

# Reference Checking *in* Federal Hiring: MAKING THE CALL



A Report to the President and the Congress of the United States  
by the U.S. Merit Systems Protection Board

THE CHAIRMAN



U.S. MERIT SYSTEMS PROTECTION BOARD  
1615 M Street, NW  
Washington, DC 20419-0001

September 2005

The President  
President of the Senate  
Speaker of the House of Representatives

Dear Sirs:

In accordance with the requirements of 5 U.S.C. 1204(a)(3), it is my honor to submit this Merit Systems Protection Board report, "Reference Checking in Federal Hiring: Making the Call."

The Federal Government's human capital is its most vital asset. It is crucially important that our employment selection procedures identify the best applicants to strengthen the Federal workforce with well-qualified and highly committed employees. Properly conducted reference checks are a key component of a hiring process that will select the best employees from each pool of applicants. In particular, reference checking is a necessary supplement to evaluation of resumes and other descriptions of training and experience. By using reference checks effectively, selecting officials are able to hire applicants with a strong history of performance, rather than those who may have creatively exaggerated less impressive achievements. Reference checking also helps Federal employers identify and exclude applicants with a history of inappropriate workplace behavior.

This report reviews the use of reference checking in public and private sectors, and identifies best practices which, when followed, increase the contribution reference checking makes to hiring decisions. There is currently little standardization of Federal reference checking, and little training offered in how to conduct this process effectively. Agencies can certainly improve in this regard. We also note that there are strong legal protections for Federal employers who make reference checking inquiries and for former employers who provide job-related information about applicants. MSPB recommends that agencies improve the quality of their reference checking practices and check applicant references before making each hiring decision.

I believe you will find this report useful as you consider issues affecting the Federal Government's ability to select and maintain a highly qualified workforce.

Respectfully,

A handwritten signature in black ink, appearing to read "Neil A. G. McPhie".

Neil A. G. McPhie



# Reference Checking in Federal Hiring:

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A REPORT TO THE PRESIDENT AND THE  
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# Executive Summary

Reference checking is a common and familiar hiring practice. Minimally, a reference check involves a conversation—usually a phone conversation—between a potential employer and someone who knows the job applicant. A properly conducted reference check is not an informal, gossipy exchange of unsubstantiated opinions about a job applicant. Seven characteristics set reference checking apart from casual conversation and make it a valid and useful component of the hiring process.

## Properly conducted reference checks are:

- 1. Job-related.** The focus of a reference checking discussion is on an applicant's ability to perform the job.
- 2. Based on observation of work.** The information provided by a reference must be based on experience observing or working with a job applicant.
- 3. Focused on specifics.** The discussion must be focused on particular job-related information common to all job applicants to ensure fairness. Skillful probing and comparing of information ensures that the process produces more than a superficial evaluation.
- 4. Feasible and efficient.** Because reference checking is focused, it can be conducted quickly. It provides a reasonable return for the small amount of time needed to do it well.
- 5. Assessments of the applicant.** The information obtained from reference checking may be used to determine whether an applicant will be offered a job. Reference checking procedures therefore are assessments subject to employment regulations, such as the Uniform Guidelines on Employee Selection Procedures, and they must conform to accepted professional measurement practice.
- 6. Legally defensible.** It is necessary for reference checks to meet high professional standards, and reference checkers can meet these standards within the constraints of the law.
- 7. Part of the hiring process.** The purpose of the reference check is to inform a decision about hiring. The results need to complement other assessments used in that process.

A review of best practices in hiring reveals that reference checking is widely practiced in both public and private sectors. It is used both to verify information obtained from job applicants, such as facts about previous employment, and to assess skills and abilities relevant to the job to be filled. There is marked variation in the degree to which employers structure and standardize reference checking. Training in effective reference checking is often not available to those who must conduct it. Increasing attention to structuring reference checking according to best practices and shifting responsibility from human resources (HR) personnel to hiring supervisors has the potential to raise the perceived and actual value of reference checking.

Employers who do not check references give a variety of reasons. Checking references may seem too time intensive when long-term benefits are ignored. Employers may trust the referrals from friends or current employees, while ignoring risks of perceived favoritism. Some employers want to avoid redundant assessments, and mistakenly believe that reference checks are always duplicative of other assessments. And some employers just do not want to risk uncovering disconfirming evidence about a job applicant to whom they have become emotionally committed.

Reference checking raises legal concerns as well. It is legal to request information about an applicant's past job performance. Reference checkers in general have a qualified immunity against charges of invasion of privacy so long as they restrict their inquiries to job-related issues. Many organizations require applicants to sign a formal waiver that gives reference checkers permission to discuss on-the-job behavior with former employers. The Declaration for Federal Employment (OF-306) form serves this purpose in Federal hiring. Reference checking is occasionally made less reliable in Federal hiring when an employee is granted a "clean record" as part of a settlement agreement with the former employer.

Conducting reference checks has a number of advantages. Direct benefits include making better and more informed hiring decisions, improving job-person match, improving on self-report assessments of training and experience, demonstrating fairness and equal treatment of all job applicants, and sending a message about the high expectations of the employer. Longer term benefits include avoiding the costs of a bad hire, maintaining employee morale by making quality hires, and gaining the public's trust that civil servants take hiring seriously.

Although reference providers are generally willing to disclose factual information about an applicant's employment history, they may need to be persuaded through skillful questioning to discuss sensitive topics or make evaluative judgments. Many reference providers have misconceptions about potential liability associated with providing information about former employees. However, providing reference information need not be avoided—it can be done within the bounds of legality.

Reference providers should play their role carefully, but need not fear legal consequences if they follow a few guidelines. They should verify that a reference

checker is legitimate. They should avoid providing letters of reference because these are less useful in reference checking. Reference providers can avoid the appearance or actuality of maliciousness by keeping their comments focused on the applicant's job-related behavior. By providing examples and detailed descriptions, reference providers ensure that their evaluative judgements are firmly grounded in reality.

Job applicants should support reference checking and play an active role in making connections between reference checkers and reference providers. They should select reference providers who have observed their work and who are available to communicate their observations clearly and accurately. Applicants should be candid about their strengths and weaknesses in the hiring process. Any less-than-flattering information about the applicant is best communicated to the employer by the applicant, rather than discovered during reference checking.

Reference checking will likely change in the future. Some anticipated sources of change are shifts in patterns of business communication and the use of technology, innovations in assessment practice, and differences caused by the average length of employment and probationary employment periods.

## **Given the state-of-the-art practice and potential of reference checking as an assessment in Federal hiring, the following is recommended:**

- 1. Hiring officials should conduct reference checks for each hiring decision.*
- 2. Hiring officials should develop and follow a thoughtful reference checking strategy that is an integral part of the hiring process.*
- 3. Hiring officials should use a consistent reference checking process that treats all applicants fairly, obtains valid and useful information, and follows legal guidelines.*
- 4. Agencies should require applicants to provide appropriate professional references and make applicants responsible for ensuring that they can be contacted.*
- 5. Agencies should review and possibly revise their formal systems of records so that supervisors may review past performance information when providing references.*
- 6. Agency human resources personnel should require job applicants to complete the Declaration for Federal Employment (OF-306) form early in the application process.*
- 7. Agencies should increase standardization of and training in effective reference checking techniques.*

*8. The U.S. Office of Personnel Management (OPM) should develop guidelines to help agency personnel follow appropriate procedures for checking and providing references.*

*9. Supervisors and other employees should provide candid and appropriate reference information.*

Reference checking has an important role to play in the Federal hiring process. It should be more than a formality conducted by administrative staff. It should be more than a casual, unstructured phone conversation between supervisors. It should certainly not be an illegal and inappropriate exchange of gossip about unsuspecting applicants. Reference checking can improve the quality of the Federal workforce by reducing the number of unqualified, unscrupulous, and otherwise unsuitable applicants whose liabilities escaped detection during the earlier phases of the hiring process. If reference checking is to reach this potential, it will require cooperation among Federal hiring officials, applicants for Federal employment, and reference providers. The U.S. Merit Systems Protection Board (MSPB) recommends that agency policy makers, human resources professionals, hiring officials, job applicants, and former supervisors of these applicants appropriately utilize their roles to make reference checking work.

# Background

Many aspects of the Federal hiring process seem strange and unfamiliar to job applicants from the private sector. Most have never encountered rating schedules, veterans' preference, multiple posting of job openings under different hiring authorities, and other oddities of Federal hiring practice. Some aspects of Federal hiring are more familiar, such as employment tests, structured interviews, and reference checking. In both public and private sector hiring, it is common for the employer to contact former supervisors and other coworkers of job applicants to verify their employment histories and ask questions that help determine their potential as new hires. This practice can make an important contribution to the hiring decision.

This report highlights best practices that increase the value of reference checking to the hiring process. It is argued that the benefits of conducting reference checks outweigh the risks and potentially negative consequences. To improve the hiring process, cooperation among job applicants, hiring officials, and reference providers is recommended.

Reference checking is a common and familiar hiring practice. Minimally, a reference check involves a conversation—usually a phone conversation—between a potential employer and someone who knows the job applicant. Reference checking experts further refine the definition to describe a reference checking process that is both useful and legal.<sup>1</sup> In doing so, they make it clear that a properly conducted reference check is not an informal, gossipy exchange of unsubstantiated opinions about a job applicant.<sup>2</sup> Rather, seven characteristics set reference checking apart from casual conversation and make it a valid and useful component of the hiring process.

## Properly conducted reference checks are:

- 1. Job-related.** As with a structured interview, the focus of a reference checking discussion is on an applicant's ability to perform the job. Legitimate job-related

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<sup>1</sup> See Edward C. Andler and Darla Herbst, *The Complete Reference Checking Handbook* (2nd Ed.), Washington, DC: American Management Association, 2003; and Paul W. Barada and J. Michael McLaughlin, *Reference Checking for Everyone*, New York: McGraw-Hill, 2004.

<sup>2</sup> Barada offers the following definition: "A reference check is an objective evaluation of a candidate's past job performance, based on conversations with people who have actually worked with the candidate within the last five to seven years." (Barada, *op. cit.*, p. 2) Similarly, Andler describes the reference check in these terms: "The reference check is usually carried out by the hiring manager or employment staff and determines actual competency on the job. This type of check involves an in-depth conversation with someone who knows or has worked with the candidate." (p. 156).

topics include performance in past jobs, work habits, job-related competencies, and appropriateness of past on-the-job behavior. Departures from this focus are unprofessional at best—and may be counterproductive or even illegal.<sup>3</sup>

- 2. Based on observation of work.** The information provided by a reference must be based on experience observing or working with a job applicant. Personal references from outside the work context may be biased by the provider's relationship with the applicant. Even when personal references provide candid and well-intentioned information, a characterization from this perspective may not accurately reflect an applicant's job performance. Reference checking is crucially important as a way of obtaining information about a candidate's training and experience from a source other than the candidate. Information from those who have observed the applicant does not suffer from the biases of self-report and self-evaluation that are present in much of the training and experience assessments used in Federal hiring.
- 3. Focused on specifics.** A reference checking discussion in which the hiring official passively hopes that useful information will be volunteered by the reference provider or emerge by chance will rarely be a good use of anyone's time. The discussion must be focused on particular job-related information common to all job applicants to ensure fairness. Skillful probing and comparing of information is needed to ensure that the process produces more than a superficial evaluation of each applicant.
- 4. Feasible and efficient.** Because reference checking is focused, it can be conducted quickly. Given a reasonable job analysis, developing reference checking questions should not take a great deal of time. Reference checking is most efficient when it is the final step in a multiple-hurdle assessment process. It can be used to evaluate three finalist applicants, each of whom provides three references, in a few hours of total time. Reference checks can provide a great return for the small amount of time needed to do them well.
- 5. Assessments of the applicant.** The information obtained from reference checking has high-stakes implications—applicants may or may not be offered a job as a result. As assessments, reference checking procedures are subject to employment regulations, such as the Uniform Guidelines on Employee Selection Procedures,<sup>4</sup> and must conform to accepted professional measurement practice.<sup>5</sup> As an assessment, reference checking must be thoughtfully combined with other assessments used to hire. It should supplement or complement, not merely duplicate, other assessments of job qualifications.

