



Audit Report



OIG-18-018

TERRORIST FINANCING/MONEY LAUNDERING

OFAC Human Resources Practices Need Improvement

November 27, 2017

Office of
Inspector General

Department of the Treasury

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Abbreviations

ARC	Bureau of the Fiscal Service Administrative Resource Center
DASHR/CHCO	Deputy Assistant Secretary for Human Resources and Chief Human Capital Officer
e-OPF	electronic Official Personnel Folder
GS	General Schedule
JAMES	Joint Audit Management Enterprise System
OFAC	Office of Foreign Assets Control
OIG	Office of Inspector General
OPM	Office of Personnel Management
SES	Senior Executive Service
SF	standard form
TFI	Office of Terrorism and Financial Intelligence
TN	transmittal number
Treasury	Department of the Treasury

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*The Department of the Treasury
Office of Inspector General*

November 27, 2017

John E. Smith, Director
Office of Foreign Assets Control

This report presents the results of our audit of the human resources practices at the Department of the Treasury's (Treasury) Office of Foreign Assets Control (OFAC). We initiated our audit in response to an allegation we received in January 2015 that claimed, among other things, unethical and unfair hiring practices by OFAC.

Our objective for this audit was to determine whether OFAC conducts its human resources activities in accordance with federal and Treasury requirements and OFAC policies and procedures. To accomplish the objective, we (1) reviewed laws and regulations and Treasury and OFAC policies and procedures related to human resources practices; (2) interviewed management and staff responsible for the hiring process and OFAC employees; and (3) reviewed documentation maintained for recruiting and promotions initiated between October 1, 2013, and March 31, 2015, for personnel at the General Schedule (GS)-13 to GS-15 and Senior Executive Service (SES) levels.

We performed our fieldwork from March 2015 to March 2017. Appendix 1 provides a more detailed description of our audit objective, scope, and methodology.

Results in Brief

Although OFAC human resources activities generally comply with federal and Treasury requirements, some improvements are needed. Specifically, we found that (1) OFAC did not consistently

comply with Treasury guidance for promotions of career ladder¹ “legacy”² employees, (2) promotion potential for career ladder legacy employees was downgraded without a change to the position descriptions, (3) documentation for exceptions to the legacy employee promotion process was inadequate, and (4) the electronic Official Personnel Folders (e-OPF)³ did not include all required documentation.

The January 2015 complaint contained nine allegations, including human resources violations in the hiring and promotions process, inappropriate budget practices, and general cronyism. Our review did not substantiate the allegations; however when legacy employees’ promotion decisions do not follow Treasury policies and procedures and exceptions are not documented, an appearance of favoritism or discrimination may exist. We have summarized the allegations and their dispositions in appendix 2.

We are recommending that the OFAC Director ensure that (1) promotions of legacy employees in career ladder progression are based on an equitable, consistent, and supportable methodology, including alignment with the official Office of Personnel Management (OPM) ratings categories, Treasury and OFAC requirements, and the duties and responsibilities of the employees’ assigned position descriptions; (2) the legacy employees’ current position descriptions are evaluated to ensure that the documented promotion potential of these non-supervisory employees is consistent with OFAC’s current promotion practices; (3) considerations and justifications used for promotions are documented when promotion decisions are inconsistent with established policies; and (4) in coordination with the Office of the Deputy Assistant Secretary for Human Resources and Chief Human Capital Officer (DASHR/CHCO), all required records are included in the official personnel files.

¹ All positions in the federal service are assigned a career ladder. The grade range assigned to a position’s career ladder is a measure of the work typically available in an organization to be performed to accomplish the mission. Noncompetitive career ladder promotions may be given up to the highest grade level in the career ladder.

² Legacy employees are employees hired before 2009 into non-supervisory career ladder positions that started at the GS-9 level with promotion potential to the GS-14 and GS-15 level.

³ The e-OPF system is maintained by the Office of Personnel Management as the electronic version of each federal employee’s official personnel folder.

In a written response which is included in its entirety as appendix 3, OFAC management generally agrees with our recommendations. Management responded that OFAC implemented new career ladder promotion principles in fiscal year 2016 with further guidance finalized in fiscal year 2017 which includes documentation requirements for when employees are not promoted within a career ladder. In addition, management (1) initiated evaluation of legacy employee position descriptions; (2) will document promotion decisions in writing; and (3) will make all appropriate efforts to coordinate with the DASHR/CHCO to ensure that the required records are included in the e-OPFs. OFAC's management response meets the intent of our recommendations, and is summarized in the recommendations sections of this report. Management will need to record the estimated date for completing its planned and completed corrective actions in the Joint Audit Management Enterprise System (JAMES), Treasury's audit recommendation tracking system.

