DOE O 142.3A

Approved: 10-14-2010

UNCLASSIFIED FOREIGN VISITS AND ASSIGNMENTS PROGRAM

U.S. DEPARTMENT OF ENERGY
Office of Health, Safety and Security

UNCLASSIFIED FOREIGN VISITS AND ASSIGNMENTS PROGRAM

1. PURPOSE. To define a program for unclassified foreign national access to Department of Energy (DOE) sites, information, technologies, and equipment by establishing requirements for the following:

   a. An approval process for foreign national visits and assignments consistent with U.S. and DOE national security and program-specific policies, requirements, and objectives.

   b. Reviews of foreign national access requests to ensure that unauthorized access to information, equipment, or technologies is denied.

   c. A process for documenting and tracking visits and assignments by foreign nationals to DOE sites or involving DOE controlled or protected information, technologies, or equipment.

2. CANCELLATIONS. DOE O 142.3, *Unclassified Foreign Visits and Assignments Program*, dated 6-18-04.

   Cancellation of a directive does not, by itself, modify or otherwise affect any contractual or regulatory obligation to comply with the directive. Contractor Requirements Documents (CRDs) that have been incorporated into a contract remain in effect throughout the term of the contract unless and until the contract or regulatory commitment is modified to either eliminate requirements that are no longer applicable or substitute a new set of requirements.

3. APPLICABILITY.

   a. Departmental Applicability. Except for the equivalencies/exemptions in paragraph 3.c., this Order applies to all Departmental elements.

      The Administrator of the National Nuclear Security Administration (NNSA) must assure that NNSA employees comply with their responsibilities under this directive. Nothing in this directive will be construed to interfere with the NNSA Administrator's authority under section 3212(d) of Public Law (P.L.) 106-65 to establish Administration-specific policies, unless disapproved by the Secretary.

   b. DOE Contractors. Except for the equivalencies/exemptions in paragraph 3.c., the CRD (Attachment 1) sets forth requirements of this Order that will apply to contracts that include the CRD. The CRD must be included in contracts involving foreign national access to DOE sites, information or technologies.

c. Equivalencies/Exemptions for DOE O 142.3A.

(1) Equivalency. In accordance with the responsibilities and authorities assigned by Executive Order 12344, codified at Title 50 United States Code (U.S.C.) sections 2406 and 2511 and to ensure consistency through the joint Navy/DOE Naval Nuclear Propulsion Program, the Deputy Administrator for Naval Reactors (Director) will implement and oversee requirements and practices pertaining to this Directive for activities under the Director's cognizance, as deemed appropriate.

(2) Equivalency. In accordance with the authority assigned by Department of Energy Delegation Order No. 00-033-00B, the Administrator and Chief Executive Officer of the Bonneville Power Administration (BPA) will implement and oversee the requirements and practices pertaining to this Order for BPA facilities and activities, as deemed appropriate.

(3) Exemption. This Order does not apply to public events held on or off DOE sites. If held on site, the Site Security Plan (SSP) or Site Safeguards and Security Plan (SSSP) must document the conditions where this exemption applies. Public events are those that include only information that is not protected by statute, regulation, or DOE policy, and is determined to be releasable to the general public, are held in locations that are accessible to the general public, and are available for attendance by the general public.

(4) Exemption. Access by foreign nationals 17 years of age or younger who are involved in non-work-related activities is exempt from this Order.

(5) Exemption. Unclassified events and activities that occur outside the United States or its territories do not fall under the purview of this Order.

4. REQUIREMENTS. Foreign national access to DOE sites, programs, information and technologies will be approved, provided the access is needed to support DOE program objectives and/or U.S. national interests.

a. Documentation. The Foreign Access Central Tracking System (FACTS) is the Department's official national database of information on unclassified foreign visits and assignments (UFVAs). Access to FACTS is limited to U.S. citizens. All required information regarding UFVAs that require documentation, as detailed in Attachment 2 of this Order, will be entered in FACTS.

b. Lawful Immigration Status, Citizenship, and Identity. Sufficient documentation of immigrant or nonimmigrant status, citizenship, and identity is required for all foreign visitors and assignees to verify the foreign national's identity and authority to work (when applicable for the activities involved) and ensure that the foreign national is eligible (in lawful immigration status) to be in the United States. With the exception of assignments for intermittent access periods by foreign nationals entering the United States under the Visa Waiver Program,

temporarily for business or pleasure, or as Canadian citizens who do not require entrance visas, the lawful immigration status of foreign nationals must be valid for the duration of the visit or assignment.

c. Security Plans. UFVAs must be covered by an approved SSP or SSSP that addresses risk and sensitive factors including security area type to be accessed, determination of whether information containing sensitive subjects will be shared, and affiliation with sensitive countries or countries identified as state sponsors of terrorism. The SSP or SSSP must document the site subject matter expert (SME) review, host, and escort requirements to ensure:

(1) that national security assets are protected;

(2) that appropriate export control and technology transfer reviews, and determinations of export license requirements, are conducted;

(3) coordination with site counterintelligence and intelligence (when there is a field intelligence element onsite) elements;

(4) that nationals of state sponsors of terrorism do not host other foreign nationals; and

(5) that SME reviews, as required by the SSP or SSSP, are documented in FACTS.

d. Indices Checks. UFVAs may require indices checks based on the involvement of nationals of state sponsors of terrorism or sensitive country nationals, sensitive subjects, or access to security areas other than general access areas (GAAs) or property protection areas (PPAs)[1] (Attachment 2 of this Order indicates situations where indices checks are required.). Indices checks are coordinated by the Office of Intelligence and Counterintelligence, and are requested through the process of documenting access requests in FACTS. Indices checks are valid for a period of 2 years from the indices completion date, as documented in FACTS by the Office of Intelligence and Counterintelligence.

