



**U.S. DEPARTMENT OF COMMERCE
MANUAL OF SECURITY
POLICIES AND PROCEDURES**

Chapter 11 - Investigative Processing

1101 Security and Suitability Investigations

Every position in the Department requires some level of investigative processing for suitability and security. This chapter covers processing procedures required for security and suitability investigations and the relationship to position sensitivity and risk designations.

A. Investigative Requirements.

1. Suitability investigations provide an assessment of an individual's potential likelihood to promote the efficiency and integrity of the Department's operations when filling a particular position. Security investigations are also used to determine if employment or retention in employment is consistent with the national security. The investigative process for both types of investigations develops information and evaluates the background of employees and non-employees associated with the Department. The findings or facts ascertained through security investigations are used to determine eligibility for access to national security information (covered in Chapter 12) or for special access program determinations (covered in Chapter 15). General guidance showing the minimum type of security and suitability investigation for each sensitivity or risk level is provided in Appendix C, Minimum Requirements for Background Investigations. Guidelines for both human resources managers and security contacts in initiating requests for investigations and fulfilling reporting requirements for the security and suitability investigations are included in Appendix D, Processing Personnel Security and Suitability Investigations.

2. Employees appointed to any Department of Commerce position may be subject to suitability investigation. Employees are subjected to suitability investigations upon initial appointment to the Federal service, upon reappointment after a break in service of 24 or more months. Current Federal employees appointed to Department of Commerce positions may be subjected to further investigation if the position to which they are being appointed carries a higher risk designation than that for which they were previously investigated. Employees will be subjected to investigation for access to national security information prior to or immediately following entrance-on-duty in accordance with the provisions of the Security Manual. In general, the type of investigation to be conducted is based on the position's sensitivity or risk level designation.

3. Many non-employees are subject to investigation if they have an official association with an operating



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unit or departmental office. In general, the type of investigation to be conducted, if required, will be based on the risk associated with the individual's work and the anticipated period of association with the Department.

B. Protection of Investigative Sources and Materials. Applicable regulations which pertain to safeguarding classified information and to the handling of investigative reports will be strictly observed. No classified information, nor any information which might compromise investigative sources or methods or otherwise identify confidential sources, shall be disclosed to any employee, to his/her counsel or representative, or to any other person not clearly authorized to have the information.

C. Reinstatement of Terminated Employees. No person whose employment has been terminated by the Department under the provisions of 5 U.S.C. § 7532, E.O. 10450, as amended, E.O. 12968, or any other security or loyalty program, shall be reinstated, restored to duty, or re-employed in the Department unless the Secretary finds that such employment is clearly consistent with the interests of the national security. No person whose employment has been terminated by any department or agency, other than the Department of Commerce, under 5 U.S.C. § 7532, E.O. 10450, as amended, E.O. 12968, or any other security or loyalty program, shall be employed in the Department unless the Secretary finds that such employment is clearly consistent with the interests of the national security and unless the Office of Personnel Management (OPM) determines that such person is eligible for such employment. The finding of the Secretary and the determination of OPM shall be made a part of the personnel record of the person concerned.

1102 Types of Security and Suitability Investigations

A. Types of Security and Suitability Investigations. The following types of investigations are used for making security and suitability determinations in the Department of Commerce. These investigations are prescribed by the Office of Personnel Management. When preparing request packages for investigations, supervisors should refer to Appendix D, Processing Personnel Security and Suitability Investigations.

1. National Agency Check (NAC). The NAC consists of record searches of national, state, and local law enforcement and investigative indices. The NAC may also involve a credit check that is conducted by the Office of Security. The Office of Security conducts NACs as part of the pre-appointment process when a request for temporary eligibility for access is received. (Although a pre-appointment check consists of a search of national indices by the Office of Security, the terms "NAC" and "Pre-Appointment Check" are not interchangeable since not all NACs are conducted prior to appointment.)



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2. **Special Agreement Check (SAC).** The SAC consists of a modified National Agency Check and includes OPM, DOD, and FBI checks. (OPM conducts Special Agreement Checks for the Department of Commerce.) Special Agreement Checks are used to obtain background information on non-employees such as short-term trainees, students, or other individuals requiring temporary access to departmental facilities.

3. **National Agency Check and Inquiries (NACI).** The NACI consists of an NAC plus written inquiries and record searches covering employment, residence, education, and credit history during the past five years.

4. **Access National Agency Check and Inquiries (ANACI).** The ANACI consists of the NACI plus a check of all local law enforcement agencies where subject has lived worked or gone to school in the past five years and a credit search over the preceding seven years. The ANACI is the minimum requirement for granting eligibility for access to classified information at the Secret level for non-critical sensitive positions.

