



DEPARTMENT OF JUSTICE | OFFICE OF THE INSPECTOR GENERAL

MANAGEMENT ADVISORY MEMORANDUM

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AUGUST 2023

Notification of Concerns Identified in the Drug Enforcement Administration's Use of Polygraph Examinations in Pre-employment Vetting

AUDIT DIVISION



August 22, 2023

Management Advisory Memorandum

To: Anne Milgram
Administrator
Drug Enforcement Administration

From: Michael E. Horowitz
Inspector General

Subject: Management Advisory Memorandum – Notification of Concerns Identified in the Drug Enforcement Administration’s Use of Polygraph Examinations in Pre-employment Vetting

The purpose of this memorandum is to advise you of concerns that the Department of Justice (DOJ) Office of the Inspector General (OIG) has identified during our ongoing audit of the Drug Enforcement Administration’s (DEA) use of polygraph examinations in pre-employment vetting.¹ We initiated this audit to assess the DEA’s policies and procedures for conducting pre-employment polygraph examinations, and to determine whether the DEA’s adjudication of polygraph results is timely, thorough, and objectively decided.² On March 21, 2019, then Acting DEA Administrator Dhillon issued a memorandum stating that “the DEA will not hire Special Agent or Intelligence Research Specialist applicants who receive a countermeasures or significant response result on their DEA-administered polygraph examination.” Since initiating our audit in August 2022, we identified numerous concerns that we believe warrant the DEA’s immediate attention. Specifically, we uncovered inconsistencies in the implementation of the 2019 polygraph policy and significant risks involving the DEA’s polygraph program, including hiring Special Agents and certain other applicants who have not successfully completed some or all of the polygraph examination, and allowing Task Force Officers who have failed the polygraph examination to remain on DEA task forces. We also learned about issues with regard to the handling of polygraphs for applicants with relatives who currently, or formerly, worked for the DEA.

¹ In addition to polygraph examinations, the DEA’s hiring process includes background investigations and hiring panel reviews to help validate the integrity and character of applicants for its most sensitive positions.

² Other DOJ components, including the Federal Bureau of Investigation and the Bureau of Alcohol, Tobacco, Firearms and Explosives, require applicants to successfully complete a polygraph examination as part of the pre-employment vetting process.

As part of the Intelligence Community, the DEA must abide by the Office of the Director of National Intelligence’s Security Executive Agent Directives (SEAD). SEAD 2 outlines the regular use of polygraph examinations in support of personnel security determinations for initial or continued eligibility for access to classified information or eligibility to hold a sensitive position.

Given the DEA's determination that the successful passing of a polygraph examination is an important part of the hiring process, these issues have resulted in potential security risks to DEA operations and the appearance of unfair hiring practices when individuals who have not completed the polygraph process are nonetheless hired by the DEA.

The DEA's Use of Polygraph Examinations in Pre-Employment Vetting

The DEA's current policy requires that a pre-employment polygraph examination be administered to applicants for four core series positions: Special Agent, Intelligence Research Specialist, Diversion Investigator, and Forensic Chemist.³ Applicants are given both a Suitability polygraph and a National Security polygraph examination that include questions related to past drug use, serious criminal activity, truthfulness on pre-employment documentation, and National Security issues. The DEA uses the polygraph results to verify information provided to the DEA by an applicant, as well as to evaluate an applicant's character or suitability for the position and any potential National Security risk.

Figure 1 reflects the four categories of polygraph results ("No Significant Response," "Significant Response," "Countermeasures," and "No Opinion") and any accompanying restrictions based on the outcome of the polygraph examination.

Figure 1
Potential Polygraph Results

No Significant Response	Significant Response	Countermeasures	No Opinion
<ul style="list-style-type: none"> Occurs when no significant physiological response occurs in response to the same question when asked several times. Applicant is eligible for the position for which they applied, and for any other DEA position requiring a polygraph for a period of 3 years. 	<ul style="list-style-type: none"> A significant physiological response occurs in response to the same question when asked several times indicating deception. Applicant is disqualified from the position to which they applied and from any other DEA position requiring a polygraph for a period of 3 years. 	<ul style="list-style-type: none"> A physical, mental, and/or pharmacological effort is intended to alter the physiological data collected during the exam. Applicant is disqualified from the position to which they applied and from any other DEA position requiring a polygraph for a period of 3 years. 	<ul style="list-style-type: none"> A conclusive result cannot be determined. An applicant may be tested no more than three times to resolve a "No Opinion" result. Applicant is disqualified from the position to which they applied and from any other DEA position requiring a polygraph for a period of 2 years.

Source: The DEA's Polygraph Screening Policy

³ The Office of Personnel Management (OPM) approved the DEA's use of polygraph examinations for employment screening for Special Agent positions in November 1994; for Intelligence Research Specialist positions in June 1998; and for Diversion Investigators and Forensic Chemists positions in December 2020. OPM's approvals are contingent on the DEA's compliance with certain conditions, including with the uniform community polygraph standards, which include the Federal Examiner's Handbook established by the Defense Counterintelligence and Security Agency's National Center for Credibility Assessment (NCCA). Every 2 years the DEA must certify that it continues to meet OPM standards for the continued use of polygraph examinations. In December 2022, NCCA's Quality Assurance program reviewed the DEA's polygraph program and identified no deficiencies. OPM renewed the DEA's authority to continue using polygraph examinations for pre-employment vetting through September 2024.

