



UNDER SECRETARY OF DEFENSE
5000 DEFENSE PENTAGON
WASHINGTON, DC 20301-5000

**INTELLIGENCE
AND SECURITY**

July 19, 2024

**MEMORANDUM FOR SENIOR PENTAGON LEADERSHIP
DEFENSE AGENCY AND DOD FIELD ACTIVITY DIRECTORS**

SUBJECT: Directive-type Memorandum (DTM) 24-004, “Facility Security Clearance Requirements for Covered Joint Ventures”

References: See Attachment 1.

Purpose. In accordance with the authority in DoD Directive (DoDD) 5143.01 and Section 1629 of Public Law 116-92 (also known as “the National Defense Authorization Act for Fiscal Year 2020” and referred to in this DTM as “Section 1629”), this DTM:

- Establishes policy, assigns responsibilities, and prescribes procedures for covered joint venture (JV) facility security clearances (FCLs) that meet the criteria in Section 1629.
- Supersedes guidance on the implementation of Section 1629 currently found in Paragraphs 4.3.a. and 4.8.c.(6) of Volume 1 of DoD Manual (DoDM) 5220.32.
- Requires compliance with all other FCL requirements in Volume 1 of DoDM 5220.32 not covered in this DTM.
- Is effective July 19, 2024; it must be incorporated into Volume 1 of DoDM 5220.32. This DTM will expire effective July 19, 2025.

Applicability. This DTM applies to OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD (referred to collectively in this DTM as the “DoD Components”).

Definitions. See Glossary.

Policy. DoD Components and their government contracting activities (GCAs) will protect classified information, to include information provided to industry, including foreign government information, that the U.S. Government is obligated to protect pursuant to Executive Order 12829; Part 2004 of Title 32, Code of Federal Regulations (CFR); and DoD Instruction (DoDI) 5220.31.


Responsibilities. See Attachment 2.

Procedures. See Attachment 3.

Information Collection Requirements

- DD Form 254, “Department of Defense Contract Security Classification Specification,” available on the DoD Forms Management Program Website, is assigned Office of Management and Budget (OMB) control number 0704-0567 for contract security classification specification requirements in accordance with Volume 2 of DoDM 8910.01.
- The sponsorship request for an FCL is assigned OMB control number 0704-0571 in accordance with Volume 2 of DoDM 8910.01.
- The collection and maintenance of contractor FCL records is assigned OMB control number 0704-0571 in accordance with Volume 2 of DoDM 8910.01.
- Standard Form (SF)-328, “Certificate Pertaining to Foreign Interests,” available on the General Services Administration Forms Website, is assigned OMB control number 0704-0579.

Releasability. Cleared for public release. Available on the Directives Division Website at <https://www.esd.whs.mil/DD/>.


Milancy D. Harris
Acting

Attachments:
As stated

ATTACHMENT 1

REFERENCES

Code of Federal Regulations, Title 2, Part 200
Code of Federal Regulations, Title 32
DoD Directive 5105.42, “Defense Security Service (DSS),” August 3, 2010, as amended
DoD Directive 5143.01, “Under Secretary of Defense for Intelligence and Security
(USD(I&S)),” October 24, 2014, as amended
DoD Instruction 5220.31, “National Industrial Security Program,” May 9, 2023
DoD Manual 5220.32, Volume 1, “National Industrial Security Program: Industrial Security
Procedures for Government Activities,” August 1, 2018, as amended
DoD Manual 8910.01, Volume 2, “DoD Information Collections Manual: Procedures for DoD
Public Information Collections,” June 30, 2014, as amended
Executive Order 12829, “National Industrial Security Program,” January 7, 1993, as amended
Federal Acquisition Regulation, Clause 52.204-2, current edition
Public Law 116-92, Section 1629, “National Defense Authorization Act for Fiscal Year 2020,”
December 20, 2019

ATTACHMENT 2
RESPONSIBILITIES

1. UNDER SECRETARY OF DEFENSE FOR INTELLIGENCE AND SECURITY (USD(I&S)). In addition to the responsibilities in Paragraph 4 of this attachment and in accordance with DoDD 5143.01 and DoDI 5220.31, the USD(I&S):

a. Establishes policy and oversees management of the National Industrial Security Program (NISP).

b. In coordination with the Under Secretary of Defense for Acquisition and Sustainment (USD(A&S)), as appropriate, establishes U.S. Government requirements for contractor or contractor personnel to have access to classified information.

