

T3.1.6 Non-Disclosure of Information Revised 8/2009

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### **T3.1.6 Non-Disclosure of Information** Revised 8/2009

#### **A Disclosure of Information**

##### **1 General** Revised 1/2007

The Source Selection Official (SSO), each procurement team member (program officials, contracting personnel, legal counsel, and other support staff), including advisors, and any other individuals exposed to commercially sensitive and source selection sensitive information must maintain confidentiality of that information.

##### **2 Requirement for a Non-Disclosure Agreement** Revised 10/2023

a. *Non-Disclosure During Source Selection.* Maintaining the security of sensitive procurement information and source selection proceedings is of paramount importance to the integrity of the evaluation process. For all procurements with an estimated value equal to or exceeding the AMS risk threshold, all individuals involved in source selection proceedings must sign the Non-Disclosure Agreement located in AMS Procurement Templates prior to accessing source selection information or contractor bid or proposal information, as defined in AMS Guidance T3.1.8. This agreement provides notice of the type of information that requires protection and the penalties for improperly disclosing such information.

b. *Non-Disclosure outside of Source Selection.* Contracting Officers (COs) or program officials may require that an individual sign the Non-Disclosure Agreement located in AMS Procurement Templates before the individual may access sensitive information outside of the source selection context. This information may include proprietary information, procurement-sensitive information, source-selection-sensitive information, sensitive unclassified information, defense critical infrastructure security information, sensitive security information, privacy information, and other information of a confidential nature.

c. *Defensive Counterintelligence Program (DCIP) Non-Disclosure Agreement.* Per AMS Guidance T3.14.1A7, individuals accessing certain types of sensitive information, including but not limited to Classified National Security Information (CNSI), Sensitive Unclassified Information (SUI), or otherwise protected information, are required to sign the Defensive Counterintelligence Program Non-Disclosure Agreement (See FAA Order 1600.84, Appendix C).

d. *Exemptions from Requirements for Signing Non-Disclosure Agreements.* The certification of completion of Annual Ethics Training by COs, Contract Specialists, Cost/Price Analysts of AAP-500, and Legal Counsel is considered a blanket Non-Disclosure Agreement for the following fiscal year, so these individuals will not need to fill out individual Non-Disclosure Agreements. The completion of Annual Ethics Training is documented in eLMS.

##### **3 Processing a Violation of the Non-Disclosure Agreement** Revised 10/2023

Any suspected or actual improper disclosure of procurement sensitive information must be reported to the CO. The CO will consult with the Acquisition and Fiscal Law Division

(AGC-500) for guidance in this matter. The suspected violator should not be permitted to continue in the procurement process until the suspected violation has been reviewed and legal advice obtained.

**4 Processing a Freedom of Information (FOIA) Request** Revised 10/2023

- a. The CO processes requests for procurement information under FOIA. Unless the request for information is exempt from disclosure under the Act (such as trade secrets and commercial or financial information that is privileged or confidential), the information must be released. The CO coordinates responses to FOIA requests with the local FOIA Control Officer and the Office of Chief Counsel (AGC).
- b. The CO must coordinate a request for procurement information with the vendor (submitter) whose contract, or information provided under a contract, is requested. The CO must request that the vendor describe the specific information exempt from disclosure and provide the specific exemption(s) which apply to the information. The vendor's response must be placed in the contract file. The CO determination whether the information is exempt from disclosure and rationale for the determination must also be placed in the contract file.

**5 Single-Source/Non-Competitive Acquisitions** Revised 10/2023

The requirements of this Section are also applicable to single-source and non-competitive acquisitions. For such acquisitions, the CO will take all appropriate actions in coordination with the Program Office. Subject to the approval of the Acquisition and Fiscal Law Division (AGC-500), the CO may tailor the Non-Disclosure Agreement as appropriate.

**B Clauses**

[view contract clauses](#)

**C Procurement Forms** Added 9/2021

Document Name

**D Procurement Samples** Added 9/2021

Document Name

## E Procurement Templates Added 9/2021

Document Name
Non-Disclosure Agreement

## F Procurement Tools and Resources Added 9/2021

Document Name