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<sup>3</sup> According to Title 5, U. S. Code, §2302 (b)(10), it is a prohibited personnel practice to discriminate based on the personal conduct of an employee or applicant, unless such conduct adversely affects the on-the-job performance of the employee/applicant or others. Criminal convictions are exempted from this prohibition, and may be considered in employment decisions.

<sup>4</sup> Section 60-3, "Uniform Guidelines on Employee Selection Procedures," 43 FR 38295 (29 C.F.R. Part 1607), August 1978.

<sup>5</sup> *Principles for the Validation and Use of Personnel Selection Procedures* (4th Ed.), Bowling Green OH: Society for Industrial and Organizational Psychology, 2003; and *Standards for Educational and Psychological Testing*, Washington, DC: American Educational Research Association, 1999.

**6. Legally defensible.** It is not only necessary for reference checks to meet high professional standards—it is possible for reference checkers to meet these standards within the constraints of the law. By following the guidelines in this report, hiring officials checking references can request and obtain information about job applicants without fear of legal consequences. Reference providers can share job-related information with the same level of protection.

**7. Part of the hiring process.** The guiding purpose of the reference check is to inform a decision about hiring. This cannot happen if it is performed too late in the hiring process to affect the outcome. Nor can it happen if there is no formal way to integrate the results of the reference check into the hiring process.

It is important to distinguish reference checks from two similar hiring activities that are beyond the scope of this report.

*Records checks* may also be job-related and play a role in employment decisions, but they involve straightforward fact gathering from official document sources that may be far removed from the applicant's former work environment. They do not necessarily include probing of the information obtained and may not yield sufficient information to substantially influence an employment decision. Records checks can often be safely delegated to administrative or HR personnel who need not have experience with the job being filled.

Useful records-checking procedures include verifying the dates of employment, job titles, salary history, and other information from an applicant's resume. Some of this information can be sought during a reference check, but this should not be the primary focus. Depending on the particular position being filled, employers may be required to conduct criminal records checks (sometimes called "court checks"), verify citizenship status or otherwise determine eligibility for employment, or verify that applicants hold necessary licenses or credentials. Some records checks create obligations for employers who conduct them. For example, if an employer obtains credit information from credit reporting organizations, the Fair Credit Reporting Act requires that this information be shared with applicants and that they be given an opportunity to correct or respond to any negative findings. In addition, employers are obligated to keep such information confidential and not share it with third parties.<sup>6</sup>

The importance of verifying educational credentials has recently been highlighted in the Federal sector by public exposure of several agency officials who lack the educational qualifications claimed on their resumes. Verification of college degrees, transcripts, and other pertinent records is necessary given the negative impact on agency performance and credibility when applicants falsify their way into positions of public trust. This verification can be accomplished in a straightforward manner by contacting the records office in each degree-granting institution. It is also

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<sup>6</sup>The Fair Credit Reporting Act (FCRA) is found in Title 15 of the U.S. Code, §1681. See [www.ftc.gov/os/statutes/fcra.htm](http://www.ftc.gov/os/statutes/fcra.htm).



prudent to verify the legitimacy of the granting educational institution as well as the individual claims of an applicant.<sup>7</sup>

**Background investigations** are more comprehensive than reference checks, and involve scrutiny not only of applicants' work history, but also details about their friends, family, professional associations, financial transactions, and personal habits. These investigations play an important role in selecting employees for positions of high trust. The focus is on the trustworthiness and integrity of applicants, as evidenced by their behavior and relationships with others over a long period of time. The investigations are performed by specialists trained to probe and analyze a great deal of information about each applicant.<sup>8</sup> In contrast, reference checks are conducted with a sample of former coworkers by hiring officials. Reference checks focus on job-related skills and behavior rather than larger issues of character or suitability.

One additional perspective on reference checking is in order. Like rating schedules, evaluation of resumes, and numerous other assessments, reference checking focuses primarily on applicants' past behavior and accomplishments. It relies on the **behavioral consistency principle**—that the most reliable predictor of future behavior, such as job performance, is past behavior. This principle has a long and productive history in employee selection. It can be a strong basis for hiring decisions when an applicant's past work settings and responsibilities are similar to those expected in the future.<sup>9</sup> Reference checking verifies an applicant's description of past experience and allows the reference checker to evaluate how closely this experience matches the requirements of the job.

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<sup>7</sup> See, for example, "Purchases of Degrees from Diploma Mills," U.S. General Accounting Office, GAO-03-269R, Washington, DC, November 2002; and "Diploma Mills: Federal Employees Have Obtained Degrees from Diploma Mills and Other Unaccredited Schools, Some at Government Expense," U.S. General Accounting Office, GAO-04-771T, Washington, DC, May 2004. See also the resources for checking the accreditation of educational institutions on the Department of Education Web site ([www.ed.gov/admins/finaid/accred/](http://www.ed.gov/admins/finaid/accred/)).

<sup>8</sup> The specific requirements for Federal background investigations are contained in 5 C.F.R. Part 731.

<sup>9</sup> See Frank L. Schmidt, J. R. Caplan, Stephen Bemis, R. Decuir, L. Dunn, and L. Antone, "The Behavioral Consistency Method of Unassembled Examining," U.S. Office of Personnel Management, Personnel Research and Development Center, Washington, DC, 1979. When the past and anticipated future jobs are less similar, or when a candidate has experienced significant personal development or other change, the behavioral consistency perspective has less value. In these circumstances, assessments that measure candidate ability directly, or *future-oriented* assessments, such as situational judgment tests, should be given greater weight in a hiring decision.

# Reference Checking as an Employment Practice

An examination of current employment practice reveals that reference checking is widely accepted. However, there is considerable variation in what information is requested from reference providers, the quality of information they actually provide, and how employers use this information. Reference checking among Federal employers, as will be shown later in this section, may become more standardized in the future due to greater emphasis by the Office of Personnel Management (OPM). An overview of reference checking in both public and private sectors follows.

**Widely Practiced.** Checking references is a widespread, but by no means universal, hiring practice. Professional reference checking firms indicate that roughly half of employers perform some form of reference checking as a routine part of the hiring process.<sup>10</sup> Interviews conducted by the Corporate Leadership Council (CLC) revealed that five of the six private sector companies they studied conduct reference checks as a regular step in hiring.<sup>11</sup> A recent regional staffing survey found that reference checking was the most commonly used (85 percent) pre-employment screening procedure.<sup>12</sup> Surveys of human resources professionals by the Society for Human Resource Management (SHRM) indicate that just over half (52 percent) of employers have a formal policy that governs the reference checking process, and fewer than half (38 percent) have a clear, written policy.<sup>13</sup> As might be expected, most reference checking (85 percent) is done by phone.<sup>14</sup>

Employers tend to check references more often when hiring managerial or professional-level employees and less often when hiring administrative or technical employees.<sup>15</sup> There is considerably less reference checking for part-time or

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<sup>10</sup> Andler, op. cit.; Barada, op. cit.

<sup>11</sup> "Trends in Reference Checks for Professional-Level Employees," Washington, DC: Corporate Leadership Council, 2004.

<sup>12</sup> "16th Annual Thomas Staffing Survey Results," Irvine, CA: Venturi Staffing Partners, 2001. Downloaded from [www.thomas-staffing.com](http://www.thomas-staffing.com) on July 5, 2004.

<sup>13</sup> SHRM has conducted two recent surveys of human resource professionals about reference checking policies and practices in their organizations. The first report (*SHRM Reference Checking Survey, Alexandria, VA: Society for Human Resource Management, 1998*) is based on 854 responses (32 percent) to surveys faxed to 2,640 randomly selected SHRM members in July 1998. The second report (*Mary Elizabeth Burke, 2004 Reference and Background Checking Survey Report, Alexandria, VA: Society for Human Resource Management, 2004*) is based on 345 responses (18 percent) to surveys emailed to 1,926 SHRM members. While participants reported on reference checking in a variety of organizations across the United States, only a small percentage of the participants (5 percent in 1998, 6 percent in 2004) worked in local, State, or Federal agencies. These were primarily private sector surveys.

<sup>14</sup> SHRM 1998, op. cit.

<sup>15</sup> Barada, op. cit.; SHRM 2004, op. cit.

temporary hires than for full-time positions. This pattern may be due to the greater perceived cost of making a “bad hire” when hiring permanent, higher salaried employees. It may also be due to the, presumably, more highly developed professional and social networks among professional employees, which provide a greater number of potential contacts from whom to obtain information. There is also some indication that organizations check references less often when qualified applicants are scarce and positions are harder to fill. Clearly, there is a great deal of variation among organizations in specific reference checking policies and practices.

**Assess Applicant Integrity.** Many organizations use reference checks to assess applicant integrity. Nevertheless, organizations often differ in the kind of information they expect from reference checks. A scan of the popular business and HR literature reveals that reference checks are frequently used to identify deliberate exaggerations and outright misrepresentations of experience and work history. The readers of this literature will find case studies of individuals hired into positions of great responsibility and trust who misuse resources, make bad decisions, and generally wreak havoc within their employing organizations —unfortunate consequences that might have been avoided had the employer “done its homework.” While research has shown that measures of honesty and integrity can be useful for pre-employment screening purposes, reference checks can provide a less resource-intensive proxy for these formal integrity tests.<sup>16</sup>

Employers implement this “integrity test by proxy” by collecting information from applicants about former employers, length of employment, job titles, responsibilities, salary, and other verifiable details. The employers then contact reference providers and ask them to verify this information. This allows employers to identify applicants who have been dishonest in their application. Many employers believe that such deception is an indication of the applicant’s likelihood of being dishonest as a future employee. Consequently, they will remove an applicant from consideration for lying on a job application or resume.<sup>17</sup> Some will also remove an employee if this behavior comes to light after hiring.

While this strategy clearly identifies some dishonest applicants, less is known about those who slip through. Crafty applicants who exaggerate or embellish their work histories, or who provide carefully coached “personal” references, may still be successful in their deceptions when reference checking is not done carefully.

**Assess Other Competencies.** Reference checks are also used to assess job-related competencies not adequately assessed in other ways. The competencies assessed through reference checks can range from highly technical competencies specific to an applicant’s former job responsibilities to more general competencies common to all work environments. Reference providers are often requested to

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<sup>16</sup> For a recent review, see Iain Coyne and Dave Bartram, “Assessing the Effectiveness of Integrity Tests: A Review,” *International Journal of Testing*, vol 2, no 1, pp. 15–34.

<sup>17</sup> SHRM 1998 research cited previously found that 90 percent of employers who check employment history have found falsification by applicants. The most frequently falsified information is length of employment, salary, and job title. As a result, most (96 percent) of the organizations SHRM surveyed state on job applications that any falsification is grounds for removal from consideration. The 2004 survey found a similar pattern.

evaluate applicants' abilities to communicate, work on a team, and get along with others in the workplace.<sup>18</sup> Most employers use this information as a check or additional perspective on their impressions of these abilities from applicant interviews and application materials.

Often, when there is little formalization of the information obtained from reference providers about an applicant's proficiency level, information obtained in this manner is treated as confirming or disconfirming information from other parts of the assessment process in an informal "pass or fail" manner. Some employers acknowledge this informality by describing reference checking as part of a "sniff test" intended to turn up anything missed by formal assessment.