In cases where indices checks must be completed before access approval determination:

(1) The request must be documented in FACTS with sufficient time to complete the indices checks.

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[1] 50 U.S.C. 2652(a), enacted as part of Public Law 106-65 – October 5, 1999, National Defense Authorization Act of Fiscal Year 2000, states that a background review (indices check) must be completed prior to access to any facility of a national laboratory by an individual who is a citizen or agent of a nation on the sensitive countries list. This provision does not preclude access to areas accessible to the general public at Lawrence Livermore National Laboratory, Los Alamos National Laboratory and Sandia National Laboratories Albuquerque, New Mexico and Livermore, California.

(a) If there are valid indices checks for the foreign national documented in FACTS, the indices checks will be considered completed upon documentation of the request in FACTS using the existing FACTS biographical record for that foreign national.

(b) If there are no existing valid indices checks for the foreign national documented in FACTS, it is recommended that the request be entered into FACTS 30 days prior to the start date of the requested access to ensure adequate time for completion of indices checks.

(2) If there is insufficient time to complete indices checks before the first day of access, the approval authority may request a counterintelligence consultation in lieu of completion of the indices checks. For requests involving nationals of state sponsors of terrorism, counterintelligence consultations may not be utilized until 30 days after requests are documented in FACTS. Counterintelligence consultations may not be employed as a standard alternative to indices checks.

e. Access Approval. All foreign national access to DOE programs, information, and technologies for unclassified purposes must be approved by either the Secretary of Energy or an assigned approval authority. Access approvals are subject to validation and verification of the information submitted for the access request when the visit or assignment begins.

(1) Access Approval Determinations. For all foreign national access approval requests, the following apply:

(a) All information from the review process must be taken into consideration, and potential impacts on local site operations must be evaluated.

(b) Determination of access approval must ensure that any identified risk to the Government associated with the access granted has been appropriately evaluated and mitigated.

(c) Legal and policy-related terms and conditions associated with the proposed visit or assignment must be met before approval. Those terms and conditions include, but are not limited to, visa status conditions and requirements, right-to-work requirements, and international agreements.

(d) Approval determinations must be documented in FACTS.

(2) Assignment of Approval Authority. Approvals for foreign national access must be consistent with line management accountability requirements.

(a) Approval Authorities must be U.S. citizens.

(b) Field Sites. Line management accountability flows from the Secretary of Energy through the Deputy Secretary or Under Secretaries, to Program Secretarial Officers (PSOs), to head of DOE field elements,[2] to the site management official or laboratory director for the hosting site. When the site management official or laboratory official is not a U.S. citizen, the head of the cognizant DOE field element will assign the approval authority. Hosting site management officials or laboratory directors may make final approval determinations for access requests involving sensitive country nationals, nonsensitive country nationals, and nationals of state sponsors of terrorism who are lawful permanent residents of the United States.

A site management official or laboratory director may reassign approval authority to another U.S. citizen employee. Further assignment of approval authority is not allowed. All assignments of approval authority must be in writing and be promulgated by the approval authority. Site management officials and laboratory directors will be held accountable for all approval decisions made by themselves or by those to whom they reassign approval authority.

(c) Headquarters Elements. Headquarters program, staff, and support office accountability flows from the Secretary of Energy through the Deputy Secretary or Under Secretaries, to heads of program, staff and support offices. Headquarters heads of program, staff and support offices may make final approval determinations for access requests involving sensitive country nationals, nonsensitive country nationals, and nationals of state sponsors of terrorism who are lawful permanent residents of the United States. The head of a Headquarters program, staff or support office may reassign his or her approval as appropriate. Further assignment of approval authority is not allowed. All reassignments of approval authority must be in writing, and a copy must be provided to the Office of Health, Safety and Security. Heads of Headquarters program, staff and support offices will be held accountable for all decisions made by themselves or by those to whom they reassign approval authority.

(d) Nationals of State Sponsors of Terrorism. Access requests for nationals of state sponsors of terrorism who are not lawful permanent residents require approval by the site approval authority before final approval determination. Final approval authority is

[2] Field elements include operations offices, services centers, site offices, area offices, and regional offices of federally staffed laboratories.

held by the Secretary of Energy and can be assigned only to Deputy Secretary, Under Secretary for Nuclear Security/Administrator for the National Nuclear Security Administration, Under Secretary of Energy, or Under Secretary for Science. The Deputy Secretary or appropriate Under Secretary, in consultation with the Office of Intelligence and Counterintelligence, will make the final approval determinations for these access requests. Subsequent assignment requests extending access to the hosting field site or Headquarters program, staff or support office may be approved by the approval authority for that field site or Headquarters office.

f. Graded Approach. DOE, to include NNSA, will follow a graded approach for reviewing and approving access by foreign nationals to DOE sites, programs, information, and technologies based on subject, location, and length of time of the requested access, as well as the country affiliation(s) of the individual to be granted access.

(1) Tables identifying the requirements for UFVA are included in Attachment 2 to this Order.

(2) Special Situations.

(a) Foreign national emergency response and medical personnel who require access for emergencies do not require documentation in FACTS. This access must be covered by site security plans and procedures.

