



*Processes and Procedures for
Rehiring Employees With Prior
Conduct or Performance Issues Were
Implemented but Not Always Followed*

September 25, 2019

Reference Number: 2019-10-081

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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E-mail Address / TIGTACommunications@tigta.treas.gov

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HIGHLIGHTS

PROCESSES AND PROCEDURES FOR REHIRING EMPLOYEES WITH PRIOR CONDUCT OR PERFORMANCE ISSUES WERE IMPLEMENTED BUT NOT ALWAYS FOLLOWED

Highlights

**Final Report issued on
September 25, 2019**

Highlights of Reference Number: 2019-10-081
to the Commissioner of Internal Revenue.

IMPACT ON TAXPAYERS

From October 2017 through June 2018, the IRS hired approximately 6,400 employees, of which 1,510 had been previously employed by the IRS. Rehiring employees who have known conduct or performance issues presents increased risk that the employees will repeat the same or other unwanted behavior. Hiring employees of high integrity is essential to maintaining public trust in tax administration and safeguarding taxpayer information.

WHY TIGTA DID THE AUDIT

TIGTA previously reported that the IRS did not effectively update or implement hiring policies to fully consider past IRS conduct and performance issues prior to making a tentative decision to hire former employees, including those who were terminated or separated during an investigation of a substantiated conduct or performance issue. The overall objective of this review was to determine whether the IRS has updated and implemented hiring policies to fully consider past conduct and performance issues prior to hiring former employees.

WHAT TIGTA FOUND

The IRS improved the process for rehiring former employees with prior substantiated conduct or performance issues. From October 2017 to June 2018, the IRS rehired 1,510 employees, and 33 (2 percent) had prior substantiated conduct or performance issues. TIGTA previously reported that approximately 10 percent of former employees hired between

January 2015 and March 2016 had a prior substantiated conduct or performance issue.

Although the IRS updated its processes and procedures, TIGTA determined that the IRS was not always following them. For the 33 rehired employees, IRS management documented that they were aware of the prior issues before the employees were rehired. However, the IRS did not clearly document the basis for rehiring 29 of these employees. In addition, IRS officials incorrectly applied guidelines developed to standardize consideration of prior performance and misconduct in hiring decisions. Four of these former IRS employees were rehired because guidelines were not followed.

Despite the issuance of additional guidance in June 2018, officials still did not document the reason to rehire employees or obtain proper approval to rehire for 12 of the 13 employees rehired between June 2018 and April 2019. When the IRS rehires former employees with prior conduct or performance issues, that decision could have an adverse impact on the integrity of the IRS.

WHAT TIGTA RECOMMENDED

TIGTA made a total of four recommendations, including that the IRS Human Capital Officer update the Internal Revenue Manual to require Employment Operations staff to review all past conduct and performance issues and update the tool used to identify former IRS employees with known conduct or performance issues so that it contains all past conduct and performance information. TIGTA also recommended that the IRS conduct periodic quality reviews of hiring decisions and train responsible officials on the updated procedures, including the application of the conduct and performance matrices.

In their response, IRS management agreed with all four recommendations.



TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

September 25, 2019

MEMORANDUM FOR COMMISSIONER OF INTERNAL REVENUE

FROM: Michael E. McKenney
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Processes and Procedures for Rehiring Employees With Prior Conduct or Performance Issues Were Implemented but Not Always Followed (Audit # 201810026)

This report presents the results of our review to determine whether the Internal Revenue Service (IRS) Employment, Talent, and Security Division has updated and implemented hiring policies to fully consider past conduct and performance issues prior to hiring former employees. This is a follow-up to a prior Treasury Inspector General for Tax Administration audit.¹ This review is part of our Fiscal Year 2019 Annual Audit Plan and addresses the major management challenge of Security Over Taxpayer Data and Protection of IRS Resources.

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

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 Heather Hill, Acting Assistant Inspector General for Audit (Management Services and Exempt Organizations).

¹ Treasury Inspector General for Tax Administration, Ref. No. 2017-10-035, *The Internal Revenue Service Continues to Rehire Former Employees With Conduct and Performance Issues* (July 2017).



