

**SAFEGUARDING OUR NATION'S SECRETS:
EXAMINING THE SECURITY CLEARANCE PROCESS**

JOINT HEARING

BEFORE THE

SUBCOMMITTEE ON THE EFFICIENCY AND
EFFECTIVENESS OF FEDERAL PROGRAMS AND THE
FEDERAL WORKFORCE

AND

SUBCOMMITTEE ON FINANCIAL AND
CONTRACTING OVERSIGHT

OF THE

COMMITTEE ON
HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

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CONTENTS

Opening statement:	Page
Senator Tester	1
Senator McCaskill	2
Senator Portman	4
Senator Johnson	5

WITNESSES

THURSDAY, JUNE 20, 2013

Hon. Patrick E. McFarland, Inspector General, U.S. Office of Personnel Management; accompanied by Michelle B. Schmitz, Assistant Inspector General for Investigations, U.S. Office of Personnel Management	7
Merton W. Miller, Associate Director of Investigations, Federal Investigative Services, U.S. Office of Personnel Management	8
Stephen F. Lewis, Deputy Director, Security Directorate, Office of the Under Secretary of Defense (Intelligence), U.S. Department of Defense; accompanied by Stanley L. Sims, Director, Defense Security Service, U.S. Department of Defense	10
Brenda S. Farrell, Director, Defense Capabilities and Management, U.S. Government Accountability Office	11

ALPHABETICAL LIST OF WITNESSES

Farrell, Brenda S.:	
Testimony	11
Prepared statement	45
Lewis, Stephen F.:	
Testimony	10
Prepared statement	41
McFarland, Hon. Patrick E.:	
Testimony	7
Prepared statement	31
Miller, Merton W.:	
Testimony	8

APPENDIX

Article submitted by Senator Johnson	57
OPM's White Paper submitted for the Record	59
Questions and responses for the Record from:	
Mr. Miller	69
Mr. Lewis	91
Ms. Farrell	93

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THURSDAY, JUNE 20, 2013

U.S. SENATE,
SUBCOMMITTEE ON THE EFFICIENCY AND EFFECTIVENESS OF
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AND SUBCOMMITTEE ON FINANCIAL AND
AND CONTRACTING OVERSIGHT,
OF THE COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS,
Washington, DC.

The Subcommittees met, pursuant to notice, at 2:30 p.m., in room SD-342, Dirksen Senate Office Building, Hon. Jon Tester, Chairman of the Subcommittee, presiding.

Present: Senators Tester, McCaskill, Portman, and Johnson.

OPENING STATEMENT OF SENATOR TESTER

Senator TESTER. I call to order this joint hearing of the Subcommittee on Efficiency and Effectiveness of Federal Programs and the Federal Workforce and the Subcommittee on Financial and Contracting Oversight. I want to say thank you to Senator Johnson for being here. Senator McCaskill will be here shortly as well. I am sure Senator Portman will be, too.

This afternoon's hearing is titled, "Safeguarding Our Nation's Secrets: Examining the Security Clearance Process" I want to thank my colleagues who I mentioned previously as well as their staffs for helping us organize this hearing, and I want to thank our witnesses for being here today. Thank you for your time.

Recent events have forced us all to take a closer look at the programs carried out by this government in the name of national security. As we move forward, it is critical for us to examine the scope of these programs to determine whether they properly balance our security and our essential liberties. But it is also incumbent upon us to raise critical questions about how our government is vetting the individuals, whether they are Federal employees or contractors, who have access to our Nation's most sensitive data.

Last week, I asked General Keith Alexander, the Director of the National Security Agency (NSA), a pretty straight-up question: After the outcry of WikiLeaks, after the Presidential Executive Order (EO) calling for improved classified network security, and after spending tens if not hundreds of billions of taxpayer dollars to keep outsiders from accessing our Nation's secrets, how in the

world does a contractor, who had been on the job for less than 3 months, get his hands on information detailing a highly classified government program that he subsequently shared with foreign media outlets?

The long answer is one that we will ultimately require a great deal of soul searching by the folks in this room and throughout our government. But the short answer is that, in terms of securing classified information, we don't just have an external problem; we have an internal one.

Today there are nearly 5 million individuals inside and outside of our government who have been granted security clearances and access to our Nation's most sensitive data; 1.4 million hold a top secret security clearance. Given the increasing amount of classified information produced and maintained by our government and the increasing number of folks with access to that information, we have a real problem on our hands if we cannot get this right. And because of the national security implications involved, there is simply no margin for error. None.

Today's joint hearing builds upon the previous work of this Subcommittee as well as the work of our colleagues on the Senate Armed Services Committee and the Senate Select Committee on Intelligence. We will examine the efficiency and effectiveness of the security clearance process, and we will discuss the management and oversight of the Federal employees and contractors tasked with carrying out investigations for the granting of clearances.

I hope for and expect an open and frank discussion with our witnesses today about the particular roles they play in the security clearance process. We need to know what we are doing right, and we need to know what we can do better. A lot of progress has been made in recent years, but we certainly still have a ways to go.

I would now like to turn it over to my good friend and Chairman of the Financial and Contracting Oversight Committee, Senator Claire McCaskill, for her opening statement. Welcome, Claire.

OPENING STATEMENT OF SENATOR MCCASKILL

Senator MCCASKILL. Thank you very much. Thank you, Senator Tester, and I hope this is the first of many joint hearings we have with Senator Portman and Senator Johnson. I think all four of us have demonstrated a desire to get after various problems that are sometimes embedded in our government without adequate oversight, and I am very happy to work with all three of you in this regard today.

Earlier this month, a contractor working for NSA, Edward Snowden, released classified information regarding the NSA program. Mr. Snowden had access to this information because he had received a security clearance. That security clearance was issued following an investigation of Mr. Snowden's background.

Over 90 percent of the background investigations for both government employees and contractors are conducted by the Office of Personnel Management (OPM), including all background investigations for members of the military and Defense Department, civilian and contractors.

In preparation for today's hearing, we received information regarding how the government plans, conducts, oversees, and pays

for background investigations. This information portrays a government agency where there is fraud, limited accountability, and no respect for taxpayer dollars. Conducting and managing background investigations costs the Federal Government over \$1 billion per year.

The Office of Personnel Management's Federal Investigative Services Division uses a Revolving Fund structure in which Federal agencies pay OPM for the different investigations each agency needs, both for its employees and for its contractors. As a former Missouri State auditor, I was shocked to learn that this fund has never been audited. The Inspector General (IG) will testify that he has tried several times, but the agency simply does not have or keep the records that would allow him to do an audit.

We also learned that at least 18 investigators have been convicted of falsifying investigations since 2007. These convictions called into question hundreds of top-secret-level clearances as well as hundreds of lower-level clearances. There are more than 40 other active and pending investigations into fabricated investigations, and it is possible that there are far more.

We also learned that approximately 75 percent of all the government's investigations are conducted by contractors, and just one contractor, U.S. Investigations Services (USIS), conducts 65 percent of those investigations.

Now, USIS also has a contract to provide support to the Office of Personnel Management in managing and overseeing investigations, work which appears to put USIS in the position of being a contractor to do the investigations and then to be the contractor overseeing their own employees doing the investigations.

For its work for the Office of Personnel Management, USIS received more than \$200 million last year. We have received information that USIS is currently under criminal investigation by the Office of Personnel Management Inspector General. We have also received information that this investigation is related to USIS' systematic failure to adequately conduct investigations under its contract.

We have also learned that USIS conducted a background investigation for Edward Snowden in 2011, part of the time period that is under review.

We are limited in what we can say about this investigation because, clearly, it is ongoing. But it is a reminder that background investigations have real consequences for our national security.

Federal agencies like the Department of Defense (DOD) rely on these background investigations to make assessments of whether people should be trusted with our Nation's most sensitive information. This hearing will attempt to answer this important question: Are we handling background investigations in our government effectively and in a way that is deserving of our trust?

I thank the witnesses for being here, and I look forward to their testimony.

Senator TESTER. Thank you, Senator McCaskill.

I will turn it over to Senator Portman, the Ranking Member of the Federal Programs and Federal Workforce Subcommittee, for his opening statement. Welcome.

OPENING STATEMENT OF SENATOR PORTMAN

Senator PORTMAN. Thank you, Mr. Chairman, and I thank my Chair from the last Congress who is here with us and the Ranking Member, my colleague from Wisconsin.

This is timely. It is a really important topic and obviously timely given the Snowden disclosures and the inadequacy of the system that they demonstrated.

The security clearance process, performed well, is critical because it protects our Nation's most valuable information while ensuring that we have the necessary personnel to handle and safeguard it.

Done poorly, it can be incredibly damaging. Damaging leaks can hamstring our agencies' abilities to fulfill their missions, as we have seen in cases over the last couple years, harming our allies and our ability to build alliances around the world.

This Committee has had a long history of looking into this issue, oversight of the processes that now manage almost 5 million government and contracted personnel who are authorized to have some form of security clearance—5 million people.

Given the many challenges in the past, it is only appropriate that followup today to see how these agencies are progressing and, again, in light of what just happened, to see why it is not working as well as it should be.

For 6 years, the Government Accountability Office (GAO) had the Department of Defense Personnel Security Program on its high-risk list. It is now off the high-risk list. It got off in 2011. But there is a long list of concerns and recommendations for the Department of Defense, for OPM, and for other agencies involved in the security clearance process. These include incomplete and poorly synchronized fielding of electronic case management systems and other tools across government, shortcomings in metrics for reciprocity, a sound requirements process to determine positions that require a clearance, and most troubling, I think, is the pressure to meet timeliness metrics impacting the quality of investigations.

Additionally, our Inspectors General, have also identified issues of concern from the financial oversight of OPM's \$2 billion annual Revolving Fund, numerous cases of fraudulent investigations conducted by government and contractor investigators, and inadequate steps taken to prevent the risks posed by these negligent investigators from continuing.

We must have adequate, effective, efficient, timely completion of background investigations. While attention has been paid in recent years to timeliness, there remain many questions as to the effectiveness and efficiency of this process.

I look forward to hearing a progress report, Mr. Chairman, on meeting these recommendations that were provided and the actions that have been taken to avoid further mismanagement. Thank you to the witnesses for being here, and I thank the two Subcommittees and the Chairs for bringing this issue before us.

Senator TESTER. Thank you, Senator Portman.

Now we will turn it over to Senator Johnson, who is Ranking Member of the Financial and Contracting Oversight Subcommittee. Welcome, Senator Johnson.

OPENING STATEMENT OF SENATOR JOHNSON

Senator JOHNSON. Thank you, Mr. Chairman. I would also like to thank the witnesses for appearing. I did not count how many times I heard the word “process,” but that is exactly what this is all about. How do you develop a process that actually works? Coming from a manufacturing background in business, there are all kinds of processes that we have standardized. For example, International Organization for Standardization (ISO) certification works amazingly well. We all adhere to it. It is standardized. And there are things like surveillance audits on an ongoing basis.

As I was reviewing the information prior to this hearing, that is what kept jumping into my mind. If we could apply these standardized type of processes across the government, I think we would be in a far better place.

Probably the best piece of preparation material I read was an article written on February 28, 2013 by John Hamre,¹ a former Deputy Secretary of Defense. The article describes how this gentleman went through a clearance process. He had already filed his electronic version of an SF86. But it was somewhere on a government computer and could not be retrieved. He had to fill it out again, a 4-hour process. His subsequent review was a government employee or a contract employee going through question by question. He contrasts that with his experience in the private sector, answering five questions which had a 99-percent reveal rate in terms of whether that person was committing fraud.

So, again, in the private sector, we can get to this, we can get to a process that works, and my question is: Why can't we get that in the government? Hopefully what this hearing is about is coming up with that standardized process that actually works because, I agree with all three of you, this is critical if we want to protect our national secrets.

Thank you, Mr. Chairman.

Senator TESTER. Thank you, Senator Johnson.

Now for our witnesses. I would like to welcome all of you here today. I would like to point out that we extended an invite to the Office of the Director of National Intelligence (ODNI). They were unable to provide us with a witness. I know that they are under huge demands right now, and I acknowledge that the notice was short, but hopefully it can happen next time, because I am sure there will be a next time.

However, we are fortunate to have assembled a great panel this afternoon. We will start with Patrick McFarland, who is the Inspector General of the United States Office of Personnel Management. He has served in this capacity since 1990, making him the longest tenured Federal Inspector General. As Inspector General of OPM, he heads up the audit and investigative programs seeking to identify fraud, waste, abuse, and mismanagement in programs administered by OPM.

Mr. McFarland, I understand you were a police officer in St. Louis at one time. Hopefully your path did not cross Senator McCaskill's.

¹ Article referenced by Senator Johnson appears in the Appendix on page 57.

Senator MCCASKILL. Only if we were combining up to put a criminal in jail. [Laughter.]

Senator TESTER. OK.

Mr. MCFARLAND. That is correct.

Senator TESTER. Very good. Mr. McFarland is also accompanied by Michelle Schmitz, OPM's Assistant Inspector General for Investigations. Welcome to you both.

Merton Miller is Associate Director of Investigations for OPM's Federal Investigative Services (FIS), the Federal Government's larger provider of background investigations and services. Mr. Miller is responsible for FIS operations, policy development, and contractor oversight of OPM's investigations program. Before joining OPM, Mr. Miller served a long and distinguished career in the United States Air Force. As a side note, if you are looking to fly a C-130 again, please come to Montana. We are going to be looking for pilots.

And then we have Stephen Lewis, who is Deputy Director for Personnel, Industrial, and Physical Security Policy in the Office of the Under Secretary of Defense for Intelligence. Welcome. That office exercises planning policy and strategic oversight over Defense Department intelligence, counterintelligence, and security matters, including the security clearance process. Today Mr. Lewis is accompanied by Stanley Sims, Director of the Defense Security Service (DSS) at the Defense Department. Welcome to both you, Mr. Lewis, and Mr. Sims to the hearing today. Thank you for your service.

And then last, but certainly not least, we have Brenda Farrell, who is the Director of Defense Capabilities and Management at the Government Accountability Office. In that capacity she is responsible for overseeing the military and DOD civilian personnel issues, including governmentwide personnel security clearance issues. She has worked extensively on a number of national security issues since she began her career at the GAO in 1981. Welcome, Brenda.

Thank you all for being here today.

It is the custom in this Committee to swear in the witnesses who appear before it, so if you do not mind, I would ask you all to stand, including Mr. Sims and Ms. Schmitz, and repeat after me. Raise your right hand. Do you swear that the testimony you will give before this Subcommittee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. MCFARLAND. I do.

Ms. SCHMITZ. I do.

Mr. MILLER. I do.

Mr. LEWIS. I do.

Mr. SIMS. I do.

Ms. FARRELL. I do.

Senator TESTER. Let the record reflect they all answered in the affirmative.

Now, each one of you are going to have 5 minutes for your oral statements. Your entire written testimony will be a part of the record, and you can add more to that complete written testimony up until July 8.

We will start with you, Mr. McFarland, and if you can keep it to 5 minutes, we would sure appreciate it. Patrick.

TESTIMONY OF THE HON. PATRICK E. MCFARLAND,¹ INSPECTOR GENERAL, U.S. OFFICE OF PERSONNEL MANAGEMENT; ACCOMPANIED BY MICHELLE B. SCHMITZ, ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS, U.S. OFFICE OF PERSONNEL MANAGEMENT

Mr. MCFARLAND. Chairmen Tester and McCaskill, Ranking Members Portman and Johnson, and other distinguished Members of the Subcommittees, good afternoon. My name is Patrick McFarland, and I am the Inspector General at the U.S. Office of Personnel Management. Thank you for inviting me here today to speak about our oversight work related to OPM's Federal Investigative Services Program Office.

In 1978, the U.S. Congress took a bold step in passing the Inspector General Act—bold in that it was an experiment born out of a multitude of governmentwide mistakes, serious problems, and just plain wrongdoing. In the face of much opposition from entrenched government bureaucracy, it was, I believe, a Congress' pledge to the American citizen that their expectations of good government and their tax money would be protected.

The Inspector General concept is transparency at its core functionality. It must be transparency without any shades of gray. Indeed, it is with this understanding that each Inspector General's organization honors the independence required of them free of any political influence, which Congress mandated.

Today you have asked me here because of concerns about the lack of transparency in an organization that plays an integral part in protecting our national security and the integrity of the government's workforce.

OPM Federal Investigative Services conducts approximately 90 percent of these background investigations for the Federal Government. These investigations are used by agencies to determine whether to grant a Federal employee or contractor a security clearance.

Due to recent events, a key discussion point in recent public debates has become: Who should we trust with sensitive information related to national security? The very first step the government takes in answering this question is to conduct background investigations.

I am here to inform you that there is an alarmingly insufficient level of oversight of the Federal Investigative Services program. The lack of independent verification of the organization that conducts these important background investigations is a clear threat to national security. If a background investigation is not conducted properly, all other steps taken when issuing a security clearance are called into question.

Every day I have the privilege of leading an organization of people dedicated to a work ethic that embodies our organizational pledge to know our business and responsibilities better than anyone else, and at the close of the day to be able to say that we did what was right for the American taxpayer.

This having been said, what is most noteworthy for your Subcommittee's understanding is that our oversight of OPM's Federal

¹The prepared statement of Mr. McFarland appears in the Appendix on page 31.

Investigative Services program has been thwarted by virtue of an agency funding decision.

Under current law, the Federal Investigative Services must price its products and services in a manner that allows it to recover its actual costs of administering the program. OPM uses a Revolving Fund as the financing vehicle for these activities. For several years, OPM has taken the position that oversight is not considered to be an administrative cost, and, thus, our office has been denied access to the Revolving Fund. I do not think that anyone here would argue that oversight, financial audits, performance audits, and investigative activity are not a crucial part of the Administration of any government program.

To compensate, we have used the \$3 million we have for non-trust fund work to maintain a modicum of oversight viability in the Revolving Fund programs, with special emphasis on the Federal Investigative Services program because of the national security implications.

Please be assured even with bare resources that, because of recent developments discussed in my written testimony, we feel compelled to engage our office in a joint initiative between the Audit and Investigation Divisions to thoroughly oversee the policies and procedures of the quality review practices of the Federal Investigative Services program.

I am pleased to say that with the support of former Director John Berry, the Administration has included a legislative proposal in the President's Fiscal Year (FY) 2014 budget that would grant us access to the Revolving Fund.

I close by also requesting your Subcommittee's support for the proposal so that our office will have the resources to finally do the job with which we have been entrusted.

Thank you.

Senator TESTER. Thank you, Patrick.

We will go with you, Merton.

**TESTIMONY OF MERTON W. MILLER, ASSOCIATE DIRECTOR
OF INVESTIGATIONS, FEDERAL INVESTIGATIVE SERVICES,
U.S. OFFICE OF PERSONNEL MANAGEMENT**

Mr. MILLER. Thank you, Chairman.

Chairmen Tester and McCaskill, Ranking Members Portman and Johnson, thank you very much for the opportunity to testify today regarding OPM's role in the Federal Government's secret clearance process.

In response to 2004 legislation authorizing the transfer of DOD's personnel security investigations function to OPM and the enactment of the Intelligence Reform and Terrorism Prevention Act, OPM has continued to enhance the background investigation process by improving timeliness, quality, and efficiency. Our successes are due in large part to our partnership with the Office of Management and Budget (OMB), ODNI, Department of Defense, and other agencies that require investigations for security clearances. We have no backlogs, are meeting timeliness mandates, and have increased automation.

OPM's Federal Investigative Services conducts background investigations to support Executive Branch hiring, security clearances,

credentialing determinations, among others. The processes supporting these investigative activities are highly integrated, automated, consistently measured against timeliness and quality performance standards for Federal hiring and security clearance process reforms.

Performance data for these background investigation products are largely reported to ODNI, Executive Branch agencies, OMB, and Congress. These products and services are then utilized as a basis for making security clearance suitability and fitness and credentialing determinations by agencies.

Since absorbing DOD's background investigative program in fiscal year 2005, DOD personnel security clearances have been removed from the Government Accounting Office's high-risk list. And OPM has conducted over 95 percent of the background investigations required by the Federal Government.

OPM manages, oversees the Federal employees and contractors responsible for conducting investigations. Now, pursuant to Executive Order 13467, the ODNI, as a security executive agent, is responsible for directing the oversight of investigations and determinations and for developing uniform and consistent policies and procedures to ensure the effective, efficient, and timely completion of investigations and adjudications relating to the determinations of eligibility for access to classified information or eligibility to hold a sensitive position. And actual clearance decisions themselves are adjudications that are made by the sponsoring agencies. Agency heads apply uniform adjudicative guidelines which were approved by President Clinton and subsequently amended in 2005 by President Bush.

Conducting background investigations is one of OPM's core missions. FIS provides background investigations for over 100 Federal agencies with approximately 10,000 separate submitting offices worldwide. Currently we have more than 2,500 Federal employees and 6,700 contractors that form a nationwide network of field investigators, support staff, as well as a cadre of Federal agents that we have working abroad.

OPM manages to balance nationwide Federal and contract workforce to provide a flexible, responsive, and cost-effective investigative program. Our core Federal investigators present us the opportunity to manage highly sensitive and inherently governmental investigation requirements while our contractor workforce permits us to expand and contract operations as the workload and locations dictate.

Information technology has been and will continue to be a crucial ability to support us in balancing our timeliness, quality, and cost goals. It plays a key role in reducing costs, streamlining operations, improving efficiencies, eliminating waste, and providing a better service for the agencies that require these investigations.

In addition, we consult with the security community in developing new policies and standards concerning the security clearance investigations program, to ensure governmentwide reciprocity, and address program needs, guaranteeing superior investigative products.

Security clearance and suitability process reform has provided program enhancements particularly in the timeliness and quality

of investigative products and has laid policy groundwork structure to support dramatic enhancements in the coming years. The enhancements to date have strengthened the government's ability to recruit top talent and effectively put Federal and contractor employees to work.

Last, FIS is working with OMB, ODNI, and DOD, and the other Federal agencies to establish and important Executive Branch-wide training standards, revise investigative and adjudicative standards and processes, and develop reciprocity standards and metrics to gauge improvements and demonstrate savings.

I thank you for the opportunity to be here today to discuss this important issue, and I will be happy to respond to any questions.

Senator TESTER. Thank you for your testimony, Mr. Miller.

Mr. Lewis, you may proceed.

TESTIMONY OF STEPHEN F. LEWIS,¹ DEPUTY DIRECTOR, SECURITY DIRECTORATE, OFFICE OF THE UNDER SECRETARY OF DEFENSE (INTELLIGENCE), U.S. DEPARTMENT OF DEFENSE; ACCOMPANIED BY STANLEY L. SIMS, DIRECTOR, DEFENSE SECURITY SERVICE, U.S. DEPARTMENT OF DEFENSE

Mr. LEWIS. Thank you. Good afternoon. Chairmen Tester and McCaskill, and Members of the Committee, thank you for inviting me to testify today. My name is Steve Lewis. I am the Deputy Director of the Security Policy and Oversight Directorate within the Office of the Under Secretary of Defense for Intelligence. We appreciate the Committee's continued interest in the effectiveness of the personnel security clearance process. Because of your commitment to this critical function of our government and its ability to protect national security, we have achieved major improvements over the years and look forward to even more gains in the future.

I am here today on behalf of Dr. Michael Vickers, the Under Secretary of Defense for Intelligence, and I would also like to introduce Mr. Stan Sims, the Director of Defense Security Service, who is accompanying us today.

The Under Secretary of Defense for Intelligence is the Principal Staff Assistant to the Secretary and Deputy Secretary for security matters and is responsible for setting overall DOD policy to implement national policies for access to and the protection of classified national security information. In addition, he is the senior official for DOD's personnel security program and has responsibility for policy and procedures governing civilian, military, and industrial base personnel security programs.

Executive Order 13467 designates the Director of National Intelligence as the security executive agent with the responsibility to develop uniform policies and procedures to ensure effective completion of investigations and determinations of eligibility for access to classified information, as well as acceptance of those determinations on a reciprocal basis across the government.

With regard to the oversight roles and responsibilities within DOD, the heads of DOD components are responsible for establishing and overseeing implementation of procedures to ensure protection of classified information and taking prompt and appropriate

¹The prepared statement of Mr. Lewis appears in the Appendix on page 41.

management action in cases of compromise of classified information. Such actions are required to focus on correcting or eliminating the conditions that caused, contributed to, or brought about the incident. This responsibility encompasses military service members, DOD civilians, and embedded contractor personnel.

Under the National Industrial Security Program, the Defense Security Service is responsible for conducting oversight of companies cleared to perform on classified contracts for DOD and 26 other Federal agencies which use DOD industrial security services.

The Department has instituted various process improvements that have resulted in greater efficiencies and effectiveness with regard to initiating and adjudicating background investigations, and this has helped to result in the removal of DOD from the high-risk list for its personnel security program.

We have deployed multiple initiatives to ensure consistent, high-quality investigative products, highly skilled and professionally certified personnel security adjudicators, and robust documentation of adjudicative rationale in support of these adjudicative decisions. This helps to ensure appropriate oversight and reciprocity.

