

Chapter 4 Revision History: Revisions by date (Newest to oldest)

November 5, 2021:

- Reformatted entire document to add sections and provide uniformity with other HQFMSP Chapters.
 - Updated NISPON language throughout the document to reflect 32 CFR Part 117, National Industry Security Program Operating Manual (NISPOM) Rule.
 - Reorganized paragraphs for better outline of procedures
 - Updated Roles and Responsibilities for Facility Security Officer and Headquarters Security Officers.
 - Separated Importance Ratings for Possessing and Non-Possessing Facilities.
 - Updated classified contract approval process to better outline timelines and scenarios.
 - Added overarching Federal directives for guidance on the NISP.

Chapter 4

Foreign Ownership, Control, or Influence; Facility Clearance; and Classified Contract Registration

This chapter describes the security procedures adopted by the U.S. Department of Energy (DOE) Headquarters (HQ) to implement the requirements of the following directives:

- Executive Order 12829, *National Industrial Security Program*
- 32 CFR Part 117, *National Industrial Security Program Operating Manual (NISPOM) Rule*
- DOE Order 452.8, *Control of Nuclear Weapons Data*
- DOE Order 470.4B Chg. 2, *Safeguards and Security Program*

The objectives of these directives are to outline the process that contractors undergo to be authorized to perform classified work for the United States Government and the DOE.

- Section 401 identifies the roles and responsibilities of HQ and contractor personnel involved in the FOCI/FCL program
- Section 402 discusses the requirements and procedures for registering contractor and federal facility clearances.
- Section 403 describes the requirements and procedures used to register, extend, and terminate classified contracts and the process for transferring and terminating facility clearances.
- Section 404 discusses the recurring requirements for Facility Security Officers to ensure their facilities remain in compliance with DOE Directives.

Section 401

FOCI/FCL Program Roles and Responsibilities

HQ elements seeking to award classified contracts must ensure that perspective contractors are eligible to access DOE classified information. This eligibility process involves three-steps: obtaining a Foreign Ownership, Control, or Influence (FOCI) determination, obtaining a Facility Clearance (FCL); and registering classified contracts within DOE's Safeguards and Security Information Management System (SSIMS).

At HQ, all these actions are performed within the Office of Information Security (AU-42), within the Office of Headquarters Security Operations (AU-40).

HQ Implementation Procedures

HQ FOCI/Facility Clearance and Approval Program Manager:

The Director, AU-40, appoints an individual within AU-42 to serve as both the HQ FOCI Program Manager and the HQ Facility Clearance and Approval Program Manager. The HQ FOCI/Facility Clearance and Approval Program Manager is responsible for receiving, reviewing, and approving FOCI submissions, facility clearance requests, and classified contract registration documentation.

Procurement Request Originators:

Procurement Request Originators (PROs) are officials within each HQ element authorized to initiate a request for goods or services provided through a private contractor. PROs must thoroughly understand the nature of the goods or services they are requesting.

When a PRO initiates a request for services that requires access to classified information, he/she must know the level and category of the classified information to be accessed, whether special accesses are required, what security clearances are needed, and whether the contractor will maintain classified information at its own facility or perform the classified work within HQ facilities.

Contracting Officers:

All HQ Contracting Officers (COs) are part of the Office of Acquisition Management (MA-60). COs are responsible for analyzing procurement requests, developing solicitations, analyzing bids, ensuring the eligibility of bidding companies, letting contracts, and ensuring that the required security clauses are included in the contracts, when appropriate. COs are the official point of contact with the contractors and are ultimately responsible for ensuring that HQ contractors performing classified work comply with DOE security requirements.

Contracting Officer's Representatives:

Contracting Officer Representatives (CORs) are the Federal employees within each HQ element who monitor a contractor's performance on behalf of the CO. CORs work closely with the HQ FOCI/Facility Clearance team concerning DOE requirements for updating FOCI, facility clearance, and contract information. CORs verify the need for contractor employees to obtain a security clearance, provide the information needed to register classified contracts in SSIMS, and notify the HQ FOCI/Facility Clearance and Approval Program Manager when a new classified contract must be registered. The COR must also contact the FOCI/Facility Clearance team when an existing contract needs to be renewed (must notified 30 days prior to expiration), modified, or terminated. CORs should also maintain a list of all cleared individuals under their purview.