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Abbreviations

ALERTS	Automated Labor and Employee Relations Tracking System
ETS	Employment, Talent, and Security
HCO	Human Capital Office
IRS	Internal Revenue Service
TIGTA	Treasury Inspector General of Tax Administration



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Background

From October 15, 2017, through June 30, 2018, the Internal Revenue Service (IRS) hired approximately 6,400 employees, of which 1,510 had been previously employed by the IRS. The IRS Human Capital Office’s Employment, Talent, and Security (ETS) Division provides policies, products, and services that support business efforts to identify, recruit, hire, and advance the IRS’s workforce. This responsibility includes determining whether IRS employees are suitable for their positions in accordance with the Office of Personnel Management suitability standards as well as ensuring that these individuals are of the highest integrity, reliability, and character.

The ETS Division’s Employment Operations office receives and processes employment applications. Figure 1 shows the multiphase process the IRS follows before making a hiring decision.

Figure 1: Employee Hiring Process

Eligibility Phase	Selection Phase	Suitability Phase
<ul style="list-style-type: none"> -The IRS reviews applicants’ eligibility and qualifications for employment based on: <ul style="list-style-type: none"> -Citizenship. -Proof of veteran’s preference. -Verification of Selective Service registration (if male). -The IRS identifies applicants who meet the minimum requirements necessary to perform satisfactorily on the job. -This includes reviewing an applicant’s knowledge, skills, abilities, and competencies that are necessary to perform the duties of a specific position. -The IRS determines the best-qualified applicants by comparing and ranking applicants. 	<ul style="list-style-type: none"> -Selecting officials who select a former employee with a known conduct or performance issue must secure the concurrence of the Human Capital Officer. -The final selection decision and concurrence are returned to the Employment Office staff to initiate the tentative offer and preemployment process. -If approved, a tentative offer is made, and the applicant is provided with preemployment instructions to initiate fingerprints, tax checks, <i>etc.</i> Applicants must successfully pass the preemployment checks before an offer of employment. -If disapproved, the applicant is not selected or an objection is prepared. 	<ul style="list-style-type: none"> -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. -The IRS conducts a suitability determination which, according to the Office of Personnel Management, establishes a reasonable expectation that employment will protect the integrity of the IRS. -Specific factors considered include: <ul style="list-style-type: none"> -Misconduct. -Criminal or dishonest conduct. -Material false statements. -Refusal to furnish testimony. -Alcohol abuse and illegal use of drugs or other controlled substances.

Source: Treasury Inspector General for Tax Administration (TIGTA) analysis of the hiring process.



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After the Suitability Phase, an approved applicant is provided with a firm offer letter with instructions for employment. Two offices conduct the screening process within the ETS Division:

- **Employment Operations** – This office gathers data to determine if the applicants are qualified and eligible for employment. Steps include a fingerprint check for criminal activity, Selective Service registration, citizenship, and tax compliance. If the IRS previously employed the applicant, the Employment Operations office also reviews internal IRS files, including the Automated Labor and Employee Relation Tracking System (ALERTS), Official Personnel Folders, and Personnel Action Report records.²
- **Personnel Security** – This office makes a determination on the suitability of the applicant using the information obtained by the ETS Employment Operations office and forwards approved applicants to the Office of Personnel Management for a background investigation if required by the position.

In July 2017, TIGTA reported that the IRS did not effectively update or implement hiring policies to fully consider past IRS conduct and performance issues prior to making a tentative decision to hire former employees, including those who were terminated or separated during an investigation of a substantiated conduct or performance issue.³ The review determined that approximately 10 percent of former employees hired between January 2015 and March 2016 had a prior substantiated conduct or performance issue. The audit also determined that the selecting official did not have access to information about prior conduct and performance issues, and these issues were not documented in the selection process. The IRS agreed to update practices and policies to ensure that selecting officials consider data reflecting prior conduct and performance during the hiring process.

Subsequent to our review, in July 2019, the President signed into law the Taxpayer First Act.⁴ The Act mandates that the IRS may not hire individuals previously employed by the IRS who were removed involuntarily for misconduct.

This review was performed at the ETS Division in Covington, Kentucky, during the period August 2018 through June 2019. 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.

² The ALERTS database tracks allegations of misconduct and related disciplinary actions.

