DEPARTMENT OF DEFENSE

DCPAS

Defense Civilian Personnel Advisory Service

A GUIDE FOR SUPERVISORS

THE SUITABILITY GUIDE FOR SUPERVISORS

TABLE OF CONTENTS

SECTION 1 **INTRODUCTION** PG. 02

1.1 Purpose
1.2 Background
1.3 About This Document

SECTION 2 **SUITABILITY PROCESS OVERVIEW** PG. 03

2.1 Position Designation
2.2 What Is a Public Trust Position?
2.3 What Is "Fitness" for Federal Employment?
2.4 Investigative Requirements
2.5 What Background Areas Are Checked?
2.6 Adjudicative Guidelines
2.7 Reinvestigation

SECTION 3 **MANAGER & SUPERVISOR RESPONSIBILITIES** PG. 07

3.1 Understanding and Helping With Personal Problems

SECTION 4 **REFERENCES** PG. 08

SECTION 5 **DEFINITIONS** PG. 08

SECTION 1 – INTRODUCTION

1.1 Purpose

The purpose of this reference guide is to provide guidance to Department of Defense (DoD) managers and supervisors on federal requirements for background investigations and on DoD responsibilities for administering a Personnel Suitability and Fitness for Government Employment Program. This guide also provides the following information:

1. The identification of a position's risk and sensitivity level as it relates to the efficiency and integrity of Federal service.

2. Determining the scope of a personnel background investigation as it relates to a position's risk level or sensitivity level.

3. An overview of the laws, regulations, policies, and guidance governing the Suitability and Fitness Adjudication process for persons being considered for Federal employment or continued Federal employment within DoD.

4. The process utilized to ensure persons being considered for Federal employment or continued Federal employment within DoD submit and complete the required application materials and investigative forms.

It is important to ensure that all individuals who work for, or on behalf of, DoD are loyal, trustworthy, and of good character. As such, it is DoD policy that procedures relating to suitability and fitness for Government employment, physical access to controlled facilities, and logical access to information systems provide fair treatment of those upon whom the Federal Government relies to conduct the Nation's business and that consistent standards, to the extent possible, be applied to designate position sensitivity and risk for covered positions, apply adjudicative guidelines, and provide for reciprocal recognition of existing investigations and adjudications.

In order to access classified information, perform sensitive duties, work in the Federal service, or receive credentials to access DoD controlled facilities or information systems, employees and contractor personnel must submit personal information, and undergo investigation and adjudication by trusted government personnel.

It is the primary responsibility of managers and supervisors, with advice and assistance from Human Resources and Security Professionals to determine the risk and sensitivity designation of their subordinate positions using available resources such as the Office of Personnel Management's (OPM) Position Designation System and Automated Tool. Additionally, these determinations must be consistently applied across organizations and departments.

1.2 Background

The Federal Government mandates that all applicants, appointees, employees, contractors, and others are suitable for employment or fit for assignment to work for or on behalf of the Federal government. This service requires a high standard of integrity and trust to promote the interests of the public. The need for this guide has increased as the rules and procedures for determining suitability and security issues have become more defined.

1.3 About This Document

This guide is for use by DoD managers and supervisors to aid in the support of efforts to ensure awareness of the criteria in obtaining and maintaining suitability and fitness for Federal employment.

SECTION 2 – SUITABILITY PROCESS OVERVIEW

Suitability is defined as a person's identifiable character traits and conduct sufficient to decide whether an individual's employment or continued employment would or would not protect the integrity or promote the efficiency of the service.

The Code of Federal Regulations (5 CFR 731) provided by the Office of Personnel Management (OPM) establishes criteria and procedures for suitability review, investigations, determinations, and actions for covered positions.

Covered positions include only:

- Competitive service positions
- Career appointments in the Senior Executive Service
- Excepted service positions that can be non-competitively converted to competitive service

DoD, along with all Federal Departments, is required to establish a process for making suitability or fitness determinations and taking suitability actions involving applicants for, appointees to, and employees in covered positions. Keep in mind that a favorable suitability or fitness determination does not mean that the individual is automatically eligible for a security clearance, just as someone with a security clearance is not necessarily suitable for any position within the Federal service. Security adjudications and credentialing decisions are based on different standards and criteria that are not discussed in detail in this guide.

Suitability and fitness requirements for civilian employment are also separate and distinct from the qualifications required for the job (e.g., education or experience requirements). A favorable suitability or fitness determination does not mean that the individual is automatically eligible for a job, nor is a person who is qualified for a job automatically suitable for Federal employment. Suitability or fitness determinations should be made subsequent to finding the person qualified for the job.

