
TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION



*Review of Questionable Background
Investigations Performed by the Office of
Personnel Management's Former Contractor
U.S. Investigations Services, Inc.*

May 14, 2018

Reference Number: 2018-10-021

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.

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HIGHLIGHTS

REVIEW OF QUESTIONABLE BACKGROUND INVESTIGATIONS PERFORMED BY THE OFFICE OF PERSONNEL MANAGEMENT'S FORMER CONTRACTOR U.S. INVESTIGATIONS SERVICES, INC.

Highlights

Final Report issued on May 14, 2018

Highlights of Reference Number: 2018-10-021 to the Commissioner of Internal Revenue.

IMPACT ON TAXPAYERS

U.S. Investigations Services, Inc. (USIS), a former contractor of the Office of Personnel Management (OPM), is alleged by the Department of Justice to have provided incomplete reviews of approximately 665,000 background investigations from March 2008 through September 2012 to the Federal Government. In addition, the Department of Justice prosecuted several USIS employees under contract to conduct background investigations on behalf of the OPM's Federal Investigative Services for making false representations regarding their work on background investigations, such as indicating that interviews were conducted or records were obtained, when in fact they were not. Incomplete investigations could result in employing or retaining unsuitable individuals in positions with access to IRS facilities, systems, and sensitive information.

WHY TIGTA DID THE AUDIT

TIGTA performed this audit to assess the impact of OPM background investigations conducted by its former support contractor, USIS, on the IRS.

WHAT TIGTA FOUND

The OPM provided TIGTA with a list of 3,498 background investigations performed by the USIS on IRS employees or appointees between March 2008 and September 2012 alleged by the Department of Justice to have received incomplete reviews. Of these 3,498 background investigations, IRS records

indicated that as of October 2017, the IRS still employed 2,058 of these individuals.

Our review of a statistical sample of 76 USIS background investigations conducted on IRS employees or appointees on board as of February 2016 found that documentation was lacking to support the investigative work represented as completed by the USIS in 75 (99 percent) cases. According to the OPM, the policies during the time frame USIS-conducted background investigations took place did not require documentation to be retained in the investigative file for certain types of investigative actions. However, the OPM concluded that in two of the 76 IRS Reports of Investigation, OPM investigative standards had not been met. TIGTA determined that IRS procedures did not contain a process to assess the quality or completeness of background investigations the OPM provided to it.

Our independent review of publicly available records for our statistical sample generally did not identify unreported incidents or derogatory information associated with the OPM's factors for consideration in determining suitability for Federal employment or security clearance access. However, based on the prior issues with USIS background investigations and the general lack of support in the sampled files reviewed, TIGTA has significant concerns about the quality and completeness of IRS employee investigations performed by the USIS.

WHAT TIGTA RECOMMENDED

TIGTA recommended that the Human Capital Officer should prioritize the reinvestigation of any employee whose most recent background investigation was performed by the USIS during the period March 2008 through September 2012, and enact formal procedures to incorporate the guidelines developed by the Director of National Intelligence to assess the quality and completeness of background investigations the OPM provided.

The IRS agreed with both of our recommendations and stated that it has already taken action to address the recommendations.



TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

May 14, 2018

MEMORANDUM FOR COMMISSIONER OF INTERNAL REVENUE

FROM: Michael E. McKenney
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Review of Questionable Background
Investigations Performed by the Office of Personnel Management’s
Former Contractor U.S. Investigations Services, Inc.
(Audit #201610009)

This report presents the results of our review of Questionable Background Investigations Performed by the Office of Personnel Management’s Former Contractor U.S. Investigations Services, Inc. The overall objective of this review was to assess the impact of Office of Personnel Management background investigations conducted by its former support contractor, U.S. Investigations Services, Inc., on the Internal Revenue Service (IRS). This review is included in our Fiscal Year 2018 Annual Audit Plan and addresses the major management challenge of Security for Taxpayer Data and Protection of IRS Resources.

Management’s complete response to the draft report is included as Appendix IV. We also provided our draft report to the Office of Personnel Management. Their response is included as Appendix V. We have concerns about the accuracy of certain statements in the Office of Personnel Management’s response to our report. We have noted these concerns in Appendix VI.

Copies of this report are also being sent to the IRS managers affected by the report recommendations. If you have any questions, please contact me or Gregory D. Kutz, Assistant Inspector General for Audit (Management Services and Exempt Organizations).



