

NOT PROTECTIVELY MARKED

Office for Civil Nuclear Security

Civil Nuclear Security Supplement No 2

The award and maintenance of classified contracts

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The award and maintenance of classified contracts

Background

1. Each year contracts are let by companies in the civil nuclear industry and some of these contracts will entail the contracting companies holding protectively marked information or assets on their own premises. Such contracts are grouped under the generic heading of “classified contracts”. Unless the award of a classified contract and the subsequent management of that contract, follow stringent rules, the protectively marked information and assets associated with the contract could be at risk of compromise or unauthorised disclosure. Additionally, it should also be noted that these contracting companies will be subject to the provisions of NISR 2003.
2. For this reason all contracts within the civil nuclear industry which involve protectively marked information or assets are to be awarded and managed in accordance with the rules contained in this Civil Nuclear Security Supplement (CNSS). For the purposes of this supplement a *Contracting Authority* is defined as a civil nuclear body or company awarding contracts to a *Contracting Company* for the delivery or provision of services on civil nuclear sites or at other off site locations.
3. The overall management of a classified contract will be determined by the level of protective marking and the location of the work.
4. Taking account of the above factors it is therefore important that the Contracts and Security departments of each site/organisation in the civil nuclear industry maintain a close working relationship, in order to ensure that, from the outset, essential security aspects are addressed throughout the development and implementation of the contract.
5. For contracts with an international dimension, see CNSS No 4.

Introduction

6. When a company in the civil nuclear industry proposes to let a contract which will involve the contractor holding any protectively marked information or assets at premises located other than on their own nuclear licensed site or own premises (whether licensed and with an approved security plan or otherwise), the Office for Civil Nuclear Security (OCNS) must be consulted at the earliest possible stage.
7. This Supplement defines and describes the work to be undertaken and the information to be presented before OCNS will grant approval for a contractor company to hold protectively marked information at its own, off site premises. In these circumstances, the suitability of the contractor to work on protectively marked material and also the suitability of the firm’s premises for the storage of such material must be determined before OCNS will approved the release of the protectively marked material to the contractor. This process requires checks on the proposed contractor and a security inspection of his premises.

Responsibilities

8. OCNS is responsible for exercising regulatory oversight over all organisations and companies subject to NISR 2003, to ensure compliance with the terms of this supplement. OCNS is also responsible for the timely provision of advice and guidance on the subject of classified contracts

9. The Contracts manager is responsible for ensuring that his/her counterpart in Security is informed of all prospective classified contracts. The Security Manager is responsible for ensuring that their own company and the contracting companies adhere to the necessary security provisions. The contractor's management of the contract and the handling of protectively marked information and material should be reviewed and/or inspected at the prescribed intervals. The security manager of the Contracting Authority is responsible for reporting to OCNS any breach of security associated with the contract.

10. The Contracts manager should ensure that a Contract Project Manager or a manager of similar designation and authority, is appointed to oversee each contract and this person should be suitably briefed on the security aspects applying to the work. If a nominated Contract Project Manager retires or otherwise departs from the company another should be nominated immediately.

11. The Contracting Company's security manager (sometimes referred to as the Security Controller) is responsible for maintaining an effective and appropriate security regime covering the handling, transmission, storage and processing of protectively marked material, the imposition of an effective "need-to know" culture and the prompt reporting of any breach of security to the Contracting Authority and OCNS.

Managing classified contracts

12. There are a number of factors to be considered when a company in the civil nuclear industry has identified a firm to which it intends to issue a contract which will involve the use of protectively marked material. It should be established through OCNS whether the firm has premises which has already been cleared to hold such material and is therefore included in the current register known as List X. If a firm is not included on List X, (or the particular premises is not listed), suitability for the intended work, at a particular location, must be established before the contractor is approved or entrusted with protectively marked assets.

13. The means by which a proposed contractor's security suitability is determined will depend on the level of protective marking of the information and material involved in the contract. The responsibility for establishing this is indicated below:

- a. **RESTRICTED** Contracting Authority may conduct the pre-contract assessment.
- b. **CONFIDENTIAL or higher** OCNS will be responsible for conducting the pre-contract checks and advising the Contracting Authority of the outcome

Contracts involving RESTRICTED material

14. For contracts involving RESTRICTED material, it is for the Contracting Authority, at the outset, to exercise the necessary level of diligence in ascertaining whether the proposed contractor is a bona fide company with which they may confidently do business.

