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**STATEMENT OF  
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OFFICE OF MANAGEMENT AND BUDGET  
BEFORE THE  
COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS  
UNITED STATES SENATE**

**OCTOBER 31, 2013**

Chairman Carper, Ranking Member Coburn, and members of the Committee, I appreciate the opportunity to appear before you today to discuss the government's practices and procedures regarding security clearances, facility access, and suitability determinations.

As government officials, our highest duty is to protect the national security, including the confidentiality of classified information. Simultaneously, we have a separate and also critically important obligation to protect individuals performing work on behalf of Federal agencies and members of the public using Federal facilities from workplace violence. In recent years, with Congress' help, we have taken a number of important actions to strengthen both national security protections and protections relating to the physical security of Federal facilities and people who use them, such as improving the effectiveness and efficiency of background investigations and the variety of adjudications they facilitate, and strengthening the processes by which agencies make national security and suitability determinations. We must ensure those processes -- and the processes for granting and revoking access to facilities and information systems, and for conducting timely reevaluations on those persons who have been entrusted with access -- fully mitigate risks.

We have a multi-sector workforce, comprised of military, civilian, and contractor personnel. We have worked to ensure that robust vetting policies and processes are applied to all individuals with access to federal facilities, networks, or classified information in a consistent manner. This approach reflects two important principles: first, the need to protect our national security is no less critical when the work is performed by contractors than when it is performed by federal employees; second, the men and women who make up the contractor workforce are no less patriotic than their government counterparts, and in fact, many have had meaningful careers as federal employees or in the Armed Forces.

While we have made significant progress in the area of fitness and suitability, security clearance, and credentialing process reform, we need to do more. This morning, I will briefly describe several of the key reforms associated with the Administration's ongoing security clearance reform initiatives, including how these efforts are applied to work performed by contractors. I will then outline for the Committee the steps we are taking, at the President's direction, to identify and address remaining challenges.

### **Background and Progress**

For far too long, the government's security clearance operations have been plagued by inefficiencies and significant expense. It has been the subject of studies and reports over the years, but little progress was made to address substantial delays, accumulating backlogs, and unnecessary costs due to workers waiting to perform the jobs for which they had already been hired. Without a "whole-of-government" approach, agencies made little progress addressing the longstanding coordination problems that compromised the timeliness and quality of the process.

Recognizing the breadth and depth of this problem, Congress took action. In 2004, Congress passed the Intelligence Reform and Terrorism Prevention Act (IRTPA), which challenged the Federal government to address these issues, and in 2005, the Government Accountability Office (GAO) placed the Department of Defense (DoD) Personnel Security Clearance Program on its high-risk list. IRTPA required all agencies to complete 90 percent of their security clearances in an average of 60 days by December 2009.

As a result of actions the Executive Branch has taken to meet the goals and objectives of IRTPA, the time to grant the average security clearance has been reduced dramatically in the past several years. In 2005, the government-wide average for initial clearances was 265 days, and, as recently as October 2006, the backlog of pending clearance investigations over 180 days old stood at almost 100,000 cases. By December 2009, compliance was achieved. That is, 90% of the government's initial clearances were completed within the IRTPA statutorily-required timeframe of 60 days. We have consistently met the IRTPA goals every quarter since, while maintaining the standards expected of the clearance process, and the decades-old backlog of initial investigations is now gone.

Importantly, Executive Branch reform efforts have also extended beyond meeting the timeliness goals established in IRTPA. In order to align suitability and national security policies and practices, and to establish enterprise information technology standards to improve efficiency and reciprocity, Executive Order 13467 established the Suitability and Security Clearance Performance Accountability Council (PAC), chaired by OMB's Deputy Director for Management, to be accountable to the President for reform goals. The Executive Order also further consolidated oversight by designating the Director of the Office of Personnel Management (OPM) and the Director of National Intelligence (DNI) as the Suitability Executive Agent and Security Executive Agent, respectively.

The PAC has worked with departments and agencies to meet a range of reform challenges. In pursuit of the goal to increase the use of information technology in making the security clearance and suitability processes more efficient, applicants are using an improved electronic questionnaire for National Security Positions, investigators have increased access to electronic record repositories, and OPM investigations are transmitted electronically. In addition, the PAC has endorsed the revised Federal Investigative Standards (FIS), which for the first time establish a fully aligned, five-tiered model for suitability and security investigations. On December 6, 2012, OMB's Deputy Director for Management directed OPM and ODNI to include in the new standards, common investigative requirements for contract employees. The implementation plan for the revised standards is nearly complete, and once fully implemented, the revised FIS will streamline and facilitate greater alignment of investigations for suitability for Federal employment, eligibility for access to classified information, eligibility to perform sensitive position duties, and fitness to work on a contract.

