



## Office of Inspector General

U.S. Consumer Product Safety Commission

# Audit of the CPSC's Position Designation and Suitability Program

April 29, 2021

Report 21-A-07

## **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.



April 29, 2021

TO: Robert S. Adler, Acting Chairman  
Elliot F. Kaye, Commissioner  
Dana Baiocco, Commissioner  
Peter A. Feldman, Commissioner

FROM: Christopher W. Dentel, Inspector General *Christopher W. Dentel*

SUBJECT: Audit of the CPSC's Position Designation and Suitability Program

I am pleased to present this report containing the results of our Audit of the U.S. Consumer Product Safety Commission's (CPSC) Position Designation and Suitability Program.

We conducted this audit in accordance with generally accepted government auditing standards. The objectives of this audit were to determine whether all positions in the CPSC were appropriately designated and whether all CPSC employees and contractors have the appropriate background investigation completed. Overall, we found that the positions within the CPSC have been properly designated to the appropriate risk and sensitivity level. However, data quality and availability are inadequate and current CPSC policies and procedures are outdated. We identified several employees whose investigations did not align with the designation tier of their position. The OIG found CPSC had wasted \$49,631 on investigations that did not align with the designation tier of the position. We also found 30 percent of employees had not received the required reinvestigation within five years of their initial or most recent background investigation. Furthermore, the process for contractor clearances is undetermined. Finally, the CPSC has not implemented all of the recommendations made by the Office of Personnel Management in their 2017 review of the program.

In our report, we make 13 recommendations which, if implemented, would provide management tools to improve internal control over the position designation process and provide a more effective program. Management did not concur with one finding and three of the recommendations. Per our reporting requirements, we will include the non-concurrence in our semiannual report to Congress. The recommendations that management did not concur with will remain open.

In the next 30 calendar days, in accordance with Office of Management and Budget Circular A-50, the CPSC is required to provide me with management's Corrective Action Plan describing the specific actions they anticipate taking to implement each agreed to recommendation. Thank you for the courtesy and cooperation extended to my staff during this audit.



**April 29, 2021**

## **Audit of the CPSC's Position Designation and Suitability Program**

### **Executive Summary**

#### **Objective**

The objectives of our audit were to determine whether all positions in the U.S. Consumer Product Safety Commission (CPSC) are appropriately designated to the appropriate investigative tier and whether all CPSC employees and contractors have the appropriate background investigation completed.

#### **Background**

The CPSC's mission is to keep consumers safe. Under federal suitability regulations, every federal position must be designated as low, moderate, or high risk as determined by the position's potential for adverse impact on the efficiency and integrity of the service.

The Office of Personnel Management (OPM) is responsible for setting government-wide standards and policies for human resource management and providing agencies with tools to facilitate the position designation process and investigative services to determine suitability.

The CPSC's Office of Human Resources Management is responsible for determining the risk level of positions, ensuring background investigations are ordered, reviewing the results of those investigations, and making suitability adjudications based on the background investigation and the risk level of the position.

The report addresses:

#### **CPSC Cross-Cutting Strategic Goal #1:**

*Enhance effective strategic human capital planning and alignment*

#### **Office of Inspector General Management**

#### **Challenge #2:**

*Resource Management*

#### **Findings**

Overall, we found that the positions within the CPSC have been properly designated to the appropriate sensitivity and risk level. However, we found a number of areas for improvement. Current CPSC policies and procedures are outdated and data quality and availability are inadequate. We identified several employees whose background investigations did not align with the designated level of their position. We also found that reinvestigation requirements for current employees and contractors are not being met. Additionally, the process for determining the necessary background investigation and the suitability of contractor employees to fill positions at the CPSC is uncertain. Finally, we determined that OPM had completed a review of the CPSC's personnel security and suitability program and that the CPSC has not implemented all of OPM's prior recommendations.

These deficiencies are the result of the CPSC's out-of-date procedures which do not align with current operations, federal regulations, and OPM guidance. They are also the result of a lack of formal documented processes, inadequate resources, and using ineffective methods to track employee and contractor investigations relative to their position designations.

This could lead to unnecessary costs and impact the efficiency and effectiveness of the agency in meeting its mission and strategic goals.

#### **Recommendations**

We made 13 recommendations which, if implemented, would provide management tools to improve internal control over the position designation process and provide a more effective program. Management did not concur with one finding and three of the recommendations.

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## Abbreviations and Short Titles

CFR	Code of Federal Regulations
CPSC	U.S. Consumer Product Safety Commission
EXRM	Office of Human Resources Management
FY	Fiscal Year
Green Book	Government Accountability Office's <i>Standards for Internal Control in the Federal Government</i>
OIG	Office of Inspector General
OPM	U.S. Office of Personnel Management
PDT	Position Designation Tool

## **Objective**

The objectives of our audit were to determine whether all positions in the U.S. Consumer Product Safety Commission (CPSC) are appropriately designated to the appropriate investigative tier and whether all CPSC employees and contractors have the appropriate background investigation completed.

## **Background**

The CPSC's mission is to keep consumers safe. To assist in this mission, the CPSC aims to cultivate the most effective consumer product safety workforce by attracting and recruiting a talented and diverse workforce that meets federal suitability standards.

