



UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

**STATEMENT OF
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before the

**U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON HOMELAND SECURITY'S
SUBCOMMITTEE ON COUNTERTERRORISM AND INTELLIGENCE**

on

**“THE INSIDER THREAT TO HOMELAND SECURITY: EXAMINING OUR
NATION’S SECURITY CLEARANCE PROCESSES”**

November 13, 2013

Chairman King, Ranking Member Higgins, and Members of the Subcommittee, thank you for asking me to be here today.

To that end, this Subcommittee has asked the Office of Personnel Management (OPM) questions about security clearances. I appreciate the opportunity to give you a better understanding of OPM’s role in the security clearance process.

1. The Security Clearance Program

There is a series of steps that must be taken to determine whether an individual should be granted a security clearance. The process begins when a Federal agency determines whether the duties of a particular Federal civilian position or position in the military will require the incumbent to have access to classified information, or that an employee of a contractor will require access to classified information in order to perform work under a Government contract. If such a determination is made, and if there is no prior eligibility determination that is sufficient, under applicable directives, to meet that need, the agency will need to determine such eligibility itself.

OPM conducts 95 percent of the Government background investigations. Once an agency determines that the subject will perform work that requires a demonstrated, foreseeable need for access to classified information, and that an investigation is required, the agency submits a request to OPM that it perform the background investigation. OPM performs the investigation

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on a reimbursable basis in accordance with established investigative standards and then delivers the report of investigation to the requesting agency.

I want to emphasize that OPM is not charged with deciding whether an individual should or will be found eligible for access to classified information or even with making any recommendation with respect to that decision. The decision that an individual should receive access to classified information is ultimately, pursuant to Executive Order 12968, the exclusive responsibility of the head of the agency employing the individual, or his or her designee, following a national security adjudication (either by that agency or by a central adjudicative facility working on its behalf). The agency for which the work is to be performed makes the decision to grant eligibility, based, in part, upon the background investigation, and, in part upon other information that may be available to the agency, such as a polygraph if required for the position. Further, the agency can reopen the investigation or order additional investigative work from OPM if it does not have enough information to make a determination.

The security clearance process must conform with government-wide rules that include investigative standards (which may vary, based on the level of classified information to which the individual will have access), adjudicative guidelines, and reciprocity mandates. The standards outline the required elements of the investigation. These elements include the completion of a questionnaire by the applicant and specified record and other checks to be performed by OPM depending on the level of clearance sought.

Background investigations are dependent on the voluntary cooperation of sources and of records providers, as well as the availability and accessibility of references and records. In some instances, essential personnel are not available for an interview (for example, when members of the Armed Forces are deployed in dangerous locations overseas); members of the public are unwilling to provide interviews to investigators or to complete inquiry forms; or records are not made available (for example, Federal, state, and local records may not be accessible to our investigators for a variety of reasons).

Each OPM investigator who has performed work on the investigation prepares a report of investigation that details all work attempted and all work completed. These reports of investigation are combined with the results of records checks that OPM conducts of record repositories specified in the investigative standards. Further, OPM uses “issue codes” to alert the sponsoring agency of areas of potential adjudicative concern. Once the investigator completes his or her work, OPM reviews the results package for completeness (and, when efforts to complete items were unsuccessful, reporting those efforts) and delivers it to the customer agency. The delivery is generally accomplished by electronic means to support electronic adjudication processes in place at Federal agencies.

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Once OPM has completed its work and transmitted the final investigation file to the customer agency, OPM's role in the investigation concludes.

2. Staffing and Oversight of Investigations

Adapting to change within the background investigation program is not new to the investigative community. For example, during the Clinton Administration, the decision was made to move large amounts of the background investigations work performed by OPM to a contractor workforce. The decision was made that OPM should absorb a background investigations function performed by the Department of Defense (DoD) (with a Federal workforce) into the OPM workforce, leaving OPM with a blended workforce of investigators. Today, OPM continues to use a combination of Federal employees and contractors to complete background investigations. The background investigation workforce has dealt with factors that have driven down the need for background investigations – for example, declines in the size of the Federal workforce that have limited hiring, and thus the need for new background investigations to factors that have dramatically driven up the need for background investigations – for example, background investigation security needs following September 11, 2001. OPM and its partners in the background investigation community are aware of shifting demands for the investigation workforce, and working with a blend of contractors and Federal employees allows OPM to adjust its needs according to the demands of its customers.

