

## Student Guide

### Course: Facility Clearances in the NISP

#### *Lesson 1: Course Introduction*

#### Course Information

<b>Purpose</b>	Provide a thorough understanding of the Facility Security Clearance process and maintenance for contractors who participate in the NISP
<b>Audience</b>	Facility Security Officers (FSOs) at cleared DoD contractor facilities participating in the NISP, other contractor security personnel, DSS Industrial Security Representatives, and DoD Industrial Security Specialists
<b>POC</b>	<a href="mailto:IndustrialSecurity.Training@dss.mil">IndustrialSecurity.Training@dss.mil</a>
<b>Pass/Fail %</b>	75%
<b>Estimated completion time</b>	120 minutes

#### Course Overview

The federal government entrusts classified information to defense contractors in order to meet government procurement needs. Part of the trust inherent in the relationship between government and industry contractors is the assignment of facility security clearances to contractors.

In this course, you will learn what a facility security clearance is, why it is required, and how it is obtained and maintained.

#### Course Objectives

Here are the course objectives:

- Identify the various organizations, divisions, and electronic information tracking systems involved in the facility security clearance request process
- Identify the eligibility requirements for consideration for a facility security clearance
- Identify the five key areas that are evaluated when determining a contractor's eligibility for a facility security clearance

- Identify the effects of different business structures on the facility security clearance request process
- Identify other factors that should be considered when determining the need for a facility security clearance
- Identify the process by which a facility security clearance is requested and granted
- Identify facility security clearance maintenance activities, change conditions, and personnel actions that affect a facility security clearance in accordance with NISPOM requirements
- Identify when an interim and final facility security clearance is appropriate, and actions that may be applied to a facility security clearance and when such actions are appropriate

## **Course Structure**

This course is organized into the lessons listed here:

- Course Introduction
- Introduction to Facility Clearances in the NISP
- Facility Clearance Eligibility
- Is a Facility Clearance Appropriate?
- The Facility Clearance Request Process
- Maintaining a Facility Clearance
- Course Conclusion

# Student Guide

## **Course: Facility Clearances in the NISP**

### ***Lesson 2: Introduction to Facility Clearances in the NISP***

#### **Lesson Introduction**

##### **1. Objective**

What is a facility security clearance? Why is it necessary? What organizations are involved in obtaining and maintaining a facility security clearance? Who are the representatives for these organizations? What computer applications are involved in the facility security clearance request process? We will examine each of these questions in this lesson.

Here is the lesson objective:

- Identify the various organizations, divisions, and electronic tracking systems involved in the facility security clearance request process

#### **Facility Clearance Overview**

##### **2. Purpose of a Facility Clearance**

A facility security clearance, or FCL, is an administrative determination that from a national security standpoint, a facility is eligible for access to classified information of a certain classification level, and all lower levels. Why is an FCL needed? Because the government procures products or services from private industry and sometimes these procurement needs require a contractor to access classified information.

For example, Relay, a division of Connex Corporation, is bidding on a project that requires access to classified information at the Secret level. Relay's operations are conducted at its facility, which includes an office building and two storage areas.

When a contractor performs work that requires access to classified information, the contractor is required to have a facility security clearance equivalent to the classification level of the classified information that it will access.

##### **3. Obtaining a Facility Clearance**

As you just learned, an FCL is an administrative determination that a contractor is eligible for access to classified information; but how is such a determination made? The

Defense Security Service grants FCLs through a process that involves evaluating a contractor's company and facility in detail. There are five main areas that will be evaluated to determine if an FCL can be issued:

- Sponsorship
- Execution of the Security Agreement, or DD Form 441
- The company's business structure
- The company's key management personnel, or KMP
- Any foreign ownership, control, or influence, or FOCl, factors that would affect the contractor.

It must also be determined whether, given a contractor's business structure, it is *appropriate* to consider a facility for an FCL. Once a facility has been granted an FCL, it is the responsibility of the facility security officer, or FSO, to ensure that the company remains eligible to maintain its clearance. An FCL may be issued with a status of interim or final depending on the stage of the request process that a contractor is in. There are several actions that may be applied to an FCL once it has been issued. An FSO should be aware of what each of these possible actions are and when they may be applied.

## Facility Clearances and the NISP

### 1. Facility Clearance Regulations

The requirements regarding FCLs can be found in Chapter 2, Section 1 of DoD 5220.22-M, more commonly called the National Industrial Security Program Operating Manual, or NISPOM. The NISPOM is the operating manual for the National Industrial Security Program, or NISP, but what exactly is the NISP? Let's take a look.

Because the government contracts with private industry for products and services that require access to classified information, a program was established to ensure that classified information entrusted to industry is properly protected. That program is the NISP, which is a partnership between the U.S. government and private industry. The NISP ensures that classified information released to industry is properly protected. Executive Order 12829 established the NISP. In support of the NISP, guidance for classifying and protecting national security information can be found in Executive Order 13526. Cleared contractors who participate in the NISP agree to meet all applicable requirements set forth in the NISPOM. The NISPOM establishes the baseline security procedures and requirements that contractors must implement to ensure classified information is adequately protected.

## **2. The Structure of the NISP**

To understand the NISP and your role in it, you should be aware of the different entities involved in the NISP and how these entities relate to one another. The responsibility for ensuring implementation of the NISP has been delegated to four Cognizant Security Agencies, or CSAs: the Director of National Intelligence, the Department of Energy, the Nuclear Regulatory Commission, and the Department of Defense, or DoD. The Department of Defense, or DoD, acts as the CSA for all DoD agencies and for 26 other federal agencies who have entered into agreements with the DoD. The DoD has delegated the responsibility to administer industrial security-related activities to the Defense Security Service which acts as the Cognizant Security Office, or CSO, for the DoD.

Within the DSS, under Industrial Security Field Operations, there are three operational units that you should be aware of, since they relate to securing an FCL: the Personnel Security Management and Oversight for Industry office or PSMO-I, the Facility Clearance Branch, or FCB, and Regional Directors of Field Operations.

PSMO-I oversees personnel security clearances, or PCLs, for personnel employed by contractors participating in the NISP.

The Facility Clearance Branch oversees the issuance of FCLs and monitors the maintenance of those clearances. The FCB employs security specialists who monitor facility security clearances for multiple contractors.

The Director of Industrial Security Field Operations oversees four Regional Directors of Field Operations. Depending on the location of a contractor's facility, it will fall under the purview of one of the four Regional Directors, who oversee various DSS Field Offices located within their region. Each DSS Field Office has a Field Office Chief who supervises multiple Industrial Security Representatives, or IS Reps. Each IS Rep is assigned to multiple contractor facilities and provides assistance to each contractor's FSO to ensure that the facility's security program meets NISP requirements.

FSOs are responsible for the daily implementation of their facility's security program.

## **3. Facility Clearance Electronic Tracking Systems**

FCL information is collected, tracked, and maintained electronically using a variety of information systems, databases, and secure websites. Information pertaining to contractor facility security clearances is managed using the Industrial Security Facilities Database, or ISFD, and the Electronic Facility Clearance, or e-FCL, System. Information pertaining to personnel security clearances is managed using the Joint Personnel Adjudication System, or JPAS, and Electronic Questionnaires for Investigations Processing, or e-QIP, secure website. ISFD can also be accessed by contractors and

government security specialists to verify FCL and safeguard capabilities of companies cleared under the NISP.

**a. Industrial Security Facilities Database**

The Industrial Security Facilities Database, or ISFD, is an electronic repository of industrial security facility clearance information. DSS Industrial Security personnel use ISFD to document industrial security actions regarding contractor facilities participating in the NISP.

**b. Electronic Facility Clearance System**

The Electronic Facility Clearance, also referred to as e-FCL, System is a tool used to electronically collect and manage security information such as a KMP List, SF-328, and Exclusion Resolutions. e-FCL is also used to track security information on contractor facilities affected by FOCI factors. This interface allows data from e-FCL to update contractor facility information in ISFD.

**c. Joint Personnel Adjudication System**

The Joint Personnel Adjudication System, or JPAS, is a consolidated DoD database used for collecting and disseminating information on the PCL status of DoD personnel, to include industry contractors. Part of the FCL request process is to acquire PCLs for KMP such as the company president, chairman of the board of directors, if there is a chairman, FSO, and other senior management officials as necessary.

**d. Electronic Questionnaires for Investigations Processing**

Electronic Questionnaires for Investigations Processing, or e-QIP, is a secure website designed to facilitate the processing of standard investigative forms used when conducting background investigations. Requests for personnel security investigations and clearances within the Department of Defense are initiated through JPAS but processed using e-QIP.

## Review Activity 1

Match each entity listed on the left with the associated individual who represents it on the right. Write the matching letter in the space beside the entity representative. Check your answers in the Answer Key at the end of this Student Guide.

Entity in the NISP	Entity Representative
A. Facility Clearance Branch	Industrial Security Representative _____
B. Defense Security Service Field Office	Facility Security Officer _____
C. Contractor Facility	Security Specialist _____

## Review Activity 2

A description of one of an information system, database, or secure website involved in electronically managing facility security clearance information is provided. Select the correct system, database, or website for each description. Check your answers in the Answer Key at the end of this Student Guide.

- 1) This is used to collect documentation regarding FOCI, KMP Lists, SF-328, and other facility documents to the DSS.
  - Industrial Security Facilities Database (ISFD)
  - Electronic Facility Clearance (e-FCL) System
  - Joint Personnel Adjudication System (JPAS)
  - Electronic Questionnaires for Investigations Processing (e-QIP)
- 2) This is used for tracking information on personnel security clearances of industry contractors.
  - Industrial Security Facilities Database (ISFD)
  - Electronic Facility Clearance (e-FCL) System
  - Joint Personnel Adjudication System (JPAS)
  - Electronic Questionnaires for Investigations Processing (e-QIP)



- 3) This processes automated requests for personnel security investigations; these requests are initiated in JPAS.
- Industrial Security Facilities Database (ISFD)
  - Electronic Facility Clearance (e-FCL) System
  - Joint Personnel Adjudication System (JPAS)
  - Electronic Questionnaires for Investigations Processing (e-QIP)
- 4) This is used by DSS to document industrial security actions regarding contractor facilities.
- Industrial Security Facilities Database (ISFD)
  - Electronic Facility Clearance (e-FCL) System
  - Joint Personnel Adjudication System (JPAS)
  - Electronic Questionnaires for Investigations Processing (e-QIP)

## Answer Key

### Review Activity 1

Match each entity listed on the left with the associated individual who represents it on the right. Write the matching letter in the space beside the entity representative.

