

Subpart 204.4 - SAFEGUARDING CLASSIFIED INFORMATION WITHIN INDUSTRY

Parent topic: [Part 204 - ADMINISTRATIVE AND INFORMATION MATTERS](#)

204.402 General.

DoD employees or members of the Armed Forces who are assigned to or visiting a contractor facility and are engaged in oversight of an acquisition program will retain control of their work products, both classified and unclassified (see PGI [204.402](#)).

204.403 Responsibilities of contracting officers.

- (1) Contracting officers shall ensure that solicitations comply with PGI [204.403](#) (1).
- (2) For additional guidance on determining a project to be fundamental research in accordance with [252.204-7000](#) (a)(3), see PGI [204.403](#) (2).

204.404 Contract clause.

204.404-70 Additional contract clauses.

- (a) Use the clause at [252.204-7000](#) , Disclosure of Information, in solicitations and contracts when the contractor will have access to or generate unclassified information that may be sensitive and inappropriate for release to the public.
- (b) Use the clause at [252.204-7003](#) , Control of Government Personnel Work Product, in all solicitations and contracts.

204.470 U.S.-International Atomic Energy Agency Additional Protocol.

204.470-1 General.

Under the U.S.-International Atomic Energy Agency Additional Protocol (U.S.-IAEA AP), the United States is required to declare a wide range of public and private nuclear-related activities to the IAEA and potentially provide access to IAEA inspectors for verification purposes.

204.470-2 National security exclusion.

- (a) The U.S.-IAEA AP permits the United States unilaterally to declare exclusions from inspection requirements for activities, or locations or information associated with such activities, with direct national security significance.
- (b) In order to ensure that all relevant activities are reviewed for direct national security significance, both current and former activities, and associated locations or information, are to be considered for applicability for a national security exclusion.
- (c) If a DoD program manager receives notification from a contractor that the contractor is required to report any of its activities in accordance with the U.S.-IAEA AP, the program manager will—
 - (1) Conduct a security assessment to determine if, and by what means, access may be granted to the IAEA; or
 - (2) Provide written justification to the component or agency treaty office for application of the national security exclusion at that location to exclude access by the IAEA, in accordance with DoD Instruction 2060.03, Application of the National Security Exclusion to the Agreements Between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States of America.

204.470-3 Contract clause.

Use the clause at [252.204-7010](#) , Requirement for Contractor to Notify DoD if the Contractor's Activities are Subject to Reporting Under the U.S.-International Atomic Energy Agency Additional Protocol, in solicitations and contracts for research and development or major defense acquisition programs involving—

- (a) Any fissionable materials (e.g., uranium, plutonium, neptunium, thorium, americium);
- (b) Other radiological source materials; or
- (c) Technologies directly related to nuclear power production, including nuclear or radiological waste materials.