

Department of Homeland Security
DHS Directives System
Directive Number: 140-04
Revision Number: 02
Issue Date: 2/28/2017
SPECIAL ACCESS PROGRAMS

I. Purpose

In accordance with Executive Order (EO) 13526, this Directive strengthens policy and assigns responsibilities for the management, administration, support, and oversight of Special Access Programs (SAPs) within the Department of Homeland Security (DHS); establishes an oversight framework and governance structure comprised of the Special Access Program Oversight Committee (SAPOC) and the Special Programs Review Board (SPRB); clarifies the responsibilities and functions of the DHS SAP Central Office (formerly the SAP Control Office); and authorizes the publication of other SAP policies, as appropriate.

The governance structure established through this Directive is a senior-level venue to consider strategic issues concerning the Department's SAP activities. It is intended to provide the Secretary and Deputy Secretary guidance, bottom-up identification of issues for decision, and advanced communication of positions on strategic issues affecting the establishment, disestablishment, and life cycle management of SAPs. The SAP governance structure seeks to manage and oversee the performance of DHS with regards to its resource and statutory investment in SAPs; and serves to ensure that matters affecting DHS SAP activities are considered with adequate timing and information so the Secretary and Deputy Secretary may collaborate to develop comprehensive and consolidated solutions, that may also manage the risks associated with those decisions. Members of the governance structure established in this Directive provide the perspective necessary to guide decisions, and are responsible for providing information in their area of expertise relevant to the discussions.

II. Scope

A. This Directive applies to the Office of the Secretary of Homeland Security and its Operational and Support Components (referred to collectively in this directive as "DHS Components") and non-DHS U.S. Government departments and agencies that require access to DHS SAPs in accordance with the terms and conditions of a memorandum of agreement or other interagency agreement established with DHS. For contractors and consultants that require access to DHS SAPs, prior coordination with the servicing contracting office is a prerequisite to granting access. This ensures the appropriate terms and conditions are incorporated in the solicitation and contract documents.

B. DHS Directive 140-04, Revision 01, Special Access Program Management, is hereby superseded.

III. Authorities (See Appendix 1).

IV. Definitions (See Appendix 2).

V. Responsibilities

A. The **Deputy Secretary of Homeland Security:**

1. Chairs the SAPOC and renders the decision on proposals to establish, alter the scope, or disestablish DHS SAPs.

2. Is the DHS Access Approval Authority (AAA) for nominated individuals from the U.S. Legislative and Judicial Branches.
3. Annually reviews and validates DHS SAP reports sent to Congress pursuant to 50 United States Code (U.S.C.) § 3348 or any successor statute.

B. The **Under Secretary for Management:**

1. Serves as a permanent member of the SAPOC.
2. Supports DHS SAPs by developing policies and procedures through the Management Line of Businesses (LOBs), for the management and administration of budget execution, accounting, and finance; procurement and contracting; human resources and personnel; and Information Technology systems.
3. In coordination with the Chief Security Officer (CSO), ensures SAP security is appropriately reflected in DHS policies, procedures, and regulations.
4. Appoints a representative from each of the LOBs to serve as a member of the Special Programs Review Board.
5. Ensures the LOBs maintain sufficient staffing levels of SAP-cleared personnel to perform tasks associated with SAPs.

C. The **CSO:**

1. Pursuant to Executive Order (EO) 13526, Section 5.4(d), serves as the senior agency official and is solely responsible for overseeing DHS SAPs and the SAP Central Office.
2. Pursuant to 6 Code of Federal Regulations (CFR) § 7.10, is directly responsible for development, integration, application, and oversight of risk-managed security policies and procedures for SAPs.
3. Serves as a permanent member of the SAPOC and chairs the SPRB.
4. Establishes and exercises procurement, contract, fiscal, personnel, and business management policy in support of SAPs and other sensitive activities, in coordination with the LOB Chiefs.

D. The **Director, Special Access Program Central Office (SAPCO):**

1. Under the direct authority and oversight of the CSO:
 - a. Serves as the Executive Secretary of the SAPOC and the SPRB.
 - b. Establishes the policies and procedures for SAP governance, administration, support, review, oversight, management, and reporting of all DHS SAPs and DHS participation in non-DHS SAPs in accordance with DHS Instruction Manual 112-01-001-01.
 - c. Oversees DHS SAP security policies, plans, programs, and resource allocations and ensures that such policies and programs are designed and managed to improve standards of performance, economy, and efficiency.