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Abbreviations

CCT	Case Closing Transmittal
GAO	Government Accountability Office
HCO	Human Capital Officer
IRS	Internal Revenue Service
NBIB	National Background Investigations Bureau
OPM	Office of Personnel Management
ROI	Report of Investigation
USIS	U.S. Investigations Services, Inc.



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Background

In October 2016, the National Background Investigations Bureau (NBIB) within the Office of Personnel Management (OPM) was established as the primary service provider of Governmentwide background investigations for the Federal Government with the mission of delivering background investigations to ensure the integrity and trustworthiness of the Federal workforce. The NBIB subsumed the existing mission, authorities, and staff of the OPM's former Federal Investigative Service. According to the OPM, the NBIB has the responsibility of conducting background investigations for more than 100 Federal agencies – approximately 95 percent of the total background investigations Governmentwide. The Government Accountability Office (GAO) reported¹ that, as of February 2018, the NBIB had a backlog of more than 710,000 pending investigations. The Internal Revenue Service (IRS) stated that as of October 2017, nearly 26,000 employees required a completed background reinvestigation and that no moderate-risk reinvestigations had been completed since 2013. At the end of Fiscal Year² 2017, the IRS had more than 72,000 employees.³

Federal law has assigned to the NBIB the responsibility for conducting investigations of individual's qualifications, suitability, and fitness for employment in the civil service.⁴ Once an individual's NBIB investigation is complete, the information is provided to the employing agency for adjudication, a decision regarding whether the action to hire an individual or continue his or her employment is consistent with the interests of national security. Individuals applying for employment at the IRS must meet specific employment suitability requirements and/or undergo a background investigation. Further, IRS policy requires current employees to undergo periodic reinvestigations, typically every five years. If there is a change in position risk or sensitivity level, such as an employee moving to a position at a higher risk or sensitivity level than the position he or she currently occupies, the employee must meet the investigative requirements of the position risk designation of the new position.

The 2012 Federal Investigative Standards established requirements for conducting background investigations to determine eligibility for logical and physical access, suitability for U.S. Government employment, fitness to perform work for or on behalf of the U.S. Government as a contract employee, and eligibility for access to classified information or to hold a sensitive

¹ GAO, GAO-18-431T, *Personnel Security Clearances: Additional Actions Needed to Implement Key Reforms and Improve Timely Processing of Investigations* p. 6 (Mar. 7, 2018).

² Any yearly accounting period, regardless of its relationship to a calendar year. The Federal Government's fiscal year begins on October 1 and ends on September 30.

³ During our audit work, we also looked at appointees. An appointee is a person who has entered on duty and is in the first calendar year of a subject-to-investigation appointment.

⁴ Exec. Order 13741 – *Amending Executive Order 13467 to Establish the Roles and Responsibilities of the National Background Investigations Bureau and Related Matters* (Sept. 2016).



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position. In Fiscal Year 2015, the OPM updated the Federal Investigative Standards to consist of five tiers corresponding to increasing levels of sensitivity. The five tiers are:

- Tier 1 (Non-Sensitive and Low Risk).
- Tier 2 (Moderate Risk).
- Tier 3 (Non-Critical Sensitive).
- Tier 4 (High Risk).
- Tier 5 (Critical/Special Sensitive).

The IRS Office of the Human Capital Officer (HCO), Personnel Security, is responsible for suitability prescreening of IRS applicants. Prescreening investigative steps vary depending on the subject's position risk level, but may include a:

- Federal Bureau of Investigation fingerprint check.
- Credit check.
- Federal tax compliance check.
- Citizenship check.

The OPM itself relies on a mix of internal and contract employees to perform background investigations requested by Federal agencies. During the investigation phase, investigators – often contractors – from the OPM's NBIB (previously the Federal Investigative Services) use Federal investigative standards and OPM internal guidance to conduct and document the investigation of the applicant. The scope of information gathered in an investigation depends on the needs of the requesting agency and the personnel background investigation requirements of an applicant's position, as well as whether it is an initial investigation or a reinvestigation to renew existing security access allowances. From 1996 until September 2014, U.S. Investigations Services, Inc. (USIS) provided background investigations services for the OPM under various fieldwork contracts.⁵

The USIS is alleged to have provided the Federal Government incomplete reviews of approximately 665,000 Governmentwide background investigations from March 2008 through at least September 2012.⁶ The Department of Justice announced on August 19, 2015, that USIS and its parent company, Altegrity Inc., agreed to settle allegations that USIS violated the False

⁵ Fieldwork can be defined as background investigative coverage obtained primarily through human interactions and can include personal interviews, communications with record providers, and human searches of databases.

