Special briefing requirements (as applicable)**
- **Self-Inspection Requirements**



Facility Clearance Maintenance

- **Classified Storage Requirements (dependent on contract requirements)**
 - **Restricted Area vs. GSA approved security container vs. closed area: Refer to NISPOM for additional information**
 - **Intrusion Detection System requirements**
- **Classified Material Control Requirements**
 - **Information Management System**
 - **Transmission requirements**
 - **PO box versus receiving classified mail at your location**
 - **Reproduction/Destruction requirements (NSA approved destruction equipment)**
- **Classified Information System Requirements, as applicable**
 - **Risk Management Framework**
 - **Support from an assigned DCSA ISSP**



Facility Clearance Maintenance

- **Oversight**
 - **DCSA conducts security vulnerability assessments**
 - **DCSA has the authority to review your entire industrial security program against current industrial security requirements**
 - **USAF on-base performance: DCSA will not have oversight**
 - **USAF specific contracts: Require the execution of a Visitor Group Security Agreement (VGSA)**
 - **USAF may levy additional security requirements via the VGSA and/or contract**
 - **Failure to abide by industrial security requirements**
 - **Invalidation of facility clearance**
 - **Revocation of facility clearance**
 - **Must continue to have an active classified contract requirement**
 - **Administrative termination of facility clearance**
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Potential Costs



Potential Costs

- **DISS PKI**
 - Must use an approved DoD Vendor
 - Refer to the Defense Manpower Data Center (DMDC) guidance
- **Fingerprinting (3 options)**
 - Refer to DCSA electronic fingerprinting guidance
 - Must use an approved FBI Channeler / vendor
- **PO Box maintenance, as applicable**
- **Security violation related costs**
 - Smart phones
 - IT systems
 - Solid State Hard Drives



Potential Costs

- GSA approved security container (new vs. used), DoD Lock Program Guidance
- Destruction equipment, as applicable
- Construction
 - Closed area (NISPOM) vs. SCIF vs. SAPF
 - SCIF and SAPF construction: Contact your customer **BEFORE** building anything
- Classified information systems
 - Cost to maintain (e.g. man hours)
 - SIPRNET
 - Failure to properly maintain classified information systems (SIPRNET or non-SIPRNET) may result in work stoppage if accreditation is rescinded due to non-compliance
- Good news: Contractor security clearance processing is DoD funded! **Does not** include costs incurred during fingerprinting or acquiring the necessary PKI certificates!



Common Application Accesses



Common Application Accesses

- **DISS: Personnel security clearance maintenance (PKI enabled)**
- **National Industrial Security System (NISS): Facility clearance verification, as applicable (PKI enabled)**
- **Secure Web Fingerprint Transmission (SWFT): Fingerprint submissions (PKI enabled)**
- **Enterprise Mission Assurance Support Service (eMASS) (PKI enabled): Classified information system assessment and authorization actions**

Summary

- **Background**
- **Overview of the facility clearance process**
- **Facility clearance maintenance**
- **Potential costs**
- **Common application accesses**
- **Preparation**
 - **The more you know, the easier the process will be**
- **Abide by all assigned timelines**
- **Follow instructions given by DCSA**

Resources

*Links subject to change

- U.S. Department of Defense, DCSA website: www.dss.mil
- DoD 5220.22-M, “National Industrial Security Program Operating Manual,” February 28, 2006 Incorporating Change 2 May 18, 2016
- National Archives, Information Security Oversight Office: <https://www.archives.gov/isoo/oversight-groups/nisp>
- Facility Clearance Orientation Handbook, October 2018: https://www.dss.mil/Portals/69/documents/io/fcb/FCL_Orientation_Handbook_10OCT18.pdf
- Industrial Security Letters: <https://www.dss.mil/ma/ctp/io/fcb/nisp/>
- Industry Tools: <http://www.dss.mil/ma/ctp/io/tools/>
- The Center for Development of Security Excellence: www.cdse.edu
- Facility clearance checklist and Small Business Guide: https://www.dss.mil/Portals/69/documents/io/fcb/SB_Guide_Facility_Clearance_Process_NISS.pdf

Resources

*Links subject to change

- System for Award Management: www.sam.gov
- DLA: <https://cage.dla.mil>
- DCSA, Foreign Ownership, Control, or Influence reference material: <https://www.dss.mil/ma/ctp/isia/bams/foci/>
- DCSA, National Industrial Security Program Authorization Office (NAO) reference material (Classified Information System references): <https://www.dss.mil/ma/ctp/io/nao/>
- DCSA, Electronic Fingerprint Capture Options for Industry: <https://www.dss.mil/Portals/69/documents/io/fcb/eQIP%20Signature%20Page%20and%200Electronic%20Fingerprint%20Guide%20for%20In-Process%20Faci.pdf>
- DCSA, SWFT reference: <https://www.dss.mil/is/swft/>
- DCSA, eMASS reference: <https://www.dss.mil/ma/ctp/io/nao/rmf/>
- DCSA, NISS reference: <https://www.dss.mil/is/niss/>



Resources

*Links subject to change

- **Defense Security Service Security Vulnerability Assessment Rating Matrix 2016 Update:**
<https://www.dss.mil/ma/ctp/io/tools/>
- **Defense Manpower Data Center (DISS account request procedures):**
<https://psa.dmdc.osd.mil/psawebdocs/docPage.jsp?p=DISS>
- **Department of Defense Lock Program (reference for GSA approved security containers):**
https://www.navfac.navy.mil/navfac_worldwide/specialty_centers/exwc/products_and_services/capital_improvements/dod_lock.html
- **FBI approved channeler listing (the link periodically changes):**
<https://www.fbi.gov/services/cjis/identity-history-summary-checks/list-of-fbi-approved-channelers-for-departmental-order-submissions>
- **NSA Media Destruction Guidance:** <https://www.nsa.gov/resources/everyone/media-destruction/>



Questions?

