

Title: OFHEO Security Policy and Procedures

Approved by: James B. Lockhart III Date: 06/15/06

- I. **PURPOSE:** To establish the Office of Federal Housing Enterprise Oversight's (OFHEO) internal policy on personnel security investigations
 - II. **SCOPE:** The provisions of this policy apply to all OFHEO components.
 - III. **AUTHORITIES:** Executive Order (EO) 10450, "Security Requirements for Government Employees," dated 4/27/53, as amended; Title 5, United States Code (U.S.C.), Sections 7531 and 7532; and, Title 5, Code of Federal Regulations (CFR), Parts 731, 732, and 736.
 - IV. **POLICY:** It is the policy of OFHEO to ensure that all staff undergo a background security investigation that is appropriate for their position. The background security investigation will determine if employees are loyal, reliable, trustworthy, and of good conduct and character. This policy provides for the designation of all OFHEO positions in terms of their suitability and sensitivity, the investigative requirements for all such positions, and sets forth the security processing and adjudication requirements regarding investigations for employment in the jurisdiction of OFHEO.
 - V. **RESPONSIBILITIES:**
 - A. Director is responsible for ensuring the establishment of an effective personnel security program to ensure that the employment and retention of any employee within the agency is consistent with the interests of national security.
 - B. Deputy Director is responsible for overseeing and evaluating the implementation of the overall program.
 - C. Executive Directors is responsible for overseeing the implementation of the overall program.
 - D. Office Directors are responsible for:
 - Maintaining an awareness of the personnel security program as it relates to employees and positions under their jurisdiction.
 - Assuring that interests of national security program are safeguarded and that security implications are properly assessed.
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- In consultation with the Office of Human Resources Management and the Office of General Counsel, taking appropriate actions, as necessary, with respect to the reassignment, or termination of an employee occupying public trust or sensitive position or an employee in a non-sensitive position.

E. Chief Human Capital Officer (or designee) is responsible for:

- Assuring that positions are properly classified by level of security background investigation required.
- Maintaining liaison with the Office of Personnel Management (OPM) Investigative Services for sensitive and non-sensitive positions.
- Monitoring personnel changes to assure that required investigations are requested and obtained when needed.
- Ensuring that applicants and employees are provided the required security forms for submission to initiate the appropriate security investigation.
- Providing consultation and advice to the Director, Deputy Director, Executive Director, and the Office Directors in employment suitability determinations when significant questionable suitability information is received.
- Providing guidance to the Office Directors to assist in determining appropriate action when negative suitability determinations have been received in consultation with Office of General Counsel.
- Ensuring that the completed Certificate of Investigation is filed on the permanent side of the employee's Official Personnel Folder (OPF).
- Administering personnel security policies, standards, and procedures that ensure fair, impartial, and equitable treatment for all staff.

F. Security Officer will review the Standard Form-85P, Questionnaire for Public Trust Positions (SF-85P) for completeness, prepare OPM transmittal request, notify the Chief Human Capital Officer of any adverse information, and file the signed Certificate of Investigation on the permanent side of the employee's OPF.

VI. DEFINITIONS:

A. **National Security:** Those activities that are directly related to the national defense or foreign relations of the United States, including critical policymaking and investigative positions, and have access to information that is classified for national security purposes, and to property or installations that affect the national security.

B. **National Agency Check (NAC):** The NAC is part of all background security investigations and consists of searches of the OPM Security/Suitability Investigations Index; the Defense Clearance and Investigations Index; FBI Identification Division fingerprint name file and fingerprint chart; and FBI Records Management Division files. Employees are required to complete the SF-85P.

C. **National Agency Check and Inquiries (NACI):** Performed upon entry into the Federal Service in a non-sensitive position. The NACI consists of a NAC, written inquiries, and record searches covering specific areas of an employee's background during the past 5 years. Employees are required to complete the SF-85 to acquire this clearance.

D. **Minimum Background Investigation (MBI):** Consists of a NACI, credit search, a personal subject interview, written inquiries, and record searches covering specific areas of an employee's background in the past 5 years. Employees are required to complete the SF-85P to acquire this clearance.