In October 2012, DOD consolidated its adjudicative functions and resources except for the DOD intelligence agencies in a centralized adjudication facility to realize efficiencies and standardize practices of this critical inherently governmental function.

You specifically asked for the costs of obtaining security clearances for the Department, and in fiscal year 2012, DOD paid the Office of Personnel Management a total of \$753 million for security clearance investigations and approximately \$471 million for military service members, \$30 million for DOD civilians, and \$252 million for cleared industry.

Thank you for your time.

Senator TESTER. Thank you for your testimony, Mr. Lewis.

Ms. Farrell, you may proceed.

TESTIMONY OF BRENDA S. FARRELL,¹ DIRECTOR, DEFENSE CAPABILITIES AND MANAGEMENT, U.S. GOVERNMENT ACCOUNTABILITY OFFICE

Ms. FARRELL. Chairmen Tester, McCaskill, and Members of the Subcommittee, thank you for the opportunity to be here today to discuss the governmentwide personnel security clearance process. As you know, we have an extensive body of work on issues related to the security process dating back several decades.

Since 2008, we have focused on the governmentwide effort to reform the security clearance process. My statement today is based on GAO reports issued between 2008 and 2013 on DOD's personnel security clearance program and personnel security reform efforts.

Personnel security clearances allow government and contractor personnel to gain access to classified information that through unauthorized disclosure can in some cases cause exceptionally grave damage to U.S. national security.

As you know, a high number of clearances continue to be processed. The Director for National Intelligence reported this year that more than 4.9 million government and contractor personnel held

¹The prepared statement of Ms. Farrell appears in the Appendix on page 45.

clearances, making it a formidable challenge for those deciding who should have a clearance. My written statement addresses three areas for improvement to the process.

The first area addresses having a sound requirements determination process in place. Agencies need an effective process for determining whether positions require a security clearance and, if so, at what level. Underdesignating positions can lead to security risks while overdesignating can also lead to security risks and result in significant cost implications.

Last year, we found guidance did not exist to help agencies determine whether or not a civilian position should require a clearance and, importantly, no requirement exists to review existing positions with clearances. We made recommendations to the Director of National Intelligence, to develop such guidance.

The second part of my statement addresses quality measurement. Since the 1990s, we have emphasized the need to build quality and quality metrics into the clearance process. Executive Branch efforts to reform the process have focused more so on timeliness than quality. We have seen programs on speeding up the processing of initial clearances, but not on developing metrics for qualitative investigations, implementing those metrics, or reporting on those metrics' findings.

We have reason for concern about the quality of investigations. For example, in May 2009, GAO reported that documentation was incomplete for most OPM investigative reports we reviewed, about 87 percent of 3,500 total. We have made recommendations in this area, but those recommendations have not been implemented.

The last area of my statement addresses the guidance to enhance efficiencies of the clearance process. Governmentwide personnel security reform efforts have not yet focused on potential cost savings, even though the stated mission of these efforts includes improving cost savings. For example, OPM's investigative process, which represents a portion of the security clearance process and has significant costs, has not been studied for process efficiencies or cost savings. In February 2012, GAO reported that OPM received over \$1 billion to conduct more than 2 million background investigations in fiscal year 2012.

We have raised concerns about transparency of costs and investments in technology while maintaining a less efficient and duplicative paper-based process. We have made recommendations in this area, but actions have still not been realized.

This concludes my opening statement. I would be pleased to take questions. Thank you very much.

Senator TESTER. Thank you all for your opening statements.

We will put 7 minutes on the clock, and we will go from here.

I am going to start with you, Mr. McFarland. Without making any specific statements that could compromise the ongoing investigation, could you confirm that the Office of Personnel Management's Office of the Inspector General (OIG) is currently investigating USIS? They are one of the three major contractors conducting background checks on behalf of the U.S. Government?

Mr. MCFARLAND. Yes, Senator, we are.

Senator TESTER. Can you also confirm that USIS carried out the background investigation on Mr. Snowden?

Mr. MCFARLAND. Well, I am not sure regarding that question.

Senator TESTER. OK. It is my information that there were two. There was an initial investigation and then a—

Mr. MCFARLAND. Oh, I am sorry. Yes, the re-investigation, absolutely.

Senator TESTER. So USIS did do the re-investigation.

Mr. MCFARLAND. Yes.

Senator TESTER. But you are not sure who did the initial investigation?

Mr. MCFARLAND. That is correct.

Senator TESTER. Would it be possible to get that information?

Mr. MCFARLAND. Yes, it is.

Senator TESTER. OK, good. Are there any concerns that Mr. Snowden's background investigation by USIS may not have been carried out in an appropriate or thorough manner?

Mr. MCFARLAND. Yes, we do believe that there may have been some problems.

Senator TESTER. OK. And when more information gets available on this, I would assume it is going to be made public. Is that correct?

Mr. MCFARLAND. Well, it will all depend on the time and situation, but we will do our best to keep you informed.

Senator TESTER. OK, that is good. So let me ask you this: USIS is under investigation. But yet they are given the re-investigation of Mr. Snowden. How does that happen?

Ms. SCHMITZ. It is our understanding that the periodic re-investigation was done in 2011, which would have pre-dated the initiation of our investigation.

Senator TESTER. OK. When did you initiate your investigation of them?

Ms. SCHMITZ. It was later in 2011.

Senator TESTER. OK. If I am correct—I believe it was in one of your opening statements—USIS conducts about 65 of the 75 percent of investigations that is contracted out. Is that correct?

Ms. SCHMITZ. That question is probably best answered by FIS. I understand the number varies depending on whether you are talking about all investigative products or those which include significant field work.

Senator TESTER. OK. Merton.

Mr. MILLER. USIS conducts 45 percent of the overall contract workload.

Senator TESTER. OK. Very good.

I am going to go with you, Mr. Lewis, and then I will kick it over to Senator McCaskill. I touched in my opening statement how much classified data is being generated and maintained and the increasing number of individuals granted access to that data. DOD currently accounts for a vast majority of the initial personnel security clearances. Since 9/11, heightened security has obviously led to an increased number of background checks. I am not challenging that at all.

What I am asking is, given our redeployment of troops in Iraq and now the drawdown in Afghanistan, do you anticipate that DOD security clearances are going to decrease in the future, maintain, or increase?

Mr. LEWIS. It is hard to have a crystal ball on that subject. One would think that as the drawdown processes, there would be less of a requirement for clearances. And we are engaging with the military services and others to look at scrubbing the requirements for clearances and validating need more aggressively than we have in the past. But I cannot predict what is going to happen with any degree of certainty.

Senator TESTER. Now, understanding that the clearances are driven by specific needs, is that scrubbing what you are using to monitor or manage the number of overall clearances for the DOD? Or what kind of metrics are you using? Or are there metrics to use?

Mr. LEWIS. We are looking at the number of clearances and engaging with the military services to validate those needs. So we do not have metrics at this point on that issue.

Senator TESTER. OK. Senator McCaskill, go ahead.

Senator MCCASKILL. Mr. Miller, have you read Ms. Farrell's testimony today?

Mr. MILLER. I just heard it for the first time.

Senator MCCASKILL. I am not going to start now, but I would appreciate if you would read and respond to it with specificity. It is overwhelming to me the amount of recommendations that have been made in this area that have been ignored by your agency. If you want to address why the recommendations have been ignored now, you are welcome to. I have spent a lot of time around GAO reports and looking at recommendations and whether or not they are implemented. And, typically, agencies that have the least amount of oversight by Congress have the worst record of thinking that what GAO says matters.

Is there some kind of cogent answer you can give to why all these recommendations have been basically wholesale ignored?

Mr. MILLER. We take what GAO recommends through their audits very seriously—

Senator MCCASKILL. When is the last time you implemented one of their recommendations?

Mr. MILLER. We have implemented all this fiscal year a number of recommendations regarding—I will take the last audit—cost transparency. We have done a number of things to support cost transparency for our customers. We submitted our first annual stakeholder report, a 33-page report that details not only workload and resources but also talks specifically about where our money goes to support the program. We—

Senator MCCASKILL. If you would be so kind, Ms. Farrell, to do a scorecard for us, list the recommendations that GAO has made in this area and give us an actual score as to how many of them have been implemented and when, by your estimation, and then I will have a chance to share that with you, Mr. Miller, and you can argue as to whether it is accurate or not.

Senator MCCASKILL. How many times has the IG asked to try to audit the Revolving Fund that pays for all these background investigations?

Mr. MILLER. I do not have a number of times they have asked to audit, but my understanding is we are very amendable to moving forward with the process. The issue was determining whether

there was a legal basis to provide Revolving Fund dollars for the audit.

Senator MCCASKILL. According to Mr. McFarland, the documents do not exist to audit the fund.

Mr. MILLER. Oh, there are lots of documents, financial reports—

Senator MCCASKILL. OK. So I need some kind of agreement here as to why this fund has never been audited. It is \$1 billion a year. It is outrageous that it has never been audited. And so what is your rationale as to why this fund has never been audited?

Mr. MILLER. My understanding is OPM—we support the current request by the OIG for Revolving Fund dollars to support audits in the future. The issue in the past was there was not a legal basis for Revolving Fund dollars to be given to the IG for audit purposes. We welcome the IG's oversight.

Senator MCCASKILL. Well, these are all public dollars.

Mr. MILLER. They are public dollars. They are not appropriated dollars. And, honestly, I cannot speak to—

Senator MCCASKILL. Well, they were appropriated at some point.

Mr. MILLER. Yes, ma'am, they were.

Senator MCCASKILL. Because you cannot get them unless they were appropriated.

Mr. MILLER. Yes, ma'am.

Senator MCCASKILL. So what you are saying is all somebody has to do in government is give some of the money that has been appropriated to another agency and, presto, whamo, no audit?

Mr. MILLER. No, ma'am.

Senator MCCASKILL. Well, that is what you are saying. You are saying that there was some legal question as to whether this money was auditable by an IG just because it had been transferred to your agency by another agency.

Mr. MILLER. It was absolutely auditable. The issue was whether Revolving Fund dollars could be given to the IG to resource additional personnel to actually conduct the audit. They could have used appropriated dollars at any time to audit the Revolving Fund.

Senator MCCASKILL. OK. Let me see if I understand. What is your view of this, Mr. McFarland and Ms. Schmitz, as to why the audits have not occurred? He seems to be saying that this was an acknowledgment by you that you did not have the resources to do it. Is that the problem?

Mr. MCFARLAND. We absolutely have the resources to do it.

Senator MCCASKILL. So what from your view is the reason why this fund has never been audited?

Mr. MCFARLAND. When you say "the fund," you are speaking—

Senator MCCASKILL. The Revolving Fund.

Mr. MCFARLAND. Our intent, as always, is to get involved as deeply as we can in any subject matter. The problem that we have is that we could not identify—excuse me just a second, please. I want to give you as correct an answer as possible.

Ms. SCHMITZ. My understanding—and this may be subject to later correction because audits is not my area—is that they were attempted in the late 1990s, and there was insufficient documentation. Since that time the OIG has not had the financial resources to pay to do an audit.

Senator MCCASKILL. OK. Well, we need to get that figured out, because if we are actually saying to the American people that there are not the resources available to audit a fund that holds \$1 billion worth of public money, we have a real problem. So I am going to need you to come up with the specific answer that you believe is holding you back from auditing this fund, and I would need the same kind of specificity from you, Mr. Miller, as to your willingness and your capability of being audited. We know the Department of Defense cannot be audited. We are working on that. It has been decades long process trying to get them audited. This seems to me to be a discrete fund for which an audit ought not be very expensive. It ought to be as easy as brushing your teeth for the tens upon thousands of government auditors we have working right now. So let us get to the bottom of that.

I want to talk just for a minute, before my time is up, about the number of convictions for falsifications. You have had 18 people convicted for falsifying investigations since 2007. Of those, 11 were government employees, 7 were contractors. Eighteen convictions seems high to me for an office as small as this is. Do you believe you are catching most of the fraud, Mr. McFarland? Or do you believe there is more?

Mr. MCFARLAND. No, I believe there may be considerably more. I do not believe that we have caught it all by any stretch.

Senator MCCASKILL. OK. My time is up. I will wait for my second round. Thank you.

Senator TESTER. Senator Portman.

Senator PORTMAN. Thank you, Mr. Chairman.

One thing we have heard today which is disturbing is that we cannot confirm the quality of Mr. Snowden's investigation. This leads to a broader question about whether the pressure that you all feel to speed up investigations and the backlog that occurs is leading to lower quality. And I am wondering about whether you are measuring those metrics.

You have been pressed on timeliness, I am sure, but here is some data. In 2009, GAO assessed from a sample that 87 percent of investigative reports that DOD adjudicators used to make clearance decisions were missing background documentation—87 percent. GAO subsequently recommended OPM measure the frequency with which investigative reports meet Federal investigative standards. It seems like a pretty straightforward and commonsense recommendation.

GAO also notes that OPM is developing a tool similar to DOD's Rapid Assessment of Incomplete Security Evaluations. Ms. Farrell, you talked more about that in your testimony. You basically stated that from GAO's observation, OPM continues to assess quality based on voluntary reporting from customer agencies.

In light of what has just happened and in light of this information from GAO now going back 4 years, Mr. Miller, how do you measure quality?

Mr. MILLER. Senator, we have a number of ways that we measure quality, but if I could address just up front the 87 percent number: You probably saw OPM's response to that audit. There are challenges associated with capturing every element of a background investigation, and let me just explain very quickly.

An employment check, that was one of the areas where there was the highest number of elements missing in background investigations. Employers can choose not to cooperate with the government when we conduct a background investigation. I am not saying Federal agencies. I am talking all kinds of commercial entities where individuals may have previously worked.

One of the challenges is actually getting cooperation. If an employer either goes away, does not exist any longer, or chooses not to provide information to the government, that information has to be documented in a Report of Investigation, but you do not get that employment coverage that is required.

There are issues regarding the 87 percent subject interviews that were not accomplished. Many of those subjects had been deployed into a hostile environment where investigators could not go to conduct those interviews. So there is documentation in the Report of Investigation saying this subject was not available due to deployment, and that case is closed.

And, Senator, you are exactly right. Every time we initiate an investigation, we put what we refer to as a close date, a CD date, because that date must be met to meet the mandated 40-day challenge that we are given for timeliness. So all investigative leads must be accomplished in that period of time, and the case is then closed.

Senator PORTMAN. Let us followup on this a little bit, and, Ms. Farrell, jump in here. Eighty-seven percent is a high figure for incomplete reports. Given that we are trying to protect some of our most valuable classified information and we have seen some of the impact of this recently, do you agree with what Mr. Miller just said, that the major problem is that employers in the private sector do not want to respond to questions and/or that people have been deployed into hostile environments? Is that the reason 87 percent of these are not properly completed?

Ms. FARRELL. The documentation was not in the files. We recognize that it may be challenging to track down people who may be deployed, and if the documentation is there, then that could explain it. We found the same types of incomplete documentation with DOD's adjudication files. We recommended they offer guidance in these situations, and that if there are difficulties, you document it so that the adjudicator or whoever does a review will know why that was left blank, the person was deployed.

DOD implemented our recommendation——

Senator PORTMAN. So if the person was deployed, for instance, and that was the only reason that there was an incomplete investigation, that would not be part of the 87 percent?

Ms. FARRELL. If it were documented.

Senator PORTMAN. If you simply had that documentation.

Ms. FARRELL. If they had that documentation. The Federal Investigative Guidelines, like the Federal Adjudicative Guidelines, look at it as a baseline. So we had our staff attend investigative training. We used GAO-certified adjudicators to help us do these file reviews, so we made sure that the relevant staff had the competency to see what was missing and what should be there. So this is about documentation, not having to look at a file and guess.

Senator PORTMAN. And your recommendation was that they develop tools to be able to deal with that? Mr. Miller, just quickly, what tools have you developed to be able to close this gap?

Mr. MILLER. There are a number of initiatives ongoing currently as well as our own quality process. We have quality procedures for contracts and Federal employees that include several stages and layers of review while a background investigation is being worked and when it is finalized.

There are a number of requirements within a contract for a full quality review of the investigation before it is delivered to the government. As each lead is accomplished there is a review conducted by our reviewers. We have 400 Federal employees whose sole role is quality assurance of our products that do a full review of each investigation.

When that is finalized and the final review and the delivery is to our customers, there is a subsequent review—the most important review, quite frankly—the adjudicative decision made by the agency itself. So they review the investigation and make a determination whether all elements are there required to make a determination. They can make an adjudicative decision—I am not an adjudicator—claiming a deviation, meaning that there are certain elements not there, but based on the whole of the investigation, they determine to grant that person either a clearance or the Federal employment.

Senator PORTMAN. And are you now providing these metrics to all of your adjudicators? And are you providing this documentation so that when GAO looks at your process the next time, they are going to be able to know why somebody was not provided all the information?

Mr. MILLER. We have not had any followup recently with GAO. We would welcome a followup on that, as well as to address quality standards. We have an interagency working group chaired by the ODNI, at DOD and OPM that is working on establishing clear and concise standards for evaluating background investigations to meet the quality standard. Today quality is in the eye of the beholder, depending on the agency, depending on the adjudicator, whether it is complete, whether it is not. So there is a lot of gray area that, quite frankly, I advocated in standing up this quality working group to give us defined roles. I can tell you, give us quality standards we understand that are clear and we will absolutely meet them.

Senator PORTMAN. I think one would be not to have the vast majority of the reports be incomplete. But thank you for your testimony. We will be back on the second round. Thank you, Ms. Farrell.

Senator TESTER. Thank you, Senator Portman.

Senator Johnson.

Senator JOHNSON. Thank you, Mr. Chairman.

Mr. Miller, what does it mean, case closed?

Mr. MILLER. Case closed means all the elements of the background investigation have been obtained and completed and passed on to the customer.

Senator JOHNSON. Or you have not gotten all of them and you are still closing the case when 40 days is up?

Mr. MILLER. If they are not obtainable, like an employment check, that will be documented in the Report of Investigation, and it will be closed and—

Senator JOHNSON. So how many of those case-closed, incomplete investigations then are actually adjudicated and clearances granted?

Mr. MILLER. Well—

Senator JOHNSON. Do you keep any metrics on that?

Mr. MILLER. Yes, sir. When a customer comes back to us and says, "You are missing elements, there is information we do not have here to make the decision, we are asking you to reopen that investigation," that is—

Senator JOHNSON. What percent do you get back then?

Mr. MILLER. That is less than 1 percent, sir.

Senator JOHNSON. So then do you know how many clearances are granted based on your case closed with incomplete documentation?

Mr. MILLER. No, sir. The only way we would know what is granted would be what would be updated in our—

Senator JOHNSON. You have 87 percent of cases that are incompletely documented, considered case closed, and then only 1 percent get kicked back with a request for more information? So we could potentially have 86 percent of investigations incomplete and then security clearances granted. That is probably what is happening, right? Yikes.

Ms. Farrell, something pretty disturbing in your testimony is the lack of guidance in terms of what is a requirement for a security clearance being granted.

Ms. FARRELL. That responsibility falls on the Director of National Intelligence. He is responsible for oversight of the security area by providing guidance regarding efficiencies, effectiveness, and timeliness of—

Senator JOHNSON. There is no standard for even requesting a security clearance?

Ms. FARRELL. The guidance, I must say, is under draft. We have a recommendation, and I want to acknowledge that.

Senator JOHNSON. We have been granting security clearances for how many decades?

Ms. FARRELL. Decades.

Senator JOHNSON. And there is literally no standard, no guidance for what circumstances require a clearance. None.

Ms. FARRELL. You are correct. In the absence of any guidance, it is left up to the agencies to determine how they are going to classify those jobs, and what you find is inconsistency. We also found that some of the agencies were using an OPM tool that helps determine the sensitivity of a job position. The sensitivity of a position does not tell you the classification, but by knowing the sensitivity, then you can translate that into whether or not a security clearance is needed.

Unfortunately, this tool is geared more toward determining suitability for the job rather than if the job requires a security clearance. It was developed without a lot of collaboration with ODNI.

Senator JOHNSON. Does anybody want to challenge this in terms of no standards, no guidance, in terms of what is a requirement for even seeking a security clearance? Mr. Miller, help me out here.

Mr. MILLER. Sir, OPM did create a position designation tool that was focused on suitability and determining what type of level of investigation is required for the position in question.

Senator JOHNSON. Mr. Lewis, in the Department of Defense, is there a guidance, is there a standard?

Mr. LEWIS. The key focus is on what level of access is required to perform the duties associated with the job, and that is going to depend upon what those duties are. For industry it is very carefully and closely scrutinized by Defense Security Service when they inspect contractor facilities. Within DOD, it is going to depend on what level of access is determined to be required to perform the duties.

Senator JOHNSON. Isn't that somewhat of a guidance, Ms. Farrell? We have classifications of different secrecy levels, and if your job description says you need X classification, isn't that a guidance?

Ms. FARRELL. The guidance does not exist, is what I am telling you, for governmentwide determination whether or not a civilian position needs a clearance. You will find that individual agencies thus have developed their own rules or procedures. What we found from our audit last year was inconsistency in their application. In fact, even the OPM IG reviewed use of the OPM position tool that Mr. Miller mentioned and found that, for the majority of the cases reviewed applying OPM's tool came up with a different determination. Quite alarming.

Senator JOHNSON. Security clearances, we have clearances for individuals, but we also have them for contractors and for facilities, correct? I mean, you also are basically certifying contractors to be able to handle classified material. Is that correct? Mr. Miller, can you just step me through an investigation of a contractor or facility versus an individual?

Mr. MILLER. Yes, sir. For an individual, there is a determination whether that the contractor needs a clearance. It is sponsored by the Department of Defense. They submit the individual—

Senator JOHNSON. OK. I am really more interested in facilities right now.

Mr. MILLER. OK. I cannot speak to facilities, sir. We are not involved with that.

Senator JOHNSON. Because I want to find out how often—if the certification is granted, are there surveillance audits on a regular basis? Because I think that is kind of the crux of the problem potentially, with the most recent incident. Mr. Lewis.

Mr. LEWIS. I would like to defer to Mr. Sims on that as his agency exercises that oversight.

Senator JOHNSON. OK. Thank you.

Mr. SIMS. Thank you, Senator. I appreciate the opportunity. I oversee the Defense Security Service for contractors and facilities. As Mr. Lewis stated up front, as part of the National Industrial Security Program, the Defense Security Service oversees the granting of facility clearances. The facility clearance is actually required by the government. If the contractor is operating on a contract that requires a certain level of clearance, for example, secret or top secret, then they submit those requirements to DSS, but it is sponsored by the government.

We then look at the facility, the company, if you will, and we look at the contract and the requirements of the contract. If the contract requires a secret clearance we evaluate the facility by a number of different criteria and then grant the facility clearance first.

Once the contractor gets a facility clearance, that caps the level of access an individual working their can acquire. For example, if there is a level of effort, however many contractors are required to perform on that government contract, and then that facility clearance is at the secret level, that is only the level that the individual can even apply for.

We audit or do security reviews on a routine basis of all the contract facilities out there. There are about 13,500-plus facility clearances that we oversee, awarded to about 10,000 companies. We do routine security reviews, and when our investigative organization or our agents go to those facilities, we look at those contracts. We verify on a routine basis whether they have personnel operating above the clearance level specified by the facility clearance. For example, if we find that they have a person that is cleared at top secret, that is trying to work on a secret contract, then we mandate the lowering of or removal from the—

Senator JOHNSON. OK. I am out of time, and I am going to have to leave. Just a quick question. How many man-hours does the first certification process take? How many man-hours are involved in a surveillance audit? I am just trying to get some sort of feeling of how rigorous these certifications are.

Mr. SIMS. Senator, it depends on the size of the facility. Those 10,000 facilities range from Mom-and-Pops all the way up to Lockheed-Martin?

Senator JOHNSON. Is this a day-long process? Is it a 3-month process?

Mr. SIMS. For some of the smaller companies, it could be a day or two. For the larger companies, facilities like a Lockheed-Martin, a large manufacturing facility, we have done at least 2 to 3 weeks onsite with a team of security professionals from my agency.

Senator JOHNSON. OK. Thank you very much.

Thank you, Mr. Chairman.

Senator TESTER. You bet. Thank you, Senator Johnson.

I am going to read the second paragraph on page 3 of Mr. McFarland's testimony, and this will be a question for you, Mr. Miller. The testimony goes like this:

"The problem that [Patrick McFarland's] office has encountered is that the Office of Inspector General oversight costs are not permitted to be charged against the Revolving Fund."

This is a followup on Senator McCaskill's question. This \$1 billion or \$2 billion fund, somebody has made a call that none of that money can be used for things like annual financial audits or any basic oversight. Who made that call?

Mr. MILLER. I cannot answer that, sir.

Senator TESTER. Mr. McFarland.