(b) International Atomic Energy Agency (IAEA) visits that are not inspection activities, as defined in the Agreement between the United States and the IAEA, or that otherwise do not involve classified information or technologies, are unclassified visits and will be documented in accordance with this Order.

(c) Visits by foreign national delivery, service, and vendor personnel, if fully escorted and covered by the SSP/SSSP, do not require documentation in FACTS. If not escorted, the visits must be in compliance with the UFVA requirements applicable to the particular location to be accessed, as described in Attachment 2 to this Order.

(d) Visits by foreign press to the Headquarters Forrestal Building are conducted through the Office of Public Affairs and involve official press interviews. Visits by press representatives from nonsensitive countries must be documented in FACTS within 2 working days of access. Press representatives from sensitive countries or

representing press services of sensitive countries require full pre-visit reviews and approvals documented in FACTS before access.

(e) High-level protocol visits are limited to meetings between the Secretary of Energy, the Deputy Secretary, the Under Secretaries, PSOs or other senior Departmental officials, and foreign national representatives of foreign governments or organizations of foreign governments in the Headquarters Forrestal Building. The Secretary, Deputy Secretary, Under Secretaries, and PSOs will determine which senior Departmental officials within their organizations are authorized to conduct these visits. Advance approval reviews may be suspended if requested by these senior Departmental managers subject to compliance with the security plans and procedures developed for high-level protocol visits to the Forrestal Building. The duration of high-level protocol visits is limited to one day. Documentation of these visitors in FACTS is required within one working day of the visit. Justification for these visits must address the protocol nature of the visit.

(f) Foreign national participation in Work for Others projects which involve access to DOE sites, or to DOE information that is not releasable to the general public, are considered visits or assignments, and will be in accordance with all requirements of this Order.

5. RESPONSIBILITIES.

a. Secretary of Energy.

(1) Establishes DOE policies, procedures, and requirements for foreign national access to DOE sites, programs, information, and technologies.

(2) Assigns access approval authority to Headquarters program, staff and support offices, and lead program Secretarial Officers (LPSOs), and through LPSOs to the heads of DOE field elements and heads of local DOE sites for access by foreign nationals consistent with the policies and requirements of this Order.

(3) Assigns access approval authority to the Deputy Secretary and Under Secretaries for requests for access by nationals of state sponsors of terrorism, consistent with the policies and requirements of this Order.

b. Lead Program Secretarial Officers and the Administrator, NNSA.

(1) Ensure that facilities under their cognizance have implemented this Order.

(2) Notify contracting officers of affected site/facility management contractors to incorporate the CRD of this Order into their contracts.

(3) Ensure that procurement requests for new non-site/non-facility management contracts require inclusion of the CRD to this Order in the resulting contracts, if appropriate.

(4) Assign foreign national access approval authority to heads of DOE field elements reporting directly to the LPSO.

(5) Ensure systematic program review of field and local site approvals for which the LPSO has responsibility to ensure that program-specific guidance is followed, corrective action is taken as appropriate, and line management responsibilities associated with the presence of foreign nationals are met.

(6) Ensure that the requirements of this Order are applied to non-DOE-funded work performed within the operating programs over which the LPSO has responsibility.

(7) Ensure that appropriate site security plans and countermeasures are in place for all foreign national visits and assignments.

c. Heads of Headquarters Departmental Elements.

(1) Review procurement requests for new non-site/non-facility management contracts and, if appropriate, ensure that the CRD of this Directive is included in the contracts.

(2) Serve as UFVA approval authorities for Headquarters activities and/or offices within their organizations, and reassignment approval authority to other U.S. citizen employees, as appropriate.

(3) Develop and implement operating procedures for approving UFVA access to Headquarters program and contractor program personnel, sites, information and organizations in compliance with the requirements of this Order.

(4) Designate points of contact (POCs) for UFVA program management, and provide contact information to the Office of Health, Safety and Security.

(5) Provide program-specific guidance to Headquarters program managers and field elements regarding foreign national access to potentially sensitive subjects, technologies, and information in unclassified program activities.

(6) Ensure a systematic and effective process to provide managers, planners, and hosts with appropriate guidance regarding technologies and information that could lead into sensitive or export controlled areas, and to ensure that sensitive or export controlled technologies and information are properly identified.

(7) Direct contracting officers in their organizations to incorporate the CRD to this Order into all program contracts which may involve contact with foreign national visitors or assignees.

(8) Ensure that appropriate site security plans and countermeasures are in place for UFVAs at their sites.

d. Heads of Field Elements.

(1) Review procurement requests for new non-site/non-facility management contracts and, if appropriate, ensure that the requirements of the CRD of this Order are included in the contracts.

(2) Serve as approval authorities for UFVAs to the DOE field element, and reassign approval authority to other U.S. citizen employees, as appropriate.

(3) Assign foreign national access approval authority to site management officials and laboratory directors under their cognizance.

(4) Designate POCs for UFVA program management and provide contact information to the Office of Health, Safety and Security.

(5) Incorporate all LPSO guidance into local management processes for approving foreign national access to field element sites, information, and organizations.

(6) Ensure that appropriate site security plans and countermeasures are in place for UFVAs at their sites.

e. Heads of Hosting Sites.

(1) Consistent with the assignment of approval authority through the line management chain, serve as approval authorities for UFVA activities and programs at their sites.

(2) Implement the UFVA program consistent with guidance and direction from the head of the DOE field element with direct responsibility for program performance.

