



Audit Report



OIG-20-027

RESOURCE MANAGEMENT

Audit of the Department of the Treasury Departmental Offices Executive Pay Adjustments, Bonuses, and Awards

February 5, 2020

Office of Inspector General
Department of the Treasury

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Abbreviations

ARC	Administrative Resource Center
CFR	Code of Federal Regulations

DASHR/CHCO	Office of the Deputy Assistant Secretary for Human Resources and Chief Human Capital Officer
DERB	Department Executive Resource Board
DO	Departmental Offices
EX	Executive Schedule
GAO	Government Accountability Office
OER	Office of Executive Resources
OIG	Office of Inspector General
OMB	Office of Management and Budget
OPM	Office of Personnel Management
OSPPI	Office of Strategic Planning and Performance Improvement
PRB	Performance Review Board
SES	Senior Executive Service
SOP	standard operating procedure
JAMES	Joint Audit Management Enterprise System
Treasury	Department of the Treasury



Audit Report

February 5, 2020

David F. Eisner
Assistant Secretary for Management
Department of the Treasury

This report presents the results of our audit of the Department of the Treasury (Treasury) Office of the Deputy Assistant Secretary for Human Resources and Chief Human Capital Officer's (DASHR/CHCO) processes and practices related to pay adjustments, bonuses and awards¹ for Treasury Departmental Offices (DO)² executives. This audit was included in our fiscal year 2018 annual audit plan. Our audit objective was to determine whether DASHR/CHCO complied with applicable laws, regulations, policies, and procedures when administering pay adjustments and bonuses for Treasury DO executives (hereinafter referred to as Senior Executive Service (SES) members). The scope of the audit included pay adjustments and bonuses authorized for the fiscal year 2016 performance period.

To accomplish our objective, we reviewed DASHR/CHCO's processes and practices related to pay adjustments and bonuses for Treasury DO SES members. Specifically, we conducted interviews with Treasury officials and staff from the Office of Executive Resources (OER), within DASHR/CHCO, responsible for administering performance ratings, pay adjustments, and bonuses for Treasury DO SES members. We reviewed applicable laws, regulations, guidance, policies, and procedures related to SES compensation. We reviewed supporting documentation for all Treasury DO SES members who received bonuses for the fiscal year 2016 performance period, which were approved on

¹ Both bonuses and awards are collectively referred to as bonuses throughout this report.

² DO is Treasury's headquarters bureau responsible for providing leadership in economic and financial policy, financial intelligence and enforcement, and general management. The offices within DO are composed of divisions headed by Assistant Secretaries and Under Secretaries who are primarily responsible for policy formulation and overall management of Treasury.

January 19, 2017. In addition, we reviewed relevant reports and documents—including, but not limited to, Treasury’s recommendations and approvals for proposed performance ratings, pay adjustments and bonuses; performance appraisals and bonus supporting records; Office of Personnel Management’s (OPM) certification of Treasury’s SES performance appraisal system; and Treasury’s data call report submitted to OPM. We conducted our fieldwork from December 2017 through August 2019 in Washington, DC. Appendix 1 contains a detailed description of our objective, scope, and methodology.

Results in Brief

We concluded that OER, within DASHR/CHCO, generally complied with applicable laws, regulations, policies, and procedures when administering performance ratings, pay adjustments, and bonuses for Treasury DO SES members authorized for the fiscal year 2016 performance period. We found that all awardees approved by Treasury’s Deputy Secretary met the bonus eligibility requirements, and Treasury’s aggregate spending on SES performance bonuses did not exceed established thresholds.

However, we also found that DASHR/CHCO’s processes and practices related to pay adjustments and bonuses did not meet all the requirements established in 5 Code of Federal Regulations (CFR)³ 534.404, *Setting and adjusting pay for senior executives*, and 5 CFR 534.405, *Performance awards*. For example, we found that OER did not comply with 5 CFR 534.404 (h)(2), *Setting pay upon transfer*, nor 5 CFR 534.403(a)(3)(b), *Suspension of certification of performance appraisal system*, during a gap in Treasury’s SES performance appraisal system certification. Specifically, we found two instances where the SES rate of basic pay was higher than the rate permitted by Federal regulations during a gap in Treasury’s SES performance appraisal system certification, resulting in overpayments for two individuals.

In addition, we identified weaknesses in Treasury’s processes and practices related to pay adjustments, bonuses and awards. We

³ 5 CFR, *Administrative Personnel*, January 1, 2015. The regulations were revised in January 2018; however, the sections and requirements referred to in this document did not change.

noted (1) DASHR/CHCO has not finalized and approved Treasury's SES Pay and Awards policy; (2) OER did not have standard operating procedures (SOPs) in place detailing the processes and procedures used for administering Treasury DO SES member performance ratings, pay adjustments, and bonuses; nor did they have procedures in place to ensure that there was an adequate and full understanding by SES' supervisors and rating officials regarding exceptions to OPM's 12-month rule relating to pay adjustments;⁴ and (3) OER did not timely submit Treasury's final fiscal year 2016 SES data call report to OPM. In addition, the 2017 data call report did not include 11 individuals who had left Treasury. We were told that the lack of sufficient resources and workforce skills contributed to these weaknesses and the instances of non-compliance with Federal regulations.

We recommend that the Assistant Secretary for Management ensures:

1. DASHR/CHCO and OER develop, implement, and include effective internal controls within its policies and SOPs to ensure Treasury's SES basic pay rates are in compliance with 5 CFR 534.403(a)(3)(b), *Suspension of certification of performance appraisal system*; and 5 CFR 534.404 (h)(2), *Setting pay upon transfer*.
2. DASHR/CHCO and OER calculate the overpayment amounts for the two DO SES members whose pay was set higher than allowed by regulation.
3. DASHR/CHCO and OER seek recovery of the overpayment amounts or exercise the authority to waive any claim in accordance with applicable Federal regulations and Treasury's Directive 34-01, *Waiving Claims Against Treasury Employees for Erroneous Payments*.
4. DASHR/CHCO and OER complete OPM data calls in accordance with OPM's applicable instructions and guidance to ensure all required employees, such as those who have left Treasury, are properly reported.

⁴ The rule does not allow the adjustment of senior executive's rate of basic pay more than once during any 12-month period, without an exception.

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5. DASHR/CHCO assesses staffing levels, workforce skills, and respective budgets to determine whether additional personnel should and can plausibly be incorporated into future strategic planning to ensure OER can meet its goals and mission.
 6. DASHR/CHCO finalizes and approves Treasury's SES Pay and Awards policy, and then periodically reviews it for continued relevance, effectiveness, and transparency in making pay decisions and awarding performance bonuses.
 7. OER documents the processes and SOPs, with appropriate detail, followed in administering Treasury DO SES member performance ratings, pay adjustments, and bonuses.
 8. OER oversees the process regarding exceptions to the 12-month rule.
 9. OER includes information regarding the approval process for waiver requests for exceptions to the 12-month rule in the instructions provided to bureau heads and DO policy offices. This information should be consistent with Federal regulations and Treasury's SES Pay and Awards policy.
 10. OER submits Treasury's respective data call report to OPM by the due dates established by 5 CFR 534.405, *Performance awards*, and before any established deadlines per OPM's annual data call memorandum.

