



U.S. Department of Energy
Office of Inspector General
Office of Audit Services

Audit Report

The Department's Unclassified Foreign Visits and Assignments Program



U. S. DEPARTMENT OF ENERGY
Washington, DC 20585

December 23, 2002

MEMORANDUM FOR THE SECRETARY

FROM: Gregory H. Friedman (Signed)
Inspector General

SUBJECT: INFORMATION: Audit Report on "The Department's Unclassified Foreign Visits and Assignments Program"

BACKGROUND

The Department of Energy's national laboratories have diverse missions that range from national defense to fundamental research in the physical sciences. Each year, the laboratories host thousands of visitors and assignees from foreign countries, many of whom are researchers from local laboratories and educational institutions. Long-term assignments enable foreign nationals to participate in a broad range of unclassified activities. The Department and its international partners benefit from the exchange of information that results from the visits and assignments because they foster open communication, stimulate ideas, and enhance research.

Along with the benefits, however, foreign visits and the resulting exchange of information also raise certain security risks. These risks need to be effectively managed by the Department and its contractors in the interest of national security. This was emphasized in the 2002 *Hamre Commission Report*, in which it was noted that our adversaries might use unclassified activities – such as those undertaken by visitors and assignees – to gain access to classified activities. We conducted this review to determine whether controls over foreign visits and assignments at selected national laboratories were adequate or operating as intended.

As noted on page 2 of this memorandum, the Deputy Secretary, in a December 17, 2002, response to a draft of this report, initiated a number of steps to address the issues raised during the audit.

RESULTS OF AUDIT

We found that the Department had not adequately controlled unclassified visits and assignments by foreign nationals at two national laboratories. Specifically, one managed by the Office of Science and one by the National Nuclear Security Administration (NNSA), had not ensured that all foreign nationals had current passports and visas. Additionally, the Science-managed laboratory granted site access to foreign nationals, some of whom were from sensitive countries¹, prior to official approval and, in many instances, before background checks or counterintelligence consultations were completed. Finally, neither laboratory provided sufficient information to the Department's centralized tracking system, which was designed to facilitate complex-wide tracking of the status of foreign nationals. The administration of the foreign visits and assignments program suffered because of:

¹The Department maintains a list of countries designated as sensitive for reasons of national security, nonproliferation, anti-terrorism, or economic security.

- A lack of specific policy guidance;
- Problems with local implementation; and,
- A lack of clear and quantifiable performance measures.

We recommended that the Department strengthen management practices for controlling unclassified visits and assignments by foreign nationals. In doing so, we noted that the Office of Security had issued draft policy guidance for comment, but we concluded that additional action was necessary to ensure that only those persons with current visas and passports are admitted to Department facilities. As we discussed in our *Inspection Report of the Department of Energy's Export License Process for Foreign National Visits and Assignments* (DOE/IG-0465, March 2000), clear policy and the ability to accurately account for all foreign visits or assignments are essential to protecting the country's commercial and security interests. Our recommendations are not intended to restrict the legitimate access to taxpayer-funded research, but rather to provide a mechanism through which the Department can be assured that individuals involved in this process are in the United States lawfully and that national security interests are protected.

Due to potential security implications, specific data regarding sites and visits evaluated have been omitted from this report. Under separate correspondence, we formally referred our sample data on visitors or assignees with missing, incomplete, or ambiguous passport or visa information to both Federal and contractor management for resolution. We were informed that management acted promptly to resolve the status of each of the individuals and cancelled access for a number of those identified in our sample.

MANAGEMENT REACTION

By memorandum dated December 17, 2002, the Deputy Secretary agreed with our findings, conclusions, and recommendations. He took immediate corrective action by issuing interim guidance to strengthen the Unclassified Foreign Visits and Assignments Program at Department sites. At the same time, he directed the Office of Security to put its draft policy on a fast track for finalization by early 2003.

We appreciate the Deputy Secretary's leadership on these matters. The problems we identified should be successfully resolved if his directives are carried out by the Department's policy and program offices. The Deputy Secretary's comments are included in their entirety as Appendix 3.

