



U.S. ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF INSPECTOR GENERAL

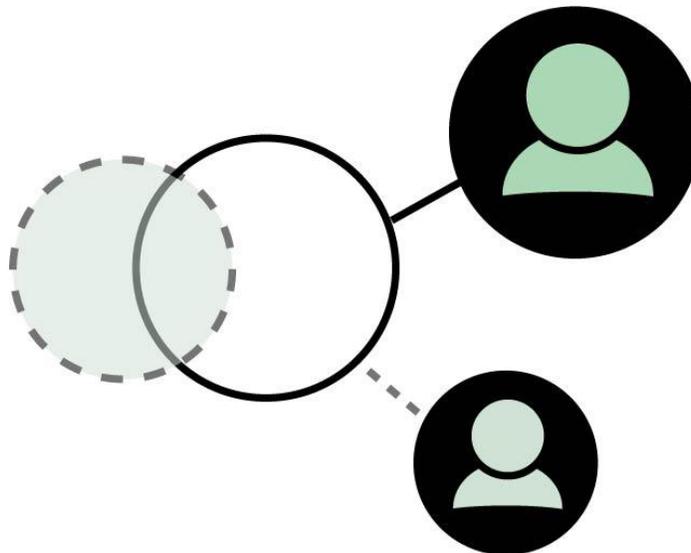


Spending Taxpayer Dollars

Quick Reaction Report: EPA Should Ensure Positions Vacated Under Buyouts Are Eliminated or Properly Filled

Report No. 15-P-0184

July 14, 2015



Scan this mobile
code to learn more
about the EPA OIG.

Report Contributors:

Chris Baughman
Eric Lewis
Rodney Rice
Tim Roach
Brooke Shull

Abbreviations

| | |
|-------|--|
| EPA | U.S. Environmental Protection Agency |
| OEI | Office of Environmental Information |
| OHR | Office of Human Resources |
| OIG | Office of Inspector General |
| OPM | Office of Personnel Management |
| OSWER | Office of Solid Waste and Emergency Response |
| VERA | Voluntary Early Retirement Authority |
| VSIP | Voluntary Separation Incentive Payment |

Cover photo: EPA OIG image.

Are you aware of fraud, waste or abuse in an EPA program?

EPA Inspector General Hotline

1200 Pennsylvania Avenue, NW (2431T)
Washington, DC 20460
(888) 546-8740
(202) 566-2599 (fax)

OIG_Hotline@epa.gov

More information at www.epa.gov/oig/hotline.html.

EPA Office of Inspector General

1200 Pennsylvania Avenue, NW (2410T)
Washington, DC 20460
(202) 566-2391
www.epa.gov/oig

Subscribe to our [Email Updates](#)
Follow us on Twitter [@EPAoig](#)
Send us your [Project Suggestions](#)



At a Glance

Why We Did This Review

This is a quick reaction report that addresses hiring activities by the U.S. Environmental Protection Agency (EPA) that occurred after EPA employees accepted payments of up to \$25,000 to separate from federal employment. The Office of Personnel Management (OPM) gave the EPA authority under the Voluntary Early Retirement Authority (VERA, or “early-out”) and Voluntary Separation Incentive Payment (VSIP, or “buyout”) programs so that the agency could downsize or restructure its workforce. As a result, 479 employees voluntarily left in 2014, with the EPA paying \$11.9 million in VERA-VSIP incentives. One condition of the authority granted EPA is that vacated positions cannot be filled using the same or substantially similar position descriptions used for the employees who left.

This report addresses the following EPA goal or cross-agency strategy:

- *Embracing EPA as a high-performing organization.*

Send all inquiries to our public affairs office at (202) 566-2391 or visit www.epa.gov/oig.

