

SUPPORTING STATEMENT

By Defense Security Services (DSS)

“Department of Defense Security Agreement” (DD Form 441), “Appendage to the Department of Defense Security Agreement” (DD Form 441-1), and the “Certificate Pertaining to Foreign Interests” (Standard Form (SF) 328)

A. Justification

1. Need for Information Collection

Executive Order (EO) 12829, “National Industrial Security Program (NISP),” Section 202 (a) of EO 12829 stipulates that the Secretary of Defense shall serve as the Executive Agent for inspecting and monitoring the contractors, licensees, and grantees who require or will require access, to or who store or will store classified information; and for determining the eligibility for access to classified information of contractors, licensees, and grantees and their respective employees. Section 202 (d) of EO 12829 also authorizes the Executive Agent to issue, after consultation with affected agencies, standard forms that will promote the implementation of the NISP. The specific requirements necessary to protect classified information released to private industry are set forth in DoD 5220.22M, “National Industrial Security Program Operating Manual (NISPOM),” dated February 28, 2006. These requirements are necessary in order to preserve and maintain the security of the United States through establishing standards to prevent the improper disclosure of classified information. Department of Defense Directive, 5105.42, “Subject: Defense Security Service”, delineates the mission, functions and responsibilities of DSS. DSS is a Department of Defense Agency under the authority of the Under Secretary of Defense for Intelligence (USD(I)). DSS responsibilities include the administration and implementation of the Defense portion of the National Industrial Security Program (NISP), pursuant to EO 12829, Sec. 202.

2. Use of the Information

Private Industry must execute the DD Form 441, “Department of Defense Security Agreement,” which is an agreement between industry and the government. This legally binding document details the responsibility of both parties and obligates the contractor to fulfill the requirements outlined in DoD 5220.22M. The DD Form 441-1, “Appendage to Department of Defense Security Agreement,” is used to extend the DD Form 441 and the SF 328 to branch offices of the contractor. In order to evaluate a company’s eligibility for a Facility Security Clearance, an SF 328, “Certificate Pertaining to Foreign Interests,” is submitted to provide certification regarding elements of Foreign Ownership, Control or Influence (FOCI) as stipulated in NISPOM paragraph 2-302.

3. Use of Information Technology

(a) The DD Form 441, 441-1 and the SF 328 are currently available electronically on the World Wide Web as a means of distribution. The blank forms are currently maintained electronically by the DoD Washington Headquarters Service (WHS) and they have adopted Adobe Acrobat software as the format. DSS is also in the process of researching technology that would allow for the collection of data and/or scanned images pertaining to these forms in a common database.

(b) DSS is not in a position, however, to receive these forms electronically utilizing a digital signature, for the following reasons:

(i) In the case of corporations, the DD Form 441 and SF 328 require a Corporate Seal. The Seal provides evidence that the party signing has authority to act for the corporate entity.

(ii) Utilization of a digital signature imposes a heavier burden on the submitting contractor and the government, than the manual execution of the forms. These forms are legally binding documents and must be signed by company officials and government representatives. At the time these forms are normally executed (i.e., the beginning of the facility clearance process), company officials do not have a digital signature authority recognized by DSS (i.e., digital signature authority under the DoD Public Key Infrastructure (PKI) Program). Under DoD Policy, the PKI program requires an individual to have, at a minimum, a government National Agency Check (NAC) in place. Currently under the NISP, there is no requirement to have any kind of background/Agency check, solely for the purpose of executing these forms.

(iii) There is no requirement to re-execute these forms unless there is a material change to the legal entity (e.g., change in ownership/name/structure).

4. Efforts to Identify Duplication

The Department of Energy (DoE) developed an electronic SF 328 and database for their program, which allows contractors to submit their responses electronically. However, the completed form must be printed, signed and stamped with the company's corporate seal or witnessed by two individuals as currently required. DSS is considering the utilization of the DoE technology in the future, rather than continuing to rely on its current process for collection of data and the storage of these forms.

