



**Foreign National Initiative**  
***The Clearance Process***  
**9/16/03 12-2 PM at Canyon School**

**1. Announcements (Camilla Lopez, OMBUDS)**

- The Brown Bag on *Immigration and Employment* with representatives from BCIS (former INS) is scheduled for October. This is due to BCIS's schedule.
- The Brown Bag where Nanos is invited to respond to the issues brought forward is scheduled to take place *after* the Brown Bag on *Immigration and Employment*.
- ISEC is working on a questions and answer page that will be posted on the web.
- Ombuds and Diversity is working on a web page for foreign nationals.
- Announcement from participant: You need to bring your passport when you go to the Badge Office to get your badge renewed.

**2. The Clearance Process at LANL with Barry Cooksey, Personnel Security (S-6).**

The talk will focus on the clearance process. If you take only one thing with you from this brown bag it should be that it is not impossible but extremely difficult to clear a foreign national.

We are dealing with federal law (handout). Barry read aloud from the first paragraph on "Requirements" where it talks about how only "...immigrant aliens and foreign nationals with a special expertise that is not possessed to a comparable degree by an available US citizens" can be cleared. In addition to that there has to be "compelling reasons" for the clearance process to take place. Please find the handout attached.

In the clearance process, it is the justification process that is the critical part. You, your background and history plays into the picture.

To illustrate what we are up against and how rare it is for a foreign national to obtain a clearance, Larry Freestone, Group Leader for Personnel Security (S-6), told that during the 10 years he has worked with clearances at the Lab, he has only cleared *one* foreign national. The process to clear this individual took 4 years and support from the Albuquerque Operations Office and Defense Programs at DOE HQ. There are approximately 8 foreign nationals with DOE clearances.

**3. Overview of the DOE Clearance Process with Linda Davis and Dick Flenoury from the Service Center in Albuquerque (Personnel Security Division).**

**Linda Davis:** At the Service Center in Albuquerque we process clearances and PSAPs. We do the background investigations and everything that is under "field elements" in the Directive, for instance: previous civilian or military service with a foreign government; family or other relatives abroad; family, legal, and financial ties abroad; and employment of relatives by a foreign government.

A dual citizen does not have the full allegiance to the US and you will therefore typically be asked to renounce your citizenship unless there are special hardships in giving up your



citizenship, for instance loss of a big real estate inheritance. The ultimate decision is DOE Headquarter's.

**Dick Flenoury** went through the steps that all clearances have to follow. The process is called the Personnel Security Access Authorization Program. Derogatory information can delay the process, for instance: alcohol abuse, mental condition, falsified information and unusual conduct. In this process, foreign nationals are not treated differently than US citizens. The criteria apply to all; it is just the circumstances that are different for foreign nationals. With foreign nationals the problem is often not being able to verify information and difficulties getting information 10 years back, as the law requires. In order to be granted a clearance, the conclusion has to be that the individual is considered "an acceptable risk". This wording is used for both foreign nationals and US citizens. For US citizens it can take well over a year to get a clearance. For a foreign nation it takes considerably longer.

**4. Panel Discussion** with Dick Flenoury and Linda Davis from the Service Center in Albuquerque (Personnel Security Division) and Larry Freestone and Barry Cooksey from S-6.

*Q. What do you have to be aware of if you are a foreign national who intend to become a US citizen and try to obtain a clearance one day?*

A. You have to be aware of your business relationship abroad that they don't have any association with any groups that could be a threat to national security. You have to document it when you travel overseas: where you go, the length and purpose of your stay.

*Q. How does your process differ from the process and background check you have to go through in the Naturalization process to become a US citizen?*

A. It is true that the two processes look into some of the same factors but the clearance process looks closer into certain things than the Naturalization process does. The reason is that the clearance process has to consider whether you will be a risk to certain *information*. Depending on which program at the Lab you will be working on, different investigations will be conducted.

