

§ 154.32 Criteria for requesting investigations.

Authorized requesters shall use the tables set forth in Appendix C to determine the type of investigation that shall be requested to meet the investigative requirement of the specific position or duty concerned.

§ 154.33 Request procedures.

To insure efficient and effective completion of required investigations, all requests for personnel security investigations shall be prepared and forwarded in accordance with Appendix B and the investigative jurisdictional policies set forth in § 154.9.

§ 154.34 Priority requests.

To insure that personnel security investigations are conducted in an orderly and efficient manner, requests for priority for individual investigations or categories of investigations shall be kept to a minimum. DIS shall not assign priority to any personnel security investigation or categories of investigations without written approval of the Deputy Under Secretary of Defense for Policy.

§ 154.35 Personal data provided by the subject of the investigation.

(a) To conduct the required investigation, it is necessary that the investigative agency be provided certain relevant data concerning the subject of the investigation. The Privacy Act of 1974 requires that, to the greatest extent practicable, personal information shall be obtained directly from the subject individual when the information may result in adverse determinations affecting an individual's rights, benefits, and privileges under Federal programs.

(b) Accordingly, it is incumbent upon the subject of each personnel security investigation to provide the personal information required by this part. At a minimum, the individual shall complete the appropriate investigative forms, provide fingerprints of a quality acceptable to the FBI, and execute a signed release, as necessary, authorizing custodians of police, credit, education, employment, and medical and similar records, to provide relevant record information to the investigative

agency. When the FBI returns a fingerprint card indicating that the quality of the fingerprints is not acceptable, an additional set of fingerprints will be obtained from the subject. In the event the FBI indicates that the additional fingerprints are also unacceptable, no further attempt to obtain more fingerprints need be made; this aspect of the investigation will then be processed on the basis of the name check of the FBI files. As an exception, a minimum of three attempts will be made for all Presidential Support cases, for SCI access nominations if the requester so indicates, and in those cases in which more than minor derogatory information exists. Each subject of a personnel security investigation conducted under the provisions of this part shall be furnished a Privacy Act Statement advising of the authority for obtaining the personal data, the principal purpose(s) for obtaining it, the routine uses, whether disclosure is mandatory or voluntary, the effect on the individual if it is not provided, and that subsequent use of the data may be employed as part of an aperiodic review process to evaluate continued eligibility for access to classified information.

(c) Failure to respond within the time limit prescribed by the requesting organization with the required security forms or refusal to provide or permit access to the relevant information required by this part shall result in termination of the individual's security clearance or assignment to sensitive duties utilizing the procedures of § 154.59 or further administrative processing of the investigative request.

Subpart F—Adjudication**§ 154.40 General.**

(a) The standard which must be met for clearance or assignment to sensitive duties is that, based on all available information, the person's loyalty, reliability, and trustworthiness are such that entrusting the person with classified information or assigning the person to sensitive duties is clearly consistent with the interests of national security.

(b) The principal objective of the DoD personnel security adjudicative

function, consequently, is to assure selection of persons for sensitive positions who meet this standard. The adjudication process involves the effort to assess the probability of future behavior which could have an effect adverse to the national security. Since few, if any, situations allow for positive, conclusive evidence of certain future conduct, it is an attempt to judge whether the circumstances of a particular case, taking into consideration prior experience with similar cases, reasonably suggest a degree of probability of prejudicial behavior not consistent with the national security. It is invariably a subjective determination, considering the past but necessarily anticipating the future. Rarely is proof of trustworthiness and reliability or untrustworthiness and unreliability beyond all reasonable doubt.

(c) Establishing relevancy is one of the key objectives of the personnel security adjudicative process in evaluating investigative material. It involves neither the judgment of criminal guilt nor the determination of general suitability for a given position; rather, it is the assessment of a person's trustworthiness and fitness for a responsibility which could, if abused, have unacceptable consequences for the national security.

(d) While equity demands optimal uniformity in evaluating individual cases, assuring fair and consistent assessment of circumstances from one situation to the next, each case must be weighed on its own merits, taking into consideration all relevant facts, and prior experience in similar cases. All information of record, both favorable and unfavorable, must be considered and assessed in terms of accuracy, completeness, relevance, seriousness, and overall significance. In all adjudications the protection of the national security shall be the paramount determinant.

§ 154.41 Central adjudication.

(a) To ensure uniform application of the requirement of this part and to ensure that DoD personnel security determinations are effected consistent with existing statutes and Executive orders, the head of each Military Department and Defense Agencies shall

establish a single Central Adjudication Facility for his/her component. The function of such facility shall be limited to evaluating personnel security investigations and making personnel security determinations. The chief of each Central Adjudication Facility shall have the authority to act on behalf of the head of the Component concerned with respect to personnel security determinations. All information relevant to determining whether a person meets the appropriate personnel security standard prescribed by this part shall be reviewed and evaluated by personnel security specialists specifically designated by the head of the Component concerned, or designee.

(b) In view of the significance each adjudicative decision can have on a person's career and to ensure the maximum degree of fairness and equity in such actions, a minimum level of review shall be required for all clearance/access determinations related to the following categories of investigations:

(1) BI/SBI/PR/ENAC/SII:

(i) *Favorable*: Completely favorable investigations shall be reviewed and approved by an adjudicative official in the civilian grade of GS-7/9 or the military rank of O-3.

(ii) *Unfavorable*: Investigations that are not completely favorable shall undergo at least two levels of review by adjudicative officials, the second of which must be at the civilian grade of GS-11/12 or the military rank of O-4. When an unfavorable administrative action is contemplated under § 154.56(b), the letter of intent (LOI) to deny or revoke must be approved and signed by an adjudicative official at the civilian grade of GS-13/14 or the military rank of O-5. A final notification of unfavorable administrative action, subsequent to the issuance of the LOI, must be approved and signed at the civilian grade of GS-14/15 or the military rank of O-6.

(2) NACI/DNACI/NAC/ENTNAC:

(i) *Favorable*: A completely favorable investigation may be finally adjudicated after one level of review provided that the decisionmaking authority is at the civilian grade of GS-5/7 or the military rank of O-2.

(ii) *Unfavorable*: Investigations that are not completely favorable must be reviewed by an adjudicative official in