15. Where the protective marking of the information and material associated with the contract is RESTRICTED, OCNS will normally rely on the Contracting Authority's Security department to carry out the pre-contract inspection. The inspection should be conducted by a suitably qualified and experienced security practitioner. This will be known as a Designated Pre-contract Assessment (DPA).

16. Using the form at Annex A, the Contracting Authority's security manager should collect details of the firm and forward them to OCNS (Principal Inspector (Information Security)). On receipt of the form the firm will be checked against records held by OCNS and other Government agencies. Should this process reveal any adverse information in relation to the firm or any of its directors, the Principal Inspector (Information Security) will discuss the matter with the security manager of the Contracting Authority so that the risk of continuing to consider the award of a contract to the firm can be assessed. The form should be completed for each contract to ensure that checks are made against currently declared information on the company and its appointed Directors.

17. It must be noted, however, that no protectively marked material may be passed to the contractor before *formal* approval has been granted by OCNS.

Contracts marked CONFIDENTIAL and higher

18. If the contract involves information with a protective marking of CONFIDENTIAL or higher, OCNS should be informed of the circumstances as early as possible. OCNS will collect the details of the firm and carry out a check against its own and other official records, informing the security manager of the Contracting Authority of any relevant information.

19. OCNS will also arrange to carry out the security inspection of the contractor's premises and any other preparatory arrangements and inform the Security department of the Contracting Authority of the outcome.

20. During the contract period OCNS will also undertake regular inspections of the contractor's premises to ensure that appropriate standards of security are being maintained.

The aim of the pre-contract inspection

21. The aim of a pre-contract inspection is to determine what security measures are in place, and what changes, if any, are needed to ensure that the firm is suitable to be entrusted with the care of protectively marked material. During the inspection the following must be considered:

- a. confirmation that an employee of suitable status and competency has been appointed as Security Manager/Controller;
- b. a member of the contracting company's Board has formally assumed overall responsibility for security;
- c. employees who are to have access to protectively marked material are duly authorised and security checked or cleared to the appropriate level;
- d. an acceptable standard of protection covering physical, information and personnel security will be in place at the firm's premises;
- e. written security procedures have been produced by the company and are available to all who will be responsible for, or have access to, the protectively marked assets;
- f. relevant staff have been given a briefing on their security responsibilities;
- g. how the "need to know" principle will be applied within the company to safeguard protectively marked information associated with the contract;
- h. how appropriate security standards will continue to be maintained and reviewed periodically for the duration of the contract;
- i. restrictions on the use of IT for the processing and transmission of protectively marked information and data. (see CNSS No 3)

22. The following reference documents may be required when conducting a pre contract or interim review inspection:

- a. Manual of Protective Security;
- b. OCNS Civil Nuclear Security Supplements;
- c. Catalogue of Security Equipment;
- d. Classification Guide CWP/G8;
- e. Relevant CESG IS Standards and Manuals;
- f. ACO 130 (if ATOMIC information is involved);
- g. Supplementary National Instructions to the Tripartite Centrifuge Collaboration Handbook of Security and Classification Procedures (if ATOLL information is involved);

Note: The above list is not exhaustive

Briefings on responsibilities

23. During the initial meeting at the contracting company the requirement for a Board Member to assume ultimate responsibility for security should be explained, together with the need for a Security nominee to manage day to day security issues and act as a relevant point of contact for matters associated with the classified contract.

24. It will be necessary for the contractor to have an acceptable Company Security Policy and a set of Security Instructions, signed by the Board member responsible for security.

25. At the conclusion of a security inspection, the Board member responsible for security, or a nominated representative, should be briefed on the initial findings and any measures recommended to ensure a satisfactory security regime is in place before commencement of the contract.

26. If the inspection has been carried out by the Contracting Authority OCNS should be informed of the result, in writing. The Contracting Authority should also provide the contractor with a statement of security requirements. In parallel with this action a Security Aspects Letter (see paragraph 32 below and Annex B) should be prepared.

