



UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

Federal Investigative
Services Division

Federal Investigations Notice

Notice No. 10-03

Date: March 18, 2010

SUBJECT: INV FORM 79A, *Report of Agency Adjudicative Action on OPM Personnel Investigations*

Background

To help facilitate reciprocity, the Office of Personnel Management's (OPM) Federal Investigative Service (FIS) expanded the Clearance Verification System, now named the Central Verification System (CVS), to capture and maintain information about suitability and fitness determinations. FIS revised the mechanisms used by agencies to report adjudications on OPM investigations.

Agencies report their adjudicative decisions on OPM background investigations by one of three methods. Agencies can submit a hardcopy of the INV FORM 79A "Report of Agency Adjudicative Action on OPM Personnel Investigations." Agencies can also report their adjudicative actions through computerized batch files that are uploaded into OPM's Personnel Investigations Processing System (PIPS). Lastly, agencies can enter individual adjudicative actions directly to PIPS through the Agency Menu.

The Revised INV FORM 79A, Agency Menu and Batch File Format

Beginning with investigations closed in March 2010, the adjudicative information used to populate CVS on OPM conducted investigations will be collected via a revised INV FORM 79A (see attached), Agency Menu or batch file format. Selections 1 through 3 continue to report favorable determinations; however, the selections have been reworded, as follows, to collect the adjudicative basis upon which a favorable determination was made:

- (1) Favorable security clearance/eligibility determination under E.O. 12968
- (2) Favorable suitability/fitness determination under 5 CFR 731 or equivalent
- (3) Favorable fitness determination; 5 CFR 731 or equivalent do not apply

Selections (4-8) remain essentially the same, with some minor wording changes:

- (4) Resigned, terminated, or withdrew application prior to determination
- (5) Not appointed based on suitability or security determination
- (6) Removed based on suitability or security determination
- (7) Counseled and/or letter of warning/advisement or reprimand issued
- (8) Retained, but security clearance revoked or denied

Selection 9 was revised to consolidate previous selections for suspensions:

(9) Suspended from duty (I.E., Administrative Personnel Action)

Selection 10 was revised to capture the initial adjudicative determination in a multiple step process as follows:

(10) Letter of intent to deny or revoke eligibility for access pursuant to E.O. 12968


Selection 11 continues to capture other unusual non-adjudicative actions, such as when a Reimbursable Suitability Investigation or other expansion of investigative collection is necessary:

(11) Other action taken (SPECIFY ON REVERSE)

The attached 79A fact sheet provides examples of when it is appropriate to select the various codes for different adjudicative actions, and provides other helpful implementation guidance.

In addition to the changes regarding adjudicative codes, a box was added to the end of the form to indicate the "Date Subject Notified of Action." This supports full data collection for those agencies that conclude their adjudicative processes with a notice to the subject employee of the final adjudicative determination.

For questions concerning the INV FORM 79A, please contact FIS, Agency Liaison at (724) 794-5612. For questions concerning reporting suitability adjudications, please contact OPM-FIS, Suitability Adjudications at 724-794-5612, extension 7400.



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Attachments:

- (1) 79A fact sheet
- (2) Sample INV FORM 79A

Inquiries: OPM-FIS, Agency Liaison at (724) 794-5612
Distribution: SOIs/SONs
Expiration: When superseded

FACT SHEET

Revisions to INV FORM 79A, *Report of Agency Adjudicative Action on OPM Personnel Investigations*

INV FORM 79A Version Date: 11/08

Summary of Changes: In general, the INV 79A was subtly reformatted. Some language has been changed on the form. For example, “DATE OF OPM DETERMINATION” is now “INVESTIGATION CLOSING DATE,” and the terms “adjudicative action” and “adjudication” have been replaced with “action.” These changes were made to be more precise as to what was being reflected or collected.

