



OFFICE OF INSPECTOR GENERAL

Catalyst for Improving the Environment

Special Report

U.S. Chemical Safety and Hazard Investigation Board Did Not Adhere to Its Merit Promotion Plan

Report No. 2007-S-00001

June 4, 2007

Report Contributors:

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Abbreviations

CSB	U.S. Chemical Safety and Hazard Investigation Board
EPA	U.S. Environmental Protection Agency
MPP	Merit Promotion Plan
MSPB	Merit Systems Protection Board
NBC	National Business Center
OIG	Office of Inspector General
OPM	Office of Personnel Management



At a Glance

Catalyst for Improving the Environment

Why We Did This Review

We conducted this review in response to an anonymous hotline allegation of unfair hiring practices at the U.S. Chemical Safety and Hazard Investigation Board (CSB). The complainant said CSB ignored standards of fairness and competition and “wired” recent supervisory positions for selected candidates. We sought to determine whether CSB had a sufficient pool from which to select candidates, and if CSB selected candidates in line with its Merit Promotion Plan.

Background

CSB reassigned three investigators to supervisory positions with promotion potential to the GS-15 level. Two other CSB employees had applied for the positions but were not selected. The positions fell under CSB’s Merit Promotion Plan, under which senior CSB officials rated and recommended candidates to select.

For further information, contact our Office of Congressional and Public Liaison at (202) 566-2391.

To view the full report, click on the following link:
www.epa.gov/oig/reports/2007/20070604-2007-S-00001.pdf

U.S. Chemical Safety and Hazard Investigation Board Did Not Adhere to Its Merit Promotion Plan

What We Found

CSB did not adhere to its Merit Promotion Plan during the process under which it reassigned three investigators to supervisory positions. CSB officials said they announced the supervisory positions in-house because successful candidates needed knowledge of CSB and its policies and procedures. One recommending official, who is also a member of CSB’s management council, said the management council knew who the best candidates were, but wanted a robust and objective selection process to ensure they made a fair decision. However, in our view, CSB used an overly subjective and inconsistent approach that did not adhere to its Merit Promotion Plan. CSB’s selection process did not emphasize experience as a factor, as required by the crediting plan under the Merit Promotion Plan. CSB did not apply several other requirements in its Merit Promotion Plan, including selection evaluation criteria. Further, recommending officials said they did not weight CSB experience heavily in the selection process. Not adhering to the Merit Promotion Plan suggested favoritism and the appearance of potential hiring offenses.

What We Recommend

We recommend that the CSB Chairman, for future promotions, evaluate candidates and manage the selection process in accordance with CSB policy. We also recommend that the Chairman update the Merit Promotion Plan. Further, we recommend that the Chairman clarify instructions on interview score sheets to ensure that the interview panel bases scores on information provided by the candidate during the interview process and not on personal knowledge of the candidate outside of the interview setting.

CSB generally concurred with the intent of our first recommendation, but CSB objected to the implication that it did not evaluate candidates and manage the selection process in accordance with CSB policy or with basic principles of fairness. CSB officials said they have already taken some actions to clarify CSB’s Merit Promotion Plan and will pursue others, although they did not address when they expect to complete these other actions. CSB fully concurred with our other two recommendations, but needs to provide an action plan that specifies milestones.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
INSPECTOR GENERAL

June 4, 2007

SUBJECT: U.S. Chemical Safety and Hazard Investigation Board
Did Not Adhere to Its Merit Promotion Plan
Report No. 2007-S-00001

FROM: Eileen McMahon 
Assistant Inspector General
Office of Congressional and Public Liaison

TO: The Honorable Carolyn W. Merritt
Chairman and Chief Executive Officer
U.S. Chemical Safety and Hazard Investigation Board

This is our report on the subject evaluation conducted by the Office of Inspector General (OIG), U.S. Environmental Protection Agency (EPA), of the U.S. Chemical Safety and Hazard Investigation Board (CSB). In Fiscal Year 2004, Congress designated the EPA OIG to serve as the Inspector General for CSB. This report contains findings that describe the issues we identified and corrective actions we recommend. This report represents the opinion of the OIG and does not necessarily represent the final CSB position. CSB managers will make final determinations on matters in this report in accordance with established resolution procedures.

The estimated cost of this report – calculated by multiplying the project's staff days by the applicable daily full cost billing rates in effect at the time – is \$147,907.

Action Required

In accordance with Office of Management and Budget Circular A-50, you should provide us with a written response to our recommendations within 90 days. Your response should include a corrective action plan for agreed-upon actions, including milestone dates. We have no objections to the further release of this report to the public. We will make this report available at <http://www.epa.gov/oig>.

If you or your staff has any questions, please contact me at (202) 566-2546; or Eric Lewis, Director for Special Reviews and Inspections, at (202) 566-2664 or lewis.eric@epa.gov.

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Purpose

As the Inspector General for the U.S. Chemical Safety and Hazard Investigation Board (CSB), we conducted a review of recent CSB merit reassignment selections. This was as a result of an anonymous complaint we received. We sought to determine whether CSB afforded all eligible applicants the opportunity to apply for the reassignments and fairly and competitively filled the positions. Specifically, we sought to answer the following questions:

- Did CSB have a sufficient pool from which to select candidates for merit reassignments?
- Did CSB select candidates in line with its Merit Promotion Plan?

Background

Congress established the CSB through Section 112(r)(6) of the Clean Air Amendments of 1990.¹ CSB started operating in 1998 to investigate industrial chemical accidents to identify the causes and prevent future similar events. The Board consists of five members, including a chairman appointed by the President of the United States. CSB's Office of Investigations currently has 16 staff who deploy to chemical incidents to investigate causes.

CSB reassigned three investigators to supervisory level positions on October 1, 2006. Though lateral reassignments, the supervisory positions have promotion potential to the GS-15 level without further competition. CSB created the new supervisory positions to have multiple investigative teams. The new supervisors would also work directly with investigators on timely report writing, since current GS-15 managers said they spend a lot of time on report rewrites.

In Fiscal Year 2004, Congress designated the Inspector General for the U.S. Environmental Protection Agency (EPA) to serve as the Inspector General for CSB. On October 3, 2006, the EPA Office of Inspector General (OIG) received an anonymous complaint through the mail containing: (1) a specific allegation on the unfairness of recent supervisory reassignments, and (2) a general comment about other arbitrary actions and processes that happen at CSB that we should discuss with former staff.

Title 5, U.S. Code, Part 335 addresses internal placements through merit promotion plans. The subject reassignments fell under CSB's Merit Promotion Plan (MPP), which references Title 5 and includes agency-specific policies related to:

- Implementation and process control
- Compliance with merit principles
- Candidate pool
- Disclosure and record keeping
- Selection and ranking criteria
- Performance appraisals

¹ Title 42, U.S. Code, Section 7412 (6).

CSB informed staff of the merit reassignment opportunities during a meeting of all investigative staff held in October 2005 and through three email announcements during the vacancy open period. CSB required applicants to submit their most recent performance appraisal; a resume; and a detailed narrative on knowledge, skills, and abilities. CSB's human resources servicing provider, the National Business Center (NBC), received and reviewed applicant packages. (CSB's MPP, developed in 2001, still lists the Bureau of Public Debt, Human Resources Division, as its human resources servicing provider.) NBC conducted reviews to ensure that each candidate met the minimum qualifications per the Office of Personnel Management's (OPM's) "Qualification Standards for General Schedule Positions." CSB worked with NBC to develop the minimum qualification standards for the knowledge, skills, and abilities listed in the vacancy announcement. NBC certified all candidates as qualified because each met the minimum OPM qualifications and only five applied. NBC then returned the certificate to CSB for rating. NBC's role in the merit promotion process ended at that point.

CSB's selecting official could have then chosen candidates off the certificate provided by NBC. CSB officials said they wanted a fair process that gave the candidates an opportunity to demonstrate their skills. As such, CSB devised and used a three-part selection process between May and August 2006 "as a best practice, not required under law, to assure the best and fairest outcome." CSB's three-part selection process included:

- An interview by a three-member panel (weighted 60 percent)²
- A day-long case study/writing test reviewed by a three-member panel, including an external writing expert (weighted 25 percent)³
- An evaluation of past performance (weighted 15 percent)

CSB's human resources director said that, to the extent feasible, he "blinded" candidates by assigning random numbers to remove identifying information. He did this for past performance results, the case study/writing test before providing tests to the three-member panel to score, and the overall scoring of the selection process. CSB said that recommending officials only knew candidate numbers when they made their recommendations to the selecting official. Table 1 lists titles of key individuals involved in the subject merit promotions.

² CSB originally selected five people for the interview panel; however, two panel members had to drop off unexpectedly. CSB officials said they did not have any other qualified or available employees to sit on the interview panel, so a three-member panel ultimately interviewed the candidates.

³ The writing expert scored candidates' writing ability, while the remaining case study/writing test review panel (the two recommending officials) scored both candidates' writing and their scientific analytical ability.

Table 1: Key Individuals in Reviewed Merit Promotion Process

Position	Role
Human Resources Director	Among several other activities, this person served as the main point of contact and facilitator/coordinator for the selection process; developed position description, vacancy announcement, scoring methodology, “blinding process,” and behavior-based interview questions; ⁴ facilitated individual candidate interviews with interview panel; and signed selection certificate on behalf of Chairman.
Human Resources Specialist (NBC)	Reviewed applicant packages to ensure receipt of all required components, and provided CSB with a selection certificate.
Interview Panel (Three Appointed GS-15 Managers, Including Two Recommending Officials)	Interviewed candidates and scored responses using a behavior-based questionnaire.
Case Study/Writing Test Panel (Two Recommending Officials and One Independent Writing Expert)	Scored the case study/writing test.
Recommending Officials (Two GS-15 CSB Investigation Managers)	Signed performance appraisals as rating officials, ⁵ reached consensus on the selection process/scoring methodology, scored case study/writing test, participated in candidate interviews, and recommended to selecting official whom to select.
Selecting Official (CSB Chairman)	Served as the representative of the Board to oversee the MPP pursuant to their personnel authority, and made final selection of candidates (to reassign).