³ TIGTA, Ref. No. 2017-10-035, *The Internal Revenue Service Continues to Rehire Former Employees With Conduct and Performance Issues* (July 2017). TIGTA determined that more than 200 of the more than 2,000 former employees had prior substantiated conduct or performance issues.

⁴ Pub. L. No. 116-25 (2019).



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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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Results of Review

**Fewer Employees With Prior Substantiated Conduct or Performance
Issues Were Hired; However, Updated Procedures Were Not Always
Followed**

Corrective actions implemented as a result of TIGTA's prior work appear to have improved the rehiring process for employees with prior substantiated conduct or performance issues.⁵ From October 2017 to June 2018, the IRS rehired 1,510 employees, and 33 (2 percent) had prior substantiated conduct or performance issues.⁶ TIGTA previously reported that approximately 10 percent of former employees hired between January 2015 and March 2016 had a prior substantiated conduct or performance issue.⁷ For all 33 rehired employees, IRS management documented that they were aware of the prior issues before the former employees were rehired. However, for 29 (88 percent) of the 33 rehired employees, the IRS did not follow all of the updated policies and procedures. We identified instances in which the IRS did not:⁸

- Identify all relevant conduct and performance information required to verify eligibility for reemployment.
- Correctly apply guidelines (referred to as conduct and performance matrices) developed to standardize employment selection determinations.
- Clearly document the justification to rehire the employee with prior substantiated conduct or performance issues.

As such, we remain concerned that the IRS may not be adequately considering prior conduct and performance issues when it rehires former employees. Rehiring employees who have known conduct or performance issues presents increased risk that the employees will repeat the same or other unwanted behavior. For example, we determined that six of these 33 rehired employees have since separated from the IRS due to new conduct or performance issues, including misconduct, unexcused absence, and insubordination. *****1*****

⁵ The IRS issued three separate interim alert memorandums that updated the processes and procedures for rehiring IRS employees with prior substantiated conduct or performance issues. All three memorandums were in place for employees who began reemployment with the IRS in October 2017 or later.

⁶ An additional three employees with prior conduct or performance issues were required to be rehired by the IRS because of administrative hearings and are not included in our analysis.

⁷ Our analysis did not determine whether the applications of candidates with prior substantiated conduct or performance issues decreased from the previous audit period.

⁸ The IRS did not follow more than one of these processes and procedures for nine of the 29 rehired employees.



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*****1*****
*****1*****

The Employment Operations office did not identify all relevant conduct and performance information

Employment Operations did not identify all relevant conduct and performance information for six (18 percent) of the 33 employees rehired with prior substantiated issues. During the period of our review, hiring officials were not provided any conduct and performance information that was more than six years old or information for certain types of conduct.⁹ Although these prior substantiated issues were subsequently identified by the Personnel Security office during the background investigation and documented in the employees' files, the information was not available to the selecting official at the time a decision was made to rehire the employees.

The IRS's ALERTS database, which is used by the IRS to track allegations of misconduct and related disciplinary actions, includes a tool used during the hiring process to identify former IRS employees with known conduct or performance issues. In November 2017, the IRS made updates to the hiring tool to remove the six-year limitation. However, IRS policy requires the review of only the last six years of ALERTS history.¹⁰ Additionally, the hiring tool does not include ALERTS information for employees who were terminated for abandonment of their position. Management advised us that the hiring tool will include this information in the next update, scheduled for September 2019.

Limiting the review of ALERTS history to six years, and omitting information about employees who were terminated for abandonment of their position, increases the risk that the Employment Operations office will tentatively select former employees who should not be rehired.

Selecting officials incorrectly applied the conduct and performance matrices

Selecting officials incorrectly applied guidelines developed to standardize consideration of prior performance and misconduct in hiring decisions (the conduct and performance matrices). This resulted in the rehiring of four (12 percent) of the 33 rehired employees with prior substantiated conduct or performance issues. According to the guidelines, prior willful unauthorized access or inspection of taxpayer information resulting in suspension or removal from service, intentional tax noncompliance, material falsification of employment forms, and workplace violence or sexual harassment resulting in removal would generally cause the employee to be nonselected during the hiring process. Based on the matrices, the four former employees generally would not have been selected for reemployment because:

⁹ The Employment Operations office was granted access to all ALERTS history in November 2017.

¹⁰ The instructions are contained in Internal Revenue Manual 6.731.1.8.5(1)b (Nov. 3, 2009).



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- One employee omitted or falsified information relating to their former employment on the Office of Performance Management Optional Form 306, *Declaration for Federal Employment*.
- *****1*****
- Two employees had a prior work performance issue and did not meet the requirements for reemployment.¹¹

These four former IRS employees with prior misconduct or performance issues were rehired because rehire guidelines were not followed. One of these four employees had subsequent conduct or performance issues after being rehired, and three have since separated from the IRS. Hiring employees of high integrity is essential to maintaining public trust in tax administration and safeguarding taxpayer information. Additionally, rehiring former employees with prior conduct or performance issues could have an adverse impact on the integrity of the IRS.

Selecting officials did not always clearly document rehiring decisions

We previously recommended that the IRS clearly document the basis for rehiring former employees with conduct or performance issues. The IRS agreed with the intent of the recommendation and stated that it would ensure that decisions to rehire former employees with prior misconduct or performance issues are documented. In October 2017 the IRS implemented guidance to address this recommendation. This guidance directed selecting officials to provide “written justification for the decision” to rehire a prior employee with known conduct or performance issues. However, we found that selecting officials did not clearly document why applicants should be rehired for 29 (88 percent) of 33 employees with prior substantiated conduct or performance issues. Figure 2 shows the prior conduct or performance issues for the 29 employees who were rehired without clear justification.

¹¹ Successful employment requirements after leaving the IRS vary depending on the position the applicant is seeking.



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Figure 2: Issues Not Mitigated by Clear Written Justification

General Issue	Employees ¹²
Absence and Leave	13
Work Performance	10
Administrative Debt	1
*****1*****13	*1*
Employee Tax Compliance	5
Character Investigation	3

Source: TIGTA analysis of the ALERTS database.

Our review of the documentation determined that the written justifications did not clearly document how the prior conduct or performance issues were mitigated to allow the applicant to remain eligible for rehire. For example, some justifications included were “ALERTS cleared” or “conduct or performance issue cleared per the matrix.” Although these comments acknowledge that the selecting official was aware of the prior issues, they do not clearly document how the concerns were alleviated.

In June 2018, the IRS revised its processes and procedures requiring written justification by selecting officials when recommending the rehire of former employees with known conduct or performance issues. According to the guidance, this justification should “include [a] brief reason why tentatively selected.”¹⁴ For example, if a selecting official tentatively selects an applicant with a substance abuse problem, the guidance recommends the selecting official could notate as justification, “Substance abuse 5+ years ago with 2+ years employment since separation from IRS.” In addition, all justifications to rehire a former employee with known conduct or performance issues must be reviewed and approved by the IRS Human Capital Officer.¹⁵

The issuance of additional written guidance did not improve compliance with the new procedures

Despite the issuance of additional written guidance in June 2018, selecting officials still did not provide a brief reason to rehire employees with prior substantiated conduct or performance

¹² The total is more than 29 because some employees had more than one ALERTS issue.

¹³ *****1*****13
*****1*****

¹⁴ IRS Human Capital Office’s Employment, Talent, and Security Division; Employment Operations Alert 300-62 (Amended); *Consideration of Performance and Conduct in the External Selection/Hiring Process* (June 2018).

¹⁵ Depending on the nature of the position, approval may be required of both the operating division commissioner and the IRS Human Capital Officer.



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issues, and proper approval to rehire was not always obtained.¹⁶ We reviewed records for all 13 employees with prior substantiated conduct or performance issues rehired between July 2018 and April 2019 and determined that procedures were not followed for 12 (92 percent) of 13 rehired employees:¹⁷

- Eleven employee files did not have a brief reason documenting the mitigation of the prior conduct or performance issues. In eight cases, the operating division commissioner and Human Capital Officer approved the selecting officials' decisions to rehire these employees. In three cases, there was no documentation that the appropriate officials reviewed or approved the selecting officials' decisions.
- One employee file did have a brief reason documenting the mitigation of the prior conduct or performance issues; however, there was no documentation that the operating division commissioner and Human Capital Officer reviewed or approved the selecting official's decision to rehire this employee.

If the selecting official does not provide documentation as to how prior conduct and performance issues were mitigated, the approving official does not have complete information to approve (or deny) the selecting official's recommendation to rehire. Although management has improved the procedures for rehiring former employees with prior conduct or performance issues, the procedures are only effective if selecting and approving officials follow them. Management should take additional steps to ensure that responsible officials are aware of the new procedures and comply with them. These steps should include periodic quality reviews of hiring decisions and appropriate feedback to the responsible parties.

Recommendations

The IRS Human Capital Officer should:

Recommendation 1: Update the Internal Revenue Manual to require Employment Talent and Security staff to review all ALERTS issues in the hiring tool, not just those within the past six years.

Management's Response: The IRS agreed with this recommendation. Management will first issue interim guidance to reflect the procedural guidance that was issued November 30, 2017, which expanded the ALERTS data to include all prior performance and misconduct for consideration in making hiring decisions. The IRS will then update

¹⁶ The brief reason to rehire employees with prior substantiated conduct or performance issues, and proper approval to rehire the employee, should be documented in Career Connector Companion. Career Connector Companion is a database that includes information used in the on-boarding process.

¹⁷ Although this was outside of our original scope period, we added tests to determine if additional corrective actions were needed. We did not determine if these employees should have been rehired or not. See Appendix I for our complete scope and methodology.



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the relevant Internal Revenue Manuals to incorporate this and any additional changes resulting from implementation of the Taxpayer First Act, which prohibits the IRS from rehiring individuals involuntarily separated for misconduct.

Recommendation 2: Update the hiring tool used to review ALERTS history so that the tool includes all past conduct and performance issues during the selection process.

Management's Response: The IRS agreed with this recommendation. The Human Capital Office completed a review of all disposition codes, and the hiring tool used to review ALERTS history will be updated to ensure that it includes all past conduct and performance issues for consideration in the selection process.

Recommendation 3: Conduct periodic quality reviews of the rehire process to ensure that implemented controls are effective and documentation of decisions to rehire former employees with prior conduct or performance issues receive appropriate levels of concurrence and approval prior to a tentative offer being issued.

Management's Response: The IRS agreed with this recommendation. An official standard operating procedure will be finalized that will establish a formal quality review process. The Policy, Accountability, and Talent Management office within the Human Capital Office will conduct periodic quality reviews to ensure that implementation controls are effective and hiring decisions are documented as required.

Recommendation 4: Train selecting officials on the new requirements (including application of the conduct and performance matrices) and advise them that compliance with the procedures is subject to quality review.

Management's Response: The IRS agreed with this recommendation. The Policy, Accountability, and Talent Management office within the Human Capital Office is in the process of developing additional guidance and training materials and will ensure that these are made available to selecting officials each time a certificate of eligible candidates is issued. The IRS will ensure that the guidance and training materials cover all the requirements, including new requirements, and advise selecting officials that compliance with the procedures is subject to a periodic quality review.



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Appendix I

Detailed Objective, Scope, and Methodology

Our overall objective was to determine whether the IRS ETS Division has updated and implemented hiring policies to fully consider past conduct and performance issues prior to hiring former employees. This is a follow-up to prior TIGTA audits.¹ To accomplish our objective, we:

- I. Determined if IRS ETS management has implemented corrective actions for the previous audit's recommendations.
 - A. Obtained copies of the policy updates, interim guidance, and issued Alert memos since the July 2017 TIGTA report.
 - B. Interviewed ETS Employment Operations management to determine whether the office updated processes for compiling information on past conduct and performance issues prior to hiring former employees.
- II. Determined if actions taken by ETS Division management are sufficient to provide reasonable assurance that prior conduct and performance issues are considered by selecting officials.
 - A. Obtained a download of the Treasury Integrated Management Information System² active and separated employee data files and performed validation testing. We assessed the reliability of the files by reviewing data fields to determine whether dates are included in the date fields, names are included in the name fields, *etc.*, and by matching select information to the ALERTS database and the Integrated Data Retrieval System³ when reviewing rehire cases. We determined that the data were sufficiently reliable for purposes of this report.
 - B. Performed analysis of the Treasury Integrated Management Information System to identify employees who were separated, terminated, or removed from the IRS during

¹ TIGTA, Ref. No. 2015-10-006, *Additional Consideration of Prior Conduct and Performance Issues Is Needed When Hiring Former Employees* (Dec. 2014), and TIGTA, Ref. No. 2017-10-035, *The Internal Revenue Service Continues to Rehire Former Employees With Conduct and Performance Issues* (July 2017).

² 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 TIGTA's Data Center Warehouse, which is a collection of IRS databases containing various types of taxpayer account information that is maintained by TIGTA for the purpose of analyzing data for ongoing audits.

³ The Integrated Data Retrieval System is an IRS computer system capable of retrieving or updating stored information. It works in conjunction with a taxpayer's account records.



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- the course of, or as a result of, a misconduct investigation and were subsequently rehired between October 15, 2017, and June 30, 2018.
- C. Compared the results from Step II.B to the ALERTS database to identify all rehired employees with substantiated misconduct cases that previously resulted in the separation, termination, or removal of the employee from the IRS. We identified all ALERTS cases with the following disposition codes:
- 014 – Separation/Removal.
 - 015 – Probation/Separation.
 - 016 – Removal.
 - 017 – Resignation, Retirement, *Etc.* (SF50 not noted).⁴
 - 018 – Resignation, Retirement, *Etc.* (SF50 noted).
 - 038 – Closed without Adjudication.
 - 117 – Termination/Abandonment.
 - 118 – Termination.
- D. Reviewed case documentation from the Employment Operations SharePoint site for the population of employees identified in Step II.C and determined if the ETS Employment Operations office considered past performance issues prior to rehiring former IRS employees in accordance with Employment Operations Alerts.⁵
- E. Determined if required IRS executives documented and approved the decisions to rehire employees with previous conduct or performance issues.
- F. Determined if the employees identified in Step II.C had additional documented conduct or performance issues since being rehired by reviewing ALERTS database information subsequent to the rehiring.
- III. Requested and reviewed records for all rehired employees with prior substantiated conduct or performance issues from June 2018 to April 2019 to determine if the IRS is following the Employment Operations Alerts.

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

⁴ SF50 denotes the U.S. Office of Personnel Management’s Standard Form 50, *Notification of Personnel Action*.

⁵ IRS Human Capital Office’s, Employment, Talent, and Security Division; Employment Operations Alert 250-07; *Consideration of Performance and Conduct in the External Selection/Hiring Process* (October 2017). IRS Human Capital Office’s, Employment, Talent, and Security Division; Employment Operations Alert 250-07 (Amended); *Consideration of Performance and Conduct in the External Selection/Hiring Process* (June 2018). IRS Human Capital Office’s Employment, Talent, and Security Division; Employment Operations Alert 300-62 (Amended); *Consideration of Performance and Conduct in the External Selection/Hiring Process* (June 2018).



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for measuring, reporting, and monitoring program performance. We determined that the following internal controls were relevant to our audit objective: the ETS Division's processes and procedures for reviewing previous conduct and performance issues when considering applicants for employment. We evaluated these controls by interviewing ETS Division management, reviewing hired former employees' suitability determination files, and analyzing information on the ALERTS database and related disciplinary actions.



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Appendix II

Major Contributors to This Report

Deann L. Baiza, Acting Assistant Inspector General for Audit (Management Services and Exempt Organizations)
Heather M. Hill, Acting Assistant Inspector General for Audit (Management Services and Exempt Organizations)
Carl Aley, Director
David M. Bueter, Audit Manager
Jeffrey R. Stieritz, Acting Audit Manager
Richard J. Kemble, Lead Auditor
Allison P Sollisch, Senior Auditor



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Appendix III

Report Distribution List

Deputy Commissioner for Operations Support
Human Capital Officer
Director, Employment, Talent, and Security
Director, Enterprise Audit Management



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Appendix IV

Outcome Measure

This appendix presents detailed information on the measurable impact that our recommended corrective actions will have on tax administration. This benefit will be incorporated into our Semiannual Report to Congress.

Type and Value of Outcome Measure:

- Reliability of Information – Potential; four employees for which the conduct and performance matrices were not applied correctly when reviewing the conduct or performance issues documented in the ALERTS database (see page 4).

Methodology Used to Measure the Reported Benefit:

We reviewed records for 33 employees who were rehired between October 15, 2017, and June 30, 2018, with prior conduct or performance issues documented in the ALERTS database. Selecting officials are required to review ALERTS information using the conduct and performance matrices as a guide to determine whether an employee can be tentatively selected during the hiring process based on the previous documented conduct or performance issues. We identified four employees for which the conduct and performance matrices were not applied correctly when reviewing the conduct or performance issues documented in the ALERTS database.



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Appendix V

Management's Response to the Draft Report



HUMAN CAPITAL OFFICE

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

SEP 23 2019

MEMORANDUM FOR MICHAEL E. MCKENNEY
DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM:

Robin D. Bailey, Jr. *for [Signature]*
Human Capital Officer

SUBJECT:

Draft Audit Report – Process and Procedures for Rehiring
Employees with Prior Conduct or Performance Issues Were
Implemented but Not Always Followed (Audit #201810026)

Thank you for the opportunity to respond to the subject draft audit report. The Internal Revenue Service (IRS) is committed to ensuring our hiring policies and processes fully consider past conduct and performance issues prior to hiring former employees and are appropriately followed.

The IRS agrees with the recommendations in the report. We will update our Internal Revenue Manuals (IRMs), policies and guidance to ensure they reflect and support our current practices of considering and documenting all prior performance and misconduct during the hiring process, and that periodic quality reviews of the rehire process are conducted to ensure established procedures are followed and hiring decisions are in alignment with guidance. The IRS will also take steps to provide additional training to our hiring officials regarding consideration of prior performance and conduct in the selection process.

As we previously indicated, the IRS is currently taking steps to implement the recently passed Taxpayer First Act, 116 P.L. 25, which in § 3001 amends Internal Revenue Code § 7804 by adding a new subsection that prohibits the rehiring of individuals who were involuntarily separated for misconduct. We anticipate updating all applicable IRMs and operational procedures once the implementation is complete, with the goal of ensuring we update all our policies consistently and simultaneously.

While there are still minor improvements to be made, your findings and analysis are a clear indication of the significant progress the IRS has made over the last two years. The prior report indicated that of the more than 2,000 former employees rehired, more than 200 (10 percent) were previously terminated or separated while under investigation



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for substantiated conduct or performance issues. In comparison, of the 1,510 employees rehired since October 2017, only 33 (2 percent) had prior substantiated conduct or performance issues. Most significantly, in all but a few cases, the hiring official considered each individual's prior performance and misconduct prior to deciding to extend a tentative offer of employment. Further, the hiring officials' decisions were documented and available during the review. However, a second step in the documentation process requires that a brief reason be annotated in a system, primarily used for reporting and tracking purposes. And, while the system was annotated appropriately, you determined that it did not contain clear written justification that mitigated the prior conduct or performance issues – a slightly higher threshold than what the IRS had intended for that system.

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*****1***** The hiring decision not only considered the past conduct but also considered a recommendation from the former employee's manager relative to the actual situation. The Service did its due diligence in this case, and the hiring decision was clearly documented, but we fell short of meeting the higher threshold in documenting the decision in the hiring system.

We would also like to note that three of the referenced cases involved former employees who were veterans, and in each case the Service did not have sufficient justification to submit a pass over request to OPM to request approval of the decision not to select the preference-eligible veteran.

Further, as you indicated in your report, our guidelines were not followed when we rehired four former IRS employees. Those four errors occurred during the implementation of the new rehire process. Three of the employees were selected before the rehire policy was implemented, but they did not enter-on-duty until after October 15, 2017, during the implementation of the new rehire process. The last case, which also occurred during the implementation period, involved a new human resources specialist, who acknowledged that she misread the guidance and failed to provide the necessary information to the hiring official. These errors should not recur.

Effective immediately, we are moving forward to implement the corrective actions detailed in the attached response and will ensure all corrective actions are monitored monthly until completed.



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If you have any questions, please contact me at 202-317-7600, or a member of your staff may contact Sylana Tramble, director, Employment, Talent & Security Division, at 202-317-4172.

Attachment



*Processes and Procedures for Rehiring
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Attachment

RECOMMENDATION 1:

The IRS Human Capital Officer should update the Internal Revenue Manual (IRM) to require Employment, Talent and Security staff to review all ALERTS issues in the hiring tool, not just those within the past six years.