(3) Designate POCs for UFVA program management, and provide contact information to the cognizant DOE field element and LPSO, and to the Office of Health, Safety and Security.

(4) Ensure that program-specific guidance is issued and is being followed, corrective actions are being implemented as appropriate, and program responsibilities associated with the presence of foreign nationals are being met.

(5) Ensure systematic, effective processes to provide program managers, planners, and hosts with appropriate guidance regarding technologies and information that could lead into sensitive or export controlled areas, and to ensure that sensitive or export controlled technologies and information are identified.

(6) Ensure that the requirements of this Order are applied to non-DOE-funded work performed within the operating programs for which the local site managers have responsibility.

(7) Ensure that the UFVA program is included in organizational self-assessments.

f. Hosts for Unclassified Foreign Visitors and Assignees are DOE Federal representatives responsible for the activities associated with the successful accomplishment of foreign visits and assignments. For a foreign national to host another foreign national, the host must first be a DOE employee. Nationals of state sponsors of terrorism may not host other foreign nationals. The host must be identified to the visitor or assignee as his/her POC, and must meet the following requirements:

(1) Ensure compliance with all requirements for access approval and conduct, including complete and accurate information for FACTS documentation, compliance with SSP or SSSP requirements, program sponsorship, and notification to workers regarding these requirements as appropriate.

(2) Serve as the individual responsible for the conduct and activities of the foreign nationals for which he/she is identified as host.

(3) Report suspicious activities in accordance with local reporting requirements.

(4) Provide the following information to the foreign nationals for whom they have been identified as hosts:

(a) The terms and conditions of access approval, including restrictions and requirements to notify the host of changes in name, immigrant/nonimmigrant status, and other information as required.

(b) The requirement to notify the responsible host of any civil or criminal issues that could affect their status in association with DOE.

(c) That failure to provide appropriate documentation when required or providing fraudulent documentation will result in suspension of access approval, removal from the site, and possible cancellation of future access.

g. Escorts are responsible for ensuring that foreign nationals working or traveling within a site are escorted when required, as identified by the SSP or SSSP, to ensure that there is no unauthorized access. They must also comply with all requirements for escorts identified in the SSP or SSSP.

h. Chief Health, Safety and Security Officer.

(1) Develops the policy baseline and incorporates operational requirements into DOE-wide guidance for the UFVA program.

(2) Establishes and chairs UFVA working groups as required.

(3) Ensures that program and staff Secretarial Office policy requirements for foreign national access approvals are incorporated into UFVA policy.

(4) Defines, develops, and manages FACTS capabilities to provide operational and analytical program support and accountability.

(5) Develops and implements user training for FACTS.

(6) Provides policy and technical assistance and support to Headquarters and field elements.

(7) Develops and coordinates testimony, internal and external reporting, and responses to requests for information regarding the DOE UFVA program.

(8) Develops security policy for the UFVA program access approval process consistent with U.S. and DOE national security policies and objectives.

(9) Provides information on the requirements of UFVA policy for inclusion in the Security Survey Program.

i. Director, Office of Intelligence and Counterintelligence.

(1) Supports the unclassified foreign national access approval process by analyzing and coordinating issues of field intelligence with other Federal agencies, and provides general and specific advice on potential risks associated with foreign national access requests to DOE elements.

(2) Coordinates with the Office of Defense Nuclear Nonproliferation on the maintenance of the sensitive country list related to nonproliferation and technology transfer.

j. Deputy Director, Office of Counterintelligence, Office of Intelligence and Counterintelligence.

(1) Identifies counterintelligence requirements applicable to the management of unclassified access approval for foreign nationals to DOE sites, programs, technologies, and information.

(2) Provides advice to Headquarters approval authorities and supports field counterintelligence officers with guidance on foreign national access issues.

(3) Ensures that local capability and expertise are available to provide effective counterintelligence advice to local approval authorities regarding access approval requests.

(4) Coordinates the external indices checks process with the appropriate U.S. Government agencies.

(5) Documents and maintains DOE-wide information on requests for and completion of indices checks.

(6) Advises the Secretary, Deputy Secretary, and Under Secretaries regarding access requests involving nationals of countries identified as state sponsors of terrorism, as requested.

k. Headquarters and Field Counterintelligence Officers.

(1) Review requests for foreign national access approval for counterintelligence and counterterrorism implications.

(2) At the request of the hosting site, provide counterintelligence consultations to the approval authority, or to his or her assignee(s), to evaluate foreign national access in the absence of a required, completed indices checks, and document consultations in FACTS.

(3) Conduct briefings and debriefings of hosts, sponsors, and escorts of foreign nationals.

l. Deputy Administrator, Defense Nuclear Nonproliferation.

(1) Analyzes and develops policy guidance for the UFVA access approval process in the areas of export control, technology transfer, and nonproliferation.

(2) Coordinates and maintains the sensitive subjects list relating to export controlled topics and, with the Office of Intelligence and Counterintelligence, the sensitive country list related to nonproliferation and technology transfer, and reviews, validates, and revises those lists on an annual basis.

(3) Provides advice and guidance to DOE program elements on export controls, technology transfer, and nonproliferation issues related to potential and actual foreign visit and assignment access approvals.