Suitability and Fitness for Federal employment consists of four basic elements:

1. Position designation
2. Investigative requirements
3. Adjudication and guidelines
4. Reinvestigation

2.1 Position Designation

Employees and applicants for employment with the Department of Defense and individuals who perform work for, or on behalf of, a Federal agency as an employee in the excepted service (other than in a position subject to suitability) or as a contractor employee are required to have a basic background investigation conducted upon hire by the Federal Government to determine their suitability for employment. The level to which the investigation is conducted is determined by the position sensitivity and risk.

Every position must be designated at the low, moderate, or high risk level as determined by the position's potential for adverse impact on the efficiency and integrity of the service.

Additionally, these determinations must be consistently applied across the organizations and departments.

2.2 What Is a Public Trust Position?

Public Trust is a term used to refer to those positions within the Federal service that require a higher degree of investigation and scrutiny of the individual based on the risk to public confidence.

Public Trust positions include those involving policy making, major program responsibility, and law enforcement duties, or other duties demanding a significant degree of Public Trust; and positions involving access to or operation or control of financial records, with a significant risk for causing damage or realizing personal gain and have the potential for adversely affecting the integrity, efficiency, and effectiveness of DoD's mission.

High Risk Public Trust Positions

- Have the potential for exceptionally serious impact involving duties especially critical to DoD programs and policies.
- Are subject to reinvestigation every 5 years.

Moderate Risk Public Trust Positions

- Have the potential for moderate to serious impact involving duties of considerable importance to the DoD's mission and delivery of customer services to the public.
- Are subject to reinvestigation every 5 years.

Low Risk Positions

- Involve duties of limited impact to DoD's mission with program responsibilities that affect the efficiency of the service.

The Public Trust designation level indicating the type of background investigation required is used on the investigation forms, (i.e., Standard Form, SF-85, Questionnaire for Non-Sensitive Positions; SF-85P, Questionnaire for Public Trust Positions; and other personnel forms such as SF-50, Notification of Personnel Action; SF-52, Request for Personnel Action; and OF-8, Optional Form.) The position sensitivity code and risk level is also recorded in the personnel systems.

2.3 What Is Fitness for Federal Employment

Fitness refers to the level of character and conduct determined necessary for an individual to perform work for, or on behalf of, a Federal agency as an employee in the excepted service (other than in a position subject to suitability) or as a contractor employee. Excepted service positions are covered by 5 CFR 302.

2.4 Investigative Requirements

Background investigations are conducted commensurate with a position's risk or sensitivity level.

When an employee has been the subject of a prior investigation, a copy of the investigation may be requested from the investigating agency. If the prior favorably adjudicated investigation meets or exceeds the current investigatory requirements, the individual may not be required to undergo a new investigation, unless there has been a break in Federal service of twenty-four months, or the duties of the position are significantly different from the prior work. Use of prior favorably adjudicated investigations is referred to as 'reciprocity', and is encouraged to the greatest extent practicable.
Certain positions at DoD will require the employee to obtain and maintain a security clearance. The determination of the need for a security clearance and the subsequent level of clearance will be made by the supervisor, with advice and assistance from Human Resources.

2.5 What Background Areas Are Checked?

Background investigations involve inquiries into an individual's past to gather information to help determine whether he or she is suitable for Federal employment and may include checks into the following areas and sources:

- Prior employment records
- Financial records
- Criminal records/investigations
- Psychological issues
- Foreign travel
- Education records
- Drug issues
- Alcohol issues
- References (personal and professional)
- Federal Bureau of Investigation (FBI) records

2.6 Adjudicative Guidelines

Upon completion of the appropriate background investigation, applicants and employees undergo a suitability review. Once OPM completes the background investigation, the investigative package is returned to the agency and the designated adjudicator evaluates the material based on OPM guidance to ensure those attributes are consistent with the duties of the position and the mission of the organization. The following criteria may be considered as a basis for finding an individual unsuitable for service and taking a suitability action:

- Misconduct or negligence in employment
- Criminal or dishonest conduct
- Material, intentional false statement or deception for fraud in examination or appointment
- Refusal to furnish testimony as required under Title 5 of the United States Code of Federal Regulations (5 CFR 731, section 5.4)
- Alcohol abuse without evidence of substantial rehabilitation, of a nature and duration that suggests that the applicant or appointee would be prevented from performing the duties of the position in question, or would constitute

a direct threat to the property or safety of the applicant or appointee or of others

