

(11) If the export is solely for the use of American citizen employees of U.S. firms provided the U.S. firm certifies its overseas employee is a U.S. citizen and has a "need to know."<sup>7</sup>

(12) If the export is directly related to classified information, the export of which has been previously authorized to the same recipient, and does not disclose the details of design, production, or manufacture of any arms, ammunition, or implements of war on the U.S. Munitions List.

(b) *Plant visits.* Except as restricted by the provisions of §126.01 of this subchapter:

(1) No license shall be required for the oral and visual disclosure of unclassified technical data during the course of a plant visit by foreign nationals provided the data [are] disclosed in connection with a classified plant visit or the visit has the approval of a U.S. Government agency having authority for the classification of information or material under Executive Order [12356], as amended, and other applicable Executive Orders, and the requirements of section V, paragraph [41(d)] of the Industrial Security Manual are met.

(2) No license shall be required for the documentary disclosure of unclassified technical data during the course of a plant visit by foreign nationals provided the document does not contain technical data as defined in §125.01 in excess of that released orally or visually during the visit, is within the terms of the approved visit request, and the person in the United States assures that the technical data will not be used, adopted for use, or disclosed to others for the purpose of manufacture or production without the prior approval of the Department of State in accordance with part 124 of this subchapter.

(3) No Department of State approval is required for the disclosure of oral and visual classified information during the course of a plant visit by foreign nationals provided the

provided the U.S. party so certifies and complies with the requirements of the Department of Defense Industrial Security Manual relating to the transmission of such classified information (and any other requirements of cognizant U.S. Government departments or agencies).

<sup>7</sup>Classified information may also be exported to such certified American citizen employees without prior Department of State approval provided the U.S. party complies with the requirements of the Department of Defense Industrial Security Manual relating to the transmission of such classified information (and any other requirements of cognizant U.S. Government departments or agencies). Such technical data or information (classified or unclassified) shall not be released by oral, visual, or documentary means to any foreign person.

visit has been approved by the cognizant U.S. Defense agency and the requirements of section V, paragraph [41(d)] of the Defense Industrial Security Manual are met.

**§250.9 Notice to accompany the dissemination of export-controlled technical data.**

(a) Export of information contained herein, which includes, in some circumstances, release to foreign nationals within the United States, without first obtaining approval or license from the Department of State for items controlled by the International Traffic in Arms Regulations (ITAR), or the Department of Commerce for items controlled by the Export Administration Regulations (EAR), may constitute a violation of law.

(b) Under 22 U.S.C. 2778 the penalty for unlawful export of items or information controlled under the ITAR is up to 2 years imprisonment, or a fine of \$100,000, or both. Under 50 U.S.C., appendix 2410, the penalty for unlawful export of items or information controlled under the EAR is a fine of up to \$1,000,000, or five times the value of the exports, whichever is greater; or for an individual, imprisonment of up to 10 years, or a fine of up to \$250,000, or both.

(c) In accordance with your certification that establishes you as a "qualified U.S. contractor," unauthorized dissemination of this information is prohibited and may result in disqualification as a qualified U.S. contractor, and may be considered in determining your eligibility for future contracts with the Department of Defense.

(d) The U.S. Government assumes no liability for direct patent infringement, or contributory patent infringement or misuse of technical data.

(e) The U.S. Government does not warrant the adequacy, accuracy, currency, or completeness of the technical data.

(f) The U.S. Government assumes no liability for loss, damage, or injury resulting from manufacture or use for any purpose of any product, article, system, or material involving reliance upon any or all technical data furnished in response to the request for technical data.

(g) If the technical data furnished by the Government will be used for commercial manufacturing or other profit potential, a license for such use may be necessary. Any payments made in support of the request for data do not include or involve any license rights.

(h) A copy of this notice shall be provided with any partial or complete reproduction of these data that are provided to qualified U.S. contractors.

## PART 251—NATIONAL LANGUAGE SERVICE CORPS (NLSC)

Sec.

- 251.1 Purpose.
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- 251.6 Procedures.

AUTHORITY: 5 U.S.C. 3109, 18 U.S.C. 202, 31 U.S.C. 1535, 50 U.S.C. 1913.

SOURCE: 80 FR 76635, Dec. 10, 2015, unless otherwise noted.

### § 251.1 Purpose.

This part:

(a) Implements the responsibilities of the Secretary of Defense in 50 U.S.C. 1913 by establishing the NLSC program.

(b) Establishes policy, assigns responsibilities, and provides procedures for the management of the NLSC program.

(c) Assigns responsibility to the National Security Education Board (NSEB) to oversee and coordinate the activities of the NLSC (as provided and determined by the Secretary of Defense pursuant to 50 U.S.C. 1903 and 1913 with policy and funding oversight provided by the Under Secretary of Defense for Personnel and Readiness (USD(P&R)) in accordance with DoD Directive 5124.02, “Under Secretary of Defense for Personnel and Readiness (USD(P&R))” (available at <http://www.dtic.mil/whs/directives/corres/pdf/512402p.pdf>).

### § 251.2 Applicability.

This part applies to Office of the Secretary of Defense, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and

all other organizational entities in the DoD (referred to collectively in this part as “the DoD Components”) and federal agencies.

### § 251.3 Definitions.

Unless otherwise noted, these terms and their definitions are for the purposes of this part.

*Consultant.* Defined in 5 CFR part 304.

*Excepted service.* Appointments in the excepted service are civil service appointments within the Federal Government that do not confer competitive status and are excepted from competitive service by or pursuant to statute, by the President, or by the Office of Personnel Management, and which are not in Senior Executive Service.

*Foreign language.* Any language other than English.

*Language proficiency.* The U.S. Government relies on the Interagency Language Roundtable (ILR) scale to determine language proficiency. According to the ILR scale:

- (1) 0 is No Proficiency.
- (2) 0+ is Memorized Proficiency.
- (3) 1 is Elementary Proficiency.
- (4) 1+ is Elementary Proficiency, Plus.
- (5) 2 is Limited Working Proficiency.
- (6) 2+ is Limited Working Proficiency, Plus.
- (7) 3 is General Professional Proficiency.
- (8) 3+ is General Professional Proficiency, Plus.
- (9) 4 is Advanced Professional Proficiency.
- (10) 4+ is Advanced Professional Proficiency, Plus.
- (11) 5 is Functional Native Proficiency.

*Special government employee (SGE).* Defined in 18 U.S.C. 202.

### § 251.4 Policy.

It is DoD policy that:

(a) The NLSC provides DoD, or other U.S. departments or agencies, with U.S. citizens with high levels of foreign language proficiency for short-term temporary assignments providing foreign language services.

(b) The NLSC is authorized to employ U.S. citizens as language consultants pursuant to 50 U.S.C. 1913, 5 U.S.C. 3109, and 5 CFR part 304.