- d. Coordinates and processes documentation required for annual revalidation and reporting of all DHS SAPs.
- e. Is the primary DHS liaison with Agencies of the Executive Branch, Congress (in coordination with the Assistant Secretary for Legislative Affairs), and with all DHS Components for all matters relating to SAPs, participation in non-DHS SAPs, and other sensitive activities.
- f. Reports annually to the Deputy Secretary and the General Counsel on all DHS participation in non-DHS SAPs that involve the exchange of resources (e.g., funding, manpower, equipment, etc.).
- g. Administers and manages the creation and assignment of all code words and nicknames within the Department.
- h. Coordinates with appropriate DHS Components to establish SAP policies and procedures in relation to information assurance, foreign disclosure, security cooperation, technology transfer, cyber security, antiterrorism, force protection, mission assurance, and other security-related efforts (e.g., critical infrastructure protection, insider threat initiatives) that may impact SAP administration.
- i. Establishes SAP security education, training, certification, and professional development programs that are integrated with DHS policies, procedures, and investment goals.

E. The **General Counsel:**

- 1. Serves as a permanent member of the SAPOC.
- 2. Provides legal advice, as it relates to DHS SAPs, to the SAP governance structure, and other DHS entities involved with SAPs.

F. The **Under Secretary for Science and Technology:**

- 1. Serves as a permanent member of the SAPOC.
- 2. Provides oversight of research, technology base, system technical issues (specifically including examination of technological feasibility), and systems development proposed for SAP protection.
- 3. Provides guidance and direction, in coordination with the Director, SAPCO, regarding DHS tests using SAP capabilities and technologies.

G. The **Under Secretary for National Protection & Programs Directorate (NPPD):**

- 1. Serves as a permanent member of the SAPOC.
- 2. Advises the chair of the SAPOC on programs and policies related to enhanced cybersecurity and critical infrastructure protection, consistent with the overall responsibility of NPPD to integrate enhanced cybersecurity capabilities into strategy, policies, and concepts of operations when directly related to DHS support of operations in these security domains.

- H. The **Under Secretary for Intelligence and Analysis:**
1. Serves as a permanent member of the SAPOC.
 2. Develops and implements comprehensive counterintelligence support to DHS SAPs in coordination with the Director, SAPCO.
 3. Performs oversight and management in coordination with the Director, SAPCO for DHS Intelligence SAPs established under the cognizance of the Director of National Intelligence that directly involve DHS intelligence personnel or resources.
- I. The **Under Secretary for Strategy, Policy and Plans:**
1. Serves as a permanent member of the SAPOC.
 2. Provides principal policy advice to include the impact of SAPs on existing DHS policy, plans, and strategies to include matters concerning international involvement, coordination, and engagement.
 3. In coordination with the General Counsel and the Director, DHS SAPCO provides oversight of negotiations on international agreements related to DHS SAPs.
- J. The **Inspector General:**
1. Executes inspections, investigations, evaluations, and audit functions for DHS SAPs and other activities.
 2. Maintains sufficient staffing levels of SAP-cleared personnel to perform tasks associated with SAPs.
- K. The **Heads of Components or their principal deputies:**
1. Maintain responsibility for proper execution of SAPs under their cognizance.
 2. Report annually to the Deputy Secretary, through the Director, DHS SAPCO, all DHS SAPs and participation in non-DHS SAPs.
 3. Designate a SAP Coordination Official to be responsible for developing and implementing policies and procedures for the execution, management, oversight, administration, security, information assurance, and records management for SAPs under their purview.
 4. Appoint a certified Government Program Manager/Program Director and Program Security Officer for each SAP under their cognizance through written designation.

VI. Policy and Requirements

- A. DHS SAPs are established and maintained consistent with EO 13526 and when absolutely necessary to protect the most sensitive DHS capabilities: information; technologies; operations; and research, testing, and evaluation.
- B. The SAPOC advises and assists the Secretary and the Deputy Secretary with governance, management, and oversight of DHS SAPs.

C. The Special Program Review Board, hereby established, is comprised of senior individuals designated by each permanent member of the SAPOC and augmented by members of the DHS Components as required to perform principal management and oversight functions in support of the SAPOC.

D. All DHS Prospective SAPs and SAPs are assigned a classified code word or an unclassified nickname to facilitate program protection, administration, oversight, and reporting requirements.

E. The CSO and Director, SAPCO are Access Approval Authorities for all DHS SAPs for Executive Branch departments and Agencies.

F. The Deputy Secretary, on behalf of the Secretary, provides Congress, by February 1 of each calendar year, with all of the information required by 50 U.S.C. § 3348 and approves appropriate congressional notification and reporting policy.

G. Access to information included in a DHS SAP is granted only to those persons who have a validated need-to-know, materially and directly contribute to the execution of the program, and meet the personnel security requirements set forth in EO 12968 and other DHS SAP access eligibility policy.

H. DHS employees assigned legal, fiscal, investigative, operational, or statutory oversight duties are granted effective and sufficient access to DHS SAPs to execute their responsibilities upon meeting all access eligibility requirements.

