



*Additional Consideration of Prior  
Conduct and Performance Issues Is  
Needed When Hiring Former Employees*

**December 30, 2014**

**Reference Number: 2015-10-006**

This report has cleared the Treasury Inspector General for Tax Administration disclosure review process and information determined to be restricted from public release has been redacted from this document.

**Redaction Legend:**

1 = Tax Return/Return Information

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## HIGHLIGHTS

### **ADDITIONAL CONSIDERATION OF PRIOR CONDUCT AND PERFORMANCE ISSUES IS NEEDED WHEN HIRING FORMER EMPLOYEES**

## Highlights

**Final Report Issued on  
December 30, 2014**

Highlights of Reference Number: 2015-10-006 to the Internal Revenue Service Human Capital Officer.

### **IMPACT ON TAXPAYERS**

From October 2009 through September 2013, the IRS hired approximately 73,000 employees, including some who had previously worked for the IRS. Selecting the best candidates for employment is essential to providing the best service to America's taxpayers, maintaining public trust in tax administration, and safeguarding taxpayer's rights and privacy.

### **WHY TIGTA DID THE AUDIT**

The overall objective of this review was to identify whether processes for hiring former employees are consistent with Office of Personnel Management (OPM) suitability standards and whether prior substantiated or unresolved conduct and performance issues are identified and fully considered in the hiring decision.

### **WHAT TIGTA FOUND**

Between January 2010 and September 2013, IRS records show that the IRS hired more than 7,000 former employees (78 percent were temporary or seasonal positions). Most rehired employees do not have performance or conduct issues associated with prior IRS employment. However, TIGTA found that the IRS did hire hundreds of former employees with these types of issues. TIGTA reviewed a random sample from more than 300 employees with significant prior performance or conduct issues who were hired between January 2010 and July 2013 and determined that the IRS appropriately applied OPM suitability standards (e.g., determining

whether applicants had prior criminal activity, material false statements, or illegal drug use).

However, TIGTA identified hundreds of former employees who were hired with prior substantiated conduct or performance issues. For example, 141 former employees with prior substantiated tax issues, including five who the IRS found had willfully failed to file their Federal tax returns, were hired. Other substantiated issues from previous IRS employment included unauthorized access to taxpayer information, leave abuse, falsification of official forms, unacceptable performance, misuse of IRS property, and off-duty misconduct.

Although they may meet OPM suitability standards, rehiring prior employees with known conduct and performance issues presents increased risk to the IRS and taxpayers. For example, TIGTA found that nearly 20 percent of the hired former employees sampled with prior substantiated or unresolved conduct or performance issues had new conduct or performance issues (e.g., tax noncompliance or unauthorized access to tax account information).

During the audit, IRS officials stated that prior conduct and performance issues do not play a significant role in deciding the candidates who are best qualified for hiring and that they believe they are applying OPM suitability standards appropriately. In addition, IRS officials stated that the OPM and IRS General Legal Services should be consulted to determine if full consideration of prior conduct and performance issues violates Federal regulations.

### **WHAT TIGTA RECOMMENDED**

TIGTA recommended that the IRS Human Capital Officer work with General Legal Services and the OPM to determine whether and during what part of the hiring process the IRS can fully consider prior conduct and performance issues.

In their response, IRS management agreed with the recommendation and stated that they had already requested written opinions from General Legal Services and the OPM but believe that the current process is adequate to mitigate any risks to American taxpayers. However, TIGTA remains concerned because IRS records indicate it is hiring individuals with significant prior conduct and performance issues.



TREASURY INSPECTOR GENERAL  
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20220

December 30, 2014

**MEMORANDUM FOR INTERNAL REVENUE SERVICE HUMAN CAPITAL OFFICER**

**FROM:**

Michael E. McKenney  
Deputy Inspector General for Audit

**SUBJECT:**

Final Audit Report – Additional Consideration of Prior Conduct and Performance Issues Is Needed When Hiring Former Employees (Audit # 201310029)

This report presents the results of our review of the Internal Revenue Service hiring process for former employees. The overall objective of this review was to identify whether processes for hiring former employees are consistent with Office of Personnel Management suitability standards and whether prior substantiated or unresolved conduct and performance issues are identified and fully considered in the hiring decision. This review is included in our Fiscal Year 2015 Annual Audit Plan and addresses the major management challenge of Human Capital.

Management's complete response to the draft report is included as Appendix IV.