Entity in the NISP	Entity Representative
A. Facility Clearance Branch	Industrial Security Representative <u>  B  </u>
B. Defense Security Service Field Office	Facility Security Officer <u>  C  </u>
C. Contractor Facility	Security Specialist <u>  A  </u>

### Review Activity 2

A description of one of the electronic information tracking systems involved in managing facility security clearance information is provided. Select the correct electronic information tracking system for each description.

- 1) This electronic information tracking system is used to collect documentation regarding FOCI, KMP Lists, SF-328, and other facility documents to the DSS.
  - Industrial Security Facilities Database (ISFD)
  - Electronic Facility Clearance (e-FCL) System
  - Joint Personnel Adjudication System (JPAS)
  - Electronic Questionnaires for Investigations Processing (e-QIP)

**Rationale:** The Electronic Facility Clearance, or e-FCL, System is a tool used to electronically collect documents related to a facility's security clearance and to manage security information on contractor facilities with FOCI, as well as to update contractor facility information in ISFD.

- 2) This electronic information tracking system is used for tracking information on personnel security clearances of industry contractors.
- Industrial Security Facilities Database (ISFD)
  - Electronic Facility Clearance (e-FCL) System
  - Joint Personnel Adjudication System (JPAS)
  - Electronic Questionnaires for Investigations Processing (e-QIP)

**Rationale:** The Joint Personnel Adjudication System, or JPAS, is a consolidated Department of Defense database used for collecting and disseminating information on the personnel security clearance status of industry contractors.

- 3) This electronic information tracking system processes automated requests for personnel security investigations; these requests are initiated in JPAS.
- Industrial Security Facilities Database (ISFD)
  - Electronic Facility Clearance (e-FCL) System
  - Joint Personnel Adjudication System (JPAS)
  - Electronic Questionnaires for Investigations Processing (e-QIP)

**Rationale:** The Electronic Questionnaires for Investigations Processing, or e-QIP, is a secure website through which automated requests for personnel security investigations and clearances within the Department of Defense are processed; these requests are initiated through JPAS.

- 4) This electronic information tracking system is used by DSS to document industrial security actions regarding contractor facilities?
- Industrial Security Facilities Database (ISFD)
  - Electronic Facility Clearance (e-FCL) System
  - Joint Personnel Adjudication System (JPAS)
  - Electronic Questionnaires for Investigations Processing (e-QIP)

**Rationale:** The Industrial Security Facilities Database, or ISFD, is an electronic repository of industrial security facility clearance information used to document industrial security actions regarding contractor facilities participating in the NISP.

# Student Guide

## **Course: Facility Clearances in the NISP**

### ***Lesson 3: Facility Clearance Eligibility***

#### **Lesson Introduction**

##### **1. Objectives**

What are the basic eligibility requirements that a company must meet before they can be considered for a facility security clearance, or FCL? What areas will the Defense Security Service evaluate in order to determine whether to issue a facility security clearance to a contractor? In this lesson, we will discuss these eligibility requirements and evaluation areas in more detail.

Here are the lesson objectives:

- Identify the eligibility requirements for consideration for a facility security clearance
- Identify the five key areas that are evaluated when determining a contractor's eligibility for a facility security clearance

#### **Facility Clearance Eligibility Requirements**

##### **1. General Eligibility Requirements**

To be considered for a facility security clearance, the prospective contractor must meet certain basic eligibility requirements before the FCL request process may even begin. The contractor must first require access to classified information in connection with a classified contract. Secondly, the contractor must be organized and exist under the laws of any of the fifty states, the District of Columbia, or Puerto Rico, and must be physically located within the U.S. or its territories. Next, the contractor must have a reputation for integrity and lawful conduct in its business dealings. The company and its key management personnel, or KMP, must not be barred from participating in U.S. government contracts. And finally the contractor must not be under foreign ownership, control, or influence, or FOCI, to such a degree that granting an FCL would be inconsistent with the national interest of the United States.

## **2. Evaluation Areas**

A contractor requiring an FCL will be evaluated on five key areas. These five areas confirm required elements, evaluate the contractor's business structure, and evaluate the controlling influences over the contractor. Information about each of the five factors is gathered through the facility security clearance survey process. The Facility Clearance Branch, in coordination with the assigned DSS Industrial Security Representative, will use the information obtained about the contractor to make a determination about whether to grant the contractor an FCL.

### **Confirming Required Elements**

#### **1. Sponsorship**

The contractor requiring an FCL cannot request a clearance on its own behalf, but instead must be sponsored by a government entity, or by another cleared contractor that is procuring services requiring access to classified information from the uncleared contractor. Once received by DSS, the sponsorship request is evaluated to confirm that the contractor has a legitimate need to access classified information in the performance of work on a classified contract.

#### **2. Department of Defense Security Agreement**

In order to be granted an FCL, the contractor being sponsored for an FCL must execute a security agreement, which is a legally binding contract between the government and the contractor that advises the government and the contractor of its security-related responsibilities as a participant of the NISP.

The Department of Defense Security Agreement, or DD Form 441, comprises six parts: security controls, security reviews, modifications of the agreement, termination, prior security agreements, and security costs. In conjunction with this agreement, the National Industrial Security Program Operating Manual, or NISPOM, requires the contractor to comply with the requirements specified in the NISPOM that pertain to its classified operations.

### **Evaluating Business Structure**

#### **1. Business Structure Elements**

The company requiring the FCL is evaluated to confirm the type of business and the structure it is currently operating under. Evaluating a contractor's business structure also identifies the ownership interests and management control of the company. This assessment further identifies key management personnel.

## 2. Common Business Structures

Some of the more common business structures of contractors participating in the NISP are sole proprietorship, partnership, corporation, and limited liability company. There are also a few variations of the corporation business structure that affect the requirement for an FCL differently. You may review the *Business Structures* Course from the Center for Development of Security Excellence, or CDSE, for more information.

### a. Sole Proprietorship

Corey Adams owns a sole proprietorship, called Ace Printing. Mr. Adams owns all the assets for Ace Printing, owes all the company's liabilities, and operates the company in his personal capacity. This means that Mr. Adams has the legal right to direct the business and that liability for obligations owed by the business can be extended to his personal assets.

### b. Partnership

Alexis Johnson and Jack Smith created a partnership under the name Johnson & Smith, LLP. A partnership is an association of two or more persons or entities to carry on a business for profit as co-owners. Note that a partnership may be composed of two individuals, or of two business entities, such as corporations. While there are many types of partnerships, one of the most common is a general partnership. A general partnership may be formed without executing a formal written agreement, and the partnership's liabilities may be extended to each of the partners' personal assets. Also, any member of the partnership may obligate the partnership as a whole, with or without the knowledge of the other members. When evaluating any partnership, all general partners must be examined, and if there is an executive committee, all members of that committee must also be examined.

### c. Corporation

A corporation is a separate legal entity that is considered a "person" with an existence distinct from its stockholders, directors, officers, and employees. A corporation may hold property, sue and be sued in its own name, and it bears the liability for its obligations. A corporation will not expire upon a shareholder's death or withdrawal from the company.

#### **d. Limited Liability Company**

Possessing attributes of both a partnership and a corporation, a limited liability company, or LLC, is an unincorporated business that does not issue stock, but that is fully independent of its owners. An LLC has one or more owners, usually known as members, which may be a person, a corporation, or even another LLC. The laws governing LLCs differ from state to state and may affect control of the company by allowing or requiring either the actual members to control company operations, or an appointed manager or managers to control the company operations. Additionally, the LLC may be considered a different business structure type depending on the laws of the state governing the LLC, and therefore LLCs may complete the DD Form 441 differently from one another. An LLC is considered its own legal entity and therefore its members are not liable for business debts. Although an LLC is considered a legal entity in its own right, it has a limited legal duration, typically ten to thirty years, but may usually be renewed by members.

#### **e. Variations of a Corporation**

There are two key variations of a corporation business structure: a Multiple Facility Organization, and a Parent-Subsidiary business relationship.

Connex Corporation is an example of a multiple facility organization. A multiple facility organization, or MFO, is one way that a corporation may be organized. In an MFO there is a home office facility, or HOF, which may also be referred to as the company's headquarters, and there are branches or divisions that are distinct, but not legally separate, from the HOF.

A parent-subsidiary business relationship is another way that a corporation may be organized. In a parent-subsidiary business relationship, two separate and distinct companies form a relationship where one company, usually an enterprise, acting as the "parent" establishes or takes control of a smaller subsidiary company.

### **Evaluating Controlling Influences**

#### **1. Key Management Personnel**

Key management personnel, or KMP, are individuals that manage the actual day-to-day operations of the company and are therefore in a position with the potential to adversely affect the contractor's policies and practices regarding the performance of work on classified contracts. KMP include all "officers" of the company and vary from business

structure to business structure. These individuals include, but are not limited to, persons holding the following positions:

- President or chief executive officer, commonly referred to as the CEO
- Facility security officer, or FSO
- Members of the board of directors
- Any stockholder in a position to exert control and influence over the organization's classified business operations

All KMP should be listed for the company, but only certain positions are required to be cleared before an FCL will be granted. For a corporation, those KMP that require clearances are the President, FSO, and chairman of the board of directors, if there is one. If there is no designated chairman and the position is instead rotated among the board members, then all board members must be cleared.

A final FCL will not be granted until all the KMP required to be cleared in connection with the FCL have received final personnel security clearance determinations.

## **2. Certificate Pertaining to Foreign Interests**

The Certificate Pertaining to Foreign Interests, commonly referred to as SF-328, identifies and assesses the sources of foreign power that affect a contractor's facility. This form asks ten questions about the contractor's controlling influences regarding the following:

- Stock ownership
- Ownership by foreign interests
- Any non-U.S. citizens on the board of directors
- Any foreign persons with direct or indirect power to control classified business operations
- Contracts or agreements with foreign persons
- Indebtedness to foreign persons
- Income derived from foreign persons
- Stock holdings of ten percent or more that do not identify the beneficial owner
- Foreign positions held by members of the board of directors or company officers
- Any other factors that indicate or demonstrate a capability on the part of foreign persons to control or influence the operations or management of the company



Any ownership interests or foreign ownership, control, or influence, or FOCI, factors that are in a position to exert control and influence over the company's classified business operations must be favorably mitigated and adjudicated before an FCL will be granted.