- Illegal use of narcotics, drugs, or other controlled substances, without evidence of substantial rehabilitation
- Knowing and willful engagement in acts or activities designed to overthrow the U.S. Government by force
- Any statutory or regulatory bar which prevents lawful employment of the person involved in the position in question

The following are used as additional considerations to the extent they are deemed pertinent to the individual case when making a suitability determination:

- The nature of the position for which the person is applying or in which the person is employed
- The nature and seriousness of the conduct
- The circumstances surrounding the conduct
- The recency of the conduct
- The age of the person involved at the time of the conduct
- Contributing societal conditions
- The absence or presence of rehabilitation or efforts toward rehabilitation

When an individual is found to be unsuitable, a suitability action may be taken under the procedures of 5 CFR 731, including:

- Cancellation of eligibility
- Removal
- Cancellation of reinstatement eligibility
- Debarment

Agencies must give reasonable notice to employees or applicants in writing, citing specific reasons why they are deemed unsuitable. This includes information on "materials relied upon" to make the decision; time limits for response and information regarding their rights to respond and have representation.

Unfavorable suitability actions taken under Part 731 or part 752 of Title 5, Code of Federal Regulations, are appealable to the Merit Systems Protection Board (MSPB). Actions taken under part 315 of Title 5, Code of Federal Regulations, have limited appeal rights to the MSPB.

Also note that supervisors or managers should seek guidance from Human Resources when initiating suitability actions.

2.7 Reinvestigation

Executive Order 13488 established authority to reinvestigate persons in positions of Public Trust (high and moderate risk levels). Any issues developed in reinvestigations must be evaluated to determine whether or not the person's continued employment promotes the efficiency of the service.

Depending upon the issues leading to the determination that an individual is unsuitable for employment or continued employment, agencies may be required to refer the issue to OPM for proper action.

SECTION 3 – MANAGER AND SUPERVISOR RESPONSIBILITIES

DoD managers and supervisors have the following responsibilities:

- Work with your servicing Human Resource and Security Professional to designate civilian positions with appropriate position sensitivity and risk level and regularly review those designations consistent with the efficient conduct of business.

- Maintain an environment where personal conduct, trustworthiness, and character, is known to be important and compliance is expected and required.

- Take appropriate action in accordance with agency policy when adverse information regarding any employee is discovered.

3.1 Understanding and Helping With Personal Problems

Problems in the workplace can often be prevented by a timely and appropriate response to warning signs that an individual is under stress or having difficulty handling personal problems. Supervisors are responsible for identifying personal problems that may impact the efficiency of the service at an early stage, so there is a reasonable chance that any assistance provided prevent long-term performance, conduct, or security problems.

Supervisors should not become personally involved in an employee's personal problems. They should, however, ensure that a troubled employee who needs help is referred to the professionals who are trained to provide assistance. Supervisors are also responsible for taking appropriate action when an individual's conduct is inconsistent with continued employment in their current position. You should work with your servicing Human Resources professionals to determine appropriate steps to address the issue.

SECTION 4 – REFERENCES

a. Part 731 of Title 5, Code of Federal Regulations

b. Part 302 of Title 5, Code of Federal Regulations

c. Part 732 of Title 5, Code of Federal Regulations

d. Office of Personnel Management Memorandum, "Position Designation System," November 25, 2008

e. Federal Investigations Notice Number 09-03, "New Position Designation System and Automated Tool," January 5, 2009

f. Executive Order 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

g. Executive Order 13488, "Granting reciprocity on Excepted Service and Federal Contractor Employee Fitness and Reinvestigating Individuals in Positions of Public Trust," January 16, 2009

h. USD(P&R) Memorandum, "Employee Support for Maintaining Eligibility for National Security Positions," July 8, 2010

SECTION 5 – DEFINITIONS

Access - Authority that allows an individual to obtain knowledge of, or access to, classified information, materials, or work areas.

Adjudication - An examination of a person's character or conduct over time, resulting in a favorable or unfavorable determination of their employment suitability, eligibility for access to classified information, materials, or areas, or for their retention in Federal employment.

Agency - Any Executive agency as defined in section 105 of Title 5 of the United States Code.

Applicant - A person who is being considered or has been considered for employment.

Appointee - A person who has entered on duty and is in the first calendar year of a subject-to-investigation appointment.

