

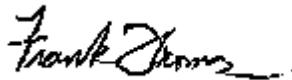
NATIONAL CREDIT UNION ADMINISTRATION

OFFICE OF INSPECTOR GENERAL

MERIT PROMOTION AUDIT

REPORT NUMBER 991

February 9, 1999

A handwritten signature in cursive script, appearing to read "Frank Thomas", with a horizontal line extending to the right from the end of the signature.

**FRANK THOMAS
INSPECTOR GENERAL**

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EXECUTIVE SUMMARY

The NCUA Office of Inspector General conducted an audit of the NCUA's merit promotion program. The purpose of this audit was to: first, determine if NCUA's merit promotion program complied with merit system principles; second, review NCUA merit promotion policies and procedures for reasonableness and assess compliance with such policies and procedures; and third, to determine if NCUA had a valid affirmative action plan for merit promotions and assess compliance with this plan.

Our audit included merit promotion actions for the years 1995 through 1997 for grades CU 13 and above. We reviewed 87 of the 183 merit promotion case files for this time period, interviewed appropriate NCUA staff, and reviewed related investigations among other audit procedures.

We believe that the NCUA merit promotion program was not in complete compliance with merit system principles, NCUA merit promotion policies and procedures are substantially reasonable but could use improvement, and the agency's affirmative action program for merit promotions could be strengthened. NCUA has already begun to implement actions which are moving towards correcting the noted problems.

Compliance with Merit System Principles

Federal regulations require a job analysis and crediting plans for merit promotion actions. A job analysis is intended to provide a link between the duties of a job and the selection criteria for applicants. A crediting plan is a method of determining how to rate application information in an objective and measurable way against the position's evaluation criteria. None of the merit promotion case files we reviewed contained a job analysis or crediting plan. This placed NCUA in non-compliance with Federal regulations and cast doubt upon the objectivity and fairness of the rating process. The Office of Human Resources (OHR) began implementing job analyses and crediting plans for all positions in January 1998. In addition, training had been lacking for staff responsible for preparing job analysis and crediting plans. Some of this training has subsequently been instituted by OHR.

In order to provide all applicants a fair and objective opportunity to be considered for promotion, a rating of applicants is performed. Then these ratings are grouped or ranked to determine which applicants are "best qualified". Nearly three out of four SSP and one out of eight CU reviewed case files lacked documentation on a rating panel convening or evidence of the rating scores. Our interviews revealed that raters had received no training and only minimal guidance on their duties and responsibilities. OHR has advised us that training will be provided and internal controls for file documentation will be tightened.

Merit promotion case files are required by Federal regulation to have documentation that assures that merit system principles have been followed. Seven case files selected for review could not be located, 40 percent of SSP and 20 percent of CU case files reviewed

had either missing applications, applications which were not received timely or receipt of applications was not noted for applicants rated as qualified. Approximately 15 percent of case files reviewed lacked applicant performance appraisals or had unsigned performance appraisals in the files. A case file document review checklist is not required and when one was present in a case file, it was frequently incomplete. In addition, when an exception to policy was taken, substantially every case had no documentation or signed OHR approval in the case file. OHR has plans to implement internal controls to correct these problems.

In four cases we noted selections where a lesser ranked candidate was selected over higher ranked candidates. The supporting documentation for such exceptions was either missing or inadequate. In addition, the selection of lesser ranked candidates negates the purpose of candidate rating and ranking and gives the appearance of unfairness.

**NCUA Promotion
Policies and Procedures**

NCUA promotion actions generate a relatively low number of applicants. Twenty two percent of our sampled cases did not generate an acceptable number of applicants to ensure attracting applicants from all segments of society and more than half of the announcements generated fewer than five applicants. This limits management's choice and perhaps quality of choice in the agency's upper level tiers of positions. These problems could have been exacerbated due to short announcement time periods, suspect rating and ranking process, over 90 percent of all announcements advertised only within NCUA, and some SSP policies viewed as disincentives. OHR plans to work with a contractor to determine "best practices" for attracting applicants.

**Affirmative Action Plan
for Merit Promotions**

NCUA has established agency goals and benchmarks for women and minorities in mid to senior level positions. However, there has been a lack of documented analysis as to the causes or impediments to the shortfalls in the CU-13 and above positions. Although this is not required under EEO regulations, it seems apparent that such an analysis should be performed.

During the time period of our audit, the Executive Director instituted an affirmative action program, whereby he became the de facto selecting official and the specific applicant identification of race, gender and handicap status was required to be annotated. The implementation of this program, which has been rescinded, resulted in prohibited personnel practices.

**Recommendations and
Agency Comments**

Based upon our observations and conclusions we have offered 24 recommendations regarding the NCUA merit promotion program. Overall, OHR and the Office of Equal Opportunity Programs agree with our recommendations. OHR believes there is a need for better internal controls in the merit promotion program to assure full documentation of the files and adherence to NCUA program policy. OHR is taking action to make improvements in these areas. OHR plans to study the overall recruitment program and then develop strategies in order to attract more applicants to advertised positions. OHR is also working

with contractors on determining best business practices used by other Federal agencies. The Director, Equal Opportunity Programs commented that the implementation of our recommendations will have a positive impact on NCUA's EEO programs. We have included the auditee's specific comments to each of our recommendations immediately following the recommendation in the body of the report.

AUDIT PROCEDURES

PURPOSE AND OBJECTIVES

The National Credit Union Administration (NCUA) employs approximately 950 persons. Budgeted salaries and employee benefits account for approximately 73% of the total agency budget. NCUA announced approximately 60 merit promotions per year for grades CU 13 and above for the years 1995-1997. These positions generally are technical specialized examiner type positions or management positions. NCUA had appointing authority for all of these promotions until the end of 1997, following an OPM audit related to entry level examiner hiring practices.

In August 1997, the Office of Personnel Management (OPM) withdrew NCUA's authority to make appointments, including Outstanding Scholar, Veterans Readjustment Authority, reinstatement, transfer or any other competitive or Schedule A, B, or C appointment and decertified NCUA's Delegated Examining Unit. In November 1997, the NCUA Board appointed a special Executive Resources Board (ERB) and directed it to review the OPM report. As part of this review, management officials involved with merit promotions of two supervisory examiners were interviewed. In addition, the Office of Special Counsel investigated merit promotions, among other things. The special ERB concluded, among other things, that the Director of OHR and other management officials were under significant pressure to increase representation of women and minorities in the workforce, NCUA failed to adhere to merit system principles and procedures, and there were other management deficiencies in OHR.

Because the OPM audit identified some areas of concern in agency hiring practices, the special ERB noted merit promotion concerns and the NCUA Office of Inspector General (OIG) developed potential audit issues in the agency's merit promotion program, the OIG conducted an audit of the NCUA's merit promotion program. The OIG issued a preliminary report to OHR regarding merit promotions for grades CU 15 and above. Our audit was performed in compliance with Generally Accepted Government Auditing Standards.

The audit addressed three objectives:

1. To determine if NCUA's merit promotion program complied with merit system principles.
2. To review NCUA merit promotion policies and procedures for reasonableness and determine if merit promotion actions complied with such policies and procedures.
3. To determine if NCUA had a valid affirmative action plan for merit promotions and whether merit promotion actions were consistent with this plan.

SCOPE AND METHODOLOGY

The audit scope included NCUA merit promotion actions for the years 1995 through 1997 for grades CU 13 and above. We reviewed promotions for positions in the central office and all six regional offices.

Our audit included the following fieldwork procedures:

1. Reviewed applicable merit promotion laws, regulations, policies and procedures.
2. Judgmentally sampled merit promotion cases for grades CU 13 and above.
3. Interviewed NCUA staff involved in the merit promotion process for general background information and NCUA staff involved with specific merit promotion case files reviewed.
4. Reviewed all six OIG merit promotion related investigations conducted during the past three years.
5. Reviewed Board minutes related to six SSP promotion actions.
6. Conducted follow-up review of an October 31, 1995 OIG EEO audit.

AUDIT TEAM

The audit team consisted of two members of NCUA OIG audit staff, the NCUA OIG attorney/investigator, three National Academy of Public Administration (NAPA) personnel experts and an OPM employee specialist.

BACKGROUND

Universe and Sampling

During the audit time frame (1995-1997) NCUA had a total of 183 known merit promotion actions. Sixty three out of the 183 (34.4%) actions resulted in non-selection or cancellation of the announcement.

