



Office of Inspector General

Background Investigations

*March 28, 2008
Inspection Report No. 434*

Table of Contents

Executive Summary	2
Objectives and Scope	3
Background.....	4
Inspection Results	5
Inadequate Operating Procedures	6
Lack of an Effective Case Management Tracking System	7
Insufficient Resources to Accommodate the Workload	9
Inadequate Workspace and Improper Storage of Files.....	10
Ineffective Use of an E-Gov Initiative- e-QIP.....	10
Pilot Interim Clearance Process	11
Implementation Plan.....	14
OMB Reporting.....	15
Other Matter	16
Appendices	
1. Management’s Comments.....	18
2. List of Recommendations	21

BACKGROUND INVESTIGATIONS

EXECUTIVE SUMMARY

The Office of Inspector General of the Securities and Exchange Commission conducts regular audits and inspections of Agency operations to promote the effectiveness, integrity, and efficiency of the Commission. We conducted an inspection of the Commission's process for initiating background investigations and making suitability determinations for employees and contractors.

We found that significant organizational issues are preventing the Commission from having an effective Personnel Security/Suitability Program (the Program). We recommend that the Commission (1) develop comprehensive operating procedures, (2) create an information system to track work processes, (3) evaluate and restructure staff resources, and (4) acquire appropriate work and storage space for the Program.

We also found that the Commission did not comply with key requirements of Homeland Security Presidential Directive (HSPD) 12, Policy for a Common Identification Standard for Federal Employees and Contractors, Federal Information Processing Standards (FIPS) Publication 201-1, and OMB guidance related to:

- Reviewing initial results from Office of Personnel Management (OPM) investigations prior to granting interim clearances permitting individuals unescorted access to Commission facilities.*
- Conducting background investigations on existing contractors, employees and others (e.g. temporary employees, student interns) that have worked at the Commission less than 15 years and do not have the minimum required type of investigation.*
- Reporting reliable data to the Office of Management and Budget (OMB) regarding the Commission's progress in implementing HSPD 12.*

Our report includes specific recommendations of the immediate actions that the Commission should take to correct the deficiencies we identified, and to notify OMB of the deficiencies, as appropriate.

Lastly, we identified a matter related to the Commission's issuance of HSPD 12 compliant identity cards that we believe warrants quick resolution by Commission management.

Many of our findings and recommendations were discussed with Commission management during the course of our review. In some instances, actions are already being taken to address the deficiencies. As a result, some of our recommendations refer to work in progress, while others refer to tasks that still need to be addressed.

The Office of Human Resources concurred with all recommendations in the report. Their formal written response is included as Appendix 1.

OBJECTIVES AND SCOPE

We initiated an inspection of the Program based on complaints from Commission officials regarding significant delays associated with the processing of background investigations for employees and contractors. Our original objectives were to determine if the Office of Human Resources (OHR) (1) promptly initiated investigations for contractors and staff, (2) initiated the appropriate type of investigation, and (3) maintained adequate systems for tracking the progress of investigations and OPM results.

The scope of our review, however, was limited by OHR's delays and inability to produce operational data, lack of reliable information systems or other methods to track workflow data, inadequate internal policies and procedures, and departure of key personnel associated with the Program during the course of our review. Consequently, our review and report focus on significant organizational issues affecting the overall efficiency and effectiveness of the Program that we believe warrant quick management action. We plan to do a follow-up review of this Program in the near future.

We interviewed applicable Commission staff in the Office of Information Technology (OIT), OHR, and Office of Administrative Services (OAS), as well as officials from OPM; reviewed applicable internal operating procedures, relevant Federal requirements and regulations, and OPM guidance; reviewed available OHR operational data for the Program; and reviewed available documentation for a judgmental sample of interim clearances granted under a newly implemented pilot program. We focused on operational processes during Fiscal Year 2007. We did not review the Office of Physical Security's compliance with applicable requirements for issuing new identity credentials to employees and contractors under Federal Information Processing Standards (FIPS) Publication 201-1 or OIT's procedures for granting these individuals access to Commission information systems.

Fieldwork was performed from October 2007 to February 2008 in accordance with *Quality Standards for Inspections*, January 2005 edition, issued by the President's Council on Integrity and Efficiency and the Executive Council on Integrity and Efficiency.

BACKGROUND

The Commission is required to initiate background investigations (if a satisfactory investigation is not already on file), evaluate results, and issue identity credentials to its employees, contractors and other applicable individuals (e.g., temporary employees, student interns) who require long-term access to Commission controlled facilities and/or information systems. The Commission also requires that employees and contractors undergo a credit check.