⁶ The incomplete reviews mentioned throughout this report refer to Department of Justice allegations that USIS sought payment for background investigations purportedly completed in accordance with the requirements of its contracts with the OPM when it knew the contractually required quality review had not occurred on those investigations.



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Claims Act⁷ for conduct involving a contract for background investigations that USIS held with the OPM.⁸ The Government alleged that beginning in at least March 2008 and continuing through at least September 2012, USIS deliberately circumvented contractually required quality reviews of completed background investigations in order to increase the company's revenues and profits. Specifically, USIS allegedly devised a practice referred to internally as "dumping" or "flushing," which involved releasing cases to the OPM and representing them as complete when, in fact, not all the Reports of Investigation (ROI) comprising those cases had received a contractually required quality review.

Further, the Department of Justice prosecuted more than 20 former investigators and two record checkers, including USIS employees under contract to conduct background investigations on behalf of the OPM's Federal Investigative Services, for making false representations regarding their work on background investigations.⁹ For example, former background investigators represented that they had interviewed a source or reviewed a record regarding the subject of a background investigation. In fact, the investigators had not conducted the interviews or obtained the records of interest. The ROIs provided by the USIS were used and relied upon by the agencies requesting the background investigations to determine whether the subjects were suitable for positions having access to classified information, for positions affecting national security, for receiving or retaining security clearances, or for positions of public trust.

The OPM provided us a list of 3,498 background investigations of IRS employees or appointees conducted by the USIS during the period March 2008 through September 2012. These 3,498 background investigations performed by the USIS were included among a larger population of Federal agency background investigations conducted by the USIS and provided to the Department of Justice by the OPM in the conduct of the Department of Justice's investigation of USIS's alleged activities. Of the 3,498 background investigations appearing on the background investigation list, we identified 2,618 IRS employees or appointees that were working for the IRS as of February 2016. The remaining 880 investigative cases were removed from our audit population because they were former IRS employees or appointees who were no longer with the agency. Of the 2,618 background investigations in our population, the investigative tier distribution included:

- Tier 1 – 4 background investigations.
- Tier 2 – 2,144 background investigations.
- Tier 3 – 30 background investigations.
- Tier 4 – 211 background investigations.

⁷ 31 U.S.C. §§ 3729-33.

⁸ Department of Justice, Office of Public Affairs, Press Release dated August 19, 2015.

⁹ U.S. Attorney's Office, District of Columbia, Press Releases dated September 19, 2014, and August 24, 2016.



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- Tier 5 – 229 background investigations.

According to officials at the Department of Justice, contractors who do business for the Federal Government have a responsibility to provide the goods and services that they promise, and this particular company failed to meet its obligations of comprehensively reviewing the backgrounds of current and prospective Federal employees.¹⁰ In addition, the GAO¹¹ found that documentation was lacking in investigative reports provided by the OPM to the Department of Defense.¹² The GAO review did not specify which contractors performed the background investigations included in its review. Further, the OPM Office of the Inspector General found that many of the investigative files USIS provided were not in compliance with OPM background investigations quality standards.¹³

This review was performed at and/or with information obtained from the OPM and the IRS offices of Human Capital; Employment, Talent and Security Division; and Personnel Security Operations, in Washington, D.C., and Covington, Kentucky, during the period from June 2016 to September 2017. Our audit population included current IRS employees and appointees who were previously investigated by the USIS, a former OPM contractor. We compared the supporting documentation in the background investigation ROI to the Case Closing Transmittal (CCT) to ensure that the investigative elements of the CCT were supported as being accomplished. Reviewing IRS adjudicator determinations of suitability or access eligibility on our sample cases to determine if they complied with OPM investigative standards was outside the scope of this review. The Treasury Inspector General for Tax Administration did not attempt to make an independent adjudication based on the content of the investigative files for our sample cases.

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.

¹⁰ Department of Justice, Office of Public Affairs, Press Release dated August 19, 2015.

¹¹ GAO, GAO-09-400, *DOD Personnel Clearances: Comprehensive Timeliness Reporting, Complete Clearance Documentation, and Quality Measures Are Needed to Further Improve the Clearance Process* (May 19, 2009).