5. **National Agency Check with Law and Credits (NACLC).** The NACLC is used as the initial investigation for contractors at the Confidential, Secret, and Department of Energy "L" access levels. It is also used as the reinvestigation product for both contractors and Federal employees at the Secret access levels. The NACLC consists of the basic NAC plus a records search covering all residence, employment, education, and credit history during the most recent five-year period and to all locations of admitted arrest with a credit check over the past seven years.

6. **Child Care National Agency Check with Inquiries (CNACI).** The CNACI was designed by a consortium of Federal agencies which offer child care services. The scope of the CNACI includes the basic National Agency Check with Inquiries (NACI) and state criminal history repository (SCHR) checks for all states of residence. Other coverage elements, such as a credit search, are available by request, or when certain background conditions exist. The CNACI meets the intent of 42 U.S.C. §13041 as well as the minimum suitability investigation requirements directed for Federal employment under E.O. 10450.

7. **Minimum Background Investigation (MBI).** The MBI consists of a subject interview, credit history, and all the components of an NACI covering the most recent five-year period for law enforcement checks and seven years for credit checks.

8. **Limited Background Investigation (LBI).** The LBI consists of a NAC, subject interview, personal



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interviews with selected sources covering specific areas of a subject's background during the past one to three years, and written inquiries, record searches, and a credit check for the past five to seven years. Within the Department of Commerce, however, the LBI is no longer used for background investigations. It will be replaced by the ANACI for Noncritical-Sensitive positions requiring access to Secret information.

9. Background Investigation (BI). The BI consists of a NAC, subject interview, written inquiries, record searches, credit check, and personal interviews with selected sources covering employment, residence, education, and law enforcement agencies during the most recent five-year period but not less than two years with a credit check up to seven years.

10. Single Scope Background Investigation (SSBI) (replaces the Special Background Investigation). The SSBI consists of a NAC, subject interview, written inquiries, record searches, credit check, personal interview with selected sources covering employment, residence, education, and law enforcement agencies during the most recent ten year period plus a NAC on the subject's spouse or other individual bound to the subject by economics, affection, or living arrangements. A credit check will be made on the past seven years.

11. Periodic Reinvestigations - (PRI) and (SSBI-PR). The PRI for a Secret clearance and the SSBI-PR for a Top Secret clearance consists of no less than an updated SF-86 and a review of related personnel security files. In addition, a NAC, subject interview, record searches, credit check, and resolution of any issues raised since the last investigation or during the preceding five years, whichever is longer, is ordinarily warranted.

12. Reimbursable Suitability Investigation (RSI). The RSI is a specific issue investigation to resolve pertinent information developed by an NAC or NACI. The investigation is initiated at the request of the receiving agency to provide additional information to resolve a security or suitability issue.

13. Upgrade Investigation (UGI). The UGI consists of a NAC, subject interview, record searches, credit check, and personal interviews with selected sources covering specific areas of the subject's background since the last investigation. The investigation is used to upgrade a previous investigation (LBI to BI or BI to SBI) to provide adequate investigative basis for an employee's movement to a higher sensitivity level.

14. Update Investigation (UDI). The UDI consists of the same coverage as a prior investigation (LBI, BI, or SSBI) during the 13 to 60 months since the previous investigation. This investigation is required



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when there has been a break in service more than one year since the previous investigation.

B. Release of Investigative Reports. Personal information collected from employees, applicants, and non-employees is protected by the Privacy Act of 1974. Reports of investigation may be released only in accordance with the provisions of the Privacy Act or Freedom of Information Act. The subject of the investigation must submit a Privacy Act request directly to the agency conducting the investigation. For example, for the Department of Commerce, the Office of Personnel Management (OPM) is the investigative agency that conducts most of the background investigations for sensitive and risk designated positions. The subject of the investigation would have to submit a Freedom of Information Act request (FOIA) directly to OPM to obtain a copy of the investigative report.

1103 Investigative Requirements for Applicants and Employees

A. General Requirements. The minimum type of investigation to be performed is dependent on the designation of the position to which an individual is appointed. The servicing human resources manager or local administrative office, as appropriate, will provide the necessary investigation-related forms and instructions to applicants and/or new employees in accordance with the level of investigation required for the risk and sensitivity designations of the position. Appendix C, Minimum Requirements for Background Investigations, provides guidance for the minimum investigative processing requirements for each level of position sensitivity or risk designation. Completion of the minimum investigative requirements associated with a position sensitivity designation must not be construed as authority for the employee to have access to classified information. If the duties of the position require access to classified information, an appropriate level security clearance must be obtained as prescribed in Chapter 12.