The Office of Human Resources' Personnel Security/Suitability Branch (PSB) administers the background investigation process and makes decisions regarding an individual's suitability for employment. PSB is responsible for determining the type of background investigation that should be conducted, arranging completion of investigations by OPM, reviewing and evaluating investigation results, maintaining personnel security files, and issuing guidance regarding the Program. OPM (or an OPM contractor) is responsible for performing the background investigation.

OIT, in conjunction with OHR, developed operating procedures for the personnel security program in July 2006 (OP 24-04.03.02.01- Background Investigations). These operating procedures are issued pursuant to applicable Federal regulations (Title 5, Code of Federal Regulations, Part 731 and 736, Executive Order 10450, *Security Requirements for Government Employment*, Homeland Security Presidential Directive 12, *Policy for a Common Identification Standard for Federal Employees and Contractors* (HSPD 12), FIPS 201-1 and various OPM guidance).

HSPD 12, issued by President Bush on August 27, 2004, cited the wide variations in the quality and security of the forms of identification used to gain access to federal and other facilities, and called for the development of a mandatory standard for secure and reliable forms of identification to be used throughout the Federal government. The directive identified the government's requirements for a common government-wide identification system that would enhance security, increase government efficiency, reduce identity fraud, and protect personal privacy. FIPS 201-1, approved by the Department of Commerce on February 25, 2005, established a government-wide personal identity verification (PIV) system. The system is based on the use of smart cards, which will be issued by all Federal government departments and agencies to their employees and contractors who require access to federal facilities and information.

FIPS 201 was issued in two parts to allow for a smooth migration to a secure, reliable personal identification process. Part 1 of FIPS 201-1 (PIV 1) describes the minimum requirements for a Federal personal identification system, including the process to prove an individual's identity. Agencies may issue credentials only to applicants whose identity has been established and who have had a background investigation. Applicants for credentials must at a minimum be examined through an OPM background investigation process, the National Agency Check with Written Inquiries (NACI),¹ to establish assurance of identity. The initial phase of the NACI, an FBI National Criminal History Fingerprint Check, must be completed before an initial identity card is issued. When the full NACI is completed, the agency reviews the results and takes appropriate action if negative results are received. By October 27, 2005, agencies were required to have procedures in place for verifying employees' identities to meet the requirements of PIV I. Accordingly, an agency may continue to issue its current employee identification; however, the controls and procedures surrounding the issuance of official government identification must be in compliance with PIV I. FIPS 201-1 created a number of new security criteria, and included for the first time, requirements for certain previously exempt contractors to be subject to the background investigation clearance process.

Part 2 of FIPS 201-1 (PIV II) describes the minimum requirements of an identification card that allows use of smart cards by Federal departments and agencies and was required to be implemented by agencies starting in October 2006.

The OIG has reviewed the Commission's background investigation processes for employees and contractors in prior audits (Audit Nos. 339 and 340 issued August 13, 2001) and found that significant improvements were needed in this area.

INSPECTION RESULTS

Our inspection found that the Program requires significant improvement in several areas, including (1) development of detailed operating procedures, (2) creation of an effective case management tracking system, (3) evaluation and restructuring of staff resources, (4) adequate workspace and storage of personnel security files, and (5) compliance with various aspects of HSPD 12 and FIPS 201-1. It is imperative that OHR take prompt action to remedy these deficiencies to ensure the effective and efficient operation of the

¹ The National Agency Checks are the Security/Suitability Investigations Index (SII), Defense Clearance and Investigation Index (DCII), FBI Name Check, and FBI National Criminal History Check. The National Agency Check with Written Inquiries includes all of the National Agency Checks plus searches of records covering specific areas of an individual's background during the past five years.

Program. Delays in processing background investigations and the lack of adherence to relevant Federal requirements negatively impact the recruitment of staff and other temporary personnel, efficient use of contractors, and security of federally controlled facilities and Commission information systems.

ORGANIZATIONAL ISSUES

Inadequate Operating Procedures

Our inspection found that the Commission lacks comprehensive operating procedures for initiating, evaluating, and documenting background investigations for employees and contractors. The current operating procedures (OP 24-04.03.02.01-Background Investigations) consist primarily of a list of steps associated with the background investigation process (e.g., a determination of the appropriate security paperwork, receipt of OPM results and evaluation of any issues, final determination of an individual's suitability² for employment) and a list of relevant guidance.

The operating procedures do not clarify, define, and establish specific personnel security processes regarding making a determination of position sensitivity³, determining the minimum background investigation for different position sensitivity levels, making preliminary and final suitability determinations, reviewing and adjudicating OPM investigation results, and adhering to due process procedures for unfavorable suitability determinations.