**Perceived Value Varies.** Although as discussed earlier, reference checking is very common in the private sector, there is some variation in how much the information obtained from reference checking is valued. For example, CLC reports that some organizations that check references are satisfied with the information they obtain, but give it little weight in the hiring decision.<sup>19</sup>

Some differences of opinion about the value of reference checking are related to the type of information that different employers try to obtain. In a 1998 survey, SHRM found that employers are highly satisfied (91 percent) with results when they inquire about factual matters such as work history. They are less satisfied (45 percent) with information that involves some judgment or opinion, such as whether a previous employee would be rehired. Employers also report low satisfaction with information obtained about more complex characteristics such as job qualifications (30 percent), interpersonal skills (19 percent), and personality characteristics (17 percent). Finally, employers report quite low satisfaction (30 percent) with information obtained when asking about an applicant's violent or bizarre behavior in the former work setting.

Reference checking, then, as it is often practiced, is considered effective to verify facts, less so to obtain judgments and sensitive information or as an alternative to direct assessment for job-related competencies. A comparison of the 1998 and 2004 SHRM survey findings reveals a greater tendency in recent years for reference checkers to focus on verifying facts than to address more complex issues. But is this an inherent limitation of reference checking or just the perception of these reference checkers? Before concluding the former, two additional issues should be considered.

First, there seems to be variation in the quality of reference checking procedure. SHRM's 2004 survey found that 81 percent of organizations that do reference checking employ standardized questions. While this level of standardization is commendable, it does mean that one-fifth of the organizations surveyed do not have a structured questioning process. Without standardization of core reference checking questions, it becomes a more difficult and more subjective task to compare information obtained from different reference providers. Of greater concern is the

<sup>18</sup> SHRM 1998, op. cit.; SHRM 2004, op. cit.

<sup>19</sup> "Trends in Reference Checks for Professional-Level Employees," op. cit.

fact that only half of reference checking organizations offer their reference checkers some kind of training in the process.<sup>20</sup> Under conditions of low standardization and training, reference checkers might well be more successful in eliciting simple facts from reference providers than in obtaining more complex or sensitive information.

The second issue concerns who conducts the reference checks. SHRM has consistently found that many organizations delegate reference checking to HR personnel.<sup>21</sup> Survey research conducted with human resources specialists who check references has found that many of these individuals do not believe references provide credible information.<sup>22</sup> This perception of limited usefulness may result in reference checking being given a low priority. When reference checking is a low priority, it may not be done, or may be done in a perfunctory and ineffective manner. Unstructured, inconsistent, and unreflective reference checks may not produce useful information. To practitioners who are unfamiliar with best practices, this poor return may seem intrinsic to reference checking as a method.

**Agency Reference Checking Also Varies.** In the Federal employment arena, as in the workplace generally, there is also considerable variation among agencies in reference checking practice. OPM, the Federal Government's central human resources authority, provides little direct guidance on the topic of reference checking. The *Delegated Examining Operations Handbook*<sup>23</sup> advises agencies to verify information provided on the job application or resume, but does not specify how this should be done. OPM's Strategic Human Resources Policy group reinforces the status of reference checking as an assessment and emphasizes agency responsibility to use valid assessments, but currently provides no detailed guidance for best practices in checking references.<sup>24</sup>

MSPB gathered information about reference checking by Federal employers in a recent governmentwide survey.<sup>25</sup> Results indicated that most (76.5 percent) supervisors who had hired a professional or administrative employee included reference checking as a component of the hiring process. Reference checks were

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<sup>20</sup> SHRM 2004, op. cit., found that 52 percent of organizations surveyed offer reference checkers training in "detecting red flags" and only 44 percent offered general training in conducting effective reference checks.

<sup>21</sup> SHRM 1998, op. cit., reports that 67 percent of surveyed organizations delegate reference checking to HR personnel. SHRM found that 15 percent of employers contracted reference checking to outside contractors and only 14 percent had reference checks conducted by the individual who would manage the candidate in the new job. This trend persisted in 2004 (SHRM 2004, op. cit), with 61 percent of reference checks conducted by HR personnel, 17 percent by managers, and 17 percent by outside contractors.

<sup>22</sup> "Trends in Reference Checks for Professional-Level Employees," op. cit.; Lawrence S. Kleiman and Charles S. White. "Opinions of Human Resource Professionals on Candor of Reference-Givers," *Psychological Reports*, vol 74, no 1, pp. 345–346.

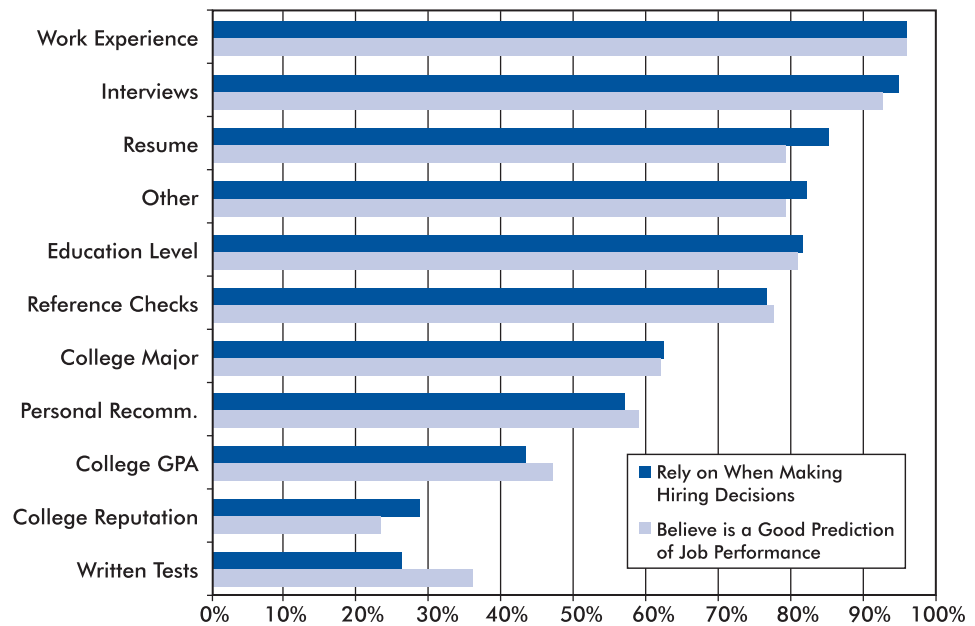
<sup>23</sup> *Delegated Examining Operations Handbook*, Washington, DC: U.S. Office of Personnel Management (OPM), 2003.

<sup>24</sup> Some agency personnel misunderstand the distinction between reference checking and background investigation and as a result contact OPM's investigations unit, which does not provide official guidance to agencies looking to improve their reference checking practice.

<sup>25</sup> For a description of this governmentwide survey, see *The Federal Workforce for the 21st Century: Results of the Merit Principles Survey 2000*, Washington, DC: U.S. Merit Systems Protection Board, September 2003. The results reported here are from a subset of 311 Federal managers with recent Federal hiring experience.

used along with other assessment methods, most often with evaluation of application materials, personal recommendations, level of education, and unspecified “other” assessments. The majority of supervisors (77.6 percent) believe that reference checking predicts job performance to either a very great or moderate extent. A greater number of managers find credibility in the predictive utility of prior work experience (95.7 percent) and employment interviews (92.6 percent). Reference checks are viewed as valuable predictors of job performance more often than personal recommendations, college grade point average, college major, or written tests. Federal managers see reference checking as having about the same predictive value as level of education.

### Supervisor View of Selection Tools



To better understand how agencies use reference checking, MSPB researchers discussed its role in hiring with managers and human resources specialists from six Federal agencies.<sup>26</sup> Discussions revealed variation in practice among the agencies comparable to that reported in the private sector. Some agencies expect human resources specialists to check references, while others leave reference checking to the discretion of hiring officials. Some agencies provide reference checking training if it is requested, but no agency personnel reported any standardized procedure followed in their agency. One agency devotes a small section of its supervisor training manual to reference checking, but the official who drew attention to this section lamented that this topic received much less attention than other supervisory responsibilities.

<sup>26</sup> This was not a formally constructed sample. The goal was to examine the range of reference checking practices in Federal agencies by talking with practitioners in several very different work contexts.

The content of reference checking inquiries varied across agencies as well as within agencies. Whereas some personnel follow a strict practice of only verifying information provided in the job application, others address job performance and qualifications more broadly, asking reference providers to evaluate applicants' communication or interpersonal skills. Several reported that their agency had recently "caught" applicants who provided false information on job applications. They reported greater attention to reference checking as a result of these incidents. Most saw reference checking as useful, but none thought it provided better information than interviews, formal testing, or other formal assessments used in their agencies. Reference checking was universally regarded as a last step in hiring that had some chance of identifying an unqualified or dishonest applicant.

All agency personnel contacted were well aware that reference checking inquiries must be job-related to remain within legal bounds. Several provided detailed explanations of general employment interviewing techniques, including the inappropriateness of discussing applicant gender, ethnicity, religion, or other private matters. Although most reported some concern about legal risks of reference checking, few had personally encountered problems or knew of any problems within their respective agencies. Several pointed to the HR literature as the source of their concerns. This recurring concern for legal consequences, despite little evidence of any such consequences, matches what is reported from the private sector.<sup>27</sup> This concern will be discussed further when the risks and benefits of checking references are reviewed.

**Growing Emphasis in Federal Hiring.** Reference checking practice in the Federal sector may be changing. OPM has issued a "45-Day Hiring Model" designed to accelerate the hiring practice and allow agencies to meet staffing needs quickly.<sup>28</sup> Agencies are expected to use this model effectively in order to receive an acceptable ("green") score for their performance on the President's Management Agenda.<sup>29</sup> OPM has included reference checking as one of the eight recommended hiring actions in this model.

It remains to be seen what long-term effects this guidance will have. Is the 3-to-5-day time frame recommended by OPM for checking references sufficient? Will agencies follow OPM's recommendation to check references, or will they accelerate the hiring process further by skipping this step? Will agencies conduct reference checks with appropriate care and use the resulting information responsibly? While the effects on future practice are yet unclear, OPM's emphasis on reference checking is likely to encourage its use, as well as increase the discussion of best reference checking practices in Federal hiring.

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<sup>27</sup> SHRM 1998, op. cit.; SHRM 2004, op. cit.

<sup>28</sup> Kay Coles James, "The 45-Day Hiring Model," Memorandum for Heads of Departments and Agencies, Washington, DC: U.S. Office of Personnel Management, May 6, 2004.

<sup>29</sup> "The President's Management Agenda," Washington, DC: Executive Office of the President, Office of Management and Budget, 2002, [www.whitehouse.gov/omb/budget/fy2002/mgmt.pdf](http://www.whitehouse.gov/omb/budget/fy2002/mgmt.pdf).

**Realizing the Potential.** Clearly the quality of reference checking varies in both private and public sectors. It is difficult to determine the potential of reference checking as a hiring practice when little distinction is made between standardized, well-designed reference checks conducted by trained supervisors who are familiar with the position being filled and informal, unstructured reference checks conducted reluctantly by untrained and disinterested HR personnel. Employment interviews once suffered from an uncertain reputation as assessments. It was not until practitioners and researchers distinguished between unstructured interviews and interviews structured according to best practices that the strengths of structured interviews became apparent.<sup>30</sup> Similarly, the strengths of properly conducted reference checks will become more apparent when they are distinguished from less formal efforts.

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<sup>30</sup> *The Federal Selection Interview: Unrealized Potential*, Washington, DC: U.S. Merit Systems Protection Board, February 2003.





# Costs and Risks of Reference Checking

Checking references is a straightforward process that requires minimal time from hiring officials and much less training, organizational support, and applicant cooperation than many other hiring practices. Many employers, applicants, and reference providers endorse it. Some hiring officials do not perform reference checks, however. Reluctance to check references stems primarily from resource constraints in the operational environment of the hiring organization. Legal concerns also emerge from regulations and agency policy governing applicant privacy and appropriate dissemination of workplace information.

