

Subject: Comments on Public Draft FIPS 201
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First of all, thank you for the opportunity to participate and provide comments.

Distributed Solutions Inc. (DSI) is a small business founded in 1992. We are located in Herndon, Virginia and specialize in the manufacture of a robust contract management software solution suite of products called the Automated Acquisition Management System (AAMS). AAMS is currently deployed in more than fifteen federal agencies.

Attached are our comments on the Public Draft FIPS Publication 201, *Federal Personal Identity Verification (PIV) for Federal Employees and Contractors* (November 8, 2004). They are from the contractual standpoint in regards to the effects that the proposed language will have on increasing costs to federal agencies and the increased potential for the likelihood of claims.

Please feel free to call me at (703) 471-7530 if you require additional assistance or need clarification on the attached comments.

Regards,

Peter Tuttle, CPCM
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Distributed Solutions, Inc.



Draft NIST 201Comments.xls

Cmt #	Organization	Point of Contact	Comment Type (G-General, E-Editorial, T-Technical)	Section, Annex, etc and Page Nbr	Comment (Include rationale for comment)
1	DSI	Peter Tuttle	G	Page 6, Para 2.2.1 "The Registration Authority shall conduct the appropriate background checks..."	We interpret the intent as the requirement for the federal PIV Requesting Official to somehow pay for the background investigation that is conducted by the Registration Authority (RA). It appears from this language that the practice in some agencies of allowing contractors to provide commercially obtained background check results will no longer be sufficient to meet this federal requirement. Since the proposed requirement is that the RA conduct the background check (and we assume that a contractor's commercially obtained background checks are no longer adequate), this is now considered a federally-imposed requirement, and therefore it is an allowable and allocable cost that the federal government must assume the responsibility for paying. As such, the costs to conduct a background investigation to support this requirement can no longer simply be borne by a contractor.
2	DSI	Peter Tuttle	G	Page 6, Para 2.2.1 "... applicant appearing in person..."	We believe that this requirement is not feasible given the fact that many contractor personnel are located remotely from the PIV Official. If a contractor's applicant is required to physically visit a PIV Requesting Official then any travel and associated labor cost involved in the trip are considered allowable and allocable costs to the contractor. The anticipated increase of legitimate billable travel costs to support this requirement will impact federal agency's budgets. If an federal client refuses to reimburse the contractor for those costs, the vendor now has a legitimate case in which to submit a claim.

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3	DSI	Peter Tuttle	G	Overall	<p>Most of the language in the draft standard simply addresses applicants and other key federal players. On the surface, there appears to be no requirements for contractor organizations to manage any part of the process. That, however, is not true. Contractors at all levels will have to establish processes to manage and oversee, as well as assign personnel to perform those tasks. Since the government is prescribing a standard, those costs will be allowable and allocable and will probably be layered into a contractor's overhead, if they aren't charged directly to a project. If an federal client refuses to reimburse the contractor for those costs, the vendor now has a legitimate case in which to submit a claim.</p>

<p>Proposed change</p>	<p>Specifically address in the NIST 201: Who is responsible for paying for the background check and what investigative organization is considered adequate must be ? If you state that only certain federal sources are adequate to provide the service, and require all applicants to have background checks performed by those entities, and still make contractors responsible for assuming all the costs for those investigations, you are imposing requirements that the contractors will seek reimbursement for. If an federal client then refuses to reimburse the contractor for those costs, the vendor now has a legitimate case in which to submit a claim. This section needs to be very clear since it impacts budgets and business processes.</p>	<p>You may wish to consider language which allows contractors to appear at a local (or the closest) federal official/organization to be certified. That certification information can then be forwarded to the applicable PIV Requesting Official.</p>
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Proposed change
Since the federal government is going to be liable for paying any costs associated with supporting the requirements as prescribed in this standard, you may wish to outline what responsibilities commercial entities will be expected to provide. It is not reasonable to assume that simply not addressing them in the document will protect the government from legitimate claims or additional expense.