The full report is at: www.epa.gov/oig/reports/2015/20150714-15-P-0184.pdf

Quick Reaction Report: EPA Should Ensure Positions Vacated Under Buyouts Are Eliminated or Properly Filled

What We Found

Two of four EPA organizations we reviewed correctly used the authority granted by OPM for the VERA-VSIP programs by either eliminating vacated positions or filling them using different position descriptions. However, the Office of Environmental Information (OEI) filled one of nine vacated positions using the same position description, and Region 8 filled seven of 31 vacated positions using the same position description. EPA paid a total of \$200,000 in buyouts to employees vacating these eight positions. Senior managers from these organizations were aware they should not hire employees under position descriptions of separated employees. An OEI Director said OEI used the same position description because it needed continuity due to the loss of managers. In Region 8, an official said he used the same position description because of time constraints, and the manager of an office expressed the belief that the limitations did not apply to all of the vacated positions.

The EPA paid staff up to \$25,000 each to voluntarily separate from federal employment, but in some cases replaced them without modifying the positions. The EPA needs to improve its controls over this in light of the currently planned rapid hiring of more than 500 employees.

OPM gave EPA program and regional offices authority to offer early-outs and buyouts to eliminate or restructure positions. This can achieve cost savings or mission improvements even if re-hiring occurs in restructured positions. However, by paying some employees under VSIP to leave federal service only to fill those same positions without changing them, the EPA lost an opportunity to reduce costs or improve mission work.

In May 2015, the EPA Deputy Assistant Administrator for Administration and Resources Management announced plans to hire more than 500 employees by September 30, 2015. During this effort, the EPA must ensure it does not improperly fill positions vacated through early-outs or buyouts. We alerted EPA officials to the issue in this report and met with them on June 11, 2015.

Recommendation and Planned Agency Corrective Actions

We recommend that the EPA implement controls to prevent positions vacated under VERA-VSIP from being filled using the same position description. The agency agreed with our recommendation and plans to complete corrective actions by July 31, 2015. We agree with these corrective actions and consider the recommendation resolved.



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

THE INSPECTOR GENERAL

July 14, 2015

MEMORANDUM

SUBJECT: Quick Reaction Report: EPA Should Ensure Positions Vacated Under Buyouts Are Eliminated or Properly Filled
Report No. 15-P-0184

FROM: Arthur A. Elkins Jr.

A handwritten signature in black ink, appearing to read "Arthur A. Elkins Jr.", is written over the printed name.

TO: Karl Brooks, Acting Assistant Administrator
Office of Administration and Resources Management

This is a quick reaction report prepared by the Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA). During preliminary research on the EPA's fiscal year 2014 Voluntary Early Retirement Authority (VERA) and Voluntary Separation Incentive Payment (VSIP) activities, we identified an issue—concerning how the EPA filled positions vacated under VERA-VSIP—that we believe the agency needs to address immediately.

This report contains findings that describe the problems the OIG has identified and corrective actions the OIG recommends. This report represents the opinion of the OIG and does not necessarily represent the final EPA position. Final determinations on matters in this report will be made by EPA managers in accordance with established audit resolution procedures.

The organization responsible for the issues evaluated in this report is the Office of Administration and Resources Management's Office of Human Resources.

Action Required

In accordance with EPA Manual 2750, your office provided acceptable and complete planned corrective actions in response to the OIG recommendation. The recommendation is resolved and no final response to this report is required. However, if you submit a response, it will be posted on the OIG's public website, along with our memorandum commenting on your response. Your response should be provided as an Adobe PDF file that complies with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended. The final response should not contain data that you do not want to be released to the public; if your response contains such data, you should identify the data for redaction or removal along with corresponding justification.

We will post this report to our website at <http://www.epa.gov/oig>.