Facility Security Officer:

A Facility Security Officer (FSO) is a contractor employee specifically identified to perform security functions on behalf of his/her employer and is considered Key Management Personnel (KMP) per NISPOM requirements. The FSO is responsible for understanding DOE security requirements and ensuring that the contractor complies with them. The FSO must notify DOE of any changes in company ownership, changes of address, changes in KMP, etc. The FSO must complete the Facility Security Officer Overview Course, available on the DOE Learning Nucleus site. FSO training is required by DOE O 470.4B, Chg. 2 and must be completed within one year after a DOE facility clearance has been granted or formal FSO designation has been made by contracting company leadership.

Headquarters Security Officers:

HSOs are involved in reviewing and submitting Q or L security clearance paperwork for contractor employees to include KMP (see Section 301, Acquiring New Security Clearances). Before requests for security clearances are submitted, HSOs ensure that all the classified contract-related information is registered in SSIMS. If the information is not registered in SSIMS, the HSO will work with the responsible COR and submit the required documentation to the FOCI/FCL team for entry into SSIMS. When the FOCI/Facility Clearance and Approval Program Manager identifies the KMPs and FSO for the company, the HSO will be notified. The HSO will be in contact with the FSO to complete clearance paperwork for KMPs and submit the documentation to the Office of Headquarters Personnel Security Operations within two weeks of notification. The clearance and adjudication process for the KMPs may take at a minimum of 30 days if the individuals can be granted a DOE clearance reciprocally. HSOs are automatically provided copies of DOE F 470.1, *Contract Security Classification Specification* (CSCS), which is used to register classified contracts in SSIMS. HSOs can also send an e-mail to [HQ FOCI FAC TEAM](#) to verify that the contract in question has been entered into SSIMS.

HSOs must know what classified contracts and contractors are in place to support their element; therefore, HSOs must maintain copies of CSCS and DOE F 470.2, *Facility Data and Approval Record* (FDAR). AU-42 uses these forms to enter data into SSIMS; HSOs use them to enter the data into their element's Appendix to the HQFMSP. HSOs must remain in contact with the FSOs for each contract under their purview to help facilitate any changes necessary to keep company

FCLs in compliance.

Points of Contact

For the names and contact information for those occupying the positions identified in this section, call (301) 903-9986 or 301-903-9990.

Section 402

Facility Clearance Registration

When a contract or business need requires employees to have access to classified information, the company or federal facility requires a DOE FCL be granted. DOE FCLs are documented on the FDAR. Contractor and federal facilities will fall under two categories: possessing and non-possessing.

HQ Implementation Procedures

Possessing Facilities:

The HQ Survey Team must conduct an initial survey. After the HQ Survey Team verifies that the contractor meets all applicable DOE security requirements, they issue DOE F 470.8, *Survey/Inspection Report Form*, which serves as the basis for issuing a facility clearance based on the Importance Rating of the work assigned to the contractor.

Importance Rating A – Issued to a facility approved to store TS matter

Importance Rating B – Issued to a facility approved to store S/RD matter

Importance Rating C – Issued to a facility approved to store all other levels and categories of classified matter

Importance Rating D – Issued to such facilities as common carriers, commercial carriers, or mail service contractors that are not authorized to store classified matter during nonworking hours

Importance Rating PP – Issued to a facility that stores government property of significant monetary value (more than \$5 million, exclusive of facilities and land values)

Non-Possessing (NP) Facilities:

The HQ Survey Team does not survey NP facilities, but the HQ FOCI/Facility Clearance and Approval Program Manager requires NP facilities to submit a *Plan for Non-Possessing Facilities*.

Importance Rating NP – Issued to a Non-Possessing (NP) facility that is not authorized to possess or store classified matter but whose contractor personnel perform classified work at an HQ facility. The NP rating permits contractor employees to apply for a Q or L security clearance.