Please contact me or Gregory D. Kutz, Assistant Inspector General for Audit (Management Services and Exempt Organizations).



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*Abbreviations*

ETS	Employment, Talent and Security
IRS	Internal Revenue Service
OPM	Office of Personnel Management



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## *Background*

When applying for a position with the Internal Revenue Service (IRS), applicants who are former Federal Government employees must complete an Optional Form 306, *Declaration for Federal Employment*, and an investigative questionnaire (or update their prior form if the public trust or sensitivity level<sup>1</sup> of the new position is the same as their prior position). From October 2009 through September 2013, the IRS reported that it received 1.8 million employment applications that resulted in the hiring of approximately 73,000 employees, including some who had previously worked for the IRS.

Employment applications are accepted by the IRS Human Capital Office's Employment, Talent and Security (ETS) Division Employment Office. Once applications are received, the IRS follows a multiphase process before making a hiring decision.

- As part of the **Eligibility Phase**, the IRS reviews each applicant's eligibility for employment based on citizenship, proof of veteran's preference, verification of Selective Service registration (if male), and other requirements. IRS officials state that prior performance issues should be considered during the eligibility phase.
- As part of the **Qualifications Phase**, the IRS identifies those applicants who meet the minimum requirements necessary to perform satisfactorily on the job. This includes reviewing an applicant's knowledge, skills, abilities, and/or competencies that are necessary to perform the duties of a specific position. Applicants are compared and ranked for determining the best qualified.
- As part of the **Suitability Phase**, the IRS evaluates an applicant's character traits and conduct to determine whether an applicant is likely to be able to carry out the duties of a Federal position with integrity, efficiency, and effectiveness. As part of this process, applicants are subject to a suitability determination. According to the Office of Personnel Management (OPM), the suitability determination establishes a reasonable expectation that employment will protect the integrity of the Federal Service. The OPM Suitability Processing Handbook is used as guidance when determining an applicant's suitability. The Handbook provides for subjective analysis of the facts and circumstances of specific factors that can be mitigated based on several factors, such as the amount of time that has elapsed since the incident occurred. These factors include:
  - **Misconduct** that results from intentional wrongdoing during prior employment.

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<sup>1</sup> The sensitivity level of a position is an assessment designation indicating the degree of damage that an individual in a position could do to national security.



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- **Criminal or Dishonest Conduct** that creates doubt about the applicant's judgment, reliability, and trustworthiness.
- **Material False Statements** capable of influencing decisions about the applicant's suitability qualifications.
- **Refusal to Furnish Testimony** of all information, testimonies, and documents as requested.
- **Alcohol Abuse** without substantial evidence of rehabilitation that raises questions about an applicant's reliability or trustworthiness and his or her ability to complete the job duties.
- **Illegal Use of Narcotics, Drugs, or Other Controlled Substances** without evidence of rehabilitation that raises questions about an applicant's reliability, trustworthiness, or willingness to comply with laws, rules, and regulations.

This review was performed with information obtained from the Automated Labor and Employee Relations Tracking System<sup>2</sup> and information from ETS Division offices located in Oakland, California, and Covington, Kentucky, during the period June 2013 through June 2014. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. Detailed information on our audit objective, scope, and methodology is presented in Appendix I. Major contributors to the report are listed in Appendix II.

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<sup>2</sup> The Automated Labor and Employee Relations Tracking System generally tracks employee behavior that may warrant IRS management administrative actions.



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*Results of Review*

**Governmentwide Standards Were Usually Considered When  
Determining Whether Former Employees With Performance or  
Conduct Issues Were Suitable for Federal Employment**

Between January 1, 2010, and July 27, 2013, 323 former employees were rehired for whom IRS records show performance and conduct issues associated with their previous IRS employment for which the outcome resulted in the employee either: (1) leaving through formal removal or separation, voluntary separation or resignation, or termination or (2) leaving during an ongoing investigation. Before hiring former employees, the IRS Human Capital Office uses the requirements outlined in the OPM Suitability Processing Handbook to determine whether an applicant is suitable for Federal employment. The determination requires a careful, objective, and sound analysis of all the available, relevant information, both favorable and unfavorable, to determine if the person's past or present conduct adversely impacts, or indicates a likelihood for adverse impact on, the integrity of the Federal Service.