Under federal suitability regulations,<sup>1</sup> every federal position must be designated as low, moderate, or high risk as determined by the position's potential for adverse impact on the efficiency and integrity of the service. Complying with these regulations ensures that the position is properly designated and the background investigation<sup>2</sup> ensures that the person is suitable to occupy that position. Suitability refers to a person's identifiable character traits and conduct sufficient to decide whether they are eligible to be hired into or retained in a specific position.

## **OPM's Role and Responsibilities**

The U.S. Office of Personnel Management (OPM) serves as the primary personnel policy manager for the federal government. OPM provides human resources leadership and support to federal agencies and is responsible for prescribing suitability standards for government employees and contractors. OPM issues guidelines and instructions to the heads of other agencies to promote uniformity and effectiveness when completing suitability reviews and conducts oversight of agencies' programs and processes in this area. They are responsible for providing investigative products and services that more than 100 federal agencies use as the basis for a variety of adjudicative decisions, including background investigations and suitability decisions.

In 2012, OPM modernized the investigative framework. This was done to streamline the types of investigations and to improve the quality, timeliness, and

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<sup>1</sup> Code of Federal Regulations 5 (CFR) § 731.106

<sup>2</sup> Background investigations seek information about an applicant's employment, criminal, and personal history in an effort to investigate behavioral reliability, integrity, and personal adjustment. These investigations are conducted to determine whether there are any historical facts that would interfere with an applicant's ability to perform the job, including violations of statutes, regulations, or laws.

efficiency of background investigations. To aid agencies in the position designation process OPM provided the online position designation tool (PDT)<sup>3</sup> for use by those with position designation responsibilities beginning in 2015. The PDT was created to ensure a systematic, dependable, and uniform process of making position designations. The risk level assigned to a position is based on the duties and responsibilities of a position as entered by a human resource specialist into the PDT. The tier of investigation required depends on risk level identified for the position. The position sensitivity and risk levels are categorized into one of five investigative tiers based on information entered into the PDT.

**Table 1: Description of Investigative Tiers**

Tier:	Risk Level:	Sensitivity Level:	Description:
1	Low	Non-Sensitive	Public Trust positions
2	Moderate	Non-Sensitive	Public Trust positions
3	Moderate	Sensitive	National Security positions, confidential, secret information
4	High	Non-Sensitive	Public Trust positions
5	High	Sensitive	National Security positions, Top Secret, sensitive and compartmented information, Critical/Special sensitive.

Source: <https://www.cdse.edu/documents/cdse/federal-investigative-standards-crosswalk-guide.pdf>

## CPSC’s Roles and Responsibilities

At the CPSC, the Office of Human Resources Management (EXRM) oversees the agency’s suitability program. EXRM’s human resource specialists are responsible for determining the risk level of positions using the PDT, ensuring the appropriate background investigations are ordered, reviewing the results of those investigations, making suitability adjudications based on the results of the background investigation and the risk level of the position, and the onboarding of employees and contractors.

The specific steps to onboard each newly hired employee begin when the risk level requirements of the relevant position are reviewed by the EXRM human resources specialist. If the position is new, or there have been significant changes to the position description, the EXRM human resources specialist enters the duties of the position into the PDT. The EXRM human resources specialist then uses the result as the basis for determining the appropriate investigative tier. For contractors, EXRM staff generally work with employees within the hiring program office to identify a similar employee position.

<sup>3</sup> <https://pdt.nbis.mil/>



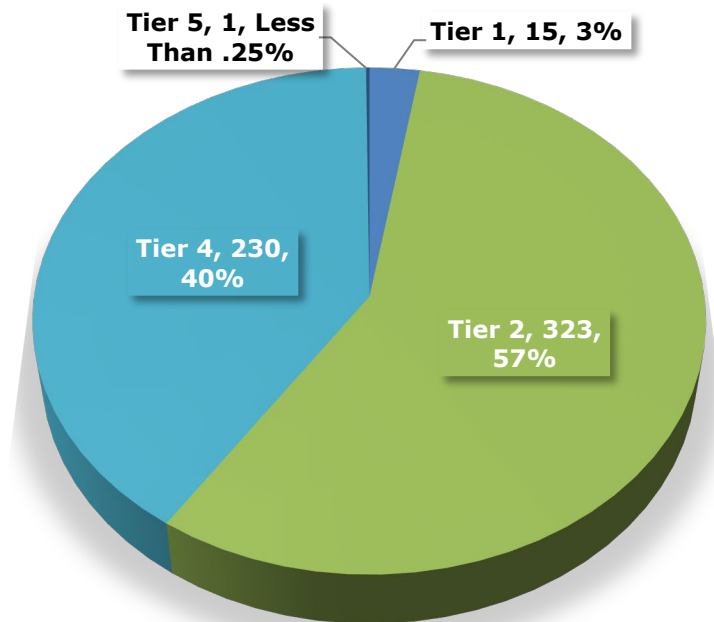
Once the appropriate investigative tier is identified, the potential employee or contractor completes the necessary forms commensurate with the suitability requirements of the position. EXRM reviews the forms for completeness and forwards them to the Defense Counterintelligence and Security Agency, formerly the National Background Investigations Bureau, to conduct the background investigations on behalf of the CPSC. This investigation determines the suitability of the person to work as a federal employee or as a contractor, in a position with the designated risk level.

