

## § 250.9

by foreign nationals provided the document does not contain technical data as defined in §125.01 in excess of that released orally or visually during the visit, is within the terms of the approved visit request, and the person in the United States assures that the technical data will not be used, adopted for use, or disclosed to others for the purpose of manufacture or production without the prior approval of the Department of State in accordance with part 124 of this subchapter.

(3) No Department of State approval is required for the disclosure of oral and visual classified information during the course of a plant visit by foreign nationals provided the visit has been approved by the cognizant U.S. Defense agency and the requirements of section V, paragraph [41(d)] of the Defense Industrial Security Manual are met.

### **§ 250.9 Notice to accompany the dissemination of export-controlled technical data.**

(a) Export of information contained herein, which includes, in some circumstances, release to foreign nationals within the United States, without first obtaining approval or license from the Department of State for items controlled by the International Traffic in Arms Regulations (ITAR), or the Department of Commerce for items controlled by the Export Administration Regulations (EAR), may constitute a violation of law.

(b) Under 22 U.S.C. 2778 the penalty for unlawful export of items or information controlled under the ITAR is up to 2 years imprisonment, or a fine of \$100,000, or both. Under 50 U.S.C., appendix 2410, the penalty for unlawful export of items or information controlled under the EAR is a fine of up to \$1,000,000, or five times the value of the exports, whichever is greater; or for an individual, imprisonment of up to 10 years, or a fine of up to \$250,000, or both.

(c) In accordance with your certification that establishes you as a "qualified U.S. contractor," unauthorized dissemination of this information is prohibited and may result in disqualification as a qualified U.S. contractor, and may be considered in determining your eligibility for future contracts with the Department of Defense.

(d) The U.S. Government assumes no liability for direct patent infringement,

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ment, or contributory patent infringement or misuse of technical data.

(e) The U.S. Government does not warrant the adequacy, accuracy, currency, or completeness of the technical data.

(f) The U.S. Government assumes no liability for loss, damage, or injury resulting from manufacture or use for any purpose of any product, article, system, or material involving reliance upon any or all technical data furnished in response to the request for technical data.

(g) If the technical data furnished by the Government will be used for commercial manufacturing or other profit potential, a license for such use may be necessary. Any payments made in support of the request for data do not include or involve any license rights.

(h) A copy of this notice shall be provided with any partial or complete reproduction of these data that are provided to qualified U.S. contractors.

### **PART 253—ASSIGNMENT OF AMERICAN NATIONAL RED CROSS AND UNITED SERVICE ORGANIZATIONS, INC., EMPLOYEES TO DUTY WITH THE MILITARY SERVICES**

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AUTHORITY: Pub. L. 83-131, 5 U.S.C. 301.

SOURCE: 48 FR 35644, Aug. 5, 1983, unless otherwise noted.

#### **§ 253.1 Reissuance and purpose.**

This rule reissues this part to update policy and procedures governing the investigation of American National Red Cross (hereafter "Red Cross") employees and United Service Organizations, Inc. (USO), staff for the purpose of determining the security acceptability of such personnel for assignment to duty with the Military Services.

#### **§ 253.2 Applicability and scope.**

(a) This rule applies to the Office of the Secretary of Defense, the Military

Departments, the Unified and Specified Commands, and the Defense Investigative Service (hereafter referred to as "DoD Components"). The term "Military Services," as used herein, refers to the Army, the Navy, the Air Force, and the Marine Corps.

(b) This rule does not apply to U.S. citizens or foreign nationals who are available locally at overseas locations for temporary or part-time employment with the Red Cross or the USO. Policy and procedures governing investigation and security acceptability of locally hired employees shall be determined by the Military Department concerned.

#### § 253.3 Definition.

*Employee.* Any full-time, salaried individual serving with or employed by the Red Cross or the USO who is subject to assignment for overseas duty with the Military Services.

#### § 253.4 Policy.

(a) It is the policy of the Department of Defense that an employee shall be accepted for assignment to duty with the Military Services overseas only after it first has been determined, based upon an appropriate personnel security investigation, that such acceptance for assignment is clearly consistent with the national interest.

(b) The standard and criteria for determining the security acceptability of an employee for assignment or continuation of assignment with the Military Services overseas shall be identical to those established for making security clearance determinations for personnel employed in private industry under §§ 155.4 and 155.5 of this title.

#### § 253.5 Responsibilities.

(a) The *Deputy Under Secretary of Defense for Policy*, or designee, the *Director, Security Plans and Programs*, shall serve as the primary contact between the Department of Defense and the Red Cross and USO for all matters relating to the policy and procedures prescribed herein.