We believe the procedures at a minimum should (1) provide detailed information regarding each step in the background investigation process; (2) reference applicable guidance (e.g., OPM guidance, Federal requirements and regulations) and state what processes will be employed to ensure adherence to the guidance; (3) include target milestones for completion of various processes; (4) state what documentation will be maintained to support decisions made; and (5) incorporate management review of significant decisions as deemed appropriate.

Developing comprehensive operating procedures will help ensure that personnel security activities are carried out consistently; in accordance with applicable Federal requirements, regulations and OPM guidance; and in a cost effective manner. For example, we found that PSB often requests that

² General fitness or eligibility for Federal employment.

³ The degree of risk and level of relative importance assigned to a specific position.

OPM perform a minimum background investigation (MBI)⁴ for contractors although FIPS 201-1 only requires a NACI or equivalent. A standard MBI cost approximately \$450 more than the basic NACI and takes longer to complete. Based on the estimated 416 existing contractors as of December 2007 that require a background investigation (per OHR's reported numbers to OMB), changing the type of investigation required could result in potential cost savings. A PSB staff member stated that she usually requests an MBI because it is a more thorough investigation, consisting of in-person interviews, rather than just written inquiries and many contractors have access to IT systems. While this rationale has merit, OHR as a whole needs to develop a process/criteria it will use to determine when to request an MBI instead of a NACI for contractors.

The Center for Organizational Excellence, a consultant hired by OHR to review OHR workflow processes, reported in May 2007 that a lack of documented, understood, and defensible personal security workflow processes was a root cause for problems associated with staff acquisition at the Commission. There is no evidence that management responsible for direct oversight of PSB have taken action to develop new operating procedures to address this issue.

Recommendation A

We recommend that OHR develop detailed operating procedures (or a personnel security/suitability handbook that is maintained internally) for the Program and circulate these procedures for clearance by June 30, 2008.

Lack of an Effective Case Management Tracking System

PSB does not have an effective information system to manage its workload of background investigation cases. Prior to implementation of the interim clearance process, PSB recorded background investigation data on various Excel spreadsheets. Two spreadsheets were used to record background investigation data for contractors and employees that was useful to PSB internally (such as a social security number, position sensitivity level, type of investigation, date paperwork sent to OPM, date investigation initiated and completed, contractor name and position description information.)

Other spreadsheets were used to report data to other offices within the Commission. This included a spreadsheet accessible to human resource specialists to track the status of the security paperwork for prospective

⁴ This investigation requires a NACI, a credit record search, a face-to-face personal interview between the investigator and the subject, and telephone inquiries to selected employers.

employees. Also, PSB developed a spreadsheet to track similar information for summer interns. Our review has identified the following concerns with the tracking system based on discussions with a PSB staff member and our review of available data:

- OHR is not able to provide outside parties timely access to information in the tracking system. Although the OIG made numerous requests over a period of a couple of months and offered to assist in accessing the data, OHR was not able to provide the data in a timely manner. Additionally, although PSB represented that it had two tracking spreadsheets (one for contractors and one for employees) to track internal workload data, OHR was unable to provide access to the tracking spreadsheet for regular employees.
- The tracking spreadsheets were maintained and updated by one of the PSB staff members, but were not readily accessible to other staff.
- Data in the spreadsheets had not always been updated and maintained and one of the spreadsheets reviewed appeared to have missing data.
- The spreadsheets did not adequately track all workflow processes within PSB (e.g., when PSB was notified of a prospective employee or contractor, date of initial and follow-up contact with an individual regarding security paperwork or receipt of security paperwork.)
- There was no tracking spreadsheet to provide data to applicable parties regarding the status of background investigation for contractors, although there was one for employees.

During the course of our review, OHR introduced another spreadsheet to track background investigation data related to a pilot interim clearance process. While we believe this spreadsheet more effectively tracks workflow data regarding front-end processes performed by PSB (prior to initiation of a background investigation), the spreadsheet lacked other information regarding the type of investigation initiated, receipt and review of OPM investigation results, (such as the advance fingerprint report, advance national agency check report, and final OPM results) and resolution of any issues found from OPM's investigation. Additionally, per discussion with a PSB staff member, the new spreadsheet does not contain some data from the old tracking spreadsheets that was useful to manage the Program from an internal perspective.

Recommendation B

We recommend that OHR develop (with the assistance of OIT) or acquire a case management tracking system with the capability to track and document internal workflow processes, produce reports useful for managing the program, and report data to outside parties as necessary. OHR should specifically dedicate resources to this effort.