Attachment

cc: Deputy Secretary
Acting Administrator, National Nuclear Security Administration
Under Secretary for Energy, Science, and Environment
Director, Office of Science
Director, Office of Security
Director, Office of Counterintelligence
Director, Policy and Internal Controls Management

UNCLASSIFIED FOREIGN VISITS AND ASSIGNMENTS PROGRAM

TABLE OF CONTENTS

Laboratory Management of Visits and Assignments

Details of Finding	1
Recommendations	6
Comments	7

Appendices

1. Objective, Scope, and Methodology	8
2. Prior Reports	10
3. Management's Comments	11

LABORATORY MANAGEMENT OF VISITS AND ASSIGNMENTS

Control of Visits and Assignments

At the laboratories we reviewed, the Department did not adequately control unclassified visits and assignments by foreign nationals. We noted that two separate laboratories, managed by the Office of Science (Science) and the National Nuclear Security Administration (NNSA), respectively, permitted certain foreign nationals to access their facilities without ensuring that the visitors or assignees had been properly admitted or were authorized to remain in the United States. The Science-managed laboratory also granted visitors and assignees site access before official approval and, in many cases, before completion of national security agencies' background checks or consultations with counterintelligence. Additionally, neither laboratory reported sufficient information to enable the Department to properly track all visitors and assignees at those sites.

Passport and Visa Information

Departmental policy requires that passport and visa information be "collected and maintained" on each foreign national visitor and assignee. Although not explicit in the current Department Notice, prudent management practices dictate that this information be kept current for the duration of a foreign visit or assignment. Such information is required to establish the identity and citizenship of the individual and provide proof that the individual is authorized to enter the United States. The visa is also important in that it establishes the foreign national's status, such as student, diplomat, or government official.

Despite the need to follow best practices in this regard, neither national laboratory reviewed had ensured that all foreign nationals had current passports and visas. At the time of our field visit, the Science laboratory had not required or maintained accurate passport and visa information for 91 of the 187 (49 percent) randomly selected visitors or assignees we reviewed. Forty-one of the 91 had active badges and could have accessed most of the site's facilities. Thirty-four of the 91 were from sensitive countries such as the People's Republic of China, India, and Russia. Similar problems were noted at the NNSA-managed laboratory. Passport and visa data were missing or incomplete for 37 of the 188 (20 percent) individuals selected in our random sample. At the time of our visit, 12 of those with incomplete or missing information had an active badge. Of the 37 individuals, 17 were from sensitive countries. Without appropriate information, the laboratories could not ensure that these individuals were properly admitted and authorized to remain in the country.

Subsequent to the completion of fieldwork, we referred our sample data on visitors or assignees with missing, incomplete, or ambiguous passport or visa information to both Federal and contractor site management for resolution. Management at both sites later informed us that they determined the current status of the individuals in question and updated their visa and passport data as appropriate.

As we conducted our sample analyses, Department officials pointed out to us that many foreign nationals are in the United States under the sponsorship of universities or other agencies and that these other entities, not the Department, are responsible for collecting and maintaining required data. In our judgment, however, this does not lessen the Department's responsibility to assure that such information is current before allowing access to its sites.

Admission Practices

For visits and assignments involving foreign nationals, host offices within the laboratories are to ensure that the individuals involved, and the purpose of the work, have been approved by responsible laboratory management. For foreign nationals from sensitive countries, background checks are to be completed by national security agencies prior to the visit or assignment. When circumstances do not allow for timely submission or completion of the background check, approving officials must consult with the appropriate counterintelligence official prior to making an approval decision. Visits and assignments involving foreign nationals from countries on the list of state sponsors of terrorism are to be specifically approved by the Secretary.

Despite these requirements, the Science laboratory permitted foreign nationals to access its facilities prior to approval of their visit or assignment. We found that 74 of 187 (40 percent) of our sample of visitors and assignees from the Science-managed laboratory had been issued badges and allowed site access before their visit or assignment was approved. Additionally, many assignees from sensitive countries were allowed site access before their background checks or counterintelligence consultations were completed. One of these individuals was from Iran, a country identified by the U.S. Department of State as a terrorist supporting country, and was allowed site access over two months before the background check was completed. Although specifically required, this individual did not receive

Secretarial approval prior to accessing the site. After approximately five days, Counterintelligence officials at the Science facility recognized that background checks had not been completed and that required approvals had not been obtained, and ordered the individual to leave the site.

In contrast, officials at the NNSA site did not admit foreign nationals, except in very limited situations, until approval was received, national security agencies' background checks were completed, and checks of both classified and unclassified data sources maintained by other agencies were performed. In fact, officials at the NNSA-managed laboratory told us they did not believe that the standard background checks were sufficient and supplemented them with checks of other data.

