

**DHS Support Components
Do Not Have Sufficient
Processes and Procedures to
Address Misconduct**





DHS OIG HIGHLIGHTS

DHS Support Components Do Not Have Sufficient Processes and Procedures to Address Misconduct

September 26, 2018

Why We Did This Audit

This report is part of our ongoing department-wide audit of conduct and discipline to determine whether the Department of Homeland Security has sufficient processes and procedures to address conduct issues. This report presents our findings on DHS support components. We expect to publish a department-wide summary report at the conclusion of the conduct and discipline audit.

What We Recommend

We made six recommendations to ensure the consistent and effective management of conduct issues.

For Further Information:

Contact our Office of Public Affairs at (202) 981-6000, or email us at DHS-OIG.OfficePublicAffairs@oig.dhs.gov

What We Found

DHS support components do not have sufficient processes and procedures to address misconduct. These deficiencies exist because no single office or entity is responsible for managing and overseeing misconduct issues across support components. According to Government Accountability Office guidance, it is important for agencies to establish organizational structure, assign responsibility, and delegate authority, so they can achieve their objectives.

Within the DHS Office of the Chief Human Capital Officer, the Human Resources Management and Services (HRMS) Employee Relations and Performance Management (ER) provides advisory services to support component supervisors and managers on conduct and performance-related issues. However, HRMS ER needs programmatic improvements, such as guidance and controls that ensure case file integrity. The office has had limited oversight and accountability for activities related to disciplinary actions. A strong system of internal controls helps management establish and operate activities to oversee and evaluate progress. Until DHS assigns program responsibility and implements an oversight program, the Department cannot provide assurance that the support components consistently and effectively manage misconduct issues.

DHS Support Components' Response

DHS concurred with our recommendations and has begun taking corrective actions in response to our report.



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Department of Homeland Security

Washington, DC 20528 / www.oig.dhs.gov

September 26, 2018

MEMORANDUM FOR: The Honorable Claire M. Grady
Acting Deputy Secretary
Department of Homeland Security

FROM: John V. Kelly 
Senior Official Performing the
Duties of the Inspector General

SUBJECT: *DHS Support Components Do Not Have Sufficient
Processes and Procedures to Address Misconduct*

Attached for your action is our final report, *DHS Support Components Do Not Have Sufficient Processes and Procedures to Address Misconduct*. We incorporated the formal comments provided by your office.

The report contains six recommendations aimed at improving DHS support components processes and procedures for addressing misconduct. Your office concurred with the six recommendations.

Based on information provided in your response to the draft report, we consider all recommendations open and resolved. Once your office has fully implemented the recommendations, please submit a formal closeout letter to us within 30 days so that we may close the recommendations. The memorandum should be accompanied by evidence of completion of agreed-upon corrective actions and of the disposition of any monetary amounts.

Please send your response or closure request OIGAuditsFollowup@oig.dhs.gov.

Consistent with our responsibility under the *Inspector General Act*, we will provide copies of our report to congressional committees with oversight and appropriate responsibility over the Department of Homeland Security. We will post the report on our website for public dissemination.

Please call me with any questions, or your staff may contact Sondra McCauley, Acting Assistant Inspector General for Audits, at (202) 981-6000.



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Abbreviations

EEO	Equal Employment Opportunity
ER	Employee Relations
GAO	Government Accountability Office
HRMS	Human Resources Management and Services
OCHCO	Office of the Chief Human Capital Officer
OGC	Office of General Counsel
OIG	Office of Inspector General
OPM	U.S. Office of Personnel Management
SES	Senior Executive Service



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Background

The mission of the Department of Homeland Security is to safeguard the American people, our homeland, and our values. DHS consists of both support and operational components that report directly to the Secretary. Operational components are responsible for achieving one or more of the Department's mission activities and generally manage their own finances, human resources, information technology (IT), procurement, and security programs.

Support components provide resources, analysis, equipment, research, policy development, and other specific assistance to the operational components. Similar to the operational components, support components also have centralized services for some support functions, such as human resources, IT, and personnel security.

DHS delegates the administration of discipline to the Chief Human Capital Officer, component heads, and component human resources directors, who must:

- develop and administer policy guidance governing the administration of disciplinary and adverse actions;
- ensure policies governing disciplinary and adverse action within the components are effectively applied and administered;
- deliver guidance and advice to managers and supervisors on the discipline and adverse actions program;
- ensure supervisors have the appropriate support; and
- maintain properly all disciplinary and adverse action case files.