Competitive Service - Positions with Federal competitive status as defined by Title 5 USC Chapter 21 and 5 CFR part 1. A competitive status shall be acquired by career-conditional or career appointment through open competitive examination upon satisfactory completion of a probationary period, or may be granted by statute, executive order, or the Civil Service Rules without competitive examination. A person with competitive status may be promoted, transferred, reassigned, reinstated, or demoted without taking an open competitive examination, subject to the conditions prescribed by the Civil Service Rules and Regulations.

Contractor Employee - An individual who performs work for or on behalf of any Agency under a contract and who, in order to perform the work specified under the contract, will require access to

space, information, information technology systems, staff, or other assets of the Federal Government.

Covered Position - A position in the competitive service, a position in the excepted service where the incumbent can be noncompetitively converted to the competitive service, and a career appointment to a position in the Senior Executive Service.

Debarment - A prohibition from taking a competitive service examination or from being hired (or retained in) a covered position for a specific time period.

Employee - A person who has completed the first year of a subject-to- investigation appointment.

Factor - An issue involving a person's character or conduct, which leads to a suitability determination and/or a suitability action by the Office of Personnel Management or another agency.

Fitness - level of character and conduct determined necessary for an individual to perform work for, or on behalf of, a Federal agency as an employee in the excepted service (other than in a position subject to suitability) or as a contractor employee. Excepted service positions are covered by 5 CFR 302.

High Risk (HR) - A final position designation assessment reflecting the potential for exceptionally serious impact, critical to an agency program or mission or the integrity or efficiency of the service.

Low Risk (LR) - A final position designation assessment reflecting the potential for limited impact on an agency program or mission or the integrity or efficiency of the service.

Material, Intentional False Statement - A deliberate and untrue statement capable of influencing, or having a natural tendency to affect an official decision. A statement may be considered "material" even if it was not actually relied upon in reaching an official decision.

MSPB - Merit Systems Protection Board. An independent, quasi-judicial agency incorporated within the Executive Branch. The Board was established by the Civil Service Reform Act of 1978 (CSRA). The MSPB ensures that federal civil servants are hired and retained based on merit. In overseeing the personnel practices of the federal government, the Board conducts special studies of the merit systems; hears and decides charges of wrongdoing and employment appeals of adverse agency actions; and orders corrective disciplinary actions against an executive agency or employee when appropriate. The Board's independent special counsel investigates, among other things, prohibited personnel practices and allegations of activities proscribed by civil service laws, rules, and regulations, and prosecutes officials who violate civil service rules and regulations.

Moderate Risk (MR) - A final position designation assessment reflecting the potential for moderate to serious impact on an agency program or mission or the integrity or efficiency of the service.

Nexus - A direct or logical connection between a person's character or conduct and the integrity or efficiency of the service.

OF 306 - Declaration for Federal Employment.

Personnel Investigation - A background investigation through written, electronic, telephone, or personal contact to determine the suitability, eligibility, or qualifications of a person to work for or on behalf of the Federal Government.

Personnel Security - A program to assess an individual's potential to compromise or cause damage the national security.

Position Description (PD) - A statement of duties and responsibilities that describe the work assigned to a civilian employee.

Position Designation Tool (PDT) - A tool developed for those individuals within agencies responsible for designating positions through the evaluation of National Security and suitability requirements to determine what type of investigation is required and how closely an applicant or incumbent is screened for a position. This is a systematic, dependable, and uniform way of making position designations.

Position Designation - The assessment of the potential for adverse impact on the integrity and efficiency of the service, and the degree to which, by the nature of the position, the occupant could bring about a material adverse effect on national security.

Position Risk - The designation of a position relative to the potential adverse impact to the integrity and efficiency of the agency.

Public Trust - The category of positions at the moderate or high risk levels involving a significant degree of Public Trust (such as policy making or major program responsibilities, fiduciary responsibility, law enforcement positions, public safety and health duties).

SF 85 - Questionnaire for Non-Sensitive Positions.

SF 85P - Questionnaire for Public Trust Positions.

SF 86 - Questionnaire for National Security Positions.

Suitability - Refers to a person's identifiable character traits and conduct sufficient to decide whether an individual's employment or continued employment would or would not protect the integrity or promote the effectiveness or efficiency of the service.

Suitability Action - An action described in 5 CFR 731.203 (cancellation of eligibility, removal, cancellation of reinstatement eligibility, debarment) that may be taken by OPM or an agency with delegated authority under the procedures in 5 CFR 731 subparts C and D.

Suitability Determination - A decision by OPM or an agency with delegated authority that a person is suitable or is not suitable for employment in covered positions in the Federal Government or a specific Federal agency.