

**BY ORDER OF THE SECRETARY
OF THE AIR FORCE**

AIR FORCE HANDBOOK 16-1406



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Security

**NATIONAL INTEREST
DETERMINATION HANDBOOK**

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This handbook provides information and “how-to-guidance” for establishing and maintaining and effective National Industrial Determination (NID) program. In addition, this handbook provides helpful information NID best practices. Recommend this be used in conjunction with Air Force Instruction 16-1406, *Air Force Industrial Security Program*, DoD 5220-22M, National Industrial Security Program Operating Manual (NISPOM), and DoD 5220-22R, *National Industrial Security Regulation*. Guidance offered by this handbook is suggestive and not directive in nature. Refer recommended changes and questions about this publication to the Office of Primary Responsibility (OPR) using the AF Form 847, *Recommendation for Change of Publication*; route AF Forms 847 from the field through the appropriate functional chain of command.

FOREWORD

This handbook is an informational guide designed to assist Government Contracting Activities (GCAs), program/project managers and Cognizant Security Authorities (CSAs) and others in rendering a determination on and preparing request for National Interest Determinations (NIDs) for access to proscribed information, in accordance with the authority in 32 C.F.R. Part 2004, National Security Program ISOO Directive No. 1. DoD Directive 5143.01 (Reference (a)), which establishes policy, assigns responsibilities, and provides additional direction and clarifies existing policy on NIDs contained in Volume 3 of DoD Manual 5220.22 (Reference (b)) (National Industrial Security Program) and DoD Instruction (DoDI) 5220.22 (Reference (c)) National Interest Determinations and Directive-type Memorandum (DTM) 15-002, "Policy Guidance for the Processing of National Interest Determinations (NIDs) in Connection with Foreign Ownership, Control, or Influence (FOCI)."

Government activities relating to Foreign Ownership Control and Influence (FOCI) refer to applicable DoD instructions and manuals to include Air Force Instructions (AFIs), per direction of the Sensitive Compartmented Information (SCI) and Director of National Intelligence (DNI) Cognizant Security Authority. Users of this handbook are encouraged to submit process improvements of this handbook to: USAF Pentagon SAF-AA Mailbox SAF-AAZ Workflow (usaf.pentagon.saf-aa.mbx.saf-aaz-workflow@mail.mil from the global listing) or SAF/AAZ, 1720 Air Force Pentagon, Washington, DC 20330-1720.

National Interest Determination (NID)

Overview:

In today's global environment, foreign investment plays an important role in maintaining the economic vitality of the U.S. industrial base. Therefore, it is the policy of the U.S. Government to allow foreign investment consistent with the national security interest. A company is considered to be operating under Foreign Ownership, Control or Influence (FOCI) whenever a foreign interest has the power, direct or indirect, whether or not exercised, and whether or not exercisable through the ownership of the U.S. Company's securities, by contractual arrangements or other means, to direct or decide matters affecting the management or operations of that company in a manner which may result in unauthorized access to classified or proscribed information (TOP SECRET (TS), Communications Security (COMSEC), Sensitive Compartmented Information (SCI), Special Access Programs (SAP) and Restricted Data (RD) or that which may adversely affect the performance of classified contracts and require a National Interest Determination (NID).

NID is required when a U.S. company is owned or controlled by a foreign commercial firm or company cleared by the Defense Security Service (DSS) under a Special Security Agreement (SSA) and access to proscribed information is required by a U.S. government contract. Proscribed information is defined by the National Industrial Security Program Operating Manual (NISPOM), paragraph 2-303 (Reference C):

<u>Proscribed Information</u>	<u>Cognizant Security Authority</u>
TOP SECRET	Original Classification Authority (OCA)
Restricted Data	Department of Energy (DOE)
COMSEC	National Security Agency (NSA)
Sensitive Compartmented Information	Office of the Director of National Intelligence
Special Access Program	SAF/AAZ

The requirement for a NID applies to new contracts, including pre-contract activities in which access to proscribed information is required, and to existing contracts, when contractors are acquired by foreign interests and an SSA is the proposed FOCI mitigation method. According to the NISPOM, the NID can be program, project or contract specific. A separate NID is not required for each contract under a program or project.

Policy:

Paragraphs 2-303C(2) of the NISPOM, 28 February 2006, to include Change 2, 18 May 2016, and Enclosure 3, Paragraph 3a of DoDM 5220.22-V3, “National Industrial Security Program: Procedures for Government Activities Relating to FOCI”, 17 April 2014, AFI 16-1406, “Air Force Industrial Security Program”, 25 August 2015, Per direction of the Director of National Intelligence (DNI) SCI Cognizant Security Authority, and DTM 15-002, “Policy Guidance for the Processing of an NID in Connection with FOCI”, 25 February 2016 contain clarifications to policy regarding NIDs.

Proscribed classified or intelligence information: (TOP SECRET (TS), SAP, RD, COMSEC and SCI) is referred throughout this handbook as “proscribed information.” The Government Contracting Activity (GCA) requests a NID to determine that release of proscribed information to the company not harm the national security interests of the United States. It is the Program Manager (PM), Program Executive Officer (PEO)/Technical Executive Officer (TEO) who oversees the preparation of the NID; it is never the responsibility of the contractor. Per direction of the SCI Cognizant Security Authority, the Office of the Director of National Intelligence (ODNI) may waive the ineligibility for access to SCI of a contractor organization if a review of the circumstances shows a need to grant access is in the government interest (Ref. Chapter 5).

Roles:

The GCA team consists of the PM, Contracting Officer (CO), and others as applicable. The GCA prepares the NID justification and Staff Summary Sheet (eSSS), ensures the NID includes: Name of Company, Address, CAGE Code, Contract Number, or Program Name, or Project Name, and sends the request package to the PEO for signature. For non-SAP and non-SCI NIDs after the PEO/TEO signs, the package and is sent to the supporting SSO who will forward to the MAJCOM SSO.

The PEO is responsible for directing assigned major system and non-major system acquisition programs. The PEO/TEO makes the determination for a NID and oversees the preparation. The TEO plans and executes the Air Force Science & Technology budget and portfolio in accordance with guidance provided by SAF/AQ for the Air Force Research Laboratory (AFRL/CC). Duties are similar to the PEO. The TEO makes the determination of the need for a NID for an AFRL contract/program and oversees the preparation.

SAF/AAZ: Analyzes all non-SCI Air Force NIDs, makes final approval, sends determination back 3.5. to the originator, and notifies DSS of concurrence/non-concurrence of non-SCI AF NIDs. AF/A2Z: Validates Air Force TS/SCI NIDs, makes NID approval recommendation and sends the determination back to the originator. The Defense Security Service (DSS): Is responsible for coordinating outside agency NID requests for COMSEC, RD and SCI.

30-day Process:

4.1. For assistance with SAP and SCI NID processing, contact the following offices at:

Collateral servicing CIP, MAJCOM/IP, or SAF/AAZX

SCI – AF-CSA: 202-767-1726, 1724 DSN: 297-1726, 1724

SAP - SAF/AAZX: 703-697-3212. DSN: 227-3212

Chapter 1

BACKGROUND

1.1. NID Process. NID is mandatory when a company under an SSA FOCI mitigation instrument, and requires access to proscribed information (SAP, releasable by SAF/AAZ; TS, releasable by the owning Original Classification Authority (OCA); RD, releasable by Cognizant Security Authority, Department of Energy; SCI, releasable by Cognizant Security Authority, ODNI and COMSEC, releasable by the Cognizant Security Authority, the National Security Agency (NSA)). NIDs may be requested for programs, projects, or specific contracts. If a NID is program or project-specific, a separate NID for individual contracts or task orders under the specified program or project is not required.

1.1.2. A new NID request is not needed if a new task/delivery order is issued to continue the performance of the work (no changes in requirements, or change in scope) under a contract with an approved NID.

NOTE: In the event a new task/delivery order requiring access to any proscribed information for scope of work which was not part of the original contract, a new NID request is to be submitted.

1.1.3. Release of TS is to be coordinated by the GCA prior to requests for approval by Control Agencies of SCI, RD and COMSEC. If DSS has proposed a TS NID on behalf of the Air Force, the OCA renders a decision within 30-days of receipt of the proposed NID (IAW, AFI 16-1406, AFI 16-701, DOD 5220.22R). The GCA's NID specifies that if access to proscribed information is required to complete pre-contract award actions or to perform on a new contract, the GCA determines if release of the information is consistent with national security interest. (32 CFR Part 2004.22 [202(a)]. The approved NID is to be forwarded to DSS by the GCA (or designated representative) IAW National NISPOM and Change 1 to DTM 15-002, "Policy Guidance for the Processing of NIDS in Connection with FOCI", effective February 24, 2016.

1.1.4. The requirement for the NID(s) applies equally to new contracts issued to companies already cleared under a SSA with existing contracts or when cleared companies are acquired or re-acquired by a foreign interest.

1.1.5. The GCA approves release of its TOP SECRET information to DSS (dss.quantico.dss-ipp.mbx.nid@mail.mil) for coordination with the Control Agencies. (See Attachment #4 and 8, NID Request Template). The GCA is responsible for the preparation of the NID request as outlined in AFI 16-1406 for TS, Restricted Data (RD), COMSEC, and AFI 16-701 for SCI. A separate NID letter request is required for each category of proscribed information as indicated on the proposed/signed contract's DD Form 254.

