

# Directive

4620.1

04/27/2010

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## **BACKGROUND INVESTIGATIONS FOR APHIS FEDERAL AND CONTRACT PILOTS**

### **1. PURPOSE**

This Directive establishes the policy, authorities, and responsibilities for administering the Animal and Plant Health Inspection Service (APHIS) background investigation requirements for both Federal and contracted positions (including aerial services) involved in piloting aircraft to carry out various APHIS programs and functions.

### **2. BACKGROUND**

The USDA, Office of Inspector General (OIG) conducted an audit to determine if APHIS had adequate management controls to ensure that pilots flying Agency owned or contracted aircraft are qualified and pose no security threat. OIG identified several control weaknesses including APHIS' handling of background investigations for its employee and contracted pilots. This issuance establishes background investigation policy for all affected positions and contracted services.

### **3. AUTHORITIES/REFERENCES**

- a. USDA, OIG Audit Report No. 33099-8-KC, September 2009.
- b. OPM, Aircraft Operation Series, GS-2181, TS-84, January 1988.  
<http://main.opm.gov/fedclass/html/gsseries.asp#2100>
- c. USDA, Office of Security Services (OSS), Common Identification Standard for USDA Employees and Contractors, DR-4620-002 and DM 4620-002, dated 01/14/09.  
<http://www.ocio.usda.gov/directives/doc/DM4620-002.pdf>  
<http://www.ocio.usda.gov/directives/doc/DR4620-002.pdf>
- d. APHIS Directive 1650.2, APHIS Aviation Security Program, dated 02/28/06.  
[http://www.aphis.usda.gov/library/directives/pdf/aphis1650\\_2.pdf](http://www.aphis.usda.gov/library/directives/pdf/aphis1650_2.pdf)  
[http://www.aphis.usda.gov/library/directives/pdf/aphis1650\\_2\\_attachment\\_1.pdf](http://www.aphis.usda.gov/library/directives/pdf/aphis1650_2_attachment_1.pdf)

- e. Office of Personnel Management (OPM), Requesting OPM Personnel Investigations, July 2008. <http://www.da.usda.gov/pdsd/>

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**Distribution:** APHIS

**Originating Office:** MRPBS-HRD-Personnel Security

- f. Federal Information Processing Standard (FIPS) Publication 201-1, Federal Information Processing Standards Publication, Personal Identity Verification (PIV) of Federal Employees and Contractors.  
<http://hspd12.usda.gov/reference.html>
- g. Agriculture Acquisition Regulation Advisory (AGAR) No. 81, Common Identification Standard for Contractors, Revision 2, April 2009.  
[http://www.da.usda.gov/procurement/policy/advisories\\_x/AGARAD81.HTM](http://www.da.usda.gov/procurement/policy/advisories_x/AGARAD81.HTM)
- h. 5 CFR Part 731–Suitability.  
<http://www.archives.gov/federal-register/cfr/subject-title-05.html>
- i. E-Verify, U.S. Citizenship and Immigration Services.  
<http://www.uscis.gov/portal/site/uscis/PRINT/menuitem>

#### **4. SCOPE**

This Directive applies to all APHIS employees and contractors involved in the piloting of aircraft. This includes Airplane Pilots, Helicopter Pilots, Aircraft Pilots, and Aerial Services. This also includes those contractors who operate aircraft owned or funded by APHIS and those supplied by contract for APHIS’ use, including aerial services. This is in compliance with the President’s Homeland Security Presidential Directive 12, dated August 27, 2004, commonly known as HSPD-12.

