

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

### **September 27, 2024**

- Reformatted entire document to add sections and provide uniformity with other HQFMSP Chapters.
  - Added SIGMA and SCI access authorization approval requirements.
  - Updated DOE O 470.4b Chg. 2 to reflect latest change DOE O 470.4b Chg.3
  - Updated NISPOM language throughout the document to reflect 32 CFR Part 117, National Industry Security Program Operating Manual (NISPOM) Rule.
  - Reorganized paragraphs for better outline of procedures.
  - Updated Roles and Responsibilities for Facility Security Officer and Headquarters Security Officers (HSOs).
  - Separated Importance Ratings for Possessing and Non-Possessing Facilities.
  - Updated classified contract approval process to better outline timelines and scenarios.
  - Added overarching Federal directives for guidance on the NISP.
  - Added DCSA reciprocity FCL process to Section 402

## Chapter 4

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

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

- Executive Order 12829, *National Industrial Security Program*
- 32 CFR Part 117, *National Industrial Security Program Operating Manual (NISPOM) Rule*
- DOE Order 452.8, *Control of Nuclear Weapons Data*
- DOE Order 470.4B Chg. 3, *Safeguards and Security Program*

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

- Section 401 identifies the roles and responsibilities of HQ and contractor personnel involved in the Foreign Ownership, Control, or Influence (FOCI) / Facility Clearance (FCL) Program
- Section 402 discusses the requirements and procedures for registering contractor and Federal facility clearances.
- Section 403 describes the requirements and procedures used to register, extend, request reciprocity, terminate classified contracts, and the process for transferring and terminating facility clearances.
- Section 404 discusses the recurring requirements for Facility Security Officers to ensure their facilities remain in compliance with DOE Directives.

## Section 401

# FOCI/FCL Program Roles and Responsibilities

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

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

## HQ Implementation Procedures

### **HQ FOCI/Facility Clearance and Operations Program Manager:**

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

### **Procurement Request Originators:**

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

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

### **Contracting Officers:**

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

## **Contracting Officer's Representatives:**

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

## **Facility Security Officer:**

A Facility Security Officer (FSO) is a contractor employee specifically identified to perform security functions on behalf of their contract employer and considered a Key Management Personnel (KMP) per NISPOM requirements. The FSO is responsible for understanding DOE security requirements and ensuring the contractor complies with national policy and governing directives. The FSO must notify DOE of any significant changes to include but not limited to company ownership, changes of address, changes in KMP, change of physical location of approved FCL, etc. The FSO must complete the Facility Security Officer Overview Course, available on the DOE Learning Nucleus site. FSO training is required by DOE O 470.4B, Chg. 3 and must be completed within one year after a DOE FCL has been granted or formal FSO designation has been made by contracting company leadership.

## **Headquarters Security Officers (HSOs):**

HSOs are responsible for reviewing and submitting security clearance packages for contractor employees to DOE HQ Personnel Security, to include all KMP (see Section 301, Acquiring New Security Clearances). Before a request for a security clearance is submitted, HSOs ensure that all the classified contract-related information is registered in SSIMS. If the information is not registered in SSIMS, the HSO will work with the responsible COR to submit the required documentation to the FOCI/FCL Team for entry into SSIMS. When the FOCI/Facility Clearance and Approval Program Manager identifies the KMP and FSO for the company, the HSO will be notified. The HSO will coordinate with the FSO to complete clearance paperwork for KMPs and submit the documentation to the Office of Headquarters Personnel Security Operations within two weeks of the identification of the KMP. The clearance process for the KMPs may take at a minimum of 5 days if the individuals can be granted a DOE clearance via reciprocity. If a KMP cannot be reciprocally granted a clearance, they must be submitted as an applicant, which will increase the timeframe for granting the clearance as a background investigation will be required (more information on Security Clearance Actions can be found in the HQFMSP, Chapter 3, Section 303). HSOs are provided a copy of the completed DOE F 470.1, *Contract Security Classification Specification* (CSCS), which is used to register classified contracts in SSIMS. HSOs can request copies of completed CSCS and FDAR by contacting the HQ FOCI FAC TEAM to verify that the contract has been entered into SSIMS.

HSOs must be aware of all classified contracts that are in place to support their respective program office; therefore, HSOs must maintain copies of all registered CSCS and DOE F 470.2, *Facility Data and Approval Record* (FDAR). HSOs can request a copy of the contractor's FDAR by emailing HQ FOCIFACTEAM. HSOs must use these forms to enter the data into their element's Appendix to the HQFMSP. HSOs must remain in contact with the FSOs for each contract under their purview to help facilitate any changes necessary to keep company FCLs in compliance.