At least a portion of these cancellations were due to the position being filled by a concurrent applicant or a reassignment. The 183 announcements resulted in 135 selections (note some announcements resulted in more than one selection). Over 90% were advertised NCUA-wide only. We reviewed a judgmental sample (grades CU 13 and above) of 87 cases of the 183 (47.5%) merit promotion cases. We concentrated our efforts on the higher grade levels. The 87 cases sampled represented 68% of the 128 grade CU 13 and above merit promotion actions. The following table shows the merit case breakdown by grade level and location.

	Agency Totals	Sampled	Percent Sampled
GRADE			
SSP	16	15	93.8%
CU 15 and 16	40	35	87.5%
CU 13 and 14	72	37	51.4%
CU 12 and below	35		
Unknown	20		
TOTAL	183	87	47.5%
OFFICE/REGION			
Central Office	53	41	77.3%
Region I	15	4	26.7%
Region II	31	14	45.2%
Region III	24	11	45.8%
Region IV	11	2	18.2%
Region V	29	9	31.0%
Region VI	16	6	37.5%
All Regions	2		
AMAC	2		
TOTAL	183	87	47.5%

The 87 case files we reviewed resulted in the following number of applicants:

	0-2	3-5	6-10	11+	unknown	Total
SSP	3	8	2	1	1	15
CU 15/16	6	5	15	4	5	35
CU 13/14	10	20	4	0	3	37
Total	19	33	21	5	9	87
%	21.9%	37.9%	24.2%	5.7%	10.3%	

The merit promotion process involves several layers of staff involvement. There are selecting officials, qualification raters or panels, interviewers, and technical advisors. Additionally, the Director of OHR administers the program and the EEO officer has a stakeholder position. We followed up the sampling of our merit promotion case file reviews with interviews of:

- Former Director, former acting Director and current Director of Office of Human Resources (OHR)
- NCUA EEO Officer
- Four selecting officials
- Eight rating panel members
- Three OHR technical advisors and three regional technical advisors

LAWS, REGULATIONS, AND POLICIES

Laws and Regulations

The NCUA, like other Federal executive agencies, is required to implement a personnel management system consistent with Merit System Principles, 5 CFR section 2301 (see Appendix A for a complete listing of the Merit System Principles). These Merit System Principles are designed to ensure fairness and objectivity in the merit promotion process for Federal employees.

Related to the Merit System Principles are Prohibited Personnel Practices, 5 CFR section 2302 (see Appendix A for a complete listing of Prohibited Personnel Practices). These practices hold the agency head and others delegated merit promotion responsibilities accountable for the prevention of acts that compromise the system's fairness and objectivity.

Also required are Federal government agency competitive promotion practices and requirements which provide a general implementation outline for the Merit System Principles, 5 CFR Section 300.102, 300.103 and 335.103 (see Appendix B for more).

Federal Affirmative Action Program regulations lay the foundation for agency affirmative action program guidance and structure, 5 CFR Subchapter B Part 720 and 29 CFR parts 1608 and 1614 (see Appendix C).

NCUA SSP Policies and Procedures

The NCUA merit promotion policies and procedures are found in Chapter 20 of the Personnel Manual. During our audit time frame the NCUA Board delegated to the Chairman authority to exercise all authorities related to human resources management with the authority to redelegate. The Board retained the authority to select promotion candidates to the SSP ranks. As of December 31, 1997, all of those delegations were retained by the Board, except that the Chairman was authorized to appoint the Executive Resources Board (ERB) members and

designate its chairman (not the Executive Director) excepting where other specific delegations have been given. Prior to December 31, 1997, the Executive Director was the Chairman of the ERB.

Competitive procedures are required when filling an SSP position from the CU 15 or 16 grade level or when an SSP is to be moved more than one grade level. This would entail issuing a vacancy announcement at least NCUA-wide and advertised at least 15 working days, a rating and ranking of applicants, and a selection from a group of eligible candidates. Application documentation should include a NCUA Experience and Qualification Statement, a narrative addressing the evaluation criteria and the applicant's most recent performance appraisal. Interviews of candidates may or may not be conducted. Agency policy is to fill SSP positions based on merit from among highly qualified applicants, and that the selection will be made from within the agency whenever possible. The ERB is responsible for rating and ranking promotion candidates and making recommendations for selection to the NCUA Board (selecting official). Exceptions to policy or procedure are to be approved by the Chairman of the ERB with Director of OHR concurrence (see Appendix D).

CU Policies and Procedures

The NCUA merit promotion policies and procedures for CU employees are found in Chapter 3 of the NCUA Personnel Manual. During our audit time frame, the NCUA Board Chairman was given authority to exercise all authorities related to human resources management with the authority to redelegate. On December 31, 1997, that authority was withdrawn by the NCUA Board, except where other specific delegations have been given. Office Directors, Regional Directors and the President of the AMAC were authorized to make selections of employees through grade CU 16 in their areas of control. On December 31, 1997, the Board delegated to the Director of OHR the authority to review and certify all personnel actions, act as appointing authority for all personnel actions not withdrawn by OPM, authority to establish rating and ranking panels, and authority to approve interview panels.

NCUA policy is to make selections from among the best qualified candidates available and to select from within the agency whenever feasible. The techniques used in evaluating and selecting candidates must be job related and applied without discrimination. Competitive procedures are required for a promotion to a higher graded position or to a position at a higher grade than the highest grade previously held on a permanent basis. The Executive Director is responsible for coordinating, administering, reviewing and recommending revisions to the Merit Promotion Program. OHR oversees the program's operation and administers all announcements not delegated to the regions. In late 1997, this regional delegation reverted back to OHR. Essentially, the competitive process involves the announcement of positions at least NCUA-wide and advertised at least 15 working days (for CU 13-16), rating and ranking of applicants, conducting interviews (if desired), and selecting from the best qualified applicants. Application documents include an NCUA Experience and Qualifications Statement, applicant's most recent performance appraisal, and a supervisor's evaluation. Rating and ranking is to be conducted by a panel when there are more than five applicants; otherwise a technical advisor or subject matter expert

can rate and rank. Candidates are ranked as either “Best of Highly Qualified”, “Highly Qualified” or “Qualified”. Exceptions to policy or procedures must be requested in writing by the selecting official and approved by the Director of OHR. See Appendix E for a more detailed discussion of the CU merit promotion program.

NCUA Affirmative
Action Program

The Executive Director served as the Agency’s EEO officer during the time frame of our audit. On December 31, 1997, the NCUA Board delegated to the Chairman that role with authority to redelegate to the Executive Director.

The NCUA merit promotion affirmative action plan has three parts. First is reporting demographic data on the NCUA workforce compared to the civilian work force. Second is the setting of affirmative action goals for the agency. Third is the annual reporting of regional and central office management’s accomplishment of those goals. The NCUA affirmative action program also includes the recruitment of new examiners. However, our review only addressed merit promotion actions.

On July 11, 1996, the Executive Director issued an agency Instruction with the purpose of establishing a process to reduce the underrepresentation of minorities, women and disabled individuals in NCUA’s work force. The Instruction applied to Delegated Examining Unit and merit promotion selections. It required each regional or office director to annotate on the Merit Promotion Checklist each applicant’s sex, race, national origin and disability, when known. This was to be attached to the merit promotion certificate, after the selectee was noted and sent to the Director of OHR along with interview notes or other materials used to evaluate candidates. The Director of OHR was to forward this material to the Director EEO (Executive Director) for his approval. The Executive Director was to notify the selecting official of his concurrence or non-concurrence of the selection via MS-Mail. Candidates were not notified unless Executive Director concurrence was obtained. The Instruction further stated that the race, gender and handicap status information was to be purged from the merit promotion case files.

This Instruction also required that merit promotion panels include at least one woman or minority group member and authorized going outside the OHR panel pool if necessary. This Instruction has since been rescinded.

AUDIT RESULTS

PRE-ANNOUNCEMENT

Prior to announcing positions for merit promotion competition, human resources staff and agency management should perform preliminary work regarding a position to be advertised. For instance, a position description should be in place which, among other things, lists the position's duties and responsibilities and target grade level. Evaluation criteria should be developed on what knowledge, skills and abilities are required to qualify for the position. A crediting plan should be outlined to measure how various applicant knowledge, skills and abilities can be measured against the evaluation criteria. Performance standards also need to be developed for the position.