Importance Rating E – Issued to Excluded Parents, which is related to the FOCI Program

FCL Clearance Requirements and Processing:

After the level of FCL has been determined for a contractor facility, and prior to the FCL being granted the following process must occur:

1. The HQ FOCI/Facility Clearance and Approval Program Manager will work with the company FSO and HQ element HSO to identify the company's KMP. Per NIPSOM requirements, KMP must be cleared to the level of the requested FCL prior to the FCL being granted.
2. DOE requires, at a minimum, the Senior Management Official (SMO), Facility Security Officer (FSO), and the Insider Threat Senior Program Official (ITPSO) be cleared to the level of the requested FCL. (**Note. Other identified KMP can be temporarily excluded from possessing the appropriate clearance for the purposes of granting a DOE FCL. Contact the HQ FOCI/FCL team for exclusion procedures. **)
3. To facilitate KMP clearances being processed, the HQ FOCI/FCL team will complete the FDAR and place the contractor facility in an "Awaiting Activation" status in SSIMS. A copy of the "Awaiting Activation" FDAR will be provided to the HQ element HSO, COR, CO, and AU-43 for KMP processing.
4. Once the required KMP are cleared, the contractor facility will be placed in an active status in SSIMS.
5. The HQ FOCI/FCL team will provide the completed FDAR to the company FSO and responsible HSO to continue classified contract registration.

Reciprocal FCLs

If a contractor has an active facility clearance with an OGA under the National Industrial Security Program (NISP), the HQ FOCI/FCL Team will request FCL reciprocity from the OGA. Estimated time for this process will take approximately 3 months. The FCL Team will ensure the following:

1. That a Memorandum of Agreement to the cognizant security agency requesting use of their facility clearance to register the contractor for classified DOE work commitments
2. That the FCL granted by the OGA is at the appropriate classification level and category or that cognizance is requested if the DOE facility security level needed exceeds what the OGA has granted
3. That KMPs are processed and granted the appropriate access authorization level
4. That State, local, tribal, and other similar governmental authorities will not be registered as OGAs and will be handled in accordance with Executive Order 13549, *Classified National Security Information Program for State, Local, Tribal, and Private Sector Entities*

5. If contract is cleared under a Voting Trust Agreement, Proxy Agreement, Special Security Agreement, or Security Control Agreement, a copy of the FOCI mitigation plan is obtained from the cognizant OGA
6. Assurance is obtained from OGA that the FCL will not be canceled prior to the DOE cognizant security office being notified.

Registering OGA FCLs and Their Contractors in SSIMS

OGAs and their contractors must be registered in SSIMS to perform classified work for DOE or receive classified information from DOE. The HQ FOCI/Facility Clearance and Approval Program Manager registers OGAs and their contractors. HSOs should consult with the HQ FOCI/Facility Clearance and Approval Program Manager to initiate and complete the registration process.

If an OGA is not registered in SSIMS, the requesting HQ element must send a *Statement of Security Assurance* (SSA) to the OGA security officer to complete and sign. The SSA must be returned to the HQ element and then forwarded to the HQ FOCI/Facility Clearance and Approval Program Manager. After review by the HQ FOCI/Facility Clearance and Approval Program Manager, the SSA is used to develop the FDAR needed to register the OGA in SSIMS. The SSA requires the OGA's security officer to notify the HQ element and the HQ FOCI/Facility Clearance and Approval Program Manager if any changes are made to their information recorded in SSIMS. Every three years, OGAs must complete a new SSA. HQ elements must track SSAs under their purview and handle the re-registration of OGAs.

When an HQ element has established a need-to-know for an OGA contractor without a contractual arrangement with DOE to receive classified matter, the Classified Mailing Address (CMA) for that OGA contractor may be verified by the Defense Counterintelligence Security Agency database, National Industrial Security System (NISS). The HQ FOCI/Facility Clearance and Approval Program Manager has access to NISS and can provide the CMA and storage capability for the contractor facility.

If an OGA contractor is not registered in SSIMS or NISS, the HQ FOCI/Facility Clearance and Approval Program Manager should be consulted for instructions on how to proceed.

Points of Contact

For the names and contact information for those occupying the positions identified in this section, call (301) 903-9986 or 301-903-9990.

Forms/References

DOE F 470.2, *Facility Data and Approval Record* (go to [Facility Data and Approval Record Form](#) for a copy of this form)

DOE F 470.8, *Survey/Inspection Report Form* (go to [Survey/Inspection Report Form](#) for a copy of this form).

Statement of Security Assurance. A fillable version of the *Statement* is available by e-mailing [HQ FOCI FAC TEAM](#).

Section 403

Classified Contract Lifecycle

DOE requires all classified contracts to be registered in SSIMS. To achieve this registration the process in this section must be followed to ensure that perspective contractors are eligible to access DOE classified material. This section also provides guidance on security procedures associated with classified contract modification and termination as well as processes involved with the transfer and termination of facility clearances.