Mr. MCFARLAND. Yes, I can speak to that, Senator. This has been probably the most frustrating thing that has happened regarding the Revolving Fund for us, because it has almost literally taken us out of the picture. We have a limited amount of money

from salaries and expenses—in our case, it is \$3 million right now—to spend on non-trust fund issues, and the Revolving Fund is a non-trust fund issue.

So what we have tried to do as best we can is stay tuned in to what is going on, and that is kind of a sad State of affairs for an IG to have to say, stay tuned in. We want to be in depth in all of these things. But we have not been able to simply because it was decided by the General Counsel's office and then supported by the Director of OPM that we do not fit into the category that would allow us to have funds from the Revolving Fund.

Now, we take total disagreement with that, of course. We feel just the opposite.

In order to try to remedy the situation, I suggested a couple years ago the Director of OPM should suspend his decision in agreement with the General Counsel's office, that, we are not entitled to those funds.

Senator TESTER. We have a confirmation hearing on the new Director of OPM on July 12, and I have a notion that is going to be a question that is going to be asked right out of the gate: Are you going to support using some of those monies?

Let me ask you one more thing, and I want you to be very brief, if you can.

Mr. MCFARLAND. Sure.

Senator TESTER. When you do an oversight, an audit, or whatever it may be, is typically the cost paid for by the fund that you are doing the audit on?

Mr. MCFARLAND. Everything we do for health insurance, retirement, and life insurance is done out of those trust funds.

Senator TESTER. OK. Is there any other fund out there that you know of that has been declared off limits for reimbursement for your duties?

Mr. MCFARLAND. No. We are using our salary and expenses to do what we can in the Revolving Fund. That is why it is so limiting.

Senator TESTER. I understand that. But when you do any other audits on any other funds, I assume you are getting paid out of those funds that you are auditing.

Mr. MCFARLAND. That is correct.

Senator TESTER. Are there any other funds that you are auditing that you are not able to get your costs reimbursed from those funds?

Mr. MCFARLAND. No. In general. I think—

Senator TESTER. OK. That is what I needed to know. The hearing is July 16, not July 12.

I have a question to followup on Senator Johnson's, if I could do you, Ms. Farrell. Short of the President of the United States, I do not know who is responsible for these security clearances. There are different standards, there are different responsibilities, different metrics, different everything.

So this incident comes up with Snowden. We should not be surprised at all. Where does the buck stop on this situation? Does the buck stop with Congress? Are we falling back? Should we be dictating what you should be doing? Or who should be doing this?

Ms. FARRELL. Well, we were encouraged when a governance structure was put in place by Executive Order back in 2008. The Executive Order established a Performance Accountability Council (PAC) to drive reform efforts toward effectiveness, efficiency, keep it going. And the Deputy for Management at OMB is the Chair of the Performance Accountability Council.

The order also established the Director of National Intelligence as the Security Executive Agent. It also established OPM as the Suitability Executive Agent.

So that question we asked many times after the Council was formed, when we were looking at the reform efforts and who is in charge. It comes down to the Performance Accountability Council, headed up by the Deputy Manager at OMB.

Senator TESTER. Very quickly, Mr. Miller, should I be concerned about this, concerned that there is no apparent metrics or standards or—

Mr. MILLER. Sir, there are standards.

Senator TESTER. Yes, but they vary between each agency, so consequently there is no reciprocity, and the standards could go from soup to nuts.

Mr. MILLER. Yes, sir. There has been a great deal of effort under the Performance Accountability Council to align standards and get consistency across Federal agencies.

Senator TESTER. Have we been successful in that to develop a single measurable standard?

Mr. MILLER. Sir, we are better than we have been. There is still work to do.

Senator TESTER. OK. Senator McCaskill.

Senator MCCASKILL. Let me go back to the convictions. When you have convictions of people who falsify investigations, what kind of processes are in place, Mr. McFarland or Ms. Schmitz, as to the investigations that the person was responsible for?

Ms. SCHMITZ. The Federal Investigative Services has an integrity assurance process in place, which is how most of these cases are initially detected. When they suspect that falsification is occurring, they do what they call a recovery effort, which is to identify the scope of the falsifications and then they have a federally employed background investigator go back and redo every single investigation that was assigned to that person, both to make sure that a quality product replaces the possibly defective product and to identify what is falsified for further criminal investigation and potential prosecution.

Senator MCCASKILL. For the people who are in the parameters of the investigation around these criminal convictions for falsification, I assume that their access to classified material is cutoff while that is done? Or are they allowed to keep their clearance while you look into it?

Ms. SCHMITZ. You mean the individuals who hold the security clearance?

Senator MCCASKILL. Correct.

Ms. SCHMITZ. Mert may know more than I do, but to my knowledge, they are not affected while the investigation is in process.

Senator MCCASKILL. Is that true? They are allowed to keep their classification even though you have discovered that during the pe-

riod of time their security clearance was given that somebody was criminally falsifying?

Mr. MILLER. Yes, ma'am, that is correct. The recovery process that was just mentioned is the top priority. Our integrity assurance program, as Michelle testified, is how these falsifications are uncovered.

Senator MCCASKILL. And you are doing that by recontact letters? Is that how this happens?

Mr. MILLER. Yes, ma'am. That is one of the processes, the recontact letters.

Senator MCCASKILL. How many people get recontact letters?

Mr. MILLER. Three percent a month of all investigations receive recontact activity, and that is for every agent we have employed. So there is not any agent that does not receive some recontact activity on their investigations.

Senator MCCASKILL. And when you say "agent," you mean government employee or contractor?

Mr. MILLER. Yes, ma'am.

Senator MCCASKILL. So everybody who is doing background checks, 3 percent of their work every month, the people who they say they interviewed, you do recontact letters to confirm they have been interviewed.

Mr. MILLER. Yes, ma'am.

Senator MCCASKILL. What if they falsify who they contacted and they are the ones getting the recontact letter?

Mr. MILLER. Then we will uncover the fraud.

Senator MCCASKILL. How?

Mr. MILLER. If the individual that we recontact was the individual, the lead that was falsified, typically the response is they were never spoken to by OPM.

Senator MCCASKILL. No. I mean what if the person making the falsification falsifies the person they contacted, makes up that it is them, and puts down a phone number that is a phone number they have access to or an address they have access to, a post office box, and they actually get the letter and say, "Yes, they contacted me," when in reality the whole thing was made up? How do you catch that?

Mr. MILLER. That is an interesting scenario. But we know where our agents reside. We know where our agents—

Senator MCCASKILL. Well, aren't some of these post office boxes?

Mr. MILLER. Some of the contacts are post office boxes, yes, ma'am.

Senator MCCASKILL. I know your background, and I know that you are through and through an investigator. It worries me that we have this many criminal falsifications, which means that there are people that are employed, by contractors or by you, that are not doing the work, and you are catching them sometimes. But if you are catching as many as you are, that means there are a lot you are not catching. If I was going to falsify something, I would not be stupid enough to put down the name and the address of the person who is going to say, "No, they never contacted me." I would put down a name and address where I would be able to control the receipt of that document and handle it so that I would go along undetected.

Mr. MILLER. One of the challenges for that scenario is that when they fill out their SF86, they identify references, the individual we are investigating, references and specific leads. So we are actually contacting the people that the individual being investigated has referred us to speak to. So that would help keep that problem from occurring.

Senator MCCASKILL. OK. Have you given any thought to shutting off the classification as you look at the investigation?

Mr. MILLER. Yes, ma'am. There has been some discussion about that. In fact, we have gone back and reviewed—I saw the handout that Mr. McFarland put out. It talks about the level and extent of investigations that were involved. But what we have determined is through the recovery process there have been no serious issues out of all the cases involved that resulted in a change in access. And so we expedite the recovery process and coordinate that with the agency and update the background investigation to make sure it is correct.

Senator MCCASKILL. Well, since these background checks are potentially falsified, I think we should consider during the pendency of your investigation into the falsification suspending clearance temporarily for any of the people that could be impacted by the falsification just because I think it would be easy for us to have a disaster in that area.

I am curious about paying for these for contractors; \$250 million, I think Mr. Lewis said, was paid just for security clearance for contractors in 1 year.

Now, you have a price sheet here. Are the contractors being asked to identify this separately in their contracts, the defense contractors, so that those costs are being delineated in their contracts? Or are they absorbed in their contract price and we just cover the cost? Which is it, Mr. Sims?

Mr. SIMS. Ma'am, those costs are paid for by public dollars. We do not charge contractors for the costs of their security clearance. Part of our budget is the cost for funding cleared contractors in industry, and that is what that \$252 million was for fiscal year 2012.

Senator MCCASKILL. All right. Well, then here is the question: If we are doing this for the contractors, which I question—it seems to me that this would be something that they should pay for. If they want to do business with the government in a classified setting, it seems like this should be their dime and not ours. But assuming that we are paying for it, then why in the world are we paying a premium for those that already have it? It sounds like to me we are paying for it twice. Because I know in defense contracts, they get extra money for having employees who have the clearance. So not only are we paying to give it to them, we are paying them again the second time that they already have it.

Mr. SIMS. Yes, ma'am, I see your point. I cannot address that last part of the question, but I can address the first part. We have done extensive research as to what is the most cost-effective way to pay for security clearance within the Department. The analysis shows that if we were to allow the contractors to build the cost of clearances into the contract then they would add overhead on the management of that. So the most cost-effective way was to manage

it from the Department, we pay those costs, because we pay it either way.

Senator MCCASKILL. That makes some sense. It does not make sense that we pay them for it since we did it in the first place. I mean, that does not make any sense. So I guess the contractors say, "Well, we are not going to make you pay for it again, so therefore you need to pay us more." Gee, that is a good deal if you can get it. And it sounds like to me our contractors are getting it.

So I would like you, Mr. Lewis, to get back to the Committee with why you cannot cease and desist paying a premium to contractors who have clearance since they did not pay for it in the first place.

Mr. SIMS. Ma'am, maybe I am confused. The \$250 million that we pay for contractor clearances on government contracts, those funds go to OPM through the Revolving Fund.

Senator MCCASKILL. No, I understand. I understand that public dollars are being used to provide clearances for private contractors. So the government, the taxpayers are providing clearances for contractors. Now, I know that in the area of defense contracting, you get a premium on your contract if the people who are working on your contract have clearance. That is what is irritating me, because they are getting a premium for something that the taxpayers provided them.

Mr. SIMS. You are correct.

Senator MCCASKILL. It would be one thing if they were getting a premium for something they had paid for, but they are not. They are getting a premium for something we paid for. That seems dumb to me. That is why I would like to figure out why we are doing that.

Mr. LEWIS. Ma'am, if I could just add in there, that is an issue we would have to address with the acquisition community, and we will be happy to come back to you with more information on that.

Senator MCCASKILL. I would love that, and the next time I see Ash Carter, I will mention it to him, too. It does not make any sense to me that we would do that.

I am out of time.

Senator TESTER. Mr. Lewis, what measures or safeguards are in place to monitor the military personnel, DOD civilians, private contractors with security clearances?

Mr. LEWIS. If you are talking about their day-to-day access to classified information, for contractors DSS does its oversight. From the standpoint of a military servicemember or a DOD civilian, that is the responsibility of the component head to establish a program to monitor and conduct oversight of their own operations.

Senator TESTER. Do you know what kind of criteria is used in these cases?

Mr. LEWIS. There is a DOD Information Security Program Manual which establishes criteria for not only how classified material is to be protected, but also issues of security concern that need to be reported to the central adjudication facility about an employee.

Senator TESTER. When we are talking about clearances that are potentially revoked, can you tell me what the biggest disqualifiers are?

Mr. LEWIS. Often it is for financial issues and individuals who have been involved in criminal activity.

Senator TESTER. OK. How many clearances have been revoked in the last year, or two, or three?

Mr. LEWIS. I would have to come back to you with those.

Senator TESTER. That would be good if you could.

In response to a previous question, I think Ms. Schmitz said that USIS was under investigation since late 2011. Did I hear that correctly?

Ms. SCHMITZ. Yes, sir.

Senator TESTER. And they are still under investigation now?

Ms. SCHMITZ. Yes, sir.

Senator TESTER. A year and a half later? How long do these investigations typically take?

Ms. SCHMITZ. A complicated contract fraud case typically takes several years.

Senator TESTER. And during that time business goes on as usual with these contractors even if they are under investigation?

Ms. SCHMITZ. It depends on the investigation. In this case, FIS has been aware of what we have been investigating since the beginning, and—

Senator TESTER. Can you tell me what that investigation is about? Can you legally tell me that?

Ms. SCHMITZ. Since it is ongoing, sir, I really do not want to risk jeopardizing the potential to—

Senator TESTER. That is fine. I do not want you to.

Senator McCaskill, do you have any further questions?

Senator MCCASKILL. I do. Just a couple.

I want to get at USIS in terms of not only having the biggest contract to do the background checks; but also having this program support contract. And these contracts are one of my nemeses in my job of overseeing contracts. All through our government there has been an easy way to augment personnel by doing these program support contracts, and at one point in time, and probably still at Homeland Security, you could not tell the contractors from the employees. They were doing the same functions. They were sitting at the same desks. They were working on the same things. One was a contractor and one was not, and partly it was because supposedly they were easier to get rid of.

So my question is: Why is USIS getting this \$45 million a year for program support? And what is that?

Mr. MILLER. Yes, ma'am. USIS, it is one of our primary support contracts. We provided some background to your staff about the costs associated with it. But our front-end operation has a number of routine activities it has to conduct, and much of it is manual based on the way the records come to us in paper style. We actually have 999 personnel that work the front-end operation for us. That is everything from scoping the investigation pre-review, inputting the data, and ensuring that the investigation gets distributed to our investigators in the field.

Senator MCCASKILL. OK. So we are paying USIS several hundred million dollars a year to do background checks, and we are paying them \$45 million a year to do the office work.

Mr. MILLER. Yes, ma'am.

Senator McCASKILL. What percentage of that 999 are contractors and what percentage of them are Federal employees?

Mr. MILLER. We have 35 personnel that oversee the contract, the support contract.

Senator McCASKILL. So of the 999, 35 of them are employees and 965 are contract people?

Mr. MILLER. Yes, ma'am.

Senator McCASKILL. Why are we paying contractors instead of hiring people?

Mr. MILLER. As we add automation, we are able to downsize the staffing, and so year to year we have seen a decline in the contract staff required for our support services. Also, based on the low-level jobs that they are, it is more financially beneficial for us to have contractors doing that work than bringing on full-time—

Senator McCASKILL. So you have a cost/benefit analysis that you could give to me?

Mr. MILLER. Not one I can give you, no, ma'am.

Senator McCASKILL. You don't? Because there is not one?

Mr. MILLER. There is not one.

Senator McCASKILL. OK. Well, then how do you know they are cheaper?

Mr. MILLER. Well, we will do a cost/benefit analysis and provide—

Senator McCASKILL. Well, it sounds like to me you have not done one, but yet you said they were cheaper.

Mr. MILLER. Yes, ma'am, because we—

Senator McCASKILL. Well, how do you know that?

Mr. MILLER. We can contract our workforce very quickly on the contract side, so as the automation gets added, we can go ahead and downsize those requirement within—

Senator McCASKILL. So you are telling me 999 is downsized?

Mr. MILLER. Yes, ma'am.

Senator McCASKILL. So it is lower than it was?

Mr. MILLER. Yes, ma'am.

Senator McCASKILL. What was it last year?

Mr. MILLER. I would have to get that number to you. It is over 1,000, but that is the only—

Senator McCASKILL. OK. Well, I am going to dig in here, just to warn you. I want the numbers. I want a cost/benefit analysis. I am tired of this assumption being made that contractors are cheaper, because I have been at this for 6 years, and I guarantee you about half the time I have looked hard, they have not been cheaper. In fact, there have been studies done that they are more expensive.

So I would like to take a hard look at that and make sure that that is the case, and that was the last line of questioning I wanted to make sure I covered today. I know all of you want to make this as good as possible, and we do not have these hearings to make everyone feel awkward and uncomfortable. We have these hearings because we know oversight is needed in this area, and I think all of you will acknowledge oversight.

I know that my friend from GAO and my friend from the IG's office know that oversight is needed, and I think even you all will acknowledge that this is an area that we have neglected oversight in. And, it takes one incident for all of us to realize that here is

a whole area of the government that most Americans don't know about and most Members of Congress have no idea how it actually works. The more we dig in, the more we realize more work needs to be done.

So I appreciate all of your public service. I know we asked some specific questions, and I know the Chairman may have others he wants to ask now. But I would appreciate getting that information back, and I am going to stay on this, Mr. Miller, about the cost/benefit analysis, because you know what? I bet we are going to figure out you can hire those people for less.

Thank you, Mr. Chairman.

Senator TESTER. Thank you, Senator McCaskill. I want to close now. If you have any closing remarks, have at it.

I just want to thank all of you for being here. I think Senator McCaskill said it well. We have these hearings to try to get information so we can make things run better. I appreciate you, given the short notice especially, all being here today because I know you are busy. Oversight is critically important. I think that has been brought up several times today, and making sure that we have the proper metrics, do the proper oversight, making sure we hold both government employees and contractors accountable is critically important.

What we are talking about here is the intelligence of the Nation. We have a ways to go to make sure that we have the kind of oversight in place and the kind of reciprocity in place, the kind of metrics in place that will ensure that our intelligence stays solid even to folks inside the Department.

We look forward to working with you, to constructively move forward in a way that makes sense for this country. Once again I want to thank you for your testimony. The record will remain open until July 8 for any additional comments or any questions by any of the Subcommittee Members.

With that, this hearing is adjourned. Thank you all.

[Whereupon, at 4:01 p.m., the Subcommittee was adjourned.]

APPENDIX



**Office of the Inspector General
United States Office of Personnel Management**

**Statement of the Honorable
Patrick E. McFarland
Inspector General**

before the

**Subcommittee on the Efficiency & Effectiveness of
Federal Programs & the Federal Workforce**

and

**Subcommittee on Financial and Contracting Oversight
Committee on Homeland Security and Governmental Affairs**

United States Senate

on

**“Safeguarding Our Nation’s Secrets:
Examining the Security Clearance Process”**

June 20, 2013

Chairmen Tester and McCaskill, Ranking Members Portman and Johnson and other distinguished Members of the Subcommittees:

Good afternoon. My name is Patrick E. McFarland. I am the Inspector General of the U.S. Office of Personnel Management (OPM). Thank you for inviting me to testify at today’s hearing about our oversight work related to OPM’s Federal Investigative Services program office.

There are many procedures which must be followed before an individual, whether a Federal employee or a contractor, is granted a security clearance by a Federal agency. The very first step, no matter the type of clearance, is a background investigation. Consequently, it is *vital* that Congress and the taxpayers have confidence that these background investigations are conducted appropriately, and in a timely and cost-effective manner.

As you know based upon recent discussions between our staffs, my office has been alarmed for several years about the lack of oversight of OPM's Federal Investigative Services program. However, our hands have been tied due to OPM's interpretation of the statute governing the funding of OPM's background investigations program.¹ I fear I will spend a great deal of time during this hearing saying "I don't know" or "We have not looked into that issue" because our resources remain woefully inadequate, preventing us from performing the level of oversight that such an important program requires. Therefore, in addition to providing you with an update regarding our audit and investigative findings related to the Federal Investigative Services, I respectfully request your assistance in amending this statute so that you and the American public can trust that our national security interests are being protected, and their tax dollars are being wisely spent.

Background

You specifically requested that I speak today about our past and current work related to the Federal Investigative Services program and the issues that were uncovered. Before doing this, however, I would like to provide some context for my remarks.

OPM, through its Federal Investigative Services office, conducts 90 percent of all background investigations for the Federal Government. During Fiscal Year 2012, the Federal Investigative Services delivered over two million investigative products. The background investigations that it conducted were for Federal and contractor positions, including those related to national security. The information gathered during these background investigations is then used by the requesting Federal agencies to determine whether employees and contractors are suitable for their positions, and whether they are eligible for a security clearance.

¹ 5 U.S.C. § 1304(e).

OPM conducts these background investigations on a reimbursable basis, much like a private business. OPM is obligated to set the price for these background investigations at a level that will generally allow it to recover the actual costs of conducting them. These monies are deposited directly into a Revolving Fund that is maintained separately from OPM's other appropriations accounts due to the fact that OPM is not permitted to use its other appropriated funds to subsidize the Federal Investigative Services' activities. For Fiscal Year 2014, the Federal Investigative Services' estimated obligations from this Revolving Fund are over \$1 billion.

The problem that my office has encountered is that the Office of the Inspector General's (OIG) oversight costs are not permitted to be charged against the Revolving Fund.² This creates a curious situation where a business-like enterprise is not required to fund even the most basic oversight practices, such as an annual financial audit. No private sector shareholder would invest in a \$1 billion enterprise without adequate assurance that it had effective internal controls – and yet, that is exactly what the American taxpayers are being asked to do.

The Administration has recognized the urgency of this problem and included our legislative remedy to this situation in the President's Fiscal Year 2014 Budget. I will describe this legislative proposal later in my testimony.

Fabrication of Background Investigations

I cannot emphasize enough how important the Federal Investigative Services is to protecting the nation's security and the public trust. Consequently, it is vital that there is effective, independent oversight of this program. As I mentioned above, a background investigation is the first step in the issuance of any security clearance. If that background investigation is not thorough, accurate, and reliable, then all other decisions made related to the issuance of the security clearance are suspect.

One of the most flagrant criminal violations that we encounter is the falsification of background investigation reports. We refer to these as "fabrication cases." These are situations where the Federal Investigative Services' background investigators, either Federal employees or contractors, report interviews that never occurred,

² In contrast, the OPM retirement, health care, and life insurance trust funds are charged for the cost of the OIG's oversight of those programs.

record answers to questions that were never asked, and document records checks that were never conducted.

For example, a record searcher fabricated 1,600 credit checks that she never actually completed. Ironically, her own background investigation had been falsified by a background investigator convicted in a *different* fabrication case.

Since we began investigating this type of case in 2006, 18 background investigators and record searchers have been criminally convicted. These 18 cases alone resulted in court-ordered restitution of \$1,287,899 to the Revolving Fund. This money represented the costs that the Federal Investigative Services incurred to reinvestigate the fabricated background investigations.

Last month, a 19th background investigator pled guilty, and the 20th is expected to enter a guilty plea this week. One of these individuals not only falsified his background investigations reports, but also attempted to tamper with witnesses after his fraud was discovered. Both of these background investigators were contractors.

Right now, we are actively working fabrication cases against 9 background investigators in addition to the 2 mentioned above, and we have cases pending against 36 background investigators.³ Pending cases are those that have been referred to us by the Federal Investigative Services' Integrity Assurance office and which we intend to investigate, but currently lack the resources to do so.

Since 2008, we have had a consistent backlog of fabrication cases pending criminal investigation. The longer it takes before we can conduct the criminal investigation, the more likely it is that witnesses' memories will fade to the extent that they are no longer good witnesses for trial. As a result, prosecution may not be possible, leaving administrative remedies as the only option.

Because the Federal Investigative Services utilizes both Federal employees and contractors to conduct background investigations, we are often asked which population commits the most fraud. To provide an accurate answer regarding whether variations between the populations are statistically significant would require detailed analysis of the data. Such analysis should consider the amount of work performed by each population as well as all OPM and contractor

³ Of the 11 active cases, 4 individuals were Federal employees and 7 were contractors. Of the 36 pending cases, 2 involve Federal employees and 34 involve contractors.

administrative actions with regard to suspected fabrication, some of which may not have risen to the level of referral to the OIG. The Federal Investigative Services would be in a better position to perform this analysis.

Of the 18 individuals convicted of fabrication, 11 (61 percent) were Federal employees and the rest were contractors. However, this is not an accurate reflection of the rate of falsification/commission of fraud within each population. Because we do not have the financial resources to investigate all of the fabrication cases referred to us in a timely manner, the criteria we consider when prioritizing cases are whether the individual is a Federal employee, the number of suspected falsifications, and the age of the case.

All other things being equal, we prioritize cases involving Federal employees because of the high cost to OPM. When Federal employees are suspected of falsification, the Federal Investigative Services generally places them on paid administrative leave until the case is resolved and sufficient evidence is gathered to support termination. There are a greater number of immediate administrative remedies available for contractors suspected of falsification. The Federal Investigative Services typically removes them promptly from the contract and is able to recover the costs of re-investigating their work through contract off-sets.⁴

Other Types of OIG Investigations

I have addressed primarily fabrication cases, but such cases are not the only type of crime related to the Federal Investigative Services that we investigate. We also investigate other types of employee misconduct. Two brief examples include death threats made by a former background investigator against a Federal Investigative Services official, and background investigators who falsely represent themselves as Federal law enforcement officers. One such individual attempted to use his OPM-issued credentials to justify carrying a firearm to an elementary school.

⁴ In contrast, the only way that the Federal Investigative Services can recover the costs of re-investigating reports fabricated by Federal employees is through court-ordered restitution subsequent to criminal investigation by the OIG.