## Why Employers Do Not Check References

**Lack of Time.** Checking references may seem like an unnecessary step in the hiring process. Hiring officials and their employees are busy and have other demands on their time. By the time references are checked, it is typically late in the hiring process. An employer has narrowed the original pool of applicants to a small number of seemingly superior finalists. It may seem redundant to check references when other assessments have already been used.

This is a valid concern, but managers must consider not just costs but the cost-benefit tradeoff of conducting reference checks. A few phone discussions for a small, final set of job candidates require very little time. The potential benefit of uncovering useful information is high relative to this small cost.

**Trusted Referral.** Reference checking may seem unnecessary if a job applicant has been referred or endorsed by a trusted colleague of the hiring official. This conclusion can be particularly tempting when the recommending source is a high-performing current employee. Experience has shown that this can increase the chances that the applicant will be another high-performing employee.<sup>31</sup>

However, reference checking may still be useful in this situation for a number of reasons. The hiring official needs to confirm any such judgment. In order to avoid a situation that might appear to involve some sort of favoritism, the selecting official should make an extra effort to confirm that the information received from trusted sources is accurate. It is important to avoid even the appearance of

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<sup>31</sup> See, for example, Emilio J. Castilla, “Social Networks and Employee Performance in a Call Center,” *American Journal of Sociology*, vol. 110, no. 5, pp. 1243–1283.

favoritism or unfair preference. This is a central concern in public sector employment, where prohibited personnel practices formally forbid favoritism.<sup>32</sup> Reliance on a personal connection may create additional awkwardness when new hires do not work out and must be removed during the probationary period—and charges of favoritism are more likely.

**Not for Certain Types of Employee.** Some employers may avoid checking references for professional or managerial employees because they believe it is insulting or that people at this level should not be subjected to this kind of scrutiny. However, experience has shown that people hired at all levels commit dishonest acts or may lack key competencies needed to perform in a specific job. The cost of a bad hire is multiplied at levels of greater responsibility not only due to higher salary costs, but also to the greater potential damage of poor or marginal performance.

Conversely, some employers believe that applicants for lower paid positions should not be subjected to reference checks. They reason that it is “not worth it” for this level of employee. This is the same rationale behind the low incidence of reference checking for temporary employees. This is shortsighted. In highly interconnected and team-oriented environments, all employees have important roles to play. Less-than-satisfactory performance as well as dishonesty in any employee has a high cost, not only in wasted time and resources, but also to the reputation of the employer.

**Redundant Assessment.** Some particular reference checking questions may indeed be unnecessary if the important job-related qualifications have been assessed by other means. Two questions should be asked before dispensing with reference checks, however. First, do the other methods have high validity to assess these competencies? Many assessment methods have demonstrated generally greater validity than reference checks.<sup>33</sup> Even so, the validity of any assessment method in practice can be greatly reduced by poor implementation or mismatch with the competencies being assessed. Reference checks may provide much better information than other assessments as they are actually implemented. They may also serve as a way to improve on these assessments by helping hiring officials to decide between similarly rated applicants.

Second, are the assessments credible? Hiring officials should carefully consider how other assessments depend on “self-reports,” or information supplied about the job applicant by the job applicant. Resumes, rating schedules, and other self-reports of training and experience may be subjected to rigorous expert scrutiny and formal evaluation processes. It can still be difficult to distinguish between well-

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<sup>32</sup> Title 5, U. S. Code, §2301, states that hiring officials should not solicit or consider employment recommendations based on factors other than personal knowledge or records of job-related abilities or characteristics.

<sup>33</sup> For a discussion of some validity issues associated with checking references, see Michael G. Aamodt, Mark S. Nagy, and Naceema Thompson, “Employment references: Who are we talking about?” paper presented at the annual meeting of the International Personnel Management Association Assessment Council, June 1998. For a discussion of the comparative validity of different assessment methods, see Frank L. Schmidt and John. E. Hunter, “The validity and utility of selection methods in personnel psychology: Practical and theoretical implications of 85 years of research findings,” *Psychological Bulletin*, vol. 124, no. 2, pp. 262–274.

documented stellar performance and a “good story” cribbed from the accomplishments of others. Rather than solving this problem, automated staffing systems can make it worse by creating a false sense of security about the “objectivity” of self-report data once they reside in a database.<sup>34</sup>

The problem of unreliability in self-report assessments has a straightforward solution: verification using sources other than the applicant. Reference checking is one approach to such verification. Records checks and a second “hurdle” of direct assessments with applicants are variations of the same strategy. Nevertheless, reference checks are less expensive than most direct assessments and, unlike records checks, allow probing as additional information is uncovered. They are important components of any hiring process that relies on self-reported training and experience data.

**Fear of Bad News.** Although it is not usually advanced as a deliberate rationale for omitting a reference check, sometimes hiring officials just may not want to risk hearing bad news. A hiring official may become convinced during the decision process that a future star employee is within reach. (“It has taken so long to find a good prospect. Why raise any issues that could delay or derail this hire?”) This fear can lead to delaying or avoiding reference checking, while emphasizing positive information already identified about the applicant. Even when references are checked, reference checkers may avoid pursuing any lines of questioning that call their impression of applicants into question.<sup>35</sup> The inadvisability of avoiding potentially bad news is plain—this is not a good reason to leave references unchecked. Further, hiring officials should trust their intuition if they realize that they “fear” bad news about a particular applicant. This impression may come from information about the applicant that does not “add up.” Reference checking is the appropriate method to resolve this type of uncertainty.

**Fear of Legal Consequences.** Some private sector employers, and some agency hiring officials as well, worry about legal repercussions when they inquire into a prospective employee’s background. Some incorrectly believe that it is illegal to discuss employee performance with an employee of another organization. As a result, some hiring officials may neglect reference checking, or perform it in a perfunctory manner, asking only “softball” questions about inconsequential aspects of the applicant’s former employment.

Although there are some legal issues, much of this fear is unwarranted. So long as reference checkers focus their inquiries on job-related issues and treat all applicants equitably, reference checking is a legally defensible activity. The next section reviews the key legal considerations associated with reference checking.

<sup>34</sup> *Identifying Talent through Technology: Automated Hiring Systems in Federal Agencies*, Washington, DC: U.S. Merit Systems Protection Board, August 2004.

<sup>35</sup> This so-called *verification bias* has been identified and formally studied in several different types of decision processes. The general recommendation to counteract it is to actively seek information that is *potentially disconfirming*. For an overview of the verification bias, see P. C. Wason and P. N. Johnson-Laird, *Psychology of Reasoning: Structure and Content*, Cambridge, MA: Harvard University Press, 1972.

## Legal Issues Associated With Checking References

There are four primary legal concerns associated with reference checks. The first involves misconception about the legal risks of checking references. Organizations that check references must also be concerned about invasion of an applicant's privacy in the information they request. An additional concern is the possibility of negligent hiring accusations when employers do not take sufficient care to check an applicant's background. Finally, "clean record" settlement agreements increase the possibility that reference checks of former Federal employees may be ineffective in determining the true abilities of that employee.

**Misconceptions.** Reference checkers may be hampered by incorrect beliefs held by agency officials, potential reference providers, and others. A recurring misconception among those asked about reference checking is that discussing performance or job-related behavior of an employee is not legal. It is certainly possible to conduct reference checking in an irresponsible manner that exposes an employer, or agent thereof, to claims of discrimination or allegations that the reference checking resulted in damage to an applicant's privacy or reputation. As a general rule, actionable legal claims result from poor practice—they are not inherent in reference checking any more than libel is inherent in newspaper publishing. The key is responsible practice.

More detailed recommendations for productive and defensible reference checking practice will be reviewed in a following section. It suffices here to outline the general guidelines for reference checking. First, all questions asked about applicants should relate to the requirements of the job and to employee performance and conduct in their previous job. Second, reference checkers should avoid asking about employee behavior outside the workplace, particularly about religious practices or other private matters.

**Invasion of Applicant Privacy.** Concerns about privacy stem from a long history of legal interpretation of the U.S. Constitution's Bill of Rights.<sup>36</sup> It is now clear that American citizens enjoy a constitutionally grounded "right to privacy." The right to privacy has been enhanced further by the passage of statutes such as the Privacy Act of 1974. Violation of this right can provoke litigation and result in civil penalties.

However, the right to privacy is not absolute. Employment laws recognize that employers have special needs to access work history information.<sup>37</sup> Past and potential employers have generally been granted a "qualified immunity" to discuss the employment-related performance and behavior of employees with each other.<sup>38</sup> This immunity means that employment-related questions about an applicant's

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<sup>36</sup> See, for example, *Griswold v. State of Connecticut*, 381 U.S. 479 (1965).

<sup>37</sup> Title 5 U.S. Code §1302, 3301.

<sup>38</sup> *Harlow v. Fitzgerald*, 457 U.S. 800 (1982). For a recent review, see Markita D. Cooper, "Job Reference Immunity Statutes: Prevalent But Irrelevant," *Cornell Journal of Law and Public Policy*, vol. 11, no. 1, pp. 1–68, 2001.

behavior may, as a general rule, be asked and answered with minimal risk of legal liability so long as an applicant's rights are not knowingly violated.<sup>39</sup>

**Applicant Waivers.** Some private sector employers introduce an additional level of protection against invasion of privacy claims. They require job applicants to sign a waiver that does the following:

1. Specifically authorizes the potential employer to contact references to discuss an employee's competence, performance, and suitability;<sup>40</sup>
2. Affirms that all information in application materials is accurate; and
3. Releases the employer and reference providers from liability resulting from appropriate reference checking discussions.

Many waivers provide protection for applicants as well by outlining the reference checking procedure and the general type of questions that will be asked.

A waiver requirement may seem to unnecessarily duplicate protection already present in the law. Applicants grant an implied waiver by applying for a job when reference checking is an announced part of the hiring process. However, not only is the express written waiver stronger legal protection, it has additional advantages. First, it may convince some applicants not to risk misrepresenting themselves. Second, it may reduce the costs an employer could incur from defending its right to check references. A poorly informed applicant might challenge a reference checking procedure unsuccessfully, but still require the employer to expend resources in defense. This is less likely to occur when the applicant has formally acknowledged the employer's right to check references.

The Declaration for Federal Employment (OF-306) contains a waiver that is signed by applicants for Federal employment. The waiver states, "I consent to the release of information about my ability and fitness for Federal employment by employers, schools, law enforcement agencies, and other individuals and organizations to investigators, personnel specialists, and other authorized employees of the Federal Government."<sup>41</sup> The Federal Circuit has stated that "OPM has the authority to require all individuals to complete all appointment forms, including the OF-306 and SF-86 forms, even after the date on which the appointment takes place."<sup>42</sup> Unfortunately, it has become common practice for applicants not to receive this form until the hiring process has concluded. In such cases the OF-306 does not extend protection to reference checking activities and does not set applicant expectations that information may be obtained from former employers.

<sup>39</sup> *Harlow* and its progeny; The Privacy Act of 1974 (Privacy Act).

<sup>40</sup> Barada, *op. cit.*, p. 42, recommends that this waiver explicitly state that "the person seeking employment gives away his or her right to privacy in exchange for the opportunity to gain employment." SHRM 1998, *op. cit.*, found that 86 percent of the organizations they surveyed require job applicants to sign such formal waivers allowing former employers to be contacted and references to be checked. SHRM 2004, *op. cit.*, found only a slight decrease (to 72 percent) in the waiver requirement.

<sup>41</sup> Available from OPM's Web site at [www.opm.gov/forms/pdf\\_fill/of0306.pdf](http://www.opm.gov/forms/pdf_fill/of0306.pdf).