## Review Activity 1

Which of the following statements are true of the eligibility requirements for consideration for a facility security clearance? Check your answers in the Answer Key at the end of this Student Guide.

	True	False
A contractor must require access to classified information in connection with a bona fide U.S. government procurement need.	<input type="radio"/>	<input type="radio"/>
A contractor does not necessarily need to be organized and exist under the laws of any of the 50 states, D.C., or Puerto Rico.	<input type="radio"/>	<input type="radio"/>
A contractor's business reputation is irrelevant when determining eligibility for consideration for a security clearance.	<input type="radio"/>	<input type="radio"/>
A contractor may be under FOCI and still be considered for a facility security clearance as long security measures have been put in place to negate or mitigate the FOCI and is consistent with our national interests.	<input type="radio"/>	<input type="radio"/>

## Review Activity 2

A description of the intent behind each of the key evaluation areas is provided. Select the correct evaluation area for each description. Check your answers in the Answer Key at the end of this Student Guide.

- 1) Which of these identifies the ownership interests of the contractor?
  - Sponsorship
  - DD Form 441
  - Business Structure
  - Key Management Personnel
  - SF-328
  
- 2) Which of these confirms a contractor's legitimate need for access?
  - Sponsorship
  - DD Form 441
  - Business Structure
  - Key Management Personnel
  - SF-328

- 3) Which of these identifies the individuals who are in a position with the potential to adversely affect the company's policies and practices regarding the performance of work on classified contracts?
- Sponsorship
  - DD Form 441
  - Business Structure
  - Key Management Personnel
  - SF-328
- 4) Which of these identifies and assesses the sources of foreign power that affect a contractor's facility?
- Sponsorship
  - DD Form 441
  - Business Structure
  - Key Management Personnel
  - SF-328
- 5) Which of these, in conjunction with the NISPOM, requires the contractor to comply with the requirements specified in the NISPOM?
- Sponsorship
  - DD Form 441
  - Business Structure
  - Key Management Personnel
  - SF-328

### Review Activity 3

*A description of a sample company's business structure is provided. Select the correct business structure for each description. Check your answers in the Answer Key at the end of this Student Guide.*

- 1) Two contractor companies, Tech Trace and Site Capture are moderately-sized corporations that have agreed to form an association called Tech Capture to carry on business for profit. What business structure is Tech Capture?
- Sole Proprietorship
  - Partnership
  - Corporation
  - Limited Liability Company

- 2) Star Chase is a business entity that may sue and be sued in its own name and has a home office facility and several satellite branch facilities. What business structure is Star Chase?
  - Sole Proprietorship
  - Partnership
  - Corporation
  - Limited Liability Company
  
- 3) Sylvia Mitchell is the only owner of her business, World Travel, which owes more money than it can generate from profits. World Travel's creditors intend to sue Ms. Mitchell for her personal savings to pay the debts. What business structure is World Travel?
  - Sole Proprietorship
  - Partnership
  - Corporation
  - Limited Liability Company
  
- 4) Hydra Net is a legal business entity that may hold property in its own name and bears the liability for its own obligations. What business structure is Hydra Net?
  - Sole Proprietorship
  - Partnership
  - Corporation
  - Limited Liability Company
  
- 5) Two companies, Golding Corp. and Frasier Inc., have decided to create an unincorporated company together that will not issue stock and which will exist as a separate legal entity. According to state laws, they will appoint a manager to control company operations. What business structure is Golding and Frasier's new company?
  - Sole Proprietorship
  - Partnership
  - Corporation
  - Limited Liability Company

## Answer Key

### Review Activity 1

*Which of the following statements are true of the eligibility requirements for consideration for a facility security clearance?*

	True	False
A contractor must require access to classified information in connection with a bona fide U.S. government procurement need.	<input checked="" type="radio"/>	<input type="radio"/>
A contractor does not necessarily need to be organized and exist under the laws of any of the 50 states, D.C., or Puerto Rico.	<input type="radio"/>	<input checked="" type="radio"/>
A contractor's business reputation is irrelevant when determining eligibility for consideration for a security clearance.	<input type="radio"/>	<input checked="" type="radio"/>
A contractor may be under FOCI and still be considered for a facility security clearance as long as security measures have been put in place to negate or mitigate the FOCI and is consistent with our national interests.	<input checked="" type="radio"/>	<input type="radio"/>

#### Rationale:

Event 1: The contractor must be able to demonstrate a legitimate need for access in connection with a U.S. or foreign government procurement need.

Event 2: The company must not only be organized and exist under the laws of any of the 50 states, D.C., or Puerto Rico, but it must also be located within the U.S. or its territories.

Event 3: The contractor must have a reputation for integrity and lawful conduct in its business dealings, and neither the company nor its key management personnel may be barred from participating in U.S. government contracts.

Event 4: A contractor may be under FOCI and still be considered for a facility security clearance as long as the contractor is not under FOCI to such a degree that granting an FCL would be inconsistent with the national interest.

## Review Activity 2

*A description of the intent behind each of the key evaluation areas is provided. Select the correct evaluation area for each description.*

- 1) Which of these identifies the ownership interests of the contractor company?
- Sponsorship
  - DD Form 441
  - Business Structure
  - Key Management Personnel
  - SF-328

**Rationale:** Examining a company's business structure identifies the ownership interests of the contractor and identifies the key management personnel.

- 2) Which of these confirms a contractor's legitimate need for access?
- Sponsorship
  - DD Form 441
  - Business Structure
  - Key Management Personnel
  - SF-328

**Rationale:** Reviewing sponsorship confirms that a real classified procurement need is present.

- 3) Which of these identifies the individuals who are in a position with the potential to adversely affect the contractor company's policies and practices regarding the performance of work on classified contracts?
- Sponsorship
  - DD Form 441
  - Business Structure
  - Key Management Personnel
  - SF-328

**Rationale:** Evaluating Key Management Personnel identifies the individuals who manage the day-to-day operations of the company and can therefore affect the policies and practices regarding classified contracts. A facility security clearance will not be granted until all KMP are cleared for access.

- 4) Which of these identifies and assesses the sources of foreign power that affect a contractor's facility?
- Sponsorship
  - DD Form 441
  - Business Structure
  - Key Management Personnel
  - SF-328

**Rationale:** Evaluating the Certificate Pertaining to Foreign Interests, or SF-328, identifies and assesses the sources of foreign power that affect a contractor's facility by asking 10 questions that cover all types of foreign involvement. All foreign involvement must be adjudicated before a facility security clearance will be granted.

- 5) Which of these, in conjunction with the NISPOM requires the contractor to comply with the requirements specified in the NISPOM?
- Sponsorship
  - DD Form 441
  - Business Structure
  - Key Management Personnel
  - SF-328

**Rationale:** The Department of Defense Security Agreement, or DD Form 441, is a legally binding contract between the government and the contractor that advises the contractor of its security-related rights and responsibilities and attaches the NISPOM.

### Review Activity 3

*A description of a sample company's business structure is provided. Select the correct business structure for each description.*

- 1) Two contractor companies, Tech Trace and Site Capture, are moderately-sized corporations that have agreed to form an association called Tech Capture to carry on business for profit. What business structure is Tech Capture?
- Sole Proprietorship
  - Partnership
  - Corporation
  - Limited Liability Company

**Rationale:** Because it is an association of two or more persons or entities to carry on a business for profit as co-owners, Tech Capture is a partnership.

- 2) Star Chase is a business entity that may sue and be sued in its own name and has a home office facility and several satellite branch facilities. What business structure is Star Chase?

- Sole Proprietorship
- Partnership
- Corporation
- Limited Liability Company

**Rationale:** Star Chase is a multiple facility organization, which is a type of corporation. As an MFO, Star Chase has a home office facility, or headquarters, and several separate branch facilities.

- 3) Sylvia Mitchell is the only owner of her business, World Travel, which owes more money than it can generate from profits. World Travel's creditors intend to sue Ms. Mitchell for her personal savings to pay the debts. What business structure is World Travel?

- Sole Proprietorship
- Partnership
- Corporation
- Limited Liability Company

**Rationale:** World Travel is a sole proprietorship, meaning that Ms. Mitchell, as the only owner, or sole proprietor, owns all the assets, owes all the liabilities, and can be held personally liable for obligations owed by the business.

- 4) Hydra Net is a legal business entity that may hold property in its own name and bears the liability for its own obligations. What business structure is Hydra Net?

- Sole Proprietorship
- Partnership
- Corporation
- Limited Liability Company

**Rationale:** Hydra Net is a corporation, which is a separate legal entity that is considered a "person" with an existence distinct from its stockholders, directors, officers, and employees.



- 5) Two companies, Golding Corp. and Frasier Inc., have decided to create an unincorporated company together that will not issue stock and which will exist as a separate legal entity. According to state laws, they will appoint a manager to control company operations. What business structure is Golding and Frasier's new company?
- Sole Proprietorship
  - Partnership
  - Corporation
  - Limited Liability Company

**Rationale:** A limited liability company is an unincorporated business that does not issue stock, but that is fully independent of its owners, and which may be controlled by either the members or an appointed manager according to the laws of the state governing the LLC.

## Student Guide

### **Course: Facility Clearances in the NISP**

#### ***Lesson 4: Is a Facility Clearance Appropriate?***

##### **Lesson Introduction**

###### **1. Objective**

Simply meeting all of the eligibility requirements, and evaluation factors doesn't mean that it is appropriate for a facility to seek, a facility security clearance, or FCL. In this lesson, we will examine when a FCL is required, and we will discuss other factors that should be considered before an FCL is issued.

Here is the lesson objective:

- Identify the effects of different business structures on the facility security clearance request process
- Identify other factors that should be considered when determining the need for a facility security clearance

##### **When is a Facility Clearance Necessary?**

###### **1. Assessing the Need for a Facility Clearance**

What determines if it is appropriate for a facility to obtain an FCL? For many companies who have only a single facility and are considered a legal and separate entity, determining whether to obtain an FCL is relatively simple.

The need for an FCL is usually determined by whether or not the contractor is awarded a classified contract that requires access to classified information in order to perform work on the contract. If no access to classified information is required, the contractor does not need an FCL. If any access to classified information is required, the contractor will need an FCL.

This determination method can be applied easily to single-facility corporations, but determining if an FCL is appropriate for companies with multiple facilities, or who participate in a parent-subsidary business relationship, can be more complex. Occasionally, when activities of a cleared facility are located in the same geographical area, the facility may request that the activities be considered off-site locations.

