

Executive Order 13741—Amending Executive Order 13467 To Establish the Roles and Responsibilities of the National Background Investigations Bureau and Related Matters

September 29, 2016

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Executive Order 13467 of June 30, 2008, is amended as follows:

(a) The preamble is replaced with the following: "By the authority vested in me as President by the Constitution and the laws of the United States of America, including 5 U.S.C. 3301 and 7103(b), and in order to strengthen and ensure a secure, efficient, timely, reciprocal, and aligned system for investigating and determining suitability or fitness for Government employment, contractor employee fitness, eligibility for access to classified information or to hold a sensitive position, and authorization to be issued a Federal credential, while taking appropriate account of title III of Public Law 108–458, it is hereby ordered as follows:"

(b) Section 1.1 is amended to read as follows:

"Section 1.1. Policy: Executive branch policies and procedures relating to suitability, contractor or Federal employee fitness, eligibility to hold a sensitive position, authorization to be issued a Federal credential for access to federally controlled facilities and information systems, and eligibility for access to classified information shall be aligned using consistent standards to the extent possible, shall provide for reciprocal recognition, and shall ensure cost-effective, timely, and efficient protection of the national interest, while providing fair treatment to those upon whom the Federal Government relies to conduct the Nation's business and protect national security. Further, the Government's systems and processes for conducting these background investigations and managing sensitive investigative information must keep pace with technological advancements, regularly integrating current best practices, to better anticipate, detect, and counter malicious activities and threats posed by external or internal actors who may seek to do harm to the Government's personnel, property, or information. To help fulfill these responsibilities, there shall be a primary executive branch investigative service provider whose mission is to provide effective, efficient, and secure background investigations for the Federal Government."

(c) Sections 1.3(k) and (l) are redesignated as sections 1.3(l) and (m).

(d) A new section 1.3(k) is added to read as follows: "(k) "National Background Investigations Bureau" (NBIB) means the National Background Investigations Bureau, established within the Office of Personnel Management with responsibility for conducting effective, efficient, and secure personnel background investigations pursuant to law, rule, regulation, or Executive Order."

(e) Section 2.2(b) is amended to read as follows:

"(b) The Deputy Director for Management, Office of Management and Budget, shall serve as Chair of the Council and shall have authority, direction, and control over the Council's functions. Membership on the Council shall include the Suitability Executive Agent, the Security Executive Agent, and the Under Secretary of Defense for Intelligence of the

Department of Defense. These four officials collectively shall constitute "the Suitability and Security Clearance Performance Accountability Council Principals." The Director of the National Background Investigations Bureau shall also serve as a member of the Council. The Chair shall select a Vice Chair to act in the Chair's absence. The Chair shall have authority to designate officials from additional agencies who shall serve as members of the Council. Council membership shall be limited to Federal Government employees in leadership positions."

(f) Section 2.4 is redesignated as section 2.5, and a new section 2.4 is added to read as follows:

"Sec. 2.4. Roles and Responsibilities of the National Background Investigations Bureau and the Department of Defense.

(a) The National Background Investigations Bureau shall:

- "(1) serve as the primary executive branch service provider for background investigations for eligibility for access to classified information; eligibility to hold a sensitive position; suitability or, for employees in positions not subject to suitability, fitness for Government employment; fitness to perform work for or on behalf of the Government as a contractor employee; and authorization to be issued a Federal credential for logical and physical access to federally controlled facilities and information systems;
- "(2) provide effective, efficient, and secure personnel background investigations for the Federal Government;
- "(3) provide the Council information, to the extent permitted by law, on matters of performance, timeliness, capacity, information technology modernization, continuous performance improvement, and other relevant aspects of NBIB operations;
- "(4) be headquartered in or near Washington, District of Columbia;
- "(5) have dedicated resources, including but not limited to a senior privacy official;
- "(6) institutionalize interagency collaboration and take advantage of expertise across the executive branch;
- "(7) continuously improve investigative operations, emphasizing information accuracy and protection, and regularly integrate best practices, including those identified by subject matter experts from industry, academia, or other relevant sources;
- "(8) conduct personnel background investigations in accordance with uniform and consistent policies, procedures, standards, and requirements established by the Security Executive Agent and the Suitability Executive Agent; and
- "(9) conduct other personnel background investigations as authorized by law, rule, regulation, or Executive Order.