Security checks and clearances

27. The security manager of the Contracting Authority should confirm in writing to OCNS that appropriate levels of vetting are held by relevant employees of the Contracting Company. If appropriate clearances are not held, the security manager should arrange through the contractor's security nominee for all those who will have authorised access to protectively marked material to be checked or cleared to the appropriate level. Current check and clearance requirements for access to protectively marked information are as follows:

RESTRICTED No formal clearance required other than proper application of the "need to know" principle

(Note: Although a formal check/clearance is not required for access to RESTRICTED information, a Contracting Authority is to ensure that the identity of recipients of such information has been satisfactorily verified).

CONFIDENTIAL BC or above

SECRET SC

Security provisions of the contract

28. It is imperative that a Classified Contract contains clauses that provide for the security of the protectively marked information or assets that will be passed to or generated by the contract or as

part of the contract.

29. The security clauses in the contract should contain provisions covering the following:
- a. the contractor's responsibility for ensuring an adequate level of protection for protectively marked information or material;
 - b. the right of the Contracting Authority to visit and inspect the contractor's premises;
 - d. the rules governing whether or not parts of the contract may be sub-contracted; and if sub-contracting is permitted, how the Contracting Authority's permission is to be obtained beforehand;
 - e. any other security requirement the Contracting Authority may consider it necessary to include.
30. The contract should also provide for a range of legitimate remedial actions to be taken by the Contract Project Manager/Security Manager to promptly enforce the security requirements such as:
- a. suspension of the contract, overall, or in parts;
 - b. removal of persons from the contract;
 - c. retrieval of any protectively material/information;
 - d. instructions to take certain actions to secure protectively marked material/information.

Maintenance of an adequate security system is to be a fundamental "term" of any classified contract, permitting termination for default.

Contract authorisation

31. When the contracting authority is ready to sign and award the contract it should forward a copy of the contract and a copy of the Security Aspects Letter to OCNS.

Security Aspects Letter

32. The Security Aspects Letter, which is passed to the contractor when the contract is signed, defines those elements of the contract that will attract a protective marking and the particular marking to be applied to particular aspects of the contract. The format of the Security Aspects Letter should be in accordance with Annex B. The Security Aspects letter can form part of the contract document although it should be capable of being issued separately.

Supervision of contracts

33. For all contracts at RESTRICTED level, the Contracting Authority is responsible for ensuring that the commercial firms to whom they have awarded such contracts are adequately supervised and that the provisions of the contract are being adhered to. Periodic assessments should be arranged through the appropriate security manager to ensure that the agreed security standards are in place and being maintained satisfactorily.

34. OCNS will carry out the periodic inspections of those firms holding material protectively marked CONFIDENTIAL or above at their premises.

35. In addition, the Board level contact and security representative should be required to inform the Contracting Authority (who in turn must inform OCNS) of any changes in company organisation or arrangements, examples of which are listed below:

- a. changes of a Board level contact or Security Manager/Nominee. In this situation it is necessary to ensure that appropriate clearances are in place and security responsibilities in the company are properly handed over;
- b. any change of ownership or control of the Company. Such changes can have a bearing on the Company's security status and ability to meet the terms of its classified contract(s);
- c. changes in the behaviour or personal circumstances of a security cleared employee which might warrant an assessment of that person's security reliability;
- d. proposed visits to the approved company premises by nationals of sensitive countries;
- e. any changes in the current arrangements for the handling, transmission, use and storage of protectively marked information.

36. A record of protectively marked material (including RESTRICTED) issued to the Contracting Company is to be maintained by the Contracting Authority. This should also reflect the return or destruction of such material. In a similar way the Contracting Company should maintain a similar record of material that it is authorised to issue to sub contractors.

Contracts performed solely on Operators' sites

37. Where a Contracting Authority in the civil nuclear industry wishes to let a classified contract for work which will be carried out solely on its own site, the Security department, together with the Contract Project Manager should ensure that all the appropriate rules and procedures needed to safeguard and protect the classified material and information are strictly adhered to. It is necessary only for the Contracting Authority to inform OCNS of the existence and nature of the contract and confirm that the terms prohibit the removal of protectively marked information from the site.