### **a. Off-Site Locations**

An off-site location may be considered an extension of a cleared facility, and will therefore not require a separate FCL, if it meets all of the following conditions:

- The distance between the off-site location and the cleared facility is within a reasonable commuting distance
  - Generally, this means within one hour of driving time
- The locations are under a centrally directed security program and are under the direct supervision of the contractor's managers
- The off-site location must also be subject to the security procedures established by the contractor such as under the same company name and included in a single mailing location
- The IS Rep determines that security supervision at the off-site location can be effectively administered by the cleared facility's FSO

## **2. Multiple Facility Organizations**

Companies with more than one facility are called multiple facility organizations, or MFOs. In a multiple facility organization, where the collection of all facilities within the organization is considered one legal entity, the home office facility, or HOF, acts like the headquarters for the organization, while a division or branch of an MFO is considered an extension of the organization without the branch or division being a legally separate entity.

For MFOs, determining if an FCL is appropriate involves two factors. As with single-facility corporations, the need for an FCL is usually determined by whether or not the contractor is awarded a classified contract that requires access to classified information in order to perform work on the contract. However, unlike single-facility corporations, for MFOs, whether or not classified information is stored at the facility also affects the requirement for an FCL.

### **b. Home Office Facility**

Within an MFO, the HOF must be cleared if any of its divisions are cleared. The FCL for the HOF must be at the same or higher clearance level as any of its cleared divisions. Because the HOF provides management direction to, and control over, all of its division facilities, even if the HOF does not currently, and may not ever, require access to classified information, it must still be cleared in order for any of its divisions to receive an FCL.

### **c. Division Facility with Classified Contract**

Within an MFO, a division that has been awarded a classified contract will require an FCL if the work performed on that contract requires access to classified

information and storage of classified information. Even if the HOF already has an FCL, the division facility must obtain its own FCL.

#### **d. Access-Elsewhere Division Facility**

Consider an MFO with a division that performs work on classified contracts but all of the division's classified access for those contracts takes place elsewhere, at a GCA or cleared prime contractor's facility. Since no classified information is stored at the division facility, an FCL is not required for that division. Personnel clearances for those employees accessing classified information can still be managed from the uncleared division's facility.

### **3. Parent-Subsidiary Companies**

Parent-subsidiary companies are another type of contractor organization with more than one facility. While they may appear to be similar to multiple facility organizations, there is a key distinction between parent-subsidiary companies and multiple facility organizations.

In a parent-subsidiary business relationship, both the parent and the subsidiary are considered separate and distinct legal entities. Typically, a parent company will only be granted an FCL if it has a contractual requirement of its own, independent of the subsidiary, that requires access to classified information.

If there is no requirement for access, then the parent will not be granted an FCL and will be excluded from access. If there is a requirement for access, the parent will be cleared to the level of access required under its contract, even if that level is higher or lower than that of the subsidiary.

If a subsidiary has more than one U.S. parent, all U.S. parent companies must be either cleared or excluded and the highest cleared U.S. parent company, as well as the highest uncleared U.S. parent company, must each submit an SF-328 which must be favorably adjudicated.

#### **a. Cleared**

When a subsidiary is cleared, the parent will only be cleared if it also requires access to classified information. If the parent is cleared, then both the parent and subsidiary companies must execute a DD Form 441.

#### **b. Excluded**

If the parent does not require access to classified information, it will be formally excluded. The subsidiary must recognize the exclusion by executing an exclusion resolution noting the parent's exclusion. The parent must also acknowledge its

exclusion by executing its own exclusion resolution noting its exclusion and by signing the exclusion resolution executed by the subsidiary. Sometimes, a parent may only be partially excluded. If the parent has a contractual requirement for access to classified information at a lower level than the cleared subsidiary, then the subsidiary will exclude the parent from access to information classified at the higher level.

## **Other Facility Clearance Considerations**

### **1. Preparing for a Facility Clearance**

Companies who have been sponsored for consideration for a facility security clearance may have questions about how an FCL will affect certain aspects of their operations. For example, what is the cost of acquiring and maintaining an FCL? What additional security controls will be required once an FCL is granted? How does having or not having an FCL affect bidding or performing on classified contracts? How does an FCL granted by the Defense Security Service as the Cognizant Security Agency for the Department of Defense, or DoD, affect classified contracts with non-DoD agencies? And finally, for how long is an FCL effective?

### **2. Cost**

Does acquiring a facility security clearance cost anything? Yes, and no. The actual request process and granting of a facility security clearance does not have a direct cost. However, the contractor is responsible for the costs associated with implementing sufficient safeguarding measures and creating and maintaining a security program in order to be eligible for an FCL.

### **3. Security Controls**

What security controls are required to be implemented by a cleared contractor facility? The security controls in place at a cleared contractor's facility must meet baseline security requirements consistent with the facility's classified activity as outlined in DoD 5220.22-M, the National Industrial Security Program Operating Manual, or NISPOM. In order to maintain an FCL, a cleared contractor's security program, to include any safeguarding measures, must be maintained at a satisfactory level as evaluated by periodic government security reviews

### **4. Contracts**

Can a contractor bid on a classified contract if it does not have a facility security clearance? It depends. Is access to classified information required during the pre-award phase?

Contractors are not required to have an FCL during the pre-award phase if access to classified material is not required in order to bid.

If classified access during the pre-award phase is required in order to bid, then contractors intending to bid must have an FCL and must be approved to store, or safeguard, classified information.

If a bid or potential subcontract involves access to classified information, then the GCA or cleared prime contractor can submit a sponsorship request to clear an uncleared bidder.

## **5. Reciprocity**

In the context of FCLs, reciprocity is the mutual acceptance of an FCL by all government agencies, regardless of which agency issued the FCL.

FCLs can be issued under one of four Cognizant Security Agencies, or CSAs: the Department of Defense as represented by the Defense Security Service, or DSS, the Central Intelligence Agency, the Department of Energy, and the Nuclear Regulatory Commission.

If DSS issues an FCL to a contractor, does the contractor then need to obtain an additional FCL from one of the other CSAs in order to perform work for them? No. Facility security clearances are reciprocally accepted by all federal agencies as long as the FCL meets or exceeds the clearance level needed by an agency.

## **6. Duration**

When does a facility security clearance expire? A contractor's FCL is effective as long as its Department of Defense Security Agreement, or DD Form 441, is effective. In accordance with the DD Form 441, either the government or the contractor may terminate the security agreement by providing thirty days written notice in advance of the requested termination.

Part of maintaining a valid FCL is receiving a satisfactory rating on periodic government security reviews and ensuring an acceptable level of foreign ownership, control, or influence, or FOCI.

Another part of maintaining a valid FCL is continued performance on a classified contract. If no classified contracts are present, the FCL becomes "dormant" and the contractor may be allowed to maintain its FCL for a period up to twelve months so that they may continue to seek additional classified work. If the contractor's efforts to procure a new classified contract are not successful and there continues to be no need for classified access, then the contractor's FCL will be administratively terminated.



## Review Activity 1

*A description of the intent behind each of the key evaluation areas is provided. Select the correct evaluation area for each description. Check your answers in the Answer Key at the end of this Student Guide.*

- 1) Facility Alpha houses a single corporation that has cleared employees who perform classified work at government customer sites. No classified information is accessed or stored at facility Alpha. Does Alpha need an FCL?
  - Yes
  - No
  
- 2) The MFO Delta Corp. has a cleared home office facility. One of its branch offices, Beta, has cleared employees who perform classified work at client sites. No classified information is accessed or stored at facility Beta. Does the Beta branch office need an FCL?
  - Yes
  - No
  
- 3) Theta Corp. is the parent company to its subsidiary company Kappa Inc. Theta Corp. does not perform work on classified contracts. Kappa Inc., however, does perform work on classified contracts and therefore possesses and FCL. As the parent to a cleared subsidiary, does Theta Corp. need an FCL?
  - Yes
  - No
  
- 4) Omega, a division of the MFO Omicron Inc., accesses classified information, performs classified work, and stores classified information at its facility. Does the Omega division facility need an FCL?
  - Yes
  - No



## Review Activity 2

*Which of the following statements is true regarding other factors that should be considered before an FCL is issued? Check your answers in the Answer Key at the end of this Student Guide.*

	True	False
Although there is no direct cost to a contractor for requesting and receiving an FCL, there are indirect costs associated with maintaining the security program.	<input type="radio"/>	<input type="radio"/>
A contractor should obtain a separate FCL from each CSA for which it performs classified work.	<input type="radio"/>	<input type="radio"/>
A contractor must have an FCL in order to bid or perform work on a classified contract, if it is necessary to access classified information during the pre-award phase.	<input type="radio"/>	<input type="radio"/>
A contractor's FCL is effective as long as its DD Form 441 is effective.	<input type="radio"/>	<input type="radio"/>

## Answer Key

### Review Activity 1

*A description of the intent behind each of the key evaluation areas is provided. Select the correct evaluation area for each description.*

- 1) Facility Alpha houses a single corporation that has cleared employees who perform classified work at government customer sites. No classified information is accessed or stored at facility Alpha. Does Alpha need an FCL?

- Yes  
 No

**Rationale:** As a single corporation even though no classified information is accessed or stored at this facility, because the facility houses cleared personnel who access classified information elsewhere at client sites, the facility should obtain an FCL.

- 2) The MFO Delta Corp. has a cleared home office facility. One of its branch offices, Beta, has cleared employees who perform classified work at client sites. No classified information is accessed or stored at facility Beta. Does the Beta branch office need an FCL?

- Yes  
 No

**Rationale:** As a branch facility of an MFO with a cleared home office facility, Beta does not need to obtain an FCL, since no classified information is stored at the Beta facility.

- 3) Theta Corp. is the parent company to its subsidiary company Kappa Inc. Theta Corp. does not perform work on classified contracts. Kappa Inc., however, does perform work on classified contracts and therefore possesses and FCL. As the parent to a cleared subsidiary, does Theta Corp. need an FCL?

- Yes  
 No

**Rationale:** Parent and subsidiary companies are considered distinct and separate legal entities. Because Theta Corp. does not have a requirement in its own right to access classified information, it should not obtain an FCL.

- 4) Omega, a division of the MFO Omicron Inc., accesses classified information, performs classified work, and stores classified information at its facility. Does the Omega division facility need an FCL?

- Yes  
 No

**Rationale:** Because classified information is accessed and stored at Omega and classified work is performed at the facility, Omega should obtain an FCL.

