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Security Clearance Process: Answers to Frequently Asked Questions

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Summary

This report provides a primer on some of the fundamental aspects of the security clearance process using a “Frequently Asked Questions” format.

A security clearance is a determination that an individual—whether a direct federal employee or a private contractor performing work for the government—is eligible for access to classified national security information. A security clearance alone does not grant an individual access to classified materials. Rather, a security clearance means that an individual is eligible for access. To gain access to specific classified materials, an individual should also have a demonstrated “need to know” the information contained in the specific classified materials.

Generally, there are three levels of security clearances: confidential, secret, and top secret, which correspond to increasing levels of sensitivity of the information that a cleared individual will be eligible to access. In addition, there are two major categories of classified information that require additional handling and access restrictions: Sensitive Compartmented Information (SCI), which includes intelligence sources, methods, and processes, and Special Access Programs (SAPs), which are highly sensitive projects and programs. These categories exist for classified information that has been deemed particularly vulnerable. Eligibility standards and investigative requirements for access to SCI and SAPs are higher than for access to information otherwise classified at the same level, which further restricts the number of individuals eligible for access.

Federal employees and private contractors must be cleared in order to gain access to classified materials. An individual may not obtain or initiate a security clearance on his or her own. A sponsoring federal agency initiates the process and will make the final security clearance determination based on a background investigation.

Although the process involves a number of stages, the key steps to obtaining and maintaining a security clearance include (1) agency sponsorship and submission of clearance application materials; (2) a background investigation, the extent of which may vary by level of clearance; and (3) adjudication to determine whether an individual is deemed eligible for access. Adjudication and final clearance determinations are generally handled by the sponsoring agency. To maintain a security clearance, an individual is also subject to periodic reinvestigations and, more recently, continuous monitoring and evaluation of his or her background.

Previously, the Office of Personnel Management, Federal Investigative Services (OPM-FIS) oversaw approximately 95% of all background investigations. In 2016, President Obama transferred responsibility for investigative work and related services from OPM-FIS to the newly established National Background Investigations Bureau (NBIB) within OPM. In 2019, President Trump transferred responsibility for personnel security background investigations from NBIB to the Department of Defense (DOD). Currently, the DOD Defense Counterintelligence Security Agency (DCSA) conducts about 95% of all background investigations.

Typically, the costs of a background investigation, including background investigations of private contractors, are paid for by the requesting agency. While the final determination to grant or deny a security clearance is typically made by the requesting agency, with certain exceptions a security clearance granted by one agency must be accepted by other agencies. It is difficult to determine the actual degree to which reciprocity occurs among agencies.

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Introduction

The security clearance process is designed to determine the trustworthiness of an individual prior to granting him or her access to classified national security information. The process has evolved since the early 1950s, with antecedents dating to World War II.¹ This report highlights some of the fundamental aspects of the process by providing answers to frequently asked questions.²

What Is a Security Clearance?

A security clearance³ is a determination that an individual—whether a federal employee or a private contractor—is eligible for access to classified national security information.⁴ A security clearance may be granted only by a federal agency and generally only upon completion of a background investigation. Using information obtained during the background investigation, the agency is to make a determination as to the character and trustworthiness of the individual and decide if he or she will be eligible for access to classified national security information.

A security clearance alone does not grant an individual access to specific classified materials. Rather, a security clearance means that an individual is eligible for access. To gain access to specific classified materials, an individual should also have a demonstrated “need to know” the classified information for his or her position and policy area responsibilities. In addition, prior to accessing classified information, an individual must sign an appropriate nondisclosure agreement.⁵

¹ For example, President Eisenhower issued Executive Order (E.O.) 10450, “Security Requirements for Government Employment,” 18 *Federal Register* 2489, on April 27, 1953. E.O. 10450 established that “the appointment of each civilian officer or employee in any department or agency of the government shall be made subject to investigation.” While E.O. 10450 had been amended by subsequent executive orders, it remained in effect for 64 years until it was revoked in 2017 by Executive Order 13764, “Amending the Civil Service Rules, Executive Order 13488, and Executive Order 13467 To Modernize the Executive Branch-Wide Governance Structure and Processes for Security Clearances, Suitability and Fitness for Employment, and Credentialing, and Related Matters,” 82 *Federal Register* 8115.

² Generally, this report will speak about the security clearance process broadly. Where appropriate, any differences in the process that result from variances in the levels of security clearance will be noted. For example, the background investigation (and associated cost) will vary based on the level of security clearance sought. These differences are discussed later in the report under the sections titled “What Are the Major Aspects of the Security Clearance Process?” and “Who Pays for Background Investigations?”

³ The term *security clearance* is not defined in statute. This definition is derived from executive orders, statutes, and directives where the term *security clearance* is used but not defined. Further, Congress requires the President to establish procedures to govern access to classified information. See 50 U.S.C. §3161.