In response to GAO concerns that quality may suffer in the wake of focusing on timeliness, in 2008 DoD developed tools to monitor the quality of investigations and clearance adjudications. The most recent data indicate that adjudicators meet the standards for adjudication documentation, accuracy, and consistency with national standards in 99% of their cases. As a marker of the significant progress made, in 2011 GAO removed DoD's Personnel Security Clearance Program from its high-risk list. The efforts of this administration have resulted in federal hires, military personnel, cleared contractors, and those personnel requiring a reinvestigation having a more effective and expedient clearance experience than they did just a few years ago.

While significant improvements have been made, recent events clearly highlight that we need to be diligent in this effort and continue to identify and address any potential vulnerabilities in this process. These events also highlight that a weakness or gap in any part of the end-to-end process, starting from the collection of relevant information for the initial investigation to the sharing of relevant information after a favorable determination has been made, can create vulnerabilities that result in catastrophic results.

### **Security and Fitness Determinations in Federal Contracting**

The government values its partnership with industry and relies on this partnership to support federal employees in meeting national security needs and to support many other vital government operations. Each year, the government spends approximately \$300 billion for contracted services to support departments and agencies in carrying out their missions. In developing solicitations for these contracts, agency personnel are responsible for determining whether performance of the services will require contractor employees to have routine physical access to a federally-controlled facility, routine access to a federally-controlled information system, or access to classified materials. In cases where this access is required, contractor employees are subjected to the same general investigative requirements that are imposed on federal employees.

Both federal and contractor employees are subject to background investigations and determinations which vary in scope depending on the sensitivity and risk of the position. All Federal employees must undergo a background investigation to determine, in the first instance, whether their employment is clearly consistent with the interests of the national security. For the competitive civil service and the career Senior Executive Service, there is an additional requirement to evaluate, based on the background investigation, the person's character and conduct to decide if it may have an impact on the integrity or efficiency of federal service, which is the basis for a suitability determination. For the excepted civil service and contract employees, agencies have the option to conduct an equivalent "fitness" adjudication.

Background investigations begin with a requirement to complete the appropriate OPM standard form (SF-85, SF-85P, SF-86), depending on the sensitivity, risk, and requirement to access classified information involved in the position. Specific steps that agencies must take in connection with their federal acquisitions include the following:

- Information Collection: Contractor employees requiring access to federal facilities, federal information systems, or classified information are required to complete the same Standard Forms as federal employees, based on the sensitivity, risk, and access requirements of the position, at which point the background investigation process is initiated.
- Personal identity verification. The agency is required to incorporate a clause in the contract (i.e., FAR clause 52.204-9) which subjects contract employees to the same requirements in HSPD-12 as are imposed on federal employees. The HSPD-12 common identification standard requires personal identity verification (PIV) and background investigations for all affected contractor and subcontract personnel to support credential issuance and access to federally controlled-facilities or information systems. If a background investigation reveals derogatory information, the agency would deny issuance of the PIV card (or if such information were subsequently learned, revoke the card). Likewise, the agency can collaterally deny or revoke the card if the contract employee is subject to an unfavorable security, suitability, or fitness determination. Finally even if a contractor employee is subject to no other form of vetting, agencies can use risk-based standards issued by OPM in 2008 to deny or revoke the card.
- Contractor employee fitness. Under terms and conditions prescribed by contract, an agency may assess a contract employee's "fitness" to work on the contract, based on character and conduct. OPM has gathered and shared best practices with agency chief human capital officers to improve agencies' use of contractor fitness adjudications.
- Access to classified information. Contracting officers, pursuant to FAR 4.403(a), are required to review all proposed solicitations to determine whether access to classified information may be required by offerors, or by a contractor employee during contract performance. For contracts that involve national security interests or access to

classified information, the executive branch operates the National Industrial Security Program (or NISP), established under Executive Order 12829, to ensure these contracts are subject to national security requirements and processes equivalent to those used when the work is performed by federal employees (i.e., an agency uses the same standards and processes to determine eligibility for access to classified information irrespective of whether the individual being evaluated is employed by the government or by a government contractor). The NISP is made effective through standard contract language (i.e., FAR clause 52.204-2 or one substantially similar), which requires contractors to follow the detailed security practices outlined in the National Industrial Security Program Operating Manual (NISPOM).