Tracking and Reporting

Sponsoring organizations are also required to obtain and report to Department Headquarters biographical and personal identification information on each visitor, including passport and visa information. This information is then to be entered in the Department's Foreign Access Central Tracking System (FACTS), a system designed to provide complete and current tracking of all foreign national visitors and assignees throughout the Department's complex. The Department has developed an automated update feature that permits sites to upload data from site level tracking systems, thereby eliminating the burden of duplicate entry.

We found that neither of the national laboratories we reviewed reported sufficient information to enable the Department to properly track all visitors and assignees at their sites. While the Science site initially entered all foreign national visitors and assignees into the Department's centralized tracking system, it did not update the information for certain changes or to close out the visit or assignment when completed. The NNSA facility only entered information on foreign nationals who required background checks, leaving all other foreign national visitors and assignees to be tracked through a local system.

Guidance, Implementation, and Tracking

Weaknesses in the Department's foreign visits and assignments program occurred because of a lack of specificity in policy guidance, problems with implementation, and a lack of clear and quantifiable performance

measures. For example, while sites were required to collect visa and passport information, Departmental guidance did not require them to ensure that visitors and assignees maintained current status or authorization to remain in the country. One official at the NNSA-managed site pointed out that it had discontinued the collection of such information because it was not used by anyone. After the events of September 11, 2001, that same official indicated that the site realized the importance of collecting and maintaining such information. Despite that realization, however, our tests showed that 23 post-9/11 visitors or assignees were permitted to enter the site without assurances that they were authorized to remain in the United States. Until recently, sites and those administering the program were not required to receive, and had not received, training or instruction on the different types of visas that foreign nationals could use to enter or maintain authority to remain in the country. Although the Science laboratory recognized that official approval was required prior to admitting visitors or assignees, it permitted access without approval because it did not want to delay the individual's work.

At an agency level, the Department was unable to properly track all visitors and assignees because neither of the laboratories devoted adequate attention to populating and maintaining FACTS. In this regard, laboratory officials indicated that they used local tracking systems to manage foreign visitors and assignees. While we recognize the need for local tracking systems, such systems do not alleviate the need for a centralized system that can respond to national level data requests.

Although specifically required by the Government Performance and Results Act of 1993, the Department also had not developed clear and quantifiable performance measures to gauge progress in monitoring and controlling its foreign visits and assignments program. While we determined that a single measure covering the development of policy guidance had been included in the Department's Annual Performance Plan, we observed that the measure lacked specificity and that it was difficult to determine what, if any, actions were required to satisfy it. In addition, program officials at Headquarters were unaware that even the single measure existed and had, therefore, not developed a method for collecting metric data to analyze progress.

Security Concerns

Observed weaknesses exposed the Department to an increased risk that its foreign visits and assignments program could be used by potential adversaries to the country's detriment. Minimizing such risks is

important because the national laboratories hold some of our most valuable national security assets. Furthermore, the Department spends billions each year to maintain a safe, secure, and reliable nuclear stockpile, and to provide technologies and personnel for its defense-related programs. Research essential to our national defense relies increasingly on unclassified science and technology, which has become much more international, collaborative, and networked. Thousands of foreign nationals from institutions around the world interact with laboratory employees at Department facilities. These interactions are taking place in an environment in which threats to our security have become more complex and sophisticated. Accordingly, appropriate protection of national security interests requires increased vigilance and increased threat awareness on the part of the Department and its laboratories.

In discussions about our audit findings, Department officials stated that the Foreign Visits and Assignments program is not the sole mechanism in what they referred to as a "layered approach" to protecting information. Our observations led us to conclude, however, that compensating controls notwithstanding, identified weaknesses increased the potential for the program to be misused or manipulated, reducing its effectiveness as a security "layer."

To its credit, the Department has taken a number of actions to improve accountability of its foreign visits and assignments program. During the course of our audit, the Office of Security issued a draft directive on policy and procedures for managing unclassified foreign national access to Department facilities for comment. This directive, if ultimately adopted and implemented, should address a number of our recommendations. We also observed that both laboratories were taking steps to improve management of foreign visits and assignments. For example, the Science-managed laboratory issued a corrective action plan to address weaknesses related to admissions. Additionally, contractor officials at the NNSA-managed laboratory indicated that, subsequent to our audit, they had taken steps to collect visa and passport information and ensure the proper status of all newly arriving foreign national visitors and assignees. However, to effectively address the issues raised in this report, from our perspective, a vigorous and Department-wide program needs to be adopted to ensure that proper controls are in place to administer unclassified foreign visits and assignments.