Despite its New Policy in March 2019, the DEA Continued to Hire Special Agents and Intelligence Research Specialists Who Did Not Pass or Had Incomplete Polygraph Examinations

Prior to March 2019, DEA policy did not prohibit the hiring of Special Agent and Intelligence Research Specialist applicants with polygraph examination results of “Significant Response” or “Countermeasures.” At that time, the DEA was the only federal law enforcement agency participating in the National Center for Credibility Assessment’s (NCCA’s) Quality Assurance Program that allowed the hiring of applicants who did not pass a polygraph (i.e., receive a result of “Significant Response”).⁴

As noted, on March 21, 2019, then Acting DEA Administrator Dhillon issued a memorandum stating that “the DEA will not hire Special Agent or Intelligence Research Specialist applicants who receive a countermeasures or significant response result on their DEA-administered polygraph examination.” The memorandum noted that the changes were in line with the national standards and practices of 27 other federal agencies. The memorandum also stated that this policy was effective beginning with Special Agent job announcement number BA2019-1, which was open between December 10, 2018, and March 28, 2019, as well as any future Special Agent or Intelligence Research Specialist job announcements.⁵ The DEA’s Polygraph Unit then issued an updated policy reflecting the direction in the Acting Administrator’s memorandum. In March 2021, the DEA’s Polygraph Screening Policy was amended to also require Diversion Investigators and Forensic Chemists to successfully complete the polygraph examination to be eligible for hire.

Despite the March 2019 policy change, we found that for the past 2 years the DEA has hired applicants who received a “significant response” on their pre-employment polygraph examination because the DEA has continued to use for hiring purposes job announcements that were issued prior to the BA2019-1 job announcement referenced in Acting DEA Administrator Dhillon’s memorandum. Thus far in our audit, we have identified 77 applicants (66 Special Agents and 11 Intelligence Research Specialists) who received a result of “significant response” on a pre-employment polygraph examination after the March 2019 policy change but were later hired because the candidate’s application was associated with an older job announcement predating the policy change.⁶ For example:

- We identified a Special Agent who was hired under job announcement number BA2016-1 (open from October 17, 2016, through October 21, 2016). This Special Agent took the pre-employment polygraph exam and received a “significant response” result in May 2019, more than 2 years after the job announcement closed and months after the DEA announced in March 2019 that it would no longer hire Special Agents who did not successfully complete the polygraph examination. The Special Agent came on-board with the DEA in March 2021, 2 years after the DEA’s policy change.

⁴ The DEA participates in the NCCA Quality Assurance Program. The NCCA is responsible for the development of federal polygraph standards and for maintaining a Quality Assurance Program to ensure ethical, professional, and technical standards are maintained by all federal polygraph programs.

⁵ The DEA added language to its job announcement number BA2019-2, which was open between March 28, 2019, and September 30, 2019, to state specifically that the result of “Countermeasures” or “Significant Response” on a polygraph examination makes the applicant ineligible for hire in a DEA Special Agent position for a period of 3 years from the date of the polygraph examination.”

⁶ We also identified 43 applicants (41 Special Agents and 2 Intelligence Research Specialists) who were hired and entered on duty after the March 2019 policy change, despite receiving a “significant response” result on a pre-employment polygraph examination taken on or before March 21, 2019.

- We identified a Special Agent who was hired under job announcement number BA2017-2 (open from December 4, 2017, through December 8, 2017). The Special Agent took the pre-employment polygraph exam and received a “significant response” result in February 2020, more than 2 years after the job announcement closed and almost 1 year after the DEA’s March 2019 policy change. The Special Agent came on-board with the DEA in March 2022, 3 years after the DEA’s policy change.

In our view, the DEA’s use of older job announcements to hire applicants who did not pass a polygraph examination is contrary to the clear intent of the policy change the Acting Administrator announced in his March 2019 memorandum. However, DEA Human Resource officials told the OIG that because job announcements prior to BA2019-1 only required an applicant to *complete* the polygraph, they interpreted the March 2019 policy change to mean it was permissible for the DEA to continue to hire applicants already in the hiring process on job announcements prior to BA2019-1 who received a “significant response” on the pre-employment polygraph examination.⁷ After reviewing a draft of this MAM, DEA officials further told the OIG that the March 2019 policy memorandum was written specifically to allow individuals already in the hiring process at the time of the policy change to be hired without passing a polygraph examination, notwithstanding the stated intent of the policy change. When we spoke to DEA Polygraph officials and Special Agents who have participated on the DEA’s hiring panel, they disagreed with what we were told by DEA Human Resource officials and said they interpreted the policy to be effective March 2019, and that, regardless of which job announcement the applicant had applied on, the DEA would no longer hire Special Agents or Intelligence Research Specialists who failed the pre-employment polygraph exam.⁸

In April 2023, after we raised questions about the DEA’s implementation of the March 2019 policy change, the DEA updated its policy to remove the language linking the policy change implementation to Special Agent job announcement number BA2019-1. Additionally, a DEA official stated that the DEA is in the process of mitigating the risks associated with applicants currently in the hiring process on a job announcement prior to BA2019-1 who have not successfully completed the pre-employment polygraph exam.