HQ Implementation Procedures

Approving Classified Contracts:

When a PRO determines a need for a private contractor, the PRO must complete DOE F 4200.33, *U.S. Department of Energy Procurement Request - Authorization*. Question 41 of this form asks whether the contract requires security clearances. If the contract does require security clearances, the PRO is instructed to attach a CSCS to the DOE F 4200.33. The CSCS provides the security classification requirements and justifies the contractor's need for a FOCI determination and facility clearance. The PRO submits these two forms to his/her servicing CO.

After the PRO submits the CSCS and DOE F 4200.33 to the CO, the CO will prepare the solicitation, receive bids, consider the bids, and makes a tentative selection. (**As part of the bidding process, the CO will include the cursory FOCI review sheet with the solicitation to aide in the selection process. This cursory review will reveal if a perspective awardee needs to undergo a FOCI determination or if the company already has a FOCI determination and facility clearance on file with DOE or other Cognizant Security Agency (CSA). This review should be returned to the HQ FOCI/FCL team 30 days prior to a tentative selection being made. **)

Once a tentative selection is made, the CO will contact HQ FOCI/Facility Clearance and Approval Program Manager, advises him/her of the tentative selection, and requests confirmation that the contractor has a favorable FOCI determination on file with DOE or another Federal agency. The following outcomes will occur:

1. If the contractor already has a favorable FOCI determination on file:
 - a. Upon notification of tentative selection, the HQ FOCI/Facility Clearance and Approval Program Manager informs the CO, within five days of that fact so the CO can make the contract award.
 - b. The CO must forward the completed CSCS along with the first three pages of the signed classified contract that states the last option year for the period of performance to the HQ FOCI/Facility Clearance and Approval Program Manager in AU-42 for subsequent entry into SSIMS.
 - c. The HQ FOCI/Facility Clearance and Approval Program Manager reviews the

CSCS to identify the appropriate facility clearance (FCL). The FCL must be granted before the contractor and its employees can access classified matter. Prior to a DOE FCL being granted, all required KMP must possess a security clearance commensurate with the level of the FCL.

- d. After SSIMS entry, a copy of the completed CSCS and company FDAR is sent by AU-42 to the HSO representing the HQ element requesting the contract, informing the HSO that security clearances can be requested for that contractor. A contractor cannot be granted a security clearance unless the CSCS for that contract has been entered into SSIMS.
 - e. A copy of the completed CSCS will also be provided to AU-43 and the Badging Office by the FOCI/FCL team.
2. If the company tentatively selected to perform the contract does not already have a FOCI determination:
- a. The company is required to submit a FOCI package for review by the HQ FOCI/Facility Clearance and Approval Program Manager.
 - b. The FOCI package must be submitted electronically via the [e-FOCI](#) website. The website provides complete information about the e-FOCI submission system and the required documentation. The length of this process will depend on the company's ownership, structure, and business ventures. Estimated time could be at least 120 days. The HQ FOCI/Facility Clearance and Approval Program Manager renders a FOCI determination after considering all the information submitted by the contractor.
 - c. Once a FOCI determination is made, the CO will be notified.
 - d. The CO will then follow the same processing guidelines outlined above.

When the CSCS is submitted to the FOCI/Facility Clearance and Approval Program Manager, the total process may take up to six months to complete, depending on the FCL status of the company and the clearance level of the KMPs. The HSO must submit the clearance request for the KMPs within two weeks of being notified by the FOCI/Facility Clearance and Approval Program Manager. The facility clearance will not be granted, and the CSCS will not be processed, until all required KMPs are cleared at the level that is required for the classified contract.

Extension of Classified Contracts:

When the period of performance for a classified contract is extended, the date shown on the CSCS must be updated and entered into SSIMS. This may be accomplished by completing a new CSCS and providing a signed copy of the modification's first two pages (which includes the new period of performance) to the HQ FOCI/Facility Clearance and Approval Program Manager. The CO and COR are both responsible for the contract and are authorized to sign the new CSCS

and are the only DOE officials authorized to revise the period of contract performance. The new CSCS may not be sent until both DOE and the contractor have signed the modification agreeing to the terms of the extension. Before being sent to the HQ FOCI/Facility Clearance and Approval Program Manager the document must be reviewed and approved by the supporting Classification Officer and if the contractor has access to Special Compartmentalized Information, a signature is required by the Intelligence and Counterintelligence Officer. For bridge contracts that have been issued a new contract number, a new CSCS must be completed and signed by the CO, COR, and supporting Classification Officer.