(4) Performs specific subject matter export control, technology transfer, and nonproliferation reviews of UFVA, as requested, and ensures that these reviews are documented in FACTS.

m. Assistant Secretary for Policy and International Affairs. As the DOE point of contact with the Department of State in international organizations, provides advice and information to the Office of Health, Safety and Security concerning the policies and procedures promulgated in this Order.

n. General Counsel. Provides review and advice on all legal issues relating to approval of unclassified foreign national access to DOE facilities and information.

o. NNSA Office of General Counsel. Provides review and advice on all legal issues relating to approval of unclassified foreign national access to NNSA facilities and information.

p. Chief Information Officer (CIO). Drafts policy for issuance by the Secretary of Energy or Deputy Secretary regarding protective measures required for foreign national cyber security access approval, whether onsite or by remote access.

q. Deputy Administrator for Naval Reactors. In accordance with the responsibilities and authorities assigned by Executive Order 12344, codified at Title 50 United States Code (U.S.C.) sections 2406 and 2511, and to ensure consistency through the joint Navy/DOE organization of the Naval Nuclear Propulsion Program, implements and oversees requirements and practices pertaining to this Directive for activities under the Deputy Administrator's cognizance, as deemed appropriate.

r. Contracting Officers.

(1) After notification by the appropriate program official, incorporate the CRD of this Order into affected existing contracts via the laws, regulations, and DOE Directives clauses of the contracts.

(2) Assist originators of procurement requests who want to incorporate the CRD of this Directive in new non-site/non-facility management contracts, as appropriate.

6. REFERENCES. Find DOE directives online at www.directives.doe.gov.

   a. DOE O 142.2A, *Voluntary Offer Safeguards Agreement and Additional Protocol with the International Atomic Energy Agency*, dated 12-15-06.

   b. DOE M 470.4-2A, *Physical Protection*, dated 7-23-09.

   c. DOE M 470.4-1 Chg 1, *Safeguards and Security Program Planning and Management*, dated 3-07-06.

   d. DOE M 470.4-4A, *Information Security Manual*, dated 1-16-09.

   e. DOE O 475.1, *Counterintelligence Program*, dated 12-10-04.

   f. National Security Decision Directive 189, National Policy on the Transfer of Scientific, Technical and Engineering Information, dated 9-21-85.

   g. Presidential Decision Directive 61, Energy Department Counterintelligence (U), dated February, 1999. This document is classified (Confidential). For distribution, contact Jennifer Emanuelson, 301-903-3071, jennifer.emanuelson@hq.doe.gov.

   h. Title 10, Code of Federal Regulations, Nuclear Regulatory Commission, *Export and Import of Nuclear Equipment and Material*, Part 110.

   i. Title 10, Code of Federal Regulations, Energy, Chapter III, *Assistance to Foreign Energy Activities*, Part 810.

   j. Title 15, Code of Federal Regulations, Commerce and Foreign Trade, *Export Administration Regulations*, Parts 730-744.

   k. Title 22, Code of Federal Regulations, Chapter I, Department of State, *International Traffic in Arms Regulations*, Parts 120-130.

7. DEFINITIONS. Terms commonly used in the program are defined in the Unclassified Foreign Visits and Assignments Program Definitions, available through the HSS public web site, www.hss.energy.gov/hss/references/security/FV&A/unclassified_foreign_visits_and_assignments_program_definitions.pdf, and through FACTS.

8. CONTACT. Questions concerning this Order should be addressed to the Office of Health, Safety and Security, Office of Foreign Visits and Assignments at 301-903-5108.

BY ORDER OF THE SECRETARY OF ENERGY:

DANIEL B. PONEMAN
Deputy Secretary

CONTRACTOR REQUIREMENTS DOCUMENT
DOE O 142.3A, *UNCLASSIFIED FOREIGN VISITS AND ASSIGNMENTS PROGRAM*

This Contractor Requirements Document (CRD) and Attachment 2 of DOE O 142.3A (Unclassified Foreign Visits and Assignments Graded Approach Matrices) establish requirements for Department of Energy (DOE) contractors, including National Nuclear Security Administration (NNSA) contractors, whose contracts involve foreign national access to DOE owned or leased sites, information, technologies, or equipment.

Regardless of the performer of the work, the contractor is responsible for complying with the requirements of this CRD. The contractor is responsible for flowing down the requirements of this CRD to subcontractors at any tier to the extent necessary to ensure the contractor's compliance with the requirements.

1. PURPOSE. This CRD defines a program for unclassified foreign national access to DOE sites, information, technologies, or equipment by establishing requirements for the following:

   a. An approval process for foreign national visits and assignments consistent with U.S. and DOE national security and program-specific policies, requirements, and objectives.

   b. Reviews of foreign national access requests to ensure that unauthorized access is denied.

   c. A process for documenting and tracking visits and assignments by foreign nationals to DOE contractor sites or involving DOE contractor information or technologies.

2. EXEMPTIONS.

   a. Exemption. This CRD does not apply to public events held on or off DOE sites. If held onsite, the Site Security Plan (SSP) or Site Safeguards and Security Plan (SSSP) must document the conditions where this exemption applies. Public events are those that include only information that is not protected by statute, regulation or DOE policy, and is determined to be releasable to the general public, are held in locations that are accessible to the general public, and are available for attendance by the general public.

   b. Exemption. Access by foreign nationals 17 years of age or younger who are involved in non-work-related activities is exempt from this CRD.

   c. Exemption. Unclassified events and activities that occur outside the United States or its territories do not fall under the purview of this CRD.