RECOMMENDATIONS

1. To improve accountability over its Foreign Visits and Assignment Program, we recommend that the Director, Office of Security modify current Departmental policy to clearly:
 - a. Identify roles and responsibilities – for Department officials and contractor management – for performance related to foreign visits and assignments.
 - b. Require that:
 - All foreign nationals have current visas and passports for the duration of their visit or assignment, that they maintain the proper status, and that such actions are adequately documented and reported.
 - Requests for foreign visits and assignments are documented, completed, and approved before site access is allowed.
 - Background checks by national security agencies, or counterintelligence consultations as appropriate, are completed before visits and assignments involving sensitive countries or subjects are approved.
2. We also recommend that the Administrator, National Nuclear Security Administration, and the Under Secretary for Energy, Science and the Environment:
 - a. Ensure that sites:
 - Obtain up-to-date information for all foreign nationals currently authorized to access Department sites.
 - Update the Department-level visitor tracking system to reflect the current status of all foreign national visitors and assignees.
 - b. Hold sites accountable for developing and implementing local procedures consistent with Department policy. Specifically, sites should:
 - Maintain current visa and passport information on all future foreign national visitors and assignees, and ensure that they maintain proper status.

-
- Ensure that requests for foreign visits and assignments are completed and approved before site access is allowed.
 - Ensure that background checks by national security agencies, or counterintelligence consultations as appropriate, are completed before visits and assignments involving sensitive countries or subjects are approved.
- c. Develop quantifiable performance measures for the foreign visitors and assignment program at both the National and site level.

MANAGEMENT REACTION

In correspondence dated December 17, 2002, the Deputy Secretary indicated that the Department generally agreed with our findings, conclusions, and recommendations and initiated immediate corrective action. The Deputy Secretary's response is included in its entirety as Appendix 3.

AUDITOR COMMENTS

The Office of Inspector General believes that the actions initiated by the Deputy Secretary, if promptly implemented by Department policy and program offices, will successfully resolve the issues cited in our report.

Appendix 1

OBJECTIVE

To determine whether the Department of Energy adequately controls visits and assignments by foreign nationals.

SCOPE

The audit was performed at two national laboratories, one managed by the Office of Science and one managed by the National Nuclear Security Administration from May through August 2002. The universe of our audit samples consisted of all foreign national visitors, assignees, and employees at those sites from January 2001 through May 2002.

METHODOLOGY

To accomplish the audit objective we:

- Evaluated the Department's implementation of the Government Performance and Results Act of 1993 related to the establishment of performance measures for the foreign visitors and assignments program.
- Reviewed lists of foreign national visitors, assignees, and employees provided by the Department's Foreign Access Central Tracking System, site badge systems, site Foreign Visits & Assignment systems, and site human resource systems.
- Randomly selected samples of 187 foreign national visitors, assignees, and employees from a Science-managed laboratory and 188 from an NNSA-managed laboratory. We augmented our sample with an additional 22 foreign national employees from the Science site to validate our initial sample results.
- Reviewed supporting documentation for our sample of foreign national visitors, assignees, and employees.
- Interviewed officials from the Headquarters Office of Security Operations, Office of Foreign Visits and Assignments, Counterintelligence, and selected site Office of Security, Office of Foreign Visits and Assignments, and Counterintelligence to gain an understanding of roles, responsibilities, and procedures.

-
- Interviewed officials from selected host departments to obtain supporting information on each visitor and assignee in our samples.
 - Interviewed officials from selected site Human Resource departments to gain an understanding of roles, responsibilities, and procedures for foreign national employees.
 - Provided site officials the opportunity to verify the problems we discovered through our sampling process.

Because the sites and Department headquarters use separate systems to track foreign visits and assignments, we selected separate samples from all systems involved to ensure our analysis was complete. Accordingly, we obtained data files of foreign nationals from the site tracking system, the site badge system, and from the Headquarters Foreign Access Central Tracking System for both laboratories reviewed. We then used U.S. Army Audit Agency Statistical Sampling Software to determine our separate sample sizes and generate random samples for sample selection. When practical, we also used Audit Command Language to compare data from the different systems at each site in order to find discrepancies between systems. We analyzed the total universe and eliminated duplications to the extent possible. Because of errors in naming conventions and spelling, we were unable to determine with absolute certainty that all duplicates were eliminated.