⁴ The government also issues security clearances (also referred to as *facility clearances*) to non-government facilities, such as university laboratories or commercial production facilities, within which contract work for the government is performed. The procedures and policies for granting facility clearances are outside the scope of this report. Among workers, each individual who performs work within a cleared facility must hold a security clearance if the work requires access to classified information. For information about the facility clearance process, see the Department of Defense (DOD), Defense Counterintelligence and Security Agency, *Checklist for a Facility Clearance*, <https://www.dcsa.mil/Industrial-Security/Entity-Vetting-Facility-Clearances-FOCI/Facility-Clearances>.

⁵ For example, see Standard Form 312, “Classified Information Nondisclosure Agreement,” https://www.gsa.gov/system/files/2023-09/SF312-13a_0.pdf.

What Is the Difference Between a Security Clearance and a Suitability Check?

A security clearance, as noted above, is designed to determine eligibility for access to classified information. A suitability check (or suitability determination) may involve many of the same investigative elements as a security clearance investigation. A suitability check, however, is designed to determine an individual's suitability for employment or appointment to certain federal positions.⁶ Unlike a security clearance, a suitability determination does not confer access to classified information.⁷

What Are the Levels of Security Clearances?

The levels of security clearances correspond to the levels of sensitivity of the information that cleared individuals will be eligible to access.⁸ The three levels, in ascending order, are:

1. *Confidential*, the unauthorized disclosure of which would “cause damage to the national security;”
2. *Secret*, the unauthorized disclosure of which would “cause serious damage to the national security;” and
3. *Top secret*, the unauthorized disclosure of which would “cause exceptionally grave damage to the national security.”⁹

In addition, there are two major categories of classified information that are commonly associated with the top secret level: Sensitive Compartmented Information (SCI), which refers to information involving intelligence sources and methods,¹⁰ and Special Access Programs (SAPs), which refers to highly sensitive policies, projects, and programs.¹¹ These categories exist for classified information that has been deemed particularly vulnerable. Eligibility standards and investigative requirements for access to SCI and SAPs are higher than for other information

⁶ 5 C.F.R. §731.101.

⁷ Title 5, Section 731.202 of the *Code of Federal Regulations* contains the criteria for making suitability determinations.

⁸ The level at which a specific piece of information is classified (i.e., Confidential, Secret, or Top Secret) is determined by the agency or agencies that maintain “ownership” of the information. While guidelines exist for determining the level at which certain information should be classified, there may be dissimilarities in the types of information that different agencies classify at each level. Consequently, there may be differences in the types of positions that each agency would categorize as requiring a “Confidential,” “Secret,” or “Top Secret” level clearance.

⁹ E.O. 13526, “Classified National Security Information,” 75 *Federal Register* 707, December 29, 2009.

¹⁰ Office of the Director of National Intelligence, Intelligence Community Directive 703, *Protection of Classified National Intelligence, Including Sensitive Compartmented Information*, June 21, 2013, <https://www.dni.gov/files/documents/ICD/ICD%20703.pdf>.

¹¹ Generally, SCI and SAPs are associated with the top secret clearance level, though DOD regulations suggest that at least some SAPs may be classified at the secret level. DOD, *Special Access Program (SAP) Security Manual, Volume II: Personnel Security*, November 24, 2015, p. 8, https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodm/520507_vol2.pdf?ver=T8MfrJE3D8-dkpWhSYo4Aw%3d%3d; and DOD, *Special Access Program (SAP) Policy*, February 4, 2020, p. 20, <https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodd/520507p.pdf?ver=2020-02-04-142942-827>.

classified at the same level, which further restricts the number of individuals who are eligible for access.¹²

Who Is Eligible to Obtain a Security Clearance?

An individual performing work for the federal government—whether a direct government employee, a member of the military, or a private contractor—may be eligible to obtain a security clearance if his or her work requires access to classified materials. With certain limited exceptions,¹³ an individual must hold a security clearance in order to gain access to classified materials.

Generally, only U.S. citizens are eligible to obtain security clearances.¹⁴ Under Executive Order (E.O.) 12968, with limited exceptions,

eligibility for access to classified information shall be granted only to employees who are United States citizens for whom an appropriate investigation has been completed and whose personal and professional history affirmatively indicates loyalty to the United States, strength of character, trustworthiness, honesty, reliability, discretion, and sound judgment, as well as freedom from conflicting allegiances and potential for coercion, and willingness and ability to abide by regulations governing the use, handling, and protection of classified information.¹⁵

Can an Individual Obtain a Security Clearance on His or Her Own?

