

U.S. Department of Energy
Washington, D.C.

ORDER

DOE 1240.2B

8-21-92

Change 1: 9-3-92

SUBJECT: UNCLASSIFIED VISITS AND ASSIGNMENTS BY
FOREIGN NATIONALS

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1. PURPOSE. To establish Department of Energy (DOE) authorities, responsibilities, and policies and to prescribe administrative procedures for visits and assignments by foreign nationals to DOE facilities for purposes involving unclassified matter.
 2. CANCELLATION. DOE 1240.2A, VISITS AND ASSIGNMENTS BY FOREIGN NATIONALS, of 1-19-89.
 3. SCOPE. The provisions of this Order apply to all Departmental Elements and contractors and subcontractors performing work for the Department as provided by law and/or contract and as contracting officers.
 4. EXCLUSIONS. Excluded from the provisions of this Order are: a. Universities and other institutions whose Department-related activities generate solely information that responsible Program Secretarial Officers have determined to be generally available in the public domain; and b. International Atomic Energy Agency (IAEA) safeguards inspectors on inspections or related activities authorized by that Agency implementing safeguards at facilities listed by the United States (U.S.) in accordance with Attachment 1, paragraph 6.
 5. REFERENCES. See Attachment 1.
 6. DEFINITIONS
 - a. Assignment. Presence of an invited foreign national at a DOE facility, or at a meeting or other interaction in the U.S. sponsored by a DOE facility, for more than 30 calendar days. Assignments are limited to 2 years duration, subject to extension in accordance with paragraph 9i, below. Assignments are normally for the purpose of participating in the work of the facility, gaining experience, or contributing to projects. Assignees may include employees, guests, or consultants. (See page 5, subparagraph w, for definition of Visit.)
 - b. Designated Laboratory Director. Within the context of this Order, is limited to the Directors of Ames Laboratory, Argonne National Laboratory, Brookhaven National Laboratory, Environmental Measurements Laboratory, Fermi National Accelerator Laboratory,

Vertical line denotes change.

DISTRIBUTION:

All Departmental Elements

INITIATED BY:

Assistant Secretary for Domestic
and International Energy Policy

Idaho National Engineering Laboratory, Lawrence Berkeley Laboratory, Lawrence Livermore National Laboratory, Los Alamos National Laboratory, Morgantown Energy Technology Center, Mound Facility, New Brunswick Laboratory, Oak Ridge National Laboratory, Pacific Northwest Laboratory, Pittsburgh Energy Technology Center, Princeton Plasma Physics Laboratory, Solar Energy Research Institute, Stanford Linear Accelerator Center, and the President of Sandia National Laboratories. These Laboratory Directors and the Sandia President are eligible to be assigned authority to approve visits and assignments in accordance with paragraph 8f(4), below.

- c. Exchange Visitor Program. A program sponsored by the United States Information Agency (USIA). The program provides for joint projects, research assignments, or specialized training at DOE facilities by foreign nationals selected by officials of their country, or by DOE to promote the general interest of international exchange. (See Attachment 2.)
- d. Export Controlled Information (ECI). Certain unclassified Government information under DOE's cognizance which, if generated by the private sector, would require a specific license or authorization for export under United States laws or regulations. ECI includes nuclear, nuclear-related, and other types of information the release of which could reasonably be expected to adversely affect United States national security and nonproliferation objectives.
- e. Foreign National. For the purposes of this Order, a foreign national is any person who is not a U.S. national or is a stateless person. An immigrant alien is considered a foreign national for the purposes of this Order. Foreign nationals sponsored for visits or assignments may include, among others:
 - (1) Officials or other persons employed by foreign governments or other foreign institutions, who may or may not be involved in cooperation under international agreements;
 - (2) Foreign students at U.S. institutions;
 - (3) Employees of DOE or other U.S. Government agencies or their contractors, of universities, of companies (professional or service staff), or of other institutions; and
 - (4) Prospective employees of DOE or DOE contractors.
- f. High-Level or Protocol Visit. This connotes the visit of a foreign national who is afforded special consideration for policy reasons.

- g. Host. A DOE or DOE contractor employee who is sponsoring a visitor or assignee under this Order. A visitor or assignee is not permitted to be a host.
- h. Immigrant Alien. A foreign national authorized by the Immigration and Naturalization Service to reside and work in the U.S. for an indefinite period and who is eligible to become, in time, a U.S. citizen. Most immigrant aliens may also be referred to as permanent resident aliens (PRAs).
- i. Indices Check. A procedure whereby a request is made to appropriate U.S. Government agencies to determine if information exists on a particular foreign national.
- j. International Agreement. An agreement between the United States or an entity thereof, and a foreign country or an entity thereof, or an international organization or an entity thereof, to cooperate in an endeavor of common interest. Included are agreements of specific types, such as umbrella agreements, project agreements, implementing agreements, cooperative agreements, protocols, memoranda of understanding, and contracts providing for cooperative endeavors.
- k. Personnel Assignment Agreement. An agreement between participating institutions involved in sending and receiving an assignee. These agreements cover the detailed aspects of carrying out an assignment, such as, programmatic purpose, references to applicable program agreement, method of handling finances, essential rules, regulations, and training for personnel safety, designation of and requirements for access to facilities used in the assignment, etc. The receiving institution will normally be that legal entity managing the involved DOE facility, whereas the sending institution can be one of a variety of organizations depending upon the arrangements made in the country representing the sending side. Each Personnel Assignment Agreement shall contain an Annex to be signed by the assignee certifying acceptance of and compliance with the terms of the agreement.
- l. Proprietary Information. Information which contains trade secrets or commercial or financial information which is privileged or confidential, and may only include such information which:
 - (1) Has been held in confidence by its owner;
 - (2) Is of a type which is customarily held in confidence by its owner;
 - (3) Has not been transmitted by the transmitting party to other entities (including the receiving party) except on the basis that it be held in confidence; and

(4) Is not otherwise available to the receiving party from another source without restriction on its further dissemination.