Insufficient Resources to Accommodate the Workload

OHR needs to evaluate and restructure staff resources to better accommodate the background investigation workload. As of January 2008, PSB was staffed with two permanent employees (an experienced staff person and one junior staff person). The junior staff person resigned from the Commission in January 2008 and a replacement from within the Commission was identified. The two permanent employees reported to a Branch Chief who managed other personnel functions. However, the Branch Chief retired in February 2008 and that position is now vacant. In addition, the Associate Director that this Branch Chief reported to also left the Commission in February 2008. In the past, PSB has also utilized the resources of temporary, contractor, and administrative staff to help meet its workload demands.

We found that only one of the two personnel security specialists is actually trained to perform all personnel security functions including such tasks as evaluating OPM background investigation results. This individual also trains any new permanent or temporary personnel assigned to the branch. While staff resources within PSB have not increased, the workload of PSB has increased substantially in recent years due to increases in the size of the Commission and new requirements such as HSPD12, which requires all new contractors to be subject to background investigations as well as existing employees and contractors without the minimum required background investigation.

Admittedly, PSB has focused its limited resources on meeting the demands for new clearance requests (i.e., getting the security paperwork together and to OPM for the investigation to be initiated). Consequently, not enough time is being devoted to other PSB essential functions such as receipt and timely review of investigation results, maintaining an updated tracking system, communicating changes in operating procedures to customers within the Commission, reviewing reassignments within the Commission to determine if a individual requires a new investigation, initiating reinvestigations when required, ensuring that applicable requirements (such as HSPD12) are met, and attending training on current developments in the personnel security/suitability area.

Recommendation C

OHR should evaluate and restructure staff resources assigned to PSB to ensure that all essential functions are performed in an effective and timely manner. OHR should also recruit additional skilled staff and ensure that all staff are adequately trained to perform their jobs successfully. Further, OHR should consider recruiting additional temporary staff to assist with the backlog of background investigations.

Inadequate Workspace and Improper Storage of Files

We performed a walkthrough of PSB's office space including storage and filing capacity. We found that PSB does not have a secured central location/file room for personnel security files and that personnel security files and security paperwork were contained in numerous locations including various file cabinets that cannot be locked, open cubicles, and a personnel specialist's office. Additionally, we found PSB's workspace in general to be unsuitable for the type of work they perform (e.g., reviewing and discussing personnel security information and meeting with employees and contractors regarding their security paperwork.) The workspace is centrally located within OHR, consists of one office and some cubicles and is physically accessible to all contractors and employees that have access to the building.

Recommendation D

OHR should obtain secure storage for personnel security files and a workspace conducive for personnel security type work.

Ineffective Use of an E-Gov Initiative – e-QIP

We found that PSB is not effectively utilizing the Electronic Questionnaires for Investigations Processing system (e-QIP). The secure web-based system is part of an e-government initiative sponsored by OPM and was made available for agency use in 2004. E-QIP allows applicants to electronically enter, update, and transmit their personal investigative data over a secure Internet connection to their employing agency for review and approval. The data can then be reviewed and transmitted by agencies to OPM for timely initiation of a background investigation. The Commission received training on e-QIP in September 2007 and began implementation shortly thereafter.

We found that although PSB required that applicants utilize the system to complete, certify, and release their security questionnaire form to PSB (e.g., SF85P), PSB was not always electronically uploading and submitting the e-QIP signature form (a form manually signed by the applicant to certify that

the applicants answers on the security questionnaire and related documents are true, complete, and accurate) to OPM. PSB was also not electronically uploading to e-QIP other documents that are typically included in the security package sent to OPM such as the credit release form, optional form 306, and resume. PSB would submit the aforementioned documents along with the paper fingerprint card to OPM via Fed Ex, or other mechanism.

Per discussions with an OPM official, the Commission is in violation of its memorandum of understanding with OPM regarding the use of e-QIP by not uploading and electronically transmitting security packages (with the exception of the paper fingerprint cards) to OPM. Additionally, the Commission is not effectively utilizing this e-government initiative to help speed up investigation processing. It should also be noted that once the Commission begins its new credentialing system (issuance of smart cards), fingerprinting will be done electronically, therefore, eliminating the need to submit paper copies of any security paperwork (assuming e-QIP is properly utilized), which will reduce costs.

Recommendation E

OHR should ensure that all personnel security specialists are properly trained in the use of e-QIP and are effectively utilizing e-QIP by uploading and transmitting all security documents (with the exception of paper fingerprint cards) to OPM.