An individual may not obtain or initiate a security clearance on his or her own. An individual seeking employment with the federal government, or who wishes to do work as a contractor for the government, may be interested in obtaining a security clearance on his or her own, believing that holding a security clearance may expedite the hiring process or provide him or her with an advantage when competing for government contracts. Yet only a sponsoring agency may initiate the security clearance process.¹⁶

¹² Individuals seeking access to SCI or SAPs are typically subject to additional clearance procedures. See E.O. 12958, “Classified National Security Information,” as amended, 60 *Federal Register* 19825, April 17, 1995; and Office of the Director of National Intelligence, *Personnel Security Standards and Procedures Governing Eligibility for Access to Sensitive Compartmented Information and Other Controlled Access Program Information*, October 1, 2008, http://www.dni.gov/files/documents/ICD/ICD_704.pdf.

¹³ See the sections of this report titled “Are There Waivers to Security Clearance Requirements?” and “Are Constitutional Officers (e.g., the President, Members of Congress) Required to Hold Security Clearances to Access Classified Information?”

¹⁴ Under “compelling” circumstances, an agency may grant limited access to non-U.S. citizens who possess special expertise and “only if the prior 10 years of the subject’s life can be appropriately investigated.” E.O. 12968, “Access to Classified Information,” 60 *Federal Register* 40245, August 2, 1995.

¹⁵ E.O. 12968, “Access to Classified Information,” 60 *Federal Register* 40245, August 2, 1995. Under “exceptional circumstances,” an individual may be granted temporary access to classified information prior to the completion of an investigation.

¹⁶ A sponsoring agency may, however, initiate the security clearance background investigation process for a new government employee prior to his or her start date. Generally, the background investigation for a new government employee begins after the agency extends a conditional offer of employment to the selectee. Office of Personnel Management, *Hiring Elements End-to-End Hiring Roadmap*, <https://www.opm.gov/policy-data-oversight/human-capital-management/hiring-reform/hiringelements.pdf>; and Office of Personnel Management, *Security and Suitability* (continued...)

According to the Office of Personnel Management (OPM), a clearance is based on an investigation requested by an agency that is appropriate to a specific position and its duties. Until a person is offered such a position, the government will not request or pay for an investigation for a clearance.

Are There Waivers to Security Clearance Requirements?

Yes. Under certain circumstances, an individual may be granted access to classified information prior to or without obtaining a security clearance. Often, the access is granted in time-sensitive situations and on a temporary basis while the applicant’s full background investigation is completed. **Table 1** below provides a list of selected security clearance waivers and exceptions.

Table 1. Selected Security Clearance Waivers and Exceptions

Source	Description of Waiver or Exception	Official(s) Authorized to Grant Waiver or Exception
E.O. 12968, §2.6	Exception to U.S. citizenship requirement for access to classified materials	Agency head or senior agency official designated under §6.1
E.O. 12968, §3.3; SEAD 8	Temporary access to classified materials prior to completion of background investigation	Security personnel authorized by agency head
E.O. 13526, §4.2(b)	Emergency access for individuals otherwise not eligible for access to respond to imminent threat or in defense of the homeland	Agency head or designee
Intelligence Community Directive 704, §D2	Exceptions permitted based on finding that risk to national security is manageable and acceptable	Director of National Intelligence (DNI) or Deputy DNI, in consultation with relevant head of intelligence community element
Intelligence Community Directive 704, §D4	Temporary access to SCI prior to completion of background investigation	Head of intelligence community element or designee
DDDM 5200.02	Access granted despite issues that would normally preclude access; waivers may be approved only when benefit of access outweighs potential security concerns	DOD component heads

Sources: E.O. 12968; E.O. 13526; Security Executive Agent Directive 8 (SEAD 8), *Temporary Eligibility*, May 18, 2020, https://www.dni.gov/files/NCSC/documents/Regulations/SEAD-8_Temporary_Eligibility_U.pdf; Office of the Director of National Intelligence, Intelligence Community Directive 703, *Protection of Classified National Intelligence, Including Sensitive Compartmented Information*, June 21, 2013, <https://www.dni.gov/files/documents/ICD/ICD%20703.pdf>; Office of the Director of National Intelligence, Intelligence Community Directive 704, *Personnel Security Standards and Procedures Governing Eligibility for Access to Sensitive Compartmented Information*, June 20, 2018, <https://www.dni.gov/files/documents/ICD/cleanedICD-704—Personnel-Security-Standards-and-Procedures-for-Access-to-SCI-20-Jun-2018.pdf>; and DOD M 5200.02, *Procedures for the DOD Personnel Security Program*, October 29, 2020, <https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodm/520002m.PDF>.

End-to-End Hiring Roadmap, <https://www.opm.gov/policy-data-oversight/human-capital-management/hiring-reform/securitysuitabilityelements.pdf>.

Notes: The DNI, subject to the direction of the President, is responsible for establishing uniform standards and procedures for granting access to sensitive compartmented information (50 U.S.C. §3024(j)).

Are Constitutional Officers (e.g., the President, Members of Congress) Required to Hold Security Clearances to Access Classified Information?

