



Washington, D.C. 20530

October 24, 2005

MEMORANDUM FOR BUREAU PROCUREMENT CHIEFS

FROM: 
H.B. Myers
Assistant Director
Procurement Policy and Review

SUBJECT: DOJ Procurement Guidance Document 05-08
Implementation of Homeland Security Presidential Directive (HSPD) 12 – Policy
for a Common Identification Standard for Federal Employees and Contractors

Homeland Security Presidential Directive-12 (HSPD-12) "Policy for a Common Identification Standard for Federal Employees and Contractors," establishes the requirement for a mandatory Government-wide standard for secure and reliable forms of identification issued by the Federal Government to its employees and contractors. The requirements will be implemented in two phases. Phase I establishes a minimum standard for identity proofing, registration and card issuance/maintenance processes and will be effective October 27, 2005. Phase II implements a standard, interoperable ID card that contains identification data, biometrics, and PKI credentials for authentication purposes. The Department will be addressing Phase II implementation in the near future.

As part of Phase I, DOJ is required to have a plan to notify new and existing contractors about HSPD-12 requirements and security expectations. In order to satisfy that requirement, the attached "Notice of Contractor Personnel Security Requirements" has been developed. It must be included in all contracts that authorize or contemplate the authorization of access to DOJ facilities or systems by contractor personnel. It must be included in all new contracts as well as modifications to extend the contract term (i.e., the exercise of options) awarded on or after October 27, 2005. The Notice is available in electronic format and will be provided at your request.

For current contracts, each new contractor employee whose background investigation (BI) process begins on or after October 27, 2005, must also meet the HSPD-12 investigative requirements that are stated in the attached "Notice of Contractor Personnel Security Requirements." While this requirement is effective immediately, components are given through

October 27, 2007 to complete the necessary contract modifications. During this transitional period, all new contractor personnel, regardless of the contract modification state, must comply with the investigative requirements listed in the attached.

For current contracts with existing contractor personnel, components must ensure that a favorably adjudicated background investigation (minimum of a NACI) is on record by October 27, 2007. These requirements may be phased to coincide with the contract renewal cycle, but they must take place no later than October 27, 2007.

Due to the critical and important nature of this initiative, we must assure that this guidance has been received by our acquisition community and that action is being taken to implement it. To that end, please notify me, via email or telephone, that you have received this Procurement Guidance Document, have made your personnel aware of it, and will implement it.

Please make this information immediately available to the appropriate people in your organization and add this document to your collection of DOJ Procurement Guidance Documents. Questions should be directed to me at 202/616-3758 or email at h.b.myers@usdoj.gov.

Attachment

NOTICE OF CONTRACTOR PERSONNEL SECURITY REQUIREMENTS

Compliance with Homeland Security Presidential Directive-12 (HSPD-12) and Federal Information Processing Standard Publication 201 (FIPS 201)¹ entitled "Personal Identification Verification (PIV) for Federal Employees and Contractors," Phase I.

1. Long-Term Contractor Personnel:

In order to be compliant with HSPD-12/PIV I, the following investigative requirements must be met for each new long-term² contractor employee whose background investigation (BI) process begins on or after October 27, 2005:

- a. Contractor Personnel must present two forms of identification in original form prior to badge issuance (acceptable documents are listed in Form I-9, OMB No. 1615-0047, "Employment Eligibility Verification," and at least one document must be a valid State or Federal government-issued picture ID);
- b. Contractor Personnel must appear in person at least once before a DOJ official who is responsible for checking the identification documents. This identity proofing must be completed sometime during the clearance process but prior to badge issuance and must be documented by the DOJ official;
- c. Contractor Personnel must undergo a BI commensurate with the designated risk level associated with the duties of each position. Outlined below are the minimum BI requirements for each risk level:
 - High Risk - Background Investigation (5 year scope)
 - Moderate Risk - Limited Background Investigation (LBI) or Minimum Background Investigation (MBI)
 - Low Risk - National Agency Check with Inquiries (NACI) investigation
- d. The pre-appointment BI waiver requirements for all position sensitivity levels are a:
 - 1) Favorable review of the security questionnaire form;
 - 2) Favorable fingerprint results;
 - 3) Favorable credit report, if required,³
 - 4) Waiver request memorandum, including both the Office of Personnel Management schedule date and position sensitivity/risk level; and
 - 5) Favorable review of the National Agency Check (NAC)⁴ portion of the applicable BI that is determined by position sensitivity/risk level.