Alternatively, if an employee or contractor has a previously completed and favorably adjudicated background investigation at another agency, that investigation can be applied to the position at the CPSC through a process known as reciprocity. Reciprocity limits the need to conduct a new suitability determination when an individual moves, without a break in employment, within the federal government.

In order to continue to demonstrate suitability for federal employment, most employees and contractors need to be reinvestigated every five years. The CPSC has the responsibility to track and initiate reinvestigations in a timely manner. However, employees and contractors may continue to work even after the end of the five-year period while waiting for the completion of a new background reinvestigation.

At the CPSC, currently five permanent positions are designated as low risk, non-sensitive (Tier 1) positions; the remaining positions designated as Tier 1 are intern positions. Tier 1 employees are not subject to reinvestigation. Over half of CPSC employees are in moderate risk, non-sensitive (Tier 2) positions. The second largest group of positions are high risk, non-sensitive (Tier 4) positions. Only one position at the CPSC is designated as Tier 5, this position is the CPSC employee assigned to the Beijing office. In addition, one human resources specialist with adjudication duties, while designated as a Tier 4 position, is required to have a Tier 5 investigation per OPM guidelines.

**Figure 1: Number of CPSC Positions by Tier as of April 2020**



Source: Office of Inspector General (OIG) analysis of CPSC positions

In addition to employees, the CPSC utilizes contractors. The number of contractors varies over time based on mission needs. The turnover of contractors also varies based on the duration of contracts. As of April 2020, the CPSC had 129 individual contractors. While the CPSC provided data detailing contractor onboarding dates and the tier of investigation completed for each contractor, the CPSC could not provide information on the designated tiers of these positions.

### CPSC Investigation Workload and Expenditures

Costs are determined by the tier of the investigation and the number of people who need an investigation or reinvestigation. As the risk level of the designated position increases, so does the cost of the investigation. Billing rates for investigations change on a regular basis, usually every fiscal year (FY).

**Table 2: Cost of Investigations by Tier for FY 2019 and FY 2020**

Case Type	Initial Standard Rate	Reinvestigation Rate
Tier 1	\$194	N/A
Tier 2	\$1,550	\$1,261
Tier 3	\$433	\$417
Tier 4	\$4,218	\$2,646
Tier 5	\$5,596	\$3,065

Source: [https://www.dcsa.mil/mc/pv/gov\\_hr\\_security/billing\\_rate/](https://www.dcsa.mil/mc/pv/gov_hr_security/billing_rate/)

The money the CPSC spends on investigations varies from year to year and includes initial and reinvestigations for employees and contractors.

**Table 3: CPSC Background Investigation Costs**

Type	2017	2018	2019
Employees	\$254,421	\$149,943	\$204,312
Contractors	\$114,011	\$75,570	\$43,085
Volunteers	\$0	\$870	\$1,392
Fingerprint Checks	\$4,920	\$4,040	\$4,820
<b>Total</b>	<b>\$373,352</b>	<b>\$230,423</b>	<b>\$253,609</b>

Source: OIG analysis of CPSC data

## Assessment of the Position Designation Process

Overall, we found that the positions within the CPSC have been properly designated to the appropriate risk and sensitivity level. However, current CPSC policies and procedures are outdated and data quality and availability are inadequate. We identified several employees whose investigations do not align with the designated level of their position. We also found that reinvestigation requirements are not being met. The process for contractor clearances is uncertain. Finally, the CPSC has not implemented all of the recommendations made by OPM in their prior review of the CPSC’s personnel security and suitability program.

### Finding 1: Outdated Policies and Procedures

OPM provides overall policy guidance for all human capital-related issues, including position designation and suitability, across the federal government. The CPSC is responsible for establishing a structure for the position designation and suitability program and providing guidance to ensure compliance with applicable laws, regulations, and OPM guidelines for the agency. Federal regulations state that agencies must implement policies and maintain records demonstrating that they employ reasonable methods to ensure adherence to OPM guidelines.

The CPSC’s current directive is outdated and the document itself is undated but is assumed to be written prior to 2012 because the directive does not mention the:

- five tiers, introduced in 2012
- revised reinvestigation intervals, effective in 2012
- required use of the PDT, adopted in 2015

This occurred because EXRM has not prioritized completing and maintaining a system of up-to-date directives. Prior OIG audits have identified issues with directives not being updated to align with agency operations.

Lack of a current published directive(s), policies, and procedures means that staff in EXRM, and the CPSC as a whole, do not have access to current and accurate information necessary to efficiently and effectively manage their workforce.

We recommend CPSC management:

1. Update and implement EXRM directives, policies, and procedures regarding position designation to reflect current EXRM operations and address current OPM policies and guidelines.

## **Finding 2: Inadequate Data Quality and Availability**

The U.S. Government Accountability Office's *Standards for Internal Control in the Federal Government* (Green Book) states internal control requires management to obtain relevant data from reliable sources, use this information to help the agency meet its objectives, and report results. Information used to effectively manage the position designation and suitability program includes:

- name of employee/contractor
- position number and title
- position designation
- tier of background investigation completed
- entry-on-duty date
- date background investigation requested
- date background investigation completed
- whether it is an initial investigation or reinvestigation
- whether reciprocity was applied (yes/no)
- reinvestigation due date

EXRM does not have effective methods for collecting and maintaining all of the above data elements in an accessible database. EXRM was not able to provide the date an investigation was requested, whether it was an initial investigation or reinvestigation, whether reciprocity was applied, and the reinvestigation due date.