OPM's contract investigators must conduct investigations to the same Federal investigative standards as their Federal counterparts. The training curriculum is the same for both. OPM employs a professional Federal cadre of certified instructors and instructional system specialists to develop and provide an accredited Background Investigator Training program, recognized by the Executive Branch as the national training standard. All of OPM's trainers and a number of the other agencies' trainers for the contract investigators attend courses at OPM's Federal Investigative Services' National Training Center and then administer the same courses to the employees of the contractors. OPM conducts oversight to ensure all the terms of the contract are being met, including review of contract quality control plans, audits, and inspections, including "check rides" to observe investigators during the investigation process. OPM is vigilant about the potential for fraud and falsification both by Government employees and by employees of contractors. OPM has taken affirmative steps to detect and root out abuses. When instances of fraud or falsification are found, OPM takes all appropriate steps to address them. We also work closely with our Inspector General and the Department of Justice to cooperate with any subsequent investigations. We have taken steps in recent years to prevent and detect fraud and falsification both through improved workforce training and through additional levels of reviews to ensure the integrity of background security clearance investigations.

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The agencies for which work is being performed control who has access to their buildings and systems, not OPM, and if an agency has concerns relating to a particular employee of a contractor, there are avenues available for that agency to take action. The agency may revoke the individual's credential and, if appropriate, direct the contractor to remove that individual from work on the contract. The agency also may request that OPM conduct a reimbursable investigation. And, of course, there are avenues for agencies to alert oversight or other law enforcement entities if there are potential criminal conduct concerns.

3. Steps Going Forward

During the last five years, the Office of Management and Budget (OMB), OPM, DoD, and the Office of the Director of National Intelligence (ODNI) have worked together on a reform effort to ensure that there is an efficient, aligned system for assessing suitability or fitness for Federal employment, eligibility for logical and physical access to Federal systems and facilities, eligibility for access to classified information, or fitness to perform work under a Federal contract (where required by the contract) through background investigations and appropriate adjudications. At the direction of Executive Order 13467, the Performance Accountability Council (PAC), including OPM, OMB, and ODNI, was established to ensure that the work of security clearance reform be accomplished in this context and throughout the Executive Branch.

Our work together with the PAC has done much to improve reciprocity so that agencies can place individuals who have already been vetted into new positions without delay and without further expense. In the last three years, we have enhanced OPM's Central Verification System, established as directed by the Intelligence Reform and Terrorism Prevention Act to support reciprocity, by expanding the reporting of credentialing, suitability, and security determinations from agencies, adding new data fields, and enabling enterprise access for intelligence community users to search relevant details. We have enhanced and professionalized the training of investigators and adjudicators to ensure consistency across the Executive branch and promote confidence when reciprocity is applied. And our work to create an aligned system for investigations will enable greater reciprocity opportunities as we now begin to implement revised investigative standards.

Pursuant to Executive Order 13467, the Director of National Intelligence, as the Security Executive Agent, provides guidance and oversight of the process that government agencies use to make determinations of eligibility for access to classified information and may amend the current adjudicative criteria (established by the President) if the need arises. In addition, the Security Executive Agent is responsible for establishing the criteria governing the conduct of background investigations related to determinations of eligibility for access to classified information.

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OPM, DoD, and ODNI co-chair the interagency working group chartered with establishing the first Federal standards for assessing the quality of national security and suitability background investigations government-wide. The proposed standards are currently under department and agency review with a pilot exercise to be initiated in this year to validate ease and consistency in application of the standards.

At the President's direction, under the leadership of the Director of OMB, OPM is working with its colleagues on the PAC to review the oversight, nature and implementation of national security, credentialing, and fitness standards for individuals working at Federal facilities. Our review is focused on steps that can be taken to strengthen these processes and implementation of solutions identified during the course of recent reform efforts. In particular, we recognize that evolution of the security clearance process must include the ability to obtain and easily share relevant information on a more frequent or real-time basis.

4. Conclusion

Thank you for this opportunity to testify, and I would be happy to answer any questions you may have.