



Security

**FOREIGN ENTITY VETTING PROGRAM**

**COMPLIANCE WITH THIS PUBLICATION IS MANDATORY**

---

**NOTICE:** This publication is available electronically on the USTRANSCOM electronic library.

**RELEASABILITY:** ~~Access to this publication is restricted to DOD personnel.~~

---

OPR: TCJ3

Pages: 10

Supersedes: USTRANSCOMI 14-1, 15 Jan 16

Distribution: e-Publishing

---

This instruction provides policy, assigns responsibilities, and establishes procedures for implementing the United States Transportation Command (USTRANSCOM) Foreign Entity Vetting (FEV) Program. The program will assess and validate contractor suitability, as well as identify illicit activities of foreign contractors performing as a prime contractor or subcontractor under a USTRANSCOM contract. This instruction is applicable to all USTRANSCOM personnel. Refer recommended changes and questions about this instruction to the office of primary responsibility using Air Force Form 847, *Recommendation for Change of Publication*. Ensure all records created as a result of processes prescribed in this instruction are maintained in accordance with USTRANSCOM Instruction 33-32, *USTRANSCOM Records Management*.

**1. References and Supporting Information.** References, related publications, abbreviations, acronyms, and terms used in this instruction are listed in Attachment 1.

**2. Purpose and Objectives.**

**2.1. Purpose.** To establish a multi-Directorate FEV Working Group (FEV WG) to determine mission impact, mitigation efforts, and suitability recommendations on the use of foreign contractors. This operating instruction details and assigns Directorate roles and responsibilities in the execution of FEV program activities.

**2.2. Objectives.** Identify and prevent illicit foreign contractors from performing under USTRANSCOM transportation contracts. The FEV WG's activities will support the USTRANSCOM Commander and USTRANSCOM acquisition activities with the intent to:

**2.2.1.** Identify foreign intelligence, terrorist, and criminal control or exploitation of foreign contractors used as prime contractors and/or subcontractors.

**2.2.2.** Mitigate exposure to foreign intelligence entities (FIE), terrorists, entities engaged in

criminal activity, or other entities hostile to the U.S.

**2.2.3.** Protect U.S. personnel, equipment, and installations from acts of espionage, sabotage, or other threats.

**2.2.4.** Develop mitigation strategies for use of foreign contractors in support of USTRANSCOM contracts.

**2.2.5.** Leverage authorities and capabilities of external government agencies (e.g., Departments of Commerce, State, and Treasury), as well as Service counterintelligence and law enforcement organizations to ensure whole-of-government support for the Command's FEV program.

### **3. Roles and Responsibilities.**

#### **3.1. TCCC will:**

**3.1.1.** Oversee USTRANSCOM compliance with the FEV Program Operating Instruction.

**3.1.2.** Serve as the decision authority for suitability recommendations provided by the FEV WG.

**3.2.1. TCDC will** serve as the alternate decision authority for suitability recommendations provided by the FEV WG.

**3.2.2. TCCS will** contribute in routing process for FEV WG matter and provide recommendation to leadership.

#### **3.3. TCJ5/J4 will:**

**3.3.1.** Designate an O-5 (or equivalent) to represent the Directorate on FEV matters.

**3.3.2.** Integrate FEV and suitability determinations into planning and assess impacts to OPLAN/CONPLAN execution.

#### **3.4. TCJ3 will:**

**3.4.1.** Designate the Chief, Mission Assurance (TCJ34) to lead USTRANSCOM's FEV WG and represent the Directorate on FEV matters.

**3.4.2.** Synchronize vetting and risk assessment activities across participating Directorates and formalize processes to ensure foreign contractors are vetted according to established standards.

**3.4.3.** Establish vetting priorities to ensure limited resources are applied to the most critical mission areas.

**3.4.4.** As the FEV WG lead, identify and request other directorate participation, as needed.

- 3.4.5.** Validate FEV WG suitability recommendations requiring TCCC approval.
  - 3.4.6.** Serve as the decision authority on the suitability of foreign contractors that meet established threat criteria for review by the FEV WG, but which the WG deemed an acceptable risk.
  - 3.4.7.** Perform secretariat functions for FEV WG.
  - 3.5.7.1.** Collect and compare foreign contractor data from TCAQ against FEV WG determination and transmit results to TCJ2 for vetting.
  - 3.5.7.2.** Create staff summary package, with input from FEV WG members, to route suitability recommendations to TCCC.
  - 3.5.7.3.** Maintain the official suitable/unsuitable list of foreign subcontractors.
  - 3.5.7.4.** Transmit TCCC determinations to FEV WG members for action.
- 3.5. TCJ2 will:**
- 3.5.1.** Designate an O-5 or equivalent to represent the Directorate on FEV matters.
  - 3.5.2.** Establish an intelligence-based vetting capability to assess the threat posed by foreign contractors.
  - 3.5.3.** Provide all-source threat assessments, for the use of foreign contractors; incorporate law enforcement and other sensitive information into threat assessments as required.
  - 3.5.4.** Brief the FEV WG on actual or potential prime contractors and subcontractors that meet established threat criteria (maintained separately) as a potential unsuitable contractor. TCJ2 shall evaluate foreign contractors according to priorities established by FEV WG.
  - 3.5.5.** Provide timely finished intelligence threat assessments and other related data and analysis to intelligence community partners, other Combatant Commands and support agencies as necessary.
  - 3.5.6.** Share relevant threat information with appropriate external agencies to facilitate national level actions against foreign contractors
  - 3.5.7.** Establish a capability to persistently monitor threats; promptly notify the FEV WG of new information pertinent to the suitability of active foreign contractors.