- m. Security Interest. Includes any of the following which require special protection: classified matter; special nuclear material; security shipments; secure communications centers; sensitive compartmented information facilities; ADP processing centers or other information systems which contain classified information; or Departmental property.
- n. Security Facility. A specific physically bounded area, Individually certified by the cognizant security officer in accordance with DOE 5632.1A, which has been approved by the Department for generating, receiving, using, processing, storing, reproducing, transmitting, destroying, or handling special nuclear material or classified matter. Lists of such facilities are provided to Headquarters in accordance with paragraph 8f(16), below. A security facility temporarily sanitized to protect a security interest during a visit or assignment continues to be a security facility for the purposes of this Order.
- o. Security Plan. A plan developed and implemented to protect DOE and DOE contractor personnel and facilities, and to prevent the compromise of a DOE security interest or sensitive subject to a foreign visitor or assignee; this is a critical element of the visits and assignments system.
- p. Sensitive Country. A country to which particular consideration is given for policy reasons during the DOE internal review and approval process of visits and assignments by foreign nationals. Countries may appear on this list for reasons of national security, nuclear nonproliferation, regional instability, or terrorism support. The DOE list (Attachment 3) does not necessarily reflect the policies or views of any other agency of the U.S. Government. For purposes of this Order, a foreign national is considered to be from a sensitive country if any of the following is true:
 - (1) Citizen of a sensitive country;
 - (2) Place of employment in a sensitive country;
 - (3) Place of birth in a sensitive country unless the person is now a U.S. citizen; or
 - (4) A stateless person.

- q. Sensitive Facility. A designated DOE facility listed in Attachment 4 which contains one or more security facilities and/or nonproliferation information or technology, or other sensitive subjects.
- r. Sensitive Subject. Unclassified subject/topic identified by DOE (Attachment 5) which involves information, activities, and/or technologies that are relevant to national security. Disclosure of sensitive subjects has the potential for enhancing nuclear weapons capability, leading to nuclear proliferation, divulging militarily critical technologies, or revealing other advanced technologies. Therefore, they require special management oversight, especially prior to release to foreign nationals. Some sensitive subjects listed in Attachment 5 are already controlled as Unclassified Controlled Nuclear Information or as Export Controlled Information under U.S. laws and regulations.
- s. Stateless Person. One who currently is without nationality, (1) by the action of a state in withdrawing the protection of nationality, (2) by his or her own action in effectively renouncing the nationality previously held, or (3) because he or she has never held nationality due to the circumstances of birth.
- t. Technology. Also referred to as technical data, technical skills or know-how, or as scientific and technical information. Technology is derived from basic or applied research, development, engineering, technological demonstration, economic and social research, or scientific inquiry into phenomena or technology applications. It may exist as machinery or equipment; it may be recorded, spoken, or represented in a medium for storage of communication, and may be contained in computer software with scientific and technical applications.
- u. Unclassified Controlled Nuclear Information. Unclassified information whose unauthorized dissemination is prohibited under section 148 of the Atomic Energy Act as explained in DOE 5650.3A.
- v. U.S. National. A citizen of the United States, or a person who, although not a citizen of the United States, owes permanent allegiance to the United States.
- w. Visit. Presence of an invited foreign national at a DOE facility or at a meeting or other interaction in the U.S. sponsored by a DOE facility for 30 calendar days or less. Visits which total over 30 calendar days in a period of 12 months are defined as assignments. Visits are normally for the purpose of technical discussions, orientation, observation of projects or equipment, training, contract service work, or discussion of collaboration on topics of mutual interest without participation in the work of the facility, or for courtesy purposes. (See page 1, paragraph 6a, for definition of Assignment.)

7. POLICIES AND STANDARDS.

- a. Overall Policy. The use of international cooperation and collaboration is an important element in the effective planning and implementation of many of the Department's programs. This element is important in view of rapid scientific and technical advances abroad and of the costs of conducting advanced research, both in the U.S. and abroad, and in view of stringent budgetary constraints in all countries conducting research. Accordingly, DOE supports an active program of unclassified visits and assignments by foreign nationals to DOE facilities for the benefit of its programs. The exchange of information and personnel through visits and assignments is essential to the achievement of significant, mutual benefits from international cooperation. Heads of Departmental Elements will ensure that these visits and assignments are conducted under prescribed conditions in a manner consistent with programmatic and security policies and international obligations. The Head of a Headquarters Element with responsibility for programmatic, security, or foreign policy aspects of a particular visit or assignment may, for cause, prevent its occurrence pending possible resolution of outstanding issues with other responsible Heads of Headquarters Elements.
- b. Programmatic Policy.
 - (1) Visits and assignments are to be used to advance the programmatic objectives of the Department in a manner consistent with U.S. foreign policy, U.S. international energy policy, and national security and nonproliferation objectives.
 - (2) Visits and assignments by foreign-supported and U.S.-supported foreign national scientific and technical personnel at research and development facilities are to be used and structured to facilitate maximum benefit to the U.S. from international cooperation in science and technology matters.
 - (3) Awareness of information being developed abroad, obtained through visits and assignments, is to be used to support DOE's mission to improve the competitive position of U.S. industry in world trade.
 - (4) Visits and assignments are to be structured in such a way to ensure reciprocity in international technology transfers.
 - (5) DOE and DOE contractor personnel and facilities, security interests, sensitive subjects, and DOE technology of potential commercial value are not to be compromised as a result of a foreign national's visit or assignment.

- (6) Visits and assignments are to be consistent with active relevant international agreements and related formal understandings which represent a coherent program of activities covering programmatic, security, and other factors (e.g., trade interests and commercially sensitive technologies) and which have been reviewed by appropriate Departmental Elements.
- (7) Information on foreign visits and assignments is to be provided to meet the needs of the Department.

c. Security Policy.

- (1) DOE and DOE contractor personnel are governed by international obligations of the U.S., legislation, Executive orders, Executive Department directives, and DOE Orders concerning national security, the prevention of proliferation of nuclear weapons and related technologies, the protection of computer resources, and the release of unclassified but sensitive subjects; requirements are specified in relevant references listed in this Order. The visits and assignments program must be consistent with these requirements as well as with programmatic needs.
- (2) Assuring the proper protection of security interests and sensitive subjects in a manner consistent with essential programmatic requirements is a combined responsibility of security, program, and management personnel in DOE and DOE contractor organizations.
- (3) Certain DOE research, development, production and testing programs, personnel, and facilities are likely to be targeted for intelligence activity.. Therefore, for security purposes, it must be considered that some foreign visitors and assignees have intelligence missions. Accordingly, Departmental and contractor personnel must always be alert to the potential of intelligence activities when hosting visits or assignments in these circumstances. The reporting of hostile contacts as required by NSDD 197, and as described in DOE 5631.1A, will be followed.
- (4) DOE directives on classification and disclosure of classified information will be strictly followed as will policies and directives relating to other sensitive or controlled information.
- (5) Security plans, ranging from the application of standard security plans as embodied in established security procedures through "Specific Security Plans" tailored for individual visits or assignments, are required for all visits and assignments. Such plans shall be approved by the

cognizant DOE security office and shall address physical and technology security as well as intelligence concerns. Appropriate consideration must be given to computer security. To ensure the most effective and appropriate security plans, each plan shall assume that visitors or assignees pose an intelligence threat. Specific security plans are described in Attachment 6. Requirements for security plans are specified in paragraph 9g, below.

