

LESSON 5

Safeguarding Classified Information

Safeguarding is more than having an approved security container. It is an all-inclusive philosophy encompassing not only physical storage capability, but all other facets of contractors' security programs ranging from the adequacy of the personnel security safeguards to the effectiveness of the security awareness briefings.

Industry is required by contract to comply with the safeguarding requirements of the NISPOM. As you can imagine, how well industry adheres to these requirements impacts upon national security.

At the same time, the responsibility to ensure adequate safeguarding of classified information does not rest solely with the contractors. The User Agencies who have placed classified information into the hands of industry must be aware of, and responsive to, their required participation in the accomplishment of this fundamental NISP function.

OBJECTIVES

At the completion of this lesson you should be able to:

- Determine when and how to accomplish the verification of contractor safeguarding capability.
- Distinguish between level of facility-clearance and level of safeguarding capability.
- Identify the contracting officers' responsibilities toward industry in the areas of reproduction, transmission, and disposition of classified information.

THE NISPOM AND THE INDUSTRIAL SECURITY REGULATION

As you may know, there are numerous differences between the National Industrial Security Operating Manual (NISPOM) and the Industrial Security Regulation (ISR). In fact, many NISPOM requirements have no equivalent requirement in the ISR. Thus, at times, the User Agency is unaware of the requirements with which industry must comply and this often hinders their responsiveness to contractors' requests for guidance or certain authorizations.

RELEASE OF CLASSIFIED MATERIAL

Prior to the release of classified information to a contractor, whether in an RFP, RFQ, some other type of formal solicitation, or the awarding of the contract, the Government Contracting Activity (GCA) must be assured the contractor is properly cleared. As you learned early, there are two ways to verify a facility is in the NISP. First, if your activity currently has a classified contract with them at a higher or equal clearance level. Second, by contacting the Defense Security Service - Central Verification Activity (CVA) at

www.dss.mil. in Columbus Ohio. Phone: 1 888-282-7682; or Mailing Address: 2780 Airport Drive, Suite 400, Columbus OH, 43219-2268. If you have the facility's Commercial and Government Entity (CAGE) number, it will aid in determining if the facility is in the program.

Keep several things in mind regarding this verification. It is valid for a period of three years. If any of the information provided to you changes within that time, you will automatically be notified by the CVA". In addition, and most important, a contractor's storage capability may be different than the level of the Facility Clearance. About half of the facilities in the NISP have no storage capability. These facilities are called "Access Elsewhere" facilities. Also note, a facility could be cleared at the TOP SECRET level, but yet only have storage capability at the SECRET level. Never equate clearance level to level of storage capability.

Storage may, however, be required in order to perform on the classified contract. In this case, the contractor is required to obtain the proper container and initiate the proper procedures that will allow DSS to approve the contractor's safeguarding capability. Safeguarding is normally verified through CVA. Just be aware you need to advise the clerk of the volume of classified material you wish to transmit to the facility. You wouldn't want to send ten classified missiles to a facility that has only a two-drawer container. For verification of large volumes of material or classified hardware, contact the Facility Security Officer at the receiving facility.

After you have verified the facility is cleared, be sure to address your material to the address given to you by CVA. This will assure that appropriately cleared individuals handle your material once it reaches the contractor. If the contractor has sent classified materials to your office, be sure to sign and return the receipt. It is the contractor's responsibility to show evidence that the material arrived safely. Should you forget, the contractor will be getting in touch with you regarding the signed receipt.

Keep in mind, you should never send any classified material, including CONFIDENTIAL material by first class mail to the contractor. This may result in an uncleared individual receiving your classified material, since the system that contractors are required to establish for receipt of classified mail only by appropriately cleared personnel covers receipt of classified material by U.S. Registered Mail, U.S. Express Mail, and U.S. Certified Mail only.

ACCOUNTABILITY

Contractors are required to maintain accountability records for TOP SECRET information. For SECRET and CONFIDENTIAL information the contractor has to record when it is received or dispatched outside the facility. Apart from its dispatch, they are not required to account for SECRET and CONFIDENTIAL material generated inside the facility. The NISPOM lists the necessary information required to be maintained in the accountability records.