Table of Contents

| | |
|--|---|
| Purpose, Scope and Methodology | 1 |
| Background | 1 |
| Responsible Office..... | 2 |
| Two Organizations Filled Vacated Positions Without Changing the Position Descriptions | 2 |
| Conclusion | 3 |
| Recommendation | 4 |
| Summary of Agency Response to Discussion Document and OIG Evaluation | 4 |
| Status of Recommendations and Potential Monetary Benefits | 5 |

Appendices

| | |
|--|---|
| A Agency Response to Discussion Document | 6 |
| B Distribution | 8 |

Purpose, Scope and Methodology

The Office of Inspector General (OIG) is reviewing the U.S. Environmental Protection Agency's (EPA's) fiscal year 2014 Voluntary Early Retirement Authority (VERA, or "early-out") and Voluntary Separation Incentive Payment (VSIP, or "buyout") activities. During our review, we identified an issue—concerning how the EPA filled positions vacated under VERA-VSIP—that we believe the agency needs to address immediately. Corrective actions are urgently needed because the EPA is currently planning to hire more than 500 people. We alerted EPA officials to the issue in this report and met with them on June 11, 2015.

We performed our work from April to June 2015 in accordance with generally accepted government auditing standards issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our conclusions based on our audit objectives.

We reviewed the related laws, regulations and guidance documents. Information we obtained about VERA-VSIP activities included the requests from program and regional offices to the Office of Personnel Management (OPM) for VERA-VSIP authority, the OPM's approval, and the organizations' reports to OPM on the results. We obtained detailed information for the following four organizations:

- Office of Environmental Information (OEI).
- Office of Solid Waste and Emergency Response (OSWER).
- Region 1.
- Region 8.

For these organizations, the detailed information we obtained included position descriptions of some vacated and filled positions. We interviewed personnel from these four EPA organizations, and staff from the Office of Administration and Resources Management and OPM. In addition, we obtained information on payments to the employees who left the EPA under VERA-VSIP.

Background

According to OPM, VERA and VSIP are options for increasing voluntary attrition in agencies that are downsizing or restructuring. With OPM approval, organizations can grant early retirements by temporarily lowering the age and service requirements to increase the number of employees who are eligible for retirement from the federal government. Similarly, with OPM approval, organizations can grant lump-sum payments of up to \$25,000 to employees as an incentive to voluntarily leave the federal government. Section 1313(b) of the

Chief Human Capital Officers Act of 2002 authorized VERA and VSIP options as regulated by OPM, as codified in Title 5 of the U.S. Code. (For VERA, *see* 5 U.S.C. §§ 8336(d)(2) and 8414(b)(1)(B), and for VSIP *see* 5 U.S.C. §§ 3521 and 3525.)

Based on OPM's interpretation of the statute, positions vacated under VERA or VSIP must be eliminated or restructured. According to OPM, restructuring includes modifying the vacated position with a position (1) having a different job series and/or grade, (2) using the same job series and grade but substantively different duties and responsibilities, (3) having a different full-performance level, or (4) that is no longer supervisory. According to OPM's Human Resource Specialist administering the EPA's VERA-VSIP application and approval process, OPM does not monitor agency hiring after VERA-VSIP to verify that these criteria are followed.

In fiscal year 2014, 20 of the EPA's 23 program and regional offices participated in VERA-VSIP activities. A total of 479 employees separated from the EPA through these activities, and the EPA paid \$11.9 million in VERA-VSIP incentives.

On May 15, 2015, the Deputy Assistant Administrator for Administration and Resources Management announced an initiative to hire 500 to 800 new EPA staff by September 30, 2015. The announcement provided guidance to expedite the hiring process.

Responsible Office

The Office of Administration and Resources Management's Office of Human Resources (OHR) is responsible for the issues evaluated in this report.

Two Organizations Filled Vacated Positions Without Changing the Position Descriptions

With the authority granted by OPM, EPA program and regional offices were to eliminate or restructure vacated positions. Filling a position without changing the position description of an employee who received an early-out or a buyout is inconsistent with OPM's approval to undertake VERA-VSIP actions. According to the Acting Director of the Human Capital Management Division, OHR on several occasions reminded the program and regional offices not to do this. She reported it was covered during the biweekly teleconferences. OHR also communicated it as a best practice. However, without written policy, guidance or other management controls, one program office and one regional office in our sample had improperly filled vacated positions.