Pilot Interim Clearance Process Not in Compliance with HSPD-12

We found that the Commission had not complied with key requirements of HSPD 12 and FIPS 201-1 regarding (1) initiation of background investigations by OPM and receipt of an acceptable FBI fingerprint check prior to granting employees and contractors unescorted access to Commission facilities, (2) compliance with key milestone requirements regarding completion and/or verification of minimum background investigations for existing employees and contractors that have been with the Commission 15 years or less, and (3) reporting of key milestone data to OMB regarding background investigations for Commission contractors. As a result, the Commission has violated Federal requirements and should take immediate corrective action including notifying appropriate parties (such as OMB) of the violations, as applicable.

Pilot Interim Clearance Process

FIPS 201-1 requires that agencies initiate a NACI or other appropriate type of investigation prior to initial credential issuance for *new* employees, contractors, and other applicable individuals. Agencies are prohibited from reinvestigating individuals transferring from another department or agency provided certain criteria are met. FIPS 201-1 states that at a minimum, the FBI National Criminal History Check (fingerprint check) shall be completed before initial credential issuance. FIPS 201-1 further requires that identity credentials issued to individuals without a completed NACI or equivalent must be electronically distinguishable from identity credentials issued to individuals with a completed investigation.

In October 2007, OHR began a 90-day pilot interim clearance process. This process was put into place due to complaints by Commission officials of significant delays with clearances. Under the new process, OHR granted interim clearances based upon a review of an individual's relevant background investigation documents prior to their submission to OPM for completion of the full background investigation. The targeted time period to issue an interim clearance was five days. The interim clearance was to remain in effect until the full background investigation was completed by OPM and PSB had reviewed and evaluated any issues. New employees were informed that their continued employment status was contingent upon a satisfactory background investigation. An interim clearance permitted contractors and new employees to begin work with the Commission, get an identification badge and gain unescorted access to Commission facilities while the full background investigation was ongoing.

The OIG picked a judgmental sample of 15 out of approximately 87 individuals (12 contractors and 3 employees) that received interim clearances under the 90-day pilot program as of January 14, 2008. We then obtained and reviewed the relevant PSB files⁵ to ensure the process complied with applicable HSPD 12 guidance. We identified the following issues/concerns:

- OHR had only recently begun to provide interim clearances although Federal guidelines had given agencies this ability since October 2005.
- Ten individuals were cleared by PSB to receive identification badges (an email was sent to the Office of Physical Security that the individual was cleared for an ID) although OPM had not yet initiated their background investigations and the FBI fingerprint results had not been obtained and reviewed. This process is in direct violation of FIP 201-1 and the Commission's own operating procedures for background investigations. For one of the ten

⁵ PSB was unable to readily locate the personnel security files for two of the individuals in our sample.

individuals, OPM notified the Commission that it found the individual's security paperwork unacceptable after the individual was cleared and received their badge. Additionally, although notice of the unacceptable paperwork was received from OPM in November 2007, there was no documentation in the file that PSB had followed up as of February 2008 to determine why the paperwork was unacceptable. It should also be noted that FBI fingerprint results subsequently received for two of the ten individuals in the sample were positive (indicating that an FBI record was found). Notes in PSB's personnel security files indicate the records were reviewed and found to be "ok".

- PSB files for two individuals showed that OPM found and reported to PSB in November 2007 issues related to the individuals' credit. As of February 2008, PSB's files contained notations showing that these issues still needed to be followed up on.
- One individual in our sample was cleared for an interim clearance; however, PSB could not provide proof that they notified the Office of Physical Security that the individual was cleared for a badge. The Office of Physical Security also did not have any record of an email from PSB. Additionally, we found that PSB does not routinely notify the Contractor Officer Technical Representative (COTR) or an Administrative Officer when a contractor is cleared for an ID (simultaneous with their notification to the Office of Physical Security). As a result, a contractor may be awaiting an ID and would not be aware they have been cleared for one.
- PSB did not distinguish between an interim and final clearance when they notified the Office of Physical Security via email that individuals in our sample were cleared for an ID. This distinction will become particularly important once the Commission starts to issue the new HSPD 12 smart card badges. FIPS 201-1, Part 2, requires that identity credentials issued to individuals without a completed NACI, or equivalent must be electronically distinguishable from identity credentials issued to individuals with a completed investigation.

Recommendation F

PSB should revise its current procedures to ensure: (1) interim clearances are granted after an OPM investigation is initiated and the FBI fingerprint results are received, reviewed, and determined to be acceptable; (2) all OPM investigation results (preliminary and final) are promptly reviewed, issues timely resolved, and appropriate action taken to revoke interim clearances,

as appropriate; and (3) the Office of Physical Security is promptly notified of all interim clearances, the notification states that an identification badge should be issued based on an interim clearance, and the applicable COTR and/or Administrative contact is copied.