¹² Once an OPM background investigation is closed, the completed investigative package which contains results obtained throughout the investigation process is provided to the customer agency in a combination of text, graphics, and imaged documents. The investigative package may include, but is not limited to, ROIs, credit reports, arrest records, other agency files, written inquiries, *i.e.*, local law enforcement checks, employment and education checks, the Case Closing Transmittal, Certification, and the adjudication Form OFI 79A. The investigative package is sent electronically to the customer agency as a final product in the form of a Portable Document File.

¹³ Office of the Inspector General of the OPM, Report No. 4A-RS-00-15-014, *Results of the Office of Inspector General's Special Review of OPM's Quality Assessment of USIS's Background Investigations* p. 8 (Sept. 22, 2015).



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Results of Review

Background Investigation Files Were Lacking Supporting Documentation

We reviewed a statistically valid sample of 76 background investigations conducted by the USIS during the period March 2008 through September 2012. These 76 background investigations were selected from our population of 2,618 IRS employees or appointees as of February 2016. Our review of a statistical sample of 76 ROIs found that documentation was generally lacking to support the investigative work represented on the CCT as completed by the OPM contractor, USIS.¹⁴ We communicated to the OPM our concerns over the lack of supporting documentation in 75 (99 percent) of the 76 sample ROIs we reviewed. The OPM stated that its policies, during the time frame the USIS-conducted background investigations in our review took place, did not require documentation to be retained in the investigative file for certain types of investigative actions. For example, documentation was not maintained when the investigator either indicates that positive responses to OPM inquiries were received for the individual subjects of the background investigations, or when they indicate that no response was received to the inquiry.¹⁵ The OPM reviewed our list of missing documentation for the 76 background investigative files in our sample and concluded that in two background investigations OPM investigative standards were not met. These two instances related to identifying previous educational experience of two individuals subject to the background investigations. In one instance, the investigator was required to provide coverage of the full-time educational activity of the individual under investigation and this did not occur. In the other instance, discrepant information was identified, and such documentation was required to be retained in the investigative file. However, the documentation was not retained. The OPM did not provide an explanation as to why the required actions did not occur.

The IRS also reviewed our list of missing documentation for the 76 background investigative files in our sample and stated that if the OPM provided a background investigative file and presented it as complete, the HCO Office of Personnel Security did not believe they could determine whether the background investigation had been fully completed or accurately performed by the OPM.

We determined that IRS procedures did not contain a process to assess the quality or completeness of background ROIs provided to it by the OPM, despite an IRS policy that its

¹⁴ The CCT provides the IRS Office of Personnel Security with a summary of investigated activities and results, and indicates one of the following closing actions: 1) Closed-Complete, 2) Closed-Pending, 3) Incomplete, or 4) Discontinued.

¹⁵ The OPM stated that responding to OPM inquiries sent to third parties to validate certain investigative coverage items such as prior employment, education, and references for background investigation subjects, is voluntary.



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organizational units should have quality improvement processes in place.¹⁶ The IRS stated that instead, its adjudicators relied on their training, knowledge, and experience to identify any significant issues with OPM ROIs.

In April 2016, Quality Assessment Standards for Background Investigations were distributed to Federal agencies with a full implementation date of March 2017.¹⁷ The objective of the Quality Assessment Working Group was to develop a set of standards to determine the quality of background investigations conducted across the Federal Government and thereby support the objective that each background investigation be sufficient in detail and appropriate investigative requirements be complete. Although the IRS stated that it had implemented the Quality Assessment Standards in June 2017, we determined that the HCO Office of Personnel Security procedures have not been updated to include these quality assurance processes.¹⁸

No additional derogatory information was identified

Our independent review of available public records for our statistically valid sample of 76 IRS employee background investigations did not identify any significant unreported derogatory information or missing incidents related to the OPM's factors considered in determining suitability for Federal employment and that should have appeared on the background investigative file, such as criminal behavior.¹⁹ OPM guidelines require its investigators to research information, such as the residential, employment, educational, and criminal histories of individuals subject to background investigations. Available public records we searched provided information related primarily to criminal behavior and dishonest conduct, including involvement in civil litigation and/or bankruptcy.

As noted previously, the USIS settled with the Department of Justice allegations related to circumventing quality reviews of completed background investigations. Further, a review by the OPM Office of the Inspector General found that 18 percent of USIS "dumped" background

¹⁶ Internal Revenue Manual 1.2.10.3. (2) d (Aug. 21, 1986), Policy Statement 1-2.

