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TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION

Office of Inspections and Evaluations



*The Internal Revenue Service  
Has Not Used Critical Position  
Pay Authority to Hire Employees*

**July 24, 2017**

**Reference Number: 2017-IE-R007**

This report has cleared the Treasury Inspector General for Tax Administration disclosure review process and information determined to be restricted from public release has been redacted from this document.

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# TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION

## Office of Inspections and Evaluations



### Treasury Inspector General for Tax Administration

Inspections and  
Evaluations

## Highlights

Highlights of Report Number: 2017-IE-R007  
to the Human Capital Officer.

### WHY TIGTA DID THIS STUDY

The IRS has used its own Streamlined Critical Pay (SCP) authority since 1998 to fill positions, primarily related to information technology, that it had designated as critical. This authority expired in September 2013. Although the IRS has several employees still under the SCP, all are required to be off the IRS rolls by September 30, 2017. The objective of this review was to evaluate the IRS's efforts to use the general Federal Governmentwide Critical Position Pay Authority (CPPA) to fill critical technical, professional, or administrative positions and to determine the extent to which the CPPA is used by other Federal agencies.

### WHAT TIGTA RECOMMENDED

TIGTA recommends the IRS pilot the use of CPPA by completing and forwarding the initial CPPA package to the Secretary of the Treasury for approval. Further, the IRS should track in detail the time and effort to get the package cleared internally, approved by the Secretary of the Treasury and then, in turn, by the Office of Personnel Management (OPM) and the Office of Management Budget (OMB). IRS management agreed with the recommendation and plans to issue the initial CPPA package for approval in November 2017 and to thoroughly document the process and timeframe needed to receive approval.

Issued on July 24, 2017

## THE INTERNAL REVENUE SERVICE HAS NOT USED CRITICAL POSITION PAY AUTHORITY TO HIRE EMPLOYEES

### IMPACT ON TAXPAYERS

The CPPA, 5 United States Code Section 5377, is administered by the OPM in consultation with the OMB. As of January 2017, the CPPA provides authority for up to a \$207,800 (the Executive Schedule Level I) salary. Given the sensitive information housed by the IRS, using the CPPA to recruit highly qualified experts to lead IRS cybersecurity and other information technology and specialized functions may better protect taxpayers from having their sensitive information misappropriated and misused.

### WHAT TIGTA FOUND

The IRS has not used the CPPA to hire employees but now plans to submit a request for three positions. IRS officials have not pursued use of the CPPA because they believed that the expired SCP authority would be restored. Compared to the SCP, the CPPA process requires additional layers of approval and offers substantially less pay flexibility. The CPPA provides for salaries up to \$207,800, and for the IRS would require Department of the Treasury involvement and approval by the OPM and the OMB. The SCP authority was delegated to the IRS Commissioner in 2009 and did not need Department of the Treasury, OPM, and OMB approval. In addition, the SCP authorized the IRS to pay total compensation packages up to the \$240,100 United States Vice President's salary. However, use of the CPPA would provide the IRS an enhanced capability in its recruitment efforts. Specifically, the \$207,800 salary available under the CPPA exceeds the \$187,000 maximum that can be offered to career-level Federal executives.

TIGTA further found that the CPPA is not widely used among other Federal Government agencies. While within the Federal Government a maximum of 800 employees can receive critical pay at any one time, in calendar year 2015 only four individuals were hired as CPPA employees per the latest annual report from the OPM. Our research showed that some of the reasons the CPPA was not widely used include the availability of other agency specific pay authorities, the lengthy approval process, and cultural issues such as paying individuals more than their manager.



TREASURY INSPECTOR GENERAL  
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20220

July 24, 2017

**MEMORANDUM FOR HUMAN CAPITAL OFFICER**

**FROM:** Gregory D. Kutz  
Acting Deputy Inspector General for Inspections and Evaluations

**SUBJECT:** Final Evaluation Report – The Internal Revenue Service Has Not Used  
Critical Position Pay Authority to Hire Employees (#IE-16-012)

This report presents the results of our review to evaluate the Internal Revenue Service's (IRS's) efforts to use the general Federal Governmentwide Critical Position Pay Authority to fill critical technical, professional, or administrative positions. In addition, we determined the extent to which the authority was used by other Federal agencies.

Management's complete response to the draft report is included as Appendix VI.