As part of our reporting process, we provided a draft of this report to Treasury to obtain management's views and comments. In a written response, provided in its entirety in appendix 2, management concurred with our findings and recommendations, as well as outlined corrective actions, planned and taken. Specifically, in response to recommendation number 1, DASHR/CHCO will develop, implement, and include effective internal controls within its policies and SOPs to ensure Treasury's SES basic pay rates are in compliance with the applicable regulations. With respect to recommendation numbers 2 and 3, relating to the overpayment amounts for two DO SES members, management stated that DASHR/CHCO has initiated a review with the Administrative

Resources Center (ARC)⁵ to determine the amount of overpayments associated with erroneous pay setting actions during the 2016 lapse in SES performance system certification; and is currently developing a plan for resolving the overpayment issue during Quarter 2 of fiscal year 2020.

In addition, to address recommendation numbers 4 and 5 relating to the completion of OPM data calls in accordance with applicable instructions and guidance, and assessing DASHR/CHCO staffing levels, management responded that OER has shifted staff portfolios to establish a central specialist solely responsible for Treasury's performance, pay and awards program. This position will be held accountable for full compliance with OPM's data call and applicable instructions to ensure all required employees are properly reported. The position will also ensure consistency, compliance with policy and OPM reporting timelines, and greater focus on OER's core performance responsibilities. In response to recommendation number 7, DASHR/CHCO has initiated a Treasury-wide performance process improvement review in collaboration with the Office of Strategic Planning and Performance Improvement (OSPPI) to identify outcomes and craft an improvement plan with specific actions.

Furthermore, in response to recommendation numbers 6, 8, and 9, management responded that: (1) DASHR/CHCO will finalize the Treasury policy for SES Pay and Awards during Quarter 2 of fiscal year 2020, which will include a provision requiring periodic reviews to assess its continued relevance, effectiveness, and transparency in making pay decisions and awarding bonuses; (2) OER will document its responsibility for oversight of the process regarding exceptions to the 12-month rule into the Treasury policy for SES Pay and Awards during Quarter 2 of fiscal year 2020; and (3) OER will include information, consistent with Federal regulations and Treasury's SES Pay and Awards policy, regarding the approval process for waiver requests for exceptions to the 12-month rule in the annual performance management guidance issued to Treasury bureaus and DO policy offices. To address recommendation number 10, management stated that DASHR/CHCO will establish OER accountability for the timely submission of Treasury's

⁵ The Bureau of Fiscal Service's Administrative Resource Center (ARC) is a Federal shared service provider that provides a full range of administrative services for various Federal agencies.

respective data call report to OPM as part of the Treasury SES Pay and Awards policy. Management also responded that absent OPM's annual data call memorandum, which provides agencies with a specific due date and outlines reporting requirements/instructions, Treasury will submit data to OPM per 5 CFR 534.405.

Management's response and corrective actions, taken and planned, meet the intent of our recommendations. We have summarized the response in the recommendation sections of this report. Management will need to record the estimated dates for completing any planned corrective actions as well as the actual date of completed corrective actions in the Joint Audit Management Enterprise System (JAMES), Treasury's audit recommendation tracking system.

Background

The SES performance-based pay system provides authority to agencies in managing their executive resources, including the flexibility for selecting and developing Federal executives within a framework that preserves the larger corporate interests of government. The SES system covers managerial, supervisory, and policy positions classified above the General Schedule 15, which are not required to be filled by Presidential appointment with Senate confirmation. The typical compensation package for career appointed SES members includes salary, bonuses, and additional benefits. The SES pay range has a minimum and maximum rate of basic pay that is set each year by executive order, and is derived from basic pay rate levels established on the Executive Schedule (EX). Pay ranges also depend upon each agency's SES performance appraisal system certification from OPM.⁶ This certification allows agencies to pay SES members a higher pay range and aggregate limitation per individual. Agencies must demonstrate that their appraisal system(s) makes meaningful distinctions based on relative

⁶ EX is the basic pay schedule for senior political official positions other than SES positions and positions in the Federal Bureau of Investigation and Drug Enforcement Administration SES. The EX schedule covers positions such as secretaries; under secretaries, deputy secretaries, and assistant secretaries; and a number of other key officials (e.g., certain general counsels and bureau directors).

performance and meet specific certification criteria established by OPM.

Agencies are required by statute⁷ to implement and fund a SES performance bonuses program. In general, performance bonuses to career appointed SES members are based on their performance during the most recently completed appraisal period. However, all pay adjustments and bonuses are discretionary and are not required or guaranteed, regardless of rating level. Agency heads approve performance pay adjustments and bonuses based on final summary ratings following recommendations by their agency Performance Review Boards (PRB). For the fiscal year 2016 performance period, there were 70 bonuses awarded to Treasury DO SES members totaling nearly \$990 thousand, and 60 approved pay adjustments totaling approximately \$230 thousand.

Roles and Responsibilities

5 CFR 534.404, *Setting and adjusting pay for senior executives*, requires agencies to designate authorized agency officials to set and adjust SES rates of basic pay. The Deputy Secretary of Treasury is the designated agency official for Treasury; also known as the appointing authority.⁸ Among other responsibilities, the Deputy Secretary is responsible for the following: (1) ensuring the overall assessment of agency performance; (2) certifying that the SES appraisal system⁹ makes meaningful distinctions based on individual performance; (3) ensuring the appraisal system takes into account organizational accomplishments, as measured through comparison to program goals, and that subsequent performance-based pay decisions accurately reflect and recognize individual performance and/or contributions to agency performance; (4) making SES pay determinations that require approval by the agency head designee performing the assessment and oversight

⁷ 5 U.S.C. 5384 – *Performance Awards in the Senior Executive Service*

⁸ Treasury Order 102-01, *Delegation of Authority Concerning Personnel Management*, states that when no one is performing the duties of the Deputy Secretary, the Assistant Secretary for Management is authorized to perform these responsibilities.

⁹ According to 5 CFR 430.203, *Definitions*, appraisal system means a framework of policies and parameters established by an agency, as defined at 5 U.S.C. 4301(1), for the administration of performance appraisal programs under subchapter I of chapter 43 of 5 United States Code, and the “Subpart B—Performance Appraisal for General Schedule, Prevailing Rate, and Certain Other Employees.”

functions; and (5) approving, on an annual basis, Treasury's SES members' final performance ratings, performance-based pay adjustments, and bonuses.¹⁰

DASHR/CHCO is responsible for department-wide policy and oversight in all areas of human capital management. Among other responsibilities, the office establishes policies and procedures for setting and adjusting the SES basic pay, and for granting bonuses to SES members. OER, within DASHR/CHCO, administers Treasury's SES bonuses program. OER is responsible for providing expert guidance and leadership to Treasury-wide human resources executive resources programs. This includes policy development, administration and oversight, advice to Treasury management officials and bureaus on executive resources program matters, and implementation of Treasury-wide executive resources programs. The office also provides a full range of human resources services within DO such as, but not limited to, assistance with SES employment, compensation, performance management and bonuses, and reporting of related data.

SES Performance Appraisal System Certification

Before an agency may apply a higher pay range and individual aggregate limitation, Federal regulations require agencies' SES performance appraisal system(s) to be certified by OPM, with Office of Management and Budget (OMB) concurrence, for making meaningful distinctions based on relative performance.¹¹ Without a certified SES performance appraisal system, the SES pay range is a minimum rate of basic pay equal to 120 percent of the rate for General Schedule 15, step 1, and a maximum rate up to EX level III.^{12, 13} Additionally, there is a calendar year aggregate

¹⁰ Sarah Bloom Raskin served as Treasury's Deputy Secretary during the administration of performance ratings, pay adjustments, and bonuses for Treasury DO SES members authorized for the fiscal year 2016 performance period.