Implementation Plan

HSPD 12 implementation instructions published by OMB in August 2005 (OMB Memorandum 05-24) required that agencies develop a plan and begin the required background investigations, a NACI or equivalent, for all current employees, contractors, and other applicable individuals who do not have an initiated or completed investigation on record. This effort was required to be started by October 27, 2005.

For *current* contractors and employees who have been with the Commission for less than 15 years, the requirement was to be completed by October 27, 2007. For employees who have been with the Commission over 15 years, a new investigation may be delayed, commensurate with risk, but must be completed no later than October 27, 2008.

We found that the Office of Human Resources does not have a formal plan of how it intends to meet this requirement. Additionally, due to limited resources, OHR has not focused its efforts on meeting this requirement. Consequently, the Commission has no way of knowing where it stands with regard to meeting the required deadlines. The Commission reported to OMB in December 2007 (as part of its required quarterly HSPD-12 reporting requirements) that 1,016 contractors and employees still need a NACI or equivalent background investigation.

Until OHR identifies what *existing* employees and contractors still need a NACI and takes action to get the required investigations completed, the Office of Physical Security will not be able to issue new identity credentials (smart cards) to these individuals by the October 27, 2008 credentialing deadline established by OMB Memorandum 07-06, issued January 11, 2007.

Recommendation G

OHR should develop milestones and a methodology for completing the minimum required background investigations for existing contractors and employees and devote appropriate resources to the effort. OHR should also communicate those milestones to the Office of Physical Security.

OMB Reporting

We found that PSB could not readily provide support for HSPD 12 background investigation data reported by the Commission. In January 2007, in an effort to monitor agencies implementation of HSPD-12, OMB issued memoranda requiring agencies to post to their Federal agency public website certain data related to the status of background investigations for *current* employees and contractors.

This information was collected from OHR by OIT and publicly posted on the Commission's website along with other HSPD 12 data. For the last three quarters, the Commission reported the following background investigation data.

Table 1. Background Investigations Reported

Total Number of Employees Requiring a NACI (or at least equivalent) that have not previously undergone a background investigation	Total number of contractors requiring a NACI	Reporting date
950	457	June 2007
610	502	September 2007
610	416	December 2007

The OIG inquired about the source of the data and was informed that the employee data was determined by taking a list of employees, providing the employee data to OPM to see if they have record of a background investigation, and then manually going through employee's Official Personnel Files (OPF) to see if there is record of an investigation. The process of going through the OPFs has been an ongoing effort since 2006, whenever OHR has had additional resources to utilize for this task. Currently, an OIT contractor is performing this work. With regard to the contractor data, OHR was not able to definitively identify how the numbers were derived and indicated that the contractor data is more of a problem than the employee data as the Commission does not have a centralized database of all contractors.

Further, in October 2007, OMB provided updated HSPD 12 reporting requirements for the quarterly reporting period beginning December 1, 2007. OMB now requires that agencies report how many background investigations are in progress and have been completed in addition to how many employees, contractors, and others (e.g., non-paid students) need the minimum background investigation. The Commission did not provide the additional information in its December 1, 2007 report to OMB and it is questionable

whether accurate data exists to be able to provide this information. Without reliable data, the Commission cannot assess the status of their compliance with HSPD-12 requirements and will not be able to successfully implement Part 2 of FIPS 201-1 (issuance of new identity credentials to all *existing* and new employees and contractors).

Recommendation H

OHR should notify OMB of any reported data that cannot be supported and develop a methodology and system to capture the required HSPD 12 data for quarterly reporting to OMB.

OTHER MATTERS

The following matter, while outside the scope of our review, came to our attention during the course of the inspection and requires OHR's urgent management attention to ensure the Commission's successful implementation of HSPD 12.

OMB Memorandum 07-06 requires that new identity cards replace the standard employee flash-card badges by October 27, 2008. The credentials which include biometric information such as fingerprints will provide a common identification standard to allow employees and contractors to access federal buildings and computer networks.

In order for agencies to begin issuing the new credentials, they must develop and document a new credentialing system. FIPS 201, Part 2 suggests a role-based model. The role-based model assigns identity-proofing responsibilities to individuals, based on the roles and functions they perform. This requires the Commission to assign roles to various individuals and implement training for these roles. The system provides safeguards to ensure that the same person cannot authorize and issue an identity card.