Copies of this report are also being sent to the IRS managers affected by the report recommendation. If you have any questions, please contact me or Kevin P. Riley, Director, Office of Inspections and Evaluations.



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*The Internal Revenue Service Has Not Used  
Critical Position Pay Authority to Hire Employees*

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*The Internal Revenue Service Has Not Used  
Critical Position Pay Authority to Hire Employees*

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*Abbreviations*

CPPA	Critical Position Pay Authority
IDA	Institute for Defense Analyses
IRS	Internal Revenue Service
OMB	Office of Management and Budget
OPM	Office of Personnel Management
SCP	Streamlined Critical Pay
SES	Senior Executive Service
TIGTA	Treasury Inspector General for Tax Administration
U.S.C.	United States Code



## *The Internal Revenue Service Has Not Used Critical Position Pay Authority to Hire Employees*

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### *Background*

Over the course of the last three years, some Federal Government agencies have suffered significant cyber data breaches. Both the Office of Personnel Management (OPM) and the Internal Revenue Service (IRS) were included in the list of *Network World's* “Biggest Data Breaches of 2015.” The IRS considers the Get Transcript issue a cyber incident rather than a breach because third parties had to have obtained information from sources outside the IRS to access the system. Efforts to exploit cyber systems by various means have highlighted the need for agencies to seek the capacity to improve existing systems or build new ones.

One element associated with building that capacity is hiring individuals with proven skills, knowledge, and abilities related to systems design and cybersecurity. The same skills are also highly desired in the private sector. Federal agencies generally have fewer hiring compensation flexibilities than the private sector when seeking well-qualified employees.

This issue is not new, and in 1990 the Critical Position Pay Authority (CPPA) was codified in 5 United States Code (U.S.C.) Section (§) 5377. This authority allows agencies to seek the approval of the OPM and the Office of Management and Budget (OMB) to pay annual salaries up to the Executive Schedule Level I of \$207,800 (in 2017)<sup>1</sup> for approved staff members versus \$187,000 for employees of the Senior Executive Service (SES).<sup>2</sup>

For an employee to receive critical position pay, he or she must be considered well-qualified for that position. In addition, critical pay positions require an extremely high level of expertise in a scientific, technical, professional, or administrative field and must be critical to the successful accomplishment of the agency's mission.

In 1998, Congress provided the IRS its own Streamlined Critical Pay (SCP) authority.<sup>3</sup> Similar to the CPPA, the IRS would be allowed to pay salaries higher than the limit applied to employees in the SES and those in the Executive Schedule Level I. The SCP authority allowed the IRS to quickly hire and retain employees and compensate these employees up to the salary level of the United States Vice President, which in 2017 is \$240,100. The IRS was limited to a maximum of 40 SCP employees on roll at any one time.<sup>4</sup> Significantly, the IRS was not required to seek

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<sup>1</sup> The years shown in the report are calendar years unless otherwise noted.

<sup>2</sup> As of January 2017, for employees of Federal agencies with a certified SES performance appraisal system, the maximum salary is \$187,000.

<sup>3</sup> IRS Restructuring and Reform Act of 1998 (RRA 98), Pub. L. No. 105-206, 112 Stat. 685.

<sup>4</sup> See Appendix III for the details of the authority.



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approval from the OPM and the OMB to hire and determine the salary for individuals hired into SCP positions.<sup>5</sup> For this reason, the authority was considered streamlined.

Congress extended the IRS's SCP authority on two occasions, and it eventually expired on September 30, 2013. On several occasions in 2015 and 2016, the IRS Commissioner remarked on the loss of the SCP authority, and in an April 2016 congressional hearing noted the loss "...has made it very difficult, if not impossible, to recruit and retain employees with expertise in highly technical areas, such as information technology."<sup>6</sup>

The overall objective of this review was to evaluate the IRS's efforts to use the general Federal Governmentwide CPPA to fill critical technical, professional, or administrative positions and to determine the extent to which the authority is used by other Federal agencies.

This review was performed at the IRS Human Capital Office in the IRS Headquarters in Washington, D.C. We also interviewed Department of the Treasury, OPM, OMB, and other Federal agency officials during the period November 2016 through March 2017. We conducted this evaluation in accordance with the Council of the Inspectors General on Integrity and Efficiency Quality Standards for Inspection and Evaluation. Detailed information on our objective, scope, and methodology is presented in Appendix I. Major contributors to the report are listed in Appendix II.