The contractor is required to obtain written authority from the contracting officer prior to reproducing TOP SECRET information. In the case of COSMIC TOP SECRET, specific written authority from the U.S. or NATO contracting activity is required. At the SECRET level, the information is prohibited from being reproduced if so stated by the contracting officer or originating authority. If it is intelligence community material, check with the customer for approval.

TRANSMISSION

If a facility is going to transmit TOP SECRET material outside of the facility, it first must obtain written authorization from the contracting officer. This, as you would imagine, is to prevent any unnecessary exposure to inherent dangers while in transit. The courier must be briefed and cleared TOP SECRET, or the facility may use the Defense Courier Service. In all other cases, the contractor simply follows the procedures listed in the NISPOM for proper transmission. Basically, SECRET material must be sent by U.S. Registered Mail or U.S. Express Mail. CONFIDENTIAL material may also be sent by U.S. Certified mail. SECRET and CONFIDENTIAL material can also be hand-carried by an employee courier as long as the courier has been properly briefed, is appropriately cleared, and, if the arrangements are made beforehand to store the classified material. NISPOM paragraphs 5-408 & 5-409 provide guidance for the use of commercial carriers for shipment of SECRET and CONFIDENTIAL material.

DISPOSITION

The facility must return to the User Agency the classified material if the bid, proposal or quote was not submitted or was withdrawn within 180 days after the opening date. If the bid, quote or proposal was not accepted, they must dispose of material within 180 days after the notification of non-acceptance. Should the facility be awarded the contract, they must dispose of material upon final delivery of the goods or services, upon completion of the contract, as directed in the contract, or when directed by the contracting officer. The facility does have the option to request retention authority beyond 2 years from the GCA, if they can prove it would be benefit the government to have the contractor retain the classified material. This is done in writing by the contractor as soon as possible. If no response is received from the GCA, the contractor may retain the material for two years from the date of its request. The final disposition option the contractor has is destruction of the material. The contractor is authorized to destroy the material unless the material is COSMIC TOP SECRET (which must be returned to the contracting officer), or unless specific instructions have been provided to the contractor regarding the disposition of the classified material.

Normally the contractor has 24 months to dispose of the material upon completion of a contract. In many cases the material may be destroyed. Disposition may include returning the material to the GCA, sending it to another appropriate and authorized recipient, or destroying it.

Even before a classified bid package is released to industry, the clearance level of the facility and its safeguarding capabilities must be verified. Then, when the contract is issued, the contractor must follow the guidelines established in the NISPOM to ensure the proper protection of the classified information. Your involvement throughout the contract is paramount in making sure the contractor has been provided the proper guidance in meeting these security requirements.

REVIEW EXERCISES

Complete the following exercises for review and practice. Multiple choice questions may have one or more correct choices.

1. Prior to release of classified information to a contractor's facility the Government Contracting Agency must be assured the facility is p_____ c_____.
2. A facility's having s_____ c_____ entails more than its being cleared within the NISP.
3. When storage is required as part of a classified contract, the contractor's safeguarding capability is normally verified through the
 - a. DSS-CVA.
 - b. DISCO.
 - c. OISI.
 - d. DSS Headquarters.
4. Never send CONFIDENTIAL material by f_____ class mail to the contractor.
5. Contractors are required to maintain accountability records for all classified material.

True
False

6. For _____ and _____ information the contractor only has to record when it is received by the facility and/or d_____ outside the facility.
7. TOP SECRET material may never be hand-carried outside the facility by cleared employees.

True
False

8. Before transmitting TOP SECRET material outside the facility, the facility must obtain w_____ a _____ from the contracting officer.
9. When a bid, proposal, or quote was not submitted or was withdrawn, the facility must return the classified material to the GCA within
 - a. 30 days after the opening date.
 - b. 60 days after the opening date.
 - c. 90 days after the opening date.
 - d. 180 days after the opening date.

10. The final disposition option of classified materials the contractor has is
d_____.

ANSWERS

1. *properly cleared (p.5-1)*
2. *storage capability (p. 5-2)*
3. *a (p. 5-2)*
4. *first (p. 5-2)*
5. *False (p. 5-2)*
6. *SECRET, CONFIDENTAL
dispatched (p. (pp. 5-2)*
7. *False (p. 5-3)*
8. *written authorization (p. 5-3)*
9. *d (p. 5-3)*
10. *destruction (p. 5-3)*