



U.S. Consumer Product Safety Commission OFFICE OF INSPECTOR GENERAL



Report of Investigation Regarding the Prescreen Waiver Determination Process

March 31, 2025

25-ROI-01



VISION STATEMENT

We are agents of positive change striving for continuous improvements in our agency's management and program operations, as well as within the Office of Inspector General.

STATEMENT OF PRINCIPLES

We will:

Work with the Commission and the Congress to improve program management.

Maximize the positive impact and ensure the independence and objectivity of our audits, investigations, and other reviews.

Use our investigations and other reviews to increase government integrity and recommend improved systems to prevent fraud, waste, and abuse.

Be innovative, question existing procedures, and suggest improvements.

Build relationships with program managers based on a shared commitment to improving program operations and effectiveness.

Strive to continually improve the quality and usefulness of our products.

Work together to address government-wide issues.



March 31, 2025

TO: Peter A. Feldman, Acting Chairman
Alexander Hoehn-Saric, Commissioner
Richard L. Trumka Jr., Commissioner
Mary T. Boyle, Commissioner
Douglas Dziak, Commissioner

FROM: Christopher W. Dentel, Inspector General

SUBJECT: Report of Investigation Regarding the Prescreen Waiver Determination Process

The goal of the recruitment process in the federal government is a competitive hiring process which is fairly administered. Part of that process is the prescreen waiver determination. The prescreen waiver determination is the initial step in the background process where agency human resources staff make an initial assessment of the likelihood of an individual passing the full suitability review. As detailed in this investigation, the U.S. Consumer Product Safety Commission (CPSC) has not met this goal regarding the prescreen waiver determination process.

We received a hotline complaint in April 2024 from an individual asking the Office of Inspector General (OIG) to investigate why their tentative offer of employment with the CPSC, made to them after their successful completion of the competitive hiring process, was withdrawn. The offer was withdrawn due to the agency making an adverse determination about them during the prescreen waiver determination process. Based on what we learned during our initial investigation, we broadened our investigation to include a review of the CPSC's compliance with laws and regulations regarding the prescreen waiver determination process from July 2021 to June 2024.

We determined that the CPSC lacked adequate policies and procedures to implement its prescreen waiver determination process. As a result, the CPSC: provided inaccurate information to most applicants in its tentative offer of employment letters; did not provide its staff adequate supervision and training to allow them to successfully carry out the prescreen waiver determination process; and did not adequately document the basis for its determinations regarding applicants' failures to pass the prescreen waiver process. These failures, at a minimum, risk creating the appearance that the CPSC is not fairly administering its hiring process.

Based on the response provided by staff, in which they nonconcurred with two of our three recommendations, the agency will not meet this goal regarding the prescreen waiver determination process in the foreseeable future. We discuss management's nonconcurrences with our recommendations and our rebuttal to same at Appendix B of the attached report. We will continue to work with senior agency management to encourage the agency to concur with and implement all three recommendations.



EXECUTIVE SUMMARY

Report of Investigation Regarding the Prescreen Waiver Determination Process

March 31, 2025

OBJECTIVE We received a hotline complaint in April 2024 from an individual asking the Office of Inspector General (OIG) to investigate why their conditional offer of employment with the U. S. Consumer Product Safety Commission (CPSC) was withdrawn. Based on what we learned during our initial investigation, we broadened our investigation to include a review of the CPSC's compliance with laws and regulations regarding all prescreen waivers accomplished during the time period defined below. We accepted the following issues for investigation:

1. Whether the CPSC provides inaccurate information to applicants in its tentative offer of employment letters.
2. Whether the CPSC had proper policies and procedures to support the prescreen waiver determination process.
3. Whether the CPSC failed to document the basis for failure to pass the prescreen waiver determination process.

BACKGROUND The Inspector General Act of 1978, as amended, charges Offices of Inspectors General to conduct investigations relating to the programs and operations of their agencies and to recommend policies designed to promote economy, efficiency, and effectiveness of said programs and operations.