## Review Activity 2

*Which of the following statements is true regarding other factors that should be considered before an FCL is issued? Check your answers in the Answer Key at the end of this Student Guide.*

	True	False
Although there is no direct cost to a contractor for requesting and receiving an FCL, there are indirect costs associated with maintaining the security program.	<input checked="" type="radio"/>	<input type="radio"/>
A contractor should obtain a separate FCL from each CSA for which it performs classified work.	<input type="radio"/>	<input checked="" type="radio"/>
A contractor must have an FCL in order to bid or perform work on a classified contract, if it is necessary to access classified information during the pre-award phase.	<input checked="" type="radio"/>	<input type="radio"/>
A contractor's FCL is effective as long as its DD Form 441 is effective.	<input checked="" type="radio"/>	<input type="radio"/>

## Student Guide

### **Course: Facility Clearances in the NISP**

#### ***Lesson 5: The Facility Clearance Request Process***

##### **Lesson Introduction**

###### **1. Objective**

In this lesson, we will examine the facility security clearance request process. We will examine the roles of each party involved in the process, the documentation involved in the process, and how a contractor can prepare for its evaluation surveys.

Here is the lesson objective:

- Identify the process by which a facility security clearance is requested and granted

##### **Overview of the Facility Clearance Request Process**

###### **1. The Facility Clearance Request Process**

The government contracting activity, or GCA, with the classified procurement need has decided to initiate a sponsorship request for a facility security clearance, or FCL, for Relay so that Relay may submit a bid in response to the GCA's request for proposal. Now that the decision to seek an FCL has been made, what is the process for being issued an FCL?

The facility security clearance request process involves several parties. First the sponsor, either the government contracting activity with the procurement need, or another cleared contractor acting as the prime, determines which contractor, or contractors, can perform the required work. The sponsor then initiates the FCL request process by forwarding a sponsorship letter to the Facility Security Branch, or FCB, asking the FCB to issue a facility security clearance for the prospective contractor's facility.

The FCB reviews the facility security clearance request and determines whether it is valid. Once the FCB has validated the facility security clearance request, they forward it to the appropriate Defense Security Service, or DSS, Industrial Security Field Office.

The contractor facility is then assigned a DSS Industrial Security Representative, or IS Rep, who gathers the information needed to evaluate the prospective contractor facility.

The IS Rep ensures that all the requisite documents and forms are completely executed and all key management personnel have been determined eligible for access to classified information, and then provides this information to the FCB.

The security specialist at the FCB, in conjunction with the DSS IS REP, then uses the information to evaluate the prospective contractor and make an eligibility determination about whether or not to grant an FCL.

### **FCL Request Process**

- 1) Sponsor initiates request
- 2) Facility Security Branch determines validity of request
- 3) IS Rep conducts telephone and onsite surveys
- 4) IS Rep ensures that all documents are executed
- 5) IS Rep determines KMP eligibility to classified information
- 6) Security specialist and IS Rep determine contractor eligibility for FCL

### **Initiating a Facility Clearance Request**

#### **1. Sponsoring a Company**

The facility security clearance request process begins with the sponsor completing a sponsorship letter and submitting that letter to the Facility Clearance Branch. The sponsorship letter contains critical information that the security specialist at the FCB needs in order to validate the facility clearance request.

The letter states the full legal name of the contractor company needing to be processed for an FCL, as well as the physical address for the contractor company. Note that a post office box address is not acceptable.

The letter then indicates what level of clearance is required to meet the procurement need, and whether or not safeguarding, or storage, capability is required.

Next, the letter provides contact information for a designated corporate official at the uncleared facility, who will act as the contractor's point of contact, or POC, during the FCL request process.

The sponsorship letter must provide the contract number for a bona fide procurement requirement.

A copy of the Department of Defense Contract Security Classification Specification, or DD Form 254, must be submitted with the sponsorship letter.

Finally the sponsor, either a government contracting activity, or another cleared contractor acting as the prime, must provide the name, telephone number, and email address of their point of contract. If the sponsor is another cleared contractor, the sponsor's Commercial And Government Entity Code, or CAGE code, should be provided.

## **Surveys**

### **1. Surveys Overview**

Once the FCB security specialist has validated the facility clearance request, the request is forwarded to the appropriate DSS field office. The IS Rep assigned to the prospective contractor facility will then conduct two surveys to obtain the information needed by the FCB to make a determination about granting a facility security clearance. The first survey will be conducted over the telephone, and the second survey will be an on-site visit by the IS Rep to the prospective facility.

### **2. Purpose of the Telephone Survey**

The purpose of the telephone survey is to gather information from, and provide information to, the contractor, and to help the contractor prepare for the next steps in the process. The point of contact at the facility will need to provide general information about the company. The IS Rep will introduce several electronic information tracking systems to the contractor that will be used to initiate, complete, and submit various required forms and documents. During this survey, preliminary information on key management personnel, or KMP, will be obtained. In addition, the IS Rep will instruct the contractor on how to obtain a CAGE code, if it does not already have one. Once all these activities are completed and the telephone survey process is concluded, the IS Rep will schedule a date for the on-site survey.

### **3. Purpose of the On-Site Survey**

During the on-site survey, the IS Rep will conduct a visit to the contractor facility to confirm the information gathered during the telephone survey. Confirming such information includes validating the need for an FCL, identifying the security requirements stipulated by the procurement need, and ensuring the proper execution of required documentation. While at the contractor's facility, the IS Rep will evaluate and verify the contractor's business structure, the ownership interests affecting the company, and key management personnel.

#### **4. Contractor Preparations**

As you have just learned, there is a lot of information involved in both the telephone and on-site surveys. So how can the contractor prepare for these surveys? The contractor POC should research the company, review the procurement requirement, and gather the necessary documentation ahead of time.

##### **a. Research Contractor Company**

Because a significant part of the FCL request process involves evaluating the contractor company, it is important for the point of contact for the contractor facility to be informed and knowledgeable about the company. Therefore the POC should research the company in order to accurately respond to any of the IS Rep's questions or concerns.

Information to research may include the following:

- Documentation of the company's legal existence and stock or share authorizations
- Corporate history such as name or address changes
- Information about any home office facilities or parent or affiliated companies
- Information about the structure of the company
- The facility's CAGE code, if available

A checklist for new facility security clearances to assist you in preparing for your survey is available through the resource tool for security professionals.

##### **a. Review Procurement Requirement**

The procurement requirement provides much of the information needed to determine not only the level of facility security clearance needed, but also the nature and extent of safeguarding that should be in place, whether or not an accredited information system is needed, and the location where work will be performed.

Additionally, contact information for the government contracting activity point of contact, usually the contract officer, is provided. The contractor POC should also review the National Industrial Security Program Operating Manual, or NISPOM, to determine how to establish a facility security program appropriate to the procurement requirement.

## **b. Gather Necessary Documentation**

In order for DSS to verify and confirm company information, the POC for the contractor facility will need to furnish a variety of documents. For a corporation, such documentation would include the following:

- Articles of incorporation
- The company's federal tax ID number
- Corporate by-laws
- Stock records
- Any \$10,000.00 Transaction Reports filed with the Securities and Exchange Commission
- Minutes from Board of Directors meetings

It is also helpful to provide a brief summary of the company's primary business or services. Further, create a listing of key management personnel in advance of the surveys, research and compile e-mail, telephone and fax, and complete address information for the company for the last ten years, and secure proof of U.S. citizenship for the prospective or current Facility Security Officer, or FSO.

## **Contractor Activities**

### **1. Providing General Information**

During the telephone and on-site surveys, the contractor is responsible for providing information to the IS Rep about several aspects of the company:

- The contractor company's business structure
- The company's corporate history, such as changes in the company's operating name or changes in the company's address
- The preliminary identification of KMP
- Information about any home office facilities, or HOFs, parent companies, or other affiliated companies, such as the name, address, and CAGE code of the HOF, whether the HOF already has an FCL and the level of that clearance
- Whether the prospective facility has been granted a clearance by another government agency



## 2. Completing Required Forms

The contractor company point of contact will work with the IS Rep to become proficient in accessing the Electronic Facility Clearance, or e-FCL, System. This system will be used to complete and submit several required forms, as applicable:

- The Department of Defense Security Agreement (DD Form 441)
- The Appendage to the Department of Defense Security Agreement (DD Form 441-1)
- The Certificate Pertaining to Foreign Interests (SF-328)
- Exclusion Resolutions

Because different business structures complete the DD Form 441 and 441-1 differently, we will discuss this form in more detail on the following screen.

### a. KMP List

A key management personnel list provides identifying information about the contractor company and about the key management personnel who are required to be cleared in connection with the FCL. Each facility, in this case the HOF and Relay, will complete its own KMP list. It is important to note that although only certain KMP are required to be *cleared* in conjunction with the FCL, *all* corporate officers must be included on this.

Let's examine how to complete a KMP list the information required for the KMP List to be entered into the eFCL. The eFCL user must have the address of the facility as it appears on DD Form 441 for DD Form 441-1 and the full legal name of each KMP, his or her position title, the date of birth, city and state of birth, and country of citizenship for each individual. In addition the full social security number for each individual must be entered. Note that only those KMP required to be cleared in connection with the FCL will be asked to provide a social security number. Also the level of personnel security clearance needed for each individual, or, if the individual is to be excluded, the date of the Exclusion Resolution must be entered into the eFCL.

The KMP List no longer requires a signature. The one KMP List found in eFCL is the only one version currently authorized. Previous versions of the KMP list are obsolete and should not continue to be utilized. SF-328, Certificate Pertaining to Foreign Interests

Recall that SF-328, Certificate Pertaining to Foreign Interests, identifies and assesses the sources of foreign power that affect a contractor's facility by asking ten questions about the controlling influences over a contractor. In the case of a

Multiple Facility Organization, or MFO, the HOF should complete the SF-328, not the branch or division facility. The resource tool for security professionals provides a sample of this form and instructions for how to complete it.

### **b. Exclusion Resolutions**

Key management personnel who are not required to be cleared in connection with the FCL, and who do not require access to classified information, must be officially excluded from unauthorized access by means of a formal exclusion action. If resolutions for exclusion are needed, the IS Rep will request such resolutions for specifically identified contractor officials from the contractor. The resource tool for security professionals provides a sample of this form. Also keep in mind that Exclusion Resolutions may also be required if a parent organization does not require an FCL or is cleared to a lower level than any of its cleared subsidiaries.