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<sup>5</sup> Effective November 2009, the Secretary of the Treasury's authority to approve the use of the SCP was delegated to the IRS Commissioner (TN-09-009).

<sup>6</sup> *Can the IRS Protect Taxpayers' Personal Information, Hearing Before the House Science, Space and Technology Committee, Subcommittee on Research and Technology*, 114<sup>th</sup> Cong. (Apr. 14, 2016) (statement of John Koskinen, IRS Commissioner).



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### *Results of Review*

The IRS has not submitted a formal request to hire a well-qualified individual using the CPPA. IRS officials represented that they had not pursued the CPPA because they believed the expired SCP authority might be reinstated. The IRS represented that it has held discussions with staff in both the Department of the Treasury and the OPM and plans to submit a CPPA request soon. While within the Federal Government a maximum of 800 employees can receive critical pay at any one time, in 2015 only four individuals were designated as CPPA employees.

#### ***The IRS Has Not Used the Critical Position Pay Authority***

The Treasury Inspector General for Tax Administration (TIGTA) found that the IRS is eligible to use the CPPA program. However, from the inception of the CPPA in 1990, the IRS has not used the program. According to IRS officials, the IRS was aware of this program but did not pursue it because the IRS has used the SCP for 15 years (from 1998 to 2013) to fill numerous positions and believed the authority might be reinstated. The purpose of the SCP authority was to give the IRS a management tool to quickly recruit and retain employees critical to the success of the IRS's restructuring efforts. TIGTA determined that during that period, most of the SCP positions (93) were placed within the Information Technology organization; the second largest concentration (36) was in Headquarters Operations function positions; and the remaining positions (39) were distributed among eight other functions. The difference in cost of the program between the maximum SES salary and the maximum SCP employee salary from 2010 through 2013 was approximately \$1.7 million. The IRS maintained that private sector expertise brought by SCP positions had been crucial to introducing new leadership to supplement in-house expertise, and the IRS had taken advantage of the private sector expertise by retaining the critical pay appointees whenever feasible.<sup>7</sup>

In this current review, TIGTA found that the number of SCP employees had declined significantly, and those SCP employees on roll between 2014 and 2016 worked in the IRS Information Technology organization or Headquarters Operations function. As of March 17, 2017, the number of SCP positions still active was down to six. The term for all of these individuals will expire no later than September 30, 2017. The specific SCP employees' position titles and functions are shown in Figure 1.

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<sup>7</sup> TIGTA, Ref. No. 2015-IE-R001, *The Internal Revenue Service's Use of Its Streamlined Critical Pay Authority* (Dec. 2014).



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**Figure 1: IRS Employees With Streamlined Critical Pay As of March 17, 2017**

	<b>Position Title</b>	<b>Function</b>
1	Director, Online Engagement, Operations and Media	Headquarters Operations
2	Senior Advisor and Risk Officer for Services and Enforcement	Headquarters Operations
3	Director, Enterprise Architecture	Information Technology
4	Project Director	Headquarters Operations
5	Senior Engineer	Information Technology
6	Director, Data Management Services and Support	Information Technology

Source: Treasury Integrated Management Information System data as of March 17, 2017.

The SCP authority afforded the IRS three key hiring advantages:

- First, the IRS was permitted to pay highly qualified individuals annual compensation up to the level of the United States Vice President (\$240,100). The maximum amount the IRS can pay individuals without SCP or some other special authority is \$187,000 (as per the SES pay scale), a difference of \$53,100.
- Second, the IRS did not need to obtain approval of the Secretary of the Treasury and the OPM in consultation with the OMB.
- Third, the IRS did not need to document that it had tried and failed to hire qualified individuals within the pay levels of the SES and that it likely would be unable to do so without being able to offer a higher salary. Rather, the IRS had to document the qualifications, skills, and abilities the selectee had that justified hiring him or her using the SCP authority.

