

CHAPTER 5
STANDARDS AND CRITERIA FOR SENSITIVE POSITIONS

- 5-1 Criteria For National Security and Public Trust Positions - Some criteria for national security and public trust positions overlap. An individual who is found unsuitable for either a national security or public trust position, may be found suitable to occupy a Non-sensitive position or may be found unsuitable for any Federal employment and be barred from employment for up to three years;
- 5-2 Standard For Sensitive Positions - The security standard for employment or retention of an individual in a sensitive position is that it is clearly consistent with the interests of national security or promotes the efficiency of the Federal service;
- 5-3 Criteria For National Security Positions - EO 10450 provides guidelines to determine whether an individual's employment or retention in the Federal service is clearly consistent with the interests of national security. This information shall relate, but not be limited to, the following:
- A. Behavior, activities, or associations that tend to show that the individual is not reliable or trustworthy;
 - B. Deliberate misrepresentation, falsification, or omission of material facts;
 - C. Criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, habitual use of intoxicants to excess, drug addiction, or sexual perversion;
 - D. Illness, including any mental condition, of a nature that in the opinion of competent medical authority may cause significant defect in the judgment or reliability of the employee, with due regard to the transient or continuing effect of the illness and the medical findings in such case;
 - E. Facts that furnish reason to believe that the individual may be subjected to interests of the national security;
 - F. Commission of any act of sabotage, espionage, treason, or sedition - or attempts, threat, or preparation therefor, or conspiring with or aiding or abetting another to commit or attempt to commit any such act;

- G. Establishing or continuing a sympathetic association with a saboteur, spy, traitor, seditionist, anarchist, or revolutionist, or with an espionage or other secret agent or representative of a foreign nation whose interests may be inimical to the interests of the United States, or with any person who advocates 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;
 - H. Advocacy of use of force or violence to overthrow the Government of the United States, or of the alteration of the form of Government of the United States by unconstitutional means;
 - I. Knowing membership, with specific intent of furthering the aims of, or adherence to and active participation in, any foreign or domestic organization, association, movement, group, or combination of persons which unlawfully advocates or practices the commission of act of force or violence to prevent others from exercising their rights under the Constitution or laws of the United States or of any State, or which seeks to overthrow the Government of the United States or any State or subdivision thereof by unlawful means;
 - J. Intentional, unauthorized disclosure to any person of security information, or of other information prohibited by law to be disclosed, or willful violation or disregard of security regulations;
 - K. Performing or attempting to perform duties, or otherwise acting, so as to serve the interests of another government in preference to the interests of the United States; and
 - L. Refusal by the individual, on the grounds of constitutional privilege against self-incrimination, to testify before a Congressional committee regarding charges of alleged disloyal, or other misconduct.
- 5-4 Criteria For Public Trust Positions - Title 5 CFR 731 provides general guidelines for determining whether an individual's employment, or continued employment, including contractors, will promote the efficiency of the Federal service as follow:
- A. The determination shall be made on the basis of:
 - 1. Whether the individual's conduct may reasonably be expected to interfere with, or prevent, efficient service in the position or effective accomplishment by HUD of its duties or responsibilities; or

2. Whether a statutory or regulatory bar prevents the lawful employment of the individual in the position.
- B. When making a determination under this section, any of the following reasons may be considered a basis for finding an individual unsuitable:
1. Misconduct or negligence in prior employment that would have a bearing on efficient service in the position or would interfere with or prevent effective accomplishment by HUD of its duties or responsibilities;
 2. Criminal or dishonest conduct related to the person's duties or service in the position, or to other employees' service;
 3. Intentional false statement, deception, or fraud in examination or appointment process;
 4. Refusal by a Federal employee to furnish testimony in regard to matters inquired of under the civil service laws, rules, and regulations;
 5. Alcohol abuse of a nature and duration that suggests that the individual would be prevented from performing the position's duties, or would constitute a direct threat to the property or safety of others;
 6. Illegal use of narcotics, drugs, or other controlled substances without evidence of substantial rehabilitation;
 7. Knowing and willful engagement in acts or activities designed to overthrow the Government of the United States by force; and/or
 8. Any statutory or regulatory bar that prevents the lawful employment of the person to the position.
- C. OPM and agencies shall consider the following additional factors to the extent that they deem these factors pertinent to the case:
1. The kind of position to be filled by the individual, including the degree of public trust or risk in the position;

2. The nature and seriousness of the conduct;
3. The circumstances surrounding the conduct;
4. The recency of the conduct;
5. The person's age at the time of the conduct;
6. Contributing societal conditions; and
7. The absence or presence of rehabilitation or efforts toward rehabilitation.