



This book addresses people's concerns at all phases of the security clearance process. If you are about to be put in for a clearance and if you have any questions, worries or concerns at all about the process or your background, you would really do yourself a great favor by reading this book first, **BEFORE YOU TAKE ANY STEPS TOWARDS YOUR CLEARANCE!**

Security Clearance Issues, Problems, Denials and Revocations

by Ronald C. Sykstus

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SECURITY CLEARANCE ISSUES, PROBLEMS, DENIALS ★ ★ ★ AND ★ ★ ★ REVOCATIONS

The background of the entire cover is a close-up, slightly blurred image of the American flag. The stars and stripes are visible, with the blue field of stars on the left and the red and white stripes on the right.

By Attorney Ronald C. Sykstus

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CHAPTER 3

Standard Form (SF) 86

For almost everyone in the security clearance world, just the phrase “SF 86” sends chills down the spine. It is the equivalent of talking about the bar exam for lawyers or the CPA exam for accountants. It evokes that same kind of sentiment and nauseating type of reaction.

The government has revised this form a number of times over the past several years. You can assume, and you would be correct, that the revisions are not meant to favor the applicants for security clearances. In my estimation, all the changes and revisions are designed precisely to ferret out behavior and circumstances that would allow the government to preclude granting someone access to classified material or revoking a security clearance previously awarded.

As we discussed previously, the SF 86 is done online now through the e-QIP system. An applicant does not need to complete it at one sitting, and he or she is allowed to do it over several days. This is always good policy, for reasons we will discuss later. The current version of the SF 86 used by the government as of the date of this book is December 2010. The top left corner of the SF 86 specifically states that it is “Revised December 2010.” If the SF 86 you are filling out is dated with a date other than December 2010, then these questions and page numbers may appear to you in a different format than what is referenced here. If that is the case, please pay even more attention to the questions and your specific and detailed answers because that means substantive changes have been made to the SF 86 by the government since the date of publication

of this book. This December 2010 document contains two pages of instructions at the front, followed by 122 substantive pages to be completed, and then three final pages for signatures and releases for all manner of material to be provided to the government.

Let's start with the instructions.

Here is how the SF 86 begins; it certainly gives you a strong sense of the import and solemnity of the form and the process.

"All questions on this form must be answered **completely and truthfully** in order that the government may make the determinations described below on a complete record. Penalties for inaccurate or false statements are discussed below. **If you are a current civilian employee of the federal government:** failure to answer any questions completely and truthfully could result in an adverse personnel action against you, including loss of employment; with respect to sections 23, 27 and 29, however, neither your truthful responses or information derived from those responses will be used against you in a subsequent criminal proceeding." Note that the words in bold are exactly as set forth in this first paragraph of the instructions.

The instructions then go on to explain the purpose of the form. "This form will be used by the United States government in conducting background investigations, reinvestigations, and continuous evaluations of persons under consideration for, or retention of, national security positions as defined in 5 CFR 732, and for individuals requiring eligibility for access to classified information under Executive Order 12968. This form may also be used by agencies in determining whether a subject performing work for, or on behalf of, the government under a contract should be deemed eligible for logical or physical access when the nature of the work to be performed is sensitive and could bring about an adverse effect on national security."

"Providing this information is voluntary. If you do not provide each item of requested information, however, we will not be able to complete your investigation, which will adversely affect your eligibility for national security position, eligibility for access to classified information,

or logical or physical access. It is imperative that the information provided be true and correct to the best of your knowledge. Any information that you provide is evaluated on the basis of its currency, seriousness, relevance to the position and duties, and consistency with all information about you. Withholding, misrepresenting, or falsifying information may affect your eligibility for access to classified information, eligibility for sensitive position, or your ability to obtain or retain federal or contract employment. In addition, withholding, misrepresenting, or falsifying information may affect your eligibility for physical and logical access to federally controlled facilities or information systems. Withholding, misrepresenting, or falsifying information may also negatively affect your employment prospects and job status, and the potential consequences include, but are not limited to, removal, debarment from federal service, loss of eligibility for access to classified information, or prosecution."

