

SUPPORTING STATEMENT – Part A

Defense Security Services (DSS)

**“Department of Defense Security Agreement” (DD Form 441),
“Appendage to Department of Defense Security Agreement” (DD Form 441-1), and the
“Certificate Pertaining to Foreign Interests” (SF 328) – OMB Control Number: 0704-0194**

A. Justification

1. Need for Information Collection

Executive Order (EO) 12829, as amended, “National Industrial Security Program (NISP),” Section 202 (a) 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 (e) 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 Department of Defense (DoD) 5220.22-M, “National Industrial Security Program Operating Manual (NISPOM),” dated February 28, 2006, as amended by Conforming Change 2, dated, May18, 2016. These forms are mandated in the DoD Industrial Security Regulation, DoD 5220.22-R, dated December 1985, as amended and the 5220.22 -NISP Volume 3, “National Industrial Security Program: Procedures for Government Activities Relating to Foreign Ownership, Control or Influence (FOCI),” dated April 17, 2014. An Interim Final Rule was issued for the NISP Volume 3 procedures to be added to 32 Code of Federal Regulations (CFR) Part 117 in the Federal Register, on April 9, 2014. The Federal Acquisition Regulation also levies the use of these forms on contractors and government agencies. 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 DoD 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 NISP as the DoD Cognizant Security Office, pursuant to EO 12829, Sec. 202.

2. Use of the Information

Contractor’s, licensee and grantees (collectively called contractors for the purpose of this document) awarded contracts involving access to classified information must have a Facility Clearance (FCL) under the NISP. Contractors are sponsored for facility clearances by a government agency (GCA) or another cleared contractor (Prime or subcontractor) in accordance with the terms of their contract and NISPOM paragraph 2-100 and 2-102. After approving the GCA or cleared contractor’s sponsorship request, the DSS Facility Clearance Branch (FCB) registers the company in process for a Facility Clearance (FCL) for an electronic database (e-

FCL) account and provides them a welcome package with FCL processing guidance. The account is issued to the company's Facility Security Officer. In order to evaluate a company's eligibility for a FCL, per instructions from the FCB, the SF 328 is submitted through e-FCL by a contractor representative to certify elements of Foreign Ownership, Control, or Influence (FOCI) as stipulated in NISPOM paragraph 2-302. In addition, a contractor executes the DD Form 441, "Department of Defense Security Agreement," which is an agreement between the contractor and the government, as required under contract clause 52-.204-2, "Security Requirements". This legally binding document details the responsibility of both parties and obligates the contractor to fulfill the requirements outlined in the NISPOM along with supporting contract clauses. The DD Form 441-1, "Appendage to Department of Defense Security Agreement," is used to extend the DD Form 441 and the "Certificate Pertaining to Foreign Interest", Standard Form (SF) 328, to branch offices of the contractor. Agency Disclosure Notices are located on the DD Form 441, DD Form 441-1 and the SF 328. Completion of the forms are voluntary on the part of the contractor, however, an FCL cannot be issued if the forms are not completed. The signing of these forms do not guarantee the award of a contract, or issuance of an FCL or Personnel Security Clearance, nor do they obligate the government to provide any type of compensation or fringe benefits. Contractors are not obligated to work for the government.

3. Use of Information Technology

(a) DD Form 441, 441-1, and SF 328 are currently available electronically on the World Wide Web through the Defense Technical Information Center (DTIC) 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 has also adopted technology that allows for electronic submission of data and/or scanned images pertaining to these forms into an Electronic-Facility (e-FCL) database. The contractor is advised in the E-FCL frequently asked questions how to register for an account and the system access requirements. Contractors require a network connection or an internet service provider connection in order to access the Internet from their computer. E-FCL is compatible with most Internet browser, such as, Microsoft Internet Explorer, and Mozilla Fox Fire. The most recent version of the browser is recommended. Documents are submitted electronically approximately 99 percent of the time. On occasion there may be technology issues which may require the contractor to receive or send the forms by hand carriage or mail.

(b) The forms, however, continue to require hand written signatures prior to electronic submission to DSS. DSS is not in a position, to receive these forms electronically utilizing a digital signature, for the following reasons:

(i). These forms are legally binding documents and must be signed by company officials, witnesses and government representatives. At the time these forms are normally executed (i.e., the beginning of the facility clearance process), company officials and/or witnesses 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.

(ii) 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 /significant foreign control or influence).