As shown in Table 1, OEI filled one of nine vacated positions using the same position description as the employee who left under VERA-VSIP, and Region 8

filled seven of 31 such vacated positions using the same position description. Thus, the organizations paid employees to voluntarily leave and then hired people to refill those vacated positions. OSWER and Region 1 complied with OPM requirements by eliminating vacated positions or using a different position description to fill them.

Table 1: Status of vacated positions in four organizations

| Organization | VERA-VSIP vacated positions | Positions eliminated | Vacated positions filled or planned to be filled with different description | Vacated positions filled with same description | Payments for positions filled with same description |
|---------------|-----------------------------|----------------------|---|--|---|
| OEI | 9 | 1 | 7 | 1 | \$25,000 |
| OSWER | 8 | 8 | 0 | 0 | - |
| Region 1 | 20 | 9 | 11 | 0 | - |
| Region 8 | 31 | 16 | 8 | 7 | \$175,000 |
| Totals | 68 | 34 | 26 | 8 | \$200,000 |

Source: OIG analysis.

During the process to obtain VERA-VSIP authority, OPM submitted questions about the application packages sent by program and regional offices. In response to a question from OPM, OEI replied that it intended to reshape and restructure its workforce by filling vacated positions using new position descriptions. However, OEI filled one vacated position using the same position description. According to the Director of the OEI Office of Program Management, OEI used the same position description because it needed continuity in that division because five of the six management positions were vacant. OEI planned to revise the position as part of a reorganization, which is now underway. Even with reorganization plans, OEI’s filling of the vacated position did not comply with the hiring limitations agreed to when OPM granted the organization its VERA-VSIP authority.

The seven Region 8 positions filled with the same position description include two general attorneys, one supervisory attorney, two environmental protection specialists, one congressional intergovernmental liaison, and one supervisory environmental scientist. Regarding the attorney positions, the Region 8 Deputy Assistant Regional Administrator for the Office of Enforcement, Compliance and Environmental Justice was aware of the hiring limitations caused by VERA-VSIP separations. However, he said Region 8 had one position description for attorneys and did not develop a new one because of time constraints. Consequently, to quickly hire attorneys, Region 8 used the existing position description. For one of the other positions, the Director of Region 8’s office in Helena, Montana, indicated being aware of the VERA-VSIP hiring limitations but believed it did not apply to all of the vacated positions.

Conclusion

OPM’s VERA-VSIP approval for the EPA stated that, “OPM may suspend or terminate a VSIP authority if we determine that your agency is not operating its

VSIP program in a manner consistent with applicable laws or regulatory requirements.” For a sample of EPA offices, we noted instances in which the EPA filled vacated positions using the same position description, which is not a proper execution of VERA-VSIP authority granted by OPM. Restructuring positions can provide the opportunity for cost savings or mission improvements. However, the EPA paid some employees incentives to leave federal service only to then fill those same positions without restructuring them. In these instances, the EPA lost an opportunity to reduce costs or improve mission work, and did not properly use funds intended for workforce restructuring.

Between May and September 2015, the EPA intends to expedite the hiring of 500 to 800 employees. There are currently no management controls in place to prevent VERA-VSIP-vacated positions from being refilled. This creates the risk of further improper use of funds for workforce restructuring.

Recommendation

We recommend that the Assistant Administrator for Administration and Resources Management:

1. Develop and implement management controls to prevent positions vacated under VERA-VSIP from being filled using the same position description.

Summary of Agency Response to Discussion Document and OIG Evaluation

We received a response to the discussion document from the Acting Assistant Administrator for Administration and Resources Management (see Appendix A). The agency agreed with our recommendation and provided details about the corrective actions underway to prevent positions vacated under VERA-VSIP from being filled using the same position description. We agree with the planned corrective actions and consider the recommendation resolved.

