

No. 13467 (50 U.S.C. 3161 note; relating to reforming processes for determining suitability for government employment, fitness for contractor employees, and eligibility for access to classified national security information).

(4) Council

The term “Council” means the Security, Suitability, and Credentialing Performance Accountability Council established pursuant to such Executive order, or any successor entity.

(5) Reciprocity

The term “reciprocity” means reciprocal recognition by Federal departments and agencies of eligibility for access to classified information.

(6) Security Executive Agent

The term “Security Executive Agent” means the officer serving as the Security Executive Agent pursuant to section 3162a of this title.

(7) Suitability and Credentialing Executive Agent

The term “Suitability and Credentialing Executive Agent” means the Director of the Office of Personnel Management acting as the Suitability and Credentialing Executive Agent in accordance with Executive Order No. 13467 (50 U.S.C. 3161 note; relating to reforming processes related to suitability for Government employment, fitness for contractor employees, and eligibility for access to classified national security information), or any successor entity.

(Pub. L. 116-92, div. E, title LXVI, § 6601, Dec. 20, 2019, 133 Stat. 2209.)

Editorial Notes

REFERENCES IN TEXT

This title, referred to in text, means title LXVI of div. E of Pub. L. 116-92, which enacted this section and sections 3162a and 3352a to 3352f of this title and amended sections 3033, 3104, 3163, and 3164 of this title. For complete classification of title LXVI to the Code, see Tables.

Executive Order No. 12829, referred to in par. (2), is Ex. Ord. No. 12829, Jan. 6, 1993, 58 F.R. 3479, which is set out as a note under section 3161 of this title.

Executive Order No. 13467, referred to in pars. (3), (4), and (7), is Ex. Ord. No. 13467, June 30, 2008, 73 F.R. 38103, which is set out as a note under section 3161 of this title.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Committee on Oversight and Reform of House of Representatives changed to Committee on Oversight and Accountability of House of Representatives by House Resolution No. 5, One Hundred Eighteenth Congress, Jan. 9, 2023.

DEFINITIONS

For definition of “congressional intelligence committees”, referred to in par. (1)(A), see section 5003 of div. E of Pub. L. 116-92, set out as a note under section 3003 of this title.

§ 3352a. Reports and plans relating to security clearances and background investigations

(a) Sense of Congress

It is the sense of Congress that—

(1) ensuring the trustworthiness and security of the workforce, facilities, and information of the Federal Government is of the highest priority to national security and public safety;

(2) the President and Congress should prioritize the modernization of the personnel security framework to improve its efficiency, effectiveness, and accountability;

(3) the current system for background investigations for security clearances, suitability and fitness for employment, and credentialing lacks efficiencies and capabilities to meet the current threat environment, recruit and retain a trusted workforce, and capitalize on modern technologies; and

(4) changes to policies or processes to improve this system should be vetted through the Council to ensure standardization, portability, and reciprocity in security clearances across the Federal Government.

(b) Accountability plans and reports

(1) Plans

Not later than 90 days after December 20, 2019, the Council shall submit to the appropriate congressional committees and make available to appropriate industry partners the following:

(A) A plan, with milestones, to reduce the background investigation inventory to 200,000, or an otherwise sustainable steady-level, by the end of year 2020. Such plan shall include notes of any required changes in investigative and adjudicative standards or resources.

(B) A plan to consolidate the conduct of background investigations associated with the processing for security clearances in the most effective and efficient manner in the Defense Counterintelligence and Security Agency. Such plan shall address required funding, personnel, contracts, information technology, field office structure, policy, governance, schedule, transition costs, and effects on stakeholders.

(2) Report on the future of personnel security

(A) In general

Not later than 180 days after December 20, 2019, the Chairman of the Council, in coordination with the members of the Council, shall submit to the appropriate congressional committees and make available to appropriate industry partners a report on the future of personnel security to reflect changes in threats, the workforce, and technology.

(B) Contents

The report submitted under subparagraph (A) shall include the following:

(i) A risk framework for granting and renewing access to classified information.

(ii) A discussion of the use of technologies to prevent, detect, and monitor threats.

(iii) A discussion of efforts to address reciprocity and portability.