<sup>42</sup> *McFalls v. Office of Personnel Management*, 49 Fed. Appx. 312 (Fed. Cir. Oct. 10, 2002).

Several agency HR personnel raised the applicant waiver issue. They highlighted advantages of the structured SF-171 job application formerly required of all Federal job applicants. They acknowledged that accepting resumes introduces greater flexibility and reduces applicant burden. However, the SF-171 sets applicant expectations appropriately by making the issue of contacting previous supervisors explicit much earlier in the hiring process. They affirmed that the OF-306 is often deployed too late. The advantages of accepting resumes for agencies and applicants alike argue against the return of the SF-171. However, it would be a simple change to require applicants to sign an OF-306 in time to check the references of a final set of candidates for each job vacancy.

**Negligent Hiring.** In a typical negligent hiring claim, an injured party alleges that an employer knew or reasonably should have known that another employee was unfit for the job for which he or she was employed. The harmed employee's case hinges on a showing that the employer's act of hiring created an unreasonable risk of harm. In the private sector, the legal risk for negligently hiring an employee is real and significant. In the Federal Government, however, the legal risk for negligent hiring is minimized by the sovereign immunity of the United States from suit. Sovereign immunity is a legal concept applicable to the Federal Government that serves to immunize the government from lawsuits except to the extent that the immunity is waived by a Federal statute. The Federal Tort Claims Act (FTCA) is a statute that provides a limited waiver of sovereign immunity. The FTCA is the exclusive remedy for common law torts committed by Federal employees acting within the scope of their employment. The FTCA exempts certain acts and omissions by Federal employees, including the exercise of discretionary functions such as the hiring, supervision and training of employees. The courts have rejected FTCA claims involving negligent hiring, supervision and training of employees, finding that they fall within the "discretionary function exception."<sup>43</sup> Nonetheless, a prudent course may be to assume that such immunity is never certain.<sup>44</sup>

An employer's best protection against a negligent hiring claim is to conduct a reasonable inquiry into an applicant's work history—a reference check—and, of course, an employer must do this effectively and impartially with each applicant under serious consideration for employment.<sup>45</sup> Hiring officials also need to maintain perspective on this risk by remembering that it rarely becomes an issue. SHRM found that few of the (mostly private sector) organizations it surveyed about reference checking practices had ever been accused of negligent hiring. The majority of survey participants (97 percent) were sure that no claim had been made against their organization in the previous three years.<sup>46</sup> Less formal discussions with

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<sup>43</sup> See, e.g. *Tonelli v. U.S.*, 60 F.3d 492 (8th Cir. 1995); *KW Thompson Tool Co. v. U.S.*, 836 F.2d 721 (1st Cir. 1988); *Cuoco v. Bureau of Prisons*, 2003 WL 22203727 (SDNY 2003).

<sup>44</sup> Based on this team's research, all but one Federal Circuit that has addressed the issue has rejected, on sovereign immunity grounds, negligent hiring claims brought by victims of assault or battery. See, for example, *Cuoco v. U.S. Bureau of Prisons*, 2003 (SDNY 2003); *Tonelli v. United States*, 60 F.3d 492 (8th Cir. 1995); *K.W. Thompson Tool Co. v. U.S.*, 836 F.2d 721 (1st Cir. 1988).

<sup>45</sup> Andler, *op. cit.*, p. 51; Barada, *op. cit.*, p. 135.

<sup>46</sup> SHRM 2004, *op. cit.* In 1998, SHRM reported that 90 percent of participating organizations had not had a negligent hiring claim in the previous 3 years.

Federal agencies found similar results—little direct experience with this legal issue, but definite concern about the possibility.

**Clean Records.** The final legal issue, the impact of “clean records” upon the reference checking process, does not constitute an immediate risk for reference checkers, but can affect the accuracy of information obtained from Federal Government employers. A “clean record” generally refers to an employee’s official employment record that has been altered in a manner favorable to the employee as a result of a settlement agreement between the employee and an employer. A typical “clean record” settlement agreement contains a promise by the employer to treat the employee “as if the employee had a clean record,” or words to that effect. The agreement may also contain the employer’s agreement to remove adverse information from the employee’s official employment record. In some cases, as the result of a “clean record” settlement agreement, a former supervisor or human resources specialist may know of inappropriate behavior or poor performance by a job applicant, but may not be free to release or discuss this information. In these cases, agency personnel cannot discuss the employee’s record candidly without violating the settlement agreement.

While there is no empirical data addressing the percentage of applicants that possess “clean records,” the number is likely relatively small. First, common sense suggests that the number of employees who have entered into settlement agreements is comparatively small in relation to the large number of Federal employees. Second, “clean record” settlement agreements have come under increased criticism in recent years, especially within the public sector. For instance, the U.S. Court of Appeals for the Federal Circuit (Federal Circuit) observed that “such agreements invite trouble.” The Federal Circuit explained that a “clean record” is problematic because “[t]he employee expects, perhaps unrealistically, that with a ‘clean record’ potential employers will be unable to find out about adverse actions taken by the former employer. The former employer, when asked, must either outright lie, or attempt some artful evasion which, because other employers now recognize what these agencies do, in fact fools no one.”<sup>47</sup> Another constraining factor is the difficulty that agencies face in fully implementing “clean record” agreements and the ease with which they can be inadvertently breached.

Notwithstanding the difficulties resulting from “clean records,” the fact remains that such agreements continue to occur. As a result, there is a risk that an applicant who has engaged in past misconduct or was a poor performer, but who has an artificially “cleaned” record, will be hired by a misinformed employer. As of the date of this report, there does not appear to be a published legal decision that addresses a claim of negligent hiring related to a clean record settlement agreement. Hiring officials should, nevertheless, consider the possibility of a clean record when they encounter references who offer only basic facts about an applicant’s previous employment without a convincing reason for withholding further information. This is a particular concern when an applicant provides references from the former employer’s human resources staff rather than from the previous work team.

<sup>47</sup> *Pagan v. Department of Veterans Affairs*, 170 F.3d 1368 (Fed. Cir. 1999).



While reference checking is not accomplished without some risks, prudent practice allows the reference checker to avoid them. The risks of engaging in appropriate reference checking are minimal. And, as the next section demonstrates, reference checking has benefits beyond protecting an employer from charges of negligent hiring practices.

# Benefits of Reference Checking

This section summarizes the benefits of conducting thorough and disciplined reference checks. Some benefits are near-term and straightforward. Others are better characterized as risks or problems avoided by reference checking and may be less appreciated.

## Direct Benefits

**Make Better Hiring Decisions.** Reference checking is part of a larger effort to identify the best available applicant for each open position. While other forms of competency assessment such as structured interviews, assessment centers, traditional tests, and even some training and experience measures have greater measurement validity than has yet been demonstrated for reference checking, it can still play an important role when combined with other assessments. Because it draws upon the judgment of those who have observed applicants over time on the job, reference checking is less influenced by applicant “faking,” and other distortions of short-term, direct assessments. It, therefore, can contribute to the hiring decision by supplementing rather than duplicating other assessments.<sup>48</sup>

**Improve the Job-Person Match.** Reference checking is often seen as benefiting only the employer, while working against the interests of dishonest or underqualified applicants and inconveniencing everyone else. However, information obtained from reference checking can help both employers and applicants better understand an applicant’s profile of strengths and weaknesses. A discussion with the previous supervisor can yield insights about what developmental stage an applicant has reached in his or her career path. It is true that such information can be used to screen out an applicant. However, it can also be used to identify initial training experiences and provide appropriate opportunities for development of a new hire. Proactive employers take the opportunity to gather developmental information to ease transition of new hires into an organization.

**Improve Assessment of Training and Experience.** Reference checking makes its strongest contribution as a check on the facts reported in job applications and resumes, and the experience claimed on training and experience measures such as rating schedules or accomplishment records. This is particularly important in

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<sup>48</sup> As a single measure, reference checking has a validity of .26. It is generally better than unstructured interviews or personal recommendations in predicting job performance and not as effective as cognitive abilities tests or structured interviews. For the definitive discussion of the merits of combining different types of assessments to better predict job performance, see Frank L. Schmidt and John E. Hunter, *op. cit.*

Federal hiring, where the majority of hiring officials (95.6 percent) assess prior work experience and weigh it heavily in the hiring decision.<sup>49</sup>

When applicants describe their prior experience straightforwardly and accurately, it can be evaluated with reasonable reliability by HR staff or by senior experts familiar with the advertised job. When applicants plausibly exaggerate their work experience, however, their applications can receive inflated ratings from even an experienced reviewer. When reference checking includes probing discussion of an applicant's prior work experience, particularly the experience highlighted in job application materials, this distortion can often be detected. Reference checking can produce a more accurate picture of an applicant's accomplishments that is not distorted by self-serving bias, either deliberate or unintentional, from the applicant.

**Assess Applicant Honesty.** Reference checking allows hiring officials to not only correct resume inaccuracies, but take special notice of blatant or pervasive distortions that signify conscious deception by the applicant. Unsurprisingly, OPM governmentwide job analysis studies have identified integrity and honesty as a key competency in a large number of occupations.<sup>50</sup> Although important, or even “critical” to success in these occupations, this competency is rarely assessed because of the difficulty of measuring it directly.<sup>51</sup> Reference checking is not a foolproof assessment of this competency either, but can be used in conjunction with responses to structured interview questions to identify applicants who misrepresent their work-related experience. Removing such applicants from consideration is an important goal of the assessment process.

**Demonstrate Fairness and Equal Treatment.** Because reference checks are a familiar aspect of hiring, almost everyone recognizes them as part of the hiring process. As references are checked, more people become aware of the employer's use of this method. They know that an employer would be unlikely to check references if the hiring decision were predetermined in favor of a given applicant or driven by a single formal test. The open-ended nature of reference checking demonstrates that an employer is willing to look for information about applicants from more than one source. Conducting reference checks thoroughly demonstrates not only that the employer is trying to hire the best, but that each applicant under final consideration is being given due consideration.

**Send a Message About Organizational Values.** By using reference checks to verify information provided on resumes and job applications, employers send a message that honesty is expected of applicants during and after the hiring process. They also likely cause a certain amount of self-screening by applicants who might otherwise exaggerate their skills and work experience. This same strategy is

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<sup>49</sup> *The Federal Workforce for the 21st Century*, op. cit.

<sup>50</sup> *Human Resources Manager*, Washington, DC: U.S. Office of Personnel Management, 2003.

<sup>51</sup> A recurring concern with assessments of integrity and honesty is their “fakeability”—the degree to which a dishonest but clever applicant can deduce the strategy behind many of the questions and respond as an honest person would. Reference checks can provide a source of information other than the applicant that can help distinguish accurate information from plausible falsehoods (and seeming falsehoods from implausible correct information).

used by homeowners who display signs warning potential burglars about their alarm system—do not try to rob me, because here you will be caught.

## Long-Term Benefits

**Avoid Costs of a Bad Hire.** A “bad hire” can damage an organization’s effectiveness directly through dishonesty or poor performance. There are additional long-term costs. First, there is the cost of recruiting and hiring a replacement once the employee is removed or moves on. There are also staff, resource, and other costs associated with fixing whatever problems the employee may have caused or allowed to happen.<sup>52</sup> By reducing the number of bad hires made by your organization, reference checking can help keep the costs of turnover down.<sup>53</sup>

**Maintain Employee Morale.** The consequences of a bad hire include indirect costs as well. If an employee is not competent to perform his or her job, the work still needs to be done. Usually it will be done by other employees who must do it in addition to their own full-time responsibilities. This reduces employee motivation to perform—in either role. Nor is this the only effect. Honest employees become angry and less committed to the organization when they perceive that one of their colleagues has been hired or promoted because of false claims about training and experience. Failure to detect this practice or the apparent indifference of management can cause honest employees to question either their own policy of honesty, or whether that policy might be better appreciated by another employer. It can also undermine employee confidence in a hiring official’s judgment and commitment to the workplace.