Background

Within Treasury's Office of Terrorism and Financial Intelligence (TFI),⁴ OFAC is a component with responsibilities for administering and enforcing economic and trade sanctions based on United States foreign policy and national security goals against targeted foreign countries and regimes, terrorists, international narcotics traffickers, those engaged in other illegal activities, and other threats to national security, foreign policy, or the economy. These economic sanctions programs seek to disrupt financial and commercial networks by publicly identifying the leadership, participants, and components of illicit organizations, thus denying access to global financial and trade systems.

TFI receives a budget from Treasury and then allocates its budget to its components,⁵ including OFAC. OFAC receives a lump sum

⁴ TFI marshals Treasury's intelligence and enforcement functions with the aims of safeguarding the financial system against illicit use and combating rogue nations, terrorist facilitators, weapons of mass destruction proliferators, money launderers, drug kingpins, and other national security threats.

⁵ TFI's components include the Office of Terrorist Financing and Financial Crimes, the Office of Intelligence and Analysis, Treasury Executive Office for Asset Forfeiture, the Financial Crimes Enforcement Network, and OFAC. Even though the Financial Crimes Enforcement Network reports to TFI, it receives a separate budget from Treasury.

amount to maintain ongoing sanctions programs, salaries, and other expenses. Salary expenses include provisions for promotions and within-grade increases.⁶

Personnel Management

In the Federal Government, OPM has the authority to (1) manage the personnel functions and the Director of OPM may delegate these functions to the heads of executive branch agencies employing persons in the competitive service; (2) establish standards that will apply to the activities of OPM or any delegated agencies; and (3) establish and maintain an oversight program to ensure that personnel management activities are carried out in accordance with the Merit System Principles.⁷

The United States Merit Systems Protection Board is an independent, quasi-judicial agency in the executive branch that serves as the guardian of federal merit systems. The board's mission is to "protect the Merit System Principles and promote an effective federal workforce free of Prohibited Personnel Practices." The Merit System Principles have nine basic standards governing the management of the executive branch workforce to ensure that the Federal Government is able to recruit, select, develop, and maintain a high-quality workforce and thereby reduce staffing costs and improve organizational results. The Prohibited Personnel Practices are specific behaviors that undermine the Merit System Principles and adversely affect the effectiveness and efficiency of the federal workforce.

Treasury Human Resources and Chief Human Capital Officer

Treasury Directive 12-31 delegates the authority of decisions in personnel management matters to the DASHR/CHCO.⁸ The Office of the DASHR/CHCO is responsible for Treasury-wide policy and

⁶ The GS classification and pay system covers the majority of civilian white-collar federal employees in professional, technical, administrative, and clerical positions and has 15 grades. Agencies establish the grade of each job series based on the level of difficulty, responsibility, and qualifications required. Each grade has 10 steps and within-grade or step increases can be given every one-, two-, or three-years.

⁷ 5 U.S.C. § 1104, *Delegation of authority for personnel management* (November 19, 1995).

⁸ Treasury Directive 12-31, *Delegation of Personnel Authority to Deputy Assistant Secretary for Human Resources and Chief Human Capital Officer* (February 5, 2013).

oversight in all areas of human capital management.⁹ In addition, its mission is to develop and manage human capital business practices to help Treasury supervisors, managers, and employees with workforce productivity, diversity, leadership effectiveness, and individual development.

The Office of the DASHR/CHCO is also responsible for implementing Treasury-wide policies governing the creation, development, maintenance, processing, use, dissemination, and safeguarding of personnel records detailed in federal statute.¹⁰ OPM requires agencies to (1) maintain personnel records in the personnel management or personnel policy setting process and (2) recognize the format of the official personnel folder as the official record in either paper or electronic format.¹¹ The e-OPF system should, among other things, be thoroughly documented and able to produce legible paper copies of all records.

In addition, the Office of the DASHR/CHCO maintains OFAC employees' personnel records in the e-OPF system by contracting for services with the Bureau of the Fiscal Service's Administrative Resource Center (ARC). ARC provides, among other things, payroll accounting services, payroll processing, employee benefits services, personnel recordkeeping, position classification services, and staff acquisition services to Treasury offices and other government agencies.

Audit Results

Finding 1 **OFAC's Promotion Process for Certain Career Ladder Employees Needs Improvement**

According to Title 5 of the Code of Federal Regulations, an employee is eligible for a career ladder promotion if his or her overall current rating is "Fully Successful" or higher and no critical

⁹ Human capital management includes employment and staffing, compensation, benefits, executive resources, succession planning, labor and employee relations, workforce development, performance management, diversity management, equal employment opportunity, and other human capital functions.

¹⁰ 5 C.F.R. Part 293 Subpart A – Basic Policies on Maintenance of Personnel Records § 293.101, *Purpose and scope* (November 9, 1979).

