

SUPPORTING STATEMENT – Part A

Department of Defense Security Agreement

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 Volume 2, “National Industrial Security Program: Industrial Security Procedures for Government Activities, dated August 2018, and Volume 3, “National Industrial Security Program: Procedures for Government Activities Relating to Foreign Ownership, Control or Influence (FOCI)” dated April 2014, of DoD Manual 5220.22. 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 DCSA. DCSA is a DoD Agency under the authority of the Under Secretary of Defense for Intelligence (USD (I)). DCSA 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

Contractors, licensees 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 contracting activity (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 DCSA Facility Clearance Branch (FCB) registers the company in process for a FCL for a National Industrial Security System (NISS) account and provides a welcome package with FCL processing guidance.

The DD Form 441, "Department of Defense Security Agreement," a legally binding agreement between the sponsored contractor and the government, must be executed during the FCL process and prior to the issuance of the FCL. This legally binding document details the responsibilities 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 to the branch offices of the sponsored contractor.

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 does 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

DD Forms 441 and 441-1 are available electronically for distribution via the Defense Technical Information Center (DTIC). Additionally, the blank forms are currently maintained electronically by the DoD Washington Headquarters Services (WHS) and they have adopted Adobe Acrobat software as the format. DCSA has also adopted technology that allows for electronic submission of data and/or scanned images pertaining to these forms into the NISS. The contractor is provided information on system access requirements and how to register for an account. Contractors require a network connection or an internet service provider connection in order to access the Internet from their computer. NISS is compatible with most Internet browsers, 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.

The forms, however, continue to require hand written signatures prior to electronic submission to DCSA. DCSA is not in a position, to receive these forms electronically utilizing a digital signature because these forms are legally binding documents and must be signed by company officials, witnesses and government representatives.

4. Non-duplication

The information obtained through this collection is unique and is not already available for use or adaptation from another cleared source.

5. Burden on Small Business

This information collection does not impose a significant economic impact on a substantial number of small businesses or 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), DCSA 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

This collection of information does not require collection to be conducted in a manner inconsistent with the guidelines delineated in 5 CFR 1320.5(d)(2).

8. Consultation and Public Comments

A 60-Day Federal Register Notice (FRN) for the collection published on Thursday, July 25, 2019. The 60-Day FRN citation is 84 FRN 35858.

No comments were received during the 60-Day Comment Period.

A 30-Day Federal Register Notice for the collection published on Wednesday, September 25, 2019. The 30-Day FRN citation is 84 FRN 50429.

9. Gifts or Payments

No payments or gifts are being offered to respondents as an incentive to participate in the collection.

10. Confidentiality

A Privacy Act Statement is not required for this collection because we are not requesting individuals to furnish personal information for a system of records.

A System of Record Notice (SORN) is not required for this collection because records are not retrievable by PII.

A Privacy Impact Assessment (PIA) is not required for this collection because PII is not being collected electronically.

Forms will be maintained in accordance with the approved NARA disposition.

11. Sensitive Questions

No questions considered sensitive are being 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	Respondent Burden Hours
DD Form 441	2,992	1	2,992	14 minutes	698.13 hours
DD Form 441-1	1,029	1	1,029	10 minutes	171.50 hours
Combined Total	4021	2	4021	24 minutes	869.63 hours

(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	Total Labor Burden Cost
DD Form 441	2,992	14 minutes	.73 (cents) per minute	\$10.22 cost	\$10.22 x 2,992 = \$30,578.24 total cost
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	4021	24 minutes	\$1.56	\$17.52	\$38,089.94

13. Respondent Cost Other than Burden Hour

Estimated Respondent Capital Start Up Cost				
Item	Cost per Unit	Total Number of Responses	Percentage of cost toward	Total Capital Start Up Cost
Adobe Acrobat	\$350.00	4021	10%	\$140,735
Internet Service Provider Per Year	\$360.00	4021	10%	\$144,756
Computer	\$600.00	4021	10%	\$241,260
Printer/Scanner	\$ 330.00	4021	10%	\$132,693
Total				\$659,444

Operational and Maintenance Costs				
Internet Service Provider	Printing	Postage	Software Licensing Renewals/Updates	Total
\$144,756	\$330.00	\$33.32	\$205,530	\$350,649.32

14. Estimates of Cost to Federal Government

	Total
Number of Responses	4,021
Processing Time Per Response (in hours)	1.0
Hourly Wage of Worker(s) Processing Responses	\$87.60
Cost to Process Each Response	\$21.90
Total Cost to Process Responses	\$88,059.90

Equipment/NISS/ Software and Licensing Fair Share	Printing	Postage	Total
\$325,500	\$330	\$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

15. Reasons for Change in Burden

This is a form renewal request with updates to reflect increases in cost. 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

The results of this information collection will not be published.

17. Non-Display of OMB Expiration Date

We are not seeking approval to omit the display of the expiration date of the OMB approval on the collection instrument.

18. Exceptions to “Certification for Paperwork Reduction Submissions”

We are not requesting any exemptions to the provisions stated in 5 CFR 1320.9.