**3.6. TCAQ will:**

- 3.6.1.** Designate an O-5 or equivalent to represent the directorate on FEV matters. Representative or delegate will advise contracting officers of FEV WG matter requiring their support.
- 3.6.2.** Incorporate appropriate language in USTRANSCOM contracts to facilitate vetting activities based on collective inputs of the FEV WG. The FEV WG will provide this language.
- 3.6.3.** Provide FEV WG representatives the required identifying information of all foreign contractors performing as a prime contractor or first tier subcontractor, on USTRANSCOM contracts and other lower tier subcontractors as required.
- 3.6.4.** Advise TCJ2 of impending contract awards/renewals to foreign contractors.
- 3.6.5.** Advise prime contractor(s) of USTRANSCOM's suitability determination.
- 3.6.6.** As required, input and update adverse items in the Federal Awardee Performance and Integrity Information System or other formal system of records as applicable.
- 3.6.7.** Contracting officers will review incoming contractor-provided data and compare with previous FEV WG determinations, maintained by FEV WG secretariat. Contracting officers will act upon current suitability determinations without waiting for further FEV WG action. TCAQ will communicate this action to FEV WG secretariat.

**3.7. TCJA will:**

- 3.7.1.** Designate an O-5 or equivalent to represent the directorate on FEV matters.
- 3.7.2.** Provide legal advice to the FEV WG on the use of internal or external procedures for addressing non-suitable contractors.
- 3.7.3.** Provide legal and litigation support to engage prime contractors and other entities regarding suitable and unsuitable foreign subcontractors.
- 3.7.4.** Identify, recommend, and prepare appropriate legislative measures to enable USTRANSCOM's vetting activities.
- 3.7.5.** In accordance with USTRANSCOM Instruction 90-4, *Intelligence Oversight Program*, provide legal support to USTRANSCOM operations and intelligence organizations concerning intelligence oversight issues.
- 3.7.6. Other Directorates** will support FEV program activities as required.

**3.8. FEV Working Group will:**

**3.8.1.** Incorporate information across Directorates to adequately assess threats and impacts to the Command resulting from the use of foreign contractors.

**3.8.2.** Determine appropriate internal and external procedures to mitigate risks.

**3.8.3.** Provide recommendations, as necessary, to TCCC on suitability of contractors in the performance of USTRANSCOM contracts; mandated for all vendors deemed an unacceptable risk.

**3.8.4.** Provide TCJ3 with recommendations on the suitability of contractors that met established threat criteria necessitating review by the FEV WG, but for which the WG deemed as an acceptable risk based on a comprehensive review of the threat, operational need, and available mitigation measures.

**3.8.5.** Collect and maintain records of actual or potential foreign contractor suitability determinations.

**3.8.6.** Provide suitability recommendations five (5) working days from receipt of the TCJ2 threat assessment. Critical, time-sensitive assessments may require shorter response times.

**3.8.7.** Identify, recommend, and submit to TCJA appropriate legislative measures to enable the Command's vetting activities.

#### **4. Foreign Entity Vetting Program Process.**

##### **4.1. Process Initiation.**

**4.1.1.** Requesting prime contractor will provide contractually required information for each foreign first tier transportation subcontractor to the satisfaction of the contracting officer (CO).

**4.1.2.** Foreign first tier transportation subcontractor information submission shall include all supporting documents specified within the contract.

**4.1.3.** Upon receipt, CO will review contractor data for completeness. CO will respond back to contractors to obtain missing data, and also with known current suitable/unsuitable determinations. CO will forward complete contractor data to FEV WG secretariat.

##### **4.2. Vetting Actions.**

**4.2.1.** After receiving the identifying data, TCJ2 will begin the vetting process with the intent to provide a threat assessment and associated threat level (per established standards) for FEV WG consideration according to TCJ3-established priorities.

**4.2.2.** The vetting process will include criminal background information; financial analysis; intelligence, counterintelligence, and law enforcement information; open source, commercial,

and classified analysis; and community collaboration.