Security clearances are not mandated for the President, the Vice President, Members of Congress, Supreme Court Justices, or other constitutional officers.¹⁷ The criteria for election or appointment to these positions are specified in the U.S. Constitution, and, except by constitutional amendment, no additional criteria (e.g., holding a security clearance) may be required.¹⁸ Further, “by tradition and practice, United States officials who hold positions prescribed by the Constitution of the United States are deemed to meet the standards of trustworthiness for eligibility for access to classified information.”¹⁹

Additionally, as commander in chief, the President has the authority to establish the standards for access to classified national security information, subject to standards set by Congress.²⁰ This authority is typically exercised through the issuance of executive orders. E.O. 13467, which covers suitability checks and security clearances for federal employees, applicants, and contractors, includes a determination of which executive branch individuals are covered and which are exempted:

‘Covered individual’ means a person who performs work for or on behalf of the executive branch, or who seeks to perform work for or on behalf of the executive branch, but does not include:

(i) the President or (except to the extent otherwise directed by the President) employees of the President under section 105 or 107 of title 3, United States Code; or

(ii) the Vice President or (except to the extent otherwise directed by the Vice President) employees of the Vice President under section 106 of title 3 or annual legislative branch appropriations acts.²¹

¹⁷ Additionally, security clearances and related statutory provisions regarding access to classified materials “shall not apply to the President and Vice President, Members of the Congress, Justices of the Supreme Court, and Federal judges appointed by the President” (50 U.S.C. §3163).

¹⁸ For example, qualifications for Members of Congress may be found in Article I, Section 2, clause 2, of the U.S. Constitution, and qualifications for President may be found in Article II, Section 1, clause 5. Also see *Powell v. McCormack*, 395 U.S. 486 (1969).

¹⁹ Information Security Oversight Office (ISOO), *Classified Information Nondisclosure Agreement (Standard Form 312) Briefing Booklet*, Spring 2001, p. 66, <http://www.archives.gov/isoo/training/standard-form-312.pdf>. ISOO notes, however, that Members of Congress, as constitutionally elected officials, are not exempt from the “need-to-know” requirement and might not have unlimited access to all classified information if such access is not required. Instead, ISOO writes that Members “are not inherently authorized to receive all classified information, but agencies provide access as is necessary for Congress to perform its legislative functions, for example, to members of a committee or subcommittee that oversees classified executive branch programs.”

²⁰ 50 U.S.C. §3161.

²¹ E.O. 13467, “Reforming Processes Relating to Suitability for Government Employment, Fitness for Contractor Employees, and Eligibility for Access to Classified National Security Information,” 73 *Federal Register* 38103, July 2, 2008. The statutory provisions cited in the order refer to sections of law that provide for the appointment of certain personnel within the Executive Office of the President.

Are Congressional Staff and Judicial Staff Required to Hold Security Clearances to Gain Access to Classified Information?

Congressional staff and judicial staff are required to hold security clearances to gain access to classified information. The requirements are established, for the most part, by public laws, congressional rules, and judicial procedures.

For example, the *Rules of Procedure* of the U.S. Foreign Intelligence Surveillance Court states that “each member of the Court’s staff must possess security clearances at a level commensurate to the individual’s responsibilities.”²² Within Congress, the Office of House Security and the Office of Senate Security require that staff obtain the appropriate security clearance and sign a nondisclosure agreement or “oath” for access to classified national security information.²³

How Many Individuals Hold Security Clearances in Total and at Each Level?

According to the Office of the Director of National Intelligence, National Counterintelligence and Security Center (ODNI-NCSC), approximately 4.2 million²⁴ individuals held security clearances (of any level) as of October 1, 2019.²⁵ This includes 2,859,877 security clearances at the confidential or secret levels and 1,384,060 security clearances at the top secret level.²⁶

A total of 964,138 security clearances were approved during FY2019.²⁷ This includes 616,292 clearances approved at the confidential or secret level and 347,846 at the top secret level.²⁸ It is important to note that the number of security clearances approved in FY2019 includes initial

²² Foreign Intelligence Surveillance Court, “Title II: National Security Information,” in *Rules of Procedure*, November 1, 2010, p. 1, <http://www.uscourts.gov/uscourts/rules/FISC2010.pdf>.

²³ U.S. Senate, Office of Senate Security, *Security Manual* (revised, 2007), p. 8; U.S. House of Representatives, Rule X, clause 11, and Rule XXIII, clause 13 (118th Congress); U.S. House of Representatives, Office of the Sergeant at Arms, Oath for Access to Classified Information, Pursuant to Clause 13 of Rule XXIII, Rules of the House of Representatives—118th Congress, https://saa.house.gov/ohs/PDF/118th_Oath_for_Access_to_Classified_Info.pdf; and CRS Report RS20748, *Protection of Classified Information by Congress: Practices and Proposals*, by Michelle D. Christensen.