¹⁷ The Quality Assessment Standards was developed by the interagency Quality Assessment Working Group, which was co-chaired by the Office of the Director of National Intelligence, the OPM, and the Department of Defense.

¹⁸ We have not reviewed the Quality Assessment Standards or the IRS's implementation of those standards.

¹⁹ The OPM, or an agency to which the OPM has delegated authority, must base its suitability determination on the presence or absence of one or more of the specific factors. In determining whether a person is suitable for Federal employment, only the following factors are to be considered 1) misconduct or negligence in employment; 2) criminal or dishonest conduct; 3) material, intentional false statement, or deception or fraud in examination or appointment; 4) refusal to furnish testimony as required; 5) alcohol abuse, without evidence of substantial rehabilitation, of a nature and duration that suggests that the applicant or appointee would be prevented from performing the duties of the position in question, or would constitute a direct threat to the property or safety of the applicant or appointee or others; 6) illegal use of narcotics, drugs, or other controlled substances without evidence of substantial rehabilitation; 7) knowing and willful engagement in acts or activities designed to overthrow the U.S. Government by force; and 8) any statutory or regulatory bar which prevents the lawful employment of the person involved in the position in question.



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investigations it reviewed did not meet investigative standards.²⁰ Based on the Department of Justice convictions of USIS background investigators and our own review of the USIS ROI files, the Treasury Inspector General for Tax Administration has significant concerns about the quality and completeness of IRS employee investigations performed by the USIS between March 2008 and September 2012. As a result, the ROIs that did not meet OPM investigative standards may have been relied upon by the IRS to determine whether the subject employees were suitable for positions affecting national security, for receiving or retaining security clearances, or for positions of public trust. As of October 2017, there were 2,058 individuals associated with our original population of 3,498 background investigations conducted by the USIS who were still employed at the IRS. This is of particular concern given the significant number of overdue IRS reinvestigations.

Recommendations

The HCO should:

Recommendation 1: Prioritize the reinvestigation of any employee whose most recent background investigation was performed by the USIS during the period March 2008 through September 2012, as determined by this audit.

Management's Response: The IRS agreed with this recommendation and stated that it has already prioritized the reinvestigation of employees whose most recent background investigation was performed by the USIS during the period March 2008 through September 2012.

Recommendation 2: Incorporate the guidelines developed by the Director of National Intelligence to assess the quality and completeness of the ROIs provided by the OPM into IRS policies and procedures to guide the HCO Office of Personnel Security in determining whether or not the ROI is complete and may be relied upon in performing its suitability determinations.

Management's Response: The IRS agreed with this recommendation and stated that it has already incorporated the Director of National Intelligence guidelines into Personnel Security Office policies to assess both quality and completeness of OPM's ROIs and whether they may be relied upon in performing suitability determinations.

²⁰ OPM Office of the Inspector General, Report No. 4A-RS-00-15-014, *Results of the OIG's Special Review of OPM's Quality Assessment of USIS's Background Investigations* p. 8 (Sept. 22, 2015).



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Appendix I

Detailed Objective, Scope, and Methodology

Our overall objective was to assess the impact of OPM background investigations conducted by its former support contractor, USIS, on the IRS. To accomplish our objective, we:

- I. Reviewed OPM, Department of the Treasury, and IRS policies and procedures to determine the criteria for processing and conducting background investigations on IRS employees and appointees.
 - A. Obtained OPM, Department of the Treasury, and IRS policies and procedures pertaining to background investigations.
 - B. Determined whether the USIS's alleged noncompliance with OPM investigation policies affected the IRS's ability to appropriately implement its policies and procedures when determining the suitability of an applicant for full-time employment at the IRS.
 - C. Interviewed cognizant IRS staff in the HCO, Employment, Talent, and Security Division, specifically the Office of Personnel Security.
- II. Determined the number of background investigations performed by the USIS which were provided by the OPM to the Department of Justice for investigation.
- III. Reviewed a statistical sample of dumped cases of IRS employees and appointees provided by the OPM to the Department of Justice and determined whether investigative actions reported as completed were fully documented, and determined whether any additional information that could be considered material under the OPM suitability standards could be identified that was not present in the ROIs the OPM provided to the IRS. The Treasury Inspector General for Tax Administration's contracted statistician assisted with developing our sampling plan to ensure selection of a statistically valid random sample.
 - A. Compared the outputs from the OPM with the background investigations identified by the IRS from March 2008 through September 2012 to determine whether the information from these outputs matched, and excluded any cases for former IRS employees or appointees. We assessed the reliability of IRS dumped background investigation cases by matching the detail of the dumped cases obtained from the OPM to the corresponding detail obtained from the IRS and excluded from our audit population any background investigation cases dealing with employees who were no longer with the IRS as of February 2016. Based on the procedures performed, we determined that the final data set of dumped IRS background investigations used was reliable and suitable for the purposes of this audit.



