STATEMENT OF

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BEFORE THE

COMMITTEE ON GOVERNMENT REFORM
U.S. HOUSE OF REPRESENTATIVES

ON

"LOW CLEARANCE: WHY DID THE DEPARTMENT OF DEFENSE SUDDENLY STOP PROCESSING PRIVATE SECTOR SECURITY CLEARANCES?"

MAY 17, 2006

Introduction:

Mr. Chairman and Members of the Committee, I am pleased to appear before you today.

I am Rob Rogalski, Special Assistant to the Under Secretary of Defense for Intelligence. Prior to the appointment of Bob Andrews, I was the Acting Deputy Under Secretary of Defense for Counterintelligence and Security, under whose oversight the Defense Security Service (DSS) falls. I am joined by Ms. Janice Haith, Acting Director, DSS.

The Under Secretary of Defense for Intelligence asked me to lead a DoD team to diagnose what caused DSS to suspend industry investigations due to a funding shortfall.

The work we have done has uncovered a number of systemic problems associated with the industrial security process. We have identified immediate changes which I believe will help address those problems. In addition, I would like to share with this Committee, and others with an interest in Congress, the longer term changes we are proposing to place the industrial personnel security system on a firm foundation.

Background:

By way of background, the Department of Defense budgets and pays for the cost of security clearances for all DoD contractors and the contractors for 23 other Federal agencies. The Office of Personnel

Management (OPM) does the investigations, but DoD pays the cost of the investigations. DoD adjudicates the clearances.

On April 25th the Acting Director, DSS, directed the Defense Industrial Security Clearance Office (DISCO), which processes requests from industry for investigations, to cease submissions to the Office of Personnel Management (OPM) for two types of investigations, initial personnel security investigations and periodic reinvestigations.

- Initial personnel security investigations are conducted for individuals who do not have a personnel security clearance.
- Periodic reinvestigations are conducted for the purpose of updating previously completed background investigations at 5, 10, and 15 years for Top Secret, Secret, and Confidential clearances, respectively.

On April 28th DSS notified the industrial security community to stop sending requests for investigations to DISCO because DSS projected that it did not have sufficient funds available to pay OPM for additional investigations. DSS took this action to comply with the Anti-Deficiency Act. It cannot knowingly request investigations without available funding.

Let me stress that DSS did not direct OPM to stop work on any industrial investigations, initial or periodic, submitted prior to April 25, 2006. DSS has paid for all work submitted to OPM through April 25, 2006.

During FY06 and prior to April 25th, DSS submitted to OPM over 100,000 requests for industry investigations. Based on current projections, we anticipate submitting an additional 100,000 industry investigations for FY06.

Again, none of the more than 100,000 industrial investigations submitted by DSS to OPM prior to April 25th have been affected by DSS's action to suspend the submission of investigations after April 25th.

Let me turn to the effect of the suspension. We recognize there has been an impact on the industrial community, particularly those employees who are waiting for a clearance to begin work. DISCO receives approximately 4,000 requests for investigation per week from industry. Accordingly, there are approximately now 8,000 requests for investigation that have not been submitted by DSS to OPM since April 25th.

Of these 8,000 requests, approximately 2,400 are for periodic reinvestigations, meaning that these 2,400 people are still at work and are not adversely affected by the suspension. The remainder - 5,600 requests - is for new investigations. These are people who do not hold security clearances. The suspension by DSS has delayed the submission of these 5,600 requests to OPM for up to two weeks.

Diagnosis:

A number of factors contributed to the problem faced by DSS on April 25th.

- First, DSS did not adequately budget for the cost of industry investigations in FY06.
    - In October 2004, the Department signed an agreement with OPM to transfer the personnel security investigation function from DoD to OPM. As part of the agreement, DoD agreed to pay to OPM up to a 25% premium of the base cost of investigations to offset potential operating losses incurred by OPM. The DoD budget request, which was delivered to the Congress in February 2005, prior to OPM publication of its FY 2006 rates for DoD investigations, did not include funds to pay the premium to OPM.
    - Compounding this error, DSS underestimated the number of investigations it would have to pay for in FY06.
    - In addition, the DSS budget was reduced during Congressional deliberation on the FY06 budget.
    - DSS did not apprise industry of the reduction in funding, which could have reduced requests, nor did DSS appropriately manage the reduction, to ensure it could pay for industry investigations that DSS anticipated sending to OPM through the end of FY06.
- Second, when DoD transferred the personnel security function to OPM on February 20, 2005, DSS had 45,000 pending industry investigation requests.
    - DSS did not transfer these investigations to OPM because it was unable to complete the packages for transfer in a manner acceptable to OPM.

- DSS directed industry to resubmit many of these investigations. It appears a number of these investigations are being submitted during the period covered by the FY06 budget.
- DSS failed to track the status of these investigations and did not request funding for them in its FY06 budget submission.

The combination of the above factors, when set against DSS's projection of submissions for the remainder of FY06, resulted by April 2006, in a projected funding shortfall of $90M. Therefore, on April 25th, DSS suspended submitting industry investigations to OPM.

Immediate Steps:

Let me now address the immediate steps the Department has taken to address the suspension.

- DoD's Comptroller identified and provided to DSS $28M to enable the restart of industry investigations on a limited basis.
- On Monday, May 15th, DSS notified industry to begin submitting requests for initial investigations for SECRET clearances to ensure individuals requiring a clearance for employment are placed in the OPM processing queue. Based on present projections, the $28M will allow DSS to send to OPM for processing industry initial SECRET clearance requests through the end of June 2006.
- DoD, with OMB approval, submitted a reprogramming request to Congress for $90M on May 16, 2006, to enable DSS to

submit the remaining projected industry investigations through the end of FY06.

- Once the four Defense Congressional Committees approve the reprogramming, DSS will provide updated guidance to industry on submitting requests for investigations, to include initial Top Secret investigations, and periodic reinvestigations.

Long Term Solutions:

In order to prevent a recurrence of this situation, the Deputy Under Secretary of Defense for Counterintelligence and Security is directing the following actions over the longer term to address the systemic problems that have been identified.

- The establishment within DSS of a Central Oversight Office (COO) to perform the following functions:
    - Develop, in conjunction with DoD Components, affected Federal agencies, and industry, a process to link security investigation requirements (e.g., number, type, priority, etc.) and funding with current and future DoD contractual requirements.
    - Establish, in conjunction with DoD Components, affected Federal agencies, and industry, a system for prioritizing industry requests.
    - Validate the requirements for those investigations.
    - Monitor, initially on a daily basis, the industry investigation process and develop "trip wires" to reduce the probability of any need to impose a future suspension.

- Establish a communications network among requesting DoD Components, affected Federal agencies, industry, DSS, and OPM to ensure all are working within established priorities and budget. This network will provide DSS and OPM transparency into each other's related activities and operations.

- The DoD Comptroller will immediately begin work with DSS to develop a new process for DSS to use in preparing its budget submissions.
- The DoD Comptroller will train DSS personnel on accounting processes for managing DSS's fiscal activity.
- DSS will continue to work with OPM so that the two organizations can identify and track investigations submitted to OPM for processing, as well as the associated funding.

Conclusion:

The Department's senior leadership is committed to correcting the systemic problems that have been identified in the personnel security process. The Department recognizes that inadequate oversight was a major contributor to this problem.

We are prepared to meet with the Committee periodically to provide progress reports on both our short-term and long-term efforts to correct the problems identified.

Mr. Chairman, this concludes my prepared remarks. We are available to answer any questions you may have.