²⁴ As of the publication of this report, the FY2019 ODNI-NCSC report is the most recent report publicly available. Recent testimony by Under Secretary of Defense for Intelligence and Security Ronald Moultrie at the Senate Select Committee on Intelligence Hearing “Personnel Vetting Modernization” seems to confirm that the figures have remained stable since 2019. During his opening statement, Under Secretary Moultrie stated, “Of the approximately 4.2 million Americans with security clearances, more than 3.6 million of them work as DOD, civilian, or contractor personnel.” U.S. Congress, Senate Select Committee on Intelligence, *Personnel Vetting Modernization* (Open Hearing), 118th Cong., 1st sess., March 29, 2023.

²⁵ This includes individuals whose adjudication was successful, but do not yet have a need to access classified information (i.e., eligible, but not in access). ODNI-NCSC, *2019 Annual Report on Security Clearance Determinations*, April 2020, p. 7, <https://s3.documentcloud.org/documents/23586435/fiscal-year-2019-annual-report-on-security-clearance-determinations.pdf>.

²⁶ ODNI-NCSC, *2019 Annual Report on Security Clearance Determinations*. The ODNI-NCSC report consolidates the data on confidential and secret level security clearance determinations and does not provide separate figures for the two levels.

²⁷ ODNI-NCSC, *2019 Annual Report on Security Clearance Determinations*, p. 8.

²⁸ ODNI-NCSC, *2019 Annual Report on Security Clearance Determinations*.

clearances and renewals of existing clearances that were subject to reinvestigation in FY2019. For this reason, the number of clearances approved does not reflect the number of new clearances issued.²⁹

Table 2 provides a breakdown of these figures by government and contractor employees.

Table 2. Security Clearances Approved and Total Clearances Held, FY2019

	Government Employees		Contractor/Other Employees	
	Approved in FY2019	Total as of End of FY2019	Approved in FY2019	Total as of End of FY2019
Confidential/secret	470,461	2,185,768	145,831	674,109
Top secret	182,062	711,404	165,784	672,656
Total	652,523	2,897,172	311,615	1,346,765

Source: ODNI-NCSC, *2019 Annual Report on Security Clearance Determinations*, pp. 7-8.

Notes: Contractor/Other Employees includes figures reported for contractor employees and individuals who could not be identified as either government employees or contractor employees. The ODNI-NCSC report consolidates the data on confidential and secret level security clearance determinations.

What Are the Major Aspects of the Security Clearance Process?

Although the security clearance process involves a number of stages, the key steps to obtaining and maintaining a security clearance are pre-investigation, investigation, adjudication, and reinvestigation.

- **Pre-investigation.** During this phase, the agency makes a determination that an employee or contractor requires access to classified information for the completion of his or her duties.³⁰ At the request of the sponsoring agency, the individual would submit his or her clearance application material (e.g., Standard Form SF86).
- **Investigation.** Using the information provided by the applicant in his or her clearance application materials, the Defense Counterintelligence Security Agency (DCSA) within the Department of Defense (DOD) conducts a background investigation of the applicant. Investigations may vary in terms of content, cost, and length of time for completion depending, in part, on the level of clearance being sought.³¹ DCSA is responsible for overseeing the majority of personnel background investigations.³²
- **Adjudication.** During this phase, a determination is made whether to grant the applicant a security clearance. Generally, this decision is made by the sponsoring

²⁹ ODNI-NCSC, *2019 Annual Report on Security Clearance Determinations*.

³⁰ This designation applies to the position rather than to a specific individual who holds the position.

³¹ For example, some but not all background investigations include polygraph examinations.

³² For additional information, see the section of this report titled “Which Agencies Are Responsible for Conducting Background Investigations?”

- agency and is based on the information obtained during the background investigation.
- **Reinvestigation and continuous vetting.** Individuals who hold security clearances are subject to periodic reinvestigations and “continuous vetting.” Previously, the maximum number of years that a security clearance remained valid was tied to the individual’s clearance level. For example, reinvestigations for someone with a top secret clearance occurred at least once every five years.³³ However, under the Trusted Workforce security clearance reforms, DCSA is transitioning from periodic reinvestigations to greater reliance on continuous vetting,³⁴ a system of automated records checks that alerts DCSA of potential security issues in a clearance holder’s background.³⁵

Are Private Contractors Subject to the Same Clearance Process as Federal Employees Are?

Private contractors are subject to the same clearance procedures as direct government employees are. As noted above, the process to obtain a security clearance must be initiated by a sponsoring federal agency. The process differs slightly for an individual who is employed by a company that performs work under contract with the federal government. First, the contractor must determine whether the employee requires access to classified information in order to perform the duties of his or her position.³⁶ The contractor must inform the sponsoring agency (i.e., the “customer” agency for whom the work is being performed) that the employee requires access to classified materials. The sponsoring agency considers the request and then determines whether to initiate the security clearance process for the employee.³⁷

³³ 32 C.F.R. §147, Attachment B to Subpart B.

