



Testimony

Before the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia, Committee on Homeland Security and Governmental Affairs, U.S. Senate

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DOD PERSONNEL CLEARANCES

New Concerns Slow Processing of Clearances for Industry Personnel

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Highlights of [GAO-06-748T](#) a testimony before the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia, Committee on Homeland Security and Governmental Affairs, U.S. Senate

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. Long-standing delays in completing hundreds of thousands of clearance requests and numerous impediments that hinder DOD's ability to accurately estimate and eliminate its clearance backlog led GAO to declare DOD's personnel security clearance program a high-risk area in January 2005.

This testimony presents GAO's (1) preliminary observations from its ongoing review of the timeliness and completeness of clearances, (2) concerns about the upcoming expiration of an executive order that has resulted in high level commitment to improving the governmentwide clearance process, and (3) views on factors underlying DOD's decision to stop accepting clearance requests for industry personnel.

www.gao.gov/cgi-bin/getrpt?GAO-06-748T.

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.

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New Concerns Slow Processing of Security Clearances for Industry Personnel

What GAO Found

GAO's ongoing review of the timeliness and completeness of security clearance processes for industry personnel has provided three preliminary observations. First, communication problems between DOD and the Office of Personnel Management (OPM) may be limiting governmentwide efforts to improve the personnel security clearance process. Second, OPM faces performance problems due to the inexperience of its domestic investigative workforce, and it is still in the process of developing a foreign presence to investigate leads overseas. Third, some DOD adjudication facilities have stopped accepting closed pending cases—that is, investigations formerly forwarded to DOD adjudicators from OPM—even though some required investigative information was not included.

In addition, the expiration of Executive Order 13381 could slow improvements in the security clearance processes governmentwide, as well as for DOD in particular. The executive order, which among other things delegated responsibility for improving the clearance process to the Office of Management and Budget (OMB), is set to expire on July 1, 2006. GAO has been encouraged by the high level of commitment that OMB has demonstrated in the development of a plan to address clearance-related problems. Because there has been no indication that the executive order will be extended, GAO is concerned about whether the progress that has resulted from OMB's high-level management involvement will continue. Issues such as OPM's need to establish an overseas presence are discussed as potential reasons why OPM may not be in a position to assume an additional high-level commitment if OMB does not continue in its current role.

Finally, inaccurate projections of clearance requests and funding constraints are delaying the processing of security clearance requests for industry personnel. DOD stopped processing new applications for clearance investigations for industry personnel on April 28, 2006. DOD attributed its actions, in part, to an overwhelming volume of requests for industry personnel security investigations. DOD's long-standing inability to accurately project its security clearance workload makes it difficult to determine clearance-related budgets and staffing requirements. The funding constraints that also underlie the stoppage are related to the transfer of DOD's personnel security investigations functions to OPM. DOD has questioned some of the costs being charged by OPM and has asked OMB to mediate the DOD-OPM dispute. Information from the two agencies indicates that OMB has directed the agencies to continue to work together to resolve the matter. According to officials in the DOD and OPM inspector general offices, they are investigating the billing dispute and expect to report on the results of their investigations this summer.

Chairman Voinovich and Members of the Subcommittee:

I am pleased to be here today to discuss the Department of Defense's (DOD) personnel security clearance program and problems related to clearances for industry personnel. Since declaring DOD's program a high-risk area in January 2005, we have testified before this Subcommittee three times on security clearance-related issues. Before providing my observations about the current problems in the security clearance process, 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

For over 2 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.¹ 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 program.² Also in September 2004 and June and November 2005, we testified before this Subcommittee on clearance-

¹ GAO, *DOD Personnel: More Consistency Needed in Determining Eligibility for Top Secret Security Clearances*, GAO-01-465 (Washington, D.C.: Apr. 18, 2001); GAO, *DOD Personnel: More Actions Needed to Address Backlog of Security Clearance Reinvestigations*, GAO/NSIAD-00-215 (Washington, D.C.: Aug. 24, 2000); and GAO, *DOD Personnel: Inadequate Personnel Security Investigations Pose National Security Risks*, GAO/NSIAD-00-12 (Washington, D.C.: Oct. 27, 1999).

² 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).

related problems faced governmentwide, DOD-wide, and for industry personnel in particular.³

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: Government Plan Addresses Some Longstanding Problems with DOD's Program, But Concerns Remain*, GAO-06-233T (Washington, D.C.: Nov. 9, 2005); 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); and GAO, *Intelligence Reform: Human Capital Considerations Critical to 9/11 Commission's Proposed Reforms*, GAO-04-1084T (Washington, D.C.: Sept. 14, 2004).

industry personnel in more than 20 other federal agencies,⁴ 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 non cleared 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.

Long-standing 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.⁵

⁴ We identified 22 other agencies in GAO-04-632. Executive Order No. 10865, *Safeguarding Classified Information Within Industry*, Feb. 20, 1960, which was amended by Executive Order No. 12829, *National Industrial Security Program*, Jan. 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 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 Nuclear Regulatory Commission) also may grant security clearances to industry personnel who work on national security-related programs.

⁵ 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 the Office of Personnel Management (OPM). Now, DOD obtains nearly all of its clearance investigations from OPM,⁶ which is currently responsible for 90 percent of the personnel security clearance investigations in the federal government.⁷ 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 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 the context that I have laid out for understanding the interplay between DOD and OPM in DOD's personnel security clearance processes, I will address three issues. First, I will provide a status update and preliminary observations from our ongoing audit on the timeliness and completeness of the processes used to determine whether industry

⁶ 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.

⁷ In GAO-05-842T, 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 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 OPM to conduct all or part of their investigations.

personnel are eligible to hold a top secret clearance—an audit that this Subcommittee requested. Second, I will discuss potential adverse effects that might result from the July 1, 2006, expiration of Executive Order 13381. Finally, I will discuss DOD's recent action to suspend the processing of clearance requests for industry personnel.

With the exception of the update and preliminary observations on our current audit, my comments today are based primarily on our completed work and our institutional knowledge from our prior reviews of 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

Although our audit of DOD's clearance processes for industry personnel is ongoing, we have three preliminary observations. First, communication problems between DOD and OPM may be limiting governmentwide efforts to improve personnel security clearance processes. For example, until recently, OPM had not officially shared its investigator's handbook with DOD adjudicators. Adjudicators raised concerns that without knowing what was required for an investigation by the investigator's handbook, they could not fully understand how investigations were conducted and the investigative reports that form the basis for their adjudicative decisions. OPM indicates that it is revising the investigator's handbook and is obtaining comments from DOD and other customers. Second, OPM faces performance problems due to the inexperience of its domestic investigative workforce, and it is still in the process of developing a foreign presence to investigate leads overseas. OPM reports that it is making progress in establishing an overseas presence, but that it will take time to fully meet the demand for overseas investigative coverage. Third, some DOD adjudication facilities have stopped accepting closed pending cases—that is, investigations formerly forwarded to DOD adjudicators from OPM—even though some required investigative information is not included.

The expiration of Executive Order 13381 could slow improvements in the security clearance processes governmentwide, as well as for DOD in particular. The executive order, which among other things delegated responsibility for improving the clearance process to the Director of OMB, is set to expire on July 1, 2006. We have been encouraged by the high level

of commitment that OMB demonstrated in the development of a plan to address clearance-related problems. 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. If OMB does not continue in its current role, OPM may not be in a position to assume additional high-level commitment for several reasons, including its inability to resolve disputes with other agencies.

Finally, a billing dispute between DOD and OPM may cause further delays in processing security clearances for industry personnel. DOD stopped processing applications for clearance investigations for industry personnel on April 28, 2006, and attributed its actions to an overwhelming volume of requests for industry personnel security investigations and funding constraints. DOD's inability to accurately project its security clearance workload makes it difficult to determine clearance-related budgets and staffing requirements. The funding constraints that contributed to the stoppage are related to the costs resulting from the agreement that transferred DOD's clearance investigations function to OPM. DOD has asked OMB to mediate the dispute; however, information from DOD and OPM indicates that OMB has directed the two agencies to continue to work together to resolve the matter. According to representatives from DOD and OPM inspector general offices, they 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 during the summer.

Preliminary Observations from GAO's Ongoing Audit Suggests Additional Problems

Mr. Chairman, at your and other congressional members request, we continue to examine the timeliness and completeness of the processes used to determine whether industry personnel are eligible to hold a top secret clearance. Two key elements of the security clearance process are investigation and adjudication. In the investigation portion of the security clearance process, the investigator seeks to obtain information pertaining to the security clearance applicant's loyalty, character, reliability, trustworthiness, honesty, and financial responsibility. For top secret security clearances, the types or sources of information include an interview with the subject of the investigation, national agency checks (e.g., Federal Bureau of Investigations and immigration records), local agency checks (e.g., municipal police and court records), financial checks, birth date and place, citizenship, education, employment, public records for information such as bankruptcy or divorce, and interviews with references. In the adjudication portion of the security clearance process,

government employees in 10 DOD adjudication facilities—2 of which serve industry—use the information gathered at the investigation stage to approve, deny, or revoke eligibility to access classified information. Once adjudicated, the security clearance is then issued up to the appropriate eligibility level, or alternative actions are taken if eligibility is denied or revoked. A major part of our audit is reviewing fully adjudicated industry cases to determine the completeness of both the investigations and the adjudications for top secret clearances. We will complete this audit and issue a report to your Subcommittee and other congressional requesters this fall.

I will briefly mention three of the preliminary observations that we have been able to derive thus far from our audit.

- Communication problems may be limiting governmentwide efforts to improve the personnel security clearance process. The billing dispute that I discuss later in this testimony is one example of a communication breakdown. In addition, until recently, OPM had not officially shared its investigator's handbook with DOD adjudicators. Adjudicators raised concerns that without knowing what was required for an investigation by the investigator's handbook, they could not fully understand how investigations were conducted and the investigative reports that form the basis for their adjudicative decisions. OPM indicates that it is revising the investigator's handbook and is obtaining comments from DOD and other customers.
- OPM acknowledges that despite its significant effort to develop a domestic investigative workforce, performance problems remain because of the workforce's inexperience. OPM reports that they are making progress in hiring and training new investigators, however, they have also noted that it will take a couple of years for the investigative workforce to reach desired performance levels. In addition, OPM is still in the process of developing a foreign presence to investigate leads overseas. OPM also reports that it is making progress in establishing an overseas presence, but that it will take time to fully meet the demand for overseas investigative coverage.
- Some DOD adjudication facilities have stopped accepting closed pending cases—investigations forwarded to adjudicators even though some required information is not included—from OPM. DOD adjudication officials need all of the required investigative information in order to determine clearance eligibility. Without complete investigative information, DOD adjudication facilities must store the hard-copy closed pending case files until the required additional information is provided by OPM. According to DOD officials, this has created a significant administrative burden.

Expiration of Executive Order Could Slow Improvements in Clearance Processes

The July 1, 2006, expiration of Executive Order 13381 could slow improvements in personnel security clearance processes governmentwide as well as for DOD in particular. Among other things, this new executive order delegated responsibility for improving the clearance process to the OMB Director from June 30, 2005, to July 1, 2006. We have been encouraged by the high level of commitment that OMB demonstrated in the development of a plan to improve the personnel security clearance process governmentwide. 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 if OMB does not continue in its current role. 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 is not an OPM responsibility; and (3) agencies' disputes with OPM—such as the current billing dispute with DOD—may need a high-level, impartial third party to mediate a resolution.

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

DOD stopped processing applications for clearances for industry personnel on April 28, 2006. DOD attributed its actions to an overwhelming volume of requests for industry personnel security investigations and funding constraints.

The unexpected volume of security clearance requests resulted in DOD having to halt the processing of industry security clearances. We have testified repeatedly that a major impediment to providing timely clearances is DOD's inaccurately projected number of requests for security clearances DOD-wide and for industry personnel specifically. DOD's inability to accurately project clearance requirements makes it difficult to determine clearance-related budgets and staffing. In fiscal year

2001, DOD received 18 percent fewer requests than it projected (about 150,000); and in fiscal years 2002 and 2003, it received 19 and 13 percent (about 135,000 and 90,000), respectively, more requests than projected. 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 is developing a plan and computer software to have the government's contracting officers (1) authorize the number of industry personnel clearance investigations required to perform the classified work on a given contract and (2) link the clearance investigations to the contract number.

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 DOD and OPM indicates that OMB subsequently directed the two agencies to continue to work together to resolve the matter on their own. According to representatives from DOD and OPM inspector general offices, they 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 during the summer.

Concluding Observations

Mr. Chairman, I want to assure you that we will continue taking multiple steps to assess and monitor DOD's personnel security clearance program. As I have discussed, we are currently reviewing the timeliness and completeness of the processes used to determine whether industry personnel are eligible to hold a top secret clearance. We will report that information to your Subcommittee 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 GAO's high-risk list.⁸ Finally, we continuously monitor our recommendations to agencies to determine whether active steps are being taken to overcome program deficiencies.

Mr. Chairman and Members of the Subcommittee, this concludes my prepared statement. I would be happy to answer any questions you may have at this time.

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.

⁸ The general steps required to remove DOD's personnel security clearance program from the high-risk list are summarized in GAO-06-233T.

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