**The IRS is preparing a request to seek approval for the CPPA**

Given the sensitive information housed by the IRS, using the CPPA to recruit highly qualified experts to lead IRS cybersecurity and other information technology and specialized functions may better protect taxpayers from having their sensitive information misappropriated and misused. IRS Human Capital Office staff told TIGTA that the IRS was preparing a request to use the CPPA and had identified three SES positions for critical pay. These positions are the Director, Tax Processing Systems; the Director, Enterprise Architecture; and the Director, Data Management. The IRS Office of Executive Services is working with the Information Technology organization staff to draft a justification and plans to send the request to the Secretary of the Treasury for review and approval. The IRS is aware that under the CPPA the maximum salary it can offer is \$207,800, which is an increase of \$20,800 over the maximum SES annual salary but is \$32,300 less than the amount under the SCP authority, if it was still in



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effect. Further, IRS representatives are aware the approval process could take several weeks and potentially months. The IRS is considering whether to prepare another request for an additional five positions.<sup>8</sup> Asked why the IRS had not attempted to use the CPPA in 2016 or prior years, the IRS Human Capital Officer explained that as an organization the IRS had believed the expired SCP authority would be restored.

### **Recommendation**

**Recommendation 1:** We recommend the IRS pilot the use of CPPA by completing and forwarding the initial CPPA package to the Secretary of the Treasury for approval. Further, the IRS should track in detail the time and effort to get the package cleared internally, approved by the Secretary of the Treasury, and then in turn by the OPM and the OMB.

**Management's Response:** The IRS agreed with the recommendation and plans to issue the initial CPPA package for approval in November 2017 and to thoroughly document the process and timeframe needed to receive approval.

### **Critical Position Pay Authority Is Not Commonly Used Within the Federal Government**

While a maximum of 800 Federal Government employees<sup>9</sup> can receive critical pay at any one time, in 2015 only four individuals were hired as CPPA employees. Further, only 10 Federal agencies in total had sought and been approved to use the CPPA. However, six of 10 agencies made a decision not to use the authority. Figure 2 lists the agencies that have sought and been granted the authority and contains detailed information on the four CPPA positions in use in 2015.<sup>10</sup>

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<sup>8</sup> All five positions are in the Information Technology organization.

<sup>9</sup> 5 U.S.C. § 5377(f).

<sup>10</sup> The OPM must annually report, per 5 U.S.C. § 5377(h), on the operation of the CPPA program to the Committee on Oversight and Government Reform of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate. As of March 17, 2017, the OPM had been unable to provide us a copy of the 2016 report.



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**Figure 2: Federal Government Agencies Allocated Critical Position Pay Authority Positions in 2015**

Agency	2015 (Authorized Positions)	2015 (Total Positions Used)	Rate of Pay	Rate of Pay Without the CPPA
Department of Education	3	0	–	–
Department of Energy	1	0	–	–
Department of Health and Human Services	1	1	\$199,700	\$158,700
Department of the Interior	1	0	–	–
Federal Bureau of Investigation	24	0	–	–
National Aeronautics and Space Administration	1	0	–	–
National Institute of Standards and Technology	1	1	\$183,300	\$158,700
National Transportation Safety Board	2	0	–	–
Office of Personnel Management	1	1	\$183,300	\$121,956 – \$183,300
Transportation Security Administration	1	1	\$199,700	\$158,700
<b>Total</b>	<b>36</b>	<b>4</b>	–	–

*Source: OPM annual report on critical position pay for 2015.*

To obtain approval to use the CPPA, the head of the Federal agency must provide OPM:

- Written requests describing the position and the qualifications of any incumbent or prospective candidates.
- Document the level of expertise required and explain how any incumbent or candidate is exceptionally well-qualified for the position.
- Demonstrate that the use of other human resources flexibilities has not enabled the agency to fill the position.



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## *The Internal Revenue Service Has Not Used Critical Position Pay Authority to Hire Employees*

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- Explain why the position is critical to an important agency mission and the potential impact if the agency is unable to fill the position with an exceptional candidate.

OPM regulations do not establish a time frame within which agencies could expect a decision from the OPM and the OMB. OPM officials estimated that it may take several weeks or up to several months to complete the approval process.

The Institute for Defense Analyses (IDA), Science and Technology Policy Institute, issued a report titled *History of the Critical Position Pay Authority and Options to Support Its Use* in March 2014.<sup>11</sup> In the report, the IDA study identified several potential reasons why more Federal agencies had not requested the CPPA. The reasons included:

1. Regulatory requirements and process for authorizing the CPPA.
2. Availability of other pay or hiring authorities.
3. Lack of knowledge and training on the use of the CPPA.
4. Cultural barriers.
5. Lack of communication paths across and within agencies.
6. Insufficient salary flexibility.