EXRM provided data showing the tier of investigation held by each contractor but were unable to provide information regarding the position designation. Contractors can work for more than one agency and may have a higher clearance than needed

to work at the CPSC. Thus, it is not always possible to determine the appropriate contractor reinvestigation tier by looking at the person's current investigation tier.

EXRM does not take advantage of any of the automated tools available to automatically track the due dates for reinvestigations. Instead, periodically, an EXRM staffer manually reviews Excel spreadsheets which contain the date the most recent investigation was completed for employees and contractors.

While EXRM was able to provide us with cost data for the last three years, the information was provided in broad categories:

- persons (employees, contractors, interns, and volunteers)
- tiers
- investigations and reinvestigations

EXRM was unable to provide any additional breakdown, such as new employee Tier 4 investigations by year. The data we requested from EXRM was not readily available and it took as much as two weeks to gather and provide the data. EXRM staff stated they do not retain detailed cost information on site.

This happened because EXRM has not prioritized data management and does not use automated tools to track employees' investigation status. Investigation data is not housed in an accessible database, making it difficult to analyze data. This limits EXRM's ability to effectively manage staff workloads and allocate resources. Collecting and maintaining more detailed data and utilizing automated and efficient methods to track information would allow the agency to operate more efficiently and be more effective in meeting its mission and strategic goals. Further, without accurate cost data it is difficult to effectively budget for personnel security costs and manage EXRM's workload.

We recommend CPSC management:

2. Develop and maintain an accessible database with all information required to effectively manage the position designation and suitability program. At a minimum, this system should contain the name of the employee or contractor, position number and title, position designation, tier of background investigation completed, entry-on-duty date, date the background investigation was requested, date the background investigation was completed, whether it was an initial investigation or reinvestigation, whether reciprocity was applied, and reinvestigation due date.
3. Use the information developed in the database from Recommendation Two to project future budgeting and staff workload requirements.

### **Finding 3: Some Employee Investigations Do Not Align With Their Position**

Federal suitability regulations state that employees and applicants must undergo a background investigation that correlates with the risk and sensitivity level of their position. Further, if an employee moves to a position with a higher risk level due to promotion, reassignment, or position redesignation, the employee may work in that new position while an updated investigation is completed. Since 2015, federal regulations require agencies to use OPM's PDT, to designate the risk and sensitivity level of each position.

As of November 2017, the CPSC had only updated 50 positions. EXRM did not complete its review of CPSC positions using the PDT until the summer of 2019. The CPSC then updated the investigations for employees whose investigation tier was lower than their position's risk level. As of April 2020, 30 employees had their investigations updated to the appropriate tier as a result of using the PDT.

At the same time, the CPSC had 55 employees whose investigation was at a higher tier than required for their current position. Of these employees, 38 had their investigations completed prior to coming to the agency, indicating that reciprocity was applied in these cases and thus was not a cost to the CPSC. However, the CPSC requested investigations at a higher investigative tier than was necessary for 17 employees.

This occurred because the CPSC did not timely adopt the PDT to designate positions when they were required to do so and did not have an effective method to track the alignment of position designations and employee investigations. We estimate that the CPSC overspent \$49,631 for these 17 background investigations at a higher than necessary tier.

We recommend CPSC management:

4. Use the information developed in Recommendation Two to track an employee's investigation versus the designation of their position and ensure they are properly aligned.

### **Finding 4: Reinvestigation Requirements Not Met**

Since 2012, federal regulations state that employees and contractors in positions with a designation higher than Tier 1 undergo a reinvestigation at least once every

five years. While there is a reinvestigation requirement, the preceding investigation does not expire if there is a delay in the reinvestigation. The CPSC directive regarding reinvestigations does not reflect current guidance on time intervals for reinvestigations issued by OPM in 2012.

CPSC staff manually review a spreadsheet to identify investigations that are reaching five years in age. Most of the reinvestigations are ordered toward the end of the fiscal year due to the availability of funds. As of April 2020, the CPSC had a backlog of 169 late employee reinvestigations, or about 30 percent of the CPSC’s workforce. Additionally, there were 21 contractors with a background investigation of Tier 2 or higher that was more than five years old.

**Table 4: Employee Reinvestigations Due and Outstanding**

<b>Fiscal Year Reinvestigation is Due</b>	<b>Tier 2 by Fiscal Year</b>	<b>Cumulative Tier 2</b>	<b>Tier 4 by Fiscal Year</b>	<b>Cumulative Tier 4</b>
2011	0	0	1	1
2012	2	2	0	1
2013	12	14	0	1
2014	6	20	3	4
2015	2	22	0	4
2016	12	34	1	5
2017	11	45	1	6
2018	34	79	6	12
2019	43	122	22	34
2020	4	126	9	43
<b>Total</b>	<b>126</b>		<b>43</b>	

Source: OIG analysis of CPSC employee and position data

This backlog was caused by limited financial resources being available to conduct reinvestigations. EXRM staff stated they use a “top-down” approach to determine which reinvestigations will be completed based on needs of the agency. For example, according to EXRM supervisors and managers who are in higher risk positions (Tier 4) have priority for reinvestigation over lower risk positions (Tier 2). Also, personnel working at the ports are said to have priority because they require a current investigation to access systems controlled by Customs and Border Patrol.