4. Non-duplication

The Department of Energy (DoE) developed an electronic SF 328 database for their program, which allows contractors to submit their responses electronically. DSS adopted the DoE technology and had an e-FCL database established as referenced in Section 3 above. By contract, the infrastructure for the DSS database resides with DoE. DSS is required to pay its “fair share” of the costs of the operation and maintenance of the system. As part of this OMB package, DSS is modifying the DD Form 441 and SF 328 to remove the requirement for use of a manual corporate seal. Industry will continue to certify that the person signing the forms is an authorized representative of the company. Witness(s) to the signature will be required. A new expiration date will be added to the forms and their Agency Disclosure Notices (ADN) will be revised to update the address of the Washington Headquarters Service (WHS). The DD Form 441-1 will not change except for a new expiration date and the revised ADN reflecting the updated WHS address. The Burden Minutes for each individual Form will not change, (i.e., SF 328 – 70 minutes, DD Form 441 – 14 minutes and DD Form 441-1 – 10 Minutes).

5. Burden on Small Business

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

6. Less Frequent Collection

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; address; 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. Paperwork Reduction Act Guidelines

There are no special circumstances requiring the collection to be conducted in an inconsistent manner.

8. Consultation and Public Comments

Part A: Public Notice: A 60-Day Federal Register Notice appeared on May 15, 2015 (80 FR 27938). No comments were received from the public during the established comment windows. A 30-Day Federal Register Notice was published on July 22, 2016 (81 FR 47790).

Part B: Consultation: Proposed revisions to the forms were also coordinated with the Military Services and the Under Secretary of Defense for Intelligence (USD (I)), Security Directorate via the DD Form 67, "Form Processing Action Request". The Military Services concurred with the proposed changes. USD (I), Security Directorate partially concurred with the proposed changes to the DD Form 441 and SF 328. USD (I), Security Directorate accepted the deletion of the section which required a manual corporate seal. However, USD (I), Security Directorate requested that DSS add a sentence in which the contractor certifies that the contractor representative executing the form is authorized to bind the company to the agreement. USD (I), Security Directorate also requested that DSS drop the phrase "legally competent" in our criteria for the witness. DSS accepted the changes requested.

9. Gifts or Payments

No payments or gifts will be provided to the respondents.

10. Confidentiality

Contractors posting documents in E-FCL are advised of the following:

"This is an Official U.S. Government internet system for authorized use only. Do not discuss, enter, transfer, process, or transmit classified/sensitive national security information of greater sensitivity than that for which this system is authorized. Use of this system constitutes consent to security testing and monitoring. You are further advised that system administrators may provide evidence of possible criminal activity identified during such monitoring to appropriate law enforcement officials. Unauthorized attempts to upload, download or change information on this system is strictly prohibited and may be punishable under the Computer Fraud and Abuse Act of 1987, the National Information Infrastructure Protection Act of 1996, and United States Code Title 18, section 1030. Under the Privacy Act of 1974, you must safeguard personnel information retrieved through this system. Disclosure of information is governed by Title 5, United State Code, Section 552a Public Law 93-579, DoDD 5400.11, DoDR 5400.11-R and the applicable services directives. Information contained herein is exempt from mandatory disclosure under the FOIA. Exemption(s) 6 and 7c apply."

Responses to some of the questions on the SF 328 may reveal company proprietary or commercial confidential information. When the SF 328 is offered in confidence and so marked by the contractor, the SF 328 advises the contractor under the "Provision" section of the form that applicable exemptions of the Freedom of Information Act will be invoked to withhold it from public disclosure.

11. Sensitive Questions

There are no sensitive questions asked in this collection.

12. Respondent Burden, and its Labor Costs

(a) Estimation of Respondent Burden

Estimation of Respondent Burden Hours					
	Number of Respondents	Number of Responses per Respondent	Number of Total Annual Responses	Response Time (Amount of time needed to complete the collection instrument)	Respondent Burden Hours (Total Annual Responses multiplied by Response Time) Please compute these into hours)
Collection Instrument #1: SF 328	2,830	1	2,830	70 minutes	3,301.67 hours
Collection Instrument #2: DD Form 441	2,992	1	2,992	14 minutes	698.13 hours
Collection Instrument #3: DD Form 441-1 Form number)	1,029	1	1,029	10 minutes	171.50 hours
Combined Total	6,851	3	6,851	94 min or 1.5 hours	4,171.30 hours

Respondent Burden:

(1) DoD Form 441

- (i) Responses Per Respondent: 1
- (ii) Number of Respondents: 2992
- (iii) Average Hours Per Response: 14 minutes
- (iv) Total Annual Burden: 698.13 hours = (2992 x 14 minutes = 41,888 minutes/60)

(2) DoD Form 441-1

- (i) Responses Per Respondent: 1
- (ii) Number of Respondents: 1,029
- (iii) Average Hours Per Response: 10 minutes