Source: EPA OIG review of CSB’s MPP and interviews with CSB officials.

Scope and Methodology

We conducted our field work from December 5, 2006, to February 28, 2007, in accordance with *Government Auditing Standards*. We limited our review of internal controls and compliance to those directly related to the issues identified in the complaint. Since the complaint was anonymous, we gathered evidence through interviews and reviews of documents provided by CSB. For both objectives, we interviewed three of the five candidates (two non-selected and one selected), the interview panel, the human resources director, the recommending officials, four former staff, and staff at NBC and OPM. To determine whether CSB had a sufficient pool from which to select candidates for merit reassignments, we reviewed the vacancy announcement/position description and OPM regulations on areas of consideration. To determine whether CSB selected candidates in line with its MPP, we reviewed applicant packages, CSB’s decision documents on whom to select, CSB’s policies, and reports by former OIGs for CSB on CSB’s personnel practices.

⁴ CSB officials said that behavior-based interview questions give the interview panel an indication of future success based on past performance.

⁵ While this activity relates to CSB’s Performance Appraisal Program (Board Order 010), we note it since CSB included an evaluation of past performance in the three-part merit selection process for the subject reassignments.

We reviewed two relevant prior audit reports on CSB conducted by its OIG at the time:

- ***Issues Regarding Management Accountability, Control, and Direction Have Not Been Resolved*** (IC-01-02), issued March 15, 2002: This report, prepared by the Federal Emergency Management Agency OIG, noted CSB’s “well-documented history of internal conflict.” The report found that “the agency suffers from a fractured chain of command, blocked lines of communication, opposition between the Board and staff, and a climate of distrust – none of which enhance the effectiveness of the agency.” The report also stated that the anticipated hiring of a new Chief Operating Officer should provide the impetus for bringing organizational stability to day-to-day operations. CSB said that it successfully closed all recommendations from this report by September 2002.⁶
- ***A Report on the Continuing Development of the CSB*** (OIG-04-04), issued January 7, 2004: This report, prepared by the Department of Homeland Security OIG, did not directly relate to the issues of our review, but noted “an influx of key managers and staff has revitalized the CSB,” including a new Chief Operating Officer.

Results of Review

CSB did not adhere to its MPP during the process under which it reassigned three investigators to supervisory positions. CSB officials said they announced the supervisory positions in-house enabling only CSB personnel to apply. The reason given by CSB officials was that successful candidates needed knowledge of CSB and its policies and procedures. Thus, CSB afforded all internal applicants the ability to apply. One recommending official, who is also a member of CSB’s management council, stated the management council knew who the best candidates were, but wanted a robust and objective selection process to ensure they made a fair decision. However, in our view, CSB used an overly subjective and inconsistent approach and did not adhere to its MPP and Performance Appraisal Program. CSB’s selection process did not emphasize experience as a factor, as required in the crediting plan under the MPP. CSB did not apply several MPP requirements, including selection evaluation criteria as a means to evaluate candidates’ experience. Though CSB officials said successful candidates needed familiarity with CSB’s policies and procedures, recommending officials said that they did not weight CSB experience heavily in the selection process. Additionally, not adhering to the MPP suggested favoritism and the appearance of potential hiring offenses.

CSB Applied Overly Subjective and Inconsistent Analyses

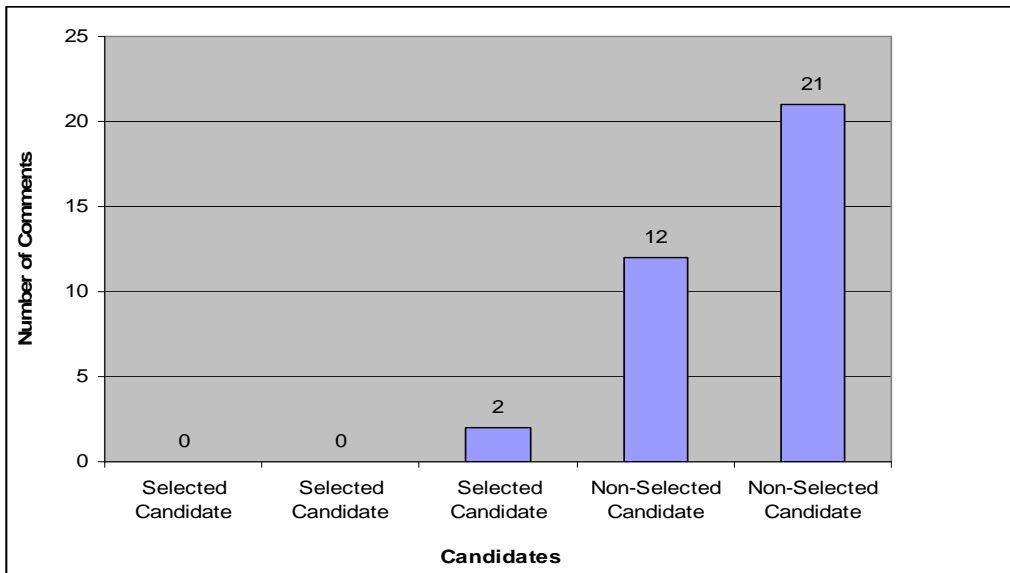
NBC and OPM human resources specialists said they afford agencies a great deal of flexibility when structuring merit selection processes. However, while CSB had used the general selection and scoring method before, it could not clearly explain why it chose the particular weights for each selection component. CSB changes weights depending on the position. The human resources director said the two recommending officials helped design the process. However, the recommending officials said the human resources

⁶ CSB also said that the 2002 report had no relevance to concerns about the subject reassignments or perceived unfairness. A Board member also said the comments from the 2002 report reflect “ancient history”; however, our interviews with current and former staff elicited some comments similar to those in the 2002 report.

director decided the weights to assign to each selection component. One recommending official described his role in designing the selection methodology as indirect and minimal, and said he would have preferred that each component have equal weight. The other recommending official said that he, the human resources director, and the other recommending official reached consensus on the weights assigned to each selection component. Nonetheless, in our opinion, the scoring methodology could give the perception of favoring certain applicants. For example, weighting past performance/performance appraisals the least could have benefited a candidate with CSB only 10 months at the time of the vacancy announcement. Moreover, weighting the writing component at 25 percent of the overall score did not seem to align with statements by the recommending officials on the “crucial” importance of writing and how the nature of the supervisory positions required a more “demanding” written test.

The interview component of the selection process, weighted the most at 60 percent, significantly influenced the outcome of whom recommending officials recommended for selection. The interview panel members awarded points when they deemed responses as outstanding in three of four areas. One recommending official acknowledged that the interviews represented the most subjective component of the selection process, and our evidence suggests subjectivity in the scoring. For example, during the interviews, one recommending official’s handwritten notes included a significantly higher number of negative comments to the responses from the two non-selected candidates than to the selected candidates’ responses (see Figure 1).

Figure 1: Recommending Official’s Negative Comments



Source: EPA OIG review of recommending official’s handwritten interview notes.

The recommending official said he applied his knowledge of selected candidates’ work history to give them full credit (and no negative comments) to an incomplete answer when a similar answer by a non-selected candidate elicited a negative comment. Thus,

the recommending official did not score candidates based solely on interview responses. For example:

- In one interview question on coaching and mentoring, a non-selected candidate described working with co-op students and the recommending official made a negative comment on how the candidate “supervised at a low level.” However, the recommending official did not make any negative comments when two selected candidates described working with interns.
- When asked about continuous learning, the same non-selected candidate received a negative comment when the candidate described how investigative incidents provide opportunities to learn. However, the recommending official did not make a negative comment when a selected candidate answered with “on-the-job training.”
- When asked about the last management book read, the same non-selected candidate mentioned a book read 5 years prior and received a negative comment that the candidate did not engage in self-learning. However, the recommending official did not make a comparable negative comment when a selected candidate answered “none” with regard to the last book read.⁷

The recommending official acknowledged that selected candidates should have also received negative marks similar to those given the non-selected candidate. With regard to one selected candidate, the recommending official said that “[the candidate] might not have demonstrated this during the interview, but he was the “strongest of all candidates.” This shows how the recommending official applied his outside perception of this candidate when scoring the interview process. The recommending official further said that “The top two [candidates] were clearly the top two. With the others the interviews were the telling factor.” However, the recommending official stated that, based on prior experience as a manager of both non-selected candidates, neither seemed qualified for the positions. In fact, this recommending official said that one non-selected candidate would “never make it as an investigator-in-charge” should future supervisory opportunities arise because of poor performance and execution. While he acknowledged that the other non-selected candidate experienced unfair criticism from senior CSB officials, he further said the candidate was not ready for a leadership role.

⁷ Additionally, the same non-selected candidate got a negative comment for not mentioning a report outline; however, no other candidates mentioned an outline. The same non-selected candidate also got a negative remark for not recognizing the Board as a voting body; however, the interview panel did not ask any other candidates a question on the Board’s role during report review.

CSB Did Not Adhere to Personnel Policies

Our analysis identified several instances where CSB did not adhere to its MPP and Performance Appraisal Program.

Policy Statement	<i>The Chief Operating Officer implements and administers the MPP and Performance Appraisal Program.</i>
Fact	CSB has not had a Chief Operating Officer in place for over 2 years.
OIG Analysis	The 2002 report by the Federal Emergency Management Agency OIG recommended that CSB delegate a Chief Operating Officer to effectively manage day-to-day operations. CSB had a Chief Operating Officer in place during a 2004 followup report by the Department of Homeland Security OIG. However, that person left shortly after the 2004 audit report and CSB has not refilled the position. The Chief Operating Officer is the only role identified in both the MPP and the Performance Appraisal Program not filled. CSB officials said the human resources director handles the merit promotion process on a day-to-day basis; however, CSB has not updated either the MPP or the Performance Appraisal Program to reflect the absence of the Chief Operating Officer position or the transfer of that day-to-day authority.