Per discussion with OIT staff members, OHR was asked by OIT to designate individuals (as well as backups) to fill an adjudicator⁶ and sponsor role. The adjudicator would certify that an individual's FBI fingerprint check results have been returned so that an interim badge can be issued, as well as later certifying that a NACI or better has been completed, so that an interim badge can be electronically tagged properly as finalized. For existing hires with a NACI or better on file, a final badge could be issued. Persons designated to fill the adjudicator role must meet minimum standards, including being able to evaluate whether a PIV application is satisfactory and apply specific

⁶ An individual that reviews the OPM background investigation results and makes a favorable or unfavorable placement determination based on relevant guidance.

processes to an unsatisfactory application, have training on agency processes and procedures for adjudicating an unsatisfactory PIV application, and have successfully completed a training module on the roles and responsibilities of the position.

The sponsor would prevent a single person from authorizing issuance of an identity credential. Both the sponsor and adjudicator must agree that an individual should be issued a card. For new hires, the sponsor must key in name, social security number, an email address, and citizenship information to start the issuance process, then the adjudicator must validate that acceptable background investigation results have been obtained.

As of February 2008, OHR had designated two individuals to perform the adjudication role, however, one of those individuals has since resigned and the other individual had not yet taken the required computer based training. Additionally, no sponsors had been designated by OHR. Without the required designations, the Commission cannot begin to issue new credentials, which greatly increases the likelihood that it will not be able to meet the required October 2008 deadline to have smart card credentials in place.

We are concerned that OHR is not providing the support necessary to ensure the Commission's success in implementing the new HSPD credentialing system and may not have other required systems in place to successfully fulfill its roles and responsibilities under FIPS 201-1, Part 2.

Recommendation I

OHR should review the new credentialing system requirements and coordinate with OIT and the Office of Physical Security to ensure that it is fulfilling its required roles and responsibilities and has appropriate systems and procedures in place to capture, share, and store required data in accordance with FIPS 201-1, Part 2.

DISCUSSION OF MANAGEMENT COMMENTS

The Office of Human Resources concurred with all recommendations in the report. Their formal written response is included as Appendix 1.

APPENDIX 1

MANAGEMENT'S COMMENTS



UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
OPERATIONS CENTER
6432 GENERAL GREEN WAY
ALEXANDRIA, VIRGINIA 22312-2413

MAR 17 2008

H. David Kotz
Inspector General
U.S. Securities and Exchange Commission
100 F Street NE
Washington DC 20549

Mr. Kotz,

I have reviewed Inspector General Report # 430, "Inspection of the Background Investigation Process." In this report, your office makes nine recommendations to address inadequacies in the current Background Investigation Process. I concur with each of these recommendations, some of which are already in the implementation process. I would like to highlight some of the efforts already underway to improve the integrity of this program. First however, I would like to provide some additional background.

Background:

During Fiscal year 2007, the Office of Human Resources (OHR) completed a thorough review of our operating processes following the guidelines of the Office of Personnel Management's (OPM) Human Resources Line of Business (HR LOB) initiative. The output of this effort was a detailed process map of our existing operations for each of the 44 processes administered by the OHR. We have used the process improvement recommendations in the context of our performance management system to begin to make the needed improvements across all of these processes. The Interim Clearance Process referenced in the IG report is one output of this process improvement effort. Whereas the report identified an issue with the implementation of the Interim Clearance process, overall it has made the background investigation process more effective.

In early 2008, the Branch responsible for Background Investigations lost 2 of the 3 employees focused on this work including the Branch Chief. In addition, the Associate Director that this Branch Chief reported to also left the Agency. This turnover has allowed a number of performance deficiencies to surface consistent with the findings of the IG report. With this knowledge, the OHR is moving rapidly to address all of these issues.

APPENDIX 1

MANAGEMENT'S COMMENTS

Page 2

Current Efforts Underway:

Branch Re-organization

The work associated with conducting background investigations until recently was within the Classification and Staffing Branch 3. This Branch focused on Classification and Staffing for several U.S. Securities and Exchange (SEC) offices as well as maintaining Official Personnel Files (OPFs) and managing the background investigation process. As mentioned previously, only the Branch Chief and two additional employees focused on background investigation work.

Effective with the pay period beginning March 2, 2008, the OHR implemented a re-organization plan which among many things, will create more focus and provide more resources for background investigation work. Specifically, the classification and staffing work as well as the maintenance of OPFs has been reassigned to the other two Classification and Staffing Branches providing a single focus of the remaining branch on background investigations. In addition, resources within the OHR have been realigned to provide a Branch Chief and 4 Specialists to focus on background investigation work. At the staff level this represents a 100% increase in resources.

Interim Clearance Delegation for Contractors to the Office of Information Technology (OIT)

OHR has recently reached an agreement with the OIT to delegate the Interim Clearance process to OIT for their contractor workforce. This decision creates additional resources to focus on the background investigation workload. It has been the desire of OIT to have this delegation for some time. The delegation process has been structured in such a way that the workflow will come back through the Background Investigations Branch in an effort to have the proper oversight and quality control.

