



To enhance mission performance, TSA is committed to promoting a culture founded on its values of Integrity, Innovation and Team Spirit.

REVISION: This revised directive supersedes TSA MD 2810.2, *Disclosure of SSI in the Pre-Award Acquisition Process*, dated May 10, 2010.

SUMMARY OF CHANGES: Section 5, amends the roles of the Office of Acquisition, Office of Chief Counsel, Responsible Program Office, Chief Security Officer, Program Manager, and Contracting Officer, updates the office titles for the SSI Program and the Office of Transportation Threat Assessment and Credentialing, Section 6, changes to the frequency of security risk evaluations; and Section 7, provides approval delegation in certain circumstances and adds procedures when evaluating security risk of employees of foreign companies with no subsidiary or entity within the United States.

1. **PURPOSE:** This directive provides TSA policy and procedures regarding the protection of Sensitive Security Information (SSI) in the pre-award acquisition process.
2. **SCOPE:** This directive applies to all TSA organizational elements.
3. **AUTHORITIES:**
 - A. Title 49, Code of Federal Regulations, Part 1520
 - B. [DHS MD 11056.1, Sensitive Security Information \(SSI\)](#)
 - C. Executive Order (E.O.) 12829, as amended, National Industrial Security Program
 - D. Federal Acquisition Regulation (FAR) 15.204-2(h)
 - E. [TSA MD 2800.15, Foreign Visitor Management](#)
 - F. [TSA MD 2810.1, SSI Program](#)
 - G. [TSA SSI Policies and Procedures Handbook](#)
4. **DEFINITIONS:**
 - A. **Covered Persons:** Any organization, entity, individual, or other person described in 49 CFR § 1520.7, who receives SSI pursuant to this MD.
 - B. **Need to Know:** Pursuant to 49 CFR § 1520.11, covered persons have a “need to know” SSI related to a specific solicitation where contractual requirements cannot otherwise be adequately described to provide potential offerors information related to the functions to be performed, performance required, or essential physical characteristics of the deliverables. This need to

know remains in effect throughout the procurement process unless specifically revoked by TSA.

- C. Potential Offeror: A company or entity that may submit a bid or proposal in response to a solicitation.
- D. Sensitive Security Information (SSI): As defined in 49 CFR § 1520.5, SSI is information obtained or developed in the conduct of security activities, disclosure of which TSA has determined would be detrimental to the security of transportation. Only covered persons who also have a need to know under 49 CFR § 1520.11 may receive SSI.
- E. Solicitation: Any request to submit offers or quotations to the Government. Solicitations include Requests for Proposals, Requests for Quotations, and Invitations for Bids.

5. RESPONSIBILITIES:

- A. The Assistant Administrator for the Office of Acquisition shall be responsible for:
 - (1) Ensuring that solicitations and pre-award acquisition actions contain appropriate provisions and terms to protect SSI as part of pre-award acquisition actions;
 - (2) Designating a single SSI point of contact to coordinate the evaluation of security risk of individuals requesting access to SSI in pre-award acquisition actions;
 - (3) Reviewing and providing written concurrence with an action memorandum which provides the authorization to disclose SSI in pre-award acquisition; and
 - (4) Establishing procedures, guidance, and policy to perform and document the evaluations of security risk of individual employees of potential offerors seeking access to SSI; and Ensuring that access to pre-award SSI is revoked in the event that an offeror fails to comply with protection requirements.
- B. The SSI Program is responsible for:
 - (1) Establishing procedures to determine which information constitutes SSI and must be protected as SSI;
 - (2) Publishing guidance informing covered persons of required SSI handling and safeguarding procedures; and
 - (3) Reviewing and providing written concurrence with an action memorandum which provides the authorization to disclose SSI in pre-award acquisition actions.
- C. The Assistant Administrator for the Office of Intelligence and Analysis is responsible for providing the Office of Acquisition SSI point of contact with information required to evaluate security risk of individuals requesting access to SSI in pre-award acquisition actions, if necessary.

