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LOW CLEARANCE: WHY DID DOD SUDDENLY STOP PROCESSING PRIVATE SECTOR SECURITY CLEARANCES?

HEARING

BEFORE THE

COMMITTEE ON GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED NINTH CONGRESS

SECOND SESSION

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LOW CLEARANCE: WHY DID DOD SUDDENLY STOP PROCESSING PRIVATE SECTOR SECURITY CLEARANCES?

WEDNESDAY, MAY 17, 2006

HOUSE OF REPRESENTATIVES,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC.

The committee met, pursuant to notice, at 1 p.m., in room 2154, Rayburn House Office Building, Hon. Tom Davis (chairman of the committee) presiding.

Present: Representatives Tom Davis, Platts, Waxman, Cummings, Kucinich, Watson, Ruppersberger, and Higgins.

Staff present: David Marin, staff director; Larry Halloran, deputy staff director; Keith Ausbrook, chief counsel; Ellen Brown, legislative director and senior policy counsel; Rob White, communications director; Andrea LeBlanc, deputy director of communications; Brien Beattie, professional staff member; Teresa Austin, chief clerk; Sarah D'Orsie, deputy clerk; Phil Barnett, minority staff director/chief counsel; Kristin Amerling, minority general counsel; Karen Lightfoot, minority senior policy advisor and communications director; David Rapallo, minority chief investigative counsel; Michael McCarthy, minority counsel; Earley Green, minority chief clerk; and Cecelia Morton, minority office manager.

Chairman TOM DAVIS. The committee will come to order.

Good afternoon and welcome to today's hearing to investigate the decision of the Defense Security Service to institute a moratorium on all private sector requests for personnel security clearance investigations.

Each year, the Federal Government hires private companies to perform under defense and security-related contracts worth billions of dollars. Much of that work requires employees to be issued security clearances—to be checked and approved for access to information classified as Confidential, Secret, or Top Secret. If workers can't get cleared, important national security work will not get done on time, and costs will increase dramatically to the Government and the American taxpayer.

Unfortunately, this is not the first disruption of a troubled DOD system that seems to be suffering a cyclic downward spiral. Intractable backlogs and lengthy delays in the security clearance process have prompted other hearings, other promises of reform. In testimony before this committee in May 2004, GAO reported that processing time for private sector clearance requests had ballooned

from an average of 56 days in fiscal year 2001 to more than a full year. At that time, backlogged cases numbered almost 200,000.

To address that untenable situation, I and others authored Title III of the Intelligence Reform and Terrorism Prevention Act of 2004, which called for better management, greater transparency, and stronger accountability in the security clearance process. We also mandated adherence to long-ignored rules on reciprocity—recognition by one agency of clearances granted by another. In short, Congress has repeatedly indicated a strong desire to see the security clearance process function efficiently and effectively to meet urgent security requirements.

So it came as a nasty surprise, to say the least, when we learned that DSS had notified thousands of contractors that it would no longer be accepting any requests for private sector security clearances because the agency was about to run out of money. How could that happen? How could DSS or their partners in this process at the Office of Personnel Management keep blithely driving at full speed when the fiscal gas gauge on a critical national security vehicle was hitting "Empty?"

The impact of this decision is already being felt across the Government and the corporate world. According to a May 8th story in the Federal Times, contractor employees with clearances have already begun asking their bosses for pay raises, and one company is reportedly paying an IT-related employee without a bachelor's degree a $100,000 premium because he has a Top Secret security clearance. It is an insult to the taxpayers. These anecdotes illustrate two things: an instinctive understanding of the law of supply and demand on the part of workers, and a penchant on the part of the Federal Government to run afoul of that law.

Smaller companies are disproportionately hurt by a dearth of security clearances. The largest defense contractors, which employ tens of thousands of people, are usually able to find someone on the payroll with a clearance to fill important roles. And if not, they are in a much stronger position to recruit cleared employees away from small companies by offering salaries that small businesses are unable to afford, transforming them from competitive enterprises to prime targets for acquisition. In a business environment where the Government is best served by competition among contractors, the kind of corporate consolidation that clearance shortages may lead to can only serve to drive up costs and hurt the taxpayer.

There will always be some kind of salary premium for those working on national security-related contracts because there will always be a demand for employees who are willing and able to submit to the extensive background investigation required to gain access to our Nation's secrets. But an inefficient system that leads to unnecessary shortages of security clearances is a self-imposed tax on the American people, and it is inexcusable.

I was pleased to learn yesterday that DOD has found the money to restart the processing of Secret level clearance requests, and I look forward to hearing that all requests have been reactivated in the near future. However, I look forward to hearing today about the steps that are being taken to ensure that we will never again have to ask why, in a post-9/11 world, Federal security clearances are not being processed in a timely and efficient manner. We owe

nothing less to the American people and to the men and women, both in and out of Government, who defend our National security.

I want to thank our distinguished witnesses for being here today. I look forward to their testimony.

[The prepared statement of Chairman Tom Davis follows:]

Chairman Tom Davis
Opening Statement
Government Reform Committee Hearing
"Low Clearance: Why Did DOD Suddenly Stop Processing Private Sector Security Clearances?"
Wednesday, May 17, 2006
1:00 p.m.
Room 2154 Rayburn House Office Building

Good afternoon and welcome to today's hearing to investigate the decision of the Defense Security Service (DSS) to institute a moratorium on all private sector requests for personnel security clearance investigations.

Each year, the federal government hires private companies to perform under defense and security-related contracts worth billions of dollars. Much of that work requires employees to be issued security clearances – to be checked and approved for access to information classified as Confidential, Secret or Top Secret. If workers can't get cleared, important national security work will not get done on time, and costs will increase dramatically to the government and the taxpayer.

Unfortunately, this is not the first disruption of a troubled DOD system that seems to be suffering a cyclic downward spiral. Intractable backlogs and lengthy delays in the security clearance process have prompted other hearings, other promises of reform. In testimony before this Committee in May of 2004, GAO reported that processing time for private sector clearance requests had ballooned from an average of 56 days in fiscal year 2001 to more than a full year. At that time, backlogged cases numbered almost 200,000.

To address that untenable situation, I and others authored Title III of the Intelligence Reform and Terrorism Prevention Act of 2004, which called for better management, greater transparency and stronger accountability in the security clearance process. We also mandated adherence to long-ignored rules on reciprocity – recognition by one agency of clearances granted by another. In short, Congress has repeatedly indicated a strong desire to see the security clearance process function efficiently and effectively to meet urgent security requirements.

So it came as a nasty surprise, to say the least, when we learned that DSS had notified thousands of contractors that it would no longer be accepting any requests for private sector security clearances because the agency was about to run out of money. How could that happen? How could DSS, or their partners in this process at the Office of Personnel Management, keep blithely driving at full speed when the fiscal gas gauge on a critical national security vehicle was hitting "Empty?"

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is reportedly paying an IT-related employee without a Bachelor's degree a $100,000 premium because he has a Top Secret security clearance. These anecdotes illustrate two things: An instinctive understanding of the law of supply and demand on the part of workers, and a penchant on the part of the federal government to run afoul of that law.

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There will always be some kind of salary premium for those working on national security-related contracts, because there will always be a demand for employees who are willing and able to submit to the extensive background investigation required to gain access to our nation's secrets. But an inefficient system that leads to unnecessary shortages of security clearances is a self-imposed tax on the American people – and it is inexcusable.

I was pleased to learn yesterday that DOD has found the money to restart the processing of Secret level clearance requests, and I look forward to hearing that all requests have been reactivated in the near future. However, I also look forward to hearing today about the steps that are being taken to ensure that we will never again have to ask why, in a post-9/11 world, federal security clearances are not being processed in a timely and efficient manner. We owe nothing less to the American people and to the men and women, both in and out of government, who defend our national security.

I want to thank our distinguished witnesses for being here today and I look forward to their testimony.

Chairman TOM DAVIS. The witnesses on our first panel are also scheduled to testify at a Senate hearing at 2:30, so we would like to limit opening statements to the chairman and ranking member. It looks like we are in luck, Henry. Members' statements will also be entered into the record, and the Chair will be happy to recognize members for statements before the second panel is sworn in.

I would now recognize my distinguished ranking member, Mr. Waxman.

Mr. WAXMAN. Thank you, Mr. Chairman.

Two years ago, this committee held a hearing about delay and mismanagement in the processing of security clearances. The most serious problems included long backlogs in clearance investigations, turf wars among Federal agencies, and a lack of accountability for management of clearances across the entire Federal Government.

Two years ago, we heard assurances that the Bush administration was working to solve these problems. To improve accountability in 2004, Congress passed a law requiring that a single agency manage security clearance processing and get the entire Federal Government working together. The President designated the Office of Management and Budget.

Today, 2 years later, not only have these problems not been solved, they have actually gotten worse. Today's hearing was prompted by the Department of Defense's abrupt announcement of a freeze on accepting clearance applications from contractors because DOD mismanaged its budget and ran out of money. DOD is now pointing fingers at the Office of Personnel Management, which conducts background investigations on DOD's behalf. OMB, which was supposed to be eliminating these turf wars, is reportedly refusing to get involved.

Mismanagement and a lack of accountability have led to a crisis that weakens our national security and drives up costs for the taxpayer. Defense contractors are now paying exorbitant salaries to lure employees who already have security clearances, a cost that is ultimately passed on back to the Government and our taxpayers. In addition, the high salaries give an incentive to Government employees to jump ship and work for contractors, draining talent from the civil service, and renewal background checks on contractor employees who currently have access to classified information are on hold.

The problems with the system for issuing security clearances are troubling enough, but there is also growing evidence that the system for revoking clearances is also being mishandled. In a hearing earlier this year, national security whistleblowers told us how the Bush administration had improperly suspended and revoked their security clearances in retaliation for reporting illegal activities occurring in their agencies. Chairman Davis and I introduced a bill to provide protections to national security whistleblowers. It passed out of this committee in a unanimous bipartisan vote, though it has not yet been allowed to go to the full House for a vote. I hope we can also work together to fix the problem identified in today's hearing.

I would like to thank the witnesses for testifying today. I hope we can find some solution to these recurring problems so we don't

come back 2 years from now to have yet another hearing on mismanagement of security clearances.

[The prepared statement of Hon. Henry A. Waxman follows:]

Statement of Rep. Henry A. Waxman, Ranking Minority Member
Committee on Government Reform
Hearing on "Low Clearance: Why Did DOD Suddenly Stop Processing Private Sector Security Clearances?"

May 17, 2006

Two years ago, this Committee held a hearing about delay and mismanagement in the processing of security clearances. The most serious problems included long backlogs in clearance investigations, turf wars among federal agencies, and a lack of accountability for management of clearances across the entire federal government.

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Chairman TOM DAVIS. Thank you.

Members will have 7 days to submit opening statements for the record.

Our first distinguished panel, we have the Honorable Clay Johnson III, the Acting Director of the U.S. Office of Management and Budget, no stranger to this committee, and thank you for being here with us today.

We have Mr. Robert Andrews, the Deputy Under Secretary of Defense for Counterintelligence and Security, U.S. Department of Defense; Mr. Robert W. Rogalski, the Special Assistant to the Under Secretary for Intelligence, accompanied by Ms. Janice Haith, the Acting Director of Defense Security Services, U.S. Department of Defense; and Ms. Kathy Dillaman, the Associate Director, Federal Investigative Services Division, U.S. Office of Personnel Management; and Mr. Thomas Gimble, the Principal Deputy Inspector General, U.S. Department of Defense.

It is our policy we swear you in before your testimony, so if you would just rise and raise your right hands.

[Witnesses sworn.]

Chairman TOM DAVIS. Mr. Johnson, we will start with you, and thank you once again for being with us.

STATEMENTS OF CLAY JOHNSON III, ACTING DIRECTOR, U.S. OFFICE OF MANAGEMENT AND BUDGET; ROBERT ANDREWS, DEPUTY UNDER SECRETARY OF DEFENSE FOR COUNTERINTELLIGENCE AND SECURITY, U.S. DEPARTMENT OF DEFENSE; ROBERT W. ROGALSKI, SPECIAL ASSISTANT TO THE UNDER SECRETARY OF DEFENSE FOR INTELLIGENCE, ACCOMPANIED BY JANICE HAITH, ACTING DIRECTOR, DEFENSE SECURITY SERVICES, U.S. DEPARTMENT OF DEFENSE; KATHY L. DILLAMAN, ASSOCIATE DIRECTOR, FEDERAL INVESTIGATIVE SERVICES DIVISION, U.S. OFFICE OF PERSONNEL MANAGEMENT; AND THOMAS F. GIMBLE, PRINCIPAL DEPUTY INSPECTOR GENERAL, U.S. DEPARTMENT OF DEFENSE

STATEMENT OF CLAY JOHNSON III

Mr. JOHNSON. Chairman Davis, Congressman Waxman, thank you for having us here. Let me start off by saying that the security clearance granting process has gotten better, not worse; that the DOD is not pointing fingers at OPM for this recent problem with their budget; and that OMB is as involved as any oversight organization you would ever want any oversight organization to be.

We are making progress in improving the process. In some cases, the progress is significant. But we are not where we wanted to be as of the month of May in our reform process. Overall, in April, we have improved the timeliness of granting clearances versus fiscal year 2005 by 40 days. It takes 11 days less time to submit clearances. It takes 40 days less time to investigate those clearances. And it takes us 10 days longer to adjudicate.

The Department of Commerce and DOD have made significant improvements and almost are at the desired level in terms of the timeliness of submission. Adjudication at Commerce, Energy, Transportation, and Homeland Security are significantly moving

forward in the percentage of satisfactorily adjudicating their cases. DOD is more than offsetting those gains in Commerce, Energy, Transportation, and Homeland Security.

Everybody knows what they need to do to improve, everybody has clear goals, and everybody is committed to the reform effort and to achieving those goals. We are still committed to the goals that were laid out in the intel bill for where we were to be by December 2006. It is too early to say we will not achieve them, but we are making significant progress.

The biggest challenges, I believe, in the overall reform process are in improving the timeliness of getting primarily FBI records from FBI, and also in adjudicating our security clearances in 30 days or less. The reason I say I believe those are our biggest challenges is because the resources—we know what we need to do, but the resources to do it are not yet in place. The extra people needed at the FBI, the extra adjudicators needed at DOD are not yet in place. We know how many need to be there. We know what they need to do when they are there, what they need to be trained to do. But it has not yet happened.

I would be glad to answer any questions at the end of everybody's statements.

[The prepared statement of Mr. Johnson follows:]

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

DEPUTY DIRECTOR
FOR MANAGEMENT

Statement of

The Honorable Clay Johnson III

before the

Committee on Government Reform

United States House of Representatives

May 17, 2006

This Administration recognizes that the granting of security clearances should be faster, but also ensure only those who need and deserve a security clearance actually get one.

The keys to improving the effectiveness and efficiency of the security clearance process are:

- having clear, mutually set goals;
- plans and milestones that measure whether we're on track to meet our goals;
- a lot of monitoring of the performance of responsible investigative and adjudicative agencies; and
- accountability for achieving mutually set goals.

We've had goals before, but have never held agencies accountable for meeting them.

Since enactment of the Intelligence Reform and Terrorism Prevention Act of 2004, the Administration has taken serious steps to improve the security clearance process. The Administration gave responsibility for improving the security clearance process to the Office of Management and Budget (OMB). The Director

has delegated that responsibility to me. Various other responsibilities have also been delegated, principally the responsibility for the day-to-day supervision and monitoring of security clearance investigations, and for the tracking of the results of individual agency-performed adjudications, was assigned to the Office of Personnel Management (OPM).

To assist OMB and OPM in this endeavor, we have enlisted the support and commitment from all major agencies seeking and involved in providing security clearances. They include the Departments of Defense, Homeland Security, Energy, Justice, Transportation, Commerce, and State, as well as OMB, OPM, the National Archives and Records Administration, the National Security Council, and the Director of National Intelligence. These agencies, which make up the Security Clearance Oversight Steering Committee, are committed to reforming the process and achieving the goals laid out in the Intelligence Reform and Terrorism Prevention Act: they are very proud to be a part of this effort.

The Security Clearance Oversight Steering Committee first met in August of 2005 with the initial focus on improving the investigative work done by OPM. OPM currently conducts 90 percent of the investigations necessary to determine eligibility for a security clearance. It established two working groups, one to craft the plan to meet the goals of the Intelligence Reform and Terrorism Prevention Act and another to address issues related to the reciprocity of security clearances among Federal agencies.

The Plan for Improving the Personnel Security Clearance Process

If the Administration's improvement plan is implemented as promised, you can be assured the result will be dramatic improvement in the timeliness and processing of personnel security clearances. The plan details individual areas of responsibility and actions required for success. For instance,

- At the end of 2005, a single consolidated data base of personnel security clearance information was established and is easily accessible by authorized users to confirm who already has what clearances.
- By December 2006, 80% ~~of~~ background investigations will be completed within 90 days of receipt of the necessary information.
- By December 2006, 80% of adjudications will be completed within 30 days of receipt of a completed background investigation.

Interim goals and metrics are agreed to by the participating agencies and will be tracked on a quarterly basis.

Reciprocity

Of course, if many agencies now requiring additional investigation of personnel with existing security clearances no longer require those investigations, the strain on the security clearance process would be diminished significantly. We commit to enforcing the longstanding policies that require agencies to honor existing security clearances except under extraordinary circumstances. Reciprocity means that for individuals with existing clearances at the same level, unless one of several narrow exceptions are present, an agency may not:

- request a new security questionnaire;
- review existing background investigations;
- review existing security questionnaires;
- initiate any new investigative checks.

The Reciprocity Working Group has identified the narrow exceptions which must be present in order for an agency to require the above additional investigations. Those exceptions are:

- the current clearance is interim or temporary;
- for highly sensitive programs, the current agency accepted greater risk by granting a waiver or other exception to an otherwise disqualified individual;
- for certain highly sensitive programs, the individual does not satisfy a polygraph requirement if applicable to the new program;
- for certain highly sensitive programs, the individual is disqualified based upon immediately family who are not U.S. citizens if applicable to the new program;
- for certain highly sensitive programs, the individual does not meet additional but not duplicative investigative or adjudicative requirements approved by OMB on a program specific basis.

Reciprocity has been required before, but no one has ever held agencies accountable for honoring it. Agencies are moving to adopt these clearer set of conditions under which clearance reciprocity should be granted. We have not reached mutual agreement with the Department of Defense on reciprocity involving Special Access Programs, but we expect, and are committed, to reaching agreement very soon. We are also finding better ways to measure our compliance with the reciprocity guidelines, in order to hold agencies most accountable for abiding by the new conditions under which reciprocity should be granted.

Technology

Technology can improve the way we collect information, investigate an individual's background, and track the security clearance process end to end. Our

first priority is to maximize the use of technology at our disposal today. For instance, all agencies have committed to full use of eQIP, the electronic collection and transmission of individual background information, by April of 2006. This, alone, will ensure not only the timely collection of background information, but also that it is complete and accurate when it is received.

Agencies are also beginning to employ phased reinvestigations, a limited reinvestigation that may be supplemented by information that is available from electronic databases. Expanded use of this technology will greatly reduce the time it takes to update existing security clearances.

We plan on achieving the security clearance goals of the Intelligence Act with better use of current methodologies and technologies. Developing new technologies and enhanced tools will allow us to further speed and improve the effectiveness of the granting of security clearances.

Contractors

Companies with employees waiting for security clearances are justifiably troubled by the length of time it takes to complete a background investigation and grant a security clearance. The Steering Committee has met with representatives of the Contractor Community twice to outline our plans and commitment to improve the process. We seek frequent input from them regarding the reciprocity issue, to get a better sense of whether the concerns are increasing or decreasing. I believe they fully understand that the security clearance process will be reformed.

Status of Improvements

I report to you today that agencies are making good, and in some cases significant, progress improving the security clearance process, but we are not where we want to be at this point in the reform process. I will let the Office of Personnel Management report on the progress OPM is making to improve the investigation process. With regards to the other parts of the process:

Submitting Investigation Requests for Investigation

We are making significant progress getting accurate, completed investigation requests to OPM on a timely basis. In FY 2005, it took 32 days to submit completed forms to OPM. In the most recent three months, completed forms were submitted in an average of 21 days. Agencies, in general, are more attentive to the need to improve submission times, but most importantly, they have increased their use of electronic submission, eQIP, from 19% last year to 42% in April. Our goal

was to submit all requests electronically by April 1; so we are not where we wanted to be, but we are making good progress. The Department of Commerce (86% eQIP usage and submissions in 14 days) and the Department of Defense (44 % eQIP usage and submissions in 9 days) should be recognized for their strong improvements in this area.

Adjudicating

Some, but not enough, progress has been made adjudicating clearance requests on a timely basis. In April only 8% of adjudications were completed within 30 days, versus the ultimate goal of 80%. The Department of Commerce (51%), the Department of Energy (50%), the Department of Transportation (47%), and the Department of Homeland Security (43%) have made significant improvements, but these gains are more than offset by the Department of Defense, which adjudicates only about 5% of its cases within 30 days. The Department of Defense needs to hire and train more adjudicators, which they are committed to do.

Agencies are reviewing and revising, if necessary, the activities they had planned to achieve the desired goals, as they/we are still committed to achieving the December, 2006, goals laid out in the Intelligence Reform and Terrorism Prevention Act.

Defense Security Service Investigation Processing

The Defense Security Service recently halted temporarily the processing of industry clearance requests. The reason for the cessation is simply the Service did not anticipate the recent surge in requests for security clearances and therefore finds itself without adequate funds to process these request. On Monday, the Department of Defense submitted and OMB approved a reprogramming request to provide $90.7 million to fund the shortfall. Once the four Defense Committees approve the reprogramming, the Defense Security Service will move aggressively to process industry requests for clearances. Additionally, the Defense Security Service has committed to improving its workload projections so this situation does not recur.

The goals we have set to improve the security clearance process are aggressive. Barriers will arise periodically that inhibit our progress. Working with the partner agencies and interested Members of Congress, I am certain we will be successful in dramatically improving the efficiency and effectiveness of the security clearance process.

Chairman TOM DAVIS. Thank you very much.

Mr. Andrews.

STATEMENT OF ROBERT ANDREWS

Mr. ANDREWS. Mr. Chairman, I am Bob Andrews. The decision to suspend security investigations was made shortly after I took up my post. This was not the Defense Security Services' finest hour. We failed to estimate accurately the demand for security investigations. We failed, moreover, to understand the systemic problems that further contributed to suspending the investigations.

Mr. Chairman, I am responsible for taking steps to resume the investigations. I am also responsible for fixing the underlying problems. I will meet those responsibilities.

We have lifted the suspension for the secret security clearances, as you mentioned. We have also submitted to Congress a reprogramming action to permit us to lift suspension for top secret and periodic investigations. I believe we are on the patH toward fixing the fundamental flaws in our process itself. In the coming weeks, I will keep the committee abreast of our progress and, at the committee's convenience, will consult with you as we move forward.

I have asked Rob Rogalski, Special Assistant to the Under Secretary for Intelligence, to lay out what happened and to outline the near-term and longer-term solutions we have identified.

[The prepared statement of Mr. Andrews follows:]

STATEMENT OF

MR. ROBERT ANDREWS

DEPUTY UNDER SECRETARY OF DEFENSE
FOR COUNTERINTELLIGENCE AND SECURITY

BEFORE THE

COMMITTEE ON GOVERNMENT REFORM
U.S. HOUSE OF REPRESENTATIVES

ON

"LOW CLEARANCE: WHY DID THE DEPARTMENT OF DEFENSE SUDDENLY STOP PROCESSING PRIVATE SECTOR SECURITY CLEARANCES?"

MAY 17, 2006

NOT FOR PUBLIC RELEASE
PRIOR TO COMMITTEE APPROVAL

Good morning, Mr. Chairman. I'm Bob Andrews. I'm the Deputy Under Secretary of Defense for Counterintelligence and Security. The decision to suspend security investigations was made shortly after I took up my post. This was not the finest hour for the Defense Security Service which reports to me. We failed to estimate accurately the demand for security investigations. We failed, moreover, to understand the systemic problems that further contributed to suspension of the investigations.

I am responsible for taking steps to resume the investigations. I am also responsible for fixing the underlying problems in the process so something like this is unlikely to happen again.

We have lifted the investigations suspension. And, we are on the path toward identifying and fixing fundamental flaws in our process. In the coming weeks, I will keep the Committee abreast of our progress, and, at the Committee's convenience, consult with you as we move forward.

Rob Rogalski, Special Assistant to the Under Secretary for Intelligence, is the person most knowledgeable about the suspension. I've asked him to lay out what happened and to outline the near-term and longer-term solutions we've identified.

Thank you.

STATEMENT OF

MR. ROBERT W. ROGALSKI

SPECIAL ASSISTANT TO THE
UNDER SECRETARY OF DEFENSE FOR INTELLIGENCE

BEFORE THE

COMMITTEE ON GOVERNMENT REFORM
U.S. HOUSE OF REPRESENTATIVES

ON

"LOW CLEARANCE: WHY DID THE DEPARTMENT OF DEFENSE SUDDENLY STOP PROCESSING PRIVATE SECTOR SECURITY CLEARANCES?"

MAY 17, 2006

NOT FOR PUBLIC RELEASE
PRIOR TO COMMITTEE APPROVAL

Introduction:

Mr. Chairman and Members of the Committee, I am pleased to appear before you today.

I am Rob Rogalski, Special Assistant to the Under Secretary of Defense for Intelligence. Prior to the appointment of Bob Andrews, I was the Acting Deputy Under Secretary of Defense for Counterintelligence and Security, under whose oversight the Defense Security Service (DSS) falls. I am joined by Ms. Janice Haith, Acting Director, DSS.

The Under Secretary of Defense for Intelligence asked me to lead a DoD team to diagnose what caused DSS to suspend industry investigations due to a funding shortfall.

The work we have done has uncovered a number of systemic problems associated with the industrial security process. We have identified immediate changes which I believe will help address those problems. In addition, I would like to share with this Committee, and others with an interest in Congress, the longer term changes we are proposing to place the industrial personnel security system on a firm foundation.

Background:

By way of background, the Department of Defense budgets and pays for the cost of security clearances for all DoD contractors and the contractors for 23 other Federal agencies. The Office of Personnel

Management (OPM) does the investigations, but DoD pays the cost of the investigations. DoD adjudicates the clearances.

On April 25th the Acting Director, DSS, directed the Defense Industrial Security Clearance Office (DISCO), which processes requests from industry for investigations, to cease submissions to the Office of Personnel Management (OPM) for two types of investigations, initial personnel security investigations and periodic reinvestigations.

- Initial personnel security investigations are conducted for individuals who do not have a personnel security clearance.
- Periodic reinvestigations are conducted for the purpose of updating previously completed background investigations at 5, 10, and 15 years for Top Secret, Secret, and Confidential clearances, respectively.

On April 28th DSS notified the industrial security community to stop sending requests for investigations to DISCO because DSS projected that it did not have sufficient funds available to pay OPM for additional investigations. DSS took this action to comply with the Anti-Deficiency Act. It cannot knowingly request investigations without available funding.

Let me stress that DSS did not direct OPM to stop work on any industrial investigations, initial or periodic, submitted prior to April 25, 2006. DSS has paid for all work submitted to OPM through April 25, 2006.

During FY06 and prior to April 25th, DSS submitted to OPM over 100,000 requests for industry investigations. Based on current projections, we anticipate submitting an additional 100,000 industry investigations for FY06.

Again, none of the more than 100,000 industrial investigations submitted by DSS to OPM prior to April 25th have been affected by DSS's action to suspend the submission of investigations after April 25th.

Let me turn to the effect of the suspension. We recognize there has been an impact on the industrial community, particularly those employees who are waiting for a clearance to begin work. DISCO receives approximately 4,000 requests for investigation per week from industry. Accordingly, there are approximately now 8,000 requests for investigation that have not been submitted by DSS to OPM since April 25th.

Of these 8,000 requests, approximately 2,400 are for periodic reinvestigations, meaning that these 2,400 people are still at work and are not adversely affected by the suspension. The remainder - 5,600 requests - is for new investigations. These are people who do not hold security clearances. The suspension by DSS has delayed the submission of these 5,600 requests to OPM for up to two weeks.

Diagnosis:

A number of factors contributed to the problem faced by DSS on April 25th.

