ROADMAP TO GETTING A FACILITY CLEARANCE/FCL Sponsorship

June 2022

DEFENSE COUNTERINTELLIGENCE AND SECURITY AGENCY

DCSA FCB Senior Staff Specialist Shelton R. Mallow

WHAT YOU WILL WALK AWAY WITH TODAY

A general understanding of how the facility clearance process works, to prepare your business for the facility clearance process and considerations to be mindful of as your company looks to enter the cleared industrial base.

Topics include:

- Basic Principles Surrounding Facility Clearances

- NISS Sponsorship Discussion

- Facility Clearance Process Roadmap and Timeliness

- Top 5 Reasons for Rejection

- Required Roles and Responsibilities

- Initial vs. Upgrade sponsorship

- Questions and Considerations to Keep in Mind

- DCSA Resources and Training

WHAT IS A FACILITY CLEARANCE?

☑ A Facility Clearance (FCL) is an administrative determination that a company is eligible for access to classified information

- Reference: DoDM 5220.22, Section 4 and NISPOM 2.102

☑ The FCL Process requires Key Management Personnel (KMP) to get Personnel Clearances in connection to the FCL

- Reference: DoDM 5220.22, Section 4.7 and 4.8 and NISPOM 2-103.b, 2-104

☑ NOTE: A Facility Clearance is not a clearance for a specific location, site or building, but is granted based on the ownership, authority and control of the KMPs of that company verified in the company's legal business documents.

FCL SPONSORSHIP IN THE SYSTEM OF RECORD

DoD TWO STEP AUTHENTICATION – NCAISS AND NISS

National Industrial Security Program Contracts Classification System (NCAISS)

The DCSA NCAISS Portal is a web-based application that provides Public Key Infrastructure (PKI)-based authentication services to DCSA applications and information systems for authorized users. Through the NCAISS Portal, an authorized user can access their DCSA NCAISS Portal account via a single sign-on (SSO) capability using PKI certificates (either a Common Access Card (CAC) or DoD-approved External Certification Authority (ECA) certificate).

https://www.dcsa.mil/is/nisp_ncaiss/

National Industrial Security System (NISS)

DCSA System of Record for industrial security oversight accessible by Industry, Government, and DCSA personnel. FCL Sponsorship Requests will be made in this system. Once submitted, the FCL Request will be tasked to DCSA Facility Clearance Branch for review. During the review, DCSA FCB will validate the bona fide need to access classified information in the performance of a classified contract and ensure that the request meets policy requirements.

https://www.dcsa.mil/is/niss/

FACILITY CLEARANCE ROADMAP

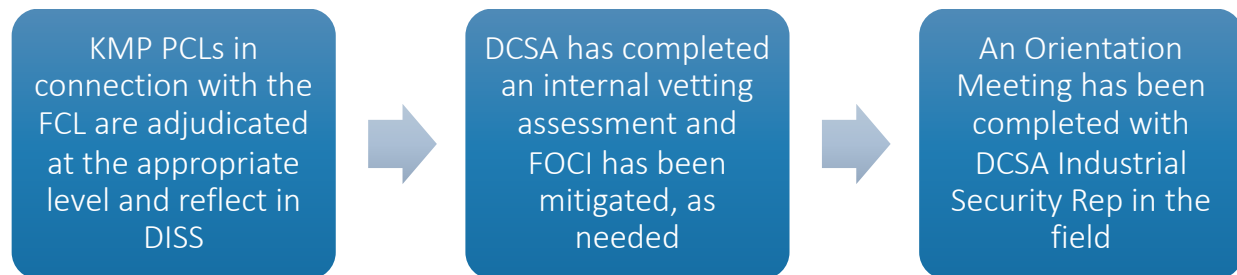| DAY ONE	DAY 5-10	DAY 10-20	DAY 20	DAY 45
CLOCK STARTS! The FCL Orientation Handbook provides valuable information on the FCL process	FSOs review the FCL process videos at www.dcsa.mil to prepare compiling the FCL package	FSOs upload all required documents & forms based on company's Business structure into NISS.	DCSA reviews companies FCL package to validate it meets requirements and for accuracy.	Once FCL Package is approved, FSOs will submit KMP e-QIPs and fingerprints

| SPONSORSHIP SUBMISSION AND REVIEW | SPONSOSHIP PACKAGE ACCEPTED | FCL Process Video Review* | FCL PACKAGE UPLOAD | INITIAL FCL PACKAGE DEADLINE | DAY 45: KMP PCL DEADLINE TO SUBMIT |

Once the company has met the requirements and deadlines noted above, that does not mean the FCL process is finished. The following tasks will need to be completed before an FCL is issued.