³⁴ DCSA, “DCSA Enrolls U.S. Security Clearance Holders in Continuous Vetting Program,” press release, October 1, 2021, https://www.dcsa.mil/Portals/91/Documents/news/DCSA_Press%20Release%20Continuous%20Vetting_100121.pdf.

³⁵ DCSA, *Continuous Vetting*, <https://www.dcsa.mil/Personnel-Security/Continuous-Vetting>.

³⁶ DOD, *National Industrial Security Program Operating Manual*, 32 C.F.R. §117.10.

³⁷ *Ibid.* In some instances, if the individual is a former government employee or had previously performed work as a contractor for the government, he or she may already hold a security clearance at the necessary level. In such cases, the agency may accept the individual’s existing clearance, or the agency may request an additional background investigation. See the section of this report titled “An individual whose clearance has been denied or revoked has an opportunity to appeal the determination. Each agency that is responsible for adjudicating and granting security clearances has its own policies and procedures governing the appeal of a security clearance determination in accordance with guidelines established in E.O. 12968. In addition, some agencies may allow an applicant to appeal or challenge unfavorable results of a polygraph examination that was conducted as part of his or her security clearance background investigation. Appeals are typically handled within the agency and decided by the agency’s personal security appeals board or by an administrative judge. While the outcome of a security clearance determination may be appealed, security clearance decisions are generally not subject to judicial review.

May a Security Clearance Granted by One Agency Be Accepted by Other Agencies?”

Which Agencies Are Responsible for Conducting Background Investigations?

Previously, the Office of Personnel Management oversaw approximately 95% of all background investigations.³⁸ Responsibility for personnel security background investigations was transferred from OPM to DOD in 2019.³⁹ Currently, DCSA conducts about 95% of all background investigations for executive branch departments and agencies.⁴⁰

While DCSA oversees the majority of security clearance background investigations, at least 21 federal agencies have delegated or statutory authority to conduct all or some of their own investigations.⁴¹ For example, the Federal Bureau of Investigation (FBI), the U.S. Marshals Service, and the Bureau of Alcohol, Tobacco, Firearms, and Explosives have authority to conduct security clearance background investigations of certain categories of contractor positions.⁴² The Central Intelligence Agency has authority to conduct its own security clearance background investigations.⁴³ It also conducts background investigations for ODNI employees and contractors.⁴⁴

Who Pays for Background Investigations?

Typically, the requesting agency pays for background investigations of federal employees and contractor employees.⁴⁵ As stated above, the vast majority of federal background investigations are handled by DCSA, which charges other federal agencies for the investigations it oversees.⁴⁶

³⁸ This figure includes non-security clearance background investigations, such those conducted for “suitability checks.”

³⁹ Section 925 of the FY2018 National Defense Authorization Act (P.L. 115-91) provided DOD with authority to conduct background investigations. Executive Order 13869, “Transferring Responsibility for Background Investigations to the Department of Defense,” 84 *Federal Register* 18125, April 29, 2019, established a phased transfer of investigations from OPM’s National Background Investigations Bureau to DOD.

⁴⁰ This total includes security clearance investigations and investigations to determine suitability for employment to non-sensitive federal positions. DCSA, “Personnel Vetting: Securing the Trustworthiness of the Workforce,” *DCSA Access*, vol. 9, no. 4, p. 14, https://www.dcsa.mil/Portals/91/Documents/about/err/DCSA_ACCESS_v9i4.pdf.

⁴¹ U.S. Office of Management and Budget, *Suitability and Security Processes Review Report to the President*, February 2014, p. 2, <https://obamawhitehouse.archives.gov/sites/default/files/omb/reports/suitability-and-security-process-review-report.pdf>.

⁴² U.S. Department of Justice, Office of the Inspector General, *Review of the Department’s Contractor Personnel Security Process*, March 2013, p. 4, <http://www.justice.gov/oig/reports/2013/e1303.pdf>.

⁴³ ODNI, *2012 Report on Security Clearance Determinations*, p. 5, <https://www.dni.gov/files/documents/2012%20Report%20on%20Security%20Clearance%20Determinations%20Final.pdf>.

⁴⁴ ODNI, *2012 Report on Security Clearance Determinations*.

⁴⁵ According to testimony by Stephen Lewis, Deputy Director, Security Directorate, Office of the Under Secretary of Defense (Intelligence), the costs for contractor investigations are paid by the government and not the contractor because “analysis shows that if we were to allow the contractors to build [the cost of those clearances] into the contract ... then they would add overhead on the management of that, so the most cost-effective way was to manage it from the department. We pay those costs, because we pay it either way.” U.S. Senate Committee on Homeland Security and Governmental Affairs, Subcommittee on Efficiency and Effectiveness of Federal Programs and the Federal Workforce and Subcommittee on Financial and Contracting Oversight, *Safeguarding our Nation’s Secrets: Examining the Security Clearance Process*.