- First, DSS did not adequately budget for the cost of industry investigations in FY06.
    - In October 2004, the Department signed an agreement with OPM to transfer the personnel security investigation function from DoD to OPM. As part of the agreement, DoD agreed to pay to OPM up to a 25% premium of the base cost of investigations to offset potential operating losses incurred by OPM. The DoD budget request, which was delivered to the Congress in February 2005, prior to OPM publication of its FY 2006 rates for DoD investigations, did not include funds to pay the premium to OPM.
    - Compounding this error, DSS underestimated the number of investigations it would have to pay for in FY06.
    - In addition, the DSS budget was reduced during Congressional deliberation on the FY06 budget.
    - DSS did not apprise industry of the reduction in funding, which could have reduced requests, nor did DSS appropriately manage the reduction, to ensure it could pay for industry investigations that DSS anticipated sending to OPM through the end of FY06.
- Second, when DoD transferred the personnel security function to OPM on February 20, 2005, DSS had 45,000 pending industry investigation requests.
    - DSS did not transfer these investigations to OPM because it was unable to complete the packages for transfer in a manner acceptable to OPM.

- DSS directed industry to resubmit many of these investigations. It appears a number of these investigations are being submitted during the period covered by the FY06 budget.
- DSS failed to track the status of these investigations and did not request funding for them in its FY06 budget submission.

The combination of the above factors, when set against DSS's projection of submissions for the remainder of FY06, resulted by April 2006, in a projected funding shortfall of $90M. Therefore, on April 25th, DSS suspended submitting industry investigations to OPM.

Immediate Steps:

Let me now address the immediate steps the Department has taken to address the suspension.

- DoD's Comptroller identified and provided to DSS $28M to enable the restart of industry investigations on a limited basis.
- On Monday, May 15th, DSS notified industry to begin submitting requests for initial investigations for SECRET clearances to ensure individuals requiring a clearance for employment are placed in the OPM processing queue. Based on present projections, the $28M will allow DSS to send to OPM for processing industry initial SECRET clearance requests through the end of June 2006.
- DoD, with OMB approval, submitted a reprogramming request to Congress for $90M on May 16, 2006, to enable DSS to

submit the remaining projected industry investigations through the end of FY06.

- Once the four Defense Congressional Committees approve the reprogramming, DSS will provide updated guidance to industry on submitting requests for investigations, to include initial Top Secret investigations, and periodic reinvestigations.

Long Term Solutions:

In order to prevent a recurrence of this situation, the Deputy Under Secretary of Defense for Counterintelligence and Security is directing the following actions over the longer term to address the systemic problems that have been identified.

- The establishment within DSS of a Central Oversight Office (COO) to perform the following functions:
  - Develop, in conjunction with DoD Components, affected Federal agencies, and industry, a process to link security investigation requirements (e.g., number, type, priority, etc.) and funding with current and future DoD contractual requirements.
  - Establish, in conjunction with DoD Components, affected Federal agencies, and industry, a system for prioritizing industry requests.
  - Validate the requirements for those investigations.
  - Monitor, initially on a daily basis, the industry investigation process and develop "trip wires" to reduce the probability of any need to impose a future suspension.

- Establish a communications network among requesting DoD Components, affected Federal agencies, industry, DSS, and OPM to ensure all are working within established priorities and budget. This network will provide DSS and OPM transparency into each other's related activities and operations.

- The DoD Comptroller will immediately begin work with DSS to develop a new process for DSS to use in preparing its budget submissions.
- The DoD Comptroller will train DSS personnel on accounting processes for managing DSS's fiscal activity.
- DSS will continue to work with OPM so that the two organizations can identify and track investigations submitted to OPM for processing, as well as the associated funding.

Conclusion:

The Department's senior leadership is committed to correcting the systemic problems that have been identified in the personnel security process. The Department recognizes that inadequate oversight was a major contributor to this problem.

We are prepared to meet with the Committee periodically to provide progress reports on both our short-term and long-term efforts to correct the problems identified.

Mr. Chairman, this concludes my prepared remarks. We are available to answer any questions you may have.

Chairman TOM DAVIS. Mr. Rogalski, thanks for being with us.

STATEMENT OF ROBERT W. ROGALSKI

Mr. ROGALSKI. Good afternoon, Mr. Chairman.

Prior to the appointment of Bob Andrews, I was the Acting Deputy Under Secretary of Defense for Counterintelligence Security. Today I am joined by Ms. Janice Haith, Acting Director, Defense Security Service, DSS. Ms. Haith does not have an opening statement, so I ask your indulgence if I go briefly over the 5 minutes allocated time.

The Under Secretary of Defense for Intelligence asked me to lead a DOD team to diagnose what caused DSS to suspend industry investigations due to the $90 million funding shortfall.

The work we have done has uncovered a number of systemic problems associated with the industrial security process. We have identified immediate changes which I believe will help address those problems.

By way of background, the Department of Defense budgets and pays to OPM the cost of security clearance investigations for DOD contractors and contractors for 23 other Federal agencies as part of the national industry security program.

On April 25th, the Acting Director, DSS, directed the Defense Industrial Security Clearance Office [DISCO], which processes requests from industry for investigations, to suspend submissions to OPM for two types of investigations; initial investigations and periodic reinvestigations.

On April 28th, DSS notified the industrial security community to stop sending requests for investigations to DISCO because DSS projected that it did not have sufficient funds available to pay OPM for additional investigations. DSS took this action to comply with the Anti-Deficiency Act. DSS cannot knowingly request investigations without available funding.

Let me stress that DSS did not direct OPM to stop work on any industrial investigations, initial or periodic, submitted prior to April 25th, and DSS has paid for all work submitted to OPM through April 25th.

During fiscal year 2006 and prior to April 25th, DSS submitted to OPM over 100,000 requests for industry investigations. Based on our current projections, we anticipate submitting an additional 100,000 industry investigations for the remainder of fiscal year 2006.

But, again, none of the more than 100,000 industrial investigations submitted by DSS to OPM prior to April 25th have been affected by DSS' action to suspend the submission of investigations.

A number of factors contributed to the problem faced by DSS.

First, DSS did not adequately budget for the cost of industry investigations in fiscal year 2006. In October 2004, the Department signed an agreement with OPM to transfer the personnel security investigation function from DOD to OPM. As part of the agreement, DOD agreed to pay to OPM up to a 25-percent premium of the base cost of investigations to offset potential operating losses incurred by OPM. The DOD budget request, which was delivered to Congress in February 2005, prior to OPM publication of its fiscal year 2006 rates, did not include funds to pay the premium to OPM.

In addition, the DSS budget was reduced during congressional deliberation on the fiscal year 2006 budget, and DSS did not appropriately manage that reduction.

Second, when DOD transferred the personnel security function to OPM, DSS had approximately 45,000 pending industry investigation requests, which they did not transfer to OPM. DSS directed industry to resubmit many of these investigations, and it appears they are being submitted during this fiscal year. DSS failed to track the status of these investigations and did not request funding for them in its fiscal year 2006 budget submission.

Let me now address the immediate steps the Department has taken to address the suspension.

DOD's Comptroller provided DSS $28 million to restart industry investigations. DSS has expended $5 million of these funds to pay the most recent bill from OPM. Yesterday, DSS notified industry to begin submitting requests for initial investigations for secret clearances to ensure individuals requiring a clearance for employment are placed in the OPM processing queue. Based on present projections, the remaining $23 million will allow DSS to send to OPM for processing industry initial secret clearance requests through the end of June 2006.

DOD, with OMB approval, submitted a reprogramming request to Congress for $90 million yesterday to enable DSS to submit the remaining projected industry investigations through the end of fiscal year 2006.

The Deputy Under Secretary of Defense for Counterintelligence and Security, Mr. Andrews, has directed the following actions to address the systemic problems. The establishment within DSS of a Central Oversight Office to perform a variety of functions, to include: develop a process to link security investigation requirements and funding with current and future DOD contracts; monitor, initially on a daily basis, the industry investigation process and develop trip wires to reduce the probability of any need to impose a future suspension.

The DOD Comptroller will immediately begin work with DSS to develop new processes for DSS to use in preparing its budget submissions. DSS will continue to work with OPM so that the two organizations can identify and track investigations submitted to OPM for processing, as well as the associated funding.

Mr. Chairman, the Department's senior leadership is committed to correcting the systemic problems that have been identified in the personnel security process. The Department recognizes that inadequate oversight was a major contributor to the problem.

We are prepared to meet with the committee periodically to provide progress reports on our efforts to correct the problems identified.

Mr. Chairman, this concludes my statement.

[The prepared statement of Mr. Rogalski follows:]

STATEMENT OF

MR. ROBERT W. ROGALSKI

SPECIAL ASSISTANT TO THE
UNDER SECRETARY OF DEFENSE FOR INTELLIGENCE

BEFORE THE

COMMITTEE ON GOVERNMENT REFORM
U.S. HOUSE OF REPRESENTATIVES

ON

"LOW CLEARANCE: WHY DID THE DEPARTMENT OF DEFENSE SUDDENLY STOP PROCESSING PRIVATE SECTOR SECURITY CLEARANCES?"

MAY 17, 2006

NOT FOR PUBLIC RELEASE
PRIOR TO COMMITTEE APPROVAL

Introduction:

Mr. Chairman and Members of the Committee, I am pleased to appear before you today.

I am Rob Rogalski, Special Assistant to the Under Secretary of Defense for Intelligence. Prior to the appointment of Bob Andrews, I was the Acting Deputy Under Secretary of Defense for Counterintelligence and Security, under whose oversight the Defense Security Service (DSS) falls. I am joined by Ms. Janice Haith, Acting Director, DSS.

The Under Secretary of Defense for Intelligence asked me to lead a DoD team to diagnose what caused DSS to suspend industry investigations due to a funding shortfall.

The work we have done has uncovered a number of systemic problems associated with the industrial security process. We have identified immediate changes which I believe will help address those problems. In addition, I would like to share with this Committee, and others with an interest in Congress, the longer term changes we are proposing to place the industrial personnel security system on a firm foundation.

Background:

By way of background, the Department of Defense budgets and pays for the cost of security clearances for all DoD contractors and the contractors for 23 other Federal agencies. The Office of Personnel

Management (OPM) does the investigations, but DoD pays the cost of the investigations. DoD adjudicates the clearances.

On April 25th the Acting Director, DSS, directed the Defense Industrial Security Clearance Office (DISCO), which processes requests from industry for investigations, to cease submissions to the Office of Personnel Management (OPM) for two types of investigations, initial personnel security investigations and periodic reinvestigations.

- Initial personnel security investigations are conducted for individuals who do not have a personnel security clearance.
- Periodic reinvestigations are conducted for the purpose of updating previously completed background investigations at 5, 10, and 15 years for Top Secret, Secret, and Confidential clearances, respectively.

On April 28th DSS notified the industrial security community to stop sending requests for investigations to DISCO because DSS projected that it did not have sufficient funds available to pay OPM for additional investigations. DSS took this action to comply with the Anti-Deficiency Act. It cannot knowingly request investigations without available funding.

Let me stress that DSS did not direct OPM to stop work on any industrial investigations, initial or periodic, submitted prior to April 25, 2006. DSS has paid for all work submitted to OPM through April 25, 2006.

During FY06 and prior to April 25th, DSS submitted to OPM over 100,000 requests for industry investigations. Based on current projections, we anticipate submitting an additional 100,000 industry investigations for FY06.

Again, none of the more than 100,000 industrial investigations submitted by DSS to OPM prior to April 25th have been affected by DSS's action to suspend the submission of investigations after April 25th.

Let me turn to the effect of the suspension. We recognize there has been an impact on the industrial community, particularly those employees who are waiting for a clearance to begin work. DISCO receives approximately 4,000 requests for investigation per week from industry. Accordingly, there are approximately now 8,000 requests for investigation that have not been submitted by DSS to OPM since April 25th.

Of these 8,000 requests, approximately 2,400 are for periodic reinvestigations, meaning that these 2,400 people are still at work and are not adversely affected by the suspension. The remainder - 5,600 requests - is for new investigations. These are people who do not hold security clearances. The suspension by DSS has delayed the submission of these 5,600 requests to OPM for up to two weeks.

Diagnosis:

A number of factors contributed to the problem faced by DSS on April 25th.

- First, DSS did not adequately budget for the cost of industry investigations in FY06.
    - In October 2004, the Department signed an agreement with OPM to transfer the personnel security investigation function from DoD to OPM. As part of the agreement, DoD agreed to pay to OPM up to a 25% premium of the base cost of investigations to offset potential operating losses incurred by OPM. The DoD budget request, which was delivered to the Congress in February 2005, prior to OPM publication of its FY 2006 rates for DoD investigations, did not include funds to pay the premium to OPM.
    - Compounding this error, DSS underestimated the number of investigations it would have to pay for in FY06.
    - In addition, the DSS budget was reduced during Congressional deliberation on the FY06 budget.
    - DSS did not apprise industry of the reduction in funding, which could have reduced requests, nor did DSS appropriately manage the reduction, to ensure it could pay for industry investigations that DSS anticipated sending to OPM through the end of FY06.
- Second, when DoD transferred the personnel security function to OPM on February 20, 2005, DSS had 45,000 pending industry investigation requests.
    - DSS did not transfer these investigations to OPM because it was unable to complete the packages for transfer in a manner acceptable to OPM.

- DSS directed industry to resubmit many of these investigations. It appears a number of these investigations are being submitted during the period covered by the FY06 budget.
- DSS failed to track the status of these investigations and did not request funding for them in its FY06 budget submission.

The combination of the above factors, when set against DSS's projection of submissions for the remainder of FY06, resulted by April 2006, in a projected funding shortfall of $90M. Therefore, on April 25th, DSS suspended submitting industry investigations to OPM.

Immediate Steps:

Let me now address the immediate steps the Department has taken to address the suspension.

- DoD's Comptroller identified and provided to DSS $28M to enable the restart of industry investigations on a limited basis.
- On Monday, May 15th, DSS notified industry to begin submitting requests for initial investigations for SECRET clearances to ensure individuals requiring a clearance for employment are placed in the OPM processing queue. Based on present projections, the $28M will allow DSS to send to OPM for processing industry initial SECRET clearance requests through the end of June 2006.
- DoD, with OMB approval, submitted a reprogramming request to Congress for $90M on May 16, 2006, to enable DSS to

submit the remaining projected industry investigations through the end of FY06.

- Once the four Defense Congressional Committees approve the reprogramming, DSS will provide updated guidance to industry on submitting requests for investigations, to include initial Top Secret investigations, and periodic reinvestigations.

Long Term Solutions:

In order to prevent a recurrence of this situation, the Deputy Under Secretary of Defense for Counterintelligence and Security is directing the following actions over the longer term to address the systemic problems that have been identified.

- The establishment within DSS of a Central Oversight Office (COO) to perform the following functions:
  - Develop, in conjunction with DoD Components, affected Federal agencies, and industry, a process to link security investigation requirements (e.g., number, type, priority, etc.) and funding with current and future DoD contractual requirements.
  - Establish, in conjunction with DoD Components, affected Federal agencies, and industry, a system for prioritizing industry requests.
  - Validate the requirements for those investigations.
  - Monitor, initially on a daily basis, the industry investigation process and develop "trip wires" to reduce the probability of any need to impose a future suspension.

- o Establish a communications network among requesting DoD Components, affected Federal agencies, industry, DSS, and OPM to ensure all are working within established priorities and budget. This network will provide DSS and OPM transparency into each other's related activities and operations.

- The DoD Comptroller will immediately begin work with DSS to develop a new process for DSS to use in preparing its budget submissions.
- The DoD Comptroller will train DSS personnel on accounting processes for managing DSS's fiscal activity.
- DSS will continue to work with OPM so that the two organizations can identify and track investigations submitted to OPM for processing, as well as the associated funding.

Conclusion:

The Department's senior leadership is committed to correcting the systemic problems that have been identified in the personnel security process. The Department recognizes that inadequate oversight was a major contributor to this problem.

We are prepared to meet with the Committee periodically to provide progress reports on both our short-term and long-term efforts to correct the problems identified.

Mr. Chairman, this concludes my prepared remarks. We are available to answer any questions you may have.

Chairman TOM DAVIS. Thank you very much.
Ms. Dillaman.

STATEMENT OF KATHY L. DILLAMAN

Ms. DILLAMAN. Mr. Chairman, it is my privilege to testify today on behalf of the Office of Personnel Management to provide you with an update of the progress that has been made to improve the timeliness of the security clearance process and reduce the backlog of background investigations, as well as answer any questions you may have about OPM's role in processing security clearance investigations for the Department of Defense.

OPM's mission is to ensure the Federal Government has an effective civilian work force. To accomplish this mission, OPM provides background investigation products and services to agencies to make security clearance or suitability decisions on civilian, military, and contractor personnel.

At OPM, the division responsible for conducting background investigations is our Federal Investigative Services Division, headquartered in Boyers, PA. This division supports over 100 Federal agencies with thousands of security offices worldwide. Our automated processing systems and vast network of field investigators handle a high volume of cases. In fact, this year we expect to process over 1.7 million investigations.

Since February 2005, OPM has had responsibility for about 90 percent of all personnel background investigations for the Federal Government. Subsequently, the Office of Management and Budget formalized this by officially designating OPM as the lead investigative agency responsible for conducting investigations. We have been working closely with OMB and the major clearance granting agencies to meet the timeliness requirements of the Intelligence Reform and Terrorism Prevention Act of 2004. Last fall, when our performance improvement plan was released, it addressed four critical areas of the investigation and security clearance process: workload projections, timeliness and quality of agency submissions, timeliness of the investigations, and the adjudications process.

Since that time, I am happy to report that we have made great strides in improving overall timeliness and reducing the inventory of backlogged investigations.

OPM provides reports each quarter to OMB and the clearance granting agencies on the progress that has been made to meet the goals of the performance plan I referenced earlier. As an attachment to my testimony today, I am providing a chart which depicts the overall performance improvement trends for all agencies.

To staff the investigative program responsibly, we need agencies to work toward projecting their annual need within a margin of 5 percent. Overall, agencies' projections are within 17 percent of actual submissions this fiscal year. The Department of Defense, which represents 80 percent of the national security investigations, has exceeded their annual projections by 59 percent for the first half of the year. We have asked all agencies to re-evaluate the projections for the remainder of the year, and based on any adjustments provided, we may need to further increase our Federal and contractor staff to keep pace with demand.

The first step in improving the timeliness of the investigation and clearance process is timely and accurate submission of the subject's background information to OPM. The expanded use of the electronic Questionnaires for Investigations Processing [e-QIP] by submitting agencies has improved submission timeliness and lowered the rate of submission rejections because they contain inadequate or incomplete information.

OPM continues to make significant progress in reducing the amount of time it takes to complete the investigations as well. I have included a table in my written statement that demonstrates this progress. The improvement in timeliness can be attributed largely to our increased staffing and productivity by our field agents. Currently, we are maintaining a staff of over 8,600 employees and contractors devoted to the background investigations program. In addition, we began deploying field agents overseas in August 2005 and currently have more than 40 field agents working in more than 30 military installations around the world to handle international coverage requirements.

Although we have been able to reduce the number of overdue initial clearance investigations, our inventory of pending investigations is increasing because of the difficulty we have in obtaining information from some national, State, and local record providers. Working with OMB, Federal agencies that provide records have developed aggressive plans to improve their performance.

During the second quarter of this fiscal year, agencies reported their adjudication actions to OPM. They averaged 78 days to complete this action, with 9 percent done within the required 30 days of completion of the investigation. OPM is working with agencies to improve this time and to automate the process of returning investigations and reporting updating of their actions.

Mr. Chairman, when the Senate confirmed OPM Director Linda Springer last summer, I know she assured Members of Congress that our work on security clearance reforms would be one of her highest priorities. I am proud to have been given the opportunity to work closely with our Director and put my own 30 years of Federal experience in this area to work in order to meet the expectations Congress and the President have set on this critical issue.

That concludes my remarks. I would be happy to answer any questions.

[The prepared statement of Ms. Dillaman follows:]

Statement of

Kathy L. Dillaman
Associate Director for
Federal Investigative Services Division
U.S. Office of Personnel Management

Before the

Committee on Government Reform
U.S. House of Representatives

On

Low Clearance: Why Did the Department of Defense Suddenly Stop Processing Private Sector Security Clearances?

May 17, 2006

Mr. Chairman and members of the Committee, it is my privilege to testify today on behalf of the Office of Personnel Management (OPM) to provide you with an update of the progress that has been made to improve the timeliness of the security clearance process and reduce the backlog of background investigations.

Background

OPM's mission is to ensure the Federal Government has an effective civilian workforce. To accomplish this mission, OPM provides background investigation products and services to agencies to make security clearance or suitability decisions on civilian, as well as military and contractor personnel. OPM conducts different levels of investigations for various types of positions in the Federal Government. The investigations range from the minimum level of investigation for positions that require a Confidential or Secret clearance, to extensive field investigations for those that require a Top Secret clearance.

At OPM, the division responsible for conducting background investigations is our Federal Investigative Services Division (FISD), headquartered in Boyers, Pennsylvania. This division supports over 100 Federal agencies with thousands of security offices worldwide. Its automated processing systems and vast network of field investigators handle a high volume of cases. In fact, we expect to process over 1.7 million investigations this year.

Update on the investigation and security clearance process

Since February 20, 2005, OPM has had responsibility for about 90 percent of all personnel background investigations for the Federal government. Subsequently, the Office of Management and Budget (OMB) formalized this by officially designating OPM as the lead investigative agency responsible for conducting personnel security investigations. We have been working closely with OMB and the major clearance granting agencies to meet the timeliness requirements of the Intelligence Reform and Terrorism Protection Act of 2004. Last Fall, when our performance improvement plan was released, it addressed four critical areas of the investigation and security clearance process: workload projections, timeliness and quality of agency submissions of investigations, investigations timeliness, and adjudications timeliness.

Since that time, I am happy to report that we have made great strides in improving overall timeliness and reducing the inventory of cases, and we are continuing to work aggressively to resolve any issues that are hindering the background investigations process.

OPM provides reports each quarter to OMB and the clearance granting agencies on the progress that has been made to meet the goals of the performance plan I referenced earlier. The reports provide data in the four focus areas I described. As an attachment to my testimony today, I am providing a chart which depicts the overall performance improvement trends for all agencies.

Workload projections: To staff the investigative program responsibly, we need agencies to work toward projecting their annual need within a margin of 5%. Overall, agencies' projections are within 17% of actual work submitted. The Department of Defense, which represents over 80% of the required security clearance investigations, has exceeded its annual projections by 59% for the first half of the fiscal year. We have asked all agencies to re-evaluate their projections for the remainder of FY2006. Based on any adjustments provided, we may need to further increase our Federal and contractor staff levels to keep pace with demand.

Timeliness and quality of agency submissions of investigations: The first step in improving the timeliness of the investigation and security clearance process is timely and accurate submission of the subject's background information to OPM. The expanded use of the electronic Questionnaires for Investigations Processing (e-QIP) by submitting agencies has improved submission timeliness and lowered the rate of submissions OPM rejects because they contain incomplete or inconsistent information. In June 2005, we reported that 27 agencies were using e-QIP and over 17,000 investigations had been requested electronically. Currently, over 50 agencies are using e-QIP and over 221,000 investigations have been requested through this process.

In April 2006, submissions through e-QIP averaged 14 days while hardcopy submissions averaged 28 days. This is an improvement over the 35 to 55 calendar days reported in November 2005, and is in line with the recommended performance goal of all submissions within 14 days. In addition, the rejection rate is currently 9%, and we are confident this number can be reduced to the performance goal of less than 5% with the expanded use of e-QIP.

Investigations Timeliness: OPM continues to make significant progress in reducing the amount of time it takes to complete the investigations for initial security clearances. Timeliness for Single Scope Background Investigations (SBI), which support initial Top Secret clearances, averaged 284 days in June 2005. In April 2006, they averaged 171 days in process. Timeliness for those designated for Priority handling were reduced from 58 days in June to 53 days in April.

Timeliness for National Agency Checks with Law Check and Credit (NACLC) investigations that support a Secret or Confidential Clearance, averaged 163 days in June 2005. In April, they averaged 145 days. Timeliness for Priority requests for this level of investigation also decreased from an average of 95 days in June to 64 days in April.

Table 1

Case Type		June 2005	October 2005	April 2006
SBI's/Priority	Total	1,168	1,170	692
	Average Days	58	38	53
SBI's/All	Total	8,430	8,589	5,751
	Average Days	284	231	171
NACLC's/Priority	Total	827	908	922

Average Days	95	53	64
NACLC's/All Total	34,727	33,521	32,491
Average Days	163	134	145

The improvement in timeliness can be attributed largely to our increased staffing and productivity by our field agents. Currently, we are maintaining a staff level of over 8,600 employees devoted to the background investigations program. We expect our staffing level will reach over 9,000 by the end of this calendar year.

In addition, we began deploying field agents overseas in August 2005, and currently have more than 40 field agents working at more than 30 military installations around the world. The agents are working off the backlog of cases needing overseas coverage. We will continue to work with the Department of State and DoD to expand OPM's international presence overseas.

Although we have been able to reduce the number of overdue initial clearance investigations, our inventory of pending investigations is increasing because of the difficulty we have obtaining information from third-party record providers. The investigations cannot be closed complete until this third-party information is obtained. We continue to experience delays in obtaining information from some national, state, and local record providers. Working with OMB, Federal agencies that provide records have developed aggressive plans to improve their performance.

Adjudications Timeliness: During the second quarter of this fiscal year, agencies reported their adjudication actions to OPM on approximately 39% of their investigations. Of those reported, agencies averaged 78 days to adjudicate their investigations, with 9% done within 30 days of completion of the investigation. OPM is working with agencies to improve the time it takes to

deliver completed investigations and report their adjudicative actions. These efforts include electronically transmitting the completed investigation to the adjudications facility and linking an agency's in-house record system to OPM's data base for electronic updating of their actions.

Mr. Chairman, when the Senate confirmed OPM Director Linda Springer last summer, I know she assured Members of Congress that our work on security clearance reforms would be one of her highest priorities. I am proud to have been given the opportunity to work closely with our Director to put my own 30 years of Federal experience in this area to work in order to meet the expectations Congress and the President have set on this critical issue.

This concludes my remarks. I would be happy to answer any questions the Committee may have.

Summary of Performance Improvement Trends for All Agencies for May 2006

Agency: ALL

Agency Projections

Workload Projections	*Annual Projections*	*Prorated Quarterly*	*Prorated Monthly*	*Quarterly and Monthly Variance**					
				1st Qtr	Jan-06	Feb-06	Mar-06	**2nd Qtr**	Apr-06
				Includes all form types					
Total All Case Types	1,522,317	380,579	126,860	13%	14%	4%	36%	18%	12%
SBI's	90,000	22,500	7,500	5%	-7%	-19%	32%	2%	6%
NACLC/ANACI's	445,800	111,450	37,150	25%	22%	6%	54%	27%	26%
BI/LBI/MBI	31,015	7,754	2,585	-87%	-87%	-90%	-82%	-87%	-83%
SBI-PR's & PPR's	68,845	17,211	5,737	24%	16%	0%	83%	33%	34%
All Others	886,657	221,664	73,888	11%	16%	10%	29%	18%	7%

*Variance of (+) or (-) indicates the % above or below agency projections. 50% variance indicates 150% received above projections. Please note previous Versions of this report reflected variance of receipts against projections. Current & future versions will reflect the variance of scheduled cases against projections.

Submissions	*Goal*	*National Security Forms Only*					
		1st Qtr	Jan-06	Feb-06	Mar-06	**2nd Qtr**	Apr-06
Percent of investigations submitted using eQIP	*100%*	34%	37%	32%	47%	40%	42%
Submission Timeliness -- Hard Copy	*14 days*	42 days	31 days	27 days	26 days	28 days	29 days
Submission Timeliness -- eQIP	*14 days*	14 days	14 days	13 days	14 days	14 days	11 days
Deficient Submissions	*< 5%*	9%	10%	12%	6%	9%	6%

Adjudications	*Goal*	*National Security Investigations completed over 90 days ago*					
		1st Qtr	Jan-06	Feb-06	Mar-06	**2nd Qtr**	Apr-06
Action Notification Required		98,128	33,886	33,575	32,448	99,347	39,377
Actions Reported		38,525	12,255	8,462	4,390	37,768	13,490
Percent of Actions Reported		39%	36%	25%	14%	38%	34%
% Completed within 30 days	*80% w/i 30 days*	10%	10%	7%	7%	9%	8%

Chairman TOM DAVIS. Thank you.
Mr. Gimble.

STATEMENT OF THOMAS F. GIMBLE

Mr. GIMBLE. Mr. Chairman, thank you for the opportunity to appear before the committee today to discuss personnel security clearance program issues.

