

MANDATORY FOR ALL SOLICITATIONS AND CONTRACTS INCLUDING SIMPLIFIED ACQUISITIONS

52.000-4000 IDENTIFICATION AND ACCESS ELIGIBILITY REQUIREMENTS OF CONTRACTOR EMPLOYEES

MAR/2015

(ARDEC 68)

This clause details the requirements applicable to contractor employees working at Picatinny Arsenal, and the procedures for access eligibility/control of Classified Information and Controlled Unclassified Information (CUI) for contractors working on installations in support of Army Contracting Command - New Jersey (ACC-NJ) Programs/Contracts.

The following requirements are applicable to contractor employees working at Picatinny Arsenal:

1. All contractor employees working on the U.S. Army installation, Picatinny Arsenal in the State of New Jersey, in connection with this contract, shall conform to all applicable federal, state laws and published rules and regulations of the Departments of Defense and Army, as well as any applicable regulations promulgated by ACC-NJ and/or Picatinny Arsenal, including but not limited to traffic regulations.

2. The term "contractor employee" includes employees, consultants, agents, students or student interns, or representatives and all employees, agents or representatives of all subcontractors and suppliers. Contractors are responsible for obtaining/returning identification badges /passes for each contractor employee who will work on the contract or enter Picatinny Arsenal. The badges/passes are required for the term of the contract until completion or until release of the employee.

3. Contractor badges are only issued to U.S. citizen contract personnel who work at Picatinny Arsenal for at least three (3) days a week and have a valid contract greater than 180 days. To obtain a badge the following pre-requisites must be adhered to:

a. Form SBI212b (State background name check) must be completed and stamped by the State Police. The contractor is responsible for having the document completed and stamped. The document is then either given to the Picatinny Physical Security Office (PSO) or to the Criminal Investigators' office (determination of which office is made by the PSO). Once the document is approved (by either office) notification is given to the visitor control center and the Contracting Officer's Representative (COR), that the individual is authorized to receive a badge.

b. A COR must complete an application identification form (ARDEC 3058) for access to the installation. The form must include the valid contract number, expiration date and be signed in blue ink by the Contracting Officer or COR. This form is brought to the US Army Garrison (USAG) Picatinny Arsenal Badge and Identification Section, Building 1136 for processing.

4. The contractor employee working on Picatinny Arsenal shall sign a Non-disclosure Agreement (NDA) on their company's letterhead (using the format below) prior to commencing work and gaining access to non-public information, under the contract, or obtaining badges/passes required by paragraph 2 above. There shall be one NDA completed for each employee, for each new contract, regardless if the employee has completed an NDA for prior contracts.

5. Failure to comply with the requirements of paragraph 4 will be grounds for withholding any funds due the contractor until completion of the requirement, notwithstanding any other clause or requirements in the contract. Failure to comply may also be used as an adverse factor with respect to contractor past performance in connection with award of future contracts to the firm.

6. For contractors requiring access for less than 90 days, a visitor pass will be required. Passes will be issued for specific dates access is required, not to exceed 30 days. The Contracting Officer or COR must complete the Visitor Registration Form applications on the Picatinny Intranet (PICAWEB) prior to the contractor employee arriving at Picatinny Arsenal.

7. The contractor shall certify in writing to the COR, that they have verified that all personnel utilized in the performance of this contract have passed a criminal background check and are lawfully employable in the United States. If a new contractor employee is hired during the performance of a contract, and will be utilized in that contract, the contractor must certify in writing to the COR, that they have verified that the new contractor employee has passed a criminal background check and is lawfully employable in the United States, prior to utilizing that individual in the performance of the contract.

a. Lawful employability will be verified by means of Employment Eligibility Form, INS Form I-9 (if applicable), or by other applicable INS documentation approved for a specific non-citizen status.

b. The criminal background check will establish that neither the Contractor, nor individual's state or nation of permanent residence, has any record or credible information that the individual has a "criminal history". In this context, "criminal history" will be defined as adjudicated guilt or pending adjudication of a crime as defined under New Jersey law, or equivalent offense under the applicable laws of another jurisdiction. If the contractor has doubt about the applicability of an offense to this definition, the circumstances must be reported to USAG Picatinny Arsenal Security Division for adjudication of the individual's employability.

c. Under urgent circumstances where an exception to these criteria is required, a request may be submitted through the Garrison Director of Plans, Training, Mobilization and Security (DPTMS) to the Garrison Commander. Only urgent exceptions will be considered on a case-by-case basis and must be documented in writing.

d. Any delay in the furnishing of the above, including any delay in the obtaining the background check, is at the sole risk of the contractor and will not be the basis of any equitable adjustment or other change to the contract.