Need for Suspension and Debarment

One administrative remedy available to address misconduct within the Federal Investigative Services is debarment. This prevents an individual or company from contracting with any Federal entity.

We are very concerned that OPM lacks an adequate suspension and debarment program for any of its programs or contracting activities, other than those related to the Federal Employees Health Benefits Program. The fact that OPM was not exercising its legal authority to suspend or debar was particularly disturbing considering the number of convictions involving the Federal Investigative Services background investigators.

When misconduct or lack of integrity is substantiated, the Federal Investigative Services takes prompt administrative action, such as placing a Federal employee on administrative leave or removing a contractor from an OPM contract. However, removal from the OPM contract alone is not sufficient because it is not equivalent to a Government-wide suspension or debarment. Consequently, there remains the potential for these individuals to be employed by, or do business with, other Federal agencies. In fact, we learned that a contract background investigator, who was removed from an OPM contract for falsifying reports, was later able to obtain contract employment performing background investigations for another Federal agency - *while a criminal indictment for fabricating reports was pending.*

In the fall of 2012, we brought this issue to the attention of former OPM Director John Berry. Former Director Berry acted upon our recommendation and OPM officials worked with our office, the Office of Management and Budget, and the Interagency Suspension and Debarment Committee to establish a debarment program that became effective on March 20, 2013.

Since March 2013, our office has referred to the OPM Suspension and Debarment program eight cases involving background investigators. We are currently in the process of preparing additional debarment referrals. To date, OPM has not suspended or debarred any individuals based upon these OIG referrals.

Audit and Financial Issues

Even though national security concerns trump other matters, I would be remiss if I did not also address the audit work that we have not been able to perform due to a lack of financial resources.

When our Office of Audits conducted a risk assessment of the Federal Investigative Services program in 2010, the division that was ranked as having the highest risk of being susceptible to fraud, waste, and abuse was the one that handled financial management, including billing, pricing, and budgeting issues. In a time when taxpayers and Government entities alike are dutifully watching every dollar, these are areas that demand additional oversight. However, because of our limited resources, we have been unable to pursue the issues identified in this risk assessment.

Our concerns are compounded by the fact that the Revolving Fund, which finances the Federal Investigative Services, has never had its annual financial statements audited in their entirety. I find this simply unacceptable. The Revolving Fund totals approximately \$2 billion annually, and slightly more than half of that is used to fund the Federal Investigative Services.

We are not the only ones concerned about the Federal Investigative Services' financial matters. In recent years, the Government Accountability Office and Members of Congress have raised concerns about the lack of transparency in its pricing and whether the program has a methodology in place to ensure its products and services are priced appropriately. The customer-agencies that make these purchases from the Federal Investigative Services do so using their own Federal appropriations. Consequently, even though the Federal Investigative Services itself does not receive an annual appropriation from Congress, the funds that flow through it are still Federal tax dollars.

To provide an idea of the amount of public funds at stake, we have provided a table on page 8 that lists the top ten Federal Investigative Services customers for Fiscal Years 2010, 2011, and 2012. Clearly evident is that even a small increase in efficiency could result in significant savings to the taxpayers. However, an audit of the Federal Investigative Services' pricing methodology must be second to the investigation of the fabrication cases, given their national security implications.

TABLE: FEDERAL INVESTIGATIVE SERVICES' TOP TEN CUSTOMERS FOR FISCAL YEARS 2010, 2011, AND 2012

Please note that these figures represent the value of all services purchased by these customers in the fiscal years shown. These services might be developed and delivered over multiple years, and thus the agencies may pay these "bills" over multiple years.

FY 2010		
Rank	Federal Entity	Amount (millions)
1	Defense	\$252.9
2	Army	\$215.8
3	Navy	\$148.4
4	Air Force	\$137.5
5	Energy	\$49.6
6	Homeland Security	\$44.4
7	Justice	\$41.4
8	Veterans Affairs	\$18
9	Treasury	\$13.6
10	Health and Human Services	\$13
Total		\$934.6

FY 2011		
Rank	Federal Entity	Amount (millions)
1	Defense	\$274
2	Army	\$212
3	Navy	\$160.8
4	Air Force	\$131.2
5	Homeland Security	\$57.3
6	Energy	\$44.5
7	Justice	\$28
8	Veterans Affairs	\$16.8
9	Health and Human Services	\$13.2
10	Treasury	\$11.9
Total		\$949.7

FY 2012		
Rank	Federal Entity	Amount (millions)
1	Defense	\$306.5
2	Army	\$199.2
3	Navy	\$164.6
4	Air Force	\$135.8
5	Homeland Security	\$57
6	Energy	\$47
7	Justice	\$35.1
8	Veterans Affairs	\$23.5
9	OPM	\$13.4
10	Treasury	\$11.8
Total		\$993.9

OIG Initiative Regarding the Federal Investigative Services

Due to problems uncovered by our prior and current work, our Office of Audits and Office of Investigations have initiated a joint effort to evaluate the policies and procedures that the Federal Investigative Services and its contractors utilize to review background investigations case files.

I will, of course, continue to keep your Subcommittees informed of the progress of our work in this area.

Legislative Proposal

As I mentioned earlier, the OIG does not have access to the Revolving Fund to support its oversight work of the Revolving Fund programs, including the Federal Investigative Services. This has resulted in these programs receiving a *de minimis* level of independent oversight.

Although the OIG's total annual appropriation is approximately \$24 million, \$21 million of this amount is from the retirement, health care, and life insurance trust funds and thus may be used solely for oversight of those programs. Consequently, we are left with \$3 million to conduct oversight of not only the Federal Investigative Services, but also the other commercial-like activities funded by the Revolving Fund (*e.g.*, Human Resources Solutions and USAJOBS), as well as all other non-trust fund programs that OPM operates (*e.g.*, the Combined Federal Campaign, the flexible spending account program, the dental and vision insurance program, and the long-term care insurance program).

We have sought funding to increase our oversight of OPM's Revolving Fund activities, including the Federal Investigative Services, since 2006, and have specifically requested direct access to the Revolving Fund itself since 2009. OPM has long taken the position that the Revolving Fund may not be used to fund OIG oversight work under the current statutory language, which permits the recovery only of the agency's "actual cost" in administering the programs. However, I am pleased to say that in the President's Fiscal Year 2014 Budget, the Administration has accepted our suggestion and proposed a legislative amendment that would make it clear that OIG oversight costs should be taken into account when setting the prices charged for Revolving Fund products and services.

I would like to state that this is not a radical proposal. Indeed, it simply seeks to have the OIG treated as part of OPM for purposes of the Revolving Fund, as the OIG is treated for all other budgetary purposes.⁵ Like OPM, the OIG would be required to submit an annual budget request and report detailing its Revolving Fund work. Further, the OIG would be limited to requesting up to one-third of one percent of the entire Revolving Fund budget estimate. For Fiscal Year 2014, when OPM estimates that the Revolving Fund budget will be approximately \$2 billion, this amount would equal \$6.6 million.

The financial impact of this proposal on OPM's Revolving Fund customers is negligible. Let me put this into context. If the OIG accessed the *entire maximum amount* under the proposal (\$6.6 million), then a customer would pay an additional \$3.30 for every \$1,000 spent on a Revolving Fund product or service. Money recovered or saved as a result of the OIG's oversight of the Revolving Fund programs would be returned directly back to the Revolving Fund. Considering that over the past 5 years our office has achieved an average return of \$7 for each oversight dollar we expend, I believe that OPM customers, as well as the taxpayers, would agree that this money would be well spent.

Conclusion

I wish that I could appear before you today and say that our office has a thorough understanding of the issues, challenges, and problems related to the Federal Investigative Services. Instead what I will tell you is that, given what our limited work has uncovered thus far, I know for a fact that there is a vast array of critical work that must be done to ensure the integrity of the Federal Investigative Services.

The Administration's legislative proposal, along with favorable support by your Subcommittees, would remedy this situation. It would provide our office with the resources it needs so that the next time I appear before you, I can provide you with the kind of factual information that you need in order to satisfy your Congressional oversight activities.

I would like to thank the Subcommittees for their work on this issue. We have been meeting with your staff and I very much appreciate your assistance in our effort to stop fraud, waste, and abuse within OPM programs. I would be happy to respond to any questions that you may have.

⁵ For example, the OIG's funds are considered part of OPM's appropriation in the President's Budget, and are contained within OPM's appropriation as enacted by Congress.

Opening Remarks

Mr. Stephen Lewis

Deputy Director Security Policy and Oversight
Under Secretary of Defense for Intelligence

Before the Subcommittee on Efficiency and Effectiveness of
Federal Programs and the Federal Workforce
and the
Subcommittee on Financial and Contracting Oversight

Thursday, June 20, 2013

Good Afternoon

Thank you very much, Chairman Tester, Chairman McCaskill and Members of the Committee, for inviting me to testify today. We appreciate the committee's continued interest in the efficiency and effectiveness of the personnel security clearance process. Because of your commitment to this critical function of our government and its ability to protect the national security, we have achieved major improvements over the last years and look forward to even more gains in the future.

I am Steve Lewis, Deputy Director, Security Policy and Oversight Directorate, Office of the Under Secretary of Defense for Intelligence (USD(I)). I am here today on behalf of the Under Secretary of Defense for Intelligence, Dr.

Michael Vickers. At this time, I would also like to introduce Mr. Stan Sims, Director, Defense Security Service, who is accompanying me today.

The Under Secretary of Defense for Intelligence is the Principal Staff Assistant to the Secretary and Deputy Secretary for security matters and is responsible for setting overall DoD policy to implement EO 13526, Classified National Security Information and EO 12968, Access to Classified Information.

In addition, the USDI is the senior official for DoD's personnel security program and has the primary responsibility for providing and approving guidance, oversight, and development for policy and procedures governing civilian, military, and industrial base personnel security programs within DoD.

Executive Order 13467 designates the Director of National Intelligence (DNI) as the Security Executive Agent with the responsibility to develop uniform policies and procedures to ensure effective completion of investigations and determinations of eligibility for access to classified information as well as reciprocal acceptance of those determinations.

With regard to the oversight roles and responsibilities within the DoD, the heads of DoD Components are responsible for establishing and overseeing

implementation of procedures to ensure protection of classified information and taking prompt and appropriate management action in cases of compromise of classified information. Such actions are required to focus on correcting or eliminating the conditions that caused, contributed to, or brought about the incident. This responsibility applies to military service members, DoD civilians and embedded contractor personnel.

Under the National Industrial Security Program (NISP), the Defense Security Service (DSS) is responsible for conducting oversight of companies cleared to perform on classified contracts for DoD and 26 other federal agencies that use DoD industrial security services.

The Department has worked very hard to create improvements that produced greater efficiencies and effectiveness in the phases of initiating and adjudicating background investigations. As a result, in 2011, the Government Accountability Office removed the DoD's personnel security clearance program from the high risk list.

We have used multiple initiatives to review and confirm the (1) quality of the investigative products we receive, (2) quality of our adjudications, and (3)

accuracy and completeness of the documentation of adjudicative rationale in support of appropriate oversight and reciprocity. In addition, we have implemented a certification process for DoD personnel security adjudicators.

In May, 2012, the Deputy Secretary of Defense directed the consolidation of all adjudicative functions and resources (except for DoD Intelligence Agencies) at Fort Meade, Maryland, under the direction, command, and control of the Director of Administration and Management (DA&M). This decision was made in order to maximize the efficiencies realized by the collocation of the various Centralized Adjudications Facilities (CAFs) under the 2005 round of Base Realignment and Closure (BRAC).

You specifically asked for the costs of obtaining security clearances for the Department. As you are aware, OPM conducts the vast majority of DoD personnel security background investigations. In FY 2012, DoD paid OPM approximately \$753M for security clearance investigations. This includes \$471M for security clearance investigations for military service members, \$30M for DoD civilians, and \$252M for industry.

Thank you for your time. I am happy to take your questions.

United States Government Accountability Office



Testimony

Before the Subcommittees on the Efficiency and Effectiveness of Federal Programs and the Federal Workforce, and on Financial and Contracting Oversight, Committee on Homeland Security and Governmental Affairs, U.S. Senate

For Release on Delivery
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PERSONNEL SECURITY CLEARANCES

Further Actions Needed to Improve the Process and Realize Efficiencies

Statement of Brenda S. Farrell, Director
Defense Capabilities and Management

GAO Highlights

Highlights of GAO-13-728T, a testimony before congressional Subcommittees, Committee on Homeland Security and Governmental Affairs, U.S. Senate

Why GAO Did This Study

Personnel security clearances allow government and industry personnel to gain access to classified information that, through unauthorized disclosure, can in some cases cause exceptionally grave damage to U.S. national security. In 2012, the Director of National Intelligence reported that more than 4.9 million federal government and contractor employees held a security clearance.

Multiple executive-branch agencies are responsible for different phases in the government-wide personnel security clearance process. The Director of National Intelligence, as Security Executive Agent, is to develop uniform and consistent policies and procedures. Executive branch agencies are to determine which positions require access to classified information. OPM's investigators from the Federal Investigative Service conduct the majority of security investigations on personnel holding those positions, and adjudicators from requesting agencies, such as DOD, make the final clearance eligibility determination. Reform efforts and reporting requirements since 2005 have focused on expediting the processing of clearances.

This testimony is based on GAO reports and testimonies issued between 2008 and 2013 on DOD's personnel security clearance programs and security clearance reform efforts. This testimony addresses three areas for improvement to the government-wide personnel security clearance process: (1) a sound requirements determination process, (2) performance metrics to measure quality, and (3) guidance to enhance efficiencies.

View GAO-13-728T. For more information, contact Brenda S. Farrell, (202) 512-3604, farrellb@gao.gov.

June 20, 2013

PERSONNEL SECURITY CLEARANCES

Further Actions Needed to Improve the Process and Realize Efficiencies

What GAO Found

In July 2012, GAO reported that the Director of National Intelligence, as Security Executive Agent, had not provided agencies clearly defined policy and procedures to consistently determine whether a civilian position required a security clearance. Underdesignating positions can lead to security risks; overdesignating positions can result in significant cost implications. Also, GAO reported that the Department of Homeland Security and Department of Defense (DOD) components' officials were aware of the need to keep the number of security clearances to a minimum but were not always required to conduct periodic reviews and validations of the security clearance needs of existing positions. GAO recommended that, among other things, the Director of National Intelligence, in coordination with the Director of Office of Personnel Management (OPM) and other executive branch agencies as appropriate, issue clearly defined policies and procedures to follow when determining if federal civilian positions require a security clearance, and also guidance to require executive branch agencies to periodically review and revise or validate the designation of all federal civilian positions. The Director of National Intelligence concurred with GAO's recommendations and identified actions to implement them.

Executive branch agency efforts to improve the personnel security process have emphasized timeliness but not quality. In May 2009, GAO reported that with respect to initial top secret clearances adjudicated in July 2008, documentation was incomplete for most of OPM investigative reports. GAO independently estimated that 87 percent of about 3,500 investigative reports that DOD adjudicators used to make clearance decisions were missing required documentation. In May 2009, GAO recommended that the Director of OPM direct the Associate Director of OPM's Federal Investigative Services to measure the frequency with which its investigative reports met federal investigative standards in order to improve the completeness—that is, quality—of future investigation documentation. As of March 2013, however, OPM had not implemented this recommendation.

Government-wide personnel security reform efforts have not yet focused on potential cost savings, even though the stated mission of these efforts includes improving cost savings. For example, OPM's investigation process—which represents a portion of the security clearance process and has significant costs—has not been studied for process efficiencies or cost savings. In February 2012, GAO reported that OPM received over \$1 billion to conduct more than 2 million background investigations in fiscal year 2011. GAO raised concerns that OPM may be simultaneously investing in process streamlining technology while maintaining a less efficient and duplicative paper-based process. In 2012, GAO recommended that, to improve the efficiency of suitability and personnel security clearance background investigation processes that could lead to cost savings, the Director of OPM direct the Associate Director of Federal Investigative Services to take actions to identify process efficiencies that could lead to cost savings within its background investigation process. OPM agreed with this recommendation and GAO is working with OPM to assess any progress it has made in this area.

Chairmen Tester and McCaskill, Ranking Members Portman and Johnson, and Members of the Subcommittees:

Thank you for the opportunity to be here to participate in the discussion of the government-wide personnel security clearance process. As you know, we have an extensive body of work on issues related to the security clearance process dating back several decades. Since 2008, we have focused on the government-wide effort to reform the security clearance process.

Personnel security clearances allow government and industry personnel to gain access to classified information that, through unauthorized disclosure, can in some cases cause exceptionally grave damage to U.S. national security. As you know, a high volume of clearances continue to be processed. In 2012, the Director of National Intelligence reported¹ that more than 4.9 million federal government and contractor employees held a security clearance, making it a formidable challenge to those responsible for deciding who should be granted a clearance. The Department of Defense (DOD) accounts for the vast majority of all personnel security clearances.

My testimony today will focus on three areas for improvement to the government-wide personnel security clearance process: (1) a sound requirements determination process, (2) performance metrics to measure quality, and (3) guidance to enhance efficiencies.

My testimony is based on our reports and testimonies issued between 2008 and 2013 on DOD's personnel security clearance program and government-wide suitability and security clearance reform efforts.² Our reports and testimonies were conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

¹Office of the Director of National Intelligence, *2012 Report on Security Clearance Determinations* (January 2013).

²See related GAO products at the end of this statement. More information on our scope and methodology is included in each issued report.

Background

Multiple executive-branch agencies are responsible for different phases in the federal government's personnel security clearance process. In 2008, the Director of National Intelligence, for example, was designated Security Executive Agent by Executive Order 13467³ and, in this capacity, is responsible for developing uniform and consistent policies and procedures to ensure the effective, efficient, and timely completion of background investigations and adjudications relating to determinations of eligibility for access to classified information or eligibility to hold a sensitive position. In turn, requesting executive branch agencies determine which positions—military, civilian, or private-industry contractors—require access to classified information and, therefore, which people must apply for and undergo a security clearance investigation. Investigators—often contractors—from Federal Investigative Services within the Office of Personnel Management (OPM) conduct these investigations for most of the federal government using federal investigative standards and OPM internal guidance as criteria for collecting background information on applicants.⁴ Adjudicators from requesting agencies, such as DOD, use the information contained in the resulting OPM investigative reports and consider federal adjudicative guidelines to determine whether an applicant is eligible for a personnel security clearance.

DOD is OPM's largest customer, and its Under Secretary of Defense for Intelligence (USD(I)) is responsible for developing, coordinating, and overseeing the implementation of DOD policy, programs, and guidance for personnel, physical, industrial, information, operations, chemical/biological, and DOD Special Access Program security. Additionally, the Defense Security Service, under the authority and direction and control of USD(I), manages and administers the DOD portion of the National Industrial Security Program⁵ for the DOD components and other federal services by agreement, as well as providing security education and training, among other things.

³Executive Order No. 13467, *Reforming Processes Related to Suitability for Government Employment, Fitness for Contractor Employees, and Eligibility for Access to Classified National Security Information* (June 30, 2008).

⁴Agencies without delegated authority rely on OPM to conduct their background investigations while agencies with delegated authority—including the Defense Intelligence Agency, National Security Agency, National Geospatial-Intelligence Agency, Central Intelligence Agency, Federal Bureau of Investigations, National Reconnaissance Office, and Department of State—have been authorized to conduct their own background investigations.

⁵The National Industrial Security Program was established by Executive Order 12829 to safeguard Federal Government classified information that is released to contractors, licensees, and grantees of the United States Government, Executive Order No. 12829, *National Industrial Security Program* (Jan. 6, 1993).

Section 3001 of the Intelligence Reform and Terrorism Prevention Act of 2004⁶ prompted government-wide suitability and security clearance reform. The act required an annual report of progress and key measurements as to the timeliness of initial security clearances in February of each year from 2006 through 2011. It specifically required those reports to include the periods of time required for conducting investigations, adjudicating cases, and granting clearances. However, the Intelligence Reform and Terrorism Prevention Act requirement for the executive branch to annually report on its timeliness has expired. More recently, the Intelligence Authorization Act of 2010⁷ established a new requirement that the President annually report to Congress, among other things, the total amount of time required to process certain security clearance determinations for the previous fiscal year for each element of the Intelligence Community. The Intelligence Authorization Act of 2010 additionally requires that those annual reports include the total number of active security clearances throughout the United States government, to include both government employees and contractors. Unlike the Intelligence Reform and Terrorism Prevention Act reporting requirement, the requirement to submit these annual reports does not expire.

In 2007, DOD and the Office of the Director of National Intelligence formed the Joint Security Clearance Process Reform Team, known as the Joint Reform Team, to improve the security clearance process government-wide. In a 2008 memorandum, the President called for a reform of the security clearance program and subsequently issued Executive Order 13467⁸ establishing a Performance Accountability Council. Under the executive order, this council is accountable to the President for driving implementation of the reform effort, including ensuring the alignment of security and suitability processes, holding agencies accountable for implementation, and establishing goals and metrics for progress. The order also appointed the Deputy Director for Management at the Office of Management and Budget as the chair of the

⁶Pub. L. No. 108-458 (2004) (relevant sections codified at 50 U.S.C. § 435b).

⁷Pub. L. No. 111-259, § 367 (2010) (codified at 50 U.S.C. § 415a-10).

⁸Executive Order No. 13467, *Reforming Processes Related to Suitability for Government Employment, Fitness for Contractor Employees, and Eligibility for Access to Classified National Security Information* (June 30, 2008).

council and designated the Director of National Intelligence as the Security Executive Agent and the Director of OPM as the Suitability Executive Agent.⁹

Improvements Needed to the Personnel Security Clearance Process

Sound Requirements Determination Process

We have previously reported that, to safeguard classified data and manage costs, agencies need an effective process to determine whether positions require a clearance and, if so, at what level. Last year we found, however, that the Director of National Intelligence, as Security Executive Agent, has not provided agencies clearly defined policies and procedures to consistently determine if a civilian position requires a security clearance.¹⁰ Executive Order 13467 assigns the Director responsibility for, among other things, developing uniform and consistent policies and procedures to ensure the effective, efficient, and timely completion of background investigations and adjudications relating to determinations of eligibility for access to classified information or eligibility to hold a sensitive position, and gives the Director authority to issue guidance to agency heads to ensure uniformity in processes relating to those determinations. Further, the Director also has not established guidance to require agencies to review and revise or validate existing federal civilian position designations. Executive Order 12968¹¹ says that, subject to certain exceptions, eligibility for access to classified information shall only be requested and granted on the basis of a demonstrated, foreseeable need for access, and the number of employees that each agency determines is eligible for access to classified information shall be kept to the minimum required. The order also states that access to classified information shall be terminated when an employee no longer has a need for access, and prohibits requesting or approving eligibility for access in excess of the actual requirements. Without such requirements, executive branch agencies may be hiring and budgeting for initial and periodic security clearance investigations using position descriptions and security clearance requirements that no longer reflect national security needs.

⁹Determinations of suitability for government employment in positions in the competitive service and for career appointment in the Senior Executive Service include consideration of aspects of an individual's character or conduct that may have an effect on the integrity or efficiency of their service.

¹⁰GAO, *Security Clearances: Agencies Need Clearly Defined Policy for Determining Civilian Position Requirements*, GAO-12-800 (Washington, D.C.: July 12, 2012).

¹¹Executive Order No. 12968, *Access to Classified Information* (Aug. 2, 1995 as amended).

In our July 2012 report, we found that Department of Homeland Security and DOD components' officials were aware of the need to keep the number of security clearances to a minimum, but were not always required to conduct periodic reviews and validations of the security clearance needs of existing positions. Overdesignating positions results in significant cost implications, given that the fiscal year 2012 base price for a top secret clearance investigation conducted by OPM was \$4,005, while the base price of a secret clearance was \$260. Conversely, underdesignating positions could lead to security risks.

In the absence of guidance to determine if a position requires a security clearance, agencies are using a tool that OPM designed to determine the sensitivity and risk levels of civilian positions which, in turn, inform the type of investigation needed. OPM audits, however, found inconsistency in these position designations, and some agencies described problems in implementing OPM's tool. In an April 2012 audit, OPM reviewed the sensitivity levels of 39 positions in an agency within DOD and reached different conclusions than the agency for 26 of them. Problems exist, in part, because OPM and the Office of the Director of National Intelligence did not collaborate on the development of the position designation tool, and because their roles for suitability—consideration of character and conduct for federal employment—and security clearance reform are still evolving. In our July 2012 report, we concluded that without guidance from the Director of National Intelligence, and without collaboration between the Office of the Director of National Intelligence and OPM in future revisions to the tool, executive branch agencies will continue to risk making security clearance determinations that are inconsistent or at improper levels.

In July 2012, we recommended, among other things, that the Director of National Intelligence, in coordination with the Director of OPM and other executive branch agencies as appropriate, issue clearly defined policy and procedures for federal agencies to follow when determining if federal civilian positions require a security clearance. We also recommended that the Director of National Intelligence, in coordination with the Director of OPM and other executive branch agencies as appropriate, issue guidance to require executive branch agencies to periodically review and revise or validate the designation of all federal civilian positions. The Director of National Intelligence concurred with our recommendation and has taken steps to implement them.