### **Some Federal agencies we contacted confirmed that some of the issues raised in the IDA report were a likely deterrent**

The IDA reported that “...regulatory requirements for seeking CPPA included clearly documenting an assessment of why the agency could not, through diligent and comprehensive recruitment efforts and without using the CPPA, fill the position in a reasonable period of time with an individual who could perform the responsibilities in a manner sufficient to fulfill the agency’s mission.” One of the components the assessment must contain is a justification as to why the agency could not, as an effective alternative, use other pay authorities and flexibilities, including recruitment, relocation, and retention incentives.<sup>12</sup>

A human resource official at an agency with the CPPA informed TIGTA that this part of the required process may indeed deter other agencies from requesting the CPPA. According to the official, an agency may find confusing the burden of documenting failed attempts to find a well-qualified candidate or may feel that this justification portion of the process would add significant time to the recruitment process.

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<sup>11</sup> IDA, Document D-5159, Log: H 14-00321, *History of the Critical Position Pay Authority and Options to Support Its Use* (Mar. 2014).

<sup>12</sup> Title 5 Code of Federal Regulations § 535.104.



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### **Alternative compensation authorities**

The IDA documented in its study agency-specific compensation authorities that agencies can use without the burden of obtaining the approval of the OPM and the OMB. The IDA specifically stated that "...in practice, agencies would not request the CPPA if an alternative pay authority could be used to fill the position with an exceptionally well-qualified individual."

In 2015, six of the 10 agencies that were granted the CPPA made the decision not to use the CPPA. At three of the eight agencies that we contacted, the human resource officials stated that the agency had one or more agency-specific authorities to use in lieu of the CPPA. For example, the National Aeronautics and Space Administration was approved by the OPM and the OMB for one CPPA position. Agency officials decided not to use the CPPA but instead used the National Aeronautics and Space Administration Flexibility Act of 2004, which offers compensation of up to \$240,100 in 2017. The Department of Energy has two agency-specific authorities. Although the Department of Health and Human Services has been approved for the CPPA and has used it for one position, it has a separate compensation authority available for doctors and dentists on staff.

### **Cultural barrier**

According to the IDA study, an agency's culture could be a significant deterrent to agencies' use of the CPPA. A human resource official at one of the agencies with the CPPA whom we contacted specifically mentioned cultural barriers as a reason why the agency was not using the CPPA. According to the official, in some cases, it is inappropriate to use the CPPA to hire or retain well-qualified candidates because this may result in an employee being paid more than his or her manager. As a result, the CPPA is not encouraged at this agency to avoid dissention among its employees.

### **Communication of the CPPA**

The IDA reported that decentralized management of recruitment and hiring activities, and the lack of effective communication of the CPPA, can make it difficult to coordinate recruitment of employees. Human resource officials at an agency we interviewed were unaware that the agency had been approved for several CPPA positions. A human resource official at another agency we contacted suggested that some agencies may not be fully aware of the CPPA as a key hiring flexibility. That official advocated that the OPM aggressively market and communicate the authority throughout the Government.



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## **Appendix I**

### *Detailed Objective, Scope, and Methodology*

Our objective was to evaluate the IRS's efforts to use the general Federal Governmentwide CPPA to fill critical technical, professional, or administrative positions. TIGTA also requested from the OPM data on the extent to which the authority was used by other Federal agencies. To accomplish this objective, TIGTA:

1. Interviewed IRS, OPM, and OMB staff as needed to gain an understanding of each process.
2. Obtained and reviewed historical data for the past three calendar years (2014 through 2016) for each system.
  - a. IRS system.
    - i. Number of persons on rolls under the IRS SCP authority.
    - ii. Number of positions within the IRS that are considered by the Commissioner to be "critical pay eligible" and merit higher pay.
    - iii. Number of attempts made to seek the CPPA from the OPM and the OMB since the IRS Restructuring and Reform Act of 1998 authority expired.
  - b. OPM/OMB system.
    - i. Number of CPPA positions by agency with incumbents in the positions.
    - ii. Number of authorized CPPA positions by agency.