Policy Statement	<i>Vacancy announcement content must include the number of positions to be filled.</i>
Fact	CSB announced “multiple positions” instead of a specific number.
OIG Analysis	While CSB had discretion on the number of reassignments to fill, nearly all staff interviewed and one recommending official said CSB reduced the number of reassignments from four to three <i>after</i> receiving candidate applications and seeing who applied. The human resources director said he notified candidates that CSB would fill a maximum of three positions; however he could not provide evidence to support his claim and interviewees said otherwise. CSB officials stated they could not justify four teams due to staffing levels. However CSB received congressional budget information prior to the vacancy closing date and could have amended the vacancy announcement to specify the number of positions in light of anticipated funding. ⁸ One recommending official agreed that CSB should have anticipated the staff shortages and specified the correct number of positions before announcing the vacancies.

⁸ The vacancy open period ran from June 27 to July 17, 2006. CSB received congressional budget markups on May 15 and June 29, 2006, that did not include funding for a fourth investigation team. Even though CSB received congressional budget markups by late June 2006, the recommending officials and human resources director did not meet until late July 2006 – several days after the closing date – to decide on a maximum of three positions.

Policy Statement	<i>The criteria used to rate candidates will be based on a thorough job analysis resulting in identification of job-related ranking factors. Job-related ranking factors are documented and must provide the basis for considering and comparing candidates based on the knowledge, skills, and abilities needed to be successful in the position.</i>
Fact	A crediting plan describes specific procedures for rating each qualified applicant. According to the instructions, CSB was to rate each qualified applicant on each of the quality ranking factors on a scale of 0-5. CSB had, but did not use, a detailed crediting plan that included a job analysis for the subject reassignments. CSB and NBC developed the crediting plan for the reassignments prior to posting the vacancy announcement. In addition, when assigning ratings, the crediting plan said CSB should review applicants' responses to the quality ranking factors (i.e., narrative on knowledge, skills, and abilities) as well as the rest of their applications before determining a score.
OIG Analysis	CSB's human resources director and the NBC human resources specialist said CSB did not apply the crediting plan since only five applicants applied. However, the MPP lists no such exception related to a required number of applicants to trigger the use of evaluation criteria. CSB officials said that Section 18 from the MPP governed the subject reassignments, not the evaluation criteria described in Section 14. However, the MPP does not indicate or describe situations when certain sections override or incorporate others by reference, and Section 14 describes the rating and ranking process "for each announced vacancy."

Policy Statement	<i>Maintain records to allow for reconstruction of promotion actions, including documentation of how they ranked and rated candidates.</i>
Fact	CSB retained summary score sheets documenting interview results. Only one recommending official retained notes supporting his scoring decisions for the interviews and written tests.
OIG Analysis	CSB did not maintain the records necessary to allow for reconstruction or to support the rationale for selection decisions. While merit promotion regulations ⁹ do not specifically require retention of personal notes, we view that as a good business practice to: i) further support selection decisions; ii) show the recommending officials' thoughts and reactions at the time of the interview; and iii) mitigate the possible outcome of a perception of favoritism toward particular candidates. The lack of notes prevented reconstruction of the reassignment action.

Policy Statement	<i>Informal discussions between employees and selecting management officials are encouraged on the procedures used to rank candidates and information on applicant status.</i>
Fact	The human resources director briefed candidates on the selection process components; however, CSB did not debrief non-selected candidates on the reasons for non-selection.
OIG Analysis	While the MPP does not specifically require debriefs, both non-selected candidates requested feedback to improve their future performance.

⁹ Specifically, Section 21 from CSB's MPP based on Title 5, U.S. Code, Section 335.103(b)(5).

Policy Statement	<i>CSB will give “due weight” to performance appraisals in the selection process, and appraisals provide “the foundation for decisions on awards, promotions, or other actions based on performance.”</i>
Fact	CSB weighted past performance at 15 percent of the selection process. CSB officials said that other parts of the selection process (the interview and writing test) also measured experiences and abilities, which they viewed as likely to be predictive of future success as past performance appraisals.
OIG Analysis	Weighting past performance the least did not align with statements by CSB officials on the unique and specialized nature of CSB’s work, and how they cannot hire anyone “off the street” to lead investigations.

CSB Selected Candidates from a Limited Pool and Did Not Focus Selection Decisions on CSB Experience

CSB officials justified limiting the opportunity to apply to CSB employees because they believed they had enough qualified internal candidates. CSB officials said they initially identified 10 to 12 eligible internal candidates, although only 5 ultimately applied. As a result, NBC submitted all applicants to CSB’s selecting official after ensuring each met the minimum qualifications set by the OPM. CSB officials said they considered CSB experience in all parts of the selection process under Section 18 of the MPP; however, only Section 14 of the MPP describes a crediting plan as a means to evaluate experience. One recommending official said CSB announced the positions internally because he believed the person who filled a supervisory position needed familiarity with CSB’s policies and procedures. However, CSB selected a candidate who had been at CSB for only 10 months at the time of the vacancy. To justify that candidate’s selection, the recommending official described the candidate’s work, from the outset, as superior to more tenured CSB employees. Further, both recommending officials expected candidates to emphasize their experience prior to joining CSB, and one rater said he did not weight CSB experience heavily during the selection process.

CSB’s Practices Suggested Favoritism and the Appearance of Prohibited Personnel Practices

Even though CSB designed the selection process to address any perceptions of unfairness or lack of objectivity, CSB management actions have contributed to a perception of favoritism.¹⁰ CSB officials:

- Developed arbitrary scoring criteria for the selection process.
- Used one selected candidate’s 2-month performance appraisal from another agency while the other four candidates included full-year CSB performance appraisals in accordance with the Performance Appraisal Program.

¹⁰ In the January 2007 issue of *Merit*, the Merit Systems Protection Board (MSPB) stated that managers need to recognize that both perceived and actual favoritism can result in negative consequences for the organization, such as increased tension, low morale or productivity, high turnover, or even time consuming and expensive appeals and complaints.

- Scored interview responses based upon their perceptions of candidates' past experiences instead of the answers provided.
- Did not provide feedback to non-selected candidates on the reasons for non-selection.

CSB personnel said they perceived CSB's work environment as favoring certain individuals:

- One recommending official said CSB does not value diverse ideological viewpoints. He added that, in his opinion, people's ideologies (including their views on the role of government) influenced performance ratings assigned by managers. However, he stated that he gave fair performance ratings to the two non-selected candidates.
- Current and former staff described examples of perceived favoritism. For example, one manager/recommending official chose the same person to repeatedly serve as "acting" in a manager's absence (despite other staff having greater seniority), which allowed that person greater access to and interaction with CSB's management council.
- Several current and former staff also said CSB "wired" the positions for selected candidates and did not give non-selected candidates fair consideration.

One recommending official, who is also a member of CSB's management council, said that CSB's management council "visualized" the selected candidates in advance of the selection process. In making a generalization about internal postings, another member of the management council added that there is nothing inappropriate about "visualizing" who the best candidates are. According to the Office of Special Counsel, an independent Federal investigative agency that safeguards merit systems, it is not a prohibited personnel practice¹¹ to act upon one's existing expectation that one person may be the best selectee for a particular position (pre-selection). Pre-selection becomes a prohibited personnel practice when selecting officials give the pre-selected candidate an unfair advantage. CSB officials said that differences in interpretation or perceived departures from their MPP do not logically lead to favoritism or the appearance of a potential hiring offense. However, according to the Office of Special Counsel, "While hiring offenses usually require intent to deceive or manipulate the system, if a regulation implementing a merit system principle is violated in the process, that would also be a prohibited personnel practice. Negligence or imprudent actions can create the appearance of a hiring offense and result in complaints and investigations."

CSB officials directed us to their 2006 OPM human capital survey results where a majority of CSB employees responded positively that CSB does not tolerate personal

¹¹ Title 5, U.S. Code, Section 2302 (b) lists the 12 prohibited personnel practices. Section 2302 (b) (6) is most relevant for our review: "Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, grant any preference or advantage not authorized by law, rule, or regulation to any employee or applicant for employment (including defining the scope or manner of competition or the requirements for any position) for the purpose of improving or injuring the prospects of any particular person for employment."

favoritism, coercion for partisan political purposes, or prohibited personnel practices. CSB officials noted that their responses were at least 10 percent better than the government-wide responses in these relevant areas. However, OPM cautioned when disseminating 2006 survey results that, “There is no formula or statistical model for determining which survey results are most important,” and that survey results “do not explain why employees respond to questions as they do.” OPM suggested that agencies use survey data with other information when assessing the state of their human capital management. For example, while CSB noted that its positive responses increased from 2004 to 2006 to the question that read, “Arbitrary action, personal favoritism, and coercion for partisan political purposes are not tolerated,” “neutral” and “don’t know” responses increased as well. As OPM recommends, instead of solely pointing to numbers from the survey responses, CSB should couple survey results with the perceptions gleaned from our interviews summarized in our report to obtain a clearer picture of CSB’s human capital management.

CSB officials said they intended to create a robust and objective selection process to ensure they made a fair decision. However, we found weak controls over the selection process that resulted in the opposite effect – it gave staff the perception of an unfair process. Several interviewees stated that CSB’s personnel practices resulted in a hostile work environment characterized by low morale and distrust. The 2002 report by the Federal Emergency Management Agency OIG also had noted a climate of distrust and restricted dialogue at CSB. If not corrected, this work environment could lead to reduced productivity, a high turnover rate, and increased cost.

Recommendations

We recommend that the CSB Chairman:

1. For future promotions, evaluate candidates and manage the selection process in accordance with CSB policy. The person responsible for day-to-day administration of the merit promotion process should ensure that:
 - CSB has a sound rationale for the scoring methodology.
 - Independent personnel score tests rather than recommending officials.
 - CSB applies the required evaluation criteria, including detailed crediting plans, to ensure a pool of high quality candidates.
 - Personnel maintain documentation, including notes, supporting selection decisions.
 - Applicants submit required documentation, such as the appropriate performance appraisals.
 - Vacancy announcements list a specific number of positions.
 - CSB affords due weight to past performance in selection decisions.
2. Update the MPP to reflect the current human resources servicing provider and the status of the Chief Operating Officer.