Performance Metrics to Measure Quality

We have emphasized—since the late 1990s¹²—a need to build quality and quality monitoring throughout the clearance process to promote oversight and positive outcomes, such as honoring reciprocity.¹³ Executive branch efforts have emphasized timeliness, but efforts to develop and implement metrics for measuring the quality of investigations have not included goals with related outcome focused measures to show progress or identify obstacles to progress and possible remedies. Furthermore, our recent reviews of OPM's investigations show reasons for continuing concern. For example, in May 2009 we reported that, with respect to initial top secret clearances adjudicated in July 2008, documentation was incomplete for most OPM investigative reports. We independently estimated that 87 percent of about 3,500 investigative reports that DOD adjudicators used to make clearance decision were missing required documentation. We recommended that the Director of OPM direct the Associate Director of OPM's Federal Investigative Services Division to measure the frequency with which its investigative reports meet federal investigative standards in order to improve the completeness—that is, quality—of future investigation documentation.¹⁴ As of March 2013, however, OPM had not implemented our recommendation to measure how frequently investigative reports meet federal investigative standards.¹⁵ Instead, OPM continues to assess the quality of investigations based on voluntary reporting from customer agencies. Specifically, OPM tracks investigations that are (1) returned for rework from the requesting agency, (2) identified as deficient using a web-based survey, and (3) identified as deficient through adjudicator calls to OPM's quality hotline. In our past work, we have noted that the number of investigations returned for rework is not by itself a valid indicator of the quality of investigative work because adjudication officials have been reluctant to return incomplete investigations in anticipation of delays that would impact timeliness. Further, relying on agencies to voluntarily

¹²GAO, *DOD Personnel: Inadequate Personnel Security Investigations Pose National Security Risks*, GAO/NSIAD-00-12 (Washington, D.C.: Oct. 27, 1999).

¹³Subject to certain exceptions, all agencies shall accept a background investigation or clearance determination completed by any other authorized investigative or adjudicative agency.

¹⁴GAO, *DOD Personnel Clearances: Comprehensive Timeliness Reporting, Complete Clearance Documentation, and Quality Measures Are Needed to Further Improve the Clearance Process*, GAO-09-400 (Washington, D.C.: May 19, 2009).

¹⁵GAO, *Managing for Results: Agencies Should More Fully Develop Priority Goals under the GPRA Modernization Act*, GAO-13-174 (Washington, D.C.: April 19, 2013).

provide information on investigation quality may not reflect the quality of OPM's total investigation workload.

In February 2011, we noted that one of OPM's customer agencies, DOD, had developed and implemented a tool known as Rapid Assessment of Incomplete Security Evaluations to monitor the quality of investigations completed by OPM. In that report, we noted that leaders of the reform effort had provided congressional members and executive branch agencies with metrics assessing quality and other aspects of the clearance process. Although the Rapid Assessment of Incomplete Security Evaluations was one tool the reform team members planned to use for measuring quality, according to an OPM official, OPM chose not to use this tool. Instead, OPM opted to develop another tool but has not provided details on the tool including estimated timeframes for its development and implementation.

Guidance to Enhance Efficiencies

Since 2008, we have highlighted the importance of the executive branch enhancing efficiency and managing costs related to security clearance reform efforts. Government-wide suitability and personnel security clearance reform efforts have not yet focused on identifying potential cost savings, even though the stated mission of these efforts includes improving cost savings. For example, in 2008, we noted that one of the key factors to consider in current and future reform efforts was the long-term funding requirements. Further, in 2009, we found that reform-related reports issued in 2008¹⁶ did not detail which reform objectives require funding, how much they will cost, or where funding will come from.¹⁷ Finally, the reports did not estimate potential cost savings resulting from these reform efforts. While the Performance Accountability Council has a stated goal regarding cost savings, it has not provided the executive branch with guidance on opportunities for achieving efficiencies in managing personnel security clearances.

For example, OPM's investigation process—which represents just a portion of the security clearance process and had significant costs—has not been studied for process efficiencies or cost savings. In February 2012, we reported that OPM received over \$1 billion to conduct more than 2 million background investigations (suitability determinations and personnel security

¹⁶Joint Security and Suitability Reform Team, *Enterprise Information Technology Strategy* (Washington, D.C.: Mar. 17, 2009) and Joint Security and Suitability Reform Team, *Security and Suitability Process Reform* (Washington, D.C.: April 2008 and updated December 2008)

¹⁷GAO, *Personnel Security Clearances: An Outcome-Focused Strategy Is Needed to Guide Implementation of the Reformed Clearance Process*, GAO-09-488 (Washington, D.C.: May 19, 2009).

clearances) for government employees in fiscal year 2011. OPM officials explained that, to date, they have chosen to address investigation timeliness and investigation backlogs rather than the identification of process and workforce efficiencies. To its credit, OPM helped reduce the backlog of ongoing background investigations that it inherited from DOD at the time of the 2005 transfer. However, only recently has OPM started to look at its internal processes for efficiencies. Further, while OPM invested in an electronic case-management program, it continues to convert submitted electronic files to paper. In November 2010, the Deputy Director for Management of the Office of Management and Budget testified that OPM receives 98 percent of investigation applications electronically, yet we observed that it was continuing to use a paper-based investigation processing system and convert electronically submitted applications to paper. OPM officials stated that the paper-based process is required because a small portion of their customer agencies do not have electronic capabilities. As a result, OPM may be simultaneously investing in process streamlining technology while maintaining a less efficient and duplicative paper-based process. In 2012, we recommended that, to improve transparency of costs and the efficiency of suitability and personnel security clearance background investigation processes that could lead to cost savings, the Director of OPM direct the Associate Director of Federal Investigative Services to take actions to identify process efficiencies that could lead to cost savings within its background investigation process.¹⁸ OPM agreed with this recommendation and we are working with OPM to assess any progress it has made in this area.

Further, agencies have made potentially duplicative investments in case-management and adjudication systems without considering opportunities for leveraging existing technologies. In February 2012, as part of our annual report on opportunities to reduce duplication, overlap and fragmentation, we reported that multiple agencies have invested in or are beginning to invest in potentially duplicative, electronic case management and adjudication systems despite government-wide reform effort goals that agencies leverage existing technologies to reduce duplication and enhance reciprocity.¹⁹ According to DOD officials, DOD began the development of its Case Adjudication Tracking System in 2006 and, as of 2011, had invested a total of \$32 million to deploy the system. The system helped DOD achieve efficiencies with case

¹⁸GAO, *Background Investigations: Office of Personnel Management Needs to Improve Transparency of Its Pricing and Seek Cost Savings*, GAO-12-197 (Washington, D.C.: Feb. 28, 2012).

¹⁹GAO, *2012 Annual Report: Opportunities to Reduce Duplication, Overlap and Fragmentation, Achieve Savings, and Enhance Revenue*, GAO-12-342SP (Washington, D.C.: Feb. 28, 2012).

management and an electronic adjudication module for secret level cases that did not contain issues, given the volume and types of adjudications performed. According to DOD officials, after it observed that the Case Adjudication Tracking System could easily be deployed to other agencies at a low cost, the department intended to share the technology with interested entities across the federal government. However, at that time, five other agencies were also developing or seeking funds to develop individual systems with capabilities similar to DOD's system.²⁰ With multiple agencies developing individual case-management systems, these agencies may be at risk of duplicating efforts and may fail to realize cost savings.

In 2012, we recommended that the Deputy Director for Management at OMB, in his capacity as the Chair of the Performance Accountability Council, expand and specify reform-related guidance to help ensure that reform stakeholders identify opportunities for efficiencies and cost savings, such as preventing duplication in the development of electronic case management.²¹ OMB concurred with our recommendation. As of March of this year, however, OMB has not expanded and specified reform-related guidance to help ensure that reform stakeholders identify opportunities for cost savings. According to OMB officials, they are exploring whether and how to develop and implement guidance on information technology spending that is minimally disruptive, will not compromise agencies' ability to adjudicate cases, and is implementable within budget constraints. While these specific efforts may be notable steps in clearance reform, they do not meet the intent of our recommendation for OMB to develop overarching guidance that reform stakeholders can use to identify opportunities for cost savings.

In conclusion, while the executive branch has made strides in improving the timeliness of the personnel security clearance process, now is the time to focus on making the improvements GAO has recommended. Failing to do so increases the risk of damaging unauthorized disclosures of classified information. This concludes my prepared statement. I would be pleased to answer any questions that you may have at this time.

²⁰These agencies are the Department of Homeland Security, Department of the Treasury, Department of Justice, Department of Veterans Affairs, and the National Reconnaissance Office.

²¹GAO-12-197.

For further information on this testimony, please contact Brenda S. Farrell, Director, Defense Capabilities and Management, who may be reached at (202) 512-3604 or farrellb@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. GAO staff who made key contributions to this testimony include David Moser (Assistant Director), Sara Cradic, Mae Jones, Erin Preston, Leigh Ann Sennette, and Michael Willems.

The wrong way to weed out spies

By John Hamre, February 20, 2013

http://articles.washingtonpost.com/2013-02-20/opinions/37200891_1_security-clearances-investigator-government-computer

John Hamre, a former deputy secretary of defense and chairman of the Defense Policy Board, is president and chief executive of the [Center for Strategic and International Studies](#).

The [looming budget crisis](#) will hit the Defense Department very hard. But there is a place where we can cut budgets and improve our security: reforming the process by which security clearances are granted.

Last month I was notified that I needed to renew my security clearances. I have held security clearances continuously since 1986 and have endured at least six detailed background investigations over that time. But my last background investigation was more than five years old. I was informed, and it needed to be updated. I was directed to an Office of Personnel Management (OPM) Web site, where I was instructed to create an electronic record, my SF-86.

An electronic version of my SF-86 has existed for at least five years. Yet the OPM apparently had no record of this document, which was filed with that agency.

Okay, I thought, I need to do this. So I spent four hours one Saturday completing another SF-86. One of the form's instructions was troubling: "List all foreign travel you have undertaken in the past 7 years."

I travel extensively for business and routinely meet senior government officials. Each time, I file a trip report because of my clearances. So I refused to enter the information, rather than give it to our government a second time. All of it, after all, is already in a government computer somewhere.

Soon an OPM investigator contacted me about my clearance renewal. She would need two hours with me, my secretary was told. No way, I thought. How wrong.

At the appointed hour a pleasant but mechanical investigator arrived. After presenting her credentials and informing me of my rights, she suggested we proceed.

"Is your name John Julian Hamre?" she asked.

Yes, I replied.

She asked if I lived at my street address.

I paused, a bit surprised, then replied, "Yes."

She asked if I was born on my birth date.

I paused again. "Ma'am, do you plan to read to me my SF-86 form?" I asked. If I lied in completing the form, I noted, I was unlikely to admit it in the interview. Let's just go to the end, I suggested. "I will swear it is all true, and if you find a fault, you can accuse me of perjury."

My common-sense suggestion had no effect. "We prefer to read the questions to you and ask you to respond," I was told.

In other words, to grant a top-secret clearance in the United States, we ask a potential spy to fill out a form, which is given to an employee, possibly a contract worker, who then asks the candidate to verbally confirm what he has written.

Unbelievable.

I once served on the board of a major company that collected computer records and provided knowledge services (for example, credit reports) and customer verification services to the insurance industry. The company could detect fraud in more than 99 percent of cases by asking a potential claimant five questions along the lines of: "Did you live at 123 Maple Ave., 345 Apple Ave. or 456 Oak Ave.?" "At 123 Maple Ave., did your house have two bathrooms, two and a half, or four?" "Did the house at 345 Apple Ave. have one fireplace, two or none?"

It needed only five such questions. Why, then, does OPM have workers reading applicants the forms that the applicants themselves have filled out, then asking whether this is the truth?

My friends in intelligence say that across all federal agencies, we spend nearly \$1 billion on background investigations built on obsolete procedures such as the one I experienced. In an era of countless data sources and intelligence data analysis, why does our government rely on forms designed in the 1950s? This system is patently naive.

Consider that the spies in U.S. jails passed polygraphs — and held clearances granted by a system like the one I describe.

Technology has produced powerful tools. Today, people can check identities using multiple channels of information that cannot be spoofed, even by sophisticated hostile intelligence services. These commercial data sources are available for pennies. If the think tank where I work can buy a complete background investigation on potential employees for less than \$100, why is our nation's security clearance process frozen in decades-old administrative rules and refined to ludicrous dimensions?

I have dedicated 38 years of my life to America's national security. I know there are spies in our midst. We can improve security and save money simultaneously. But our country needs a system built for the 21st century. The current system is pathetic.

Support Services Contract Cost Benefit Analysis

**U.S. Office of Personnel Management (OPM)
Federal Investigative Services Division (FIS)**

WHITE PAPER

**Support Services Contract
Cost Benefit Analysis**



Support Services Contract Cost Benefit Analysis

Purpose

During a Senate Homeland Security and Government Affairs Committee hearing, held jointly by the Financial and Contracting Oversight Subcommittee and the Efficiency and Effectiveness of Federal Programs and the Federal Workforce Subcommittee, on June 20, 2013, one of the Chairs of the Subcommittees requested to have FIS do a cost benefit analysis (CBA) to determine if the Support Services Contract (SSC) held by U.S. Investigations Services Inc. (USIS) was financially beneficial to the Federal Government as compared to hiring federal employees to conduct the same work.

This white paper (1) describes the methodology OPM used to compare costs and (2) OPM's analysis of results. In preparing this paper, OPM has sought to (1) capture the full costs of government and private sector performance and (2) provide "like comparisons" of costs that are of a sufficient magnitude to influence the final decision on the most cost effective source of support for the organization. These principles are laid out in OMB Memorandum M-09-26, which provides government-wide management guidance to agencies for managing the multi-sector workforce.

See: http://www.whitehouse.gov/sites/default/files/omb/assets/memoranda_fy2009/m-09-26.pdf at Attachment 1.B.2.

Application of the methodology described below suggests that it is cost effective to continue using contract support to perform a portion of the background investigation work, with the balance continuing to be performed by federal employees. Notwithstanding this finding, OPM intends to continually analyze this mix -- both from a cost and human capital perspective. Among other things, OPM will work with OMB as it develops government-wide guidance on cost-comparisons and intends to revisit its analysis based on any alternative methodologies that may result from this effort as well as based on any other programmatic changes that may be made over time to its approach to performing background investigations.

Methodology

This section outlines the methodology used to conduct a CBA of the SSC for OPM-FIS. The goal of the methodology is to determine an equivalent basis to compare the projected costs of the SSC with the projected costs if performed by Federal staff. The first step is to develop cost estimates of the SSC as detailed in the following section.

SSC Costs

To determine SSC costs, a series of steps were undertaken. Summary of costs are:

Support Services Contract Cost Benefit Analysis

Fiscal Yr	Costs
FY2011	\$ 53.93 M
FY2012	\$ 46.21 M
FY2013	\$ 46.02 M
FY2014	\$ 47.35 M
FY2015	\$ 48.71 M

Table 1 – Actual and Projected Support Services Contract Costs*¹

*Note Q4 FY 2013 – FY 2015 costs are projected

STEP 1: The actual costs were retrieved from beginning FY 2011 through Q3 FY 2013. The remainder of FY 2013 was straight-line projected based on the actual costs from 10/1/2012 – 6/30/2013. See Table 2, below, illustrating this calculation.

FY2013 Actuals (FY13 Q1 - Q3)	Average per Month (FY13 Q1 - Q3)	FY 2013 Q4 Estimate	FY2013 Projected Total
\$ 34.51 M	\$ 3.83 M	\$ 11.50 M	\$ 46.02 M

Table 2 – FY 2013 Q1-Q3 Actual Costs with Q4 Projection¹

STEP 2: To project the costs for FY 2014 and FY 2015, the Support Services Contract document was referenced to calculate an average percentage increase per FY. This increase was based upon the line item prices for each product. The percentage change was first calculated for Fiscal Years 2013 – 2014 (2.80% increase), and then for Fiscal Years 2014 - 2015 (2.98% increase). The percentage change was averaged over those time periods to arrive at an overall average of 2.89%. See Table 3, below, illustrating the calculations.

Fiscal Year	Average % Increase
FY 2013 - FY2014	2.80%
FY 2014 - FY2015	2.98%
Overall Average	2.89%

Table 3 – Average percentage change in pricing¹

STEP 3: The overall average percentage change (2.89%) was then used to project SSC costs for FY 2014 and FY 2015. Table 4 illustrates the actual and projected costs.

Support Services Contract Cost Benefit Analysis

Fiscal Yr	Costs
FY2011	\$ 53.93 M
FY2012	\$ 46.21 M
FY2013	\$ 46.02 M
FY2014	\$ 47.35 M
FY2015	\$ 48.71 M

Table 4 – SSC Actual & Projected Costs¹

The costs illustrated in Table 4 were used as the basis for comparison with the Federal Costs. The methodology to determine the Federal costs will be examined next.

Federal Costs

To determine Federal Costs, a series of steps were undertaken to develop an equivalent basis for comparison.

STEP 1: Personnel data for the Support Services Contract with the position-by-position description and the total number of Contractor Manpower Equivalent (CME) is shown in Table 6 below. For comparison purposes, using the provided position descriptions (and other data provided by the support contractor), equivalent Federal positions were determined. FY 2012 salaries were then applied according to General Schedule (GS) and Wage Grade (WG) scales (refer to Table 6 to see how SSC position descriptions relate to the Federal GS and WG scales).

STEP 2: Because the number of people in each type of position fluctuates significantly annually (as shown in table 5) an average CME for each position was calculated. The calculation was done by taking the average for each year (2010-2011 [867.5]; 2011-2012 [962.5]; 2012-2013 [996.0]) and then averaging these three periods to calculate an overall average (942). Table 5 summarizes this calculation for all positions.

Support Services Contract Cost Benefit Analysis

SSC Job Title	Actual				Averages			
	31-Dec-10	31-Dec-11	31-Dec-12	31-May-13	2010-2011	2011-2012	2012-2013	3 YR avg
Support Schedule Technician	211	204	265	241	207.5	234.5	253.0	231.7
Support File Technician	133	131	186	165	132.0	158.5	175.5	155.3
Support Imaging Technician	80	91	88	92	85.5	89.5	90.0	88.3
Support Pre-Review	221	330	269	287	275.5	299.5	278.0	284.3
Support Telephone Liaisons	9	6	6	6	7.5	6.0	6.0	6.5
Support Case Closing	25	34	29	32	29.5	31.5	30.5	30.5
Support Case Closing Automated	9	12	12	12	10.5	12.0	12.0	11.5
Support Post Closing	18	17	16	13	17.5	16.5	14.5	16.2
Support Mailroom Technician	51	48	56	61	49.5	52.0	58.5	53.3
Support Quality Control	5	13	17	22	9.0	15.0	19.5	14.5
Support Manager	22	24	25	42	23.0	24.5	33.5	27.0
Support Other	19	22	24	26	20.5	23.0	25.0	22.8
Sub Total Program FTE	803	932	993	999	867.5	962.5	996.0	942.0

Table 5 – CME/FTE average calculations⁴

STEP 3: To make a valid comparison, we considered average CME totals as analogous to FTE totals. To calculate a FY 2012 base salary total for the Federal equivalent staff, the average FTE was multiplied by the GS or WG salary for each position. All positions were then totaled to derive a total base salary. The below example demonstrates how the base salary for one position was calculated.

*EXAMPLE: The Federal equivalent for an Imaging Technician is GS-2 Step 1 (FY12 salary = \$23,294). The overall CME average for this position is 46 FTE. Therefore, the total base salary cost for this position is \$1.07M (\$23,294 * 46 FTE).*

Table 6, below, illustrates the FY 2012 base salary for each position along with the total base salary (\$31.46M).

Support Services Contract Cost Benefit Analysis

Federal Position / Support Contract Position	Step 1 Salary	Total FTE	Total Salary	Federal Position / Support Contract Position	Step 1 Salary	Total FTE	Total Salary
GS-2	\$ 23,294	53.0	\$ 1.23 M	GS-7	\$ 39,541	303.6	\$ 12.00 M
Imaging Technician	\$ 23,294	46.0	\$ 1.07 M	Material Analyst I	\$ 39,541	238.8	\$ 9.44 M
Office Machine Operator	\$ 23,294	7.0	\$ 0.16 M	Support Services Team Leader	\$ 39,541	30.0	\$ 1.19 M
GS-3	\$ 25,415	224.2	\$ 5.70 M	Investigative Specialist SS	\$ 39,541	18.5	\$ 0.73 M
Data Support Clerk	\$ 25,415	123.3	\$ 3.13 M	Material Analyst II	\$ 39,541	14.8	\$ 0.59 M
Mail Clerk	\$ 25,415	48.8	\$ 1.24 M	Ops Manager	\$ 39,541	1.0	\$ 0.04 M
Material Processing Technician	\$ 25,415	32.8	\$ 0.83 M	Quality Control Technician	\$ 39,541	0.5	\$ 0.02 M
Clerk	\$ 25,415	9.0	\$ 0.23 M	GS-8	\$ 43,791	7.0	\$ 0.31 M
Telephone Liasion	\$ 25,415	6.5	\$ 0.17 M	Ops Manager	\$ 43,791	7.0	\$ 0.31 M
ISD Security Monitor	\$ 25,415	3.8	\$ 0.10 M	GS-9	\$ 48,367	18.0	\$ 0.87 M
GS-4	\$ 28,532	223.5	\$ 6.38 M	Reviewer	\$ 48,367	9.7	\$ 0.47 M
Case Screening Technician	\$ 28,532	207.7	\$ 5.93 M	Corrections Analyst	\$ 48,367	5.0	\$ 0.24 M
Workload Leader	\$ 28,532	4.4	\$ 0.13 M	PIC Specialist	\$ 48,367	3.3	\$ 0.16 M
Inv Record Technician	\$ 28,532	3.7	\$ 0.11 M	GS-11	\$ 58,519	10.3	\$ 0.60 M
File Release Clerical	\$ 28,532	3.7	\$ 0.11 M	Ops Manager	\$ 58,519	7.0	\$ 0.41 M
Technical Associate	\$ 28,532	3.0	\$ 0.09 M	Quality Assurance Team Leader	\$ 58,519	2.3	\$ 0.13 M
*Ops Manager	\$ 28,532	1.0	\$ 0.03 M	Management Analyst	\$ 58,519	1.0	\$ 0.06 M
GS-5	\$ 31,921	28.3	\$ 0.90 M	WG-5	\$ 58,874	1.2	\$ 0.07 M
Case Closing Technician	\$ 31,921	11.5	\$ 0.37 M	Warehouseman	\$ 58,874	1.2	\$ 0.07 M
Redaction Release Specialist	\$ 31,921	10.3	\$ 0.33 M	GS-12	\$ 70,141	16.5	\$ 1.16 M
Mail Support Technician	\$ 31,921	2.5	\$ 0.08 M	Quality Assurance Specialist	\$ 70,141	9.7	\$ 0.68 M
Ops Manager	\$ 31,921	2.0	\$ 0.06 M	Senior Operations Manager	\$ 70,141	3.0	\$ 0.21 M
Operations Assistant	\$ 31,921	2.0	\$ 0.06 M	Training Specialist	\$ 70,141	2.8	\$ 0.20 M
GS-6	\$ 35,582	52.5	\$ 1.87 M	Ops Manager	\$ 70,141	1.0	\$ 0.07 M
Data Support Technician	\$ 35,582	35.5	\$ 1.26 M	GS-13	\$ 83,407	2.0	\$ 0.17 M
Corrections Tech	\$ 35,582	15.0	\$ 0.53 M	Quality Assurance Manager	\$ 83,407	1.0	\$ 0.08 M
Ops Manager	\$ 35,582	2.0	\$ 0.07 M	Training Manager	\$ 83,407	0.5	\$ 0.04 M
				Process Improvement Leader	\$ 83,407	0.5	\$ 0.04 M
				GS-14	\$ 98,562	0.8	\$ 0.08 M
				SS Deputy Program Manager	\$ 98,562	0.8	\$ 0.08 M
				GS-15	\$ 115,937	1.0	\$ 0.12 M
				Vice President Support Services	\$ 115,937	1.0	\$ 0.12 M
				Grand Total		941.9	\$ 31.46 M

Table 6 – Federal Equivalent and Support Contract positions with FY12 base salary information^{2,3}

STEP 4: Using the total FY 2012 base salary of \$31.46M three additional measurements were applied to the Base Salary Cost to arrive at a Total Cost: 1) Benefits Rate (31.5%)⁵; 2) Overhead Rate (18.9%)⁵; and 3) Inflation Factor (2.5%). The Benefits Rate used is the current Fiscal Year benefits rate. The Overhead Rate used was derived from the FY 2012 OPM-FIS Cost Allocation Model (CAM) and is solely representative of overhead costs in FY 2012.

