

§ 236.6

32 CFR Ch. I (7–1–20 Edition)

(3) Upon approval by the Government, the SP must enter into a legally binding agreement with the DIB participant (and also an appropriate agreement with the Government in any case in which the SP will receive or share information directly with the Government on behalf of the DIB participant) under which the SP is subject to all applicable requirements of this part and of any supplemental terms and conditions in the DIB participant's FA with the Government, and which authorizes the SP to use the GFI only as authorized by the Government.

(n) The DIB participant may not sell, lease, license, or otherwise incorporate the GFI into its products or services, except that this does not prohibit a DIB participant from being appropriately designated an SP in accordance with paragraph (m) of this section.

[80 FR 59584, Oct. 2, 2015, as amended at 81 FR 68317, Oct. 4, 2016]

§ 236.6 General provisions of DoD's DIB CS program.

(a) Confidentiality of information that is exchanged under the DIB CS program will be protected to the maximum extent authorized by law, regulation, and policy. DoD and DIB participants each bear responsibility for their own actions under the voluntary DIB CS program.

(b) All DIB CS participants may participate in the Department of Homeland Security's Enhanced Cybersecurity Services (ECS) program (<http://www.dhs.gov/enhanced-cybersecurity-services>).

(c) Participation in the voluntary DIB CS program does not obligate the DIB participant to utilize the GFI in, or otherwise to implement any changes to, its information systems. Any action taken by the DIB participant based on the GFI or other participation in this program is taken on the DIB participant's own volition and at its own risk and expense.

(d) A DIB participant's participation in the voluntary DIB CS program is not intended to create any unfair competitive advantage or disadvantage in DoD source selections or competitions, or to provide any other form of unfair preferential treatment, and shall not in

any way be represented or interpreted as a Government endorsement or approval of the DIB participant, its information systems, or its products or services.

(e) The DIB participant and the Government may each unilaterally limit or discontinue participation in the voluntary DIB CS program at any time. Termination shall not relieve the DIB participant or the Government from obligations to continue to protect against the unauthorized use or disclosure of GFI, attribution information, contractor proprietary information, third-party proprietary information, or any other information exchanged under this program, as required by law, regulation, contract, or the FA.

(f) Upon termination of the FA, and/or change of Facility Security Clearance (FCL) status below Secret, GFI must be returned to the Government or destroyed pursuant to direction of, and at the discretion of, the Government.

(g) Participation in these activities does not abrogate the Government's, or the DIB participants' rights or obligations regarding the handling, safeguarding, sharing, or reporting of information, or regarding any physical, personnel, or other security requirements, as required by law, regulation, policy, or a valid legal contractual obligation. However, participation in the voluntary activities of the DIB CS program does not eliminate the requirement for DIB participants to report cyber incidents in accordance with § 236.4.

[80 FR 59584, Oct. 2, 2015, as amended at 81 FR 68317, Oct. 4, 2016]

§ 236.7 DoD's DIB CS program requirements.

(a) To participate in the DIB CS program, a contractor must be a CDC and shall:

(1) Have an existing active FCL to at least the Secret level granted under the NISPOM (DoD 5220.22-M); and

(2) Execute the standardized FA with the Government (available during the application process), which implements the requirements set forth in §§ 236.5 through 236.7, and allows the CDC to select their level of participation in the voluntary DIB CS program.

(3) In order for participating CDCs to receive classified cyber threat information electronically, they must:

(i) Have or acquire a Communication Security (COMSEC) account in accordance with the NISPOM Chapter 9, Section 4 (DoD 5220.22-M), which provides procedures and requirements for COMSEC activities; and

(ii) Have or acquire approved safeguarding for at least Secret information, and continue to qualify under the NISPOM for retention of its FCL and approved safeguarding; and

(iii) Obtain access to DoD's secure voice and data transmission systems supporting the voluntary DIB CS program.

(b) [Reserved]

[80 FR 59584, Oct. 2, 2015, as amended at 81 FR 68317, Oct. 4, 2016]

PART 238—DoD ASSISTANCE TO NON-GOVERNMENT, ENTERTAINMENT-ORIENTED MEDIA PRODUCTIONS

Sec.

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APPENDIX A TO PART 238—SAMPLE PRODUCTION ASSISTANCE AGREEMENT

APPENDIX B TO PART 238—SAMPLE DOCUMENTARY PRODUCTION ASSISTANCE AGREEMENT

AUTHORITY: 10 U.S.C. 2264; 31 U.S.C. 9701.

SOURCE: 80 FR 47836, Aug. 10, 2015, unless otherwise noted.

§ 238.1 Purpose.

This part establishes policy, assigns responsibilities, and prescribes procedures for DoD assistance to non-Government entertainment media productions such as feature motion pictures, episodic television programs, documentaries, and electronic games.

§ 238.2 Applicability.

This part:

(a) Applies to the 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 within the Department of Defense (referred to collectively in this part as the "DoD Components").

(b) Does not apply to productions that are intended to inform the public of fast-breaking or developing news stories.

§ 238.3 Definitions.

Unless otherwise noted, this term and its definition are for the purposes of this part.

Assistance (as in "DoD Assistance to Non-Government, Entertainment-Oriented Media Productions"). The variety of support that the DoD can provide. The assistance ranges from supplying technical advice during script development, to allowing access to military installations for production.

§ 238.4 Policy.

It is DoD policy that:

(a) DoD assistance may be provided to an entertainment media production, to include fictional portrayals, when cooperation of the producers with the Department of Defense benefits the Department of Defense, or when such cooperation would be in the best interest of the Nation based on whether the production:

(1) Presents a reasonably realistic depiction of the Military Services and the Department of Defense, including Service members, civilian personnel, events, missions, assets, and policies;

(2) Is informational and considered likely to contribute to public understanding of the Military Services and the Department of Defense; or

(3) May benefit Military Service recruiting and retention programs.

(b) DoD assistance to an entertainment-oriented media production will not deviate from established DoD safety and environmental standards, nor will it impair the operational readiness of the Military Services. Diversion of equipment, personnel, and material resources will be kept to a minimum.