8. The identification badge or pass issued to each employee of the contractor is for their own use only. Misuse of the badge or pass, such as permitting others to use it will result in criminal charges under Title 18 USC 499 and 701; and barring the employee from Picatinny Arsenal. Should the employee lose the badge or pass, the contractor may be charged for the cost of re-issuance of the badge or pass. Additionally, the employee and the contractor must submit a sworn affidavit as to the circumstances of the loss before a new badge or pass is issued.

9. Contractor employees will not start working on a Government contract for the Garrison or any Picatinny tenant organizations before they are vetted through security processing by Picatinny Arsenal Security Division. This will include as a minimum, submission of a National Agency Check with Inquiries (NACI). Until the results of the FBI fingerprint check have been received and posted in the Case Adjudication Tracking System (CATS), an Interim CAC will not be issued.

10. If derogatory information is discovered, the Interim CAC can be revoked in accordance with Homeland Security Presidential Directive-12 (HSPD-12), Policy for a Common Identification Standard for Federal Employees and Contractors. A summary of the derogatory information found will be provided to the COR and Contracting Officer for consultation and final CAC determination.

11. All contractor employees, while on the premises at Picatinny Arsenal, shall continually wear the badge, obtained pursuant to paragraph 3 above. The badge shall be worn so as to be visible to others at all times. The badge will be worn in full view on the outermost garment, above the waist on the front of the body. Individuals issued visitor passes will have them on their person at all times while on the Arsenal. Passes will be presented upon request by Security personnel or other Government official charged with security of the area.

12. All contractor employees meeting with Government employees or attending meetings at Picatinny, shall, at the beginning of the meeting, announce to all other attendees that they are contractor employees, employed by (Name of Contractor's name/address), and the name of all other companies or individuals that currently employ them or that the contractor employee currently represents. In addition, contractor employees shall wear a visible badge that displays their company's name (for contractors issued a Common Access Card (CAC), displaying the CAC is sufficient).

13. When the performance of a contract under a specified contract number under which a CAC/badge/pass was obtained is completed (such as date of last delivery or performance of last service, termination of the contract or release of the employee) including any exercise of an option pursuant to the terms of the contract, the contractor shall return all issued CACs/badges/passes for all of their employees to USAG Picatinny Arsenal Security Division and obtain a receipt for each within (3) three business days. All government furnished equipment must be surrendered to the COR upon completion of the contract or an employee's termination during the life of the contract.

14. If the contractor obtains a new or follow-on contract for work at Picatinny Arsenal, all contractor personnel shall obtain new badges / passes indicating the new or follow-on contract

number and comply with the applicable provisions of the follow-on contract which cover the subject matter of this Clause. This paragraph does not apply to the exercise of an option.

The following are procedures for access eligibility/control of Classified Information and Controlled Unclassified Information (CUI) for contractors working on installations in support of Army Contracting Command - New Jersey (ACC-NJ) Programs/Contracts.

1. The Office of the Under Secretary of Defense has identified the Joint Personnel Adjudication System (JPAS) as the personnel security clearance system of record for the Department of Defense (DoD). JPAS is used to verify the personnel security clearance level for all U.S. contractors working on installation programs. Foreign visitors, to include non-US contractor visits to the installation activities, will be managed by the cognizant Foreign Disclosure Office.

2. IAW Army Regulation 25-2 Information Assurance dated 23 March 2009 and AR 380-67, Personnel Security Program, dated 24 January 2014, contractors requiring access to U.S. Government (USG) Information Systems (IS), in order to fulfill their duties, must possess the required favorable security investigation, security clearance or formal access approvals, and fulfill Need-to-Know requirements. Contractors must meet the security requirements outlined in AR 25-2 for their assigned IT-level (IT-I, IT-II, or IT-III) prior to being granted access to the USG IS. Likewise, AR 25-2 stipulates that “individuals assigned to IT-I, IT-II, or IT-III positions who lose their clearance, or have access to classified systems suspended pending the results of investigation, will be barred access to the IS(s) until favorable adjudication of that investigation”. Contractor status/access, in regards to their suitability and IT-level access, will be monitored by the cognizant security office(s) through JPAS.