The Inflation Factor was assigned a value of 2.5%. Table 7, below, illustrates the FY2012 Base Salary Cost with these measurements applied. The Inflation Factor was used to project costs for FY 2013 – FY 2015.

Support Services Contract Cost Benefit Analysis

Step	Measurement	Amount	Calculation
1	Base Salary	\$ 31.46 M	From Table 6 for FY 2012
2	Benefit Cost	\$ 9.91 M	Base Salary * Benefit Rate (31.5%)
3	Salary & Benefit Cost	\$ 41.36 M	Base Salary + Benefit Cost
4	Overhead Cost	\$ 7.82 M	Salary & Benefit Cost * Overhead Rate (18.9%)
5	FY12 Total Staff Cost	\$ 49.18 M	Salary & Benefit Cost + Overhead Cost
6	FY13 Total Staff Cost	\$ 50.41 M	FY12 Total Staff Cost * Inflation Factor (2.5%)
7	FY14 Total Staff Cost	\$ 51.67 M	FY13 Total Staff Cost * Inflation Factor (2.5%)
8	FY15 Total Staff Cost	\$ 52.96 M	FY14 Total Staff Cost * Inflation Factor (2.5%)

Table 7 – Total estimated Federal costs²

STEP 5: The total Federal costs for Fiscal Years 2013-2015, were divided by the FTE number (942) to arrive at a normalized per FTE cost, per Fiscal Year. Normalizing the FTE was done to account for overall fluctuations in all staff and, in addition, fluctuations of staff within each contractor position type. As a result, OPM-FIS was able to derive the most accurate average cost per FTE. Table 8, below, illustrates the per FTE calculation.

Fiscal Year	FTE	Total Staff Cost	Avg Staff Cost/FTE
FY 2013	942	\$ 50.41 M	\$ 53,520.13
FY 2014	942	\$ 51.67 M	\$ 54,858.14
FY 2015	942	\$ 52.96 M	\$ 56,229.59

Table 8 – Per FTE cost calculation²

STEP 6: Once an accurate cost per FTE was derived in step 5, OPM-FIS needed to evaluate the optimal number of FTE needed to run a fully efficient and productive operation. According to the Technical Proposal of the Support Services Contract, the requisite CME needed to meet workload demands is 994 (current SSC staffing level is 999). Therefore, multiplying the normalized per FTE cost by 994, provides the appropriate comparison of the costs generated by the SSC and the hypothetical costs generated by a similar Federal effort. Table 9, below, illustrates the total Federal equivalent costs for FY 2013 –FY 2015.

Fiscal Year	Avg Staff Cost/FTE	FTE (per SSC Tech Proposal)	Total Staff Cost
FY 2013	\$ 53,520.13	994	\$ 53.20 M
FY 2014	\$ 54,858.14	994	\$ 54.53 M
FY 2015	\$ 56,229.59	994	\$ 55.89 M

Table 9 – Total Federal Equivalent Costs²

Support Services Contract Cost Benefit Analysis

The Analysis section will examine these differences next, but first, the assumptions made during this analysis will be addressed.

Assumptions

The methodology above includes several assumptions. They are as follows:

- 1) Based on the recent workload trends, we assumed workload will remain constant until contract expiration (FY 2015).
- 2) Costs compare only the years until expiration (FY 2015); years beyond contract expiration were not factored in (especially important for future Federal costs).
- 3) Federal personnel estimates will be one-to-one, rather than some existing SSC positions being absorbed by current organization structure.

Analysis

	Support Services Contract (SSC)			Federal Equivalent			Savings from Federal Equivalent	
	CME	Cost per CME	Total Cost	FTE	Cost per FTE	Total Cost	Cost per CME/FTE	Total Cost
FY 2013	994	\$ 46,293.52	\$ 46.02 M	994	\$ 53,520.13	\$ 53.20 M	\$ 7,226.61	\$ 7.18 M
FY 2014	994	\$ 47,631.83	\$ 47.35 M	994	\$ 54,858.14	\$ 54.53 M	\$ 7,226.31	\$ 7.18 M
FY 2015	994	\$ 49,008.82	\$ 48.71 M	994	\$ 56,229.59	\$ 55.89 M	\$ 7,220.77	\$ 7.18 M
Total			\$ 142.08 M			\$ 163.62 M		\$ 21.54 M

Table 10 – SSC Costs vs. Federal Costs⁶

As explained in the last paragraph of the Methodology section, the normalized per FTE cost was multiplied by 994 to arrive at a basis for comparison with the SSC. Table 10, above, illustrates the results of the analysis.

According to the analysis, in FY 2013 a Federal Equivalent support function would cost \$53.20M, which results in a \$7.18M (16%) increase to current costs. Similar increases can be expected in FY 2014 (\$7.18M) and FY 2015 (\$7.18M). Overall, based on the methodology outlined above, it is estimated that from FY 2013 –FY 2015 total savings by continuation of the SSC as compared to a Federal Equivalent operation would be \$21.54M.¹

OPM used available data in calculating costs, such as benefits and overhead, so as not to over- or under-inflate costs. While OPM prefers to use factors shaped by available cost experience to the

¹ Another significant factor and important consideration is the additional federal retirement costs for added federal staff. While these costs may not directly show in OPM-FIS's bottom line, a cost would still be incurred within the Federal Government, which means the savings to the taxpayer from contract performance are likely to be larger than indicated by this methodology.

Support Services Contract Cost Benefit Analysis

general assumption made in Circular A-76, it recognizes that the longstanding overhead rate (12%) and benefits rate (36.45%) in the Circular are different than that in OPM's model. For this reason, OPM performed additional analysis using the lower overhead rate and higher benefits rate to see if it affects the bottom-line conclusion. Table 11, below, summarizes the analysis with incorporated A-76 figures for benefits and overhead.

	Support Services Contract (SSC)			Federal Equivalent			Savings from Federal Equivalent	
	CME	Cost per CME	Total Cost	FTE	Cost per FTE	Total Cost	Cost per CME/FTE	Total Cost
FY 2013	994	\$ 46,293.52	\$ 46.02 M	994	\$ 52,311.98	\$ 52.00 M	\$ 6,018.45	\$ 5.98 M
FY 2014	994	\$ 47,631.83	\$ 47.35 M	994	\$ 53,619.78	\$ 53.30 M	\$ 5,987.95	\$ 5.95 M
FY 2015	994	\$ 49,008.82	\$ 48.71 M	994	\$ 54,960.27	\$ 54.63 M	\$ 5,951.45	\$ 5.92 M
Total			\$ 142.08 M			\$ 159.93 M		\$ 17.85 M

Table 11 – SSC Costs vs. Federal Costs Applying A-76 Guidance

OPM found that continued use of contract support would still provide savings over federal performance even using the A-76 rates -- i.e., \$142.08M for contract performance from FYs 13-15 vs. \$159.93M for performance by federal employees (a nearly 13% savings).

Having a portion of the background investigation function performed by contract support provides other benefits beyond that which is reflected in the figures above. Of particular note, contract support allows OPM to better manage the fluctuation in workload, since it can increase or decrease the amount of investigation work in real time that it tasks to the contractor. According to the SSC, beginning in FY 2012 through May 2013, personnel fluctuated from 824 to 994- a difference of 170 personnel.⁷ Since the same flexibility to increase and decrease labor based on existing workload doesn't exist when using full-time federal employees, OPM would need to consider the cost impact if all background investigation work were performed by federal employees. For example, since FIS prices its products to fully recover the cost to produce those products, it could potentially need to raise prices to mitigate the risk and cover costs in situations where workload diminishes.

In short, OPM believes the above analysis supports the continued use of contract support as part of a strategy that relies on a mix of contract and federal employees to perform background investigations. However, as explained above, OPM intends to continually analyze its workforce mix, both from a cost and human capital perspective. It will revisit this cost analysis based on any alternative methodologies that may result from OMB's efforts to develop government-wide guidance on cost-comparisons as well as any other programmatic changes that may be made over time to its approach to performing background investigations.

In addition, OPM remains committed to ensuring that when work is performed by a contractor, there is effective oversight and management of the contractor's activities. This oversight is critical to holding contractors to the terms of their contract and making sure they act with appropriate business ethics and integrity. This oversight is also critical to making sure that the responsibilities of the contractor do not expand to include activities which are inherently governmental. For example, under any scenario involving performance by an SSC, OPM will

Support Services Contract Cost Benefit Analysis

continue to ensure that all decisions on whether or not to grant a clearance shall be made only by government officials.

References

- 1) Actual Support Costs were pulled from our Billing file via reporting software; Estimated Support Costs over the contract period were pulled from the SSC's Technical Proposal. Both costs were combined on an Excel spreadsheet – "ContractorCosts_by_CaseType_FY11-13_Final_20130709".
 - a. The FY2013 projection is located in the spreadsheet "ContractorCosts_by_CaseType_FY11-13_Final_20130709", within the sheet called, "FY13-Data".
- 2) Federal calculations were derived using Microsoft Excel – "Fed_Data_Final_20130709".
- 3) WG Hourly information obtained in an email from OPM Human Resources – "USIS Support Positions GS Equivalent (WG Hourly Table)".
WG Hourly to Salary conversion information obtained in an email from OPM Human Resources – "USIS Support Positions GS Equivalent (Salary Conversion)".
- 4) The Support Contractor Provided an Excel spreadsheet with personnel numbers – "USIS_Support_Staff 2008 to May 31 OPM Confidential_Final_20130709" (information is proprietary to contractor).
- 5) Benefits & Overhead Rates (obtained from FY12 Cost Allocation Model) calculated using Microsoft Excel – "Federal FTE cost calc_Final_20130709". The CAM identified non-labor overhead costs for FY 2012, including equipment, supplies, space, and other tasks related to headquarters management, accounting, human resources support, legal support, IT support, and similar common services performed external to but in support of the background investigation work performed within FIS.
- 6) The cost comparison of the SSC and the Federal effort was created using Microsoft Excel – "CBA Table_CostCompare_Final_20130709".
- 7) The Month-to-Month fluctuations were obtained from the SSC via an email – "SSC Month-to-Month Fluctuations".

**Post-Hearing Questions for the Record
Submitted to Mr. Merton W. Miller
From Senator Tom A. Coburn, M.D.**

- 1. OPM Federal Investigative Services currently charges \$4005 for an SSBI. Why are other agencies, such as the National Security Agency (NSA), able to complete the same SSBI—using the same contract investigator—for \$2400, or approximately 40% less than the OPM cost?**

OPM believes that in the comparison cited in Question 1, the cost cited for an NSA Single Scope Background Investigation (SSBI) represents solely investigative contract costs and does not include the other costs necessary for their vetting program, such as costs related to infrastructure, personnel pay and benefits, facilities and information technology, for which NSA receives appropriated dollars. Thus, the price cited for NSA does not include the entirety of costs associated with their program. OPM-FIS is required to function as a 100 percent revolving fund activity, and is the only investigative agency that operates on a full cost recovery basis. OPM-FIS receives no direct appropriations for its operating expenses, including expenses for infrastructure and overhead (\$47.9M), for federal staff (\$263.9M), for facilities (\$15.5M), investigative contracts (\$456.3M), FBI Fees (\$47.9M), travel (\$16.6M), Supplies (\$10.8M), or for information technology (O&M and Investment, \$100.5M).

In addition, NSA and OPM are not providing fully equivalent services. OPM has government-wide responsibility for the suitability process required for appointment to the competitive service; has been designated, pursuant to IRTPA, as the Government's lead investigative agency for background investigations supporting access to classified information; and performs about 95 percent of the Government's background investigations overall. As a consequence, the operating expenses for OPM's systems and services benefit and support not only those agencies that request OPM's investigations, but also the community-wide vetting enterprise. OPM prices its investigation products, as shown in the FIS Annual Stakeholder Report for Fiscal Year 2012, to recover the costs of all of the products and services that support the federal government's suitability and security needs. (See, Annual Report at: <http://www.opm.gov/investigations/background-investigations/reference/annual-report-for-fiscal-year-2012.pdf>) OPM provides centralized government-wide end-to-end automation and process efficiency for vetting of the Government's Federal and contract employees via a suite of automated systems and tools. These have been instrumental in reducing government-wide costs associated with agencies creating duplicative systems to meet their investigative case management needs. In addition, OPM's systems are critical to meeting end-to-end timeliness mandates in IRTPA for the investigation and adjudication processes, thereby permitting the Executive Branch to achieve Congressional mandates. Again, these costs are recovered through the price of investigative services.

The vetting process for the Executive Branch is enabled by:

- OPM's index of investigations, which serves as the main repository for background investigative records for the Executive Branch since 1953;

- OPM's Central Verification System (CVS), used by agencies to identify reciprocity opportunities as required by law, and the OPM Secure Portal, which provides secure communications, to ensure that only necessary investigations requests are submitted;
- OPM's front end web-based application, referred to as Electronic Questionnaires for Investigations Processing (e-QIP), which electronically presents the Standard Form questionnaires that OPM develops and sponsors for all investigating agencies;
- OPM's Fingerprint Transaction System (FTS), which uses live-scan technology (currently connected to over 5000 live-scan machines across the United States) to check digital images of applicants' fingerprints against the FBI systems, providing results in as little as two hours;
- OPM's EPIC suite of internal operations systems (FIS is in the process of a multi-year transformation of its eight core IT systems – collectively referred to as "EPIC," which specifically stand for, "E" -- Electronic Questionnaires for Investigations (Initiating an Investigation); "P" -- Personnel Investigations Processing (Conducting the Investigation); "I" -- Imaging Capability (Retention and Delivery of the Investigation); and "C" -- Central Verification System (Reporting the Results of the Investigation)) for automated scheduling and processing of OPM's investigation collections, to include OPM's:
 - automated field investigator tools in the Field Work System (FWS);
 - the OPIS imaging systems converting paper to electronic information to support end-to-end processes;
 - direct automated data interfaces with government and law enforcement repositories;
 - automated quality tools to ensure collections meet standards; and automated eDelivery of XML-tagged reports of investigations to support eAdjudication in Executive Branch agencies.

Because OPM conducts over 95% of background investigations, OPM has assumed responsibility for validating the reliability of public information from state and local repositories as they evolve to automate law enforcement, birth, citizenship and court records, etc. OPM's studies permit OPM to determine when repositories are ready to fully support automated collections in keeping with the Federal Investigative Standards, ensuring continued improvement in the timeliness and reliability of public record collections across the Executive Branch. In addition, as localities reduce services to meet shrinking budgets, OPM conducts vital liaison with law enforcement agencies, which encourages responsiveness to federal background investigations and permits us to obtain the most complete criminal history record information.

Finally, agencies using OPM services rely on OPM to produce "adjudication-ready" investigations, including oversight and quality assessments before the investigation is forwarded to the agency for adjudication. This business model permits comparatively fewer resources in the agencies' adjudication programs and assists agencies in meeting federal timeliness requirements for adjudication time. This is a different business model than that employed by Intelligence Community agencies such as NSA, which blends the investigation and adjudication functions (and costs) by utilizing adjudicators to direct investigative activity throughout the life of the investigation.

2. a. **In a 2012 audit GAO recommended the Associate Director of Investigations of Federal Investigative Services provide its customer agencies better information on the costs of background investigations. To date, have you provided your customers with data justifying the cost of your investigation process, specifically the price breakdown per investigation?**

Yes. As OPM reported to GAO, recognizing the importance of cost transparency to stakeholders, OPM expanded its information campaign in January 2012 to ensure customers were better informed and always had the latest performance and cost data available. Since January 2012, OPM has provided regular reports and information to ensure stakeholders are well informed on investigation costs and prices. Specifically, as OPM has reported to GAO, OPM has conducted the following transparency activities:

- January 2012, FIS informed the stakeholders of the intent to provide additional information regarding investigation costs and prices, beginning with a cost and performance briefing by the Associate Director (AD) Merton Miller, OPM-FIS to the Background Investigations Stakeholders Group (BISG). AD Miller briefed about OPM's cost transparency goals and provided information regarding the annual billing cycle, revolving fund operations, and the full cost recovery model. In addition, AD Miller briefed FIS operating costs and the factors driving FIS costs since 2005.
- March 2012, FIS provided agencies specific revenue/receipt reports, broken down by case type in advance of the BISG meeting, provided a briefing of revenue and receipts for all agencies during the meeting, and participated in a question and answer session thereafter.
- April 2012, OPM provided the BISG a fiscal mid-year review, with workload slides showing shifting investigative requests and annualized FY12 workload compared to actuals. OPM encouraged accurate workload projections and discussed how accurate projections contribute to accurate product pricing. OPM's business team led a discussion on how OPM calculates billing for products, and discussed how billing transactions are updated when the investigation request is changed in process. FIS briefed a proposal to streamline billing transactions for Special Agreement Check (SAC) products, and discussed options for single prices for National Agency Checks with Law and Credit (NACLC) and Access National Agency Checks with Inquiries (ANACI) investigations and Single Scope Background Investigation-Periodic Reinvestigation (SSBI-PR) and Phased Periodic Reinvestigation (PPR) investigations. Agencies were encouraged to bring ideas when OPM discussed the Federal Investigations Notice (FIN) on pricing.
- May 2012, the BISG focused on the activities underway to establish new prices for FY13, to be represented in the new pricing FIN. Stakeholder provided input on billing FIN improvements, and adjustments to provide itemized pricing on Reimbursable Suitability Investigations (RSI) for FY13 were discussed.
- June 2012, the pricing process discussion continued during the BISG meeting, with a briefing on the current pricing process and future initiative to identify more detailed data to support product pricing discussions in the future.
- July 2012, provided BISG detailed discussion regarding outcomes of the four BISG proposed changes associated with pricing and/or billing.
- September 2012, OPM issued the Pricing FINs and provided an overview.

- October 2012, OPM briefed the status of the Cost Allocation Model (CAM) initiative, which will provide information reinforcing cost transparency discussions and product pricing.
- December 2012, OPM-FIS business manager briefed a proposed stakeholder cost reduction/rebate based on the findings of a cash reserve structure analysis, with a repeated briefing to encourage accurate workload projections in order to ensure accurate product pricing.
- January 2013, FIS released the first “Annual Stakeholder Report for Fiscal Year 2012”, which was discussed in detail during the February 2013 Stakeholder meeting along with a discussion of progress in stakeholder cost reduction/rebates.
- March 2013, OPM communicated to all stakeholders and briefed the BISG regarding Treasury requirements for the new Treasury Accounting System (TAS) and Business Event Type Coding (BETC) on investigation requests. OPM also provided an update on the CAM progress.
- April 2013, the cost reduction rebates were calculated and passed to customers in bills which were discussed in May. July 2013, agencies were provided individual reports reflecting revenue/receipts with cost reductions rebates calculated in totals. OPM scheduled FY14 billing discussions for the August 15, 2013 BISG meeting, when OPM will be able to present pricing data informed by data generated from the CAM study thus far. (See Pricing FIN at: <http://www.opm.gov/investigations/background-investigations/federal-investigations-notice/2012/fin12-07.pdf>)

b. How does OPM Federal Investigative Services derive its price for an SSBI?

As noted above, FIS is required to perform as a full cost recovery program, and therefore derives the price of an SSBI, as with each of its products, by examining the costs required to produce the product. To do this, OPM-FIS must first utilize projections to determine the projected workload for the time period the price will cover. Workload is crucial as FIS incurs overhead costs that are present no matter the number of SSBIs produced. The allocation of the overhead costs to each investigation is dependent on the number of investigations; therefore, accurate projections from Federal agencies regarding the number and type of investigations they expect to request each year leads to more accurate projection of costs.

FIS must also ensure that direct and enabling costs will be covered by the price. To do this, FIS has methodically analyzed processes to determine what drives the direct and enabling costs. This methodology allows the appropriate costs associated with an SSBI to be related to the SSBI price. FIS is able to determine an estimated average cost per SSBI by the direct and enabling costs, as well as the overhead costs as they relate to the SSBI, by dividing the total SSBI costs by the number of SSBI produced. FIS must determine the optimal price needed that will on average generate an amount of revenue equal to the average unit cost.

The price an agency pays for an investigation depends on whether the agency adjusts its request after OPM has begun processing it, based on factors related to an agency’s needs. For example, an agency might cancel the request at any point, and the price is adjusted based on the length of time since OPM began conducting the work on the investigation. FIS publishes its rates for, among other items, discontinued investigations in its annual billing Federal Investigations

Notices: <http://www.opm.gov/investigations/background-investigations/federal-investigations-notices/2012/fin12-07.pdf>.

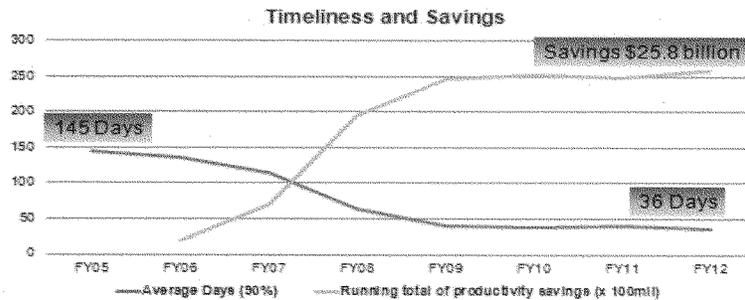
3. In the same audit, GAO recommended the Associate Director of Investigations of Federal Investigative Services take action to identify and implement efficiencies that could lead to cost savings within its background investigation process. What progress has been made to date? Does your office have a program or strategy to lower the costs of its investigations?

Yes. As OPM reported to GAO, OPM-FIS began a business process reengineering effort in 2010 to map processes and identify potential cost savings and will use the implementation process for the recently revised Federal Investigative Standards as an opportunity to take the next step in reengineering business processes for time savings and efficiencies while OPM continues to identify and implement new cost containment and savings opportunities. In addition, OPM-FIS is in the midst of a manpower study (begun in January 2013 and projected to conclude in January 2014) to determine if sufficient staff is on board to perform the work that needs to be done. In the meantime, OPM can categorize cost savings efforts using a three tiered approach: 1) immediate cost reductions taken wherever/whenever possible, 2) efficiencies through automation, and 3) cost avoidance through timeliness improvements. OPM has realized immediate cost savings from steps taken to cut costs associated with government travel, vehicles, leases, and mail. OPM has also changed internal processes which have reduced costs, but not impacted the quality of investigations or the level of service OPM provides to its customer agencies. Process changes relating to printing, imaging, and billing have resulted in an estimated negotiated savings of almost \$2 million.

OPM has also worked with stakeholders to bring attention to the workload mix, which is a significant cost driver, and one that stakeholders directly impact. (For example, if agencies do not designate positions correctly in the national security position designation scheme, a designation that is higher than necessary may well result in a more costly investigation than was actually required). OPM has provided data to agencies to highlight the phenomenon of the steady increase of fieldwork-intensive investigations since 2005, and OPM has encouraged the proper designation of positions to ensure requests are not unnecessarily inflated. Fieldwork intensive investigations, such as a Top Secret SSBI costs \$4,005, which is over 14 times more than a less fieldwork intensive records check investigation, such as the \$228 Secret NACLIC investigation. As demonstrated below, requests for more resource intensive (costly) investigations have resulted in total increases in costs to stakeholders in FY 12 of \$305M over FY05 costs. (See Attached – Significant Cost Drivers – Investigation Mix Chart). OPM has learned that the Department of Defense recently held a “Personnel Security Investigations Improvement Event” to better identify the factors driving the current appetite for SSBI investigations and to determine how to decrease the future volume of SSBI investigations.

By far, the largest increase in government-wide efficiency and resulting cost benefit occurred when OPM reduced the time required to perform the investigation process from an average of 145 days in FY05 to 36 days in FY12. As shown in the following table, OPM has saved the federal government over \$25 billion because the improved investigation timeliness has allowed agencies to clear individuals faster and put them to work at the jobs they were hired to do.