Since 1997, the DOD IG has issued 14 reports, including the April 2006 report on "DOD's Security Clearance Process at Requesting Activities." Cumulatively, these reports address the five phases of the personnel security clearance process. Although we have not focused specifically on fiscal issues, many of the issues that we have reported have fiscal ramifications. Also, our ongoing "Audit of Transition Expenditures for DOD Personnel Security Investigations for fiscal year 2005" will determine whether the expenditures for the transition of personnel security investigations from DSS to OPM were in accordance with the agreement and whether OPM's rate structure and adjustments for DOD investigations are reasonable. Working jointly with the OPM Inspector General, we anticipate issuing our report by August 2006.

Our reports have identified longstanding issues and made numerous recommendations that, if implemented, would lead to a more efficient and effective personnel security clearance program. GAO's findings have been consistent with ours. Unfortunately, the implementation of key recommendations has been slow and, as a result, longstanding issues remain uncorrected. I will discuss several longstanding issues.

In a 2002 report on "Security Clearance Investigative Priorities," we reported that DOD lacked a meaningful process for prioritizing security clearance requests. To date, our recommendation on prioritization remains outstanding, and timely completion of security clearances for mission-critical and high-risk positions is still very much an issue.

A 2001 report on the "Defense Clearance and Investigations Index Data base," the DCII, identified data integrity problems that included incomplete and obsolete data. The DCII has not been updated, but was still used to populate the Joint Personnel Adjudication System [JPAS]. The new system is the single, central record for investigative data. As a result, the data integrity problems are still an issue.

For nearly 10 years, we have reported the need to update the DOD Regulation 5200.2-R and DOD management has agreed. Yet, to this date, the action remains to be completed and needs to be given a higher priority.

A number of our reports, as well as GAO reports, have addressed the impact of increasing workloads on both personnel and fiscal resources. Our most recent audit report focused on the impediments to initiating security clearance requests at 26 DOD activities and substantiated many of the longstanding issues that I just discussed. The report found that the Under Secretary of Defense Intelligence Office responsible for DOD personnel security clearance program was understaffed, thus limiting the ability to issue DOD policy and provide assistance and oversight to the military services and defense agencies.

Security managers' workloads have grown significantly because of September 11th, the military deployments, the global war on terrorism, and increased use of sensitive classified technology. OPM has also returned about 20 to 25 percent of the investigation reports to the DOD activities because of inaccurate data.

DSS Liaison Office was established to assist the Under Secretary of Defense Intelligence with the oversight, communication, and transition to OPM. Its existence was not well-known to security managers at the requesting activities.

For almost a decade, our audits have highlighted serious flaws in DOD's security clearance process. DOD has taken steps to address some of the identified problems. But until systemic and growing problems receive DOD management attention, not much will change.

The personnel security program needs to have strong senior leadership focus at the OSD level to include oversight of DSS; a current integrated long-range strategic plan supported by resources and senior leadership involvement that will enable OSD to have visibility and oversight of the entire program to effect the necessary changes; a transparent process for DOD security personnel to understand the processes and resources and using the DSS Clearance Liaison Office and other communications tools; a better identification of personnel security clearance requirements that will assist both DOD and OPM in identifying the investigative and funding needs; an updated current version of DOD Regulation 5200.2-R.

In conclusion, regardless of whether the investigative function remains at OPM or DOD, these longstanding issues must be resolved to make meaningful progress in reducing backlog and ensuring a more effective and efficient end-to-end security clearance process which will contribute to a more fiscally sound program.

That concludes my statement.

[The prepared statement of Mr. Gimble follows:]

May 17, 2006

Hold for Release
Expected 1:00 p.m.

Statement
of
Mr. Thomas F. Gimble
Principal Deputy Inspector General
Department of Defense

before the

House Committee on Government Reform

on

"Department of Defense Personnel Security Clearance Process"

Mr. Chairman and Members of the House Committee on Government Reform:

Thank you for the opportunity to appear before the committee today to respond to your request to address how DSS can correct the current fiscal crisis and avoid similar scenarios in the future, as well as any insight we may have to ensure that the working relationship between DoD and OPM is as efficient and effective as possible.

Background

The Department of Defense (DoD) maintains approximately 2.5 million DoD-issued security clearances, of which approximately 34 percent are held by industry personnel. The personnel security clearance process has five phases, specifically, security clearance request, investigation, adjudication, appeals, and periodic reinvestigations. In FY 2005, DoD reported 329,000 pending security clearance investigations for DoD military, civilians, and contractors. Delays in completing personnel security clearances negatively impact the ability of both DoD and contractor personnel supporting DoD to do their jobs, many of which are mission critical.

In February 2005, DoD transferred the personnel security investigative function to the Office of Personnel Management (OPM) to improve the timeliness of investigations and to allow DoD to focus on core mission responsibilities. This transfer resulted in the DoD investigative function becoming approximately 80 percent of OPM's investigative workload. During the transition to OPM, as of April 2005, DoD estimated that OPM had returned approximately 20 to 25 percent of the DoD personnel security investigation requests for military and civilian personnel for reasons ranging from missing or outdated references, phone numbers, signatures, or zip codes. The rejections resulted in delays in both the processing and granting of security clearances for DoD military and civilian personnel.

Inspector General Reports

Since 1997, the DoDIG has issued 14 reports, including the most recent, Report No. D-2006-077, "DoD Security Clearance Process at Requesting Activities," April 19, 2006. Cumulatively, the reports address the five phases of the personnel security clearance process. Although the reports have not focused specifically on fiscal issues, many of the issues identified in the 14 reports ultimately have fiscal ramifications. In addition, we are currently performing the "Audit of Transition Expenditures for DoD Personnel Security Investigations for FY 2005," the objective of which is to determine whether expenditures for the transition of personnel security investigations from Defense Security Service (DSS) to OPM were in accordance with the October 16, 2004, Memorandum of Agreement between the Office of the Secretary of Defense (OSD) and OPM. The audit will also assess OPM's rate structure and adjustments for DoD investigations. The audit staff is working jointly with the OPM Inspector General. We anticipate issuing the final report by August 2006.

Our reports have identified longstanding issues and made numerous significant recommendations, that if implemented, could have a positive impact on creating a more efficient and effective personnel security clearance program as well as facilitate a cooperative working relationship between DoD and OPM. We have consistently coordinated our work with GAO, and our findings have been consistent with theirs. Specifically, previous reports have addressed the following: the need to prioritize clearances for mission critical and high-risk positions, data integrity of databases that house personnel security clearance information, policy, and the adequacy of resources. Unfortunately, progress on the implementation of key recommendations has been slow and, as a result, long standing issues remain uncorrected.

Prioritization

In April 2000, we issued Report No. D2001-136, "Security Clearance Investigative Priorities." The principal concern cited in that report was the lack of a

meaningful process for prioritizing the workload. We determined that investigative resources were generally applied on a first in, first out basis; consequently, clearance requests for important programs and higher risk positions often languished while investigators worked on routine cases. In the report, we recommended that the Department develop a comprehensive prioritization method and establish the process and metrics to ensure that investigations were expedited in accordance with the new priority system. Unfortunately, an effective prioritization process, as envisioned by our recommendation, has not come to fruition. The result is that, to this day, actions on key recommendations in that report remain outstanding, and timeliness in conducting security clearances for mission critical and high risk positions is still very much an issue.

Data Integrity

In Report No. D2001-136, "Defense Clearance and Investigations Index Database (DCII)," June 7, 2001, we reported that the data integrity of the database that was the single, automated central repository for investigative and adjudicative information lacked the necessary controls and procedures. As a result, the database includes incomplete and obsolete data. We recommended that the database be scrubbed and periodically reviewed for errors. Although management concurred, the DCII has not been updated. As of March 2, 2006, management has stated that the enhanced version of DCII will no longer contain adjudication or investigation results. However, the DCII was one of the systems used to populate the Joint Personnel Adjudication System (JPAS); a new system that was the single, central record for investigative data. Thus, the data integrity problems in DCII moved to JPAS and are still an issue.

Policy

In response to multiple prior OIG reports since 1997, the USD (I), or its predecessor, the Assistant Secretary of Defense (Command, Control, Communications, and Intelligence) [ASD C3I], agreed to update DoD Regulation 5200.2-R, "Personnel Security Program," January 1987 (Change 3 issued February 1996), however, as yet an

updated DoD Regulation 5200.2-R has not been issued. For example, in response to our audit Report No. 97-196, "Personnel Security in DoD," the ASD C3I stated that the regulation was being updated for expected issuance in September 1997. In response to Report No. 98-124, DoD Adjudication Program," ASD C3I expected to issue an update in early 1998. And in November 1998, the ASD C3I stated that the uniform Adjudicative Guidelines and Temporary Eligibility Standards and Investigative Standards, signed by the President in March 1997, would be incorporated into DoD Regulation 5200.2-R no later than January 2000. In response to Report No. 2001-065, "DoD Adjudication of Contractor Security Clearances Granted by the Defense Security Service," February 2001, ASD C3I stated that the regulation would be revised by 2001. Given that the guidance continued to be outdated, we recommended that interim guidance be issued. However, again in Report No. 04-INTEL-05, "Security Clearance Adjudication Functions Contracted Out by DoD," March 2004, we recommended, this time, that the USD (I) update and issue DoD Regulation 5200.2-R. And finally, our latest report made the same recommendation and USD (I) agreed stating that a draft would be staffed in July 2006 with final publication in summer 2007. Given the criticality of the personnel security clearance issues, it is imperative that the release of DoD Regulation 5200.2-R be expedited, sooner than the scheduled summer 2007 release, to reflect the substantial changes in the personnel security clearance process including the transfer of major functions to OPM.

Resources

A number of our reports addressed the impact of increasing workloads which affect both personnel and fiscal resources. For example, in Report No. D-2001-008, "Resources of DoD Adjudication Facilities," October 2000, we recommended that the specific Services and DoD agencies provide the resources required for the central adjudication facilities to adjudicate and process the appeals for the projected security requests. All agencies concurred. However, as of March 2004, when we issued Report No. 04-INTEL-05, "Security Clearance Adjudication Facilities Contracted Out by the

Department of Defense," only the Washington Headquarters Services had adequately resourced the central adjudication facility. At that time, the Navy Central Adjudication Facility was contracting out adjudication support services that had previously been treated as inherently governmental. This matter is still in ongoing negotiations between the DoD Office of General Counsel and USD (I). GAO also recommended in Report No. 04-344, "DoD Personnel Clearances: DoD Needs to Overcome Impediments to Eliminating Backlog and Determining Its Size," February 2004, that DoD identify and implement steps to match the sizes of the investigative and adjudicative workforces to the clearance request workload.

Recent Audit of DoD Security Clearance Process

Our most recent audit report "DoD Security Clearance Process at Requesting Activities" (D-2006-077) focused on impediments to initiating security clearance requests at 26 DoD activities including those from the Military Services and DoD agencies, in locations throughout the United States and 6 locations in Germany. The audit did not address the process for contractor applications for personnel security clearances.

Our audit identified difficulties at all 26 requesting activities, several of which are longstanding issues I just discussed, specifically, data integrity, resources, and policy and guidance. In addition, the recent report also identified issues regarding increased workloads and training needs. Some impediments were internal to DoD, while others specifically related to the transition to OPM.

Security managers at 16 of the 26 requesting activities stated that JPAS contained incomplete or inaccurate data on military and civilian employees including multiple personnel with the same social security number, one person with multiple social security numbers, or information still in the system on personnel that were deceased or separated from Government service. As already discussed, we identified similar data integrity

issues in the DCII, which was used to populate JPAS. Tandem systems ranging from simple Microsoft Excel spreadsheets to more elaborate systems were maintained by 20 of the 26 activities because of JPAS data integrity issues, lack of timely updates to JPAS data, and the inability to correct data themselves.

The report also addressed weaknesses in resourcing and policy. Within USD (I), only one or two people have been responsible for the DoD-wide personnel security clearance program, since we began auditing the personnel security clearance program in 1997. In this case, insufficient staffing severely limited that office's ability to perform its responsibilities to issue DoD-level policy for the personnel security clearance program, and to provide assistance and oversight to the Services and Defense agencies on operating problems and compliance with policy through inspections. As a result, DoD Regulation 5200.2-R, as previously stated, has not been reissued since 1987. Consequently, Service and Defense agency-level policies had not been updated since as far back at 1988, and many DoD Component-level policies have ended up with outdated or incomplete information on key elements of the personnel security clearance process including training, program management, and investigative responsibilities.

In addition to recurring issues identified in both recent and prior reports, the recent report identified that a lack of experience or training, coupled with high turnover, impeded security personnel at the 26 activities from performing their duties effectively. Security personnel ranged from full-time experienced security managers with staffs to personnel performing security duties as collateral duties, in some cases with limited or no training. Where personnel security clearance duties were performed by military, the turnover was even greater because of rotations and deployments. Security managers at 11 of the 26 activities stated they had not attended personnel security clearance training because of limited staffing, lack of training funds, and a lack of defined training requirements.

The recent audit also reported that security managers were experiencing an increase in the number of security clearance requests being initiated for multiple reasons. For example, Executive Order 13292, dated March 2003, expanded the definition of what constituted classified information subsequent to September 11 and the functions requiring clearances related to the Global War on Terrorism, including logistics support, facilities, and infrastructures. Security managers also cited the increase in military operations and deployments since September 11, 2001, as well as the sensitive technology that military personnel now use that has significantly impacted the number of personnel requiring access to classified information. As a result, for example, one location cited an increase from a workload of 5 clearances in FY 2001 to 75 in FY 2003.

Our current report also addressed impediments to an effective and efficient personnel security clearance program regarding OPM. Security managers continued to receive rejected security clearance requests from OPM because of inaccurate data. In some cases, security managers received rejects of the same request multiple times suggesting that the entire form wasn't reviewed for errors before it was originally returned to the requestor. DoD estimated that OPM rejected about 20 to 25 percent of requests as of April 2005.

In June 2005, to assist the USD (I) with oversight, planning, communication, the transition to OPM, and coordination for overseas interviews, DSS established a seven-person DSS Clearance Liaison Office. Unfortunately, however, security personnel at activities we visited had limited, if any, knowledge of the establishment, its responsibilities, or points of contact at the Clearance Liaison Office. Requesting activities in Germany stated that OPM ceased conducting overseas interviews from March through September 2005 or once the overseas investigations resumed, the security offices received only a day's notice of OPM's arrival. One security office, responsible for personnel in more than 90 countries, received only a one day notice to locate personnel for interviews with OPM investigators. This occurred according to security

officials, because no one had informed them of the change to procedures for overseas investigations under OPM. Establishment of the DSS Clearance Liaison Office was an excellent concept to trouble shoot and to assist in the transition to OPM, but if no one is aware of it, its value is limited.

Opportunities for Program Improvement

For almost a decade our audits have continued to highlight serious flaws in DoD's personnel security clearance process. GAO has reported the same. And with a growing demand for clearances for both DoD and contractor employees, including many that are mission critical, the issues will only increase. DoD has taken some steps to address identified problems. Regardless of whether the program is under DoD or OPM, continued progress in addressing systemic problems will not be made without the focused and sustained attention of DoD management.

Perhaps, most importantly, the personnel security clearance program needs strong managerial leadership at the OSD level to include oversight of DSS. DoD needs a current integrated long-range strategic plan with sufficient resources and senior management support to enable OSD to have the visibility and oversight of the entire program to effect necessary changes. Once adequately staffed, that office can better accomplish its oversight responsibility. Strong senior leadership focus is essential to addressing and correcting longstanding issues relating to prioritization, data integrity, policy, and resources, as well as providing efficient management and oversight of an increasingly complex program, and effectively coordinating with OPM.

In addition, DoD, in coordination with OPM, needs to create a transparent process so that the thousands of security personnel responsible for facilitating the process understand the processes, responsibilities, sources for guidance, resources for problem resolution, and vehicles for feedback and dialogue between all parties concerned.

We also believe that DoD needs to anticipate personnel security clearance requirements to assist both DoD and OPM in identifying investigative and funding needs. Since DoD is 80 percent of OPM's workload, an increase in DoD's requirements will greatly impact OPM's ability to timely process requests. Outlining these requirements is a necessary precursor to managing workloads, resource needs, and fiscal needs at either DoD or OPM. In DoD's FY 2005 Annual Statement of Assurance, as required under the Federal Managers Financial Integrity Act of 1982, the USD (I) stated that it will accurately track the number of investigations, cost, and other data for workload projections through improvements in JPAS. Such information should greatly assist in anticipating financial and resource needs.

Finally, the USD (I) also needs to improve communications throughout the DoD personnel security clearance community. This can be accomplished by timely issuing DoD Regulation 5200.2-R to communicate standard processes and policies and to reflect updates given the many changes since the last policy that was issued almost 20 years ago in 1987. In some cases, the Military Services and DoD agencies are delaying publication of their implementing policies awaiting the OSD-level policy, thus guidance is inconsistent at best. The recently established DSS Clearance Liaison Office can be a critical tool in this process to improve communications between DoD and OPM and within DoD. But to be viable and effective, its role and responsibilities must be well known and accessible.

Conclusion

In conclusion, our audits have highlighted significant flaws in DoD's personnel security clearance process, but many key recommendations to address these persistent deficiencies remain unimplemented. Regardless of whether the investigative function remains at OPM or DoD, these longstanding issues must be resolved to make any meaningful progress in reducing the backlog and ensuring a more effective and efficient

end-to-end security clearance process. Resolution of these systemic problems should also contribute to a more fiscally sound program.

This concludes my statement and I would be happy to answer any questions you may have.

GAO AND DOD INSPECTOR GENERAL RELEVANT COVERAGE OF THE DOD SECURITY CLEARANCE PROCESS

Prior Audit Coverage

GAO

GAO Report No. GAO-06-233T, "DoD Personnel Clearances: Government Plan Addresses Some Long-standing Problems with DoD's Program, But Concerns Remain," November 9, 2005

GAO Report No. GAO-05-842T, "DoD Personnel Clearances: Some Progress Has Been Made but Hurdles Remain to Overcome the Challenges that Led to GAO's High-Risk Designation," June 28, 2005

GAO Report No. GAO-04-202T, "DoD Personnel Clearances: Preliminary Observations Related to Backlogs and Delays in Determining Security Clearance Eligibility for Industry Personnel," May 6, 2004

GAO Report No. GAO-04-632, "Additional Steps Can Be Taken to Reduce Backlogs and Delays in Determining Security Clearance Eligibility for Industry Personnel," May 2004

GAO Report No. GAO-04-344, "DoD Personnel Clearances: DoD Needs to Overcome Impediments to Eliminating Backlog and Determining Its Size," February 2004
GAO Report No. GAO-01-465, "More Consistency Needed in Determining Eligibility for Top Secret Clearances," April 2001

GAO Report No. GAO/T-NSIAD-00-246, "DoD Personnel: More Accurate Estimate of Overdue Security Clearance Reinvestigation Is Needed," September 20, 2000

GAO Report No. NSIAD-00215, "DoD Personnel: More Actions Needed to Address Backlog of Security Clearance Reinvestigations," August 24, 2000

GAO Report GAO/T-NSIAD-00-148, "DoD Personnel: Weaknesses in Security Investigation Program Are Being Addressed," April 6, 2000

GAO Report GAO/T-NSIAD-00-65, "DoD Personnel: Inadequate Personnel Security Investigations Pose National Security Risks," February 16, 2000

GAO Report No. NSIAD-0012, "DoD Personnel: Inadequate Personnel Security Investigations Pose National Security Risks," October 27, 1999

DoD Office of Inspector General

DoD IG Report No. D-2006-077, "DoD Security Clearance Process at Requesting Activities," April 19, 2006

DoD IG Report No. 04-INTEL-05, "Security Clearance Adjudication Functions Contracted Out by the Department of Defense," March 31, 2004

DoD IG Report No. 04-INTEL-02, "DoD Security Clearance Adjudication and Appeal Process," December 12, 2003

DoD IG Report No. D-2003-112, "Homeland Security: Contracting Practices of the Defense Security Service for Personnel Security Investigations," June 27, 2003 (FOR OFFICIAL USE ONLY)

DoD IG Report No. D-2001-136, "Defense Clearance and Investigations Index Database," June 7, 2001

DoD IG Report No. D-2001-112, "Acquisition of the Joint Personnel Adjudication System," May 5, 2001

DoD IG Report No. D-2001-065, "DoD Adjudication of Contractor Security Clearances Granted by the Defense Security Service," February 28, 2001

DoD IG Report No. D-2001-019, "Program Management of the Defense Security Service Case Control Management System," December 15, 2000

DoD IG Report No. D-2001-008, "Resources of DoD Adjudication Facilities," October 30, 2000

DoD IG Report No. D-2000-134, "Tracking Security Clearance Requests," May 30, 2000

DoD IG Report No. D-2000-111, "Security Clearance Investigative Priorities," April 5, 2000

DoD IG Report No. D-2000-072, "Expediting Security Clearance Background Investigations for Three Special Access Programs" (U), January 31, 2000 (SECRET)

DoD IG Report No. 98-124, "Department of Defense Adjudication Program," April 27, 1998

DoD IG Report No. 98-167, "Access Reciprocity Between DoD Special Access Programs," February 10, 1998 (CONFIDENTIAL)

Ongoing Audit Projects

GAO

"Quality of DoD's and OPM's Security Clearance Process for Contractor Personnel," GAO Code 350734, August 10, 2005

DoD Office of Inspector General

"Audit of Transition Expenditures for DoD Personnel Security Investigations for FY 2005," Project No. D2006-D000FB-0065.000, November 16, 2005

Chairman TOM DAVIS. Thank you very much.

Mr. Rogalski, let me start with you. In your testimony, you state that one of the factors leading to the $90 million shortfall at DSS in fiscal year 2006 was that at time DOD submitted its budget request in February 2005, DOD did not request funds to cover the 25-percent premium that DOD agreed to pay OPM in the Memorandum of Understanding that was signed in October 2004.

Considering that the Memorandum of Understanding clearly established that OPM could charge DSS at the rates it had been charging, which was a known quantity, and that it could charge up to a 25-percent premium on top of that figure, also a known quantity, why was DOD unable to estimate the amount of money it would need to cover what it would owe OPM?

Mr. ROGALSKI. First of all, I might have to take part of this as a question for the record because that is a DOD Comptroller answer. But let me give you what I understand from what the DOD Comptroller told us.

It is clear that in the MOA between DOD and OPM it does say that OPM may charge up to a 25-percent premium for the conduct of investigations. Our understanding from the Comptroller is it is very difficult to forecast a budget when you have a term such as "may" in there. So that is why, on the advice of the Comptroller, we went in with our initial request, again, looking to having make some budget adjustments once that surcharge, once that premium was imposed on DOD, and we did not do that.

Chairman TOM DAVIS. So they looked at "may" as a possibility and not——

Mr. ROGALSKI. That is correct.

Chairman TOM DAVIS [continuing]. As a ceiling in budget.

Mr. ROGALSKI. Yes, sir.

Chairman TOM DAVIS. Live and learn, I guess.

Why did I read about this in the paper? Why didn't DOD notify Congress that they were about to run out of money? I mean, you know what the congressional interest in this has been. Do you know the answer to that? Or maybe Mr. Andrews—can somebody tell us why?

Mr. ROGALSKI. Very candidly, it was a mistake on our part. We should have notified you prior to the announcement being made in the press. We should have notified you first.

Chairman TOM DAVIS. It was a shock to me.

Mr. Andrews, do you have any comment on that?

Mr. ANDREWS. I was as shocked as my boss was, Mr. Chairman.

Chairman TOM DAVIS. Mr. Johnson, one of the reasons cited by DOD is the 25 percent per investigation that they have to pay to OPM. GAO has reported that DOD and OPM approached Office of Management and Budget seeking arbitration of this matter, but that OPM directed the agencies to continue to negotiate.

Why did you decline to mediate at the time? Did you think it could——

Mr. ANDREWS. We have never declined. In fact, we were told by DOD and OPM that they would come to us when it was the appropriate time. But they were still working through the issues and making good progress.

Chairman TOM DAVIS. Well, let me ask this question: Were you as surprised as we were when they came out with this announcement?

Mr. ANDREWS. Yes.

Chairman TOM DAVIS. So they did not check with you either.

Mr. ANDREWS. No. No. Let me comment also.

Chairman TOM DAVIS. Yes.

Mr. ANDREWS. Two things were going on here: their estimate of volume was off by 50 percent, and their estimate of unit price was off by 25 percent. The bigger of the two shortcomings is the volume estimate, but in both cases, as I understand from my conversation with Bob, they had the information to identify this and forecast this problem earlier in the year. And as they said to me and to themselves and to their bosses and we are saying to you today, they did not do what they needed to do when they needed to do it.

Chairman TOM DAVIS. Well, I would like to hear from DOD and OPM. If you both accept the need for the premium, as well as about the assumption underlying it and the empirical base that they use to support it now, we have a year's worth of data now on the costs involved in the clearance investigation process. I would just like to get both of your views on it.

Mr. ROGALSKI. Let me address the premium issue. It is correct that we did ask OMB to mediate that, but we did agree that our respective staffs, the DOD and OPM staffs, would meet to look at the premium issue.

On May 5th, DOD did have a meeting with OPM, and we were again advised that the premium would remain for the rest of the fiscal year. Again, that was a business decision the Department made when the MOA was signed. We did agree to that. And, again, we did not adequately budget for that premium increase from OPM.

Chairman TOM DAVIS. Not only did Congress NOT get notified, but I guess the Office of Management and Budget was a little taken by surprise, too, by your announcement.

Mr. ROGALSKI. That is correct.

Chairman TOM DAVIS. Ms. Dillaman.

Ms. DILLAMAN. Yes, Mr. Chairman. First, OPM's investigations program is totally a revolving fund program, fee-for-service program, unlike when DOD handled the background investigations. We must recover all costs, full cost recovery in our process.

When we negotiated the Memorandum of Understanding, we had concerns in three areas: The transferring staff, if they would be able to cover their payroll; we inherited about a $10 million a month payroll. Also, we needed to double our contracting capacity to handle the additional workloads. And there were several infrastructure issues that had yet to be resolved.

We have provided all of our financial statements to DOD, and they clearly demonstrated the need for the premium. The first quarter after transfer, we went into the red. By the end of the year last year, we broke even, and for this first quarter of this year, we have a slight margin. All of that information has been provided. We fully expect, barring any unforeseen circumstances, that we may be able to eliminate the premium as soon as the end of this

fiscal year, but there still lurk some variables that will have to be considered.

Chairman TOM DAVIS. Well, let me just say this: On behalf of everybody who is out there—the companies that are involved, the people that are involved, the American taxpayers, who are really getting the short end of this—when the agencies look narrowly at your focus and your budgets and you make those decisions based on—you know, whatever, the Anti-Difficult Act or whatever—you just jack up the cost that everybody is paying for these services. It ends up costing the governmental entity money over the long term. Your budget may be covered. And we just rely on everybody to not just look at the narrow piece of paper and the regulations that are operating, but at the mission as a whole, and to make sure that we are complying with that mission. And in this case, the mission has been clear for a couple years. We have a huge backlog that did not exist in 2001, and it is backlogged there, and now this action makes it worse over the short term. Then we get everybody up here, and—I mean, that is the concern, is that nobody seems to worry about the mission. Everybody is just worried about their bureaucratic niche and violating this act or that act or meeting their budget, and we forget about the taxpayers and why we are in Government.

Yes, go ahead.

Mr. JOHNSON. The distinguished characteristic, I believe, of the efforts by the six large security clearance granting agencies is their commitment to fix this. You would be very proud of the level of commitment by all the agencies and OPM to fix this and the time and attention that is going into this. We are not where we want to be. We are better than we have been. And there is a lot of looking at the big picture and not much looking at our budgets and so forth. So I——

Chairman TOM DAVIS. But that is what caused the announcement in this case.

Mr. JOHNSON. Well, there was oversight, as I heard it reported, and that Bob was not then—was not notified. His boss was not identified. We were not identified that this was happening. And this could have been identified and forecasted several months prior. Error.

Chairman TOM DAVIS. That is what I am referring to.

Mr. JOHNSON. But two-thirds of the problem, their budget problem, the reason they ran out of money mid-year, two-thirds of the reason is their volume of clearances was 50-plus-percent higher than they thought. Only one-third of the problem is not budgeting for the increased rate.

Chairman TOM DAVIS. I understand. Look, one of the outcomes of the security language that was included in the intelligence reform legislation of 2004 was Executive Order 13381, which designates OMB as the oversight authority for clearance policy. I want to congratulate you personally, Clay, for your hard work in bringing together all the stakeholders, developing a plan to reduce the backlogs, and enforce reciprocity agreements.

However, this Executive order expires in July of this year, and in light of the recent situation at DSS, it seems apparent that there continues to be a need for high-level oversight at your level of this.

Do you anticipate there being a continued oversight role for OMB and maybe the Executive order being extended?