**4.2.3.** An assessment on suspected threats may take the form of a Staff Summary Sheet and/or draft analytic paper to facilitate informing the FEV WG members. FEV WG recommendations to TCCC should be accompanied with a finished analytic paper.

**4.2.4.** When there is no information to suggest a contractor is unsuitable or otherwise meets established thresholds for convening the FEV WG. TCJ2 will notify the FEV WG secretariat, who will update appropriate tracking lists and further notify FEV WG members.

**4.2.5.** Following the completion of the assessment, a finished analytic paper will be published by TCJ2 to provide community awareness and to serve as a final record of analytic activities conducted.

### **4.3. FEV WG Activities.**

**4.3.1.** The FEV WG will convene in the event information, as identified by TCJ2, suggests a foreign contractor may be unsuitable for use on transportation contracts.

**4.3.2.** The FEV WG will analyze operational impact, contract remedies, mitigation methods, operational alternatives, foreign policy implications, legal review, and availability of external procedures as part of a holistic risk assessment.

**4.3.3.** Based on all inputs, the FEV WG will provide a suitability recommendation.

**4.3.3.1.** If the WG determines a foreign contractor presents an unacceptable risk to USTRANSCOM operations, the WG will forward an unsuitable recommendation to TCCC for approval.

**4.3.3.2.** However, if the WG determines the risk should be accepted due to operational necessity, the FEV WG will approve the entity as suitable and forward recommendation to TCJ3 for approval.

**4.3.4.** The FEV WG secretariat will capture suitability analysis and recommendations in a formal memorandum.

**4.4. Publishing Determinations.** If an entity is determined as unsuitable by TCCC/TCDC or is on a national debarment, suspension, or excluded parties listing, TCAQ will notify all prime contractors. The prime shall then take appropriate action to deny the subcontractor from performance on USTRANSCOM contracts. The CO shall use the following language to convey non-suitable determinations to all USTRANSCOM contractors:

“The USTRANSCOM Commander deems the following contractor(s) unsuitable for use on current contracts; INSERT CONTRACTOR(S). This determination applies to USTRANSCOM programs and does not preclude a contractor from nominating the noted company(s) for consideration on future USTRANSCOM contracts. However, USTRANSCOM

will not reconsider any entity listed in the U.S. Government Consolidated Screening List (see [http://export.gov/ecr/eg\\_main\\_023148.asp](http://export.gov/ecr/eg_main_023148.asp)) or otherwise prohibited per Subpart 25.7, Prohibited Sources, of the Federal Acquisition Regulation.”

JOHN C. FLOURNOY, JR.  
Major General, USAF  
Chief of Staff

## Attachment 1

### GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION

#### References

USTRANSCOM Instruction 90-4, *Intelligence Oversight Program*

#### Abbreviations and Acronyms

CO – Contracting Officer

FEV – Foreign Entity Vetting

FEV WG – Foreign Entity Vetting Working Group

FIE – Foreign Intelligence Entities

TCAQ - Directorate of Acquisition

TCDC – Deputy Commander

TCJA – Staff Judge Advocate

TCJ2 – Directorate of Intelligence

TCJ3 – Directorate of Operations and Plans

TCJ5/J4 – Directorate of Strategic Plans, Policy, and Logistics

USTRANSCOM – United States Transportation Command

#### Terms

**CONTRACTOR:** Any non-Government supplier, distributor, vendor or firm who enters into a mutually binding agreement with the United States Government (USG) to furnish supplies or services to USG. It includes all types of commitments that obligate the Government to an expenditure of appropriated funds and that, except as otherwise authorized, are in writing. In addition to bilateral instruments, contracts include (but are not limited to) awards and notices of awards; job orders or task letters issued under basic ordering agreements; letter contracts; orders, such as purchase orders, under which the contract becomes effective by written acceptance or performance; and bilateral contract modifications.

**MITIGATION STRATEGY:** Actions that may be taken by a Contracting Officer to mitigate a force protection risk level.

**RISK MANAGEMENT:** The process of systematically identifying, assessing, and controlling risks arising from operational factors and making decisions that balance risk cost with mission benefits.

**RISK:** A contractor or individual who poses a threat to the security of USG property, personnel, or funds.

**SUBCONTRACTORS:** Any supplier, distributor, contractor or firm that furnishes supplies or services to or for a prime contractor or another subcontractor related to a United States Government (USG) contract.

**SUITABILITY:** Determination that a foreign contractor, at any tier, creates an unacceptable risk to national security including force protection, safety, mission accomplishment or harm to persons or property based on activities including, but not limited to foreign intelligence,



terrorist and criminal control or exploitation, funding FIE, terrorists, criminals, or other entities hostile to the U.S., acts of espionage, sabotage, or other intelligence activities adverse to U.S. personnel, equipment, or installations.

**Attachment 2  
(U//FOUO) Foreign Entity Vetting Process Flow Chart**

