



DEPARTMENT OF THE NAVY
OFFICE OF THE ASSISTANT SECRETARY
RESEARCH, DEVELOPMENT AND ACQUISITION
1000 NAVY PENTAGON
WASHINGTON DC 20350-1000

10 June 1996

DFARS CASE:
96-00005

MEMORANDUM FOR DISTRIBUTION

Subj : EXTENSION TO CLASS DEVIATION--NATIONAL INDUSTRIAL
SECURITY PROGRAM OPERATING MANUAL

Encl: (1) OUSD DP(DAR) memo of 30 May 1996

Enclosure (1) is forwarded for immediate implementation.

Elliott B. Branch

Elliott B. Branch
Executive Director
Acquisition & Business
Management

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May 30, 1996

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ACQUISITION AND
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DP (DAR)

In reply refer to
DAR Trackin9 Number: 96-00005

MEMORANDUM FOR DIRECTORS OF DEFENSE AGENCIES
DEPUTY FOR ACQUISITION AND BUSINESS MANAGEMENT,
ASN (R&D) / ABM
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(CONTRACTING) , SAF/AQC
DIRECTOR, PROCUREMENT POLICY, ASA (RD&A) / SARD-PP
DEPUTY DIRECTOR (ACQUISITION) , DEFENSE LOGISTICS AGENCY

SUBJECT: Extension to Class Deviation --National Industrial Security
Program Operating Manual

I extend the authority for all military departments and defense agencies to use the attached text and clause that replaces all references to the DoD Industrial Security Manual for Safeguarding Classified Information (DoD 5220.22-M) with the National Industrial Security Program Operating Manual (NISPOM) .

The National Industrial Security Program was established by Executive Order 12819. The operating manual for the program replaces the DoD Industrial Security Manual.

I am extending the class deviation until the FAR is revised.

Eleanor R. Spector
Director, Defense procurement

Attachments

cc: DSMC, Fort Belvoir

ENCLOSURE(1)



PART 4--ADMINISTRATIVE MATTERS

SUBPART 4.4-SAFE-GUARDING CLASSIFIED INFORMATION WITHIN INDUSTRY

4.401 Definitions.

No change.

4.402 General.

(a) ~~[Executive Order 12829, January 6, 1993 (58 FR 3479, January 8, 1993), entitled "National Industrial Security Program," establishes a program to safeguard Federal Government classified information that is released to contractors, licensees, and grantees of the United States Government. Executive Order 12829 amends] Executive Order 10865, February 20, 1960 (25 FR 1583, February 25, 1960), entitled "Safeguarding Classified Information Within Industry," as amended by Executive Order 10909, January 17, 1961 (26 FR 508, January 20, 1961), forms the basis for agency regulations concerning safeguarding the release of classified information to U.S. industry.~~

(b) ~~The Department of Defense (DOD) has incorporated [National Industrial Security Program Operating Manual (NISPOM) incorporates] the requirements of these Executive Orders into the Defense Industrial Security Program (DISP), administered by the Defense Investigative Service, 1000 Half Street S.W., Washington, DC 20324 (Director for Industrial Security).~~ [The Secretary of Defense, in consultation with all affected agencies and with the concurrence of the Secretary of Energy, the Chairman of the Nuclear Regulatory Commission and the Director of Central Intelligence is responsible for issuance and maintenance of this Manual.] The following DOD publications implement the program:

~~(1) National Industrial Security Program Operating Manual (NISPOM) (DOD 5220.22-M)~~

~~(2) Industrial Security Regulation (ISR) (DOD 5220.22-R).~~

~~(3) Industrial Security Manual for Safeguarding Classified Information (ISM) (DOD 5220.22-M).~~

(c) Procedures for the protection of information relating to foreign classified contracts awarded to U.S. industry, and instructions for the protection of U.S. information relating to classified contracts awarded to foreign firms, are prescribed in ~~Section VIII of the ISR~~ [Chapter 10 of the NISPOM].

(d) No change.

4.403 Responsibilities of contracting officers.

(a) No change.

(1) No change.

(i) Determine if the agency is covered by the DISIP; and

(ii) No change.

(2) No change.

(b) No change.

(1) Ensure that the classified acquisition is conducted as required by the ~~D~~[N]ISP or agency procedures, as **appropriate; and**

(2) **No change.**

(c) No change.

(1) Agencies covered by the ~~D~~[N]ISP shall use the Contract **Security Classification Specification**, DD Form 254. The contracting officer, or authorized representative, is the approving **official** for the form and shall ensure that it **is prepared and distributed in accordance with Section VII of the ISR**

(2) Contracting **officers** in **agencies** not covered by the ~~D~~[N]ISP shall follow agency procedures.

4.404 Contract clause.

(a) through (c) - No change.

(d) **If the contracting officer is not covered by the ~~D~~[N]ISP and has prescribed a clause and alternates that are substantially the same as those at 52.204-2, the contracting officer shall use the agency-prescribed clause as required by agency procedures.**

PART 27--PATENTS, DATA, AND COPYRIGHTS

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SUBPART 27.2--PATENTS

*** * * * ***

27.207 Classified contracts.

27.207-1 General.

(a) No change.

(b) **Upon receipt from** the Contractor of a patent application, not yet **filed**, that has been submitted by the contractor in compliance with paragraph (a) or (b) of the clause at 52.227-10, **Filing of Patent Applications-Classfled Subject Matter**, the contracting officer shall ascertain **the proper security classification** of the patent application. **Upon a determination** that the application contains **classified** subject matter, **the** contracting officer shall inform the **contractor** of any instructions deemed necessary or advisable **relating** to transmittal of the **application** to the United States Patent Office in accordance **with** procedures in the ~~Department of Defense Industrial Security~~ **National Industrial Security Program Operating Manual for Safeguarding Classified Security Information**. If the **material is classified** "Secret" or higher, the **contracting** officer shall make every effort to notify **the** contractor of **the** determination within 30 days, pursuant to paragraph (a) of ~~the~~ **clause**.

* * * * *

PART 52-SOLICITATION PROVISIONS AND **CONTRACT** CLAUSES

* * * * *

52.204-2 Security Requirements

As prescribed in 4.404(a), insert the following clause in solicitations and contracts when the contract may require access to classified information unless the conditions specified in 4.404(d) apply:

SECURITY REQUIREMENTS (xxx 1995)

(a) No change.

(b) The Contractor shall comply with (1) the Security Agreement ('DD Form 441), including the ~~Department of Defense~~ [National] **Industrial Security** [Program Operating] **Manual for Safeguarding Classified Information** (DOD 5220.22-M) , and (2) any revisions to that manual, notice of which has been furnished to the Contractor.

(c) No change.

(d) No change.

(End of clause)

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