CORRECTION ACTION #1:

We agree with this recommendation. We will first issue Interim Guidance to the IRM to reflect the procedural guidance that was issued November 30, 2017, Policy, Accountability and Talent Management Notice (PIN), 18-07, Documentation of the Pre-Employment (PEM) Tool Update, which expanded the Automated Labor and Employee Relations Tracking System (ALERTS) data to include all prior performance and misconduct for consideration in making hiring decisions. We will then update the relevant IRMs to incorporate this and any additional changes resulting from implementation of the Taxpayer First Act, which prohibits the IRS from rehiring individuals involuntarily separated for misconduct.

IMPLEMENTATION DATE:

March 31, 2020 – Issue Interim Guidance

RESPONSIBLE OFFICIAL:

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

CORRECTIVE ACTION MONITORING PLAN:

HCO will enter accepted corrective actions into the Joint Audit Management Enterprise System (JAMES). These corrective actions are monitored monthly until completion.

CORRECTION ACTION #2:

We agree with this recommendation and will finalize and publish the Service's IRM to reflect the procedural guidance that was issued November 30, 2017, Policy, Accountability and Talent Management Notice (PIN), 18-07, Documentation of the Pre-Employment Tool (PEM) Tool Update, which expanded the Automated Labor and Employee Relations Tracking System (ALERTS) data to include all prior performance and misconduct for consideration in making hiring decisions.

IMPLEMENTATION DATE:

December 31, 2020 – Issue IRM(s) with all changes

RESPONSIBLE OFFICIAL:

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

CORRECTIVE ACTION MONITORING PLAN:

HCO will enter accepted corrective actions into the Joint Audit Management Enterprise System (JAMES). These corrective actions are monitored monthly until completion.



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RECOMMENDATION 2:

The IRS Human Capital Officer should update the hiring tool used to review ALERTS history so that the tool includes all past conduct and performance issues during the selection process.

CORRECTION ACTION:

We agree with this recommendation. The Human Capital Office (HCO) completed a review of all disposition codes, and the hiring tool used to review ALERTS history will be updated to ensure it includes all past conduct and performance issues for consideration in the selection process.

IMPLEMENTATION DATE:

January 31, 2020

RESPONSIBLE OFFICIAL:

Director, Workforce Relations Division, Human Capital Office

CORRECTIVE ACTION MONITORING PLAN:

HCO will enter accepted corrective actions into the Joint Audit Management Enterprise System (JAMES). These corrective actions are monitored monthly until completion.

RECOMMENDATION 3:

The IRS Human Capital Officer should conduct periodic quality reviews of the rehire process to ensure implemented controls are effective and documentation of decisions to rehire former employees with prior conduct or performance issues receive appropriate levels of concurrence and approval prior to a tentative offer being issued.

CORRECTION ACTION:

We agree with this recommendation. An official Standard Operating Procedure (SOP) will be finalized, which will establish a formal quality review process. The Policy, Accountability, and Talent Management office within HCO will conduct periodic quality reviews to ensure implementation controls are effective and hiring decisions are documented as required.

IMPLEMENTATION DATE:

January 31, 2020

RESPONSIBLE OFFICIAL:

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



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CORRECTIVE ACTION MONITORING PLAN:

HCO will enter accepted corrective actions into the Joint Audit Management Enterprise System (JAMES). These corrective actions are monitored monthly until completion.

RECOMMENDATION 4:

The IRS Human Capital Officer should train selecting officials on the new requirements (including application of the conduct and performance matrices) and advise them that compliance with the procedures is subject to quality review.

CORRECTION ACTION:

We agree with this recommendation. The Policy, Accountability and Talent Management office within HCO is in the process of developing additional guidance and training materials and will ensure these are made available to selecting officials each time that a certificate of eligible candidates is issued. We will ensure the guidance and training materials cover all the requirements, including new requirements, and advise selecting officials that compliance with the procedures is subject to a periodic quality review.

This dissemination of training materials and guidance for selecting officials will be done in a manner that provides the greatest availability and accessibility for selecting officials to mitigate future risk as well as create consistency in the Service's practice.

IMPLEMENTATION DATE:

January 31, 2020

RESPONSIBLE OFFICIAL:

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

CORRECTIVE ACTION MONITORING PLAN:

HCO will enter accepted corrective actions into the Joint Audit Management Enterprise System (JAMES). These corrective actions are monitored monthly until completion.