3. REQUIREMENTS. Foreign national access to contractor managed/operated sites, programs, information, and technologies will be approved provided the access is needed to support DOE program objectives and/or U.S. national interests.

a. Documentation. The Foreign Access Central Tracking System (FACTS) is the Department's official national database on unclassified foreign visits and assignments (UFVAs). Access to FACTS is limited to U.S. citizens. Contractors will enter all required information regarding UFVAs that require documentation, as detailed in Attachment 2 of this CRD, in FACTS.

b. Lawful Immigration Status, Citizenship, and Identity. Sufficient documentation of immigrant or nonimmigrant status, citizenship, and identity is required for all foreign visitors and assignees at DOE sites, facilities and laboratories to verify identity and authority to work (when applicable for the activities involved) and to ensure that the foreign national is eligible (in lawful immigration status) to be in the United States. With the exception of assignments for intermittent periods by foreign nationals entering the United States under the Visa Waiver Program, temporarily for business or pleasure, or as Canadian citizens who do not require entrance visas, the lawful immigration status of foreign nationals must be valid for the duration of the visit or assignment.

c. Security Plans. UFVAs must be covered by an approved contractor SSP or SSSP that addresses risk and sensitivity factors including security area type to be accessed, determination of whether sensitive subjects will be shared, and affiliation with sensitive countries or countries identified as state sponsors of terrorism. The SSP or SSSP must document the site subject matter expert (SME) review, host, and escort requirements to ensure:

(1) that national security assets are protected;

(2) that appropriate export control and technology transfer reviews, and determinations of export license requirements, are conducted;

(3) coordination with site counterintelligence and intelligence (when there is a field intelligence element onsite) elements;

(4) that nationals of state sponsors of terrorism do not host other foreign nationals; and,

(5) that SME reviews, as required in the SSP or SSSP, are documented in FACTS.

d. Indices Checks. UFVAs may require indices checks based on the involvement of nationals of state sponsors of terrorism or sensitive country nationals, sensitive subjects, or access to security areas other than general access areas (GAAs) or

property protection areas (PPAs)[1] (See Attachment 2 of this CRD for applicability). Indices checks are coordinated by the Office of Intelligence and Counterintelligence, and shall be requested by the contractor through the process of documenting access requests in FACTS. Indices checks are valid for a period of 2 years from the indices start date, as documented in FACTS by the Office of Intelligence and Counterintelligence.

In cases where indices checks must be completed before access approval determination:

(1) The request must be documented in FACTS with sufficient time to complete the indices checks.

(a) If there are valid indices checks for the foreign national documented in FACTS, the indices checks will be considered completed upon documentation of the request in FACTS using the existing FACTS biographical record for that foreign national.

(b) If there are no existing valid indices checks for the foreign national documented in FACTS, it is recommended that the request be entered into FACTS 30 days prior to the start date of the request to ensure adequate time for completion of indices checks.

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[1] 50 U.S.C. 2652(a), enacted as part of Public Law 106-65 – October 5, 1999, National Defense Authorization Act of Fiscal Year 2000, states that a background review (indices check) must be completed prior to access to any facility of a national laboratory by an individual who is a citizen or agent of a nation on the sensitive countries list. This provision does not preclude access to areas accessible to the general public, at Lawrence Livermore National laboratory, Los Alamos National Laboratory, and Sandia National Laboratories Albuquerque, New Mexico and Livermore, California.

(1) Access Approval Determinations. For all foreign national access approval requests, the following apply.

(a) All information from the review process must be taken into consideration, and potential impacts on site operations must be evaluated.

(b) Determination of access approval must ensure that any identified risk to the Government associated with the access granted has been appropriately evaluated and mitigated.

(c) Legal and policy-related terms and conditions associated with the proposed visit or assignment must be met before approval. Those terms and conditions include, but are not limited to, visa status conditions and requirements, right-to-work requirements, and international agreements.

(d) Approval determinations must be documented in FACTS.

(2) Assignment of Approval Authority. Approvals for foreign national access must be consistent with line management accountability requirements.

(a) Approval Authorities must be U.S. citizens.

(b) Field Sites. Line management accountability flows from the Secretary of Energy, through the Under Secretaries, to program secretarial officers (PSOs), to heads of DOE field elements,[2] to the contractor site management official or laboratory director, who has been assigned specific authority and responsibility to approve access. When the contractor site management official or laboratory director is not a U.S. citizen, the head of the cognizant DOE field element will assign approval authority to another management official. Final approval authority can be assigned to hosting contractor site management officials or laboratory directors for access requests for sensitive country nationals, nonsensitive country nationals, and nationals of state sponsors of terrorism who are lawful permanent resident of the United States.

A contractor or laboratory director may reassign approval authority only to another U.S. citizen employee. Further assignment of approval authority is not allowed. Reassignment of approval authority must be in writing and must be promulgated by the approval authority. Site management officials and laboratory directors will be held accountable for all of their own approval

[2] Field elements include operations offices, service centers, site offices, area offices, and regional offices of federally staffed laboratories.

decisions or decisions made by those to whom they have reassigned approval authority.

(c) Nationals of State Sponsors of Terrorism. Access requests for nationals of state sponsors of terrorism who are not lawful permanent residents require approval by the site approval authority before final approval determination. Final approval authority is held by the Secretary of Energy and can only be assigned to the Deputy Secretary, Under Secretary for Nuclear Security/Administrator of the National Nuclear Security Administration, Under Secretary of Energy, or Under Secretary for Science. The Deputy Secretary or appropriate Under Secretary, in consultation with the Office of Intelligence and Counterintelligence, will make the final approval determination for these access requests. Subsequent assignment requests extending access to that contractor site or laboratory may be approved by the contractor site or laboratory approval authority.

f. Graded Approach. The contractor will follow a graded approach for reviewing and approving access by foreign nationals to DOE sites, programs, information and technologies based on subject, location, and length of time of the requested access, as well as the country affiliation(s) of the individual to be granted access.

(1) Tables identifying the requirements for UFVA are included in Attachment 2 of this CRD.

(2) Special Situations.

(a) Foreign national emergency responders and medical personnel who require access do not require documentation in FACTS. This access must be covered by site security plans and procedures.

(b) International Atomic Energy Agency (IAEA) visits that are not inspection activities, as defined in the agreement between the United States and the IAEA, or that otherwise do not involve classified information or technologies, are unclassified and will be documented in accordance with this CRD.

(c) Visits by foreign national delivery, service, and vendor personnel, if fully escorted and covered by the SSP/SSSP, do not require documentation in FACTS. If not escorted, the visits must be in compliance with the UFVA requirements applicable to the particular location to be accessed, as set forth in Attachment 2 to this CRD.

(d) Foreign national participation in Work for Others projects which involves access to DOE sites, or to DOE information that is not

releasable to the public, are considered visits and assignments and will be in accordance with all requirements of this CRD.

4. RESPONSIBILITIES.

a. Heads of Hosting Sites. Hosting sites may include contractor operated field sites, national laboratories, and other DOE operating entities.

(1) Consistent with an authorized assignment of authority, serve as the approval authority for UFVA activities and programs within their organizations.

(2) Implement the UFVA program consistent with guidance and direction from the head of the DOE field element with direct responsibility for program performance.

(3) Designate points of contact (POCs) for UFVA program management, and provide contact information to the cognizant DOE field element and lead program Secretarial Officer (LPSO), and to the Office of Health, Safety and Security.

(4) Ensure that program-specific guidance is issued and followed, corrective actions are implemented as appropriate, and program responsibilities associated with the presence of foreign nationals are met.

(5) Ensure a systematic, effective process to provide managers, planners and hosts with appropriate guidance and insight regarding all technologies and information that could lead into sensitive or export controlled areas, and to ensure that sensitive or export controlled technologies and information are identified.

(6) Ensure that the requirements of this CRD are applied to Work for Others projects that require foreign national access to DOE sites, facilities, or laboratories, or to DOE information that is not releasable to the general public.

(7) Ensure that the UFVA program is included in organizational self-assessments.

b. Hosting Unclassified Foreign Visitors and Assignees. The contractor hosting a UFVA is responsible for the activities associated with the successful accomplishment of the visit or assignment. The contractor must ensure that foreign nationals hosting other foreign nationals are DOE contractor employees. The contractor must ensure that nationals of state sponsors of terrorism do not host other foreign nationals. The contractor is responsible for the conduct and activities of the foreign nationals for whom it is identified as the host. The

contractor must ensure that the host for a UFVA is identified to the visitor or assignee as his/her POC, and that the following requirements are met:

(1) Compliance with all requirements for access approval and conduct, including timely, complete, and accurate information for FACTS, compliance with SSP or SSSP requirements, program sponsorship, and notification to workers regarding requirements as appropriate.

(2) Ensure that suspicious activities are reported in accordance with local reporting requirements.

(3) Provide the following information to the foreign nationals the contractor his responsible for hosting:

(a) The terms and conditions of access approval, including restrictions and requirements to notify the host of changes in name, immigrant/nonimmigrant status, and other information as required.

(b) The requirement to notify the responsible host of any civil or criminal problems that could affect their status and association with DOE.

(c) That the failure to provide appropriate documentation when require or providing fraudulent documentation will result in suspension of access approval, removal from the site, and possible cancellation of future access.

c. Escorting Foreign National Visitors and Assignees. The contractor is responsible for ensuring that foreign nationals working or traveling within a site are escorted, when required, as identified by the SSP or SSSP, to ensure there is no unauthorized access. The contractor must also ensure compliance with all requirements for escorts identified in the SSP or SSSP.

5. DEFINITIONS. Terms commonly used in the program are defined in the Unclassified Foreign Visits and Assignments Program Definitions, available through the HSS public web site, www.hss.energy.gov/hss/references/security/FV&A/unclassified_foreign_visits_and_assignments_program_definitions.pdf, and through FACTS.

UNCLASSIFIED FOREIGN VISITS AND ASSIGNMENTS GRADED APPROACH[1] GENERAL ACCESS AREAS, PROPERTY PROTECTION AREAS AND OFFSITE VISITS AND ASSIGNMENTS[2]

(All sites where classified work is not conducted)

	Sensitive Subjects	FACTS Documentation and Timeliness Requirements	Indices Checks and Completion Requirements	Approval Authority
Visit – Nonsensitive Country	No	Not required	Not required	Site or Headquarters (HQ) Office
	Yes	No later than start date	Do not have to be completed by start date	
Visit - Sensitive Country	No	Not required	Not required	Site or HQ Office
	Yes	No later than start date	Do not have to be completed by start date	
Visit - State Sponsor of Terrorism	Yes or No	In time to obtain indices checks	Must be completed before approval determination	- Lawful Permanent Residents (LPRs) – Site or HQ Office - All Others - Deputy Secretary or cognizant Under Secretary
Assignment – Nonsensitive Country	No	Not Required	Not Required	Site or HQ Office
	Yes	No later than start date	Do not have to be completed by start date	
Assignment - Sensitive Country	No	No later than start date	Do not have to be completed by start date	Site or HQ Office
	Yes	No later than start date	Do not have to be completed by start date	
State Sponsor of Terrorism Assignment	Yes or No	In time to obtain indices checks	Must be completed before approval determination	- LPRs – Site or HQ Office - All Others o Initial – Deputy Secretary or cognizant Under Secretary o Subsequent– Site or HQ Office

[1] This Attachment provides requirements applicable to Departmental elements subject to DOE O 142.3A as set forth in the Order, and to contracts in which the CRD (Attachment 1 to DOE O 142.3A) is inserted.

[2] These requirements apply only to those visits and assignments conducted in support of DOE missions and goals, or that otherwise involve access to DOE information or technologies.

General Access Areas (GAAs) and Offsite Visits and Assignments[3]

(All sites where classified work is conducted)

	Sensitive Subjects	FACTS Documentation and Timeliness Requirements	Indices Checks and Completion Requirements	Approval Authority
Visit - Nonsensitive Country	No	Within 5 days after start date	Not required	Site or Headquarters (HQ) Office
	Yes	In time to obtain indices checks	Must be completed before approval determination	
Visit - Sensitive Country	No	Within 5 days after start date	Do not have to be completed by start date	Site or HQ Office
	Yes	In time to obtain indices checks	Must be completed before approval determination	
Visit - State Sponsor of Terrorism	Yes or No	In time to obtain indices checks	Must be completed before approval determination	- LPRs – Site or HQ Office - All Others - Deputy Secretary or cognizant Under Secretary
Assignment - Nonsensitive Country	No	Within 5 days after start date	Not Required	Site or HQ Office
	Yes	In time to obtain indices checks	Must be completed before approval determination	
Assignment - Sensitive Country	No	Within 5 days after start date	Do not have to be completed by start date	Site or HQ Office
	Yes	In time to obtain indices checks	Must be completed before approval determination	
State Sponsor of Terrorism Assignment	Yes or No	In time to obtain indices checks	Must be completed before approval determination	- LPRs – Site or HQ Office - All Others o Initial– Deputy Secretary or cognizant Under Secretary o Subsequent – Site or HQ Office

[3] These requirements apply only to those visits and assignments conducted in support of DOE missions and goals, or that otherwise involve access to DOE information or technologies.

Visits and Assignments to Property Protection Areas
(Sites where classified work is conducted)

	Sensitive Subjects	FACTS Documentation and Timeliness Requirements	Indices Checks and Completion Requirements	Approval Authority
Visit – Nonsensitive Country	No	No later than first day of access	Not required	Site or Headquarters (HQ) Program Office
	Yes	In time to obtain indices checks	Must be completed before approval determination	
Visit - Sensitive Country (LLNL, LANL, SNL/NM, SNL/CA)	Yes or No	In time to obtain indices checks	Must be completed before site access	Site or HQ Office
Visit – Sensitive Country (all other sites where classified work is conducted)[4]	No	No later than first day of access	Do not have to be completed before site access	Site or HQ Office
	Yes	In time to obtain indices checks	Must be completed before approval determination	
Visit - State Sponsor of Terrorism	Yes or No	In time to obtain indices checks	Must be completed before approval determination	- LPRs – Site or HQ Office - All Others - Secretary or assignee
Assignment – Nonsensitive Country	No	No later than first day of access	Not required	Site or HQ Office
	Yes	In time to obtain indices checks	Must be completed before approval determination	
Assignment - Sensitive Country (LLNL, LANL, SNL/NM, SNL/CA)	Yes or No	In time to obtain indices checks	Must be completed before site access	Site or HQ Office
Assignment – Sensitive Country (all other sites where classified work is conducted)	No	No later than first day of access	Do not have to be completed before sites access	Site or HQ Office
	Yes	In time to obtain indices checks	Must be completed before site access	
State Sponsor of Terrorism Assignment	Yes or No	In time to obtain indices checks	Must be completed before approval determination	- LPRs – Site or HQ Office - All Others o Initial –Secretary or assignee o Subsequent – Site or HQ Office

[4] 50 U.S.C. 2652(a), enacted as part of Public Law 106-65 – October 5, 1999, National Defense Authorization Act for Fiscal Year 2000, requires that a background review (indices check) must be completed prior to access to any facility of a national laboratory by and individual who is a citizen or agent of a nation on the sensitive countries list. This provision does not preclude access to areas accessible by the general public at Lawrence Livermore National Laboratory (LLNL), Los Alamos National Laboratory (LANL), and Sandia National Laboratories Albuquerque, New Mexico (SNL/NM) and Livermore, California (SNL/CA). The designated Federal Bureau of Investigation (FBI) Agent in the Lab at each site, in concert with the local FBI field office, will conduct on-site indices checks utilizing the National Automated Case Support system to satisfy the indices checks requirement of 50 U.S.C. 2652(a).

Visits and Assignments to Security Areas Other Than General Access Areas and Property Protection Areas

	FACTS Documentation	Indices Checks	Approval Authority
Visits and Assignments - Nonsensitive Country	In time to obtain indices checks	Must be completed before approval determination	Site or Headquarters (HQ) Office
Visits and Assignments - Sensitive Country	In time to obtain indices checks	Must be completed before approval determination	Site or HQ Office
Visits and Assignments - State Sponsor of Terrorism	In time to obtain indices checks	Must be completed before approval determination	- LPRs – Site or HQ Office - All Others o Visits and Initial assignments – Secretary or assignee o Subsequent – Site or HQ Office