1.1.6. If a change in condition (such as a change in ownership, indebtedness, foreign intelligence threat or loss of Facility Clearance) justifies certain adjustments to the security terms under which a company is operating, DSS may employ a different FOCI mitigation method. The CSA should coordinate any proposed changes in FOCI mitigation with the relevant MAJCOM and HQ USAF office.

1.1.7. DSS implements a company's FOCI mitigation agreement without delay, unless advised by the GCA that the NID not be issued.

1.1.8. NIDs for SAPs remain internal to USAF SAP channels only. DSS is carved out of all SAP security responsibilities and GCAs do not use the DSS NID Processing Center for SAP NIDs. The GCA is responsible for the preparation of the SAP NID request as outlined in AFI 16-701, Attachment 4 and this handbook. Processing a SAP NID request is further explained in Chapter 3.

1.1.9. If the (SAP) NID decision is not provided within 30 days, the CSA shall intercede to request the GCA to provide a decision. In such instances, the GCA, in addition to formally notifying the CSA of the special circumstances will provide the CSA or its designee with updates at 30-day intervals. The CSA, or its designee, in turn, provides the contractor with updates at 30-day intervals until the NID decision is made. (32 CFR 2004.22(c)(4)(iii) says: “(iii) If the NID decision is not provided within 30 days, per §2004.22(c)(4)(i), or 60 days, per §2004.22(c)(4)(ii), the CSA shall intercede to request the GCA to provide a decision. In such instances, the GCA, in addition to formally notifying the CSA of the special circumstances, per §2004.22(c)(1)(iii)).

1.1.10. The DSS’s NID Processing Center is responsible for coordinating outside agency NID requests for COMSEC, RD and SCI. The GCA prepares the NID request letter for the appropriate agencies for each category that is listed on the proposed DD-254.

1.1.11. The required signatures for all NID request(s)/coordination approval(s) are:

1.1.11.1. The PM, GCA, PEO/TEO

1.1.11.2. The Controlling Agency’s Approval Authority; each Chapter lists the coordinating agencies for the type of proscribed information required.

1.1.11.3. The request should provide as much clarity as possible concerning the type of data and scope that is being provided. This is to be done through the appropriate secure channels for the protection of national security interest.

1.1.11.4. The Final Approval Authority for all NIDs is SAF/AAZ except for SCI NIDs which is ODNI.

1.1.12. It is recommended that the GCA contact their servicing Industrial Security Office for collateral NID processing questions, supporting SSO for SCI NID processing questions, and supporting PSO for SAP NID processing questions.

1.2. SCI Process. 1. It is the responsibility of the PM to work with the applicable GCA, PEO/TEO, COR and support the Special Security Officer (SSO) to ensure all applicable information and documentation is included in the NID package before it is sent to HQ AF/A2Z-CSA (AF-CSA) for coordination. The supporting SSO submits the completed package to AF-CSA via electronic means. When sending the completed package to AF-CSA ensure each attachment to the NID package is a separate file on the e-mail and the title adequately identifies the document. After validation and approval, the AF-CSA forwards the package back to the MAJCOM SSO. The SSO sends the package to the GCA, who will send it to the DSS for processing to ODNI for approval.

1.2.1. At a minimum, the NID package typically consist of the following documentation: 1) Senior Intelligence Officer (SIO) Memo; 2) PM Memo; 3) Current NID Justification Memo; 4) GCA Memo to include an AF IMT 1768, eSSS signed by the GCA; 5) PEO/TEO NID Request Memo; 6) Prime Contract current DD Form 254; 7) Subcontractor current DD Form 254 (if applicable); 8) Copy of Company SSA (DSS) certification, showing the SSA has been reviewed and meets all criteria; 9) Current DSS Industrial Security Review (conducted within the last year).

1.2.2. Ensure the memos are in the correct order as stated in this paragraph. The request should provide as much clarity as possible concerning the type of data and scope that is being provided. This is to be done through the appropriate secure channels for the protection of national security interest. (Ref Chapter 6)

Chapter 2

COLLATERAL NID REQUEST PROCEDURES

Final Approving Authority: The Director or Deputy Director of SAF/AAZ, Security and Special Program Oversight and Information Protection

2.1. Process Overview. For existing and new contracts, the PM and the Government Contracting Officer (GCO) coordinate to determine if sub or prime contractors performing on a classified contract are under Foreign Ownership or Controlling Interest (FOCI) mitigation.

2.1.1. The PM prepares the justification package for the GCO (Ref Attachment1), attaches the company's signed FOCI SSA along with the proposed/signed DD-254 listing which categories are needed.

2.1.2. The PM submits the justification package and memorandum to the GCA

2.1.3. The Air Force GCO prepares the eSSS and appropriate letter to the PEO/TEO for signature (Reference Attachment 3 and 6)

2.1.4. Attach the signed or proposed DD-254 (include subcontractor if necessary), DoD Contract Security Classification Specification

2.1.5. The GCO routes the NID package to the PEO/TEO for signature

2.1.6.. The GCA forwards the NID request package to the DSS NID Processing Center

2.1.7. Unclassified NID requests are to be sent to the DSS NID mailbox (dss.quantico.dss-ipp.mbx.nid@mail.mil) that includes the contractor's name, address, CAGE code, prime and/or subcontractor number, solicitation number, program and/or project name, the security guidance identifying protective measures for the proscribed information, completion date, place of performance, address and CAGE Code. Include the signed DD254, and the statement of work or detailed description of the work to be done by the contractor which justifies the need for access.

2.1.8. DSS sends the NID package back to the GCA with the CSA coordination approval letters, and with a "Business Analysis Nuclear Group" (BANG) counterintelligence (CI) assessment of the company.

2.1.9. The GCA forwards the completed NID package request to include CSA coordination approval letters and DSS CI assessment to SAF/AAZ for the NID approval.

2.1.10. SAF/AAZ notifies DSS and the Office of the Under Secretary of Defense (OUSD) (AT&L) of the determination and forwards the NID package back to the originator.

2.1.11. The GCA maintains the record and provides a copy to the PM. The GCA notifies the company of the decision only. (Do not send a copy of the NID package.)

2.2. Routing Summary. Initiated by the PM to - GCO, PEO/TEO, DSS, Control Agencies, DSS, GCA, SAF/AAZ for approval/disapproval and back to the GCA. The GCA then sends a letter (not the request) to the Contractor stating the decision.

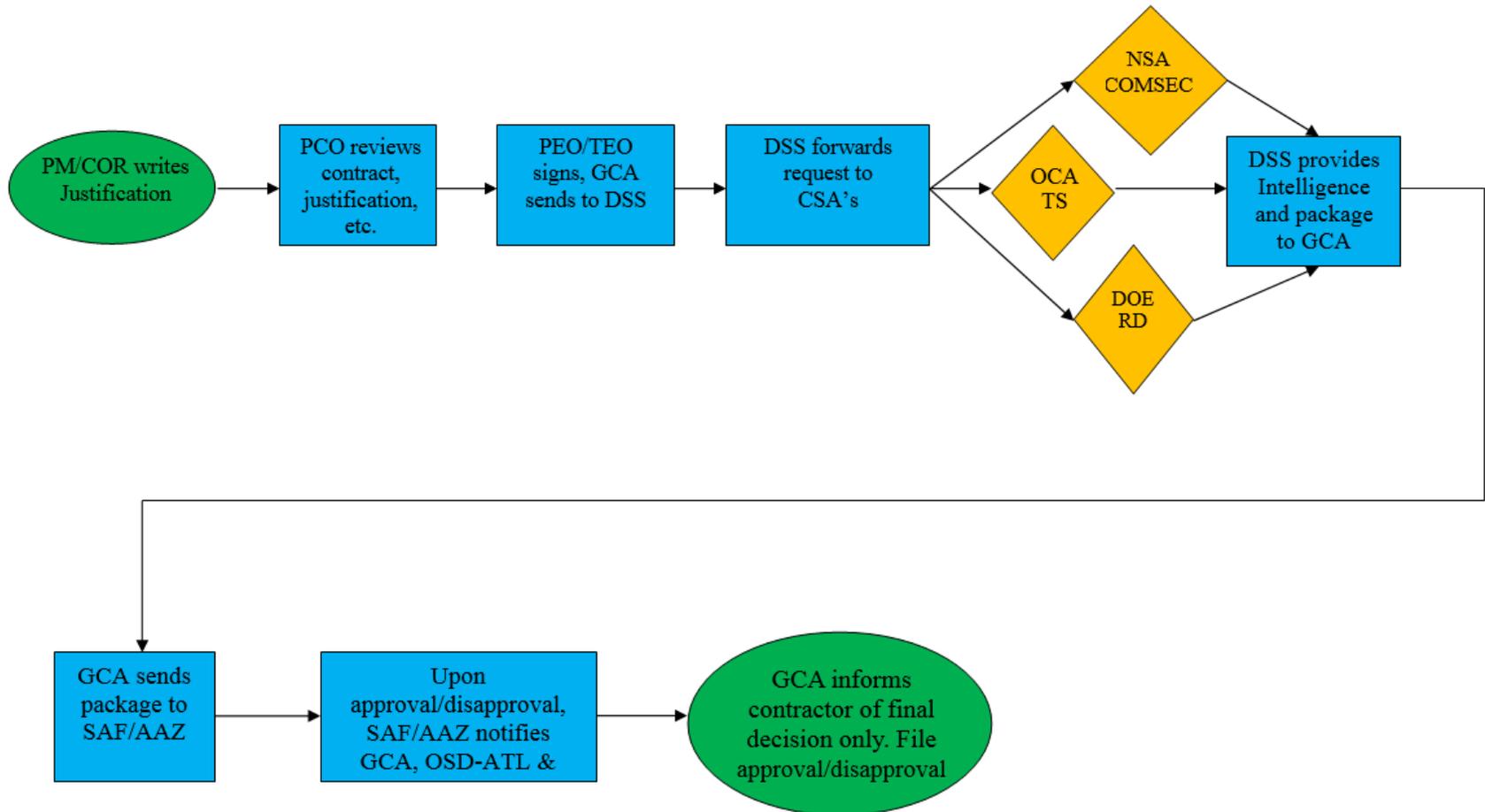
2.3. Contacts for Assistance:

- 1) Base/Wing Industrial Security Office or Chief, Information Protection

- 2) SAF/AAZE, usaf.pentagon.saf-aa.mbx.nid-workflow@mail.mil, 703-693-2013, DSN 223-2013

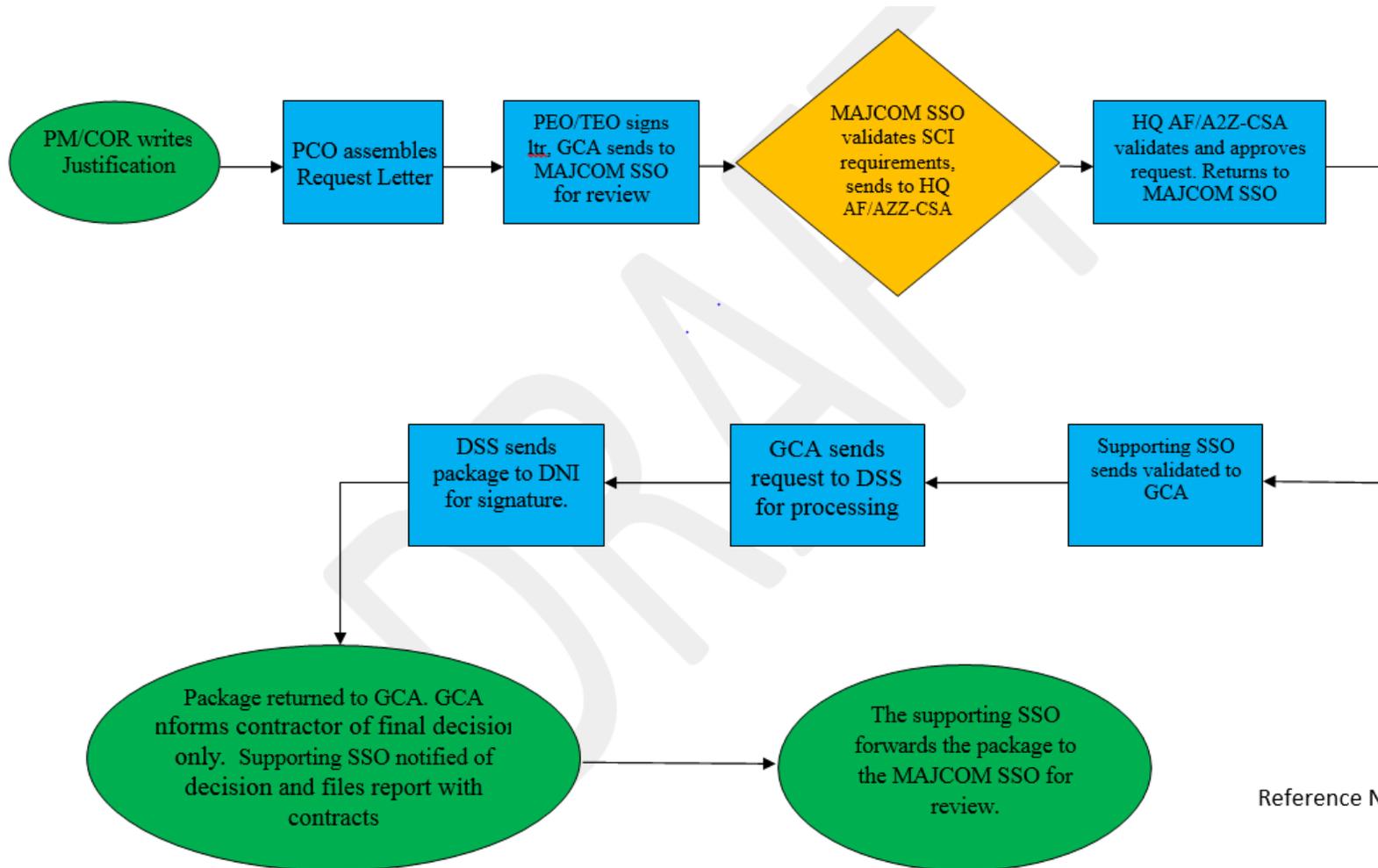
Collateral NID Process Outline

Table 1.1



Sensitive Compartmented Information Process

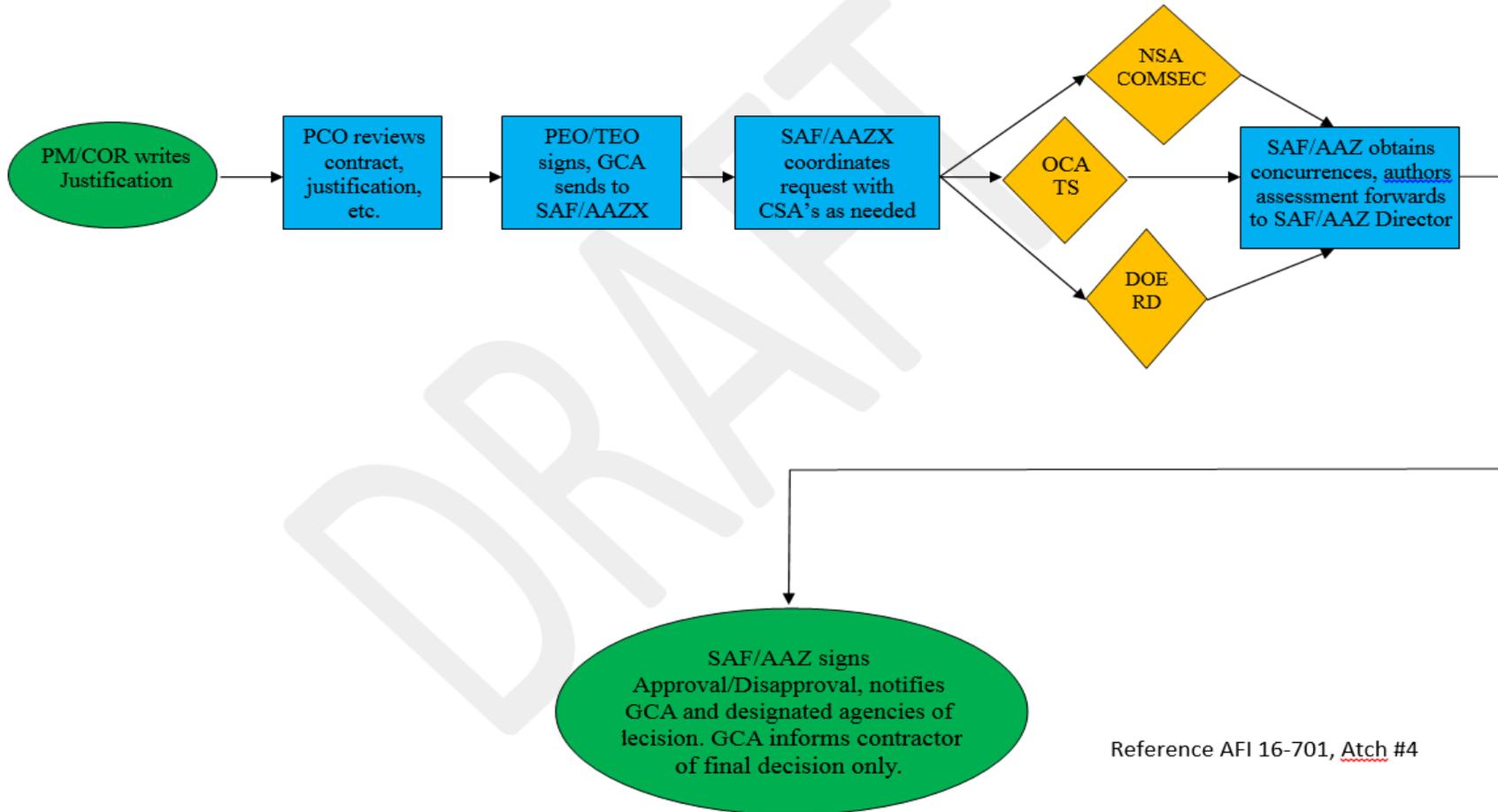
Table 1.2.