In addition to these 77 applicants who were hired after March 2019 despite a “Significant Response” polygraph finding, we determined the DEA hired and entered on duty at least 3 Special Agents who did not meet DEA requirements to fully complete a pre-employment polygraph examination, namely both the Suitability and National Security polygraph. Moreover, the DEA hired these applicants despite the fact that its pre-March 2019 job announcements stated that applicants must successfully complete and pass the pre-employment polygraph exam. Our audit found, for example:

- In November 2020, the DEA initiated a pre-employment polygraph exam with an applicant. After completing the National Security section of the exam with a result of "significant response with deception indicated" to questions regarding mishandling and compromising classified information, the polygraph examiner stopped the exam. The Suitability section of the exam was never administered. This individual entered on duty in May 2021 and is currently employed as a DEA Special Agent.

⁷ The reasoning expressed by DEA Human Resource personnel runs contrary to the DEA job announcements that we have obtained dating back to 2016, which require that applicants successfully complete and achieve favorable results on a pre-employment polygraph examination. The job announcements state that failure to successfully complete and pass any of the screening processes will result in the candidate being disqualified and removed from consideration.

⁸ The DEA’s Special Agent Hiring Panel consists of one Special Agent Staff Coordinator, who oversees the panel, and three rotating Supervisory Special Agents who are briefed and vote on each applicant.

- In March 2018, the DEA initiated a pre-employment polygraph exam with an applicant. During the National Security section, the applicant received a result of “significant response with deception indicated” to questions regarding providing classified information to unauthorized persons, having an unauthorized foreign contact, and being involved in terrorist activities. The polygraph examiner stopped the examination, and the Suitability section was never administered. However, in the DEA’s records this applicant was mistakenly marked as having completed the polygraph exam. In mid-September 2018, the DEA’s Special Agent hiring panel selected the applicant for hire. Thereafter, prior to the applicant entering on duty, the Polygraph Unit notified Human Resources about the applicant’s failure to complete the Suitability series of the polygraph exam. When the Polygraph Unit attempted to reschedule the remaining portion of the exam, it did not have a polygraph examiner available, and the remaining series of the polygraph exam was not administered. The DEA stated that its Office of Chief Counsel was consulted and provided a decision to uphold the hiring panel’s selection based on a complete background investigation and review by investigators and Suitability specialists. This individual entered duty in September 2018 and is currently employed as a DEA Special Agent.
- In December 2017, the DEA initiated a pre-employment polygraph exam with an applicant. During the Suitability section, the applicant received a result of “significant response with deception indicated” to a question about committing a serious crime. During the polygraph examination, the applicant admitted to engaging in inappropriate behavior while a juvenile with a younger juvenile. The polygraph examiner stopped the examination, and the National Security section was never administered. Yet, we determined that the DEA’s hiring panel was told, incorrectly, that the applicant passed the polygraph examination with a result of “no significant response.” This individual entered on duty in April 2019 and is currently employed as a DEA Special Agent.

In response to the concerns identified by the OIG in this memorandum, the DEA stated that it reviewed a list of examinees from its polygraph database who were identified as having taken only one series of the polygraph exam (either Suitability or National Security) and that none of the examinees it identified were hired into core positions requiring a complete pre-employment polygraph exam. However, the DEA’s database is not able to identify applicants who initiated but did not complete each series as required by DEA policy. To perform such a review, the Polygraph Unit must electronically retrieve and review the corresponding DEA Reports of Investigation to determine if an applicant has completed each polygraph examination series initiated. In response to a draft of this memorandum, a DEA official informed us that DEA has determined that its polygraph database contains the capability to track and produce a report on each series of the polygraph examination. The DEA provided us a spreadsheet, by series, of polygraphs that were initiated and completed. However, our review determined that the spreadsheet was incomplete and contained inaccuracies when compared to the results in the DEA Reports of Investigation. Therefore, we continue to have concerns with the DEA’s efforts to efficiently and effectively ensure applicants have completed a full-scope polygraph as required by DEA policy. As we continue our audit, we will evaluate the DEA’s efforts to identify all applicants who have not completed the pre-employment polygraph exam.