- (6) Indices checks, when required, shall be initiated by Headquarters or field elements as soon as a visit or assignment is contemplated. (Since these checks are based on personal identification data, specifics of the visit or assignment are not required to initiate an indices check.) Requirements for indices checks are specified in paragraph 9f, below.
- (7) Indices checks which do not divulge any derogatory information, referred to as "clear indices checks," are to be interpreted to mean simply that there is no derogatory information on file. An individual with a clear indices check may, nevertheless, have motives detrimental to U.S. interests and this should be considered in making arrangements.
- (8) The duration of a visit or assignment is determined in accordance with both programmatic needs and security concerns; condition; and limitations are specified in paragraphs 6a and 6w, above, and 9i, below.
- (9) A national of a sensitive country is not allowed access to a security facility.
- (10) Exceptions to this security policy must be approved by the Director of Security Affairs (SA-1).

d. Standards. Approval or disapproval of all unclassified visits and assignments shall be based on application of the following factors to the extent possible:

(1) Programmatic Factors.

- (a) Value of expected contribution of technical skills or information or both.
- (b) Importance to program mission.
- (c) Contribution to quid pro quo, e.g., mutuality of benefits, reciprocity, competitiveness.

- (d) Existence and applicability of an agreement for cooperation.
 - (e) When appropriate, concurrence by a work-for-others sponsor.
 - (f) Collaboration experience of program activity.
- (2) Security Factors.
- (a) Sensitivity of the subject, facility, or country involved.
 - (b) Adequacy of security plan, e.g., protection of" sensitive subjects and/or security interests.
 - (c) Evidence of intelligence threat.
 - (d) Duration and continuity of visit or assignment.
 - (e) Site visit and collaboration history of visitor/assignee.
 - (f) Collaboration experience of program activity.
- (3) Other Factors.
- (a) Foreign policy, including international obligations of the U.S.
 - (b) Trade interests.
- (4) Overall Judgment.
- (a) The approval authority shall consider the programmatic, security, and other factors listed above when deciding whether to approve or disapprove a visit or assignment.
 - (b) In reaching a judgment, those proposed visits and assignments which form part of a coherent program of activities developed under an active international agreement and reviewed on a Departmental basis covering programmatic, security, and other factors, shall be considered to be strongly supported by the Department.

8. RESPONSIBILITIES AND AUTHORITIES.a. Program Secretarial Officers (PSOS).

- (1) Assure that the procedures prescribed herein are applied to programs and activities under their control: as appropriate, provide programmatic oversight through coordinated on-site reviews of their programs, with the Assistant Secretary for Domestic and International Energy Policy (EP-1) and, for security issues, the Director of Security Affairs (SA-1).
- (2) Determine whether and under what circumstances the use of visits or assignments by foreign nationals to DOE facilities is to be an element of program strategy, and issue appropriate guidance to Heads of Field Elements and others.
- (3) Assure close coordination among Headquarters staffs, the staffs of field elements, and the staffs of EP, SA, AN, and IN to assure that the visits and assignments program is meeting programmatic objectives while complying with any restrictions or limitations on access to facilities or release of information.
- (4) Identify commercially sensitive technologies and promulgate to Departmental Elements guidance concerning their protection.
- (5) Promulgate programmatic guidance to field elements for approval or disapproval of visits or assignments, including any specific reporting requirements.
- (6) Provide timely advice to field elements in implementing such guidance, including pertinent input from the other U.S. Government agencies involved in coordinated interagency programs related to the visit or assignment.
- (7) Designate specific facilities and programs under their programmatic jurisdiction to which foreign access may be granted only after consultation with Headquarters program staff.
- (8) In coordination with the Office of International Research and Development Policy (EP-70), the Office of Safeguards and Security (SA-10), and the Office of Export Control and International Safeguards (AN-30), establish training program(s) for DOE personnel both to assure their awareness and develop their capabilities to meet the programmatic and security objectives of the visits and assignments program.

- (9) Approve or disapprove, in accordance with paragraph 9, below, visits and assignments to their Headquarters Elements and to their activities not under the jurisdiction of a field element, except for high-level or protocol visits to Headquarters.
- (10) Request the Office of Counterintelligence (IN-20) to carry out indices checks on foreign nationals proposed for visits and assignments to Headquarters, as required. (See paragraph 9f, below.)
- (11) With SA-10, develop approved security plans when required for visitors and assignees to Headquarters. (See paragraph 9g, below.)
- (12) Approve and defray extraordinary costs associated with mitigation of security risks for particular visits or assignments within their programmatic jurisdiction.
- (13,) Provide guidelines for access by foreign nationals to work being performed for non-DOE organizations at specific facility areas under DOE program jurisdiction through the visits and assignments system.
- (14) Promulgate guidelines for visits or assignments to the work being conducted in program areas by foreign nationals not sponsored by any foreign organization.
- (15) Assure that hostile contacts are reported as required by DOE 5631.1A.
- (16) Assure that appropriate host reports are submitted in accordance with paragraph 9n, below.
- (17) Review and comment on the annual report described in paragraph 8b(15), below, and submit information for its preparation as requested by EP-70.
- (18) For contracts under their cognizance, ensure that contractual coverage implementing this Order is included when applicable.
- (19) Provide to EP-70 copies of all written guidance concerning the visits and assignments system, other than that relevant only to specific visits and assignments, promulgated to field elements.
- (20) Provide to EP-70 in writing the name, title, and telephone number of a single point of contact within their Headquarters Element who will coordinate the actions related

to visits and assignments within the organization, and who can provide a consolidated organizational position on each request.

