



How to Become a Cleared Facility

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Session Goals

- To provide the audience background on what it means to be a cleared facility and the potential impact to your university.
- Frame some questions for universities to consider when evaluating a request to become a cleared facility
- Outline the roadmap for getting a facility clearance sponsorship
- Provide helpful resources

What is a Facility Clearance?

An eligibility determination for an **entity** (company, university, etc.)

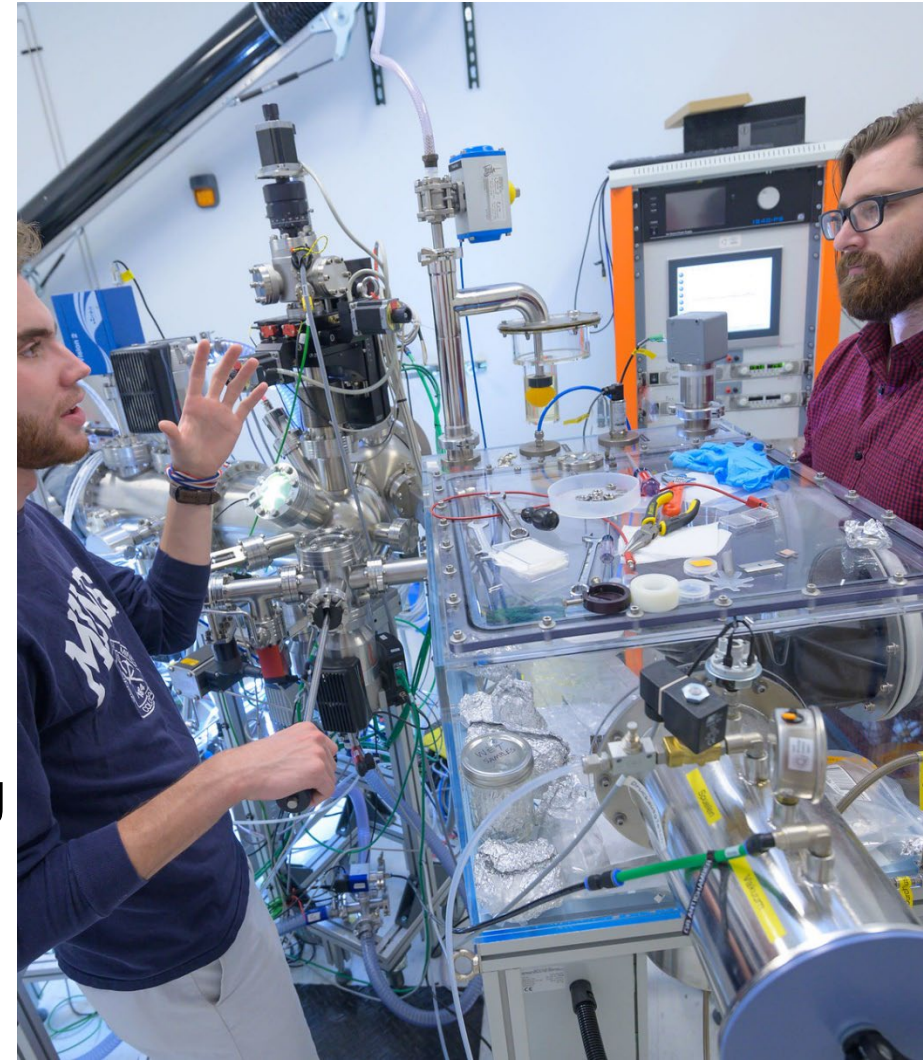
- Government need for entity to have access to classified information
(Sponsorship required)
- 3 levels: Confidential, Secret and Top Secret
- 2 types: Possessing and Non-Possessing
- FCL required before individuals with personal clearances (PCLs) can access classified information on the entity's behalf

What is required of the Senior Management Official (SMO)?

The Senior Management Official (President) specific duties:

- Seek and obtain personnel clearance
- Complete all required training, report travel, contacts
- Responsible for policy and strategy
- Ultimate authority over facility's operations
- Authority to direct actions necessary for safeguarding classified info

Early involvement of legal counsel



What Are the Drivers for Classified Research on Your Campus?

Is the initiative from a single lab or researcher, or multiple?

Does the university consider national security research a strategic goal?

Do you expect to do classified research on campus or access classified information only at a sponsor's or government location?

(Possessing vs. Non-possessing)

Do you expect to need classified computing?

Does Classified Research Fit Your University's Policies and Culture?



Are you a fundamental-research only institution (45% of AUECO members)?

Are the NISPOM requirements consistent with the university's non-discrimination policies?

Would your faculty, staff, and students support classified research?

Do You Have Leadership Buy In?

- Senior Management Official (SMO) and Key Management Personnel (KMP) - Each must obtain a personnel security clearance (PCL), complete all required training, submit to personal scrutiny, and report international travel and foreign contacts.
- SMO must have detailed knowledge of the classified program
- Does your senior leadership understand the commitment involved?

Do You Have a Culture of Compliance?

- Pursuing an FCL requires significant government oversight
- Non-compliance has an impact on national security, and can affect the reputation of the university and more
- Does your university have solid compliance programs in other areas?
- Do your institutional culture support research compliance?



Adequate Space that Could Be Secured?

For Possessing Entities – you must have adequate ability to safeguard classified information

- Sufficiently secured, and often dedicated space
- Co-use with other research difficult (even other classified research)
- Safes
- Limited Access

Willing to Cover the Costs?



USG charges \$0 to review a sponsor's FCL request. Creating/ managing program: significant investment (\$\$\$)

- Hiring qualified personnel in compliance and IT
- Physical space, security controls
- New bureaucracy, education and training, maintaining access to multiple computer systems, reporting, federal reviews

May not generate revenue, but may allow new research directions

Able to Hire/Identify Qualified Staff for Required Roles?

- Senior Management Official (SMO)
- Key Management Personnel (KMP)
- Insider Threat Program Senior Official (ITPSO)
- Facility Security Officer (FSO)
- Assistant Facility Security Officer (AFSO)
- Information System Security Manager (ISSM) – required for classified computing
- Alternate ISSM

Does Your University Understand the Significant Responsibilities and Training?

Requirements under the NISPOM Rule are significantly different from export controls

Pursuing and maintaining an FCL – substantial commitment

Do it! If it makes sense for your university

Don't take it lightly



What Are Alternatives to a Cleared University?

- Could your government or corporate sponsor host cleared work at their site?
 - Would still require a non-possessing FCL
- Could the sponsor clear the university personnel?
 - Would require a joint appointment
- Does your university have or could it establish a separate legal entity to host the FCL? (e.g. LLC, Foundation, 501(c)(3))
 - Sufficiently independent from the university (financially and legally)



ROADMAP TO GETTING A FACILITY CLEARANCE/FCL Sponsorship

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DEFENSE COUNTERINTELLIGENCE AND SECURITY AGENCY

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DEFENSE COUNTERINTELLIGENCE
AND SECURITY AGENCY



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.



PRE-AWARD AND POST-AWARD SPONSORSHIPS

PRE-AWARD SPONSORSHIP

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 SPONSORSHIP

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

KEY MANAGEMENT PERSONNEL REQUIREMENTS



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.



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)

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

Questions?

Thanks for your participation in today's session

Additional Resources

Defense Counterintelligence and Security Agency





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



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).