E. **Limited Background Investigation (LBI):** Consists of a personal subject interview, a NAC, credit search, written inquiries of selected sources and a record search covering the past 5 years. This investigation also includes personal interviews covering specific areas during the most recent 3 years of the employee's background. Employees are required to complete the SF-85P to acquire this clearance.

F. **Background Investigation (BI):** Consists of a personal subject interview, NAC, credit search, personal interviews of sources, written inquiries, and record searches covering specific areas of the employee's background covering the past 5 years. Employees are required to complete the SF-85P to acquire this clearance.

G. **Periodic Reinvestigation (PRI):** Conducted every 5 years. Consists of a personal subject interview, NAC, credit search, and selected record searches. Employees are required to complete the SF-85P to acquire this clearance.

VII. POSITION DESIGNATION:

All positions within OFHEO shall be designated at either a High, Moderate, or Low risk level as determined by the position's potential for adverse impact to the efficiency of the

service. In consultation with the OFHEO Security Officer, the Office Directors and Deputies in OFHEO are responsible for identifying position sensitivity levels in his or her organization.

- High-risk levels are generally used for positions that have the potential for exceptionally serious impact involving duties especially critical to the agency or a program mission with broad scope of policy or program authority. This includes policy development and implementation; higher level management assignments; or independent spokespersons of non-management positions with authority for independent action. Incumbents of these positions will receive a Background Investigation (BI) and must complete a SF-85P.
- Moderate risk levels are generally used for positions that have the potential for moderate to serious impact. These positions have duties that are of considerable importance to the agency or program mission. Incumbents have significant program responsibilities and delivery of customer services to the public such as assistants to policy development and implementation, mid-level management assignments, non-management positions with authority for independent or semi-independent action, or delivery of service positions that demand public confidence or trust. Incumbents of these positions will receive a Minimum Background Investigation (MBI) or Limited Background Investigation (LBI) and must complete a SF-85P.
- Low risk levels are for positions whose duties have limited relation to the agency mission. Incumbents of these positions will receive a National Agency Check and Inquiry (NACI) and must complete a SF-85 and a Fair Credit Reporting Act of 1970, as amended, Authorization Form.

VIII. **FORMS REQUIRED:** All security forms are provided to new hires and may be obtained from OFHEO's Human Resources Management staff.

A. If a position is designated at a High or Moderate risk level, the following forms are required:

- ✓ Standard Form-85P, Questionnaire for Public Trust Positions
- ✓ OF-612, Optional Application for Federal Employment or Resume
- ✓ Optional Form-306, Declaration for Federal Employment
- ✓ Fair Credit Reporting Act of 1970, as amended, Authorization Form

B. If a position is designated at a Low risk level, all of the above are required except that instead of a SF-85P, the employee will be required to complete a SF-85, Questionnaire for Non-Sensitive Positions.

IX. REINVESTIGATIONS: The incumbent of every position within OFHEO who is required to complete a SF-85P (high or moderate risk) shall be required, five years after his/her appointment, to undergo a reinvestigation. All employees who are required to complete a SF-85 (low risk) will only need a NACI. However, if an employee accepts a position change and moves into a higher risk level, an upgraded security investigation will be required and the employee will be required to complete a SF-85P.

X. USING PREVIOUS INVESTIGATIONS: Prior federal background security investigations that meet all current personnel security requirements shall be used to the fullest practicable extent. In using a prior investigation, the reports must be reviewed for personnel security significance and adequacy of coverage.

XI. TRANSFER OF RECORDS BETWEEN OFHEO AND HUD: When an employee transfers between OFHEO and HUD, the personnel security file shall be transferred if the employee is in a High or Moderate risk category. The employee will not need a new security clearance unless the background investigation has expired. If the employee moves from a Low risk level position within OFHEO to a High or Moderate risk position within HUD, OHRM will send the employee's personnel security to HUD and the employee will need a new security clearance at HUD. The same process will occur when an employee moves from HUD to OFHEO.

XII. NONSELECTION OF APPLICANT ON SECURITY GROUNDS: A person being considered for any position in OFHEO will be given an opportunity to explain or refute derogatory security information developed in an investigation before being denied continued employment. The same opportunity shall be given with respect to derogatory information developed in a reinvestigation of an employee occupying a sensitive or public trust position before suspending, removing, or reassigning the employee to a non-sensitive position on the basis of the information secured through the background investigation.