B. National Security (Sensitive) Positions. The **Special-Sensitive**, **Critical-Sensitive**, and **Noncritical-Sensitive** designations are the national security designations for sensitive positions in the Department. Each of these designations requires a favorable pre-appointment check conducted by the Office of Security before appointment. The pre-appointment check is conducted to verify and adjudicate a previously completed investigation, to establish a temporary investigative basis for appointment, or to provide a basis for waiving the investigative requirement for a Critical-Sensitive position before appointment. A pre-appointment check will normally require a minimum of three to five working days to complete. Additional time may be required depending upon the facts in the particular case or upon other elements beyond the control of the Department. Operating officials should plan accordingly and initiate pre-appointment checks at the earliest possible date after selection and prior to the desired entrance-on-duty date. When preparing the request package for any of the following positions, supervisors of employees being investigated should refer to Appendix D, Processing



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Personnel Security and Suitability Investigations.

1. Special-Sensitive Positions.

- a. No person shall be appointed, detailed, or assigned to a national security position designated Special-Sensitive until a satisfactorily adjudicated SSBI not more than five years old, or updated within the most recent five-year period, has been completed. Commitment for such an appointment may not be made until the Office of Security has advised the servicing human resources manager that the SSBI requirement has been met and favorably adjudicated.
- b. The pre-appointment investigative requirement may not be waived for appointment to positions designated Special-Sensitive (see 5 CFR Part 732.202).
- c. In addition to a successfully adjudicated investigation, any person under consideration for a position designated Special-Sensitive due to special access program considerations also must meet the special access clearance requirements set forth in Chapter 15, Special Access.
- d. The incumbent of each Special-Sensitive position shall be required to submit the appropriate forms to the Office of Security to initiate a Periodic Reinvestigation (SSBI-PR) five years after completion of the previous investigation, or at least once during each succeeding five year period, or when requested by the Office of Security. The Office of Security will notify an employee's supervisor of this requirement through their servicing security officer prior to the employee's five-year anniversary.
- e. An employee occupying a Critical-Sensitive position at the time that it is upgraded to a Special-Sensitive designation as the result of an unanticipated change in duties may continue to occupy the position upon the satisfactory completion of a NAC and Credit Check and during the investigation. However, access to classified information in the Special-Sensitive program will not be permitted until the appropriate investigation has been completed and favorably adjudicated. The appropriate investigation must be initiated as a 35-day expedite case (see Appendix D, Processing Personnel Security and Suitability Investigations) within 14 days of the Special-Sensitive designation.
- f. An employee occupying a non-national security (risk) position at the time that it is upgraded to a Special-Sensitive designation as the result of an unanticipated change in duties, may not continue to occupy the position prior to the favorable completion of the SSBI or UGI. Normally, the employee or individual will be detailed to another position or to unclassified duties pending completion of the



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investigation.

g. An employee, a transferee, or an applicant who has a previously completed SSBI less than five years old may not occupy a Special-Sensitive position until the Office of Security has verified and favorably adjudicated the investigation. The individual may need to certify in writing that there has been no change in the relevant information since the individual's last background investigation. The Office of Security, in consultation with the servicing human resources management office and the management supervisor, will coordinate the appointment and entrance-on-duty on a case-by-case basis.

2. Critical-Sensitive Positions.

a. No person shall be appointed, detailed, or assigned to a position designated Critical-Sensitive until a satisfactorily adjudicated BI (or SSBI when Top Secret clearance has been requested) has been completed. Commitment to such an appointment may not be made until the Office of Security has notified the servicing human resources manager that the BI or SSBI requirement has been met and favorably adjudicated.

b. The Director for Security, or his designee, however, may waive the requirement for the prior completion of a SSBI for a Critical-Sensitive position that requires access to Top Secret information in an emergency situation when deemed in the national interest. The waiver can be approved only after a NAC and Credit Check have been favorably completed and when the required investigation has been submitted to OPM. If the required investigation is not favorably adjudicated, access to Top Secret information will be immediately terminated, along with any assignment requiring an access eligibility approval. In consultation with the Office of Security, the servicing human resources management office and the operating unit will ensure the individual is appointed to another position or terminated from employment.

c. In addition to a successfully adjudicated investigation, any person under consideration for a position designated Critical-Sensitive, due to the need to access Top Secret information, also must meet other security clearance requirements set forth in Chapter 12, Access to National Security Information.

d. The incumbent of a Critical-Sensitive position shall be required to submit the appropriate forms to their servicing security officer to initiate a Periodic Reinvestigation (SSBI-PR), when Top Secret access is required, five years after completion of the previous investigation or at least once during each succeeding five years, or when requested by the Office of Security. The Office of Security will