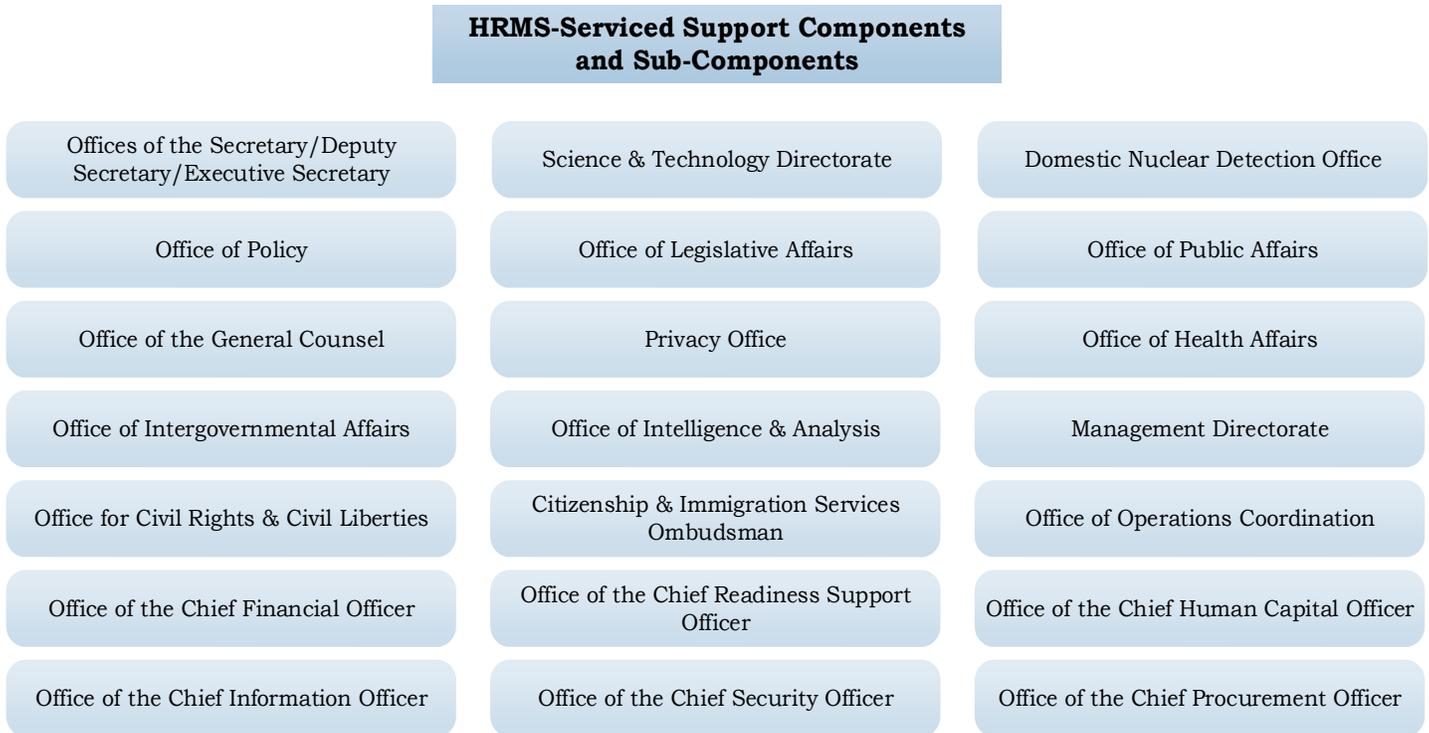
Within the Management Directorate, the Office of the Chief Human Capital Officer (OCHCO), Human Resources Management and Services (HRMS) provides human capital services to all support components except the National Protection and Programs Directorate and the Federal Law Enforcement Training Centers.¹ The HRMS Employee Relations and Performance Management (ER) branch, among other duties, provides advisory services to support component supervisors and managers on conduct and performance-related issues. Approximately 4,000 of DHS' more than 240,000 employees receive human capital services from HRMS (see figure 1 for the 21 DHS support components and sub-components receiving HRMS services).

¹ Even though the Office of Inspector General (OIG) is a component of DHS organizationally, it operates independently of DHS. To maintain independence, OCHCO does not oversee or provide human capital services to OIG.



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Figure 1. DHS Support Components Receiving HRMS Services



Source: OIG analysis

All Federal employees are expected to perform in a manner that promotes the efficiency of the service and upholds applicable standards of ethical conduct. Under Chapter 75 of Title 5, United States Code, Federal agencies can discipline employees to address and correct instances of misconduct. Within DHS, managers, supervisors, and designees are responsible for assessing the conduct of employees and providing assistance, feedback, and corrective action. In November 2016, DHS issued Directive 250-09, *Discipline and Adverse Actions Program*, along with implementing instructions. These documents establish the Department’s policy and provide guidance for administering discipline and adverse actions.

The U.S. Office of Personnel Management (OPM) defines discipline as measures intended to correct misconduct that adversely affects the efficiency of the service; and to encourage employee conduct in compliance with the standards of conduct, policies, goals, work procedures, and office practices of the agency. Adverse actions include suspensions without pay, reductions in grade or pay, furloughs of 30 days or less, and removal.

This report presents our findings on the management of conduct issues by



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DHS support components. It is part of our ongoing department-wide audit of conduct and discipline, which seeks to determine whether the Department has sufficient processes and procedures to address conduct issues. We issued a separate report on the Federal Air Marshal Service² and expect to publish a department-wide summary report at the conclusion of the conduct and discipline audit.

Results of Audit

DHS support components do not have sufficient processes and procedures to address misconduct. These deficiencies exist because no single office or entity is responsible for managing and overseeing misconduct issues across support components. According to Government Accountability Office (GAO) guidance, it is important for agencies to establish organizational structure, assign responsibility, and delegate authority, so they can achieve their objectives.

Additionally, HRMS ER needs programmatic improvements, such as performance measures, guidance, and controls that ensure the integrity of its case files. HRMS has had very limited oversight and accountability for HRMS ER's operational activities related to disciplinary actions. A strong system of internal controls helps management establish and operate activities to oversee and evaluate progress. Until DHS assigns program responsibility and implements an oversight program, the Department cannot provide assurance that the support components consistently and effectively manage misconduct issues.

Improvements Needed in Addressing Misconduct

Support components need to improve their processes and procedures for addressing misconduct. Specifically, support components do not:

- maintain comprehensive data about misconduct allegations;
- refer misconduct allegations consistently to OIG;
- provide guidance for supervisors and investigators on handling misconduct; and
- manage misconduct allegations effectively.

According to GAO guidance, it is important for agencies to establish organizational structure, assign responsibility, and delegate authority, so they can achieve their objectives.³ Guidance also suggests management properly

² *The Federal Air Marshal Service Has Sufficient Policies and Procedures for Addressing Misconduct*, OIG-17-104, September 13, 2017

³ *Standards for Internal Control in the Federal Government*, GAO-14-704G, September 2014



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manage and maintain documentation and records so they are readily available for examination.

Support Components Do Not Have Comprehensive Allegation Data

Due to the various approaches the support components use to track misconduct allegations, we could not identify the total number of misconduct allegations made by or against support component employees. We identified eight support components that receive or identify misconduct allegations on behalf of the 21 support components and sub-components that HRMS services. However, three of the eight offices do not formally track all misconduct allegations. Table 1 lists the eight components, their activities, and whether they monitor allegations in systems designed to track or manage other issues, such as security cases and IT incidents.

Additionally, HRMS ER only tracks allegations that result in disciplinary action. This further limited our ability to review and assess how support components received, reviewed, referred, documented, and closed misconduct allegations. Without comprehensive allegation data, DHS management cannot effectively monitor and oversee support components' efforts to address misconduct issues.