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**Appendix II**

*Major Contributors to This Report*

Kevin P. Riley, Director  
Meredith McDaniel, Supervisory Evaluator  
Michelle Griffin, Lead Program Analyst  
Kyle D. Bambrough, Senior Auditor



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## Appendix III

### *Pay Authority and Streamlined Critical Pay Authority<sup>1</sup>*

#### **§ 9502. Pay authority for critical positions**

- (a) When the Secretary of the Treasury seeks a grant of authority under section 5377 for critical pay for 1 or more positions at the Internal Revenue Service, the Office of Management and Budget may fix the rate of basic pay, notwithstanding sections 5377(d)(2) and 5307, at any rate up to the salary set in accordance with section 104 of title 3.
- (b) Notwithstanding section 5307, no allowance, differential, bonus, award, or similar cash payment may be paid to any employee receiving critical pay at a rate fixed under subsection (a), in any calendar year if, or to the extent that, the employee's total annual compensation will exceed the maximum amount of total annual compensation in accordance with section 104 of title 3.

#### **§ 9503. Streamlined critical pay authority**

- (a) Notwithstanding section 9502, and without regard to the provisions of this title governing appointments in the competitive service or the Senior Executive Service and chapters 51 and 53 (relating to classification and pay rates), the Secretary of the Treasury may, for a period of 10 years after the date of enactment of this section, establish, fix the compensation of, and appoint individuals to, designated critical administrative, technical, and professional positions needed to carry out the functions of the Internal Revenue Service, if—
  - (1) the positions—
    - (A) require expertise of an extremely high level in an administrative, technical, or professional field; and
    - (B) are critical to the Internal Revenue Service's successful accomplishment of an important mission;
  - (2) exercise of the authority is necessary to recruit or retain an individual exceptionally well qualified for the position;
  - (3) the number of such positions does not exceed 40 at any one time;
  - (4) designation of such positions are approved by the Secretary of the Treasury;
  - (5) the terms of such appointments are limited to no more than 4 years;
  - (6) appointees to such positions were not Internal Revenue Service employees prior to June 1, 1998;
  - (7) total annual compensation for any appointee to such positions does not exceed the highest total annual compensation payable at the rate determined under section 104 of title 3; and
  - (8) all such positions are excluded from the collective bargaining unit.
- (b) Individuals appointed under this section shall not be considered to be employees for the purposes of subchapter II of chapter 75.

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<sup>1</sup> 5 U.S.C. §§ 9502 and 9503.



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**Appendix IV**

*Federal Government Agencies We Interviewed  
That Are Using Other Pay Authorities in Lieu  
of the Critical Position Pay Authority*

<b>Agency</b>	<b>Authority</b>	<b>Reference</b>	<b>Purpose</b>	<b>Approval and Oversight</b>	<b>Salary Cap (as of January 2017)</b>
Department of Energy	Defense Advanced Research Projects Agency Section 1101	42 U.S.C. § 16538(g)	Facilitate recruitment of eminent experts in science or engineering for research and development projects.	Director	\$172,100
Department of Energy	Excepted Service	42 U.S.C. § 7231(d) and § 3161(a)	Facilitate recruitment or retention of highly qualified scientific, engineering, and professional and administrative personnel.	Senior Management Review Board	\$172,100
Department of Health and Human Services	Title 38, Health Care Positions	38 U.S.C. § 7431-7433; 5 U.S.C. § 5371	Recruit science, medical, and other important fields as needed.	Agency Secretary	\$400,000
National Aeronautics and Space Administration	Critical Position Pay Authority	5 U.S.C. § 9807	Recruit and retain extremely high level of expertise in science, technical, professional, or administrative positions.	Agency Administrator	\$240,100

*Sources: Interviews with Human Resource officials at the Department of Energy, Department of Health and Human Services, and National Aeronautics and Space Administration; Institute for Defense Analyses, Science and Technology Policy Institute report titled “History of the Critical Position Pay Authority and Options to Support Its Use,” dated March 2014.*



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**Appendix V**

*Report Distribution List*

Commissioner  
Office of the Commissioner – Attn: Chief of Staff  
Deputy Commissioner for Operations Support  
Director, Executive Services  
Director, Office of Audit Coordination



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**Appendix VI**

*Management's Response to the Draft Report*



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

**JUL 06 2017**

MEMORANDUM FOR GREGORY D. KUTZ  
ACTING DEPUTY INSPECTOR GENERAL FOR INSPECTIONS  
AND EVALUATIONS

FROM: E. Faith Bell   
Acting IRS Human Capital Officer

SUBJECT: The Internal Revenue Service Has Not Used Governmentwide  
Critical Position Pay Authority to Hire Well-Qualified Employees -  
IE-16-012

Thank you for the opportunity to respond to the draft inspection report titled "The Internal Revenue Service (IRS) Has Not Used Governmentwide Critical Position Pay Authority (CPPA) to Hire Well-Qualified Employees – IE-16-012," dated June 6, 2017. We not only agree with the facts presented in the draft report, but also acknowledge and accept your recommendation.