- (21) For those facilities currently designated or proposed to be designated as security facilities in which work on nonsensitive subjects under their program's jurisdiction is carried out and where unclassified visits and assignments would be programmatically appropriate, review and concur in designations.
- (22) Promulgate to Heads of Departmental Elements lists of activities under their jurisdiction excluded under paragraph 4, above, and review periodically such exclusions to determine whether exclusion is still appropriate.

b. Assistant Secretary for Domestic and International Energy Policy.

- (1) Develops and prescribes, in coordination with other Heads of Departmental Elements, implementing policies, standards, and procedures concerning visits and assignments and provides for their overall administration and control.
- (2) Provides oversight through coordinated on-site reviews with SA, AN, and IN and Program Secretarial Officers concerned.
- (3) Promulgates guidance to Headquarters and field elements with respect to foreign policy matters relevant to approval or disapproval of visits and assignments.
- (4) Provides timely advice to Headquarters and field elements on implementation of guidance when required for specific visits and assignments.
- (5) Develops, in conjunction with PSOS, training program elements for the administration of the visits and assignments program and the review of visits and assignments from the perspectives of foreign policy and agreements management, and ensures the coordination of the overall Departmental training programs.
- (6) Serves as the central point of contact within DOE and with the Department of State and other domestic, foreign, and international organizations concerning the policies and procedures prescribed by this Order.
- (7) Coordinates actions taken under the USIA Exchange Visitor Program, including waivers of foreign residence requirements.

- (8) Maintains files of all written guidance concerning the visits and assignments system, other than that relevant only to specific visits and assignments, as promulgated by Heads Headquarters Elements to field elements, and by field elements to facilities and personnel under their jurisdiction.
- (9) Approves or disapproves in accordance with paragraph 9, below, with the review and concurrence of SA and the cognizant program office, high-level or protocol visits to Headquarters, and visits or assignments not otherwise covered.
- (10) Reviews, in consultation with the cognizant program offices, and concurs in high-level or protocol visits to field activities.
- (11) Develops, implements, and maintains a single automated Departmental management information system for visits and assignments by foreign nationals which will meet the needs of all Departmental Elements and contractors affected by this Order, and provides guidance for compliance with this Order when system changes require procedural modification.
- (12) In conjunction with PSOs, IN, AN, and SA, collects, verifies, and analyzes visit and assignment data with respect to costs and benefits, foreign policy significance, reciprocity, and related issues; provides appropriate analyses to interested offices.
- (13) Develops and updates, as required, in coordination with SA, IN, and AN, the list of sensitive countries applicable to this Order.
- (14) Develops and updates, as required, a summary listing and description of international agreements, identifying the Headquarters program person responsible for operation of the agreement, and distributes to appropriate Heads of Departmental Elements.
- (15) Utilizing information supplied from Heads of Departmental Elements, prepares an annual report to the Office of the Secretary on the operation of the visits and assignments program.
- (16) Informs appropriate foreign embassies and other foreign organizations in Washington and American embassies and missions abroad of procedures, and provides copies of Form IA-473 for their use.

c. Director of Security Affairs (SA-1).

- (1) Develops and prescribes implementing policies, standards, and procedures for the protection of DOE and DOE contractor personnel, facilities, security interests, and sensitive subjects applicable to the visits and assignments program.
- (2) Provides security oversight through coordinated on-site reviews with EP and Program Secretarial Officers concerned; such reviews are to be conducted annually or more often for DOE Field Offices and biennially or more often for sensitive facilities.
- (3) Promulgates guidance to Headquarters and field elements with respect to technology and physical security matters, and to identification of individuals who may pose security risks, relevant to approval or disapproval of visits and assignments.
- (4) Provides timely security advice to Headquarters and field elements for specific visits and assignments as required.
- (5) Provides to EP-70 copies of all written guidance concerning the visits and assignments system, other than that relevant only to particular visits and assignments, promulgated to field elements.
- (6) Ensures development of and approves all security plans for Headquarters visitors and assignees. (See paragraph 9g, below.)
- (7) Develops and updates periodically, in coordination with cognizant PSOs and EP, the list of DOE sensitive facilities covered by this Order and provides this list to EP-70 for inclusion in this Order.
- (8) For those facilities currently designated or proposed to be designated as security facilities in which work on nonsensitive subjects is carried out and where unclassified visits and assignments would be programmatically appropriate, reviews and concurs in designations.
- (9) Coordinates, on behalf of DOE, with other U.S. Government agencies on issues of national security and advises Heads of Departmental Elements as appropriate.
- (10) Develops, in conjunction with appropriate PSOS, training program elements for the review of visits and assignments with respect to national security.

d. Director of Intelligence (IN-1).

- (1) Initiates indices checks, when appropriate, for Headquarters visits and assignments. (See paragraph 9f, below.)
- (2) Receives and evaluates the results of indices checks from the appropriate U.S. Government agencies, and gives timely notification to Heads of Departmental Elements of significant information or other results, as appropriate.
- (3) Maintains DOE-wide data base of indices check information.
- (4) Coordinates, on behalf of DOE, with other U.S. Government agencies on issues of intelligence and counterintelligence, and advises Heads of Departmental Elements as appropriate.

e. Director of Arms Control and Nonproliferation (AN-1).

- (1) Coordinates, on behalf of DOE, with other U.S. Government agencies on issues of technology security, export controls and nonproliferation, and advises Heads of Departmental Elements as appropriate.
- (2) Develops, in conjunction with appropriate PSOs, training program elements for the review of visits and assignments involving export controls and other technology security and nonproliferation aspects.
- (3) In conjunction with appropriate PSOs and other agencies, develops and updates periodically the list of sensitive subjects and provides to EP-70 for inclusion in this Order.
- (4) Develops and prescribes policies, standards, and procedures for the protection of DOE interests technology security, nonproliferation, and export controls.
- (5) Promulgates guidance to Headquarters and field elements with respect to technology security and export controls.

f. Heads of Field Elements.

- (1) Ensure the establishment of a visits and assignments program and develop procedures for implementing this Order in accordance with guidance provided by PSOs, EP-1, SA-1, and AN-1.
- (2) Approve or disapprove and manage visits and assignments by foreign nationals to facilities under their jurisdiction in accordance with this Order; this authority may be redelegate in writing within their staffs.