Job Analysis and Crediting Plans

The first Merit System Principle states that selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity. Federal government competitive promotion practices, at 5 CFR Section 300.103 (a) state that a job analysis is required as an employment practice. A job analysis should identify the job's basic duties and responsibilities; the knowledge, skills, and abilities required to perform those duties and the factors that are important in evaluating the candidates. According to Federal government promotion and internal placement regulations, 5 CFR Sections 335.103 (a) and (b), require the agency to adopt and administer a program designed to insure a systematic means of selection for promotion according to merit and to include documentation to show how candidates were rated and ranked.

The job analysis is intended to provide a link between the duties of a job and the selection of criteria for applicants. A crediting plan is a method of determining how to rate application information in an objective and measurable way against the position's evaluation criteria. These two factors, besides being required by regulation, help ensure that the evaluation process for merit promotions is fair and objective.

Observation

None of the 15 (100%) sampled SSP merit promotion case files reviewed had a job analysis performed or a crediting plan. None of the 72 (100%) sampled CU merit promotion case files reviewed had a job analysis performed or a credit scoring plan. Every announced position that we reviewed had a position description and evaluation criteria. However, the evaluation criteria, in nearly every case, were very general and there was no description/analysis how each of the evaluation criteria related to the position description's duties and responsibilities.

Crediting plans were not generated for any positions during the time period of our review. Crediting plans are the means whereby the raters are provided guidance on how to apply

the applicant's knowledge, skills and abilities against the evaluation criteria. While all of the positions we reviewed had evaluation criteria, there was no objective way to determine how the rating scores were given relative to them. OHR officials stated that they knew that job analysis and crediting plans were required; however they did not have these documents in place due to lack of staff resources.

OHR began implementing job analysis and crediting plans for all positions in January 1998. Crediting plans have been established for all positions, but some of the older ones need to be revised according to the Director of OHR. OHR is revising crediting plans as positions open for new merit promotions. The first crediting plans adopted, in early 1998, were drafted by the selecting officials. Currently, the selecting official or other subject-matter expert works with OHR to draft the crediting plans. However, the subject-matter experts have had no training in the drafting of crediting plans and the current OHR staff have only recently begun the task. According to the Director of OHR, training is planned for the selecting officials and OHR staff regarding drafting crediting plans. Job analyses are also being developed for all positions as they become open for announcement. According to the Director of OHR, staff will get some job analysis training.

Evaluation of Managerial Qualifications Lacking

In six of the 35 (17.1%) CU 15/16 managerial merit promotions reviewed, managerial qualifications were not part of the supervisor's evaluation. The former Director of OHR stated that managerial qualification evaluation has to be valued by the Executive Director and Board and was discussed by OHR. But according to the former Director of OHR this was not given much attention for Supervisory Examiner and like positions. The current OHR Director told us the agency culture has emphasized technical experience over supervisory/managerial experience when evaluating candidates for managerial positions.

Conclusion

NCUA's merit promotions lacked job analysis and crediting plans. Without objective rating plans, NCUA is not in compliance with Federal regulations as stated above and this casts doubt upon the objectivity and fairness of the rating process. However, all of the position evaluation criteria that we reviewed appeared to be job related.

Recommendation 01

OHR should promptly pursue crediting plan and job analysis training for those staff responsible for such documents. We applaud OHR's current effort in the drafting of job analysis and crediting plans.

Auditee Comment

The OHR staff received training on conducting a job analysis and developing crediting plans January 12 - 14, 1999.

Recommendation 02

OHR should ensure that a valid job analysis has been conducted prior to each merit promotion announcement. The crediting plans should be developed by the closing date of the announcement and have objective and meaningful criteria consistent with the position's evaluation criteria, position description and job analysis.

Auditee Comment

OHR agrees that a job analysis should be conducted prior to each merit promotion announcement and crediting plans should be developed by the closing date of the announcement.

Recommendation 03

We recommend that managerial factors be included in the supervisor's evaluation for managerial type positions.

Auditee Comment

OHR agrees that if appropriate to the position being filled, these factors should be measured by at least one of the evaluation devices (e.g. crediting plan, supervisory evaluation etc..) But determination of which of the examination devices is most appropriate is an examination by examination and position by position decision.

Recommendation 04

Job analysis and crediting plan processes and procedures need to be included in the NCUA Personnel Manual for both SSP and CU merit promotion actions.

Vague SSP Policies and Procedures	The NCUA Personnel Manual, Chapter 20 covers SSP policies and procedures. In some areas these policies and procedures are impractical, in others, the manual is silent. SSP policies and procedures generally mirror the CU policies and procedures, except for SSP specific policies and procedures delegated to the ERB.
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Observation

The Federal laws and regulations cited in Appendices A and B apply to all competitive service positions. The differences between NCUA's SSP and CU policies and procedures are found in Appendices D and E. We noted some SSP policies and procedures that could be improved. The NCUA Personnel Manual states that the selecting official determines the SSP technical factors. SSP interview policy offers total flexibility as to which SSP candidates will or will not be interviewed for positions. Policy does not state who is authorized to request exceptions to SSP merit promotion policy. Exceptions are

forwarded to the Executive Director for approval. Several SSP positions (e.g., ARDs) report directly to another SSP (e.g., RD); however, the role of the first line SSP supervisor in the merit promotion process is silent in stated policy.

Conclusion

Some SSP merit promotion policies and procedures are not practical. This could lead to confusion or improper implementation of stated policies and procedures. It is not practical to have the NCUA Board, as selecting official, develop every SSP position's technical selection factors. The lack of a consistent interview policy, like the CU policy, could give the appearance of a lack of objectivity and favoritism. Having someone other than the selecting officials (NCUA Board) approve policy exceptions could cause actions against the Board's wishes. And not having an immediate supervisor formally involved in the merit promotion process appears unreasonable.

Recommendation 05

The ERB and the supervisor or subject matter expert, with Board concurrence, should establish SSP technical selection factors.

Auditee Comment

The ERB is currently working on a similar recommendation, except for the provision of Board concurrence.

OIG Response

The Board should concur since they are the selecting officials.

Recommendation 06

SSP interview policy should follow CU selection interview policy.

Auditee Comment

The selection interview process is not part of the examination process and may not always require that all be interviewed. OPM does not require selecting officials to interview all if any are interviewed. The selecting official may interview those from which additional information is desired.

OIG Response

The policy of interviewing all candidates of the same ranking adds the appearance of objectivity to the selection process.

Recommendation 07

All exceptions to policy for SSP cases should be documented by the ERB and approved by the Board.

Auditee Comment

OHR agrees other than requiring Board approval.

OIG Response

The Board as selecting official should approve all merit policy/procedure exceptions.

Recommendation 08

The immediate supervisor of the vacant position should be part of the interview panel and should be able to offer their concurrence or non-concurrence for recommended applicants as a part of the ERB's recommendation to the Board.

Case File Documentation

Merit promotion case files are required to be maintained two years and must document the promotion action, according to Federal agency promotion regulations, 5 CFR Section 335.103 (b)(5). This regulation requires documentation to assure that merit system principles have been followed.

Observation

One SSP case file could not be located. Six of 15 (40%) sampled SSP case files had either missing applications, applications not received timely, or the receipt of the applications was not noted for candidates rated qualified. Two of 15 (13.3%) SSP case files had missing or unsigned performance appraisals for candidates rated "Qualified".

Six of 72 sampled CU (8.3%) merit promotion case files could not be located for review. Fifteen of the 72 CU (20.8%) case files reviewed had either missing applications, applications which had not been received timely, or the receipt of the applications was not noted for candidates rated as "Qualified". Eleven of the 72 CU (15.3%) case files had either missing or unsigned performance appraisals for applicants rated as "Qualified".

OHR staff agreed that all the above documents should have been available. In addition, OHR staff could not explain why the documentation was not present, other than to state that the documents may have been misplaced or misfiled.

Case file checklists are not required for any case files. According to OHR staff, the technical advisor or their assistant is responsible for verifying that all required merit promotion documentation is retained in the case files and the process for that is at the discretion of the responsible party.

In substantially every case when there had been an exception to policy, there was no documented justification and approval in the file. The former Director of OHR stated that written documentation for exceptions should have been in the case file. Other interviewees could not explain why documentation was not present.