(iv) Total Annual Burden: 171.5 hours = (1,029 x 10 minutes = 10,290 minutes/60)

(3) SF 328

- (i) Responses Per Respondent: 1
- (ii) Number of Respondents: 2,830
- (iii) Average Hours Per Response: 70 minutes
- (iv) Annual Burden Hours: 3,301.67 hours = (2,830 x 70 minutes = 198,100 minutes/60)

(4) Combined Number of Respondents:

- (i) DD Form 441: 2,992
- (ii) DD Form 441-1: 1,029
- (iii) SF 328: 2,830
- (iv) Combined Total Number of Respondents: 6,851

(5) Combined Total Average Hours Per Respondent: 94 minutes or 1.5 hours = (14 minutes + 70 minutes + 10 minutes)

(6) Total Annual Burden Hours

- (i) DD Form 441: 698.13
- (ii) DD Form 441-1: 171.50
- (iii) SF Form 328: 3,301.67
- (iv) Combined Total Annual Burden Hours: 4,171.30

(7) Total Number of Forms

- (i) DD Form 441: 2,992
- (ii) DD Form 441-1: 1,029
- (iii) SF 328: 2,830
- (iv) Combined Total Number of Forms: 6,851

(b) Estimated Labor Cost of Respondent Burden:

Estimated Labor Cost of Respondent Burden					
	Number of Responses	Response Time per Response	Respondent Wage	Labor Burden per Cost Response (Response Time multiplied by Respondent Hourly Wage)	Total Labor Burden Cost (Number of Respondents multiplied by Response Time multiplied by Respondent

					Hourly Wage)
Collection Instrument #1: SF 328	2,830	70 minutes	.73 (cents) per minute	\$ 51.1 cost	\$51.1 x 2,830 = \$144,613 total cost
Collection Instrument #2: DD Form 441	2,992	14 minutes	.73 (cents) per minute	\$10.22 cost	\$10.22 x 2,992 = \$30,578.24 total cost
Collection Instrument # 3: DD Form 441-1	1,029	10 minutes	.73 (cents) per minute	\$7.30 cost	\$7.30 x 1,029 = \$7,511.70 total cost
Combined Total					\$182,702.94

(1) Annual Cost to One Respondent

- (i) DD Form 441: \$7.30 = (10 minutes x \$.73)
- (ii) DD Form 441-1: \$10.22 = (14 minutes x \$.73)
- (iii) SF 328: \$51.1 = (70 minutes x \$.73)

(2) Total Annual Cost to Respondents

- (i) DD Form 441: \$30,578.24 = (\$10.22 x 2,992)
- (ii) DD Form 441-1: \$ 7,511.70 = (\$7.30 x 1,029)
- (iii) SF 328: \$144,613 = (2,830 x \$51.1)
- (iv) Combined Total Annual Cost: \$182,702.94 = (\$30,578.24 + \$7,511.70 + \$144,613)

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

- (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) Total Average Burden Hours: 14 minutes + 10 minutes + 70 minutes = 94 minutes or 1.5 hours per respondent
- (5) Cost to respondent is based on the approximate salary of a GS-13 Step 1 in the Washington, D.C, Maryland, and Virginia metropolitan area (Effective January 2015): \$43.52 (rate per hour)/60 (minutes) = \$.73 (rate per minute)

(6) Total number of respondents are based on the number of home office or division/branch offices applying for a FCL for the first time and requiring to execute the forms and/or those already in the program having to re-execute one of the forms due to a changed condition.

13. Respondent Cost Other than Burden Hour

Item	Estimated Respondent Capital Start Up Cost			
	Cost per Unit	Total Number of Responses (441, 441-1 and SF 328)	Percentage of cost toward DD 441, 441-1 and SF 328	Total Capital Start Up Cost = (total Unit Cost X Total Responses X Percentage)
Adobe Acrobat	\$300.00	6,851	10%	\$205,530
Internet Service Provider Per Year	\$360.00	6,851	10%	\$246,636
Computer	\$600.00	6,851	10%	\$411,060
Printer/Scanner	\$ 330.00	6,851	10%	\$226,083
Total				\$1,089,309

(a) Total Capital and Start Up Costs:

- (1) Total cost of Adobe Acrobat 6.0 Software: \$205,530 = (\$300 x 6,851 x .10)
- (2) Total cost of Internet Service Provider: \$246,636 = (\$360 x 6,851 x .10)
- (3) Total cost of computer purchase: \$411,060 = (\$600 x 6,851 x .10)
- (4) Printer/Scanner: \$226,083 = (\$330 x 6851 x .10)
- (5) Total Industry Capital Start Up Cost: \$1,089,309