The audit was conducted in accordance with generally accepted Government auditing standards for performance audits and included tests of internal controls and compliance with laws and regulations to the extent necessary to satisfy the audit objective. Because our review was limited, it would not necessarily have disclosed all internal control deficiencies that may have existed at the time of our audit. We relied on computer-processed data to accomplish our audit objective. We performed limited test work of data reliability during our audit and determined that we could rely on the computer-processed data.

An exit conference was held with cognizant officials.

PRIOR REPORTS

OFFICE OF INSPECTOR GENERAL REPORT

- *"Inspection of the Department of Energy's Export License Process For Foreign National Visits and Assignments"* (DOE/IG-0465, March 2000). This report found a lack of information in the Department's formal data gathering process. As a result, DOE officials were not aware of the precise number of foreign nationals visiting the Department's laboratories. The report also stated that DOE N 142.1 requires clarification. Management for foreign visits and assignments at one of the Energy laboratories felt that the lack of roles and responsibilities in DOE N 142.1 had led to confusion, as different offices were defining their own roles and responsibilities.

GENERAL ACCOUNTING OFFICE (GAO) REVIEWS

- *"Information on Foreign Visitors to the Weapons Laboratories"* (GAO/T-RCED-96-260, September 1996). GAO issued testimony before the Subcommittee on Military Procurement, Committee on National Security, House of Representatives, which detailed a number of problems with the Department's control of foreign visitors. Testimony indicated that the number of visitors from sensitive countries was increasing at a faster rate than the number from other countries. GAO also indicated that the Department had subsequently delegated to the laboratories greater authority to approve foreign visitors to nonsensitive areas, and had taken action to require background checks for all visitors from communist countries regardless of the purpose of the visit.
- Department of Energy, *"DOE Needs to Improve Controls Over Foreign Visitors to Weapons Laboratories"* (GAO/RCED-97-229, September 1997). GAO reported that thorough assessment and surveys of the Department's controls over foreign visitors' access to sensitive information had not been conducted. Essentially, the laboratories had demonstrated the vulnerability of sensitive information being compromised.
- Department of Energy, *"Key Factor Underlying Security Problems at DOE Facilities"* (GAO/RCED-99-159, April 1999). GAO identified two key factors contributing to security problems. First, there was a lack of attention and/or priority to security matters by Department managers and contractors and second, there was a serious lack of accountability among the Department and its contractors for their actions. GAO believes the Department continued to illustrate the consequences of organizational confusion.

Appendix 3



The Deputy Secretary of Energy
Washington, DC 20585

December 17, 2002

MEMORANDUM FOR GREGORY H. FRIEDMAN, INSPECTOR GENERAL

FROM:

KYLE E. McSLARROW

SUBJECT:

Inspector General Audit Report: "The Department's
Unclassified Foreign Visits and Assignments Program"

We have received and reviewed the subject draft report, which describes a number of areas in which the Department of Energy (DOE) can improve the implementation and administration of its Unclassified Foreign Visits and Assignments Program. We agree in general with your findings, conclusions, and recommendations and have already corrected or taken action to address the specific weaknesses identified at the two laboratories referenced in your review.

As acknowledged in the report, the Department has had under way for some time an ongoing effort to improve this program. DOE efforts in this area have been more aggressive since the terrorists attacks of September 11, 2001. Nonetheless, the Department requested this audit to gauge the current status of those efforts; your results confirm our views that further work is needed to strengthen requirements and improve implementation. The Secretary's objective in directing these improvements is to enhance protection of our national security interests while at the same time continuing to nurture the vital partnership between DOE and the international community, in areas such as scientific research.

As is acknowledged in your report, the pending policy changes contained in Draft DOE Order 142.X are responsive to most of the concerns identified in this audit. Nonetheless, to address the weaknesses identified in the report, the Department is implementing some immediate and near-term actions to strengthen the Foreign Visits and Assignments Program. These planned actions implement a risk-based approach that tailors the requirements of the foreign national review and approval process proportionately with the level of risk and the need to protect national security interests. The attachment provides interim guidance, which has been issued to assure the consistent interpretation and implementation of current policy and requirements. This interim guidance requires:

- Verification that all foreign visitors/assignees have valid passports, visas, and lawful Immigration and Naturalization Service (INS) status.