2. DIRECTOR, DEFENSE COUNTERINTELLIGENCE AND SECURITY AGENCY (DCSA). Under the authority, direction, and control of the USD(I&S), in accordance with DoDD 5105.42; DoDI 5220.31; and Volume 1 of DoDM 5220.32, and in addition to the responsibilities in Paragraph 4 of this attachment, the Director, DCSA:

a. Administers the NISP in accordance with Paragraph 2.2.a. of DoDI 5220.31.

b. In coordination with the Principal Staff Assistants or other DoD Component heads, as appropriate, establishes U.S. Government requirements for access to classified information by covered JVs.

c. Maintains in the National Industrial Security System (NISS) (DCSA's system of record) or any successor system, the following for covered JVs:

(1) Level of classified information the joint venturers are permitted to access.

(2) All applicable contract or agreement numbers.

(3) Joint venturer details (including FCL levels, contact information, and indication of which joint venturer is responsible for the covered JV's security program).

d. Assesses covered JVs and joint venturer compliance with applicable security requirements in accordance with Paragraph 4.d. of this attachment.

e. Notifies GCAs when a joint venturer of a covered JV is processed for an FCL invalidation or revocation.

(1) When a joint venturer of a covered JV is invalidated, no new contracts may be awarded to the JV.

(2) When the FCL for a joint venturer of a covered JV is revoked, the GCA must determine whether the national security interest is best served by permitting contract completion by the JV.

3. USD(A&S). In addition to the responsibilities in Paragraph 4 of this attachment, the USD(A&S):

a. Consults with the USD(I&S), as appropriate, on the development and implementation of acquisition policy that affects the NISP.

b. Advises the USD(I&S) on the acquisition impacts of proposed or implemented policies governing the NISP.

c. Coordinates with the USD(I&S) to direct DoD Component:

(1) Compliance with DoD NISP policies, as applicable, when classified information is disclosed to contractors.

(2) Establishment and maintenance of records documenting NISP companies and personnel who require access to classified information.

4. PRINCIPAL STAFF ASSISTANTS AND DOD COMPONENT HEADS. In accordance with DoDI 5220.31 and Volume 1 of DoDM 5220.32, the Principal Staff Assistants and DoD Component heads:

a. Allocate additional time within the acquisition cycle to accomplish all required security actions.

b. Review all solicitations and contracts and determine if releasing classified information is necessary for the solicitation phase or during contract performance.

c. Mandate the use of NISS or its successor system to initiate and administer FCL sponsorship requests and related actions for DoD classified contracts.

d. Require that covered JVs submit a security plan, to be shared with DCSA for oversight purposes, for each classified contract awarded to them. The security plan must:

(1) Identify a cleared joint venturer and cleared key management personnel responsible for the performance and management of security of the classified portions of the contract.

(2) Implement requirements of Part 117 of Title 32, CFR in accordance with Federal Acquisition Regulation Clause 52.204-2 or the terms and conditions of a grant award in accordance with Part 200 of Title 2, CFR.

e. Provide copies of approved JV security plans to DCSA for each classified contract awarded.

f. Direct the covered JV and joint venturers to:

(1) Provide documentation outlined in Paragraph 1.a. of Attachment 3 to DCSA.

(2) Require the covered JV and joint venturers to execute exclusion resolutions outlined in Paragraphs 2.c. and 2.d. of Attachment 3.

g. Enforce the use of the NISP Contract Classification System to process DD Form 254.

h. Indicate in the DD Form 254 if subcontracting to a covered JV is authorized and provide directions for GCA approval of security plans before a prime contractor awards a contract to a covered JV in accordance with Paragraph 4.d. of this attachment.

i. Coordinate with DCSA on covered JVs that operate on U.S. Government-controlled installations and when the installation commander identifies the contractor facility requires an FCL.

j. Coordinate with DCSA on impact to covered JVs when one or more joint venturer's FCL is invalidated or revoked, as outlined in Volume 1 of DoDM 5220.32.

ATTACHMENT 3

PROCEDURES

1. COVERED JV DETERMINATION. Upon the submission of a JV FCL request by a DoD Component, to determine if the JV is covered by Section 1629, DCSA will:

a. Review:

(1) Documentation of the type of business organization (e.g., limited liability company (LLC), corporation, or partnership) in which the JV will operate and confirmation that the senior management official has the required personnel security clearance.

(2) SF-328s for all joint venturer participants.

(3) Key management personnel lists.

(4) JV agreements.

(5) Security plans in accordance with Paragraph 4.d. of Attachment 2 or other documentation, as applicable.

b. Identify and clear person(s) with the authority to direct or decide matters affecting the JV business organization.

c. Determine if all the joint venturers have existing FCLs in good standing. Limited FCLs are excluded.

d. If the JV is covered by Section 1629, notify the applicable GCA and defer to the GCA to determine if there are any contract issues requiring resolution.

