

8 Tips for the Security Clearance Process

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Typically, individuals first discover there may be a potential problem with their security clearance when they are about to complete their application by way of e-QIP or Standard Form 86. Concerns are raised when an individual reviews the questions in the application package and finds a question that cannot be answered with a clear and simple “No.” For example, “Have you illegally used any drugs or controlled substances in the last seven (7) years?” When a situation such as this occurs, an individual should consult with an attorney as soon as possible to determine the best strategy in order to avoid the potential loss of a security clearance. Here are 8 tips for federal employees and government contractors when facing security clearance issues:

1. Contact an Attorney for Legal Advice.

An individual has the best chance of resolving security concerns when he/she recognizes a potential security concern and seeks advice early. Doing so at the beginning of the clearance process usually maximizes an individual’s ability to mitigate the security concerns. It is often the case that we see individuals who are seeking to appeal an earlier clearance determination, after the initial stages have been fully adjudicated. In many stages of the clearance appeal process, if evidence is not presented at the early determination an appeal may not permit additional evidence to be submitted following the denial -- such as when an adverse decision is issued to a government contractor following a Defense Office of Hearings and Appeals (DOHA) hearing. Appeals can be difficult, so obtaining counsel at the early stages of the clearance process is critical.

2. Answer Security Clearance Forms Carefully.

Individuals often receive clearance denials because they did not adequately read the questions or proofread their responses on the e-QIP/SF-86 application prior to submission. This is very important to understand. In some cases, if an individual does not take the time to read the question and answers “No” when they should have answered “Yes” to a particular question, a clearance investigator might conclude that the individual was attempting to be untruthful. It is very important to carefully complete the security clearance application before submitting it.

3. It is Important to be Honest.

This recommendation cannot be overstated. Individuals should be honest in all aspects of the clearance process. When an individual is not honest during the clearance process, it not only can bar the individual from receiving a security clearance, which will remain on his or her record, but it can raise a host of other legal issues for not being honest on the application itself. It is much easier for a security clearance attorney to mitigate security clearance concerns involving prior drug or alcohol usage than it is to defend against an

allegation that an individual was not honest in his or her clearance application or interview about these issues. The individual, before any such disclosures, should consult with a security clearance attorney for legal advice.

4. Gather Relevant Documents in Advance.

Take the necessary time to gather relevant documents related to any potential security clearance problem in advance. Doing so will help an individual in two ways: (1) it will help an individual remember all of the details of the potential security concern, such as an arrest or bankruptcy filing that occurred 5 years ago, in preparation for answering questions; and (2) the documentation may help to mitigate the security concerns if it is later needed. (Note: this should be discussed with an attorney prior to an investigative interview or prior to providing documents.)

5. Prepare for the Investigative Interview.

If an individual knows there is a good chance that problem areas exist in a security clearance application, he or she should expect to be asked about the areas by the assigned investigator. These interviews can vary from an hour to several hours depending on whether significant security concerns exist. Early preparation and practice for the security clearance interview can help iron out any problem areas. Doing so can also provide confidence to the individual when it comes time to meet with the investigator and explain his or her responses regarding any security concerns.

6. Don't React Defensively to Security Clearance Questions.

When asked about problem areas in a security clearance application by an investigator, do not react defensively. It is important to be calm and positive about the issues when speaking to an investigator. We generally recommend preparing for a security clearance interview with an attorney if there are significant security issues that may be raised. In addition, arguing with an investigator will never benefit an individual since the investigator has a huge influence over your security clearance.

7. Exercise Professionalism With the Investigator.

While an individual with serious security clearance concerns should first consult with an attorney, it is important to treat the investigation with professionalism. If an investigator attempts to contact you, be timely and courteous in your response. We recommend that an individual work cooperatively with the investigator by returning phone calls or emails in a timely fashion. Doing so helps the speed with which the investigation progresses and can give the investigator a positive impression if he or she provides recommendations about your ability to obtain or retain a clearance.

8. Be Patient During the Security Clearance Process.

When security clearance issues develop, it is important to understand that the process can take a few weeks or a few months depending on a number of factors, including: (a) whether

the individual is a federal employee or government contractor; (b) the number or significance of the security concerns; (c) delays in obtaining responses from federal agencies in seeking an investigative file; (d) the general investigative backlog; and (e) the specific employer involved. There are a multitude of other considerations that can also delay adjudication.

Contact Us

When security clearance issues arise for an individual, it is important to obtain the advice of an attorney and potential representation as early in the clearance process as possible. Our law firm advises individuals in the security clearance process, in addition to representing them as they proceed through the investigative process. We can be contacted at www.berrylegal.com or by telephone at (703) 668-0070.

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Practice Areas

Security Clearance