(b) *Heads of DoD Components* shall comply with the provisions of this rule.

#### § 253.6 Procedures.

(a) Employees who are U.S. citizens shall have been the subject of a national agency check (NAC), completed with favorable results, before being nominated for assignment with the Military Services overseas.

(b) Employees who are not U.S. citizens shall have been the subject of a background investigation (BI), completed with favorable results, before being nominated for assignment with the Military Services overseas.

(c) An employee will not be assigned for duty with the Military Services overseas or continued in such an assignment when it has been determined that assignment or continuation of assignment is not clearly consistent with the national interest.

(d) Completed security forms (DD Form 398, Personnel Security Questionnaire (BI/SBI), or 398-2, Personnel Security Questionnaire (National Agency Check)) shall be forwarded to the Defense Industrial Security Clearance Office (DISCO), Defense Investigative Service, for initiation of the NAC or BI, as appropriate.

(e) Upon completion of the appropriate investigation, the results shall be returned to the DISCO where a determination shall be made concerning security acceptability of the employee. If the determination is favorable, the DISCO shall provide a statement to that effect to the Red Cross or the USO. If the DISCO is unable to make a favorable security acceptability determination, the procedures described in paragraph (f)(3), of this section, shall apply.

(f) Whenever any DoD Component or the Red Cross or the USO receives information indicating that an employee's assignment or continuation of assignment with the Military Services overseas may not clearly be consistent with the national interest, the information shall be furnished to the DISCO for appropriate review. In such cases, the following actions shall be taken:

(1) The DISCO shall arrange for the conduct of any investigation warranted to resolve the adverse or questionable information.

(2) In cases arising after the initial security acceptability determination has been made, the DISCO shall review

the information or report of investigation to determine whether the security acceptability determination is to continue in effect. If such adjudication is favorable, no further action is required. The Red Cross or the USO will not be notified in such cases in order to preclude the possibility of any adverse inference being drawn.

(3) If, after reviewing the information or report of investigation, the DISCO is unable to make a favorable security acceptability determination, the case shall be referred for further processing in accordance with part 155 of this title.

## PART 256—AIR INSTALLATIONS COMPATIBLE USE ZONES

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256.11 Effective date and implementation.

AUTHORITY: National Security Act of 1947, as amended, 61 Stat. 495.

SOURCE: 42 FR 773, Jan. 4, 1977, unless otherwise noted.

### § 256.1 Purpose.

This part:

(a) Sets forth Department of Defense policy on achieving compatible use of public and private lands in the vicinity of military airfields;

(b) Defines (1) required restrictions on the uses and heights of natural and man-made objects in the vicinity of air installations to provide for safety of flight and to assure that people and facilities are not concentrated in areas susceptible to aircraft accidents; and

(2) Desirable restrictions on land use to assure its compatibility with the characteristics, including noise, of air installations operations;

(c) Describes the procedures by which Air Installations Compatible Use Zones (AICUZ) may be defined; and

(d) Provides policy on the extent of Government interest in real property within these zones which may be retained or acquired to protect the operational capability of active military airfields (subject in each case to the availability of required authorizations and appropriations).

### § 256.2 Applicability.

This part applies to air installations of the Military Departments located within the United States, its territories, trusts, and possessions.

### § 256.3 Criteria.

(a) *General.* The Air Installations Compatible Use Zone for each military air installation shall consist of (1) land areas upon which certain uses may obstruct the airspace or otherwise be hazardous to aircraft operations, and (2) land areas which are exposed to the health, safety or welfare hazards of aircraft operations.

(b) *Height of obstructions.* The land area and height standards defined in AFM 86-8,<sup>1</sup> NavFac P-272 and P-80,<sup>1</sup> and TM 5-803-4<sup>1</sup> will be used for purposes of height restriction criteria.

(c) *Accident potential*—(1) *General.* (i) Areas immediately beyond the ends of runways and along primary flight paths are subject to more aircraft accidents than other areas. For this reason, these areas should remain undeveloped, or if developed should be only sparsely developed in order to limit, as much as possible, the adverse effects of a possible aircraft accident.

(ii) DoD fixed wing runways are separated into two types for the purpose of defining accident potential areas. Class A runways are those restricted to light aircraft (See §256.6) and which do not have the potential for development for heavy or high performance aircraft use or for which no foreseeable requirement for such use exists. Typically these runways have less than 10% of

<sup>1</sup>Filed as part of original. Copies available in the Office of the Assistant Secretary of Defense (Installations and Logistics)—ID, Washington, DC 20301.