D. The Assistant Administrator for the Office of Information Technology/Chief Information Officer (OIT/CIO) is responsible for:

- (1) Establishing and approving the technical requirements and procedures to properly protect any SSI to be disclosed in pre-award acquisition actions, including but not limited to providing approved format(s), document watermarking, and prescribing approved methods for such disclosure, such as electronic mail and/or a secure internet-facing portal;
- (2) Developing guidance and technical requirements necessary to permit program managers and contracting officers to effectively employ, verify, and validate electronic documentation protections;
- (3) Perform annual audits of the SSI disclosed in pre-award solicitations to ensure it is being properly protected and to validate that program offices and Contracting Officers are following the procedures outlined in the OIT Redaction Standard Operating Procedures;
- (4) Providing or approving a secure internet-facing portal for disclosure of SSI in pre-award acquisition actions;
- (5) Reviewing and providing written concurrence with an action memorandum which provides the authorization to disclose SSI in pre-award acquisition actions; and
- (6) Ensuring that any secure internet-facing portal approved for the disclosure of SSI in pre-award acquisition actions is maintained in accordance with applicable requirements, including the Federal Information Security Management Act (FISMA) and, ensure that any TSA or DHS portal used for this purpose meets DHS and TSA IT security requirements.

E. The Assistant Administrator, or acting Assistant Administrator, who oversees the program requesting the disclosure of SSI in the acquisition process is responsible for:

- (1) Providing written approval of an action memorandum which provides the authorization to disclose SSI in pre-award acquisition actions only after consideration and rejection of alternative approaches for avoiding disclosure of SSI;
- (2) Providing written approval of a separate action memorandum which authorizes the disclosure of SSI to individual employees of potential offerors in pre-award acquisition actions based upon a successful evaluation of their security risk;
- (3) Ensuring that protections are adequately applied to documents containing SSI in accordance with OIT/CIO technical requirements and procedures; and
- (4) Providing the Deputy Administrator a copy of all action memorandums which provides the approval to disclose SSI pending successful evaluation of the security risks associated with the individuals who will receive the SSI.

F. The Chief Security Officer is responsible for:

- (1) Providing the Office of Acquisition SSI point of contact with information required to evaluate security risk of individuals requesting access to SSI in pre-award acquisition actions, if necessary; and
- (2) As requested by the Program Manager or designee, submit foreign companies with no subsidiary or entity within the United States to the DHS Counterintelligence Program Division to complete an evaluation of the company, which includes searching unclassified and classified intelligence sources for any foreign threat associated with that company.

G. The Office of Chief Counsel is responsible for reviewing and providing written concurrence with an action memorandum which provides the authorization to disclose SSI in pre-award acquisition actions.

H. Program Managers are responsible for:

- (1) Developing and coordinating for concurrence and approval an action memorandum which identifies the types of SSI which need to be disclosed in a specific pre-award acquisition action, the rationale for disclosure (i.e. why non-disclosure alternatives do not suffice), the anticipated document protections, and the method of disclosure;
- (2) Developing and obtaining approval of an action memorandum which authorizes the disclosure of SSI to individual employees of potential offerors in pre-award acquisition actions based upon an evaluation of their security risk;
- (3) Following OIT/CIO guidance and technical requirements to adequately protect documentation containing SSI, as well as ensuring that a program office independent verification and validation has taken place to ensure that such protections have been appropriately applied; and
- (4) Evaluating the security risk of companies and individuals requesting access to SSI in pre-award acquisition actions.