## **3. Completing DD Form 441**

The Department of Defense Security Agreement, or DD Form 441, is an agreement between an industry contractor company and the United States Government that details the security responsibilities of both the cleared contractor and the United States Government.

All contractor headquarters, or home office facilities in the case of multiple facility organizations, must complete the DD Form 441.

The DD Form 441-1 is an appendage to the DD Form 441, and is required for cleared branches or divisions of multiple facility organizations.

The contractor company's business structure will affect how they fill out the DD Form 441. We will discuss how the form is completed using some of the most common business structures: sole proprietorship, partnership, corporation, and one variation of a corporation, a multiple facility organization. Remember that the laws governing a limited liability company, or LLC, differ from state to state. An LLC may be classified as a sole proprietorship, partnership, or corporation and the representative of such a company should complete the DD Form 441 according to the business structure an LLC is classified as by the state.

### **a. Sole Proprietorship**

As you know, a sole proprietorship is a business wherein a single individual owns all the assets, owes all the liabilities, and operates the company in his or her personal capacity. While much of the DD Form 441 is filled out the same way

regardless of business structure, there are some areas where business structure dictates a specific approach.

When completing the DD Form 441, the sole proprietor should input his name as the official name of the legal entity. The sole proprietor should then select business structure “(3)” by entering his name or the name under which he is conducting business, often written “John Doe, Doing Business As (DBA) [Company Name].”

Because this company is not a corporation, the Certificate portion of page two should not be completed. Instead, two witnesses must attest to the document and the parties executing it by signing where indicated on the left side of the form.

### **b. Partnership**

You will recall that a partnership is an association of two or more persons, or other legal entities, to carry on business for profit as co-owners. While much of the DD Form 441 is filled out the same way regardless of business structure, there are some areas where business structure dictates a specific approach.

When completing the DD Form 441, the partner representing the partnership should input the official name of the legal entity, that entity being the partnership. The representative partner should then select business structure “(2)” by entering the legal names of each of the general partners involved in the partnership. A separate list may be attached if more room is needed to list all general partners.

Note that this list is not the DD Form 441-1. The DD Form 441-1 should not be completed by a partnership; instead, the contractor should furnish the extra page and attach it to the agreement.

As with a sole proprietorship, because a partnership is not a corporation, the Certificate portion of page two should not be completed. Instead, two witnesses must attest to the document and the parties executing it by signing where indicated on the left side of the form.

### **c. Corporation**

Remember that a corporation is a separate legal entity that is considered a “person” with an existence distinct from its stockholders, directors, offices, and employees. While much of the DD Form 441 is filled out the same way regardless of business structure, there are some areas where business structure dictates a specific approach.

When completing the DD Form 441, the authorized official representing the corporation should input the official name of the legal entity, that entity being the corporation. The authorized official representing the corporation, such as the corporate president, should then select business structure “(1)” by entering the type of business structure, in this case “corporation” and the state in which the company is incorporated.

Because the contractor is a corporation, the Certificate portion of page two must be completed by the authorized official and one other member of key management personnel, such as the corporate secretary.

Usually, the portion of page two requesting the signatures of two witnesses should not be completed in this case. Note that in the case of a one-person corporation, the individual comprising the corporation completes the DD Form 441 as a sole proprietor.

#### **d. Multiple Facility Organization**

You learned that a multiple facility organization, or MOF, is a large corporation that has branches or divisions that are separate from the corporate headquarters, or home office facility, or HOF. When a branch or division requires an FCL, both the HOF and the branch or division must take part in the facility clearance request process.

Part of that process is completing the DD Form 441, and, in this case, the DD Form 441-1. The DD Form 441, should be completed by the authorized official representing the HOF of the corporation, such as the corporate president, in the same manner as a non-MFO corporation, using the HOF’s information, not the branch’s information.

The Appendage to Department of Defense Security Agreement, or DD Form 441-1, is an attachment to the DD Form 441 that lists cleared divisions or branch offices that are included in, and covered by, the provisions of the organization’s Security Agreement.

When completing the DD Form 441-1, the top portion of the form should be completed by entering the official name of the legal entity that is the corporation, not the branch or division name. The middle portion of the form provides three columns across which information about the branch or division should be entered. The bottom right portion of the form should be completed by a cleared KMP member with the authority to obligate the organization under the Security Agreement.

#### **4. Initiating Personnel Clearance Requests**

As part of the survey process, the contractor provides a listing of all KMP to the IS Rep.

Personnel security clearance investigation requests must be initiated for each KMP member required to be cleared in connection with the FCL. In this case, the Connex Corporation home office facility is being processed along with the branch facility. Many times, however, the HOF will already be cleared and therefore will not need to be processed with the branch facility. In order to initiate the investigation requests, the contractor must have an account in the Joint Personnel Adjudication System, or JPAS. Depending on how personnel clearances are processed in a company, the account can be established for the HOF or for the individual branch. While personnel clearance information is managed and tracked using JPAS, the requests to begin a personnel security clearance investigation are actually initiated using Electronic Questionnaires for Investigations Processing, or e-QIP.

For facilities being processed for an initial FCL, the FCB will initiate the investigation requests through e-QIP for the required KMP members to complete a Questionnaire for National Security Positions, or SF-86.

The contractor will also need to submit a fingerprint card, or FD-258, for each KMP member required to be cleared in connection with the FCL.

At a minimum for a corporation, this would include the Corporate President, Chairman of the Board, and the FSO at the company's home office facility, as well as the Division Director and FSO at the branch facility. The IS Rep will also advise the contractor about the designated timeframe within which all clearance paperwork must be completed and submitted. Failure to submit clearance paperwork in a timely manner may result in the discontinuance of the FCL request process.

#### **5. Obtaining a CAGE Code**

A contractor must have a CAGE code before a facility security clearance can be issued. Having a CAGE code is not equivalent to having an FCL. According to the Defense Logistics Agency website, a CAGE code is a code that identifies companies doing, or wishing to do, business with the federal government. The code is used to support a variety of mechanized systems throughout the government.

Because this code provides for a standardized method of identifying a given facility at a specific location, each facility, whether an HOF, or a branch, must have its own distinct CAGE code. DSS uses CAGE codes as numeric identifiers for each facility when processing and tracking requests for an FCL. If a contractor does not already have a CAGE code, it can obtain one through Central Contractor Registration, or CCR.

## **Granting a Facility Clearance**

### **1. Granting a Facility Clearance**

Once both the telephone and on-site surveys have been completed and the contractor has submitted all the necessary forms, DSS will monitor to ensure the following:

- All required forms have been properly executed by the contractor
- Any foreign ownership, control, or influence, or FOCl, factors have been favorably adjudicated
- Any HOF or parent companies have been cleared or excluded as appropriate
- No disqualifying information has been discovered since the on-site survey
- Eligibility determinations have been issued for all KMP

If all required KMP members are eligible for interim personnel clearances, then an interim FCL may be issued. If final eligibility determinations have been made, then the final FCL may be issued. When the FCL, either interim or final, has been issued, the contractor facility will receive a Letter of Notification of Facility Clearance, or DSS FL 381-R, from the FCB.

## Review Activity 1

Arrange the steps of the facility security clearance request process into the correct order. Write the matching letter in the space beside each step. Check your answers in the Answer Key at the end of this Student Guide.

### Steps in the FCL Request Process

### FCL Request Process

A. Telephone survey	Step 1 _____
B. Onsite survey	Step 2 _____
C. Sponsorship request	Step 3 _____
D. Receive DSS FL 381-R	Step 4 _____
E. Documents executed and KMP cleared	Step 5 _____

## Review Activity 2

A description of an activity in the facility clearance request process is provided. Select the correct party who conducts the described activity. Check your answers in the Answer Key at the end of this Student Guide.

- 2) Who completes and submits the sponsorship letter?
  - Government Contracting Activity or cleared prime contractor
  - In-process Contractor Company
  - Industrial Security Representative
  
- 3) Who validates the sponsorship letter?
  - Government Contracting Activity or cleared prime contractor
  - Industrial Security Representative
  - Facility Clearance Branch
  
- 4) Who conducts the telephone survey?
  - In-process Contractor Company
  - Industrial Security Representative
  - Facility Clearance Branch

5) Who conducts the on-site survey?

- In-process Contractor Company
- Industrial Security Representative
- Facility Clearance Branch

6) Who makes the determination about issuing an FCL?

- Government Contracting Activity or cleared prime contractor
- In-process Contractor Company
- Facility Clearance Branch and the Industrial Security Representative

### Review Activity 3

*Which of the following statements is true of the facility security clearance request process? Check your answers in the Answer Key at the end of this Student Guide.*

	True	False
A CAGE code is equivalent to a facility security clearance.	<input type="radio"/>	<input type="radio"/>
A final facility security clearance can be issued even if some KMP personnel have not yet received a favorable final eligibility determination.	<input type="radio"/>	<input type="radio"/>
When an uncleared branch facility in a multiple facility organization requires an FCL, the facility's home office facility does not need to complete the DD Form 441.	<input type="radio"/>	<input type="radio"/>



## Review Activity 4

*What activities should the point of contact for the uncleared contractor facility conduct in order to prepare for the telephone survey? Select all that apply. Check your answers in the Answer Key at the end of this Student Guide.*

- Research contractor company history and business structure
- Review procurement requirement regarding level of clearance needed and safeguarding requirements
- Review the NISPOM in order to create a security program that meets the basic requirements outlined in the NISPOM
- Gather necessary documentation about the contractor company such as a description of products and services and contact information

## Answer Key Review Activity 1

Arrange the steps of the facility security clearance request process into the correct order. Write the matching letter in the space beside each step.

<u>Steps in the FCL Request Process</u>	<u>FCL Request Process</u>
A. Telephone survey	Step 1 <u>  C  </u>
B. Onsite survey	Step 2 <u>  A  </u>
C. Sponsorship request	Step 3 <u>  B  </u>
D. Receive DSS FL 381-R	Step 4 <u>  E  </u>
E. Documents executed and KMP cleared	Step 5 <u>  D  </u>

## Review Activity 2

A description of an activity in the facility clearance request process is provided. Select the correct party who conducts the described activity.

- 1) Who completes and submits the sponsorship letter?
- Government Contracting Activity or cleared prime contractor
  - In-process Contractor Company
  - Industrial Security Representative

**Rationale:** Either the government contracting activity, or a cleared prime contractor, must submit a sponsorship to initiate the FCL request process. An uncleared contractor cannot request an FCL for themselves.