Delayed reinvestigations mean employees may continue to have access to information they would no longer be authorized to view with a revised investigation. This could impact the CPSC’s ability to properly protect personally identifiable information and other sensitive information which should have restricted access.

We recommend CPSC management:

5. Use an automated tool to track when employee and contractor reinvestigations are due.
6. Update the investigations of employees whose completed investigation has exceeded the five-year reinvestigation requirement.
7. Allocate the appropriate resources going forward to ensure that all reinvestigations are initiated on or before the due date.

### **Finding 5: Unspecified Process for Contractor Clearance**

Federal regulations related to position designation apply equally to contractors as well as employees. Federal regulations state that contractors must undergo a background investigation that correlates with the risk and sensitivity level of the position. According to 5 CFR § 731, along with Executive Order 13764, January 17, 2017, “agencies shall accept background investigations and adjudications conducted by other authorized agencies” as long as the following conditions are met:

- the completed investigation is at the appropriate tier or higher for the position
- the favorable adjudication was based on the criteria listed in 5 CFR § 731
- the completed investigation does not identify any conduct incompatible with the core duties of the new position

Federal guidelines list several factors to consider regarding conduct, including:

- nature of the position
- nature, seriousness, recency, and circumstances surrounding the conduct
- age of the person and contributing societal conditions
- absence or presence of rehabilitation or efforts toward rehabilitation

The current CPSC directive does not address the existing requirements for the process of determining contractor position designation, reciprocity, and reinvestigation. The current directive cites Executive Order 13488, January 16, 2009, which has since been amended by Executive Order 13764. The working draft of the updated directive only states that investigations are accepted “unless there is substantial information indicating that an individual covered may not satisfy the standards of 5 CFR § 731 and the OPM Suitability guidelines for reciprocity.” Both



the current directive, and the working draft, do not document the CPSC's process for onboarding contractors and applying reciprocity.

Currently there is a blanket clause in statements of work that states a contractor must have a background investigation completed, however, it does not specify the investigative tier that is required. As a best practice, other agencies include the investigative tier required for contract positions in the statement of work, so the information is available prior to contract award. This method assists contracting companies in assigning the appropriate personnel to the contract, provides a more accurate quote to the agency, makes the CORs aware of what tier of investigation is required for the assigned contractors as they are not subject matter experts in personnel security, and allows for a more efficient process for initiating the contract and onboarding contractors. This method also allows the agency to potentially apply reciprocity when onboarding contractors. At the CPSC, EXRM does not become involved in the designation-setting process until after a contract is awarded. Then EXRM, generally but not always, requires the office or division managing the contract to submit the names of the contractors along with a CPSC federal employee whose duties are similar to those of the new contractor to help determine the necessary investigative tier.

Further, reciprocity does not appear to be consistently applied for contractors. EXRM does not have any internal checklists or processes to assess risk and apply reciprocity. This is performed on a case-by-case basis and is a manual process.

Moreover, even though contractors may have performed similar duties at another agency, EXRM has stated that the risk level at the other agency may be lower due to there being more levels of supervision at other agencies. Whereas, at the CPSC there may be fewer levels of supervision resulting in a higher risk associated with a similar position. Finally, the results of the risk assessments are not recorded in any searchable database or spreadsheet and are only maintained in individual contractor files.

The CPSC does not have an effective process for designating positions for persons working under new contracts. Additionally, the CPSC does not have a formal documented process (directive or standard operating procedure) for onboarding contractors and clearly defining the responsibilities for the contracting officer's representatives and EXRM personnel detailing the process. Changes in the onboarding process for contractors are not clearly documented nor communicated to the contracting officer's representatives who are designated as the agency lead in this process. Further, EXRM cannot easily access position sensitivity designations for contractor positions because this information is maintained in individual contractor files.

All of this leads to a process that is unclear for CPSC staff and contractors causing unnecessary delay and confusion in onboarding contractors once the contract is signed and may cost the government more money if contractors assign staff with higher than necessary clearance to a job. If contractors and contracting staff do not know the expected tier designation for incoming contractors this may impact the ability of the selected contractors to begin work and delay the CPSC meeting mission requirements.

We recommend CPSC management:

8. Establish a process to include Office of Human Resources Management during the drafting of the statement of work to determine the appropriate investigative tier for contractors prior to when the request for quotes is released to potential vendors.
9. Develop a formal documented process (directive or standard operating procedure) for onboarding contractors.
10. Develop a system to communicate any changes in the onboarding process to contracting officer's representatives and other personnel involved in the onboarding of employees and contractors.
11. Develop and document a systematic and repeatable risk assessment process to evaluate the risk of applying reciprocity for incoming contractors.
12. Regarding contractors, develop and maintain an accessible database containing the information outlined in Recommendation Two, as well as the contract number, similar CPSC position, contractor name, employer, and name of contracting officer's representative.

## **Finding 6: Incomplete Implementation of OPM's Recommendations**

Government Accountability Office's Green Book Principle 17 states, "[m]anagement should remediate identified internal control deficiencies on a timely basis." Specifically, management should complete and document corrective actions including the resolution of audit findings on a timely basis. Auditing standards also require evaluating "whether the audited entity has taken appropriate corrective action to address findings and recommendations from previous engagements."

As part of its management of the personnel suitability and security program, OPM performs periodic onsite reviews of an agency's policies, practices, and compliance with federal regulatory requirements regarding the personnel security and suitability programs for federal employees, OPM program management requirements, and OPM reporting metrics.

OPM reviewed the CPSC's Personnel Security and Suitability Program in 2017. The report, dated November 29, 2017, made 12 recommendations to improve the program. In a follow-up review, dated June 6, 2019, OPM determined that corrective action was complete on five recommendations, OPM no longer evaluates the area related to one finding, thus, that recommendation was also closed. The CPSC has taken partial, but insufficient, action on five recommendations, and no action on one recommendation. Thus, six of the twelve recommendations remained open.

This occurred because management did not prioritize implementing OPM's recommendations. Thus, the CPSC remains at risk for having gaps in its position designation and personnel security program which could put agency operations at risk of failure to comply with federal regulations and hire suitable personnel.

We recommend CPSC management:

13. Complete the work required to fully implement OPM's recommendations from 2017.

## Consolidated List of Recommendations

We recommend CPSC management:

1. Update and implement EXRM directives, policies, and procedures regarding position designation to reflect current EXRM operations and address current OPM policies and guidelines.
2. Develop and maintain an accessible database with all information required to effectively manage the position designation and suitability program. At a minimum, this system should contain the name of the employee or contractor, position number and title, position designation, tier of background investigation completed, entry-on-duty date, date the background investigation was requested, date the background investigation was completed, whether it was an initial investigation or reinvestigation, whether reciprocity was applied, and reinvestigation due date.
3. Use the information developed in the database from Recommendation Two to project future budgeting and staff workload requirements.
4. Use the information developed in Recommendation Two to track an employee's investigation versus the designation of their position and ensure they are properly aligned.
5. Use an automated tool to track when employee and contractor reinvestigations are due.
6. Update the investigations of employees whose completed investigation has exceeded the five-year reinvestigation requirement.
7. Allocate the appropriate resources going forward to ensure that all reinvestigations are initiated on or before the due date.
8. Establish a process to include Office of Human Resources Management during the drafting of the statement of work to determine the appropriate investigative tier for contractors prior to when the request for quotes is released to potential vendors.
9. Develop a formal documented process (directive or standard operating procedure) for onboarding contractors.
10. Develop a system to communicate any changes in the onboarding process to contracting officer's representatives and other personnel involved in the onboarding of employees and contractors.
11. Develop and document a systematic and repeatable risk assessment process to evaluate the risk of applying reciprocity for incoming contractors.
12. Regarding contractors, develop and maintain an accessible database containing the information outlined in Recommendation Two, as well as the contract

number, similar CPSC position, contractor name, employer, and name of contracting officer's representative.

13. Complete the work required to fully implement OPM's recommendations from 2017.

## **Appendix A: Scope and Methodology**

### **Scope**

The scope of this audit is the CPSC position designation and suitability program up to April 30, 2020. The audit was performed from September 2019 through June 2020 at the CPSC headquarters in Bethesda, Maryland.

### **Methodology**

To accomplish the audit objectives we reviewed and gained an understanding of:

- applicable federal laws and regulations
- agency policies, procedures, and processes

In addition, we:

- attended PDT training to gain an understanding of the training provided to EXRM staff
- reviewed a judgmental sample of position descriptions, ran the duties through the PDT and compared our results to EXRM's results. This was done to assess whether positions were appropriately designated
- reviewed a list of employees and their positions to determine whether the employee had the proper tier of investigation compared to the position designation
- reviewed the list of employees and the dates of their most recently completed investigation. Using those dates, we created an aging schedule to determine the age of investigations and identified those that were more than five years old and due for reinvestigation
- obtained background investigation expenditure data to determine how much money was spent on background investigations from FY 2017 through FY 2019
- interviewed EXRM, OPM, and other CPSC staff with knowledge of the subject matter to gain a better understanding of the processes regarding position designations and background investigations
- reviewed OPM's initial and follow-up review reports on the CPSC's Personnel Security and Suitability Program

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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## Appendix B: Internal Control

The Government Accountability Office, *Standards of Internal Control in the Federal Government*, is the primary criteria used for internal control testing purposes.

These criteria are the standard that federal agencies must follow to maintain effective internal controls for both financial and non-financial programs. Internal control is a process used by management to help a program achieve its goals. There are five internal control components and 17 principles.

We assessed internal controls to satisfy the audit objectives. Our assessment included internal control components and principles of the *Standards for Internal Control in the Federal Government*. As part of the OIG audit, all internal control principles and components determined to be significant to the audit objectives are noted in the table below along with a determination of whether or not those internal controls are designed, implemented, and operating effectively.

**Table 5: Results of Internal Control Review**

Principle	Internal Control Components and Principles	Pass	Fail	Not Applicable or Not Significant to the Audit Objectives
<i>Control Environment</i>				
1	The oversight body and management should demonstrate a commitment to integrity and ethical values.	X		
2	The oversight body should oversee the entity's internal control system.		X	
3	Management should establish an organizational structure, assign responsibilities, and delegate authority to achieve the entity's objectives.	X		
4	Management should demonstrate a commitment to recruit, develop and retain competent individuals.	X		
5	Management should evaluate performance and hold individuals accountable for their internal control responsibilities.			X
<i>Risk Assessment</i>				
6	Management should define objectives clearly to enable the identification of risks and define risk tolerances.		X	
7	Management should identify, analyze and respond to risks related to achieving the defined objectives.		X	
8	Management should consider the potential for fraud when identifying, analyzing and responding to risks.	X		
9	Management should identify, analyze and respond to significant changes that could impact the internal control system.		X	
<i>Control Activities</i>				
10	Management should design control activities to achieve objectives and respond to risks.		X	
11	Management should design the entity's information system and related control activities to achieve objectives and respond to risks.		X	
12	Management should implement control activities through policies.		X	
<i>Information and Communication</i>				
13	Management should use quality information to achieve the entity's objectives.		X	
14	Management should internally communicate the necessary quality information to achieve the entity's objectives.		X	
15	Management should externally communicate the necessary quality information to achieve the entity's objectives.	X		
<i>Monitoring</i>				
16	Management should establish and operate monitoring activities to monitor the internal control system and evaluate the results.		X	
17	Management should remediate identified internal control deficiencies on a timely basis.		X	
<b>Totals</b>		<b>5</b>	<b>11</b>	<b>1</b>



## Appendix C: Agency Response

Management was provided with the Notices of Findings and Recommendations and their responses are noted below. Management did not concur with Recommendations 4, 8, and 11. OIG responses are highlighted in blue.

### NFR#1: Concur

The cited policy document is an internal working operating procedure for EXRM staff and was updated in May 2020, and continues to be updated as new information related to Workforce 2.0 evolves and is pushed to the personnel security community. The working document contains sensitive information that cannot be published and provided to the public so it is not in the Agency directives. However, Appendix B was provided to the auditor to ensure the policy met the requirements. Appendix B contains verbiage that explains, "...CPSC abides by the standards established to DCSA/OPM in 5 CFR 731, 5 CFR 1400, other guidance, and the Office of the Director of National Intelligence for proper designation of positions. CPSC uses the OPM/DCSA Position Designation System (PDS) and Automated Tool (PDT) to designate all covered positions for risk and sensitivity, using the position description." Additionally, excerpts of the working document were provided to show that the updates were made to include the 5 tiers and to the 5 year reinvestigation interval update. In addition to the policy document, there are procedures, checklists, and desktop guides that were provided during the course of the audit, which demonstrated EXRM has processes in place and consistently uses them.

While the three items that were stated as missing are included in the current working draft policy, management agrees that the working draft document needs additional updating. EXRM will update the policy.

### NFR#2: Concur

While it is agreed that not all the cited data fields are readily available from one location, CPSC does track all data in the bullets cited above. There are multiple systems that track the data. Personnel security data is located in: PIV Registrar, FPPS, PIPS/CVS, AWTS and individual security files. Data in report format from PIPS/CVS must be requested from OPM. Reports from the other systems are accessible by CPSC. The Affiliated Workforce Tracking System (AWTS) was implemented February 23, 2021 for tracking all CPSC affiliates such as contractors, volunteers and other non-employee types. This system will capture the information cited for CPSC affiliates. Position designation for a contractor is based on similar duties of a CPSC employee and documentation of the designation is contained in the contractor's security file. EXRM could provide information on contractor position designation from a file review but not in a report from a database. At the time of the audit prior to the implementation of AWTS, we did not have a database to track this information. For employees, PIV Registrar is being revised and revamped to capture and track the information cited above in one location. It is agreed that the tracking tool for reinvestigations does not provide real-time information. An annual report is requested from OPM regarding each employee's last investigation. Other agencies can initiate and run investigations on CPSC employees if they are job hunting or for contractors who work for other agencies. Our process includes a status check in PIPS/CVS before running a reinvestigation. DCSA is planning to launch a tracking tool called NBIS that they anticipate will connect to other security systems, to provide real time data. This will be a viable tracking solution requiring single source data entry and connectivity to systems such as eQip, PIPS/CVS and possibly OBIEE. This system is anticipated to be available in 2022 or 2023. Until then, we have already made revisions to our data capture plan, which includes the use of AWTS for affiliates and the revised PIV Registrar for employees.

### NFR#3: Does Not Concur

Management does not concur with this assessment. Because the specific 17 individuals were not provided during the audit for response, it is difficult to respond to each case. Without reviewing the file, it is possible that a discrepancy in designation vs. investigation run may have occurred with the implementation of the PD Tool. If a designation was changed from a higher investigation to a lower investigation, the investigation last run would be at a higher level than the current designation. We also have employees whose positions have one designation but required a higher level of investigation in order to access the Customs& Border Patrol's ACE system. This requirement is documented on the employee file and should have been reflected on the spreadsheet. The spreadsheet was updated to correctly reflect the higher level access requirement for each employee based on the access requirement. The PDT was adopted and is always used. EXRM tracks position designations and investigations run to ensure that the two align.