This investigation covers events that occurred between July 2021 and June 2024. These events included the withdrawal of Complainant's conditional offer of employment in October 2023.

ASSESSMENT Over the course of this investigation, based on all available evidence, the OIG determined by a preponderance of the evidence that:

1. The CPSC provides inaccurate information to most applicants in its tentative offer of employment letters.
2. The CPSC did not have appropriate policies and procedures for completing the prescreen waiver determination process available for staff to use.
3. The CPSC did not develop and maintain adequate documentation of the Office of Human Resources Management's determinations regarding applicants who did not pass the prescreen waiver process from July 1, 2021, to June 27, 2024.

RECOMMENDATIONS This report makes three actionable recommendations. When implemented, these recommendations should significantly improve the CPSC's prescreen waiver determination process.

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ABBREVIATIONS AND SHORT TITLES

TERM	DEFINITION
CFR	Code of Federal Regulations
CPSC	U.S. Consumer Product Safety Commission
EXHR	Office of Human Resources
GAO	U. Government Accountability Office
HR	Human Resources
OIG	Office of Inspector General
OPM	Office of Personnel Management
SPH	Suitability Processing Handbook



REQUEST FOR INVESTIGATION

In April 2024, the Office of Inspector General (OIG) received a hotline complaint from an individual (“Complainant”) who had a conditional offer of employment with the U.S. Consumer Product Safety Commission (CPSC) withdrawn because the CPSC’s Office of Human Resources (EXHR) found the Complainant was unlikely to pass a suitability investigation.

After applying and interviewing with an office at the CPSC, the Complainant received a written tentative offer of employment from the CPSC’s EXHR in October 2023. The tentative offer of employment stated: “. . . this is a tentative offer of employment . . . If you cannot obtain a favorable security determination within a reasonable period of time due to disclosed or undisclosed background issues, the employment offer may be withdrawn.”

EXHR directed the Complainant to complete the forms required to initiate the suitability investigation and have fingerprints taken. The Complainant completed those tasks as directed. Shortly thereafter, EXHR staff notified the Complainant that the Complainant was found unlikely to successfully complete a full suitability investigation and withdrew the tentative offer of employment. EXHR did not provide the Complainant with a specific explanation as to why the Complainant was ineligible. The Complainant sent emails to an EXHR supervisory figure and another CPSC official but received no response to either inquiry.

In November 2023, the Complainant filed a Freedom of Information Act request for documentation regarding the withdrawal of the tentative offer of employment. In December 2023, the CPSC responded that it had no responsive documents.



SCOPE AND METHODOLOGY

SCOPE The complaint that led to this investigation dealt with the circumstances surrounding the withdrawal of the Complainant's tentative offer of employment in October 2023. Based on what we learned during our initial investigation, we broadened our investigation to include a review of the CPSC's compliance with laws and regulations regarding all prescreen waivers accomplished during the time period defined below. We sought information on all individuals who had their tentative offers of employment withdrawn by the CPSC from July 1, 2021, to June 27, 2024, in order to determine agency compliance with relevant laws and regulations.

METHODOLOGY The OIG interviewed five CPSC personnel relevant to the investigation.

The OIG obtained and reviewed:

- a. relevant laws, regulations, and policies to gain an understanding of the prescreen waiver procedures
- b. records of candidates denied employment by the CPSC due to unfavorable findings in the prescreen waiver process



BACKGROUND

CPSC

The CPSC is an independent agency created in 1972 by the Consumer Product Safety Act, as amended, with a mission to protect consumers from unreasonable risks of injury or death associated with consumer products under the agency's jurisdiction. These products range from lawn mowers to cigarette lighters to baby strollers, and include items manufactured domestically and outside the United States.