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notify the employee's supervisor through their servicing security officer when there is a need to initiate a five-year reinvestigation.

e. An employee occupying a Noncritical-Sensitive or a non-sensitive (Risk) position at the time that it is upgraded to a Critical-Sensitive designation requiring access at the Secret level, as the result of an unanticipated change in duties, may continue to occupy the position upon the satisfactory completion of an NAC and Credit Check; however, the Background Investigation must be initiated as a 35-day expedited case within 14 days of the Critical-Sensitive designation. If the required investigation is not favorably adjudicated, the servicing human resources management office and the operating unit, in consultation with the Office of Security, will ensure the individual is appointed to another position that does not require access to national security information.

f. An employee or a transferee who has a previously completed BI or SSBI less than five years old cannot be offered or appointed to a Critical-Sensitive position until the Office of Security has verified and favorably adjudicated the investigation or received certification from the relinquishing security office of a favorable BI or SSBI, provided that the individual has remained employed by the same employer during the period in question, the employee certifies in writing that there has been no change in the relevant information provided since the employee's last background investigation, an appropriate record check reveals no unfavorable information, and there is no information that would tend to indicate the employee may no longer satisfy the standards established by E.O. 12968.

g. Appointment to a Critical-Sensitive position may be made based upon a BI or SSBI that is more than five years old when a favorable pre-appointment check is obtained; however, a UDI must be initiated within 14 days of the employee's appointment to the position if the employee has had a break in service of more than two years or if the BI, SSBI or most recent UDI is more than five years old, provided that the employee certifies in writing that there has been no change in the relevant information provided since the employee's last background investigation, an appropriate records check reveals no unfavorable information, and there is no information that would tend to indicate the employee may no longer satisfy the standards established by E.O. 12968.

3. Noncritical-Sensitive Positions.

a. Positions requiring access at the Secret level (without risk factors that elevate the position to Critical-Sensitive) are identified as Noncritical-Sensitive. No person shall be appointed, detailed, or assigned to a position designated Noncritical-Sensitive until a pre-appointment check, including a credit check, has been satisfactorily completed. Retention in the Noncritical-Sensitive position is contingent upon the subsequent completion of an ANACI that has been favorably adjudicated. The



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ANACI must be initiated no later than 14 days after an employee's appointment to the position and "entrance-on-duty." If the required investigation is not favorably adjudicated, appointed to the position must be immediately terminated. The Office of Security, in consultation with the servicing human resources management office and the operating unit manager, will then coordinate the appointment of the individual to another position or terminate his or her employment.

b. In addition to a successfully adjudicated investigation, any person under consideration for a position designated Noncritical-Sensitive, due to the need to access Secret information, also must meet other security clearance requirements set forth in Chapter 12, Access to National Security Information.

c. An employee occupying a non-sensitive (Risk) position at the time that the position is upgraded to a Noncritical-Sensitive designation, as the result of an unanticipated change in duties, may continue to occupy the position subject to the satisfactory completion of a pre-appointment check by the Office of Security. If the employee does not have a previously completed, favorable ANACI, he or she may not continue to occupy the position until an NAC has been completed and favorably adjudicated. The investigation must be initiated within 14 days of the position's upgrade to a Noncritical-Sensitive designation. During the conduct of pre-appointment checks, if a completed background investigation (a current ANACI, LBI, BI, or SSBI) is located and has been favorably adjudicated, no further processing beyond the pre-appointment NAC is required. If the required investigation is not favorably adjudicated, the servicing human resources management office and the operating unit, in consultation with the Office of Security, will ensure the individual is appointed to another position that does not require access to national security information.

d. An employee occupying a Noncritical-Sensitive position requiring eligibility for access to Secret information must undergo a periodic reinvestigation (PRI) every ten years. In addition, the Office of Security will request an update investigation (UDI) when potentially derogatory information is discovered during the PRI or admitted on processing forms such as the OF-612 or SF-86.

e. An employee, a transferee, or an applicant who has a previously completed NACI, ANACI, LBI, BI, SBI, or other similar investigation, may not be offered or appointed to a Noncritical-Sensitive position until the Office of Security has verified and favorably adjudicated the investigation or an upgrading investigation has been initiated, if required. The appointment can be made if the individual has remained employed by the same employer during the period in question, the employee certifies in writing that there has been no change in the relevant information provided since the employee's last background investigation, and that there is no information that would tend to indicate the employee may no longer satisfy the standards established by E.O. 12968.