Reference NCIX 245-13

Special Access Programs

Table 1.3



Reference AFI 16-701, Atch #4

Chapter 3

SPECIAL ACCESS PROGRAM NID PROCEDURES

Final AF Approving Authority: The Director or Deputy Director of SAF/AAZ, Security Special Program Oversight and Information Protection

3.1. Process. For existing and new contracts, the PM, the Program Security Officer (PSO) and the Government Contracting Agency (GCA) coordinates to determine if sub or prime contractors performing on a classified contract are under Foreign Ownership or Controlling Interest (FOCI) mitigation. Contact the PSO to initiate the counterintelligence (CI) assessment

3.1.1. PM prepares the justification package for the Air Force GCA and attaches the company's signed FOCI SSA (Ref Attachment 1)

3.1.2. The PM submits the justification package (Tabs B through E of AFI 16-701 Attachment 4) to the Air Force GCA

3.1.3. The Air Force GCA reviews all signed or proposed DD Form 254s to ensure only access to the required proscribed information fields the contract actually needs is identified

3.1.4. The Air Force GCA routes the NID request package to the PEO/TEO (see Attachment 3 and 6), also attach the signed or proposed DD Form 254 (include subcontractor if necessary), DoD Contract Security Classification Specification

3.1.5. The PEO/TEO signs the SAP NID request letter and the GCA sends the request package securely to SAF/AAZX for an approval (See Attachment 8 and 9, AF NID Determination Request Package)

3.1.6. SAF/AAZ makes the appropriate notifications for the determination and forwards the SAP NID approval/disapproval back to the Air Force GCA who maintains the record and provides a copy to the PM. The GCA notifies the company of the decision only. (Do not send a copy of the NID package)

3.2. Routing Summary:

PM, PSO, GCA, PEO/TEO, SAF/AAZ, back to GCA

(AFOSI/PJ to be contacted at the beginning of the SAP NID request)

CHAPTER 4

COLLATERAL NID PROCESS FOR COMMUNICATIONS SECURITY (COMSEC) INFORMATION

(SUBJECT TO CHANGE BASED ON OUTSIDE AGENCY POLICIES)

Recommending Authority: National Security Agency (NSA), (NID approval authority remains with SAF/AAZ)

4.1. Process. For existing and new contracts, the CSA and the GCA coordinate to determine if sub or prime contractors performing on a classified contract are under Foreign Ownership or Controlling Interest (FOCI) mitigation.

4.1.1. The Program Manager (PM) prepares the COMSEC Justification package for the GCA (Attachment 10)

4.1.1.1 Attach the company's signed SSA

4.1.2. The PM submits the justification package and memorandum to the GCA

4.1.3. The Air Force GCA prepares the eSSS and letter to the TEO/PEO for signature (Reference Attachment 7)

4.1.3.1. Attach the signed DD Form 254 (include subcontractor if necessary), DoD Contract Security Classification Specification

4.1.3.2. Official letter/memorandum requesting concurrence on the proposed COMSEC equipment is to be addressed to:

National Security Agency/
Information Assurance Directorate Policy & Doctrine Division
9800 Savage Road
Suite 6749
Fort George G. Meade, MD 20755-6749

4.1.4. The memo is to contain a detailed COMSEC list as well as the reason/justification why access to COMSEC is necessary. NSA requires the following for COMSEC coordination:

4.1.4.1. Identity of the proposed contractor (name, address, and CAGE code) along with a description of its foreign ownership.

4.1.4.2. Government Contract Number (Program, Project or Contract), or Request for Proposal Number.

4.1.4.3. A general description of the procurement and performance requirements, and also including the following:

4.1.4.3.1. Why does this foreign company need access to COMSEC material?

4.1.4.3.2. Period of Performance

4.1.4.3.3. A detailed list of all the COMSEC equipment and keys be accessed by the contractor requested (quantity, nomenclature title (both short and long titles), and version if applicable). Include classification level of key material

4.1.4.3.4. Identify how the release of proscribed material is consistent with the national security interests of the U.S. Government.

4.1.4.3.5. Identify the point-of-contact for the NID request.

4.1.5. The GCA forwards the complete NID request package to DSS. DSS will send the NID request to NSA.

4.1.6. DSS requires a formal signed memorandum addressed to NSA requesting COMSEC access.

4.1.7. NSA sends their concurrence/non-concurrence back to DSS. DSS reviews and returns the package to the GCA, who forwards it to SAF/AAZ for approval.

4.1.8. After approval/disapproval, SAF/AAZ forwards the package to the GCA. The GCA maintains the record and provides a copy to the PM. The GCA notifies the company of the decision only.

4.1.9. For all actions requiring coordination with NSA, DoE, or ODNI - If the NID decision is not provided within 60 days, the CSA shall intercede to request the GCA to provide a decision. In such instances, the GCA, in addition to formally notifying the CSA of the special circumstances provides the CSA or its designee with updates at 30-day intervals. The CSA, or its designee, in turn, provides the contractor with updates at 30-day intervals until the NID decision is made. (Ref 32 CFR 2004.22(c)(4)(iii) says: "(iii) If the NID decision is not provided within 30 days, per §2004.22(c)(4)(i), or 60 days, per §2004.22(c)(4)(ii), the CSA shall intercede to request the GCA to provide a decision. In such instances, the GCA, in addition to formally notifying the CSA of the special circumstances, per §2004.22(c)(1)(iii))

4.2. Routing Summary:

PM, GCA, PEO/TEO, DSS, NSA for coordination, DSS, back to GCA, SAF/AAZX.

Chapter 5

NID PROCESS FOR SENSITIVE COMPARTMENTED INFORMATION (SCI)

Validating Authority: HQ AF/A2Z - CSA

Final Approving Authority: Director, Office of the Director of National Intelligence (ODNI)

5.1. 30-day Process. For assistance with SCI NID processing, contact the following offices at: SCI - HAF/A2Z, 202-767-1726, 1724 DSN: 297-1726, 1724

5.1.1. It is the responsibility of the PM to work with the applicable GCA, PEO/TEO, COR and supporting SSO to ensure all applicable information and documentation is included in the NID package before it is sent to HQ AF/A2Z-CSA for coordination. The MAJCOM SSO submits the completed package to HQ AF/A2Z-CSA via electronic means. When sending the completed package to A2Z ensure each attachment to the NID package is a separate file on the e-mail and the title adequately identifies the document. MAJCOM SSO forwards the complete NID package with a cover letter to HQ AF/A2Z-CSA for review and processing.

5.1.2. At a minimum, the NID package consist of the following documentation: 1) Senior Intelligence Officer (SIO) Memo; 2) PM Memo; 3) current NID Justification Memo; 4) GCA Memo to include an AF IMT 1768, eSSS signed by the GCA; 5) PEO/TEO NID Request Memo; 6) Prime Contract current DD Form 254; 7) Subcontractor current DD Form 254 (if applicable); 8) Company SSA and certification the SSA has been reviewed and meets all criteria; 9) Current DSS Industrial Security Review (conducted within the last year). Ensure the memos are in the correct order as stated in this paragraph.

5.1.2.1. The SIO attaches a memo to the package requesting approval before the SSO sends the completed package to the MAJCOM SSO who will in-turn forward to HQ AF/A2Z-CSA. The letter lists the name of company, location, CAGE code, and contract number(s), why the waiver is required, and certifies that the SSA has been reviewed and meets criteria in DCID 6/1. A Sample SIO request can be found at Attachment 5.

5.1.2.2. The PM attaches a memo addressing the need for a NID. The letter lists the FOCI Company's location (address), CAGE code, and contract number in the subject line. The body of the letter provides background and justification to the GCA. Include whether the proposed contract is part of an existing program or project. The justification is to address and explain how the FOCI contractor's product or service is crucial or is the sole available source to the AF.

5.1.2.3. Address why access to SCI is required and who can have access to the material. Include the national security interest(s) involved and way(s) in which the release of information is consistent with those national interests. The why, how, and national security can be addressed in the NID Justification Memo. Also, the letter is to verify that the FOCI mitigation has met all the conditions specified in the NISPOM, DoDM 5220.22, Volume 3, and ODANS 07-12 as documented in the SSA. Ensure the SSA and current DD Form 254 are attached to the letter. A Sample Program Manager NID letter can be found at Attachment 1.

5.1.2.4. NID Justification Memo (DSS). The PM prepares a NID Justification Memo using the current DSS format addressing the need for the NID. The current DSS NID Justification Memo can be found at Attachment 2.

5.1.2.5. GCA eSSS. The GCA receives/reviews the PM's letter along with the SSA and current DD Form 254. The GCA reviews, coordinates, and recommends approval/disapproval and forwards applicable information to the PEO/TEO for final approval or disapproval with processing the NID request.