Task Force Officers Allowed to Remain on DEA Task Forces Despite Polygraph Issues

The DEA does not require Task Force Officers from local, state, and other federal law enforcement agencies to successfully complete a polygraph examination prior to working on a DEA-led task force.⁹ However, if a Task Force Officer seeks employment with the DEA for a position that requires a polygraph examination as

⁹ Task Force Officers are required to have a letter in good standing from their parent law enforcement agency and are cleared at the Public Trust level by the DEA’s Security Programs.

part of the pre-employment process, the Task Force Officer is required to successfully complete a polygraph examination as part of the DEA's pre-employment vetting process.

According to the DEA's polygraph policy, if a Task Force Officer receives a polygraph result of "Significant Response" or "Countermeasures," with or without an admission, the task force officer is not only ineligible for hire by DEA but also must be returned to their parent law enforcement agency. Yet, we have identified Task Force Officers who received a "Significant Response" result on the DEA's pre-employment polygraph examination, and as of January 2023, remained on DEA-led task forces. For example:

- In April 2022, a Task Force Officer took the polygraph exam and received a "Significant Response" result with deception indicated to questions regarding past drug use and truthfulness on pre-employment documentation. The individual has been allowed to remain on the DEA task force and, according to the view of DEA Human Resource officials, is eligible for hire because they applied under job announcement BA2018-1, prior to the DEA's March 2019 policy change.
- In October 2021, a Task Force Officer took the polygraph exam and received a "Significant Response" with deception indicated to a question regarding truthfulness of pre-employment documentation. The exam was stopped, and the National Security section of the polygraph exam was not given. The individual was not hired but has been allowed to remain on the DEA task force.

By allowing Task Forces Officers to remain on DEA task forces after indicating deception to significant polygraph questions, in violation of DEA policy, the DEA unnecessarily assumes the risk that inevitably comes with law enforcement officers potentially unsuitable for this important role, which could include the potential for intentional and unintentional compromise of sensitive DEA operations and jeopardize public trust.

Potential Inappropriate Influence Related to the Polygraph Examinations of "Legacy" Special Agent Candidates

The DEA unofficially defines a "legacy" candidate as an applicant who has a relative currently working for the DEA or that previously worked for the DEA. Multiple DEA personnel we interviewed told us that they have perceived or experienced pressure to influence polygraph examinations for legacy candidates, be it the outcome or the expediency with which an examination is performed. To mitigate the risk of improper influence on the Polygraph Unit, in April 2022, the Polygraph Unit Chief provided informal guidance via email regarding the handling of conflict of interest and "legacy" applicant polygraph exams. In February 2023, we informed DEA officials that we had been told of instances where employees perceived or experienced pressure related to polygraph examinations of legacy candidates. Later that month, the DEA issued a *Notice on Hiring or Advancement of Relatives*, reminding all DEA employees to adhere to its guidelines to prevent nepotism or the appearance of nepotism in the DEA's hiring process. The informal guidance and the February 2023 notice were appropriate and useful reminders. They do not, however, ensure that DEA policy addresses the full scope of issues presented to the OIG during our audit, including non-family member DEA employees who may have contacted polygraph examiners to expedite or influence the hiring process on behalf of legacy candidates. We believe that DEA's policies should be updated to explicitly prohibit such contacts, which may create actual or perceived pressure on the polygraph unit to expedite or influence the result of an examination.

Conclusion and Recommendations

We believe that the seriousness of the matters described above require immediate attention to address the significant and unmitigated risks in the DEA's administration and use of polygraphs in its hiring process. In addition, these practices have the potential of impacting the DEA's reputation in the law enforcement community and the public's trust. Therefore, the OIG recommends that the DEA:

1. Ensure compliance with DEA policy by no longer hiring applicants for the four core series positions (Special Agent, Intelligence Research Specialist, Diversion Investigator, and Forensic Chemist) who have not fully and successfully completed the pre-employment polygraph examination.
2. Complete the initial efforts to identify the Special Agents and Intelligence Research Specialists, as well as any Diversion Investigators or Forensic Chemists, who did not fully and successfully complete the pre-employment polygraph exam as required by DEA policy.
3. Mitigate the risks associated with having hired individuals identified in Recommendation 2, including ensuring all such DEA personnel satisfy the polygraph examination requirement when applying for positions within DEA, in accordance with DEA policy.
4. Ensure DEA Task Force Officers who have not successfully completed the pre-employment polygraph examination are returned to their parent law enforcement agency, in accordance with DEA policy.
5. Implement clear policy designed to prevent inappropriate influence and potential conflicts of interest in the DEA's pre-employment polygraph process, including a prohibition on anyone with a direct or indirect connection to a candidate for employment contacting the polygraph examiner during the employment process.

Please advise the OIG within 60 days of the date of this memorandum on what actions the DEA has taken or intends to take with regard to these issues. If you have any questions or would like to discuss the information in this memorandum, please contact me at (202) 514-3435 or Jason Malmstrom, Assistant Inspector General for Audit, at (202) 598-5621.

cc: Janice O. Swygert
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ATTACHMENT 1: THE DRUG ENFORCEMENT ADMINISTRATION'S RESPONSE TO THE DRAFT MANAGEMENT ADVISORY MEMORANDUM



U.S. Department of Justice
Drug Enforcement Administration
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July 11, 2023

MEMORANDUM

To: David J. Gaschke
Regional Audit Manager
Office of the Inspector General

From: Michael L. Ciminelli
Acting Chief Compliance Officer
Office of Compliance

Subject: The Drug Enforcement Administration's Response to the Draft Management Advisory Memorandum – *Notification of Concerns Identified in the Drug Enforcement Administration's Use of Polygraph Examinations in Pre-employment Vetting*

MICHAEL
CIMINELLI

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Date: 2023.07.11
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On June 15, 2023, the Department of Justice (DOJ), Office of the Inspector General (OIG) provided its draft Management Advisory Memorandum, "Notification of Concerns Identified in the Drug Enforcement Administration's Use of Polygraph Examinations in Pre-employment Vetting." In the memorandum, the OIG identified inconsistencies in the Drug Enforcement Administration's (DEA) implementation of a 2019 polygraph policy and risks involving the DEA's polygraph program, including hiring Special Agents and certain other applicants who have not successfully completed some or all of the polygraph examination process, and allowing Task Force Officers (TFO) who have failed a polygraph examination to remain on DEA Task Forces. The OIG made five recommendations to DEA to address the risks of the use of polygraphs in its hiring process. This memorandum describes the DEA's actions that address the report and its recommendations.

Prior to addressing the recommendations, DEA must first correct the OIG's statement that DEA hired applicants "contrary to its March 2019 policy change."

As noted in the OIG memorandum, "[p]rior to March 2019, DEA policy did not prohibit the hiring of Special Agent and Intelligence Research Specialist applicants with polygraph examination results of 'Significant Response' or 'Countermeasures,'" and that this was consistent with "the National Center for Credibility Assessment's (NCCA's) Quality Assurance Program that allowed the hiring of applicants who did not pass a polygraph (i.e., receive a result of 'Significant Response')." This policy dates back to 1994, when DEA first requested and received authorization from the Office of Personnel Management (OPM) to use the polygraph as a pre-employment hiring tool. The 1994 DEA policy approved by OPM stated that, "[t]he results of a

polygraph examination will never be the sole determining factor in deciding whether an applicant is employed by the agency.” Accordingly, a Significant Response (SR) standing alone did not disqualify the applicant. This continued to be DEA’s policy until 2019. For example, in its request to OPM for renewal of its pre-employment polygraph program dated September 6, 2018, DEA noted to OPM that “[a] polygraph result of NSR [No Significant Response], SR, or CM [Countermeasures] will be used as *one of the determining factors* when considering an applicant’s suitability for employment with the agency.” (Emphasis added.)

On March 21, 2019, DEA’s Acting Administrator issued a memorandum changing this policy. This memorandum stated that “the DEA will not hire Special Agent or Intelligence Research Specialist applicants who receive a countermeasures or significant response result on their DEA-administered polygraph examination.” However, the memorandum also stated that “[t]his policy is effective for the current SA job announcement (BA2019-1) as well as any future SA or IRS job announcements.” Thus, the Acting Administrator’s memorandum explicitly applied this new standard prospectively and did not apply it retroactively to applicants who were already in the application process prior to the change in policy. Likewise, an April 2020 policy issued to implement the Acting Administrator’s memorandum stated that an unfavorable polygraph result will disqualify an applicant, but specifically noted, “[f]or SA [Special Agent] jobs,” and “any other DEA position requiring a polygraph,” ... “this provision begins with the SA job announcement (BA2019-1).” Thus, both 2019 memorandum and resulting 2020 policy explicitly exempted applicants already in the application process from the new standard. These applicants were governed by the prior standard dating back to DEA’s first pre-employment polygraph policy in 1994, approved and reapproved by OPM multiple times, which did not automatically disqualify applicants due to an unfavorable polygraph examination.

Each of the 77 applicants referenced in the OIG memorandum who received a “significant response” result on a pre-employment polygraph examination after the March 2019 policy change, but had no disqualifying admissions and were later hired, were already in the application process prior to the March 2019 policy change. Thus, in accordance with the explicit terms of the March 2019 memorandum and 2020 policy, they were covered by the prior standard which did not automatically disqualify applicants due to an unfavorable polygraph examination. Neither the date of the polygraph examination nor the date of hiring determined which standard applied. Rather, the job announcement under which the applicant applied was the determinative factor. In fact, DEA has not identified a single applicant who entered the application process under SA job announcement BA2019-1 or thereafter that was hired after an unfavorable polygraph examination. While the OIG memorandum notes that some individual DEA employees disagreed with this interpretation of the March 2019 policy change, DEA’s Human Resources Division (HR)—the subject matter experts who are responsible to apply the policy to hiring decisions—interpreted and applied it consistently and in accordance with its explicit terms. Thus, the hiring of these applicants was not contrary to DEA policy.

We must also correct an additional statement in the OIG memorandum, that “the DEA’s database is not able to identify applicants who initiated but did not complete each series [of polygraph examinations] as required by DEA policy.” In fact, records maintained by DEA’s Polygraph Unit (STCP) within the Office of Investigative Technology are accurate, complete, and easily searched. The results of every polygraph examination are documented in a DEA-6 report which clearly

states the outcome of the examination and whether the applicant successfully completed both the Suitability and National Security series. DEA can quickly query any applicant's name and read the full details of their polygraph examination. Thus, the statement that DEA is unable to identify applicants who initiated but did not complete each polygraph series is incorrect.

To address the recommendations, DEA provides the following response:

Recommendation 1: Ensure compliance with DEA policy by no longer hiring applicants for the four core series positions (Special Agent, Intelligence Research Specialist, Diversion Investigator, and Forensic Chemist) who have not fully and successfully completed the pre-employment polygraph examination.

DEA Response:

DEA concurs with this recommendation.

In accordance with the policy issued in March 2019, DEA no longer hires applicants for the four core series positions (Special Agent, Intelligence Research Specialist, Diversion Investigator, and Forensic Chemist) who have not fully completed the pre-employment polygraph examination or who received an unfavorable result. Upon review of job announcement BA2018-1, there were 15 applicants remaining in the hiring process. Three of these applicants received an SR during their polygraph examination and were not hired. One applicant from BA2018-1 remains in the application process. This applicant fully and successfully completed the pre-employment polygraph examination and is pending a final offer of employment. No other applicants remain in the hiring process from pre-BA2019-1 job announcements.

DEA has removed the provision exempting prior applicants from the policy. DEA has separately provided OIG the updated Polygraph Screening Policy dated April 21, 2023. DEA has consistently followed the policy established in 2019 since its inception and will continue to do so. Accordingly, DEA requests closure of this recommendation.

Recommendation 2: Complete the initial efforts to identify the Special Agents and Intelligence Research Specialists, as well as any Diversion Investigators or Forensic Chemists, who did not fully and successfully complete the pre-employment polygraph exam as required by DEA policy.

DEA Response:

DEA concurs with this recommendation.

DEA has identified Special Agents, Intelligence Research Specialists, Diversion Investigators, and Forensic Chemists who did not fully and successfully complete the pre-employment polygraph exam as required by DEA policy. The results of that review are now being verified. Once the verification process is complete, DEA will request closure of this recommendation.

Recommendation 3: Mitigate the risks associated with having hired individuals identified in Recommendation 2, including ensuring all such DEA personnel satisfy the polygraph examination requirement when applying for positions within DEA, in accordance with DEA policy.

DEA Response:

DEA concurs with this recommendation.

DEA has completed a review of examinees from the Polygraph Enterprise System (PES) who were identified as having unsuccessfully completed the pre-employment polygraph exam. DEA has determined that none of the examinees currently identified were hired into core positions after unsuccessfully completing the pre-employment polygraph examination process in accordance with current DEA policy. DEA previously provided a detailed analysis documenting this to OIG on May 9, 2023. This process is continuing to ensure we have identified all such examinees and appropriate mitigation action has been taken. Once this process is complete and verified, DEA will request closure of this recommendation.

Recommendation 4: Ensure DEA Task Force Officers, who have not successfully completed the pre-employment polygraph examination, are returned to their parent law enforcement agency, in accordance with DEA policy.

DEA Response:

DEA concurs with this recommendation.

To address this recommendation, DEA conducted an analysis of TFOs who applied for DEA employment and did not successfully complete the pre-employment polygraph examination. DEA identified 4,270 current deputized TFOs. This list was then forwarded to STPC to determine if any of the TFOs also appeared in the PES as having taken a polygraph examination for pre-employment in a core-position with DEA. Of the 4,270 TFOs, nine were identified as having taken a polygraph examination with an unsuccessful result after the October 25, 2021 updated polygraph policy. Steps are now in progress to return those TFOs to their parent agencies. Once this is completed, DEA will provide OIG with supporting documentation for closure of this recommendation.

Recommendation 5: Implement clear policy designed to prevent inappropriate influence and potential conflicts of interest in the DEA's pre-employment polygraph process, including a prohibition on anyone with a direct or indirect connection to a candidate for employment contacting the polygraph examiner during the employment process.

DEA Response:

DEA concurs with this recommendation.

DEA currently has established policy governing the Standards of Conduct and Misuse of Official Positions. The policies were designed to prevent inappropriate influence and potential conflicts of interest. All DEA employees must complete an annual signed certification to attest that they understand the conduct that is expected of them as DEA employees and the potential penalties imposed for breach of those standards.

To further address the issue of possible influence and potential conflicts in the pre-employment polygraph process, STCP issued a standard operating procedure (SOP) establishing procedures to prevent inappropriate influence and potential conflicts of interest in the DEA's pre-employment polygraph process. The SOP prohibits examiners from administering a pre-employment polygraph examination to specifically identified categories of applicants where there may be a potential conflict of interest or the appearance of a conflict, including relatives of a current or former DEA supervisor (GS-14 and above). In such cases, the examination will be administered by the STCP Unit Chief or another supervisory-level examiner. The SOP also requires that any attempts by any DEA employee to exert influence or pressure upon an examiner regarding the outcome of any polygraph examination must be reported by the examiner to the STCP Unit Chief immediately. This SOP was communicated in an April 25, 2022 email from the STCP Unit Chief to all examiners and has since been incorporated into the Polygraph Standard Operating Procedures Handbook.

DEA is currently reviewing what additional steps may be appropriate to address this recommendation.

If you have any questions or concerns regarding DEA's response please contact me at (571) 776-2846 or via e-mail at Michael.L.Ciminelli@dea.gov.

Appendix 2: Office of the Inspector General Analysis and Summary of Actions Necessary to Close the Recommendations

The OIG provided a draft of this memorandum to the Drug Enforcement Administration (DEA). The DEA's response is incorporated in Appendix 1 of this final MAM. The DEA concurred with each of the recommendations and as a result, the recommendations are resolved. The following discussion provides the OIG analysis of the response and summary of actions necessary to close the recommendations.

Analysis of DEA Response

In its response, the DEA took issue with a statement in the draft memorandum that the DEA hired applicants "contrary to its 2019 policy change." Because this relates directly and specifically to Recommendation Number 1, we discuss this matter below. The DEA's response also took issue with the statement that its polygraph database is not able to identify applicants who initiated but did not complete each series of the polygraph examination as required by DEA policy. The DEA stated that it can quickly query any applicant's name and read the full details of their polygraph examination. However, in February 2023, a DEA official told us that the database was not able to identify applicants who initiated but did not complete each series of the polygraph exam and that the DEA would need to procure software to allow for the tracking of such information. After this MAM was issued in draft, a DEA official informed us that the DEA had determined that the current database has the necessary functionality to track and produce a report on each series of the polygraph examination. Subsequently, the DEA provided us a spreadsheet of polygraph series that were initiated and completed. However, we reviewed the spreadsheet and determined that it was incomplete and contained inaccuracies when compared to the DEA's Reports of Investigation. Accurately tracking such information will help the DEA ensure that only those applicants who have fully and successfully completed each series of the pre-employment polygraph examination, as required by DEA policy, are eligible to move forward in the hiring process. We considered the information DEA provided in response to our draft MAM and updated this final MAM, as appropriate.

Recommendations for DEA:

- 1. Ensure compliance with DEA policy by no longer hiring applicants for the four core series positions (Special Agent, Intelligence Research Specialist, Diversion Investigator, and Forensic Chemist) who have not fully and successfully completed the pre-employment polygraph examination.**

Resolved. The DEA concurred with our recommendation and stated in its response that in accordance with its March 2019 polygraph policy, the DEA no longer hires applicants for the four core series positions (Special Agent, Intelligence Research Specialist, Diversion Investigator, and Forensic Chemist) who have not fully completed the pre-employment polygraph examination or received an unfavorable result. The DEA stated that upon review of job announcement BA2018-1 there were 15 applicants who remained in the hiring process. Three of the applicants received a "significant response" during their polygraph examination and were not hired. One applicant, who fully and successfully completed the pre-employment polygraph examination, is pending a final offer of employment and remains in the hiring process. The DEA did not provide information on the hiring outcomes for the 11 other applicants on job announcement BA2018-1 but stated that no other applicants remain in the hiring process from job announcements prior to BA2019-1. In addition, although the DEA provided this information about each of the 15 applicants remaining from job announcement BA2018-1, it has not yet provided the OIG with documentation to support this information.

Moreover, in the preamble to its response to recommendations in Appendix 1, the DEA stated that the hiring of applicants who did not successfully complete the pre-employment polygraph was not contrary to the DEA's March 2019 policy change. The DEA told the OIG that, notwithstanding the prohibition on hiring individuals who had passed a polygraph examination, the 2019 policy was intentionally written to allow the hiring of individuals who were already in the hiring process at the time of the 2019 policy change, even if they had not passed a polygraph examination. The DEA stated that since the policy was effective beginning with Special Agent job announcement number BA2019-1, which was open between December 10, 2018, and March 28, 2019, it was allowed to continue to hire applicants who did not successfully complete the polygraph examination under job announcements prior to BA2019-1. However, the DEA's March 2019 memorandum stated that it would require applicants to successfully complete the polygraph examination consistent with national standards and practices of 27 other federal agencies. While the policy also stated that it was effective with the BA2019-1 job announcement, it did not state whether the DEA was permitted to hire from prior job announcements. Our finding that the DEA continued to use old job announcements—for up to 5 years after the policy changed—to hire individuals who failed the polygraph examination is contrary to the principles of its policy change.

In response to the actions taken to address this recommendation, the DEA stated that it has removed from its polygraph policy the provision exempting applicants from job announcements prior to 2019 and that it will not hire applicants who did not successfully complete the pre-employment polygraph examination. The DEA provided the OIG with its updated Polygraph Screening Policy dated April 2023. The DEA's Human Resources has not yet provided us evidence of its policy requiring applicants for its four core series positions to fully and successfully complete the pre-employment polygraph exam and the controls put in place to ensure applicants who fail or who do not fully complete the polygraph exam are not hired.