⁴⁶ DCSA’s investigative product list is available at <https://www.dcsa.mil/Personnel-Security/Billing-Rates-Resources>.

The costs of background investigations vary depending on the level of clearance requested and the scope of the investigation conducted.⁴⁷

The requesting agency is responsible for any costs associated with the adjudication process and period reinvestigations. The requesting agency is also responsible for certain costs arising from an applicant's appeal of a security clearance denial or revocation or an applicant's challenge of certain aspects of his or her background investigation (e.g., an appeal of unfavorable results of a polygraph examination).⁴⁸

On Average, How Long Does It Take to Obtain a Security Clearance?

The ODNI-NCSC *2019 Report on Clearance Determinations* provides data on the longest and shortest security clearance processing times for each element of the intelligence community.⁴⁹ In FY2019, the end-to-end average processing time for the fastest 90% of clearances was 125 days for secret level and 172 days for top secret. This exceeded the timeliness goals of 74 days and 114 days for initial secret and top secret clearances, respectively.⁵⁰ The average processing time for reinvestigations was 176 days, which met the goal of 195 days.⁵¹ The report notes that the executive branch and intelligence community personnel security programs were challenged by “the uncertainty of future budgets, furlough, and the increasingly competitive marketplace for background investigators and polygraphs.”⁵²

Are There Guidelines of Standards for Approving, Denying, or Revoking a Security Clearance?

All adjudicative decisions are made by federal employees—not contractors—using the following 13 criteria provided in the *Adjudicative Guidelines*:⁵³

⁴⁷ For example, initial investigations for security clearances are typically a Tier 3 or Tier 5 background investigation. The reimbursable billing rate DCSA charges other federal agencies and departments for conducting a Tier 3 background investigation is \$420. The cost of a Tier 5 investigation is \$5,410 for standard service or \$5,845 for priority service. DCSA's “Position Designation Tool,” which provides agencies with guidelines for determining the type of investigation required for each position, is available at <https://pdt.nbis.mil>.

⁴⁸ Possible options for appealing the outcome of a security clearance investigation and adjudication are discussed in the section of this report titled “Can the Outcome of a Security Clearance Determination Be Appealed?”

⁴⁹ ODNI-NCSC, *2019 Annual Report on Clearance Determinations*.

⁵⁰ ODNI-NCSC, *2019 Annual Report on Clearance Determinations*, p. 9.

⁵¹ ODNI-NCSC, *2019 Annual Report on Clearance Determinations*.

⁵² ODNI-NCSC, *2019 Annual Report on Clearance Determinations*, p. 13.

⁵³ 32 C.F.R. §147, *Adjudicative Guidelines for Determining Eligibility for Access to Classified Information*. Also see Security Executive Agent Directive 4, *National Security Adjudicative Guidelines*, June 8, 2017, <https://www.dni.gov/files/NCSC/documents/Regulations/SEAD-4-Adjudicative-Guidelines-U.pdf>. Adjudicative guidelines for access to SCI are slightly different and are available in Intelligence Community Policy Guidance 704.2, “Personnel Security Adjudicative Guidelines for Determining Eligibility for Access to Sensitive Compartmented Information and Other Controlled Access Programs,” October 2, 2008, http://www.dni.gov/files/documents/ICPG/ICPG_704_2.pdf. Criteria for making suitability determinations, which are also different from the adjudicative guidelines for making security clearance determinations, are available at Title 5, Section 731.202, of the *Code of Federal Regulations*.

Adjudicative Guidelines

Guideline A: Allegiance to the United States	Guideline G: Alcohol Consumption
Guideline B: Foreign Influence	Guideline H: Drug Involvement and Substance Misuse
Guideline C: Foreign Preference	Guideline I: Psychological Conditions
Guideline D: Sexual Behavior	Guideline J: Criminal Conduct
Guideline E: Personal Conduct	Guideline K: Handling Protected Information
Guideline F: Financial Considerations	Guideline L: Outside Activities Guideline
Guideline M: Use of Information Technology Systems	

Each guideline describes the associated circumstances that could raise a security concern and notes which circumstances may be disqualifying. Adverse information regarding one of the guidelines will not automatically result in denial of a security clearance.⁵⁴ Adjudicators are instructed to consider the recentness of the information and whether it demonstrates a recurring pattern of adverse behavior.⁵⁵ Adjudicators are also instructed to consider any conditions that could mitigate the associated security concerns.⁵⁶

Can the Outcome of a Security Clearance Determination Be Appealed?