#### **5. ACRONYMS**

AGAR	Agriculture Acquisition Regulation Advisory
APHIS	Animal and Plant Health Inspection Service
ASD	Administrative Services Division
BI	Background Investigation (BI)
CFR	Code of Federal Regulations
CO	Contracting Officer
COI	Certificate of Investigation
COR	Contracting Officer’s Representative
COTR	Contracting Officer’s Technical Representative
DCII	Defense Clearance and Investigations Index

e-QIP	OPM's electronic Questionnaires for Investigations Processing.
FBI	Federal Bureau of Investigation
FIPS	Federal Information Processing Standard
GS	General Schedule
GSA	General Services Administration
HR	Human Resources
HRD	Human Resources Division
HSPD-12	Homeland Security Presidential Directive 12
MBI	Minimum Background Investigation
MRPBS	Marketing and Regulatory Program Business Services
NAC	National Agency Check
NACI	National Agency Check with Inquiries
OIG	Office of Inspector General
OPM	Office of Personnel Management
OSS	Office of Security Services
PDSD	Personnel and Document Security Division
PII	Personally Identifiable Information
PIV	Personal Identity Verification
POC	Point of Contact
PSC	Position Sensitivity Code
SAC	Special Agency/Agreement Check
SII	OPM's Security/Suitability Investigations Index
USC	United States Code
USDA	United States Department of Agriculture

## 6. DEFINITIONS

- a. **Adjudicate/Adjudication.** The process of examining a specific period of a person's life to make an affirmative decision that the person is suitable for employment.
- b. **Applicant Fingerprint Card (FD-258).** Fingerprint Charts used to conduct nonfederal employee (i.e., contractor) FBI fingerprint and criminal history checks. These can be obtained through General Services Administration (GSA) orders.
- c. **Background Investigation.** General term for any personnel investigation conducted to meet personnel security program requirements.
- d. **Certification of Investigation (COI).** A document signed by an agency official certifying that a background investigation was completed and a resultant determination was made. The COI is to be filed in the employee's electronic OPF.
- e. **Contract.** As defined in the Federal Acquisition Regulation (FAR) 2.101, a mutually binding legal relationship obligating the seller to furnish supplies or

services (including construction) and the buyer to pay for them. It includes all types of commitments that obligate the Government to an expenditure of appropriated funds and that, except as otherwise authorized, are in writing. In addition to bilateral instruments, contracts include, but are not limited to, awards and notices of awards; job orders or task letters issued under basic ordering agreements; letter contracts; orders, such as purchase orders, under which the contract becomes effective by written acceptance or performance; and bilateral contract modifications. This includes reimbursable agreements and interagency agreements.

- f. Contracting Officer (CO/COR/COTR).** As defined in the FAR 2.101, a person with the authority to enter into, administer, and /or terminate contracts and make related determinations and findings. The term includes certain authorized representatives known as Contracting Officer (CO), Contracting Officer Representative (COR) or Contracting Officer Technical Representative (COTR) of the contracting officer acting within the limits of their authority as delegated by the contracting officer.
- g. Contract Employee.** A person hired by a contractor company as an employee or subcontractor to perform tasks under a contract.
- h. Electronic Questionnaires for Investigations Processing (e-QIP).** A portion of the Presidential e-Government initiative called “eClearance.” It is operated by OPM and allows for the electronic processing of investigative forms via a secure server.
- i. Employee.** A Federal employee as defined by Title 5 U.S.C. 2105, Employee with APHIS; or an individual employed by, detailed to, or assigned to APHIS.
- j. e-Verify.** An Internet-based system that allows an employer, using information reported on an employee’s Form I-9, Employment Eligibility Verification, to determine the eligibility of that employee to work in the United States. There is no charge to employers to use e-Verify. It is operated by the U.S. Department of Homeland Security in partnership with the Social Security Administration.
- k. Federal Bureau of Investigation (FBI) Fingerprint Check.** FBI National Criminal History Check, which is an integral part of all background investigations. This also includes OPM’s Security/Suitability Investigations Index (SII), the Defense Clearance and Investigations Index (DCII), the FBI Identification Division’s name and fingerprint files, and other files or indices when necessary.
- l. Homeland Security Presidential Directive-12 (HSPD-12).** Requires the development and agency implementation of a mandatory Government wide

standard for secure and reliable forms of identification for Federal employees and contractors, including contractor employees.