**Gain Public Trust.** Reference checking has benefits beyond the immediate hiring process for each applicant. Increasing the degree to which reference checking is done reduces the chances that unqualified or dishonest employees move from agency to agency while remaining in the Federal workforce. This is a particular concern in Federal agencies, where employees are routinely entrusted with sensitive data, public resources, and citizen welfare. Hiring officials eager to staff quickly by transferring an employee from another Federal agency are particularly vulnerable to having a problem employee passed to them. Once such employees have passed through their 1-year probationary periods, they are more difficult to remove.<sup>54</sup> Checking references discourages shortsighted managers from allowing this type of employee to remain employed. It may even help some marginal employees improve by closing off one strategy they use to avoid improvement.

<sup>52</sup> Barada, *op. cit.*, p. 114, cites one private sector survey that reported the total cost of hiring the wrong person as three times the annual salary of the position. For similar discussion of the cost of hiring decisions, see Lyle M. Spencer, “The economic value of competency-based human resource applications: Measuring the ROI of selection, training and performance management,” 1998.

<sup>53</sup> Andler, *op. cit.*, p. 220, describes a 2-year study in which a private sector company instituted reference checking and reduced new employee turnover from 16 out of 29 new hires (55 percent) to 2 out of 22 new hires (9 percent). This difference was attributed primarily to the improved quality of hires resulting from reference checking.

<sup>54</sup> *The Probationary Period: A Critical Assessment Opportunity*, Washington, DC: U.S. Merit Systems Protection Board, September 2005.



# Best Practices

Reference checking is done most effectively when it has been thoughtfully integrated into the hiring process. While there is some chance a hiring official will stumble across useful information during an unstructured conversation with someone who knows the job applicant, a well-prepared reference checking strategy can greatly increase the probability that such information will be uncovered. A well-planned process will not only yield useful information, but will increase the hiring official's confidence in the results when the process fails to uncover negative information.

Best practices recommended in the professional literature and by agency HR personnel can be usefully organized into six steps. The six steps listed below can be followed as a formal process to conduct reference checks effectively.

1. Create a reference checking strategy.
2. Obtain information from applicants.
3. Select the reference providers.
4. Conduct reference checking discussions.
5. Evaluate results of reference checking.
6. Make a hiring decision.

The following sections outline strategies for each of these steps. These practices need to be adapted to the needs of each hiring decision, and not all recommendations will apply to each hiring process. Accordingly, agency hiring officials are encouraged to thoughtfully adapt these practices to their needs and unique circumstances.

## Reference Checking Strategy

Some decisions about reference checking need to be made long before a hiring official reaches for the phone to call the first reference provider. If reference checking is attempted before clear decisions have been made about these issues, the results will be of limited value and may even be misleading. To create a strategy for their next hiring decision, agency officials should have solid answers to the following questions.

**What Information Is Needed?** Employers should carefully consider what the job requires, what will already be known about applicants at the point in time when references are checked, and what kinds of information can best be obtained through

reference checking. Some questions may be suggested by the results of prior assessments, such as responses to structured interview questions or gaps in an applicant's work history.

Questions about a particular issue should be included in reference checking if the issue is job-related, information is still needed about it at this point in the hiring process, and information can be obtained from people who have worked with the applicant. If an issue is not job-related, potential employers should not be inquiring about it as part of the hiring process. If it has been addressed sufficiently with previous assessments and no verification is needed, there may be little need to duplicate the assessment. Finally, if it is not an issue about which former supervisors and coworkers can provide good information, other assessment strategies should be used.

After filtering potential reference checking topics through this decision procedure, hiring officials may find that their reference checking strategy includes a subset of the following topics and corresponding reasons:

1. Checking the validity of information obtained from job applications or interviews to determine if the applicant has been dishonest.
2. Checking whether an applicant has fabricated or exaggerated self-report information to determine whether conclusions drawn from this information are accurate.
3. Clarifying developmental needs of applicants to determine what post-hire training or development opportunities to provide.
4. Discovering inappropriate behavior patterns of applicants to maintain a safe and efficient workplace, and to protect the employer from charges of negligent hiring.
5. Assessing competencies that have not been otherwise adequately assessed earlier in the hiring process.

The first two strategies can be pursued by checking a subset of information provided by applicants. It is important to check the same kind of information with all the reference providers for each applicant. The same specific items of information should be checked across applicants to ensure equal treatment. When following the third strategy, the reference checker should still begin with a standard set of questions. The fourth strategy must be pursued with greater subtlety. Certainly the reference checker should ask directly about problem behaviors. It is also necessary to listen closely to the reference provider's responses and probe when he or she seems reluctant to talk. Assessing new competencies is possible with reference checks, but should be reserved for competencies that help distinguish between well-qualified candidates. "Must-have" competencies call for direct assessments early in the hiring process when individuals who do not possess them can be eliminated from a larger applicant pool.

**Which Applicants Should Be Checked?** Check all who are under active consideration at the point in the process when reference checking is performed. An employer may not target a subset of applicants for reference checking based on their age, gender, ethnicity, or membership in any protected class. It is a dubious

practice to target a subset of applicants based on factors in their backgrounds that may be more prevalent in one demographic subgroup, as doing so may create the appearance of intentional discrimination or even the actuality of adverse impact. Reference checkers need to be fair by checking the references of all active applicants.

**When During the Hiring Process?** If reference checking is done too early, it may seem more fair to applicants, but can become prohibitive in terms of resources. If it is done too late, the results may not actually inform a hiring decision. Of course, when reference checking is done to confirm information from other parts of the hiring process, such as work history information from the applicant’s resume, self-ratings from training and experience measures, or structured interview results, it needs to occur after this information has been obtained from applicants. As a practical matter, reference checking is usually done after the field has been narrowed to a handful of candidates. This usually means that it is the final prehire assessment.<sup>55</sup>

**How Much of the Process Should Be Standardized?** Adopting a rigidly standardized set of questions is not recommended. Such a standard question set would quickly be captured by reference providers, shared with applicants, and probably would become an appendix in the next “how-to” guide that coaches applicants in the Federal hiring process. This would reduce the value of reference checking by making it easier for applicants to coach reference providers with canned responses.

Instead, there should be a standard set of questions for each vacancy announcement. Once a strategy has been designed that matches both the abilities needed for effective job performance and the type of information available from applicants, this will drive development of the specific reference checking questions. Asking the same core set of questions of each will achieve two goals. The first is to produce comparable information from each reference provider for an applicant. The second is to allow some degree of comparison among applicants. Of course, reference providers will vary in how they answer these questions. Resulting “probes” and follow-up strategies will produce different conversations. Effective reference checkers will likely customize some questions based on an applicant’s resume and will certainly formulate follow-up questions based on the emerging needs of the reference checking discussion. But the same purpose—and therefore the same set of initial core questions—should be at the heart of each reference checking discussion.

**What Specific Questions Should Be Asked?** Even the most cooperative reference provider will shy away from a lengthy phone discussion, so there are practical limits to the number of reference checking questions that can be asked. Hiring officials will have to select from all possible questions according to their usefulness in filling each position. To help with this task, this section outlines

<sup>55</sup> Probationary periods, typically lasting 1 year, are the last “assessment” in the hiring process for employees new to Federal employment because their appointments are not final until this period is complete. See Title 5 U.S. Code §3321.



desirable characteristics of questions and suggests how to decide which questions to use.

Each question should address a specific need identified as part of the reference checking strategy. Reference checkers should have clearly in mind the reason for asking each question and the type of information it is intended to elicit.<sup>56</sup> Such questions are linked to important competencies, and responses can be compared directly with information obtained from applicants. When the questions are developed, it may be helpful to include one or two examples of both useful responses that “answer” the question and inadequate responses that require further questioning. Such examples can help reference checkers decide when to probe for more information.

The general form of the questions should be open-ended, prompting reference providers for information and encouraging them to engage in description. Questions and probes for further information should encourage reference providers to give specific examples of the applicant’s behavior. (“Can you describe one specific occasion when Paula took a “long lunch” and did not finish her work on time?”) It is fine to ask reference providers to use their judgment, but each evaluative statement should be supported by at least one example. (“Leslie really understands the way his supervisor thinks. In our staff meeting last week, he was able to finish most of her sentences for her.”) This prevents misunderstanding and encourages reference providers to be fair and accurate.

Reference checking specialists suggest a sequencing strategy for questions based on the rapport that develops between reference checker and reference provider as the discussion proceeds.<sup>57</sup> An interview should begin with fact-oriented questions that verify resume material or training and experience claims. Then the interview can progress to more evaluative discussion of the applicant’s past performance and competencies. Finally, the discussion should address the applicant’s developmental needs. Discussion of more sensitive information, such as potentially inappropriate workplace behavior, should occur late in the interview as well. This general ordering strategy is consistent with similar recommendations for ordering questions on survey questionnaires and in other types of interviews.

**Who Will Contact the References?** Reference checking specialists strongly recommend that the person who will be supervising the new employee contact references.<sup>58</sup> It is important that the reference checker know the requirements of the job. It is also an advantage when the reference checker is the same person who has interviewed the applicant. Due to the skill needed in questioning, reference checking should not be delegated to an administrative assistant or less experienced employee. Nor should it be delegated to human resources personnel unless they are familiar with the job and working environment. There is, however, some justification for HR specialists to do reference checking if the job requires repeated

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<sup>56</sup> One effective strategy for creating targeted reference checking questions is to begin with the rating schedule or structured interview questions that will be used in the same hiring process.

<sup>57</sup> Andler, op. cit.

<sup>58</sup> Andler, op. cit.; Barada, op. cit.

hiring, since human resources personnel can be trained and become proficient in reference checking for particular occupations.

References should not be checked by anyone who has a personal stake in hiring a particular applicant. One obvious example of a personal stake is if the applicant is a relative or close friend. Agencies should also consider that such stakes may be emergent. By the time references are checked, the hiring official may have become emotionally invested in a particular applicant. It is important to raise the issue so agency personnel can recognize it and use their judgment about how to best solve it.

One agency contacted for this study assembles hiring teams made up of senior employees in the target occupation. This makes the requirements for standardization of the reference checking process explicit and involves senior employees who both know the job and are able to perform some of the duties of the hiring official.

## Information From Applicants

The precise information obtained from applicants will depend on the specifics of the hiring official's reference checking strategy. The following general guidelines will help keep reference checking on target and produce information that is both relevant and comparable across applicants.

**Permission.** Applicants grant implied permission to check references when they apply for a job. The legal status of this permission is strengthened when it is formalized in a document signed by the applicant. Using a standard form for this document establishes reference checking as a standard business practice of the employer. Applicants for Federal jobs complete and sign form OF-306 at some point during the selection and appointment process. By signing this form, they acknowledge an agency's right to contact previous employers and verify information about employment history. Unfortunately, many applicants are not required to sign this form until the selection process has concluded. Agencies should recognize the value of the OF-306 to reference checking and introduce it when the pool has been reduced to a small number of well-qualified candidates.

**Work History.** Employment history information provided on an applicant's resume and other application materials is useful in three ways. First, it is a source of verifiable facts about the employee's background that can be checked to identify dishonest applicants. For this strategy to succeed, the employer must specify the kind of information needed about each former job. Job announcements should specify what information is needed about applicants' skills and how they are to demonstrate their proficiency. Second, these materials also contain evidence about the applicants' capabilities in various aspects of their former jobs. This evidence can be verified during reference checking, but only if it has been provided.