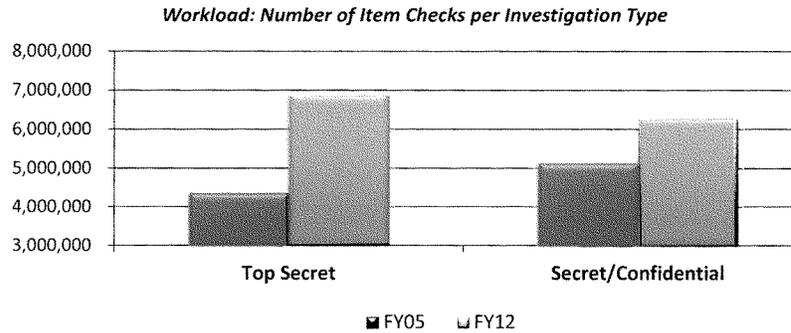
Government Savings



	FY05	FY06	FY07	FY08	FY09	FY10	FY11	FY12
Total Cases Closed (Initial Investigations)	471,045	537,287	598,518	702,403	846,934	943,454	1,021,243	1,118,554
90% of Cases Closed	423,940	474,557	525,957	632,162	761,233	849,108	907,119	976,700
Average Days (90%)	145	130	115	84	67	58	49	36
Increase in Days from prior year	-	15	15	21	13	7	-1	-4
Running total of days saved (increased efficiency)	-	5	20	81	104	105	105	105
IRTPA Standards on Initial Investigations	0	0	50	50	50	50	50	50
Productivity savings per day	\$ 387.30	\$ 387.30	\$ 387.30	\$ 387.30	\$ 387.30	\$ 387.30	\$ 387.30	\$ 387.30
Total of productivity savings (x 100 mil)	\$ 0.00	\$ 1.91	\$ 5.21	\$ 12.11	\$ 21.73	\$ 34.33	\$ 49.70	\$ 67.80
Running total of productivity savings (x 100mil)	\$ 0.00	\$ 1.91	\$ 5.21	\$ 12.11	\$ 21.73	\$ 34.33	\$ 49.70	\$ 67.80

In addition, OPM has reported to customers that not only has the number of resource intensive investigations increased significantly, but so too has the level of manual effort required. This latter phenomenon is due to a number of factors, including efforts, in response to IRTPA, to collect more information early in the investigation and to standardize quality expectations. Investigations for subjects requiring security clearances at the Top Secret level involve a higher percentage of fieldwork intensive manual checks and therefore require a greater level of effort, time and cost to complete than Secret/Confidential investigations. As evidenced below, the number of items completed for Top Secret investigations during FY 2012 has increased by 58% from FY05, while the number of items completed for

Secret/Confidential investigations has increased by 22.8%.



Total Items Completed	FY05	FY12	Percent Change
Top Secret <i>(SSBI, SSBI-PR, Phased PR)</i>	4,371,057	6,907,663	58.0%
Secret/Confidential <i>(NACLC, ANACI)</i>	5,143,542	6,316,013	22.8%

Expanding on FY12 data, the above charts illustrate the types of items in both Top Secret and Secret/Confidential investigations. Although the number of items for Top Secret investigations is not vastly greater than Secret/Confidential investigations, over 55% of Top Secret items involved manual effort, while only 16% of Secret/Confidential items were manually intensive. By providing this information to agencies, OPM hopes to demonstrate to agencies their important role in carefully designating positions so Federal investigation costs are commensurate with actual need.

4. What are your current overhead costs and cash reserves?

Current Overhead

Based on the calculation of the FY12 cost allocation model, OPM-FIS overhead costs were \$273,317,000 or 26.8% of total costs.

Cash Reserves

As background, OPM's cash reserves were required and established with the Supplemental Appropriation Act of 1952, which authorized the Civil Service Commission (CSC) to operate a Revolving Fund to finance certain background investigations of Federal employees and non-Federal employees requiring access to classified information. The Revolving Fund provides the

means by which OPM finances the full cost of conducting background investigations from agencies, and collects reimbursement from the agencies requesting investigative services. This authority was further expanded in 1968 with the enactment of Public Law 91-189 (5 USC 1304).

Reasonable business practices also require cash reserves to fund necessary capital investments, cover fluctuations in payments, cover any underpricing of products and services, and fund the disestablishment of operations, if necessary. As of June 30, 2013, OPM-FIS retained earnings were \$202,305,805.21.

In July 2012, FIS commissioned an independent review of its cash balance thresholds by Grant Thornton, an expert outside party. The goal of this analysis was to identify a baseline for the reserve (revolving fund balance) consistent with independent expert recommendation. The primary components of this analysis examined the following:

- Operating Cash Flow Reserve – Working cash reserved to fund day-to-day fluctuations between collections and disbursements
- Capital Reserve – Cash reserved to fund the annual Revolving Fund capital budget
- Demand Forecast Safety Reserve – Cash reserved to address in-year demand forecast errors that cannot be addressed with rate changed or cash management strategies such as delaying procurement or backlogging workload
- Transfer of Function Reserve – Additional cash reserved to fund disestablishment or transfer of function to another organization, which includes transfer of applicable balance sheet assets and liabilities as well as costs associated with contract termination and other one-time costs

The results of this review revealed FIS's current reserve is well within an acceptable range.

5. What would be the impact to OPM Federal Investigative Services if Congress allowed your current agency customers to perform and contract their own investigations, and OPM had to compete for agency customers on price and service?

It is not really possible to know the answer to this question with any certainty until or unless that happened. It would also require some changes to authorities in areas traditionally reserved to the President. That said, OPM would still have to conduct background investigations for security clearances in the manner specified by the President in Executive Orders and by the Director of National Intelligence in guidance and would still, by law, be required to recover its full costs over a reasonable period of time.

As OPM currently provides a standardized, centralized solution to the investigative needs of over 95% of Executive Branch, and produces investigations that can be reciprocally accepted across agencies, as the President intended, OPM expects the greatest impact would be to Executive Branch agencies, which will have to "reinvent the wheel" by establishing their own staff or contractor capacity, standards, oversight function, training programs, infrastructure, procedures, Privacy Act notices, etc. in order to perform the investigative function themselves. Establishing duplicative programs across the Federal space would strike a severe blow to the stability of the national security investigative and adjudicative program that the President envisions through E.O. 13467 and that Congress sought in enacting IRTPA. And, unfortunately, the impacts of

establishing duplicative programs could also negatively undermine the many benefits of background investigation program consolidation, which we are now finally realizing government-wide. Throughout the two decades prior to 2005, the government's investigations programs were impacted by dramatic shifts in demand for investigations, and at the mercy of reduced budgets, the reinvention efforts, RIFs, privatization, and frequent transfers of investigative workload and personnel, despite the growing recognition of insider threat and the need for more frequent investigations of persons in sensitive positions of public trust. The rapid development of a tremendous backlog of investigations wreaked havoc on government programs and industry, and resulted in enormous inefficiencies, not the least of which was specialized demands by agencies for non-reciprocal investigative products tailored to meet their specific needs. Since the consolidation of the program in 2005, OPM and its reform partners (see E.O. 13467) have implemented standardized and aligned investigative and adjudicative processes and have made tremendous progress towards end-to-end automation. Requiring or permitting federal agencies to stand up their own programs due to misperceptions regarding the true costs and needs of the nation's vital vetting processes would be a giant step backward.

OPM currently serves over 200 federal agencies. Agencies would have to duplicate processes OPM currently has in place and train staff to handle inherently governmental functions that OPM already has staff to perform. For agencies to perform and contract their own investigations would fragment the current consolidated program and produce overlap and duplication. Establishing "redundant" investigative processes means establishing redundant case management and workflow systems to ensure mandated timeliness, redundant information exchange systems with records repositories, redundant liaison requirements, redundant FOIA/PA processes, redundant records retention systems and processes, redundant quality and oversight systems, redundant OGC legal support, redundant OIG oversight support, redundant CIO technology support, redundant CFO budget support, etc. This would be inconsistent with GAO's recommendations in 2012 and 2013 to improve the efficiency and effectiveness of government by taking action where Federal programs or activities are fragmented, overlapping, or duplicative. It also could create confusion regarding the many credentials limited contract investigation providers would carry to properly represent their investigative authority for each agency they are representing. Executive Branch-wide costs would likely increase with the loss of economy of scale as contracting for services and redundant automated processes are established to manage the multitude of investigative programs. The competition would be between the government agencies all seeking the support of limited contract investigative resources, vice the limited numbers of contract investigation providers all competing for the large volume OPM contract. The current reduced cost contract investigative charges are possible in light of the volume that a FIS contract for a largely centralized program provides. Without the volume discount, contract prices will rise as contract providers establish a myriad of processes to satisfy a myriad of government consumers.

Specific cost increases would be anticipated both with contract providers as well as agencies that must establish new investigative processing systems, namely:

- o Additional Executive Branch costs and personnel to oversee additional contracts;
- o Additional Executive Branch costs to adhere to changes in investigative standards;

- Additional challenges to reciprocity, as processes are bifurcated, data is segregated, predictability and standardization are diminished as agency specific expectations are prioritized; and
- Higher costs envisioned as contracting companies adapt to multiple agencies preferences and IT systems.

All that said, OPM remains fully committed to working with customer agencies and OMB on steps it can take to reduce costs, increase transparency, and provide the best value to customers.

**Post-Hearing Questions for the Record
Submitted to Merton Miller
From Senator Claire McCaskill**

1. **In Ms. Farrell’s testimony on behalf of the Government Accountability Office (GAO), she referenced a May 2009 GAO report (GAO-09-400) that recommended that the Federal Investigative Service “measure the frequency with which its investigative reports meet federal investigative standards in order to improve the completeness—that is, quality—of future investigation documentation.” Why has the Federal Investigative Services failed to implement this recommendation?**

OPM takes issue with the premise that it “failed” to implement this recommendation.

As OPM reported to GAO in its May 8, 2009, response to the audit, OPM disagreed with the recommendation to the extent it was based upon an analysis that simply measured the content of the files against the then-existing national investigative standards and measured whether the documents produced were all the documents that the standards indicated should be collected. GAO-09-400, Appendix V, at 3. OPM noted that the investigator assigned “must often, under established procedures, make case-by-case decisions on the proper and best sources needed to attest to a subject’s activities, character, and conduct when sources specified in the standards are uncooperative or otherwise unavailable.” *Id.* OPM also noted that the then newly minted OPM/ODNI investigative standards released in December 2008 “recognize that full and complete coverage of an individual’s background may be obtained through alternative sources and, accordingly, provide for deviations from the standards when necessary.” *Id.* at 4. In other words, the standards were intended to represent the ideal compilation of data toward which the investigator must strive, but were not intended to be used, in rote fashion, to establish that an investigator had “failed” simply because certain of the specified content was not accessible after all reasonable efforts had been expended. OPM noted that a metric based upon content could be useful only if it took into account the judgment the investigators were required to exercise and the availability of the data being sought. *Id.* at 3-4.

OPM, however, was in full agreement with GAO that the quality of the investigative process was critical, and that there were elements of the process that could be measured and assessed in terms of quality. *Id.* at 4. OPM reported that in addition to metrics that it had already reported during the audit, OPM was, at that juncture, focusing upon agency reports on the quality of the subject- and agency-provided data initiating the background investigation (including FBI rejections of the fingerprints submitted by agencies to support the biometric check of national criminal history data); reviews by OPM’s own quality assurance staff of contractor adherence to quality performance standards; reviews by OPM of how its own employees perform against a critical performance standard for quality of work; outcomes of suitability appeals for suitability actions taken by OPM; and customer satisfaction with quality, based upon an annual survey. *Id.* at 4-5. OPM also noted that it was working with the Office of the Director of National Intelligence (ODNI) and other agencies within the framework of the Performance Accountability Council’s (PAC’s) Performance on Measurements and Management Subcommittee (PMMS) to develop additional new metrics to measure the quality of the investigation.

Since 2009, OPM has reported to Congress that it has continued to supplement the quality assurance processes that had been in place at the time of the 2009 report. OPM reported that it had instituted additional processes and tools to solicit feedback from Federal agencies to assist in identifying factors that contribute to incomplete reports, namely the Quality Hotline and Quality Assessment Tool. OPM launched the Quality Hotline in October 2009, and in March 2010 instituted the Quality Assessment Tool, both developed in conjunction with the PAC's PMMS. See, Quality FIN <http://www.opm.gov/investigations/background-investigations/federal-investigations-notices/2010/fin10-01.pdf>.

FIS has continued to work tirelessly with its PAC partners to achieve the goals of the GAO recommendation from GAO 09-400. Quality metrics have been provided for inclusion in the annual IRTPA-required report to Congress beginning in FY 2010 and have been shared with stakeholders since the performance metrics were established. The establishment of the baseline quality metrics and the development of performance reports were reported in the May 31, 2010 report to the Chairman of the Subcommittee on Oversight of the Government Management, the Federal Workforce, and the District of Columbia. The GAO Acting Comptroller General was a signatory on the letter and reported to Congress that these initial steps to develop quality measures were viewed by GAO as positive.

Further, as encouraged by GAO, OPM has reported, over the past year, that OPM has been engaged in and co-chairs with ODNI and DOD an interagency effort to develop standardized quality assessment criteria for application across the Executive Branch to ensure the December 2012 OPM/ODNI Revised Federal Investigative Standards are measured against consistent standards for quality (See Attached QAWG document 7-24-13). This interagency activity is one of several interagency efforts established under the PAC. As FIS reported in its Annual Stakeholder Report for Fiscal Year 2012, pages 14-15 "Delivering Quality," FIS conducts a thorough quality assessment of its investigative products and processes that incorporates different aspects of quality review. In response to recent, additional questions from GAO in July 2013, OPM has provided additional documentation regarding OPM's quality assurance processes. Although GAO continues to assert that OPM has not implemented its recommendation, it does acknowledge that OPM "provided GAO with an update of several quality initiatives, including a Review Quality Tool used to review investigations against the investigative standards." GAO-09-400, Recommendations for Executive Action, August 28, 2013 screen shot at <http://www.gao.gov/products/GAO-09-400>.

OPM and FIS take GAO and OIG audits very seriously and have implemented changes intended to be responsive to and, if possible, to satisfy all recommendations of the multiple audits conducted by GAO and OIG since OPM took on DOD's investigations program. Of all the recommendations, two GAO recommendations are presently outstanding, since the recommendations require Executive Branch-wide coordinated activities. These recommendations are underway, but not yet concluded.

- 2. Ms. Farrell's testimony also noted that "the Department of Defense has developed a tool known as Rapid Assessment of Incomplete Security Evaluations (RAISE) to monitor**

the quality of investigations completed by OPM.” Ms. Farrell then stated that OPM chose not to use this tool and instead chose to create their own.

a. Why did OPM choose not to use the DoD tool?

DOD’s RAISE was not designed or intended for application by OPM during the investigative collection process. RAISE was designed to be applied by DOD adjudicators in order to measure investigation deficiencies and to provide feedback to OPM. The RAISE tool was designed so that DOD adjudicators could assess completed OPM investigations, and determine if any items were “missing” in OPM’s reports that OPM, in DOD’s view, should have been able to obtain. Data from the RAISE tool would generate feedback back to OPM.

Although OPM was interested in studying the data available through RAISE, and both parties were interested in establishing two-way communication for the feedback mechanisms, DOD technology did not speak to OPM technology, and DOD did not have the resources to invest in enabling two-way communication with OPM’s systems. Such communication would have been necessary for the feedback mechanism to work properly because initial feedback surfaced problems with users’ consistent application of the tool to the various investigative products.

As identified by DOD’s Personnel Security Research Center (PERSEREC) early on, “one of the primary goals of the RAISE was to capture the distinction between problems that are due to inaccurate expectations on the part of adjudicators and those that are due to actual quality problems.” Unfortunately, initial feedback from DOD *did* reflect inaccurate expectations on the part of adjudicators. For instance, adjudicators would indicate “missing” elements for certain types of investigations when the investigative standards for the particular types of investigation did not require those elements (e.g., adjudicators cited Phased Periodic Reinvestigations (PPR) with missing residence coverage reported when PPRs do not require residence coverage). Nor did use of the tool clearly distinguish between actual quality problems and information that OPM established was missing due to circumstances outside of OPM’s control (e.g., instances where OPM reported records were destroyed or the source had moved with no forwarding address or contact information).

The ability of the tool to provide accurate feedback regarding quality in the absence of two way communication was also unclear because, in some cases, OPM reports labeled as “deficient” by the user of the tool were not returned for additional work and in fact were favorably adjudicated by DOD. The favorable adjudications made it difficult for OPM to go back and ascertain whether a purportedly “incomplete” file was actually a file in which it was not possible to obtain certain items after appropriate efforts.

These concerns generated a prolonged dialogue between OPM, DOD, and ODNI to work through implementation issues. After receiving additional direction from GAO regarding expectations for the tool, it was evident that OPM and its IRTPA partners needed to do work to define quality in a consistent manner across all agencies before a reliable tool satisfying GAO and PAC expectations could be fully employed. In 2012 OPM, DOD, and ODNI joined together as co-chairs of the Quality Assessment Working Group (QAWG) to define quality standards and develop a standardized quality tool that would implement the fundamental concept

underlying RAISE with enhanced consistency both across agencies and among all adjudicators and investigative service providers. This work is well underway but not yet concluded.

b. What is the tool that OPM has chosen to develop itself?

See above. OPM continues to use the tools that were identified to Congress in 2009, such as the Quality Hotline and the Quality Assessment Tool. In addition, OPM added another internal quality tool, in 2012, to support quality assessments, made during the investigative process, with respect to collection items, as added. These measures will support timely quality assessments until such time as the QAWG tool is developed. OPM has continued its quality product enhancements and included an organizational realignment in 2013 to synergize quality focus. All the while, OPM is fully supporting the development of the Executive Branch Quality Assessment Tool which OPM intends to implement as soon as developed.

c. What are the estimated timeframes for its development and implementation?

The QAWG is currently finalizing its quality definitions and thereafter will begin project planning for tool development.

d. What are the cost benefits of developing another tool in-house rather than using an existing tool created by the Department of Defense?

As noted above, after receiving additional direction from GAO regarding expectations for the tool, it was evident that OPM and its IRTPA partners needed to do work to define quality in a consistent manner across all agencies before a reliable tool satisfying GAO and PAC expectations could be fully employed. In 2012 OPM, DOD, and ODNI joined together as co-chairs of the Quality Assessment Working Group (QAWG) to define quality standards and develop a standardized quality tool to satisfy the RAISE concept with leveraged consistency among all adjudicators and investigative service providers. This work is well underway but not yet concluded.

OPM's in-house tool was developed to satisfy the need to assess work that is "in process", so that OPM ensures that OPM is building the investigative file to quality standards as OPM progresses through the investigative collection. The in-house tool was designed using "in-house" resources at minimal cost. In contrast, RAISE was designed to be applied by one user agency after all investigative work is delivered for adjudication. The RAISE tool was presented to the QAWG for consideration as a concept.

3. Please provide the quality standards that FIS follows in order to minimize the number of incomplete investigations.

OPM investigators conduct investigations in accordance with established investigative standards, and OPM has a multi-layered review process to ensure that its investigations make all reasonable attempts to satisfy those standards. To ensure that elements of the investigation within OPM's control are conducted, and that reasonable attempts have been made to obtain those elements that

the investigative process so that the ultimate report is as complete as possible. These include an internal Quality Assessment Tool which measures investigations against investigative standards and ensures all adjudicative criteria are properly covered as they are collected, and a random auditing of closed investigations to measure the extent to which the investigations met investigative standards and deliver feedback directly to reviewers' supervisors as well as to FIS' Customer Interface to determine if reopening the investigation for rework is warranted. See FIS's Annual Stakeholder Report for Fiscal Year 2012, pages 14-15 "Delivering Quality," for a further discussion of how FIS conducts quality assessment of its investigative products and processes.

It is an immutable fact that because source (employers, neighbors, coworkers, references, etc.) participation during a background investigation is voluntary, background investigations will not be complete if essential personnel are not available or do not make themselves available for interview, if members of the public are unwilling to provide interviews to investigators, or if records are not made available. In those situations, the best that OPM can do is to make its best effort to locate relevant information through alternative means, and provide notations concerning what is missing.

In addition, as with all of its contracts, OPM requires contractors to meet the standards set forth in OPM's contracts. In the case of the investigative fieldwork contracts, as with other Federal contracts, those standards include a requirement that the contractor perform a quality review of all products prior to submitting the finalized product to OPM. In the fieldwork context, this quality review not only helps to support the quality of the final investigative product or service, it also helps to ensure that the quality service or product is delivered on time. A problem that is not addressed until after the report reaches OPM may delay delivery of the final product or service to the requesting agency. And OPM does not need to address quality issues if the contractor addresses them in the first instance, as part of its own performance.

OPM conducts oversight to ensure the quality review requirement is being met, including:

- Review of contract plans that are required to be submitted on an annual basis, including Quality Control and Training plans,
 - Observations of contractor performance
 - Receipt, review, and delivery of Federal feedback in relation to contract requirements,
 - Weekly evaluations of performance which feed into overall quarterly performance reports,
 - Inspections of contractually required investigator evaluation programs, including "check rides" and observance of investigators during the investigation process
 - Quarterly inspections of fieldwork contractors regarding quality trending, contractor review output, coverage trending, and contract compliance
- Audits and inspections of the various contracts
- 4. During the hearing, you agreed to provide Senator McCaskill with a cost benefit analysis of whether FIS' use of contractors is more cost efficient than hiring federal employees to perform the same work. Please provide this cost benefit analysis and respond to the following questions:**

a. What is the fully loaded annual rate of a federal employee vs. a contractor employee performing background investigations?

While this question is rather difficult, especially since the contracts were not awarded on the basis of a “fully loaded annual rate” per employee of the contractor, OPM will attempt to respond in the best way possible.

During the June 20, 2013, hearing, FIS was specifically asked to perform a Cost-Benefit Analysis (CBA) of the support contract. The support contract provides clerical, administrative, and technical support to various functions critical to the background investigative process. The duties include initial processing and scheduling of investigative requests, performing file maintenance, imaging case documents, processing mail, and executing case closing processes, among other activities. The support contract requires more than 40 different position types to perform this work from data support clerks to imaging and mailroom technicians to quality assurance specialists.

In order to conduct the Cost-Benefit Analysis (CBA) of the support contract, OPM calculated what it would cost to federalize the functions the support contractor performs. First, OPM analyzed all of the positions that are required to operate the contracted support function. Using human resource specialists, FIS was able to translate these positions into the GS (General Schedule) and WG (Wage Grade) scales. From this analysis, FIS extrapolated an average salary cost per FTE performing the support function. FIS then applied a benefits rate of 36% and an overhead rate of 12%, as used in OMB A-76 guidance. From this, OPM estimated the fully loaded annual rate of a federal employee performing the support function in FY13 to be approximately \$52K. In comparison, FIS estimated the cost of the support contract in FY13 to be \$46.02M and there are 999 CMEs (Contractor Manpower Equivalents) under the contract. Therefore, the fully loaded annual rate for the contracted employee is approximately \$46K, which is \$6K (or 12%) less than the cost of a federal employee.

Fully Loaded Annual Rate per Employee Performing Support Contract Functions			
	Federal	Contractor	Difference
FY13	\$52,000	\$46,000	\$6,000

Please note the above table does not include the federal oversight and quality assurance the federal staff performs on the support contract. During the hearing, AD Miller stated OPM has 35 federal personnel conducting oversight of the support contract. These 35 federal employees are in addition to the 999 CME under the support contract.

b. What is the total number of investigations performed each year for the last five years?

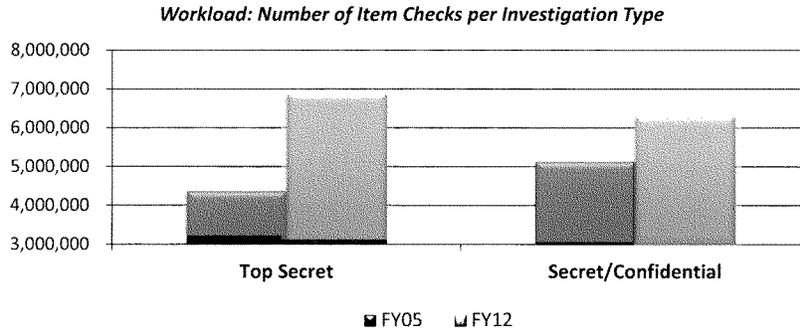
Cases Closed

	FY2005	FY2006	FY2007	FY2008	FY2009	FY2010	FY2011	FY2012	FY2013 (as of 7/15/13)
Fieldwork Intensive									
SSBI	93,520	90,820	108,194	112,968	99,589	107,068	105,863	89,835	77,765
BI	8,826	6,735	9,900	15,465	12,163	14,279	12,910	11,183	10,330
SSBI-PR	52,203	76,869	84,908	68,162	55,299	53,855	71,090	56,713	38,465
Phased PR	0	1,239	38,264	60,877	48,542	39,222	48,474	65,537	55,141
MBI	13,593	19,797	18,530	39,671	36,697	44,372	65,985	71,500	67,535
LBI	11,704	9,693	10,412	12,596	11,299	9,154	2,351	0	0
RSI	5,745	8,743	11,812	12,068	13,028	11,811	13,422	9,952	5,434
PRI/PRIR	1,979	1,476	1,142	1,951	1,548	2,278	2,038	5,839	7,980
Subtotal	187,570	215,372	283,162	323,668	278,165	282,039	322,133	310,559	262,550
Less Fieldwork Intensive									
ANACI	48,089	47,040	63,657	75,525	65,973	70,925	89,810	52,272	31,925
NACLCL	385,372	476,308	572,234	571,322	504,866	459,291	474,814	462,883	358,191
NACI	140,290	154,686	284,294	305,029	290,499	297,403	279,138	229,480	185,718
NAC	49,081	51,231	60,346	62,206	62,307	31,399	43,337	37,015	31,228
SACI	95,635	85,870	74,343	66,891	25,148	22,806	30,723	40,537	48,237
PCNAC	4,602	5,152	4,605	3,783	5,041	5,014	5,003	4,007	3,373
USAC	2,282	2,545	2,488	1,980	1,490	1,219	678	685	163
Subtotal	725,251	822,832	1,061,967	1,086,336	955,124	888,057	903,503	826,879	638,835
Total Fieldwork & Less Fieldwork Intensive	912,821	1,038,204	1,345,129	1,410,004	1,233,289	1,170,096	1,225,636	1,137,438	901,385
SAC/ENTNAC	568,775	722,647	848,962	923,340	875,307	901,938	938,707	1,064,774	937,794
TOTAL	1,481,596	1,760,851	2,194,091	2,333,344	2,108,596	2,072,034	2,165,343	2,202,212	1,839,179

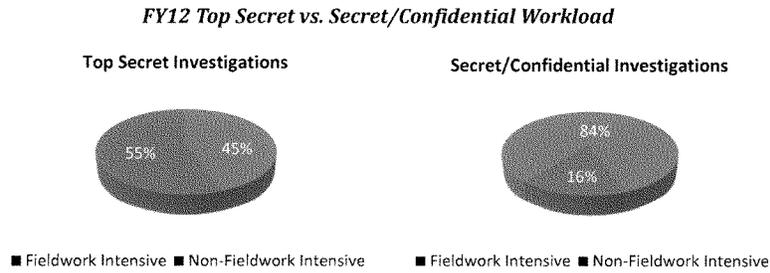
The shift in workload mix is evident from the above chart, and the chart that follows. OPM has worked with stakeholders to bring attention to their ever increasing appetite for more fieldwork intensive investigations, a significant cost driver, to impress upon them the need to consider carefully and apply the position designation standards. Fieldwork intensive investigations, such as the SSBI used for individuals requiring a Top Secret clearance, cost \$4,005, which is 14 times more than a less fieldwork intensive records check investigation, such as the \$228 NACLCL investigation, required for an individual requiring a clearance at the Secret level. For example, since FY05 DOD's requests for more fieldwork intensive investigations have increased by 82 percent, resulting in FY12 cost increases of \$245M over FY05 background investigation costs. Overall, requests for more resource intensive investigations have resulted in increased costs to stakeholders in FY12 totaling \$305M over the FY05 costs. (See Attached – Significant Cost Drivers – Investigation Mix Chart)

In addition, not only have the number of resource intensive investigations increased significantly, but so too has the level of manual effort required. The effort required for a Top Secret investigation has increased since FY05. As evidenced below, the number of items completed for

Top Secret investigations during FY 2012 has increased by 58% from FY05, while the number of items completed for Secret/Confidential investigations has increased by 22.8%.