Mr. JOHNSON. There will be continued oversight. I think eventually the oversight for the proper activities of the security clearance part of the Government will fall to DNI. When they are ready to take on that oversight, it will pass to them, and we are in conversations with the DNI to determine whether they are ready now or they would recommend that OMB continue in the oversight capacity. But there will continue to be oversight on this process.

Chairman TOM DAVIS. But it may not come in the form of an Executive order.

Mr. JOHNSON. We will issue another Executive order.

Chairman TOM DAVIS. OK. I have more questions, but I will yield to Mr. Waxman.

Mr. WAXMAN. Thank you, Mr. Chairman.

Ms. Haith and Ms. Dillaman, you are both Directors of the two primary Federal agencies that conduct background investigations for security clearances. Your agencies conduct initial investigations as well as periodic reinvestigations. I would like to ask you about the process for reinvestigations, if I may.

I have here the adjudicative guidelines for determining eligibility for access to classified information, which were approved by President Bush on December 29, 2005. These apply explicitly to "persons being considered for continued eligibility for access to classified information."

Ms. Haith, to take a hypothetical example, when you are reinvestigating a Government employee's background, Section 34 of the President's guidelines says you are supposed to examine incidents in which an employee has engaged in a "deliberate or negligent disclosure of classified or other protected information to unauthorized persons, including, but not limited to, the media." The President's guidelines say this is a serious security concern. Would you agree?

Ms. HAITH. Yes, sir, I would agree.

Mr. WAXMAN. And it would be especially pertinent if it happened on several occasions. Is that right?

Ms. HAITH. Yes.

Mr. WAXMAN. Ms. Dillaman, the President's guidelines refer to both intentional and negligent handling of classified information. So we are not just concerned about intentional leaks. We are also concerned with Government officials who are negligent in the way they handle classified information. Is that right?

Ms. DILLAMAN. Yes, sir.

Mr. WAXMAN. So reinvestigations for security clearances are really very different from criminal investigations. We are not looking for intentional actions, prove beyond a reasonable doubt. We are looking for any activity that bears on a person's honesty and integrity. Is that correct?

Ms. DILLAMAN. And their continued eligibility to have a security clearance, yes, sir.

Mr. WAXMAN. Finally, Ms. Haith, Section 2(e) of the President's guidelines say that when a security concern becomes known about someone who already has a clearance, it is important to determine whether the person voluntarily reported the information and was truthful and complete in responding to questions. So, in your opin-

ion, if an agency employee lies to the head of the agency about improper disclosures, would that be relevant to whether that employee should continue to have access to classified information in the future?

Ms. HAITH. Yes, sir it would be relevant. However, there is a due process requirement, and we would have to implement the due process according to the law.

Mr. WAXMAN. I thank you for that answer.

I did not get specific about a particular case, but the information you provided raises serious questions about why Karl Rove retains his security clearance today. Reports indicate that he leaked classified information, the identity of a CIA operative. Reports also indicate that he did so on more than one occasion. It appears that he tried to cover it up by telling the White House Press Secretary that he was not involved. It appears he may have also lied to President Bush himself.

Given the President's own guidelines, can either of you tell me why Karl Rove still has a security clearance?

Ms. HAITH. Sir, he is not a DOD employee. I cannot comment on that.

Mr. WAXMAN. Ms. Dillaman.

Ms. DILLAMAN. Nor can I, sir. My agency conducts the background investigations. The adjudications for clearances are handled by the clearance granting agency.

Mr. WAXMAN. Let me ask you this: Karl Rove came into the White House with President Bush in January 2001. If he applied for a security clearance at that time, he would have received an interim clearance while his background was being investigated. He was then granted a final security clearance most likely at some point in 2001. That means that this year, 2006, he should be scheduled for his 5-year reinvestigation. Is either of your offices conducting this reinvestigation?

Ms. HAITH. DSS is not conducting any investigation.

Mr. WAXMAN. Ms. Dillaman.

Ms. DILLAMAN. I have no idea, sir.

Mr. WAXMAN. OK. Can you tell us who conducts this periodic investigation for White House staff? Who is the official we need to talk to about this issue?

Ms. DILLAMAN. Sir, I need to get back to you with an answer on that. I believe those investigations are conducted by the FBI, but I cannot confirm that now.

Mr. JOHNSON. Congressman.

Mr. WAXMAN. Anybody on the panel? Yes?

Mr. JOHNSON. You need to contact the White House. Counsel's Office is in charge of—they have a Security Office in the White House, and they would be responsible for the 5-year reinvestigations. And I believe it is true that the FBI does the background checks.

Mr. WAXMAN. They do the background check, but the——

Mr. JOHNSON. Adjudication is done by the Security Office and the White House Counsel's Office.

Mr. WAXMAN. OK. Well, I will just conclude by noting that right now it looks like the White House is ignoring the President's own guidelines while they wait for the outcome of a criminal investiga-

tion. But as these experts here today have testified, that is not the case that is supposed to—that is not the way it is supposed to work. The White House is supposed to halt access to classified information and investigate the breach. You lose your classification status and then you see if there is anything wrong that has been done criminally. It seems like it has been reverse with Karl Rove. They refuse to stop his access to classified information while there is a criminal investigation going on.

The White House is supposed to halt the access to classified information and investigate the breach. And, Mr. Chairman, I think the committee should investigate how this process works at the White House and who is in charge over there, and I would like to ask if you would consider joining my request for a White House briefing on these matters.

Chairman TOM DAVIS. Well, I think that is not a discussion I am going to have out here with you, Mr. Waxman, but I will certainly be happy to talk to you about this.

Mr. WAXMAN. Well, Mr. Chairman, as we look at this access to classified information, I think we need to look at this matter very, very carefully. Some of us have already reviewed the CIA's concern about what the disclosure of Valerie Plame meant to the CIA itself, the operatives that work for it, and we could easily guess what the impact has been on our classified information, whether people can trust that classified information is going to be kept secret and not jeopardize those about whom the classified information may be about.

So I will close my questions with that point and will look forward to further discussions.

Chairman TOM DAVIS. Thank you, Mr. Waxman.

I have a few more questions. I would like to hear from both OPM and DOD how they go about projecting annual requests, how accurate these estimates have been in the past, and why DOD was so off of its estimates for this year. I know there are lot of moving parts in this, but let's just see if you can help me on that.

Let me start with OPM. Ms. Dillaman.

Ms. DILLAMAN. Yes, sir. Each year, OPM does a data call for all agencies asking for projections for the following fiscal year. We contrast those projections with our own records of what has been received in the past and work with agencies if there seems to be a significant difference between what we actually received the prior year and what is projected for the next year.

This year, early, before this fiscal year started, every agency provided those projections. We are in the mid-year point now, and we are asking agencies to revalidate those projections to see if adjustments are needed.

Chairman TOM DAVIS. OK.

Mr. ROGALSKI. DOD has always had a challenge in making these projections, and we certainly want to get our fidelity in making these projections down much clearer.

There are two dynamics in the Department of Defense: one is the projection we get from the military departments on their projections, and then the projections for industry. Let me address the military departments first.

What we are seeing in the Department of Defense is increased access and expanded sharing of classified information to the warfighter. So by getting more classified information to the warfighter in the field, we have seen an increase across the board to increase the number of security clearances. Although both the Marine Corps and the Army are both looking to try to declassify information as much as possible, but today we are getting more information to the warfighter; hence, that has increased the need for security clearances.

Additionally, we have extended intelligence community networks in the field. Those further require clearances. And we are seeing a greater percentage of clearances for our top secret information as well. So those dynamics have increased to the overall projections from the military departments.

Annually, we go out to industry and ask them to project their projected workload, and industry numbers are actually pretty accurate. For this year, we just did not adequately plan for the increased workload for those cases being resubmitted. We are working in the Department. Air Force has a good model. We are looking at that as a way to be applied through DOD. We asked for the military departments and the rest of the Department last week—we got their input last week to develop a strategy to better forecast data. But we realize this is an area the Department must improve upon to get better fidelity in our projections so we can provide OPM the data they need to manage workload.

Chairman TOM DAVIS. There are a lot of moving parts in the personnel security process. You have DOD adjudicators. You have OPM investigators, both Federal and under contract, and private sector requesters. What I am getting at is it would seem a necessity that the guidelines for this process be up-to-date and accessible to everybody. But my reading is that the DOD—and the DOD IG has reported that the key DOD guidance, which is Regulation 5200.2-R, hasn't been updated for almost a decade, even though recommendations from the IG are that it be reviewed. Similarly, the OPM investigator's manual has been in draft for some years now.

What is DOD doing to update the necessary guidance? And when will that be complete? And what are OPM's plans for finalizing the investigator's manual? And has this manual been made accessible to all those in the process, such as DOD adjudicators who need it? I will start with DOD.

Mr. ROGALSKI. Mr. Chairman, the base document, that is correct, is dated 1987. DOD has issued three changes to the base document, with the latest being February 1996, and additionally we have issued an interim policy guidance memorandum since then. So even the absence of that base policy, we meet regularly with the DOD security community. Our Acting Director of Security chairs the DOD's Security Directors Group, with the Security Directors from the military departments, defense agencies, combat and commands. We put out guidance with that forum. People can access in the community the Defense Security Service Web site.

So we do keep the DOD security community advised of policy changes. We are going to get out a draft coordination of the 5200.2-R, the DOD personnel security regulation in draft, by July 2006.

Chairman TOM DAVIS. Do you want me to ask my question again?

Ms. DILLAMAN. No. I am fine, sir.

Chairman TOM DAVIS. OK.

Ms. DILLAMAN. OPM's investigator handbook has been shared with the adjudication community consistently. In 2004, a year before the merger of DSS and OPM, we shared the investigator's handbook with all of DOD because they began processing their investigations using our handbook. We then started working closely with DOD to come to some agreement on some common investigative interpretations of standards and come up with one community handbook.

In 2005, a second draft was published. It was shared with DOD, and we have been working since then with educational text writers to improve the format of it.

Recently, the final draft went to all of the community stakeholders for review, and we do anticipate a final handbook to be issued later this year.

You should keep in mind, however, that things do constantly change and amendments need to be added. As new laws are passed or new investigative practices are incorporated, we need to keep amending that handbook to keep it up-to-date.

Chairman TOM DAVIS. So is it going to be perpetually in draft, or are you going to——

Ms. DILLAMAN. No, sir. There will be a final, but immediately after the final, we will start on improving.

Chairman TOM DAVIS. I got you.

Let me ask you, Mr. Gimble, what role does the Joint Personnel Adjudication System [JPAS], play in the single data base requirement? What is being done to eliminate the IT stovepipes instead of a truly unified clearance data base?

Mr. GIMBLE. Within the Department, it is the central repository, replacing what was known as the DCII. As I understand it—and I do not have any current work on this, but as I understand it, it will be the central data base within the Department of Defense. The challenge is to make it interface with the OPM system to where you can have a true back-and-forth download and upload and avoid the manual——

Chairman TOM DAVIS. How close are we to making that happen?

Mr. GIMBLE. That I would have to defer and get back to you on that. I think it is a challenge that is going to take a lot of work to get there. I do not have a timeframe as to when you would expect it to be there.

Chairman TOM DAVIS. OK. Ms. Dillaman, you testified that OPM's inventory of so-called closed pending cases has been increasing because of the difficulty OPM faces in obtaining third-party information necessary to complete investigations.

Ms. DILLAMAN. Yes, sir.

Chairman TOM DAVIS. But it seems that OPM is simply providing agencies with incomplete investigations after charging for the full cost of a completed product.

Ms. DILLAMAN. First of all, sir, if I advance information to an agency, that file is open with me until the final pieces are completed. Today, I have 70,000 investigations pending at OPM that

are waiting for third-party information from the FBI and the Department of Defense only. That is 70,000 investigations that could be reviewed and the decision made on whether a clearance could be granted.

Chairman TOM DAVIS. So agencies could actually use incomplete investigations to award clearances?

Ms. DILLAMAN. It is a judgment call on the agency's part whether or not the final pieces pose a risk in making that decision. Some agencies lack sufficient staff to handle the file twice, even though the timeliness for granting clearance or an interim clearance could be improved.

Chairman TOM DAVIS. OK. In a November 2003 report, GAO reported that the Transportation Security Agency paid about $3,195 per investigation with the understanding that they would be expedited and completed within 75 days rather than paying $2,700 and having the investigation completed in 120 days. So they paid about a $500 premium.

However, when the investigations were not completed in over a year, TSA requested a refund and they were refused.

Ms. DILLAMAN. Yes, sir.

Chairman TOM DAVIS. OK. Why shouldn't a customer receive a refund if OPM is unable to provide the level of service that was paid for?

Ms. DILLAMAN. First of all, sir, the premium relates directly to what the contractors charge OPM to conduct the investigations, and we advertise——

Chairman TOM DAVIS. But they paid more than they ordinarily would so that they would get it back on an expedited basis.

Ms. DILLAMAN. And historically the processing time for priority investigations is faster, significantly faster, than standard service investigations. And in this case, for TSA and for DOD, priority investigations where a premium is paid are turned around much faster. Today, for top secret investigations, priority service investigations are processed in an average of 50-odd days. Standard service investigations are averaging about 170 days. So they are getting their investigations in about a third of the time by paying the premium.

Chairman TOM DAVIS. So basically just everything has gotten less efficient in terms of the time period?

Ms. DILLAMAN. No, sir. The premium on the case—the priority cases require our contractors to invest sometimes significant additional overhead in managing a smaller inventory. They may send an agent to travel specifically for one case rather than efficiently letting them queue and sending an agent to travel for multiple cases in order to meet a priority deadline.

Chairman TOM DAVIS. I am just trying to understand then. The extra $495 that was paid, my understanding is they were moving it from 120 days to 75 days, while you are saying, well, the 120 was really 180 and the 75 days was really something else. Is that——

Ms. DILLAMAN. Sir, we don't advertise a timeliness by days. We advertise two levels of service: priority and standard, with our contractors bidding a premium to do priority work faster than standard service.

Chairman TOM DAVIS. It sounds like two levels of service, slow and slower, is what it looks like.

Ms. DILLAMAN. Yes, sir.

Chairman TOM DAVIS. OK. Mr. Gimble, what has the impact of understaffing been in the current situation? And can you suggest a more realistic staffing level at USDI that will ensure adequate oversight of the security clearance function at DOD?

Mr. GIMBLE. I think first, Mr. Chairman, you have to kind of put it in perspective. The staffing of the oversight at USDI, we believe it is very significantly understaffed simply because they do the policy updates, write the manuals, and I think that is part of the reason that four times in the last 7 years they have said they were going to issue an updated manual and they have not been able to do that.

The magic number I think would have to be done, there needs to be an adequate staffing study, a delineation of exactly what—where they want the policy procedures to be handled, either at USDI, DSS, or down in the military departments. So I do not have a definitive answer for you today.

Chairman TOM DAVIS. You testified in June 2005 that DSS established a seven-person clearance liaison office to assist the Office of the Under Secretary of Defense for Intelligence with oversight, planning, communication, the transition to OPM, and coordination for overseas interviews. But it appears that DSS has done a poor job of advertising this office because very few security managers the IG interviewed were aware of its existence. Is that——

Mr. GIMBLE. That is correct. We went to 26 DOD locations out in the field on the audit that we were looking at. When you put in the initial request, did they know—were they aware of the office and its functions to answer questions and provide oversight? And basically it was a very low awareness at the field level.

Chairman TOM DAVIS. All right. Thank you. My last question, Clay, goes to you. And, again, I thank you for being here, and I know you have put a lot of your effort into this thing. I am glad to hear you were as disappointed as we were when this announcement came out, and you are back supervising this. But in 2004, GAO requested that the proportion of requests for private sector top secret clearances increased from 17 percent to 24 percent from fiscal year 1996 to fiscal year 2003, and that the 10-year cost to the Government is 13 times higher for a person with a top secret clearance relative to a person with a secret clearance. That was a GAO report.

But if the bar is rising for clearance level requirements, the cost to the Government will continue to rise with it. I am just asking, do you have any thoughts on how to ensure that the growth in demand for top level clearances is both necessary and manageable?

Mr. JOHNSON. I don't have the answer to that. We have talked recently about certain levels of people that OPM is considering sending to the FBI to help with some file recovery work, and they are required to have a top secret clearance, and some people have asked why do they need a top secret clearance? Some of the files require it; some don't. There is no easy answer to that.

So I don't know how to control or how to manage or how to make proper the demand for the different levels of clearance. I know that

longer term—not in the next year or 18 months—say 4 or 5 years out, we will be doing clearances—we all can envision doing clearances very differently than we do them now, and a lot more data mining and a lot less interviewing next-door neighbors, which is the same way we have been doing it since the 1950's. That will be almost certainly more efficient, less expensive to do.

So I would suspect that the cost to do a certain type of clearance will tend to come down over time, but we have not built any of those assumptions into our attack on improving the process here in the short term in the next 2 years.

Chairman TOM DAVIS. But I guess the agencies, to the extent that someone is overclassified, are you asking—there is a cost to that as well. We just need to understand that as we walk through it.

I think those are the questions that I wanted to get out today. I am just glad that we are at least back on track, but we still have a long-term issue, and I would just say, Mr. Johnson, we are going to need your continued efforts to try to bring this backlog back.

Anyone else want to add anything before we go to the next panel? Mr. Rogalski.

Mr. ROGALSKI. I would like to add one thing very quickly. Thank you. We have had many discussions with Mr. Johnson about how to improve the process, so we have the one issue of the immediate funding shortfall, which we need to address, but I do think—and DOD is certainly looking at what are those changes to national policy. I do believe it is time—we are overdue—to look at the need for the efficacy of the 5-year, 10-year, 15-year updates. So DOD is certainly looking at these initiatives. How can we get better investment for our dollar, again, to really determine what is the right criteria to have to determine that someone is suitable, trustworthy to have access to classified information. So we are certainly looking at those types of things in a strategic concept.

Thank you.

Chairman TOM DAVIS. And I would just say, we are looking at a way to see if GAO can measure what the cost is to the taxpayer by having this backlog, by either work not getting done or overpaying, because there is a huge cost to that. I see it out in my district all the time because a lot of our companies do this kind of work and are seeing the problems. You know what the House did in the appropriations—excuse me, in the authorization bill last week in terms of we are not going to allow clearances to expire at this point. There is always, I guess, some risk in that, but given the backlog, we do not need to create more backlog. The problem with that is when that legislation expires, the backlog or queue will get much longer much faster.

Yes, sir, Mr. Andrews?

Mr. ANDREWS. Mr. Chairman, let me close by saying that whenever there is a crisis in Government, there is always an initial response to let's reorganize. I think we see this problem not as an organizational problem but as a leadership problem at its very core, and we are going to take care of it.

Chairman TOM DAVIS. Well, you know, I was an Army officer, and when you take over a post—you are former officers. You know the story. It leaves you three envelopes if things go bad. In the first

envelope, when you open it up, if things are not going well the first few weeks, it says, "Blame it on your predecessor." If in a couple months things still are not going well, you get to the second envelope, and I guess that is where we are here. It says, "Reorganize." If a few months later things are still going bad, you open up the third envelope, and it says, "Prepare three envelopes."

So I think we are at the reorganize stage here. I know you have to get over to the Senate.

Mr. Ruppersberger, do you want to ask anything?

Mr. RUPPERSBERGER. I am sorry we have all these different hearings, but I am on the Intelligence Committee, and we have dealt a lot in the clearance arena, and I am not sure what you just testified to, but my staff was here so I will find out.

I want to ask a question about—we have a program at NSA that I believe is working pretty well from a clearance perspective. I know when I first started working with General Hayden on the issue, I think it was a year. I think it is down to 3 or 4 months, and sometimes when it is a priority, it goes a lot quicker. And from my analysis, looking at where we are, it seems to me that things are getting clogged at OMB. And I wonder, when we have a good program and it is working, why don't we see why it is working.

Another issue, too, I represent the NSA Fort Meade area, also, and I know we are having a division under the BRAC process coming into Fort Meade. And I am concerned that what is coming into Fort Meade on the clearance issue might interfere with what NSA is doing now because it works.

The bottom line is where it works. And I would like you to answer the question about, the first thing, why is it necessary to go through OMB if that is where it seems the back-up is there. If an NSA program—and there are other Defense areas that are working from a clearance perspective, they seem to have it more under control, and also as it relates to the contractors, because the contractors that are working with our NSA, CIA, whatever it is, you know, if they don't get their clearances, they might not be able to do the jobs, and it slows everything down. And we know al Qaeda is not going to wait for us, that is for sure.

So who could answer that question about why we don't take a program that is working, why it seems we have to go through OMB? OMB in the beginning was kind of good because they got it going and organized it, but now it seems to be slowing up again and the bureaucracy seems to be coming in. And could you identify who you are with?

Mr. JOHNSON. I am Clay Johnson. I am the Deputy Director for Management at OMB and I am the person that is in charge of this oversight process and reform process—oversight of the reform process.

Mr. RUPPERSBERGER. OK.

Mr. JOHNSON. I am not familiar with the NSA program. I know that the security clearance process and results within the intelligence community is considered satisfactory. They do it on a very timely basis, high quality and so forth. So there is not a turnaround time problem we are trying to address. So what we are——

Mr. RUPPERSBERGER. Wait. I don't get you there. What do you mean there is not a turnaround problem? In the intelligence com-

munity, in some agencies there are. I just used NSA as an example of one that is working. Why don't we see what they are doing and follow what they are doing? And then the second issue is OMB. Why do we need to get involved and go with OMB? Why is it slowing down at OMB? That is my question.

Mr. JOHNSON. I am not aware of what NSA is having to do with OMB, but I would be glad to look into it and——

Mr. RUPPERSBERGER. Did I say OMB? I meant OPM. I am sorry.

Mr. JOHNSON. Oh, OK.

Mr. RUPPERSBERGER. All these acronyms are——

Mr. JOHNSON. Then I don't care as much. [Laughter.]

Ms. DILLAMAN. I care a lot because I am OPM.

Mr. RUPPERSBERGER. OK. Let's go.

Ms. DILLAMAN. Sir, I am not aware of any——

Mr. RUPPERSBERGER. You are off the hook. That is good.

Ms. DILLAMAN. OPM provides some of the background investigations for NSA, and NSA has a contract to do some of the investigations themselves. We work very closely with them, and I know of no inordinate delays in that process.

Mr. RUPPERSBERGER. Well, why are we here today then? I am looking at Mr. Chairman. We are here because of the concern and the slowdown with contractors as far as clearances. That is why we are here today.

Chairman TOM DAVIS. Well, right on the eve of this yesterday, they announced they were resuming it right before the hearing. But we still felt it was important to get them up here to understand what happened, and I guess once again reiterate how important this is.

I had promised this panel they could leave. They have to be over at the Senate at 2:30.

Mr. RUPPERSBERGER. All right. I tell you what. Then could you—what was your name?

Mr. ROGALSKI. I am Robert Rogalski from the Department of Defense, USDI. I will take that as a question for the record. I have met with the Director of Security at NSA. I have looked at their process, and we will provide you a detailed explanation.

Just for clarification, NSA has been granted authority by the Department as well as the Defense Intelligence Agency to conduct initial background investigations. OPM conducts their periodic reinvestigations. I will tell you that from the NSA perspective—and I have looked at their program. They have an excellent program. But the Department has a scalability issue if we were to adopt the NSA program. But I will provide you a detailed——

Mr. RUPPERSBERGER. This is Walter Gonzalez. I am going to have him get with you all to follow through on this.

Mr. ROGALSKI. Absolutely.

Mr. RUPPERSBERGER. Fine. Thank you.

Mr. ROGALSKI. We would be glad to do that.

Chairman TOM DAVIS. All right. We are going to take a 5-minute break—or about a 3-minute break as we move to our next panel. I want to thank this panel for coming.

[Recess.]

Chairman TOM DAVIS. The hearing will come back to order.

I recognize our second panel: Mr. Doug Wagoner, the chairman of the Intelligence Subcommittee of the Information Technology Association of America, on behalf of the Security Clearance Coalition; Mr. William L. Gunst, the vice president for business operations, from Anteon International Corp.; and Mr. Nicholas Karangelen, the president of Trident Systems, Inc. It is good to see you all here.

You know, we swear you in before you testify. It is our policy. If you would just rise with me and raise your right hands.

[Witnesses sworn.]

Chairman TOM DAVIS. Just a second, do you want to get a photo op here? You can let her get a photo op here while you are there. I hope that will look good in the newsletter.

Have a seat.

Well, you have heard the previous panel. I do not want to say we are back on track, but at least one hiccup is resolved for the immediate future. All of you are no strangers to this issue. We just really appreciate your being here. Mr. Wagoner, we will start with you and then go down the line.

STATEMENTS OF DOUG WAGONER, CHAIRMAN, INTELLIGENCE SUBCOMMITTEE, INFORMATION TECHNOLOGY ASSOCIATION OF AMERICA, ON BEHALF OF THE SECURITY CLEARANCE COALITION; WILLIAM L. GUNST, VICE PRESIDENT FOR BUSINESS OPERATIONS, ANTEON INTERNATIONAL CORP.; AND NICHOLAS KARANGELEN, PRESIDENT, TRIDENT SYSTEMS, INC.

STATEMENT OF DOUG WAGONER

Mr. WAGONER. Mr. Chairman and members of the committee, thank you for inviting ITAA and its industry partners to testify today on the continuing challenges industry faces in obtaining Federal security clearances. My name is Doug Wagoner and I serve as chairman of the ITAA Intelligence Committee. I also bring the perspective of a small business executive from Fairfax struggling with this issue each day.

I've included more detail on our proposed solution to this problem in a detailed white paper, and I would like to submit that for the record.

Mr. Chairman, I was before you and this committee almost exactly 2 years ago to discuss this problem. DSS leadership testified that day that, as a result of changes under way at DSS and OPM, 95 percent of Top Secret clearances by fiscal year 2005 would be completed in 120 days and no case would take over a year. Since then, with the leadership of your committee, we thought we had made strides to significantly change the security clearance process. Here we are 2 years later, and DSS is nowhere near fulfilling promises made to this committee.

In light of the past promises and attempted reforms, industry was greatly alarmed by the April 26th action to suspend acceptance of contractor requests for clearances. We appreciate this committee's quick action to hold this hearing, and look forward to Congress's support in solving this problem both in the near and long term.

DSS may decide to suspend its activity, but our enemies are not suspending theirs. Nor are others in the defense and intelligence community suspending their vigilance to defeat those enemies, and the demand and support from private industry is greater than ever. Increasingly, defense and intelligence agencies are turning to the private sector for products and services they need to do their jobs. We cannot provide that without access to classified facilities and information. In other words, we cannot provide support without security clearances.

There's much to tell about the impact of DSS's decision, but none as important as the possibility that national security missions may not be accomplished unless this issue is addressed. This problem is also keeping qualified people from working, is causing salary premiums as high as 25 percent, premiums that raise the costs to industry, Government, and ultimately the taxpayer, as you brought out earlier. And it is leaving companies unable to meet contract requirements.

Industry has three requests that it would like to detail today. One, immediate funding to reinstate acceptance and processing of all contractor security clearances. Two, an audit on how DSS and OPM could have created such a drastic shortfall so early in the fiscal year and how that shortfall led to an absolute moratorium. And three, a legislative overhaul of the security clearance process, programs, and related bureaucracy, with an immediate infusion of technology.

We must require DOD to reinstate the processing contractor clearances immediately. If full funding cannot be found, industry can work with DSS to prioritize cases for the rest of this fiscal year, given full funding is made for fiscal year 2007.

It has been suggested that industry should pay for their clearances, which cost about $3,700 for a Top Secret. Industry rejects this suggestion for several reasons. First, it would create haves and have-nots between large and small firms. Additionally, the costs would be forwarded to Government, along with any overhead charges, just as with any other allowable cost, and this means the increased costs would come out the expense of congressionally approved program funds. And last, and probably the most profound reason, is that industry is not in the business to support failed processes in Government.

It appears the decision to stop processing contractor clearance requests was made in a vacuum and the funding shortfall came as a complete surprise to DOD. We know of no oversight body, including this one, that was alerted. We heard that $145 million was budgeted and burned in 7 months, and today they announced that they need an additional $91 billion for the balance of fiscal year 2006. For DSS not to detect that something was going wrong a month ago, 3 months ago, and sound the alarm—or did OPM to deliver a surprise bill to DSS? Industry believes there are accounting issues between OPM and DSS on how cases are charged, and there may even be double billing caused by how OPM rejects incomplete files.

It is for these reasons that a complete audit investigation is needed for this monumental shortfall and how it came as a surprise to almost everyone.