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Table 1: Support Component Activities Related to Misconduct Allegations

Component	Activities	Systems Used
OCHCO HRMS ER	Responds to requests from supervisors to assist with misconduct allegations.	Internal case management database
Office of Chief Security Officer, Personnel Security Division	Receives allegations related to potential security incidents.	Integrated Security Management System
DHS Office of General Counsel, Ethics Division	Receives questions and allegations related to ethics violations.	None
DHS Office of General Counsel, Personnel / Employment Law Division	Provides counsel on all adverse actions; can receive misconduct allegations directly; provides assistance on conducting investigations.	None
Office of the Chief Information Officer, Office of Information Technology Services, Risk Management Division	Conducts monitoring and analysis of computer usage by employees and provides security awareness.	Request Tracker (internal database) and DHS Enterprise Operations Center Portal
Office of Privacy	May receive reports related to privacy incidents from a variety of sources.	DHS Enterprise Operations Center Portal
Chief Financial Officer for Support Component offices <ul style="list-style-type: none"> • Travel Card Program • Purchase Card Program 	Performs reviews, post-payment audits, and external audits on selected charge card transactions.	Intellilink
Office of Civil Rights and Civil Liberties / Equal Employment Office	Processes informal and formal Equal Employment Opportunity (EEO) complaints, as well as other non-statutory discrimination complaints and complaints of harassment, separate and apart from EEO complaints.	iComplaint System

Source: OIG Analysis

Inconsistent Referrals of Misconduct Allegations to OIG

Support components do not consistently refer misconduct allegations to OIG as required. Because no formal referral process exists, and not all support components maintain relevant data, we could not verify the proper referral of misconduct allegations to OIG.

DHS Management Directive 0810.1, *The Office of Inspector General*, requires that DHS components immediately refer the following categories of allegations to OIG:

- all allegations of criminal misconduct against a DHS employee;
- all allegations of misconduct against employees at the GS-15 level, GM-15 level, or higher;



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- all allegations of serious, noncriminal misconduct against a law enforcement officer;
- all instances of discharge of a firearm that result in death or personal injury;
- all allegations of fraud by contractors, grantees, or other individuals or entities receiving DHS funds or otherwise engaged in the operation of DHS programs or operations; and
- all allegations of visa fraud by DHS employees working in the visa issuance process.

Unlike some DHS operational components, support components do not have a single office or entity responsible for receiving, reviewing, documenting, and referring misconduct allegations. Several support components that receive allegations or identify misconduct have no formal process to ensure allegations are properly referred to OIG. In particular, HRMS ER staff acknowledged they were not aware of support component referral processes. They also said within HRMS ER there is no way to ensure allegations are properly referred.

Because no formal referral process exists, and not all support components maintain relevant data, we could not verify whether support components' properly refer misconduct allegations to OIG. Instead, we obtained HRMS ER disciplinary case data. HRMS ER's database only captures misconduct allegations that result in disciplinary and adverse actions; it does not capture the universe of allegations received by HRMS ER staff. It also does not track any fact-finding or investigative information, including referrals to other offices. Due to these deficiencies, we conducted a limited assessment of GS-15 disciplinary and adverse action cases from 2012 through June 2016. We found that HRMS did not refer 54 out of 66 cases of GS-15 misconduct (82 percent) to OIG, all of which were subject to mandatory referral under Management Directive 0810.1.

Additionally, we were unable to conduct any assessment of the proper referral of Senior Executive Service (SES) misconduct allegations. This was because HRMS ER staff acknowledged they do not collect or retain data on SES misconduct cases and could not locate any SES case files for us to review when requested.

Support Components Need Guidance on Managing Misconduct Issues

Support components lack the necessary process and guidance to manage misconduct issues.



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No Supervisory Guidance

Support component supervisors and managers have not been provided with guidance on how to address and correct misconduct. According to the *DHS Discipline and Adverse Actions Program Instruction* (the Instruction), HRMS is responsible for, among other duties, providing personnel administration guidance and advice to all managers and supervisors on the rights and responsibilities covered in the Instruction.

When asked about suggested improvements in the disciplinary process, several supervisors cited the need for disciplinary guidance. According to OPM's *Disciplinary Best Practices and Advisory Guidelines under the No Fear Act*, disciplinary policy and other written disciplinary guidance communicate the agency's expectations with respect to correcting misconduct and taking disciplinary action when appropriate. Providing instruction on selecting an appropriate penalty is a critical part of any disciplinary policy or guidance because the application of appropriate penalties discourages behavior that undermines the efficiency of the civil service, while ensuring consistency of penalty selection.

No Investigative Process or Guidance

Support components do not have an investigative process or guidance. Although HRMS ER reportedly refers allegations to approximately four offices for investigation, there is no guidance or defined process related to conducting misconduct investigations. Support components need a formalized process and guidance that includes elements such as:

- defining roles and responsibilities of the fact-finding or investigative office;
- selecting and appointing individuals responsible for conducting an investigation;
- requiring investigative reports and documentation; and
- establishing a timeframe for completion.

According to OPM, fact-finders should be impartial parties who gather facts and compile all relevant evidence that informs management's next steps in choosing an appropriate course of action. OPM's guidance for fact-finders⁴ states that the quality of fact-finding is a key factor in determining whether a

⁴ OPM *Basic Employee Relations: Your Accountability as a Supervisor or Manager*, Lesson 5 - Guidance for Fact-Finders Conducting Administrative Inquiries.



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formal disciplinary action is taken and whether it is supportable if grieved or appealed by the employee.

Former HRMS ER staff said that they conducted fact-finding and made determinations, but their internal procedures do not capture how they are to perform these activities. Similarly, the DHS Office of General Counsel (OGC) stated that if a subject matter expert office is not needed, OGC will advise supervisors on how to conduct their investigations, as necessary. Investigative guidance could ensure support component supervisors and other investigative officials conduct complete investigations that achieve the necessary objectives.

During our discussions about the lack of investigative guidance, several HRMS officials acknowledged the importance of an investigative and fact-finding process. In February 2018, HRMS provided a draft management inquiry handbook that is reportedly under review by OGC. The draft handbook recommends each component establish and train primary and secondary management inquiry officials to conduct inquiries for allegations that OIG declines.

Support Components Lack a Defined Process for Managing Misconduct Allegations

Support components lack objectives, roles and responsibilities, and standard processes to consistently and collaboratively manage misconduct allegations. We identified a number of other support components, aside from HRMS ER, involved with receiving and managing misconduct allegations (see table 1). Some of these offices have their own procedures or follow national standards aligned with their mission for identifying misconduct or responding to misconduct allegations and managing discipline.⁵

Support components engage in some activities related to conduct and discipline; however, they lack defined expectations and objectives, roles and responsibilities, and standard processes necessary to consistently and collaboratively manage misconduct allegations. Several support components admitted that they neither consult with HRMS ER for informally resolved misconduct, nor do they always notify the employee's supervisor. For example, several interviewees at offices other than HRMS ER indicated that when they discover an instance such as IT misuse or off-duty misconduct, they handle it directly and informally with the employee. Furthermore, some components

⁵ *Adjudicative Guidelines for Determining Eligibility for Access to Classified Information*, December 2005



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were not aware that their activities might ultimately impact the disciplinary process.

HRMS ER staff acknowledged they were not aware that certain support components were involved in handling conduct and discipline issues. For instance, before our audit began, HRMS ER staff were unaware that rather than the Chief Financial Officer, Office of Financial Operations having sole responsibility for identifying government credit card misuse, most support components have this responsibility. The DHS directive, *Discipline and Adverse Actions Program*,⁶ mandates consultation with employee relations staff prior to taking informal or formal disciplinary action. HRMS ER staff acknowledged our concern that due to the range of uncoordinated activities across support components, we were unable to fully assess the effectiveness of how DHS handles misconduct allegations.

The deficiencies identified, such as inconsistent allegation referrals within the support components and to OIG, exist because no single office or entity is responsible for managing and overseeing misconduct issues across the support components. Instead, the management of misconduct across the support components is decentralized and lacks coordinated, collaborative efforts. Without identifying responsibility for managing and overseeing support component efforts related to misconduct issues, DHS cannot ensure the consistent and effective management of such issues.

HRMS ER Needs Programmatic Improvement

HRMS ER faces several programmatic challenges. The office does not have defined expectations or objectives for its mission; its database lacks privacy compliance assessments or documentation; internal procedures fail to provide sufficient guidance to ensure organizational knowledge retention and consistency; and internal controls are inadequate to ensure the integrity of its support component disciplinary case files. HRMS ER officials said that HRMS leadership provided limited oversight and accountability for their disciplinary activities. HRMS ER shortcomings significantly impact its ability to provide effective, accurate, and consistent misconduct and discipline services to support components.

Internal control guidance recommends management establish and operate monitoring activities to oversee and evaluate progress. It also suggests

⁶ DHS Management Directive No. 250-09, *Discipline and Adverse Actions Program*, November 2016



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documenting controls to provide a means to retain organizational knowledge and mitigate the risk of having that knowledge limited to a few personnel.

HRMS ER Lacks Defined Objectives and Performance Measures

HRMS ER lacks defined expectations or objectives for its mission, and has no performance measures to monitor its efforts. Furthermore, although HRMS established service-level agreements in November 2014 with the offices it services, the employee relations section on the agreements was blank. The established service-level agreement states that it is intended to:

- outline the services offered and procedures between HRMS and the support components;
- quantify and measure service-level expectations;
- outline potential methods used to measure the quality of services provided;
- define mutual requirements and expectations for critical processes for overall performance;
- strengthen communication between HRMS and the support components; and
- provide a means to resolve conflicts.

An HRMS ER intranet site lists four responsibilities for HRMS ER, including providing advisory services to supervisors and managers on conduct and performance-related issues. When asked to provide operational documents that defined its performance expectations, HRMS ER officials said those did not exist. HRMS ER officials also said that they have no performance measures and were unsure what measures would look like to monitor their performance.

In September 2017, HRMS implemented a signed, updated service-level agreement to include employee relations, which provides some broad timeframes and responsibilities for its customers. Nevertheless, HRMS still needs to define its own internal performance expectations and specific measures to improve its monitoring.

HRMS ER Must Comply with DHS Privacy Requirements

During our review of its disciplinary cases, HRMS ER was using a database that the DHS Privacy Office had not approved. The database collected and retained records on employees, including social security numbers and disciplinary decisions. According to DHS guidance, offices using any system that collects, uses, maintains, or disseminates social security numbers and other personally identifiable information should prepare or update a Privacy Threshold Analysis that the DHS Privacy Office reviews. HRMS ER had not



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conducted any required privacy compliance assessments or documentation, and could not ensure that sufficient security controls are in place to mitigate the risk of inappropriate or unauthorized disclosure of data, including social security numbers.

HRMS submitted a Privacy Threshold Assessment in fall 2017 and, as of March 2018, was working with the DHS Privacy Office to modify and obtain approval for its use of this database.

HRMS ER Standard Operating Procedures Are Inadequate

HRMS ER standard operating procedures lack the necessary guidance to ensure consistent operations and retention of organizational knowledge. The HRMS ER procedures are used to carry out organizational responsibilities and day-to-day duties; however, they do not include:

- reviewing and documenting employee allegations;
- determining how and when to conduct fact-finding or investigations, such as assigning the case to a support component for investigation;
- determining how to select disciplinary and adverse actions, including the review of comparable cases prior to proposing penalties;
- selecting and assigning officials who will propose and decide disciplinary actions;
- monitoring of the issuance and implementation of disciplinary and adverse actions; or
- establishing documentation and database input requirements.

Additionally, HRMS ER lacks standard operating procedures related to collective bargaining agreements. HRMS ER does not have a process to ensure that, for instance, unions receive notice during disciplinary actions if required by collective bargaining agreements.

Federal requirements also include maintaining specific records for adverse actions, such as the decision and the employee's written reply. HRMS ER procedures do not include any guidance on what type of records it should maintain to ensure the integrity of DHS disciplinary case files.

HRMS Critical Staffing Turnover

During this audit, the team observed critical staffing turnover in the organization. HRMS ER's limited internal procedures create a significant risk to the entity and DHS, particularly during periods of high staff turnover. At the start of the audit, HRMS ER staff included the Employee Relations and Performance Management Branch Chief and three ER Specialists. Each ER



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specialist served a specific set of support components. By the conclusion of our fieldwork, all staff except for one ER specialist we engaged with had reportedly left HRMS ER. Improving HRMS ER internal procedures is critical to ensuring consistent operations and retaining institutional knowledge.

Insufficient Internal Controls for Disciplinary Case Documentation

HRMS ER case files do not have sufficient internal controls to preserve the integrity of the disciplinary case files. We were not successful in locating a number of disciplinary case files, including any paper or electronic files for SES-specific disciplinary cases.

HRMS ER's internal controls do not sufficiently ensure the preservation of disciplinary and adverse action case files. First, when we asked to see all SES cases since 2014, the HRMS ER supervisor was unable to locate any SES case information in the organization's database or in paper files. Next, we attempted to conduct a review of 25 HRMS ER completed disciplinary cases. Initially on the day of our review, we could not locate 11 of 25 case files. With assistance from an outgoing ER specialist, we located two more case files. The ER specialist explained that five cases were noted as canceled in the HRMS ER database, but copies of canceled files are not retained. We were unable to locate or account for the remaining four files. Lastly, we attempted to review five GS-15 employee case files, but could only find two of the five requested files.

When asked whether the database or the paper files provide a complete view of a disciplinary case, ER specialists said they would rely on a physical file for a complete record. Both ER specialists agreed that their HRMS ER database is not a complete record since fields are often left blank. They believed physical files were always complete and internally audited for that reason. Following our case file review and discussion of findings, HRMS reported having a manager review 60 open cases and developed a checklist for case files, which it provided to us.

These HRMS ER shortcomings occurred because of limited oversight and accountability for activities related to disciplinary actions. For example, HRMS ER officials said HRMS management did not have regularly scheduled management meetings that would have provided insight into their activities. Additionally, the lack of guidance in HRMS ER's internal procedures on how to properly maintain disciplinary case file documentation contributed to this deficiency. Limited oversight and accountability, combined with insufficient internal procedures, impedes HRMS ER's ability to effectively, accurately, and consistently manage misconduct and discipline.



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Conclusion

DHS support components need better processes and procedures to address misconduct. Without centralized responsibility for managing or overseeing misconduct issues, support components have no way to understand the volume of allegations or ensure that allegations are properly vetted, managed, or resolved. Additionally, without defined expectations, objectives, and performance measures, senior management cannot monitor and evaluate the effectiveness of HRMS ER's efforts. Turnover in critical staff compounds these issues and creates significant risks for the organization.

Recommendations

Recommendation 1: We recommend the Under Secretary for Management assign responsibility for the management and oversight of all misconduct allegations across support components and evaluate the best method to ensure that items a through g are completed:

- a) establish and implement a centralized oversight process for misconduct allegations;
- b) determine which support components identify or receive misconduct allegations;
- c) provide written guidance and training on the handling of misconduct allegations;
- d) develop a formal mechanism to communicate and collaborate regularly about misconduct allegations;
- e) establish a comprehensive system of record or database to manage and track allegations of misconduct;
- f) develop and implement a misconduct investigative process, including implementing and issuing written guidance on how to conduct misconduct allegation investigations; and
- g) develop and implement procedures for receiving and referring allegations to OIG.

Recommendation 2: We recommend the Chief Human Capital Officer ensure that Human Resources Management and Services provides supervisors and managers with written guidance on correcting misconduct, including the steps necessary to initiate informal and formal disciplinary action.

Recommendation 3: We recommend the Chief Human Capital Officer require Human Resources Management and Services to develop and implement employee relations objectives and performance measures, and establish an oversight mechanism to assess and monitor Human Resources Management and Services Employee Relations program operations.



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Recommendation 4: We recommend the Chief Human Capital Officer continue to work with the DHS Privacy Office to ensure that the Human Resources Management and Services Employee Relations database complies with all applicable privacy requirements.

Recommendation 5: We recommend the Chief Human Capital Officer direct Human Resources Management and Services Employee Relations to revise its standard operating procedures to capture key processes and allow for replication and consistency in handling disciplinary and adverse actions.

Recommendation 6: We recommend the Chief Human Capital Officer direct Human Resources Management and Services Employee Relations to develop control measures to ensure accountability and preserve the integrity of all prior, current, and future disciplinary and adverse action case files.

DHS Comments and OIG Analysis

The Department concurred with our recommendations and provided comments to the draft report. A summary of DHS' management comments and our analysis follows. We included a copy of these comments in their entirety in appendix B.

DHS Response to Recommendation #1: Concur. According to DHS, the Under Secretary for Management will assign responsibility to HRMS ER, as the primary office to receive and refer misconduct allegations. DHS named seven support components that identify or receive misconduct allegations. According to DHS, HRMS ER will coordinate with stakeholders to develop a comprehensive written guidance and training schedule for the handling of misconduct allegations. DHS added that HRMS ER is leading stakeholder coordination, with extensive coordination with OGC. For formal communication and collaboration, the HRMS Executive Director attends a monthly staff meeting and provides a status of all actions; DHS will integrate collaboration into this monthly meeting. Additionally, DHS anticipated development of a recurring communication plan within the next 120 days.

To manage and track allegations, DHS noted that OCHCO anticipates delivery of the Employee Relations Case Management Tracking System by June 30, 2019. The Office of the Chief Security Officer will be the responsible investigative entity, and will develop and implement a misconduct investigative process by June 30, 2019. Lastly, DHS stated that the HRMS ER Office will develop procedures for receiving and referring allegations to the OIG. Estimated Completion Date: June 30, 2019.



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OIG Analysis: DHS' proposed actions meet the intent of the recommendation. We consider the recommendation resolved and open. The recommendation will remain open until we receive documentation showing DHS implemented all actions described.

DHS Response to Recommendation #2: Concur. According to DHS, HRMS ER staff provides quarterly Human Resources Essentials training to DHS Headquarters supervisors, and customer-specific training upon request. DHS stated that HRMS will publish an updated standard operating procedure to provide more detailed and up-to-date written guidance on correcting misconduct, including the steps necessary to initiate informal and formal disciplinary action. Additionally, HRMS is developing a one-day supervisors "refresher" course on disciplinary and adverse actions. Estimated Completion Date: June 30, 2019.

OIG Analysis: DHS' proposed actions meet the intent of the recommendation. We consider the recommendation resolved and open. The recommendation will remain open until DHS provides the updated standard operating procedure and refresher course syllabus and schedule.

DHS Response to Recommendation #3: Concur. According to DHS, oversight and monitoring of HRMS ER program operations now includes weekly HRMS ER leadership meetings, which include all ER specialists. Additionally, the implementation of the Employee Relations Case Management Tracking System will allow for the creation of various reports and allow for tracking of program operations.

DHS also noted that in November 2017, HRMS ER staff and the OGC Personnel and Employment Law Division established a quarterly meeting to ensure open communication and strengthened collaboration specific to Headquarters disciplinary and adverse actions. In October 2017, the Deputy Under Secretary of Management requested that the HRMS Executive Director provide updates during a monthly staff meeting.

In September 2017, HRMS published and disseminated the HRMS Service Expectations and Goals to ER staff, which established actions, timeframes, and responsible parties for disciplinary and adverse actions. HRMS ER will define and put in place its own internal performance expectations and specific measures to improve its monitoring of HRMS ER program operations. Furthermore, the HRMS ER supervisor will have measurable goals and will ensure the fiscal year 2019 Performance Plans for ER specialists address specific and measurable performance requirements. Estimated Completion Date: October 31, 2018.



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OIG Analysis: We consider DHS' actions responsive to the recommendation. We consider this recommendation resolved and open. It will remain open until DHS provides documentation of the actions described.

DHS Response to Recommendation #4: Concur. On April 20, 2018, the DHS Privacy Office approved a Privacy Threshold Assessment for the HRMS ER database and provided documentation of the assessment. Additionally, OCHCO is actively seeking a department-wide automated, retrievable case management system for employee and labor relations. Estimated Completion Date: June 30, 2019.

OIG Analysis: We consider DHS' actions responsive to the intent of this recommendation. This recommendation is resolved and will remain open pending documentation that OCHCO implemented a case management system for employee relations.

DHS Response to Recommendation #5: Concur. HRMS plans to publish an updated standard operating procedure providing more detailed and up-to-date written guidance on correcting misconduct, including the steps necessary to initiate informal and formal disciplinary action. Expected Completion Date: June 30, 2019.

OIG Analysis: We consider DHS' actions responsive to the intent of this recommendation. We consider this recommendation resolved and open. The recommendation will remain open until DHS provides an approved copy of the updated standard operating procedures.

DHS Response to Recommendation #6: Concur. DHS identified numerous actions it plans to take and has taken to address this recommendation. HRMS plans to publish an updated standard operating procedure providing more detailed and up-to-date written guidance on correcting misconduct, including the steps necessary to initiate informal and formal disciplinary action. HRMS is developing a one-day supervisors "refresher" course on disciplinary and adverse actions. HRMS ER leadership established weekly management meetings with ER specialists to review case files. HRMS ER and OGC staff began quarterly meetings in November 2017 to strengthen collaboration on disciplinary and adverse action. By October 31, 2018, HRMS ER will implement performance expectations and measures to improve monitoring program operations. Finally, OCHCO is researching and actively seeking a department-wide automated case management system. Expected Completion Date: June 30, 2019.



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OIG Analysis: We consider DHS' actions responsive to the intent of this recommendation. This recommendation is resolved and will remain open until DHS provides documentation that it implemented described actions.



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Appendix A

Objective, Scope, and Methodology

The DHS Office of Inspector General was established by the *Homeland Security Act of 2002* (Public Law 107-296) by amendment to the *Inspector General Act of 1978*.

We included DHS support components in our ongoing department-wide audit of conduct and discipline, the objective of which is to determine whether DHS has sufficient processes and procedures to address conduct issues.

We interviewed DHS officials from the Offices of Chief Financial Officer; Chief Human Capital Officer; Information Officer; Security Officer; General Counsel; Privacy Office; and the Office of Civil Rights and Liberties. We judgmentally selected supervisors from the Science and Technology Directorate; Office of Intelligence and Analysis; and Office of the Chief Procurement Officer. Collectively, we met with more than 30 supervisors to obtain their perceptions, experiences, and understanding of conduct and discipline.

We reviewed relevant DHS policies and procedures for handling conduct issues, including:

- DHS Management Directive 0810.1, *The Office of the Inspector General*;
- DHS Management Directive No. 250-09, *Discipline and Adverse Actions Program*;
- DHS Instruction No. 250-09-001, *Discipline and Adverse Actions Program*; and
- OCHCO HRMS ER standard operating procedures.

We also reviewed Federal laws, guidance, and reports, including:

- *Merit System Protection Board's Prohibited Personnel Practices: Employee Perceptions*;
- *The Merit System Principles: Guiding the Fair and Effective Management of the Federal Workforce*;
- *Alternative Discipline: Creative Solutions for Agencies to Effectively Address Employee Misconduct*;
- OPM's *Disciplinary Best Practices and Advisory Guidelines Under the No Fear Act*;
- OPM HR University's training module *Basic Employee Relations: Your Accountability as a Supervisor or Manager*.

We used GAO's *Standards for Internal Controls* for guidance, including the following specific sections explaining management's responsibilities:

- Establish expectations of competence for personnel.



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- Set objectives to achieve the entity's mission, strategic plan, and goals and requirements of applicable laws and regulations.
- Define objectives so they are understood, including what is to be achieved, who is to achieve it, how it will be achieved, and the time frames for achievement.
- Develop overall responsibilities and maintain documentation of its internal control system, capable of being monitored and evaluated by the entity.
- Document policies for each unit, specifying the unit's respective responsibility for operational process objectives and related risks, and provide a means to retain organizational knowledge and mitigate the risk of limiting knowledge to only a few personnel.

We judgmentally selected 25 disciplinary case files to determine whether HRMS ER followed Federal and DHS requirements and policy.

We conducted this performance audit between March 2016 and February 2018 pursuant to the *Inspector General Act of 1978*, as amended, and according to generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based upon our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based upon our audit objectives.