A badge may be issued following approval of the above waiver requirements.

If the NAC is not received within five days of OPM 's scheduling date, the badge can be issued based on a favorable review of the Security Questionnaire and the Federal Bureau of Investigation Criminal History Check (i.e., fingerprint check results).

- e. Badge re-validation will occur once the investigation is completed and favorably adjudicated. If the BI results so justify, badges issued under these procedures will be suspended or revoked.

2. Short-Term Contractor Personnel:

It is the policy of the DOJ that short-term contractors having access to DOJ information systems and/or DOJ facilities or space for six months or fewer are subject to the identity proofing requirements listed in items 1a. and 1b. above. The pre-appointment waiver requirements for short-term contractors are:

- a. Favorable review of the security questionnaire form;
- b. Favorable fingerprint results;
- c. Favorable credit report, if required;⁵ and
- d. Waiver request memorandum indicating both the position sensitivity/risk level and the duration of the appointment. The commensurate BI does not need to be initiated.

A badge may be issued following approval of the above waiver requirements and the badge will expire six months from the date of issuance. This process can only be used once for a short-term contractor in a twelve month period. This will ensure that any consecutive short-term appointments are subject to the full PIV-I identity proofing process.

For example, if a contractor employee requires daily access for a three or four-week period, this contractor would be cleared according to the above short-term requirements. However, if a second request is submitted for the same contractor employee within a twelve-month period for the purpose of extending the initial contract or for employment under a totally different contract for another three or four-week period, this contractor would now be considered "long-term" and must be cleared according to the long-term requirements as stated in this interim policy.

3. Intermittent Contractors:

An exception to the above-mentioned short-term requirements would be intermittent contractors.

- a. For purposes of this policy, "intermittent" is defined as those contractor employees needing access to DOJ information systems and/or DOJ facilities or space for a maximum of one day per week, regardless of the duration of the required intermittent access. For example, the water delivery contractor that delivers water one time each week and is working on a one-year contract.
- b. Contractors requiring intermittent access should follow the Department's escort policy. Please reference the August 11, 2004, and January 29, 2001, Department Security Officer policy memoranda that conveys the requirements for contractor facility escorted access.

- c. Due to extenuating circumstances, if a component requests unescorted access or DOJ IT system access for an intermittent contractor, the same pre-employment background investigation waiver requirements that apply to short-term contractors are required.
 - d. If an intermittent contractor is approved for unescorted access, the contractor will only be issued a daily badge. The daily badge will be issued upon entrance into a DOJ facility or space and must be returned upon exiting the same facility or space.
 - e. If an intermittent contractor is approved for unescorted access, the approval will not exceed one year. If the intermittent contractor requires unescorted access beyond one year, the contractor will need to be re-approved each year.
4. An individual transferring from another department or agency shall not be re-adjudicated provided the individual has a current (within the last five years), favorably adjudicated BI meeting HSPD-12 and DOJ's BI requirements.
 5. The DOJ's current escorted contractor policy remains unchanged by this acquisition notice.

NOTES:

¹ FIPS 201 is available at: www.csrc.nist.gov/publications/fips/fips201/FIPS-201-022505.pdf

² Under HSPD-12, long-term contractors are contractors having access to DOJ information systems and/or DOJ facilities or space for six months or longer. The PIV-I identity proofing process, including initiation and adjudication of the required background investigation, is required for all new long-term contractors regardless of whether it is the current practice to issue a badge. The second phase of HSPD-12 implementation (PIV-II) requires badge issuance to all affected long-term contractors.

³ For contractors in position sensitivity/risk levels above level 1, a favorable review of a credit check is required as part of the pre-appointment waiver package.

⁴ In order to avoid a delay in the hiring process, components should request an Advance NAC Report when initiating investigations to OPM. Per OPM's instructions, to obtain an Advance NAC Report, a Code "3" must be placed in block "B" of the "Agency Use Only" section of the investigative form. This report is available for all case types.

⁵ For contractors in position sensitivity/risk levels above level 1, a favorable review of a credit check is required as part of the pre-appointment waiver package.