

# Chapter 4

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

This chapter summarizes the process that contractors undergo to be authorized to perform classified work for DOE HQ. The process involves three-steps: obtaining a Foreign Ownership, Control, or Influence (FOCI) determination, obtaining a Facility Clearance; 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).

AU-42 has developed a website (see the Helpful Websites subsection, below) containing instructional handbooks for completing the forms identified in this chapter. These handbooks should be consulted during completion of the forms. The website also includes links to the forms and templates discussed in this chapter.

This chapter implements the FOCI, facility clearance, and contract registration requirements established by the following directives:

- DOE Manual 470.4B, *Safeguards and Security Program*
- *National Industrial Security Program Operating Manual*.

### 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 and Project 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 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 and Approval Program Manager to ensure that the contractor complies with 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 classified contract is renewed, 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. The FSO is responsible for understanding DOE security requirements and ensuring that the contractor complies with them. The FSO must notify DOE of changes in company ownership, changes of address, changes in key company managers, etc.

## **Headquarters Security Officers:**

HSOs are involved in reviewing and submitting Q or L security clearance paperwork for contractor employees (see Section 301, Acquiring New Security Clearances). HSOs ensure that before requests for security clearances are submitted, all the classified contract-related information is entered into SSIMS. 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 [HQFOCIFACTEAM@doe.gov](mailto:HQFOCIFACTEAM@doe.gov) 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 should maintain copies of DOE F 470.1 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.

## Process for Requesting and Approving a Classified Contract:

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 it does, the PRO is instructed to attach a DOE F 470.1 to the DOE F 4200.33. The DOE F 470.1 provides the security classification requirements and justifies the contractor's need for a facility clearance. The PRO submits these two forms to his/her servicing CO.

- The CO prepares the solicitation, receives bids, considers the bids, and makes a tentative selection. The CO then contacts the 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 FOCI determination reveals whether the contractor that was tentatively selected and their subcontractors are owned, controlled, or influenced by a foreign entity and whether there is any potential for undue risk to the common defense and national security of the U.S. If the contractor already has a favorable FOCI determination on file, the HQ FOCI/Facility Clearance and Approval Program Manager informs the CO of that fact so the CO can make the contract award. The CO must forward the completed DOE F 470.1 to the HQ FOCI/Facility Clearance and Approval Program Manager in AU-42 for subsequent entry into SSIMS. After SSIMS entry, a copy of the DOE F 470.1 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 DOE F 470.1 for that contract has been entered into SSIMS.
- If the company tentatively selected to perform the contract does not already have a favorable FOCI determination, the company is required to submit a FOCI package for review by the HQ FOCI/Facility Clearance and Approval Program Manager. For HQ, the FOCI package must be submitted electronically via the e-FOCI website at <https://foci.anl.gov>. The website provides complete information about the e-FOCI submission system and the required documentation. The HQ FOCI/Facility Clearance and Approval Program Manager renders a FOCI determination after considering all the information submitted by the contractor. The CO is notified by AU-42 of the FOCI determination and requested to forward the completed DOE F 470.1 to the HQ FOCI/Facility Clearance and Approval Program Manager for subsequent entry into SSIMS. After SSIMS entry, a copy of the DOE F 470.1 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 DOE F 470.1 for that contract has been entered into SSIMS.

When the FOCI determination is made, the HQ FOCI/Facility Clearance and Approval Program Manager reviews the DOE F 470.1 to identify the appropriate facility clearance. The facility clearance must be granted before the contractor and its employees can access classified matter. The HQ Survey Team must survey a contractor requesting a facility clearance, which authorizes storage of classified matter at a company facility. The HQ

Survey Team ensures that the contractor has the proper security equipment, security access and alarm systems, security procedures, a security plan, and security services required by DOE before classified assets can be provided to the contractor. 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. The Importance Ratings are:

1. Importance Rating A – Issued to a facility approved to store TS matter.
2. Importance Rating B – Issued to a facility approved to store S/RD matter.
3. Importance Rating C – Issued to a facility approved to store all other levels and categories of classified matter.
4. 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.
5. Importance Rating E – Issued to Excluded Parents, which is related to the FOCI Program.
6. 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).
7. 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. 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*.

The HQ FOCI/Facility Clearance and Approval Program Manager completes DOE F 470.2 to document the issuance of the proper facility clearance and provides a copy of the form to the AU-42 SSIMS data entry specialist for entry into SSIMS. When data entry is complete, another copy is provided to the contractor's FSO for permanent retention.

