

(c) Equivalent metrics**(1) In general**

If the Council develops a set of performance metrics that it certifies to the appropriate congressional committees should achieve substantially equivalent outcomes as those outlined in subsections (a) and (b), the Council may use those metrics for purposes of compliance within this provision.

(2) Notice

If the Council uses the authority provided by paragraph (1) to use metrics as described in such paragraph, the Council shall, not later than 30 days after communicating such metrics to departments and agencies, notify the appropriate congressional committees that it is using such authority.

(d) Plan

Not later than 180 days after December 20, 2019, the Council shall submit to the appropriate congressional committees and make available to appropriate industry partners a plan to carry out this section. Such plan shall include recommended interim milestones for the goals set forth in subsections (a) and (b) for 2019, 2020, and 2021.

(Pub. L. 116–92, div. E, title LXVI, § 6604, Dec. 20, 2019, 133 Stat. 2213; Pub. L. 117–263, div. F, title LXVIII, § 6824(b)(3), Dec. 23, 2022, 136 Stat. 3615.)

Editorial Notes

AMENDMENTS

2022—Subsecs. (c)(1), (d). Pub. L. 117–263 substituted “subsections (a) and (b)” for “subsections (b) and (c)”.

Statutory Notes and Related Subsidiaries

DEFINITIONS

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

§ 3352d. Reports on reciprocity for security clearances inside of departments and agencies**(a) Reports to Security Executive Agent**

The head of each Federal department or agency shall submit an annual report to the Security Executive Agent that, with respect to the period covered by the report—

(1) identifies the number of individuals whose security clearances took more than 2 weeks for reciprocity recognition after such individuals move to another part of such department or agency; and

(2) breaks out the information described in paragraph (1) by type of clearance and the reasons for any delays.

(b) Annual report

Not less frequently than once each year, the Security Executive Agent shall submit to the appropriate congressional committees and make available to industry partners a report that summarizes the information received pursuant to subsection (b) during the period covered by such report.

(Pub. L. 116–92, div. E, title LXVI, § 6608, Dec. 20, 2019, 133 Stat. 2216.)

Statutory Notes and Related Subsidiaries

DEFINITIONS

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

§ 3352e. Periodic report on positions in the intelligence community that can be conducted without access to classified information, networks, or facilities

Not later than 180 days after December 20, 2019, and biennially thereafter, the Director of National Intelligence shall submit to the congressional intelligence committees a report that reviews the intelligence community for which positions can be conducted without access to classified information, networks, or facilities, or may only require a security clearance at the secret level. Such report shall take into account the potential effect of maintaining continuity of operations during a covered national emergency (as defined by section 3316b of this title) and the assessed needs of the intelligence community to maintain such continuity of operations.

(Pub. L. 116–92, div. E, title LXVI, § 6610, Dec. 20, 2019, 133 Stat. 2218; Pub. L. 117–103, div. X, title VIII, § 801, Mar. 15, 2022, 136 Stat. 1011.)

Editorial Notes

AMENDMENTS

2022—Pub. L. 117–103 substituted “December 20, 2019, and biennially thereafter,” for “December 20, 2019, and not less frequently than once every 5 years thereafter,” and inserted at end “Such report shall take into account the potential effect of maintaining continuity of operations during a covered national emergency (as defined by section 3316b of this title) and the assessed needs of the intelligence community to maintain such continuity of operations.”

Statutory Notes and Related Subsidiaries

DEFINITIONS

For definitions of “congressional intelligence committees” and “intelligence community” as used in this section, see section 5003 of div. E of Pub. L. 116–92, set out as a note under section 3003 of this title.

§ 3352f. Information-sharing program for positions of trust and security clearances**(a) Program required****(1) In general**

Not later than 90 days after December 20, 2019, the Security Executive Agent and the Suitability and Credentialing Executive Agent shall establish and implement a program to share between and among agencies of the Federal Government and industry partners of the Federal Government relevant background information regarding individuals applying for and currently occupying national security positions and positions of trust, in order to ensure the Federal Government maintains a trusted workforce.

(2) Designation

The program established under paragraph (1) shall be known as the “Trusted Information Provider Program” (in this section referred to as the “Program”).

(b) Privacy safeguards

The Security Executive Agent and the Suitability and Credentialing Executive Agent shall ensure that the Program includes such safeguards for privacy as the Security Executive Agent and the Suitability and Credentialing Executive Agent consider appropriate.

(c) Provision of information to the Federal Government

The Program shall include requirements that enable investigative service providers and agencies of the Federal Government to leverage certain pre-employment information gathered through private-sector means during the employment or military recruiting process, and other relevant security or human resources information obtained during employment with or for the Federal Government, that satisfy Federal investigative standards, while safeguarding personnel privacy.