An individual whose clearance has been denied or revoked has an opportunity to appeal the determination. Each agency that is responsible for adjudicating and granting security clearances has its own policies and procedures governing the appeal of a security clearance determination in accordance with guidelines established in E.O. 12968.⁵⁷ In addition, some agencies may allow an applicant to appeal or challenge unfavorable results of a polygraph examination that was conducted as part of his or her security clearance background investigation.⁵⁸ Appeals are typically handled within the agency and decided by the agency's personal security appeals board

⁵⁴ 32 C.F.R. §147.2(d).

⁵⁵ 32 C.F.R. §147.2(d).

⁵⁶ For example, having associates who are connected with a foreign government is a condition that may cause a security concern under "foreign influence." The security concern may be mitigated, however, if those contacts were the result of official U.S. government business (32 C.F.R. §147.4).

⁵⁷ For example, Intelligence Community Policy Guidance Number 704.3, which applies to agencies within the intelligence community (as defined in the National Security Act of 1947), establishes policies and procedures for appealing a denial or revocation of access to SCI. ODNI, *Denial or Revocation of Access to Sensitive Compartmented Information, Other Controlled Access Program Information, and Appeals Processes*, October 2, 2008, http://www.dni.gov/files/documents/ICPG/icpg_704_3.pdf.

⁵⁸ For example, FBI policy allows an applicant to appeal the results of certain pre-employment and personnel security polygraph examinations. U.S. Department of Justice, Office of the Inspector General, *Use of Polygraph Examinations in the Department of Justice*, September 2006, pp. 44-50, <http://www.justice.gov/oig/reports/plus/e0608/final.pdf>.

or by an administrative judge.⁵⁹ While the outcome of a security clearance determination may be appealed, security clearance decisions are generally not subject to judicial review.⁶⁰

May a Security Clearance Granted by One Agency Be Accepted by Other Agencies?

With certain exceptions, a security clearance granted by one agency must be accepted by other agencies, though it is difficult to determine the degree to which reciprocity of security clearance background investigations and determinations actually occurs among agencies.⁶¹ Under Section 3001(d) of the Intelligence Reform and Terrorism Prevention Act of 2004, “all security clearance background investigations and determinations completed by an authorized investigative agency or authorized adjudication agency shall be accepted by all agencies.”⁶²

There are limited exceptions to this general principle, particularly among top secret, SCI, and SAPs. For example, each agency has authority to conduct an additional investigation if the one on record is a certain number of years old, and each agency may add requirements to the process, such as a polygraph examination. However, under Security Executive Agent Directive 7, an agency may not deny reciprocity due to additional investigative requirements, such as a polygraph examination. Instead, this directive instructs agencies to make preliminary reciprocity determinations pending the completion of any remaining investigative requirements (e.g., polygraph). In FY2021, the DCSA Consolidated Adjudication Services Reciprocity Program processed reciprocity cases in one to three days, down from an average of 65 days in FY2020.⁶³ Since FY2022, DCSA has processed reciprocity cases in a single day, on average.⁶⁴

⁵⁹ For example, see DCSA, “Appeal a Denied or Revoked Security Clearance,” <https://www.dcsa.mil/Personnel-Security/Background-Investigations-for-Aplicants/Appeal-an-Investigation-Decision>.

⁶⁰ Under E.O. 10450, individuals were prohibited from appealing unfavorable national security position determinations with the Loyalty Review Board, a board established by President Truman under the Civil Service Commission to hear appeals from federal employees who were found to lack “complete and unswerving loyalty” to the United States. See E.O. 9835 (revoked by E.O. 10450), “Prescribing Procedures for the Administration of an Employees Loyalty Program in the Executive Branch of the Government,” 12 *Federal Register* 1935. In 1979, the Civil Service Reform Act (P.L. 95-454) transferred the employee appeals function of the Civil Service Commission to the newly formed Merit Systems Protection Board. Also see Elizabeth L. Newman, *Security Clearance Law and Procedure*, 2nd ed. (Arlington, VA: Dewey Publications, 2008), p. 13.

⁶¹ ODNI, *Reciprocity of Background Investigations and National Security Adjudications*, November 9, 2018, https://www.dni.gov/files/NCSC/documents/Regulations/SEAD-7_BI_ReciprocityU.pdf; and DCSA, *Adjudications Reciprocity Guide*, https://www.dcsa.mil/Portals/91/Documents/pv/DODCAF/Adjudications/DCSA_Reciprocity_Guide_082721.pdf.

⁶² P.L. 108-458.

⁶³ DCSA, *Consolidated Adjudication Services, FY21 Adjudications Year in Review Annual Report*, p. 8, <https://www.dcsa.mil/Portals/91/Documents/pv/DODCAF/resources/FY21-Adjudications-Year-in-Review-Annual-Report.pdf>.

⁶⁴ Security, Suitability, and Credentialing Performance Accountability Council, *Trusted Workforce 2.0: Personnel Vetting Quarterly Progress Update, FY23 Q2*, April 2023, p. 15, https://assets.performance.gov/files/Personnel_Vetting_QPR_FY23_Q2.pdf.

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