- (3) For high-level or protocol visits, obtain EP concurrence.
- (4) May assign in writing the approval authority for visits and assignments to designated laboratory directors subject to the other restrictions set forth in paragraph 9h, below; to ensure responsible assignment, provide timely advice on policy guidance to those to whom such approval authority is assigned. Copies of such assignments must be provided to EP-70 and the Heads of other appropriate Headquarters Elements. Approval authority at laboratories may not be delegated below the level of associate laboratory director or equivalent.
- (5) Ensure that appropriate information relevant to visits and assignments is provided to relevant Headquarters offices in a timely manner. Submission requirements for Form IA-473 are specified on the current version of this form designated for use with the Visits and Assignments Management System (VAMS).
- (6) Ensure that facilities under their jurisdiction protect commercially sensitive technologies as specified by Headquarters program offices.
- (7) Ensure that timely guidance concerning visits and assignments policies, limitations, and restrictions, general or specific, is appropriately developed and disseminated among concerned facilities and personnel under their jurisdiction, and provide copies of such guidance to EP-70 and the cognizant program offices, other than guidance relative to particular visits and assignments.
- (8) Establish training programs for appropriate personnel of facilities under their jurisdiction to ensure their awareness of and to meet the programmatic and security objectives of the visits and assignments program.
- (9) When required, initiate indices checks on proposed visitors or assignees. (See paragraph 9f, below.)
- (10) Consult relevant Headquarters offices for guidance concerning foreign policy, programmatic, and security aspects of visits or assignments.
- (11) Ensure the development of and review, approve, and oversee execution of appropriate security plans for the control of foreign nationals proposed for visits or assignments. (See paragraph 9g, below.)

- (12) Prior to the commencement of a visit or assignment requiring a Specific Security Plan, ensure that an information copy of such plan has been received by SA-1.
- (13) Ensure that hostile contacts are reported as required by DOE 5631.1A.
- (14) Ensure that required host reports are submitted. (See paragraph 9p, below.)
- (15) For those facilities currently designated or proposed to be designated as security facilities in which work on nonsensitive subjects is carried out and where unclassified visits and assignments would be programmatically appropriate, request review and concurrence by SA and the cognizant Program Secretarial Officer.
- (16) For facilities under their cognizance, compile a descriptive listing of security facilities where unclassified visits or assignments can occur and provide such list annually on April 1 to EP-70, SA-10, and the cognizant program offices.
- (17) For contracts under their cognizance, ensure that contractual coverage implementing this Order is included when applicable.
- (18) Provide to EP-70 in writing, the name, title, and telephone number of a single point of contact within their organization who will coordinate the actions related to visits and assignments within the organization, and who can provide a consolidated organizational position on each request.
- (19) Conduct annual on-site reviews of sensitive facilities and periodic on-site reviews of nonsensitive facilities to ensure that the requirements of this Order are bring fully implemented.
- (20) To ensure effective operation of this Order, advise EP-1, SA-1, and appropriate PSOs when strict compliance with the stated procedures in this Order appears inconsistent with its stated policies and standards.

9. PROCEDURES AND REQUIREMENTS.

- a. Origination and Processing. Requests for unclassified foreign national visits and assignments originate in various ways: with field elements or DOE contractors; with Headquarters offices, or with foreign entities. All assignments require the use of DOE F IA-473, as do certain visits, as specified in paragraph 9b, below. (See foreign nationals proposed for visits or assignments.) For a visit not requiring use of DOE F IA-473 to an

access-controlled facility, the visit shall be documented and a record kept to show the name, date of birth, place of birth, and nationality of the visitor, the date(s) of the visit, the host(s), and the purpose.

- (1) Requests Initiated by Field Elements or Contractors. Such requests are to be coordinated in the field and, if required, coordinated with the appropriate program office as far in advance as feasible. If required, approval is to be requested on DOE F IA-473. If the request is approved, field and contractor organizations will complete arrangements; if disapproved, they will so inform the foreign national involved.
 - (2) Requests Initiated by Headquarters Offices. Headquarters offices are to coordinate arrangements with the requester and any field activities, utilizing DOE F IA-473 when required. For high-level or protocol visits, EP approval is required if the visit is to Headquarters, EP concurrence if to field activities. For Headquarters visits when DOE F IA-473 is not required, the requesting office shall notify EP as far in advance of the visit as feasible, giving the information specified in paragraph 9a, above.
 - (3) Requests Received by EP from Outside DOE and DOE Contractors. EP will forward requests to appropriate Headquarters offices or field elements for appropriate action.
- b. Requirements for Use of DOE Form IA-473. All assignments require use of IA-473. The following visits require use of IA-473:
- (1) To a security facility.
 - (2) Where a sensitive subject is involved.
 - (3) By a national of a sensitive country, except for 1-day fully escorted visits to the Forrestal Building.
 - (4) High-level or protocol visit to field activities.
- c. Time Requirements for Submissions. DOE F IA-473, when required, is to be submitted to the appropriate approval authority not less than 6 weeks prior to the start of a proposed visit or 8 weeks prior to an assignment, if an indices check is required; otherwise it is to be submitted at least 3 weeks in advance. The approving authority will notify the sponsoring organizations at least 2 weeks prior to the visit or assignment of approval or disapproval. For local approvals, when indices checks are not required, local approving authorities may establish shorter times for advance submissions as appropriate to their individual locations. Indices

checks, when required, are to be requested as soon as the visit or assignment is contemplated. To permit advice to the approval authority on a timely basis, Headquarters offices will be notified promptly by rapid means of any anticipated visit or assignment where their advice is appropriate, as in cases of a high-level visit, access by a sensitive country national to a sensitive facility, access to a security facility, or a sensitive subject.