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C. Non-Sensitive (Risk) Positions. All Department of Commerce positions, regardless of their national security sensitivity designation, must have a position Risk designation of High, Moderate, or Low Risk. **High Risk** and **Moderate Risk** position designations are also known as Public Trust positions. Instructions on the designation of risk levels and the factors used to determine risk level can be found in DAO 202-731, Handbook on Suitability.

1. Appointments to risk positions are not normally contingent upon the completion of an investigation prior to appointment; however, employment in these positions is subject to the satisfactory completion of an appropriate investigation. In addition, Low Risk and most Moderate Risk positions do not require a pre-appointment check prior to appointment; however, High Risk positions and Moderate Risk positions in the information technology (IT) occupations and those with “global access” to an automated information system require favorable pre-appointment checks prior to appointment.

a. The SF-85, Questionnaire for Nonsensitive Positions, is used to request investigations for Low Risk and Moderate Risk positions. The SF-85P, Questionnaire for Public Trust Positions, will be used to request investigations for High Risk positions.

b. Appointments for a period of more than 180 days to intermittent, temporary, or seasonal positions, or of aliens being employed outside the United States shall be processed as determined by the risk level of the position and the previous investigation of the selectee, except as otherwise determined by the Office of Human Resources Management.

2. Individuals employed in High Risk positions, or Moderate Risk positions in the Information Technology occupations, and those at the Moderate Risk level with “global access” to an automated information system, shall be subject to reinvestigation as deemed necessary, but not less frequently than once every five years.

3. Applicants for positions designated at the Low or Moderate Risk level will not normally require a new background reinvestigation provided the applicant has previously undergone the required level of investigation with favorable results and has not had a break in Federal service of 24 months or more. Positions in Moderate Risk positions in the Information Technology occupations, and those at the Moderate Risk level with “global access” to an automated information system, shall be subject to a favorable a pre-appointment check prior to appointment, regardless of a previously completed investigation.

a. The servicing human resources office will review the applicant’s Official Personnel Folder, and/or



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contact the previous Federal employer or the Office of Personnel Management to verify previous completion of the required level of investigation. If the servicing human resources manager is unable to verify investigative processing by these means, the Office of Security may be contacted to assist in obtaining the information.

b. Based on the name, social security number, and date and place of birth of the subject in question, verification will be made by the Office of Security through a computer link between the Office of Security and OPM's Federal Investigative Processing Center (FIPC) in Boyers, PA. Prior to OPM's computerization of many procedures at the Federal Investigations Processing Center, the favorable completion of the NACI was indicated by a stamp placed on the SF-171 which states "Processed Under Section 3(a), Executive Order 10450." Investigative results disclosed by the NACI were noted on the SF-171 by a "Results of Investigation Under 3(a) of Executive Order 10450 Furnished Requesting Agency's stamp." Since 1988, OPM has furnished a Certificate of Investigation that notes the type of investigation and the date of the investigation as well as identifiers of the subject of the investigation to be filed in the subject's OPF. If all efforts to verify a previous investigation fail, then the appropriate investigation must be initiated.

4. When an employee transfers from another Federal agency to a non-sensitive position in the Department and the appropriate investigation initiated by the relinquishing agency has not been completed, the servicing human resources manager must submit a request to OPM to obtain the results of any previously completed or pending investigation. The request should include the individual's original application form (OF-612) from which the employee was appointed to the Department of Commerce, any information received by voucher or other means which would tend to identify the ongoing investigation, and a transmittal letter stating that an investigation had been initiated previously in connection with the appointment in the relinquishing agency. The letter must identify the relinquishing agency, indicate the type of appointment and authority for appointment in the Department, and request that the results of the investigation be forwarded to the requesting human resources office.

D. Investigative Requirements for Employment of Aliens

1. Appointment to Non-Sensitive Positions for 90 Days or less.

a. An alien may be employed in a non-sensitive (risk) position for a period of 90 days or less only after the completion of the requirements set forth in paragraph B. below. For purposes of this subparagraph, technical or scientific positions that do not require access to classified information or to restricted areas and which do not involve administrative or policy forming responsibilities may be considered Low Risk positions.



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b. Pre-appointment processing for non-sensitive positions will be initiated as prescribed in Appendix D at least 30 days prior to the proposed appointment. The pre-appointment request must identify the individual as an alien, request concurrence in the proposed appointment, and transmit an SF-86, Questionnaire for National Security Positions, containing the alien's biographical information. A fingerprint card (FD-258) also is required if the alien is residing in the United States at the time of application or has had previous residences in the United States, which cumulatively amount to a year or more. The appointment may not be made until concurrence is received from the Director for Security. It will not be necessary in such cases to initiate the post-appointment NACI investigation required for non-sensitive positions.

