



INTELLIGENCE
AND SECURITY

UNDER SECRETARY OF DEFENSE
5000 DEFENSE PENTAGON
WASHINGTON, DC 20301-5000

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
GENERAL COUNSEL FOR THE DEPARTMENT OF DEFENSE
DIRECTOR, DEFENSE COUNTERINTELLIGENCE AND
SECURITY AGENCY
DIRECTOR, DEFENSE INTELLIGENCE AGENCY
DIRECTOR, NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY
DIRECTOR, NATIONAL RECONNAISSANCE OFFICE
DIRECTOR, NATIONAL SECURITY AGENCY/CENTRAL
SECURITY SERVICE
DIRECTOR, WASHINGTON HEADQUARTERS SERVICES

SUBJECT: Simplifying, Centralizing, and Unifying the Established Administrative Process for Unfavorable Security Clearance Eligibility Hearings and Appeals, Including National Industrial Security Program (NISP) Contractor Employee Unfavorable Sensitive Compartmented Information Eligibility Hearings and Appeals

References: (a) Title 5 Code of Federal Regulations §1400, "Designation of National Security Positions," January 1, 2016
(b) DoD Directive 5220.6, "Defense Industrial Personnel Security Clearance Review Program," January 2, 1992, as amended
(c) DoD Manual 5200.02, "Procedures for the DoD Personnel Security Program (PSP)," April 3, 2017, as amended
(d) DoD Manual 5220.22, Volume 2 "National Industrial Security Program: Industrial Security Procedures for Government Activities," August 1, 2018, as amended
(e) Executive Order 10865, "Safeguarding Classified Information within Industry," February 20, 1960, as amended
(f) Secretary of Defense "Track Four Efficiency Initiatives Decisions Memorandum," March 14, 2011(g) Security Executive Agent Directive 4, "National Security Adjudicative Guidelines," 8 June 2017

To streamline administrative processes for DoD contractor employees seeking to or occupying sensitive positions, pursuant to Reference (a), I direct the Heads of DoD Components, including the Defense Intelligence Components, to provide all contractor employees (defined in Reference (d)), seeking or having access to Sensitive Compartment Information (SCI), with the established administrative due process procedures in Reference (b) and (e), through the Defense Office of Hearings and Appeals (DOHA).

In order to simplify, centralize, and unify the established administrative processes for unfavorable security clearance eligibility determinations for DoD civilians, military members, and contractor employees, including contractor employee unfavorable SCI determinations, all hearings, appeals, and final denials and revocations of security clearance eligibility will be


performed by DOHA with the established administrative due process procedures in References (b) and (e). This action also accomplishes the proposed Personnel Security Appeal Board consolidation directed in the Secretary of Defense's "Track Four Efficiency Initiatives Decisions" Memorandum of March 14, 2011 (Reference (f)) because all hearings and appeals will be performed by DOHA, using the established administrative due process procedures in References (b) and (e). Additionally, it complements Security Executive Agent Directive 4 which establishes the single, common adjudicative criteria for all covered individuals who require initial or continued eligibility for access to classified information or eligibility to hold a sensitive position.

The Office of the Under Secretary of Defense for Intelligence and Security (OUSD(I&S)) will update References (c) and (d) to reflect these changes and work with the Office of the Director of National Intelligence to obtain the authority for Director, DOHA to render eligibility determinations to access SCI.

To provide appropriate time for the necessary planning and programming efforts, this policy is effective upon DoD General Counsel (GC) certification to USD(I&S) that DOHA is prepared, but no later than September 30, 2022.

For those individuals whose clearance eligibility is revoked in the period between the date of the memorandum and before implementation of this direction, the pre-existing process will apply until the DoD GC certifies that DOHA is ready to provide the process directed in this memorandum, which will be no later than September 30, 2022. Any individual who wants the option to wait for a DOHA hearing and decision during the period before implementation of this direction may make a request in writing to their component to have their case wait.

Nothing in this memorandum diminishes or otherwise affects a Component Head's authority to deny or suspend access to classified information or Special Access Programs, including SCI, at any time, should the agency determine that initial or continued access of a covered individual is inconsistent with protecting the national security. My point of contact is Ms. Janice Condo at [REDACTED]@ [REDACTED]


Ezra A. Cohen
Acting

14 JAN 2021

cc:
Chairman of the Joint Chiefs of Staff
Under Secretaries of Defense
Chief of the National Guard Bureau
Director of Cost Assessment and Program Evaluation
Inspector General of the Department of Defense
Director of Operational Test and Evaluation
Chief Information Officer of the Department of Defense
Assistant Secretary of Defense for Legislative Affairs
Assistant to the Secretary of Defense for Public Affairs
Director of Net Assessment