- d. Subject Matter. All visits and assignments under this Order will involve only unclassified matter; visits involving classified information are governed by DOE 5631.4. Documents and information provided to visitors or assignees will be limited to information available in the open, published literature, unless in accordance with a specific international agreement or unless the subject material falls under the definition of fundamental basic research. Exceptions involving the release of sensitive subjects or of unpublished, proprietary, or otherwise sensitive or controlled information must be approved by appropriate authority.
- e. Disapproval. A requested visit or assignment may be disapproved by the approving authority if, in the view of program officials concerned, (1) the subject matter is not appropriate to the facility requested; (2) necessary personnel are not available at the time requested; (3) the visit or assignment will result in unacceptable interference with work at the facility; (4) unwarranted expenses will result; or (5) the benefits are not equitably balanced. If during the review of a visit or assignment request a disapproval is anticipated, the approval authority should consider proposing a revision of the request to achieve conditions under which approval would be possible. A visit or assignment will be disapproved if, in the opinion of the approval authority, or in specific cases SA-1, it is not practicable to implement adequate security procedures. EP may recommend disapproval of a visit or assignment on foreign policy grounds. Reasons for disapproval of visits or assignments will be made a matter of record, and EP should be informed if significant foreign policy issues may be involved. Reasons for disapproval of visits or assignments which require DOE F IA-473 shall be provided to EP in writing in a timely manner, as shall notification that request for a visit or assignment requiring a IA-473 has been withdrawn. The hosts must be notified promptly of a disapproval and the reasons for it. A disapproval acts to deny all of the interactions by facility personnel described in the request, whether on government property or elsewhere, while an approval may specify limitations on the interactions. In the absence of a specific approval, a disapproval must be assumed.
- f. Indices Checks. IN or the official authorized to approve the visit will determine whether indices checks are required and will

Vertical line denotes change.

notify the requesting activity if indices checks are to be conducted. As indicated below, indices checks must be proposed through VAMS to IN for certain categories of visits. Complete names, nationalities, and dates and places of birth must be provided; accuracy is critical. Indices checks are required for all assignments for sensitive country nationals. Indices checks may be required by the approving official. Upon determination that an indices check is not required, or upon the completion of an indices check, IN will provide its clearance through VAMS for the proposed visit or assignment. For data base or research purposes, IN may conduct indices checks which are not related to approval or to the timing of the visit or assignment.

- (1) Indices checks are not required for non-sensitive country nationals.
- (2) Indices checks are not routinely required for visits, but must be proposed, and may be initiated by IN, for sensitive country nationals coming for periods of 30 calendar days or less for any of the following:
 - (a) Visit to any security facility.
 - (b) Visit dealing with a sensitive subject.
 - (c) Visit to a sensitive facility.
- (3) Presence of a sensitive country national for more than a total of 30 calendar days in a period of 12 months is an assignment and requires a completed indices check before its commencement. Extension of a visit to more than 30 days similarly requires an indices check. No waivers of this requirement are permitted.
- (4) Completion of indices checks may be required by the approving official or IN prior to the start of any visit or assignment at their discretion. Concurring officials who believe an indices check is warranted should address such requests to the approving official or IN.
- (5) Once indices checks related to approval are begun, they must be completed before the visit or assignment commences.
- (6) Approval authorities, in scheduling the approval/disapproval decision process, should allow at least 3 weeks from time of initiation for completion of indices checks.

(7) Results of indices checks will be maintained by IN in a DOE-wide data base. Indices checks less than 2 years old will be considered current.

- g. Security Plans. The main defense for vital information is the limitation of its exposure, and a security plan is the basic means to accomplish that. When a specific or generic security plan is to be used, it shall be approved by the appropriate DOE Field Office before the visit occurs. A generic plan may be appropriate in many cases. Such circumstances may be continuing programs, e.g. training courses operated by DOE, non-sensitive foreign nationals visiting non-sensitive facilities or sensitive facilities, and sensitive foreign nationals visiting non-sensitive facilities. Specific security plans are required for visits and assignments: (1) to any security facility; (2) dealing with sensitive subjects; and (3) by a foreign national of a sensitive country to a sensitive facility. To ensure that security plans are adequately implemented, persons assigned as escorts to visitors, or who receive visitors, shall be briefed on all aspects of the security plan for their particular visitors prior to the visit. When a visit or assignment by a sensitive country national occurs at a facility located adjacent or near a security or sensitive facility, the local Operations Security Committee will review the visit or assignment to assure that operational security concerns are met.
- h. Assignment of Approval Authority.
- (1) Approval authority may not be assigned by the Head of a Field Element to a designated laboratory director for any visit or assignment involving:
- (a) Access to a security facility.
 - (b) A sensitive subject.
 - (c) A national of a sensitive country to a sensitive facility.
 - (d) High-level or protocol visits to field activities.
- (2) Assignment of approval authority for other visits and assignments may be made as specified in paragraph 8d(4), above.
- i. Duration of Visit or Assignment. Duration is determined by the approval authority based on both programmatic needs and security concerns. The period for an assignment of a national of a sensitive country is determined on a case-by-case basis by the

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approving authority. Extension of assignments beyond a total period of 4 years must be approved by EP. EP will be notified by the field element when any assignee becomes a permanent employee of the facility.

- j. Personnel Assignment Agreements. A Personnel Assignment Agreement shall be negotiated for each assignee by the receiving DOE institution with the assignee's sending institution. Alternatively, its terms may be reflected in the contract referred to in paragraph 9n(2), below. Acceptance of assignees before active negotiations are completed is within the discretion of the Head of the Field Element affected. Acceptance of assignees in the absence of a completed or nearly completed agreement requires the assignee's acceptance of: (1) appropriate waivers of intellectual property rights; (2) essential safety rules, requirements and training; and (3) other requirements determined by the receiving institution.
- k. Visits to Multiple Sites. When visits include facilities involving two or more DOE Field Offices, or Headquarters and one or more DOE Field Offices, the facility whose staff is principally involved with the planning of the visits will preferably be the facility responsible for overall coordination, or alternatively the first office visited will be responsible. EP will coordinate arrangements for high-level or protocol visits. When, for the same foreign national, both an assignment and a visit is involved, the DOE Field Office responsible for the assignment will coordinate.
- l. Repetitive Visits of Groups to the Same Facility. Training courses or particular demonstrations may result in a series of essentially very similar visits or assignments, differing only in the identities of the visitors. When such repetitive events involve exceptions to the prohibition of access to security facilities by sensitive country nationals, the requesting activity may request SA-1 to approve a standing exception, based on a standing specific security plan, applicable to two or more visits, subject to entry into VAMS prior to the visit of names, nationalities, and dates and places of birth of the foreign participants, and when required, completion of an indices check. Once the standing exception is approved, the DOE Field Office Manager will submit supporting documentation to the cognizant PSO for concurrence in subsequent visits under the exception. Any variations from the preapproved description require a specific approval in each case.
- m. Initiation of Requests for Exceptions by Headquarters Offices. Requests for exceptions to authorize sensitive country nationals access to security facilities are normally initiated by DOE Field Offices. The cognizant PSO at Headquarters may, with the concur-

Vertical line denotes change.

rence of the responsible DOE Field Office Manager, initiate the request. If the exception request is approved by SA-1, final responsibility for the visit or assignment remains with the DOE Field Office Manager.

n. Cost Reimbursement.