(iv) A discussion of the characteristics of effective insider threat programs.

- (v) An analysis of how to integrate data from continuous vetting, insider threat programs, and human resources data.
- (vi) Recommendations on interagency governance.

(3) Plan for implementation

Not later than 180 days after December 20, 2019, the Chairman of the Council, in coordination with the members of the Council, shall submit to the appropriate congressional committees and make available to appropriate industry partners a plan to implement the report's framework and recommendations submitted under paragraph (2)(A).

(4) Congressional notifications

Not less frequently than quarterly, the Security Executive Agent shall make available to the public a report regarding the status of the disposition of requests received from departments and agencies of the Federal Government for a change to, or approval under, the Federal investigative standards, the national adjudicative guidelines, continuous vetting, or other national policy regarding personnel security.

(Pub. L. 116–92, div. E, title LXVI, § 6602, Dec. 20, 2019, 133 Stat. 2210.)

Statutory Notes and Related Subsidiaries

DEFINITIONS

For definitions of “Council”, “reciprocity”, “appropriate congressional committees”, “appropriate industry partners”, “continuous vetting”, and “Security Executive Agent”, referred to in text, see section 3352 of this title.

§ 3352b. Improving the process for security clearances

(a) Reviews

Not later than 180 days after December 20, 2019, the Security Executive Agent, in coordination with the members of the Council, shall submit to the appropriate congressional committees and make available to appropriate industry partners a report that includes the following:

(1) A review of whether the information requested on the Questionnaire for National Security Positions (Standard Form 86) and by the Federal Investigative Standards prescribed by the Suitability and Credentialing Executive Agent and the Security Executive Agent appropriately supports the adjudicative guidelines under Security Executive Agent Directive 4 (known as the “National Security Adjudicative Guidelines”). Such review shall include identification of whether any such information currently collected is unnecessary to support the adjudicative guidelines.

(2) An assessment of whether such Questionnaire, Standards, and guidelines should be revised to account for the prospect of a holder of a security clearance becoming an insider threat.

(3) Recommendations to improve the background investigation process by—

- (A) simplifying the Questionnaire for National Security Positions (Standard Form 86) and increasing customer support to applicants completing such Questionnaire;

- (B) using remote techniques and centralized locations to support or replace field investigation work;

- (C) using secure and reliable digitization of information obtained during the clearance process;

- (D) building the capacity of the background investigation workforce; and

- (E) replacing periodic reinvestigations with continuous vetting techniques in all appropriate circumstances.

(b) Policy, strategy, and implementation

Not later than 180 days after December 20, 2019, the Security Executive Agent shall, in coordination with the members of the Council, establish the following:

- (1) A policy and implementation plan for the issuance of interim security clearances.

- (2) A policy and implementation plan to ensure contractors are treated consistently in the security clearance process across agencies and departments of the United States as compared to employees of such agencies and departments. Such policy shall address—

- (A) prioritization of processing security clearances based on the mission the contractors will be performing;

- (B) standardization in the forms that agencies issue to initiate the process for a security clearance;

- (C) digitization of background investigation-related forms;

- (D) use of the polygraph;

- (E) the application of the adjudicative guidelines under Security Executive Agent Directive 4 (known as the “National Security Adjudicative Guidelines”);

- (F) reciprocal recognition of clearances across agencies and departments of the United States, regardless of status of periodic reinvestigation;

- (G) tracking of clearance files as individuals move from employment with an agency or department of the United States to employment in the private sector;

- (H) collection of timelines for movement of contractors across agencies and departments;

- (I) reporting on security incidents and job performance, consistent with section 552a of title 5 (commonly known as the “Privacy Act of 1974”), that may affect the ability to hold a security clearance;

- (J) any recommended changes to the Federal Acquisition Regulations (FAR) necessary to ensure that information affecting contractor clearances or suitability is appropriately and expeditiously shared between and among agencies and contractors; and

- (K) portability of contractor security clearances between or among contracts at the same agency and between or among contracts at different agencies that require the same level of clearance.

- (3) A strategy and implementation plan that—

- (A) provides for periodic reinvestigations as part of a security clearance determination only on an as-needed, risk-based basis;

- (B) includes actions to assess the extent to which automated records checks and other