We selected a random sample of 50<sup>3</sup> of the 306<sup>4</sup> hired former employees with prior employment issues and determined that the IRS correctly applied OPM suitability standards for 46 of the 48 employees.<sup>5</sup> As a result, we concluded that the IRS Human Capital Office had appropriately considered suitability standards when prior IRS employment issues were being reviewed and, in general, there was nothing that would prohibit the IRS from hiring these individuals.

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<sup>3</sup> Two of the 50 cases did not meet our criteria due to improper coding of the IRS Automated Labor and Employee Relations Tracking System database.

<sup>4</sup> We identified 323 IRS employees; however, 17 of the 323 employees identified were reviewed for potential referral to the Treasury Inspector General for Tax Administration's Office of Investigations. These employees were therefore excluded from our population when obtaining our sample.

<sup>5</sup> The point estimate percentage of cases for which the IRS did not correctly apply OPM suitability standards is 4.17 percent (two of 48). We are 95 percent confident that the true population percentage of cases for which the IRS did not apply OPM suitability standards is between 0.51 percent and 14.25 percent. The two employees who were inaccurately considered suitable for employment had prior issues for which management recommended removal because the IRS had confirmed that the employees had either falsified their employment forms or had not disclosed all derogatory information on their employment forms, which by OPM standards makes them unsuitable for Federal employment.



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***While Employees With Prior Performance or Conduct Issues Generally Met Suitability Requirements, Rehiring Employees With Known Issues Increases Risk***

We determined that hundreds of former employees who had a wide range of previous performance and conduct issues at the IRS were rehired. The IRS stated that, during the process of evaluating qualifications of applicants, prior IRS conduct and performance issues do not play a significant role in deciding the candidates who are best qualified for hiring. In addition, IRS officials stated that prior performance issues should be considered during the eligibility phase, while conduct issues should be considered during the suitability phase.

We are concerned that the IRS may not be adequately considering prior performance issues when selecting former employees for hire. For example, we found that four of the rehired employees from our random sample were placed into their former positions in which prior performance deficiencies had been documented. Two of these employees were failing critical job elements at the time they had separated from their prior employment with the IRS and the other two employees were working under the guidance of a performance improvement plan<sup>6</sup> at the time of their separation. Of the four employees, three were rehired within 15 months of the performance issue being identified.<sup>7</sup> In addition, the IRS has conduct information for prior employees that could help inform its decisions on hiring. However, the IRS also expressed concerns on whether it could legally go beyond the standards outlined in the OPM Suitability Processing Handbook. IRS officials suggested that the OPM be consulted and stated that the IRS would need to consult General Legal Services to determine if full consideration of prior conduct and performance issues would violate existing Federal regulations. To follow up on these concerns, we requested that the OPM provide further interpretation of issues involved.<sup>8</sup> As of the end of our audit fieldwork, the OPM was performing research in response to the issues we raised.

***Some former employees with tax problems and other questionable conduct were rehired***

In addition to reviewing a random sample of specific performance and conduct cases discussed previously, we researched the IRS's Automated Labor and Employee Relations Tracking System for all 7,168 employees rehired between January 1, 2010, and September 30, 2013. IRS records show that the IRS hired these former employees into a wide variety of positions (78 percent were to temporary or seasonal positions). While most rehired employees did not have performance or conduct issues associated with their previous IRS employment, we determined that 824 (about

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<sup>6</sup> A written plan describing critical elements in which an employee's performance is failing and establishing developmental activities for bringing this performance to a successful level.

<sup>7</sup> The fourth individual was hired 88 months after the prior performance issue was identified.

<sup>8</sup> The OPM inquiry included a request for guidance on whether the IRS could implement supplemental suitability standards associated with the IRS mission and whether the IRS can consider previous conduct and performance issues that were substantiated by the IRS but never adjudicated prior to the employee leaving the IRS.





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rehire” because the individual had been absent without leave for a total of 312 hours. Nonetheless, the employee was still rehired.

The IRS applies standards in the Suitability Handbook by analyzing several factors surrounding prior conduct, including the amount of time that has elapsed since the incident. In all of these instances, either the amount of time between the misconduct during their previous employment and the application for reemployment had been determined to be a mitigating factor or the potential conduct case was not adequately considered because it was unresolved prior to the employee separating. We found nothing in the IRS hiring process beyond the suitability standards where these types of issues were being considered. Rehiring prior employees who have experienced conduct and performance issues during their prior IRS employment presents increased risk to the IRS and taxpayers.