## Points of Contact

For the names and contact information for those occupying the positions identified in this section, call (202) 309-8817 or 301-903-9990.

## Section 402

# Facility Clearance Registration

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

## HQ Implementation Procedures

### Possessing Facilities:

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

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

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

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

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

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

### Non-Possessing (NP) Facilities:

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

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

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

## **FCL Clearance Requirements and Processing:**

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

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

## **Reciprocal FCLs**

If a contractor has an active FCL with an OGA under the National Industrial Security Program (NISP), the HQ FOCI/FCL Team will request FCL reciprocity from the OGA. Estimated time for this process may vary depending on the status or pending significant changes. The HQ FOCI/FCL Team will ensure the following:

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

*National Security Information Program for State, Local, Tribal, and Private Sector Entities*

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

## **Registering OGA FCLs and Their Contractors in SSIMS**

OGAs and their contractors must be registered in SSIMS to perform classified work for DOE or receive classified information from DOE. The requesting HQ element will consult with the HQ FOCI/Facility Clearance and Operations Program Manager to initiate and complete the registration process. The SSIMS registration must be completed by the HQ FOCI/Facility Clearance and Operations Program Manager.

If an OGA possessing facility is not registered in SSIMS, the requesting HQ element must send a *Statement of Security Assurance* (SSA) to the OGA security officer to complete and sign. The SSA must be returned to the HQ element and forwarded to the HQ FOCI/Facility Clearance and Operations Program Manager. Upon review by the HQ FOCI/Facility Clearance and Operations Program Manager, the SSA is used to develop the FDAR required to register the OGA in SSIMS. The SSA requires the OGA's security officer to notify the sponsoring DOE HQ Program Office and the HQ FOCI/Facility Clearance and Operations Program Manager if any changes are made to the information recorded in SSIMS. The SSA is valid for three (3) years from the date of entry into USSIMS and must be revalidated for continued access. The sponsoring DOE HQ Program Office must maintain accountability of SSAs under their purview and coordinate the revalidation and continued need for access of OGAs. The sponsoring DOE HQ Program Office must notify the HQ FOCI/Facility Clearance and Operations Program Manager within 30 days of expiration of the SSA to coordinate revalidation requirements.

When a DOE HQ element establishes a need-to-know for an OGA contractor (OGAC) without a contractual arrangement to receive classified matter. The Classified Mailing Address (CMA) for the OGAC may be verified in the National Industrial Security System (NISS) which is the Defense Counterintelligence and Security Agency (DCSA) system of record.

If an OGAC is not registered in SSIMS or NISS, the HQ FOCI/Facility Clearance and Operations Program Manager should be consulted for requirements.

## **Points of Contact**

For the names and contact information for those occupying the positions identified in this section, call (202) 309-8817 or 301-903-9990.



## Forms/References

[DOE F 470.2, Facility Data and Approval Record](#)

[DOE F 470.8, SURVEY/INSPECTION REPORT FORM](#)

[Statement of Security Assurance.](#)

## Section 403

# Classified Contract Lifecycle

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

## HQ Implementation Procedures

### Approving Classified Contracts:

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

After the PRO submits the CSCS and DOE F 4200.33 to the CO, the CO will prepare the solicitation, receive bids, consider the bids, and makes a tentative selection.

- ❖ As part of the solicitation process, the CO will include the cursory FOCI review questionnaire to the potential contractors to aide in the selection process. This cursory review will identify if a prospective awardee will be required to undergo a FOCI review and determination, or if the company has an existing FOCI determination and FCL with DOE or OGA. This review should be returned to the HQ FOCI/FCL Team 30 days prior to a tentative selection being made.

Once a tentative selection is made, the CO will contact the HQ FOCI/Facility Clearance and Operations Program Manager, and requests confirmation that the contractor has a favorable FOCI determination on file with DOE or OGA. The following outcomes will occur:

1. If the contractor already has a favorable FOCI determination on file:
  - a. The HQ FOCI/Facility Clearance and Operations Program Manager informs the CO within 5 days of the tentative selection notification.
  - b. The CO or COR must forward the completed CSCS and a copy of the fully executed awarded contract listing all option years for the period of performance, to the HQ FOCI/Facility Clearance and Approval Program Manager.
  - c. The HQ FOCI/Facility Clearance and Operations Program Manager reviews the CSCS to identify the appropriate FCL. The FCL must be granted before the

contractor and its employees can access classified matter. Prior to a DOE FCL being granted, all required KMP must possess a security clearance commensurate with the level of the FCL.