Conclusion

Case file documentation was poor. We identified a lack of review and verification of the proper case file documentation. This lack of documentation does not provide evidence to assure that merit principles had been followed.

Recommendation 09

A case file checklist should be required for each file. If a document is missing, a written explanation should be in the file. The checklist should be signed by the responsible staff person. Prior to the finalization of the merit promotion action, an OHR supervisory review should be performed and signed by an OHR manager. Every exception to policy should be documented in writing and approved by the appropriate authority(s). In addition, each exception to policy should be noted on the case file checklist.

Auditee Comment

OHR is advertising for a policy specialist who will be responsible for HR internal controls, including controls to ensure files are properly maintained and documented. To implement the above recommendation at this time would be premature and would add a layer of review that will slow down the staffing process when other quality processes could be used more efficiently such as tighter standard operating procedures, sampling reviews, or independent reviews.

OIG Response

A case file checklist signed by responsible staff would not be overly burdensome and written explanations should be required in every instance to fully document the actions taken.

Affirmative Action	The current NCUA affirmative action plan for merit promotions states that the agency does not have enough information available to identify the problems and/or barriers to promotions for women and minorities in NCUA's staff. NCUA's EEO office has proposed a survey of all supervisors to determine the causes of the shortfalls. Once the survey is received, the Office of Equal Opportunity Programs will make appropriate recommendations to the NCUA Board. According to the NCUA EEO Officer, such a survey was done at the time of the last OIG EEO audit in 1995.
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The agency culture has been that substantially all NCUA promotions are filled from within the agency (advertised NCUA-wide). The EEO program has placed a primary emphasis on the recruitment of new examiners, and has several programs in place to address the recruitment of women and minorities. The purpose is that when the initial NCUA workforce recruitment is well diversified, it will provide a diverse pool to rise within the agency.

The agency has never had an approved program of allowing race, gender, national origin or handicap status information to be used in the selection phase of merit promotions, except for the NCUA Instruction for Affirmative Action Programs implemented on July 11, 1996 by the Director of EEO (Executive Director). This Instruction was later rescinded. The current EEO affirmative action plan annually reports demographic statistical data and its relative standing compared to the civilian labor force and obtains regional reports of progress towards demographic goals. The regions are supposed to report on their strategies to address any shortfalls in their goals. The NCUA strategic plan has adopted numerical work force goals for women and minorities in its mid and senior level positions. According to OHR staff, there currently is no known affirmative action program or strategies in place for merit promotions.

The NCUA Office of Equal Opportunity Programs (EOP) has offered the following strategies related to NCUA upper level positions in prior years:

- Analyze vacancies with a view toward announcing Upward Mobility Program (2/15/95)
- Develop an improved data collection/analysis system to identify barriers to promotions for women and minorities (2/15/95)
- Develop a survey questionnaire that captures minority and sex of separated employees (2/15/95)
- Establish an SSP Development Program (11/15/95)

Observation

The agency has established goals and benchmarks in the annual EEO plan and the agency's strategic plan. However, there has been a lack of documented analysis as to the causes or impediments to the shortfalls in the CU 13 and above positions. Therefore there are no specific strategies in place based on specific causal analysis that address specific problem area(s) by demographic shortfall (women, Hispanic, etc.). EEO regulations do not require any analysis to be performed for any grouping of under 100 employees. The grades CU 13 and above at NCUA have fewer than 100 employees. However, the agency has established an Annual Performance Goal for the percentage of women and minorities in mid and senior level positions.

Conclusion

There is a lack of documented analysis of problems and impediments facing women and minorities seeking NCUA promotions. Since the agency has established an annual performance goal of representation of women and minorities in mid to senior level positions, it seems apparent that an analysis should be performed.

Recommendation 10

We recommend that in addition to the office of EOP's proposed survey of agency supervisors and managers, the office of EOP incorporate merit promotions into their annual plan and perform additional analysis to determine the causes of underrepresentations of women and minorities at the grade CU 13 level and above. This analysis could include the following:

- Analyze (potential total applicants and demographic makeup of potential pool) merit promotion positions to determine if advertised areas of consideration are broad enough to attract enough applicants of underrepresented groups.
- Survey potential NCUA candidate pools (underrepresented groups) to determine if they are applying for promotions, if not why not, or their perceived impediments.

Auditee Comment

The Director of Equal Opportunity Programs responded that this recommendation can assist NCUA in meeting its equal employment opportunity responsibilities relative to career development and promotions. By performing additional analysis, we can determine the causes of the persistent underrepresentation of women and minorities at the CU-13 level and above.

RECRUITMENT

NCUA policy is to promote from within whenever possible. For grades CU 13 and above the agency can reassign/transfer employees who have the basic qualifications for the open position and have at least one year of time in grade at the full performance level in a competitive position held on a permanent basis. The agency can also advertise competitively for a merit promotion; in which case the position can be announced NCUA wide, government wide or all sources (NCUA, government and general population). The job announcements should provide, among other things, a description of the duties and responsibilities, the grade(s), including the journey levels, of the position, open dates of the announcement and the criteria used to evaluate the applicants. The Director of EEO is responsible for oversight of all affirmative action programs at NCUA

Attracting Applicants

Announcements for jobs at the CU 13 and above grade level must be advertised for a minimum of 15 working days and be advertised at least agency wide under NCUA policy. SSP exceptions to policy require the Executive Director's and Director of OHR's approval. CU exceptions to policy require the Director of OHR's approval. According to the first merit principle, 5 CFR Section 2301, recruitment should be from qualified individuals from appropriate sources to achieve a work force from all segments of society. In addition, according to Federal agency promotion requirements, 5 CFR Section 335.103 (b)(2), areas of consideration must be sufficiently broad to ensure the availability of high quality candidates. SSP stated policy is unclear as to who is responsible for deciding announcement time frames and areas of consideration. The Director of OHR stated that the ERB is developing a policy to clarify this issue. Whereas, CU selecting officials are responsible for deciding announcement time frames and areas of consideration beyond the required minimum and must gain Director of OHR concurrence for times and areas below the minimum.

The following are some current SSP policies: Declination of an SSP involuntary reassignment may result in removal; post probationary SSPs removed for performance reasons are guaranteed placement in a position outside the SSP; and the NCUA Personnel Manual still provides for a bonus program which is goal specific, although this program has been non-operational for a few years.

Observation

Two of 15 (13.3%) sampled SSP announcements were open less than the required 15 working days. Three of 15 (20%) SSP merit promotion announcements generated fewer than three applicants. Eleven of 15 (73.3%) announcements generated five or fewer applicants. Seven of 15 (46.7%) reviewed SSP promotion case files resulted in a non-selection. Based on our review of Board minutes, we noted that the ERB usually only recommended one candidate for selection to the NCUA Board, as opposed to offering a choice of candidates.

One SSP vacancy was announced three times with two of those times open less than the required 15 days. One of the announcements generated fewer than three candidates. The selectee, a woman, had been on extended detail to the position and the selection was made during the time frame of the NCUA's July 11, 1996 Affirmative Action Instruction. One SSP case file contained an unsolicited memo from a candidate's supervisor giving the appearance of influencing the selection of a female. Another SSP case file contained inappropriate leading and suggestive language in two candidate non-select letters from the Executive Director, stating; "I will promise to look your way in the future". In addition, one OIG investigation issued in 1998 concluded that one SSP had been provided unfair advantage when the individual obtained a promotion in part because the position description was narrowly written to fit the individual's qualifications.

Eleven of 72 (15.3%) reviewed CU vacancy announcements were open for fewer than the required 15 working days. Substantially all of these did not have written exception approval in the case file. Interviewees offered no explanations why positions were not advertised for at least 15 working days other than to offer that perhaps there was an immediate need to fill a position. Sixteen of 72 (22.2%) CU announcements generated fewer than three applicants. Forty one of 72 (56.9%) CU announcement generated five or fewer applicants. Thirteen of 72 (18%) CU announcements were canceled. None of the canceled case files had any documentation as to the reasons for the cancellations.

OHR has never done a formal study of why the agency has had difficulty in attracting applicants for positions. Several interviewees suggested reasons why people did not apply for positions; such as excessive travel, not wanting to relocate, and preferring the independence of remaining in the field. However, no interviewees knew of any analysis or recommended solutions to resolve the problems. In November 1998, the agency instituted a bonus program for new examiners and a compensation package for excess overnight travel.