2. **Appointment to Non-Sensitive Positions for more than 90 Days.**

a. **Employment up to one year:** An immigrant alien may be appointed to a non-sensitive position in the Department for a period of more than 90 days not to exceed one year only after a favorable BI has been completed. When recommended by the head of the operating unit concerned and approved by the Chief Financial Officer and Assistant Secretary for Administration, a scientific or technical position, which does not involve administrative or policy-forming responsibilities and which does not involve access to classified information or to restricted areas, may be considered a Low Risk Position.

b. **Employment for more than one year:** Immigrant aliens may be re-appointed after a one-year appointment or may be appointed initially to non-sensitive positions for indefinite periods (exceeding one year) after the completion of a favorable BI, provided that the immigrant alien has formally declared his or her intention in writing to become a U.S. citizen prior to the making of such an indefinite appointment. When recommended by the head of the operating unit concerned as being in the best interests of the Government and approved by the Chief Financial Officer and Assistant Secretary for Administration, a non-immigrant alien or an immigrant alien who has not declared an intention of becoming a U.S. citizen and who has been given a one-year appointment under conditions described above may be re-appointed for a temporary appointment of one year or less.

3. **Appointment to a National Security Position.** An immigrant alien appointed to a non-sensitive position, as prescribed above, will be eligible for assignment to a sensitive position only after having been employed in the Department for a continuous period of not less than three years, demonstrating to the satisfaction of his/her employers complete trustworthiness and a continuing and sincere desire to become a U.S. citizen. Such appointment will be made contingent upon the satisfactory completion of a pre-appointment check (see Appendix D). Any temporary security clearance granted under these conditions



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will be limited to the specific projects for which employed. A final security clearance will not be granted until the ANACI has been favorably adjudicated and the employee has presented a Certificate of Naturalization to the Office of Security as evidence of U.S. citizenship.

1104 Investigative Requirements for Non-Employees

The following information describes the requirements for investigative processing for non-employees. Appendix C, Minimum Requirements for Personnel Investigations, provides the minimum requirements for investigative processing of non-employees for risk positions and for positions requiring access to classified information. Guidelines for initiating the investigations are provided in Appendix D, Processing Personnel Security and Suitability Investigations.

A. Contractors. Investigative processing for contract personnel is divided into two major categories: unclassified contracts and classified contracts. Unclassified contracts involve no access to classified information. Classified contracts involve access to classified information and are referred as Classified or Sensitive contracts.

1. Non-Classified Contracts.

a. Every contract employee who performs work designated as Low Risk within a Department of Commerce facility for longer than 180 days must undergo investigative processing. All other contract personnel must undergo investigative processing according to the risk level of the contract. The contracting officer's technical representative (COTR), in conjunction with operating unit management and security contact, is responsible for assigning a risk designation to each contract where work will be performed in the Department. Within each contract, the contracting officer must include information that defines the investigative processing requirements associated with the contract's risk level. Sample language is included in Appendix F, Contract Language for Moderate and High Risk Contracts and Appendix G, Contract Language for Low Risk Contracts.

b. The COTR is responsible for initiating the investigation request package for a contract employee. The request package is submitted to the Office of Security through the security contact or servicing security officer. The following procedures describe the investigative requirement for contract personnel by risk level.

(1) A contract at the High Risk level requires a pre-employment check prior to "entrance-on-duty" with a BI initiated no later than three days after the start of the person's performance on the contract.



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(2) A contract at the Moderate Risk level requires the initiation of an MBI no later than three days after the start of the person's performance on the contract.

(3) At the Low Risk level, requirements are based on the expected duration of the contract. If the contract exceeds one year, a NACI must be initiated no later than three days after the start of the subject's performance on the contract. If the contract will last over 180 days but less than one year, a SAC must be initiated no later than three days after the beginning of the subject's performance on the contract. Low Risk contracts with a duration of less than 180 days do not ordinarily require processing. At the discretion of the security contact, a SAC may be requested for Low Risk contracts of short duration where unusual circumstances exist and warrant the processing for the contractors involved.

2. **Classified Contracts.** Individual facility security clearances are required for all contract work involving access to classified information. On a case-by-case basis, individual contract personnel security clearances may be granted by the Director for Security for short-term classified work. Refer to Appendix D, Processing Personnel Security and Suitability Investigations, paragraph D.3, Processing Investigations.

B. Guest Workers, Research Associates, Experts, Consultants, Long-Term Visitors, and Trainees.

1. This paragraph prescribes the security requirements, known as "Security Assurance," for guest workers, research associates, experts, consultants, long term visitors, trainees, and other individuals who have similar associations with the Department. The provisions of DAO 202-311, Voluntary and Uncompensated Services, and DAO 202-304, Employment of Individual Experts and Consultants, are also pertinent to this subject and shall be applied by all operating units.