(d) Information and records

The information and records considered under the Program shall include the following:

- (1) Date and place of birth.
- (2) Citizenship or immigration and naturalization information.
- (3) Education records.
- (4) Employment records.
- (5) Employment or social references.
- (6) Military service records.
- (7) State and local law enforcement checks.
- (8) Criminal history checks.
- (9) Financial records or information.
- (10) Foreign travel, relatives, or associations.
- (11) Social media checks.
- (12) Such other information or records as may be relevant to obtaining or maintaining national security, suitability, fitness, or credentialing eligibility.

(e) Implementation plan**(1) In general**

Not later than 90 days after December 20, 2019, the Security Executive Agent and the Suitability and Credentialing Executive Agent shall jointly submit to the appropriate congressional committees and make available to appropriate industry partners a plan for the implementation of the Program.

(2) Elements

The plan required by paragraph (1) shall include the following:

(A) Mechanisms that address privacy, national security, suitability or fitness, credentialing, and human resources or military recruitment processes.

(B) Such recommendations for legislative or administrative action as the Security Executive Agent and the Suitability and Credentialing Executive Agent consider appropriate to carry out or improve the Program.

(f) Plan for pilot program on two-way information sharing**(1) In general**

Not later than 180 days after December 20, 2019, the Security Executive Agent and the

Suitability and Credentialing Executive Agent shall jointly submit to the appropriate congressional committees and make available to appropriate industry partners a plan for the implementation of a pilot program to assess the feasibility and advisability of expanding the Program to include the sharing of information held by the Federal Government related to contract personnel with the security office of the employers of those contractor personnel.

(2) Elements

The plan required by paragraph (1) shall include the following:

(A) Mechanisms that address privacy, national security, suitability or fitness, credentialing, and human resources or military recruitment processes.

(B) Such recommendations for legislative or administrative action as the Security Executive Agent and the Suitability and Credentialing Executive Agent consider appropriate to carry out or improve the pilot program.

(g) Review

Not later than 1 year after December 20, 2019, the Security Executive Agent and the Suitability and Credentialing Executive Agent shall jointly submit to the appropriate congressional committees and make available to appropriate industry partners a review of the plans submitted under subsections (e)(1) and (f)(1) and utility and effectiveness of the programs described in such plans.

(Pub. L. 116–92, div. E, title LXVI, § 6611, Dec. 20, 2019, 133 Stat. 2218.)

Statutory Notes and Related Subsidiaries**FEDERAL POLICY ON SHARING OF COVERED INSIDER THREAT INFORMATION PERTAINING TO CONTRACTOR EMPLOYEES IN THE TRUSTED WORKFORCE**

Pub. L. 117–103, div. X, title VIII, § 806, Mar. 15, 2022, 136 Stat. 1014, as amended by Pub. L. 117–263, div. F, title LXVI, § 6606, Dec. 23, 2022, 136 Stat. 3559, provided that:

“(a) POLICY REQUIRED.—Not later than 2 years after the date of the enactment of this Act [Mar. 15, 2022], the Director of National Intelligence, in coordination with the Secretary of Defense, the Director of the Office of Management and Budget, and the Attorney General, shall issue a policy for the Federal Government on sharing covered insider threat information pertaining to contractor employees.

“(b) CONSENT REQUIREMENT.—The Director shall ensure that the policy issued under subsection (a) requires, as a condition of obtaining and maintaining a security clearance with the Federal Government, that a contractor employee provide prior written consent for the Federal Government to share covered insider threat information with the senior official responsible for the insider threat program of the contractor that employs the contractor employee. The Director may include in such policy restrictions on the further disclosure of such information.

“(c) CONSULTATION.—On a quarterly basis during the period in which the Director is developing the policy under subsection (a), the Director shall consult with Congress and industry partners with respect to such development.

“(d) REVIEW.—

“(1) SUBMISSION.—Not later than 1 year after the date of the issuance of the policy under subsection

(a), the Director of National Intelligence and the Secretary of Defense shall jointly submit to Congress and make available to such industry partners as the Director and the Secretary consider appropriate a review of the policy.

“(2) CONTENTS.—The review under paragraph (1) shall include the following:

“(A) An assessment of the utility and effectiveness of the policy issued under subsection (a).

“(B) Such recommendations as the Director and the Secretary determine appropriate with respect to legislative or administrative action relevant to such policy.

“(e) DEFINITIONS.—In this section:

“(1) COVERED INSIDER THREAT INFORMATION.—The term ‘covered insider threat information’—

“(A) means information that—

“(i) is relevant with respect to adjudications relating to determinations of eligibility for access to classified information;

“(ii) an agency or department of the Federal Government has vetted and verified; and

“(iii) according to Director of National Intelligence policy, is considered relevant to the ability of a contractor employee to protect against insider threats as required by section 117.7(d) of title 32, Code of Federal Regulations, or successor regulation; and

“(B) includes pertinent information considered in the counter-threat assessment, as authorized by a provision of Federal law or Executive Order.