For the long term, our Nation needs a complete overhaul of the security clearance bureaucracy. This overhaul must include an immediate infusion of technology and data collection and analysis. While OPM struggles to find enough investigators armed with pen and paper to collect the data, much of this data can be verified through commercial data bases. These sources can verify identity, credit, and other transactional information; in fact, our Nation's financial insurance industry takes billions of dollars of informed risk each year based upon the reliability of the exact same data.

In closing, Mr. Chairman, industry is very concerned by the arbitrary decision to no longer accept our requests for clearances. These requests are solely generated by mission need. We stand side-by-side with our Government partners to keep our Nation safe and are truly worried about the impact of this decision on the many missions we support.

Mr. Chairman, you may recall that 2 years ago you held up a 1982 GAO report on security clearance problems and commented that, since that time, you raised your son, put him through college and law school, while little had been done to shorten the clearance timeframes. Let's not wait for our grandchildren to complete law school before we embark on a total overhaul of the program's process and bureaucracies related to security clearances.

Thank you again, and I look forward to your questions.

[The prepared statement of Mr. Wagoner follows:]

STATEMENT

OF

Doug Wagoner

Chairman, ITAA Intelligence Committee

BEFORE THE

HOUSE COMMITTEE ON GOVERNMENT REFORM

CONCERNING THE

Suspension of Accepting Industry Request for Security Clearances

May 17, 2006

Mr. Chairman and Members of the Committee. Thank you for inviting ITAA and its' industry partners to testify today on the continued challenges industry faces in obtaining federal security clearances. My name is Doug Wagoner, and I serve as Chairman of the ITAA Intelligence Committee. I also bring the perspective of a small business IT executive from Fairfax struggling with this issue each day.

I have included more detail on our proposed solutions to this problem in a detailed white paper I would also like to submit for the record.

Mr. Chairman, I was before you and the Committee almost exactly two years ago to discuss this problem. DSS leadership testified that day that as a result of changes then underway at DSS and OPM, 95% of Top Secret clearances by FY 2005 would be completed in 120 days, with no case taking over one year. Since then, with the leadership of your Committee, we thought we had made strides to significantly change the security clearance process. Here we are two years later, and DSS is nowhere near fulfilling the promises made to this Committee.

In light of these past promises and attempted reforms, industry is greatly alarmed by the April 26 action to suspend acceptance of contractor requests for security clearances. We appreciate this Committee's quick action to hold this hearing, and look forward to Congress' support in solving this problem in both the near and the long term.

DSS may decide to suspend its activity, but our enemies are not suspending theirs. Nor are others in the defense and intelligence community suspending their vigilance to defeat those enemies, and the demand for support from private industry is greater than ever. Increasingly, defense and intelligence agencies are turning to the private sector for the products and services they need to do their jobs. We cannot provide that support without access to classified facilities and information; in other words, we cannot provide that support without security clearances.

There is much to tell about the industry impact of DSS' decision, but none may be as important as the possibility that National Security missions may not be accomplished unless this issue is addressed. This problem is also keeping qualified people from working; is causing salary premiums as high as 25 percent for

current clearance holders—premiums that raise the costs to industry, to government and ultimately the tax payers; and is leaving companies unable to meet contract requirements. Industry has three requests it would like to detail today which are:

1. Immediate funding to reinstate acceptance and processing of all contractor security clearances and periodic reinvestigations;

2. An investigation and audit into how DSS and OPM could have created such a drastic shortfall so early in the fiscal year and how that short fall lead to absolute suspension of processing contractor clearances;

3. And a legislated overhaul of the security clearance process, programs and related bureaucracy with the immediate infusion of technology.

We must require DOD to reinstate the processing of all contractor clearances immediately. If full funding cannot be found, Industry can work with DSS to prioritize cases for the rest of this fiscal year given full funding is made for FY07.

It has been suggested that industry should be pay for their clearances, which cost about $3700 for a Top Secret. Industry rejects this suggestion for several reasons. It would create *"have and*

have-nots" between large and small firms. Additionally, the cost would be forwarded to the Government along with other overhead charges, just as with any other allowable cost. This means the increased cost would have to come out of Congressionally approved program mission funds. Lastly, and probably the most profound reason, is that industry is not in business to support failed processes in Government.

It appears the decision to stop accepting contractor clearance requests was made in a vacuum and the funding shortfall came as a complete surprise to DoD management. We know of no oversight body (including this one) that was alerted. We heard that $145M was budgeted and burned in 7 months, and today they have announced that they will need an additional $91M for the balance of FY06. Could DSS not detect that something was going wrong a month ago; even 3 months ago and sound the alarm? Or did OPM deliver a surprise bill to DSS? Industry believes there are accounting issues between OPM and DSS in how cases are charged and there may even be double billing caused by how OPM rejects incomplete files. It is for these reasons that a complete audit and investigation is needed to account

for this monumental shortfall, and how it came as a surprise to almost everyone.

For the long term our nation needs a complete overhaul of the security clearance bureaucracy. This overhaul must include an immediate fusion of technology in data collection and analysis. While OPM struggles to find enough investigators, armed with only pen and paper, to collect data, much of this data can be found and verified through commercial databases. These sources can provide the ability to verify identity, credit history and other transactional information with high probability. Our nation's financial and insurance industries take billion's of dollars of informed risk each year based upon the reliability of the same data.

In closing Mr. Chairman, industry is very concerned by the arbitrary decision to no longer accept our requests for clearances. These requests are generated by mission need. We stand side by side with our government partners to keep this nation safe and are truly worried about the impact of this decision on the many missions we support. Mr. Chairman, you may recall that two years ago, you held up a 1982 GAO report on security clearance problems and commented that since that time you raised your son, put him through

college AND law school all while little had been done to shorten clearance timeframes. Let's not wait for our grandchildren to complete law school before we embark on a total overhaul of the programs, processes and bureaucracies related to security clearances. Thank you and I look forward to your questions.

Chairman TOM DAVIS. Thank you very much.
Mr. Gunst.

STATEMENT OF WILLIAM GUNST

Mr. GUNST. Chairman Davis, Ranking Member Waxman, and members of the Committee on Government Reform, thank you for inviting Anteon International Corp. to testify today on an issue that is very troubling to my company and the government-contracting community.

Anteon, headquartered in Fairfax, VA, is a leading information technology company serving the U.S. Federal Government. We design, integrate, maintain, and upgrade state-of-the-art systems for national defense, intelligence, homeland security, and other high-priority missions. Anteon was founded in 1976 and currently has almost 10,000 employees in more than 100 locations worldwide. In short, we have been deeply involved in this process for a long time.

We perform a significant volume of classified work under contract with the Federal Government. Consequently, over 70 percent of our employees hold Government security clearances today. Since 1999, the backlog for security clearance investigations has increased significantly. As you might expect, with this increased demand, the time to obtain a clearance has lengthened from what it was. In the post-September 11th period, our experience, at its worst, has shown that the time to process a Top Secret clearance has doubled to between 18 to 24 months.

Our need for clearances is very simple. We are subject to the Federal Government's—our customer's—requirements. If you cannot fill the need, you lose out on the most fundamental task of bidding on an opportunity and then supporting the customer. No clearances, no contracts.

At the time DSS imposed the freeze, Anteon had approximately 1,100 actions pending, which grow at a rate of 150 to 200 actions monthly, covering new clearances, upgrades, and reinvestigations. On a day-to-day basis we are facing three fundamental problems, which will get worse with any interruption to this process.

First, obtaining qualified staffing will be impacted. We will be forced to change our hiring practices, to restrict our hiring to only those people who already have clearances.

Second, affordability will become an issue. We will need to closely balance being able to afford the limited and shrinking universe of people with security clearances within the constraints of our fixed labor-rate environments.

And third, retention could become a growing problem. Competition for dwindling qualified staff will intensify as those individuals with security clearances hop-scotch their way to higher salaries. On the almost 40 percent of our contracts that are cost reimbursable, these higher salaries will be passed on to our Federal customers.

Let me speak to the misunderstood belief that large contractors can deal with this current situation, since they maintain a bench of cleared employees. Individuals sitting in a company waiting for assignment to a contract will not be there long. Federal contractors who strive to provide qualified staff at a fair price cannot afford to park individuals with valuable security clearances and indirect accounts.

We succeed in this marketplace by providing outstanding and qualified service to our customers at a reasonable price with lean indirect expenses. When we fail to consistently meet any of these criteria, everyone involved in this system fails, including our customers. It destroys our competitive position in the marketplace for bidding, and it is a dollar-for-dollar reduction against the reasonable expectation of our shareholders. This condition is especially relevant for the small business community, where limited staffs often wear multiple hats to satisfy the customer.

This current interruption is all the more baffling after the recent successful work to make the system more responsible to serve those involved. Mr. Chairman, in October I joined you, your staff, and others from the contracting community in a meeting with the Hon. Clay Johnson in the Old Executive Office Building to discuss the status of clearance processing at OPM. Real progress was being made and hard targets were being established and met. Last October, most of us left that meeting with the firm belief that we were turning the corner and would see continued improvement in the security clearance process.

I believe the infrastructure and outsourcing tools to ensure continued improvements in the system are in place and must be given a reasonable chance to succeed. However, we cannot afford to take our eye off any piece of this very fragile puzzle. Any interruption like this causes us to lose progress and creates an untenable backlog.

Mr. Chairman, thank you for giving me the opportunity to testify today, and I'm available to respond to your questions.

[The prepared statement of Mr. Gunst follows:]

STATEMENT OF

WILLIAM L. GUNST

VICE PRESIDENT, BUSINESS OPERATIONS
ANTEON INTERNATIONAL CORPORATION

BEFORE THE

COMMITTEE ON GOVERNMENT REFORM
U.S. HOUSE OF REPRESENTATIVES

LOW CLEARANCE: WHY DID DOD SUDDENLY STOP PROCESSING PRIVATE SECTOR SECURITY CLEARANCES?

MAY 17, 2006

BECAUSE IT'S A MATTER OF NATIONAL SEFCURITY™

Chairman Davis, Ranking Member Waxman, Members of the Committee on Government Reform, thank you for inviting Anteon International Corporation to testify today on an issue that is very troubling to my company and the government contracting community.

My name is Bill Gunst. I am the Vice President of Business Operations for Anteon International Corporation.

Anteon, headquartered in Fairfax, Virginia, is a leading information technology company serving the U.S. Federal government. Anteon designs, integrates, maintains and upgrades state-of-the-art systems for national defense, intelligence, homeland security, and other high priority missions. Anteon was founded in 1976 and currently has almost 10,000 employees in more than 100 locations worldwide.

Anteon performs a significant volume of classified work under contract with the federal government. Consequently, 70% of our employees hold government security clearances.

We have been involved in the security clearance process since our inception and are quite familiar with it. We've seen the security clearance process work well, and we've seen it work poorly. Up until a couple of weeks ago, we had a system where the Defense Security Service (DSS) had the support of OPM to obtain background investigations; after which DSS would adjudicate the request back to us in a reasonable period of time. This process was beginning to show promise.

Over the past few years, with the growth of requirements for clearances from the federal government, stemming in part from the September 11th attacks, other growing demands for cleared people, and the lack of a concerted effort to improve this process, the backlog for security clearance investigations has increased significantly. As you might expect, with this increased demand, the time to obtain a clearance has lengthened from what it was. In the post 9/11 period, the time to process a secret or top secret clearance doubled to 18-24 months.

Our need for clearances is very simple, we are subject to the federal government's -- our customer's – requirements. If our customers need persons with security clearances to work on a contract, then we must supply them.

In fact, it is not unusual for us to have to assert with many of our bids that we have cleared people ready to work on day 1 of the contract.

This pressure on Anteon and our competitors to hire cleared people, or get technically qualified people cleared quickly, is very real in the federal marketplace. If you cannot fill the need, you lose out on the most fundamental task of bidding on an opportunity and then supporting the customer. No clearances, no contracts.

The freeze on the processing of security clearances in the face of this growing demand from the federal government for clearances has delivered a shock to this delicate system. The freeze is already having very real effects for us and most everyone else in the federal marketplace.

At the time DSS imposed the freeze, Anteon had approximately 1,100 actions pending. If this freeze continues, we expect the number will increase by 150 to 200 actions monthly. The pending actions include people who are brand new to the work place, such as recent college graduates, and persons in the federal marketplace from the commercial sector who need to obtain a security clearance for the first time. The backlog also includes those who need their clearances upgraded to accommodate customer requirements and those who need re-investigation so their clearances can remain current and active.

On a day-to-day basis we are facing 3 fundamental problems, which will get worse with the continuation of this freeze:

- First, obtaining qualified staffing will be impacted – we will be forced to change our hiring practices to, where needed, restrict our hiring to only those people who already have clearances;

- Second, affordability will become an issue – we will need to closely balance being able to afford the limited and shrinking universe of people with security clearances, within the constraints of our fixed labor rate environments; and

- Third, retention could become a growing problem – competition for dwindling qualified staff intensifies as those individuals with security clearances hopscotch their way to higher salaries. On the almost 40% of our contracts that are cost plus, these higher salaries will be passed on to our government customer.

Anteon is in this federal marketplace to satisfy our government customers and to participate in the solution of some of the most challenging national security issues in this country today. The people we attract to these projects have a passion for supporting the U.S. government and in using technology to solve customer missions. They bring a tool box of the best educational background, experience and leading edge technological savvy available in both the federal and commercial marketplace today. Anteon employees work alongside our most dedicated military and civil servants in some of the most hostile environments around the globe. Their qualifications are a direct result of our customer-driven needs.

The need for a properly cleared person is no different than the work experience, educational background and tool sets that we ask our employees to bring to solve these issues. Specific technical skills and work tools are just as important as the ability to get these people proper clearances within a reasonable period of time. To shutdown the process for obtaining security clearances is not much different than a federal mandate to shut down the training or educational systems that allow us to hire experienced and qualified candidates. If we fail to bring, in a very short time frame, fully qualified candidates with proper security clearances to serve our customer, we all lose.

Let me speak to a misunderstood belief that large contractors can deal with this current situation since they maintain a "bench" of cleared employees.

Individuals sitting in a company waiting for assignment to a contract will not be there long. Companies like Anteon have worked long and hard at balancing the mix of competitive salaries and benefits of our direct staff alongside the fragile infrastructure it takes to support them on the job. Federal contractors who strive to provide qualified staff at a fair price cannot afford to "park" individuals with valuable security clearances in indirect accounts. We succeed in this marketplace by providing outstanding and qualified service to our customers at a reasonable price with lean indirect expenses. When we fail consistently to meet any of these criteria, everyone involved in this system fails, including our customers. It destroys our competitive position in the marketplace for bidding purposes as our costs rise, and it is a dollar-for-dollar reduction against the reasonable expectations of our shareholders. This condition is especially relevant for the small business community where limited staffs often wear multiple hats to satisfy the customer.

Should this freeze continue during the upcoming weeks and months, we will be compelled to make decisions that do not best serve the customer. The day will soon arrive when we will need to place the need for a current and active security clearance well ahead of technical skills and educational background in deciding who to hire. With government outsourcing on the rise, coupled with scarce cleared resources,

the cost of a cleared employee will rise, leading to higher operating costs to us and our customers, the federal government. It is inevitable that bid rates will rise when new contracts are competed.

The impact of these downward spiraling conditions cannot be overstated. Fewer cleared people, increased costs to the federal customer, inability to satisfy contract terms, and the potential exit of firms currently in the federal marketplace could have serious consequences.

This current freeze is all the more baffling after the recent successful work to make the system more responsive to serve all those involved. The current security clearance process has been shown to work and was improving. Mr. Chairman, in October I joined you, your staff, and others from the contracting community in a meeting with Clay Johnson in the OEOB to discuss the status of clearance processing at OPM. Real progress was being made and hard targets were being established and met. The number of pending background investigations more than 120 days old dropped from 185,000 in February 2005 to 110,000 in September 2005 with over 8,000 combined federal and private employees involved in the process. A goal to close 80% of OPM investigations within 90 days at the end of 2006 was within reach. Last October, most all of us left that meeting with a firm belief that we were turning the corner and would see continued improvements in the security clearance process. The infrastructure and outsourcing tools to insure continued improvements in the system were in place and working, and those persons leading this effort had the commitment to get it done -- correctly. At one time, fixing the process was the challenge, and funding was not a major issue. We collectively improved the process and had the commitment of those involved. And now, our attention has turned to an unanticipated funding shortfall.

If this freeze continues much longer, most of the progress made in past months will be lost. An untenable backlog will be imposed on those conducting the reviews, and the ability to achieve any clearance processing goals will be impossible. Further, an even greater burden will be placed on those involved in the security clearance process that will eventually impact the work needed to preserve our national security here and abroad.

Mr. Chairman, thank you for giving me the opportunity to testify today. I am available to respond to your questions.

Chairman TOM DAVIS. Thank you very much.
Mr. Karangelen.

STATEMENT OF NICHOLAS KARANGELEN

Mr. KARANGELEN. Chairman Davis, thank you very much for inviting me to testify today. It's an honor to have an opportunity to appear before you and discuss what we believe in small business is a timely and significant challenge.

I also am a board member of the Small Business Technology Coalition, and I'd like to—I think we've talked a lot about the potential impact this has on companies. My written statement also speaks to that. But I'd like to say retrospectively that when OPM took over this DSS in reorganization, and I guess it sort of ended in February, we actually saw an improvement. I haven't been as deeply involved as the gentlemen here with me on the panel, but we did see interim clearances go from weeks and maybe even months to a couple of days.

And frankly, that was fabulous, because in a lot of cases our customers will accept an interim clearance while you wait for your final, although there are some customers that won't. And today, just at Trident Systems, which is a small technology company, we do a lot of work for many of the agencies of the Government, we have 108 cleared personnel. Thirty-eight of them have interim clearances. That's over 30 percent of my work force.

Now, and with all due respect to the large-company problem, small companies, especially mine, that have—sometimes our growth is sporadic, you know, we'll grow 30 percent 1 year and be flat for another, our companies, we have this—this problem really exacerbates our ability to juggle. And I think we've been doing a pretty good job of juggling the delay, which is between 8—sometimes it's longer—months between an interim and a final. But the notion that this could stop and we'd stop processing clearances really puts the whole thing into a tailspin.

I was really delighted to hear today that it looks like we're good to go through June. I think that's what I understood from the earlier panel. But it's a very ominous notion that we would stop processing clearances from private-sector requests. I spoke to some of the members of the Small Business Technology Coalition yesterday and the day before on this issue and there's literally panic. There are companies that are not going to be able to fulfill contractual requirements if these delays are extended.

So I'd like to sort of wrap up just by saying that, you know, I deeply appreciate, and we all do, what you do here on Government Reform. The committee is really focused on the bureaucracy and how to make it work better. We have a couple of suggestions. Clearly, in the short term, I would agree that we've got to give these guys some more money. There's no way we can avoid—we can stop processing clearances. I think that's completely untenable from a small business perspective.

From a longer-term view, though, the automation that exists in JPAS and the potential for automation really offers what we believe is not just a process improvement, because there's probably lots of process improvement that could be had in reorganization and in looking at the process, but a technology advantage, to give

investigators quicker, easier access to information, to allow the timeframe for clearances to come down to months.

And I want to finish by saying I'm sure there are a lot of small businesses who would welcome the opportunity to offer an innovative and affordable solution to fixing this problem.

So with that, I'd like to thank you again for all the work the committee does, not just in Government Reform but in supporting our troops as they wage the war on terror across the globe, and for the opportunity to speak on this important issue.

[The prepared statement of Mr. Karangelen follows:]

PREPARED STATEMENT

OF

NICHOLAS KARANGELEN, President of Trident Systems Incorporated
and
Board Member of the Small Business Technology Coalition

In a Hearing before the

HOUSE COMMITTEE ON GOVERNMENT REFORM

May 17, 2006

Chairman Davis, Ranking member Waxman, and distinguished members of the Committee, it is an honor to have the opportunity to appear before you today to discuss a timely and significant challenge facing the Defense Security Service (DSS), the Office of Personnel Management (OPM), and all small businesses which serve the Department of Defense: the ongoing moratorium on processing security clearance applications from private sector requestors.

I am Nick Karangelen, founder and president of Trident Systems Incorporated of Fairfax, Virginia. Trident is a high tech small business and has been providing technology solutions to the Department of Defense for the last 20 years including the largest collaboration facility in US Navy history, the first wireless local area network on a US Navy nuclear submarine, and a spectrum of compact affordable display, control, and communications systems for all branches of the United States Armed Forces. Trident also has a large commercial customer base and has provided real-time touch screen solutions to hundreds of companies in over forty countries including the New York and Toronto stock exchanges, Caterpillar and GM factory floors, and Motorola 911 call centers across the country. I am also a board member of the Small Business Technology Coalition (SBTC) which represents many high technology small businesses who supply products and services to the Department of Defense and other Federal agencies

I'd like to begin by thanking each member of this Committee for the outstanding effort you make to continuously improve the working of our Federal Government and to support our men and women around the globe as they protect our nation and wage the war on terrorism.

My small business colleagues and I also thank the Committee for your interest the Nation's small business community that serves the Department of Defense. Small business is widely recognized as the engine of innovation in America and the catalyst for developing ground-breaking technology and novel products. The Department of Defense and the American men and women serving in uniform across the globe are the direct beneficiaries of the wealth of innovative affordable technologies, products and services offered by small technology companies.

When the OPM took over responsibility for DSS in February of 2005, Trident noticed a significant improvement in the time required to have a clearance application accepted and an interim clearance issued. Instead of weeks or even months, interim clearances were being received in one or two days. However, the time for final clearances continued to be an average of about eight months (with some as long as 18 months). Today over 30% of Trident personnel have not yet received their final clearances. This represents a significant challenge for Trident especially with regard to some Agencies and customers which do not accept interim clearances. Since the moratorium began on 23 April 2006, Trident has submitted two clearance applications which are in a hold status (with no interim clearance issued). These individuals have not been able to begin their assigned projects and represent an annualized revenue loss of nearly $200,000 if not corrected. Further, Trident has neither the capacity nor the resources to keep these capable employees on staff if the delay extends into summer. A number of small business executives, members of the Small Business Technology Coalition (SBTC), of which I am a board member have voiced similar concerns to me in the last week.

While all Defense contractors will surely be affected by the current moratorium on processing security clearance applications from private sector requestors, this will affect small businesses to a much greater extent and exacerbate the already considerable barriers which exist for small business in serving Defense Department. All hiring at Trident for positions requiring cleared personnel has been suspended unless the selected candidate has an active clearance which can be transferred. We also believe that this moratorium will create considerable recruiting pressure and artificial upward pressure on salaries for personnel with active security clearances (speculation on the street indicates salaries offered to cleared personnel could rise as much as 25% in a short period of time). It's likely that many small businesses will be the hardest hit both by failing to meet recruiting needs and in loosing otherwise content employees to companies actively recruiting with higher salaries based on the lack of supply of cleared personnel.

I believe the short term solution of this problem must include additional funding for DSS, allowing them to at least continue to investigate and process the significant backlog of security clearances that has risen by some reports to over 300,000. In the longer term I suggest that additional automation support be provided to allow investigators to improve their productivity in investigating and processing security clearances. There are many small businesses who I believe would welcome the opportunity to offer innovative and affordable solutions to this challenge.

Thank you again for the opportunity to speak to you today on this important issue.

Chairman TOM DAVIS. Thank you very much.

Let me just start the questioning. Bearing in mind that Top Secret clearances cost the Government so much more, is the contractor community seeing the requirement for Top Secret clearances over lesser levels of clearances increase over the last few years? And is it warranted if it has? Any thoughts on that? We had this discussion how much more expensive it is to clear someone with a Top Secret. Are we overclassifying people—there would be an expense to that. Do you have any reaction to that?

Mr. WAGONER. Well, I have some hard facts. ITAA is embarking upon a new survey of our members. We have about 400 respondents in so far. We're going to wrap this up here in about a week. So far, 88 percent of the companies that responded have said that they have seen a dramatic increase for the requirement of cleared personnel in the last 5 years. So that's a hard fact based on 356 respondents.

The second part of your question, I believe, was do we believe that these are all required. Sir, is that the question?

Chairman TOM DAVIS. Mm-hm. Or are we overclassifying? Probably the Government overclassifies to begin with, but in looking at these clearances, could someone with a Secret clearance do stuff that we're requiring Top Secret for? Because there is a cost for that.

Mr. WAGONER. We would sure like to say yes, but I think I have to agree with the first panel, that stated that a lot of the requirements upon industry is because of the greater need to push data down to the war fighter, the new systems that have been put in place. And then we are building those systems. We have hands-on in those systems. I wish I could say that we could declassify some of that, but I believe that we should keep that as a Top Secret.

Chairman TOM DAVIS. Anybody else have a reaction to that?

Mr. KARANGELEN. I think it's interesting to note that radio operators in the Army and the Marine Corps who are carrying radios, SINCGARS radios with crypto that are, you know, top-secret pieces of gear, many of them don't have any security clearances at all.

It's very difficult for us, from where we sit, to make a judgment about whether or not somebody needs a Top Secret clearance or whether or not somebody should be Top Secret, but clearly, if there was a little more—it seems to be that there should be a little more oversight about what's top-secret and what's not.

Chairman TOM DAVIS. Let me ask you this. When it comes to pricing—and Mr. Gunst, I'll start with you—when you're pricing something and there are security clearances, how do you price that into your total cost at this point?

Mr. GUNST. Well, presently, given the size we are, we have the advantage of having a little history and we have a pretty broad range of employees with clearances. So we know when we go into the marketplace what we're going to see there with respect to salaries. So we have that advantage working for us. We don't really find ourselves pricing people and then pricing clearances. We use salaries, and the basis we use is the near-term experience we have in the particular marketplace that we are attempting to price an opportunity in.

Mr. WAGONER. I think also, if I could add something to that, I think what's happened in the last 5 years is I may have signed a contract 3 or 4 years ago with established hourly rates for that person, and the problem is their qualifications haven't changed, so I can't charge a higher rate for them. The only thing that's changed is the demand for their clearance. So we are seeing—it is impacting our margin significantly because we're locked into a contract that we agreed to 3 or 4 years ago not realizing that this problem was going to continue and that we're going to have to keep paying premiums for these folks.

Chairman TOM DAVIS. But the little guys really get hurt in a case like that, don't they?

Mr. WAGONER. Yes, sir.

Chairman TOM DAVIS. Everybody gets hurt, but——

Mr. WAGONER. I am a little guy, sir. Yes. I'm a big little guy. [Laughter.]

Chairman TOM DAVIS. As the Government security clearance customers, what is your assessment of the efforts undertaken thus far to fulfill the requirement? Give them a grade.

Mr. WAGONER. Since the April decision? Well, let's be clear——

Chairman TOM DAVIS. Well, not since the April decision. Let's go back to after the September 11th response by Congress.

Mr. WAGONER. The respondents in the survey indicate that in the last year and a half, 60 percent are saying it's gotten worse or not better.

Chairman TOM DAVIS. OK.

Mr. WAGONER. So they're not seeing a significant improvement in the last year, I think is how the question was phrased. And we'll get this survey to your staff, sir, as soon as it's done.

Mr. GUNST. My personal experience has been they get close to an F until 2005. And frankly, I was very encouraged by what I heard in the fall of 2005. They were meeting some very tough thresholds. And when I first heard of this freeze in late April, I frankly thought it was a joke. I could not believe that an agency, without warning, would take such a step that would affect so many different people. So I would say since April they get an F.

Mr. KARANGELEN. The real issue I have is that on April 28th, I think it was, we got the first indication that there might be a problem. And what we heard was there was a technical problem with JPAS. It wasn't until early in May when we heard from a third party that they'd stopped processing clearances. And that really—that's the hardest thing to take. Because we feel like we've been juggling the system, we've been working as hard as we can to work within the system; 6, 8 months, if that's what it is, that's what it is. If you're going to stop processing clearances and not even tell me you're going to stop processing them, that really—that seems very disingenuous. I would have preferred to at least have had somebody say, hey, we've got a problem. Give us a heads up, even, just like you should have been given one.

Chairman TOM DAVIS. You heard the previous panel and you heard Clay Johnson talk about how things are getting better and maybe we haven't seen it yet. I mean, what is your confidence level in the future at this point? Give it on assurances and legislation.

And in addition to that, if you can think of one or two things maybe that we are not doing that we ought to be doing that can add to this.

And I guess I would add a third thing, is reciprocity working? We kind of mandated it, but mandating it and getting everybody to buy into it is a different issue.

I will start with you, Mr. Wagoner.

Mr. WAGONER. I think the most encouraging comment was from Mr. Johnson right there toward the end, when he raised the possibility of actually reengineering this process and taking feet off the street and getting away from the Eisenhower-era processes and looking at automating a lot of these functions, looking at a lot of the data. I think that is the only way we're going to be encouraged that anything is ever going to change, and that is if they start changing the process. Throw it out, start with a clean sheet of paper, and really look at use of technology and data to get this done.