The third type of information is indirect and often overlooked. Work histories also contain information that identifies reference providers. Some contacts, most commonly former supervisors, are listed by name. Others, such as project managers

or customers, are implied by the applicant's descriptions of duties and work activities. It is good practice to request that applicants provide additional information about key players in their work histories so they can be treated as reference providers.

**Contact Information—and Assistance.** Employers usually require applicants to provide phone numbers of reference providers. Reference checking specialists suggest that the entire process can be made more effective and efficient when the applicant becomes even more involved. Honest, well-qualified applicants who have provided solid references are often motivated to facilitate contact between reference checkers and reference providers by double-checking phone numbers, providing both parties with copies of resumes, job announcements, and other relevant documents, and helping them make contact. This approach can accelerate the reference checking phase of hiring and has the additional effect of assuring the reference provider that the reference checking discussion has the applicant's support.<sup>59</sup>

**Self-Evaluations.** Some assessments of training and experience require applicants to both describe their work-related competencies and evaluate their proficiency level for each ability. If your reference checking strategy includes asking reference providers to verify these evaluations, this information must be obtained from applicants prior to reference checking.

To ensure comparability of their evaluations, reference providers must have access to the same rating scales, examples, and other information used by applicants to self-evaluate. Any significant discrepancies between the applicant's and the reference provider's evaluation of applicant skill should reflect differences in their judgment about the applicant's experience, rather than different frames of reference. Reference checkers should recognize that reference providers and applicants will have small differences of opinion and must use their judgment in deciding what constitutes a significant discrepancy.

**Interview Information.** Reference checking is often used to verify information obtained from applicants through structured interviewing. When this is done, the record of the interview must be sufficient so that the information obtained can be communicated accurately to reference providers. When interview results are not verified through reference checking, it is sufficient for interviewers to take notes that will help them complete a rating form shortly following the interview. Notes from interviews that will be reused in reference checking discussions must be detailed and descriptive, particularly if references are to be checked by someone other than the interviewer.

**What Will They Say?** It is useful to remind applicants during employment interviews that key information will be verified with others. Interviewers can remind applicants to be candid when answering questions by asking them how former supervisors or coworkers would answer the same question. This supports a basic goal of reference checking—to authenticate assertions made by applicants using evidence supplied by reference providers.

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<sup>59</sup> Andler, op. cit.

## Selecting Reference Providers

Reference providers should be carefully selected to play their role in effective reference checking. Several factors should be considered to select reference providers with the most useful perspectives on applicants and their potential to perform appropriately and well.

**Let the Applicant Choose—With Guidance.** It is a common practice to request “three references” from job applicants and accept these three names as the only references that will be checked. It makes sense to obtain information from applicants, and their wishes about contacting current supervisors should certainly be respected so as not to jeopardize their current employment situation. However, this does not mean that applicants should be in complete control over the selection of reference providers. Employers should make it clear that reference providers must meet their expectations for high-quality reference providers. Information in the following sections can be shared with applicants to clarify the standard expected.

**Emphasize Shared Job Experience.** Acceptable reference providers must have experience observing the applicant on the job. Two factors are important—how long reference providers worked with the applicant, and how long ago they worked together. A common rule of thumb suggests that applicants and reference providers should have worked together for at least 6 months within the last 5 years. Note that this requirement acknowledges that predictions based on *behavioral consistency* have their limits. Because people develop and change, information about behavior from the distant past is much less useful in predicting future behavior.<sup>60</sup> If the job in question requires particular skills, it is legitimate to require that reference providers have observed the applicant performing these skills. (“We need to talk to someone who has edited one of your technical reports.”)

Some modification of this requirement is advisable when an applicant has not been in the workforce recently or at all. College professors or high school teachers may be acceptable reference providers for recent graduates entering the job market. They can provide some perspective on an applicant’s work habits and general abilities. Applicants who have been out of work for long periods will have difficulty finding acceptable substitutes from among associates in professional associations and social circles. The hiring official should be flexible when such circumstances arise, but be cautious about accepting substitutes for coworkers when the applicant does have a history of employment.

Note that some former employers will refer reference checking inquiries to human resources personnel. However, HR personnel can likely verify only basic employment information and should therefore not be relied on as sources of reference information.

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<sup>60</sup> The principle of time decay in the value of information about work history and personal behavior is more important than any strictly observed number of months or years. Not only do applicants change, but reference providers have all of the normal human weaknesses in remembering the past accurately.

**Focus on Supervisors.** Supervisors have not only observed the applicant on the job, most will have evaluated the applicant's performance in a formal appraisal process and offered individualized feedback for improvement. Their perceptions are valuable for an additional reason—they have had training and experience in evaluating employee performance. In most cases they have kept records of their performance evaluations and have had the opportunity to observe the applicant perform in a number of different circumstances and develop over time. Supervisors are the “gold standard” of reference providers. It is good practice to talk to at least one supervisor at each place the applicant has worked recently.

Some caution is appropriate in interpreting information from performance appraisals. Their greatest value is as a memory aid to a former supervisor who is describing an applicant's behavior as observed on the job. The reference checker should probe for specific examples of this behavior rather than relying on summary evaluations such as “outstanding” or “excellent.” Performance appraisals are, or should be, based on performance standards that can be very specific to the applicant's former job. An applicant who was an “excellent” writer of office memos may not meet the reference checker's expectations of excellence in a technical writing job. It is often necessary to probe for the basis of these evaluations so this behavior can be matched to the standards or expectations of a different job.

**Include Other Perspectives.** Other perspectives are valuable as supplements and, if unavoidable, as substitutes for the supervisory perspective. Many reference checkers look for a mix of immediate supervisors, second-level supervisors, peers, and, if applicable, employees who have reported to the applicant. Former coworkers who have retired or moved on to other jobs can be valuable sources. They are familiar with their former workplace, but can offer a perspective that is less embedded in its pressures and politics. Even close friends who have worked with the applicant can provide useful information if the questioning is thorough and the reference checker probes for details.

**Check Three Times.** It is traditional for applicants to supply three references. It is not clear how this “magic number” originated, but reference checking professionals support it.<sup>61</sup> SHRM's 1998 survey results indicate that practitioners check an average of 2.7 references for each job applicant, possibly reflecting their attempts to contact three reference providers. A more thoughtful standard is to check with three reference providers, then consider whether the pattern of results is consistent. If it is not, checking additional references to resolve incongruities is prudent.

**Involve the Applicant.** An effective strategy advocated by one reference checking specialist is to involve the applicant directly in securing the cooperation of reference providers.<sup>62</sup> This makes it plain to reference providers that applicants are willing participants in the reference checking process. As a result, reference providers are more likely to feel personally committed to the process. They are less likely to hide behind a real or invented “official” policy to provide minimal information.

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<sup>61</sup> Barada, op. cit., p. 45.

<sup>62</sup> Barada, op. cit.

**Find More Reference Providers.** Sometimes reference checkers will need to talk with additional reference providers beyond those supplied by the applicant. This may occur for a number of reasons. One or more of the applicant's original sources may be unavailable. The applicant may have changed jobs a number of times in the recent past, requiring additional sources to provide an adequate perspective on performance in each work setting. The reference checking process may have uncovered a discrepancy among reference providers or between their account and that of the applicant. In any of these cases, additional reference checking may be needed to achieve a clear picture of the applicant.

It is a reasonable strategy to find additional reference providers with useful information by simply asking each provider for more contacts. This strategy, though uncommon,<sup>63</sup> has much to recommend it. Like the applicant, reference providers are familiar with the applicant's former work setting and can identify others who have worked with the applicant sufficiently to evaluate their workplace behavior. Unlike the applicant, they are not directly motivated to cast the applicant in a positive light—and may identify reference providers the applicant would not mention.<sup>64</sup> Reference providers can be asked to make such referrals at the end of the reference checking discussion. They will have the reference checking questions in mind and will be in a good position to consider who can answer them well. Of course, the applicant should give permission to contact any newly identified reference provider before such contact is attempted.

## Checking the References

The reference checking discussion is really a specialized type of interview. This being the case, reference checkers should follow general guidelines for business interviews with regard to etiquette, respect, and time management, although those general issues will not be discussed in this report. Instead, several issues specific to reference checking discussions are presented.

**Dealing With Refusals.** Reference checkers will encounter potential reference providers who are reluctant to play their requested role. If the applicant has completed a formal authorization of the reference checking process, such as the OF-306, it may help to inform the potential reference provider of this fact. Reference checkers can also outline the general benefits of providing reference information. They can clarify their determination to focus on documented facts and honestly

<sup>63</sup> SHRM 1998, *op. cit.*, p. 8, survey results indicate that only 22 percent of HR specialists surveyed use this method to expand the pool of reference providers. In 2004, SHRM did not inquire about the use of this technique.

<sup>64</sup> Some caution is appropriate when the potential reference providers are coworkers in the applicant's current job setting—particularly when he or she has requested that the current supervisor not be contacted. Informing the applicant's coworkers that he or she is looking for another job is inconsiderate and not a good way to build trust with a future employee. The applicant should be encouraged to provide appropriate references from another work setting. If this is not possible, the applicant may need to make a specific choice between allowing reference checking to proceed with current coworkers or not proceeding through the hiring process.

held opinions about the applicant. Reference providers should also be reminded that they will not be stating an official position of their organization.

Some additional techniques may persuade reluctant reference providers. Reference checkers can offer to contact them at home or away from their office or at a more convenient time. This informal approach may put them at ease and make them more comfortable discussing their work setting. A more official approach will tend to remind them of their organization's official policy and therefore may yield minimal information. Reference checking specialists report that the vast majority of people will talk to reference checkers, even if they are initially reluctant.<sup>65</sup>

If this approach is not successful, some hiring officials do not mind becoming more assertive. They are willing to emphasize that references must be checked prior to employment and the nonprovider might become responsible for the applicant not getting a job offer. Or they ask if the refusal should be interpreted as meaning that the reference provider would not be saying positive things about the applicant. This situation may benefit from additional involvement by the applicant to remind the reluctant reference provider that the reference checking process has his or her full support. The availability of alternate reference providers, the time pressure to make a hiring decision, and the personal style of the reference checker will determine how many of these techniques a reference checker is willing to use.

**Ask Standard Questions.** Developing a consistent set of reference checking questions that elicit the information needed from reference providers is important; so is actually asking these same questions of each reference provider. The reference providers for different applicants must be treated consistently. It is important to treat all applicants equally and to obtain comparable information about each applicant.

**Provide Exhibits.** When possible, reference checkers should provide copies of the job announcement and other information about the job sought by the applicant. Reference checkers should encourage applicants to share their resumes with reference providers, but are best advised not to provide such copies themselves because of privacy concerns. Reference checkers can also supply an "interview agenda" containing an outline of the anticipated discussion and a sample of questions to be asked. Such an agenda encourages reference providers to take reference discussions seriously and to answer all questions.

**Encourage Description.** An effective reference checking strategy is to simply encourage reference providers to talk. Some will need very little encouragement. This begins with open-ended questions that encourage reference providers to describe their experiences working with the applicant. Reference providers should also be asked to provide specific examples that show how the applicant has demonstrated each relevant skill. Any question that can be easily answered with a single word does not encourage them to do this.

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<sup>65</sup> Andler, op. cit.

**Listen.** As reference providers talk, reference checkers should listen carefully to what they say. The telephone format of reference checking interviews means that extensive note-taking will not be observed by the reference provider and will not seem inattentive or rude. Taking notes allows the reference checker to listen closely and record key information.

Reference checkers should be particularly vigilant for the following:

1. Any indication that any of the applicant's claimed work history comes as a surprise to the reference provider;
2. Hesitations or changes in the reference provider's speaking pattern that indicate uncertainty or discomfort;
3. Slowness or seeming reluctance to respond to particular questions or confirm particular information;
4. Voice tremors or "canned" responses that may indicate fabrications.