“(2) CONTRACTOR EMPLOYEE.—The term ‘contractor employee’ means an employee of a contractor, subcontractor, grantee, subgrantee, or personal services contractor, of a department or agency of the Federal Government.”

GOVERNANCE OF TRUSTED WORKFORCE 2.0 INITIATIVE

Pub. L. 117–103, div. X, title VIII, §807(a), Mar. 15, 2022, 136 Stat. 1015, provided that:

“(a) GOVERNANCE.—The Director of National Intelligence, acting as the Security Executive Agent, and the Director of the Office of Personnel Management, acting as the Suitability and Credentialing Executive Agent, in coordination with the Deputy Director for Management in the Office of Management and Budget, acting as the chairman of the Performance Accountability Council, and the Under Secretary of Defense for Intelligence and Security shall jointly—

“(1) not later than 180 days after the date of the enactment of this Act [Mar. 15, 2022], publish, in the Federal Register as appropriate, a policy with guidelines and standards for Federal Government agencies and industry partners to implement the Trusted Workforce 2.0 initiative;

“(2) not later than 2 years after the date of the enactment of this Act and not less frequently than once every 6 months thereafter, submit to Congress a report on the timing, delivery, and adoption of Federal Government agencies’ policies, products, and services to implement the Trusted Workforce 2.0 initiative, including those associated with the National Background Investigation Service; and

“(3) not later than 90 days after the date of the enactment of this Act, submit to Congress performance management metrics for the implementation of the Trusted Workforce 2.0 initiative, including performance metrics regarding timeliness, cost, and measures of effectiveness.”

TRUSTED INFORMATION PROVIDER PROGRAM FOR NATIONAL SECURITY POSITIONS AND POSITIONS OF TRUST

Pub. L. 115–232, div. A, title IX, §941, Aug. 13, 2018, 132 Stat. 1941, provided that:

“(a) PROGRAM REQUIRED.—Not later than 90 days after the date of the enactment of this Act [Aug. 13, 2018], the Security Executive Agent and the Suitability/Credentialing Executive Agent shall establish and implement a program (to be known as the ‘Trusted Infor-

mation Provider Program’) to share between and among agencies of the Federal Government and industry partners of the Federal Government relevant background information regarding individuals applying for and currently occupying national security positions and positions of trust, in order to ensure the Federal Government maintains a trusted workforce.

“(b) PRIVACY SAFEGUARDS.—The Security Executive Agent and the Suitability/Credentialing Executive Agent shall ensure that the program required by subsection (a) includes such safeguards for privacy as the Security Executive Agent and the Suitability/Credentialing Executive Agent consider appropriate.

“(c) PROVISION OF INFORMATION TO THE FEDERAL GOVERNMENT.—The program required by subsection (a) shall include requirements that enable Investigative Service Providers and agencies of the Federal Government to leverage certain pre-employment information gathered during the employment or military recruiting process, and other relevant security or human resources information obtained during employment with or for the Federal Government, that satisfy Federal investigative standards, while safeguarding personnel privacy.

“(d) INFORMATION AND RECORDS.—The information and records considered under the program required by subsection (a) shall include the following:

“(1) Date and place of birth.

“(2) Citizenship or immigration and naturalization information.

“(3) Education records.

“(4) Employment records.

“(5) Employment or social references.

“(6) Military service records.

“(7) State and local law enforcement checks.

“(8) Criminal history checks.

“(9) Financial records or information.

“(10) Foreign travel, relatives or associations.

“(11) Social media checks.

“(12) Any other information or records relevant to obtaining or maintaining national security, suitability, fitness, or credentialing eligibility.

“(e) IMPLEMENTATION PLAN.—

“(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act [Aug. 13, 2018], the Security Executive Agent and the Suitability/Credentialing Executive Agent shall jointly submit to Congress a plan for the implementation of the program required by subsection (a).

“(2) ELEMENTS.—The plan required by paragraph (1) shall include the following:

“(A) Mechanisms that address privacy, national security, suitability or fitness, credentialing, and human resources or military recruitment processes.

“(B) Such recommendations for legislative or administrative action as the Security Executive Agent and the Suitability/Credentialing Executive Agent consider appropriate to carry out or improve the program.

“(f) DEFINITIONS.—In this section:

“(1) The term ‘Security Executive Agent’ means the Director of National Intelligence acting as the Security Executive Agent in accordance with Executive Order 13467 (73 Fed. Reg. 38103; 50 U.S.C. 3161 note).

“(2) The term ‘Suitability/Credentialing Executive Agent’ means the Director of the Office of Personnel Management acting as the Suitability/Credentialing Executive Agent in accordance with Executive Order 13467.”

DEFINITIONS

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

§ 3352g. Requirement to authorize additional security clearances for certain contractors

(a) Definitions

In this section: