

of approved Programs by type. Additionally, the Military Department Secretaries authorized to approve such Programs shall furnish a name listing, by unclassified nickname if practicable, or approved Special Access Programs under their cognizance, and they will report any changes to the listing as they occur pursuant to the notification requirements of § 159a.81(d)(3), that is, additions, deletions, and corrections to the DUSD(P). The effective date of information in the annual reports shall be December 31.

(c) *Termination Reports.* The DUSD(P) shall be notified upon termination of a Special Access Program.

**§ 159a.86 Accounting for special access programs.**

Each of the central offices which must be identified in accordance with § 159a.83(a) shall maintain a complete listing of currently approved DoD Special Access Programs which encompasses the information outlined in § 159a.85(a). These listings shall be readily available to the DUSD(P) or his designated representatives.

**§ 159a.87 Limitations on access.**

Access to data reported under this subpart shall be limited to the DUSD(P) and the minimum number of properly indoctrinated staff necessary to perform the functions assigned the DUSD(P) herein. Access may not be granted to any other person for any purpose without the approval of the DoD Components sponsoring the Special Access Programs concerned.

**§ 159a.88 “Carve-Out” contracts.**

(a) The Secretaries of the Military Departments and the DUSD(P), or their designees, shall ensure that, in those Special Access Programs involving contractors, special access controls are made applicable by legally binding instruments.

(b) To the extent necessary for DIS to execute its security responsibilities with respect to Special Access Programs under its security cognizance, DIS personnel shall have access to all information relating to the administration of these Programs.

(c) Excluding those Programs specified in § 159a.81(c), the use of “carve-out” contracts that relieve the DIS from inspection responsibility under the Defense Industrial Security Program is prohibited unless:

(1) Such contract supports a Special Access Program approved and administered under § 159a.81;

(2) Mere knowledge of the existence of a contract or of its affiliation with the Special Access Program is classified information; and

(3) Carve-out status is approved for each contract by the Secretary of a Military Department, the Director, NSA, the DUSD(P), or their designees.

(d) Approval to establish a “carve-out” contract must be requested from the Secretary of a Military Department, or designee(s), the Director, NSA, or designee(s), or in the case of other DoD Components, from the DUSD(P). Approved “carve-out” contracts shall be assured the support necessary for the requisite protection of the classified information involved. The support shall be specified through a system of controls that shall provide for:

(1) A written security plan, oral waivers of which are prohibited except in critical situations that must be documented as soon as possible after the fact.

NOTE: The plan must identify that DD Forms 254 have been distributed to the Defense Investigative Service as outlined in DoD Directive 5205.7.

(2) Professional security personnel at the sponsoring DoD Component performing security inspections at each contractor’s facility which shall be conducted, at a minimum, with the frequency prescribed by paragraph 4-103 of DoD 5220.22-R;

(3) “Carve-out” contracting procedures;

(4) A central office of record; and

(5) An official to be the single point of contact for security control and administration. DoD Components other than the Military Departments and NSA shall submit such appropriate rationale and security plan along with requests for approval to the DUSD(P).

(e) An annual inventory of carve-out contracts shall be conducted by each DoD Component which participates in Special Access Programs.