As far as reciprocity, we are starting to see some reciprocity. I think the best that I personally have seen in talking to other colleagues is between CIA and NSA. They seem to have gotten the message. In our survey, about a third are saying that they still do not see reciprocity across Government.

Mr. GUNST. I think the primary concern I have is that I get worried whenever I look at a process that a single person doesn't own. It fails in industry, and I think it fails in Government. And I know there are a lot of well-intentioned people trying to work very hard to fix this situation. But as I sat listening to the testimony of the first panel, I was struck by the notion that no one has control of this process. There are certain people that ask for the clearances, certain people that fund them, certain people that perform them, and then the remaining group adjudicate them.

It's difficult for me, on industry's side, to understand why it takes 18 to 24 months for a Top Secret clearance, but when no one owns the process, it is by definition very fragile and no one can bring all the resources to bear to fix it, because no single group owns it. That would be my primary concern.

Chairman TOM DAVIS. What is the difference between large and small companies? I think, Mr. Gunst, you would argue you don't keep a bench of people, that everybody gets hurt in the process. Is that fair to say? When security clearances aren't out there, everybody gets hurt. Mr. Karangelen, as a smaller company, isn't it harder on you?

Mr. KARANGELEN. Having a security clearance can't be a discriminator. I mean, it's just—I mean think about it. We're trying to buy technology, goods, and services. I want to compete with the big guys and my peers. If it comes down to I just can't get a security clearance, or a good competitor of mine can't get a security clearance, that seems like a terrible way to decide who's going to win an important technology procurement.

So I think it hurts everyone. I think it hurts small business more because we're just not organized to deal with it. You know, it's like creating another bureaucracy inside your company in order to manage what is really artificial, is a delay, an artificial delay. And again, if you're a big company, you add it to the bureaucratic night-

mare that you have. But when you're a small guy, it means that the president or chief operating officer or HR person has got—you know, who's already juggling a lot to do, has to do it.

Chairman TOM DAVIS. Anybody else want to add anything?

Mr. GUNST. Well, one of the obvious principal advantages any large company has is they have some dedicated staff they can post to a particular situation. I think the recent comment here is that I—you know, small businesses have a person that does HR, they do contracts, they do security, they'll open the building in the morning, they'll take care of the light bulbs that are out. That's one person. I have the luxury of having 15 to 20 people that handle security. So when there's an issue, I can dedicate some resources to it and try to resolve it. I think that is a principle difference.

Chairman TOM DAVIS. OK, good. Anything else anybody wants to add?

I just appreciate your being here trying to clarify this issue. And once again, I think were it not for this hearing, we would not have gotten the action out of the DOD. And I think your participation and continued vigilance on this is going to be needed if we're going to really make a serious dent in this problem.

Thank you all very much. The hearing is adjourned.

[Whereupon, at 2:42 p.m., the committee was adjourned.]

[The prepared statement of Hon. Elijah E. Cummings and additional information submitted for the hearing record follow:]

Opening Statement

Representative Elijah E. Cummings, D-Maryland

Full Committee Hearing: "Low Clearance: Why Did DOD Suddenly Stop Processing Private Sector Security Clearances?"

Committee on Government Reform
U.S. House of Representatives
109th Congress

May 17, 2006

Mr. Chairman,

Thank you for holding this important hearing to investigate why the Department of Defense has stopped providing security clearances to contractors.

In this time of heightened focus on national security, the government's ability to conduct thorough investigations into the backgrounds of people who have access to sensitive material is vital. Government contractors often work with the Department of Defense (DOD) to create and maintain weapon and information systems that rely upon classified materials.

Unfortunately, DOD announced on April 25, 2006, that it would no longer process security clearances for government contractors because of budget constraints for the program. As a result, important work that directly impacts our national security is being

unnecessarily delayed or stalled altogether due to a lack of cleared personnel.

It is no secret that our system for providing security clearances has been plagued by mismanagement and needlessly long backlogs for over two decades. In recent years, it was reported that the process time for a "Top Secret" clearance application took between 12-18 months. And while efforts have been made to address the problem, there is little indication that this backlog has been substantially reduced.

In October 2004, the Bush Administration gave the Office of Personnel Management (OPM) full responsibility over conducting background checks. Prior to that time, the Department of Defense's Defense Security Service (DSS) conducted investigations in-house. As part of the arrangement, DSS transferred 1,800 personnel to OPM. It also agreed to pay a standard rate per contractor investigation, plus an additional 25 percent in overhead charges.

According to DSS, it had to stop conducting processing applications from contractors for two reasons. First, it received

more applications than expected, particularly in March. And second, the 25 percent overhead fee drained its budget.

But the problem appears to be, in part, the result of an ongoing turf war between the two agencies. According to the Government Accountability Office, the high overhead fees are appropriate. DSS cannot accurately forecast the demand for contractors, and OPM is therefore unable to efficiently deploy its workforce of government and contract employees.

Make no mistake, this stoppage will only exacerbate an ongoing problem of there being too few qualified contractors with clearances. This shortage has driven up labor costs, as staff members who hold clearances demand premium pay. For instance, an Oracle database administrator with a top secret clearance is paid $180,000 a year, when the typical salary for a similar position not requiring clearance is $80,000. These inflated labor costs are passed on to the government, which are ultimately passed on to all taxpaying Americans.

In closing, we must address any interagency disputes that contribute to inefficiency and waste, and hold OMB accountable for their oversight on this issue. In the end, the American people

expect us to fix this broken system now. Providing security clearances to government contractors in an accurate, timely and efficient manner is important to our national security and to our national pocketbook.

I look forward to the testimony of today's witnesses and yield back the balance of my time.

United States Government Accountability Office

GAO

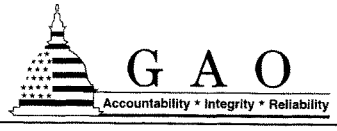
Statement for the Record to the Committee on Government Reform, House of Representatives

For Release on Delivery
Expected at 1:00 p.m. EDT
Wednesday, May 17, 2006

DOD PERSONNEL CLEARANCES

Funding Challenges and Other Impediments Slow Clearances for Industry Personnel

Statement for the Record by Derek B. Stewart, Director
Defense Capabilities and Management



GAO-06-747T

May 17, 2006

GAO
Accountability·Integrity·Reliability

Highlights

Highlights of GAO-06-747T, a statement for the record to the Committee on Government Reform, House of Representatives

DOD PERSONNEL CLEARANCES

Funding Challenges and Other Impediments Slow Clearances for Industry Personnel

Why GAO Did This Study

The Department of Defense (DOD) is responsible for about 2 million active personnel security clearances. About one-third of the clearances are for industry personnel working on contracts for DOD and more than 20 other executive agencies. Delays in determining eligibility for a clearance can heighten the risk that classified information will be disclosed to unauthorized sources and increase contract costs and problems attracting and retaining qualified personnel. On April 28, 2006, DOD announced it had stopped processing security clearance applications for industry personnel because of an overwhelming volume of requests and funding constraints. GAO has reported problems with DOD's security clearance processes since 1981. In January 2005, GAO designated DOD's program a high-risk area because of longstanding delays in completing clearance requests and an inability to accurately estimate and eliminate its clearance backlog.

For this statement GAO addresses: (1) key points in the billing dispute between DOD and OPM and (2) some of the major impediments affecting clearances for industry personnel.

www.gao.gov/cgi-bin/getrpt?GAO-06-747T.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Derek B. Stewart at (202) 512-5559 or stewartd@gao.gov.

What GAO Found

The costs underlying a billing dispute between DOD and OPM are contributing to further delays in the processing of new security clearance requests for industry personnel. The dispute stems from the February 2005 transfer of DOD's personnel security investigations function to OPM and associated costs for which DOD agreed to reimburse OPM. Among other things, the two agencies' memorandum of agreement for the transfer allows OPM to charge DOD annual price adjustments plus a 25 percent premium, in addition to the rates OPM charges to other federal government agencies. A January 20, 2006, memorandum from the Under Secretary of Defense for Intelligence to the Office of Management and Budget (OMB) questioned the continued need for the premiums and requested mediation from OMB. According to DOD and OPM, OMB has directed the two agencies to continue to work together to resolve the matter. The inspectors general for both DOD and OPM are expected to report on the results of their investigations into the dispute this summer.

Other impediments, if not effectively addressed, could negatively affect the timeliness of clearance-eligibility determinations for one or more of the following employee groups: industry personnel, servicemembers, and civilian government employees. All three groups are affected by DOD's longstanding inability to accurately estimate the size of its security clearance workload. Inaccurate estimates of the volume of clearances needed make it difficult to determine clearance-related budgets and staffing requirements. Similarly, the July 1, 2006, expiration of Executive Order 13381, which delegated responsibility for improving the clearance process to OMB, could potentially slow improvements in personnel security clearance processes DOD-wide as well as governmentwide. GAO has been encouraged by OMB's high level of commitment to activities such as the development of a government plan to improve personnel security clearance processes governmentwide but is concerned about whether such progress will continue after the executive order expires. In contrast, demand for top secret clearances for industry personnel and the lack of reciprocity (the acceptance of a clearance and access granted by another department, agency, or military service) are impediments that mainly affect industry personnel. A previously identified increase in the demand for top secret clearances for industry personnel has workload and budgetary implications for DOD and OPM if such requests continue to occur. Finally, the lack of reciprocity has a negative effect on employees and employers, and increases the workload for already overburdened investigative and adjudicative staff. Reciprocity problems have occurred despite the issuance of governmentwide investigative standards and adjudicative guidelines in 1997.

Chairman Davis and Members of the Committee:

Thank you for the opportunity to provide this statement for your hearing on the challenges facing the Department of Defense (DOD) and the Office of Personnel Management (OPM) in processing requests for personnel security clearances in a timely manner. Two years ago, we testified before this committee on similar challenges.[1] Before providing our observations about the challenges, I would like to provide some background to (1) give a general context for understanding clearances and describe the importance of industry personnel to our national security, (2) discuss how clearance problems can negatively affect national security, and (3) provide information about several recent events affecting the overall status of DOD's personnel security clearance program.

Background

As you know, Mr. Chairman, for over two decades, we have reported on problems with DOD's personnel security clearance program as well as the financial costs and risks to national security resulting from these problems (see Related GAO Reports at the end of this statement). For example, at the turn of the century, we documented problems such as incomplete investigations, inconsistency in determining eligibility for clearances, and a backlog of overdue clearance reinvestigations that exceeded 500,000 cases.[2] More recently in 2004, we identified continuing and new impediments hampering DOD's clearance program and made recommendations for increasing the effectiveness and efficiency of the

[1] GAO, *DOD Personnel Clearances: Preliminary Observations Related to Backlogs and Delays in Determining Security Clearance Eligibility for Industry Personnel*, GAO-04-202T (Washington, D.C.: May 6, 2004).

[2] GAO, *DOD Personnel: More Consistency Needed in Determining Eligibility for Top Secret Security Clearances*, GAO-01-465 (Washington, D.C.: Apr. 18, 2001); *DOD Personnel: More Actions Needed to Address Backlog of Security Clearance Reinvestigations*, GAO/NSIAD-00-215 (Washington, D.C.: Aug. 24, 2000); and *DOD Personnel: Inadequate Personnel Security Investigations Pose National Security Risks*, GAO/NSIAD-00-12 (Washington, D.C.: Oct. 27, 1999).

program.[3] Also in 2004, we testified before this committee on clearance-related problems faced by industry personnel.[4]

A critical step in the federal government's efforts to protect national security is to determine whether an individual is eligible for a personnel security clearance. Specifically, an individual whose job requires access to classified information must undergo a background investigation and adjudication (determination of eligibility) in order to obtain a clearance. As with federal government workers, the demand for personnel security clearances for industry personnel has increased during recent years. Additional awareness of threats to our national security since September 11, 2001, and efforts to privatize federal jobs during the last decade are but two of the reasons for the greater number of industry personnel needing clearances today. As of September 30, 2003, industry personnel held about one-third of the approximately 2 million DOD-issued clearances. DOD's Office of the Under Secretary of Defense for Intelligence has overall responsibility for DOD clearances, and its responsibilities also extend beyond DOD. Specifically, that office's responsibilities include obtaining background investigations and adjudicating clearance eligibility for

[3] GAO, *DOD Personnel Clearances: Additional Steps Can Be Taken to Reduce Backlogs and Delays in Determining Security Clearance Eligibility for Industry Personnel*, GAO-04-632 (Washington, D.C.: May 26, 2004); and GAO, *DOD Personnel Clearances: DOD Needs to Overcome Impediments to Eliminating Backlog and Determining Its Size*, GAO-04-344 (Washington, D.C.: Feb. 9, 2004).

[4] GAO-04-202T.

industry personnel in more than 20 other federal agencies,[5] as well as the clearances of staff in the federal government's legislative branch.

Problems in the clearance program can negatively affect national security. For example, delays reviewing security clearances for personnel who are already doing classified work can lead to a heightened risk of disclosure of classified information. In contrast, delays in providing initial security clearances for previously noncleared personnel can result in other negative consequences, such as additional costs and delays in completing national security-related contracts, lost-opportunity costs, and problems retaining the best qualified personnel.

Longstanding delays in completing hundreds of thousands of clearance requests for servicemembers, federal employees, and industry personnel as well as numerous impediments that hinder DOD's ability to accurately estimate and eliminate its clearance backlog led us to declare the program a high-risk area in January 2005. The 25 areas on our high-risk list at that time received their designation because they are major programs and operations that need urgent attention and transformation in order to ensure that our national government functions in the most economical, efficient, and effective manner possible.[6]

[5] We identified 22 other agencies in GAO-04-632. Exec. Order No. 10865, *Safeguarding Classified Information Within Industry*, February 20, 1960, which was amended by Exec. Order No. 12829, *National Industrial Security Program*, January 6, 1993, authorizes DOD to reach agreement with other federal departments and agencies to extend its regulations concerning authorizations for access to classified information by industry. The agencies that have entered into agreements with DOD for security services under the National Industrial Security Program are the (1) National Aeronautics and Space Administration, (2) Department of Commerce, (3) General Services Administration, (4) Department of State, (5) Small Business Administration, (6) National Science Foundation, (7) Department of the Treasury, (8) Department of Transportation, (9) Department of the Interior, (10) Department of Agriculture, (11) Department of Labor, (12) Environmental Protection Agency, (13) Department of Justice, (14) Federal Reserve System, (15) U.S. Government Accountability Office (formerly U.S. General Accounting Office), (16) U.S. Trade Representative, (17) U.S. International Trade Commission, (18) U.S. Agency for International Development, (19) Nuclear Regulatory Commission, (20) Department of Health and Human Services, (21) Department of Homeland Security, and (22) Department of Education. The Department of Energy and the Central Intelligence Agency are signatories of the *National Industrial Security Program Operating Manual* and thus have reciprocity with DOD under provisions of the manual. Three federal agencies (the Department of Energy, the Central Intelligence Agency, and the Nuclear Regulatory Commission) also may grant security clearances to industry personnel who work on national security-related programs.

[6] GAO, *High-Risk Series: An Update*, GAO-05-207 (Washington, D.C.: January 2005).

Shortly after we placed DOD's clearance program on our high-risk list, a major change in DOD's program occurred. In February 2005, DOD transferred its personnel security investigations functions and about 1,800 investigative positions to OPM. Now DOD obtains nearly all of its clearance investigations from OPM[7], which is currently responsible for 90 percent of the personnel security clearance investigations in the federal government.[8] DOD retained responsibility for adjudication of military personnel, DOD civilians, and industry personnel.

Other recent significant events affecting DOD's clearance program have been the passage of the Intelligence Reform and Terrorism Prevention Act of 2004 and the issuance of the June 2005 Executive Order No. 13381, Strengthening Processes Relating to Determining Eligibility for Access to Classified National Security Information. The act included milestones for reducing the time to complete clearances, general specifications for a database on security clearances, and requirements for greater reciprocity of clearances (the acceptance of a clearance and access granted by another department, agency, or military service). Among other things, the executive order resulted in the Office of Management and Budget (OMB) taking a lead role in preparing a strategic plan to improve personnel security clearance processes governmentwide.

Using this context for understanding the interplay between DOD and OPM in DOD's personnel security clearance processes, my statement addresses two objectives in this statement: (1) key points of a billing dispute

[7] Currently, the National Security Agency, Defense Intelligence Agency, and National Reconnaissance Office each have a waiver that allows them to contract for their own personnel security clearance investigations.

[8] In GAO, *DOD Personnel Clearances: Some Progress Has Been Made but Hurdles Remain to Overcome the Challenges That Led to GAO's High-Risk Designation*, GAO-05-842T (Washington, D.C.: June 28, 2005), we listed the departments/agencies having statutory or delegated authority to conduct background investigations, as identified by the then Deputy Associate Director of OPM's Center for Investigations Services. Those departments/agencies are the Central Intelligence Agency; Department of State; Department of the Treasury; Internal Revenue Service; Bureau of Engraving and Printing; Federal Bureau of Investigation; National Security Agency; U.S. Agency for International Development; Department of Homeland Security; Bureau of Customs and Border Protection; U.S. Secret Service; Small Business Administration; Broadcasting Board of Governors; Department of Justice—Bureau of Alcohol, Tobacco, Firearms, and Explosives; U.S. Postal Service; Tennessee Valley Authority; National Reconnaissance Office; and Peace Corps. Even though these agencies have authority to conduct their own investigations, some of them request that OPM conduct all or part of their investigations.

between DOD and OPM and (2) some of the major impediments affecting clearances for industry personnel.

As requested by this committee, we have an ongoing examination of the timeliness and completeness of the processes used to determine the eligibility of industry personnel to receive top secret clearances. We expect to present the results of this work in the fall. My statement today, however, is based primarily on our completed work and our institutional knowledge from our prior reviews of the steps in the clearance processes used by DOD and, to a lesser extent, other agencies. In addition, we used information from the Intelligence Reform and Terrorism Prevention Act of 2004; executive orders; and other documents, such as a memorandum of agreement between DOD and OPM. We conducted our work in accordance with generally accepted government auditing standards in May 2006.

Summary

The additional costs DOD has incurred for its investigations are contributing to further delays in the processing of new security clearances for industry personnel. Despite an already sizable backlog of security clearance applications, DOD stopped processing applications for industry personnel on April 28, 2006. DOD attributed the stoppage to a large volume of industry clearance requests and funding constraints. The funding constraints may be the result of a broader billing dispute that has been taking place between DOD and OPM. As part of the agreement that transferred DOD's clearance investigations function to OPM, OPM may charge DOD for annual price adjustments plus a 25 percent premium, in addition to the rates it normally charges other federal agencies for investigations. DOD disputes the continued need for the premium and has asked OMB to mediate; however, information from the two agencies indicates that OMB has directed DOD and OPM to continue to work together to resolve the matter. The inspectors general for both DOD and OPM are investigating the billing dispute and are expected to report on the results of their investigations this summer.

Some impediments, if not effectively addressed, can hinder the timely determination of clearance eligibility for servicemembers, civilian government employees, and industry personnel; whereas other impediments mainly affect industry personnel. One impediment that could affect all three employee groups is DOD's longstanding inability to accurately estimate its future clearance requests. In fiscal years 2001 through 2003, the department incorrectly estimated the number of requests by 90,000 to 150,000 cases per year. This impediment makes it difficult to determine clearance-related budgets and staffing requirements.

Another impediment for all three employee groups pertains to the July 1, 2006, expiration of Executive Order 13381, which delegated responsibility for improving the clearance process to OMB. We have been encouraged by OMB's high level of commitment during the development of a plan to improve clearance processes governmentwide. Because there has been no indication that the executive order will be extended, we are concerned about whether such progress will continue. In contrast, greater demand for top secret clearances for industry personnel and the lack of reciprocity would primarily affect industry personnel. Between fiscal years 1995 and 2003, the proportion of security clearance requests for industry personnel who required top secret investigations and adjudications increased from 17 to 27 percent of the workload. A rise in the demand for top secret clearances has negative side effects that include the need to renew clearances more often (than secret or confidential clearances), requirements for more information about applicants, and much higher costs. A second impediment that might affect industry personnel more than other employee groups is the absence of reciprocity. In addition to slowing how quickly contractors can use newly hired employees, this impediment increases the workload for already overburdened investigative and adjudicative staff. Reciprocity problems have occurred despite the issuance of governmentwide investigative standards and adjudicative guidelines in 1997.

Unexpected Volume of Clearance Requests and Funding Constraints Delay Security Clearances for Industry Personnel Further

DOD stopped processing applications for clearance investigations for industry personnel on April 28, 2006, despite an already sizeable backlog. DOD attributed its actions to an overwhelming volume of requests for industry personnel security investigations and funding constraints. We will address the issue of workload projections later when we discuss impediments that affect industry personnel as well as servicemembers and federal employees, but first we would like to talk about the issue of funding.

An important consideration in understanding the funding constraints that contributed to the stoppage is a DOD-OPM billing dispute, which has resulted in the Under Secretary of Defense for Intelligence requesting OMB mediation. The dispute stems from the February 2005 transfer of DOD's personnel security investigations function to OPM.

The memorandum of agreement signed by the OPM Director and the DOD Deputy Secretary prior to the transfer lists many types of costs that DOD may incur for up to 3 years after the transfer of the investigations function to OPM. One cost, an adjustment to the rates charged to agencies for

clearance investigations, provides that "OPM may charge DOD for investigations at DOD's current rates plus annual price adjustments plus a 25 percent premium to offset potential operating losses. OPM will be able to adjust, at any point of time during the first three year period after the start of transfer, the premium as necessary to cover estimated future costs or operating losses, if any, or offset gains, if any."

The Under Secretary's memorandum says that OPM has collected approximately $50 million in premiums in addition to approximately $144 million for other costs associated with the transfer. The OPM Associate Director subsequently listed costs that OPM has incurred. To help resolve this billing matter, DOD requested mediation from OMB, in accordance with the memorandum of agreement between DOD and OPM. Information from the two agencies indicates that in response to DOD's request, OMB has directed them to continue to work together to resolve the matter. The DOD and OPM offices of inspector general are currently investigating all of the issues raised in the Under Secretary's and Associate Director's correspondences and have indicated that they intend to issue reports on their reviews this summer.

If Not Effectively Addressed, Impediments Could Continue to Hinder Efforts to Provide Timely Clearances

Some impediments, if not effectively addressed, could hinder the timely determination of clearance eligibility for servicemembers, civilian government employees, and industry personnel; whereas other impediments would mainly affect industry personnel. The inability to accurately estimate the number of future clearance requests and the expiration of the previously mentioned executive order that resulted in high-level involvement by OMB could adversely affect the timeliness of eligibility determinations for all types of employee groups. In contrast, an increased demand for top secret clearances for industry personnel and the lack of reciprocity would primarily affect industry personnel.

An Existing and a Potential New Impediment Could Lead to Continuing Problems for All Types of Employees Seeking Clearances

A major impediment to providing timely clearances is the inaccurate projections of the number of requests for security clearances DOD-wide and for industry personnel specifically. As we noted in our May 2004 testimony before this committee, DOD's longstanding inability to accurately project its security clearance workload makes it difficult to determine clearance-related budgets and staffing requirements. In fiscal year 2001, DOD received 18 percent (about 150,000) fewer requests than it expected, and in fiscal years 2002 and 2003, it received 19 and 13 percent (about 135,000 and 90,000) more requests than projected, respectively. In 2005, DOD was again uncertain about the number and level of clearances

that it required, but the department reported plans and efforts to identify clearance requirements for servicemembers, civilian employees, and contractors. For example, in response to our May 2004 recommendation to improve the projection of clearance requests for industry personnel, DOD indicated that it was developing a plan and computer software that would enable the government's contracting officers to (1) authorize a certain number of industry personnel clearance investigations for any given contract, depending on the number of clearances required to perform the classified work on that contract, and (2) link the clearance investigations to the contract number.

Another potential impediment that could slow improvements in personnel security clearance processes in DOD—as well as governmentwide—is the July 1, 2006, expiration of Executive Order No. 13381. Among other things, this executive order delegated responsibility for improving the clearance process to the Director of OMB for about 1 year. We have been encouraged by the high level of commitment that OMB has demonstrated in the development of a governmentwide plan to address clearance-related problems. Also, the OMB Deputy Director met with GAO officials to discuss OMB's general strategy for addressing the problems that led to our high-risk designation for DOD's clearance program. Demonstrating strong management commitment and top leadership support to address a known risk is one of the requirements for removing DOD's clearance program from GAO's high-risk list. Because there has been no indication that the executive order will be extended, we are concerned about whether such progress will continue without OMB's high-level management involvement. While OPM has provided some leadership in assisting OMB with the development of the governmentwide plan, OPM may not be in a position to assume additional high-level commitment for a variety of reasons. These reasons include (1) the governmentwide plan lists many management challenges facing OPM and the Associate Director of its investigations unit, such as establishing a presence to conduct overseas investigations and adjusting its investigative workforce to the increasing demand for clearances; (2) adjudication of personnel security clearances and determination of which organizational positions require such clearances are outside the current emphases for OPM; and (3) agencies' disputes with OPM—such as the current one regarding billing—may require a high-level third party to mediate a resolution that is perceived to be impartial.

Increased Demand for High-level Clearances and the Lack of Reciprocity Are Previously Identified Problems for Industry Personnel

As we have previously identified, an increase in the demand for top secret clearances could have workload and budgetary implications for DOD and OPM if such requests continue to occur. In our 2004 report, we noted that the proportion of requests for top secret clearances for industry personnel increased from 17 to 27 percent from fiscal years 1995 through 2003. This increase has workload implications because top secret clearances (1) must be renewed every 5 years, compared to every 10 years for secret clearances, and (2) require more information about the applicant than secret clearances do. Our 2004 analyses further showed that the 10-year cost to the government was 13 times higher for a person with a top secret clearance ($4,231) relative to a person with a secret clearance ($328). Thus, if clearance requirements for organizational positions are set higher than needed, the government's capacity to decrease the clearance backlog is reduced while the cost of the clearance program is increased.

When the reciprocity of clearances or access is not fully utilized, industry personnel are prevented from working. In addition to having a negative effect on the employee and the employer, the lack of reciprocity has adverse effects for the government, including an increased workload for the already overburdened staff who investigate and adjudicate security clearances. Problems with reciprocity of clearances or access, particularly for industry personnel, have continued to occur despite the establishment in 1997 of governmentwide investigative standards and adjudicative guidelines.[9] The Reciprocity Working Group, which helped to prepare information for the governmentwide plan to improve the security clearance process, noted that "a lack of reciprocity often arises due to reluctance of the gaining activity to inherit accountability for what may be an unacceptable risk due to poor quality investigations and/or adjudications." Congress enacted reciprocity requirements in the Intelligence Reform and Terrorism Prevention Act of December 2004,[10] and OMB promulgated criteria in December 2005 for federal agencies to follow

[9] Reciprocity, as is required by Executive Order No. 12968, is a policy that requires background investigations and eligibility determinations conducted under the order be mutually and reciprocally accepted by all agencies, expect when an agency has substantial information indicating that an employee may not satisfy the standards under this order. Reciprocity also involves the ability to transfer (1) an individual's existing, valid security clearance and (2) access from one department, agency, or military service to another or from the federal government to the private sector (and vice versa) when the individual changes jobs without having to grant another clearance or access.

[10] Pub. L. No. 108-548, § 3001 (d), Reciprocity of Security Clearance and Access Determinations.

in determining whether to accept security clearances from other government agencies. Because of how recently these changes were made, their impact is unknown.

Concluding Observations

We will continue to assess and monitor DOD's personnel security clearance program at your request. We are conducting work on the timeliness and completeness of investigations and adjudications for top secret clearances for industry personnel and we will report that information to this committee this fall. Also, our standard steps of monitoring programs on our high-risk list require that we evaluate the progress that agencies make toward being removed from the list.[11] Lastly, we monitor our recommendations to agencies to determine whether steps are being taken to overcome program deficiencies.

Staff Contact and Acknowledgments

For further information regarding this testimony, please contact me at (202)512-5559 or stewartd@gao.gov. Individuals making key contributions to this testimony include Jack E. Edwards, Assistant Director; Jerome Brown; Kurt A. Burgeson; Susan C. Ditto; David Epstein; Sara Hackley; James Klein; and Kenneth E. Patton.

[11] The general steps required to remove DOD's personal security clearance program from the high-risk list are summarized in GAO, *DOD Personnel Clearances: Government Plan Addresses Some Longstanding Problems with DOD's Program, But Concerns Remain*, GAO-06-233T (Washington, D.C.: Nov. 9, 2005).