I. Contracting Officers are responsible for:

- (1) Reviewing and providing written concurrence with an action memorandum which provides the authorization to disclose SSI in pre-award acquisition actions;
- (2) Ensuring that solicitations and pre-award acquisition actions contain appropriate provisions and terms to protect SSI;
- (3) Ensuring that solicitations and pre-award acquisition actions contain appropriate provisions and terms to enable the evaluation of security risk of individual employees of potential offerors in pre-award acquisition actions;

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- (4) Verifying, prior to transmission to potential offerors, that all SSI has been properly protected per technical requirements and procedures established by OIT/CIO;
- (5) Releasing SSI only to those potential offerors and their specified employees which have been approved by the Assistant Administrator which oversees the program;
- (6) Ensuring that DHS Form 11000-6 Non-Disclosure Agreements have been obtained from all from potential offerors' specified employees prior to disclosure of SSI and are placed in the official contract file; and
- (7) Transmitting SSI only in a manner consistent with OIT/CIO approved methods and procedures.

6. POLICY:

- A. This Management Directive only applies to the disclosure of SSI in pre-award acquisition actions. Once an acquisition has been awarded, the authorities B and F found in section 3 of this directive must be followed to disclose SSI.
- B. Acquisition strategies should be developed so as not to require the disclosure of SSI as part of pre-award acquisition actions. Pre-award acquisition actions may include SSI only in those limited instances where the Assistant Administrator responsible for the program determines (after first receiving the written concurrence of the Assistant Administrator for Acquisition, the Contracting Officer, the SSI Branch, OIT/CIO, and the Office of Chief Counsel) that contractual requirements cannot otherwise be adequately described to provide potential offerors necessary information related to the functions to be performed, performance characteristics required, or other essential requirements of the acquisition. Such consideration and rejection of alternative approaches for avoiding disclosure of SSI shall be documented in the action memorandum which provides the authorization to disclose SSI in pre-award acquisition actions.
- C. As part of pre-award acquisition actions, SSI may only be disclosed to individual employees of potential offerors who have been successfully evaluated for security risk, received the approval of the Assistant Administrator (or designee, as indicated in Section 7(E) of this MD) responsible for the program, and have signed a DHS Form 11000-6 Non-Disclosure Agreement.
- D. Once approved to receive SSI, an individual becomes a covered person with a need to know for the purpose of responding to the solicitation. This approval does not relieve any person of responsibilities assigned by membership in other US Government security programs.
- E. SSI may only be disclosed via methods consistent with the technical requirements and procedures established by OIT/CIO and the SSI Branch.

7. PROCEDURES:

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- A. All TSA employees shall fulfill their responsibilities under this MD and follow all implementing guidance/policy.
- B. The Office of Acquisition SSI point of contact will provide the program manager, or designee, all information obtained while evaluating the security risk of individual employees of potential offerors in pre-award acquisition actions. The program manager shall promptly notify the Contracting Officer if the Assistant Administrator responsible for the program determines that an individual poses an unacceptable security risk.
- C. If the individual(s) is an employee of a foreign company with no subsidiary or entity within the United States, the program manager or designee shall request the TSA Chief Security Office to submit the company to the DHS Counterintelligence Program Division to complete an evaluation of the company, which includes searching unclassified and classified intelligence sources for any foreign threat associated with that company.
- D. Prior to the disclosure of SSI as part of pre-award acquisition actions, the Program Manager shall obtain the specific approval of the Assistant Administrator responsible for the program and Contracting Officers must first obtain an executed DHS Form 11000-6, *Non-Disclosure Agreement (NDA)* from individuals approved to receive SSI. The Contracting Officer shall maintain all NDAs in the official procurement file.
- E. Upon approval by an Assistant Administrator of an action memorandum which authorizes the disclosure of SSI to individual employees of potential offerors in a specific pre-award acquisition action based upon a successful evaluation of their security risk, approval of subsequent action memoranda, authorizing the disclosure of SSI to additional employees of potential offerors based upon a successful evaluation of their security risk, that is within the scope of the original approval, may be delegated to the Program Manager.
- F. Transmittal of SSI outside TSA must be made in accordance with all applicable policy and procedural guidance.

8. EFFECTIVE DATE AND IMPLEMENTATION: This policy is effective immediately upon signature.

APPROVAL

Signed

May 26, 2015

Melvin J. Carraway
Acting Administrator

Date

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