- m. Minimum Background Investigation (MBI).** An investigation consisting of a National Agency Check (NAC); written inquiries on past employment, education, residence, references, and law enforcement; a personal subject interview; a credit search; and telephone inquiries to follow up on written inquiries not returned.
- n. Moderate Risk Designations.** Positions which have the potential for moderate to serious impact involving duties of considerable importance to the Agency or program mission with significant program responsibilities and delivery of customer services to the public.
- o. National Agency Check (NAC).** An investigation consisting of searches of the following files: Security/Suitability Investigations Index (SII), DCII, the Federal Bureau of Investigation's (FBI) Identification Division, and the FBI's Records Management Division.
- p. Non-Federal Employee.** Any individual doing work for the government either as a contractor, affiliate, consultant, cooperator, volunteer, or any other designation other than an appointed Federal employee. This includes those who provide a service to the Government under a contract for aerial services.
- q. OF-306, Declaration of Federal Employment.** This form is required of both Federal and non-Federal employees. Available online at [www.opm.gov/forms/html/of.asp](http://www.opm.gov/forms/html/of.asp)
- r. Period of Performance.** Time interval required to complete work defined in a statement of work. A period of performance can be revised only through an agreement between a contractor and a contracting officer (CO), who must issue a formal modification to a contract.
- s. Personnel Security Point of Contact (POC).** An individual located within an agency or mission area responsible for coordinating the personnel security program within their respective organizational element and serves as the primary point of contact between their organization, OPM and the PDSO concerning personnel investigation and security matters.
- t. Position Risk Level.** The designation of a position based on its public trust responsibilities and attributes as they relate to the efficiency of the service, also referred to as the Position Sensitivity Code determination.
- u. Position Sensitivity Code (PSC).** Code that demonstrates the level of investigation required of a Federal employee's position. This is determined by

Human Resources (HR) Specialists in the Classification Section. Comparable Federal PSCs are also used as a reference when determining the level of investigation for non-Federal positions.

- v. **Public Trust position.** A position that has the potential for action or inaction by an incumbent to affect the integrity, efficiency, or effectiveness of assigned Government activities, whether or not actual damage occurs.
- w. **Security/Suitability Investigations Index (SII).** OPM's index of investigations conducted by OPM and by other agencies and departments as reported to OPM.
- x. **Service Year.** A twelve month period that begins on the date of an employee's initial appointment in an agency.
- y. **SF-87.** Fingerprint Chart used to conduct Federal employee FBI fingerprint and criminal history checks.
- z. **SF-85P.** Questionnaire for Moderate and High Risk Public Trust designations (PSC-5 or PSC-6).
- **Special Agency/Agreement Check (SAC).** A reimbursable agreement between OPM and USDA in which OPM agrees to conduct certain NAC investigative leads on Federal competitive and excepted service employees, applicants for Federal employment, consultants, and contractor (including aerial services) personnel. It is often used as a pre-employment screening tool.
  - **Suitability Determination.** Identifiable character traits and past conduct which are sufficient to determine whether or not a given individual is likely to carry out the duties of a Federal job with appropriate efficiency and effectiveness. It also refers to statutory or regulatory bars, which prevent the lawful employment of the individual into the position.

## 7. POLICY

APHIS policy for Federal employees and contractors working under the classification or occupation of Pilot is stated as follows:

- a. **180 days or MORE**
  - (1) Federal Employees who are expected to work under appointments for a cumulative **180 days or MORE** during a service year must be able to obtain and maintain a Minimum Background Investigation (MBI) under the Moderate Risk, Public Trust designation (PSC-5). This investigation is conducted through OPM's secure online e-QIP portal where the

employee will be required to complete an electronic SF-85P Questionnaire.