- 2) Who validates the sponsorship letter?
- Government Contracting Activity or cleared prime contractor
  - Industrial Security Representative
  - Facility Clearance Branch

**Rationale:** Before an evaluation of the prospective contractor may begin, the Facility Clearance Branch first validates the sponsorship letter.

3) Who conducts the telephone survey?

- In-process Contractor Company
- Industrial Security Representative
- Facility Clearance Branch

**Rationale:** The Industrial Security Representative assigned to the prospective contractor facility conducts the telephone survey to obtain information about the contractor company and facility.

4) Who conducts the on-site survey?

- In-process Contractor Company
- Industrial Security Representative
- Facility Clearance Branch

**Rationale:** The Industrial Security Representative assigned to the prospective contractor facility conducts the on-site survey to confirm information obtained in the telephone survey, and to evaluate the contractor company and facility.

5) Who makes the determination about issuing an FCL?

- Government Contracting Activity or cleared prime contractor
- In-process Contractor Company
- Facility Clearance Branch and the Industrial Security Representative

**Rationale:** The Facility Clearance Branch coordinates with the IS Rep to make the actual determination whether or not to issue the prospective contractor facility an FCL based on information obtained by the IS Rep thru surveys

6) Who receives the Letter of Notification of Facility Clearance?

- Government Contracting Activity or cleared prime contractor
- In-process Contractor Company
- Industrial Security Representative

**Rationale:** The prospective Contractor Facility will receive a letter of Notification of Facility Clearance after the FCB has determined the facility to be eligible and issued an FCL for it.

### Review Activity 3

*Which of the following statements is true of the facility security clearance request process?*

	True	False
A CAGE code is equivalent to a facility security clearance.	<input type="radio"/>	<input checked="" type="radio"/>
A final facility security clearance can be issued even if some KMP personnel have not yet received a favorable final eligibility determination.	<input type="radio"/>	<input checked="" type="radio"/>
When an uncleared branch facility in a multiple facility organization requires an FCL, the facility's home office facility does not need to complete the DD Form 441.	<input type="radio"/>	<input checked="" type="radio"/>

**Rationale:**

Row 1: A CAGE code is a code that identifies companies doing, or wishing to do, business with the federal government, while a facility security clearance is an administrative determination that, contractor facility is eligible for use in the performance of work involving, or the storage of, classified information.

Row 2: An FCL will not be granted unless all KMP members have received a positive final eligibility determination to receive a personnel security clearance.

Row 3: When an uncleared branch or division requires a facility security clearance, both the home office facility, or HOF, and the branch or division must take part in the facility clearance request process, if the HOF is not already cleared.

### Review Activity 4

*What activities should the point of contact for the uncleared contractor facility conduct in order to prepare for the telephone survey? Select all that apply.*

- Research contractor company history and business structure
- Review procurement requirement regarding level of clearance needed and safeguarding requirements
- Review the NISPOM in order to create a security program that meets the basic requirements outlined in the NISPOM
- Gather necessary documentation about the contractor company such as a description of products and services and contact information

## Student Guide

### **Course: Facility Clearances in the NISP**

#### ***Lesson 6: Maintaining a Facility Clearance***

##### **Lesson Introduction**

###### **1. Objective**

Once a facility has been awarded a facility security clearance, or FCL, it must then maintain the FCL. FCLs can be assigned different statuses and have different actions applied to them depending on circumstances. In this lesson, we will discuss maintaining an FCL, the different statuses of an FCL, and the actions that may be applied to an FCL in more detail. Here are the lesson objectives. Take a moment to review them.

Here are the lesson objectives:

- Identify facility security clearance maintenance activities, change conditions, and personnel actions that affect a facility security clearance in accordance with NISPOM requirements
- Identify when an interim and final facility security clearance is appropriate, and actions that may be applied to a facility security clearance and when such actions are appropriate

##### **Requirements for Maintaining a Facility Clearance**

###### **1. Maintenance Activities**

Once a contractor has completed the Facility Security Clearance, or FCL, request process and been awarded a FCL, what must the contractor do in order to maintain its facility security clearance?

First, the contractor facility's security program must meet the baseline security requirements specified in the National Industrial Security Program Operating Manual, or NISPOM. In order to verify the security program's continued compliance with these requirements, the facility will undergo periodic government security reviews as required by both NISPOM, Section 1-206(a) and section II of the Department of Defense Security Agreement, or DD Form 441. Finally, the contractor facility must report change conditions as specified in the NISPOM, Section 1-302(g).

### a. Government Security Reviews

NISPOM Chapter 1, paragraph 206(a) states that periodic security reviews of all cleared contractor facilities will be conducted to ensure that safeguards employed by contractors are adequate for the protection of classified information.. Government inspections are conducted by a facility's IS Rep. Depending on your company's classified involvement in the NISP government security reviews will occur at a 12, 15, 18 or 24 month interval.

Government security reviews result in the assignment of a security rating that describes the security posture of a facility's security program. There are five possible security ratings: superior, commendable, satisfactory, marginal, and unsatisfactory.

*NOTE: The information in the box below will not be on the test but is included here as additional information that may provide useful background and insight.*

#### **Security Ratings**

##### **Superior**

Reserved for contractors who possess a security posture of the highest caliber when compared with other contractors of similar size and complexity.

Such contractors—

- Consistently and fully implement procedures that—
  - Heighten the security awareness of its employees
  - Foster a spirit of cooperation within the security community
  - Are able to demonstrate the presence of a sustained, high level of management support
  - Had no serious security issues found during the facility's most recent government security review

##### **Commendable**

Assigned to contractors who possess an exemplary security posture when compared with other contractors of similar size and complexity.

Such contractors—

- Fully implement the requirements of the NISPOM in an effective manner
- Are able to demonstrate the presence of strong management support for the security program
- Have no security concerns present that exceed minor administrative issues
- Had no serious security issues found during the facility's most recent government security review

### **Satisfactory**

The most commonly assigned rating, this rating denotes that a contractor's security program is in general conformity with the basic requirements of the NISPOM.

Such contractors—

- May have had findings requiring corrective action in one or more security program elements during the facility's more recent government security review

### **Marginal**

Given to contractors whose security program, for whatever reason, is not in general conformity with the basic requirements of the NISPOM.

Such contractors—

- Had serious security issues, with the potential to contribute to an eventual compromise of classified information if left uncorrected, during the facility's more recent government security review

The facility's government representative will schedule a follow-up compliance review 120 days after issuing the rating to determine whether corrective actions have been implemented. DSS will also notify the contractor's GCA of the marginal security review rating.

### **Unsatisfactory**

Given to contractors when circumstances and conditions indicate that the contractor has lost, or is in imminent danger of losing, its ability to adequately safeguard the classified information in its possession or to which it has access.

Such contractors—

- Can no longer credibly demonstrate that they can be depended upon to preclude the unauthorized disclosure of classified information

The facility's government representative will conduct a compliance review within 30 calendar days of the review or event that led to the rating to assess the effectiveness of the corrective actions taken.

## **2. Change Conditions**

You know that you must report change conditions to your Industrial Security Representative, or IS Rep; but what exactly constitutes a change condition? You can find guidance about reporting information in NISPOM paragraph 1-300. Information specific to reporting facility change conditions appears in NISPOM paragraph 1-302g.

### Reportable Change Conditions

- Change in operating name or address
- Change in key management personnel
- Change in ownership
- Change in FOCl information
- Termination of business operations

Consider the following scenarios and determine whether each represents a change that requires reporting.

**Scenario 1:** *Due to rezoning, Connex corporation, the home office facility for Relay, has had its street address name changed from “Rose Street” to “Heather Street.” Should this be reported to the HOF’s IS Rep? Yes, a change of address is a reportable change condition.*

**Scenario 2:** *Philip White, Relay’s Facility Security Officer, or FSO, has accepted a job offer with another company. The new FSO who will replace Mr. White is Kevin Russell. Should this be reported to Relay’s IS Rep? Yes, any changes in key management personnel, or KMP, should be reported.*

**Scenario 3:** *A current stockholder with twenty percent ownership in Connex corporation has decided to sell his shares to a long-time business associate who is a U.S. citizen. Should this be reported to Relay’s IS Rep? Yes, any changes in ownership should be reported.*

**Scenario 4:** *This year, Connex corporation won a commercial contract with a foreign company that is a leader in its industry. As a result, Connex corporation is now receiving income derived from the foreign company. Should this be reported to Relay’s IS Rep? Yes. Because it changes the foreign ownership, influence, or control, or FOCl, information previously provided on the Certificate Pertaining to Foreign Interests, or SF-328, this is a reportable condition.*

**Scenario 5:** *Racer corporation performs work on contracts for both government and private industry. Racer corporation’s largest contract is with a company called Navigator corporation. Unfortunately, due to changes in the economy, Navigator has had to drastically reduce its production which required them to terminate its contract with Racer corporation. Without the income from Navigator, Racer corporation will be forced to file Chapter 11 bankruptcy. Yes, because this is a change to terminate business operations, it is a reportable condition.*



If you are unsure about whether a change represents a reportable condition, review the NISPOM, or check with your IS Rep.

## Facility Clearance Status

### 1. Facility Clearance Status Overview

A facility security clearance is not an unchanging authorization; it can have many different statuses for many different reasons. Let's take a look at the FCL statuses of some of the other contractors bidding on the same procurement as Relay.

### 2. Receiving a Facility Clearance

An interim FCL is granted on a temporary basis pending completion of the final personnel security eligibility determinations for a facility's key management personnel, or KMP.

Relay is being processed for a facility security clearance. All documentation has been correctly completed and submitted by Relay, and its KMP have each been determined eligible for an interim personnel security clearance. There are no FOCI factors affecting the facility at this time, and there are no other disqualifying factors. Therefore Relay has been granted an interim facility security clearance.

#### Interim FCL

- FCL request process completed with the exception of pending final personnel security adjudications for KMP
- All required documents correctly executed
- No other disqualifying factors

Another contractor company, Aurora, has completed the FCL request process and all of its KMP have received final eligibility determinations. All required documents have been properly executed, all FOCI factors have been favorably adjudicated, and no other disqualifying information has been discovered. Therefore, Aurora has been issued a final facility security clearance.

#### Final FCL

- FCL request process completed to include personnel security adjudications for KMP
- All required documents correctly executed
- All FOCI factors favorably adjudicated
- No other disqualifying factors

### 3. Changing a Facility Clearance Level

Tech Solutions is another contractor on the same procurement as Relay. Tech Solutions already has a Secret level facility security clearance, but it has just been awarded work on a contract that requires access to Top Secret information. Therefore, Tech Solutions will need to have its FCL upgraded.

