



November 7, 2019

MEMORANDUM FOR: Diane Farrell
Performing the non-exclusive functions and duties of the
Under Secretary of Commerce for International Trade and Acting
Deputy Under Secretary for International Trade
International Trade Administration

Carol N. Rice

FROM: Carol N. Rice
Assistant Inspector General for Audit and Evaluation

SUBJECT: *Management Alert: U.S. & Foreign Commercial Service Needs to
Address Urgent Issues in the Officer Promotion Process*
Final Memorandum No. OIG-20-005-M

Attached is a management alert on the International Trade Administration's (ITA's) 2018 U.S. & Foreign Commercial Service (US&FCS) officer promotion process. Our ongoing objective is to determine whether US&FCS, which is part of ITA's Global Markets business unit, adhered to applicable laws, regulations, and policies when conducting the 2018 officer promotion process. During our fieldwork, we identified three issues that require immediate attention.

We are not requesting a formal response to this memorandum, as we have alerted management to the key issues and proposed actions in advance of issuance. We will include information from this memorandum, as well as any action taken by ITA as a result of this management alert, in a full report to be issued at a later date.

The subsequent report will comment on the actions taken by your office to address the issues identified here, and a final version of that report will be posted in accordance with sections 4 and 8M of the Inspector General Act of 1978, as amended (5 U.S.C. App., §§ 4 & 8M).

We appreciate the cooperation and courtesies extended to us by your staff during our fieldwork. If you have any questions or concerns about this memorandum, please contact me at (202) 482-6020 or Patricia McBarnette, Audit Director, at (202) 482-3391.

Attachment

cc: Lisa Casias, Deputy Assistant Secretary for Administration
Ian Steff, Assistant Secretary for Global Markets and Director General of the U.S. and
Foreign Commercial Service
Jennifer Eveland, OIG Liaison, ITA
Blanche Ziv, Director, Organizational Excellence Division



Management Alert

U.S. & Foreign Commercial Service Needs to Address Urgent Issues in the Officer Promotion Process

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Key Issue

Time in class limitations, which require career officers to separate from US&FCS when not promoted within specific timeframes, magnify the importance of the US&FCS promotion process. Our review of the US&FCS 2018 officer promotion process identified three issues that require immediate attention. First, we found that the 2018 promotion process was neither conducted in accordance with procedural requirements nor adequately documented, which may have resulted in unmerited promotions of senior foreign service officers. Second, we found that an incorrectly completed eligibility verification may have led to the promotion of an ineligible individual. Finally, we found insufficient security measures over sensitive foreign service officer promotion-related documents on a shared drive that all ITA employees could access.

Proposed Actions for Change

The US&FCS director general should review these urgent issues and explore options for timely remediation to ensure (1) the 2018 and future selection board decisions were/are made in accordance with required procedures and appropriately documented, (2) each promoted officer met all eligibility requirements, and (3) sensitive promotion data is protected.

Background

Global Markets, a business unit of ITA, assists and advocates for U.S. businesses in the international markets to foster U.S. economic prosperity. US&FCS is a primary component of Global Markets. US&FCS' foreign service officers are typically assigned to foreign posts to promote the export of U.S. goods and services, attract foreign investment into the United States, and defend U.S. commercial interests abroad.

Adherence to applicable laws, regulations, and policies governing the US&FCS promotion process takes on increased importance as the Foreign Service Act of 1980¹ established time in class limits² requiring career officers to either be promoted or risk separation from US&FCS. Annually, Global Markets' Office of Foreign Service Human Capital (OFSHC) establishes and administers a selection board to evaluate the

¹ Section 607(a)(1) of the Foreign Service Act of 1980.

² Time in class limits vary and are identified in the *Foreign Service Personnel Manual*, subchapter 700-1.

performance of each class³ of foreign service officers for advancement. In addition, OFSHC performs an annual evaluation (called a flow-through analysis) to identify and recommend the number of available promotions within each foreign service officer class to the US&FCS director general; this process is independent of the selection boards and must take place before selection boards convene. After evaluating the recommendations, the director general determines and formally approves the final number of available promotions in each officer class. At the conclusion of the selection board evaluations, each board's chairperson submits a memorandum to the director general, which includes the rank order⁴ listing of the foreign service officers eligible for promotion within the class. The director general must approve promotions based on the rank order listing. The number of positions filled is based on the number of available promotions determined earlier in the process.

Our Observations to Date

The *Foreign Service Personnel Management Manual* (the *Manual*) requires the selection board to evaluate and rank officers using specific criteria⁵ and OFSHC to ensure officers recommended for promotion meet certain eligibility requirements.⁶ Additionally, US&FCS has a duty to protect records related to its officer promotion process and prevent its compromise.⁷ However, we found the following:

- **For one selection board, our comparison of individual board member scores to compiled board member scores showed discrepancies.** The *Manual* states officer rankings will be based on point totals from each board member's evaluation.⁸ However, we found discrepancies between points noted on the board's report and individual board member evaluations. When we initially informed OFSHC management about these discrepancies, management informed us that the selection board revised the rank order for four foreign service officers because the selection board felt some officers performed more strongly than others.⁹ In responding to our requests for further detail on the selection board's action, however, the explanation changed with OFSHC stating that the selection board had a four-way tie and the selection board modified scores to break the tie. Although the *Manual* allows selection boards to

³ Officer class corresponds to the standing of foreign service officers. From lowest to highest, the officer classes are FS-04, FS-03, FS-02, FS-01, counselor, minister counselor, and career minister. Officers in the latter three classes make up the Senior Foreign Service.