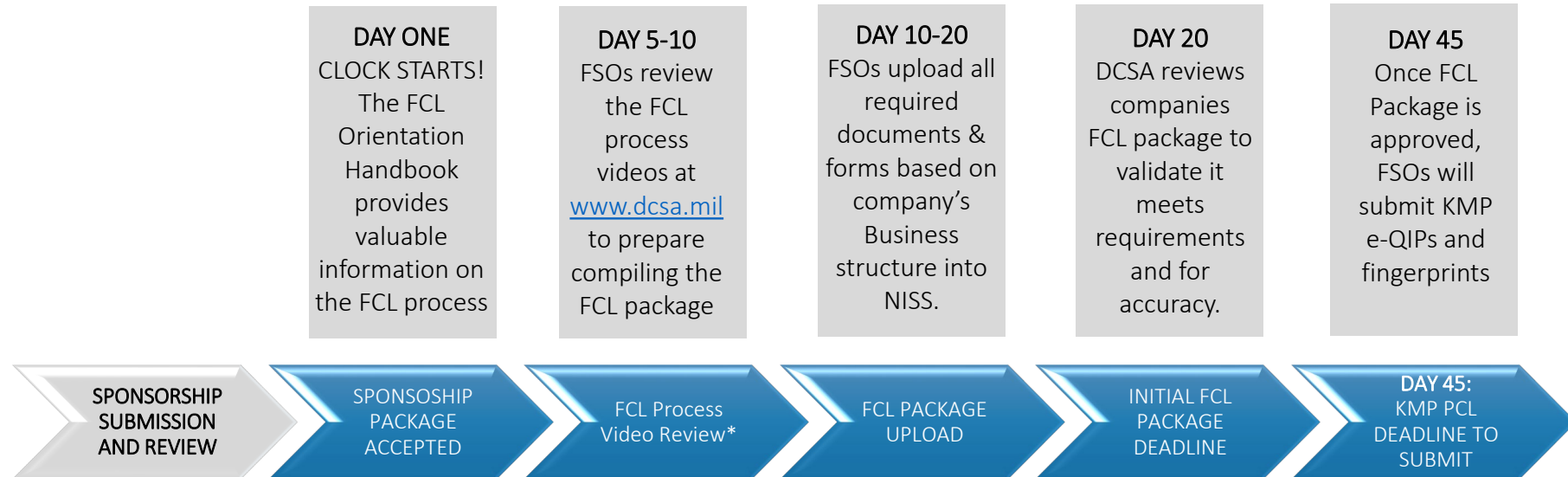
https://www.dcsa.mil/is/nisp_ncaiss/

National Industrial Security System (NISS)

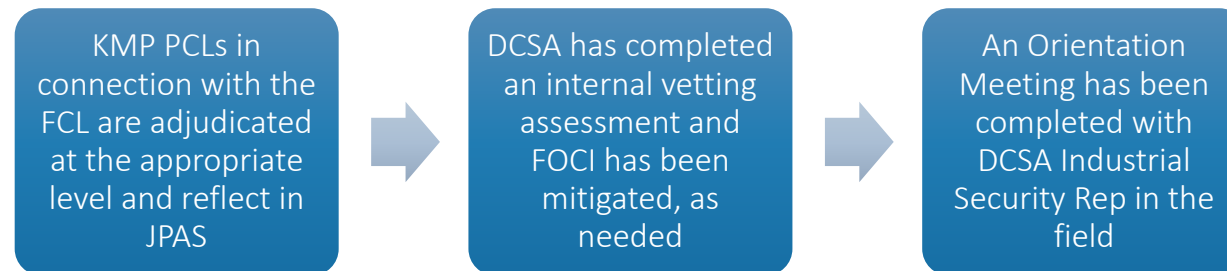
DCSA System of Record for industrial security oversight accessible by Industry, Government, and DCSA personnel. FCL Sponsorship Requests will be made in this system. Once submitted, the FCL Request will be tasked to DCSA Facility Clearance Branch for review. During the review, DCSA FCB will validate 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



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.





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 JPAS
- 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

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 Structures in the NISP

Corporation	Limited Liability Company	Partnerships	Joint Ventures	Colleges & Universities
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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.



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

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 JPAS 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



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.