3. Clarify instructions on interview score sheets to ensure that the interview panel bases scores on information provided by the candidate during the interview process and not on personal knowledge of the candidates outside of the interview setting.

Agency Comments and OIG Evaluation

CSB disagreed with a number of our report statements and our interpretations of CSB's MPP. CSB added that many of our observations focused on additional selection procedures "not even required by law or the CSB's MPP." Despite these strong disagreements with our report, CSB generally concurred with the intent of our first recommendation. However, CSB objected to the implication that it did not evaluate candidates and manage the selection process in accordance with CSB policy or with basic principles of fairness. CSB officials said they have already taken some actions to clarify CSB's MPP and will pursue others, although they did not address when they expect to complete these other actions. CSB fully concurred with our other two recommendations. Per Office of Management and Budget Circular A-50, CSB's response to these recommendations should contain an action plan that specifies milestones for when CSB expects to complete its additional proposed actions, such as research and benchmarking, to further improve its MPP. We included CSB's complete response, along with our analysis (in blue highlighted text), in Appendix A.

Status of Recommendations and Potential Monetary Benefits

RECOMMENDATIONS						POTENTIAL MONETARY BENEFITS (in \$000s)	
Rec. No.	Page No.	Subject	Status ¹	Action Official	Planned Completion Date	Claimed Amount	Agreed To Amount
1	11	<p>For future promotions, evaluate candidates and manage the selection process in accordance with CSB policy. The person responsible for day-to-day administration of the merit promotion process should ensure that:</p> <ul style="list-style-type: none"> • CSB has a sound rationale for the scoring methodology. • Independent personnel score tests rather than recommending officials. • CSB applies the required evaluation criteria, including detailed crediting plans, to ensure a pool of high quality candidates. • Personnel maintain documentation, including notes, supporting selection decisions. • Applicants submit required documentation, such as the appropriate performance appraisals. • Vacancy announcements list a specific number of positions. • CSB affords due weight to past performance in selection decisions. 	O	CSB Chairman			
2	11	Update the MPP to reflect the current human resources servicing provider and the status of the Chief Operating Officer.	O	CSB Chairman			
3	12	Clarify instructions on interview score sheets to ensure that the interview panel bases scores on information provided by the candidate during the interview process and not on personal knowledge of the candidates outside of the interview setting.	O	CSB Chairman			

1 O = recommendation is open with agreed-to corrective actions pending;
 C = recommendation is closed with all agreed-to actions completed;
 U = recommendation is undecided with resolution efforts in progress

Full Agency Comments and OIG Evaluation

Chemical Safety and Hazard Investigation Board



MEMORANDUM

To: Eric L. Lewis
Director of Special Reviews and Inspections

May 8, 2007

From: Carolyn W. Merritt
Chairman and CEO

Subject: CSB Comments on Draft Report (OIG Assignment No. 2007-00335)

The Chemical Safety and Hazard Investigation Board (CSB) has been in operation for approximately nine years, and has had a Merit Promotion Plan (MPP) in place since 2001. The plan was employed during fiscal year 2006 to conduct a merit selection process to reassign three investigators into supervisory positions. None of the new supervisors received a promotion.

OIG Response: During our kickoff meeting with CSB officials on December 4, 2006, CSB's Human Resources Director agreed these reflected "lateral reassignments with promotion potential to the GS-15 level." As we noted in the report, these reassignments required no further competition to attain the GS-15 level.

In making these reassignments, the CSB complied with legal requirements and its own MPP. Beyond that, the CSB went to extra effort to ensure the fairness of the process by establishing additional selection procedures that were not required by law or the MPP. The CSB relied throughout the process on the advice and assistance of its personnel service provider, the National Business Center (NBC), which is an OPM certified Center of Excellence for Human Resources.

OIG Response: During our review, CSB officials described NBC's involvement in the subject reassignments as limited to ensuring candidates met the minimum qualifications and certifying all candidates for the selection certificate. In our interview with the NBC staff person assigned to assist CSB, he clearly stated that he "[W]as not involved in the selection process. It was CSB's internal matter." He emphasized that he did not make any suggestion to CSB regarding the subject positions.

The CSB and NBC cooperated with the Office of Inspector General (OIG) in its inquiry and provided over 800 pages of documents, numerous interviews, and additional supplementary materials to fully support every aspect of the process.

OIG Response: The documents requested by our team reflect what one would expect a team to review when analyzing a personnel matter (e.g., vacancy announcement; position description; applicant packages; qualifying certificate; selection decision documents; and relevant Board Orders, including the MPP). Our document request specified no page total, and our team provided CSB several weeks to gather materials. We did not ask for direct access to all records/files pertaining to the reassignment decision as the OIG normally does, to minimize disruption to CSB.

OIG staff also sought out and interviewed former employees with no knowledge of the specific merit promotion process that was employed in this instance.

OIG Response: As CSB notes, the MPP had an effective date of 2001. Three of the former staff interviewed by our team left their employment with CSB in 2006, and the fourth left in 2005. We did not interview former employees on the specific recent reassignments; rather, we did so to get background about CSB's work environment.

The CSB's process was proper and the OIG found nothing that would have changed the outcome. Ironically, many of the OIG's observations focus on additional selection procedures, which the OIG acknowledges were not even required by law or the CSB's MPP.

OIG Response: CSB correctly asserts that the extra procedures were not necessary; however, CSB personnel stated that they were done to provide assurance to CSB staff that the selection process was fair. Further, the MPP contained the procedures that CSB told its staff it would follow and provided the basis for our finding that CSB's actions did foster the perception of favoritism.

The OIG was also concerned that CSB's practices may have suggested favoritism and the appearance of prohibited personnel practices. However, *perceptions* of favoritism are not unusual with merit promotions, and there is no evidence that CSB's practices contributed to anyone's perceptions of favoritism. Indeed, the complaint to the OIG *assumed* the process was "wired" from the outset. It is not clear that the CSB could have done anything different to satisfy an individual who prejudged the process before it began. An individual's perception of favoritism obviously of itself does not suggest or constitute a prohibited personnel practice.

OIG Response: We based our findings on the actions of CSB personnel responsible for executing the MPP and the three former staff we interviewed who previously worked in CSB's Office of Investigations.

As discussed in detail below, the CSB disagrees with a number of the OIG's statements and interpretations of the CSB's MPP. Despite these strong disagreements with the OIG draft report, the CSB generally concurs with the intent of the OIG's first recommendation, which is intended to improve the merit selection process in the future. The CSB strenuously objects, however, to the recommendation's implication that the CSB did not evaluate candidates and manage the selection process in accordance with CSB policy or with basic principles of fairness. The CSB also disagrees with some of the specific suggestions related to this recommendation, but has

already taken some actions to clarify the MPP and will pursue others. Specifically, the CSB will conduct additional research on merit selection issues and seek input from OPM before making further changes to its MPP.

OIG Response: We agree with CSB’s efforts to clarify its MPP and improve the process in the future. In its corrective action plan, CSB should specify a timeframe for implementation of these ‘other actions’ to clarify the MPP.

The CSB fully concurs with the OIG’s other two recommendations--that the CSB should update its MPP and clarify instructions to interview panelists. The CSB has already revised its MPP to address these issues. Per the OIG’s request, the CSB is addressing the factual accuracy of the draft report and indicating our concurrence or non-concurrence with each finding and proposed recommendation.

CSB Did Not Apply an Overly Subjective and Inconsistent Analysis

Scoring Methodology

It is important to note that the selection process scoring methodology criticized by the OIG was not required by law or the MPP. It was a good faith effort to create a fair and objective process on which to base reassignment decisions. Moreover, the CSB disagrees with the OIG’s opinion that the process was “overly subjective” or that “scoring methodology could give the perception of favoring certain applicants.” Two of the five candidates scored the highest on all selection components and would have been selected regardless of the weighting formula on any one factor. The third selected candidate clearly outperformed the non-selected candidates on the interview component. All panelists scored this candidate with the highest possible scores on the interview component. Thus, this candidate would have been selected regardless of the weighting formula.

OIG Response: We do not take a position on who CSB should have selected. We did observe that the third selected candidate had the same scores as a non-selected candidate going into the interview portion of the selection process. CSB structured the interview scoring methodology to award 60 points when the panel “highly recommended” a candidate based on outstanding answers in 3 of 4 areas. The scoring methodology awarded zero points and a “do not recommend” even if the panel thought candidates provided satisfactory responses in all four areas. The non-selected candidate received satisfactory remarks from all members of the panel and, thus, zero points for the highest weighted selection component. Further, as we noted in the report, we found the interview scoring for one recommending official flawed and the other recommending official, as well as the third member of the interview panel, did not provide their notes from the interviews that would allow us to recreate the process.

Contrary to the OIG’s suggestion, giving past performance appraisals the weight of 15% did not benefit a candidate with only 10 months of CSB experience. All candidates submitted their most recent performance appraisals as required by the reassignment posting. Each candidate was scored based on the submitted appraisal, and no candidate received more or less benefit from this approach.

OIG Response: CSB stated that it weighted performance appraisals at 15 percent because the interview and writing test would also measure experience. The non-selected candidates did not receive any points for their interviews and thus no additional points for experience.

In hindsight, some may feel that this component could have been weighted more heavily. However, this would not have changed the outcome of the selection process.¹

OIG Response: The report states that weighting past experience at 15 percent appeared to give the least experienced candidate an advantage; the report did not state that it was the only factor in the decision.

The OIG also questions the weight assigned to the writing portion of the test, which was 25% of the overall score, and asserts this did not align with informal statements about the importance of writing skills by some to OIG staff long after the reassignment actions were completed.

OIG Response: The two recommending officials who suggested the selections to the Chairman made these statements. They also serve as the two line managers in CSB's Office of Investigations overseeing the work of the reassigned supervisory investigators and junior staff. They stated candidates' writing ability was crucial.

Writing was one of four critical KSA's as outlined in the position posting. Therefore, it was given a weight of 25% representing one of four critical elements. Again, in hindsight, some may feel that this component could have been weighted more heavily. However, this would not have changed the outcome of the selection process².

OIG Response: We cannot speculate on changing the outcome because, without notes, we cannot fully recreate the interview component and we found the section we could recreate flawed. CSB did not provide any explanation for why it valued such a critical component 35 points lower than the interview.

¹ Non-selected candidates would not have outperformed the selected candidates even if more weight had been assigned to this component. The non-selected candidates' past performance scores were no better than any of the selected candidates.

OIG Response: On past performance, the non-selected candidates' scores tied the third selected candidate's score heading into the interview portion of the selection process weighted 60 percent.

² Non-selected candidates would not have outperformed the selected candidates even if more weight had been assigned to this component. Two of the selected candidates had the highest scores on the writing test. The third selected candidate had a better raw score on the writing test than the non-selected candidates. Had this third selected candidate's raw score been 0.2 higher, this candidate would have received an overall score which would have tied the candidate for second best on the writing component.

OIG Response: According to CSB's writing score methodology, an average total score for the writing portion assigned 12.5 points to candidates whose total score fell in the range of 40 to 59. Candidates received 20 points if their total score fell in the range of 60 to 79. The third selected candidate had a total score of 59.3, and would have needed a score 0.7 higher to get 20 points as another selected candidate received, not 0.2 as CSB alleges. The third selected candidate received a lower score on the technical analysis component of the writing test than one of the non-selected candidates.

Interview Process

It is worth noting that the interviews were not a required component of the selection process under the MPP or the law.

OIG Response: True; however, not only did CSB still decide to incorporate interviews as part of its selection process, it weighted interview scores at 60 percent of the overall process.

The “inconsistent analysis” the OIG identified is that one interview panelist incorrectly considered extraneous information about candidates instead of solely relying on their responses to interview questions. There is no evidence that this was anything other than an honest mistake, but it does require corrective action to clarify the instructions to interviewers.

OIG Response: Our report does not state that this action was intentional. However, we did find unfair interview scoring by one recommending official, and the absence of supporting notes makes it impossible to rate the objectiveness of the second recommending official’s interview scoring.

Accordingly, the CSB has revised the section of its MPP concerning interviews. Under the revised MPP, *if interviews are conducted*, interview panel score sheets must contain specific instructions that every candidate must be evaluated solely on the basis of the information provided by the candidate during the interview and not on any other basis. In addition, each member of the panel will be asked to certify in writing that his or her scores are based strictly on the information provided by the candidate during the interview.

OIG Response: We partially agree with this revision to CSB’s MPP. However, absent notes from all interview panel members, we cannot reconstruct the interview process.

CSB Adhered to its Personnel Policies

The OIG’s draft report asserts “several instances where **it appeared** that CSB did not adhere to its MPP and Performance Appraisal Program.” [emphasis added] The table below summarizes the OIG’s analysis and the CSB’s response to each point. As explained in detail below, **the CSB fully adhered to its personnel policies**. The CSB concurs that the OIG identified instances where the MPP needed to be updated or revised to minimize confusion or resolve possible ambiguities. The CSB has already amended its MPP to resolve these issues, and will conduct further research, benchmarking and review to make additional improvements, if necessary.

OIG Response: We do not agree that CSB fully adhered to its personnel policies. We do agree with CSB’s efforts to update the MPP to minimize confusion and resolve possible ambiguities. In its corrective action plan, CSB should specify a timeframe for implementing its “further research, benchmarking and review to make additional improvements” to its MPP.

Policy Statement	<i>The Chief Operating Officer implements and administers the MPP and Performance Appraisal Program.</i>
Fact	CSB has not had a Chief Operating Officer in place for over 2 years.
OIG Analysis	The 2002 report by the Federal Emergency Management Agency OIG recommended that CSB delegate a Chief Operating Officer to effectively manage day-to-day operations. CSB had a Chief Operating Officer in place during a 2004 follow up report by the Department of Homeland Security OIG. However, that person left shortly after the 2004 audit report and CSB has not refilled the position. The Chief Operating Officer is the only role identified in both the MPP and the Performance Appraisal Program not filled. CSB officials said the human resources director handles the merit promotion process on a day-to-day basis; however, CSB has not updated either the MPP or the Performance Appraisal Program to reflect the absence of the Chief Operating Officer position or the transfer of that day-to-day authority.
CSB Analysis	The HRD handled the merit promotion process on a day to day basis. The plan's outdated descriptions of management positions did not cause any problem in the hiring process. The fact that the plan had some outdated clauses does not justify the OIG's claim that the CSB did not adhere to the plan.
CSB Action	The MPP has been revised and the Performance Appraisal Program will be updated to reflect current management arrangements. OIG Response: We agree with CSB's revision to its MPP. In its corrective action plan, CSB should specify a timeframe for updating its Performance Appraisal Program to reflect current management arrangements.

Policy Statement	<i>Vacancy announcement content must include the number of positions to be filled.</i>
Fact	CSB announced "multiple positions" instead of a specific number.
OIG Analysis	While CSB had discretion on the number of reassignments to fill, nearly all staff interviewed and one recommending official said CSB reduced the number of reassignments from four to three <i>after</i> receiving candidate applications and seeing who applied. The human resources director said he notified candidates that CSB would fill a maximum of three positions; however he could not provide evidence to support his claim and interviewees said otherwise. CSB officials stated they could not justify four teams due to staffing levels. However CSB received congressional budget information prior to the vacancy closing date and could have amended the vacancy announcement to specify the number of positions in light of anticipated funding. ³ One recommending official agreed that CSB should have anticipated the staff shortages and specified the correct number of positions before announcing the vacancies.
CSB Analysis	The OIG's analysis is based on an incorrect interpretation of the CSB's MPP and incorrect facts. Section 10 of the MPP provides that an announcement must include the number of positions to be filled. This number could include a range, might be specific, or as in this instance, may simply state the term "multiple." NBC concurred in the CSB's use of the term "multiple" in the announcement. OIG Response: We agree with CSB's revision to its MPP to note that "The number of positions to be filled may be expressed as a specific number such as "one", a range, such as "one to four", or an indeterminate number such as "multiple" or "a

³ The vacancy open period ran from June 27 to July 17, 2006. CSB received congressional budget markups on May 15 and June 29, 2006, that did not include funding for a fourth investigation team. Even though CSB received congressional budget markups by late June 2006, the recommending officials and human resources director did not meet until late July 2006 – several days after the closing date – to decide on a maximum of three positions.

maximum of two.” However, that language did not exist in the MPP in place at the time of our review for the subject reassignments. The MPP in place at the time of the subject vacancy simply said with regard to announcement content “Title, series, grade pay range, and number of positions to be filled.” It is not clear from our interview with the NBC staff person assigned to CSB that the person ‘concurred’ with CSB’s use of the term ‘multiple.’ The NBC staff person told our team that he “was not aware of the number of positions for the reassignments (4 or 3)” and that all he knew was that the “announcement came out as ‘multiple positions’.”

Other agencies also employ similar language in their postings when more than one position may be filled. In any event, the CSB announcement did not state four positions. Even if it had, the CSB could have filled three, two, one or no positions at all.

OIG Response: We concur. However, the perception among nearly all staff we interviewed was that CSB presented the subject reassignments as four supervisory investigator positions.

Ultimately, the CSB did determine that there would be a maximum of three positions filled. The CSB has provided an additional timeline and a supplemental statement by its HRD which confirms that **the decision to go with a maximum of three teams occurred on July 24, 2006, before the identity of the candidates was known to CSB officials.** Indeed, no one at the CSB knew the identities of all five candidates for the reassignment until the HRD received application packages on July 31, 2006. (See Attachment A for a detailed timeline.)

OIG Response: The Human Resources Director acknowledged to us that he shared candidates’ identities with recommending officials before he “blinded” the selection process. The Human Resources Director also said that in a small agency, there is no way to keep identities completely blind. The vacancy open period ran from June 27, 2006, to July 17, 2006. Our evidence shows that CSB’s Human Resources Director knew the identity of at least one candidate (a non-selected candidate) before July 31, 2006, because the Human Resources Director needed that candidate to resend materials on July 18, 2006, to NBC that did not go through in an earlier fax transmission on July 11, 2006.

The assertion in the draft by some staff that the CSB reduced the number of reassignments from four to three after receiving candidate applications is incorrect. None of these individuals had specific knowledge of when this decision was made. According to the HRD, a recommending official who apparently confirmed this point of view participated in the decision-making process on this issue on July 21, 2006. Thus, the recommending official may simply be confused as to the sequence of events which occurred some months ago. The HRD informed candidates who applied that there were going to be a maximum of three teams on August 15, 2006.

This was done as courtesy because the CSB had hoped to be able to field four teams. Thus, job candidates could have understandably hoped that four positions would be filled. However, the CSB never promised that there would be 4 candidates reassigned to supervisory positions. The CSB had discretion to fill as many positions as it determined necessary based on its business needs, the number of qualified candidates, and its budgetary resources.

OIG Response: We do not disagree that CSB had discretion to fill as many positions as it determined necessary. However, as we stated above, nearly all staff we interviewed said that CSB presented the subject reassignments as four supervisory investigator positions.

CSB Action	<p>The CSB has revised its MPP to clarify management discretion in posting a number of positions in an MPP announcement. In addition, it has revised its MPP so that each announcement includes a statement explaining that the CSB may not select any candidates or fewer than the number announced.</p> <p>OIG Response: We agree with CSB's revision to its MPP.</p> <p>The CSB anticipates that these revisions will lessen the potential in the future for employees to mistakenly believe that a position posting is a rigid quota that will be filled at a set number.</p>
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Policy Statement	<p><i>The criteria used to rate candidates will be based on a thorough job analysis resulting in identification of job-related ranking factors. Job-related ranking factors are documented and must provide the basis for considering and comparing candidates based on the knowledge, skills, and abilities needed to be successful in the position.</i></p>
Fact	<p>A crediting plan describes specific procedures for rating each qualified applicant. According to the instructions, CSB was to rate each qualified applicant on each of the quality ranking factors on a scale of 0-5. CSB had, but did not use, a detailed crediting plan that included a job analysis for the subject reassignments. CSB and NBC developed the crediting plan for the reassignments prior to posting the vacancy announcement. In addition, when assigning ratings, the crediting plan said CSB should review applicants' responses to the quality ranking factors (i.e., narrative on knowledge, skills, and abilities) as well as the rest of their applications before determining a score.</p>
OIG Analysis	<p>CSB's human resources director and the NBC human resources specialist said CSB did not apply the crediting plan since only five applicants applied. However, the MPP lists no such exception related to a required number of applicants to trigger the use of evaluation criteria. CSB officials said that Section 18 from the MPP governed the subject reassignments, not the evaluation criteria described in Section 14. However, the MPP does not indicate or describe situations when certain sections override or incorporate others by reference, and Section 14 describes the rating and ranking process "for each announced vacancy."</p>
CSB Analysis	<p>The CSB adhered to its MPP and concurs with NBC's guidance on this point.</p> <p>Crediting plans are used to narrow down a large pool of applicants to a manageable number from which a final selection may be made. Section 14.a. of the MPP plainly states the point: "The rating and ranking process is designed to provide the selecting official with a reasonable number of well qualified candidates for each announced vacancy." Thus, when there are not a large number of candidates, rating and ranking may not be performed. Section 16.d. of the MPP states: "When there are few qualified competitive merit promotion applicants and rating and ranking is not performed, the HR Specialist will compare the application with the rating guide. All applicants possessing a majority of the ranking factors will be referred. If there are no well qualified candidates, and further expansion of the Area of Consideration is not practical, all qualified candidates may be referred."</p> <p>In this case, all 5 candidates were referred. Rating and ranking under sections 16 and 17 of the MPP was not required because there were few candidates. An additional component in this selection process that was similar in effect to "rating and ranking" was the three-part evaluation of the referred candidates under section 18 of the MPP. Thus, the OIG position seems to be that paper "rating and ranking" under sections 16 and 17 would have somehow improved the process even with the extensive selection process that occurred. The CSB disagrees because rating and ranking was not needed to provide the selecting official with a reasonable number of</p>

	<p>well qualified candidates for the reassignments.</p> <p>The CSB agrees with the OIG that the MPP can be clarified to emphasize that rating and ranking may not be performed when there are fewer than 10 candidates.</p>
CSB Action	<p>The CSB has revised its MPP to clarify that rating and ranking may not be performed when there are 10 or fewer candidates.</p> <p>OIG Response: CSB’s revision to its MPP needs to meet all of the requirements of 5 C.F.R. Section 335.103 “Agency Promotion Programs” and include information about how CSB will identify the best qualified candidates when it does not use a crediting plan. Section 335.103(b)(4) states that selection procedures will provide for management’s right to select from among a group of best qualified candidates. CSB and NBC drafted the crediting plan in order to help ensure that CSB received well qualified candidates. Because there was not a very large field of applicants (five candidates for three positions), NBC forwarded all candidates because they met the <u>minimum</u> requirements of the positions. Section 335.103(b)(2) states that the agency must be sure that the area of consideration is sufficiently broad to ensure the availability of high quality candidates, taking into account the nature and level of the positions covered. CSB had several options available to increase the field of applicants and reduce the perception of favoritism, such as re-advertising, opening the announcement to a wider field than just CSB employees, or keeping the announcement open longer. CSB did not choose to use any of those options. CSB can revise its MPP in many ways and can include an exception to rating and ranking in appropriate cases. However, any changes CSB makes to its MPP need to comply with all of the requirements of 5 C.F.R. Section 335.103 in order to ensure that CSB bases promotions on merit.</p>

Policy Statement	<i>Maintain records to allow for reconstruction of promotion actions, including documentation of how they ranked and rated candidates.</i>
Fact	CSB retained summary score sheets documenting interview results. Only one recommending official retained notes supporting his scoring decisions for the interviews and written tests.
OIG Analysis	CSB did not maintain the records necessary to allow for reconstruction or to support the rationale for selection decisions. While merit promotion regulations ⁴ do not specifically require retention of personal notes, we view that as a good business practice to: i) further support selection decisions; ii) show the recommending officials’ thoughts and reactions at the time of the interview; and iii) mitigate the possible outcome of a perception of favoritism toward particular candidates. The lack of notes prevented reconstruction of the reassignment action.
CSB Analysis	<p>The CSB maintained adequate records for the merit selection process in accordance with law and its MPP, and takes strong exception to any suggestion to the contrary.</p> <p>To date, the CSB has supplied the OIG with over 800 pages of records documenting and explaining every aspect of this merit promotion (reassignment) process from the preparation of the vacancy announcement through the candidate evaluation process to the final selection decisions. In turn, this extensive documentation enabled the OIG to prepare its detailed analysis and critique of the process. Thus, it is simply not accurate to say that the records maintained by the CSB did not allow for the reconstruction of this merit promotion action.</p> <p>OIG Response: The lack of all notes from the interview panel and from one of the writing test reviewers prevented clear reconstruction of the reassignment actions.</p>

⁴ Specifically, Section 21 from CSB’s MPP based on Title 5, U.S. Code, Section 335.103(b)(5).

	<p>In fact, the CSB’s recordkeeping in this case was consistent with the applicable section of the MPP and the regulatory and records management authorities upon which that section is based. The CSB satisfied the requirement of section 21 of the MPP, and the corresponding requirement in the OPM merit promotion regulations, 5 C.F.R. § 335.103(b)(5), to maintain records allowing reconstruction of the promotion action. Neither of these authorities prescribes any particular form for such records, nor do they identify personal notes as required records. Likewise, the applicable General Records Schedule (GRS 1.32) describes the subjects to be documented in merit promotion case files – all of which are covered by the CSB’s records in this case – but does not specify any particular type of record for documenting those subjects. Based on these objective measures, the CSB maintains that its recordkeeping for this merit promotion action was more than sufficient.</p> <p>Finally, the CSB does not agree with the OIG’s contention that personal notes of interviews would have somehow avoided issues with this process. In short, what the OIG identified was not a record keeping issue. What the OIG identified was a lack of full clarity in the structured interview process that allowed one interviewer to consider extraneous information. The CSB believes that it has addressed this issue, in part, by now requiring clearer instructions and a certification on its MPP score sheets.</p>
<p>CSB Actions</p>	<p>The CSB has revised the section of its MPP concerning interviews. Under the revised MPP, if interviews are conducted, interview panel score sheets must contain specific instructions that every candidate must be evaluated solely on the basis of the information provided by the candidate during the interview and not on any other basis. In addition, each member of the panel must certify in writing that his or her scores are based strictly on the information provided by the candidate during the interview.</p> <p>OIG Response: While CSB’s actions to regularize the interview process may advance the actual and perceived fairness of the selection process, these actions do not ensure that a record of the process is retained or that reconstruction of the process can occur. We agree that 5 C.F.R. §335.103(b)(5) does not specify particular forms of records and rather requires maintaining records sufficient to reconstruct the action. Our review found that we could not reconstruct the subject reassignments without notes from the interviews.</p> <p>Finally, the CSB will conduct research and benchmarking to improve its structured interview process.</p> <p>OIG Response: In its corrective action plan, CSB should specify a timeframe for improving the structured interview process as a result of CSB’s research and benchmarking.</p>

<p>Policy Statement</p>	<p><i>Informal discussions between employees and selecting management officials are encouraged on the procedures used to rank candidates and information on applicant status.</i></p>
<p>Fact</p>	<p>The human resources director briefed candidates on the selection process components; however, CSB did not debrief non-selected candidates on the reasons for non-selection.</p>
<p>OIG Analysis</p>	<p>While the MPP does not specifically require debriefs, both non-selected candidates requested feedback to improve their future performance.</p>

CSB Analysis	<p>As the OIG acknowledges, the CSB adhered to the MPP. Debriefs are not required by the MPP. Nevertheless, the HRD did brief candidates on the selection process components.</p> <p>OIG Response: We continue to believe that CSB should provide requested feedback to non-selected internal candidates that they believe would help improve their future performance.</p>
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Policy Statement	<p><i>CSB will give “due weight” to performance appraisals in the selection process, and appraisals provide “the foundation for decisions on awards, promotions, or other actions based on performance.”</i></p>
Fact	<p>CSB weighted past performance at 15 percent of the selection process. CSB officials said that other parts of the selection process (the interview and writing test) also measured experiences and abilities, which they viewed as likely to be predictive of future success as past performance appraisals.</p>
OIG Analysis	<p>Weighting past performance the least did not align with statements by CSB officials on the unique and specialized nature of CSB’s work, and how they cannot hire anyone “off the street” to lead investigations.</p>
CSB Analysis	<p>The CSB adhered to its MPP. The CSB allotted a 15% weight to performance appraisals, which is entirely consistent with section 18.d. of the MPP.</p> <p>OIG Response: We cannot comment on whether 15 percent is ‘entirely consistent’ with Section 18.d of CSB’s MPP as CSB never provided a rationale for weighting the selection components. Therefore, we could not make a determination of whether performance appraisals received due weight.</p> <p>Other parts of the selection process (the interview and writing test) also measured experiences and abilities that were as likely to be predictive of future success as past performance appraisals.</p> <p>OIG Response: CSB states that creative interview answers equally substitute for demonstrated experience. Further, CSB’s interview scoring methodology afforded no points even when interview panelists determined that candidates provided satisfactory answers in describing their experiences.</p> <p>Under the circumstances, reasonable minds could differ on the appropriate weight to place on past performance appraisals. However, the weight applied in this instance was in no manner a deviation from section 18.d. of the MPP. The OIG’s perception that the weight “did not align” with statements by management officials does not mean that the CSB did not adhere to the MPP.</p>

CSB Selected Candidates from an Appropriate Pool and Focused on Appropriate Experience

According to the OIG, it conducted an investigation to answer the following specific question: “Did the CSB have a sufficient pool from which to select candidates for merit reassignments?” The answer to this question is simply “Yes.”

The CSB properly limited its area of consideration to CSB employees in accordance with its MPP, because the CSB reasonably expected to locate enough well qualified candidates internally. The CSB had 12 employees who were eligible for reassignment, and expected that several of these employees would apply for the reassignment. Five employees applied, and three were reassigned to supervisory investigator positions.

OIG Response: As stated previously, the Code of Federal Regulations requires the agency to ensure the area of consideration is sufficiently broad to ensure the availability of high quality candidates, taking into account the nature and level of the positions covered.

As for the “experience” factor, the OIG seems to mistakenly assume that there needed to be some special focus on CSB specific experience in the selection process.

OIG Response: The Human Resources Director said that, in CSB’s experience, they “have had problems in hiring folks off the street to lead investigations because CSB’s work is so unique and specialized. . . . They figured they had about 10-12 staff that could qualify and apply for the three supervisor positions in the Office of Investigations, and that most of these 10-12 had spent significant time at the CSB.” Given the “unique and specialized” nature of CSB’s work, one would expect the selection process to account for CSB experience by weighting past performance higher than 15 percent.

CSB experience was required for inclusion in the pool of candidates for reassignment. All of the candidates possessed CSB specific experience to varying degrees, and this qualified them for consideration. The KSA’s that were employed for this position and the three part selection process were **not** limited to measuring CSB specific experience. Once in the pool, it was up to each candidate to demonstrate his or her abilities in accordance with the selection criteria. For example, CSB specific experience may have been helpful to candidates in succeeding on the writing test, but it was not a requirement.

CSB’s Practices did not Suggest Favoritism or the Appearance of Prohibited Personnel Practices

The OIG’s concern is that CSB’s practices may have suggested favoritism and the appearance of prohibited personnel practices. However, *perceptions* of favoritism are not unusual with merit promotions,⁵ and there is no evidence that CSB’s practices contributed to anyone’s perceptions of favoritism.

⁵ The MSPB has observed that “[i]n the final analysis, while the perception of fairness - as well as fairness itself - are critical goals for the Government’s merit promotion system, at least the perception of fairness may not be completely attainable.”

OIG Response: CSB noted that perceptions of favoritism are not unusual with merit promotions. CSB cited a statement from a December 2001 MSPB report entitled “The Federal Merit Promotion Program: Process vs. Outcome.” However, CSB did not include the full passage in its excerpt. The 2001 MSPB report noted, “[W]hile the perception of fairness is an important goal for the Government’s merit promotion system, it may not be completely attainable. Based on our review, however, we believe there are some actions that can be taken to at least narrow the perception gap by improving the actual operation of the Government’s merit promotion process.” The report further stated, and we agree that, “The goal should be to help employees develop more realistic expectations about their opportunities for advancement and any actions they can take to improve their chances. One of the most important problems facing the merit promotion process is its lack of credibility with many members of the Federal workforce. One reason employees often do not find the merit promotion process credible is because they do not really understand the basis on which selecting officials make their decision.”

OIG Response: CSB’s practices contributed to at least one person’s perception of favoritism as evidenced by the anonymous hotline allegation we received that served as the impetus for our review. Subsequently, we learned through our interviews that both non-selected candidates and all former employees who previously worked in CSB’s Office of Investigations thought CSB had the selected candidates in mind when it announced the supervisory investigator reassignment opportunities.

Indeed, the complaint to the OIG *assumed* the process was “wired” from the outset. It is not clear that the CSB could have done anything different to satisfy an individual who prejudged the process before it began. An individual’s perception of favoritism obviously of itself does not suggest or constitute a prohibited personnel practice.

OIG Response: The anonymous allegation we received served as the basis of our review; however, we further based our report’s findings on CSB’s actions. As we stated above, in addition to our anonymous complainant, all three former staff we interviewed who previously worked in CSB’s Office of Investigations described their perceptions of favoritism as well. We agree that perceptions do not, by themselves, constitute a prohibited personnel practice. However, as our report notes, the Office of Special Counsel has said “[I]f a regulation implementing a merit system principle is violated in the process, that would also be a prohibited personnel practice. Negligence or imprudent actions can create the appearance of a hiring offense and result in complaints and investigations.” Our report provides several instances of where CSB did not adhere to its MPP. Our report also provides examples of actions on the part of management that might have contributed to the perception of favoritism and, thus, the appearance of a hiring offense. Among others, these included the confusion surrounding when CSB decided to change the number of reassignments from four to three, using a selected candidate’s 2-month performance appraisal, scoring interview responses based upon their perceptions of candidates’ past experiences instead of the answers provided, and not debriefing non-selected candidates despite repeated requests that CSB do so.

The MPP Selection Process

The OIG alleged that the CSB contributed to perceptions of favoritism because it:

- Developed arbitrary scoring criteria for the selection process.
- Used one selected candidate’s 2-month performance appraisal from another agency while the other four candidates included full-year CSB performance appraisals in accordance with the Performance Appraisal Program.
- Scored interview responses based upon their perceptions of candidates’ past experiences instead of the answers provided.
- Did not provide feedback to non-selected candidates on the reasons for non-selection.

All of these “findings” were made by the OIG long after the process was complete. None of this information was known to the candidates during the process itself and logically could not have impacted anyone’s perceptions about the process one way or the other.

OIG Response: The selection process CSB used and the related management actions contributed to the existing perception of favoritism shared by current and former staff during our interviews.

In any event, on three of the four points, the CSB disagrees with the OIG's findings:

- **Scoring Criteria-** There were three parts of the selection process (Writing test/Case Study, Interview, and Past Performance Appraisal) to measure the four KSA's for the position:
 1. Knowledge of chemical production operations OR chemical safety programs OR hazardous chemical safety OR federal laws and regulations, OR consensus standards related to chemical safety to analyze the findings of industrial accident investigations.
 2. Experience synthesizing large volumes of information and research to write major reports, and prepare and deliver formal oral presentations.
 3. Experience leading and managing complex technical projects such as investigating industrial accidents or other similar projects, including negotiating with diverse parties to facilitate a project.
 4. Building and managing effective teams by encouraging cooperation, trust, and consensus building; resolving conflicts; mentoring and coaching your team to ensure that all members develop to their potential and collaborating with others using team problem solving methodologies and tools.

The weighting for each part of the selection process was rational and well thought out. Writing was one of four critical KSA's as outlined in the position posting. Therefore it was given an appropriate weight of 25% representing one of four critical elements. The interview section represented 60% of the selection process. It could have represented up to 75% of the score because it needed to measure the three non-writing KSA's. However, because the MPP does require consideration of past performance appraisals, 15% weight was accorded to this factor.

OIG Response: Here CSB seems to suggest that it included a review of performance appraisals (weighted 15 percent) only because of the MPP's requirement that CSB give "due weight" to performance appraisals. CSB seems to suggest that it would have preferred to further increase the already significant weight assigned to the interview portion which would have done little to mitigate our independent opinion that CSB applied an overly subjective approach to the subject reassignments.

- **Performance Appraisals-** The position announcement required the applicants to submit their "Current or most recent performance appraisal". All candidates correctly submitted their current/most recent performance appraisal as required in the position announcement. Contrary to the OIG's suggestion, there was no requirement that a candidate submit a CSB performance appraisal.

OIG Response: Our team pointed out to CSB officials that the candidate with only 10 months of CSB experience at the time of the vacancy submitted a performance appraisal that only covered a 2-month time period where all other candidates submitted full-year performance appraisals. While CSB correctly asserts that the vacancy did not require candidates to submit a CSB appraisal, the fact that CSB scored the third selected candidate's 2-month appraisal (from another agency with different descriptions of critical job elements) the same as other candidates' full-year appraisals suggests the appearance of favoritism.

- **Feedback on Non-Selection-** As the OIG acknowledges, the CSB adhered to the MPP. Debriefs are not required by the MPP. Nevertheless, the HRD did brief candidates on the selection process components.

OIG Response: As we stated above, in a small organization such as CSB, we continue to believe that CSB should provide requested feedback to non-selected internal candidates that they believe would help improve their future performance.

General Perceptions of Favoritism at the CSB

Two of the general perceptions identified by the OIG do not relate to the process the OIG examined. The third item simply repeats the false charge that the reassignment process was “wired.” These negative assertions were evidently from a few former and current employees⁶ – including non-selected candidates. Negative assertions from this limited and potentially biased pool should not be surprising.

OIG Response: The anonymous hotline letter we received in October 2006 included two points: 1) a specific allegation pertaining to CSB's recent filling of three supervisory positions with promotion potential to the GS-15 level (i.e., no competition; positions wired from the beginning); and 2) general “arbitrary things” with regard to personnel activities at the CSB that we should discuss with former CSB staff. Our team conducted work related to both points, and focused primarily on the specific allegation that pertained to the three supervisory positions. CSB quickly dismisses what we heard during our interviews as “negative assertions” from a “potentially biased pool” instead of using the feedback we gleaned during our interviews as a basis to closer examine employee perceptions at CSB and improve its work environment. CSB officials may want to explore further why few current and former employees we interviewed had positive statements about CSB leadership.

⁶ Some former employees contacted the CSB. These individuals were surprised that the IG contacted them, and had no relevant information on the merit selection process.

OIG Response: CSB worked with our team to identify former staff for interviews, and CSB provided us the contact information for the former staff we ultimately interviewed. All individuals interviewed by our team provided relevant information on CSB's merit promotion process and shared their observations of CSB's actions leading to the subject reassignments.