5.1.2.6. The GCA NID request should include the name of the company, address, CAGE code, contract number, project or program name, specific category of Proscribed SCI Information being authorized for release, and a sentence stating whether the release of the Proscribed SCI Information to the company can harm the national security interests of the United States. A sample GCA eSSS can be found at Attachment 3.

5.1.2.7. PEO/TEO letter. The PEO/TEO makes final recommendation for approval/disapproval for the NID. A sample NID letter can be found at Attachment 4

5.1.2.8. The Program Manager forwards the complete package: 1.) PM letter; 2.) NID Justification Memo; 3.) GCA memo; 4.) GCA eSSS; 5.) PEO/TEO letter; 6.) Company SSA and certify that the SSA has been reviewed and meets all criteria; 7.) Prime Contract current DD Form 254; 8.) Subcontractor DD Form 254 (if applicable)), NOTE: the DD 254 is to have a contract start and end date; 9.) Current DSS Industrial Security Review (conducted within the last year) to the supporting SSO for further dissemination; 10.) and (if required) local CI Threat Assessment on the contractor or subcontractor. DO NOT forward the package directly to Air Staff.

5.1.2.9. The supporting SSO reviews the complete NID justification package to ensure required safeguards are in place, the DSS Industrial Security Program Review is current, current DD Form 254, etc., before transmitting to the SIO. If the Program Manager requires assistance in obtaining a copy of the latest SSA or DSS Industrial Security Program Review, the PM requests assistance from the supporting SSO for these documents.

5.1.2.10. The SSO electronically transmits the completed package the MAJCOM SSO who will in-turn forward to HQ AF/A2Z-CSA for processing. Again, ensure each attachment to the NID package is a separate file on the e-mail and the title adequately identifies the document.

5.1.2.11. After validation of the request, HQ AF/A2Z-CSA sends the package back to the MAJCOM SSO via electronic means. The SSO provides the package to the GCA, who forwards it to DSS.

5.1.2.12. DSS sends the package to the ODNI for approval/disapproval.

5.2.Follow-on Contract: When a follow-on contract is awarded, the Program Manager needs to provide the supporting SSO a copy of the new DD 254 and previous NID approval. ODNI validates it is a follow-on contract and issues approval based on those documents.

5.3.Program NIDs: Only one NID request/approval is required for a program NID; however, a DD Form 254 (to include where the work is being performed) along with the program NID approval is required to be submitted for each contract under the program level NID to include any new contracts.

5.4.Annual SCI Review: The supporting SSO ensures an annual review of the company's eligibility for continued SCI access is completed. The review verifies by the organization continues to have measures in place that preclude foreign interests from gaining access to SCI. Annually (NLT 1 April) the GCA and/or supporting SSO will notify the MAJCOM SSO who will in-turn notify AF/A2Z-CSA immediately.

5.4.1. Annual Reporting: The annual report addresses the following: 1) name of company/contract number; 2) validate the NID is still required; 3) provide a copy of the current (within the year) Industrial Security Review performed by DSS, and; 4) validate the SSA is still current (within 5 years).

5.4.2. The MAJCOM SSO provides A2Z with a copy of the latest DSS review when submitting the annual report. DSS annually certifies a favorable review to the appropriate GCA and supporting SSO. More frequent reviews of an organization's eligibility for continued SCI access may be required if changes occur that could enable foreign interests to control or influence the management or operations of the organization to the extent that it would endanger the security of SCI or SCI activities.

5.4.3. Any and all cases of doubt about an organization's eligibility and desire to safeguard SCI against foreign access can be resolved in favor of national security and the SCI access authorization(s) is revoked. The GCA and/or MAJCOM SSO notifies AF/A2Z-CSA immediately of any changes to the organization's security posture that could affect the organization's eligibility and desire to safeguard SCI against foreign access, or if DSS revokes the facility security clearance (FCL).

5.5. Office of the Director for National Intelligence (ODNI) Authority. The ODNI may waive the ineligibility for access to SCI of a contractor organization if a review of the circumstances shows a need to grant access, and it can be determined that:

5.5.1. Currently, FOCI mitigation does not involve countries hostile to the United States.

5.5.2. Indebtedness to foreign interests does not exceed five percent of the organization's current assets.

5.5.3. Information disclosed regarding securities held in "nominee shares" or "street names" reveals no indication of adverse FOCI.

5.5.4. The contractor organization's income from foreign interests does not exceed 5 percent of the organization's current assets.

5.5.5. Foreign interests do not have the right to control or influence the election, appointment, or tenure of a contractor organization's managing officials. If there is an actual or potential element of FOCI of a contractor organization, measures are to be taken by the contractor organization to preclude foreign interests from gaining access to SCI.

5.5.6. These security safeguards are to be developed, approved, and implemented to ensure that SCI is not disclosed to unauthorized personnel. These measures may include a resolution of the board of directors establishing procedures to preclude access, voting trust agreements, proxy agreements, SSA, agreements, and visitation agreements. The required SSA imposes substantial industrial security and export control measures within an institutionalized set of corporate practices and procedures and should satisfy the safeguard requirements.

Chapter 6

COLLATERAL NID PROCESS FOR RD INFORMATION (SUBJECT TO CHANGE BASED ON THE OUTSIDE AGENCY POLICIES)

Recommending Authority: Department of Energy (DoE) (approval authority remains with SAF/AAZ)

6.1. 60 day Process. For existing and new contracts, the CSA and the GCA coordinates to determine if sub or prime contractors performing on a classified contract are under FOCI mitigation.

6.1.1. The Program Manager (PM) prepares the justification package for the GCA with the company's signed FOCI SSA (Ref Attachment 6).

6.1.2. The PM submits the justification package and memorandum to the GCA.

6.1.3. The GCA prepares the eSSS and letter to the TEO/PEO for signature (Ref Attachment 7).

6.1.3.1. Attach the signed or proposed DD Form 254 (include subcontractor's)

6.1.3.2. The request should provide as much clarity as possible concerning the type of data and scope that is being provided. This is to be done through the appropriate secure channels for the protection of national security interests.

6.1.4. The GCA routes NID package to the PEO/TEO for review and coordination if required.

6.1.5 GCA forwards NID package to DSS for processing/coordination. Complete package contains:

6.1.5.1. Signed letter requesting access to Restricted Data, addressed to Headquarters Security Operations, Office of Resource Management & Mission Support, Office of Defense Nuclear Security, NA-72/Germantown Building, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, D.C. 20874-1207

6.1.5.2. Signed DD254

6.1.5.3. Detailed justification for access: scope of work, why access is significant to the program involved, who can have access, and level of classification.

6.1.5.4. Special Security Agreement

6.5.1.5. Company Name, Period of the contract performance, and CAGE code

6.1.6. DSS coordinates with the GCA when access has been granted by DOE.

6.1.7.. The GCA sends the package to SAF/AAZ for approval/disapproval, once the decision is rendered, the GCA will maintain the records and provide a copy to the PM and notifies the company of the decision only.

6.1.8. Routing Summary:

PM, GCA, PEO/TEO, DSS, DoE for coordination, DSS, GCA, SAF/AAZ.

PATRICIA J. ZARODKIEWICZ
Administrative Assistant

Attachment 1

LETTER TEMPLATE FROM PM TO CO

(APPROPRIATE LETTERHEAD)

MEMORANDUM FOR (OFFICE SYMBOL)
(ATTN: CONTRACTING OFFICER)

FROM: (Office Symbol of PM)

SUBJECT: Request for (Enter type of Proscribed Information, i.e., proscribed Top Secret, COMSEC, RD) National Interest Determination for (Company Name)
Proposed Contract Number XXXX-XX-X-XXXX

1. Request the Contracting Officer review, validate, and process this NID request through the Program Executive Officer to the appropriate command channels for approval in accordance with AFI 16-1406 (Collateral NIDs), in support of work under proposed Contract Number XXXXXX.
2. Background information and justification has been provided at Attachment 1. Based on this information, (unit/office symbol) determined there is compelling evidence that release of proscribed information to XXXX not harm the national security interests of the United States.
3. Questions can be directed to the undersigned at (phone number).

Program Manager Signature Block

Attachments:

1. NID Justification Package
2. Signed copy of DD Form(s) 254
3. Special Security Agreement

Attachment 2

NATIONAL INTEREST DETERMINATION JUSTIFICATION SAMPLE MEMO

National Interest Determination

For

NAME OF US COMPANY WITH FCL

Contract No. _____

1. Background Information on Requirement:

THIS SECTION IS USED TO FULLY IDENTIFY THE COMPANY, FOREIGN INTEREST, CONTRACT IDENTIFICATION (AGENCY/NUMBER) AND BRIEF DESCRIPTION OF THE WORK TO BE PERFORMED UNDER THE CONTRACT, INCLUDING PROSCRIBED INFORMATION TO BE RELEASED TO COMPANY IN QUESTION DURING PERFORMANCE OF CONTRACT.

IF THERE ARE ANY PRE-EXISTING SECURITY AGREEMENTS IN PLACE ALREADY FOR THIS FOREIGN COMPANY, INDICATE THE DETAILS OF THE AGREEMENT HERE (INCLUDING ACCESS LEVEL, APPROVAL AUTHORITY, AND DATE APPROVED):

SAMPLE: _____ and its immediate parent company, _____ a, US corporation operate under a Special Security Agreement (SSA) approved by DoD, _____ Furthermore a Memorandum from the Deputy Secretary of Defense dated 27 March 2000 requires “the only determination be made is that the release of _____ Information to _____ not harm the national security interests of the United States.”