"This form is a permanent document that may be used as the basis for future investigations, eligibility determinations for access to classified information, to hold a sensitive position, suitability or fitness for contract employment, or eligibility for physical and logical access to federally controlled facilities or information systems. Your responses to this form may be compared with your responses to previous SF-86 questionnaires."

You can see that, with those several-paragraph explanations under the purposes of the form, this is far-reaching on many different fronts. It is an exhaustive search and review of someone's background, and, as I have seen with the number of cases for my own clients, these SF 86 questionnaires have a way of resurfacing and causing clearance issues ten, twenty, or even thirty years down the road.

The instruction form describes the investigative process. It states, "Background investigations for national security positions are conducted to gather information to determine whether you are reliable, trustworthy, good conduct and character, and loyal to the US. The information that you provide in this form may be confirmed during the investigation. The investigation may extend beyond the time covered by this form,

when necessary to resolve issues. Your current employer may be contacted as part of the investigation, although you may have previously indicated on applications or other forms that you do not want your current employer to be contacted. If you have a security freeze on your consumer credit report file, then we may not be able to complete your investigation, which can adversely affect your eligibility for a national security position. To avoid such delays, you should request that the consumer reporting agencies lift the freeze in these instances."

"In addition to the questions on this form, inquiry also is made about your adherence to security requirements, honesty and integrity, vulnerability to exploitation or coercion, falsification, misrepresentation, and any other behavior, activities, or associations that tend to demonstrate a person is not reliable, trustworthy, or loyal. Federal agency records checks may be conducted on your spouse, cohabitants, and immediate family members. After an eligibility determination has been completed, you may also be subject to continuous evaluation, which may include periodic reinvestigations to determine whether retention in your position is clearly consistent with the interests of national security."

After all of this, it is a wonder that anyone can get and/or keep a security clearance! Don't worry, however, we will get there through this book and hopefully put your worries and concerns to rest!

The instruction form also discusses the personal interview process. It states that some investigations will include an interview with you as a routine part of the investigative process. The investigator may ask you to explain your answers to questions on the form. This provides you the opportunity to update, clarify, and explain information on your form more completely, often assisting in completing your investigation. It is imperative that the interview be scheduled immediately after you are initially contacted. Postponements will delay the processing of the investigation, and declining to be interviewed may result in the investigation being delayed or canceled.

For the interview, a person will be required to provide photo identification, such as a valid driver's license. He or she may also be required

to provide other documents to verify identity, as instructed by the investigator. These documents may include certification of any legal name change, Social Security card, passport, and birth certificate. The person may also be asked to provide documents regarding information that is provided on the SF 86, or about other matters requiring specific attention. These matters include alien registration or naturalization documents, delinquent loans or taxes, bankruptcies, judgments, liens, or other financial obligations; agreements involving child support or custody, alimony, or other property settlements, arrests, convictions, probation and/or parole, or other matters described in court records.

The instructions note that the final determination on an applicant's eligibility for a national security position is the responsibility of the federal agency that requested the investigation and the end agency that conducted the investigation. It notes that the applicant will be provided the opportunity to explain, refute, or clarify any information before a final decision is made, if an unfavorable decision is considered. It further notes that the government does not discriminate on the basis of race, color, religion, sex, national origin, disability, or sexual orientation when granting access to classified information.

Finally, the instructions reference the main concern that everyone has when filling out the SF 86. The instructions specifically spell out penalties for inaccurate or false statements; the United States Criminal Code (title 18, section 1001) provides that knowingly falsifying or concealing a material fact is a felony which may result in fines and/or up to five years imprisonment. In addition, federal agencies generally fire, do not grant a security clearance, or disqualify individuals who have materially and deliberately falsified these forms, and this remains a part of the permanent record for future placements. Your prospects of placement or security clearance are better if you answer all questions truthfully and completely. You will have adequate opportunity to explain any information you provide on the form and to make your comments part of the record.



This book addresses people's concerns at all phases of the security clearance process. If you are about to be put in for a clearance and if you have any questions, worries or concerns at all about the process or your background, you would really do yourself a great favor by reading this book first, BEFORE YOU TAKE ANY STEPS TOWARDS YOUR CLEARANCE!

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