The CPSC is composed of a maximum of five commissioners. The President, with the advice and consent of the Senate, appoints commissioners to seven-year terms and selects one of the commissioners to serve as Chairman. The CPSC Chairman is empowered to conduct the executive and administrative functions of the agency, including hiring and firing personnel, delegating duties among other commissioners and staff, and expending appropriations.

The Chairman delegates the executive and administrative functions of the agency to the Executive Director. Most offices, including EXHR, report to the Executive Director through a Deputy Executive Director.

EXHR

EXHR supports the mission of the CPSC by striving to recruit and select a well-qualified workforce. This includes onboarding a variety of highly specialized disciplines such as engineers, statisticians, economists, chemists, attorneys, compliance officers, product safety investigators, and others. In October 2023, EXHR had 14 staff: 2 supervisory human resources specialists, and 12 additional staff.

When a CPSC office selects a candidate for employment, EXHR extends a written tentative offer of employment, conditional upon a successful pre-employment determination of their "suitability" for federal service. Federal law¹ mandates the Office of Personnel Management (OPM) examine "suitability," which refers to a person's character traits and conduct, sufficient to decide whether employment would or would not protect the integrity and promote the efficiency of the service.² Federal regulations also delegated to agencies, including the CPSC, the authority for making suitability determinations in cases involving applicants for positions in

¹ See 5 USC § 3301.

² See 5 CFR § 731.101(a).



their agency.³ OPM guidelines provide general guidance and specific requirements for agencies such as the CPSC on suitability case processing from initial application receipt to final adjudication and appeal to the U.S. Merit Systems Protection Board.

Federal regulations dictate what suitability factors are to be considered for finding a person unsuitable for federal employment, specifically:

- (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 by law;
- (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.⁴

Federal regulations also state what additional mitigating factors are to be weighed during suitability determinations:

- (1) The nature of the position for which the person is applying or in which the person is employed;
- (2) The nature and seriousness of the conduct;
- (3) The circumstances surrounding the conduct;
- (4) The recency of the conduct;
- (5) The age of the person involved at the time of the conduct;
- (6) Contributing societal conditions; and
- (7) The absence or presence of rehabilitation or efforts toward rehabilitation.⁵

³ See 5 CFR § 731.103.

⁴ See 5 CFR § 731.202(b).

⁵ See 5 CFR § 731.202(c).



Accordingly, EXHR makes suitability determinations on applicants who have received tentative offers of employment at the CPSC in a process called the prescreen waiver determination process.

The Prescreen Waiver Determination Process

The prescreen waiver determination process is a pre-employment risk assessment of whether the candidate is likely to pass the full suitability determination investigation to become a federal employee or contractor. A supervisory human resources (HR) specialist explained that complete suitability investigations are costly, and added it was not wise to spend funds on a full investigation if EXHR already found negative information during the prescreen waiver determination process. The same supervisory HR specialist further explained that full suitability investigations are also time-consuming and a small agency like the CPSC does not have the luxury to wait several months for its positions to be filled pending the results of the full investigation. Therefore, the prescreen waiver determination process is a way to save both time and money for the agency.

In order to conduct a prescreen waiver determination, EXHR asks the applicant to complete a series of forms required to initiate the prescreen waiver determination process. These forms include the Optional Form OF-306, *Declaration for Federal Employment*, and the Standard Form 85-P, *Questionnaire for Public Trust Positions*. These forms require applicants to truthfully disclose their citizenship, educational background, marital and residential history, prior employment, foreign travel, criminal history, use of illegal drugs or alcohol, financial history, and other matters. The instructions for completing both forms warn that making false statements in the forms may result in fines or imprisonment.

An HR specialist with EXHR will then determine the applicant's suitability for employment guided by federal regulations and internal guidance where the applicant is either waived in and begins work at the CPSC with the full suitability investigation commencing at a later date or not waived in with their conditional offer of employment withdrawn.

An HR specialist cited issues like recent arrests, being terminated from employment recently, inconsistent statements, evidence of illegal substance or alcohol abuse, or being delinquent on debts as information that could cause them to withdraw a tentative offer of employment. Applicants are given an opportunity to explain any potentially detrimental information they disclose within the forms provided to EXHR. According to a supervisory HR specialist, mitigating factors such as going through drug treatment programs or showing proof of payments on delinquent debts could weigh in favor of the applicant passing the prescreen waiver. The



instructions on the Standard Form 85-P also indicate applicants may have the opportunity to “explain, refute, or clarify any information before a final decision is made.”

If an HR specialist determines an applicant does not pass the prescreen waiver, a supervisory HR specialist will independently verify this result by examining the documents provided by the applicant and rendering their own judgment. For applicants who did not pass, a separate HR specialist informs the applicant of this result and formally withdraws their conditional offer of employment. Neither the applicant nor the hiring office can appeal this decision.



ISSUES

The CPSC Provides Inaccurate Information to Most Applicants in its Tentative Offer of Employment Letters

At the CPSC, applicants who are selected for employment receive a standard form letter explaining their selection is tentative. Specifically, the letter states:

This is a public trust position and employment in this position requires a Background Investigation . . . this is a **tentative offer of employment** . . . If you cannot obtain a **favorable security determination** [emphasis added] within a reasonable period of time due to disclosed or undisclosed background issues, the employment offer may be withdrawn.

In particular, the letters inform the applicants that failing to obtain a “favorable security determination” might terminate the employment offer. However, this is incorrect language for all but a select few applicants and imposes a standard not appropriate for almost all CPSC employees.

OPM’s Suitability Processing Handbook (SPH) clearly articulates a distinction between a “security determination” and a “suitability determination.” The SPH defines “security determination” as “a decision that a person’s access to classified information, is or is not clearly consistent with the interests of National Security.”⁶ Most applicants for employment at the CPSC would not access classified information and do not undergo this level of determination. Rather, as discussed above, they are subject to the prescreen waiver determination process which is a pre-employment risk assessment of whether the applicant would likely pass a full “suitability determination.” The SPH defines a “suitability determination” as “a decision by OPM or an agency with delegated authority [such as the CPSC] that a person is suitable or is not suitable for employment in covered positions in the Federal Government or a specific Federal agency.”⁷ Therefore, a suitability determination is a different standard than a security determination and thus the terms should not be used interchangeably.

We Recommend:

1. The CPSC adopt accurate language in the tentative offer of employment letters to applicants about the type of background investigation the applicant must pass.

⁶ See SPH, p. 4.

⁷ See SPH, p. 5.



The CPSC Does Not Have Proper Written Policies and Procedures to Support the Prescreen Waiver Determination Process

Employees need the right tools and proper supervision to successfully complete their duties. Government standards for internal control require that agencies implement control activities through policies⁸ and to ensure that programs meet agency objectives.⁹ Further, these standards require management to provide qualified and continuous supervision so that internal control objectives are achieved.¹⁰ At the CPSC, the agency maintains a written directives system with policies and procedures for employees to follow.¹¹

We asked EXHR staff what tools they rely on to make a prescreen waiver decision. The HR specialist who conducts prescreen waiver determinations for the agency referenced an issue characterization chart on a blue sheet of paper (the “Blue Sheet”) as the authoritative document they used to make decisions during the prescreen waiver determination process, including for the Complainant. However, a supervisory HR specialist told us the “Blue Sheet” was no longer used. Instead, the supervisory HR specialist follows Administrative Personnel, 5 Code of Federal Regulation (CFR) 731 and uses an unsigned internal desk guide bearing the watermark of “Working Copy.” This draft working copy is supposed to be EXHR’s personnel security and suitability program guide which articulates the policies and procedures governing suitability investigations at the CPSC but is not a formal directive. Nonetheless, the HR specialist stated they do not use this desk guide or refer to it, but rather rely on the “Blue Sheet” and their ten years of experience in conducting suitability adjudications. The HR specialist further stated they just know what information would preclude an applicant from passing the prescreen waiver and what would be acceptable.

The CPSC must ensure the use of the appropriate written policies and procedures when conducting prescreen waiver determinations, so its staff receives adequate supervision and training to successfully complete these tasks. It is contrary to government standards of internal control for the CPSC to rely on outdated authority and to fail to provide adequate supervision to staff responsible for making these determinations. Further, EXHR must enact agency policies and procedures through directives instead of using outdated or incomplete guidance.

⁸ See U. S. Government Accountability Office (GAO), *Standards for Internal Control in the Federal Government, Principle 12.01*.

⁹ See *id.* at *Principle 10.02*.

¹⁰ See *id.* at *Principle 10.03*.

¹¹ See 16 CFR § 1000.13.



We Recommend:

2. The CPSC use appropriate tools and provide adequate training and supervision of its staff in the use of written policies and procedures for the prescreen waiver determination process.

The CPSC Failed to Document the Basis for Failure to Pass the Prescreen Waiver Process

Prescreen waiver determination records must be properly maintained and managed in order to comply with federal internal control requirements designed to provide reasonable assurance that the objectives of the CPSC will be achieved. Government standards for internal control require management to clearly document significant events with records being readily available and properly managed and maintained.¹² These standards also articulate minimal documentation requirements of management to develop and maintain documentation of internal control systems.¹³ At the CPSC, EXHR failed to develop a system for maintaining prescreen waiver determination records as government standards require.

HR specialists and supervisors stated that there is no system for tracking and recording the reasons behind unfavorable prescreen waiver determinations. A supervisory HR specialist explained it would be inappropriate to retain personal information on individuals who were not hired by the CPSC as employees or contractors. When we asked a different senior HR staffer about prescreen waiver determination record retention, they stated they would not want to keep a file on an individual who was not employed by the CPSC because it might hurt the individual in future employment opportunities.

We asked EXHR to provide records on all applicants for federal employment or contractors who did not pass the prescreen waiver determination from July 1, 2021, to June 27, 2024. During this time period, EXHR requested documentation from 488 individuals, 327 employee applicants and 161 contractor applicants, in order to conduct prescreen waiver determinations on those applicants. EXHR provided information that 6 employee applicants and 12 contractor applicants did not pass their prescreen waiver determination and therefore had their conditional employment offers withdrawn. When we asked for records for the 18 individuals who did not pass the prescreen waiver determination process, EXHR could only produce documentation for 3 employee applicants. EXHR was unable to produce demographic data regarding any of the six employee applicants. A supervisory HR specialist stated: "There is no written record or file of

¹² See GAO, *Standards for Internal Control in the Federal Government*, Principle 10.03.

¹³ See *id.* at Section 4.



documents for all of the individuals who did not pass the prescreen waiver determination. It is not required or necessary.”

The CPSC must develop and maintain documentation of EXHR’s determinations of applicants who did not pass the prescreen waiver process. Government standards of internal control necessitate such records be kept and maintained. Further, the failure to adequately document the basis of government actions or demographic data regarding those impacted by same increases litigation risk.

We Recommend:

3. The CPSC develop and maintain adequate documentation of EXHR’s determinations regarding applicants who did not pass the prescreen waiver process.



CONCLUSION

Over the course of this investigation, based on all available evidence, the OIG determined by a preponderance of the evidence that:

1. The CPSC provides inaccurate information to most applicants in its tentative offer of employment letters.
2. The CPSC did not have appropriate policies and procedures for completing the prescreen waiver process available for staff to use.
3. The CPSC did not develop and maintain adequate documentation of EXHR's determinations regarding applicants who did not pass the prescreen waiver process from July 1, 2021, to June 27, 2024.

This report includes three actionable recommendations. When implemented, these recommendations should significantly improve EXHR's prescreen waiver determination process.