2. PROCESSING COVERED JVS. Upon determination that a JV is covered, DCSA, through the NISS, will:

a. Require the JV complete and submit a consolidated SF-328 and, if there are any changes to the information initially reported on the SF-328, an updated SF-328.

b. Require the individual joint venturers to complete and submit an SF-328, and to submit an updated SF-328 in the event of any changes regarding the source, nature, and extent of foreign ownership, control, or influence initially reported on the SF-328.

c. Require the JV execute a resolution to be formally excluded from access to any classified information to which the individual joint venturers have access.

d. Require the JV execute a resolution to formally exclude the subcontractor(s) from access to classified information if the JV enters a subcontracting relationship with entities not part of the JV and not authorized by a GCA in accordance with Paragraph 4.h. of Attachment 2.

e. Require the individual joint venturers to execute a resolution formally excluding the covered JV from access to any classified information to which the joint venturers have access.

f. Ensure joint venturers follow the requirements in Volume 1 of DoDM 5220.32 when there is an exchange of classified information and visits among the joint venturers.

3. PROCESSING JVS FOR AN FCL. The JV will be processed for an FCL in those cases where one or more of the joint venturers requires access to classified information in the performance of the contract and does not possess an existing FCL. DCSA will then process the JV and the uncleared joint venturers for an FCL, in accordance with procedures in Volume 1 of DoDM 5220.32. Table 1 depicts the applicable process for each JV scenario.

Table 1. JV FCL Guidance

FCL Status	Type of Solicitation	JV FCL Sponsorship Request Required
JV does not possess an FCL and all joint venturers possess FCLs at the appropriate level	DoD requirement for access to classified information	No
JV is uncleared and one or more joint venturer does not possess an FCL	DoD requirement for access to classified information	Yes

4. COVERED JVS WITH SUBSEQUENT NON-DOD CLASSIFIED CONTRACT AWARD. When a non-DoD agency with which the DoD has an industrial services agreement awards a classified contract to the covered JV that has not been previously granted an FCL, the non-DoD agency will be required to sponsor the covered JV for an FCL in accordance with Volume 1 of DoDM 5220.32 unless the joint venturers are currently cleared for access to such installation or facility.

GLOSSARYPART I. ABBREVIATIONS AND ACRONYMS

ACRONYM	MEANING
CFR	Code of Federal Regulations
DCSA	Defense Counterintelligence and Security Agency
DD	Department of Defense (forms)
DoDD	DoD directive
DoDI	DoD instruction
DoDM	DoD manual
DTM	directive-type memorandum
FCL	facility security clearance
GCA	government contracting activity
JV	joint venture
LLC	limited liability company
NISP	National Industrial Security Program
NISS	National Industrial Security System
OMB	Office of Management and Budget
SF	standard form
USD(A&S)	Under Secretary of Defense for Acquisition and Sustainment
USD(I&S)	Under Secretary of Defense for Intelligence and Security

PART II. DEFINITIONS

Unless otherwise noted, these terms and their definitions are for the purpose of this issuance.

TERM	DEFINITION
classified information	Defined in Part 117 of Title 32, CFR.
contractor	Defined in Part 117 of Title 32, CFR.

TERM	DEFINITION
corporation	A legal entity, organized and existing under the laws of one of the 50 States, the District of Columbia, or one of the organized U.S. territories, with articles of incorporation generally filed with the government of the State in which the corporation is established, governed by a set of bylaws and owned by its stockholders who elect a board of directors to manage the company.
covered JV	A JV that meets the requirements of Section 1629.
FCL	Defined in Part 117 of Title 32, CFR.
GCA	Defined in Part 117 of Title 32, CFR.
joint venturer	Refers to the entities that make up the JV, including the shareholder, member, or partner, depending on the business structure of the JV, who enters a business undertaking to perform or act jointly for a specific endeavor or contract.
JV	A business undertaking by a combination of two or more persons or business entities that perform or act jointly in a specific endeavor, such as the negotiation for, or performance of, a contract.
limited FCL	An FCL that applies to a single, narrowly defined contract, agreement, or circumstance and specific to the requesting GCA's classified information.
LLC	Both a business entity and an investment vehicle that seeks to provide some of the benefits of both the corporation and the partnership with ownership typically divided <i>pro rata</i> according to the member's investments. Regardless of the degree of ownership, a member of the LLC has the legal power to bind the LLC in the making of contracts and many other undertakings. The same authority to bind the entire enterprise applies to LLC managers. This legal authority exists whether the manager is also a member and whether the LLC has authorized the manager to enter into the transaction. In most cases, the LLC is operated by a management board that the members select; however, the members themselves may operate it. The management board may consist of members, hired (non-member) management personnel, or a combination of both.
partnership	An association of two or more individuals (or other business entities) who have agreed to do business together as owners for profit. No separate legal entity is created.