2. Functions performed by these non-employees are assigned risk designations. U.S. citizens serving in positions designated Low Risk who expect to remain with the Department for more than 180 days shall be subject to investigative processing. Non-citizens serving in positions designated Low Risk who expect to remain with the Department for more than ten working days within 12 consecutive months shall be subject to investigative processing. Low Risk investigative processing is described in Appendix D, Processing Personnel Security and Suitability Investigations, paragraph D.3, Processing Investigations. Positions designated at the Moderate or High Risk level must undergo additional investigative processing. The Department will accept active security assurance reviews conducted by other Federal agencies if verifiable by a servicing security officer.

3. Completion of the security assurance processing requirements set forth in this chapter does not



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automatically permit visitors or other categories of non-employees associated with the Department to have access to classified information or to restricted areas. Security clearances for such purposes, as distinguished from security assurances, must be obtained in accordance with applicable security regulations.

4. While the Department allows guest workers, research associates, experts and consultants, and trainees access to its facilities, the final authority for determining the acceptability of such individuals belongs to the Department. The operating unit head shall make certain that the provisions of the Security Manual are met before assigning or agreeing to assign an individual to a departmental facility within his or her unit, and may prescribe additional control measures as necessary.

5. If the duties of a guest worker, research associate, or trainee appear to fall within the generic description of a National Security position (paragraph 1003), the head of an operating unit must provide a written statement to that effect to the Office of Security through their servicing security officer. The statement should include information describing the particular type of involvement that appears to create a similar situation to that for a sensitive position.

C. Short-term visitors are defined as non-Federal employees on official business to departmental facilities, making visits which do not extend beyond 30 working days for citizens or ten working days for non-citizens within a consecutive 12-month period, and which do not involve access to classified information or to restricted areas. No security assurance processing is required for short-term visitors, but managers of operating units to be visited shall make definitive arrangements, such as escorts, to prevent accidental access to restricted areas or to classified information during these visits. In general, however, assignments or visits of foreign nationals that entail potential access to restricted areas or to classified information should be discouraged.

D. Projects Sponsored by Other Federal Agencies. When a project being conducted in a Departmental facility is being carried out by another Federal agency, the investigative processing requirements of the sponsoring agency shall apply unless other arrangements are made.

E. Processing Membership for Departmental Advisory Committees. Security and suitability processing is required for all nominees for membership on departmental advisory committees who require access to classified information. Committee Liaison Officers for each operating unit coordinate the process of obtaining access to classified information. The procedures are set forth in the Committee Handbook and Appendix D, Processing Security and Suitability Investigations.

F. Security Clearance Requirements Applicable to Non-Employees. All non-employees who require a



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security clearance to meet contract or other obligations with the Department will be investigated and granted a security clearance in accordance with the provisions of the National Industrial Security Program Operating Manual and paragraph 1104 of the Security Manual.

G. Child Care Workers Employed at Commerce Facilities.

1. In compliance with 42 U.S.C. § 13041, child care centers located in Department of Commerce facilities must have background checks conducted on their employees. GSA conducts such checks on child care providers when the child care center is located in a GSA-controlled facility. Currently, there are departmental facilities using GSA-approved contractors as well as contractors not processed by GSA. The security contact or servicing security officer must verify that appropriate background checks were conducted on each employee of the contract provider. When a GSA-approved contractor is not used, the security contact or servicing security officer is responsible to ensure that appropriate checks have been conducted. As outlined in 42 U.S.C. § 13041, the minimum criminal history checks for applicants will be a fingerprint check of the records in the Identification Division of the FBI and a check of the state criminal history repositories of all addresses listed on the application for employment as either current or former residences. Additionally, the application for employment will contain a question asking whether the individual has ever been arrested for or charged with a crime involving a child, and, if so, the manager will require a description of the disposition of the arrest or charge. The application shall state that it is being signed under penalty of perjury. Where this language is not included on the application for employment, a separate sheet with this information should be attached.

2. The servicing security officer will work with the COTR and ensure that the appropriate investigation is initiated for persons being hired with child care responsibilities at departmental facilities. An operating unit may hire a staff person provisionally prior to the completion of a background check if, at all times prior to receipt of the background check during which children are in the care of the person, the child care provider must be within sight and under the supervision of a staff person whose background check has been successfully completed. OPM currently offers the CNACI investigation for child care workers to meet the requirements of the Public Law. This investigation must be used to comply with the Public Law. An operating unit may hire a staff person provisionally prior to the completion of the required background check provided that, when caring for children, the uncleared individual must at all times be within the sight and under the supervision of a staff person whose background check has been successfully completed.