IRS will be seeking approval from the Office of Personnel Management (OPM) and the Office of Management and Budget (OMB) to use the CPPA for three Information Technology Senior Executive Service (SES) positions in the fields of data management, engineering, and architecture. If we are successful in obtaining approval, CPPA will provide additional pay flexibilities and serve as an essential tool in recruiting executives with special and unique skillsets to fill these highly-technical positions. Furthermore, IRS is considering requesting CPPA approval for up to an additional five critical, hard-to-fill SES positions.

Additionally, we appreciate your recognition that the IRS previously used the Streamlined Critical Pay (SCP) authority, granted by the Reform and Restructuring Act (RRA) of 1998, to hire and retain well-qualified, highly-technical executives between 1998 and 2013. Since its inception, IRS has found the SCP authority to be an enormously valuable tool in recruiting top-tier talent from private industry. This has been particularly true in highly-technical Information Technology fields such as engineering, architecture, cybersecurity, and online/web services, where external talent has contributed greatly to the IRS keeping pace with the technological advances needed to provide world class service to the American taxpayer. SCP authority has also proven to be extraordinarily successful in sophisticated and complex areas of international taxation, risk management, and analytics.



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While CPPA is currently the best available method of recruiting for our most critical, highly technical positions, if reinstated, the SCP authority would be a much better option for the IRS. As stated in the draft report, CPPA approval is both cumbersome and requires additional levels of approval from Treasury, OPM, and OMB, which could potentially add upwards of four to six months into the process. This would adversely affect the Commissioner's ability to quickly address critical positions, qualified talent, and critical hiring needs. Given the nature of IRS's mission and the relative risk, visibility, and impact our work has on the American taxpayer, IRS needs a hiring authority that allows us to react quickly to shifting legislative demands and rapidly changing technological landscapes. Additionally, under CPPA, the compensation flexibilities will only allow for agencies to pay up to the EX-I level of \$207,800. While this will certainly help IRS be more competitive in the talent marketplace, the SCP authority offered much greater compensation flexibilities.

Attached is a detailed response outlining the corrective actions that the Human Capital Office will take to address your recommendation. If you have any questions, please contact me at 202-317-7600, or a member of your staff may contact Vanessa D. Fisher, Director, Office of Executive Services, at 202-317-6284.



*The Internal Revenue Service Has Not Used  
Critical Position Pay Authority to Hire Employees*

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Attachment

**RECOMMENDATION 1:**

We recommend the IRS pilot the use of CPPA by completing and forwarding the initial CPPA package to the Secretary of the Treasury for approval. Further, the IRS should track in detail the time and effort to get the package cleared internally, approved by the Secretary of the Treasury, and then in turn by the Office of Personnel Management (OPM) and the Office of Management and Budget (OMB).

**CORRECTIVE ACTION 1:**

1. Complete and forward initial CPPA package to the Secretary of the Treasury for approval.

**IMPLEMENTATION DATE:**

November 15, 2017

**RESPONSIBLE OFFICIAL(S):**

IRS Human Capital Officer  
Director, Office of Executive Services

**CORRECTIVE ACTION(S) MONITORING PLAN:**

We will enter accepted Corrective Actions into the Joint Audit Management Enterprise System (JAMES); monitor progress toward completion monthly; and upload supporting documentation into JAMES with Form 13872 *Planned Corrective Action (PCA) Status Update for TIGTA*.

**CORRECTIVE ACTION 2:**

1. Thoroughly document the process and timeframe it takes for a CPPA justification package to receive approvals through IRS, the Department of Treasury, and the Office of Personnel Management.

**IMPLEMENTATION DATE:**

August 15, 2018

**RESPONSIBLE OFFICIAL(S):**

IRS Human Capital Officer  
Director, Office of Executive Services



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**CORRECTIVE ACTION(S) MONITORING PLAN:**

We will enter accepted Corrective Actions into the Joint Audit Management Enterprise System (JAMES); monitor progress toward completion monthly; and upload supporting documentation into JAMES with Form 13872 *Planned Corrective Action (PCA) Status Update for TIGTA*.



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Washington, D.C. 20044-0589

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