2. Company Information:

SAMPLE: _____ is a U.S. corporation, incorporated within the State of Delaware, and as such subject to U.S. laws and regulations. _____ has a Top Secret Facility Clearance granted by the Department of Defense (DOD)’s Defense Security Service (DSS), CAGE Code _____, operates under a DoD approved Special Security Agreement (SSA) due to the fact that _____, is ultimately owned by _____, a _____ Company.

3. NISPOM Requirements and Exception:

Section 2-303(c) of the National Industrial Security Program Operating Manual (NISPOM), DoD 5220.22-M requires a favorable NID for foreign owned companies. An exception was granted to

_____ corporate family by a Memorandum from the Deputy Secretary of Defense dated 27 March 2000 (copy enclosed). The memorandum highlights the Deputy Secretary's intent to reinforce that _____ is a critical supplier to DoD and is to be treated as such. Under this exception, "the only determination that is to be made is that the release of _____ Information to _____ not harm the national security interests of the United States." All other requirements of paragraph 2-303(c) of the NISPOM are waived.

4. Required Determination for Approval of NID:

The information supports the request that the applicable authority determine that the national security interests of the United States not be harmed by granting _____ access to proscribed information. With a favorable NID determination, _____ may be able to perform the work under the _____, Program. Without the access, _____ not be able to support the _____ in developing a family of systems architecture for the _____ in the ground-to-ground and air-to-ground domains.

5. Identification of the contractor/proposed awardees along with a synopsis of its foreign ownership:

_____ is a wholly owned subsidiary of the _____. In DATE, merged with/was acquired by _____ forming _____, a COUNTRY owned company. _____ operates under a _____ Special Security Agreement (SSA) approved by DoD, dated _____. and other PARENT, IF APPLICABLE subsidiaries are currently performing other United States Government contracts that contain proscribed information. The DoD and other US Government agencies have approved previous US PARENT COMPANY, IF APPLICABLE requests for National Interest Determinations.

6. General Description of the procurement and performance requirements:

PROVIDE FULL DETAILS OF THE CONTRACT IN THIS SECTION (USUALLY FOUND IN CONTRACT DOCUMENTS OR DD254). SPECIFICALLY INCLUDE WHAT PROSCRIBED INFORMATION IS REQUIRED BY THE CONTRACTOR IN ORDER TO FULFILL CONTRACT REQUIREMENTS AND MEET THE NEEDS OF THE AGENCY.

7. Identification of the national security interests involved:

SAMPLE: The national security interest involved in this determination is access to COMSEC material. The only COMSEC material required in this contract is keying material for the cryptographic computers used with the (PROGRAM HARDWARE) Radio unit and a portable

GPS Handheld Unit. Such keying material is necessary to operate the equipment in the field to perform demonstrations as required under this contract. Without such material CONTRACTOR may not be able to verify the functionality and performance requirements expected by the government. To include a specific list (attached) of all COMSEC equipment needed for approval.

8. Conclusion:

The National Security interests of the United States will not be harmed if access to the proscribed information noted above is provided (CONTRACTOR) under the (PROGRAM NAME) Program. (CONTRACTOR) has a proven track record involving the safeguarding of proscribed information. In light of (CONTRACTOR) existing capabilities and unique qualifications, a NID should be granted in their favor for performance under this contract.

Attachment 3

SAMPLE GCA STAFF SUMMARY SHEET TO PEO/TEO

Subject line of e-mail: eSSS – Proscribed SCI National Interest Determination for (Company Name), Company/Division CAGE Code, Proposed Contract Number (XXXXXXXXXXXXXX)

E-mail body text:

Convert to HTML for proper viewing

SUBJECT: Proscribed National Interest Determination for (Company Name), Contract Number (XXXXXX)

REQUESTED BY: DATE

AO: Mr./Mrs. (Contracting Officer), (Office Symbol/Phone Number)

TO	ACTION	INITIAL/DATE
----	--------	--------------

List all office symbols that need to complete an action on this document and what their action should be (review/coord/sign/info).

-----STAFF SUMMARY-----

1. PURPOSE: 1st line is always “The purpose of this eSSS is to_____.

(Sample: The purpose of this eSSS is to obtain (approval or disapproval) for release of Proscribed SCI to (Company) under prime contract, CAGE code, entitled (enter contract).)

2. BACKGROUND: State any information that helps the reader understands what the eSSS is about.

(Sample: The attached National Interest Determination (NID) request is provided for your review and forwarding through the appropriate command channels to obtain the final approval from Director National Intelligence (DNI).

The (identify unit Contracting Division) is requesting sponsorship of the NID for (Company Name) in support of work under Contract Number (XXXXXXXXXXXXXX), scheduled to be awarded (date). The NID request submitted by (Program Manager’s Unit/Office Symbol), Tab X, contains the information required under the NISPOM, Chapter 2, 2-303c(2) and is being processed in accordance with AFI 16-1406, Industrial Security Program Management, Paragraph 2.2.3.)

3. DISCUSSION: State the reason for the needed signature/coordination and any pertinent information to inform why they are receiving the eSSS.

(Sample: A NID is required because (company) is owned by (country). (Unit/Office Symbol) determined there is compelling evidence that release of Proscribed SCI Information to (Company) not harm the national security interests of the United States. The contracting officer's recommendation considered the following:

- a. Record of economic and government espionage against U.S. targets.
- b. Record of enforcement and/or engagement in unauthorized technology transfer.
- c. Record of compliance with pertinent U.S. laws, regulations, and contracts.
- d. The level of proscribed SCI information that is to be accessed.
- e. The source, nature, and extent of FOCI, including, but not limited to, whether foreign persons hold a majority or substantial minority position in the company, taking into consideration the immediate, intermediate, and ultimate parent companies of the company.
- f. The nature of any bilateral and multilateral security and information exchange agreements that may pertain.
- g. Ownership or control, in whole or in part, by a foreign government.
- h. Any other factor that indicates or demonstrates a capability on the part of foreign interests to control or influence the operations of management of the business organization concerned).

4. RECOMMENDATION: In this section include the document you need signed (attachment) or action required. State whether you require an electronic or original signature.

//SIGNED//
(FIRST NAME, MI, LAST NAME)
Director, XXX

Tab:
Proposed Ltr(s)
(Unit/Office Symbol of PM) Memo, (date)

Attachment 4

SAMPLE PEO/TEO REQUEST LETTER

MEMORANDUM FOR DEFENSE SECURITY SERVICE

NATIONAL SECURITY AGENCY (**For COMSEC**)

OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

(**For SCI**)

DEPARTMENT OF ENERGY (**For Restricted Data**)

IN TURN

FROM: PEO/TEO's Official Address

SUBJECT: National Interest Determination (NID) Request for (Company Name), Address, CAGE Code, and Contract #

1. As the Program Executive Officer responsible for _____(program/system)_____ I have reviewed the following documentation:

(Company's Name/CAGE Code) Special Security Agreement dated

Program Manager's Justification

Government Contracting Officer's NID Request (AF IMT 1768)

After this review, I concluded there is sufficient justification to request a waiver from the Under Secretary of Defense Intelligence (USD (I)) in accordance with Title 10, United States Code Subsection 2536.

2. This federal law is implemented via National Industrial Security Program Operating Manual paragraph 2-303(c) (2). Per the NISPOM, the release of proscribed SCI information to (Company Name) under (proposed) contract XXXXXXXX IS/IS NOT in the interest of the United States government. I hereby approve/disapproved submission of a National Interest Determination (NID) request to USD (I).

3. My POC for this action is (List name, e-mail, phone numbers).

NAME OF PROGRAM EXECUTIVE OFFICER
Signature Block

X Attachments:

Attachment 5

SAMPLE SIO REQUEST

MEMORANDUM FOR: MAJCOM SSO

FROM: Your Organization

SUBJECT: Request for Initiation of National Interest Determination (NID) for (Company Name), Address, CAGE Code, and Contract #

1. Request your office take action to secure the approval for release of Proscribed Sensitive Compartmented Information (SCI) information under the authority of the DNI in the attached request. (Name of Company), CAGE Code, located at (address) is the current incumbent on (Name of contract) task order number (XXX) under Contract (number). (Name of Company) requires the NID do to (provide justification).
2. This request is forwarded under the available guidance provided in the DoD 5220.22-M, National Industrial Security Program Operating Manual (NISPOM), Air Force Instruction (AFI) 16-1406, and per direction of the Sensitive Compartmented Information (SCI) Cognizant Security Authority.
3. Please provide this office a final copy of the approved release of proscribed SCI information authorization from HQ USAF to be packaged in the National Interest Determination (NID) process up through SAF/AAZ.
4. Please do not hesitate to contact me at DSN XXX-XXX if I can be of any further assistance.