¹¹ 5 CFR 430.403, *System certification*

¹² 5 CFR 430.405, *Procedures for certifying agency appraisal systems*

¹³ Executive Order 13715, *Adjustments of Certain Rates of Pay*, announced the pay adjustments to statutory pay systems for 2016. There are five pay levels within the EX, which included EX level I, \$205,700; EX level II \$185,100; EX level III \$170,400; EX level IV \$160,300; and EX level V \$150,200. The salary of the Vice President of the United States was \$237,700.

compensation limit per individual which is equal to the EX level I.¹⁴ Certification of an agency's SES appraisal system allows agencies to pay their SES members above EX level III, up to EX level II, and provide overall compensation up to the higher aggregate limit equivalent to the salary of the Vice President of the United States during a calendar year.

OPM, with OMB concurrence, will certify an agency's appraisal system(s) only when a review of the agency's system(s) design, application, and administration reveals that the agency meets certification criteria and has followed required procedures for certifying agency appraisal systems.¹⁵ OPM, with OMB concurrence, may grant the agency either full (24 months) or provisional (12 months) certification of the agency's performance appraisal system. The SES members' authorization for higher rates of basic pay, pay adjustments, and bonuses become effective upon agencies receiving OPM's certification.

OER's Administration of Treasury SES Members' Performance Ratings, Pay Adjustments, and Bonuses

The process for the administration of performance ratings, pay adjustments, and bonuses for Treasury SES members, which includes DO, begins by DASHR/CHCO issuing an instructions memorandum to bureau heads and DO policy offices. The instructions memorandum provides guidance regarding the transmission of SES members proposed performance ratings, pay adjustments, and bonuses to OER, within DASHR/CHCO, for review and the Deputy Secretary's final approval. The instructions memorandum is finalized once OPM and OMB issue the performance award guidance on awards for SES members; and the President's executive order(s) announcing any pay adjustments,

¹⁴ 5 CFR 530.202, *Subpart B—Aggregate Limitation on Pay*, defines aggregate compensation as the total of basic pay, and certain payments such as the following: incentive and performance awards; physicians' comparability allowances; recruitment, relocation, and retention incentives; and other similar payments.

¹⁵ 5 CFR 430.404, *Certification criteria* and 430.405, *Procedures for certifying agency appraisal systems*, establish specific certification criteria and procedures for certifying agency appraisal systems.

and any applicable spending limitations are issued.¹⁶ The instructions memorandum provides the timeline, parameters for decisions, and required procedures to follow in requesting the Deputy Secretary's final approval of performance ratings, pay adjustments, and bonuses for all SES members in Treasury.

The following is a general description of the typical SES pay adjustments and bonuses processes:

- Treasury bureaus prepare and communicate initial summary ratings to SES members and ensure that SES members either sign their performance ratings and/or request the opportunity for a higher-level review.
- Bureau officials convene with their respective PRBs¹⁷ to review and consider proposed performance ratings, pay adjustments, and bonuses for all SES members, excluding top officials. For top officials (bureau heads and general counsel deputies), bureaus are required to submit signed performance appraisals, with pay adjustment and bonus recommendations, to OER for review by a Top Officials' PRB.¹⁸
- After bureaus heads consider their PRB's recommendations, they certify and submit performance ratings, pay adjustments, and bonuses via a spreadsheet to OER for the Deputy Secretary's review and approval. Bureaus must also provide written certifications stating that they have considered organizational performance, held SES members accountable, and have made meaningful distinctions in performance.

¹⁶ Executive Order 13714, *Strengthening the SES*, announced that starting in fiscal year 2017, agencies should limit their aggregate spending on agency performance awards for SES and Senior Level and Senior Scientific or Professional employees to 7.5 percent of aggregate SES and Senior Level and Senior Scientific or Professional employees' salaries, respectively.

¹⁷ 5 CFR 430.311, *Performance Review Boards*, requires that each agency must establish one or more PRBs to make recommendations to the appointing authority on the performance of its SES members. The PRB must make a written recommendation to the appointing authority about each SES member's annual summary rating.

¹⁸ The Top Officials PRB is comprised of Treasury bureau heads and general counsel deputies, and is chaired by the Assistant Secretary for Management. The Top Officials PRB performs the same review and recommendation process as the DO PRB, but for the performance ratings of Treasury-wide top-official SES members (other bureau heads and general counsel deputies). PRB members may not participate in deliberations involving themselves or their supervisors or subordinates.

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- Upon concurrence with bureau performance ratings, pay adjustments, and bonuses, OER prepares a summary spreadsheet combining this information for Treasury SES members; the combined spreadsheet is then provided to the Department Executive Resource Board (DERB) for review. DERB reviews Treasury-wide SES performance data and certifies a recommendation to the Deputy Secretary for review and approval. During this process, DERB ensures that rating distinctions are made, pay and bonus recommendations are linked to ratings, and recommendations are consistent with organizational performance results.
 - Upon the Deputy Secretary's approval, bureaus are subsequently notified and authorized to proceed with the processing of the pay adjustments and bonuses. For DO offices, OER coordinates with DO's budget office to obtain accounting information and submits a final spreadsheet to ARC to process the payment action.
 - Once ARC processes the payment of final SES performance pay adjustments and bonuses, OER submits to OPM the required annual reporting data of SES performance ratings, pay adjustments, and bonuses.

Audit Results

We found that OER, within DASHR/CHCO, generally complied with applicable laws, regulations, policies, and procedures when administering performance ratings, pay adjustments, and bonuses for Treasury DO SES members for the fiscal year 2016 performance period. As part of our audit testing, we reviewed all proposed performance ratings, pay adjustments, and bonuses for the 80 Treasury DO SES members included in the recommendation package sent to Treasury's Deputy Secretary for approval to determine pay adjustment and/or bonus eligibility.¹⁹ There were 70 proposed and approved bonuses, and 60 proposed and approved pay adjustments for Treasury DO SES members. We determined that all 70 bonus recipients met bonus eligibility requirements, and

¹⁹ 5 CFR 534.404, 530.404, and 534.405 (a) through (f), establish criteria for payment of performance awards to career appointees in the SES system.

that all 60 pay adjustment recipients met pay adjustment eligibility requirements.²⁰

The remaining 10 of the 80 Treasury DO SES members were included in the recommendation package; however, they were only being proposed for performance ratings and/or pay adjustments and not for bonuses. We confirmed that these 10 SES members did not meet the bonus eligibility requirements and/or left Treasury before the Deputy Secretary's final approval. We were told that two SES members had left Treasury subsequent to the fiscal year 2016 performance period. Although these SES members met the bonus eligibility requirements, they were not proposed for bonuses based on the discretion of their respective managers. We determined that the managers' discretion was within guidelines.

In addition, we determined that Treasury's aggregate spending on SES performance bonuses did not exceed established statutory thresholds. We also verified that the SES members' total aggregate compensation received for calendar year 2017, did not exceed the rate of pay of the total salary of the Vice President of the United States in 2017.²¹

We also found that OER communicated with Treasury bureau heads and policy offices regarding SES performance close out instructions and guidance for transmitting respective SES ratings, pay adjustments, and bonus recommendations for Treasury's approval process. Also, OER's procedures for administering performance ratings, pay adjustments, and bonuses for Treasury SES members, which includes DO, included the required levels of review from the appropriate PRBs before they were approved by the Deputy Secretary.

However, as discussed below in finding 1, we noted OER did not comply with 5 CFR 534.404 (h)(2), *Setting pay upon transfer*, or 5 CFR 534.403(a)(3)(b), *Suspension of certification of performance appraisal system*. We found two instances where the SES rate of basic pay was higher than the rate permitted by these Federal

²⁰ 5 CFR 430.304, *SES performance management systems*, and 534.405, *Performance awards*, and DASHR/CHCO instructions memorandum, establish criteria for pay adjustment eligibility requirements.

²¹ 5 CFR 530.203, *Administration of aggregate limitation on pay*

regulations during a gap in Treasury's SES performance appraisal system certification.

In addition, as discussed below in findings 2 and 3, we identified weaknesses in Treasury's processes and practices related to pay adjustments, bonuses and awards. Specifically, we noted (1) DASHR/CHCO has not finalized and approved Treasury's SES Pay and Awards policy; (2) OER did not have SOPs in place detailing the processes and procedures used for administering Treasury DO SES member performance ratings, pay adjustments, and bonuses; and (3) OER did not timely submit Treasury's final fiscal year 2016 SES data call report to OPM.

Finding 1

SES Rate of Basic Pay Was Higher than the Rate Permitted by Federal Regulations During a Gap in Treasury's SES Performance Appraisal System Certification

During the audit, we identified that two new SES members were paid higher than the rate of basic pay permitted by Federal regulations when there was a gap in Treasury's certification. Per 5 CFR 430.405, and as mentioned above, a SES member has a maximum pay range up to EX level II when an agency's SES performance appraisal system is certified, and a maximum pay range up to EX level III if the system is not certified. For 2016, the maximum SES pay range for agencies with certified SES performance appraisal systems was \$185,100; and for agencies without certified SES performance appraisal systems was \$170,400.

We noted that Treasury had a gap in certification in 2016;²² and therefore, the maximum SES pay cap from July 8, 2016 through December 2016 should have been \$170,400. We identified two Treasury DO SES members appointed to Treasury as SES members during Treasury's gap in certification that were paid salaries of \$183,082 and \$173,258, respectively, which were higher than the

²² Treasury had provisional OPM certification for calendar years 2015, 2016, and 2017. However, for calendar year 2016, Treasury received an extension of its 2015 provisional certification; the extension expired on July 7, 2016. As a result, Treasury had a gap in certification from July 8, 2016 to January 10, 2017.

rate of pay EX level III cap of \$170,400 for non-certified appraisal systems.²³ One of the two Treasury DO SES members transferred from another Federal agency; the other SES member joined Treasury from a position outside the Federal government.

Per Federal regulations, a SES member whose rate of basic pay is higher than the rate of EX level III may not suffer a reduction in pay under certain circumstances. Specifically, 5 CFR 534.403(a)(3)(b), *Suspension of certification of performance appraisal system*, states:

A senior executive whose rate of basic pay is higher than the rate for level III of the Executive Schedule may not suffer a reduction in pay because his or her agency's applicable performance appraisal system certification is suspended under 5 CFR 430.405(h)". The senior executive will continue to receive his or her current SES rate and is not eligible for a pay adjustment until the senior executive is assigned to a position that would allow the employee to receive a pay adjustment or until certification of the employing agency's applicable performance appraisal system is reinstated under 5 CFR part 430, subpart D.

In addition, 5 CFR 534.404 (h)(2), *Setting pay upon transfer*, states:

A senior executive whose rate of basic pay is higher than the rate for level III of the Executive Schedule may not suffer a reduction in pay as a result of transferring to an agency where the maximum rate of basic pay for the applicable SES rate range is equal to the rate for level III of the Executive Schedule.

Therefore, it would have been appropriate for the DO SES member transferring to Treasury to maintain her previous salary because she transferred from another Federal agency; however, as discussed further below, the DO SES member obtained an increase above her previous salary. Relating to the other DO SES member, she joined Treasury from a position outside of the Federal

²³ 5 CFR 534.503, *Definitions*, states that the term "not certified" refers to a performance appraisal system that does not have certification, or for which a previously granted certification has expired or is suspended under §430.405(h).

government and; therefore, was ineligible and should not have been paid above the EX level III cap during Treasury's gap in certification.

As stated above, we also noted that the previous salaries of the two Treasury DO SES were already higher than the cap of \$170,400; however, these individuals obtained salary increases upon joining Treasury. More specifically, the SES member that transferred from another Federal agency had her pay set at \$183,082, which is \$5,333 (3 percent) higher than her previous salary of \$177,749. The Treasury DO SES member that came from a position outside the Federal government had her pay set at \$173,258, which was also higher than her previous salary of \$171,543.

As a result, based on the number of pay periods they worked during the gap in certification, the two DO SES members received improper payments²⁴ (i.e., overpayments or claims) totaling an estimated \$2,550. Pursuant to Federal law, the head of an agency "shall try to collect a claim of the United States Government for money or property arising out of activities of, or referred to, the agency".²⁵ The agency may waive claims of the United States against a person arising out of an erroneous payment of pay only if collection would be against equity and good conscience and not in the best interests of the United States.²⁶

According to Treasury's Directive 34-01, *Waiving Claims Against Treasury Employees for Erroneous Payments*, dated April 22, 2015, DASHR/CHCO should:

- promptly notify an employee upon discovery of an erroneous payment to that employee;
- promptly act to collect the erroneous overpayment following established debt collection policies and procedures;

²⁴ An improper payment is defined as any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements.

²⁵ 31 U.S.C. 3711, *Collection and compromise*

²⁶ 5 U.S.C. 5584(a), *Claims for overpayment of pay and allowances, and of travel, transportation and relocation expenses and allowance*

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- establish reasonable time frames for employees to request a waiver in writing and for the deciding officials to review the waiver request; and
 - notify an employee whose request for waiver of claim is denied, in whole or in part, of the basis for the denial and the right to appeal the denial.

These procedures were not followed by the DASHR/CHCO or OER. When asked, an OER official acknowledged that these events were unintentional oversights made by management. The OER official stated that in both cases, the SES members were well into the SES recruiting process when the pay setting action requests were approved during Treasury's gap in certification. During this time, OER experienced a major reorganization which included leadership turnover. The OER official stated that during the leadership turnover, OER's Treasury-wide Policy and Operations functions merged and the Executive overseeing the combined function retired. Also, the OER official stated that there were skill gaps and challenges blending the two OER functions, resulting in a broader scope of responsibility and increased duties for OER's staff that was already under-resourced.

The OER official stated there was a void in leadership from April 2016, until the time when the new Associate Chief Human Capital Officer was appointed in July 2016. The OER official further stated that OER's major focus and priority during that time period, was to gain certification approval prior to the Deputy Secretary's final decision on SES performance and the departure of leadership as a result of the Presidential transition.

In addition, we noted that one of the two DO SES members was not included on the fiscal year 2017 data call report to OPM, as required. According to OPM's instructions for completing the data call reports,²⁷ the report should have included SES members covered by the appraisal system during the appraisal period being reported on. Furthermore, the instructions state to include individuals who retired or left the agency during the appraisal period, as well as their effective dates of departure. The individual was one of 11 DO SES members who had left Treasury, but who

²⁷ OPM, *Instructions for Completing the FY 2017 OPM Data Call for Senior Executive Service (SES) Ratings, Pay and Awards*

were not included in the fiscal year 2017 data call report to OPM. An OER staff member stated these members were inadvertently left off the report. With that said, if the individual who had received the overpayment had been included on the fiscal year 2017 data call report to OPM, OPM would have at least been made aware of the overpayment.

We also noted that DASHR/CHCO's Treasury-wide Policy for SES Pay and Awards did not contain guidance specifically related to pay adjustment eligibility during a gap in an agency's SES performance appraisal system certification. Without updated policies and procedures, there may be an increased risk of management oversight in setting and adjusting SES members' basic pay.

Recommendations

We recommend that the Assistant Secretary for Management ensures:

1. DASHR/CHCO and OER develop, implement, and include effective internal controls within its policies and SOPs to ensure Treasury's SES basic pay rates are in compliance with 5 CFR 534.403(a)(3)(b), *Suspension of certification of performance appraisal system*; and 5 CFR 534.404 (h)(2), *Setting pay upon transfer*.

Management Response

Management concurred with our recommendation and stated that DASHR/CHCO will develop, implement, and include effective internal controls within its policies and SOPs to ensure Treasury's SES basic pay rates are in compliance with 5 CFR 534.403(a)(3)(b), and 5 CFR 534.404(h)(2).

Office of Inspector General (OIG) Comment

Management's response and planned corrective action meet the intent of our recommendation. Management will need to record the estimated date for completing its planned corrective actions in JAMES, Treasury's audit recommendation tracking system.

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2. DASHR/CHCO and OER calculate the overpayment amounts for the two DO SES members whose pay was set higher than allowed by regulation.

Management Response

Management concurred with our recommendation and stated that DASHR/CHCO has initiated a review with ARC to determine the amount of overpayments associated with erroneous pay setting actions during the 2016 lapse in SES performance system certification.

OIG Comment

Management's response and corrective action it has begun taking meet the intent of our recommendation. Management will need to record the estimated date for completing its corrective action in JAMES, Treasury's audit recommendation tracking system.

3. DASHR/CHCO and OER seek recovery of the overpayment amounts or exercise the authority to waive any claim in accordance with applicable Federal regulations and Treasury's Directive 34-01, *Waiving Claims Against Treasury Employees for Erroneous Payments*.

Management Response

Management concurred with our recommendation and stated that DASHR/CHCO is currently developing a plan for resolving the issue during Quarter 2 of fiscal year 2020.

OIG Comment

Management's response and corrective action it has begun taking meet the intent of our recommendation. Management will need to record the estimated date for completing its corrective action in JAMES, Treasury's audit recommendation tracking system.

4. DASHR/CHCO and OER complete OPM data calls in accordance with OPM's applicable instructions and guidance to ensure all

required employees, such as those who have left Treasury, are properly reported.

Management Response

Management concurred with our recommendation and stated that OER has shifted staff portfolios, establishing a central specialist solely responsible for Treasury's performance, pay and awards program. This position will be held accountable for full compliance with OPM's data call and applicable instructions to ensure all required employees are properly reported.

OIG Comment

Management's response and taken corrective action meet the intent of our recommendation. Management will need to record the actual date of its corrective action in JAMES, Treasury's audit recommendation tracking system.

5. DASHR/CHCO assesses staffing levels, workforce skills, and respective budgets to determine whether additional personnel should and can plausibly be incorporated into future strategic planning to ensure OER can meet its goals and mission.

Management Response

Management concurred with our recommendation and stated that OER has shifted staff portfolios to establish a central specialist solely responsible for Treasury's performance, pay and awards program to ensure consistency, compliance with policy and OPM reporting timelines, and greater focus on OER's core performance responsibilities.

OIG Comment

Management's response and taken corrective action meet the intent of our recommendation. Management will need to record the actual date of its corrective action in JAMES, Treasury's audit recommendation tracking system.

Finding 2**Lack of Finalized Treasury-wide Policy for SES Pay and Awards or Documented OER SOPs**

During the audit, and as discussed further below, we found that DASHR/CHCO has not finalized Treasury's Policy for SES pay and awards. In addition, we found that OER did not have documented SOPs in place for administering Treasury DO SES member performance ratings, pay adjustments, and bonuses. The Government Accountability Office's (GAO) *Standards for Internal Control in the Federal Government*,²⁸ states:

Management documents in policies for each unit its responsibility for an operational process's objectives and related risks, and control activity design, implementation, and operating effectiveness. Each unit, with guidance from management, determines the policies necessary to operate the process based on the objectives and related risks for the operational process. Each unit also documents policies in the appropriate level of detail to allow management to effectively monitor the control activity.

Those in key roles for the unit may further define policies through day-to-day procedures, depending on the rate of change in the operating environment and complexity of the operational process. Procedures may include the timing of when a control activity occurs and any follow-up corrective actions to be performed by competent personnel if deficiencies are identified. Management communicates to personnel the policies and procedures so that personnel can implement the control activities for their assigned responsibilities.

Management periodically reviews policies, procedures, and related control activities for continued relevance and effectiveness in achieving the entity's objectives or addressing related risks. If there is a significant change in an entity's process, management reviews this process in a

²⁸ GAO, *Standards for Internal Control in the Federal Government, Principle 12 – Implement Control Activities* (GAO-14-704G, September 2014)

timely manner after the change to determine that the control activities are designed and implemented appropriately.

DASHR/CHCO's Treasury-wide Policy for SES Pay and Awards Has Not Been Finalized

As of December 2018, we noted Treasury's SES Pay and Awards policy was not finalized. The policy is essential because it includes the following: (1) a plan for setting and adjusting the rates of basic pay for SES members and the departmental policy for SES awards, and (2) Treasury offices' roles and responsibilities, as well as general requirements and certain procedures for the processing of SES pay adjustments and bonuses. The plan within the policy is required to be established by Treasury in accordance with 5 CFR 534.404 (g), *Agency plan for setting and adjusting SES rate of basic pay*. We noted that OER, within DASHR/CHCO, drafted the policy in 2013 to combine various pay policies, but did not finalize it during that time frame or subsequently during fiscal years 2016 and 2017 when updates were made.²⁹ When we inquired as to why the policy has not been finalized, an OER official explained that the draft policy has been pending review by DASHR/CHCO's senior management since fiscal year 2013.

The plan includes the policies and criteria used to set and adjust a senior executive's rate of basic pay;³⁰ the designation of the authorized agency official; and the administration and management controls that Treasury applied to ensure compliance with statutes, regulations, and certification requirements. Furthermore, as mentioned above, if a pay plan is not accepted by OPM as part of the performance appraisal system certification review process, SES members cannot be granted a higher pay rate.

Although Treasury obtained OPM's certification without a finalized policy, it is essential that the policy be finalized to promote effective management through a transparent, performance-based pay plan that: (1) makes meaningful pay distinctions among SES members based on relative performance; and (2) ensures that those who demonstrate the highest levels of individual performance

²⁹ The updates related to clarifying the Deputy Secretary's role, reflecting new percentage ranges for awards, and preventing overlaps in preexisting percentage ranges for awards.

³⁰ 5 CFR 534.404 (g), *Agency plan for setting and adjusting SES rate of basic pay*

and/or greatest contributions to agency performance receive the highest rates of basic pay or pay adjustments in a calendar year. In addition, the plan should be periodically reviewed for continued relevance, effectiveness, and transparency in making pay decisions and performance awards. It also helps ensure that a standardized and reasonable process is followed in the administration of performance ratings, pay adjustments, and bonuses.

OER Did Not Have Documented SOPs

We found that OER did not have SOPs in place detailing the processes and procedures used for administering Treasury SES member performance ratings, pay adjustments, and bonuses; this includes DO SES members. An OER official told us that there are no formal or documented policies and procedures for managing and authorizing Treasury's SES bonus process because OER staff are familiar with the procedures and process. With approximately five staff members within OER, the official further added that OER does not have the staff resources needed to draft the procedures.

The SOPs for administering Treasury DO SES member performance ratings, pay adjustments, and bonuses process should be documented with appropriate detail to allow management to effectively monitor the process. Without consistent and documented policies and procedures, there may be: (1) a lack of standardization in the procedures used to administer Treasury DO SES member performance ratings, pay adjustments, and bonuses; (2) a lack of staff knowledge of the processes, especially if a staff member leaves the organization; and (3) increased risk of errors in processing pay adjustments and bonuses.

For example, an OER official told us that OER does not have procedures in place to maintain and track the receipt of bureau certifications, which are needed to help ensure certification requirements of Treasury's SES performance appraisal system discussed above are met. This contributed to OER being unable to provide certifications for 3 of 8 DO policy offices. The official told us that the certifications could not be located and may have been added to the clearance review package sent to the Deputy Secretary. By the end of audit fieldwork, OER was still unable to locate the requested certifications.

Additionally, we found that OER did not fully obtain documentation of the Deputy Secretary's approval for management decisions regarding SES performance ratings, adjustments, bonuses and awards that were requested by OER. An OER official stated that was because there are no standard procedures used to obtain the Deputy Secretary's approval. Also, the action memorandum for fiscal year 2016 proposed performance ratings, pay adjustments, and bonuses for Treasury SES members lacked the Deputy Secretary's official signature or initials. The Federal Records Act, section 3101, *Records Management by Agency Heads*, states:

The head of each Federal agency shall make and preserve records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency and designed to furnish the information necessary to protect the legal and financial rights of the Government and of persons directly affected by the agency's activities.

In addition, Treasury Directive 80-05, *Records and Information Management Program*, states:

Bureaus shall establish records management programs and ensure that such programs are effectively and efficiently managed in compliance with federal laws, regulations, and policies.

It is essential that approvals and authorizations made by the Deputy Secretary regarding Treasury personnel are appropriately documented and clearly communicated by OER to properly execute and provide transparency of the overall approval process.

Furthermore, we noted that there were no procedures in place to ensure that there was an adequate and full understanding by the SES' supervisors and rating officials regarding exceptions to OPM's 12-month rule. The rule does not allow the adjustment of senior executive's rate of basic pay more than once during any 12-month period, without an exception.³¹ Specifically, we noted that three

³¹ 5 CFR 534.404(6)(c), *12-month rule*, states that an authorized agency official may adjust the rate of basic pay of a senior executive not more than once during any 12-month period. There are exceptions to this rule that are described in 5 CFR 534.404(6)(c)(3) and (4) relating to prescribed limits.

Treasury SES members were subject to the 12-month rule during the fiscal year 2016 performance period. All three SES members were appointed to the SES during a similar time frame in fiscal year 2016, and all met minimum performance rating requirements established for receiving a pay adjustment.

Documentation obtained confirmed that 1 of the 3 above-mentioned Treasury DO SES members, was proposed and approved for a 12-month rule exception; however, the two remaining Treasury DO SES members were not proposed for a 12-month rule exception by their respective supervisor or rating official. Furthermore, the exception was approved based on merit and performance; however, the SES member who was approved for the exception received a lower performance rating than 1 of the other 2 members.

When asked, an OER official stated that waiver requests for exceptions to the 12-month rule are proposed by a SES member's supervisor or rating official, reviewed by the PRB, and then submitted for approval by the Deputy Secretary. However, with several supervisors throughout Treasury and the potential lack of awareness of the exceptions, there is potential of inconsistent consideration and application of the exceptions. Therefore, procedures should be put in place for OER to oversee the process to help ensure consistent consideration of the exceptions to the 12-month rule throughout Treasury, which includes DO SES members. The procedures could include OER confirming that the respective supervisors are aware of these exceptions, as well as OER reviewing the initial summary of proposed performance ratings, pay adjustments, and bonuses recommendations submitted by the bureaus/offices for consistent consideration of the exception.

We also noted that close-out instructions and guidance for transmitting SES ratings, pay adjustments, and bonus recommendations, provided by OER to Treasury bureau heads and DO policy offices, did not contain guidance regarding exceptions to the 12-month rule. Therefore, DO SES member supervisors and rating officials may have not been aware of the opportunity to request the exceptions to the 12-month rule on behalf of their employees. Although inclusion of this information in an instructions memorandum does not guarantee that a SES member would have

been proposed for a 12-month rule exception by their supervisor or rating official, it is essential that all information, including rules and exceptions, regarding the overall approval process, is clearly communicated.

Recommendations

We recommend that the Assistant Secretary for Management ensures:

6. DASHR/CHCO finalizes and approves Treasury's SES Pay and Awards policy, and then periodically reviews it for continued relevance, effectiveness, and transparency in making pay decisions and awarding bonuses.

Management Response

Management concurred with our recommendation and stated that DASHR/CHCO will finalize the Treasury policy for SES Pay and Awards during Quarter 2 of fiscal year 2020. This policy will include a provision requiring periodic reviews to assess its continued relevance, effectiveness, and transparency in making pay decisions and awarding bonuses. Coupled with the policy review, OER will develop and forward SOPs for DASHR/CHCO review and approval.

OIG Comment

Management's response and planned corrective actions meet the intent of our recommendation. Management will need to record the estimated date for completing its planned corrective actions in JAMES, Treasury's audit recommendation tracking system.

7. OER documents the processes and SOPs, with appropriate detail, followed in administering Treasury DO SES member performance ratings, pay adjustments, and bonuses.

Management Response

Management concurred with our recommendation and stated that DASHR/CHCO initiated a Treasury-wide performance process improvement review in collaboration with OSPPI.

Management also stated that the fiscal year 2019 performance process was used to map the current process and timeline and the main process improvement event is planned for January 2020, to identify outcomes and craft an improvement plan with specific actions. Management's goal is to implement and document actions and SOPs that ensure greater collaboration throughout the performance process and strengthen internal controls with staff practices.

OIG Comment

Management's response and corrective actions, taken and planned, meet the intent of our recommendation. Management will need to record the estimated date for completing its planned corrective actions as well as the actual date of completed corrective actions in JAMES, Treasury's audit recommendation tracking system.

8. OER oversees the process regarding exceptions to the 12-month rule.

Management Response

Management concurred with our recommendation and stated that OER will document its responsibility for oversight of the process regarding exceptions to the 12-month rule into the Treasury policy for SES Pay and Awards during Quarter 2 of fiscal year 2020.

OIG Comment

Management's response and planned corrective action meet the intent of our recommendation. Management will need to record the estimated date for completing its planned corrective actions in JAMES, Treasury's audit recommendation tracking system.

9. OER includes information regarding the approval process for waiver requests for exceptions to the 12-month rule in the instructions provided to bureau heads and DO policy offices. This information should be consistent with Federal regulations and Treasury's SES Pay and Awards policy.

Management Response

Management concurred with our recommendation and stated that OER will include information, consistent with Federal regulations and Treasury's SES Pay and Awards policy, regarding the approval process for waiver requests for exceptions to the 12-month rule in the annual performance management guidance issued to Treasury bureaus and DO policy offices.

OIG Comment

Management's response and planned corrective action meet the intent of our recommendation. Management will need to record the estimated date for completing its planned corrective actions in JAMES, Treasury's audit recommendation tracking system.

Finding 3

Late Submission of Treasury's Fiscal Year 2016 SES Data Call Report to OPM

We found that OER, within DASHR/CHCO, did not timely submit Treasury's final fiscal year 2016 SES data call report to OPM.^{32,33} The data call report includes SES summary performance ratings, pay, pay adjustments, and bonuses data. Per 5 CFR 534.405, *Performance awards*, "agencies shall submit their distribution of performance awards, the total amount of awards, and the aggregate payroll or average rate of basic pay to OPM no later than 14 days after the date the performance awards are approved by the agency." In addition, per OPM's data call memorandum and fiscal year 2016 data call instructions, agencies were required to submit SES summary performance ratings, pay, and awards data to OPM no later than March 3, 2017.

Treasury's Deputy Secretary approved final fiscal year 2016 SES performance ratings, pay adjustments, and bonuses on January 19, 2017. Upon approval, in accordance with 5 CFR 534.405, *Performance awards*, Treasury was required to submit its data call

³² OPM Memorandum for Human Resources Directors, *Annual Data Call for Senior Executive Service (SES), Senior-Level (SL), and Scientific and Professional (ST) Performance Ratings, Pay and Awards for FY 2016* (December 20, 2016)

³³ 5 CFR 430.405 (g), *Annual reporting requirements*

report to OPM no later than February 2, 2017. However, OER did not submit Treasury's data call report to OPM until August 25, 2017, more than 6 months after the required due date and more than 5 months after the no later than date of March 3, 2017. Additionally, on several occasions, OPM followed-up with OER regarding the data call report, and included targeted submission dates; however, OER was not able to meet OPM's requests.

An OER official stated that the office was not aware of the 14 day submission requirement and that the office follows OPM's annual data call instructions for the submission, which was due to OPM on March 3, 2017. The official stated that the office requested a waiver from OPM for the late submission; however, the official could not provide documentation of the request or approval of the waiver, and follow-up emails from OPM implied that an extension was never granted. The official also stated that because of OER's lack of staff resources, the office was not able to timely submit Treasury's data call report to OPM. The official further stated that OER has experienced ongoing limited staffing, and that the matter has been discussed with DASHR/CHCO's senior management. The official also affirmed that since fiscal year 2016, OER lost one staff member who was assisting with the administration of Treasury's performance bonuses program.

OER should ensure that the required data call report is submitted timely to OPM to prevent potential delays to OPM's certification decision for Treasury and/or exclusion of Treasury's data in OPM's Annual Report on SES Pay and Performance Appraisal Systems. According to GAO's *Standards for Internal Control in the Federal Government*:

Transactions are promptly recorded to maintain their relevance and value to management in controlling operations and making decisions. This applies to the entire process or life cycle of a transaction or event from its initiation and authorization through its final classification in summary records.

Additionally, in the event that OPM determines that an agency's payments do not meet the requirements of law or regulations, the agency will have to take any necessary corrective action(s) directed by OPM. Also untimely submission could potentially delay

and/or risk Treasury's SES performance appraisal systems from being certified by OPM. As a result, Treasury SES members may not receive the benefit of a higher pay range of basic pay and the increased aggregate limitation.

Recommendation

We recommend that the Assistant Secretary for Management ensures:

10. OER submits Treasury's respective data call report to OPM by the due dates established by 5 CFR 534.405, Performance awards, and before any established deadlines per OPM's annual data call memorandum.

Management Response

Management concurred with our recommendation and stated that DASHR/CHCO will establish OER accountability for the timely submission of Treasury's respective data call report to OPM as part of the Treasury SES Pay and Awards policy. Absent OPM's annual data call memorandum, which provides agencies with a specific due date and outlines reporting requirements/instructions, Treasury will submit data to OPM per 5 CFR 534.405.

OIG Comment

Management's response and planned corrective actions meet the intent of our recommendation. Management will need to record the estimated date for completing its planned corrective actions in JAMES, Treasury's audit recommendation tracking system.

* * * * *

We appreciate the courtesies and cooperation provided to our staff during the audit. If you wish to discuss the report, you may contact me at (202) 927-5776 or Daniel Gerges, Audit Manager, at (202) 927-0195. Major contributors to this report are listed in

appendix 3. A distribution list for this report is provided as appendix 4.

/s/

Susan L. Barron
Director, Resource Management Audits

Appendix 1: Objectives, Scope, and Methodology

The objective of our audit was to determine whether the Department of the Treasury (Treasury) Office of the Deputy Assistant Secretary for Human Resources and Chief Human Capital Officer (DASHR/CHCO) complied with applicable laws, regulations, policies, and procedures when administering pay adjustments, bonuses and awards³⁴ for Treasury Departmental Offices (DO) Senior Executive Service (SES) members. The scope of the audit included pay adjustments and bonuses authorized for the fiscal year 2016 performance period.

To accomplish our objective, we performed the following activities during audit fieldwork conducted in Washington, DC from December 2017 through August 2019:

- reviewed Federal laws, regulations, guidance, policies and procedures, including, but not limited to:
 - 5 Code of Federal Regulations (CFR) – *Administrative Personnel*, Revised (January 1, 2015);
 - Executive Order 13714, *Strengthening the Senior Executive Service* (December 11, 2015);
 - Executive Order 13715, *Adjustments of Certain Rates of Pay* (December 18, 2015);
 - Executive Order 13756, *Adjustments of Certain Rates of Pay* (December 27, 2016);
 - Office of Management and Budget M-16-22, *Guidance on Awards for SES and Senior Level/Senior Professional and Scientific Employees for Fiscal Year 2017* (August 12, 2016);
 - Office of Personnel Management (OPM) *Appointments and Awards During the 2016 Presidential Election Period* (January 11, 2016);

³⁴ Both bonuses and awards are collectively referred to as bonuses throughout this report.

Appendix 1: Objectives, Scope, and Methodology

- Treasury Directive 14-003, *Departmental Oversight for Executive Misconduct in Determining Pay Adjustments, Bonuses and Awards* (September 24, 2014); and
- DASHR/CHCO SES Pay and Award Policy Draft (most recently updated during 2017).
- reviewed the following Treasury Office of Inspector General (OIG) reports relating to bonuses and awards for Treasury DO SES members:
 - *TTB Has Strengthened Controls over Conference, Travel, and Employee Award Administration*, OIG-17-040 (March 1, 2017); and
 - *Treasury Established Appropriate Conference, Travel, and Award Policies*, OIG-16-043 (May 20, 2016).
- reviewed the following Government Accountability Office (GAO) reports:
 - *Standards for Internal Control in the Federal Government*, GAO-14-704G (September 10, 2014);
 - *Results Oriented Management: OPM Needs to Do More to Ensure Meaningful Distinctions Are Made in SES Ratings and Performance Awards*, GAO-15-189 (January 2015);
 - *An Assessment of SES Performance Appraisal Systems*, GAO/GGD-84-16 (May 16, 1984); and
 - *Actions Needed to Enhance the Credibility of Senior Executive Service Performance Award Programs*, FPCD-81-65 (September 30, 1981).
- interviewed Treasury officials in Washington, DC to gain an understanding of their roles and responsibilities related to administering performance ratings, pay adjustments, and bonuses for Treasury SES members, which includes DO SES members;
- gained an understanding of the processes and procedures used by the Office of Executive Resources (OER), within DASHR/CHCO, to administer performance ratings, pay

Appendix 1: Objectives, Scope, and Methodology

adjustments, and bonuses for Treasury SES members, which includes DO SES members;

- performed a walkthrough of the Treasury DO SES members performance award process;
- performed testing of all 80 DO SES members proposed performance ratings, pay adjustments and bonuses recommended to Treasury's Deputy Secretary for approval to determine whether OER, within DASHR/CHCO, complied with applicable laws. The testing performed included all 70 proposed and approved performance bonuses; all 10 proposed for performance ratings and/or pay adjustments that were not proposed for bonuses; and all 60 proposed and approved pay adjustments pertaining to Treasury DO SES members during the fiscal year 2016 performance period. As part of testing, the audit team performed the following:
 - determined whether awardees met the "ratings, pay and bonus eligibility" criteria per 5 CFR 534.404, *Setting and adjusting pay for senior executive*, 5 CFR 534.405, *Performance awards*, and 5 CFR 430.304, *SES performance management systems*;
 - verified that the total bonuses that Treasury paid SES members did not exceed the statutory limit required by Executive Order 13714 - *Strengthening the Senior Executive Service*;
 - verified that the SES members total aggregate compensation received did not exceed the rate of pay of the total salary of the Vice President of the United States in calendar year 2017, per 5 CFR 530.201, *Purpose*;
 - verified that SES members that were appointed during the 12-months prior to the end of the performance period did not receive an adjustment of their rate of basic pay per 5 CFR 534.404(6)(c), *12-month rule*;
 - determined whether the complete listing of Treasury DO SES awardees for the fiscal year 2016 performance period was accurately reported in Treasury's annual data call report submitted to OPM; and

Appendix 1: Objectives, Scope, and Methodology

- determined whether DASHR/CHCO complied with Treasury’s authorization process for administering the performance ratings, pay adjustments, and bonuses for the fiscal year 2016 performance period.
- reviewed key documentation provided by OER, within DASHR/ CHCO, and OPM including:
 - organizational charts;
 - Treasury Action Memorandum for Deputy Secretary Raskin, *FY-2016 Senior Executive Service Performance Ratings, Bonuses and Pay Adjustments* (January 19, 2017) to verify that all pay adjustments and bonuses were approved by the Deputy Secretary;
 - fiscal year 2016 and 2017 SES annual data call submitted to OPM to verify completeness of awardees’ data reported to OPM;
 - Instructions for Completing the OPM Data Call for Senior Executive Service (SES) Ratings, Pay and Awards;
 - 2015, 2016, and 2017 Treasury SES provisional certification letters to verify that OPM authorized Treasury to pay SES members above the EX-III pay rate;³⁵
 - DASHR/CHCO’s fiscal year 2016 SES performance cycle close out instructions to Treasury bureau heads that determined whether Treasury bureaus were provided with consistent information to administer the performance close out process;
 - DO SES awardee Standard Form 50s, Notification of Personnel Action, to verify position data and bonus amounts; and

³⁵ EX is the basic pay schedule for senior political official positions other than SES positions and positions in the Federal Bureau of Investigation and Drug Enforcement Administration SES. The EX schedule covers positions such as secretaries; under secretaries, deputy secretaries, and assistant secretaries; and a number of other key officials (e.g., certain general counsels and bureau directors).

Appendix 1: Objectives, Scope, and Methodology

- DO SES awardee performance appraisals to verify that awardees were on performance plans within an established minimum period before receiving performance ratings.

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: Management Response



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

ASSISTANT SECRETARY

January 9, 2020

Susan L. Barron
Director, Resource Management Audits
Department of the Treasury

Dear Ms. Barron:

Thank you for providing the opportunity to review and comment on the Office of the Inspector General's (OIG) formal draft audit report on Departmental Offices' (DO) compliance with laws, regulation, policy, and procedures related to senior executive (SES) pay adjustments, bonuses, and awards that were authorized for fiscal year (FY) 2016. We appreciate the OIG's recognition of our general compliance for the FY-2016 SES performance period and we support the work of the audit team in identifying areas for improvement under each of the three findings.

While the audit review process was being conducted, the DASHR/CHCO and Office of Executive Resources (OER) immediately took preliminary actions to address anticipated recommendations and have formulated plans to address additional recommendations as detailed in the responses below.

Concerning Finding 1, *SES Rate of Basic Pay Was Higher than the Rate Permitted by Federal Regulations During a Gap in Treasury's SES Performance Appraisal System Certification*, Management concurs with the finding and the associated actions OIG recommends.

- In response to Recommendation 1, DASHR/CHCO will develop, implement, and include effective internal controls within its policies and SOPs to ensure Treasury's SES basic pay rates are in compliance with 5 C.F.R. 534.403(a)(3)(b), and 5 C.F.R. 534.404(h)(2).
- In response to Recommendation 2, DASHR/CHCO has initiated a review with the Administrative Resources Center (ARC) to determine the amount of overpayments associated with erroneous pay setting actions during the 2016 lapse in SES performance system certification.
- In response to Recommendation 3, DASHR/CHCO is currently developing a plan for resolving the issue during Quarter 2 of FY 2020.
- In response to Recommendation 4, OER has shifted staff portfolios, establishing a central specialist solely responsible for Treasury's performance, pay and awards program. This position will be held accountable for full compliance with OPM's data call and applicable instructions to ensure all required employees are properly reported.
- In response to Recommendation 5, OER has shifted staff portfolios to establish a central specialist solely responsible for Treasury's performance, pay and awards program to ensure consistency, compliance with policy and OPM reporting timelines, and greater focus on OER's core performance responsibilities.

Appendix 2: Management Response


Concerning Finding 2, *Lack of Finalized Treasury-wide Policy for SES Pay and Awards or Documented OER SOPs*, Management concurs with the finding and the associated actions OIG recommends.

- In response to recommendation 6, DASHR/CHCO will finalize the Treasury policy for SES Pay and Awards during Quarter 2 of FY 2020. This policy will include a provision requiring periodic reviews to assess its continued relevance, effectiveness, and transparency in making pay decisions and awarding bonuses. Coupled with the policy review, OER will develop and forward SOPs for DASHR-CHCO review and approval.
- In response to Recommendation 7, DASHR/CHCO initiated a Treasury-wide performance process improvement review in collaboration with the Office of Strategic Planning and Performance Improvement (OSPPI). The FY 2019 performance process was used to map the current process and timeline, and our main process improvement event is planned for January 2020, to identify outcomes and craft an improvement plan with specific actions. Our goal is to implement and document actions and standard operating procedures that ensure greater collaboration throughout the performance process and strengthen internal controls with staff practices.
- In response to Recommendation 8, OER will document its responsibility for oversight of the process regarding exceptions to the 12-month rule into the Treasury policy for SES Pay and Awards during Quarter 2 of FY 2020.
- In response to Recommendation 9, OER will include information, consistent with Federal regulations and Treasury's SES Pay and Awards policy, regarding the approval process for waiver requests for exceptions to the 12-month rule in the annual performance management guidance issued to Treasury bureaus and Departmental Offices policy offices.

Concerning Finding 3, *Late Submission of Treasury's Fiscal Year 2016 SES Data Call Report to OPM*, Management concurs with the finding and the associated actions OIG recommends.

- In response to Recommendation 10, DASHR/CHCO will establish OER accountability for the timely submission of Treasury's respective data call report to OPM as part of the Treasury SES Pay and Awards policy. Absent OPM's annual data call memorandum, which provides agencies with a specific due date and outlines reporting requirements/instructions, Treasury will submit data to OPM per 5 C.F.R. 534.405.

Management believes that taking the actions detailed above will address the OIG's recommendations across each of the three findings. We appreciate your role in providing appropriate oversight, as well as your team's collaboration with us over the last two years. We look forward to continually refining our practices and internal controls to reinforce full compliance of Treasury's SES performance management processes with applicable laws and regulations.

Sincerely,

David F. Eisner
Assistant Secretary for Management

Appendix 3: Major Contributors to This Report

Daniel Gerges, Audit Manager
Rafael Cumba, Auditor-in-Charge
Veleria Tettey, Auditor
Kajuana Britt, Referencer

Appendix 4: Report Distribution

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Assistant Secretary for Management
Deputy Assistant Secretary for Human Resources and Chief
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Office of Strategic Planning and Performance Improvement
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Appendix 4: Report Distribution

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