

Industry Security Notice

Number 2010/03

Subject: National Security Vetting and Government Contracting Policy

Introduction: This Industry Security Notice (ISN) is issued as a reminder to United Kingdom (UK) organisations recruiting staff either on behalf of Government Departments or for Defence contractors, of the UK Government policy regarding security clearance requirements for employment in positions requiring access to Government protectively marked information.

Issue: It has previously been apparent that some prime contractors and recruitment agencies have stipulated in recruitment advertisements that individuals and sub-contractors are to be in possession of a valid National Security Vetting (NSV) clearance before they will be considered for employment or the placing of a contract. As a consequence, some individuals and potential sub-contractors have felt and have been in the position that they cannot get a job or a contract without NSV clearance, but cannot get a clearance without a contract or a job. This position is contrary to UK Government NSV and Contracting policy.

Policy: It is UK Government policy to limit instances where small/medium enterprises or individual contractors/consultants are excluded from applying or tendering for public sector work on the grounds that they do not currently possess a security clearance.

Government legal advisors and the Equality and Human Rights Commission (EHCR) have indicated that requiring bidders/applicants to hold an existing security clearance is potentially discriminatory. It may exclude many individuals from legitimately applying or tendering for public sector work and cuts across government policies aimed at supporting greater participation in public sector contracts. It is also unfair, restricts competition to a relatively small number of bidders, is against Government competitive tendering policy and may mean, directly or indirectly, that Government Departments are not getting the best value for money.

A number of individuals have approached the Cabinet Office and Ministry of Defence to establish whether they can be security cleared without any specific need, in order for them to be more 'attractive' to recruiters. However, for legal and policy reasons, individuals cannot be subject to vetting unless they have been selected to take up a specific job or work on a specific contract where a national security clearance is a genuine requirement: vetting cannot and will not be carried out speculatively.

It is recognised that there will be some cases where a contract or service must be completed in a very limited timescale, for example where there is an Urgent Operational Requirement (UOR) which must be fulfilled quickly. In such cases it may be necessary to engage contractors who already hold an appropriate NSV clearance. However, such urgent circumstances should be kept to a minimum as it should always be borne in mind by recruiters that when NSV forms are properly completed and submitted in good time, vetting clearances for candidates who have been found suitable for employment can normally be processed relatively speedily.

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For normal non-priority contract requirements it is contrary to current guidance to require that applicants hold an existing security clearance however, continuing correspondence indicates that some organisations continue to stipulate such a requirement, or do not give equal consideration to applicants who do not hold a clearance.

Those placing contracts or seeking personnel through recruitment agencies must be satisfied that an NSV clearance is actually required for the discharge of the contract. Consideration must always be given to the whether the level of access permitted by the use of the Baseline Personnel Standard (BPSS) will satisfy the requirement. Regardless of whether subsequent NSV will be required the BPSS **must** in any case be applied to any individual who, in the course of their work, will have access to government assets protectively marked RESTRICTED or above.

Conclusion: Those who recruit on behalf of MoD or MoD/defence contractors must ensure that they, and recruitment agencies acting for them, are compliant with Government policy at all times by adhering to the requirements set out below:

- Consider all applicants on the basis of suitability, regardless of whether they hold a current security clearance
- Do not stipulate that a NSV clearance will be required unless it is a genuine minimum requirement for access to complete the contract or service. If it is required, state clearly that the applicant will be required to undergo NSV and that appointment will be conditional on obtaining the relevant clearance. If necessary, seek advice from the sponsor of the requirement.
- Always consider whether a BPSS could adequately fulfil the access requirements. Seek the advice of the sponsor if this hasn't been made clear.
- If the contract or service is of such urgency and the level of access is such that the successful bidder/applicant must already hold an NSV clearance, then that should be stated clearly in any advertisement or related document. However, those responsible for drafting such material should be fully prepared to justify that decision, if necessary to Defence Ministers, in the event of a complaint from a member of the public or enquiry from a Member of Parliament. Seek the written clarification of the requirement sponsor if you are being asked to state that applicants should already hold an NSV clearance.

Action by Contractors/Individuals: UK contractors or members of the public who are refused consideration of contract award or employment solely on the grounds of the lack of an existing NSV clearance should draw the content of this ISN and the government policy to the attention of recruitment staff and seek their adherence to it.

Validity / Expiry Date: This Industrial Security Notice remains valid indefinitely or until superseded.

MOD Point of Contact: Ministry of Defence, DE&S, Security Advice Centre, Poplar-1 # 2004, Abbey Wood, Bristol, England, BS34 8JH, Tel: 030679 34378, <mailto:desinfra-securityadvicecentre@mod.uk>

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