- (2) Non-Federal Employees who provide a service to the Government on a contracted period of performance for a cumulative **180 days or MORE** must be able to obtain and maintain an MBI under the Moderate Risk, Public Trust designation (PSC-5). This investigation is conducted through OPM's secure online e-QIP portal where the non-Federal employee will be required to complete an electronic SF-85P Questionnaire. A Special Agency/Agreement Check (SAC) may be submitted prior to or during the MBI investigation process in order to acquire a pre-clearance investigation. This prescreening SAC must be completed before work under the Federal contract commences, while the MBI is in process.

**b. LESS than 180 days**

- (1) Federal Employees who are expected to work under appointments for **LESS than 180 days** during a service year are subject to a preemployment SAC. This prescreening SAC must be completed before employment commences.
- (2) Non-Federal Employees who are expected to work under contract for **LESS than 180 days** during a period of performance are subject to a preemployment SAC. This prescreening SAC must be completed before the work under the Federal contract commences.

**8. RESPONSIBILITIES**

**For Federal Positions:**

- a. MRPBS, HRD, HR Classification will make appropriate position sensitivity code determinations on position descriptions for Federal employees, ensuring all GS2181 Pilot positions are, at a minimum, coded MBI under PSC-5. Annotating the Position Description Cover Sheet, AD-332, with the appropriate position sensitivity code (PSC) and investigation required (i.e., MBI).
- b. MRPBS, HRD, HR Personnel Security will:
  - (1) Provide advice and counsel to supervisors and program Points of Contact (POCs) on the investigation requirements for pilot positions.
  - (2) Provide employees with instructions on how to access OPM's e-QIP portal and complete the online electronic form.

- (3) Facilitate the background investigations for Federal employees affected in Section 7.
- (4) Receive OPM's notification of results of the FBI National Criminal History Check under the SAC agreement or the Advanced Fingerprint Report and Certificate of Suitability/Certificate of Investigation from USDA's Personnel and Document Security Division (PDSD).
- (5) Notify employees, their supervisors, and program POCs when the investigations have been completed and favorably adjudicated.
- (6) Approve all favorable SAC and NACI investigations. In the event the results are unfavorable will conduct a basic suitability evaluation and further discuss with the MRPBS Employee Relations Branch staff. The Employee Relations staff will proceed with further action whenever necessary. *(The USDA PDSD staff also notifies Employee Relations on the public trust designations when investigation results are unfavorable.)*

c. MRPBS, HRD, HR Staffing/Processing Branch will:

- (1) Ensure all vacancy announcements contain a statement indicating, as a condition of employment, a background investigation is required.
- (2) Verify employment eligibility through the e-Verify system.

d. Supervisors and/or Program POCs will:

- (1) Ensure the appropriate requests for the background investigations have been submitted to HR Personnel Security in a timely manner. This includes the HRO AD-1197 Supplement Form as part of the new-hire paperwork.
- (2) Ensure employees complete the background investigation process in a timely manner based on the outlined Policy noted in Section 7.

e. Federal employees will:

- (1) Provide required Fingerprint charts and documents (i.e., OF-306, Resume, Fair Credit Release Form) for completing their specific background investigation.
- (2) Complete their questionnaire in OPM's e-QIP System in the prescribed 14-day timeframe.

- (3) Ensure all investigation forms are returned and fully completed as instructed to the Personnel Security POC. Due to the sensitivity of the documents, investigation forms must be sent by means of an expedited tracking mail service such as Federal Express, United Parcel Service (UPS), or Priority Mail.
- (4) Provide full cooperation with Personnel Security staff during the background investigations process.