Conclusion

The relatively low number of applicants for NCUA management and specialized positions indicates a problem. Twenty two percent (19 of 87) of the reviewed announcements did not generate an acceptable number of applicants to ensure attracting applicants from all segments of society. With over half of the announcements generating five or fewer applications, the potential promotion pools are relatively small. This limits management's choice and perhaps quality of choice in the agency's upper level tiers. These problems could have been exacerbated because: announcements were advertised for short periods of time; the process of rating and ranking appearing suspect; over 90% of all announcements were advertised only within NCUA; and SSP policies could be viewed as disincentives (no guaranteed CU grade fall back rights, no bonus plan, and the relatively temporary status of SSPs in their positions). The short time frames for application and some inappropriate comments, as discussed above, in the case files also indicate a lack of objectivity in the merit promotion process.

Recommendation 11

No jobs should be advertised for fewer than 15 days because employees may be detailed into vacant positions for short periods.

Auditee Comment

We agree that all jobs should meet the minimum advertisement periods, however to state that the 15 days is the best time period is premature. OHR is working with a contractor to determine the “best practices” used in other Federal agencies regarding advertisement periods and areas of consideration.

OIG Comment

The 15 day period is mentioned since that is current policy. We agree that the selection of a specific time period is the purview of OHR. However, this time period should be established to provide sufficient time for candidates to prepare their applications for submittal.

Recommendation 12

OHR should analyze the potential pool of candidates within NCUA, to determine the causes for the low number of applications and then make recommendations to improve the prospects or advertise in a broader area of consideration.

Auditee Comment

OHR agrees to conduct an analysis of the potential pool of candidates within the agency. Recommendations will be appropriate to the findings of the study. It is premature to make such recommendations at this time.

Recommendation 13

OHR should determine the reasons for merit promotion non-selections/cancellations, analyze the reasons, and offer recommendations to correct any noted problems in recruitment.

Auditee Comment

We do not concur with this recommendation. This could be viewed as a restriction to management’s right to select from a properly rated and ranked list of candidates.

OIG Response

We disagree that this would restrict management's right to select. This analysis would be used to determine any problems in recruiting to minimize announcement cancellations and subsequent reannouncements.

Recommendation 14

The ERB and supervisor should determine announcement time frames and areas of consideration.

Auditee Comment

The ERB is developing procedures to this effect.

Recommendation 15

The ERB Chairman should offer the NCUA Board a choice of candidates, with three being the minimum or all qualified applicants.

Auditee Comment

If the job had an adequate announcement period, the number of best qualified candidates provided should not be restricted by a required minimum number of candidates. While the ERB does give the Board a recommended candidate, they do offer the full list of BQ candidates for the Board's consideration. The Board may select from any of the best qualified candidates or from other appropriate sources.

OIG Response

Our recommendation is not intended to restrict the number of qualified candidates but rather, to give the Board a broader number of choices.

EVALUATION OF APPLICANTS

All competitive merit promotion candidates are required to submit application documents which demonstrate their knowledge, skills and abilities to meet the requirements of the advertised positions. In order to provide all applicants a fair and objective opportunity to be considered, a rating is done by persons other than the selecting official. Then the applicants are ranked (separated) into Best of Highly Qualified, Highly Qualified, and Qualified groups.

Rating and Ranking

Merit system principles provide that selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity. Further, they provide that all employees and applicants for employment should receive fair and equitable treatment in all respects of personnel management. The ERB is required to rate and rank promotion applicants for SSP positions and make recommendations to the NCUA Board for selection. The Executive Director was the Chairman of the ERB and the Chairman of the Board appointed the five member ERB. The Director of OHR was to be a permanent member of the ERB. As of December 31, 1997 the NCUA Board makes appointments to the ERB and the Executive Director is no longer a member.

The rating and ranking process for CU applicants is slightly different and described more fully in Chapter 3 of the NCUA Personnel Manual. Prior to the delegation being withdrawn from the field, Regional or OHR technical advisors received all applications and determined which candidates met the basic qualification requirements for the position. Rating and ranking is conducted to determine the best qualified candidates and to offer recommendations to the selecting official. NCUA policy states that when there are more than five applicants for a CU announcement, a rating panel of at least three members is convened. Each year OHR obtains nominations from each region and the central office for rating panel members. The selecting official can then choose who should be on a panel for a given announcement. For central office announcements, OHR typically selected panel members. When there are five or fewer applicants a technical advisor or a subject matter expert, appointed by the selecting official, can perform the rating and ranking. The purpose of the rater or rating panel is to make rating and ranking process fair and objective.

Raters evaluate each candidate, separately and individually, based upon the application materials provided. After all candidates have been rated individually, a consensus meeting is held among panel members to discuss scoring discrepancies and to determine the ranking of the candidates as to who is best qualified. NCUA policy is to rank candidates as Best of Highly Qualified (BHQ), Highly Qualified (HQ), and Qualified (Q). This is typically done by either totaling or averaging the applicants' scores and finding natural breaks in those scores for ranking groupings. The panel or rater will list the individual

candidate names by rank grouping on a merit promotion certificate which is forwarded to the selecting official. Interviews may be held. If one candidate in a ranking group is interviewed, all of the candidates in that group must be offered an interview.

Observation

Eleven of the 15 (73.3%) sampled SSP merit promotion case files reviewed contained either no evidence that the ERB had convened or no evidence of the rating panel's scores. We were unable to obtain a listing of the members of the ERB for the years 1995 and 1996. In addition, the Director of OHR was not a member of the ERB during this time period, as required by NCUA Board delegation. We did note that the ERB had begun functioning again in 1997.

Nine of 72 (12.5%) sampled CU merit promotion cases either had no evidence that a rating panel convened when one was required or contained no evidence of rating scores given. OHR was unable to explain the cause for this breakdown in the merit promotion system. Technical advisors had noted the difficulty in convening and coordinating rating panels. In one OIG investigation, regional management, in two separate merit promotion actions, had discussed with rating panel members their preference for candidates.

Conclusion

The absence of ERB involvement in the SSP promotion process tends to cast doubt on the objectivity of this process. The lack of documentation as to the existence of CU rating panels and how applicants were rated and rating panel tampering casts a serious doubt on the objectivity of the rating and ranking of candidates.

Recommendation 16

We recommend that the Director of OHR be the permanent Chairperson of the ERB in order to add personnel expertise at the top level and to ensure continuity and objectivity in the SSP process.

Auditee Comment

OHR has no objection to this recommendation.

Recommendation 17

Complete documentation as to the ERB's role in rating, ranking, interviewing and selection recommendations should be documented in the case files and signed by each ERB member.

Auditee Comment

OHR noted that the final interview sheet is signed by each of the ERB members.

OIG Response

This recommendation was made since the case files reviewed contained no such signed interview sheets.

Recommendation 18

We recommend that complete documentation on the rating and ranking process be retained in the CU case files to support the recommendations made. This documentation should be signed by the rater/panel members and interviewer(s).

Auditee Comment

While the file should document which candidates were interviewed and who interviewed them, no interview notes should be retained in the file.

OIG Response

If not retained in the file, interview notes should be retained by the interviewers to provide a more complete record of the merit promotion action if such action is later questioned.

Recommendation 19

We recommend the policy of obtaining nominations for a rating panel pool be discontinued, since it is difficult to convene panels and these panel pools may not be subject matter experts in all current position openings. We recommend that a list of subject matter experts be retained by OHR for each promotable position and OHR select panel members from that list to serve for each merit promotion action. The subject matter expert should be a person who is knowledgeable about the requirements and responsibilities of the job. This may be a current supervisor, an employee who previously served in the position or an employee this is very knowledgeable about the position.

Auditee Comment

OHR agreed with this recommendation.

Observation

None of the raters we interviewed had been trained on how to rate and rank candidates. When we asked rating panel members how they rated the applicants without crediting plans, they responded that they used their best judgment based upon the application information given. The relative weights given to various application documents (performance appraisal, application, etc.) varied by rater. If the rater knew the work of an applicant, that may have influenced their rating. There was no training given to rating panel members on how to rate the applicants, although they were given general guidance by technical advisors.

Conclusion

Due to the lack of crediting plans and lack of training, raters used their best judgment in the use and weighting each candidate's application materials in producing applicant ratings and rankings.

Recommendation 20

We recommend that all members who serve as raters or on rating panels be given training as to how to rate and rank applicants.

Auditee Comment

OHR agreed with giving an orientation on using crediting plans and what is permissible in the rating process.

SELECTION

Once the recruitment phase has generated a sufficient pool of qualified applicants from all segments of society and an objective rating and ranking has produced a choice of the best qualified applicants, then the selection process can begin. The selecting official may conduct interviews and review application materials to select a candidate for a promotion, or they may reassign/transfer an employee, or they may decide not to make a selection at all.

Selection of Best Qualified Candidates

Federal government competitive practices, 5 CFR section 300.102 (b) provides that a selection should result from among the best qualified candidates. NCUA CU policy states this also, but with the caveat that a selection of a lesser qualified candidate can take place if it is justified in writing and approved by the Director of OHR.

Observation

We identified four selections where lesser ranked candidates were selected without documented justification over higher ranked candidates. In one OIG investigated case a preselection was made in order to hire a minority candidate. In the second case, one candidate was ranked as BHQ. A subsequent promotion certificate had the selectee's ranking changed from HQ to BHQ, with no justification or known reason in the case file or upon inquiry. In the third case, a HQ candidate was selected over a BHQ candidate with the only documentation being a summary of the interviews conducted and no explanation as to why the HQ candidate was better qualified than the BHQ candidate. In the last case, a position was advertised as a CU 12/13 position. Two selection certificates were drawn; one for CU 12s which had two qualified candidates and the other certificate for CU 13s which had two BHQ candidates and three HQ candidates. One of the two candidates selected was a CU 12 qualified ranked candidate with no written justification or known reason upon inquiry why the qualified candidate was selected over the CU 13 BHQ or HQ candidates.

Conclusion

The selection of lesser ranked candidates negates the purpose of candidate rating and ranking and gives the appearance of unfairness.

Recommendation 21

The recommendations provided by a rater or ranking panel via the merit promotion certificate forwarded to the selecting official should only provide the names of the best qualified candidates.

Auditee Comment

OHR agreed in concept with recommendations 21 and 22 however, until it evaluates the problems of attracting well qualified applicants for positions, it believes these recommendations are premature. This issue will be part of OHR's best practices review.

Recommendation 22

Due to the relatively small number of applicants per announcement (59.8% of reviewed cases had five or fewer applicants) and to streamline the ranking process, we recommend that candidates only be ranked as highly qualified or qualified.

Auditee Comment

See Auditee Comment to Recommendation 21.

Affirmative
Action

The Executive Director had authority to establish and maintain the EEO program as well as make final settlement of, and to issue final agency decisions for, NCUA discrimination complaints. As of December 31, 1997 the Chairman has authority to establish and maintain an EEO program, with authority to redelegate to the Executive Director.

The NCUA's Affirmative Action Program incorporates many aspects beyond the scope of this audit (e.g., discrimination complaints, entry level recruiting, etc.). During the period 1995 through 1997, the NCUA affirmative action program relating to merit promotions was essentially reporting demographic statistics for the agency by grade levels and job categories. In addition, the NCUA EOP would annually request the accomplishments of each region to gauge the agency's progress in narrowing demographic statistical gaps as compared to statistics in the civilian labor force from the US Census Bureau.

Observation

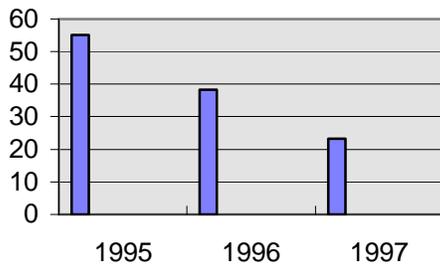
On July 11, 1996, the Executive Director signed an NCUA Affirmative Action Recruitment Instruction and distributed it to all NCUA office directors, regional directors and the President of the AMAC. Its purpose was to establish a process to reduce the underrepresentation of minorities, woman and disabled individuals in NCUA's workforce. This Instruction applied to all Delegated Examining Unit (DEU) and merit promotion selections. As it related to merit promotions, the Instruction required all office directors and regional directors to:

1. Duplicate merit promotion checklists and annotate them with the applicant's sex, race, national origin, and disability when known and attach the list to the merit promotion certificate(s).

2. The merit promotion certificate(s) were to be sent to the Director of OHR, with the name of the selectee noted, and interview notes or other materials used to evaluate candidates interviewed.
3. The Director of OHR was to forward a copy of all the materials to the Director EOP and a copy to the Executive Director for approval.
4. Annotated promotion checklists were not to be retained in the merit promotion case files.
5. All merit promotion panels were required to include at least one woman or minority group member
6. By September 30th of each year, regional directors were required to send a copy of their regional Affirmative Employment Recruitment Program Plan and Accomplishment Report to the Director of EOP and a copy to the Director of OHR.

Contrary to the July 1996 Instruction, we noted 14 of 72 (19.4%) case files where the sex, race, and disability data was still present. During the time period of this Instruction there was a marked decline in the selection of white males to merit promotions.

The chart below shows the percentage of white males selected for merit promotions.



Three OIG investigations completed in 1998 concluded that race or national origin had been improperly used as a selection factor for three CU positions, constituting prohibited personnel practices. In two of these cases, the Executive Director overrode the selecting official's choice of white male candidates in favor of minority candidates. In the other case, an exception to policy was made to recruit two grades below full performance level and the regional management tampered with the rating panel in favor of a minority candidate. One other OIG investigation concluded a prohibited personnel practice was committed, when a position description was narrowly written to meet the qualifications of a selected minority candidate.

Conclusion

The NCUA's July 11, 1996 Affirmative Action Program Instruction requiring the identification of applicants by race, gender, and handicap status improperly permitted identification of candidates by race, sex, and disability at the point of selection. This resulted in occurrences of prohibited personnel practices when the selecting official based a selection on an illegal non-merit factor. In addition, the establishment of the Executive Director as the de facto selecting official was contrary to NCUA Board delegated authority. The policy of purging the identifying information from the case files provided a lack of documentation for the affirmative action plan itself. The effect of this policy had a negative impact on the merit promotion opportunities for white males.

Because the Affirmative Action Program Instruction of July 11, 1996 has been rescinded, we do not offer a recommendation.

Observation

When we followed up on the OIG EEO audit issued October 31, 1995, we discovered only partial adherence to the recommendations agreed to by the agency. A prior recommendation of the OIG's October 1995 EEO audit called for the Director of EEO to stay abreast of personnel and other developments for EEO impact. However, the only action taken on EEO impact, for merit promotions, was the establishment of the July 1996 Affirmative Action Program Instruction.

Our 1995 EEO audit also recommended the separation of the functions of the Director of EEO (Executive Director) and the EEO Officer. While the agency has authorized the hiring of a new Director of EEO, this position has remained unfilled and the new Delegations of Authority have the Chairman as the head of the EEO program with the authority to redelegate to the Executive Director.

Conclusion

Since past strategies (July 1996 Instruction) were improperly incorporated by the Executive Director, as EEO Director, and the Executive Director also oversees the merit promotion program (see Appendix E), we believe the agency should change this organizational structure to prevent any future problems or conflicts of interest.

Recommendation 23

We recommend that the NCUA fill the authorized position for Director of EOP. In addition, the Director of EOP should review exceptions to the merit promotion policies and advise the OHR Director of any adverse affirmative action program impact.

Auditee Comment

OHR disagrees, stating this is an OHR function. EOP stated that this recommendation would assist NCUA to ensure that personnel practices do not adversely affect the agency's affirmative employment policies.

OIG Response

We believe EOP exception review with OHR concurrence would strengthen affirmative action programs.

Recommendation 24

We recommend that the NCUA Board consider the realignment of EEO Director and EEO Officer positions to separate the personnel action and decision-making functions from the EEO functions, and thereby remove any appearance of conflict of interest. We therefore recommend that the Board delegate all EEO functions to the Director of Equal Opportunity Programs who would report directly to the NCUA Board.