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National Security Requirements of the United States Demand Reformation of the Security Clearance Process: The Need for a 21st Century Solution

A White Paper on Issues Confronting the Government Contractor Community

Prepared by

Aerospace Industries Association
Associated General Contractors of America
Association of Old Crows
Contract Services Association
Information Technology Association of America
Intelligence and National Security Alliance
National Defense Industrial Association
Professional Services Council

EXECUTIVE SUMMARY

In a post-9/11 environment, the National Security needs of the United States, both at home and abroad, have skyrocketed to unprecedented levels. To meet those needs, government agencies are increasingly turning to the private sector for help. Like their counterparts employed by government, people working for contractors on critical defense and intelligence activities often require access to classified information and facilities to do their jobs. An effective and efficient process for clearing personnel is the only way to ensure they have that access. Today, such a process does not exist.

Industry's goal for this process is represented by a simple phrase: ***one application, one investigation, one adjudication and one clearance***. This goal has been and continues to be the basis for specific recommendations industry advocates to bring about substantive improvements to the clearance granting process.

As organizations representing the companies that use this clearance process, the Coalition is well aware of the reforms required as part of the 2004 Intelligence Reform and Terrorism Prevention Act; those reforms that have actually been put in place, where those reforms have succeeded and where they have fallen short; where additional attention and resources are still needed; and which areas of the process have failed the National Security and security clearance needs of the United States entirely.

Unfortunately, the April 2006 moratorium on the acceptance of clearance applications by the Defense Security Service (DSS) is further evidence of a systemic failure – and that the clearance process as a whole is irrevocably broken. For additional evidence, one need only compare the conditions in 2003 with those of 2006. In 2003, there were over 300,000 backlogged applications, primarily at the investigative stage of the process. Today more than 300,000 applications remain jammed in the clearance process. In 2003, the application, investigation and adjudication process took an inordinate and unacceptable amount of time. Today, that process takes even longer. No end is in sight for the backlog, which is mostly caused by bureaucratic delays.

In the short-term, industry calls upon Congress to work with the Department of Defense to reprogram funds to restart the acceptance of industry applications. The only long-term solution for security clearances is a complete overhaul of the process. We must move away from the antiquated Cold War-era, bureaucratically burdened, process to a more technological and comprehensive 21st Century approach that is tailored to meet the fast-paced and dynamic National Security threats confronting our Nation.

RECOMMENDATIONS FOR CONGRESS

- Direct the Secretary of Defense to immediately restart and sustain the clearance granting process for all classes of clearances through the end of FY 2006 and the out years.
- Direct a thorough audit of both DSS' and OPM's finances and caseloads to better understand the causes of the current DSS shutdown and prevent its recurrence.
- Require that the application process, including the collection and transmission of fingerprints and signatures, be entirely automated no later than January 1, 2007.
- Order a survey of backlogged clearance applications to determine exactly how many are still valid.
- Ensure that the questionable practice of charging clearance investigative contractors for investigations when clearances already are in place is not repeated during the re-competition phase of these contracts.
- Intervene to stop the collection by OPM of a premium on the investigation of applications submitted by DSS.
- Tie OPM funding directly to the adoption, implementation and use of technology and commercially available databases as a means of expediting the clearance granting process.
- Extend the Simmons/Davis/Davis amendment to the 2007 National Defense Authorization Act to ensure that those needing a periodic reinvestigation in the remainder of Fiscal Year 2006 receive similar relief.
- Direct OPM to solicit industry for solutions to reducing the backlog of applications and for bringing the entire process into compliance with the 2004 Intelligence Reform and Terrorism Prevention Act.
- Determine in the near future exactly what new workloads have been placed upon OPM by the investigative requirements of HSPD-12, whether OPM has the resources and funding to adequately meet the volume requirement, verify that there will be no reduction in the personnel and funding dedicated to the processing of security clearances, and finally, consider the possibility of allowing agencies and contractors to utilize approved and qualified private sector background check providers to conduct the required automated checks much more rapidly, at a much lower cost and with no impact on the current OPM clearance workload.

BACKGROUND

The Information Technology Association of America (ITAA) along with partner organizations including the Aerospace Industries Association (AIA), the Associated General Contractors of America (AGC), the Association of Old Crows (AOC), the Contract Services Association (CSA), the Intelligence and National Security Alliance (INSA), the National Defense Industrial Association (NDIA) and the Professional Services Council (PSC) – (collectively, "the Coalition") – present this updated and revised paper from our May 2004 effort to address industry's perspective on the current state of the security clearance process. The collective membership of these organizations is drawn from the leading information technology and government service companies in the United States and represents a significant proportion of the total monetary measurement of Federal government contracting. These companies develop and deploy the products and services that have helped to make the United States' intelligence and war fighting capability the best in the world.

In order to perform many critical services for government customers, especially as they relate to the war on terror and National Security, tens of thousands of industry personnel must obtain and renew security clearances every year. The security clearance process, rules, and regulations are very important to industry because they create the mechanism to obtain and clear qualified personnel to support the government's critical missions. This process must be improved to better safeguard our Nation's security.

Industry faces increased pressure to deliver cleared personnel on the day a contract begins. The current state of the clearance granting process makes it almost impossible for industry to meet these demands. These delays in obtaining security clearances ultimately increase costs to the federal government, and ultimately the taxpayer, by delaying the ability to use the most qualified personnel on critical programs. These costs run into the hundreds of millions of dollars for the government and cost industry a similar amount. It also is stifling innovation and cooperation, since it is virtually impossible to share a good idea or leverage an existing team to provide solutions across agencies or departments without having appropriately cleared personnel. Ultimately, we can only conclude that a considerable amount of important work is not getting done.

Lengthy clearance processes adversely affect mission accomplishment, prevent people from working in a productive and timely manner, and add to the cost of programs to the federal government. The goal of "one application, one investigation, one adjudication and one clearance" is to improve the security clearance process, enhance the nation's security posture, better serve our customers, and lower the cost to government. Currently, none of these critical goals are being met.

Recent disturbing actions by DSS and the Office of Personnel Management (OPM) have an alarming impact on the industrial base, and have severely clouded the future of a viable, efficient clearance process. The first such action is the April 2006 moratorium by the DSS on submission of initial industrial security clearance and periodic reinvestigation requests due to funding shortfalls. This decision greatly compounds the existing

unacceptable delays that industry faces in delivering critical goods and services to the government. Periodic reinvestigations conducted by OPM can take even longer as they are assigned a lower priority than initial investigations. As contractors to the Federal government, this condition raises a number of questions regarding the ability of industry to perform, even though this condition was brought about by government action. The second new issue of major concern is the impending implementation deadlines for the requirements of HSPD-12 and the tidal wave of investigations that will roll over OPM in the very near future.

ONE APPLICATION

On April 26, 2006, the DSS announced that they were placing an indefinite moratorium on the acceptance of applications for new clearances, as well as applications for periodic reinvestigation. This unprecedented decision was made without the prior knowledge or approval of senior Department of Defense (DoD) personnel, and without consulting with or notifying industry beforehand. Without the ability to present applications, industry cannot fully meet the contractual and National Security needs of the federal government. Since over 80% of the applications that enter the clearance process are submitted through the DSS, even a slight delay will have a detrimental affect on the industrial base and the 24 government departments and agencies that submit applications through the Service.

According to the announcement provided to industry on the day of the shutdown, DSS said they took this drastic action in response to an inordinate increase in the number of applications submitted for processing and a corresponding increase in the cost to investigate those applications. Any increases experienced by DSS in the number of applications are the result of the demands of government contracts and therefore cannot be considered inordinate. In fact, since the demand is driven by government need, there should have been no surprises, either. DSS states that they have processed over 100,000 applications since October 1, 2005, and is holding over 3,000 applications as of the date the moratorium was imposed.

Furthermore, DSS initially estimated that it would require an additional $180M to complete their FY06 obligations. This need would mean that their supplemental requirements exceed their original funding amount of $145M. It is inexplicable to industry how they underestimated their financial needs by over 60%. Therefore, Congress should:

- **Direct a thorough audit of both DSS' and OPM's finances and caseloads to understand the causes of the current DSS shutdown.**
- Examine why a moratorium was applied without any prior notice or consultation.

To address the moratorium, industry calls upon Congress to direct the Secretary of Defense to immediately restart and sustain the clearance granting process for all classes of clearances through the end of FY 2006 and the out years. DSS announced on May 16, 2006 that it was partially restarting the clearance acceptance process for Secret level clearances only. Additionally, DSS testified that it had revised

the amount it needed to restart the process fully to $91M and was waiting on Congressional approval to reprogram the finds for this purpose. Industry is concerned that this action was taken only because of pending oversight hearings. Congress should keep in mind that this moratorium is merely the latest symptom of the chronic and wholesale failure of the clearance granting process.

It also has been suggested by some that industry should pay to have their clearance applications processed. Industry emphatically rejects that suggestion for a number of critical reasons. These include:

- The imposition of such a payment would create a condition of "haves and have nots," where larger companies might be able to pay for this service, but many medium and small companies could not afford such an expense.
- Any expense levied on a contractor by the government ultimately becomes part of the expenses that the contractor incurs as part of the contract. Since individual government programs have not budgeted for this purpose, there will be no new efficiencies gained, and the taxpayer will still pay for the service.
- If industry is paying for a service, then it should be able to expect that service to perform to stated specifications. The current clearance process meets none of the specifications or timelines set in law or established by the agencies conducting the process. If industry is forced to pay for clearances, then it should be afforded the ability to identify or establish alternative providers that will meet their needs in a timely fashion.

Despite the affect of this moratorium to the application portion of the process, when operational, the "one application" goal largely progressed with the consolidation of DSS and OPM investigative services and the use of the OPM eQuip application format. Improvement is still needed, however, to bring about greater efficiency and to reduce the percentage of rejected clearance applications. Industry has long sought a common, automated application process. With the advent of eQuip (OPM's automated clearance application system), applicants are providing a comparable and largely uniform set of information. The submission of fingerprints and signatures, however, is another story entirely.

Fingerprint cards are required for submission with a clearance application, as well as a hard copy of the signatures on the investigative release forms. In a day and time when most local law enforcement agencies are collecting fingerprints electronically and instantly marrying that data with other identifying information, there is really no rationale for why the federal government's security clearance process is still a paper-reliant process. As recently as May of 2006, agencies advised against industry acquiring electronic fingerprint collection technologies as a way to expedite the process. Congress and DoD long ago established standards and identified compliant technologies for the submission of electronic signatures, so the application of this capability to the clearance process should not be difficult.

Furthermore, industry has identified the manual submission of fingerprints and signatures as a significant reason why the backlog of applications persists. Without automated

fingerprint and signature submissions electronically stored, information submitted through eQuip must be manually integrated with fingerprint and signature cards that have been mailed to OPM. If the information cannot be integrated, then the application is rejected, further delaying the process. To further complicate this component of the applications process, OPM has established a practice of rejecting all applications if the fingerprint and signature cards are out of date by 30 or more days. Delays in integrating the cards with the relevant data frequently cause the cards to be considered out of scope. This practice is contrary to the timeframes established by Congress for the timely completion of the entire process.

Of additional concern to industry is the significant number of resubmissions of fingerprints that must occur. In far too many instances, OPM informs applicants that the agency was unable to find fingerprint cards to match an electronic application. It is not uncommon for applicants to submit cards on two or more occasions before OPM successfully integrates the data and begins the investigative process. Applicants are left to wonder what happened to the cards they submitted the first time. Industry is concerned that there is no stated OPM policy for the return and/or destruction of these "missing" fingerprint cards, which contain in one place a significant amount of individual biometric data.

To resolve these long-term concerns, industry calls on Congress to require that the application process be entirely automated no later than January 1, 2007, including collection and transmission of fingerprints and signatures. The technologies necessary to complete this automation are widely available and used extensively by local law enforcement, Congress, other government agencies and the commercial sector. Additionally, industry is prepared to help create mutually accessible centers for government and businesses large and small to securely capture and submit digital fingerprints and signatures for this process. The Department of Defense already has stated that it will be establishing such centers on military facilities around the globe and there is no reason why these centers could not also be available for submission of electronic applications for security clearances, including digital fingerprints and signatures. OPM also has plans to create such centers in the United States for the implementation of HSPD-12, so these centers could also be equipped and staffed to accept and submit electronic applications for clearances. Data systems should be able to then instantly marry data sets using a unique identifier already assigned when an application is submitted via eQuip.

ONE INVESTIGATION

One investigation is vital to the continuity of the security clearance process and critical to the ability to achieve one clearance, discussed later in this paper. Industry has sought to have the investigative process made uniform, with common standards and vocabulary, so that the results of an investigation can be reviewed and interpreted consistently across government.

The investigation part of the security clearance process has historically been, and continues to be, the main bottleneck and there does not appear to be any relief in this

condition, even in the long-term. For the last several years, there have been over 300,000 applications backlogged at the investigative stage of the process and no actions taken by OPM or the Office of Management and Budget (OMB) are intended to directly address the backlog. Representatives from both agencies have stated on more than one occasion that any reductions in the backlog will occur incrementally only as resources are made available. **Industry recommends that a survey of the backlog be conducted to determine exactly how many of the overdue applications are still valid.** Many of the applications in the backlog are likely expired due to the sheer length of time necessary to complete the clearance process in many cases. Multiple submissions required in many other cases will have rendered many applications in the backlog invalid.

To its credit, OPM has taken steps that should have had a positive influence upon new clearance applications. Unfortunately, in practice, those steps do not seem to have made any impact. The first of these actions was the implementation of a data collection process, called Personnel Investigation Processing System (PIPS), whereby OPM sought to obtain some insight into the number of applications that were being submitted, which agencies were generating them, how long they were in process and, for budget forecasting purposes, what levels of resources would be needed to address the volume. However, PIPS apparently provided no forewarning of the conditions that lead the DSS to shutdown. To date, any information collected through this mechanism has not been shared with the public, but industry hopes Congress will be afforded the benefit of seeing the data in order to identify which agencies are non-compliant with the provisions of the 2004 Intelligence Reform and Prevention Act (or Act). PIPS also was intended to be a tracking database for applicants, but to date it has not been very effective in fulfilling that mission as such. In the past, when DSS conducted investigations, an industry security officer could contact the Service and determine the status of an application and whether or not there were any problems, such as missing or incomplete information. This information is completely unavailable to industry now that OPM is handling investigations.

OPM has also moved to build up its processing capacity by hiring additional contract investigators. It now claims support from over 8,000 contract investigators, and contends that this number is sufficient to adequately handle the volume of new applications. Industry has been unable to determine what, if any, impact the increase in applications identified by DSS has had on the workload of OPM's increased workforce.

Industry is further concerned about that workload because instead of 8,000 investigators, what they have are contracts with six companies which employ or subcontract with several thousand of the same investigators, leading to estimates that there are actually just 5,000 individual investigators now under contract at OPM, including the more than 1,000 former DSS investigator personnel transferred in February 2005. While industry applauds OPM's efforts to augment its workforce, we feel that it should be a temporary expansion only until such time as the backlog can be reduced significantly and the automation of the process can be established. Since there is, in reality, a significantly smaller workforce in place than OPM claims, we are concerned that this shortfall will instead increase the backlog and delay the processing of applications even further.

Since the OPM investigative contracts are currently up for re-compete, we want to call several interesting provisions to the attention of Congress. When OPM awarded the five most recent contracts in 2004, it required all of the companies involved to pay a $2,500 per investigator fee for a clearance investigation and adjudication, since all investigators also must hold a clearance. Since many of these contract investigators already had clearances at various levels, objections were raised and OPM rescinded the fee for those already holding clearances. However, in many instances OPM later indicated it was unable to locate or confirm the clearances, and forced companies to pay the fees or risk delays in performance. Finally, OPM recognized that some individual investigators were included as part of the workforce on several of the six contracts, but still required each company to pay the $2,500 clearance investigation fee, even if the individual already had been investigated as part of the workforce for another company. **Industry urges Congress to ensure that these questionable practices of charging contractors for investigations when clearances already are in place are not repeated during the re-competition phase of these contracts.**

Similarly, industry hopes Congress will intervene to stop the collection of a premium on the investigation of applications submitted by DSS. While these premiums may be part of the negotiated Memorandum of Understanding that facilitated the consolidation of investigations in OPM, it is the taxpayer that foots this bill and any such practice should be stopped. This premium has ranged from 5 to 30 percent of the total cost of the investigation. For a Top Secret clearance, the base charge to DSS is $3700, so with the premium, the final charge could easily exceed $5,000 per investigation. For Secret clearances, the charge is $325. Since DSS contends that the charges associated with the increase in applications they have experienced is the cause of their funding shortfall, it would aid in understanding the current crisis if OPM were required to reveal detailed audit information regarding the charges it levies, including an explanation of what is included in those charges; the justification for any premiums it may charge; and whether or not the Federal Investigative Service is allowed to retain those premiums to make improvements to the clearance investigation process or if the premiums are passed to the larger agency.

The reforms contained in the Intelligence Reform Act also specifically require the increased use of commercially available databases and technology to expedite the investigative process. To date, industry has seen no indication that OPM has complied with this provision of the law. It is commonplace for private sector industries to rely upon the rapid, efficient and confidential nature of these commercially available databases and technologies, and there is no reason why their use cannot immediately be incorporated into the OPM investigative process. **Industry encourages Congress to tie OPM funding directly to the adoption, implementation and use of commercially available databases and technology as a means of expediting the clearance granting process.**

Of great concern to industry is the OPM practice of declaring an application "closed pending." When an investigation nears completion, but cannot be fully closed, the agency places the application in a "closed pending" status. This status places the

clearance in limbo, where it is not counted toward the backlog of applications that are not completed. It is however, considered to be completed for accounting purposes, as OPM assesses any final charges against the submitting agency. Of greatest concern to industry is that there is no formal tracking of the cases in "closed pending" status and it is currently unknown how many thousands of cases may be lying in this state of limbo still unfinished.

Periodic reinvestigations (PR) are another key component in the clearance granting process badly in need of attention. The reinvestigations have been relegated to such a low priority that clearances held by industry personnel working on government projects are sometimes expiring before any action is taken to complete the renewal application. Of great concern to industry is the looming bow wave of reinvestigations coming from the post-9/11 clearances. The condition is such that many periodic reinvestigations are considered to be "in process" once the clearance holder has completed an application for reinvestigation. In reality, many such applications are never entered into the process because the emphasis is placed upon those who do not have clearances, under the assumption that those with a clearance can be placed in a lower priority and be processed at a later date. For government, this may seem to be an acceptable temporary solution. In practice, industry finds that more and more frequently, clearances have lapsed. These discoveries are made when cleared personnel try to move from contract to contract, or start supporting a new agency under an existing contract or relocate or get new employment and the validity of their clearance must be checked. It is at this time that both the employer and the clearance holder frequently and first discover that, despite the completion of the periodic reinvestigation application, the paperwork was never processed and the clearance is "out of scope." Periodic reinvestigations are also covered in the moratorium of the DSS on applications. Therefore, current clearance holders are now at even greater risk of having their clearance expire and/or lose their SCI access.

The Security Clearance Coalition applauds Congress for adopting the Simmons/Davis/Davis amendment to the 2007 National Defense Authorization Act to address problems concerning periodic reinvestigations in FY07. We recommend that additional action be taken to ensure that those needing a periodic reinvestigation in the remainder of Fiscal Year 2006 receive similar relief.

The Phased Periodic Reinvestigation was an initiative developed in 1999-2000 by DoD and the Intelligence Community as a new approach to the perennial backlog problem, which employed the benefits of data mining and the results of research involving more than 4,500 cases. The Phased PR research conclusively demonstrated that the costly and time consuming field investigative effort could be safely eliminated on 40 percent of the cases where the Phase I process (SF 86 application form, criminal, credit and transactional record checks, as well as the subject interview) was "clear." If a Phase I issue were revealed, the entire Phase II field investigative process would have been implemented. The result would have been a significant savings of investigative time and resources in the conduct of periodic reinvestigations, which could have been redirected to improving the timeliness of the process and eliminating the backlog of initial

investigations. Unfortunately, despite its conclusive promise, the Phased PR has yet to be implemented by OPM more than four years after it was introduced.

Another promising DoD innovation developed through research and testing that has not been adopted by OPM or made operational is the Automated Clearance and Evaluation System (ACES). ACES is based on annual (vs. every five years) data mining of relevant commercial and government databases involving credit, criminal and other transactional information on personnel with the most sensitive clearances and accesses. Whenever relevant unfavorable information is detected that would call into question the suitability for someone to hold a clearance, it would trigger human intervention and a reinvestigation would be launched. Under this system, the most sensitive clearance holders are being checked for suitability in an automated fashion on a more frequent and much less costly basis, thereby identifying potential threats much earlier. The use of ACES as a potential substitute for the manpower intensive PR would not only provide greater security at a much lower cost, but it would lead to a drastic reduction in the costly and time consuming field portion of the investigation workload. ACES held significant promise using leading edge technology, but was largely abandoned after OPM consolidated the investigative services.

Finally, Congress should determine why OPM has never solicited industry for solutions to this problem. While we fully recognize and support the requirement that the adjudicative responsibility must reside within government agencies, the fact that OPM has contracted for support investigators is a clear indicator that there is no inherently governmental function in performing the investigative portion of the clearance granting process. **Industry requests that Congress encourage OPM to solicit industry partners in seeking solutions to reducing the backlog of applications and for bringing the entire process into compliance with the Act.**

ONE ADJUDICATION

Industry also has long sought standardization and uniformity in the process of adjudication so that someone holding a Secret or Top Secret clearance could be confident that there would not be variances in the interpretation of their adjudication from one agency to the next. This concept of "one adjudication" builds upon the uniformity and standardization discussed above and leads directly into the following stage – one clearance.

Adjudication is not currently a significant problem for industry. Once the investigation stage has been completed, the application is returned to the adjudicating authority that is responsible for issuing the clearance. For most industry personnel, that authority is the Defense Industrial Security Clearance Office (DISCO), which is part of DSS. Communication with DISCO and the other adjudicating agencies is significantly more open and the process of reviewing the results of the investigation are conducted in a more timely fashion.

One area of adjudication that does require attention is the time frame for appealing an adjudicative decision. In some instances, the information produced in an investigation is faulty and after review and correction by the applicant, an appeal can be instituted to reconsider the decision. Unfortunately, there is no requirement for this appeal to occur in a timely manner. This appeal process should be conformed to the same timeframes for clearance processing spelled out in the Act. Industry hopes that this concern can be addressed through regulations that also govern how an appeal can be filed.

We also note that it is impossible to determine if this stage of the process is truly efficient and timely or if we are benefiting from the lack of clearances that currently make it to the adjudication phase. In other words, this condition could be the result of the significant delays and the backlog of applications at the investigative stage. The moratorium of applications at DSS should further minimize the volume of adjudications, making this stage of the process appear to be even more efficient in the near-term.

ONE CLEARANCE

The last stage of the process also has received attention since the passage of the Act, most notably because of the Memorandum from OMB Deputy Director Clay Johnson in late 2005. **Industry applauds the guidance on reciprocity from the Administration and the agreement by all of the adjudicating agencies and departments to comply.** The memorandum accurately captured the requirements in the Act, and instructs Federal agencies to once and for all establish uniform procedures for recognizing and accepting clearances at the same level when issued by other adjudicating authorities.

Industry has seen some improvement in the reciprocity of clearances, particularly in the intelligence community, but instances when agencies refuse to recognize each others clearances still occur with disturbing regularity. Another improvement industry has noted is the reduction in cases requiring a re-investigation of a current clearance by a second or third agency. However, other onerous requirements short of a re-investigation are still sometimes imposed and they serve only to slow down the process, duplicate effort, increase the burden on taxpayers for redundant government activity, and prevent the agency from meeting its demands in a more timely fashion.

One reason for the persistence of these conditions is the lack of a single, government-wide, interoperable real-time database containing all clearance and access information. The database containing this information for the intelligence community, Scattered Castles, is classified and not linked to the same unclassified but sensitive database for the civilian and defense agencies (Joint Personnel Adjudication Systems or JPAS). There also are defense and civilian agencies that do not contribute information to the databases in a timely manner, making the clearance information issued by them incomplete or unreliable. Another hurdle to overcome is the requirement by some agencies to only recognize up-to-date clearances, (i.e., based upon a current investigation), even though the delays discussed above are pushing "active" clearances beyond their standard periodic reinvestigation timeframes. These requirements must be corrected for reciprocity to work as it was envisioned by Congress in the Act.

Ultimately, OMB must require federal agencies to provide accurate, timely and thorough information about the clearances each has granted. This will enable the capability for others, when authorized, to review applications, the subsequent investigations, the results, and finally, the basis for adjudicating a clearance positively so that reciprocity can be fully realized wherever the National Security needs of the United States demand.

OTHER INDUSTRY CONCERNS

EXECUTIVE ORDER 13381

Executive Order 13381 (EO) was issued in June of 2005 and will expire within one year unless it is renewed. This executive order establishes many of the Administration's requirements for compliance with the Act and should not be allowed to lapse. Additionally, the EO specifies that the Director of OMB is the President's designee for administering the provisions of the Act and the Order. While this Administration has done much in the last year to implement provisions related to security clearance reform, much still needs to be done. Of particular note is the provision in the Act that grants the power to revoke the clearance granting authority for an agency that is not in compliance with the application, investigation, adjudication and reciprocity provisions of the Act. Industry believes that further consideration should be given to enforcement of the law through greater exercise of this authority.

HOMELAND SECURITY PRESIDENTIAL DIRECTIVE-12

There is significant concern among industry about the impact on the investigative process for security clearances once Homeland Security Presidential Directive 12 (HSPD 12) is fully implemented. In short, HSPD-12 requires that all persons who will require access to a federal information system or a federally-controlled facility must have issued, no later than October 27, 2007, a biometrically encrypted identification card compliant with specifications established as part of the implementation of the directive. This directive applies to government, contractor and subcontractor employees alike. Recently, Federal Acquisition Regulations (FAR) for the application of these provisions to contracts and subcontracts was published. This FAR rule requires that each agency is responsible for the development and implementation of a procedure to conduct investigations and background checks on all employees of all contractors and subcontractors meeting the access requirements described above. This rule further requires that these procedures would use the OPM Federal Investigative Services for the personal identity verification (PIV) investigation and the Federal Bureau of Investigation criminal records databases for the criminal background check.

It is the former requirement for the use of OPM that is most disconcerting. Industry is concerned that since OPM is incapable of processing the existing applications for security clearances in a timely fashion, the process will only degrade further once agencies begin to submit applications for PIV investigations. This concern has been dismissed by OPM, but there is no indication that the agency has the resources to handle

clearance investigations, much less this new responsibility. OPM does not have enough personnel; it has to date been unable to automate and make interoperable their data collection systems so that it can be compliant with the Intelligence Reform Act; and it does not have any clear plans for reducing and eliminating the workload that it cannot currently handle. The volume of HSPD-12 investigations is anticipated to run into the millions. This estimation does not include government personnel that will need a comparable PIV investigation if they do not already possess one for another reason. OPM has shrugged off this concern, contending that the process is automated. However, even the workload of entering this data and ensuring that investigations are processed, completed and reported back to the submitting agency is staggering. **Industry requests that Congress promptly determine in the near future exactly what new workloads have been placed upon OPM by the investigative requirements of HSPD-12, whether OPM has the resources and funding to adequately meet the volume requirement, verify that there will be no reduction in the personnel and funding dedicated to the processing of security clearances, and finally, consider the possibility of allowing agencies and contractors to utilize approved and qualified private sector background check providers to conduct the required automated checks much more rapidly, at a much lower cost and with no impact on the current OPM clearance workload.**

INTERIM CLEARANCES

Increasingly, applicants for a clearance are provided an interim clearance once an investigation has been initiated by OPM. This practice is widely viewed to be sufficient to allow the employees associated with a contractor to begin work. This interim status, however, does not grant access to government facilities without specific review and permission. Under HSPD-12, many are assumed to be "grandfathered" for the PIV investigation if they currently hold a clearance, but interim clearances do not meet the requirements for HSPD-12 for a full and final suitability determination. Government must recognize these significant gaps in the identification procedures that are being established and move to address them quickly.

CONCLUSION

It cannot be overstated that industry is committed to preserving the strict government requirements to obtain security clearances. The Coalition's interest is not to minimize current requirements, but to make appropriate changes to an antiquated process that would allow the nation to remain vigilant in determining who has access to sensitive information, while better meeting defense and intelligence needs at the lowest possible cost. Industry looks forward to working with the government to examine and implement the recommendations made in this white paper, and stands ready to devote its experience and significant expertise with best practices to ensure that critical government programs do not go unexecuted for lack of available cleared personnel.

