



INDUSTRIAL SECURITY

LETTER

Industrial Security letters are issued periodically to inform cleared Contractors, User Agencies and DoD Activities of developments relating to industrial security. The contents of these letters are for information and clarification of existing policy and requirements. Suggestions for Industrial Security Letters are appreciated and should be submitted to the local Defense Security Service cognizant industrial security office. Articles and ideas contributed will become the property of DSS. Inquiries concerning specific information in Industrial Security Letters should be addressed to the cognizant DSS industrial security office.

ISL 2013-01

January 17, 2013

Facility Clearance (FCL) Eligibility Requirements (NISPOM 2-102b)

Background: National Industrial Security Program Operating Manual (NISPOM), paragraph 2-102b, stipulates that before being processed for an FCL, a company must be organized and existing under the laws of any of the 50 states, the District of Columbia, or Puerto Rico, and be located in the United States or its territorial areas in order to be eligible for an FCL. In Industrial Security Letter (ISL) 2009-02, June 6, 2009, DSS clarified that it will also process companies organized and existing under the laws of any of the organized U.S. territories (currently Guam, the Northern Marianas Islands, Puerto Rico and U.S. Virgin Islands) for an FCL provided such companies are located in the U.S. or its Territorial Areas and are otherwise eligible for a facility clearance.

To address FCL eligibility for the American Indian/Alaska Native tribal entities or those that are organized and existing under the laws of any of the Indian tribes, DSS will issue an FCL if they meet all of the following criteria in addition to meeting all other FCL requirements:

- The American Indian or Alaska Native tribe under whose laws the company is chartered must have been formally acknowledged by the Assistant Secretary - Indian Affairs, of the U.S. Department of the Interior, as a recognized American Indian or Alaska Native tribe.
- The company must have been organized, and continue to exist during the period of the FCL, under a tribal statute or code, or pursuant to a resolution of an authorized tribal legislative body.

- The company must submit records such as a charter, certificate of organization, or other applicable tribal documents and statute or code provisions governing the formation and continuation of the company, for a DSS determination that the company is tribally chartered as part of the FCL processing.

DSS will also process FCLs for federally-chartered tribal corporations formed under Section 17 of the Indian Reorganization Act (25 U.S.C. § 477) as well as for companies chartered under the laws of a U.S. state, the District of Columbia or an organized U.S. territory and owned in whole or in part by Indian tribes, provided they meet all other FCL eligibility criteria.

The NISPOM will be updated to include these FCL eligibility requirements.