3. For access to Classified Information, as required by the solicitation and/or contract, the need-to-know criterion for accessing government information is based on:

a. The SOW and/or contract must specify the need for access to Classified Information and a proper DD Form 254 must be affixed to the solicitation and/or contract.

b. Contractors accessing information which they are not authorized (i.e. no need-to-know), or exceeding their access reflected in JPAS is a reportable security violation, defined in reference Army Regulation 380-5 Information Security dated 29 September 2000.

c. A contractor’s access in JPAS is dependent upon their current company affiliation reflected in JPAS.

4. No Portable Electronic Devices (PED) will be used in an area where classified information is discussed or electronically processed.

5. Contractors visiting or working on installations in support of Army Contracting Command-New Jersey (ACC-NJ) Programs must have JPAS visit requests submitted by the contractor’s Facility Security Officer (FSO) necessary to meet the requirements outlined by that mission organization. This requirement applies to visits in support of classified contracts.

6. The contractor must not misrepresent the fact they are contractors, or from which company they are employed. Contractors who knowingly misrepresent themselves to hide the fact they are a contractor is a reportable security incident. An incident report will be forwarded by the cognizant security office to the FSO, and an information copy will be sent to the Defense Security Service (DSS).

7. Contractors shall not use a military, retired military or other government issued identification to misrepresent their affiliation as a contractor for the purpose of accessing the installation, facilities, attending meetings, acquiring information or participating in any other type of work as a contractor. Doing so will result in an incident report being processed through the Defense Enrollment Eligibility Reporting System by the Garrison Security and Human Resources officer and notification to the individuals' military organization/unit.

8. The U.S. Army Garrison, Directorate of Plans, Training, Mobilization and Security is the centralized security office and shall be the contractor's, Contracting Officer's and COR's first point of contact when unable to determine the primary cognizant security office of a tenant organization.

NON-DISCLOSURE AGREEMENT

I, _____, an employee and authorized representative of _____, a Contractor providing support services to Picatinny Arsenal or its tenants (hereinafter PICATINNY), and likely to have access to nonpublic information (hereinafter RECIPIENT), under contract number _____, agrees to and promises the following:

WHEREAS RECIPIENT is engaged in delivery support services to PICATINNY under contract; and

WHEREAS, It is the intention of PICATINNY to protect and prevent unauthorized access to and disclosure of nonpublic information to anyone other than employees of the United States Government who have a need to know; and,

WHEREAS, PICATINNY acknowledges that RECIPIENT will from time to time have or require access to such nonpublic information in the course of delivering the contract services; and,

WHEREAS, RECIPIENT may be given or other have access to nonpublic information while providing such services; and,

WHEREAS, "nonpublic information" includes, but is not limited to such information as: proprietary information (e.g., information submitted by a contractor marked as proprietary); advanced procurement information (e.g., future requirements, statements of work, and

acquisition strategies); source selection information (e.g., bids before made public, source selection plans, and rankings of proposals); trade secrets and other confidential business information (e.g., confidential business information submitted by the contractor); attorney work product; information protected by the Privacy Act (e.g., social security numbers, home addresses and telephone numbers); and other sensitive information that would not be released by PICATINNY under the Freedom of Information Act (e.g., program, planning and budgeting system information);

NOW THEREFORE, RECIPIENT agrees to and promises as follows:

RECIPIENT shall not seek access to nonpublic information beyond what is required for the performance of the support services contract;

RECIPIENT will ensure that his or her status as a contractor employee is known when seeking access to and receiving such nonpublic information of Government employees;

As to any nonpublic information to which RECIPIENT has or is given access, RECIPIENT shall not use or disclose such information for any purpose other than providing the contract support services, and will not use or disclose the information to any unauthorized person or entity for personal, commercial, or any unauthorized purposes; and

If RECIPIENT becomes aware of any improper release or disclosure of such nonpublic information, RECIPIENT will advise the contracting officer in writing as soon as possible.

The RECIPIENT agrees to return any nonpublic information given to him or her pursuant to this agreement, including any transcriptions by RECIPIENT of nonpublic information to which RECIPIENT was given access, if not already destroyed, when RECIPIENT no longer performs work under the contract.

RECIPIENT understands that any unauthorized use, release or disclosure of nonpublic information in violation of this Agreement will subject the RECIPIENT and the RECIPIENT's employer to administrative, civil or criminal remedies as may be authorized by law.

RECIPIENT: _____ (signature)

PRINTED NAME: _____

TITLE: _____

EMPLOYER: _____