APPENDIX A

**FEDERAL GOVERNMENT
MERIT SYSTEM PRINCIPLES
and
PROHIBITED PRACTICES**

NCUA as a federal Executive agency is required to implement personnel management consistent with the following nine merit system principles (5 CFR section 2301):

1. Recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity.
2. All employees and applicants for employment should receive fair and equitable treatment in all respects of personnel management without regard to political affiliation, race, color, religion, national origin, sex, marital status, age, or handicapping condition, and with proper regard for their privacy and constitutional rights.
3. Equal pay should be provided for work of equal value, with appropriate consideration of both national and local rates paid by employers in the private sector, and appropriate incentives and recognition should be provided for excellence in performance.
4. All employees should maintain high standards of integrity, conduct, and concern for the public interest.
5. The Federal work force should be used efficiently and effectively.
6. Employees should be retained on the basis of the adequacy of their performance, inadequate performance should be corrected, and employees should be separated who can not or will not improve their performance to meet required standards.
7. Employees should be provided effective education and training in cases in which such education and training would result in better organizational and individual performance.
8. Employees should be protected against arbitrary action, personal favoritism, or coercion for partisan political purposes, and prohibited from using their official authority for influence for the purpose of interfering with or affecting the result of an election or a nomination for election.
9. Employees should be protected against reprisal for the lawful disclosure of information which the employees reasonably believe evidences a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health and safety.

Related to this, 5 CFR Section 2302 states that the head of the agency and any individual to whom the head of an agency delegates authority for personnel management or any aspect thereof shall be responsible for the prevention of prohibited personnel practices. The law directs that any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority:

1. Discriminate for or against any employee or applicant for employment on the basis of race, color, religion, sex, national origin, age, handicapping condition, marital status or political affiliation.
2. Solicit or consider any recommendation or statement, oral or written, with respect to any individual who requests or is under consideration for any personnel action except as provided under section 3303(f).
3. Coerce the political activity of any person (including the providing of any political contribution or service), or take any action against any employee or applicant for employment as a reprisal for the refusal of any person to engage in such political activity.
4. Deceive or willfully obstruct any person with respect to such person's right to compete for employment.
5. Influence any person to withdraw from competition for any position for the purpose of improving or injuring the prospects of any other person for employment.
6. Grant any preference or advantage not authorized by law, rule, or regulation to any employee or applicant for employment (including defining the scope or manner of competition or the requirements for any position) for the purpose of improving or injuring the prospects of any particular person for employment.
7. Appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement, in or to a civilian position any individual who is a relative of such employee if such position is in the agency in which such employee is serving as a public official or over which such employee exercises jurisdiction or control as such an official.
8. Take or fail to take, or threaten to take or fail to take, a personnel action with respect to any employee or applicant for employment because of any disclosure of information by an employee or applicant or disclosure to the Special Counsel or to the Inspector general of an agency or another employee designated by the head of the agency to receive such disclosures of information which the employee or applicant reasonably believes evidences a violation of any law, rule, or regulation or abuse, or gross mismanagement, a gross waste of funds, and abuse of authority, or a substantial and specific danger to public health and safety.
9. Take or fail to take, or threaten to take or fail to take, any personnel action against any employee or applicant for employment because of the exercise of any appeal, complaint, or grievance right granted by any law, rule or regulation, testifying for or otherwise lawfully assisting any individual in the exercise of any right referred to above, cooperating with or disclosing information to the Inspector General of an agency, or the Special Counsel, in accordance with applicable provisions of law or for refusing to obey an order that would require the individual to violate a law.

10. Discriminate for or against any employee or applicant for employment on the basis of conduct which does not adversely affect the performance of the employee or applicant or the performance of others.
11. Take or fail to take any other personnel action if the taking of or failure to take such action violates any law, rule, or regulation implementing, or directly concerning, the merit system principles contained in Section 2301.

**APPENDIX B
FEDERAL GOVERNMENT
REGULATORY EMPLOYMENT PRACTICES
and
PROMOTION REQUIREMENTS**

The following employment practices are established for Federal government competitive promotion practices per 5 CFR Section 300.102

- (a) Be practical....fairly test the relative capacity and fitness of candidates...
- (b) Result in selection from among the best qualified candidates
- (c) ...without discrimination...or other nonmerit grounds

and Section 300.103

- (a) ...based on a job analysis to identify (1) basic duties and responsibilities (2) knowledge, skills, and abilities...(3) factors that are important in evaluating candidates

The following Federal agency promotion requirements are given per 5 CFR Section 335.103

- (a) ...agency has adopted and is administering a program designed to insure a systematic means of selection for promotion according to merit
- (b)(1)...establish procedures for promoting employees which are based on merit and available in writing to candidates. Agencies must list appropriate exceptions...Actions...shall be based solely on job-related criteria
- (b)(2)Areas of consideration must be sufficiently broad to ensure the availability of high quality candidates....
- (b)(4) ...management's right to select or not select from among a group of best qualified candidates...in deciding which source or sources to use, agencies have an obligation to determine which is most likely to best meet the agency mission, objectives, contribute fresh ideas and new viewpoints and meet the agency's affirmative action goals.
- (b)(5) ...maintain a record....sufficient to allow reconstruction of the promotion action, including documentation on how candidates were rated and ranked.

**APPENDIX C
FEDERAL GOVERNMENT
AFFIRMATIVE ACTION PROGRAM REGULATIONS**

The following three regulations relate to agency affirmative action programs:

Title 29 CFR Part 1608 Affirmative Action; Section 1608.4

An affirmative action plan or program under this section shall contain three elements: a reasonable self analysis; a reasonable basis for concluding action is appropriate; and reasonable action.

When an employer has reason to believe that its selection procedures have exclusionary effectit may....include, but are not limited to the following: The establishment of a long term and short range, interim goals and timetables for the specific job classifications, all of which should take into account the availability of basically qualified persons in the relevant job market; a recruitment program designed to attract qualified members of the group in questions; a systemic effort to organize work and re-design jobs in ways that provide opportunities for persons lacking journeyman level knowledge and skills; revamping selection instruments

Title 5 CFR Subchapter B Part 720 Affirmative employment programs; Section 720.204

....agency must conduct a continuing program for the recruitment of minorities and women in positions...to insure equal employment opportunities without discrimination... Where an agency...has determined that an applicant pool does not adequately provide for consideration of candidates from any underrepresented group the agency...must take one or more of the following actions: Expand or otherwise redirect their recruitment activities in ways designed to increase the number of candidates from underrepresented groups in that applicant pool; use selection methods involving other applicant pools which include sufficient numbers of members of the underrepresented group; notify the office responsible for administering that applicant pool, and request its reopening of application receipt in support of expanded recruitment activities...; and/or take such other action consistent with law which will contribute to the elimination of underrepresentation...

Section 720.205 Each agency must have an up-to-date equal opportunity recruitment program plan covering recruitment for positions at various organizational levels and geographic locations within the agency.

Title 29 CFR Part 1614 Federal Sector Equal Employment Opportunity

Subpart F Section 1614.601

Each agency shall establish a system to collect and maintain accurate employment information on the race, national origin, sex and handicap(s) of its employees. Data on race, national origin and sex shall be collected by voluntary self-identification. And agency shall not collect or maintain any information on the race, national origin or sex of

individual employees except when an automated data processing system is used in accordance with standards and requirements...The agency may use the data only in studies and analyses which contribute affirmatively to achieving the objectives of the equal employment opportunity program. An agency shall not establish a quota

APPENDIX D NCUA SSP MERIT PROMOTION POLICIES AND PROCEDURES

NCUA BOARD DELEGATED AUTHORITIES

The NCUA Board delegated authorities were revised as of December 31, 1997. During our audit time period the NCUA Board delegated authorities were:

The Chairman of the Board had authority to exercise all authorities related to human resources management with authority to redelegate. The Board retained authority to approve appointments, reassignments and promotions of all SSP positions. As of 12/31/97, the NCUA Board retains all human resource delegations not specifically delegated. As of 12/31/97 the Chairman has authority to appoint the members of the ERB and its chairperson. In addition, the Executive Director can not serve as a member of the ERB on matters concerning the selection and promotion of SSP.

The Executive Resources Board (ERB) had authority to staff Senior Staff Position (SSP) needs. The ERB had authority to review the selecting official's proposal and make recommendations to the Board regarding merit promotion actions. As of 12/31/97 the Executive Director has authority to review ERB actions and present the recommendations to the Board. As of 12/31/97, the ERB has authority to rate, rank, interview and make recommendations to the Board on all personnel actions involving SSP promotions; as well as the authority to review adverse actions and grievances of any SSP and make recommendations to the Board.