The FOCI and facility clearance processes (the FOCI determination and issuance of the DOE F 470.2) ensure that the contractor is eligible for access to DOE classified information. Registration of the classified contract in SSIMS (issuance of the DOE F 470.1) ensures that company employees working on a particular contract are eligible for access to DOE classified information. If these actions are not completed and documented in SSIMS, contractor employees cannot be processed for a Q or L security clearance.

## **Recurring Requirements for FSOs:**

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.

Facility clearance requirements state that procedures must be in place to verify changes in KMPs, and to ensure that all KMPs are processed for and granted access authorizations.

Companies that are not required to report annually are subject to random reviews throughout the duration of their facility clearance with DOE HQ. Companies are notified 30 days in advance of the review.

## **Changes in Contractor Information:**

DOE must be informed when certain information about a contractor changes. The contractor's FSO must notify DOE of the changes via the e-FOCI website. The following changes are reportable:

- Changes in ownership, including stock transfers that affect control of the company
- Changes in the operating name or address of the company or any of its cleared branch locations
- Any change in KMP by submission of a revised key managers list
- Actions to terminate business or operations for any reason, including involvement in adjudication of or reorganization in bankruptcy
- 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.

## **Extension of Classified Contracts:**

When the period of performance for a classified contract is extended, the date shown on the DOE F 470.1 must be updated and entered into SSIMS. This may be accomplished by completing a new DOE F 470.1 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 DOE F 470.1 because they are the only DOE officials authorized to revise the period of contract performance. The new DOE F 470.1 may not be sent until both DOE and the contractor have signed the modification agreeing to the terms of the extension and it has been by the supporting Classification Officer.

For bridge contracts that have been issued a new contract number, a new DOE F 470.1 must be completed and signed by the CO, COR, and supporting Classification Officer.

## **Registering OGAs 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 HQ element must send a *Statement of Security Assurance (SSA)* to the OGA security officer to complete and sign (see Attachment 400-1). The SSA must be returned to the HQ element and then forwarded to the HQ FOCI/Facility Clearance and Approval Program Manager in AU-42. After review by the HQ FOCI/Facility Clearance and Approval Program Manager, the SSA is used by AU-42 to develop the DOE F 470.2 needed to register the OGA in SSIMS. The SSA requires the OGA's Security Officer to notify 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. The HQ FOCI/Facility Clearance and Approval Program Manager handles 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 Security Service's database, Industrial Security Facilities Database (ISFD). The HQ FOCI/Facility Clearance and Approval Program Manager has access to ISFD and can provide the CMA and storage capability for the contractor facility.

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

## **Termination of Facility Clearances and Classified Contracts:**

When a classified contract ends, the CO and COR must complete a final DOE F 470.1 and submit it to the HQ FOCI/Facility Clearance and Approval Program Manager for entry into SSIMS. The HQ FOCI/Facility Clearance and Approval Program Manager issues a *Security Activity Closeout Certificate* (see link in the Forms/Samples/Graphics section below) for the prime contractor and each of its subcontractors registered in SSIMS. An HSO's signature is required for completion of the *Certificate*. At this point, all security clearances associated with that contract must be terminated. If any employees will transfer to another classified contract or be employed by a new contractor, they must be granted new security clearances as permitted by the new classified contract. All security badges issued to contractor employees must be returned to DOE control.

If the contractor possesses DOE security assets (i.e., is a "possessor") but will no longer perform classified work for DOE, those assets must be transferred to the replacement

contractor or returned to DOE control. The HQ Survey Team performs a Termination Survey 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.

## Points of Contact

For the names and contact information for those occupying the positions identified in this section, call (301) 903-7189 or (301) 903-2644.

To verify that a specific classified contract has been entered into SSIMS, send an e-mail to [HQFOCIFACTEAM@doe.gov](mailto:HQFOCIFACTEAM@doe.gov).