APPENDIX A – Consolidated List of Recommendations

1. The CPSC adopt accurate language in the tentative offer of employment letters to applicants about the type of background investigation the applicant must pass.
2. The CPSC use appropriate tools and provide adequate training and supervision of its staff in the use of written policies and procedures for the prescreen waiver determination process.
3. The CPSC develop and maintain adequate documentation of EXHR's determinations regarding applicants who did not pass the prescreen waiver process.



APPENDIX B – OIG Rebuttal to Management Response

EXHR has indicated concurrence with one of our draft report's recommendations and nonconcurrence with the remainder. As summarized below, nothing in EXHR's response impacts the validity of our findings or recommendations.¹

Recommendation 1: Management has concurred that the CPSC provided inaccurate information to applicants in its tentative offer of employment letters and agreed to take corrective action.

Recommendation 2: Management nonconcurred with our recommendation that, "The CPSC use appropriate tools and provide adequate training and supervision of its staff in the use of written policies and procedures for the prescreen waiver determination process."

Management's response contains a recitation of policies and procedures related to the prescreen waiver determination process and the assertion that "EXHR staff use and follow written policies and procedures for the prescreen waiver process . . ." However, it failed to address the fact that when interviewed the staff actually conducting prescreen waiver determinations for the agency indicated that they did not refer to said policies and procedures. Nor that the "desk guide" referenced by management in their response is unsigned and bears the watermark of "Working Copy," a term generally used to denote a document that is in the process of being edited and thus not final. Nothing in management's response causes us to change our positions regarding this finding.

Recommendation 3: Management nonconcurred with our recommendation that, "The CPSC develop and maintain documentation of EXHR's determinations regarding applicants who did not pass the prescreen waiver process."

Management's response acknowledges that the basis of our recommendation is the standards for internal control set out in the U.S. Government Accountability Office's Standards for Internal Control for the Federal Government (Green Book). It then goes on to argue that Green Book does not apply to the CPSC in this area because records retention policy for the federal government is the sole province of the National Archives and Records Administration. However, our recommendation does not address how long the CPSC should retain the records in question (a records retention issue). It addresses the requirement that the agency document its determinations in accordance with Green Book. Agency compliance with Green Book is mandated by the Federal Managers' Financial Integrity Act (FMFIA) and Office of Management and Budget Circular No. A-123.

¹ The phrasing of the recommendation and finding addressing agency management's failure to adequately document the prescreen waiver determination process, used in the draft report responded to by agency management, was rephrased in the final report to better align it with the report's underlying conclusions. This resulted in no substantive change to the findings, conclusions, or recommendations contained in the report.



APPENDIX C – Management Response



United States
Consumer Product Safety Commission

Memorandum

TO: Christopher Dentel
Inspector General
Office of the Inspector General

DATE: March 26, 2025

FROM: Ellen Lee
Acting Human Resources Director
Office of Human Resources Management

ELLEN LEE
Digitally signed by ELLEN LEE
Date: 2025.03.26 08:58:36 -0400

SUBJECT: Management Response to the Draft Report of Investigation in
the Prescreen Waiver Procedures

This is the response of U.S. Consumer Product Safety Commission (CPSC) Management to the CPSC Office of Inspector General's (OIG) draft findings related to a Hotline Complaint involving the CPSC Suitability and Security Program.

Management would like to clarify the CPSC's Office of Human Resources Management (EXHR) suitability process. There are references in the report that state that a suitability process is improperly and inadequately documented.

Finding 1. The CPSC adopt accurate language in the tentative offer of employment letters to applicants about the type of background investigation the applicant must pass.

Response: The CPSC Office of Human Resources Management (EXHR) routinely provides accurate information in the agency's tentative offer of employment letters. Management appreciates the OIG's identification that, in the past, a small portion of the language used in the tentative offer letters did not align with OPM's definition of a term that was being used. EXHR has revised its tentative offer letter template to resolve the prior inconsistency with the current OPM definition.