I. All personnel having access to DHS SAPs may be subject to a counterintelligence (CI) scope polygraph examination. However, the use of a polygraph examination as an initial access determination requirement is a condition that must be approved by the Secretary or the Deputy Secretary in conjunction with the establishment of the SAP. CI-scope polygraph examinations may not be used as the sole basis for granting access to DHS SAPs in lieu of any other enhanced security requirements for SAPs.

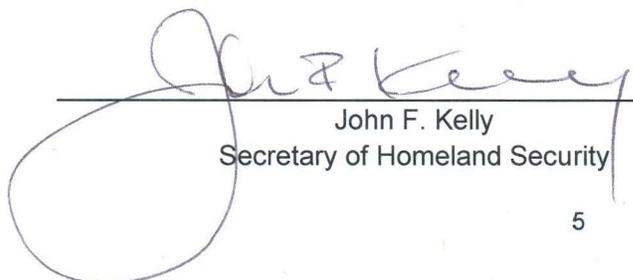
J. Each DHS SAP is reviewed and validated annually for its continuing need for enhanced security measures.

K. DHS participation in non-DHS SAPs involving the exchange of resources are governed by written agreement. These written agreements are submitted to the DHS SAPCO and coordinated with the CSO for review prior to signature.

L. Only the Secretary may approve international involvement and/or foreign national access to DHS SAPs. Requests for involvement and/or access are submitted through the DHS SAPCO to the CSO for coordination and action.

VII. Questions

Address any questions or concerns regarding this Directive to the DHS SAPCO.



John F. Kelly
Secretary of Homeland Security

28 Feb 2017

Date

APPENDIX 1

AUTHORITIES

- A. Title 6, CFR, Part 7, as amended
- B. Public Law No. 107-296, "Homeland Security Act of 2002"
- C. Title 50, U.S.C., Section 3348
- D. Title 32, CFR, Parts 2001 and 2003
- E. EO 13526, "Classified National Security Information," January 5, 2010
- F. EO 12333, as amended, "United States Intelligence Activities," December 8, 1981
- G. EO 12829, as amended, "National Industrial Security Program," January 6, 1993
- H. EO 12968, as amended, "Access to Classified Information," August 2, 1995
- I. EO 13434, "National Security Professional Development," May 17, 2007
- J. Office of Management and Budget, Deputy Director for Management Memorandum (M-06-21), "Reciprocal Recognition of Existing Personnel Security Clearances," July 17, 2006
- K. Delegation Number 00002, "Delegation to the Under Secretary for Management," May 29, 2012
- L. Delegation Number 12000, "Delegation For Security Operations Within the Department of Homeland Security," June 5, 2012
- M. Delegation Number 12001, "Delegation of Cognizant Security Authority to the Under Secretary for Management," March 24, 2014
- N. Delegation Number 12003, "Delegation of Cognizant Security Authority to the Chief Security Officer," April 24, 2014

APPENDIX 2

DEFINITIONS

A. **Special Access Program (SAP)**: A program established for a specific class of classified information that imposes safeguarding and access requirements that exceed those normally required for information at the same classification level. DHS SAPs are divided into three categories, as follows:

1. **Acknowledged SAP**: A SAP established and administered so that its existence may be affirmed (e.g., may be publicly acknowledged) but the specific details, technologies, materials, techniques of the program are classified as specified in the applicable SAP Security Classification Guide and made known only to those individuals approved for access to the SAP.
2. **Unacknowledged SAP**: A SAP established and administered to have protective controls that ensure the existence of the program is not affirmed and is protected as special access. All aspects (e.g., existence technical, operational, logistical, contract administration, etc.) are classified within the SAP and handled in an unacknowledged manner.
3. **Waived SAP**: An unacknowledged SAP to which the access is further restricted and the Secretary or Deputy Secretary has waived full congressional reporting requirements in accordance with statutory authority of 50 U.S.C. § 3348(e).

B. Additionally, DHS SAPs are divided into three subcategories, as follows:

1. **Acquisition SAP**: A SAP established to protect sensitive research, development, testing and evaluation, modification, and procurement activities.
2. **Intelligence SAP**: A SAP established, owned, and operated by an Intelligence Community (IC) element primarily to protect the planning or execution of especially sensitive intelligence or counterintelligence operations or collection activities.
3. **Operations and Support SAP**: A SAP established primarily to protect the planning for, execution of, and support to especially sensitive operations. An operations and support SAP may protect organizations, property, operational concepts, plans, or activities.

C. **Prospective SAP**: A program, project or activity, which has been determined by the Director, SAP Central Office to merit the enhanced security measures, and is provisionally protected under SAP controls until approved for establishment by the Deputy Secretary of Homeland Security, and reported to Congress.