## Forms/Samples/Graphics

DOE F 470.1, *Contract Security Classification Specification* (go to <http://energy.gov/cio/downloads/doe-f-4701> for a copy of this form)

DOE F 470.2, *Facility Data and Approval Record* (go to <http://energy.gov/cio/downloads/doe-f-4702> for a copy of this form)

DOE F 470.8, *Survey/Inspection Report Form* (go to <http://energy.gov/cio/downloads/doe-f-4708> for a copy of this form)

DOE F 4200.33, *Procurement Request Authorization* (go to <http://energy.gov/cio/downloads/doe-f-420033> for a copy of this form)

*Security Activity Closeout Certification* (go to [http://www.hss.energy.gov/HQSecOp/fac\\_approval.html](http://www.hss.energy.gov/HQSecOp/fac_approval.html) for a copy of this document)

*Statement of Security Assurance* (see Attachment 400-1). A fillable version of the *Statement* is available by e-mailing [HQFOCIFACTEAM@doe.gov](mailto:HQFOCIFACTEAM@doe.gov).

## Helpful Websites

[http://www.hss.energy.gov/HQSecOp/fac\\_approval.html](http://www.hss.energy.gov/HQSecOp/fac_approval.html)

[http://www.hss.doe.gov/HQSecOp/foreign\\_ownership.html](http://www.hss.doe.gov/HQSecOp/foreign_ownership.html)

<https://foci.anl.gov>

# ATTACHMENT 400-1 Statement of Security Assurance

## STATEMENT OF SECURITY ASSURANCE

OGA Possessing                       OGA Non-Possessing                       OGAC

In fulfillment of the requirements set forth by the U.S. Department of Energy (DOE) and National Nuclear Security Administration (NNSA), this statement of security assurance is being submitted on the following facility:

<b>1. ACTION:</b>  New <input type="checkbox"/>  Update <input type="checkbox"/> Facility Code:  Today's Date:	<b>2. FACILITY NAME AND ADDRESS:</b> Name: Address:  DSS Cage Code: (If OGAC, provide an ISFD Notification with SSA) FSO: Phone: E-mail: Fax:	<b>3. FOR OGAC Facilities:</b> HOST ENTITY: Facility Code: Facility Name: Facility Address:  Facility Clearance Level of HOST:  <b>4. Requestors (Site Office/M&amp;O/DOE/NNSA Sponsor POC):</b> CSO/DRO Name: Organization: Phone Number: E-mail: Fax:									
<b>5. Inclusive dates: 3 years from date of Host/Certifying Government Official or DOE HQ's signature.</b> <b>Will not exceed 3 years from date of first signature, as indicated by requesting site or HQ NWD approving official.</b>											
<b>6. CONTRACT INFORMATION (Contract # and Name) Type:</b> MOA <input type="checkbox"/> MOU <input type="checkbox"/> WFO <input type="checkbox"/> Contract <input type="checkbox"/> Other <input type="checkbox"/> Brief Justification:											
Applicable for NNSA and NNSA contractors only                      CMA/CMC internal tracking number _____ <i>What level/access is being requested –</i>											
<b>7. GENERAL IDENTIFICATION FOR WHICH ACCESS IS REQUESTED: (Purpose and Access Level Required)</b> <table style="width: 100%; border: none;"> <tr> <td style="width: 33%;">Top Secret (TS) level <input type="checkbox"/></td> <td style="width: 33%;">Restricted Data (RD) category <input type="checkbox"/></td> <td style="width: 33%;"></td> </tr> <tr> <td>Secret (S) level <input type="checkbox"/></td> <td>Formerly Restricted Data (FRD) category <input type="checkbox"/></td> <td></td> </tr> <tr> <td>Confidential (C) level <input type="checkbox"/></td> <td>National Security Information (NSI) category <input type="checkbox"/></td> <td></td> </tr> </table> CNWDI <input type="checkbox"/> Sigmas: 14 <input type="checkbox"/> 15 <input type="checkbox"/> 18 <input type="checkbox"/> 20 <input type="checkbox"/> Caveats:  Will Personnel Security Clearances be requested for the OGA?                      YES <input type="checkbox"/> NO <input type="checkbox"/>			Top Secret (TS) level <input type="checkbox"/>	Restricted Data (RD) category <input type="checkbox"/>		Secret (S) level <input type="checkbox"/>	Formerly Restricted Data (FRD) category <input type="checkbox"/>		Confidential (C) level <input type="checkbox"/>	National Security Information (NSI) category <input type="checkbox"/>	
Top Secret (TS) level <input type="checkbox"/>	Restricted Data (RD) category <input type="checkbox"/>										
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Confidential (C) level <input type="checkbox"/>	National Security Information (NSI) category <input type="checkbox"/>										