- d. Upon registration in SSIMS, a copy of the completed CSCS and company FDAR is sent to the HSO to submit for security clearances for the contractor employees supporting the approved contact. A contractor cannot be granted a security clearance unless the CSCS for that contract has been entered into SSIMS.
  - e. A copy of the completed CSCS will also be provided to EHSS-43 and the Badging Office by the HQ FOCI/FCL Team.
2. If the company tentatively selected to perform the contract does not have a FOCI determination:
- a. The company is required to submit a FOCI package for review by the HQ FOCI/Facility Clearance and Operations Program Manager.
  - b. The FOCI package must be submitted electronically via the e-FOCI website. The website provides complete information about the e-FOCI submission system and the required documentation. The length of this process will depend on the company's ownership, structure, and business ventures. Estimated time may vary depending on the content submitted and if there is any FOCI which requires mitigation. The HQ FOCI/Facility Clearance and Operations Program Manager renders a FOCI determination after considering all the information submitted by the contractor.
  - c. Once a FOCI determination is made, the CO and COR will be notified.
  - d. The CO and COR will then follow the same processing guidelines outlined above.
  - e. Sensitive Compartment Information access: If the contract requires access to Special Compartmentalized Information (SCI), a signature is required by the DOE HQ Special Security Officer or Director of Intelligence. This coordination for approval must be completed by the respective CO or COR prior to submission to the HQ FOCI/Facility Clearance and Operations Program Manager for registration in SSIMS.
  - f. SIGMA access: Upon determination of SIGMA access authorization. The CO or COR is responsible for coordinating with the respective SIGMA Control Office(s) to obtain approval for SIGMA program authorization.
    - i. SIGMA 14/15 access:
      - 1. NA 122.4: *Weapon Security and Control Division*
    - ii. SIGMA 20:
      - 1. NA 82: *Office of Nuclear Threat Science*

Depending on whether a contract entity maintains an active FCL and if there are any pending change conditions or significant changes, the timing of completing and registering a CSCS in SSIMS may vary. The FCL will not be granted and the CSCS will not be processed, until all required KMP are cleared at the level required for the classified contract.

### **Extension of Classified Contracts:**

When the period of performance for a classified contract is nearing the end date identified in SSIMS. The CO and/or COR must notify the HQ FOCI/Facility Clearance and Operations Program Manager period of performance (PoP) date on the CSCS must be updated to reflect the contract modification and entered SSIMS. This may be accomplished by completing a 'change' CSCS and providing a signed copy of the contract modification pages (which includes the new period of performance) to the HQ FOCI/Facility Clearance and Operations Program Manager. The CO and COR responsible for the contract are authorized to sign the 'change' CSCS and are the only DOE officials authorized to revise the contract period of performance. Before being sent to the HQ FOCI/Facility Clearance and Operations Program Manager, the 'change' CSCS and contract modification must be reviewed and approved by the supporting Classification Officer. For bridge contracts that have been issued a new contract number, a 'new' CSCS must be completed and signed by the CO, COR, and supporting Classification Officer.

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

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

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

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

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

## Points of Contact

For the names and contact information for those occupying the positions identified in this section, call (202) 309-8817 or 301-903-9990.

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

## Forms/References

[DOE F 470.1, Contract Security Classification Specification](#)

[DOE F 4200.33, Procurement Request Authorization](#)

[Security Activity Closeout Certification](#)

## Section 404

### Recurring Requirements for FSOs

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

1. Annual reviews are required for companies with a FOCI mitigation, companies with parent organizations excluded by formal resolution, or organizations that have filed board resolutions to reduce non-controlling foreign ownership.
2. Companies that are not required to report annually are subject to random reviews throughout the duration of their FCL lifecycle with DOE HQ. Companies will need to respond within 5 business days of notification of review. A delayed response could result in the suspension of the company's FCL.
3. DOE must be informed when certain information about a contractor changes. The contractor's FSO must notify DOE within one week of the changes via the e-FOCI website. The following changes are reportable:
  - a. Changes in ownership, including stock transfers that affect control of the company.
  - b. Changes in the operating name or address of the company or any of its cleared branch locations.
  - c. Any change in KMP by submission of a 'significant change'. If a KMP does not have an active clearance, this can result in the suspension of the company's FCL. A Temporary Exclusion may be an option until the KMP is cleared with DOE.
  - d. Actions to terminate business or operations for any reason, including involvement in adjudication of or reorganization in bankruptcy
  - e. Written notification of any changes affecting FOCI or the answers to the questions presented in the latest Certificate Pertaining to Foreign Interests, or any changes in ownership or control that must be reported to the Securities and Exchange Commission, the Federal Trade Commission, or the Department of Justice.

### Points of Contact

For the names and contact information for those occupying the positions identified in this section, call (202) 309-8817 or email the [HQFOCI/FCL Team](#).

## Forms/References

Standard Operating Procedure for:

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