- (1) Visits. As a general rule, visitors do not receive compensation DOE for travel and subsistence costs. "Sending side pays" is the preferred policy; this can be waived by the funding authority if the visit is of particular benefit to DOE and the situation warrants.
- (2) Assignments. Contracts involving the use of foreign nationals as temporary employees, guests, or consultants, and for which the costs may be reimbursable to a contractor shall be reimbursed only to the extent allowable under the terms and conditions of the governing contract.

o. Funding Arrangements for Exchange Activities Under International Agreements and Related Formal Understandings.

- (1) The basic principle guiding funding arrangements is that of "benefitting-side-pays." Where the U.S. Government agency's programs are the primary beneficiary from a cooperative activity, the U.S. agency can use appropriated funds, subject to the availability of legal authority and funds. In cases of mutually beneficial activities, costs should be shared, preferably with each side paying its own costs. Exchanges of delegations in programs which are mutually beneficial should be funded on a "sending-side-pays" basis, under which the guests pay both their airfare and in-country costs. When "sending-side-pays" is not feasible and the value to DOE warrants, funding can be on a "receiving-side-pays" basis when agencies have the necessary funds and legal authority; this has come to mean that guests pay their own airfare but the host pays in-country costs. Where only one side benefits from a project activity, that side is normally responsible for meeting all costs; for policy reasons certain agreements may specify otherwise.
- (2) Costs for exchanges of delegations in programs where there is no technical or foreign policy benefit to the U.S. must be met by the foreign government or international organization; thus, training programs are generally not financed by the U.S. Government.

(3) Furthermore, in order to facilitate the increasing use of assignees in a mutually beneficial and effective manner, PSOs and Heads of Field Elements involved in negotiating and implementing these international agreements may use flexibility in dealing with the provision of assignee housing, local transportation, and other associated costs when provided on a reciprocal basis with the other party to the agreement.

| p. Host Report Requirements. To enable the approving official to evaluate the effectiveness of visits and assignments, and to assist in determining the desirability of future such visits and assignments, host reports are required for those visits and assignments for which approval authority has not been assigned to a designated laboratory director. The host report will be submitted to the Head of the Field Element involved with copies to the appropriate Program Secretarial Officer, EP-70, IN-20, and AN-30. For visits or assignments to Headquarters, host reports are required if a security facility, a sensitive subject, or a sensitive country national is involved, except that 1-day escorted visits by sensitive country nationals to the Forrestal Building do not require host reports unless the visits are otherwise sensitive. Reports are discretionary with the responsible PSO in other cases. Copies of such reports will be provided to EP, IN, AN, SA, and to other appropriate Headquarters Elements. Host reports will be submitted no later than 15 days after the completion of the visit or assignment, and should contain a concise statement of the pertinent contribution that each visitor or assignee made to the specific or overall programmatic mission of the host facility. Each report is to contain a certification by the host that to the best of his/her knowledge, no classified or unauthorized sensitive subject has been disclosed to the visitor or assignee. Additionally, the host is encouraged to make any relevant observations that will assist Headquarters and field elements in assessing the value of this and possible future visits and assignments and any security issues raised. (Attempts to obtain unauthorized information by the visitor or assignee should be immediately reported under DOE 5631.1A.)

| q . Equipment Maintenance Person. Emergency repair of critical equipment may on occasion require timely access by a foreign national to a DOE facility. Those individuals potentially requiring such access shall normally be prescreened as intermittent assignees before their initial access is necessary.

- r. Point of Contact. The central point of contact within DOE for the implementation of these procedures is Visits and Assignments Program, Office of International Research/Development Policy (EP-70), Office of Domestic and International Energy Policy, Department of Energy, Washington, DC, 20585. The telephone number is 202-586-9211.

BY ORDER OF THE SECRETARY OF ENERGY:



DOLORES L. ROZZI
Director of Administration
and Human Resource Management

REFERENCES

1. Atomic Energy Act of 1954, as amended Title 42, United States Code (U.S.C.), 2011 et seq.: a. Section 3 provides for a program of international cooperation to promote dissemination of the benefits of the peaceful applications of atomic energy; b. Section 148 et seq. relates to the dissemination of unclassified information; c. Section 57b(2) as implemented by Title 10, Code of Federal Regulations (CFR), 810, Unclassified Activities in Foreign Atomic Energy Programs, which indicate activities related directly or indirectly to the production of special nuclear material for which specific authorization by the Secretary is required; and d. Sections 127 and 128 which describe the criteria governing U.S. export of sensitive nuclear technology.
2. Export Administration Act of 1979, as amended by the Export Administration Acts of 1981 and 1985, and as implemented by the Export Administration Regulations (EAR), 15 CFR 368-399, which establishes export controls on specific commodities and materials and their technical data.
3. Arms Export Control Act (section 38, 22 U.S. C. 2778) as implemented by the International Traffic in Arms Regulations (ITAR), 22 CFR 120-130, establishes export controls on munitions and related technologies and their technical data.
4. Secrecy of Certain Inventions and Filing Applications in Foreign Country, 35 U.S.C. 181-188, which establishes protection for inventions when filing foreign patent applications.
5. Mutual Educational and Cultural Exchange Act of 1961, as amended (Public Law 87-256), as implemented by Regulations Governing Designated Exchange-Visitor Programs, 22 CFR 514, which outlines participation, sponsor obligations, visa rules, waiver procedures, and other matters.
6. Agreement between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States of America, signed 11-18-77; entered into force 12-9-80. (T. I.A.S. 9889).
7. Executive Order 12333, "United States Intelligence Activities," of 12-4-81, which establishes goals, directions, duties, and responsibilities with respect to the national intelligence effort. Available from IN-40.
8. Executive Order 12356, 'National Security Information,' of 4-2-82, 47 Federal Register, 4-6-82, which establishes controls on access to National Security Information.