XIII. ADVERSE RESULTS: Pursuant to 5 U.S.C. 7532 and E.O. 10450, the Director may, at his/her discretion when considered necessary in the interests of national security, determine the action to be taken with respect to the employee involved. The Director may:

- Suspend without pay, reassign, remove, or detail temporarily any OFHEO employee in a public trust or sensitive position to a non-sensitive position upon receipt of investigative reports containing questionable information; or,
 - Clear the employee of all charges; or,
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- Take appropriate adverse action under the general personnel regulations for unsuitability in order to promote the efficiency of OFHEO in accordance with applicable regulations.
- After suspension and before removal, the employee will be provided with a written statement of charges and an opportunity to respond to the charges. If the final decision is to clear a suspended employee of all charges the suspended employee will be compensated for time lost during the time of suspension.
- The Director, based on a thorough review of all documents in the case, including the record of hearing, shall make the final decision on all security cases, other than favorable determinations. The decision of the Director is final, and a copy of the decision shall be furnished to the employee.

XIV. PERSONNEL SECURITY FILES: The Office of Human Resources Management will establish and maintain all security files for each employee subject to investigation under the provisions of E.O. 10450, as amended. The personnel security files for High or Moderate risk security designation will contain documentation of the investigative coverage, security determination results, any clearances issued, any significant personnel security information regarding the employee that arises during employment, and a copy of the completed Certificate of Investigation OFHEO's personnel security files will contain a copy of the security investigation sent to OPM and a copy of the completed Certificate of Investigation.

XV. INACTIVE PERSONNEL SECURITY FILES: When an employee separates from service, the personnel security files will become inactive. Inactive personnel security files shall be maintained in the Office of Human Resources Management (OHRM) for High risk or Moderate risk employees for a period of two years after the employee separates. If the employee transfers to another federal agency, OFHEO will provide the new agency with the level of background security investigation that was conducted, but will not release the related paperwork. OHRM will maintain inactive files for Low risk level employees (NACIs) for two years after the employee separates from the agency. OHRM will shred inactive files for Low risk level employee (NACIs) after two years.

XVI. PROTECTION OF PERSONNEL SECURITY RECORDS: Personnel investigative reports and records will be safeguarded by the Office of Personnel Management, , and OFHEO in accordance with applicable laws and regulations to protect the interests of both the employee and OFHEO.

XVII. PUBLIC AVAILABILITY OF INVESTIGATIVE FILES: Investigative files are records subject to the Privacy Act and the Freedom of Information Act and are made available to requesters in accordance with the provisions of those Acts. Requests for

investigative records are to be submitted to the Office of Personnel Management, Federal Investigations Processing Center, Post Office Box 618, Boyers, PA 16018-0618.

XVIII. QUESTIONS AND ANSWERS ABOUT OPM BACKGROUND INVESTIGATIONS: See Appendix A.

XIX. INSTRUCTIONS FOR COMPLETING STANDARD FORM 85, QUESTIONNAIRE FOR NON-SENSITIVE POSITIONS: See Appendix B.

Appendix A

GENERAL QUESTIONS AND ANSWERS ABOUT OPM BACKGROUND INVESTIGATIONS

Q. Why do I need a security investigation?

A. The interests of the national security require that all persons privileged to be employed in the departments and agencies of the government shall be reliable, trustworthy, of good conduct and character, and of complete and unswerving loyalty to the United States. This means that the appointment of each civilian employee in any department or agency of the government is subject to investigation. The scope of the investigation will vary, depending on the nature of the position and the degree of harm that an individual in that position could cause.

Q. Do I have to answer all the questions on the form? A lot of that information is already on my resume.

A. Yes. The resume is part of the application process. The Security Questionnaire is part of the investigation process. All of the questions should be answered fully, accurately, and honestly.

Q. What will happen if I refuse to give some of this personal information?

A. The investigation is a job requirement. Providing the information is voluntary, but if you choose not to provide the required information, you will not meet the requirements of the job and will therefore not be considered further. If the Federal government already employs you, your appointment will be terminated. The courts have upheld this principle.