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 | 4 | Develop and implement management controls to prevent positions vacated under VERA-VSIP from being filled using the same position description. | O | Assistant Administrator for Administration and Resources Management | 7/31/15 | | |

¹ O = Recommendation is open with agreed-to corrective actions pending.
 C = Recommendation is closed with all agreed-to actions completed.
 U = Recommendation is unresolved with resolution efforts in progress.

Agency Response to Discussion Document



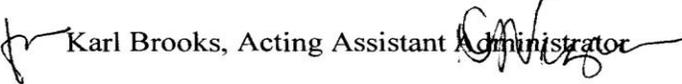
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUN 29 2015

OFFICE OF
ADMINISTRATION
AND RESOURCES
MANAGEMENT

MEMORANDUM

SUBJECT: EPA Comments on Quick Reaction Discussion Document, "*EPA Should Ensure Positions Vacated after VERA-VSIP Are Properly Filled,*" dated June 15, 2015

FROM:  Karl Brooks, Acting Assistant Administrator

TO: Carolyn Copper, Assistant Inspector General
Office of Program Evaluation
Office of the Inspector General

Thank you for the opportunity to review the subject discussion document. We appreciate the time and effort expended by the Office of the Inspector General to ensure that the agency is in compliance with the execution of its granted VERA-VSIP authority.

AGENCY COMMENTS ON DISCUSSION DRAFT LANGUAGE

OIG Issue: "*Two Organizations Filled Vacated Positions without Changing the Position Descriptions*"

- After careful review of the eight positions at issue, we understand how the IG drew their conclusion. Although the post VERA-VSIP hiring actions that are in question fully comport with the offices' approved business cases including budget neutrality, the paths taken to fill some of the positions may not always have been in line with a strict interpretation of the VERA-VSIP requirements.
- In several forums, we recently reminded our human resources teams across the agency and our senior career executives of the VERA-VSIP requirements, including that direct backfills are not authorized.
- We also believe that restructured positions filled at the same title, series and grade must have substantively different duties and qualifications and should be verified by the

office's HR-SSC through review and comparison of the former and new position descriptions.

AGENCY RESPONSE TO RECOMMENDATION

- In summation, the agency concurs with the discussion document recommendation that management controls should be implemented to prevent positions vacated under VERA-VSIP from being filled using the same position description.
- We are finalizing strategic hiring templates for regional and program offices that will require each office to certify that future hires related to positions vacated through VERA-VSIP have been properly restructured.
- For restructured positions, offices must document whether the position 1) changed from supervisory to non-supervisory, 2) changed series, 3) changed grade/lower full performance level, or 4) has the same series, grade or full performance level but substantively different duties. If the latter, offices must provide the former and new position description to their HR Shared Service Center for verification.
- The agency will implement these new procedures by July 31, 2015.

If you have any questions, please have your staff contact Susan Kantrowitz, director, Office of Human Resources.

cc: Donna Vizian
Susan Kantrowitz
Angela Freeman
Marian Cooper
Rick Buhl
Deb Thomas
Brenda Young
Debbi Hart

Distribution

Office of the Administrator
Assistant Administrator for Administration and Resources Management
Assistant Administrator for Environmental Information
Assistant Administrator for Solid Waste and Emergency Response
Agency Follow-Up Official (the CFO)
Agency Follow-Up Coordinator
General Counsel
Associate Administrator for Congressional and Intergovernmental Relations
Associate Administrator for Public Affairs
Regional Administrator, Region 1
Regional Administrator, Region 8
Principal Deputy Assistant Administrator for Administration and Resources Management
Director, Office of Human Resources, Office of Administration and Resources Management
Director, Office of Policy and Resource Management, Office of Administration and
Resources Management
Deputy Director, Office of Policy and Resource Management, Office of Administration and
Resources Management
Audit Follow-Up Coordinator, Office of Administration and Resources Management
Audit Follow-Up Coordinator, Office of Environmental Information
Audit Follow-Up Coordinator, Office of Solid Waste and Emergency Response
Audit Follow-Up Coordinator, Region 1
Audit Follow-Up Coordinator, Region 8