National Security Requirements of the United States Demand Reformation of the Security Clearance Process: The Need for a 21st Century Solution

A White Paper on Issues Confronting the Government Contractor Community

Prepared by

Aerospace Industries Association
Associated General Contractors of America
Association of Old Crows
Contract Services Association
Information Technology Association of America
Intelligence and National Security Alliance
National Defense Industrial Association
Professional Services Council

EXECUTIVE SUMMARY

In a post-9/11 environment, the National Security needs of the United States, both at home and abroad, have skyrocketed to unprecedented levels. To meet those needs, government agencies are increasingly turning to the private sector for help. Like their counterparts employed by government, people working for contractors on critical defense and intelligence activities often require access to classified information and facilities to do their jobs. An effective and efficient process for clearing personnel is the only way to ensure they have that access. Today, such a process does not exist.

Industry's goal for this process is represented by a simple phrase: ***one application, one investigation, one adjudication and one clearance***. This goal has been and continues to be the basis for specific recommendations industry advocates to bring about substantive improvements to the clearance granting process.

As organizations representing the companies that use this clearance process, the Coalition is well aware of the reforms required as part of the 2004 Intelligence Reform and Terrorism Prevention Act; those reforms that have actually been put in place, where those reforms have succeeded and where they have fallen short; where additional attention and resources are still needed; and which areas of the process have failed the National Security and security clearance needs of the United States entirely.

Unfortunately, the April 2006 moratorium on the acceptance of clearance applications by the Defense Security Service (DSS) is further evidence of a systemic failure – and that the clearance process as a whole is irrevocably broken. For additional evidence, one need only compare the conditions in 2003 with those of 2006. In 2003, there were over 300,000 backlogged applications, primarily at the investigative stage of the process. Today more than 300,000 applications remain jammed in the clearance process. In 2003, the application, investigation and adjudication process took an inordinate and unacceptable amount of time. Today, that process takes even longer. No end is in sight for the backlog, which is mostly caused by bureaucratic delays.

In the short-term, industry calls upon Congress to work with the Department of Defense to reprogram funds to restart the acceptance of industry applications. The only long-term solution for security clearances is a complete overhaul of the process. We must move away from the antiquated Cold War-era, bureaucratically burdened, process to a more technological and comprehensive 21st Century approach that is tailored to meet the fast-paced and dynamic National Security threats confronting our Nation.

RECOMMENDATIONS FOR CONGRESS

- Direct the Secretary of Defense to immediately restart and sustain the clearance granting process for all classes of clearances through the end of FY 2006 and the out years.
- Direct a thorough audit of both DSS' and OPM's finances and caseloads to better understand the causes of the current DSS shutdown and prevent its recurrence.
- Require that the application process, including the collection and transmission of fingerprints and signatures, be entirely automated no later than January 1, 2007.
- Order a survey of backlogged clearance applications to determine exactly how many are still valid.
- Ensure that the questionable practice of charging clearance investigative contractors for investigations when clearances already are in place is not repeated during the re-competition phase of these contracts.
- Intervene to stop the collection by OPM of a premium on the investigation of applications submitted by DSS.
- Tie OPM funding directly to the adoption, implementation and use of technology and commercially available databases as a means of expediting the clearance granting process.
- Extend the Simmons/Davis/Davis amendment to the 2007 National Defense Authorization Act to ensure that those needing a periodic reinvestigation in the remainder of Fiscal Year 2006 receive similar relief.
- Direct OPM to solicit industry for solutions to reducing the backlog of applications and for bringing the entire process into compliance with the 2004 Intelligence Reform and Terrorism Prevention Act.
- Determine in the near future exactly what new workloads have been placed upon OPM by the investigative requirements of HSPD-12, whether OPM has the resources and funding to adequately meet the volume requirement, verify that there will be no reduction in the personnel and funding dedicated to the processing of security clearances, and finally, consider the possibility of allowing agencies and contractors to utilize approved and qualified private sector background check providers to conduct the required automated checks much more rapidly, at a much lower cost and with no impact on the current OPM clearance workload.

BACKGROUND

The Information Technology Association of America (ITAA) along with partner organizations including the Aerospace Industries Association (AIA), the Associated General Contractors of America (AGC), the Association of Old Crows (AOC), the Contract Services Association (CSA), the Intelligence and National Security Alliance (INSA), the National Defense Industrial Association (NDIA) and the Professional Services Council (PSC) – (collectively, "the Coalition") – present this updated and revised paper from our May 2004 effort to address industry's perspective on the current state of the security clearance process. The collective membership of these organizations is drawn from the leading information technology and government service companies in the United States and represents a significant proportion of the total monetary measurement of Federal government contracting. These companies develop and deploy the products and services that have helped to make the United States' intelligence and war fighting capability the best in the world.

In order to perform many critical services for government customers, especially as they relate to the war on terror and National Security, tens of thousands of industry personnel must obtain and renew security clearances every year. The security clearance process, rules, and regulations are very important to industry because they create the mechanism to obtain and clear qualified personnel to support the government's critical missions. This process must be improved to better safeguard our Nation's security.

Industry faces increased pressure to deliver cleared personnel on the day a contract begins. The current state of the clearance granting process makes it almost impossible for industry to meet these demands. These delays in obtaining security clearances ultimately increase costs to the federal government, and ultimately the taxpayer, by delaying the ability to use the most qualified personnel on critical programs. These costs run into the hundreds of millions of dollars for the government and cost industry a similar amount. It also is stifling innovation and cooperation, since it is virtually impossible to share a good idea or leverage an existing team to provide solutions across agencies or departments without having appropriately cleared personnel. Ultimately, we can only conclude that a considerable amount of important work is not getting done.

Lengthy clearance processes adversely affect mission accomplishment, prevent people from working in a productive and timely manner, and add to the cost of programs to the federal government. The goal of "one application, one investigation, one adjudication and one clearance" is to improve the security clearance process, enhance the nation's security posture, better serve our customers, and lower the cost to government. Currently, none of these critical goals are being met.

Recent disturbing actions by DSS and the Office of Personnel Management (OPM) have an alarming impact on the industrial base, and have severely clouded the future of a viable, efficient clearance process. The first such action is the April 2006 moratorium by the DSS on submission of initial industrial security clearance and periodic reinvestigation requests due to funding shortfalls. This decision greatly compounds the existing

unacceptable delays that industry faces in delivering critical goods and services to the government. Periodic reinvestigations conducted by OPM can take even longer as they are assigned a lower priority than initial investigations. As contractors to the Federal government, this condition raises a number of questions regarding the ability of industry to perform, even though this condition was brought about by government action. The second new issue of major concern is the impending implementation deadlines for the requirements of HSPD-12 and the tidal wave of investigations that will roll over OPM in the very near future.

ONE APPLICATION

On April 26, 2006, the DSS announced that they were placing an indefinite moratorium on the acceptance of applications for new clearances, as well as applications for periodic reinvestigation. This unprecedented decision was made without the prior knowledge or approval of senior Department of Defense (DoD) personnel, and without consulting with or notifying industry beforehand. Without the ability to present applications, industry cannot fully meet the contractual and National Security needs of the federal government. Since over 80% of the applications that enter the clearance process are submitted through the DSS, even a slight delay will have a detrimental affect on the industrial base and the 24 government departments and agencies that submit applications through the Service.

According to the announcement provided to industry on the day of the shutdown, DSS said they took this drastic action in response to an inordinate increase in the number of applications submitted for processing and a corresponding increase in the cost to investigate those applications. Any increases experienced by DSS in the number of applications are the result of the demands of government contracts and therefore cannot be considered inordinate. In fact, since the demand is driven by government need, there should have been no surprises, either. DSS states that they have processed over 100,000 applications since October 1, 2005, and is holding over 3,000 applications as of the date the moratorium was imposed.

Furthermore, DSS initially estimated that it would require an additional $180M to complete their FY06 obligations. This need would mean that their supplemental requirements exceed their original funding amount of $145M. It is inexplicable to industry how they underestimated their financial needs by over 60%. Therefore, Congress should:

- **Direct a thorough audit of both DSS' and OPM's finances and caseloads to understand the causes of the current DSS shutdown.**
- Examine why a moratorium was applied without any prior notice or consultation.

To address the moratorium, industry calls upon Congress to direct the Secretary of Defense to immediately restart and sustain the clearance granting process for all classes of clearances through the end of FY 2006 and the out years. DSS announced on May 16, 2006 that it was partially restarting the clearance acceptance process for Secret level clearances only. Additionally, DSS testified that it had revised

the amount it needed to restart the process fully to $91M and was waiting on Congressional approval to reprogram the finds for this purpose. Industry is concerned that this action was taken only because of pending oversight hearings. Congress should keep in mind that this moratorium is merely the latest symptom of the chronic and wholesale failure of the clearance granting process.

It also has been suggested by some that industry should pay to have their clearance applications processed. Industry emphatically rejects that suggestion for a number of critical reasons. These include:

- The imposition of such a payment would create a condition of "haves and have nots," where larger companies might be able to pay for this service, but many medium and small companies could not afford such an expense.
- Any expense levied on a contractor by the government ultimately becomes part of the expenses that the contractor incurs as part of the contract. Since individual government programs have not budgeted for this purpose, there will be no new efficiencies gained, and the taxpayer will still pay for the service.
- If industry is paying for a service, then it should be able to expect that service to perform to stated specifications. The current clearance process meets none of the specifications or timelines set in law or established by the agencies conducting the process. If industry is forced to pay for clearances, then it should be afforded the ability to identify or establish alternative providers that will meet their needs in a timely fashion.

Despite the affect of this moratorium to the application portion of the process, when operational, the "one application" goal largely progressed with the consolidation of DSS and OPM investigative services and the use of the OPM eQuip application format. Improvement is still needed, however, to bring about greater efficiency and to reduce the percentage of rejected clearance applications. Industry has long sought a common, automated application process. With the advent of eQuip (OPM's automated clearance application system), applicants are providing a comparable and largely uniform set of information. The submission of fingerprints and signatures, however, is another story entirely.

Fingerprint cards are required for submission with a clearance application, as well as a hard copy of the signatures on the investigative release forms. In a day and time when most local law enforcement agencies are collecting fingerprints electronically and instantly marrying that data with other identifying information, there is really no rationale for why the federal government's security clearance process is still a paper-reliant process. As recently as May of 2006, agencies advised against industry acquiring electronic fingerprint collection technologies as a way to expedite the process. Congress and DoD long ago established standards and identified compliant technologies for the submission of electronic signatures, so the application of this capability to the clearance process should not be difficult.

Furthermore, industry has identified the manual submission of fingerprints and signatures as a significant reason why the backlog of applications persists. Without automated

fingerprint and signature submissions electronically stored, information submitted through eQuip must be manually integrated with fingerprint and signature cards that have been mailed to OPM. If the information cannot be integrated, then the application is rejected, further delaying the process. To further complicate this component of the applications process, OPM has established a practice of rejecting all applications if the fingerprint and signature cards are out of date by 30 or more days. Delays in integrating the cards with the relevant data frequently cause the cards to be considered out of scope. This practice is contrary to the timeframes established by Congress for the timely completion of the entire process.

Of additional concern to industry is the significant number of resubmissions of fingerprints that must occur. In far too many instances, OPM informs applicants that the agency was unable to find fingerprint cards to match an electronic application. It is not uncommon for applicants to submit cards on two or more occasions before OPM successfully integrates the data and begins the investigative process. Applicants are left to wonder what happened to the cards they submitted the first time. Industry is concerned that there is no stated OPM policy for the return and/or destruction of these "missing" fingerprint cards, which contain in one place a significant amount of individual biometric data.

To resolve these long-term concerns, industry calls on Congress to require that the application process be entirely automated no later than January 1, 2007, including collection and transmission of fingerprints and signatures. The technologies necessary to complete this automation are widely available and used extensively by local law enforcement, Congress, other government agencies and the commercial sector. Additionally, industry is prepared to help create mutually accessible centers for government and businesses large and small to securely capture and submit digital fingerprints and signatures for this process. The Department of Defense already has stated that it will be establishing such centers on military facilities around the globe and there is no reason why these centers could not also be available for submission of electronic applications for security clearances, including digital fingerprints and signatures. OPM also has plans to create such centers in the United States for the implementation of HSPD-12, so these centers could also be equipped and staffed to accept and submit electronic applications for clearances. Data systems should be able to then instantly marry data sets using a unique identifier already assigned when an application is submitted via eQuip.

ONE INVESTIGATION

One investigation is vital to the continuity of the security clearance process and critical to the ability to achieve one clearance, discussed later in this paper. Industry has sought to have the investigative process made uniform, with common standards and vocabulary, so that the results of an investigation can be reviewed and interpreted consistently across government.

The investigation part of the security clearance process has historically been, and continues to be, the main bottleneck and there does not appear to be any relief in this

condition, even in the long-term. For the last several years, there have been over 300,000 applications backlogged at the investigative stage of the process and no actions taken by OPM or the Office of Management and Budget (OMB) are intended to directly address the backlog. Representatives from both agencies have stated on more than one occasion that any reductions in the backlog will occur incrementally only as resources are made available. **Industry recommends that a survey of the backlog be conducted to determine exactly how many of the overdue applications are still valid.** Many of the applications in the backlog are likely expired due to the sheer length of time necessary to complete the clearance process in many cases. Multiple submissions required in many other cases will have rendered many applications in the backlog invalid.

To its credit, OPM has taken steps that should have had a positive influence upon new clearance applications. Unfortunately, in practice, those steps do not seem to have made any impact. The first of these actions was the implementation of a data collection process, called Personnel Investigation Processing System (PIPS), whereby OPM sought to obtain some insight into the number of applications that were being submitted, which agencies were generating them, how long they were in process and, for budget forecasting purposes, what levels of resources would be needed to address the volume. However, PIPS apparently provided no forewarning of the conditions that lead the DSS to shutdown. To date, any information collected through this mechanism has not been shared with the public, but industry hopes Congress will be afforded the benefit of seeing the data in order to identify which agencies are non-compliant with the provisions of the 2004 Intelligence Reform and Prevention Act (or Act). PIPS also was intended to be a tracking database for applicants, but to date it has not been very effective in fulfilling that mission as such. In the past, when DSS conducted investigations, an industry security officer could contact the Service and determine the status of an application and whether or not there were any problems, such as missing or incomplete information. This information is completely unavailable to industry now that OPM is handling investigations.

OPM has also moved to build up its processing capacity by hiring additional contract investigators. It now claims support from over 8,000 contract investigators, and contends that this number is sufficient to adequately handle the volume of new applications. Industry has been unable to determine what, if any, impact the increase in applications identified by DSS has had on the workload of OPM's increased workforce.

Industry is further concerned about that workload because instead of 8,000 investigators, what they have are contracts with six companies which employ or subcontract with several thousand of the same investigators, leading to estimates that there are actually just 5,000 individual investigators now under contract at OPM, including the more than 1,000 former DSS investigator personnel transferred in February 2005. While industry applauds OPM's efforts to augment its workforce, we feel that it should be a temporary expansion only until such time as the backlog can be reduced significantly and the automation of the process can be established. Since there is, in reality, a significantly smaller workforce in place than OPM claims, we are concerned that this shortfall will instead increase the backlog and delay the processing of applications even further.

Since the OPM investigative contracts are currently up for re-compete, we want to call several interesting provisions to the attention of Congress. When OPM awarded the five most recent contracts in 2004, it required all of the companies involved to pay a $2,500 per investigator fee for a clearance investigation and adjudication, since all investigators also must hold a clearance. Since many of these contract investigators already had clearances at various levels, objections were raised and OPM rescinded the fee for those already holding clearances. However, in many instances OPM later indicated it was unable to locate or confirm the clearances, and forced companies to pay the fees or risk delays in performance. Finally, OPM recognized that some individual investigators were included as part of the workforce on several of the six contracts, but still required each company to pay the $2,500 clearance investigation fee, even if the individual already had been investigated as part of the workforce for another company. **Industry urges Congress to ensure that these questionable practices of charging contractors for investigations when clearances already are in place are not repeated during the re-competition phase of these contracts.**

Similarly, industry hopes Congress will intervene to stop the collection of a premium on the investigation of applications submitted by DSS. While these premiums may be part of the negotiated Memorandum of Understanding that facilitated the consolidation of investigations in OPM, it is the taxpayer that foots this bill and any such practice should be stopped. This premium has ranged from 5 to 30 percent of the total cost of the investigation. For a Top Secret clearance, the base charge to DSS is $3700, so with the premium, the final charge could easily exceed $5,000 per investigation. For Secret clearances, the charge is $325. Since DSS contends that the charges associated with the increase in applications they have experienced is the cause of their funding shortfall, it would aid in understanding the current crisis if OPM were required to reveal detailed audit information regarding the charges it levies, including an explanation of what is included in those charges; the justification for any premiums it may charge; and whether or not the Federal Investigative Service is allowed to retain those premiums to make improvements to the clearance investigation process or if the premiums are passed to the larger agency.

The reforms contained in the Intelligence Reform Act also specifically require the increased use of commercially available databases and technology to expedite the investigative process. To date, industry has seen no indication that OPM has complied with this provision of the law. It is commonplace for private sector industries to rely upon the rapid, efficient and confidential nature of these commercially available databases and technologies, and there is no reason why their use cannot immediately be incorporated into the OPM investigative process. **Industry encourages Congress to tie OPM funding directly to the adoption, implementation and use of commercially available databases and technology as a means of expediting the clearance granting process.**

Of great concern to industry is the OPM practice of declaring an application "closed pending." When an investigation nears completion, but cannot be fully closed, the agency places the application in a "closed pending" status. This status places the

clearance in limbo, where it is not counted toward the backlog of applications that are not completed. It is however, considered to be completed for accounting purposes, as OPM assesses any final charges against the submitting agency. Of greatest concern to industry is that there is no formal tracking of the cases in "closed pending" status and it is currently unknown how many thousands of cases may be lying in this state of limbo still unfinished.

Periodic reinvestigations (PR) are another key component in the clearance granting process badly in need of attention. The reinvestigations have been relegated to such a low priority that clearances held by industry personnel working on government projects are sometimes expiring before any action is taken to complete the renewal application. Of great concern to industry is the looming bow wave of reinvestigations coming from the post-9/11 clearances. The condition is such that many periodic reinvestigations are considered to be "in process" once the clearance holder has completed an application for reinvestigation. In reality, many such applications are never entered into the process because the emphasis is placed upon those who do not have clearances, under the assumption that those with a clearance can be placed in a lower priority and be processed at a later date. For government, this may seem to be an acceptable temporary solution. In practice, industry finds that more and more frequently, clearances have lapsed. These discoveries are made when cleared personnel try to move from contract to contract, or start supporting a new agency under an existing contract or relocate or get new employment and the validity of their clearance must be checked. It is at this time that both the employer and the clearance holder frequently and first discover that, despite the completion of the periodic reinvestigation application, the paperwork was never processed and the clearance is "out of scope." Periodic reinvestigations are also covered in the moratorium of the DSS on applications. Therefore, current clearance holders are now at even greater risk of having their clearance expire and/or lose their SCI access.

The Security Clearance Coalition applauds Congress for adopting the Simmons/Davis/Davis amendment to the 2007 National Defense Authorization Act to address problems concerning periodic reinvestigations in FY07. We recommend that additional action be taken to ensure that those needing a periodic reinvestigation in the remainder of Fiscal Year 2006 receive similar relief.

The Phased Periodic Reinvestigation was an initiative developed in 1999-2000 by DoD and the Intelligence Community as a new approach to the perennial backlog problem, which employed the benefits of data mining and the results of research involving more than 4,500 cases. The Phased PR research conclusively demonstrated that the costly and time consuming field investigative effort could be safely eliminated on 40 percent of the cases where the Phase I process (SF 86 application form, criminal, credit and transactional record checks, as well as the subject interview) was "clear." If a Phase I issue were revealed, the entire Phase II field investigative process would have been implemented. The result would have been a significant savings of investigative time and resources in the conduct of periodic reinvestigations, which could have been redirected to improving the timeliness of the process and eliminating the backlog of initial

investigations. Unfortunately, despite its conclusive promise, the Phased PR has yet to be implemented by OPM more than four years after it was introduced.

Another promising DoD innovation developed through research and testing that has not been adopted by OPM or made operational is the Automated Clearance and Evaluation System (ACES). ACES is based on annual (vs. every five years) data mining of relevant commercial and government databases involving credit, criminal and other transactional information on personnel with the most sensitive clearances and accesses. Whenever relevant unfavorable information is detected that would call into question the suitability for someone to hold a clearance, it would trigger human intervention and a reinvestigation would be launched. Under this system, the most sensitive clearance holders are being checked for suitability in an automated fashion on a more frequent and much less costly basis, thereby identifying potential threats much earlier. The use of ACES as a potential substitute for the manpower intensive PR would not only provide greater security at a much lower cost, but it would lead to a drastic reduction in the costly and time consuming field portion of the investigation workload. ACES held significant promise using leading edge technology, but was largely abandoned after OPM consolidated the investigative services.

Finally, Congress should determine why OPM has never solicited industry for solutions to this problem. While we fully recognize and support the requirement that the adjudicative responsibility must reside within government agencies, the fact that OPM has contracted for support investigators is a clear indicator that there is no inherently governmental function in performing the investigative portion of the clearance granting process. **Industry requests that Congress encourage OPM to solicit industry partners in seeking solutions to reducing the backlog of applications and for bringing the entire process into compliance with the Act.**

ONE ADJUDICATION

Industry also has long sought standardization and uniformity in the process of adjudication so that someone holding a Secret or Top Secret clearance could be confident that there would not be variances in the interpretation of their adjudication from one agency to the next. This concept of "one adjudication" builds upon the uniformity and standardization discussed above and leads directly into the following stage – one clearance.

Adjudication is not currently a significant problem for industry. Once the investigation stage has been completed, the application is returned to the adjudicating authority that is responsible for issuing the clearance. For most industry personnel, that authority is the Defense Industrial Security Clearance Office (DISCO), which is part of DSS. Communication with DISCO and the other adjudicating agencies is significantly more open and the process of reviewing the results of the investigation are conducted in a more timely fashion.

One area of adjudication that does require attention is the time frame for appealing an adjudicative decision. In some instances, the information produced in an investigation is faulty and after review and correction by the applicant, an appeal can be instituted to reconsider the decision. Unfortunately, there is no requirement for this appeal to occur in a timely manner. This appeal process should be conformed to the same timeframes for clearance processing spelled out in the Act. Industry hopes that this concern can be addressed through regulations that also govern how an appeal can be filed.

We also note that it is impossible to determine if this stage of the process is truly efficient and timely or if we are benefiting from the lack of clearances that currently make it to the adjudication phase. In other words, this condition could be the result of the significant delays and the backlog of applications at the investigative stage. The moratorium of applications at DSS should further minimize the volume of adjudications, making this stage of the process appear to be even more efficient in the near-term.

ONE CLEARANCE

The last stage of the process also has received attention since the passage of the Act, most notably because of the Memorandum from OMB Deputy Director Clay Johnson in late 2005. **Industry applauds the guidance on reciprocity from the Administration and the agreement by all of the adjudicating agencies and departments to comply.** The memorandum accurately captured the requirements in the Act, and instructs Federal agencies to once and for all establish uniform procedures for recognizing and accepting clearances at the same level when issued by other adjudicating authorities.

Industry has seen some improvement in the reciprocity of clearances, particularly in the intelligence community, but instances when agencies refuse to recognize each others clearances still occur with disturbing regularity. Another improvement industry has noted is the reduction in cases requiring a re-investigation of a current clearance by a second or third agency. However, other onerous requirements short of a re-investigation are still sometimes imposed and they serve only to slow down the process, duplicate effort, increase the burden on taxpayers for redundant government activity, and prevent the agency from meeting its demands in a more timely fashion.

One reason for the persistence of these conditions is the lack of a single, government-wide, interoperable real-time database containing all clearance and access information. The database containing this information for the intelligence community, Scattered Castles, is classified and not linked to the same unclassified but sensitive database for the civilian and defense agencies (Joint Personnel Adjudication Systems or JPAS). There also are defense and civilian agencies that do not contribute information to the databases in a timely manner, making the clearance information issued by them incomplete or unreliable. Another hurdle to overcome is the requirement by some agencies to only recognize up-to-date clearances, (i.e., based upon a current investigation), even though the delays discussed above are pushing "active" clearances beyond their standard periodic reinvestigation timeframes. These requirements must be corrected for reciprocity to work as it was envisioned by Congress in the Act.

Ultimately, OMB must require federal agencies to provide accurate, timely and thorough information about the clearances each has granted. This will enable the capability for others, when authorized, to review applications, the subsequent investigations, the results, and finally, the basis for adjudicating a clearance positively so that reciprocity can be fully realized wherever the National Security needs of the United States demand.

OTHER INDUSTRY CONCERNS

EXECUTIVE ORDER 13381

Executive Order 13381 (EO) was issued in June of 2005 and will expire within one year unless it is renewed. This executive order establishes many of the Administration's requirements for compliance with the Act and should not be allowed to lapse. Additionally, the EO specifies that the Director of OMB is the President's designee for administering the provisions of the Act and the Order. While this Administration has done much in the last year to implement provisions related to security clearance reform, much still needs to be done. Of particular note is the provision in the Act that grants the power to revoke the clearance granting authority for an agency that is not in compliance with the application, investigation, adjudication and reciprocity provisions of the Act. Industry believes that further consideration should be given to enforcement of the law through greater exercise of this authority.

HOMELAND SECURITY PRESIDENTIAL DIRECTIVE-12

There is significant concern among industry about the impact on the investigative process for security clearances once Homeland Security Presidential Directive 12 (HSPD 12) is fully implemented. In short, HSPD-12 requires that all persons who will require access to a federal information system or a federally-controlled facility must have issued, no later than October 27, 2007, a biometrically encrypted identification card compliant with specifications established as part of the implementation of the directive. This directive applies to government, contractor and subcontractor employees alike. Recently, Federal Acquisition Regulations (FAR) for the application of these provisions to contracts and subcontracts was published. This FAR rule requires that each agency is responsible for the development and implementation of a procedure to conduct investigations and background checks on all employees of all contractors and subcontractors meeting the access requirements described above. This rule further requires that these procedures would use the OPM Federal Investigative Services for the personal identity verification (PIV) investigation and the Federal Bureau of Investigation criminal records databases for the criminal background check.

It is the former requirement for the use of OPM that is most disconcerting. Industry is concerned that since OPM is incapable of processing the existing applications for security clearances in a timely fashion, the process will only degrade further once agencies begin to submit applications for PIV investigations. This concern has been dismissed by OPM, but there is no indication that the agency has the resources to handle

clearance investigations, much less this new responsibility. OPM does not have enough personnel; it has to date been unable to automate and make interoperable their data collection systems so that it can be compliant with the Intelligence Reform Act; and it does not have any clear plans for reducing and eliminating the workload that it cannot currently handle. The volume of HSPD-12 investigations is anticipated to run into the millions. This estimation does not include government personnel that will need a comparable PIV investigation if they do not already possess one for another reason. OPM has shrugged off this concern, contending that the process is automated. However, even the workload of entering this data and ensuring that investigations are processed, completed and reported back to the submitting agency is staggering. **Industry requests that Congress promptly determine in the near future exactly what new workloads have been placed upon OPM by the investigative requirements of HSPD-12, whether OPM has the resources and funding to adequately meet the volume requirement, verify that there will be no reduction in the personnel and funding dedicated to the processing of security clearances, and finally, consider the possibility of allowing agencies and contractors to utilize approved and qualified private sector background check providers to conduct the required automated checks much more rapidly, at a much lower cost and with no impact on the current OPM clearance workload.**

INTERIM CLEARANCES

Increasingly, applicants for a clearance are provided an interim clearance once an investigation has been initiated by OPM. This practice is widely viewed to be sufficient to allow the employees associated with a contractor to begin work. This interim status, however, does not grant access to government facilities without specific review and permission. Under HSPD-12, many are assumed to be "grandfathered" for the PIV investigation if they currently hold a clearance, but interim clearances do not meet the requirements for HSPD-12 for a full and final suitability determination. Government must recognize these significant gaps in the identification procedures that are being established and move to address them quickly.

CONCLUSION

It cannot be overstated that industry is committed to preserving the strict government requirements to obtain security clearances. The Coalition's interest is not to minimize current requirements, but to make appropriate changes to an antiquated process that would allow the nation to remain vigilant in determining who has access to sensitive information, while better meeting defense and intelligence needs at the lowest possible cost. Industry looks forward to working with the government to examine and implement the recommendations made in this white paper, and stands ready to devote its experience and significant expertise with best practices to ensure that critical government programs do not go unexecuted for lack of available cleared personnel.