Q. What should I do if I remember something later, after I've filled out the form and turned it in?

A. Immediately notify the Security Officer within the Office of Human Resources Management (OHRM).

Q. I don't want everybody reading my personal information; who gets to see this form?

A. Your security form is kept confidential. The persons authorized to see your personal information are OFHEO HR personnel, who will review your security form to ensure that the form is complete prior to forwarding it to the U.S. Office of Personnel Management (OPM) Investigation Service, Federal Investigations Processing Center, who will initiate and process the investigation.

Q. I'm not a criminal; why do I need to be fingerprinted?

A. The federal requirement is that all Federal employees be fingerprinted. The fingerprints cards are used by federal investigators to run a check through the FBI's fingerprint files.

Q. My brother works for one of the largest companies in the world, but he didn't have to go through all this; why should I?

A. The rules, regulations, laws, and orders governing the hiring and retention of Federal employees are specific. There is no requirement for private employers to use the same guidelines as public employers. Of course, if your brother's job with the private employer required him to have access to classified national security information as a contractor to the Federal government, even your brother would have to be investigated.

Q. Are investigators going to interview people other than those I name on the questionnaire? If so, why?

A. Investigators are required to identify, locate, and interview a sufficient number of people who know you well. The Federal government requires a balanced and unbiased investigation; it would be a questionable investigative practice to only interview persons whom the individual being investigated identified on the form.

Q. Is it okay if I guess at dates and addresses that I barely remember?

A. Providing information that is as complete and accurate as possible will assure that your investigation is completed in an efficient and timely manner. If you give approximate information, note that on the questionnaire and, if you're interviewed in person, point out the approximated information on the questionnaire to the Investigator.

Q. Why does the security questionnaire need information about my relatives?

A. Relatives can potentially influence your actions. Investigators need to determine if you could be exploited by threats or pressure against your relatives or if they themselves could exert pressure against you.

Q. Will I get a chance to explain some of the answers I've given?

A. Yes. Many types of background investigation involve a personal interview. Moreover, you may submit information on additional pages attached to your questionnaire if you feel you need to more fully explain details or circumstances.

Q. Who gets to see the report the investigators will prepare about me? Do I?

A. The only persons authorized to see this information are OHRM personnel and Investigators hired or assigned by OPM. You may request a copy of your investigation file under the provisions of the Privacy Act. For an OPM investigation request, write to OPM-IS, FOIP, Post Office Box 618, Boyers, PA 16018-0618. You must include your full name, Social Security number, date and place of birth, and you must sign your request.

Q. What if the investigators talk to someone who doesn't like me?

A. Investigators will talk to as many people that know you as possible to get a balanced, accurate, and comprehensive picture of the person being investigated. You will have an opportunity to refute any misleading or false information that was reported about you.

Q. I was arrested for speeding once; will that keep me from getting a job or a clearance?

A. Any negative information is evaluated regarding its recency, seriousness, relevance to the position and duties, and in light of, and in relationship to, all other information about you.

Q. I got into some trouble 20 years ago; is that going to be held against me now?

A. As explained in the previous answer, any negative information is evaluated regarding its recency, seriousness, relevance to the position and duties, and in light of, and in relationship to, all other information about you.

Q. I'm physically handicapped; will that hurt my chances for a job?

A. No. It is against Federal law to discriminate based on a handicapping condition.

Appendix A

Q. Will the investigators tell my boss that I'm looking for a job?

A. It is a requirement of a background investigation that your current employer be contacted. Investigators must verify your employment data and make other inquiries concerning your background. If you are a Federal employee or contractor who works for the federal government, your current employer may need you to have a security clearance for the work you do. You will not be asked to complete the investigative form for an investigation and clearance until after a conditional offer of employment has been made for a position requiring a security clearance.

Q. Who decides if I get the job or a security clearance?

A. The Office of Human Resources Management Security Office will evaluate your case and, if necessary, in consultation with the Chief Human Capital Officer, Executive Director and the Office of General Counsel, will communicate a recommendation to the hiring supervisor.