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- B. Selected a statistical sample of potentially dumped IRS cases for review and requested the associated ROI from the OPM. We grouped the five investigative tiers used by the IRS to designate the level of access of their employees into two categories, or strata. One strata contained IRS employees in the three lowest investigative tiers and one strata included IRS employees in the two highest investigative tiers.
- C. Chose these groupings based on the commonality of the different levels of the investigative tiers. For example, the three lowest levels of investigative tiers only provide IRS employees access to information of moderate risk and only involve the investigation of the past few years of their educational, employment, and legal history during background investigations. The two highest investigative tiers grant IRS employees access to information of high risk and involve investigations that are longer in time and wider in scope during their background investigations. Our population of the three lowest investigative tiers was 2,178 and our population of the two highest investigative tiers was 440. As a result, we were able to select a statistically valid, stratified random sample of 76 background investigation files to review. We chose a statistical random sample to ensure that all background investigations in our population had an equal chance of being selected and to allow the results to be projected to the overall population, had we independently identified derogatory information.
- D. Verified the results from the potentially dumped, statistical sample of cases using background investigative software such as the Consolidated Lead Evaluation and Reporting[®] and Public Access to Electronic Court Records by using the OPM established criteria for the different types of background investigations, which included, at a minimum:
 - 1. Reviewed the investigative actions provided as completed on the CCT in each of the sample OPM ROIs and determined whether OPM/USIS investigative coverage of those components was complete and fully documented. The investigative actions review was limited to publically available records in the Consolidated Lead Evaluation and Reporting[®] and Public Access to Electronic Court Records, and a review of the documentation included in the ROI file provided by the OPM.
 - 2. Searched publicly available databases, such as the Consolidated Lead Evaluation and Reporting[®] and Public Access to Electronic Court Records, to validate the information provided in the OPM ROIs, and determined if there were gaps, such as missing evidence of criminal conduct, bankruptcy/credit problems, and/or civil litigation that could potentially affect a suitability determination under OPM factors.
- IV. Determined which, if any, current IRS employees would require reinvestigation based on conflicting or additional derogatory information documented in our review that was not present in the initial background investigation package provided to the IRS by the OPM.



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- A. Compared the results from the selected USIS dumped cases and the results from our review to assess if any differences existed between the reported records and our findings.
- B. Analyzed the outcomes of the sample selection to determine if any employees required reinvestigation or other measures to be taken by the IRS.

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 OPM Suitability Handbook which documents Governmentwide rules related to suitability processing and adjudication of background investigation cases by all Federal agencies.
- OPM Product Tables which described the details of investigative coverage provided for each case type.
- Quality Assessment Standards Implementation Memo and Plan distributed Governmentwide by the OPM to support the objective that each background investigation be sufficient in detail and that appropriate investigative requirements be complete.

To assess these controls, we reviewed the provisions contained in the OPM Suitability Handbook and the OPM Quality Assessment Standards Implementation Memorandum and Plan as they applied to suitability determinations and background investigations conducted on IRS employees and appointees. According to the OPM, *The Suitability Processing Handbook* is a privileged law enforcement manual used by OPM to adjudicate suitability for employment in the competitive civil service. We also reviewed other relevant IRS and Department of the Treasury policies pertaining to background investigations performed on IRS employees and appointees. In particular, we reviewed Internal Revenue Manual 10.23.1¹ and 10.23.3,² which respectively establish general policy and procedures for the maintenance of personnel security investigations and records, and the administration of the IRS personnel security program related to the initiation of suitability/security screening and/or investigations. We met with the IRS Office of Personnel Security and discussed the full scope of suitability determinations and background investigations work performed on IRS employees and appointees, including internal controls established to ensure that unsuitable individuals are not put in positions with access to IRS facilities, systems, and sensitive information.

¹ IRM 10.23.1 (Aug. 5, 2016).

² IRM 10.23.3 (June 28, 2016).