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Appendix B
Management Comments to the Draft Report

U.S. Department of Homeland Security
Washington, DC 20528



**Homeland
Security**

July 19, 2018

MEMORANDUM FOR: John V. Kelly
Acting Inspector General

FROM: Jim H. Crumpacker, CIA, CFE
Director
Departmental GAO-OIG Liaison Office 

SUBJECT: Management's Response to OIG Draft Report: "DHS Support Components Do Not Have Sufficient Processes and Procedures to Address Misconduct" (Project No. 16-025-AUD-DHS)

Thank you for the opportunity to review and comment on this draft report. The U.S. Department of Homeland Security (DHS) appreciates the work of the Office of Inspector General (OIG) in planning and conducting its review and issuing this report.

Department policy is for disciplinary action to be effected in accordance with procedures set forth in DHS directives and instructions, and in applicable laws and regulations. The Human Resources Management and Services (HRMS) office, within the DHS Management Directorate (MGMT) Office of the Chief Human Capital Officer (OCHCO), remains committed to providing quality customer service in this regard to all of its serviced support components and sub-components.

The draft report contained six recommendations with which the Department concurs. Attached find our detailed response to each recommendation. Technical comments were previously provided under separate cover.

Again, thank you for the opportunity to review and comment on this draft report. Please feel free to contact me if you have any questions. We look forward to working with you again in the future.

Attachment



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Attachment: Management Response to Recommendations Contained in 16-025-AUD-DHS

OIG recommended that the Under Secretary for Management (USM):

Recommendation 1: Assign responsibility for the management and oversight of all misconduct allegations across support components and evaluate the best method to ensure that items a through g are completed:

- a) Establish and implement a centralized oversight process for misconduct allegations;
- b) Determine which support components identify or receive misconduct allegations;
- c) Provide written guidance and training on the handling of misconduct allegations;
- d) Develop a formal mechanism to communicate and collaborate regularly about misconduct allegations;
- e) Establish a comprehensive system of record or database to manage and track allegations of misconduct;
- f) Develop and implement a misconduct investigative process, including implementing and issuing written guidance on how to conduct misconduct allegation investigations; and
- g) Develop and implement procedures for receiving and referring allegations to OIG.

Response: Concur. Detailed responses to each part of the recommendation are below:

- a) establish and implement a centralized oversight process for misconduct allegations

The USM will assign responsibility to the OCHCO, HRMS Employee Relations (ER) Division, as the primary office to which all misconduct allegations are reported. HRMS ER will screen the allegations and involve the appropriate supporting Component(s) described in Table 1 of the draft report, depending on the type of misconduct involved, to include:

- Office of the Chief Security Officer (OCSO)/Personnel Security Division
- Office of the General Counsel (OGC)/Ethics
- OGC/Personnel Employment Law
- Office of the Chief Information Officer/Risk Management
- Office of Privacy
- Office of the Chief Financial Officer
- Office for Civil Rights and Civil Liberties/Equal Employment Opportunities



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b) determine which support components identify or receive misconduct allegations

- OCSO/Personnel Security Division
- OGC/Ethics
- OGC/Personnel Employment Law
- Office of the Chief Information Officer/Risk Management
- Office of Privacy
- Office of the Chief Financial Officer
- Office for Civil Rights and Civil Liberties/Equal Employment Opportunities

c) provide written guidance and training on the handling of misconduct allegations

The USM will direct the OCHCO/HRMS, ER Division to develop, in coordination with the stakeholders identified in paragraph a) above, comprehensive written guidance and an aggressive and accelerated training schedule on the appropriate and timely handling of misconduct allegations for all DHS HQ support components.

Stakeholder coordination is currently underway, led by the HRMS, ER Division. This effort requires extensive coordination with OGC, as this is a new program area and process for DHS Headquarters – despite the existence in the Components. DHS Headquarters looks to its Component partners for best practices and methodologies.

d) develop a formal mechanism to communicate and collaborate regularly about misconduct allegations

Currently the HRMS Executive Director provides monthly status of all active and closed disciplinary and adverse actions, as well as, non-disciplinary actions and grievances during a monthly staff meeting attended by the USM, the Deputy Undersecretary for Management (DUSM) and the MGMT Line of Business Chiefs. Collaboration will be integrated into this monthly meeting. HRMS will look for additional avenues for collaboration with the other HQ support components, such as briefing at the HQ Chief of Staff meetings and the Administrative POC meetings. Further, HRMS will institute a recurring meeting with the stakeholders identified in paragraph a) above. We anticipate being able to develop a recurring communication plan within the next 120 days.

e) establish a comprehensive system of record or database to manage and track allegations of misconduct

OCHCO currently is researching and actively seeking a Department-wide Employee Relations Case Management Tracking System (ERCMTS) specifically to ensure cases are monitored, tracked, documented, retrievable, and secure. The ERCMTS is



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identified as Strategic Improvement Opportunity (SIO) 7.3.2 and is expected to be ready for delivery by June 30, 2019.

- f) develop and implement a misconduct investigative process, including implementing and issuing written guidance on how to conduct misconduct allegation investigations

Development and implementation of a misconduct investigative process is currently underway by way of engagement with OSCO, which will be the responsible investigative entity, absent the existence of a traditional Office of Professional Responsibility/Internal Affairs. This process is anticipated to be completed by June 30, 2019.

- g) develop and implement procedures for receiving and referring allegations to OIG

The HRMS ER Office will develop procedures for receiving and referring allegations to OIG in accordance with DHS Management Directive 0810.1, "The Office of Inspector General."

Estimated Completion Date (ECD): June 30, 2019.

OIG recommended that the Chief Human Capital Officer (CHCO):

Recommendation 2: Ensure that HRMS provides supervisors and managers with written guidance on correcting misconduct, including the steps necessary to initiate informal and formal disciplinary action.

Response: Concur. HRMS ER staff currently provides training to DHS HQ supervisors on a quarterly basis through the Human Resources Essentials (HR Essentials) class. Eight hours of instruction are dedicated to Performance Management and Employee Relations, and attendees are provided supporting materials for their reference. Additionally, HRMS ER staff routinely provides customer-specific training upon request to serviced support Components. Supervisors and managers are referred to two key documents, (1) the *Standard Operating Procedures – Disciplinary and Adverse Actions – HRMS* (published March 14, 2016) on the HRMS SharePoint page, which provides specific procedures for a range of disciplinary and adverse actions, and (2) the *DHS Instruction 250-09-001, Discipline Adverse Actions Program* (issued November 21, 2016) available on the DHS Connect intranet page, which provides responsibilities for various parties, including supervisors and managers, and also provides the Department's Table of Penalties.

HRMS will publish an updated Standard Operating Procedure (SOP), to be distributed and posted on the HRMS SharePoint page, providing more detailed and up-to-date



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written guidance on correcting misconduct, including the steps necessary to initiate informal and formal disciplinary action. Additionally, HRMS is currently developing a full one-day supervisors “refresher” course on disciplinary and adverse actions that will include classroom instruction, as well as facilitated case studies designed to aid managers and supervisors in this critical area of need.

ECD: June 30, 2019.

Recommendation 3: Require HRMS to develop and implement employee relations objectives and performance measures, and establish an oversight mechanism to assess and monitor HRMS ER program operations.

Response: Concur. Oversight and monitoring of HRMS ER program operations has been established. Since the audit, HRMS ER leadership established weekly management meetings with all ER specialists to review and provide insight into case files and activities (e.g., recommended charges, open cases, potential issuances, identify recurring or emerging issues and/or trends, etc.). Implementation of the ERCMTS under OCHCO SIO 7.3.2 will allow for the creation of various reports and allow for tracking of program operations.

Additionally, in November 2017, HRMS ER staff and the OGC Personnel and Employment Law Division established a regular quarterly meeting to ensure open communication and strengthened collaboration specific to HQ disciplinary and adverse actions. At the request of the DUSM in October 2017, the HRMS Executive Director now provides monthly status updates of all active and closed disciplinary and adverse actions, as well as non-disciplinary actions and grievances during a monthly staff meeting attended by the USM, the DUSM, and the MGMT Line of Business Chiefs. In September 2017, HRMS published and disseminated to ER staff the *HRMS Service Expectations and Goals*, which for the first time established actions, timeframes, and responsible parties for disciplinary and adverse actions.

HRMS ER will define and put in place its own internal performance expectations and specific measures to improve its monitoring of HRMS ER program operations. Further, the HRMS ER supervisor will have measurable goals and will ensure the Fiscal Year (FY) 2019 Performance Plans for ER specialists address specific and measurable performance requirements.

ECD: October 31, 2018.

Recommendation 4: Continue to work with the DHS Privacy Office to ensure that the HRMS ER database complies with all applicable privacy requirements.



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Response: Concur. Privacy requirements and the protection of Personally Identifiable Information and Sensitive Personally Identifiable Information are of utmost importance and concern to OCHCO. The DHS Privacy Office approved the Privacy Threshold Assessment for the HRMS ER database on April 20, 2018 (a copy of which is being forwarded to OIG under separate cover). Additionally, OCHCO is researching and actively seeking a Department-wide automated, retrievable ER and LR case management system. Development of this automated system(s) is addressed by two DHS Human Resources Information Technology (HRIT) program Strategic Improvement Opportunities (SIOs) (SIO 7.3.2 will automate the ER database, and 8.1.2 will automate the LR database). ECD: June 30, 2019.

Recommendation 5: Direct HRMS ER to revise its standard operating procedures to capture key processes and allow for replication and consistency in handling disciplinary and adverse actions.

Response: Concur. HRMS will publish an updated SOP, to be distributed and posted on the HRMS SharePoint page, providing more detailed and up-to-date written guidance on correcting misconduct, including the steps necessary to initiate informal and formal disciplinary action. Additionally, HRMS is currently developing a full one-day supervisors “refresher” course on disciplinary and adverse actions that will include classroom instruction, as well as facilitated case studies designed to aid managers and supervisors in this critical area of need.

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HRMS ER staff currently provides training to DHS HQ supervisors on a quarterly basis through the Human Resources Essentials (HR Essentials) class. Eight hours of



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instruction are dedicated to Performance Management and Employee Relations, and attendees are provided supporting materials for their reference. Additionally, HRMS ER staff routinely provides customer-specific training upon request to serviced support Components. Supervisors and managers are referred to two key documents, (1) the *Standard Operating Procedures – Disciplinary and Adverse Actions – HRMS* (published March 14, 2016) on the HRMS SharePoint page, which provides specific procedures for a range of disciplinary and adverse actions, and (2) the *DHS Instruction 250-09-001, Discipline Adverse Actions Program* (issued November 21, 2016, and available on the DHS Connect intranet page), which provides responsibilities for various parties, including supervisors and managers, and also provides the Department’s Table of Penalties.

By October 31, 2018, HRMS ER will define and put in place its own internal performance expectations and specific measures to improve its monitoring of HRMS ER program operations. Further, the HRMS ER supervisor will have measurable goals and will ensure the FY 2019 Performance Plans for ER specialists address specific and measurable performance requirements.

ECD: June 30, 2019.

Recommendation 6: Direct HRMS ER to develop control measures to ensure accountability and preserve the integrity of all prior, current, and future disciplinary and adverse action case files.

Response: Concur. HRMS will publish an updated SOP, to be distributed and posted on the HRMS SharePoint page, providing more detailed and up-to-date written guidance on correcting misconduct, including the steps necessary to initiate informal and formal disciplinary action. Additionally, HRMS is currently developing a full one-day supervisors “refresher” course on disciplinary and adverse actions that will include classroom instruction, as well as facilitated case studies designed to aid managers and supervisors in this critical area of need.

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Privacy requirements and the protection of Personally Identifiable Information and Sensitive Personally Identifiable Information are of utmost importance and concern to OCHCO. The DHS Privacy Office approved the Privacy Threshold Assessment for the HRMS ER database on April 20, 2018 (a copy of which is being forwarded to OIG under separate cover). Additionally, OCHCO is researching and actively seeking a Department-wide automated, retrievable ER and LR case management system. Development of this automated system(s) is addressed by two DHS HRIT program SIOs (SIO 7.3.2 will automate the ER database, and 8.1.2 will automate the LR database).

ECD: June 30, 2019.



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Appendix C
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