9. National Security Decision Directive 189, 'National Policy on the Transfer of Scientific, Technical and Engineering Information,' of 9-21-85 which establishes U.S. policy on the release of scientific and technical information. Available from AN-30.
10. National Security Decision Directive 197, "Reporting Hostile Contacts," of 11-85, which establishes national policy for reporting hostile contacts and maintaining security awareness programs. Available from SA-10.
11. National Security Decision Directive 298, "Operations Security, " which establishes national policy for protection of critical and sensitive subject information. Available from SA-10.
12. DOE 1360.2B, UNCLASSIFIED COMPUTER SECURITY PROGRAM, of 5-18-92, which establishes requirements for protecting unclassified computer systems and sensitive unclassified automated information.
13. DOE 1500.3, FOREIGN TRAVEL AUTHORIZATION, of 11-10-86, establishing policy and procedures for official and unofficial foreign travel.
14. Directives in 4300 Series, "Real Property Management," which establish policy, responsibilities, and general administrative procedures relating to approval of use of its facilities for others.
15. Directives in 5631 Series, "Personnel Security," which describe DOE standards and procedures for controlling visitors to DOE and DOE contractor, subcontractor, and access controlled permittee facilities.
16. Directives in 5632 Series "Physical Protection," which establish DOE policies, objectives, responsibilities, and authorities for protection of DOE and DOE contractor personnel, facilities, and security interests and establish minimum physical protection requirements and standards for such interests.
17. DOE 5635.1A, CONTROL OF CLASSIFIED DOCUMENTS AND INFORMATION, of 2-12-88, which provides guidance relative to the safeguarding and control of classified documents and information.
18. DOE 5635.4, PROTECTION OF UNCLASSIFIED CONTROLLED NUCLEAR INFORMATION, of 2-3-88, which establishes DOE policy and procedures for the protection of Unclassified Controlled Nuclear Information.
19. DOE 5650.3A, IDENTIFICATION OF UNCLASSIFIED CONTROLLED NUCLEAR INFORMATION, of 6-8-92, which establishes DOE policy and procedures for identifying nuclear information which is not classified but which is restricted by U.S. laws and regulations from public dissemination.

20. DOE 5637.1, CLASSIFIED COMPUTER SECURITY PROGRAM, of 1-29-88, which establishes Departmental requirements for ensuring security of classified information.
21. 'U.S. Technology Policy," of 9-26-90, Executive Office of the President, Office of Science and Technology Policy.
22. DOE/ER-0305, "Capsule Review of DOE Research and Development and Field Facilities," of 11-86, which describes DOE scientific, engineering, technology and production facilities.
23. "Militarily Critical Technologies List," Office of the Under Secretary of Defense, Acquisition, of 10-86, which identifies classified and unclassified technologies determined to be militarily critical to national security. Available from AN-30.
24. Nuclear Technology Reference Book, IT-87-331 of 9-87, which identifies sensitive aspects of nuclear technologies. Available from AN-30.

EXCHANGE VISITOR PROGRAM

1. Background. This program, by means of which many foreign nationals visit DOE facilities, is designed to further the objectives of the Fulbright-Hays Act (Public Law 87-256) by promoting the exchange of persons and the interchange of knowledge and skills in the field of education, the arts, and sciences. It is fully described in Attachment 1, paragraph 5. Participation in this program requires that a facility be designated by the United States Information Agency. The Department of Energy's program carries the designation "G-5-267" and is officially described as follows:

"A program of the Department which provides for joint projects, research assignments, or specialized training in nuclear or non-nuclear energy at the Department's laboratory by foreign nationals selected by officials of their country or by the U.S. Department of Energy, to promote the general interests of international exchange."
2. Issuance of Form IAP-66. A foreign national may enter the United States under any one of several types of visas. The J-1 visa, however, is specifically designed for the exchange visitor program. In order to obtain the J-1 visa, the foreign national must be issued a Form IAP-66, "Certificate of Eligibility for Exchange Visitor (J-1) Status," by the Responsible Officer or an Alternate Responsible Officer registered with the U.S. Information Agency for the particular program in question. The responsible office for DOE's program is the Office of Domestic and International Energy Policy. Alternate Responsible Officers have been designated at DOE Field Offices, and at certain DOE laboratories; only a designated Responsible Officer or designated Alternate Responsible Officer is authorized to issue Form IAP-66. The foreign national presents the IAP-66 to a consular officer at the American embassy or consulate in his or her own country when applying for his or her visa. The IAP-66 does not assure the granting of the visa, but does indicate that a DOE facility is willing to accept him or her for a limited period for a specified assignment.
3. Waiver of Foreign Residence Requirement.
 - a. Upon completion of his or her assignment, the foreign national must return to his or her home country. The U.S. Attorney General may waive this requirement for a foreign national whose admission to the U.S. is found to be in the public interest. The granting of a waiver makes the foreign national eligible for "H" or "L" visa which may lead to permanent U.S. residency. To be considered by the Attorney General, a waiver request must have the prior favorable recommendation by the United States Information Agency.

A formal waiver request by letter may be made by an interested U.S. Government agency, in the public interest, based on the foreign national's contribution to an activity of official government interest.

- b. In submitting a waiver request to the United States Information Agency, the Department of Energy must include:
 - (1) The importance of the DOE program or activity involved;
 - (2) The essential contribution of the individual to the program;
 - (3) The critical qualifications of the individual;
 - (4) That failure to grant the waiver will be detrimental to a program of official interest to DOE; and
 - (5) That an American citizen of comparable ability and training is not available to accept the position offered to the subject of the waiver request.
- c. The Exchange Visitor Program regulations regarding waivers of the 2-year home residency requirement are found in Attachment 1, paragraph 5. Laboratory Directors or DOE Field Office Managers requesting a waiver shall submit the request, together with the necessary data, to the Headquarters office with programmatic responsibility for review/approval. In general, the office of the Program Secretarial Officer initiates the waiver request. The request is then forwarded to the Office of Security Affairs and the Office of the General Counsel for concurrences. The Office of Domestic and International Energy Policy is responsible for final clearance for the Department of Energy and for transmittal to the United States Information Agency.
- d. Careful evaluation of each request and related information should be made to guard against abuses of the Exchange Visitor Program.