Q. Is it true that the investigation will include a credit report about me?

A. Yes. A search of the records of commercial credit reporting agencies is an integral part of most background investigations.

Q. Do investigators ever interview someone's ex-spouse or relatives?

A. Yes, although, in many instances, interviewing ex-spouses or relatives is not mandatory.

Q. I graduated from high school and college many years ago; why do you need detailed information about my education?

A. Your education is a major consideration when education or expertise in a particular discipline is a qualification requirement for the position for which you are being considered. In any case, investigators will need to verify the claims you make about your education background.

Q. I was politically active during the last elections; will that hurt my chances for a job or a clearance?

A. No. It will neither hurt nor help your chances.

Q. Do I have to go to a police station to be fingerprinted?

A. No. OFHEO has a electronic fingerprinting machine onsite and will take your fingerprints prior to or on the day that you enter on duty.

Q. Doesn't the FBI conduct all Federal background investigations?

A. Actually, the U.S. Office of Personnel Management, Investigative Service, Boyers, PA., performs this responsibility. The FBI mostly conducts investigations of high level Presidential appointees (Cabinet Officers and agency heads) and staff who may work at the White House directly for the President.

Q. A lot of contractors say that an individual will need a security clearance to apply for their jobs. How can I get a clearance in advance so I can apply for these jobs? Can I pay for it myself?

A. The Office of Personnel Management has no procedure for an individual to independently acquire an investigation or security clearance. Clearances are based on investigations requested by Federal agencies, appropriate to specific positions and their duties. Until a person is offered such a position, the government will not request or pay for an investigation for a clearance. Once a person has been offered a job (contingent upon satisfactory completion of an investigation), the government will require the person to complete a Standard Form 86, *Questionnaire for National Security Positions*, initiate the investigation, adjudicate the results, and issue the appropriate clearance. We are aware that some Defense Department contractors require applicants to already have a clearance, and that is perfectly acceptable. Persons who already have clearances are those who are already employed by a government contractor (or by the government itself) and are looking for other job opportunities.

Q. How long does a background investigation take?

A. Because of the number of variable factors involved, there is no definitive answer to this question. Different levels of background investigations have different requirements for the scope of the investigative coverage to be obtained. Some persons have more complex backgrounds than other persons and, consequently, more time is required to conduct a complete investigation.

Appendix B

INSTRUCTIONS FOR COMPLETION OF STANDARD FORM 85P, QUESTIONNAIRE FOR PUBLIC TRUST POSITIONS

The following positions require completion of the SF-85P and must have a reinvestigation every five (5) years:

- Chief Accountant
- Chief Compliance Examiner
- Chief Economist
- Chief Financial Officer
- Chief Human Capital Officer
- Chief Information Officer
- Chief of Staff for Examinations
- Chief Strategic Planning Officer
- Deputy Chief Financial Officer
- Deputy Chief Information Officer
- Deputy Director
- Deputy EICs
- Deputy General Counsels
- Director of Supervision
- Director, External Relations
- Director, Office of Capital Supervision
- Examiners in Charge (EIC)s
- Executive Director
- General Counsel

Step 1: Employee is provided the following forms for completion:

- Standard Form-85P, Questionnaire for Public Trust Positions.
- OF-306, Declaration for Federal Employment Optional Form-306, Declaration for Federal Employment.
- Fair Credit Reporting Act of 1970, as amended, Authorization Form.

Step 2: Forms are returned to the Security Officer, within the Office of Human Resources Management (OHRM), who will forward all forms to the Office of Personnel Management (OPM), Investigative Service (IS), Federal Investigations Processing Center (FIPC).

Submitted forms **MUST** contain:

- ✓ Corrected, complete, and current information, with details provided for “YES” responses.
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- ✓ Forms must be typed or legibly printed (care should be taken so that numbers and letters are clearly formed to avoid error).
- ✓ Zip Codes for each activity must be notated.
- ✓ Beginning and ending month and year of each activity, with no time gaps or missing time frames.
- ✓ Signature (full name of the person to be investigated).

Step 3: If any information is missing, the form will be returned to the employee for completion.

Step 4: OFHEO's OHRM Security Officer will complete the SF-85P "Agency Use Only" Block.