¹¹ OPM Operating Manual, *The Guide to Personnel Recordkeeping* (June 1, 2011).

element needed to perform at the next grade level is rated below “Fully Successful”.¹² In addition, Treasury’s *Merit Promotion and Internal Placement Plan* states that career ladder promotions do not require competitive procedures.¹³ Treasury’s Departmental Offices Performance Management Program Handbook further states that performance appraisals must be considered as a basis for career ladder promotions.¹⁴ According to this policy, when it is not possible to promote all eligible employees in the same career ladder at the same time, employees with the highest summary ratings must be given first consideration. While not in writing, a human resources representative from the Office of the DASHR/CHCO told us that summary ratings are the first consideration in a promotion but other factors, such as work available at the next grade level within an employee’s division, are also considered.

For legacy employees’ career ladder promotions, OFAC management did not consistently comply with the Treasury Departmental Offices Performance Management Program Handbook and did not document (1) whether consideration was given to employees with the highest summary ratings when not promoting all eligible employees in the same career ladder at the same time, (2) the justification for not promoting employees with the highest summary ratings, and (3) employee promotion decisions consistent with policies.

Each year, OFAC’s Office of Resource Management¹⁵ maintains a listing with career ladder employees who are eligible for a promotion. Upon receipt of the annual budget, the Office of Resource Management determines the amount available for promotions and allocates it to each office at the Associate Director level based on the percentage of the authorized workforce. The OFAC Associate Directors use the promotion listing to work directly with their subordinate supervisors to recommend employees for promotions. A list is then prepared to prioritize the

¹² 5 C.F.R. § 335.104, *Eligibility for Career Ladder Promotion* (March 11, 1986).

¹³ Treasury Departmental Offices, Office of Personnel Resources, *Merit Promotion and Internal Placement Plan* (May 20, 2002).

¹⁴ Treasury DOP 605, *Departmental Offices Performance Management Program Handbook* (October 1, 2007).

¹⁵ OFAC’s Office of Resource Management provides mission support using the following divisions: Sanctions Support, Information Disclosure and Records Management, Management Programs, and Specially Designated Nationals.

employee promotions and the list is approved by the Deputy Director.

OFAC management told us that supervisors based their promotion determinations on each fiscal year’s budget, work available at the higher grade level within an employee’s division, performance achievements, and the employees’ last promotions. Our review of the fiscal year 2013, 2014, and 2015 Promotion Listings showed that many employees have waited several years for a promotion to the next grade level in the career ladder progression. Using the fiscal years’ promotion listings, we identified all the GS-13 and GS-14 legacy employees and reviewed their performance plans and appraisals. In the three fiscal years, 75 percent or more of eligible employees received “Outstanding” ratings but no more than 36 percent of eligible employees received promotions. For example, in fiscal year 2013, thirty employees were eligible for a promotion and 26 (or 87 percent) received an “Outstanding” rating, but only two (or 7 percent) were promoted. Table 1 summarizes the number of legacy employees eligible for a career ladder promotion each year, the number and percentages of employees who received an overall performance rating of “Outstanding”, and the number and percentages of employees who were promoted.

Table 1. GS-13/14 Legacy Employees Ratings and Promotions

<i>Fiscal Year</i>	<i>Legacy Employees Eligible for Career Ladder Promotion</i>	<i>Legacy Employees Rated Outstanding (Percent)</i>	<i>Eligible Legacy Employees Promoted under Career Ladder Progression (Percent)</i>
2013	30	26 (87%)	2 (7%)
2014	25	23 (92%)	9 (36%)
2015	20	15 (75%)	2 (10%)

Source: OIG analysis

For the promotions listed in Table 1, all employees promoted did not have the highest summary ratings and one non-supervisory sanctions investigator received a promotion with an “Exceeds” performance rating. OFAC officials told us when there are multiple employees eligible for a promotion, managers use discretion and

take into consideration other factors in addition to the employees' performance ratings, including the type of work available at the next grade level and the priorities of the employees' assigned issue area and division.

An OFAC official also told us that employee promotion delays were due to a change in non-supervisory positions and insufficient budget. In 2009, OFAC management decided that the organization could not sustain the number of non-supervisory GS-14 and GS-15 positions with career ladders that started at the GS-9 level (i.e., legacy employees). Consequently, OFAC management realigned the organization, capped non-supervisory positions at the GS-13 level, changed supervisory positions to require competitive selection at the GS-14 and GS-15 levels, and revised position descriptions for new hires. During the realignment, OFAC management exempted legacy employees from the revised position descriptions and maintained their assignments in their career ladder positions at the GS-14 and GS-15 levels as non-supervisory. In addition, OFAC also delayed their career ladder promotions. Furthermore, an OFAC official told us that for legacy employees to be promoted beyond GS-13, they had to be "superstars." However, the "superstars" rating does not coincide with OFAC's, Treasury's, or OPM's current performance ratings of "Fully Successful," "Exceeds," and "Outstanding." An OFAC official also told us that they had completely eliminated promotions to GS-15 for non-supervisory staff. We noted that this change was made even though some legacy employees are still attached to career ladder GS-15 non-supervisory position descriptions.