### **In a number of instances, the rehired employees continued to present challenges to IRS management**

Of the 323<sup>11</sup> former employees hired between January 1, 2010, and July 27, 2013, with substantiated or unresolved prior conduct or performance issues, we determined that nearly 20 percent had new conduct or performance issues, such as tax noncompliance, attempted unauthorized access to tax account information, and leave abuse, while others had new legal or off-duty issues, such as bankruptcy. This is significant because the time spent by IRS managers addressing performance and conduct issues is time taken away from serving taxpayers and enforcing the tax law. Moreover, for those employees with conduct issues related to taxpayers (such as unauthorized access to taxpayers’ accounts), the IRS has put taxpayers at increased risk.

### **Recommendation**

**Recommendation 1:** The IRS Human Capital Officer should work with General Legal Services and the OPM to determine whether and during what part of the hiring process the IRS can fully consider prior conduct and performance issues.

**Management’s Response:** The IRS agreed with the recommendation. The IRS Human Capital Officer has already consulted with and requested written opinions from General Legal Services and the OPM through the Department of the Treasury. General Legal Services advised the IRS that suitability criteria may not be used to exclude best qualified candidates from the list of candidates shared with the hiring managers. It agreed that applicant suitability is appropriately conducted at the end of the hiring process prior to a final job offer. Additionally, while it did find that a review of performance and conduct issues could be accomplished earlier in the process, the Department of the Treasury, OPM, and the IRS believed that it was not feasible to move

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<sup>11</sup> This includes the 17 employees who were reviewed for potential referral to the Treasury Inspector General for Tax Administration’s Office of Investigations.



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the review of these issues to earlier in the hiring process. This action would greatly increase the cost of hiring, likely increase cycle time beyond the Presidential mandate of 80 days, require additional resources, and not likely yield a reasonable return on investment. The IRS considers this recommendation fully implemented and closed.

**Office of Audit Comment:** The IRS stated that it completely revamped its process in 2012 and appropriately considers prior conduct and performance in hiring decisions. However, we remain concerned because IRS records indicate that in 2012 and 2013 it hired individuals with prior significant IRS-substantiated conduct and performance issues. As such, we continue to believe that the IRS needs to reassess its current processes to more fully consider prior conduct and performance issues before rehiring employees.



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## **Appendix I**

### *Detailed Objective, Scope, and Methodology*

The overall objective of this review was to identify whether processes for hiring former employees are consistent with OPM suitability standards and whether prior substantiated or unresolved conduct and performance issues are identified and fully considered in the hiring decision. To accomplish this objective, we:

- I. Evaluated processes for reviewing performance and conduct case information and adjudicating<sup>1</sup> cases.
  - A. Obtained and reviewed the OPM Suitability<sup>2</sup> Processing Handbook and Internal Revenue Manual along with existing desk procedures and guidelines and any planned revisions related to completing suitability determinations.
  - B. Conducted interviews with ETS Division personnel.
- II. Identified employees who had left the IRS during or subsequent to having conduct or performance issues documented on the Automated Labor and Employee Relations Tracking System<sup>3</sup> and were subsequently rehired.
  - A. Extracted all employees with conduct or performance issues that resulted in the following disposition codes.
    1. 014 – Separation/Removal.
    2. 015 – Probation/Separation.
    3. 016 – Removal.
    4. 017 – Resignation, Retirement, *etc.* (Standard Form 50 not noted).
    5. 018 – Resignation, Retirement, *etc.* (Standard Form 50 noted).
    6. 038 – Closed Without Adjudication.
    7. 117 – Termination/Abandonment.
    8. 118 – Termination.

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<sup>1</sup> An examination of a person's character or conduct over time, resulting in a favorable or unfavorable determination of their employment suitability; their eligibility for access to classified information, materials, or areas; or their retention in Federal employment.

<sup>2</sup> Suitability refers to identifiable character traits and conduct sufficient to determine whether or not an individual is likely to be able to carry out the duties of a Federal job with integrity, efficiency, and effectiveness.

<sup>3</sup> The Automated Labor and Employee Relations Tracking System generally tracks employee behavior that may warrant IRS management administrative actions.