### **OIG Response:**

***If an employee is required to have a higher level of investigation to access another agency's information system, because that agency requires a higher level investigation, and accessing such systems is part of the employee's duties, then we believe that the employee's position should be designated to the required higher level.***

### **NFR#4: Concur**

Reinvestigations due dates are tracked in the OPM system (eQip) as well as our internal spreadsheet. DCSA is planning to launch a tracking tool called NBIS that they anticipate will connect to other security systems, to provide real time data. This will be a viable tracking solution requiring single source data entry and connectivity to systems such as eQip, PIPS/CVS and possibly OBIEE. This system is anticipated to be available in 2022 or 2023. Until then, we capture reinvestigation data in AWTS for affiliates and eQip and PIV registrar for employees.

After the initial change from 7 to 5 years for reinvestigation, OPM allowed for reinvestigations to remain every 7 years due to the extreme backlog of investigations. The 7 year extension from OPM recently expired in 20. CPSC worked to implement the 5 year reinvestigation timeline as much as possible, and was ahead compared to other agencies. While funds are a limiting factor and it is difficult to project new employee and contractor numbers, we do base workload and budget on prior years data. We also must provide OPM our projections each year for their resource information. Investigations and reinvestigations are not just driven by budget, we also have to consider staff resources to process and adjudicate cases. Since Sept 2020, 45 reinvestigations were initiated. Working on delayed reinvestigation cases is an on-going process and can't be completed overnight because of the volume of work for new hires and new contractors. We will continue to work to address the backlog of reinvestigations and utilize a risk-based analysis based on resources to determine reinvestigation priorities.

### **NFR#5: Concur with 9, 10, and 12 Does Not Concur with 8 and 11**

The Affiliate Workforce Tracking System (AWTS), implemented in February 2021, tracks all CPSC affiliates, such as contractors, volunteers and other non-employees. During the implementation of the AWTS, CORs were provided emails with detailed information on AWTS, a desktop guide with the process for onboarding affiliates, a checklist for CORs and contractors, training sessions via webEx and resources on the EXRM SharePoint page. EXRM HR Security Specialists were also provided training and a desktop guide. Training included a PowerPoint slide presentation on the onboarding process which is also available as a course for new CORs. An AWTS Email Group was established to communicate system updates, system outages, user guide updates, resource updates to the SharePoint page, training opportunities, etc. Additionally, an AWTS User Group has been established and will meet

regularly to discuss system and process/procedure issues (met 3/31/21). Data on current contractor's is being updated. (addresses Recommendation # 9, 10 & 12).

EXRM does not have a role in the statement of work process. There has not been a timeliness issue for onboarding when the COR provides all of the necessary information needed (listed in the deskguide) to make a position designation determination. In most cases, the COR provides the position, title and employee name that is equivalent to the contractor role. In that case, the position designation tool has already been completed so no new determination is necessary. If there is no CPSC employee with identified similar duties to the new contractor, EXRM then reviews the established statement of work or list of duties from the COR and runs the position designation tool (PDT). There is no bonafide need for a COR or potential contractor to know the designation or investigation type during the solicitation process in Procurement. EXRM applies reciprocity for contractors in a consistent manner utilizing the specific facts of the case and the agency mission in accordance with 5 CFR 731, the OPM Suitability Handbook and FIS notices related to contractors. (addresses Recommendation # 8 & 11).

**OIG Response:**

***The issue is not the timeliness of onboarding once a contractor enters the process, but rather before. As management notes in their response, they do have a need to look at the SOW if there is no CPSC employee identified with similar duties to assign the appropriate designation for novel positions. We continue to recommend that they do this earlier in the process. On the other hand, if the position designation is already available for a proposed position, providing this information to potential bidders will help them determine their staffing and recruitment needs and allow them to address potential risks in their bid which may translate to lower costs for the CPSC.***

NFR #6: Concur

There were 6 recommendations that remained opened from the OPM follow-up audit. Detail on next page.

<b>OPM Audit Findings</b>	<b>Issue</b>	<b>Status</b>	<b>Agency Action</b>
Recommendation 1	CPSC must ensure that all covered positions are designated for both risk and sensitivity using the position description and OPM's Position Designation System.	Completed. Closed.	Position Designation Tool utilized for all CPSC positions.
Recommendation 3	CPSC must redesignate all positions and initiate the appropriate level of investigation for all employees whose position designation does not accurately reflect the requirements of the	Completed. Closed.	All designation changes that resulted in a higher level investigation have been initiated and closed.

	position, in accordance with 5 CFR 1400.		
Recommendation 7	CPSC must establish and implement processes to reduce the unacceptable submission rate for investigation requests to 5% or less.	Partially Implemented	Current data for FY20 - 6.1% unacceptable submission rate. HR Specialist performance elements include measure for quality submission rates.
Recommendation 9	CPSC must report all suitability determinations to OPM as soon as possible and in no event later than 90 days after receipt of the final report of investigation.	Completed. Closed.	Data for FY20 – average adjudication time 43 days.
Recommendation 11	CPSC must ensure at least one adjudicator has had a favorable adjudication based on the results of an SSBI, per OPM’s Suitability Processing Handbook.	Open	Investigation Pending
Recommendation 12	CPSC must create and maintain written policies and procedures to govern its personnel security and suitability operations are in compliance with all applicable E.O.s, OPM requirements, and current investigative products.	Partially Implemented	Same as OIG Finding #1. Working draft updated with OPM suggestions. Formal update pending.

## CONTACT US

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