Under procedures set forth in FAR Subpart 9.4, certain employees of contractors may be suspended or debarred for misconduct or other reasons that reflect adversely on the person's business honesty or integrity, or ability to perform under a Federal award. The individual's name would be posted on the System for Award Management and the individual would not be eligible to receive new federal contracts or federal financial assistance awards during the pendency of the suspension or debarment. Separately, the contractor that had employed the suspended or debarred employee may also face inquiries into their hiring and employee screening procedures. The employing contractor may also be suspended or debarred if the agency determined that the contractor is no longer presently responsible – i.e., that it lacks the business ethics and integrity to perform work for the taxpayer.

To strengthen the government's overall ability to effectively fight fraud, waste, and abuse in federal acquisition, agencies have taken a series of steps, in accordance with OMB Memorandum M-12-02, to improve their ability to consider and impose suspension and debarment to protect the government from harm. The number of suspension and debarment actions has increased as agencies have developed or reinforced programs and related internal controls to effectively use these tools to ensure the government does not do business with contractors who seek to abuse or misuse federal funds. In addition, the Federal Awardee Performance and Integrity Information System (FAPIIS), which was launched in the spring of 2010, is helping agencies root out non-responsible contractors before funds are contractually obligated by giving contracting officers one-stop access to a range of information they need to make more informed evaluations of the responsibility of prospective contractors, including contractor representations of past criminal convictions or finding of fault and liability in civil or administrative actions.

However, I would like to emphasize that formal suspension and debarment procedures are not required to remove a problematic contract employee from the federal workplace. The Federal agency may simply direct the contractor to remove the individual from the contract, or may place conditions on his or her access to the worksite.

## **Moving Forward**

Once again, we recognize the serious nature of recent events and will continue to intensify our efforts to strengthen and improve our existing policies and processes. To that end, the President directed OMB to conduct a 120-day review of suitability and security processes and contractor fitness determinations. For suitability and fitness, the review will focus on whether the processes in place adequately identify applicants who, based upon their character and past conduct, may be disruptive to operations or even dangerous to the workplace. (Agencies have at their disposal a means of conducting a similar analysis for employees of contractors, by including fitness requirements in their contract provisions or by using supplementary adjudicative criteria issued by OPM at the time they make credentialing decisions for logical or physical access to Federal systems and facilities.) The focus on national security risk will center on determining eligibility and granting access that could lead to loss of classified information and damage to national security. Additionally, we will evaluate the means to collect, share, process and store information that supports these decisions, while emphasizing transactions among and equities shared across agencies.

More specifically, this review will identify and make recommendations to improve the following areas:

- Policies, processes, and procedures related to the initiation, investigation, and adjudication of background investigations for national security adjudications, suitability or fitness for employment, credentialing, and fitness to perform work on a contract.
- Accessibility of records required to meet Federal Investigative Standards such as law enforcement, health, and financial data.
- Policies, processes, procedures, and implementation efforts related to the National Industrial Security Program.

As part of these efforts, we will also be considering opportunities to improve the application of these standards and procedures to contracting, which may include, as just one example, improved information sharing between agencies suspending and debarring officials and offices responsible for making determinations for fitness and security clearances.

Our first interagency meeting is scheduled for next week and will serve to launch our review process. Additional meetings will occur over the coming weeks and we fully anticipate this review to be completed within the 120-day timeframe, which sets the release of our initial findings and recommendations for mid-February.

This review is being fully coordinated with efforts being led by the National Security Staff and OMB on the sharing and safeguarding of classified information, DoD reviews of physical and personnel security, and other ongoing related initiatives underway within the ODNI and OPM.

## **Conclusion**

Once again, thank you for the opportunity to testify. As I noted in the beginning of my testimony, there is nothing more important than the two goals of protecting our people and protecting sensitive information. We have steadfastly worked in a collaborative manner to improve our processes and procedures to ensure the safety of both. As recent tragic events have highlighted however, we must maintain a strong focus on continuous improvements, and we will heed the President's call to conduct a comprehensive review and address any potential gaps in the most effective and quickest manner possible. We look forward to working with this committee and Congress as we undertake this important work.