Additional E-Quip Access

The OHR has taken the steps to gain additional E-Quip access through OPM. Since implementing E-Quip in late fiscal year 2007, only one OHR employee has had the ability to grant access to E-Quip to new employees for the purpose of completing the initial background investigation paperwork. Within the last few weeks, 3 additional employees have been given that access and one additional employee has that access pending with OPM. This improvement has a significant impact on productivity.

APPENDIX 1

MANAGEMENT'S COMMENTS

Page 3

Improved Interim Clearance Process

The IG Report identified a flaw in the Interim Clearance process creating a non-compliance issue with HSPD-12. Basically, an HSPD-12 compliant badge cannot be issued prior to a finger print verification being received from the FBI. As designed, the Interim Clearance process grants clearance to an individual who has completed the necessary background investigation paperwork including declarations regarding criminal background and credit history. The intent is to begin the process of transitioning from their current place of employment to their new position at the SEC. This transition period normally takes 3-4 weeks to complete thus allowing ample time to receive the verification back from the FBI prior to an actual identification badge being issued. However, due to the background investigation unit not meeting performance standards regarding processing time it was possible for a new employee to fully transition to the SEC before the verification was received.

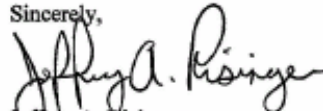
Additionally, the background investigation unit was not fully aware that the current badging system met all of the requirements for an HSPD-12 compliant badge. The anticipation was that the badges which would be issued after October, 2008 would have the positive verification requirement. OIT clarified that the current badges technically meet the HSPD-12 requirement and therefore must have the verification prior to being issued.

OHR fully understands this requirement and has put in place additional safeguards to ensure that a badge is not issued prior to the receipt of the verification. In the future, electronic tracking will provide additional safeguards in this area.

We anticipate the new Branch Chief for the background investigation unit to be in place by the first week of April and for the unit to be at full strength by the end of April. At that point, this unit will be much stronger and able to fully develop a plan to address the remaining recommendations.

Thank you again for this thorough report and for the professional manner in which it was developed.

Sincerely,



Jeffrey A. Risinger

Associate Executive Director - OHR

APPENDIX 2**LIST OF RECOMMENDATIONS*****Recommendation A***

We recommend that OHR develop detailed operating procedures (or a personnel security/suitability handbook that is maintained internally) for the Program and circulate these procedures for clearance by June 30, 2008.

Recommendation B

We recommend that OHR develop (with the assistance of OIT) or acquire a case management tracking system with the capability to track and document internal workflow processes, produce reports useful for managing the program, and report data to outside parties as necessary. OHR should specifically dedicate resources to this effort.

Recommendation C

OHR should evaluate and restructure staff resources assigned to PSB to ensure that all essential functions are performed in an effective and timely manner. OHR should also recruit additional skilled staff and ensure that all staff are adequately trained to perform their jobs successfully. Further, OHR should consider recruiting additional temporary staff to assist with the backlog of background investigations.

Recommendation D

OHR should obtain secure storage for personnel security files and a workspace conducive for personnel security type work.

Recommendation E

OHR should ensure that all personnel security specialists are properly trained in the use of e-QIP and are effectively utilizing e-QIP by uploading and transmitting all security documents (with the exception of paper fingerprint cards) to OPM.

Recommendation F

PSB should revise its current procedures to ensure: (1) interim clearances are granted after an OPM investigation is initiated and the FBI fingerprint results are received, reviewed, and determined to be acceptable; (2) all OPM investigation results (preliminary and final) are promptly reviewed, issues timely resolved, and appropriate action taken to revoke interim clearances, as appropriate; and (3) the Office of Physical Security is promptly notified of all interim clearances, the notification states that an identification badge should be issued based on an interim clearance, and the applicable COTR and/or Administrative contact is copied.

Recommendation G

OHR should develop milestones and a methodology for completing the minimum required background investigations for existing contractors and employees and devote appropriate resources to the effort. OHR should also communicate those milestones to the Office of Physical Security.

Recommendation H

OHR should notify OMB of any reported data that cannot be supported and develop a methodology and system to capture the required HSPD 12 data for quarterly reporting to OMB.

Recommendation I

OHR should review the new credentialing system requirements and coordinate with OIT and the Office of Physical Security to ensure that it is fulfilling its required roles and responsibilities and has appropriate systems and procedures in place to capture, share, and store required data in accordance with FIPS 201-1, Part 2.