The extension CSCS must be submitted by the CO or COR 30 days prior the expiration date. This is necessary for the Office of Headquarters Personnel Security Operations and the DOE HQ Badging Office, to process all badges and avoid the stop of work for the company's employees.

Termination or Transfer of Facility Clearances and Classified Contracts:

Upon completion or termination of a classified contract the following actions must occur:

1. Within 30 days of contract completion or termination, the CO or COR must complete a final CSCS and submit it to the HQ FOCI/Facility Clearance and Approval Program Manager for entry into SSIMS.
2. In conjunction with the termination CSCS, the HSO issues a *Security Activity Closeout Certificate (SACC)* for the prime contractor and each of its subcontractors registered in SSIMS. The HSO and FSO signatures are required for completion of the SACC.
3. The HQ Survey Team performs a Termination Survey on possessing facilities to ensure that the contractor has properly disposed of DOE classified information and other security assets. Termination Survey results are documented on DOE F 470.8.

If the employees of the terminated contract will not transfer to another classified contract or be employed by a new contractor, all security clearances must be terminated (see [Chapter 3](#), Other Security Clearance Actions). All security badges issued to contractor employees must be returned to DOE control. (DOE O 470.4B Chg.2, App. B, Sec.1, Ch.9, 1.b)

Points of Contact

For the names and contact information for those occupying the positions identified in this section, call (301) 903-9986 or 301-903-9990.

To verify that a specific classified contract has been entered into SSIMS, send an e-mail to [HQ FOCI FAC TEAM](#)

Forms/References

DOE F 470.1, *Contract Security Classification Specification* (go to [Contract Security Classification Specification Form](#) for a copy of this form)

DOE F 4200.33, *Procurement Request Authorization* (go to [Procurement Request Authorization Form](#) for a copy of this form)

Security Activity Closeout Certification (go to [Security Activity Closeout Certification Document](#) at the bottom of the chapter landing page for a copy of this document)

Section 404

Recurring Requirements for FSOs

FSO are required to manage the protection of all DOE classified material under their company's purview. To ensure company FCLs remain in compliance with DOE and Federal directives FSOs must satisfy the following requirements:

1. Annual reviews are required for companies with a FOCI mitigation, companies with parent organizations excluded by formal resolution, or organizations that have filed board resolutions to reduce non-controlling foreign ownership.
2. Companies that are not required to report annually are subject to random reviews throughout the duration of their facility clearance with DOE HQ. Companies will need to respond within two weeks of notification of review. A delayed response could result in the suspension of the company's facility clearance.
3. DOE must be informed when certain information about a contractor change. The contractor's FSO must notify DOE within one week of the changes via the e-FOCI website. The following changes are reportable:
 - a. Changes in ownership, including stock transfers that affect control of the company
 - b. Changes in the operating name or address of the company or any of its cleared branch locations
 - c. Any change in KMP by submission of a 'significant change'. If a KMP does not have an active clearance, this can result in the suspension of the company's facility clearance. A Temporary Exclusion may be an option until the KMP is cleared with DOE
 - d. Actions to terminate business or operations for any reason, including involvement in adjudication of or reorganization in bankruptcy
 - e. Written notification of any changes affecting FOCI or the answers to the questions presented in the latest Certificate Pertaining to Foreign Interests, or any changes in ownership or control that must be reported to the Securities and Exchange Commission, the Federal Trade Commission, or the Department of Justice

If the FCL is held with an OGA, a notification must still be sent to DOE, but the update must be submitted to the OGA. When a change in the contracting companies FSO or other cleared Key Management Personnel is expected, the FSO must immediately identify to DOE HQ the individual assuming the responsibility and ensure that the person(s) is cleared to the same level required of the contract.

Points of Contact

For the names and contact information for those occupying the positions identified in this section, call (301) 903-9986 or 301-903-9990.

Forms/References

Standard Operating Procedure for:

- Facility Clearance and Registration of Safeguards and Security Activities,
- Recording of Security Incidents,
- Equivalences and Exemptions, and
- Foreign Ownership, Control or Influence are Official Use Only, please contact the HQ FOCI/Facility Clearance Team for a copy.