As of 12/31/97, the Director of OHR has the authority to review and certify all personnel actions, act as appointing authority for all personnel actions not withdrawn by OPM, authority to establish rating and ranking panels (except for SSPs), and authority to approve interview panels (except SSPs).

NCUA POLICIES AND PROCEDURES - NCUA Personnel Manual, Chapter 20

The chairman oversees all matters concerning SSPs. The Executive Director is responsible for authorizing personnel actions, coordinating, administering, reviewing and recommending SSP policy revisions. The Director OHR is responsible for the development and implementation of SSP policy. The Executive Resources Board (ERB) makes merit promotion recommendations to the NCUA Board (selecting official).

The ERB consists of three to five members as appointed by the Chairman, with the Executive Director as the Chairman of the ERB. ERB members serve two year terms with a mix of regional and central office SSPs. The Director of OHR is a permanent member of the ERB.

It is NCUA policy to fill SSP positions based on merit from among highly qualified applicants and that the selection will be made from within the agency whenever possible. Competitive procedures (position advertised, applicant rating and ranking, selection from group of eligibles) is required when an SSP position is filled from the CU 15/16 grades. Competitive procedures are also required when moving an employee more than one pay level or when hiring non-status candidates.

The source of filling SSP positions can be from vacancy announcements, promotions, reassignments, reinstatements and transfers and will be based on the availability of well-qualified candidates.

Qualification standards are to include six listed managerial factors and appropriate technical standards developed by the selecting official or their designate.

Vacancy announcements must be advertised at least NCUA-wide and be open for at least 15 working days.

Applicants must submit NCUA form 1056, "NCUA Experience and Qualifications Statement", a narrative addressing the evaluation criteria, and their most recent performance appraisal. Applications must be received or postmarked by the announcement closing date.

The ERB will evaluate eligible candidates based on such factors as their experience, training, education, awards, and supervisory appraisal leading to a recommendation of selection to the NCUA Board. The ERB may delegate the rating and ranking to a panel of three position knowledgeable individuals of at least the same grade as the position. The ERB may interview who they deem appropriate. An OHR staff person will serve as technical advisor to the ERB panel.

Required documentation for vacancy announcements will be retained by OHR for two years.

Exceptions to SSP staffing procedures must be requested in writing to the Chairman of the ERB via the Director of OHR approval. An approved exception will be made part of the official case file.

APPENDIX E

NCUA CU MERIT PROMOTION POLICIES AND PROCEDURES

NCUA BOARD DELEGATED AUTHORITIES

The NCUA Board delegated authorities were revised as of December 31, 1997. During our audit time period the NCUA Board delegated authorities were:

The Chairman of the Board had authority to exercise all authorities related to human resources management with authority to redelegate. The Board retained authority to approve appointments, reassignments and promotions of all SSP positions. As of 12/31/97, the NCUA Board retains all human resource delegations not specifically delegated. As of 12/31/97 the Chairman has authority to appoint the members of the ERB and its chairperson. In addition, the Executive Director can not serve as a member of the ERB on matters concerning the selection and promotion of SSP.

Office Directors, Regional Directors and the President of AMAC has authority to select employees through CU-16 level.

As of 12/31/97, the Director of OHR has the authority to review and certify all personnel actions, act as appointing authority for all personnel actions not withdrawn by OPM, authority to establish rating and ranking panels (except for SSPs), and authority to approve interview panels (except SSPs).

NCUA POLICIES AND PROCEDURES - NCUA Personnel Manual, Chapter 3

It is NCUA policy to make selections from among the best qualified candidates available and to select from within the agency whenever feasible. The techniques used in evaluating and selecting candidates will be job related and will be applied without discrimination.

Competitive procedures are required for a transfer to a higher graded position or to a position at a higher grade than the highest grade previously held on a permanent basis. The Director of OHR, the Director of EEO or the selecting official may request the use of competitive procedures when they are not required.

The Executive Director is responsible for coordinating, administering, reviewing and recommending revisions to the Merit Promotion Program. OHR will the program's operation, administer the programs for all announcements not delegated to others, provide guidance to the regions, audit regional case files, and obtain rating panel nominations from regions and central offices. The regional directors, office directors and President of the ALMC will identify recruitment sources, will decide on the area of consideration based upon the availability of well-qualified candidates, develop evaluation criteria with OHR, and make regional/office selections. The regional/office directors and President of the

ALMC will administer the merit promotion program in their regions (up to CU-16) by announcing, publishing, establishing evaluation criteria, receiving applications, notifying applicants, reviewing for eligibility, providing concurrent lists, obtaining supervisory appraisals, evaluating candidates by either naming a rating panel or technical expert (for five or fewer candidates), referring candidates, obtaining selecting officials decision, notifying applicants of selection decision, answer applicant inquiries, maintaining case files and providing information to OHR to process personnel actions and to EEO for monitoring and tracking.

Note: As of the end of 1997 the regional promotion delegation was rescinded and reverted back to OHR for internally advertised promotions and to OPM for externally advertised promotions.

The merit promotion process begins with the appropriate selecting official submitting an SF-52, Request for Personnel Action. The area of consideration in which to distribute the announcement is designated by the selecting official with the concurrence of OHR. For CU 13 and above vacancies the area of consideration is announced NCUA-wide, government wide, or all sources. If the area of consideration does not produce a reasonable number for choice of selection (three), the area of consideration may be extended.

The vacancy announcement for grades CU 13 and above is to be advertised at the target grade level with the option of advertising one grade below. In addition, the announcement is required to be open at least 15 working days. Regions were responsible for drafting the standard vacancy announcements and evaluation criteria and all others were performed by the selecting official (usually office directors) with assistance from OHR.

NCUA employees must submit an NCUA Form 1056, NCUA Experience and Qualifications Statement and their most recent performance appraisal. All applications must be received or postmarked by the closing date of the announcement. Applicants who meet the minimum qualifications requirements will be considered basically eligible for the position. Each candidates supervisor is requested to submit an NCUA Supervisory Appraisal of Demonstrated Performance.

Evaluations of applicants was performed via a rating and ranking process to determine the best qualified candidates. These were performed by the regional office, OHR or by a merit promotion panel. At the grade CU 13 level when there are five or fewer candidates, the regional office (by naming a technical expert) or OHR would rate and rank the candidates. For more than five candidates a rating panel consisting of at least three individuals is used. OHR maintains a list of rating panel members, as nominated annually by the regions and central offices. The selection of specific panel members per announcement is done by OHR or the regional directors. These panel members should be experts in or have significant knowledge of the advertised position, should be at least one grade higher than the position advertised, and at least two of the members should be from another office or region other than where the vacancy exists. The current immediate supervisor is

prohibited from participating on the panel. The selecting official may meet with the panel before the rating process begins only for the purpose of providing the raters with additional information regarding specific needs of the position. All applicants will be rated against the evaluation criteria. The rating is to be performed independently on rating sheets by each panel member. The technical advisor (OHR or regional) is to discuss with the panel the rating process, applications, appraisals, and numerical ratings via a conference call to arrive at a consensus to determine the best qualified candidates. The summary of ratings is then typically listed on a rating summary sheet by the technical advisor and used for ranking purposes. The regional office or OHR will refer all concurrent candidates to the selecting official via memorandum, without rating and ranking. Candidates may be referred, on the merit promotion certificate as Best of Highly Qualified (BHQ), Highly Qualified (HQ) or as Qualified (Q) rankings.

If one candidate is interviewed from one category (i.e. BHQ) then all candidates must be offered an interview from that category. However, interviews are not required. The selecting official is not required to make a selection. The selecting official also has the option to select either a referred promotable candidate or select a concurrent applicant. The selecting official also has the option to select from other appropriate sources such as reemployment priority lists, reinstatement, disable, Veterans eligibles or those within reach on an OPM certificate. Selections are to be made within 30 days from the certificate issuance and all candidates must be notified.

Merit promotion case files are to be maintained for two years. The technical advisors were responsible for the maintenance of the case files.

Exceptions to the merit promotion plan/procedures shall be requested in writing to the director OHR from the selecting official. Approvals or disapprovals will be made part of the official merit promotion case file.