

**Minerals Management Service  
Interim Policy Document**

**Effective Date:** August 14, 2008

**IPD No.: 08-13**

**Series:** Personnel Security and Suitability Program

**Title:** Adjudication of Background Investigations for Public Trust Positions with Serious Derogatory Issues

**Originating Office:** Office of the Associate Director for Administration and Budget

**1. Purpose and Scope.** This Interim Policy Document defines the scope of the Minerals Management Service's (MMS) Associate Directors' (AD) role in the adjudication process of employees' background investigations for Public Trust Positions.

**2. Objectives.** Assign the final decision making authority on suitability determinations to the appropriate AD for individuals working in their program area when serious derogatory issues are identified through the personnel investigation conducted by OPM or conducted under delegated authority from OPM.

**3. Authority.**

A. Executive Order Requirements for Government Employment; Executive Order 10577, Amending the Civil Service Rules and authorizing a new appointment system for the competitive service.

B. 5 CFR 731 – Suitability Regulations.

C. Departmental Manual 441 DM 2 (Responsibilities) and 441 DM 5 (Personnel Security and Suitability Requirements – Adjudication Standards).

**4. Definitions.**

A. Derogatory Information: An issue or issues justifying unfavorable suitability action or prompting an adjudicator to request additional investigation or seek clarification for issue resolution. Derogatory information may be serious enough to indicate that employment or continuing employment of an individual may not reasonably be expected to promote the efficiency of the MMS.

B. Integrity and Efficiency of the Service Standard: A person's character or conduct impacting, preventing, jeopardizing, or interfering with the person completing the position's duties and responsibilities or the employing agency from completing its mission or program.

C. Public Trust: Positions, either at moderate or high-risk levels, meeting the position designation criteria. These positions involve a significant degree of public trust like policymaking, major program responsibilities, fiduciary responsibilities, enforcement duties,

public safety and health duties, access to proprietary or personally identifiable information, and computer/ADP responsibilities and functions. Public service is a public trust, requiring employees to place loyalty to the Constitution, the laws, and ethical principles above private gain.

D. The MMS Security Representatives: Physical/Personnel Security Specialists and alternates serve as the principal adjudicators in determining whether an employee, applicant, appointee, or contractor meets the standards for loyalty, reliability, trustworthiness, and judgment.

E. Suitability: A person's identifiable character traits and past conduct leading to a determination of fitness and eligibility to work and/or conduct the duties and responsibilities of a Federal position in an effective and efficient manner.

**5. Policy.** The MMS is responsible for complying with applicable due process requirements, as provided by law, regulation, and rule, when taking an unfavorable action based on information in an investigative file. Before being rejected or not selected, an individual against whom an unfavorable suitability determination has been made shall have an opportunity to explain, refute, and/or mitigate the actionable information that was used in making the unfavorable determination.

## **6. Responsibilities.**

A. Security Representatives: The Security Representatives should be fully knowledgeable in departmental and Federal personnel suitability directives and have knowledge and experience in suitability adjudication, personnel investigations, program placement, and position sensitivity designations. Security Representatives may hold discussions with Human Resource (HR) staff such as Specialists or Ethics Officer regarding specific derogatory issues uncovered by a background investigation as they relate to the employee's position description.

(1) Security Representatives will contact the appropriate AD if serious derogatory information, discovered in the course of an employee background investigation, is likely to result in an unfavorable determination for an employee working in that AD's program area.

(2) Under provisions of 5 CFR 731, the security representative shall, at a minimum, provide the employee who received an unfavorable suitability action with at least 30 days advance written notice. This notice shall state the specific reasons for the proposed action and shall include a summary from the investigative file. The individual will be provided a reasonable time to respond to the notice of proposed action.

(3) The security representative will make a recommendation and confer with the AD.

B. Associate Directors: The appropriate AD will consider the Security Representatives' recommendation when making the final decision on an employee's suitability/unsuitability.

**7. Cancellation.** This IPD will remain in effect until incorporated in the MMS Manual.

Randall B. Luthi  
Director