1105 Investigative Results

A. Initial Report of Investigation (ROI). After the personnel investigation has been completed, OPM or other investigative agency will forward the ROI to the Office of Security. The Office of Security will review



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the ROI only to determine the purpose for the investigation (e.g., upgrade of clearance for current employee, new security clearance, suitability on initial appointment, etc.) and will process the ROI as indicated below.

1. If the purpose of the investigation is to make a national security access eligibility determination only (e.g., upgrade of an existing clearance, a new clearance for a current employee already subjected to suitability investigation, a reinvestigation for security clearance renewal, etc.), the Office of Security and the appropriate servicing security office will review and adjudicate the ROI. After a final security decision has been made, the Office of Security will forward the OFI 79A to OPM.
2. If the purpose of the investigation is for a suitability determination only (e.g., the position has no national security access requirements), the Office of Security will forward the ROI to the servicing human resources management office for appropriate action under the provisions of the DAO 202-731, Department of Commerce Suitability Handbook. The servicing human resources management office will forward the OFI 79A to OPM after a final suitability decision has been made.
3. If the investigation is for suitability and national security access (e.g., a newly appointed employee with no previous Federal service to a position requiring both suitability and security investigation), the Office of Security will forward the ROI to the servicing human resources management office for suitability adjudication. When this action is completed, the servicing human resources management office will take the following action.
 - a. If the suitability determination is unfavorable, the individual is not hired or cannot continue to be employed. The servicing human resources office will forward the OFI 79A to OPM. A copy of the determination, which will serve as notification of the suitability determination, will be sent to the Office of Security.
 - b. If the suitability determination is favorable, the servicing human resources office will fill in that portion of the OFI 79A and forward this form and the ROI to the Office of Security for the security adjudication. Upon completion of the security adjudication, the Office of Security will forward the completed form to OPM.

B. Obtaining Supplemental Information.

1. OPM characterizes reports of investigation as either **no issues**, or **with issues**. When a suitability determination is necessary, investigations with “no issues” are normally certified as completed (same as a favorable adjudication) by the servicing human resources management office without the need for additional information, suitability adjudication, or further action. Investigations “with issues” normally



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require additional information to clarify, enhance, refute, or otherwise mitigate or substantiate the limited information or “issues” found in the initial investigation. In addition, information may be needed from sources other than those identified in the initial investigation to clarify or confirm information that would mitigate or substantiate the issue or issues.

a. If the additional information needed relates to law enforcement activities such as court documents, case disposition reports, etc., the servicing security office will assist the servicing human resources management office in identifying, obtaining, interpreting, and analyzing the information.

b. If the additional information needed is related to experience, conduct in previous employment, or education, the servicing human resources management office, in collaboration with the cognizant management official, will identify, obtain, and analyze the information for either a suitability or a national security investigation, or both.

2. Subject to the provisions of applicable statutes and executive directives, the subject of the investigation must be given an opportunity to explain or refute information obtained in the investigation or from additional sources prior to the agency’s final adjudication for suitability and/or security purposes.

C. Actions Upon Final Adjudication.

1. Once suitability adjudication procedures have been followed for suitability or mixed investigations with favorable results, the servicing human resources management office will follow the procedures outlined in DAO 202-731, Handbook on Suitability, to include certifying the completion of the action, and/or notifying OPM of the results (in cases with issues), and notifying the Office of Security of the results if the position also has national security access requirements.

2. After the suitability process has been applied and the issues have been evaluated, if one or more serious issues (AD level) that could potentially deny employment to an applicant remain, the servicing human resources management office will forward a recommendation for final adjudication to the Office of Human Resources Management (OHRM). OHRM has final adjudication responsibility for AD issue cases for suitability.

3. If a mixed case, OHRM will collaborate with the Office of Security on the final disposition of the case and the final action to be taken. For national security only investigations resulting in AD issue cases, the Office of Security will take the lead in collaborating with OHRM on the final disposition of the case and final action to be taken.



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4. Possible actions resulting from unfavorable suitability/security adjudications include:

- a. Rejection of a selectee for the position.
- b. Acceptance and appointment of the selectee.
- c. Removal of the appointee/employee.
- d. Revocation/denial of the clearance.
- e. Reassignment of the appointee employee to a non-sensitive position.
- f. Retention of the appointee/employee coupled with appropriate disciplinary action.

5. Unfavorable suitability or security adjudications may be appealed for further review. Appeals of unfavorable suitability determinations only are described in DAO 202-731, Handbook on Suitability. Appeals for unfavorable security determinations are described in Chapter 14, Suspension, Denial, and Revocation of Access to National Security Information.