



Department of Defense INSTRUCTION

NUMBER 5220.28

March 8, 1978

ASD(C)

SUBJECT: Application of Special Eligibility and Clearance Requirements in the
SIOP-ESI Program for Contractor Employees

References: (a) through (d), see enclosure E1.

1. REISSUANCE AND PURPOSE

This Instruction (1) establishes the basic security eligibility requirements for access to Single Integrated Operational Plan - Extremely Sensitive Information (SIOP-ESI) for contractor employees and the standard and criteria for making determinations in such cases, and (2) reissues reference (a) to supplement the provisions of reference (b). Reference (a) is hereby superseded and canceled.

2. APPLICABILITY AND SCOPE

2.1. The provisions of this Instruction apply to the Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, and the Defense Agencies (hereafter referred to as "DoD Components").

2.2. Its provisions encompass a special program involving access to SIOP-ESI by contractor employees, subject to the Operational Plan outlined in JCS SM 36-76 (reference (c)).

3. POLICY

In view of the extreme sensitivity of SIOP-ESI, it has been determined in the national interest that:

3.1. Individuals granted access to SIOP-ESI shall be stable, of excellent character and discretion, and of unquestioned loyalty to the United States.

3.2. Members of the individual's immediate family and persons to whom the individual is bound by ties of affection or obligation should neither be subject to physical, mental, or other forms of duress by a foreign power, nor advocate the use of force or violence to overthrow the Government of the United States or the alteration of the form of Government of the United States by unconstitutional means. For these purposes, "immediate family" is defined as the individual's spouse, parents, brothers, sisters and children.

3.3. Any reasonable doubt that access is clearly consistent with the national interest shall be resolved by a determination that such access is not clearly consistent with the national interest.

3.4. Any refusal to answer a relevant inquiry or any deliberate misrepresentation or falsification of material fact shall be considered sufficient to justify a refusal to further process an application for access to SIOP-ESI.

3.5. An adverse determination with respect to eligibility for access to SIOP-ESI will not, in and of itself, necessitate an adverse determination with respect to eligibility for access to information requiring protection solely because it is classified at the Confidential, Secret or Top Secret level; such determination will continue to be made in accordance with the standard, criteria and procedures set forth in DoD Directive 5220.6 (reference (b)).

4. STANDARD AND CRITERIA

4.1. Standard. The standard for granting or continuing access to SIOP- ESI is that, based on all the available information, such access is clearly consistent with the national interest.

4.2. Criteria. The criteria established in DoD Directive 5220.6 (reference (b)) for determining the eligibility of contractor employees for a security clearance are also applicable to determining eligibility for access to SIOP-ESI. In addition, individuals must also meet the basic eligibility requirements established in 5.1.

5. REQUIREMENTS

5.1. Basic Eligibility

5.1.1. Individuals may not be considered for access to SIOP-ESI without meeting the basic security eligibility requirements as set forth below:

5.1.1.1. Applicant and spouse, if any, shall be United States citizens; W

5.1.1.2. Applicant must have a final Top Secret clearance; and

5.1.1.3. Applicant must have been the subject of an appropriate investigation as provided in 5.2. below.

5.1.2. Exceptions to the basic eligibility requirements may be made only by the Chairman, Joint Chiefs of Staff. W

5.2. Investigative

5.2.1. The individual being considered for access to SIOP-ESI must have been the subject of a Special Background Investigation (SBI) conducted in accordance with current DoD investigative scope requirements described in section IV, Defense Investigative Service Manual 20-1 (reference (d)).

5.2.2. Where a previous investigation has been conducted within the past 5 years which substantially meets the requirements cited above, it may serve as a basis for granting access approval, provided a review of the personnel and security files does not reveal substantive changes in the individual's security eligibility.

5.2.3. A previous investigation does not substantially meet the minimum standards or if it is more than 5 years old, a current investigation shall be required, but limited to that necessary to bring the individual's file up to date in accordance with the investigative requirements referred to in 5.2.1. above. Should adverse or questionable information be developed during the current investigation, the investigation shall be expanded to develop full details of this new information.

5.2.4. Whenever adverse or derogatory information is discovered or inconsistencies arise which could impact upon an individual's security status, appropriate investigation shall be conducted on a timely basis. Such investigations shall be of sufficient scope to resolve the specific adverse or derogatory information, or inconsistency, in question so that a determination can be made as to whether the individual's continued utilization in activities requiring access to SIOP-ESI is clearly

consistent with the interests of national security.

6. PROCEDURES

6.1. Designated officials of DoD Components shall submit requests to the Chairman, JCS, for SIOP-ESI access authorizations on behalf of DoD contractors.

6.2. Upon notification from the Chairman, JCS, that access to SIOP-ESI is required, the Defense Industrial Security Clearance Office (DISCO) shall:

6.2.1. Request the Defense Investigative Service to initiate the required investigation;

6.2.2. Determine the applicant's eligibility for access to SIOP-ESI pursuant to the policy set forth in this Instruction;

6.2.3. In cases involving favorable determinations, advise contractors that applicants may be granted access to SIOP-ESI;

6.2.4. Certify applicant's eligibility for access to the requesting DoD Component; and

6.2.5. Maintain appropriate records pertaining to the applicant's eligibility.

6.3. Whenever there is information which indicates that access to SIOP-ESI may not be clearly consistent with the national interest, DISCO shall forward the case, together with the recommendation and rationale therefor, to the Deputy Assistant Secretary of Defense (Security Policy), for determination under the procedures set forth in DoD Directive 5220.6 (reference (b)), except that a unanimous vote by the Screening Board is necessary to grant or continue access to SIOP-ESI.

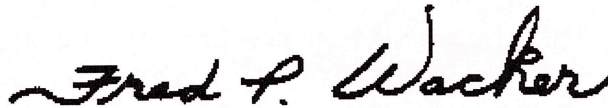
6.4. Eligibility determinations under this program are for the periods specified by the Chairman, JCS, for each program for which access is required. Subsequent temporary access may be granted upon application provided that:

6.4.1. There has not been a lapse of more than 12 months since termination of previous access to SIOP-ESI; and

6.4.2. Review of a current Personnel Security Questionnaire reveals no substantial changes which require additional investigation.

7. EFFECTIVE DATE AND IMPLEMENTATION

This Instruction is effective immediately. Forward two copies of implementing instructions to the Assistant Secretary of Defense (Comptroller) within 90 days.

A handwritten signature in black ink that reads "Fred P. Wacker". The signature is written in a cursive style with a prominent flourish at the end of the word "Wacker".

Fred P. Wacker
Assistant Secretary of Defense
(Comptroller)

Enclosures - 1

1. References, continued

E1. ENCLOSURE 1

REFERENCES, continued

- (a) DoD Directive 5220.28, "Application of Special Eligibility and Clearance Requirements in the SIOP-ESI Program for Contractor Employees," August 18, 1970 (hereby canceled)
- (b) DoD Directive 5220.6, "Industrial Personnel Security Program," December 20, 1976
- (c) Joint Chiefs of Staff SM 36-76, "Safeguarding the Single Integrated Operational Plan," (U) January 15, 1976¹
- (d) Defense Investigative Service Manual 20-1, "Manual for Personnel Security Investigations," December 15, 1976

¹ Copies will be furnished on a need to know basis by the Joint Chiefs of Staff