*Q. Is it up to the line manager to decide what jobs needs a clearance requirement?*

A. Yes. The line manager has to write up a justification for a clearance and we (S-6) will then review the justification. The factors that go into this decision are 1) the nature of the job, 2) the level and category of classified information or special nuclear material needed to perform the job, and 3) how frequently the employee needs this access. The decision is based on an evaluation of vulnerability and "need to know" in order to be able to do the job. But ultimately it is the line manager who makes the call on which jobs need clearances. Any complaints about jobs you think should not have been cleared have to be raised via the formal channels.

*Q. What if the country I traveled to later becomes a sensitive country?*

A. It will not influence the clearance process as long as the country was not on the sensitive countries list when visited. However, you must list all foreign travel on your Questionnaire for National Security Positions (QNSP).



*Q. When do you inform the employee of how the process is going?*

A. We don't track individual cases, but we attempt to pulse DOE when cases are brought to our attention that exceed one year or more. DOE may inform LANL security officials when an investigation is taking longer than usual. The background investigation may take more than a year. DOE will contact the individual directly if the decision is to deny the clearance.

Less than 1% of our cases (cases that are processed through Administrative Review) may require further review and investigation. It is therefore absolutely necessary that you give us correct and sufficient information. And, of course, don't falsify information. If you falsify information you will be denied the clearance. The more information you give us, the easier the process will go.

*Q. AWE employees share clearances with UK. Do they share with any other countries?*

A. From time-to-time, LANL will cooperate on classified projects with other countries. These are based on international agreements between respective countries. France and the United Kingdom have participated in such agreements with LANL.

*Q. Do DOD type and DOE type clearances exchange information?*

A. We do have reciprocal program with other Federal agencies to recognize the clearances of these individuals. One of the criteria is that the investigation has to have taken place within the past 5 years. A few years ago we were not required to recognize the clearances of other Federal agencies. That was changed with the publication of the National Industrial Security Program. Usually the process to accept another agency's clearance takes about a month. There is a suitability assessment and a security assessment and some of the criteria overlap.

*Q. Will the employee know the reason why a clearance has been pulled?*

A. Yes.

*Q. Will HR know the reason why a clearance has been suspended?*

A. No, this is DOE protected information and HR does not have access to our personnel security files. DOE is mandated to follow the Privacy Act, which means that HR does not get the derogatory information that may be found by DOE or its investigative agencies (FBI or OPM).

*Q. Can you end up losing your job if a clearance process goes bad?*

A. Yes, it can happen if you have falsified information or in other ways done something that compromise LANL employment requirements. Before you get a clearance, they will need to do a "pre-employment check" even if you already have an uncleared job. If that "pre-employment check" comes back with significant derogatory information, it will be evaluated as to how it relates to HR employment requirements.

*Q. How many dual citizens do you have from Canada?*

A. Very few. There have been made very few waivers for dual citizens. DOE Headquarters have to sign off on waiving the renouncing of the citizenship.



*Q. Can I as a foreign national apply for a job that is open for all but where the application says “Applicants must have the ability to obtain a Q clearance, which normally requires U. S. citizenship”?*

A. The answer is yes. You can apply for those jobs. DOE procedures for clearing foreign nationals were covered in the handout referenced at the first of these minutes.

*Q. Can the clearance process be expedited?*

A. Yes. You can volunteer for the Accelerated Access Authorization Program (AAAP). Your background has to be squeaky clean for you to go through that. Included in the process are a drug test, a polygraph examination, a 564 true-false personality questionnaire, and an evaluation by a clinical psychologist. DOE will review the data. This AAAP process can save 60-90 days in processing time. If the individual meets all of the requirements of the process, an Interim Access Authorization (IAA) can be granted. However, this option is not used to process foreign nationals.

*Q. Do you report back as soon as you find derogatory information?*

A. No, we don’t report back until we have the whole picture. However, if the derogatory information has national security implications, we report back right away.

*Q. How is it decided what buildings are located behind the fence?*

A. It is based on the nature of the work. It is very costly to maintain a secure area so there is no incentive to do it unless it is necessary. If there are instances where you think that a building should not have been placed behind the fence you will need to look into that on a case-to-case basis.