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

- (1) Estimated cost of Adobe Acrobat 6.0 Software: \$300, percentage usage to support forms: 10%
- (2) Internet Service Provider: \$30.00 per month x 12 = \$360.00; percentage of usage to support the forms: 10%.
- (3) Computer purchase estimated at \$600.00; percent of usage to support forms: 10%
- (4) Estimate for printer/Scanner is \$330.00; percentage of usage to support forms:10%
- (5) Number of annual respondents: 6,851

Operational and Maintenance Costs				
Internet Service Provider	Printing	Postage	Software Licensing Renewals/Updates	Total
\$246,636	\$342.55	\$33.32	\$205,530	\$452,541.87

(c) Operations and Maintenance:

(1) Internet Service Provider: \$246,636 annually

(2) Incidental printing and postage based on 1% (.01) of total forms = 68.

i. Printing DD form 441: $.01 \times 2,992 = 30$ forms

ii. Printing DD Form 441-1: $.01 \times 1029 = 10$ forms

iii. Printing Sf 328: $.01 \times 2,830 = 28$ forms

iv. Postage: .49 cents

(3) Printing for Industry signatures: $6,851 \times .06 = \$342.55$

14. Estimates of Cost to Federal Government

	Estimate of Labor Cost to the Federal Government			
	SF 328	DD form 441	DD Form 441-1	Total
Number of Responses	2,830	2,992	1,029	6,851
Processing Time Per Response (in hours)	.5	.5	.5	
Hourly Wage of Worker(s) Processing Responses	\$39.04	\$39.04	\$39.04	
Cost to Process Each Response (Processing Time Per Response)	\$19.52	\$19.52	\$19.52	\$19.52

multiplied by Hourly Wage of Worker(s) Processing Responses)				
Total Cost to Process Responses (Cost to Process Each Response multiplied by Number of Responses	\$55,241.6	\$58,403.84	\$20,086.08	\$133,731.52

Federal Government Operational and Maintenance Costs						
Equipment/E-FCL/ Software and Licensing Fair Share	Printing	Postage				Total
\$325,500	\$342.55	\$33.32				\$325,875.87

Labor Cost to the Federal Government	Total Cost to the Federal Government	Total Cost (O&M Costs + Labor Cost)
	Operational and Maintenance Costs	
\$133,731.52	\$325,875.87	\$459,607.39

- (a) e-FCL fair share cost per Fiscal Year: $\$325,500 = (\$651,000 \times .50)$
- (b) Initial Review for Completeness Cost per IS Rep ($\$39.04$ AV salary per hour x .5 initial review time = $\$19.52$)
- (c) Incidental printing and postage based on 1% (.01) of total forms = 68.
 - i. Printing DD form 441: $.01 \times 2,992 = 30$ forms
 - ii. Printing DD Form 441-1: $.01 \times 1,029 = 10$ forms
 - iii. Printing Sf 328: $.01 \times 2,830 = 28$ forms
- (d) Printing for government signature: $6,851 \times .06$ cents = $\$342.55$
- (e) Explanation of Cost to Government

- (1) Review time costs based on GS 12 Step 3 salary as of January 2015 in the Washington DC metropolitan area: \$39.04 per hour.
- (2) Average initial review time of SF 328 in E-FCL: 30 minutes or .5 hours.
- (3) Postage cost per stamp is .49.
- (4) Printing Cost per Form is .06.

- (5) e-FCL fair share costs: Operations and maintenance costs are based on support to the following tasks: (i) System Administration and Operation; (ii) Cyber Security; (iii) Help Desk/User Help; (iv) Documentation; (v) Project Management/Controls; (vi) Travel, Meetings, and Miscellaneous Expenses. Support is provided by multiple individuals and equates to approximately 2.45 full time equivalent (FTE) years. One FTE is equivalent to approximately 2,000 hours. Approximately 50% of the usage of e-FCL supports the DD Form SF 328 processing requirements.

15. Reasons for Change in Burden

This is a reinstatement with change of a collection previously approved by OMB. Previous inventory was said to have been zeroed out. Capital/Start up and Annualized Costs to Industry reflect the estimated proportionate cost for the contractor's purchase and/or maintenance of associated software and hardware in order to complete the forms. Costs to the government are related to the estimated cost to receive and initially review the forms.

16. Publication of Results

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

17. Non-Display of OMB Expiration Date

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

18. Exceptions to "Certification for Paperwork Reduction Submissions"

There are no exceptions to the Certificate Statement.