Key Difference: The core changes were to the area used by agencies to report their actions taken related to an investigation. The changes were needed to promote information sharing through the Central Verification System (CVS). This information is required to support reciprocity, and to provide metrics to the Performance Accountability Council (PAC). The following chart shows the selection of actions on the INV FORM 79A, and a brief explanation on when to use each action:

Code	11/08 FORM INV 79A Action Codes with Explanations
1	Favorable security clearance/eligibility determination under E.O. 12968 Strictly for security clearance access and eligibility determinations made under E.O. 12968. (Note: Suitability/fitness reciprocity is not required for determinations made under this criterion).
2	Favorable suitability/fitness determination under 5 CFR 731 or equivalent The favorable determination was made using standards equivalent to 5 CFR 731, to include the disqualifying factors found at 5 CFR 302.203, and the Supplemental Credentialing Standards provided in OPM’s July 31, 2008, memorandum entitled, “Final Credentialing Standards for Issuing Personal Identity Verification Cards under HSPD-12.” Note: For the purposes of suitability reciprocity, only those favorable suitability/fitness determinations made using criteria in 5 CFR part 731 or equivalent criteria are eligible to be reciprocally accepted. Therefore, if an agency is making both a security clearance/eligibility determination and a suitability/fitness determination, and it has applied 5 CFR part 731 or equivalent criteria for the suitability/fitness determination, the agency should select action #2 to promote reciprocity. To determine equivalency for action #2, refer to E.O. 13488 and the OPM issuances on the Order and reciprocity.

Code	11/08 FORM INV 79A Action Codes with Explanations (cont'd)
3	Favorable fitness determination; 5 CFR 731 or equivalent do not apply The favorable determination was based upon criteria outside 5 CFR 731 or its equivalent. For example, when a credentialing (HSPD-12) determination is made using only the basic credentialing standards (not the supplemental credentialing standards) in OPM's July 31, 2008, memorandum, entitled, "Final Credentialing Standards for Issuing Personal Identity Verification Cards under HSPD-12." This selection would also be appropriate when a management decision is made to retain a Federal or contract employee despite the presence of character or conduct issues that would be actionable if evaluated under the criteria of 5 CFR 731.
4	Resigned, terminated, or withdrew application prior to determination An investigation was conducted, but no determination was made because the individual resigned, was terminated, or withdrew their application. The circumstances may or may not have involved adverse conditions; however, the action was not related to adjudication of the investigation.
5	Not appointed based on suitability or security determination The unfavorable adjudication resulted in the individual not being appointed.
6	Removed based on suitability or security determination The adjudication of the investigation resulted in the individual being removed from employment.
7	Counseled and/or letter of warning/advisement or reprimand issued The issues in the investigation warranted one of these actions. The individual is still on duty, eligible for (or granted) access.
8	Retained, but security clearance revoked or denied The adjudication resulted in the revocation or denial of a security clearance or eligibility for (security clearance) access
9	Suspended from duty (i.e. administrative personnel action) The issues in the investigation warranted a suspension from duty (e.g. an administrative action under 5 CFR 752 or similar authority).
10	Letter of intent to deny or revoke eligibility for access pursuant to E.O. 12968 The preliminary adjudicative determination found that a favorable determination was not initially possible. In these cases, a second INV FORM 79A will be generated by OPM and forwarded to the adjudicative entity to be completed upon full assessment and once a final determination is made. The second INV FORM 79A will contain the following language: "You previously reported code 10, LETTER OF INTENT TO DENY OR REVOKE ELIGIBILITY FOR ACCESS PURSUANT TO E.O. 12968. You are required to complete this form and return it to OPM reporting your final action (Code 1-9) and the date of the action. If you have any questions, contact OPM-FIS, Suitability Adjudications at 724-794-5612, extension 7400."
11	Other action taken (specify on reverse) This code may be used when 1 – 10 do not apply; however, a specific explanation is required. For example, action #11 is appropriate when a Reimbursable Suitability Investigation (RSI) is requested to expand on issues or to obtain coverage of activities that fall outside the scope of the investigation. When the RSI results are returned to the agency, a new INV FORM 79A will accompany them and the final adjudication is reported using the new INV FORM 79A.

Other Changes:

In the bottom right of the form, there are now two standardized date collections. The first collects the “Date of Action.” This is the date of the actual action (i.e. favorable determination, removal, LOI, etc.), not necessarily the date the form was filled out.

The second-box collects the “Date Subject Notified of Action.” Currently, this is an optional field; however, when completed, it should indicate the date the subject employee was notified of the final adjudicative determination. This provides full data collection for those agencies that conclude their adjudicative process with such a notice to the subject employee.

Lastly, the date field adjacent to the field for the printed name of the person adjudicating the case has been removed as unnecessary. (The “Date of Action” is the key date for adjudications captured in OPM data systems.)