In regard to insufficient budgets, an OFAC official told us the budget can shift depending on program changes coming from the White House and unforeseen expenses must be taken from the same pool as funds available for payroll. Therefore, OFAC had to adjust its salaries and other expenses, which often resulted in insufficient money for promotions. OFAC budgets were further constrained by cuts due to sequestration,¹⁶ which prevented promotions for all employees eligible for career ladder promotions.

¹⁶ Sequestration is an across-the-board reduction in federal agency budgets. These cuts were triggered when action was not taken to reduce the federal deficit as required under the Budget Control Act of 2011.

We interviewed several OFAC employees and one told us that the promotions process is not consistent, which has created an appearance of favoritism. An OFAC official told us that when OFAC employees complained about being passed over for promotions, their supervisors told them that they would be considered in the following year. However, some employees received career ladder promotions over others at their supervisors' discretion. In fact, 17 employees at GS-13 and above did not receive career ladder promotions in fiscal years 2013, 2014, or 2015 despite receiving "Outstanding" performance ratings. When employees are not promoted using guidance established by policies and expectations of existing position descriptions, and exceptions are not adequately documented, an appearance of unfairness may exist, including favoritism or discrimination. Consequently, OFAC may be vulnerable to legal actions.

When we started our audit, OFAC management told us that they intended to document the principles and guidance for promotions along with other administrative matters. In March 2016, OFAC issued its Career Ladder Promotion Principles and Guidance to formalize its practices for promotions and includes consideration for, among other things, the employee's last performance rating of record. The legacy employee promotions we reviewed were completed in 2013, 2014, and 2015, before the March 2016 guidance was adopted. Because the complaint we received centered on promotions before 2016, we did not review promotions subsequent to the March 2016 guidance.

Recommendations

We recommend that the OFAC Director ensure that:

1. Career ladder promotions of legacy employees are based on equitable, consistent, and supportable methodologies, including alignment with the official OPM ratings categories, Treasury and OFAC requirements, and the duties and responsibilities of the employees' assigned position descriptions.

Management Response

Management responded that OFAC implemented new career ladder promotion principles starting in fiscal year 2016 with further guidance finalized for fiscal year 2017. The guidance documents the requirement established in the Treasury's Departmental Offices Performance Management Program Handbook, that employees with the highest summary ratings must be given first consideration in the event that it is not possible to promote all eligible employees in the same career ladder at the same time. In addition, the new OFAC guidance requires management documentation when employees are not promoted within the career ladder.

With respect to promotions given in fiscal years 2013, 2014, and 2015, OFAC management responded that they exercised appropriate discretion in making career ladder promotion decisions based on all relevant factors, including the employee's performance rating.

OIG Comment

OFAC's implementation of guidance requiring documentation of employees who are not promoted within a career ladder meets the intent of our recommendation. We reviewed the fiscal year 2016 promotion principles which state that employees with the highest summary ratings must be given first consideration in the event that it is not possible to promote all eligible employees in the same career ladder at the same time. However, we have not reviewed the updated guidance requiring documentation when employees are not promoted within a career ladder.

While management stated that they exercised appropriate discretion in promoting the employee with an "Exceeds" performance rating, we believe OFAC should have documented the methodology and justification for promoting an employee with a lower rating. Without the documentation, OFAC is unable to readily support that legacy employees were promoted based on equitable, consistent, and supportable methodologies. OFAC will need to record its corrective actions in JAMES.

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2. Legacy employees' current position descriptions are evaluated to ensure that the documented promotion potential of these non-supervisory employees is consistent with OFAC's current promotion practices.

Management Response

OFAC agrees with the recommendation. OFAC eliminated promotions to the GS-15 level for non-supervisory investigators and compliance officers who encumber the legacy position description. Management responded that only seven legacy employees remain at the GS-14 level and they will be capped at that level as long as they are in a non-supervisory capacity or until they apply for and are selected to positions outside of the legacy position description. In addition, management stated that they have already begun to evaluate the legacy position description and will begin coordinating with Departmental Offices' Office of Human Resources to initiate a formal classification review of the legacy position descriptions pursuant to 5 U.S. Code § 5105- *Standards for Classification of Positions*.

OIG Comment

OFAC's response meets the intent of our recommendation. OFAC will need to record the estimated date for completing its planned corrective actions in JAMES.

3. Considerations and justifications used for promotions are documented when promotion decisions are inconsistent with established policies.

Management Response

OFAC management responded that they exercised appropriate discretion during the period audited and agree that promotion decisions should be adequately documented to avoid any impression that they were not fairly considered. Pursuant to OFAC's new career ladder promotion principles, all decisions must be documented in writing.

OIG Comment

OFAC's documentation requirement meets the intent of our recommendation. However, we have not reviewed the new principles requiring documentation of career ladder promotions. OFAC will need to record its corrective actions in JAMES.

Finding 2 e-OPFs Did Not Include Some Required Documentation

OPM provides guidance to federal agencies on how to prepare personnel actions¹⁷ in accordance with federal statute.¹⁸ OPM also requires that each agency ensure that the e-OPF system, among other things, be thoroughly documented and able to produce legible paper copies of all records.¹⁹ OFAC personnel actions and e-OPF activities are handled by the Office of the DASHR/CHCO.

To address the complaint we received, we reviewed all personnel actions for GS-14, GS-15, and SES positions initiated between October 1, 2013, and March 31, 2015. The 45 personnel actions for 45 employees included 3 new appointments, 13 promotions, 14 reassignments, 2 demotions, and 13 separations. For these personnel actions, we reviewed 37 e-OPF²⁰ records, as well as recruiting records from seven CareerConnector²¹ files to determine OFAC's compliance with (1) OPM and Treasury personnel documentation requirements; (2) timeliness of job announcement processing and closure; and (3) merit system standards and federal promotion program requirements.

¹⁷ OPM Operating Manual, *The Guide to Processing Personnel Actions* (December 23, 2007).

¹⁸ 5 C.F.R. Part 250 Subpart A - Authority for Personnel Actions in Agencies § 250.101 *Standards and requirements for agency personnel actions* (December 27, 2001).

¹⁹ OPM Operating Manual, *The Guide to Personnel Recordkeeping* (June 1, 2011).

²⁰ Eight of the 45 e-OPFs were not available for review due to the OFAC employees' resignation, retirement, or termination.

²¹ CareerConnector is a Treasury online recruiting system that automatically rates and ranks applicants for hiring managers. It is generally used for new appointments, competitive promotions, and reassignments. It provides applicants, human resources practitioners, and managers with a recruiting solution that meets all federal hiring reform requirements. Applicants initially apply for federal jobs at www.usajobs.gov, a website managed by OPM. Then information is transferred to CareerConnector and applicants can check on job closing dates, complete job applications, and obtain the status on any previous applications.

Our review of the e-OPFs and CareerConnector files disclosed that the documentation related to the GS-14, GS-15, and SES personnel actions in the e-OPFs was not sufficient to recreate the personnel decision:

- A Standard Form (SF) 52, *Request for Personnel Action*,²² was not in the e-OPF for 14 of the 37 (or 38 percent) personnel actions.
- One SF 50, *Notification of Personnel Action*,²³ did not include pay plan and other payroll information.

An OFAC staff member told us that ARC is responsible for uploading documents into the e-OPFs. In fact, the Office of the DASHR/CHCO, with contracts through ARC, maintains OFAC employees' e-OPFs. When forms are not uploaded, the e-OPFs are incomplete and an adequate audit trail is not maintained. Consequently, for a new appointment, such documentation may be needed if an unsuccessful job applicant files a complaint.

Recommendation

The OFAC Director should work with the Office of the DASHR/CHCO to ensure that required records are included in the e-OPFs.

Management Response

OFAC agrees that required records should be included in the e-OPFs, but notes that the Office of DASHR/CHCO has the chief and ultimate responsibility for ensuring, through Treasury's shared services provider, that the required records are included in the e-OPFs. As OFAC is not a separate bureau, the OFAC Director has no formal, independent authority to include required documents in, or to properly maintain, the e-OPFs of its employees. In addition,

²² Supervisors and managers use the SF 52 to request (1) position actions, such as the establishment of a new position or the reclassification of an existing position; (2) employee actions, such as the appointment or promotion; and (3) actions involving both a position and an employee, such as the establishment and filling of a position, or the reclassification of a position and reassignment of an employee to the reclassified position.

²³ The SF 50 documents employment events and is generally used as the long-term documentation of personnel actions.

the OFAC Director and management officials have no access to employees' e-OPFs; this is done through the Office of DASHR/CHCO. OFAC management stated that while this is the DASHR/CHCO's responsibility, OFAC will make all appropriate efforts to coordinate with DASHR/CHCO to ensure the accuracy of these records consistent with federal and Treasury policy.

OIG Comment

OFAC's efforts to coordinate with the DASHR/CHCO meet the intent of our recommendation. OFAC will need to record the estimated date for completing its planned corrective actions in JAMES.

* * * * *

We appreciate the cooperation and courtesies extended to our staff during the audit. Major contributors to this report are listed in appendix 4. A distribution list for this report is provided as appendix 5. If you wish to discuss the report, you may contact me at (202) 927-8759 or Brigit Larsen, Audit Manager, at (202) 927-8756.

/s/
Eileen J. Kao
Acting Audit Director

The objective for this audit was to determine whether the Office of Foreign Assets Control (OFAC) conducts its human resources activities in accordance with federal and Department of the Treasury (Treasury) requirements and OFAC policies and procedures.

To accomplish our objective, we identified the legal authorities used by OFAC to conduct its human resource operations. We also reviewed the following laws, regulations, and guidance associated with personnel actions including recruitment, promotions, demotions, reassignments, and separations:

- 5 U.S.C. § 1104, *Delegation of authority for personnel management* (November 19, 1995)
- 5 U.S.C. § 2301, *Merit System Principles* (October 30, 1990)
- 44 U.S.C. Chapter 31, *Records Management by Federal Agencies* (October 21, 1976)
- 5 C.F.R. Part 250 Subpart A – Authority for Personnel Actions in Agencies § 250.101, *Standards and requirements for agency personnel actions* (December 27, 2001)
- 5 C.F.R. Part 293 Subpart A – Basic Policies on Maintenance of Personnel Records § 293.101, *Purpose and scope* (November 9, 1979)
- 5 C.F.R. Part 335 Subpart A – General Provisions § 335.104, *Eligibility for Career Ladder Promotion* (March 11, 1986)
- National Archives and Records Administration General Records Schedule, Transmittal Number (TN) 22 (April 2010)
- Office of Personnel Management’s (OPM) Human Capital Assessment and Accountability Framework, Systems, Standards and Metrics (March 2006)
- OPM Guide to Processing Personnel Actions (December 23, 2007)
- OPM Guide to Personnel Recordkeeping (June 1, 2011)
- Government Accountability Office’s Best Practices and Leading Practices in Human Capital Management

- Government Accountability Office,²⁴ GAO-04-39, *Key Principles for Effective Strategic Workforce Planning* (December 2003)
- Treasury Directive Publication 80-05, *Records and Information Management Manual* (June 27, 2002)
- Treasury Directive 12-31, *Delegation of Personnel Authority to Deputy Assistant Secretary for Human Resources and Chief Human Capital Officer* (February 5, 2013)
- Treasury Departmental Offices, *Office of Personnel Resources, Merit Promotion and Internal Placement Plan* (May 20, 2002)
- Treasury DOP 605, *Departmental Offices Performance Management Program Handbook* (October 1, 2007)
- Secretary of the Treasury's Memorandum, *Diversity and Inclusion Call to Action* (August 27, 2013)
- Secretary of the Treasury's Memorandum, *Equal Opportunity Policy* (September 11, 2014)
- Deputy Assistant Secretary for Human Resources and Chief Human Capital Officer (DASHR/CHCO) Memo TN-10-001, *Management Participation in Alternative Dispute Resolution (ADR) During the Equal Employment Opportunity (EEO) Process* (August 16, 2010)
- DASHR/CHCO Notice TN-04-03, *Dissemination of Equal Employment Opportunity Program Information* (February 14, 2005)
- DASHR/CHCO Bulletin TN-99-01, *Whistleblower Protection Act* (May 5, 1999)
- DASHR/CHCO Memo TN-08-003, *Disciplinary Action for Employees Who Violate Antidiscrimination and Whistleblower Protection Laws* (June 11, 2008)
- OFAC Career Ladder Promotion Principles and Guidance (March 3, 2016)

We interviewed OFAC management and staff and Treasury staff responsible for OFAC personnel actions, including staff from OFAC's Office of Resource Management, the Office of the DASHR/CHCO, and the Bureau of the Fiscal Service's Administrative Resource Center. During these interviews, we

²⁴ In 2004, the GAO's legal name was changed from the General Accounting Office to the Government Accountability Office.

obtained an understanding of the hiring and promotion process and the overall OFAC work environment.

To address the complaint of hiring practices for OFAC leadership positions received by our office, we reviewed all personnel actions for the General Schedule (GS)-14, GS-15, and Senior Executive Service positions initiated between October 1, 2013, and March 31, 2015. The 45 personnel actions for 45 employees included 3 new appointments, 13 promotions, 14 reassignments, 2 demotions, and 13 separations. For these personnel actions, we reviewed 37 electronic Official Personnel Folders (e-OPF), as well as recruiting records from six CareerConnector files. Specifically, we reviewed the e-OPF documentation, including the Standard Form (SF) 50 and SF 52. In CareerConnector, we reviewed job announcement data, position descriptions, job applications, candidate evaluation criteria, and candidate selection data.

In addition, we reviewed information related to the OFAC promotion process for GS-13 and GS-14 employees with career ladder promotion potential, including promotion eligibility data, position descriptions, performance ratings, and promotion budgeting. We also reviewed all Equal Employment Opportunity and No Fear Act complaints that alleged OFAC of unfair practices in the hiring and promotion process. As noted in appendix 2, we did not substantiate any of the anonymous complaint's nine allegations but we found weaknesses in OFAC's process for promotions which are discussed in detail in the report.

We performed our fieldwork from March 2015 to March 2017.

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 2
 Summary of Human Resources Complaints and Results

The table below describes the allegations made in the anonymous complaint and the results based on our audit.

Allegation	Results
Hiring attorneys for non-attorney positions at particular levels	Our review did not substantiate this allegation. Our review disclosed that the Office of Foreign Assets Control (OFAC) hires attorneys, but there is no evidence of a systemic effort to target them, nor is point preference given on job announcements to candidates with a legal background.
Disfavors the promotion of minorities, in lieu of placing former Department of Justice cronies in places of power within the organization	Our review did not substantiate this allegation. While there was one complaint alleging failure to promote based on race discrimination and some employees we interviewed alleged a high level of former Department of Justice employees, we found no evidence of minorities being passed over in favor of former Department of Justice employees.
Hiring a Licensing manager who did not apply or make the cert list	Our review did not substantiate this allegation. The Licensing manager applied for the position and was selected from a list of qualified candidates.
Noncompetitive promotion of an Associate Director to Deputy Director	Our review did not substantiate this allegation. The personnel action was a lateral realignment and did not constitute a promotion on the senior executive service pay scale.
Organizational restructuring without authorization	Our review did not substantiate this allegation. Our review of documents associated with the reorganization showed that the reorganization was authorized by the Department of the Treasury's (Treasury) Departmental Offices.
Widespread government human resources violations through hiring, and promotions, including misuse of the Schedule A authority resulting in a veteran not being hired	Our review did not substantiate this allegation. However, OFAC did not consistently comply with the Treasury Departmental Offices Performance Management Program Handbook when promoting career ladder legacy employees and did not adequately document the promotion process and employee promotion decisions consistent with policies. Finding 1 in the report discusses the promotion process in detail.

Appendix 2
 Summary of Human Resources Complaints and Results

Allegation	Results
<p>Inappropriate budget practices creating an obstacle to noncompetitive, career ladder promotions for non-supervisory staff</p>	<p>Our review did not substantiate this allegation. However, OFAC did not consistently comply with the Treasury Departmental Offices Performance Management Program Handbook when promoting career ladder legacy employees and did not adequately document the promotion process and employee promotion decisions consistent with policies and performance ratings. While budget constraints are challenging and can restrict career ladder promotions, OFAC should promote employees consistent with Treasury policies or document the exceptions to the systematic means of selection for promotion.</p>
<p>Announcing higher promotion potential for positions than the candidate will actually be able to in fact obtain</p>	<p>Our review did not substantiate this allegation. However, OFAC did not consistently comply with the Treasury Departmental Offices Performance Management Program Handbook when promoting career ladder legacy employees and did not adequately document the promotion process and employee promotion decisions consistent with policies. In 2009, OFAC management realigned its organizational structure and capped non-supervisory positions at the General Schedule (GS)-13 level and created supervisory positions at the GS-14 and GS-15 level with new position descriptions. Legacy employees, hired before the realignment, were kept in their original position descriptions and the career ladder promotion to a GS-14 or GS-15. An OFAC official also told us that they had completely eliminated promotions to GS-15 for non-supervisory staff. We noted that this change was made even though some legacy employees are still attached to career ladder GS-15 non-supervisory position descriptions. Finding 1 in the report discusses the promotion process in detail.</p>

Appendix 2
Summary of Human Resources Complaints and Results

Allegation	Results
General Cronyism	Our review did not substantiate this allegation. However, OFAC did not consistently comply with the Treasury Departmental Offices Performance Management Program Handbook when promoting career ladder legacy employees and did not adequately document the promotion process and employee promotion decisions consistent with policies, which may give the appearance of favoritism. Finding 1 in the report discusses the promotion process in detail.

Appendix 3
Management Response



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

November 6, 2017

Kieu Rubb
Audit Director
Office of Inspector General
Department of the Treasury
Washington, D.C. 20220

Dear Ms. Rubb:

Thank you for providing us with an opportunity to comment on the Office of Inspector General's (OIG) formal draft audit report pertaining to *OFAC Human Resources Practices* as received on October 3, 2017. The Office of Foreign Assets Control (OFAC) appreciates the important work of the OIG and your team's willingness to work with OFAC informally as you prepared the draft report. OFAC is pleased to learn that the audit did not substantiate claims of unethical or unfair hiring practices, but also understands there are areas for improvement in making our practices more transparent to all staff. OFAC is committed to continuing to conduct its human resources activities in accordance with federal and Treasury requirements and OFAC policies and procedures. Evidencing this commitment is the issuance of guidance in Fiscal Year (FY) 2016 and FY 2017 that makes OFAC's hiring practices with respect to career ladder promotions more clear. This letter provides our official response to the draft report that focused upon practices that occurred prior to the issuance of the above guidance.

While OFAC generally agrees with several of the recommendations identified in the report, there are areas where OFAC does not fully concur with the OIG's analysis. Our position on each of the recommendations in the draft report is set out below.

As to **Finding 1** (page 5), the recommendations and our responses follow:

OIG Recommendation 1: Career ladder promotions of legacy employees are based on equitable, consistent, and supportable methodologies, including alignment with the official OPM ratings categories, Treasury and OFAC requirements, and the duties and responsibilities of the employees' assigned position descriptions.

OFAC Response: With respect to this first recommendation listed under the report's Finding 1, OFAC implemented new career ladder promotion principles starting in FY 2016 with further guidance finalized for FY 2017 (document provided under separate cover). The principles outlined therein document the requirement, as established in the Treasury's *Departmental Offices Performance Management Program Handbook*, that employees with the highest summary ratings must be given first consideration in the event that it is not possible to promote all eligible

Appendix 3 Management Response

employees in the same career ladder at the same time. In addition, the new OFAC guidance provides that employees who are not promoted within the career ladder must be documented by management.

It is important to note, however, that with respect to fiscal years 2013, 2014, and 2015, OFAC exercised appropriate discretion in making career ladder promotion decisions based on all relevant factors. One such factor, of course, is the employee's performance rating. Consistent with Treasury policy, OFAC uses a four-tiered rating system comprised of the following overall appraisal ratings in ascending order: Unacceptable, Fully Successful, Exceeds Expectations, and Outstanding. Based upon the data reviewed and referenced in Table 1 of the report (page 6), the OIG identified one non-supervisory sanctions investigator (Employee A) who received a promotion with an "Exceeds Expectations" performance rating on or about March 9, 2014, where others promoted within that same office had "Outstanding" ratings. After reviewing data upon which the OIG relied, OFAC management re-reviewed the matter and determined that the supervisor had exercised appropriate discretion in effectuating this career ladder promotion. OFAC determined that Employee A had been benchmarked against another employee (Employee B) who was the only other employee in the same division on the same career ladder. Employee A had remained in the same grade for more than three years before the promotion date and had been eligible for a promotion since August 28, 2011. Meanwhile, Employee B had been last promoted less than a year before the promotion date and was not eligible for another promotion at that time. Given that Employee A had sat in grade the longest, was eligible for promotion, and importantly had made substantial contributions to OFAC, the supervisor used his/her discretion when effecting Employee A's career ladder promotion. As indicated above, OFAC now benchmarks employees across all divisions of an office to provide greater uniformity in application of promotion policy.

OIG Recommendation 2: Legacy employees' current position descriptions are evaluated to ensure that the documented promotion potential of these non-supervisory employees is consistent with OFAC's current promotion practices.

OFAC Response: OFAC agrees with the second recommendation under Finding 1. As the OIG pointed out, OFAC eliminated promotions to the GS-15 level for non-supervisory investigators and compliance officers who encumber the legacy position description referenced in the audit report. Only seven legacy employees remain at the GS-14 level and will be capped at that level as long as they are in a non-supervisory capacity or until they apply for and are selected to positions outside of the legacy position description. OFAC has already begun to evaluate the legacy position description and will begin coordinating with Departmental Offices' Office of Human Resources to initiate a formal classification review of the legacy position descriptions pursuant to 5 U.S. Code § 5105 – *Standards for Classification of Positions*.

OIG Recommendation 3: Considerations and justifications used for promotions are documented when promotion decisions are inconsistent with established policies.

OFAC Response: While OFAC exercised appropriate discretion during the period audited, OFAC agrees that promotion decisions should be adequately documented to avoid any impression that they were not fairly considered. Pursuant to OFAC's new career ladder promotion principles, all decisions must be documented in writing.

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Management Response

As to Finding 2, OIG provided one recommendation: The OFAC Director should work with the Office of the DASHR/CHCO to ensure that required records are included in the e-OPFs.

OFAC agrees that the required records should be included in the e-OPFs, but notes that the Office of DASHR/CHCO has the chief and ultimate responsibility for ensuring, through Treasury's shared services provider, that the required records are included in the e-OPFs. As OFAC is not a separate bureau, the OFAC Director has no formal, independent authority to include required documents in, or to properly maintain, the e-OPFs of its employees. In addition, the OFAC Director and management officials have no access to employees' e-OPFs; this is done through the Office of DASHR/CHCO. As such, this recommendation is inappropriately directed at the OFAC Director, but OFAC will make all appropriate efforts to coordinate with DASHR/CHCO to ensure the accuracy of these records consistent with federal and Treasury policy.

Thank you for the opportunity to review the draft report. We always appreciate your role in providing appropriate oversight and we look forward to continuing to work with your office in the future.

Sincerely,



John E. Smith
Director
Office of Foreign Assets Control

Appendix 4
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United States Senate

Committee on Appropriations
Committee on Foreign Relations
Committee on Homeland Security and Governmental Affairs

U.S. House of Representatives

Committee on Appropriations
Committee on Foreign Affairs
Committee on Oversight and Government Reform



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