In order for a contractor to be considered for an upgrade of its FCL, it must be sponsored just as it was required to be for obtaining its initial FCL. Tech Solutions' IS Rep will verify that the facility's safeguarding measures meet requirements for the new FCL's classification level. All the KMP at Tech Solutions who were cleared in connection with the initial FCL must also have their PCL upgraded to match the new FCL level.

#### Upgrade FCL

- Contractor has FCL at lower level than required by bona fide procurement need
- Contractor must be sponsored for upgrade
- IS Rep validates that safeguarding measures meet requirements for new FCL level
- KMP cleared in connection with FCL also have their PCL determinations upgraded

Valor is another contractor on the same procurement as Relay. Valor already has a Top Secret level facility security clearance but has not worked on any contracts that require access to Top Secret information in the last 12 months. Valor has two currently active contracts that require access to Secret information. Therefore, because Valor no longer needs access to Top Secret information, the Defense Security Service, or DSS, may take action to downgrade its FCL to the Secret level.

In order to downgrade a contractor's FCL, the IS Rep assigned to its facility must verify that the facility does not possess any materials or information classified at the higher level. ,

#### Downgrade FCL

- Contractor has FCL at higher level than required by current bona fide procurement need
- DSS initiates action to downgrade
- IS Rep verifies facility possesses no classified information at higher level
- New FL 381-R issued

#### **4. Invalidating, Revalidating, and Revoking a Facility Clearance**

Greyson and Corinth are two contractors hoping to submit a bid on the same procurement as Relay. Both Greyson and Corinth have had their facility security clearances invalidated due to serious problems with their security programs. The government contracting activity with the procurement need would like to use both contractors, however, contractors are ineligible to receive new contracts as long as their FCLs are invalidated.

Invalidation of an FCL is an interim measure that is taken to allow a contractor to correct circumstances that negate the integrity of its security program, or that result in the potential for compromise of classified information.

Greyson successfully corrected the circumstances that led to the invalidation of its FCL within the proscribed timetable, therefore, DSS has revalidated its FCL. Revalidation returns a facility's FCL to its previous active status and reinstates the privileges accorded an active FCL such as eligibility to bid on new classified procurements.

Corinth failed to successfully correct the circumstances that led to the invalidation of its FCL, and therefore, its FCL has been revoked. Revocation terminates a facility's FCL under negative circumstances and strips the privileges associated with an FCL. The facility is required to turn over all classified materials, and all access to classified information is prohibited.

The decision to revoke an FCL is ultimately determined by the Government Contracting Activities, or GCAs, who have contracted work from the contractor. If a GCA determines that it is in the best interest of the government to permit contract completion in spite of the reasons for revocation, then the contractor may continue performing work on a classified contract and the FCL will remain in an invalid status until contract completion, at which time the FCL will be revoked.

#### **5. Terminating a Facility Clearance**

Weller is yet another contractor who has bid on the same procurement as Relay. It did not win. Weller already has a FCL; however, none of Weller's work within the past twelve months has required access to classified information, and its FCL is therefore considered dormant. Weller does not have any active classified contracts and does not expect to be awarded any others in the near future.

Since there is no need to continue the facility security clearance, the DSS will initiate an action to administratively terminate Weller's FCL. Weller will receive a notice that its FCL will be terminated thirty (30) days from the date of the notice, unless a bona fide classified procurement requirement is provided.

## Review Activity 1

Which of the following circumstances should be reported as a change condition? Check your answers in the Answer Key at the end of this Student Guide.

	Report	Do Not Report
The street name for Aurora's physical address has changed.	<input type="radio"/>	<input type="radio"/>
The CEO for Weller is retiring and will be replaced by a Senior Vice President.	<input type="radio"/>	<input type="radio"/>
Corinth has acquired a smaller contractor company that has active contracts with foreign governments.	<input type="radio"/>	<input type="radio"/>
Valor was awarded a new classified contract that does not require any changes to its security program.	<input type="radio"/>	<input type="radio"/>

## Review Activity 2

A description of a facility and its FCL is provided. For each descriptions, select the correct status of the FCL. Check your answers in the Answer Key at the end of this Student Guide.

- 1) A contractor has completed the FCL request process but is waiting on final personnel security eligibility determinations.
  - Interim
  - Final
  - Invalidated
  
- 2) A contractor has corrected circumstances that negated the integrity of its security program within the proscribed time frame.
  - Invalidated
  - Revoked
  - Revalidated
  
- 3) Issues have been discovered with a contractor's security program that could result in the potential for compromise of classified information.
  - Downgrade
  - Invalidate
  - Revoke

- 4) A contractor has an FCL at a higher level than any of its currently active classified contracts.
  - Final
  - Upgrade
  - Downgrade
  
- 5) A contractor has an FCL but has not performed work on classified contracts for 12 months and does not have any current classified procurement requirements.
  - Interim
  - Administrated Termination
  - Revoked
  
- 6) A contractor has completed the FCL request process, including completion of final personnel security eligibility determinations for KMPs to be cleared in connection with the FCL and correct execution of all required documents.
  - Final
  - Upgrade
  - Revalidated

## Answer Key

### Review Activity 1

*Which of the following circumstances should be reported as a change condition?*

	Report	Do Not Report
The street name for Aurora's physical address has changed.	<input checked="" type="radio"/>	<input type="radio"/>
The CEO for Weller is retiring and will be replaced by a Senior Vice President.	<input checked="" type="radio"/>	<input type="radio"/>
Corinth has acquired a smaller contractor company that has active contracts with foreign governments.	<input checked="" type="radio"/>	<input type="radio"/>
Valor was awarded a new classified contract that does not require any changes to its security program.	<input type="radio"/>	<input checked="" type="radio"/>

#### Rationale:

Row 1: Any change in a contractor company's business name or address should be reported to the facility's IS Rep.

Row 2: Any change in key management personnel should be reported to the facility's IS Rep.

Row 3: Any change to information provided on SF-328 regarding FOCI factors should be reported to the facility's IS Rep.

Row 4: Acquiring a new classified contract that does not require any changes to the level of a facility's FCL or to the facility's safeguarding measures does not need to be reported to the facility's IS Rep.

## Review Activity 2

*A description of a facility and its FCL is provided. For each descriptions, select the correct status of the FCL.*

- 1) A contractor has completed the FCL request process but is waiting on final personnel security eligibility determinations.
- Interim
  - Final
  - Invalidated

**Rationale:** An FCL will not be issued until all KMP have received favorable eligibility determinations. If all other activities in the FCL request process have been completed but KMP eligibility determinations are still pending, then a contractor may be issued an interim FCL.

- 2) A contractor has corrected circumstances that negated the integrity of its security program within the proscribed time frame.
- Invalidated
  - Revoked
  - Revalidated

**Rationale:** An FCL will be invalidated if circumstances are discovered at a contractor's facility that could result in the potential for compromise. If such circumstances are corrected within the proscribed timeframe, then the contractor's FCL will be revalidated.

- 3) Issues have been discovered with a contractor's security program that could result in the potential for compromise of classified information.
- Downgrade
  - Invalidate
  - Revoke

**Rationale:** If circumstances are discovered at a contractor's facility that negate the integrity of its security program, then the contractor's FCL will be invalidated to give the contractor the opportunity to correct such conditions and avoid revocation of its FCL.

- 4) A contractor has an FCL at a higher level than any of its currently active classified contracts.
- Final
  - Upgrade
  - Downgrade

**Rationale:** A contractor's FCL should never exceed the highest security level required for its active classified contracts.

- 5) A contractor has an FCL but has not performed work on classified contracts for 12 months and does not have any current classified procurement requirements.
- Interim
  - Terminated
  - Revoked

**Rationale:** A contractor's FCL will remain active in a dormant status for 12 months after the completion of its last classified contract. If no active classified procurement need exists upon the conclusion of the 12-month dormancy, then the FCL will be administratively terminated.

- 6) A contractor has completed the FCL request process, including completion of final personnel security eligibility determinations for KMPs to be cleared in connection with the FCL and correct execution of all required documents.
- Final
  - Upgrade
  - Revalidated

**Rationale:** Once all activities in the FCL request process have been completed all required documents have been correctly executed, all KMP have received favorable eligibility determinations, and any FOIC factors have been mitigated, then a contractor facility will be issued a final FCL.



## **Student Guide**

### **Course: Facility Clearances in the NISP**

#### ***Lesson 7: Course Conclusion***

#### **Course Summary**

Facility security clearances, or FCLs, ensure that classified information is protected at contractor facilities. Contractors needing to obtain an FCL must first meet general eligibility requirements, and if eligible, are then evaluated on five key areas in order to determine whether to grant an FCL. Contractors being processed for an FCL should understand whether an FCL is appropriate for their facility given their business structure, and should consider the impact an FCL will have on certain aspects of their operations. The FCL request process involves a multi-faceted review of the contractor company, key management personnel, and the facility. The evaluation of a cleared contractor facility does not cease once an FCL is issued. FSOs need to conduct maintenance activities and be aware of the different actions that may be taken regarding an FCL and when each action is appropriate to take.

#### **Lesson Review**

Here is a list of the lessons in the course:

- Introduction to Facility Clearances in the NISP
- Facility Clearance Eligibility
- Is a Facility Clearance Appropriate?
- The Facility Clearance Request Process
- Maintaining a Facility Clearance

#### **Course Objectives**

You should now be able to—

- Identify the various organizations, divisions, and electronic information tracking systems involved in the facility security clearance request process
- Identify the eligibility requirements for consideration for a facility security clearance
- Identify the five key areas that are evaluated when determining a contractor's eligibility for a facility security clearance

- Identify the impact of different business structures on the facility security clearance request process
- Identify other factors that should be considered when determining the need for a facility security clearance
- Identify the process by which a facility security clearance is requested and granted
- Identify facility security clearance maintenance activities, change conditions, and personnel actions that affect a facility security clearance in accordance with NISPOM requirements
- Identify when an interim and final facility security clearance is appropriate, and actions that may be applied to a facility security clearance and when such actions are appropriate

## **Course Conclusion**

Congratulations. You have completed the *Facility Clearances in the NISP* course.

To receive course credit, you **MUST** take the *Facility Clearances in the NISP* examination. Please use the STEPP system form the Center for Development of Security Excellence to register for the online exam.