KMP PCLs in connection with the FCL are adjudicated at the appropriate level and reflect in DISS	→	DCSA has completed an internal vetting assessment and FOCI has been mitigated, as needed	→	An Orientation Meeting has been completed with DCSA Industrial Security Rep in the field

THINGS THAT COULD AFFECT THE TIMELINESS OF THE FCL

PCLs
- Will the KMPs need to be initiated for a PCL OR are KMPs already cleared with PCL eligibility reflected in DISS
- The PCL backlog is no longer an issue, as we are now at a steady state and have much stronger numbers on timeliness for T3 and T5 investigations

FOCI
- Is there significant foreign ownership, control or Influence
- If so, there may need to be FOCI mitigation instruments put in place which could affect the timeliness

Legal Docs
- Are there discrepancies in your company's legal docs, website, address
- Is your company in good standing with the registered Secretary of State
- Reviewing this information and being prepared ahead of time can help the FCL process

PRE-AWARD AND POST-AWARD SPONSORSHIPS

PRE-AWARD SPONSORHIP

Must have bona fide need to access classified during performance of the contract during the bid process.
Reference DoDM 5220.22, Section 6 and 6.c and NISPOM 7-101, 1.(a)

Sponsorship must include, but may not be limited to:
- Solicitation number, release date and close date
- Written GCA Authorization verifying access to classified information in the pre-award stage
- Level of classification and copy of pre-award DD254

POST-AWARD SPONSORHIP

Must have bona fide need to access classified during performance of the contract.
Reference: DoDM 5220.22, Volume 2, Sections 4.3 and 4.4 and NISPOM 2-102

Sponsorship must include, but may not be limited to:
- DD254
- SOW/PWS
- Written GCA Authorization on security requirements above those listed in NISPOM

TOP REJECTION REASONS FOR FCL REQUESTS

Missing Government Contracting Activity Authorization on those security requirements above those noted in NISPOM

Incorrect or incomplete information on the DD254

Lack of Justification/No access to classified required/No obvious bona fide need to access classified

Solicitation with no required access to classified information in the pre-award stage

Incorrect sponsorship request/conflicting information on sponsorship and DD254

BUSINESS STRUCTURE REQUIREMENTS

Business Structures in the NISP				
Corporation	Limited Liability Company	Partnerships	Joint Ventures	Colleges & Universities

Valuable resources include: the FCL Orientation Handbook and DoDM 5220.22, Section 4.
These will help your company prepare to go through the FCL process and understand what will be required for submission in the FCL package. Ensure that all company documentation is accurate and up to date.
NOTE: This includes Multiple facility organizations (MFOs)/Branch Offices and Parent/Subsidiary business structure relationships as well.

Key Management Personnel (KMP) that are required to be cleared in connection with the FCL will be determined and verified through the company's legal documents. At a minimum, the SMO, FSO and ITPSO will be cleared. Additional KMPs may need to be on the KMP list depending on the information within the company's governance documents.

Senior Management Official (SMO)

Facility Security Officer (FSO)

Insider Threat Program Senior Official (ITPSO)

NOTE: DoDM 5220.22, Section 4.7 and 4.8 & NISPOM 2-103.b and 2-104

Joint Venture Administrative employees 13 CFR 121.103 (h)

FACILITY CLEARANCE FAQs

HOW CAN A COMPANY GET AN FCL?

- A contractor or prospective contractor cannot apply for its own FCL
- Contractors must be sponsored by Government Contracting Activity (GCA) or cleared contractor AND have a legitimate or bona fide need to have access to classified materials.

WHAT ARE THE FCL REQUIREMENTS?

- Must have a bona fide need to access classified in connection with a legitimate requirement (prime or subcontract)
- Must be legally organized and registered to do business in the US
- Must have a reputation for integrity and lawful business dealings
- Must not be under Foreign Ownership or Controlling Interest (FOCI) - Be mindful of FOCI considerations with investors
- DODM 5220.22, SECTION 4 and NISPOM 2-102

WHO PAYS FOR THE FACILITY CLEARANCE?

- The government funds the processing of PCLs and FCLs for access to classified information. The only cost to you to go through the process is to ensure the business is in compliance with the National Industrial Security Program Operating Manual (NISPOM}.

DOES AN FCL EXPIRE?

- An FCL remains active until the company no longer has a need to access classified information (NISPOM 2-102)

PERSONNEL SECURITY PROGRAM REFERENCES

IN REFERENCE TO SERVICE CONTRACTS, IT LEVEL POSITIONS, HSPD-12 & NEED TO KNOW

DoDM 5220.22, Volume 2, dated August 1, 2018, Section 6.2.a (2.a)

- (DCSA) does not fund investigations for non-NISP contracts (i.e., those that do not require access to classified information under DSS (DCSA) security cognizance). GCAs are responsible for funding any and all background investigation requirements established in non-NISP contracts (e.g., network or system administrators, access to government installations or facilities or issuance of the common access card (CAC)). See paragraph 52.204-09 of the FAR and applicable DoD or Component policies for specific guidance.

