



United States
**Office of
Personnel Management** WASHINGTON, D.C. 20415

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In Reply Refer To

Your Reference

Honorable David A. Stockman
Director
Office of Management and Budget (OEOB)
17th and Pennsylvania Avenue, N.W., Room 252
Washington, D.C. 20503

PERSONNEL
ATTENDANCE UNIT

APR 5 1984

Dear Mr. Stockman:

I have enclosed for the President's signature a proposed Executive order to amend Executive Order 12171 (as amended) for the purpose of exempting OPM's Personnel Investigations Program (PIP) from the Federal Labor-Management Relations (FLMR) Program requirements in chapter 71, title 5, United States Code. We are seeking the exemption under section 7103(b), title 5, United States Code, because of the direct impact that our investigative personnel have on the national security.

OPM's investigative personnel are engaged in "investigative, or national security work." A basic authority for background investigations conducted by OPM on Federal applicants and appointees is Executive Order 10450 (as amended). Section 8(a) of the Order requires that investigations conducted by OPM and other agencies "be designed to develop information as to whether the employment, or retention in employment in the Federal service of the person investigated is clearly consistent with the interests of the national security." A significant percentage of the background investigations OPM conducts are on persons considered for access to Sensitive Compartmented Information (SCI) under Director of Central Intelligence Directive No. 1/14, and to Top Secret, Secret and Confidential information and materials under Executive Order 12356. The responsibilities of persons investigated by OPM frequently involve some of the most sensitive national security areas of government, including investigations, personnel security duties, space exploration, rocketry, informational activities overseas, high level policy development and approval, and fiduciary or other duties involving the highest degree of public trust.

Approximately 60 percent of the Background Investigations (BIs) we conduct are for Top Secret clearance on contractor personnel for the Department of Energy under the Atomic Energy Act of 1954 (as amended - 42 USC 2165). Most of these personnel have direct regular access to, and work with, highly sensitive information and materials concerning nuclear weapons development and production. Many are engaged in the actual manufacture of such weapons.

Honorable David Stockman

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A number of offices performing the same kind of investigative functions as OPM are exempted by E.O. 12171. These are:

- The Defense Investigative Service, Department of Defense -- major function
- The Drug Enforcement Administration, Department of Justice -- one of several functions
- The Office of Inspections and Investigations (AID) -- one of several functions
- The U.S. Secret Service -- one of several functions
- The Office of Investigations, U.S. Customs Service -- one of several functions

Our major customer, the Offices of the Assistant Secretary for Defense Programs, Department of Energy, is also exempted. The CIA and FBI, which conduct background investigations, are exempted by chapter 71, title 5, United States Code. To my knowledge, OPM is the only agency with a significant background investigations program not exempted from the FLMR Program requirements.

One of my responsibilities as Director of OPM, is to monitor the effectiveness of the Government's civilian personnel security program under E.O. 10450. This responsibility includes making recommendations for needed improvements. The exemption being proposed for our Personnel Investigations Program is clearly warranted under 5 USC 7103(b). It is required to provide our investigations program officials with needed flexibility in managing investigative workload to assure timely, cost-efficient investigations to meet the national security employment and access requirements of agencies Governmentwide.

Your approval of the enclosed Executive order and recommendation to the President for its signature are requested.

Please contact me if there are any issues that you wish to discuss.

Our Assistant Director, Office of Personnel Investigations, Mr. Peter Garcia, and his staff are available on 632-6181 to answer any questions your staff may have concerning the enclosure.

Sincerely,



Donald J. Devine
Director

Enclosure