Appendix 3 (Continued)

2

- Establishment of a means to determine visa and immigration status changes for foreign visitors/assignees and legal permanent residents.
- Management approval of access to any DOE facility by Nationals of State Sponsors of Terrorism and Sensitive Country Nationals with access to Sensitive Subjects, prior to a given visit or assignment. The review and approval process will be tailored based on the anticipated involvement and access required by such foreign nationals to DOE facilities.
- Increased emphasis on mandatory use of the Department's centralized tracking system, FACTS, to track foreign national visits and assignments. Facilities previously exempt from using FACTS are now required to use it for documentation of foreign national assignees and some visitors from countries identified by the Department of State as "sensitive" countries.

All departmental elements have been instructed to support the Office of Security in expediting the formal coordination, publication, and dissemination of Draft DOE Order 142.X to ensure its final publication early in calendar year 2003. The Office of Independent Oversight and Performance Assurance has been instructed to place appropriate emphasis on this program and to provide me with feedback regarding program performance, especially in those areas identified in your report.

DOE fully recognizes the importance of this program, particularly in the post-9/11 world, as an integral element of our overall security program. Our goal is and will continue to be to implement a risk-based approach to meet the needs of our national security requirements and those of our scientific community. Your efforts in pointing out areas requiring additional focus have been helpful in our efforts to continually improve our performance in this area.

Attachment

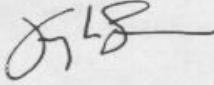
Appendix 3 (Continued)



The Deputy Secretary of Energy
Washington, DC 20585

December 17, 2002

MEMORANDUM FOR UNDER SECRETARY FOR NUCLEAR SECURITY
UNDER SECRETARY FOR ENERGY, SCIENCE, AND
ENVIRONMENT

FROM: KYLE E. McSLARROW 
SUBJECT: Interim Guidance for Implementation of the Department's Unclassified Foreign Visits and Assignments Program

We must strengthen our Unclassified Foreign Visits and Assignments Program in order to better protect our national security interests. Our objective should be to do so in ways that will continue to nurture the vital partnership between DOE and the international community in areas such as scientific research.

Toward that end, the Office of Security has been working to promulgate a new departmental directive, DOE O 142.X, Unclassified Foreign Visits and Assignments Program, which I have directed to be placed on a fast track for finalization early in CY 2003. The Department also requested an audit of this program by the Inspector General. This audit was recently completed and the results confirm the need for improvement in the program in areas contemplated by the current draft directive. In light of the significance of these issues, I am issuing the following interim guidance to be implemented immediately by all Departmental elements and contractors. As we make changes to finalize the new directive, we will look for additional opportunities to tailor requirements commensurate with risk in implementation of this program.

DOCUMENTATION IN FOREIGN ACCESS CENTRAL TRACKING SYSTEM

Nationals of State Sponsors of Terrorism

Previous policy appears to have allowed for the possibility that nationals of State Sponsors of Terrorism could be allowed access to our facilities before background checks or counterintelligence indices checks were completed. In addition, as a result of a previous policy that exempted particular sites from reporting requirements pursuant to DOE N 142.1, based on the determination that no classified work is conducted at these facilities, the Department cannot document and account for such persons assigned, or provided access to sensitive information at these sites. To address these deficiencies, the following steps will be taken by all sites, facilities, and laboratories to ensure that appropriate reviews and reporting is performed prior to provision of access.

Appendix 3 (Continued)

2

All sites, facilities, and laboratories will fully document all visits and assignments involving nationals of State Sponsors of Terrorism and will obtain the necessary approvals prior to granting access. State Sponsors of Terrorism are countries that have been designated by the Department of State as countries that sponsor groups and/or activities supporting terrorism or terrorist activities and that are on the list of State Sponsors of Terrorism. For purposes of this interim guidance, a person is considered to be a national of a State Sponsor of Terrorism if that individual is a citizen of, born in, or representing an organization of a State Sponsor of Terrorism, but the term does not include any person who is a U.S. citizen. The required documentation will include biographical information; visit/assignment information; reviews by Security, Counterintelligence, Export Control and Technology Transfer, and, where there is a Foreign Intelligence Element (FIE) on site, Intelligence; completed indices checks; local approval; and approval of the sponsoring Headquarters Program Office. The documentation will also include all other information required to be submitted in the Foreign Access Central Tracking System (FACTS). The request will then be sent to the Headquarters Management Panel for final approval. Additional guidance on justification for approval of nationals of State Sponsors of Terrorism will be provided separately. All documentation and approvals must be entered into FACTS.