"(b) The Secretary of Defense shall design, develop, deploy, operate, secure, defend, and continuously update and modernize, as necessary, background investigation information technology systems that support all Federal background investigation processes conducted by the National Background Investigations Bureau. Design and operation of the information technology systems for the National Background Investigations Bureau shall comply with applicable information technology standards and, to the extent practicable, ensure security and interoperability with other Federal background investigation information technology systems.

The Secretary of Defense shall operate the database in the information technology systems containing appropriate data relevant to the granting, denial, or revocation of a security clearance or access pertaining to military, civilian, or Government contractor personnel, see 50 U.S.C. 3341(e), consistent with and following an explicit delegation from the Director of the Office of Personnel Management pursuant to 5 U.S.C. 1104.

"(c) Delegations and designations of investigative authority in place on the date of establishment of the National Background Investigations Bureau shall remain in effect until amended or revoked. The National Background Investigations Bureau, through the Director of the Office of Personnel Management, shall be subject to the oversight of the Security Executive Agent in the conduct of investigations for eligibility for access to classified information or to hold a sensitive national security position; and to the oversight of the Suitability Executive Agent in the conduct of investigations of suitability or fitness for Government employment and logical and physical access, as provided in section 2.3 of this order. The Council shall hold the National Background Investigations Bureau accountable for the fulfillment of the responsibilities set forth in section 2.4(a) of this order."

Sec. 2. Updating Governance, Authorities, Roles, and Responsibilities. (a) Within 90 days of the date of this order, and building on the strength of the current Suitability and Security Clearance Performance Accountability Council and Executive Agent governance structure, the Council shall review and update executive-level authorities across the vetting enterprise to clarify and de-conflict existing authorities, to assign new responsibilities where gaps may exist, and to address necessary governance changes.

(b) Specifically, the Council shall submit to the President a recommendation to:

- (i) update, clarify, or replace Executive Orders (such as Executive Order 10450 of April 27, 1953, as amended, or Executive Order 12968 of August 2, 1995, as amended) as necessary to accommodate adding new entities into the current governance structure, and to reflect changes to policies, governance, or operational structure; and
- (ii) consolidate multiple authorities (such as Executive Order 10450 of April 27, 1953, as amended, or Executive Order 13467 of June 30, 2008) and reaffirm or clarify existing roles and responsibilities in new or existing Executive Orders.

(c) The Council's submission shall include, but will not be limited to, the appropriate means to:

- (i) create a Credentialing Executive Agent with responsibility for policy and oversight of credentialing matters that parallels the respective authorities and responsibilities of the Security and Suitability Executive Agents, which will clarify, align, and consolidate credentialing authority under a single Executive Agent;
- (ii) make explicit the Suitability Executive Agent's oversight role;
- (iii) de-conflict Security Executive Agent and Suitability Executive Agent authorities;
- (iv) establish a definition of "vetting" as the overarching construct for investigations and the decisions based on them, inclusive of security, suitability or fitness, and credentialing; and
- (v) establish clear lanes of responsibility for new overarching enterprise-wide needs for example, acquisition, funding models, data security requirements, and

contracting, and the respective roles of the Security, Suitability, and Credentialing Line of Business; and the Enterprise Investment Board.

Sec. 3. Amendment to Executive Order 12171. Executive Order 12171 of November 19, 1979, as amended, is further amended by striking "The Federal Investigative Services Division" in section 1–216 and inserting in lieu thereof:

"Agencies or subdivisions of the Office of Personnel Management:

(a) The Federal Investigative Services.

(b) The National Background Investigations Bureau.

(c) Units with a primary Suitability Executive Agent mission, including adjudicating suitability investigations and conducting related policy, advisory services, operations support, and agency oversight.

(d) Units with a primary mission of engineering, information technology, and cybersecurity support for personnel background investigations and adjudications."

Sec. 4. General Provisions. (a) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(b) If any provision of this order or the application of such provision is held to be invalid, the remainder of this order shall not be affected.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA

The White House,
September 29, 2016.

[Filed with the Office of the Federal Register, 8:45 a.m., October 3, 2016]

NOTE: This Executive order was published in the *Federal Register* on October 4.

Categories: Executive Orders : National Background Investigations Bureau, roles and responsibilities, establishment.

Subjects: Background Investigations Bureau, National; Government organization and employees : Background investigations, improvement efforts.

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