NAME OF SIO
Signature Block

8 Attachments:

1. NID Justification Package
2. Program Manager NID Justification
3. Contracting Officer NID Request (AF IMT 1768, Staff Summary Sheet signed by CO)
4. Program Executive Officer Approval
5. Current DD Form 254
6. Special Security Agreement (SSA)
7. DSS Industrial Security Program Review
8. CI Threat Assessment

Attachment 6

STAFF SUMMARY SHEET FROM THE AIR FORCE GCA TO PEO/TEO

STAFF SUMMARY

1. **PURPOSE:** The purpose of this eSSS is to obtain (approval or disapproval) for release of (enter category of proscribed information) to (Company) under prime contract, entitled (enter contract/program name and number).

2. **BACKGROUND:** The attached Air Force National Interest Determination (NID) request is provided for your review and forwarding to the Defense Security Service channels to obtain the final approval from the (Approving Agency Name). The (identify unit Contracting Division) is requesting sponsorship of the NID for (Company Name) in support of work under Contract Number (XXXXXX-XX-X-XXXX), scheduled to be awarded (date). The NID request submitted by (Program Manager's Unit/Office Symbol), Tab X, contains the information required under the NISPOM Chapter 2, 2-303c(2) and is being processed in accordance with AFI 16-1406, Industrial Security Program Management.

3. **DISCUSSION:** An Air Force NID is required because (company) is owned by (country). (unit/office symbol) determined there is compelling evidence that release of proscribed information to XXXX will not harm the national security interests of the United States. The contracting officer's recommendation considered the following:

- a. Record of economic and government espionage against U.S. targets.
- b. Record of enforcement and/or engagement in unauthorized technology transfer.
- c. Record of compliance with pertinent U.S. laws, regulations, and contracts.
- d. The type and sensitivity of the information that is to be accessed.
- e. The source, nature, and extent of FOCI, including, but not limited to, whether foreign persons hold a majority or substantial minority position in the company, taking into consideration the immediate, intermediate, and ultimate parent companies of the company.
- f. The nature of any bilateral and multilateral security and information exchange agreements that may pertain.
- g. Ownership or control, in whole or in part, by a foreign government.
- h. Any other factor that indicates or demonstrates a capability on the part of foreign interests to control or influence the operations or management of the business organization concerned.

4. RECOMMENDATION: In this section include the document you need signed (attachment) or action required. State whether you require an electronic or original signature.

//Signed//

(FIRST NAME, MI, LAST NAME)

Director, XXX

Tab:

Proposed Ltr(s)

(UNIT/OFFICE SYMBOL of PM) Memo, (date)

Attachment 7

REQUEST PEO/TEO GRANT APPROVAL TO PROCEED WITH NID REQUEST

(APPROPRIATE LETTERHEAD)

MEMORANDUM FOR (List Government Contracting Activity Office Address)

FROM: (PEO/TEO's Official Address)

SUBJECT: Air Force National Interest Determination Request

1. As the Program Executive Officer responsible for____(program//system)_____ I have reviewed the following documentation:

(Company's name/CAGE code) Special Security Agreement dated _____.
Government Program Manager's Justification
Government Contracting Officer's Justification

2. IAW 32 CFR 2004 which is implemented via National Industrial Security Program Operating Manual paragraph 2-303(c) (2). Per the NISPOM, the release of (COMSEC, RD, collateral, TS, SCI, and SAP) proscribed information to (Company Name) under contract _____ is in the best interest of the United States government. I hereby approve submission of a National Interest Determination request to:_____.

3. My POC for this action is (List name, email, phone numbers).

Program Executive Officer

Attachments:

REQUEST PEO/TEO DISAPPROVE TO PROCEED WITH NID REQUEST

(APPROPRIATE LETTERHEAD)

MEMORANDUM FOR (List Government Contracting Office Address)

FROM: (PEO/TEO's Official Address)

SUBJECT: Air Force National Interest Determination Request

1. As the Program Executive Officer responsible for ___(program//system)_____ I have reviewed the following documentation:

(Company's name/CAGE code) Special Security Agreement dated _____
Government Program Manager's Justification
Government Contracting Officer's Justification

2. IAW 32 CFR 2004 which is implemented via National Industrial Security Program Operating Manual paragraph 2-303(c) (2). Per the NISPOM, the release of (COMSEC, RD, collateral, TS, SCI, and SAP) proscribed information to (Company Name) under contract _____ is not in the best interest of the United States government. I hereby disapprove submission of a National Interest Determination request to DSS.

3. My POC for this action is (List name, email, phone numbers).

Program Executive Officer

Attachments:

Attachment 8

SAMPLE – (NID) REQUEST TEMPLATE:

MEMORANDUM FOR: OCA

FROM: FULL NAME / IDENTIFICATION OF REQUESTING GOVERNMENT
CONTRACTING AUTHORITY (GCA)

SUBJECT: Request for Consideration of National Interest Determination (NID) (FOUO)

References: "National Industrial Security Program Operating Manual" (NISPOM) (DoD 5220.22-M, para 2-309) and Executive Order 12829, "National Industrial Security Program" (NISP)-2-303 C2.

1. Pursuant to the above references, request favorable consideration of the _____ in granting a National Interest Determination (NID) to FULL NAME / IDENTIFICATION AND ADDRESS OF COMPANY (*complete identification to include all subcontractors, subsidiaries, partnerships, and full description of relationships/individual product lines, etc. is to be detailed in Tab "A" as outlined below*).

2. The following justification and supporting data is provided for your review and consideration:

We request favorable consideration be given SPECIFIC PROGRAM/PROJECT NAME/LEVEL OF DETAIL (*detail specific "proscribed information" to include specific levels, etc.*). In the enclosed attachments our request details compelling evidence that release of such information to INSERT NAME OF COMPANY advances the national security interests of the United States. The attachments are as follows:

(1) Tab "A": *Staff Summary Sheet – HQ XXXX Coordination with cognizant PM, cognizant CO, cognizant PEO/TEO, XXXXXXXXXXX, XXXXXXXXXXX, XXXXXXXXXXX, SAF/GCA; Approval SAF/AAZ.*

(2) Tab "B": *Identification of the proposed awardees along with a synopsis of its foreign ownership (include solicitation and other reference numbers to identify the action).*

(3) Tab "C": *General description of the procurement and performance requirements and copies of the proposed/signed DD Form 254(s).*

(4) Tab "D": *Identification of national security interests involved and the ways in which award of the contract helps advance those interests.*

(5) Tab "E": *A description of any alternate means available to satisfy the requirement, and the reasons alternative means are not acceptable.*

(6) Tab "F": *Government's Counterintelligence Assessment/Foreign Ownership Issues.*

(7) Tab "G": *Proposed NID Approval / Disapproval Letter (XXXXX)*

Processing Note: All requests for NIDs are to be initiated by the GCA. A company may assist in the preparation of a NID, but the GCA is not obligated to pursue the matter further unless it believes further consideration is warranted. The GCA, if it is supportive of the NID, forwards the case through appropriate agency channels to the ultimate approval authority within that agency. If the proscribed information is under the classification or control jurisdiction of another agency, the approval of the cognizant agency is required; e.g., NSA for COMSEC, DCI for SCI, DOE for RD, the Military Departments for their TOP SECRET information, and other Executive Branch Departments and Agencies for classified information under their cognizance. It is the responsibility of the cognizant approval authority to ensure that pertinent security, counterintelligence, and acquisition interests are thoroughly examined. Agency-specific case processing details and the senior official(s) responsible for rendering final approval of NID's are to be contained in the implementing regulations of the U.S. agency whose contract is involved.

3. The designated point of contact for all matters related to this specific NID request may be directed to the undersigned. You may contact me via unclassified email at: ira.sample@emailaddress.com or telephone (xxx-xxx-xxxx).

IRA M. SAMPLE
Government Contracting Authority (GCA)

Attachments:

1. Tab A (Staff Summary Sheet – HQ AF Coordination with cognizant PM, cognizant CO, cognizant PEO/TEO, GCA; Approval by SAF/AAZ)
2. Tab B (Full company identification & foreign ownership synopsis)
3. Tab C (Procurement and performance requirements)
4. Tab D (Rationale for advancement of National Security interests)
5. Tab E (Alternative means of satisfying requirements)
6. Tab F (Counterintelligence Assessment/Foreign Ownership Issues – Provided by DSS)
7. Tab G (Proposed SAF/AAZ NID Approval/Disapproval Letter)

Tab A

(Staff Summary Sheet – HQ XXXX Coordination with cognizant PM, cognizant CO, cognizant PEO/TEO, GCA and approval by SAF/AAZ)

Tab B

(Full company identification & foreign ownership synopsis)

1. Full Company Identification:

- a. Company Name: _____
- b. FSC/CAGE Code: _____
- c. Facility Clearance: _____
- d. Physical Location (Street Address): _____

e. Is Corporate Headquarters same as Item "d" above: Yes ___ No ___

(1) If "No" - specify / list Corporate Headquarters information (Items "a" - "d" above).

f. Facility Clearance: _____

g. Product Line (relevant to this request; detail by location/activity and by subsidiary/subcontractor relationship, etc.): _____

h. Foreign Ownership Synopsis & Corporate Relationships: (detail all foreign ownership, partnerships, subsidiaries, affiliations - in addition to narrative; provide a linear organizational chart depicting all corporate entities/relationships, etc.)



i. Detail all previously granted and current Special Security Agreements, Security Control Agreements, Voting Trust Agreements and Proxy Agreements and/or other relevant National Interest Determinations:

(Note: All question/answer spaces above are not representative of allowable narrative - continue on additional pages to sufficiently detail)

Tab C

(Procurement and performance requirements including the proposed/signed copies of the DD-254)

Tab D

*(Rationale for advancement of National Security interests – **Note:** The following statement, "Release of the proscribed information to the company cannot harm the national security interests of the United States." Is to be included)*

Tab E

(Alternative means of satisfying requirements)

Tab F

*(CI Assessment/Foreign Ownership Issues — **Note:** To be completed by cognizant CI service activity and forwarded to the GCA for inclusion in the NID Request package)*

Tab G

(Proposed NID Approval / Disapproval Letter (XXXXX))

Attachment 9

**COMSEC NATIONAL INTEREST DETERMINATION
JUSTIFICATION PACKAGE CHECKLIST**

(Program, Project or Prime and Subcontractor Name, if foreign owned company is the subcontractor)

Contract Number XXXXXX-XX-X-XXXX

1. Purpose

(XXXX) is currently performing or scheduled to be awarded a contract on (date) for work for the (identify unit/program) under Contract Number (XXXXXX), entitled (XXXX).