**For Contract Pilot Positions, including Aerial Services:**

- a. MRPBS, HRD, HR Classification will provide advice and guidance to program POCs, contracting specialists, and COs/CORs/COTRs on position sensitivity code designations based on similar Federal positions. This information is required in the contract's Statement of Work.
- b. MRPBS, HRD, HR Personnel Security will:
  - (1) Provide advice and counsel to supervisors, program POCs, contracting specialists and contractors/vendors on the investigation requirements for pilot positions.
  - (2) Provide vendors and/or contract employees with instructions on how to access OPM's e-QIP portal and complete the online electronic form.
  - (3) Facilitate the background investigations for contract employees affected in Section 7.
  - (4) Receive OPM's notification of results of the FBI National Criminal History Check under the SAC agreement or the Advanced Fingerprint Report and Certificate of Suitability/Certificate of Investigation from USDA's Personnel and Document Security Division (PDSD).
  - (5) Receive, review, and approve favorable SAC and NACI investigations. Notify contractor and program POCs when the investigations have been completed and favorably adjudicated. In the event the results are unfavorable will conduct a basic suitability evaluation and seek advice and counsel from the MRPBS Employee Relations Branch staff prior to notifying the appropriate Program POC. *(The USDA Security Branch notifies the assigned CO/COR/COTR on all public trust designations when investigation results are unfavorable.)*
- c. Supervisors and/or Program POCs will:

- (1) Ensure the background investigation requirement is included in the contract's Statement of Work.
  - (2) Ensure the appropriate requests for the background investigations have been submitted to the HR Personnel Security POC in a timely manner. This includes the HRO 1197 Contractor Supplement Form for Public Trust, along with supporting documents.
  - (3) Ensure vendors and/or contract employees start the background investigation process in a timely manner based on the outlined Policy noted in Section 7.
  - (4) Make the final determination to disqualify a non-Federal employee from working under contract when an unfavorable report from the SAC, NACI, or MBI, is received.
- d. MRPBS, ASD, Contract Specialists, COs, CORs, or COTRs will:
- (1) Collaborate with HR to ensure appropriate information stating the required investigation is included in their Statement of Work solicitations and contracts.
  - (2) Give the Personnel Security POC, the contractor/vendor, and program POC information once the contract/solicitation is awarded. This enables the Personnel Security POC to expedite the non-Federal employee investigations.
- e. Prime Contractor/Vendors will:
- (1) Comply with the Agency background investigation requirement prior to commencement of work.
  - (2) Provide HR Personnel Security with the required documents for the SAC or the HRO 1197 Contractor Supplement Form for Public Trust based on the outlined Policy noted in Section 7. This form must cover the contract information requested and be submitted with all required documents, including two FD-258 Fingerprint charts, prior to commencement of work.
  - (3) Verify employment eligibility through the e-Verify system.
- f. Contract employees will:
- (1) Provide full cooperation with Personnel Security staff conducting background investigations.

- (2) Provide required Fingerprint charts and required documents (i.e., OF-306, Fair Credit Release Form) for completing their specific background investigation.
- (3) Ensure all investigation forms are returned and fully completed as instructed to the Personnel Security POC. Due to the sensitivity of the documents, investigation forms must be sent by means of an expedited tracking mail service such as Federal Express, UPS, or Priority Mail.

## **9. PROTECTION OF INFORMATION**

- a. All USDA, APHIS employees and contractors are responsible for protecting the privacy of all employees and contractor information in accordance with the Privacy Act of 1974 (5 U.S.C. § 552a) and USDA's policy on Personally IDENTIFIABLE Information (PII).
- b. Resources for USDA PII: <http://www.usda.gov/wps/portal/?navid=USDAPII> and for the Privacy Act of 1974: <http://www.usdoj.gov/oip/privstat.html>

## **10. INQUIRIES**

- a. Direct questions concerning this Directive to the APHIS, MRPBS, HRD, Personnel Security Officer at 612-336-3289.
- b. Copies of current APHIS Directives can be accessed on the Internet at [www.aphis.usda.gov/library](http://www.aphis.usda.gov/library)

/s/

Joanne Munno  
Deputy Administrator  
MRP Business Services