DoDM 5200.02, April 3, 2017, Section 8.1a

- Access to Classified Information states "Granting national security eligibility is a function distinct from granting access to classified national security information. National security eligibility determinations are made on the merits of the individual case and involve examining a sufficient period of a person's life and background to determine that the person is an acceptable national security risk. Access determinations are made solely on the basis of the eligible individual's need for access to classified information to perform official duties

Executive Order #12968: Part I, Definition, Access to Classified Information, Financial Disclosure and Other Items, Sec 1.1 (g)

- ''Need for access'' means a determination that an employee requires access to a particular level of classified information in order to perform or assist in a lawful and authorized governmental function." AND Sec 1.1 (h) "(h) ''Need-to-know'' means a determination made by an authorized holder of classified information that a prospective recipient requires access to specific classified information in order to perform or assist in a lawful and authorized governmental function.

Executive Order #12968: Part II Access Eligibility Policy and Procedure, Sec 2.1 (b)

- Eligibility Requirements states: (1) Eligibility for access to classified information shall not be requested or granted solely to permit entry to, or ease of movement within, controlled areas when the employee has no need for access and access to classified information may reasonably be prevented.

WHAT CAN YOU DO TO PREPARE

GET SMART ON DoDM 5220.22 & NISPOM POLICY

RESEARCH SECURITY REQUIREMENTS OR TAKE A DCSA CDSE COURSE

GET YOUR COMPANY'S LEGAL DOCUMENTS IN ORDER

RESOLVE ISSUES WITH SECRETARY OF STATE SITE, SAM.GOV, ADDRESS AND WEBSITE INFORMATION TO ENSURE ALL IS ACCURATE AND UP TO DATE

ENGAGE OTHERS INVOLVED IN NISP AND ASK QUESTIONS

REACH OUT TO DCSA FCB FOR ANY QUESTIONS ABOUT THE PROCESS OR WHAT THE REQUIREMENTS FOR AN FCL ARE

DEFENSE COUNTERINTELLIGENCE
AND SECURITY AGENCY

INITIAL SPONSORSHIP VS UPGRADE?

Initial Sponsorship

- Facility must obtain PKI and request NISS Access

- FCB will serve as the facilities Field office/ISR until the facility has completed FOCI review.

- Facility will submit initial FCL package containing all documents for the company

- Facility will require a full FOCI review

- FCB Will initiate e-QIPs for KMPs who need to be cleared.

- Orientation meeting will need to be conducted.

Upgrade Sponsorship

- Facility should already have PKI, NISS account and DISS account

- Facility will remain assigned to their currently assigned field office/ISR

- Facility will submit an FCL package verifying all company information is correct, and supporting documentation for any new changes.

- Facility will not require a new FOCI review if an assessment has been conducted within the last 12 months.

- FSO will initiate e-QIPs for KMPs who need to have PCL upgrades completed.

- ISR will conduct orientation/outreach to facility.

Overall the fundamentals of the process is the same for an initial FCL and upgrade

RESOURCES

VISIT WWW.DCSA.MIL
- FCL Process Orientation Video – https://www.dcsa.mil/mc/ctp/fc/
- FCL Orientation Handbook – Update Coming Feb 2020

DCSA Center for Development of Security Excellence (CDSE)
- www.CDSE.edu
- FREE training and resources
- Facility Security Officer toolkit

CONTACT DCSA FCB
- EMAIL: DCSA.FCB@MAIL.MIL
- DCSA FCB Knowledge Center at 888-282-7682, Option 3

POLICY
- DoDM 5220.22
- NISPOM
- Other references depending on the contract or security requirements

15

DEFENSE COUNTERINTELLIGENCE AND SECURITY AGENCY

There are 33 NISP signatories:

NASA
Dept Commerce
GSA
Dept of State
Small Business Administration
National Science Foundation
Dept of Treasury
Dept of Transportation
Dept of Interior
Dept of Agriculture
Dept of Labor
Environmental Protection Agency
Dept of Justice
Government Accountability Office
US Trade Representative
US International Trade Commission
US Agency for International Development
Nuclear Regulatory Commission
Dept of Education
Health & Human Services
Homeland Security
Federal Communication Commission
Office of Personnel Management
National Archives and Records Administration
Overseas Private investment Corp
Dept of Housing and Urban development
Millennium Challenge Corp
Dept of Veteran Affarirs

Executive Office of President
Social Security Administration
US Postal Office
Privacy and Civil Liberties Oversight Board

This information can be found on dcsa.mil > NISP signatories

October 2019 DCSA took over the PCL mission. This newly formed organization is intended to give a more timely, seamless approach to the whole FCL and PCL process. Better communication, collection of required information on the front end. We are already seeing a very positive benefit within our agency which ultimately helps us better support you in Industry.

QUESTIONS?

**DEFENSE COUNTERINTELLIGENCE
AND SECURITY AGENCY**