2. Background

3. Identification of the contractor/proposed awardees' (name, address, & CAGE code) along with a synopsis of its foreign ownership. Identify the prime contract number (program, project or contract) or Request for Proposal Number. Include the fact that a Special Security Agreement is in place and make it an attachment. Include the contract period of performance start date and period of performance end date.

4. General description of the procurement and performance requirements.

For COMSEC NIDs provide the following additional information:

- a. Why does this foreign company need access to COMSEC material?
- b. Who may have access to the requested material?
- c. List of all the COMSEC equipment and keys that are to be accessed by the contractor requested (quantity, nomenclature title, and version).¹
**Please include classification level of the keying material*
- d. A completed copy of the DD Form 254. ***Identifies the contract start and end dates*

5. Identification of the national security interests involved and the ways in which award/continuation of the contract helps advance those interests.

6. A statement as to availability of other U.S. companies with the capacity, capability, and technical expertise to satisfy the acquisition, technology base, or industrial base requirements and the reasons any such company should be denied the contract.

7. A description of the alternate means available to satisfy the requirement, e.g. use of substitute products or technology or alternate approaches to accomplish the program objectives,

¹ Excluding controlled cryptographic items when unkeyed or utilized with unclassified keys.

and the reasons why the alternate means are not acceptable.

8. Conclusion: Provide a brief summation of the rationale for approval/disapproval

9. Recommendation: Provide any additional recommendations pertaining to the issuance of this request.

Attachment 10

**RESTRICTED DATA (RD) NATIONAL INTEREST DETERMINATION
JUSTIFICATION PACKAGE CHECKLIST**

The Government Contracting Activity (GCA) of the contractor program involved prepares and sponsors the proposed National Interest Determination (NID). The proposed NID request must include the following information:

1. A signed memo from your agency by the (director level/Program Manager/or contracting officer) requesting the NID to our office. Include a Point of Contact in case follow-on communication is required.
- 2.
3. A copy of the signed Special Security Agreement (SSA).
4. Include Justification for access to Restricted Data (RD) that includes:
 - Scope of work
 - Provide an unclassified and clear description of the work to be performed and address the specifics as it relates to the RD access for the contract.
 - Why is access to RD significant to your program?
 - Who will have access to RD?
5. Identification of the proposed awardees/contractor (name, address, and CAGE code) Government contracting number (Program, Project or Contract).
 - Period of the contract- Start and End date.
 - Attach a signed or proposed copy of the DD Form 254.
6. What are the circumstances that caused the company to submit the request (i.e. is the company with the contract being purchased by an outside interest, is it a new contract?)

For additional information, contact our office at (301) 903-3695 or (301) 903-9397. The preferred method of receipt is via entrusted email to: Paul.Saunders@mnsa.doe.gov, and Karen.Retorick@mnsa.doe.gov.

Unclassified Mailing Address:

Paul C. Saunders, Headquarters Security Operations
NA-72/Germantown Building/Suite A-201
U.S. Department of Energy
1000 Independence Avenue, SW
Washington D.C. 20874-1207

Frequently Asked Questions

- 1. What is a NID?** A determination that release of proscribed information to a foreign owned company cannot harm the national security interests of the United States.

- 2. What is Proscribed Information?** DoDM 5220, 22V3 *National Industrial Security Program: Proscribed for Government Activities Relating to Foreign Ownership, Control or Influence (FOCI)*, April 17, 2014, defines proscribed information as Top Secret, COMSEC, excluding controlled cryptographic items when un-keyed or utilized with unclassified keys, Restricted Data (RD), Sensitive Compartmented Information (SCI) or Special Access Program (SAP) information.

- 3. Who is responsible for preparing the NID?** The GCA makes the decision to request a National Interest Determination upon review of the company's Special Security Agreement, and justification from the PM and PEO/TEO. The GCA submits the NID request for prime and subcontracts.

- 4. How do I know if a company has entered into a SSA with DSS?** Review the company's facility security clearance record in the Defense Security Service (DSS) Industrial Security Facilities Database (ISFD). Special Security Agreements are listed under the Special Considerations field. Call the DSS Customer Service 1-888-282-7682 to assist with this process.

- 5. Where do I obtain a copy of the company's Special Security Agreement that is required as part of the justification package?** DSS FOCI Operations Division at (703) 325-9167 or focihq@dss.mil. The DSS Field Office servicing the company also maintains a copy.

- 6. How long is a Special Security Agreement (SSA) valid?** SSAs are valid for 5-10 years (depending on the agreement) and remain valid during the review cycle and issuance of an updated SSA by Defense Security Service. In addition, companies operating under an SSA, Voting Trust Agreement, Proxy Agreement, or Security Control Agreement submit a compliance report annually to DSS to address and resolve any issues.

- 7. What's the timeline for NID approvals?** According to: DoDM 5220.22-V3, AFI 16-1406, and AFI 16-701 the proscribed information Approving Authority provides NID decisions to the GCA/GCO) as follows:
 - Within 30-days for proscribed TS & SAP
 - Within 60-days for RD, COMSEC & SCI

The requesting unit tracks the package through the coordination process to ensure the established timelines and mission requirements are met.

8. If the PEO/TEO denied proceeding with the NID request, now what? The GCA provides a copy of the PEO/TEO's decision with the completed NID package to the relevant MAJCOM Information Protection (IP) office or Program Security Officer (PSO) and SAF/AAZ. SAF/AAZ notifies DSS. The GCA and PM should assess contract impact and develop a course of action with SAF/AAZ and DSS.

9. Do the NIDs need to be approved prior to contract award? Yes, final approval is required prior to contract award. Reference: DoDM 5220.22-V3.

10. In the case of a US company getting bought out during the performance of a contract, can the contractor still have access to Proscribed Information once the US owned company is acquired by the foreign interest? Access to proscribed Air Force information continues for existing government contracts (who still have a valid SSA mitigation in place) at the time of the buyout, while the NID is being processed. If the NID is denied, then access to Air Force proscribed information is to be terminated. The PM and Air Force GCA would then assess the contractual mission impact and develop a course of action.

11. Can subcontractors have access prior to the Prime's approval for a NID? No. When accessing Air Force proscribed information under the contract (prime or subcontractor) the approval of the NID is to be in place prior to granting access.

12. The NID was approved by the appropriate authority, what is the next step? Upon receipt of decision from approving authority, the GCA provides a copy of entire package to PM. The GCA maintains the approval with the contract file. The contractor is authorized access to proscribed information. If denied, provide a copy to assess contract impact, and develop a course of action. SAF/AAZ notifies DSS.

References

- a. Executive Order 12829, as amended, National Industrial Security Program, 6 April 2010
- b. Defense Federal Acquisition Regulation Supplement, Subpart 209.1 – Responsible Prospective Contractors, 28 March 2014
- c. Department of Defense, 5220.22-R, Industrial Security Regulation, 4 December 1985
- d. Department of Defense, 5220.22-M, National Industrial Security Program Operating Manual (NISPOM), Incorporating Change 2, 18 May 2016
- e. Department of Defense Manual 5220.22-V3, National Industrial Security Program: Procedures for Government Activities Relating to Foreign Ownership, Control or Influence (FOCI), 17 April 2014
- f. Air Force Instruction, 16-1406, Air Force Industrial Security Program, 25 August 2015
- g. Air Force Instruction, 16-701, Management, Administration and Oversight of Special Access Programs, 18 February 2014
- h. Office of Director of National Intelligence, Intelligence Community Standard Number 703, 21 June 2013
- i. Directive-type Memorandum (DTM) 15-002, “Policy Guidance for the Processing of National Interest Determinations (NIDs) in Connection with Foreign Ownership, Control, or Influence (FOCI)”, Incorporating Change 1, 24 February 2016
- j. Title 10, United States Code, Subsection 2536(b)(1)(A)