Documents and records

38. All documents, files and records relating to the security inspections are to be handled, mustered and protected in accordance with their protective marking and any, more detailed, requirements issued by the Contracting Authority or OCNS.

39. Contracting Authorities shall maintain a record of all classified contracts awarded and, in addition, a list of the contracts in place shall be sent to OCNS on 1 February and 1 July of each year. This list shall include any contracts that were completed or terminated during the previous six month period.

RESTRICTED (CONTRACTS)
(when completed)

COMPANY INFORMATION

1. Name of Business

	Telephone	
Head Office Address	Telex	
	Fax No	
	VAT REG No	
	Company Reg	
	Nos	

2. Address(s) of major factories or Branch Offices

a.	Telephone	
	Telex	
	Fax No	
b.	Telephone	
	Telex	
	Fax No	

Please use an additional sheet for further addresses

3. If incorporated, please give details of all associated companies, subsidiaries, parent or holding companies, including full name, address and country in which registered.

Name of Business	Name of Business
Address	Address

Please use an additional sheet for further addresses

4. Date of formation of the business, or of incorporation, and brief history

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5. Directors Information

Please provide below details of Chairman, Deputy Chairman. All Directors (indicating specifically those who hold executive appointments) and Company Secretary. Similar information should be provided for individuals holding more than one fifth of the paid up shares, preference shares, or loan capital. Please continue on a further sheet if necessary.

a) Surname (i) now				
(ii) At birth if different from (i)				
(iii) All other surnames used				
b) Full forenames				
c) Place of birth including Country, State and County				
d) Date of Birth				
e) Nationality (i) now				
(ii) At any time if different from (i)				
(iii) If naturalised, state number and date of certificate				
f) Address full permanent home address				
	since	since	since	since
g) Position in Company				

6. I confirm that the information provided above is to the best of my knowledge complete and accurate.

Signature:

Name:

Date:

Position held:

eg Managing Director, Senior Partner, Sole Trader

SECURITY ASPECTS LETTER

Messrs
.....
.....

For the Attention of:.....(insert name of the senior management contact responsible for security)

TENDER/CONTRACT/ORDER No

1 The above [tender/contract/order] arises from a contract negotiation with(insert name of awarding company) and will involve your company holding UK protectively marked material (replace "protectively marked" with "classified" for overseas companies). It is a condition of this [tender/contract/order] that this material must be protected. The standard of protection required has been notified to you separately and varies with the level of protective marking. Material passed to you will bear the protective marking appropriate to it. To assist you in allocating the necessary protective marking to material which your company may produce during the course of this [tender/contract/order] and thus enable you to provide the appropriate degree of protection to it, this letter formally advises you of the correct protective marking to apply to the various aspects of the [tender/contract/order].

2. The aspects of the [tender/contract/ order] which require to be protectively marked are:

Aspect	Protective Marking
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[List individual aspects and the appropriate protective marking to be applied to each]

3. If the [contract/order] contains a Condition or Clause referring to A Secret Matter this secret matter is defined as the Aspects listed above. You should also note that all those employed by or contracted to your organisation with responsibility for any of the above Aspects must not disclose, without appropriate authority, any information, whether or not it bears or attracts a protective marking, that may prejudice the security of nuclear material or result in the disclosure of sensitive nuclear information. To do so may constitute a breach of Section 79 [or 80] of the Anti-terrorism, Crime and Security Act 2001 and may result in prosecution. Further, you should note that UK based contracting companies are subject to the requirements of the Nuclear Industries Security Regulations 2003 and are to ensure the protection of such secret matter.

4. You are requested to acknowledge receipt of this letter and to confirm that the levels of protective marking associated with the various Aspects listed above have been brought to the attention of the persons directly responsible for the security of this [tender/contract/order], that they are fully understood and that the required security controls, including vetting, can and will be implemented to safeguard the material concerned.

5. If you have any difficulty in interpreting the meaning of the above aspects or in safeguarding the materials, please let me know immediately.

6. A copy of this letter has been sent to your [Board level contact/Head of Contracts/Security Manager/Security Controller*] (delete as applicable)

Yours faithfully

CONTRACT ARRANGEMENT FLOWCHART