Sensitive Country Nationals

All sites, facilities, and laboratories currently subject to DOE N 142.1, Unclassified Foreign Visits and Assignments, will adhere to the procedures provided in the Notice concerning visits and assignments of Sensitive Country Nationals. For purposes of this interim guidance, a person is considered to be a Sensitive Country National if that individual is a citizen of, born in, or representing an organization of a Sensitive Country, but the term does not include any person who is a U.S. citizen. The list of Sensitive Countries is maintained by the Office of Nonproliferation and National Security. All documentation and approvals must be entered into FACTS prior to granting access.

As a result of a previous policy that exempted particular facilities from reporting requirements pursuant to DOE Notice 142.1, the Department currently is unable to document and account for all such persons assigned or provided access to sensitive information at these sites. To address this deficiency, the seven facilities currently exempt from DOE N 142.1 (Ames Laboratory, Fermi National Accelerator Center, Lawrence Berkeley National Laboratory, National Renewable Energy Laboratory, Princeton Plasma Physics Laboratory, Stanford Linear Accelerator Center, and Thomas Jefferson National Acceleratory Laboratory) will now provide, prior to granting access, the information required in the attached "Documentation Format" in FACTS, for any Sensitive Country National who is on-assignment or whose visit involves access to Sensitive Subjects (see DOE N 142.1). For those visits and assignments involving access to Sensitive Subjects a specific security plan shall be developed and approved by the local approval authority. Within thirty days, the director for each of the currently exempt laboratories will develop an implementation plan that identifies those specific items from the Sensitive Subjects List that are relevant to research efforts at their laboratory, and which organizations, facilities and/or individuals are involved in such research. The implementation plan will provide for

Appendix 3 (Continued)

3

documentation in FACTS and development of a specific security plan only for visits involving access to those identified organizations, facilities and/or individuals; other visits will be deemed not to involve access to Sensitive Subjects. The implementation plan will be provided through the appropriate site office manager to the Director, Office of Science or the Assistant Secretary for Energy Efficiency and Renewable Energy for review and approval; copies of the plan will be provided concurrently to the Director, Office of Security and Director, Office of Counterintelligence. The requirements of DOE Notice 142.1 do apply to visits and assignments to these facilities hosted by individuals holding security clearances at these facilities.

Other Foreign Visitors and Assignees, and Generally Applicable Requirements

All sites, facilities, and laboratories currently subject to DOE N 142.1 will continue to document all requests, reviews, and approvals in FACTS prior to granting access as required by the Notice and the memorandum from Deputy Secretary Blake entitled, *Department Use of Foreign Access Central Tracking System*, dated November 5, 2001.

EXEMPT FACILITIES

The exemption of certain facilities from the requirements of DOE N 142.1 was based on the determination that these facilities do not perform any classified work and, therefore, procedures for visits and assignments to these facilities do not require safeguards equivalent to those for sites performing classified work. However, if, at any time, classified work is performed, or classified materials are stored at a currently exempt facility, the facility will be subject to the full requirements of DOE N 142.1 and this interim guidance.

PASSPORT, VISA, AND IMMIGRATION AND NATURALIZATION SERVICE INFORMATION

In addition to the information required to be collected for DOE sponsored visas, all sites, facilities, and laboratories must collect from all foreign national visitors and assignees (including those sponsored by organizations other than DOE) sufficient passport, visa, and Immigration and Naturalization Service (INS) information for review and documentation in FACTS to verify identity, to verify authority to work (when appropriate for the activities involved), and to ensure the foreign national is currently eligible (in lawful immigration status) to be in the U.S. At a minimum, the following information will be provided:

For Legal Permanent Residents:

Permanent Resident Card and Government issued Photo Identification

Appendix 3 (Continued)

4

For all others:

Government issued Photo Identification (Passport, or if no passport is required, drivers license, military ID, etc.), to include type of document, document number, and expiration date.

Documentation to verify status and/or authority to work (INS Form I-94 Arrival-Departure Record, or INS receipt for change of status, waiver or extension), to include visa type and expiration date on I-94 or issue date for INS receipt.

All sites, facilities, and laboratories will require foreign visitors and assignees and sponsoring organizations (if not DOE) to promptly notify DOE of all changes in the status of foreign visitors and assignees, and information in FACTS must be updated as changes occur. All sites, facilities, and laboratories will also establish administrative controls (through badge expiration dates or other mechanisms) to ensure annual re-verification of the current status of foreign nationals. In the case of Sensitive Country Nationals, re-verification will occur at six-month intervals.