This recommendation can be closed when we receive evidence that the DEA has ensured compliance with its policy by no longer hiring applicants for the four core series positions (Special Agent, Intelligence Research Specialist, Diversion Investigator, and Forensic Chemist) who have not fully and successfully completed the pre-employment polygraph examination.

2. Complete the initial efforts to identify the Special Agents and Intelligence Research Specialists, as well as any Diversion Investigators or Forensic Chemists, who did not fully and successfully complete the pre-employment polygraph exam as required by DEA policy.

Resolved. The DEA concurred with our recommendation and stated in its response that it has identified Special Agents, Intelligence Research Specialists, Diversion Investigators, and Forensic Chemists who did not fully and successfully complete the pre-employment polygraph examination as required by DEA policy. The DEA stated that a review of those results is currently on-going.

This recommendation can be closed when we receive evidence that the DEA has completed its review to identify the Special Agents and Intelligence Research Specialists, as well as any Diversion Investigators or Forensic Chemists, who did not fully and successfully complete the pre-employment polygraph exam as required by DEA policy.

3. Mitigate the risks associated with having hired individuals identified in Recommendation 2, including ensuring all such DEA personnel satisfy the polygraph examination requirement when applying for positions within DEA, in accordance with DEA policy.

Resolved. The DEA concurred with our recommendation and stated in its response that it has completed a review of examinees from its polygraph database who were identified as having unsuccessfully completed the pre-employment polygraph examination. The DEA stated that none of the examinees who were identified as unsuccessfully completing the pre-employment polygraph examination were hired into core positions. Additionally, the DEA stated that it provided an analysis documenting its review to the OIG in May 2023, and a review of that analysis is on-going by the DEA to ensure it has identified all such examinees and appropriate mitigation action has been taken.

This recommendation can be closed when we receive evidence that the DEA mitigated the risks associated with having hired individuals identified in Recommendation 2, including ensuring all such DEA personnel satisfy the polygraph examination requirement when applying for positions within DEA, in accordance with DEA policy.

4. Ensure DEA Task Force Officers who have not successfully completed the pre-employment polygraph examination are returned to their parent law enforcement agency, in accordance with DEA policy.

Resolved. The DEA concurred with our recommendation and stated in its response that it has conducted an analysis of Task Force Officers who applied for DEA employment and did not successfully complete a pre-employment polygraph examination. The DEA stated that it identified 4,270 deputized Task Force Officers and provided the list of officers to the Polygraph Unit to determine if any of the Task Force Officers had received an unsuccessful polygraph examination result associated with an application for one of the DEA's four core positions. The DEA stated that nine Task Force Officers were identified as having received an unsuccessful polygraph result after October 25, 2021, when the polygraph policy was established for Task Force Officers. The DEA stated that it is in the process of returning these nine Task Force Officers to their parent agencies.

This recommendation can be closed when we receive evidence that DEA Task Force Officers who have not successfully completed the pre-employment polygraph examination are returned to their parent law enforcement agency, in accordance with DEA policy.

5. Implement clear policy designed to prevent inappropriate influence and potential conflicts of interest in the DEA's pre-employment polygraph process, including a prohibition on anyone with a direct or indirect connection to a candidate for employment contacting the polygraph examiner during the employment process.

Resolved. The DEA concurred with our recommendation and stated in its response that it has established policy governing the Standards of Conduct and Misuse of Official Positions, which are designed to prevent inappropriate influence and potential conflicts of interest. All DEA employees must complete an annual signed certification to attest that they understand the conduct that is expected of them as DEA employees and the potential penalties imposed for breach of those standards.

The DEA also stated that it issued standard operating procedures to prevent inappropriate influence and potential conflicts of interest in the DEA's pre-employment polygraph process. Specifically, polygraph examiners are prohibited from administering a pre-employment polygraph examination to specifically identified categories of applicants where there may be a potential conflict of interest or the appearance of a conflict, including relatives of a current or former DEA supervisor (GS-14 and

above). In such cases, the examination will be administered by the Polygraph Unit Chief or another supervisory-level examiner. Additionally, any attempts by DEA employees to exert influence or pressure upon a polygraph examiner regarding the outcome of any polygraph examination must be reported to the Polygraph Unit Chief immediately. The DEA stated that these standard operating procedures were communicated to the Polygraph Unit in April 2022 and has since been incorporated into the DEA's Polygraph Standard Operating Procedures Handbook. The DEA has not yet provided the OIG with its updated standard operating procedures. The DEA also stated that it is currently reviewing additional steps that may be appropriate to address the recommendation.

This recommendation can be closed once we receive evidence that the DEA has implemented clear policy designed to prevent inappropriate influence and potential conflicts of interest in the DEA's pre-employment polygraph process, including a prohibition on anyone with a direct or indirect connection to a candidate for employment contacting the polygraph examiner during the employment process.