Finding 2. The CPSC use appropriate tools and provide adequate training and supervision of its staff in the use of written policies and procedures for the prescreen waiver determination process.

Response: EXHR staff use and follow written policies and procedures for the prescreen waiver process including 5 CFR 731, the Suitability Processing Handbook, Executive Orders that apply to suitability, and EXHR desk guides and checklists. A list of the materials used and/or materials were provided to the OIG as part of this investigation. The resources are readily available to the appropriate EXHR staff, and all staff performing this function have been trained in CPSC internal procedures and by the Office of Personnel Management (OPM) on government-wide policies and

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This memorandum was prepared by the CPSC staff. It has not been reviewed or approved by, and may not necessarily reflect the views of, the Commission.

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procedures. These internal procedures and government-wide regulations are provided to and reviewed, at least annually, by EXHR staff who perform suitability work, and are applied daily in the performance of their job. Additionally, as an internal control EXHR has, at a minimum, a two-person review process for all withdrawals. Furthermore, EXHR staff are provided with updates from Defense Counterintelligence and Security Agency (DCSA), OPM and other Federal Agencies such as the FBI on changes in process, regulations, and upcoming information.

Finding 3. The CPSC retain all records and case documents from applicants who were denied employment due to the prescreen waiver determination process, as required.

Response: In its Report, OIG states EXHR must develop and maintain documentation of EXHR's determinations of applicants who did not pass the prescreen waiver process. The report states that Government standards for internal controls necessitate such records be kept and maintained, citing to the U.S. Government Accountability Office's (GAO) Standards for Internal Control in the Federal Government.

The National Archives and Records Administration (NARA) is responsible for issuing records retention policies to federal agencies – not GAO. See 44 U.S.C. § 2904(a) (“The Archivist shall provide guidance and assistance to Federal agencies with respect to ensuring-- (1) economical and effective records management; (2) adequate and proper documentation of the policies and transactions of the Federal Government; and (3) proper records disposition.”); 36 C.F.R. § 1220.10 (Who is responsible for records management?). NARA's General Records Schedule (GRS) 2.1 provides retention policies for Employee Acquisition Records, including pre-appointment records. See GRS 2.1, §§ 140-143 (Apr. 2020).

Under GRS 2.1, pre-appointment records are “created when vetting a prospective employee between the time a job offer is accepted and the time the employee enters on duty,” and include “forms in the SF-85 family.” GRS 2.1, § 140. NARA instructs agencies to send these records to the “appropriate security office” after, inter alia, the “prospective employee . . . is no longer a candidate.” In a separate GRS, 5.6, Security Management Records, NARA instructs federal agency security offices to retain personnel security investigate reports and related documents (i.e., those records “agencies create or use to support initial favorable eligibility determinations”) temporarily and to destroy such records, “in accordance with the investigating agency instruction,” leaving the retention period for retaining such records up to the agency. GRS 5.6, § 170 (May 2024).

EXHR's pre-appointment file is comprised of the following: Form OF-306, Form 85-P (if necessary), the applicant's resume, and the applicant's fingerprint results. The applicant's resume is maintained in Monster (or other relevant application systems) for one year pursuant to GRS 2.1, § 060 (Job application packages). The applicant's fingerprint results are maintained by the FBI. Form 85-P is maintained online in a DCSA-system. Form OF-306 is forwarded to CPSC's security office pursuant to the established records retention period outlined above in GRS 2.1, § 140 and then destroyed by security according to EXHR's instructions and as supported by GRS 5.6 §170. EXHR is under no obligation under the current governing General Records Schedules to retain these prescreen records. CPSC should only retain records consistent with NARA's standards. By complying with NARA's standards EXHR is already maintaining its records in accordance with federal law. For these reasons, CPSC Management disagrees with Finding 3 of the draft report.

Management appreciates this opportunity to provide comments on draft report.

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For more information on this report please contact us at CPSC-OIG@cpsc.gov

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OIG.CPSC.GOV or call (301) 504-7906

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