INDICES CHECKS

When an indices check is required prior to granting access, the indices check must be requested 30 days in advance of the start of a visit or assignment. Indices checks or counterintelligence consultations must be completed and documented in FACTS prior to granting access to those categories identified in the current DOE Policy and Notice 142.1. For the seven sites currently exempt from DOE N 142.1, completion of indices checks is required for Sensitive Country Nationals who are on assignment, or whose visit involves access to Sensitive Subjects, but may be completed after access is granted.

APPROVALS

Requests for those unclassified foreign visits and assignments that are required to be documented in FACTS must also have approval by the appropriate approval authority documented in FACTS before the visits or assignments may begin. The approval authority for access by Terrorist Country Nationals is the Headquarters Management Panel; for all other foreign nationals, the local approval authority (laboratory director or site manager) is the final approval required for access. The approval authority must take into consideration the reviews conducted by Security, Counterintelligence, Export Control and Technology Transfer, and, when appropriate, Intelligence.

The continued ability to conduct our necessary scientific endeavors while protecting sensitive assets depends in part on the effective implementation of this program. I know I can count on you and the Departmental elements under your purview to ensure that this program is implemented effectively throughout the Department.

Attachment

Appendix 3 (Continued)

Attachment

Required Information for Documentation Format in FACTS For Sensitive Country Foreign Nationals at Exempt Laboratories

Full Name
Date of Birth
Place of Birth (city or region and country)
Citizenship
Government Issued Photo Identification to verify identity and/or citizenship
 Passport Number
 Country of Issue
 Expiration Date, if any.
 (If other Government issued Photo ID is used, document the type used in the Remarks section and annotate the unique number from that document in the section for Passports in Number field, country of issue, and expiration date, if any.)
Verification of Status
 Visa Type
 Expiration Date, if any
 (If expiration date will come before end of V/A, and foreign national has a receipt from INS stating they have applied for change of status, extension or waiver, that information must be documented in the Remarks section to include a number of the receipt and application type.)
Employer, Institution, or Organization represented
Employer/Institution/Organization country
Title or Expertise
Site/Facility/Laboratory to be visited
Type of Request (Visit or Assignment)
Whether or not Sensitive Subjects will be discussed (Y/N)
Is visit a High Level Protocol Visit (Y/N)
Security Area Type at the Facility (non-security area, PPA, Ltd. Area, PA, MAA, Exclusion Area, SCIF)
Estimated Start Date
Estimated End Date
Justification of visit/assignment including specific activities or involvement (reason for visit/assignment)
Host Full Name
Host Citizenship
Does the Host have a Clearance? (Y/N)
Host Telephone Number
Close out information
 Information on the final status of the visit/assignment (i.e., completed, cancelled, etc.)
 Actual Start Date
 Actual End Date
Remarks

CUSTOMER RESPONSE FORM

The Office of Inspector General has a continuing interest in improving the usefulness of its products. We wish to make our reports as responsive as possible to our customers' requirements, and, therefore, ask that you consider sharing your thoughts with us. On the back of this form, you may suggest improvements to enhance the effectiveness of future reports. Please include answers to the following questions if they are applicable to you:

1. What additional background information about the selection, scheduling, scope, or procedures of the audit would have been helpful to the reader in understanding this report?
2. What additional information related to findings and recommendations could have been included in this report to assist management in implementing corrective actions?
3. What format, stylistic, or organizational changes might have made this report's overall message more clear to the reader?
4. What additional actions could the Office of Inspector General have taken on the issues discussed in this report which would have been helpful?

Please include your name and telephone number so that we may contact you should we have any questions about your comments.

Name _____ Date _____

Telephone _____ Organization _____

When you have completed this form, you may telefax it to the Office of Inspector General at (202) 586-0948, or you may mail it to:

Office of Inspector General (IG-1)
Department of Energy
Washington, DC 20585

ATTN: Customer Relations

If you wish to discuss this report or your comments with a staff member of the Office of Inspector General, please contact Wilma Slaughter at (202) 586-1924.

The Office of Inspector General wants to make the distribution of its reports as customer friendly and cost effective as possible. Therefore, this report will be available electronically through the Internet at the following address:

U.S. Department of Energy, Office of Inspector General, Home Page
<http://www.ig.doe.gov>

Your comments would be appreciated and can be provided on the
Customer Response Form attached to the report.