

SUPPORTING STATEMENT - PART A

Department of Defense Security Agreement – 0704-0194

1. Need for the 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 32 CFR Part 117, “National Industrial Security Program Operating Manual (NISPOM),” dated December 21, 2020. These forms are mandated in 5220.32, Volume 1, “National Industrial Security Program: Industrial Security Procedures for Government Activities, dated August 2018, and 5220.32, Volume 2, “National Industrial Security Program: Procedures for Government Activities Relating to Foreign Ownership, Control or Influence (FOCI).” 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 Counterintelligence and Security Agency” (DCSA), delineates the mission, functions and responsibilities of DCSA. DCSA is a DoD Agency under the authority of the Under Secretary of Defense for Intelligence & Security (USD (I&S)). 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 an FCL by a government contracting activity (GCA) or another cleared contractor (prime or subcontractor) in accordance with the terms of their contract and 32 CFR 117. After approving the GCA or cleared contractor’s sponsorship request, the DCSA Facility Clearance Branch (FCB) registers the company in process for an 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. Contractors may access the forms on the DoD Forms website or DCSA's website. Completion of the forms is 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 the 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. Documents are submitted electronically 100 percent of the time. If technology issues arise the contractor may receive or send the forms by hand carriage or mail, if necessary.

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

5. Burden on Small Businesses

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 FCL 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. DCSA will lose privity, which allows DCSA to implement the requirements of the NISP at cleared contractors.

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

Part A: PUBLIC NOTICE

A 60-Day Federal Register Notice (FRN) for the collection published on Tuesday, July 26, 2022. The 60-Day FRN citation is 87 FR 44371.

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

A 30-Day Federal Register Notice for the collection published on Tuesday, October 25, 2022. The 30-Day FRN citation is 87 FR 64463.

Part B: CONSULTATION

No additional consultation apart from soliciting public comments through the Federal Register was conducted for this submission.

9. Gifts or Payment

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.

Records are retained and disposed in accordance with the approved NARA disposition. The NARA approved Records Schedule Number is DAA-0446-2022-0013.

11. Sensitive Questions

No questions considered sensitive are being asked in this collection.

12. Respondent Burden and its Labor Costs

1) Collection Instruments

Department of Defense Security Agreement DD-441

- a) Number of Respondents: 2,992
- b) Number of Responses Per Respondent: 1
- c) Number of Total Annual Responses: 2,992
- d) Response Time: 14 minutes
- e) Respondent Burden Hours: 698.13 hours

Department of Defense Security Agreement DD-441-1

- a) Number of Respondents: 1,029
- b) Number of Responses Per Respondent: 1
- c) Number of Total Annual Responses: 1,029
- d) Response Time: 10 minutes
- e) Respondent Burden Hours: 171.50 hours

2) Total Submission Burden

- a) Total Number of Respondents: 4,021
- b) Total Number of Annual Responses: 4,021
- c) Total Respondent Burden Hours: 870 hours

Part B: LABOR COST OF RESPONDENT BURDEN

1) Collection Instruments

Department of Defense Security Agreement DD-441

- a) Number of Total Annual Responses: 2,992
- b) Response Time: 14 minutes
- c) Respondent Hourly Wage: \$86.31
- d) Labor Burden per Response: \$20.14
- e) Total Labor Burden: \$60,255.89

Department of Defense Security Agreement DD-441-1

- a) Number of Total Annual Responses: 1,029
- b) Response Time: 10 minutes
- c) Respondent Hourly Wage: \$86.31
- d) Labor Burden per Response: \$14.39
- e) Total Labor Burden: \$14,802.17

2) Overall Labor Burden

- a) Total Number of Annual Responses: 4,021
- b) Total Labor Burden: \$75,058

The Respondent hourly wage was determined by using the Bureau of Labor Statistics Website: https://www.bls.gov/oes/current/oes_nat.htm. The individuals that completes these forms are typically Chief Executive Officer (11-1011 and makes \$86.31 as a median hourly wage) or other Executive Officer or Corporate Secretary.

13. Respondent Costs Other Than Burden Hour Costs

Printing: \$330 (printer/scanner cost) x 4021 (# of responses) x .01 (1% cost towards Form) = \$13,269.30

14. Cost to the Federal Government

Part A: LABOR COST TO THE FEDERAL GOVERNMENT

1) Collection Instruments

Department of Defense Security Agreement DD-441

- a) Number of Total Annual Responses: 2,992
- b) Processing Time per Response: 5 minutes
- c) Hourly Wage of Worker(s) Processing Responses: \$49.85
- d) Cost to Process Each Response: \$4.15
- e) Total Cost to Process Responses: \$12,429.27

Department of Defense Security Agreement DD-441-1

- a) Number of Total Annual Responses: 1,029
- b) Processing Time per Response: 5 minutes
- c) Hourly Wage of Worker(s) Processing Responses: \$49.85
- d) Cost to Process Each Response: \$4.15
- e) Total Cost to Process Responses: \$4,274.64

2) Overall Labor Burden to the Federal Government

- a) Total Number of Annual Responses: 4,021
- b) Total Labor Burden: \$16,703.90

Part B: OPERATIONAL AND MAINTENANCE COSTS

1) Cost Categories

- a) Equipment: \$0
 - b) Printing: \$0
 - c) Postage: \$0
 - d) Software Purchases: \$0
 - e) Licensing Costs: \$0
 - f) Other: \$0
- 2) Total Operational and Maintenance Cost: \$0

Part C: TOTAL COST TO THE FEDERAL GOVERNMENT

- 1) Total Labor Cost to the Federal Government: \$16,703.90
- 2) Total Operational and Maintenance Costs: \$0
- 3) Total Cost to the Federal Government: \$16,703.90

15. Reasons for Change in Burden

The burden has increased since the previous approval due to inflation and cost of living increase.

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.