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- B. For the employees identified in Step II.A, used the Treasury Integrated Management Information System file<sup>4</sup> to eliminate all employees who were not current employees as of July 27, 2013.
  - C. Requested from the IRS an extract of the appointment dates for the population identified in Step II.B to identify former employees who were hired on or after January 1, 2010. These criteria identified 323 employees.<sup>5</sup>
- III. Reviewed a random sample of rehired former employees to determine whether the IRS is appropriately considering conduct and performance issues from the former employees' prior employment in its hiring decisions.
- A. A random sample of 50 of 306 former employees with prior Automated Labor and Employee Relations Tracking System issues was selected from the population of employees identified in Step II.C.<sup>6</sup> Cases were randomly selected to ensure that each of the former employees had an equal chance of being selected, which enabled us to obtain sufficient evidence to support our results. Our random sample meets the following criteria: 95 percent confidence level, 10 percent expected error rate, and  $\pm 8$  percent precision rate.
  - B. Reviewed personnel files including employment applications, Official Personnel Files, and tax records to determine if hiring decisions were consistent with the OPM Suitability Processing Handbook for prior performance and conduct issues during the process of adjudicating applications involving prior IRS employees.
  - C. Identified newly documented performance or conduct issues that have occurred since the employees were rehired. We identified additional investigative information on the Consolidated Lead Evaluation and Reporting<sup>7</sup> database that might indicate inappropriate conduct.
- IV. Analyzed the types of conduct and performance issues for all former IRS employees who were hired between January 1, 2010, and September 30, 2013, and had substantiated conduct and performance cases from prior employment with the IRS.

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<sup>4</sup> This database contains IRS employee names, addresses, enter-on-duty dates, separation dates, and job series for current and separated IRS employees. These data are available through the Treasury Inspector General for Tax Administration's Data Center Warehouse.

<sup>5</sup> Seventeen of the 323 employees identified were reviewed for potential referral to the Treasury Inspector General for Tax Administration Office of Investigations; therefore, they were excluded from our population when obtaining our sample.

<sup>6</sup> Two of the 50 cases did not meet our criteria due to improper coding of the IRS Automated Labor and Employee Relations Tracking System database.

<sup>7</sup> The database contains investigative information on individuals and companies.



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**Data validation methodology**

During this review, we obtained conduct and performance cases from the Automated Labor and Employee Relations Tracking System database for which the outcome resulted in the employee either: (1) leaving the IRS through formal removal or separation, voluntary separation or resignation, or termination or (2) leaving during an ongoing investigation.<sup>8</sup> To identify the separated employees rehired after January 1, 2010, and currently employed by the IRS, the separated employees were matched to the July 27, 2013, Treasury Integrated Management Information System file. As a result of our testing, we determined that the data used in our review were reliable.

**Internal controls methodology**

Internal controls relate to management's plans, methods, and procedures used to meet their mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations. They include the systems for measuring, reporting, and monitoring program performance. We determined that the following internal controls were relevant to our audit objective: the ETS Division's process for considering previous performance or conduct issues when determining whether former employees who are being considered for hire are the best qualified and suitable for employment. We evaluated these controls by interviewing ETS Division management, reviewing hired former employees' suitability determination files, and analyzing information on IRS systems used to track allegations of misconduct, related disciplinary actions, and results of background investigations.

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<sup>8</sup> To assess the validity of data, we matched the former employees with conduct or performance issues to the Treasury Integrated Management Information System file to corroborate the separation in the Automated Labor and Employee Relations Tracking System database.



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**Appendix II**

*Major Contributors to This Report*

Gregory D. Kutz, Assistant Inspector General for Audit (Management Services and Exempt Organizations)

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**Appendix III**

*Report Distribution List*

Commissioner C  
Office of the Commissioner – Attn: Chief of Staff C  
Deputy Commissioner for Services and Enforcement SE  
Chief, Agency-Wide Shared Services OS:A  
Deputy Commissioner for Operations Support OS  
Director, Employment, Talent and Security OS:HC:ETS  
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Audit Liaison: IRS Human Capital Officer OS:HC



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**Appendix IV**

*Management's Response to the Draft Report*



HUMAN CAPITAL OFFICE

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

December 9, 2014

MEMORANDUM FOR MICHAEL E. MCKENNEY  
DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Daniel T. Riordan *Daniel T. Riordan*  
IRS Human Capital Officer

SUBJECT: Draft Audit Report – Additional Consideration of Prior Conduct and Performance Issues Is Needed When Hiring Former Employees (Audit # 201310029)

Thank you for the opportunity to review the draft report, *Additional Consideration of Prior Conduct and Performance Issues Is Needed When Hiring Former Employees* dated November 7, 2014 and the revised draft report dated November 20, 2014. We are committed to ensuring our processes for hiring former employees are consistent with Office of Personnel Management (OPM) suitability standards and fully consider prior conduct and performance issues in the hiring decision. TIGTA and IRS share the common goal of providing the best service to America's taxpayers, restoring public trust in tax administration, and safeguarding taxpayer's rights and privacy.