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Appendix II

Major Contributors to This Report

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Appendix III

Report Distribution List

Deputy Commissioner for Operations Support
Human Capital Officer
Director, Employment, Talent, and Security
Deputy Director, Employment, Talent, and Security
Director, Office of Audit Coordination



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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

MAR 13 2018

MEMORANDUM FOR MICHAEL E. MCKENNEY
DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Katherine M. Coffman *K.M. Coffman*
IRS Human Capital Officer

SUBJECT: Draft Audit Report - *Review of Questionable
Background Investigations Performed by the Office
of Personnel Management's Former Contractor
U.S. Investigations Services, Inc.
(Audit #201610009)*

Thank you for the opportunity to respond to subject draft report, *Review of Questionable Background Investigations Performed by the Office of Personnel Management's Former Contractor U.S. Investigations Services (USIS), Inc.* The IRS is committed to ensuring that the employment and retention of employees is consistent with the interests of national security and the integrity of the tax system.

As noted in your report, the Office of Personnel Management (OPM) contracted with USIS to conduct complete and quality background investigations on their behalf. Subsequently, OPM assigned 3,498 background investigations of IRS employees and/or appointees to USIS for action. However, the U.S. Department of Justice prosecuted USIS for "making false representations regarding the work of background investigations" from March 2008 through September 2012.

We realize that some IRS investigations may have been compromised as a result of USIS' actions, and we agree with TIGTA's two recommendations. First, we are prioritizing the reinvestigation of those employees whose most recent background investigation was performed by USIS. Additionally, we incorporated into IRS policies and procedures in October 2017 the Director of National Intelligence's guidelines to assess the quality and completeness of Reports of Investigation provided by the OPM.

If you have any questions, please contact me at 202-317-7600, or a member of your staff may contact Tiffany Lightbourn, Director, Employment, Talent & Security division, Human Capital Office at 202-317-3308.

Attachment (1)



*Review of Questionable Background Investigations Performed
by the Office of Personnel Management's Former
Contractor U.S. Investigations Services, Inc.*

Attachment

RECOMMENDATION 1:

The Human Capital Officer should prioritize the reinvestigation of any employee whose most recent background investigation was performed by the USIS during the period March 2008 through September 2012, as determined by this audit.

CORRECTIVE ACTION:

The Human Capital Officer agrees and have already prioritized the reinvestigation of employees whose most recent background investigation was performed by USIS during the period of March 2008 through September 2012.

IMPLEMENTATION DATE:

N/A

RESPONSIBLE OFFICIAL:

Director, Employment, Talent & Security Division, Human Capital Office

CORRECTIVE ACTION MONITORING PLAN:

N/A

RECOMMENDATION 2:

The Human Capital Officer will incorporate the guidelines developed by the Director of National Intelligence to assess the quality and completeness of the ROIs provided by the OPM into IRS policies and procedures to guide the HCO Office of Personnel Security in determining whether or not the ROI is complete and may be relied upon in performing its suitability determinations.

CORRECTIVE ACTION:

IRS agrees with the recommendation and have already incorporated the Director of National Intelligence (DNI) guidelines into Personnel Security Office (PS) policies to assess both quality and completeness of OPM's ROIs and may be relied upon in performing suitability determinations.

IMPLEMENTATION DATE:

N/A

RESPONSIBLE OFFICIAL:

Director, Employment, Talent & Security Division, Human Capital Office

CORRECTIVE ACTION MONITORING PLAN:

N/A



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Appendix V

*Office of Personnel Management's Response to the
Draft Report*



UNITED STATES OFFICE OF PERSONNEL MANAGEMENT
Washington, DC 20415



National Background
Investigations
Bureau

March 20, 2018

Gregory D. Kutz
Assistant Inspector General for Audit
(Management Services and Exempt Organizations)
Inspector General for Tax Administration
Department of the Treasury
Washington, DC 20005

Dear Mr. Kutz,

Thank you for the opportunity to review and comment on the Treasury Inspector General for Tax Administration's (TIGTA) draft audit report, *Review of Questionable Background Investigations Performed by the Office of Personnel Management's Former Contractor, U.S. Investigations Services Inc.* Although you requested that we examine the draft report from a disclosure perspective, we would like to call your attention to information in the report that may be misleading.

In sum, the 2014 Department of Justice lawsuit alleged that the US Investigations Service (USIS) made false statements to OPM regarding reports of investigation that were not reviewed by USIS field staff prior to submission to OPM in accordance with its fieldwork contract. The lawsuit did not allege that the reports within those background investigations were fabricated or that the investigators failed to conduct the required investigative work. In essence, the case was a contract fraud issue rather than a national security matter.