5. Methods Used to Minimize Burden on Small Entities

This collection of information does not have a significant impact on small businesses or other entities.

6. Consequences of Not Collecting the Information

If the data is not collected at least one time and/or on occasion (e.g., initial facility clearance processing, when the respondent changes: Name; Organizational Structure; Moves; or Upon Request), DSS will not be able to evaluate the contractor's continued eligibility to participate in the NISP; ensure the protection of classified information, and maintain current records.

7. Special Circumstances

There are no special circumstances.

8. Agency 60 Day Federal Register Notice and Consultations Outside the Agency

A Federal Register Notice appeared on August 27, 2007 (Volume 72, Number 165). No comments were received during the established window of review. A copy of the Federal Register Notice is attached. Since the publication of the Notice, burden hours were revised in the Supporting Statement to reflect a lower amount due to a decrease in the utilization of the forms.

9. Payments to Respondents

No payments or gifts will be provided to the respondents.

10. Assurance of Confidentiality

Responses to some of the questions on the SF 328 may reveal company proprietary or commercial confidential information. When the report is offered in confidence and so marked by the contractor, applicable exemptions of the Freedom of Information Act will be invoked to withhold it from public disclosure. This advisement is contained on the forms.

11. Sensitive Questions

There are no sensitive questions asked in this collection as defined by the OMB 83-I Inst., 10/95.

12. Estimates of Hour Response Burden and Annual Cost to the Respondent

(a) Respondent Burden:

(1) DoD Form 441

(i) Responses Per Respondent: 1

(ii) Number of Respondents: 2,640.5

(iii) Hours Per Response: 14 minutes

(iv) Annual Burden: 616.12 hours (2,640.5 x 14 minutes = 36,967 minutes/60)

(2) DoD Form 441-1

- (i) Responses Per Respondent: 1
- (ii) Number of Respondents: 2,640.5
- (iii) Hours Per Response: 10 minutes
- (iv) Annual Burden: 440.83 hours (2,640.5 x 10 minutes = 26,405 minutes/60)

(3) SF Form 328

- (i) Response Per Respondent: 1
- (ii) Number of Respondents: 2,640.5
- (iii) Hours Per Response: 70 minutes
- (iv) Annual Burden: 3,080.58 hours (2,640.5 x 70 minutes = (184,835 minutes/60)

(4) DD Form 441 and SF 328

- (i) Response Per Respondent: 2
- (ii) Number of Respondents: 2,640.5
- (iii) Hours Per Response: 84 minutes (14 minutes + 70 minutes)
- (iv) Annual Burden: 3,696.7 hours (2640.5 x 84 minutes = 221,802 minutes/60)

(5) Total Annual Burden Hours:

- | | |
|--------------------------------|----------------|
| (i) DD Form 441-1: | 616.12 |
| (ii) DD Form 441: | 440.83 |
| (iii) SF 328: | 3,080.58 |
| (iv) SF 328 and DD Form 441: | <u>3,696.7</u> |
| (v) Total Annual Burden Hours: | 7,834.23 |

(6) Estimated Average Annual Burden

- (i) Number of Respondents: 2640.5
- (ii) Number of Responses per Respondent: 1-2
- (iii) Total Annual Responses: 2640.5 - 5281
- (iv) Average Annual Burden Hours per Respondent: 1.5

(b) Respondent Cost

(1) Annual Cost to Respondent:

(i) DD Form 441-1:	\$ 6.30	(10 minutes x \$.63)
(ii) DD Form 441:	\$ 8.82	(14 minutes x \$.63)
(iii) SF 328:	\$ 44.1	(70 minutes x \$.63)
(iv) DD Form 441 and SF 328:	\$ 52.92	(84 minutes x \$.63)

(2) Total Annual Cost to Respondents:

(i) DD Form 441-1:	\$ 23,437.21	(616.12 hours x \$38.04)
(ii) DD Form 441:	\$ 16,769.17	(440.83 hours x \$38.04)
(iii) SF 328:	\$ 117,185.26	(3,080.58 hours x \$38.04)
(iv) DD Form 441 and SF 328:	\$ 140,622.47	(3,696.7 hours x \$38.04)

(c) Explanation of Respondent Average Burden Hours and Cost:

- 3
- (1) DD Form 441: 14 minutes average processing time
 - (2) DD Form 441-1: 10 minutes average processing time
 - (3) SF 328: 70 minutes average processing time
 - (4) DD Form 441 and SF 328: 84 minutes average processing time
 - (5) Total Average Burden Hours: 14 minutes + 10 minutes + 70 minutes = 94 minutes or 1.5 hours
 - (6) Cost to respondent is based on the approximate salary of a GS-12 Step1 in the Washington, D.C, Maryland and Virginia area (Effective January 2007):
 $\$38.04$ (rate per hour)/60 (minutes) = $\$.63$ (rate per minute)

13. Estimates for Cost Burden

(a) Total Capital and Start Up Costs: \$789,509.5

Total Cost of Adobe Acrobat 6.0 Software: \$789,509.5 (\$299 x 2,640.5)

(b) Explanation of Total Capital and Start Up Cost to Respondent:

- (1) Estimated Cost of Adobe Acrobat 6.0 software: \$299.00
- (2) Number of annual respondents: 2,640.5

(c) Total Operation and Maintenance Cost: 0

14. Estimates of Annual Cost to Government:

(a) DoD Form 441

(1) Printing:	\$ 132.03	(\$.05 x 2,640.5)
(2) Postage:	\$ 1,082.61	(\$.41 x 2,640.5)
(3) Distribution and Review:	\$ <u>4,092.00</u>	(\$ 1.55 x 2,640)
(4) Total Cost:	\$ 5,306.64	

(b) DoD Form 441-1

(1) Printing:	\$ 132.03	(\$.05 x 2,640.5)
(2) Postage:	\$ 1,082.61	(\$.41 x 2,640.5)
(3) Distribution and Review:	\$ <u>4,092.00</u>	(\$ 1.55 x 2,640.5)
(4) Total Cost:	\$ 5,306.64	

(c) SF 328

(1) Printing:	\$ 132.03	(\$.05 x 2,640.5)
(2) Postage:	\$ 1,082.61	(\$.41 x 2,640.5)
(3) Distribution and Review:	\$ <u>4,092.00</u>	(\$1.55 x 2,640.5)
(4) Total Cost:	\$ 5,306.64	

(d) DD Form 441 and SF 328

(1) Printing:	\$ 264.05	(\$.05 x 5,281)
(2) Postage:	\$ 4,330.42	(\$.82 x 5,281)
(3) Distribution and Review:	\$ <u>8,185.55</u>	(\$1.55 x 5,281)
(4) Total Cost:	\$ 12,780.02	

(e) Total Annual Costs to the Government: \$ 28,699.94

(f) Explanation of Cost to the Government:

(1) Distribution and review costs are based on the salary of a GS-6 Step 5 (Effective January 2007): \$18.39 (rate per hour)/60 (minutes) = \$.31 (rate per minute).

(2) There is a 5 minute distribution and review time per blank form (5 minutes x \$.31 = \$1.55)

3 (3) Printing: \$.05 per form

(4) Postage: \$.41 per form

15. Program Changes and Adjustments

An adjustment reflecting a decrease in total average burden hours was made based on new estimates. Annual reporting and record keeping costs reflect an increase, due to the adoption of Adobe Acrobat software for maintaining the forms and the estimated cost to the contractor to purchase the software.

16. Publication Plans/Time Schedule

There are no plans to publish or tabulate the information collected.

17. Approval Not to Display Expiration Date

Approval is not sought for avoiding display of the expiration date for OMB approval of the information collection.

18. Exceptions to the Certificate Statement

There are no exceptions to the Certificate Statement.

B. Collection of Information Employing Statistical Methods

Statistical methods are not employed for collection of this information.