The IRS operates under specific adjudicative guidance outlined in the OPM Suitability Processing Handbook. The Handbook provides explicit guidance on how to evaluate issues discovered in an applicant's background. It also provides guidance on how to mitigate issues that are considered non-actionable (i.e., the issues may have happened so long ago, that they no longer pose a security risk). All issues discovered in our pre-screen process are taken into consideration and evaluated based on OPM's guidance. TIGTA's audit found that IRS appropriately applied OPM Suitability standards in considering prior IRS employment history when rehiring former employees.

TIGTA expressed further concern that the application of OPM standards alone may not be sufficient, and recommended the IRS consult with General Legal Services (GLS) and OPM to determine if prior conduct and performance issues could be considered prior to issuance of the list of best qualified candidates to hiring managers. IRS has fully evaluated this recommendation and determined its current process is more than adequate to mitigate any risks to American taxpayers, federal agencies, and its employees. IRS already fully considers prior conduct and performance issues before the final job offer is issued to all new hires.

TIGTA reviewed IRS's hiring of former employees with prior conduct and performance issues for hiring that occurred between October 2009 and September 2013. However, in



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2012, IRS completely revamped its process and transitioned responsibility for all applicant suitability determinations to IRS Personnel Security. This change has allowed for a more consistent application of OPM suitability standards, and applicant cases are now being reviewed by OPM-trained suitability adjudicators. The success of this transition was noted in this audit as follows: "TIGTA reviewed a random sample from more than 300 employees with significant prior performance or conduct issues who were hired between January 2010 and July 2013 and determined that the IRS appropriately applied OPM suitability standards (e.g., determining whether applicants had prior criminal activity, material false statements, or illegal drug use)."

We agree with the one recommendation to consult with GLS and OPM. Further, IRS has already done so. GLS determined that suitability criteria may not be used to exclude best qualified candidates from the list of candidates shared with hiring managers. They agree that applicant suitability is appropriately conducted at the end of the hiring process prior to a final job offer. Additionally, while they did find that a review of performance and conduct issues could be accomplished earlier in the process, Treasury, OPM, and IRS felt it was not feasible to move the review of these issues earlier in the hiring process. This action would greatly increase the cost of hiring, likely increase cycle time beyond the Presidential mandate of 80 days, require additional resources, and would not likely yield a reasonable return on investment. The IRS considers this recommendation fully implemented and closed.

Attached is a detailed response outlining the corrective actions that the Human Capital Office will take to address your recommendation. If you have any questions, please contact me at (202) 317-7600, or a member of your staff may contact Becky Barber, Director, Executive Services, Employment, Talent and Security, at (202) 317-7100.

Attachment



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Attachment

**RECOMMENDATION 1:**

TIGTA recommended that the IRS Human Capital Officer work with General Legal Services and the OPM to determine whether and during what part of the hiring process the IRS can fully consider prior conduct and performance issues.

**CORRECTIVE ACTION:**

The IRS Human Capital Officer has already consulted with and requested written opinions from General Legal Services (GLS) and the OPM through Treasury to determine whether and during what part of the hiring process the IRS can fully consider prior conduct and performance issues. GLS advised that suitability criteria may not be used to exclude best qualified candidates from the list of candidates shared with the hiring managers. They agree that applicant suitability is appropriately conducted at the end of the hiring process prior to a final job offer. Additionally, while they did find that a review of performance and conduct issues could be accomplished earlier in the process, Treasury, OPM, and IRS felt it was not feasible to move the review of these issues earlier in the hiring process. This action would greatly increase the cost of hiring, likely increase cycle time beyond the Presidential mandate of 80 days, require additional resources, and would not likely yield a reasonable return on investment. The IRS considers this recommendation fully implemented and closed.

**IMPLEMENTATION DATE:**

November 19, 2014

**RESPONSIBLE OFFICIAL(S):**

IRS Human Capital Officer and Director, Executive Services, Employment, Talent and Security

**CORRECTIVE ACTION(S) MONITORING PLAN:**

We will enter accepted Corrective Actions into the Joint Audit Management Enterprise System (JAMES), and upload supporting documentation into JAMES with Forms 13872, *Planned Corrective Action (PCA) Status Update for TIGTA/GAO/MW/SD/TAS/REM.*