⁴ Foreign service officers are evaluated based on six criteria, each worth up to 10 points and a total score of 60 points. Selection boards may award 5 additional points for special consideration. Officers are ranked based on total scores with higher scoring officers receiving increased opportunities for promotions, bonuses, and awards.

⁵ Subchapter 500-3, Section 3.01, *Rank Order Procedures* and Section 3.02, *Rank Order Criteria*.

⁶ Subchapter 500-3, Section 3.05, *Senior Foreign Service Promotion Eligibility Requirements*.

⁷ 5 CFR § 293.106 states each agency shall establish controls to protect information in personnel records from unauthorized access, use, modification, destruction or disclosure. Furthermore, the Privacy Act generally forbids an agency from disclosing any record contained in a system of records absent a statutory exception, such as the exception for where the disclosure of the record would be to those within the agency who have a need for the record in the performance of their duties. 5 U.S.C § 552a(b)(1).

⁸ Subchapter 500-3, Section 3.01.b of *Rank Order Procedures*.

⁹ According to OFSHC personnel, if a selection board believes an officer's performance is stronger than another's, the selection board may add or subtract points to revise the officer's ranking. OFSHC refers to this process as "force ranking" and states it may occur irrespective of any ties.

revise rankings in cases of ties,¹⁰ we found no evidence of a four-way tie that would have permitted the selection board to revise the rankings of these four officers. Moreover, these revisions violated applicable procedural requirements as we found no evidence that these revisions were performed in an allowable situation. Additionally, without adequate records substantiating a four-way tie and demonstrating the board's tie-break process complied with procedural requirements, US&FCS cannot support key decisions used in promotion recommendations.¹¹ Consequently, US&FCS cannot provide assurance that unpromoted officers were not improperly overlooked or that promoted officers were appropriately recommended for promotion.

- **OFSHC may have incorrectly completed promotion eligibility verifications.** Although the *Manual* identifies the requirements for promotion into each senior foreign service officer class, the *Manual* does not list the required or permissible sources of information used to verify requirements for promotion are met. Likewise, OFSHC does not have policies or procedures stating the sources of information that should be used to determine whether officers meet eligibility requirements. In our review of the eligibility verification process, we found that a senior foreign service officer who was recommended for promotion did not appear to meet eligibility requirements. We found that the OFSHC specialist responsible for determining promotion eligibility relied on performance appraisals to reach the determination that the officer was not eligible. However, OFSHC management reviewed the specialist's determination and concluded the subject officer met the requirements based on other personnel data obtained from the Department of State. Our review of relevant US&FCS personnel records and Departmental policy¹² obtained to support the officer's promotion eligibility, including information obtained from the Department of State, indicates that the officer did not possess the requisite requirements. Therefore, it appears that OFSHC incorrectly completed the promotion eligibility verification for the officer, and the officer was not eligible for promotion. Further, the ineligible officer's promotion may have prevented an eligible officer's promotion into this senior foreign service class.
- **US&FCS did not secure sensitive information related to its officer promotion process.** According to the Code of Federal Regulations,¹³ US&FCS is required to protect personnel records from unauthorized access and disclosure. However, US&FCS maintained sensitive information on an unsecure shared drive that was accessible to all ITA employees. In our review of its internal controls, Enterprise Operations¹⁴ became aware that ITA did not properly configure its shared drive's security settings. As a result, all of ITA's nearly 1,400 employees could access the shared drive where US&FCS electronically stored selection board rankings from the 2018 officer promotion process—as well as other sensitive information pertinent to US&FCS operations—by simply adding the location of the shared drive to their computer. Furthermore, several US&FCS

¹⁰ Subchapter 500-3, Section 3.01, *Rank Order Procedures*, does not authorize use of the force ranking process, and OFSHC was unable to provide any written documentation (such as manuals, policy, or procedures) justifying its use.

¹¹ Per 44 U.S.C § 3101, the head of each federal agency shall make and preserve records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency.

¹² Review of relevant US&FCS personnel records and Departmental policy included (but not limited to): several years of performance appraisals, the officer's bid history (for preferred assignment locations and position grades), a memorandum signed by the director general documenting the officer's assignment location and position grade, and *The Commerce Position Classification Handbook*.

¹³ 5 CFR § 293.106.

¹⁴ Enterprise Operations is a component of ITA's Office of the Chief Information Officer.

employees—who were registered as authorized users of the shared drive—could access the selection board rankings even though their official duties did not require it. Disclosure of this sensitive promotion related information may have been a violation of the Privacy Act¹⁵ and therefore calls into question the ability of the US&FCS to assure the promotion process was conducted with integrity, fairness, and protected from improper influences.

Our Future Work

The information in this advisory will be included in a later evaluation report and will contain recommendations, along with any Departmental actions taken in response to this advisory. We are not requesting a formal response to this advisory. The advisory will be posted to our public website.

¹⁵ The Privacy Act generally forbids an agency from disclosing any record contained in a system of records absent a statutory exception, such as the exception for where the disclosure of the record would be to those within the agency who have a need for the record in the performance of their duties. 5 U.S.C § 552a(b)(1).