More reliable and far more positive data may be gleaned from OPM's FY 2006 government-wide survey results, which was based on a much larger pool—almost all current CSB employees. Not surprisingly, this data paints a more positive picture of the CSB on the relevant issues. Comparative data from other agencies also shows that the CSB exceeded other government agencies by at least 10% in critical areas that were the topic of the OIG report:

OIG Response: We did perform limited, general, and non-statistical analysis of CSB's survey results during the course of our review. However, we believe that including survey numbers pertaining to the three survey questions cited by CSB without proper trends analysis does not prove or disprove anything or add additional value to the report. For example, while CSB noted that its positive responses increased from 2004 to 2006 to the question that read, "Arbitrary action, personal favoritism, and coercion for partisan political purposes are not tolerated" (question #44), "neutral" and "don't know" responses increased as well. As our report notes, OPM suggests that agencies use survey data with other information when assessing the state of their human capital management. As OPM recommends, instead of solely pointing to numbers from the survey responses, CSB should couple survey results with the perceptions gleaned from our interviews summarized in our report to obtain a clearer picture of CSB's human capital management.

- Question 44 from the OPM survey stated - "Arbitrary action, personal favoritism and coercion for partisan political purposes are not tolerated." Positive response government wide was 45% vs. 57% at the CSB.
- Question 45 from the OPM survey stated- "Prohibited Personnel Practices (for example, illegally discriminating, obstructing a person's right to compete for employment, knowingly violating veterans' preference requirements) are not tolerated." Positive response government wide was 58% vs. 71% at the CSB.
- Question 46 from the OPM survey stated -"I can disclose a suspected violation of any law, rule or regulation without fear of reprisal." Positive response government wide was 48% vs. 58% at the CSB.

The OIG report goes to some effort to dismiss these far more representative data on the exact issues the OIG examined, and relies on a much more suspect and subjective source of data.

OIG Response: Our review focused on the facts surrounding CSB's merit promotion process for the specific subject reassignments. A general survey is not the same as a direct examination of a particular area.

"Visualization" of Candidates

The OIG report observes that "[o]ne recommending official, who is also a member of CSB's management council, said that CSB's management council 'visualized' the selected candidates in advance of the selection process." The OIG added: "Upholding his statement, another member of the management council added that there is nothing inappropriate about 'visualizing' who the best candidates are."

There are problems with the OIG's assertions. First, the CSB's management council played no role in selecting candidates for reassignment. Only three members played any role in the selection process at all. Second, the management council simply never visualized the selected candidates in the manner suggested. Third, no management council member "upheld" the manager's statement; the official quoted as doing so has specifically rebutted the OIG's assertion.

OIG Response: Four members of the management council played a role in the selection process, not three as CSB asserts. The four members included: the Human Resources Director; the two recommending officials who signed performance appraisals, interviewed candidates, scored writing tests, and recommended to the Chairman whom to select; and the Director of CSB's Office of Administration who served on the interview panel. We stand by our statement in our report. The recommending official unequivocally and clearly said that CSB's management council 'visualized' the selected candidates in advance of the selection process. We amended our report to omit reference to another management council member upholding the manager's statement.

A CSB manager did state that there is nothing inappropriate about "visualizing" who the best candidates are, but in context, this was not meant to support the factual assertion that such an exercise had occurred.

Rather, it was simply an attempt to clarify that, *in general*, thinking about specific candidates is not itself illegal. As the OIG notes, the Office of Special Counsel agrees: "it is not a prohibited personnel practice to act upon one's existing expectation that one person may be the best selectee for a particular position (pre-selection)."

The CSB requests that the OIG's final report retract the point about the alleged visualizing exercise or revise the text to indicate that this comment was based on the uncorroborated remarks of one employee and rebutted by others.

OIG Response: We changed our report to reflect this feedback.

In any event, as noted, the management council itself did not participate in the selection process.

Recommendations

Despite these strong disagreements with the OIG draft report, the CSB generally concurs with the intent of the OIG's first recommendation, which is intended to improve the merit selection process in the future. The CSB strenuously objects, however, to the recommendation's implication that the CSB did not evaluate candidates and manage the selection process in accordance with CSB policy or with basic principles of fairness. The CSB also disagrees with some of the specific suggestions related to this recommendation, but has already taken some actions to clarify the MPP and will pursue others. Specifically, the CSB will conduct additional research on merit selection issues and seek input from OPM before making further changes to its

MPP. The CSB fully concurs with the second and third recommendations. The CSB has already revised its MPP to address these issues. The CSB's detailed response is summarized below.

Recommendation 1:

For future promotions, evaluate candidates and manage the selection process in accordance with CSB policy. The person responsible for day-to-day administration of the merit promotion process should ensure that:

- CSB has a sound rationale for the scoring methodology.
- Independent personnel score tests rather than recommending officials.
- CSB applies the required evaluation criteria, including detailed crediting plans, to ensure a pool of high quality candidates.
- Personnel maintain documentation, including notes, supporting selection decisions.
- Applicants submit required documentation, such as the appropriate performance appraisals.
- Vacancy announcements list a specific number of positions.
- CSB affords due weight to past performance in selection decisions.

CSB Response:

Of course, the CSB's concurs with the general intent "to manage the selection process in accordance CSB policy." However, the CSB objects that the recommendation implies that the CSB did not manage the process in accordance with CSB policy. The CSB also disagrees with some of the specific suggestions because:

- The CSB employed a sound rationale for the scoring methodology;
- The OIG did not identify any problem or a perceived problem by having the recommending officials score tests, and in future personnel actions, it may be the case that the recommending officials are the ones that are best positioned to score tests;
- CSB applied the required evaluation criteria, and went beyond these requirements to ensure a fair and objective process;
- The CSB did maintain adequate documentation;
- All applicants submitted the appropriate performance appraisals as required for the subject action; and

- Due weight was given to past performance for the subject action.⁷

CSB Action:

Although the CSB evaluated candidates and managed the selection process in accordance with CSB policy, the OIG did identify areas where the MPP could be clarified, and the Board has approved the following revisions to the MPP:

- A provision providing further explanation that the number of positions in a vacancy announcement may be expressed as a number, a range, or an indeterminate number.
- A provision adding a requirement that each vacancy announcement include a statement explaining that the CSB may not select any candidates or fewer than the number announced.
- A provision stating that ranking and rating may not be performed if there are 10 or fewer qualified competitive merit promotion applicants;

In addition to these revisions, the CSB will conduct additional research, benchmark other merit promotion plans, and submit its revised MPP to OPM to ensure that the revisions conform to all requirements and to obtain best practices feedback. As a result of this additional review, the CSB may further revise its MPP to meet the general intent of the recommendation.

OIG Response: We agree with CSB’s efforts to revise and clarify its MPP. In its corrective action plan, CSB should specify a timeframe for conducting additional research, benchmarking other merit promotion plans, and submitting its revised MPP to OPM to ensure that revisions conform to all requirements and obtain best practices feedback.

Recommendation 2:

Update the MPP to reflect the current human resources servicing provider and the status of the Chief Operating Officer.

CSB Response:

Concur. The CSB has revised its MPP to reflect the discontinuation of the Chief Operating Officer position, and the roles of the Human Resource Director and servicing personnel office. The CSB will also update its Performance

⁷ The CSB has included specific information in this document and submitted extensive information to the OIG to support each point above.

Appraisal Program to reflect current management arrangements.

OIG Response: We agree with CSB's revision to its MPP on the role of the Human Resources Director. In its corrective action plan, CSB should specify a timeframe for updating its Performance Appraisal Program to reflect current management arrangements.

Recommendation 3:

Clarify instructions on interview score sheets to ensure that the interview panel bases scores on information provided by the candidate during the interview process and not on personal knowledge of the candidates outside of the interview setting.

CSB Response:

Concur. The CSB has revised its MPP to help avoid the concerns that the OIG identified. Under the revised MPP, if interviews are conducted, interview panel score sheets will contain specific instructions that those candidates are to be evaluated solely on the basis of the information provided by candidates during the interview and not on any other basis. In addition, each member of the panel will be asked to certify in writing that his or her scores are based strictly on the information provided by the candidate during the interview. The CSB will also conduct research and benchmarking to determine if other measures would benefit its structured interview process.

OIG Response: We agree with CSB's revisions to its MPP. In its corrective action plan, CSB should specify a timeframe for conducting research and benchmarking to determine if other measures would benefit its structured interview process.

TIMELINE - NUMBER OF INVESTIGATION TEAMS

Date	Description
9-2005	Initial Budget Request for FY 2007 includes additional funding to staff four investigation teams.
10-2005	<p>CSB announced new investigation supervisor teams. Plan to have 4 teams of 4 to 5 investigators under the new supervisors (lead investigators). To achieve this plan, the CSB would need 16 to 20 staff investigators in addition to 4 new supervisors (lead investigators) and 2 investigation managers.</p> <p>As of October 2005, there were 18 investigator positions at the GS-14 level or lower, 1 of which was vacant. The original goal was to have 4 teams. In order to do so, the CSB needed to fill a vacancy and obtain additional funding for the next fiscal year to hire more investigators.</p>
12-2005	An investigator resigns, creating an additional shortfall in staffing.
2-2006	FY 2007 Budget Justification is submitted to Congress. Discussed restructuring and expanding the Office of Investigations to meet the agency's strategic goals, by creating four self-sufficient investigative teams, each headed by a designated Lead Investigator.
5-2006	An additional investigator resigns, creating a further shortfall in staffing.
5-15-2006	House markup: no funding for fourth team.
6-27-2006	Announcement for multiple supervisory investigator positions.
6-29-2006	Senate markup: no funding for fourth team.
7-21-2006	Recommending Officials and HR Director determine that there should be a maximum of 3 teams based on appropriation committee reports showing that there would not be sufficient funding for 4 investigation teams. Also took into consideration the actual number of staff on board.
7-24-2006	HR Director reviewed evaluation and selection process with Selecting Official, who decided to have a maximum of 3 teams.F*F
7-31-2006	HR Director receives selection certificate from NBC.
8-15-2006	HR Director informed candidates that there would be a maximum of 3 teams.
9-11-2006	Initial Budget Request for FY 2008 includes additional funding to staff a fourth investigation team.

* The CSB would have created fewer than 3 teams if investigation managers had been unable to recommend 3 candidates for the supervisory investigator positions.

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