Expanding on FY12 data, the below charts illustrate the types of items in both Top Secret and Secret/Confidential investigations. Although the numbers of items for Top Secret investigations are not vastly greater than Secret/Confidential investigations, over 55% of Top Secret items involved manual effort, while only 16% of Secret/Confidential items were manually intensive.



Total Items Completed	FY05	FY12	Percent Change
Top Secret <i>(SSBI, SSBI-PR, Phased PR)</i>	4,371,057	6,907,663	58.0%
Secret/Confidential <i>(NACLC, ANACI)</i>	5,143,542	6,316,013	22.8%

Total Items Completed	Fieldwork Intensive	Non-Fieldwork Intensive	Totals
Top Secret (SSBI, SSBI-PR, Phased PR)	3,825,015 (55%)	3,082,648 (45%)	6,907,663
Secret/Confidential (NACLC, ANACI)	1,032,617 (16%)	5,283,396 (84%)	6,316,013

c. What is the training process for a federal employee performing background investigations as opposed to a contractor employee?

The curriculum is the same for both. FIS employs a professional Federal cadre of certified instructors and instructional system specialists to develop and provide an accredited Background Investigator Training program, recognized by the Executive Branch as the national training standard. FIS employees, and other government agency personnel receive this training at FIS' National Training Center. The trainers for the contract investigators attend courses and then administer the same courses to the employees of the contractors. In April 2013, FIS was unanimously granted program accreditation for the foundation level Federal Background Investigator Training Program through the Federal Law Enforcement Training Accreditation (FLETA) program. OPM now has the only Federally accredited personnel security investigation training program in the United States. OPM believes that its investment in training is key to investigative quality.

The same cadre of certified instructors who administer OPM's training conduct regular audits on the contractors' investigator training programs to ensure all training and related materials are in compliance with OPM-FIS policies and procedures. Yearly audits, at a minimum, are conducted in person on entire programs. Audits are also conducted on materials when there are any changes to OPM-FIS policy and procedures, to ensure those changes are pressed into service immediately, or when there has been no audit that has been conducted within the fiscal year quarter. During an audit, contractors must correct any areas that are not fully in line with policies and procedures in order to maintain approval. Audits not only address needed revisions but also include suggestions for consideration to address quality and effectiveness improvements of contractor training programs and/or materials.

OPM's oversight program ensures the contractors provide training plans that outline how the contractors will meet contractual requirements. OPM's Oversight personnel conduct both formal and informal inspections to ensure compliance of the contract. Any identified areas of non-compliance must be remedied.

What are the differences in levels of responsibility or position descriptions between federal and contractor background investigators?

OPM does not write position descriptions for employees who work for contractors. As with the management of the workload assigned to Federal investigators, the company managing work conducted for OPM has the discretion in assigning tasks and workload so long as it meets contract requirements. However, an investigator performing a task under a contract would have exactly the same responsibilities as a Federal employee performing that same task for the same type of investigation.

5. How many background investigation contractors have been employed by the FIS in each of the past five years?

OPM does not dictate the staffing levels contractors use to perform under the background investigation contracts. The background investigation contracts (i.e., the courier service, background investigation support, credit reporting service, and fieldwork contracts) are all procured through performance based acquisition (PBA) (Federal Acquisition Regulation 37.6). Each of these contracts are indefinite delivery indefinite quantity (IDIQ) contracts (FAR 16.5) with firm-fixed-price (FFP) task orders. Each of these contracts contain fixed price Contract Line Item Numbers (CLINs) for various work related to the investigative products/processes. As a standard practice OPM orders work (via FFP task order) against the IDIQ contracts using the established fixed CLIN rates.

The FFP task orders are governed by the contract definition included in FAR 16.202-1, which do not provide for any price adjustment on the basis of the contractors' cost experience in performing the contract.

These acquisitions were made using PBA methodologies (FAR 37.6). Under this type of acquisition, the contractor is simply required to staff sufficiently to meet the demands of the contract.

According to the contractor, the fieldwork contract is comprised of full time investigators, part-time investigators, intermittent sub-contractors, and various support personnel who work varying hours on the contract. OPM does not know how this workforce would translate into full-time equivalents. (We note that there is a pending case to amend the FAR to require that agencies begin incorporating clauses into their contracts to collect data from contractors on the direct labor hours expended on the services performed under the contract. Like other civilian agencies, OPM will begin using this clause in accordance with the FAR rule when it is finalized and becomes effective.)

6. How many program support contractors have been employed by the FIS during each of the last five years?

OPM does not dictate the staffing levels contractors use to perform under the “support contracts” (i.e., what OPM calls the Support Contract, the Consolidated Leads Contract, the Credit Contract, and the Courier Contract). Therefore, we do not know how the employees the contractors use would translate into full-time equivalents.

7. What have been the cost savings and reduction in contract needs as FIS processes have been automated for the last five years?

Although OPM processes are largely automated, OPM relies on contractor support to convert records received in a myriad of configurations and forms from thousands of information providers into automated information that will support efficient adjudicative processing. Until the largest government records repositories can be reformed to provide fully automated data exchanges, OPM will have to continue to rely on manpower intensive contract support to convert the information received into automated information that can be incorporated into e-Deliverable background investigation products. OPM has been working with the PAC to focus on and prioritize government records repository reform.

OPM also relies on contractor support to conduct field investigations. With contractor support and enabled by technology, FIS has been able to improve timeliness in processing requests, which contributes to greater agency efficiency by enabling other agencies’ contractor staff to come on-board more quickly, and to meet congressional timeliness mandates. (The information provided in response to Senator Coburn’s question #3 relates to this question.)

FIS employs a layered strategy and approach to cost savings:

- First, FIS seeks cost savings wherever immediately possible. FIS has realized immediate cost savings from steps taken to cut costs associated with government travel, vehicles, leases, and mail. FIS has also changed internal processes which have reduced costs, but not impacted the quality of investigations or the level of service OPM provides customer agencies. For example, FIS reduced the pre-review in certain case types resulting in an estimated negotiated savings of over \$1.7 million. Other process changes relating to printing, imaging, and billing resulted in an estimated negotiated savings of almost \$2 million.
- Second, FIS seeks cost containment wherever possible, seeking off-sets for any mandated costs increases. FIS off-set the costs associated with required training enhancements by developing automated training capabilities. To off-set the cost of FIS requirements to support development of suitability and security process reform policies, OPM installed video teleconferencing communication capabilities that minimize travel requirements while ensuring appropriate collaboration and engagement in remote working group activities.
- Third, FIS strives to achieve timeliness standards in all cases, with estimated savings to the Executive Branch of over \$25B in cost avoidance. By far, the largest increase in government-wide efficiency and resulting cost benefit occurred when FIS reduced the time required of the investigation process from an average of 145 days in FY 2005 to 36 days in FY 2012. Using GAO methodology, OPM estimates savings to the federal

government of over \$25 billion because the improved investigation timeliness allowed agencies to clear individuals faster and put them to work at the jobs they were hired to do.

8. What are the projected savings for the next five years with the continued automation of FIS processes?

In December 2012, the ODNI and the Director of OPM signed the Revised Federal Investigative Standards. These 2012 standards will enhance investigative quality by including new information sources and will drive reciprocity in defining universal (vice minimum) standards for all investigations. With these valuable benefits, the standards also bring uncertainty as to implementation costs. Based on OPM FIS informal study, the decisions made in the Executive Branch implementation planning could raise or lower the price of various (Tier 2) new investigative products. OPM has encouraged engagement by all stakeholders in the implementation process planning, and remains fully engaged to ensure the implementation decisions are properly informed. Until implementation planning is complete and decisions are made, projections regarding savings and costs will remain conjecture.

Besides automation to support revised Federal Investigative Standards, OPM FIS has been modernizing its suite of systems to ensure the stability and agility required to support and sustain 95% of the Federal vetting processes. These investments are well overdue, but will provide a solid framework to more efficiently support implementation of the revised Federal Investigative Standards.

FIS is always seeking efficiency and has a number of other initiatives underway that are expected to result in savings to off-set costs associated with the Revised Federal Investigative Standards implementation, but until the implementation decisions are made and the costs of those new collections identified, it is currently unknown whether these initiatives will provide enough savings to off-set the new costs. Examples of activities underway include the following:

- By continuing efforts to identify when information available through the National Law Enforcement Telecommunications System (NLETS) is consistent and reliable enough to replace manual state by state collection, OPM expects to reduce the fees that OPM pays through contract for manual collection of this state information by approximately \$400,000 over the next 5 years.
- OPM is working on an online limited screening process to discontinue the practice of redundant review of investigation questionnaires that were already reviewed by the agency submitting the background investigation request. If this process improvement proves successful, this shift could save additional resources, yet to be determined by the pilot.
- As an example of current costs that will be reduced through automation, FIS is to begin testing a function that will allow OPM to collect birth certification data directly from state data repositories via automated linkage. It is estimated this will reduce the fees that OPM pays through contract for the manual collection of this information by approximately \$55,000 per year.

**Post-Hearing Questions for the Record
Submitted to Stephen Lewis
From Senator Claire McCaskill**

**“Safeguarding Our Nation’s Secrets: Examining the Security Clearance Process”
June 20, 2013**

Question: What are the criteria that the Department of Defense follows in determining whether to grant security clearances?

Answer: In adjudicating eligibility for access to classified information or assignment to sensitive duties, the Department applies the Presidentially-approved Federal "Adjudicative Guidelines for Determining Eligibility for Access to Classified Information" which apply to civilian and military persons, consultants, contractors, and others who require access to classified information.

Question: What are the criteria that the Department of Defense follows in determining whether to revoke security clearances?

Answer: A decision to revoke a clearance eligibility is based on the application of the Presidentially-approved Federal "Adjudicative Guidelines for Determining Eligibility for Access to Classified Information" which apply to civilian and military persons, consultants, contractors, and others who require access to classified information. In addition, the DoD complies with Public Law 110-181, Section 3002 Security Clearances; Limitations, which restricts granting access to special access programs, access to Special Compartmented Information, and Restricted data.

Question: How many security clearances has the Department of Defense revoked in the last five years?

Fiscal Year	# of Revocations
FY13 Q1 and Q2	2,669
FY12	5,479
FY11	4,837
FY10	3,489
FY09	2,835
Total	19,309

Question: During the hearing, you stated that the Department of Defense is working with the acquisition community to address the fact that the government often pays premiums for contracts that include security cleared individuals despite the fact that the government itself paid for the individuals' security clearances. What is the status of this reform?

Answer: On behalf of DoD, I testified that I would follow up with the acquisition community in response to the congressional statement that the Department was paying premiums for contracts that include cleared contractor personnel. I contacted USD(AT&L) Defense Procurement and Acquisition Policy, who advised that there is no acquisition policy to pay premiums for contracts requiring cleared personnel. However, additional costs covering administrative functions associated with cleared personnel, e.g., security officer, training, and education, are often included in contracts.

**Post-Hearing Questions for the Record
Submitted to Mr. Stephen F. Lewis
From Senator Tom A. Coburn, M.D.**

**“Safeguarding Our Nation’s Secrets: Examining the Security Clearance
Process”
June 20, 2013**

Question: Has your office requested and, if requested, been provided data by OPM Federal Investigative Services justifying the cost of its investigation process, specifically the price breakdown per investigation?

Answer: To date, the Department of Defense has not received a breakout of the costs for the OPM investigation process that contains sufficient detail to validate the impact of each different type of cost on OPM’s prices.

On August 4, 2012, Deputy Secretary of Defense Carter sent a letter to OPM Director, John Berry, highlighting the need for renewed attention on the acquisition of security investigations. “While our two organizations benefit from the familiarity of being each other’s largest stakeholder in this business area, I am convinced this acquisition requires new levels of leadership commitment, transparency, and information sharing to ensure the best interests of both organizations are met.” The letter directed the Under Secretary of Defense for Intelligence, the Deputy Chief Management Officer, and the Under Secretary of Defense (Comptroller) to engage in a review of the DoD acquisition of background investigation products, services and the support from OPM and other providers, where appropriate. In addition, the Deputy Secretary requested the full cooperation of OPM experts to provide information needed to review and analyze any perceived business problems, identify capability gaps, and determine viable solutions to optimize DoD’s investment in investigative products and services.

Enclosure I: Response to Chairman McCaskill's Question for the Record

**Post-Hearing Questions for the Record
Submitted to Brenda S. Farrell
From Chairman Claire McCaskill**

“Safeguarding Our Nation’s Secrets: Examining the Security Clearance Process”

June 20, 2013

1. **Please produce a scorecard of the Federal Investigative Services’ progress toward recommendations provided by the Government Accountability Office toward improving their processes and management of the background investigation process.**

In enclosure II, we provide a scorecard of the implementation status of five recommendations we made in three separate reports to the Director of the Office of Personnel Management (OPM) between 2009 and 2012 related to its background investigation program, an important component of the security clearance process.¹ We directed two of these recommendations (in our July 2012 report) to the Director of National Intelligence as well.² GAO has maintained an ongoing dialogue with OPM and the Office of the Director of National Intelligence regarding the status of the five recommendations. Although OPM has provided evidence that Federal Investigative Services has taken action to address these recommendations, OPM’s responses to the recommendations are not yet complete, and therefore the recommendations remain open. In enclosure II, we list the specific actions OPM (and the Office of the Director of National Intelligence) have taken to respond to our recommendations.

Since 2005 we have made recommendations in seven reports to multiple executive branch agencies—including the Office of Management and Budget, the Director of National Intelligence, OPM, and the Department of Defense (DOD)—on issues related to the government-wide effort to reform the security clearance process.³ Also in 2005, we placed DOD’s personnel security clearance program on our High-Risk List due to

¹GAO, *Security Clearances: Agencies Need Clearly Defined Policy for Determining Civilian Position Requirements*, GAO-12-800 (Washington, D.C.: July 12, 2012); *Background Investigations: Office of Personnel Management Needs to Improve Transparency of Its Pricing and Seek Cost Savings*, GAO-12-197 (Washington, D.C.: Feb. 28, 2012); and *DOD Personnel Clearances: Comprehensive Timeliness Reporting, Complete Clearance Documentation, and Quality Measures Are Needed to Further Improve the Clearance Process*, GAO-09-400 (Washington, D.C.: May 19, 2009).

²GAO-12-800.

³GAO-12-800; GAO-12-197; GAO, *Personnel Security Clearances: Progress Has Been Made to Improve Timeliness but Continued Oversight Is Needed to Sustain Momentum*, GAO-11-65 (Washington, D.C.: November 19, 2010); GAO-09-400; *Personnel Security Clearances: An Outcome-Focused Strategy Is Needed to Guide Implementation of the Reformed Clearance Process*, GAO-09-488 (Washington, D.C.: May 19, 2009); *DOD Personnel Clearances: Improved Annual Reporting Would Enable More Informed Congressional Oversight*, GAO-08-350 (Washington, D.C.: Feb. 13, 2008); and *DOD Personnel Clearances: Additional OMB Actions Are Needed to Improve the Security Clearance Process*, GAO-06-1070 (Washington, D.C.: Sept. 28, 2006).

Enclosure I: Response to Chairman McCaskill's Question for the Record

problems with timeliness and quality.⁴ In 2011, we removed DOD's personnel security clearance program from our High-Risk List because of progress in improving the timeliness of granting security clearances, and also because of tools and metrics that DOD had developed to assess the quality of investigations and adjudications.⁵ At that time, we noted that it is important for personnel security clearance reform leaders from the government-wide Performance Accountability Council to ensure that other non-DOD executive branch agencies also develop the plans and tools necessary to make progress in timeliness and ensure that quality metrics are applied and reported. Also, we have previously reported that agencies' ability to meet timeliness goals should not be carried out at the expense of quality and that, while OPM has identified an agency priority goal in response to the Government Performance and Results Act Modernization Act of 2010 regarding timeliness, that goal does not capture the competing priority of measuring the quality of background investigations.⁶

⁴GAO, *High-Risk Series: An Update*, GAO-05-207 (Washington, D.C.: January, 2005).

⁵GAO, *High-Risk Series: An Update*, GAO-11-278 (Washington, D.C.: Feb. 16, 2011).

⁶GAO, *Personnel Security Clearances: Continuing Leadership and Attention Can Enhance Momentum Gained from Reform Effort*, GAO-12-815T (Washington, D.C.: June 21, 2012) and *Managing for Results: Agencies Should More Fully Develop Priority Goals under the GPRA Modernization Act*, GAO-13-174 (Washington, D.C.: Apr. 19, 2013).

Enclosure II: Scorecard of Office of Personnel Management's (OPM) Implementation of GAO's Background Investigation Recommendations, August 2013

#	GAO Recommendation	Agency/ position	Implementation status	Agency efforts to date
Security Clearances: Agencies Need Clearly Defined Policy for Determining Civilian Position Requirements. GAO-12-800, July 12, 2012.				
1	GAO recommended that the Office of the Director of National Intelligence (ODNI), in coordination with the Office of Personnel Management (OPM) and other executive branch agencies as appropriate, issue clearly defined policy and procedures for federal agencies to follow when determining if federal civilian positions require a security clearance.	OPM: Did not state concur or non-concur ODNI: Concur	Open	GAO made this recommendation primarily to the Director of National Intelligence (DNI) in the capacity as Security Executive Agent responsible for developing uniform and consistent policies related to the security clearance process. According to officials from ODNI, ODNI and OPM are in the process of issuing a joint revision to part 732 of Title 5 of the Code of Federal Regulations, which provides requirements and procedures for the designation of national security positions. As of July 2013, ODNI and OPM had obtained permission from the President to re-issue the regulation jointly, drafted the proposed rule, and obtained public input on the regulation by publishing it in the Federal Register. ¹ According to ODNI and OPM, they will jointly adjudicate public comments and prepare the final rule for approval from the Office of Management and Budget (OMB). This recommendation remains open until these actions are complete.
2	GAO recommended that, once the policy and procedures are issued (see #1 above), the DNI and the Director of OPM	OPM: Concur ODNI: Concur	Open	GAO made this recommendation jointly to OPM and the DNI. OPM and ODNI must complete the joint revision to part 732 of Title 5 of the Code of Federal Regulations before they can revise the position

¹Designation of National Security Positions in the Competitive Service, and Related Matters, 78 Fed. Reg. 31847-01 (2013). That notice indicates that the proposed rule is to be reissued and renumbered in a new chapter IV, part 1400 of title 5, Code of Federal Regulations.

Enclosure II: Scorecard of Office of Personnel Management's (OPM) Implementation of GAO's Background Investigation Recommendations, August 2013

<p>collaborate in their respective roles as Executive Agents² to revise the position designation tool to reflect that guidance.³</p>			<p>designation tool. However, according to OPM and ODNI officials, as of July 2013, OPM and ODNI were discussing the development of a project plan to revise the Position Designation Tool. This recommendation remains open until OPM and ODNI jointly revise the position designation tool.</p>
<p>Background Investigations: Office of Personnel Management Needs to Improve Transparency of its Pricing and Seek Cost Savings. GAO-12-197, February 28, 2012.</p>			
<p>3 GAO recommended that OPM provide customer agencies with better information on the costs of background investigations, including the data related to its main cost drivers, in order to clarify to the extent possible how costs align with and affect investigation prices.</p>	<p>OPM: Concur</p>	<p>Open</p>	<p>OPM recently provided updates of steps it has take to address our recommendation. For example, in December 2012, OPM published its first annual report to stakeholders⁴ which includes OPM Federal Investigative Services' operating expenses, cost drivers, and a description of a cost allocation model that is under development. According to OPM, this cost allocation model will</p> <ul style="list-style-type: none"> • identify the differences in cost structure for federal employee- and contractor-led investigations, • inform a sustainable fee structure by linking the cost of operations to the different fees OPM charges to recover the costs, and • design a repeatable process to develop cost data to

²In June 2008, Executive Order 13467 established a Suitability and Security Clearance Performance Accountability Council, appointed the Deputy Director for Management at the Office of Management and Budget as the chair of the council, designated the Director of National Intelligence (DNI) as the Security Executive Agent, and designated the Director of OPM as the Suitability Executive Agent.

³GAO found that, in the absence of policy and procedures to determine if federal civilian positions require a security clearance, agencies are using a position designation tool that OPM designed to determine the sensitivity and risk levels of civilian positions. The position designation tool is a tool that OPM designed to determine the sensitivity and risk levels of civilian positions which, in turn, inform the type of background investigation the position requires.

⁴Office of Personnel Management, Federal Investigative Services, *Annual Stakeholder Report for Fiscal Year 2012*, (December 2012).

Enclosure II: Scorecard of Office of Personnel Management's (OPM) Implementation of GAO's Background Investigation Recommendations, August 2013

			<p>support fee studies.</p> <p>This recommendation remains open until the cost allocation model, which is to align OPM costs with investigation prices, is complete.</p>
<p>4</p> <p>GAO recommended that OPM take actions to identify process efficiencies that could lead to cost savings within its background investigation process.</p>	<p>Open</p>	<p>OPM: Concur</p>	<p>In a February 2013 update to GAO, OPM provided a summary of various process efficiency studies that it had conducted or contracted for, including a study of business processes, information technology transformation and modernization initiatives, and a study of staff utilization.</p> <p>This recommendation remains open until OPM provides documentation that those studies took place.</p>
<p>DOD Personnel Clearances: Comprehensive Timeliness Reporting, Complete Clearance Documentation, and Quality Measures Are Needed to Further Improve the Clearance Process. GAO-09-400, May 19, 2009.</p>			
<p>5</p> <p>GAO recommended that OPM measure the frequency with which its investigative reports meet federal investigative standards, so that the executive branch can identify the factors leading to incomplete reports and include the results of such measurement in the annual report to Congress on clearances required by the Intelligence Reform and Terrorism Prevention Act of 2004.</p>	<p>Open</p>	<p>OPM: Did not state concur or non-concur</p>	<p>In response to our 2009 recommendation, on August 1, 2013, OPM provided GAO with a Review Quality Tool that it states it is using to review investigations against investigative standards. This submission was in addition to information that OPM had previously provided to GAO in an effort to address this recommendation.</p> <p>This recommendation remains open until GAO is able to assess the extent to which OPM is using this tool to measure the quality of its background investigations conducted by its federal and contractor personnel. In response to the requests of Senators McCaskill and Johnson, in their roles as Chairman and Ranking Member of the Subcommittee on Financial and Contracting Oversight, and of Senators Tester and Portman, in their roles as Chairman and Ranking Member of the Subcommittee on the Efficiency and Effectiveness of Federal Programs and the Federal Workforce, GAO plans a review of the quality of security clearance background</p>