The phrase "incomplete reviews" used throughout the draft report is misleading. The draft report reflects that USIS was alleged to have provided incomplete reviews of background investigations; however, the DOJ complaint acknowledged that the background investigations received a *federally controlled quality review* by OPM following receipt from USIS. The issue was not that customer agencies received investigative products that did not undergo a quality review but rather, that USIS did not complete the contractually required quality review of investigative reports prior to submission to OPM.

Discussion regarding falsification of investigative work is not relevant to either the DOJ investigation or the TIGTA audit. The draft report states that USIS employees were prosecuted for making false representations regarding work on background investigations. While such prosecutions occurred in a handful of instances, they were separate from the USIS lawsuit, which did *not* involve allegations of falsification of investigative work and/or reports. As background, investigations containing inaccurate or falsified information are corrected as part of OPM's stringent recovery procedures and revised investigative reports are provided to the requesting agency(s). Once such correction occurs, agencies do not retain falsified reports as part of their records. Nor, to our knowledge, were falsified reports included in any type of subsequent review by TIGTA.



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As you may be aware, OPM's National Background Investigations Bureau (then known as Federal Investigative Services) conducted a large-scale review to determine overall quality of "dumped" cases in relation to normal quality return rates. The findings found no evidence to support that there was any effort on the part of USIS to intentionally close investigations without proper referral to federal review staff or that these investigations contained a higher percentage of quality issues than the overall case population. It also should be noted that these USIS investigations were subject to the same random quality and integrity assurance monitoring as the non-dumped case population. In addition, an analysis of reopening rates disclosed that most dumped investigations were closed and adjudicated with a lower reopening rate for quality than the overall population of cases. This supports the conclusion that while the contractually required quality review was not performed by the field contractor, the work performed was not, in the aggregate, of any lesser quality than cases in general.

Although we have no concerns regarding the public disclosure of information as written within the draft report, we respectfully request 1) that it be amended to accurately reflect the facts of the DOJ investigation and 2) that erroneous language regarding USIS falsification of investigative work be removed. In addition, recommended technical edits are included in the attachment. Please contact Philip Kroop, Executive Program Director, Integrity Assurance, Compliance, and Inspections at 443-698-9330 should you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "C. S. Phalen".

Charles S. Phalen
Director

Attachment



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Appendix VI

Office of Audit Comments on the Office of Personnel Management's Response

We made our draft report to the IRS available for comment by the OPM. In response to our draft report, the OPM indicated disagreement with some facts and noted that information in our report was misleading. We have included excerpts from OPM's response and our related comments below.

Management's Response: *The phrase "incomplete reviews" used throughout the draft report is misleading.*

Office of Audit Comment: We disagree with the OPM assertion that our use of "incomplete reviews" in this report is misleading. The Department of Justice civil allegation against the USIS notes that a quality review was a contractually required part of the background investigation service provided by the USIS to the OPM. In fact, completion of the quality review was a final step in the background investigation process which allowed the USIS to submit the completed background investigation to the OPM for processing and payment. As a result, any background investigation lacking a quality review was necessarily incomplete. Further, both the GAO and the OPM Office of the Inspector General issued audit reports that raised questions about the quality and completeness of OPM background investigations.

Management's Response: *Discussion regarding falsification of investigative work is not relevant to either the Department of Justice investigation or the Treasury Inspector General for Tax Administration audit. The draft report states that USIS employees were prosecuted for making false representations regarding work on background investigations. While such prosecutions occurred in a handful of instances, they were separate from the USIS lawsuit, which did not involve allegations of falsification of investigative work and/or reports.*

Although we have no concerns regarding the public disclosure of information as written within the draft report, we respectfully request 1) that it be amended to accurately reflect the facts of the Department of Justice investigation and 2) that erroneous language regarding USIS falsification of investigative work be removed.

Office of Audit Comment: We disagree with the OPM that the prosecution of USIS employees for making false representations regarding work on background investigations is not relevant to TIGTA's audit. Contrary to OPM's assertions, our report accurately concludes that there are concerns about IRS background investigations performed by the OPM and its contractor USIS. The evidence to support this includes the 665,000 "dumped" cases, the prosecution of USIS employees for false representations, concerns



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raised by the GAO and the OPM Office of the Inspector General reports, and our own findings of insufficient documentation to support investigative activities related to 75 of 76 IRS background investigations performed by the USIS.