It is also important to consider that each person has his or her own speech patterns. Some people speak more slowly or with a greater number of hesitations than the norm. It is important not to hastily conclude that they are being evasive if their speech seems unusual compared to others.<sup>66</sup> Instead, reference checkers should form an impression of the normal patterns of a reference provider's speech during the early part of the discussion. Then the reference checker can be more appropriately attuned to speech that is unusual *for that reference provider* during later discussion of more sensitive topics.

**Ask Probing Questions.** Any ambiguities or inconsistencies that are related to the job should be clarified. Often a general probing question, such as "Can you tell me more about that?" will produce the additional information. Sometimes it may be necessary to ask more specific questions. When asking follow-up questions, it is important not to *lead* the reference provider by suggesting a possible answer, then asking if the reference provider agrees with it. ("When Eric drew those symbols on the wall, it probably made the other employees very uncomfortable. Isn't that right, Donna?") The reference provider's role is to supply details; the reference checker guides discussion into areas of interest and captures the reference provider's descriptions. Occasionally it may be necessary to call one reference provider back to clarify inconsistent information from another reference provider.

When a reference provider responds to questions with generalizations or evaluations, the reference checker should determine whether they are supported by evidence. This evidence should be detailed and verifiable. In this situation, the best strategy is to use probing questions that ask for specific details. The most effective response to a reference provider's generalization is: "Can you give me an example?"

**Record.** Reference checkers need to keep track of what each reference provider says so this information can be compared to what has been supplied by the

<sup>66</sup> Paul Ekman, *Telling Lies: Clues to Deceit in the Marketplace, Politics and Marriage*, New York: W.W. Norton & Co., 2001.



applicant. Memory alone is not reliable—particularly when references are checked for many applicants with many more reference providers. Reference checkers should use a form with questions and spaces for answers. These records should also include time and date of each discussion, who conducted it, and other information that links the information to the applicant hiring process. Agency HR personnel could encourage standardization and effective practice by designing a template reference checking form to be used by hiring officials in their organization.

**Avoid Inappropriate Topics.** While there is no need to be artificially rigid, it is best for reference checkers not to stray from a businesslike focus on the task of reference checking. Experienced employment interviewers are unlikely to ask about inappropriate or forbidden topics. Forbidden topics include gender, race, color, religion, national origin, age, and sexual orientation.<sup>67</sup> Casual conversation can be dangerous as well because it can so easily stray into questionable territory. This can create the impression of an undisciplined process or that hiring will be based on issues that are not job-related.

When reference providers venture into inappropriate territory, it is important to change the focus of the discussion. Reference providers will need various levels of encouragement to return to an appropriate focus on job-related issues. Have available a range of responses that adapt to how persistent the reference provider is in returning to inappropriate topics. The first time such a topic is introduced, the reference checker should tactfully discourage the topic by ignoring it. If this is not effective, the next step is to refocus the discussion by asking a question about another (job-related) issue. If these indirect efforts are not successful, the closing strategy is to directly state that the topic does not have a place in an employment-related discussion.

## Evaluating the Results

It is necessary to evaluate the results obtained from reference checking. This includes deciding whether individual reference providers seem to have given honest and accurate information, resolving any discrepancies among reference providers or between reference providers and applicants, and dealing with missing information due to reference providers who cannot be contacted.

**References Who Cannot Be Contacted.** It is important not to have the reference checking strategy invalidated by unreachable reference providers. When one or more references cannot be contacted, time pressures may tempt hiring officials to settle for information from fewer reference providers or even dispense with reference checking entirely. This is a risky practice that allows dishonest applicants to get away with falsifying names or contact information. Better practice is to persist until the specified number and type of reference providers have been contacted. Remember to enlist the applicant in this effort—it is in his or her best interest not to be eliminated from consideration for the job.

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<sup>67</sup> These topics are inappropriate as a basis for hiring decisions according to the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972.

**Conflicting Information.** Reference checkers should not be surprised or troubled by minor inconsistencies between information supplied by applicants and what reference providers report. Individual differences in memory, focus of attention, and perceived importance of duties often produce different accounts. In fact, if accounts are entirely free of minor discrepancies, this may be evidence that the applicant has coached the reference providers.

Reference checkers must use their judgment to accept minor inconsistencies, resolve larger inconsistencies through follow-up discussions with reference providers, and make a judgment about the accuracy of information obtained from the applicant.

**Trusting the Source.** It is useful to devote a question or two early in the reference checking interview to assess the credibility of the reference provider as a source of job-related information about the applicant. Questions about the nature of the relationship between the reference provider and the applicant should match resume information and should indicate a work relationship. The reference checker should obtain routine confirmation by asking for the reference provider's job title and employer. Finally, the reference checker should ask the reference provider to describe the applicant's responsibilities in the former job. A friend or fake reference will not be able to do this in detail. A dishonest reference provider is likely to provide inconsistent information, give a description that remains suspiciously general, or may simply "freeze up" and become unresponsive.

**Look for the Pattern.** Reference checkers are looking for a pattern of positive performance and behavior over time. This does not mean that applicants "fail" the reference checking process when there are one or two negative evaluations or discrepancies. Small deviations from an overall pattern of positive contribution should not disqualify a good applicant. Larger discrepancies, or a larger number of small differences, should lead to a follow-up discussion with the applicant to pin down the reasons for disagreement. When most or all reference providers paint a different picture than the applicant, there is reason to doubt the applicant's honesty or judgment. It is important for reference checkers to decide in advance what kind of discovery should disqualify an applicant, and what evidence is necessary to make this decision. The same standards should be applied to each applicant.

## The Hiring Decision

Finally, the reference checker must decide if an applicant "passes" this hurdle in the hiring process—do the reference providers support a picture of the applicant as a well-qualified and honest prospective employee? And how will the answer to this question affect the hiring decision?

Reference checking in Federal agencies tends to be an informal activity. As noted earlier in this report, OPM and agencies provide limited guidance on reference checking. Ratings, rankings, and referral lists generally do not reflect the results of reference checks. The "official record" of a staffing action may contain little, if any, information about reference checks and their results. This is not an entirely bad thing. (After all, the Federal Government does not lack for paperwork and

documentation requirements.) However, this lack of official standing also means that it is often not clear exactly how to use the results of reference checking. Without offering any definitive advice on this matter, some guiding principles on agency use of reference checks can be useful.

**Reference Checks Should Matter.** If they are worth doing, they are worth using. The fact that a reference check is not part of the formal rating and ranking process should not preclude a reference check from ever materially affecting the selection process.

**Reference Checks Must Be a Potential Basis for Nonselection.** This seems obvious. Yet it is all too easy to imagine a Catch-22 situation where an organization castigates one manager for failing to conduct reference checks (“You would have known that Mr. Abagnale was not qualified for this job if you had done your homework.”), yet discourages the manager who conducts reference checks and wants to act on them (“It’s not fair to eliminate Mr. Goddard from consideration just because his previous three supervisors saw no evidence of his claimed expertise in rocket science.”). If the results of reference checking cannot have an impact on hiring, there is little reason to perform this activity before a hiring action is completed.

**Reference Checks May Need to Be a Basis for More Than Nonselection.** In most cases, it may suffice to simply not select an applicant when reference checks produce troubling information. However, agencies should carefully consider whether there are situations where information obtained from reference checks should be specified in the “official record” of the hiring decision—for two reasons.

First, ratings and rankings usually determine who selecting officials may consider for hire. A process that does not allow reference checks to affect ratings and referrals may effectively allow unscrupulous applicants to push other, more deserving applicants “out of the ring.”

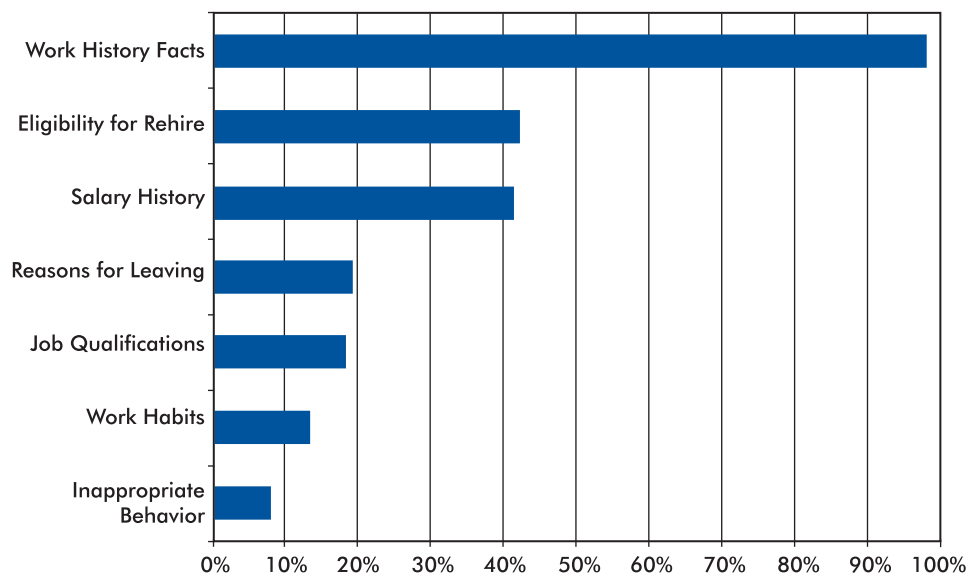
Second, the agency’s official judgments about which applicants are the most meritorious are based on ratings, rankings, and referrals. If these official judgments are not consistent with the agency’s actual judgments (if, for example, an agency allows applicants to remain “best qualified” in the face of considerable information that indicates otherwise), then employees and other stakeholders may question the merit basis and integrity of the hiring process itself.

# Answering the Call: Providing References

It is also worth looking at reference checking from another perspective—that of the reference provider. In one sense the reference provider role is the mirror of the reference checking role. A good reference provider should recognize and cooperate with an effective strategy for checking references for several reasons. Prospective and past employers share common goals—to focus on job-related aspects of applicant behavior and avoid discussing inappropriate issues. However, several particular aspects of the reference provider role merit further discussion.

Most organizations are willing to provide some information about former employees. The 1998 SHRM survey found widespread organizational support for providing references. This information is summarized in the table below. More than three-quarters (76 percent) of organizations participating in the 1998 survey provided reference information about current and former employees. It is likely that many references are given even when there is an organizational policy against doing so. SHRM reports that almost all “reference friendly” organizations (98 percent) will verify dates of employment and other factual information. Fewer than half will discuss an applicant’s eligibility for rehire (42 percent) or salary history (41 percent). Very few will provide sensitive or judgment-based information about reasons for leaving (19 percent), job qualifications (18 percent), work habits (13 percent), or inappropriate workplace behavior (8 percent). The 2004 SHRM survey found a similar pattern.

**Information Disclosed By Reference Providers**



These findings mirror some employers' dissatisfaction when they try to obtain the same information during reference checking. Reluctance to discuss more sensitive and judgment-based issues can limit the value of reference checking discussions to "objective" facts less useful for making hiring decisions. As discussed previously, more structured and skillful interviewing on the part of reference checkers is one answer to raising the quality of information about sensitive or complex issues. Training is also needed when reference checking is used to directly assess competencies via the structured interviewing approach. This approach goes beyond verifying "facts" about job qualifications to assessing competencies needed on the job.

It is also likely that many employers and former coworkers are reluctant to become better reference providers because they fear negative repercussions. This fear is understandable but unnecessary. It is possible for reference providers to both honor their responsibilities to applicants and provide reference checkers with the information they need to make good hiring decisions. To do so, reference providers need to be aware of the legal constraints on reference checking and focus on playing their roles within these constraints.

## Legal Issues for Reference Providers

Many reference providers have misconceptions about the potential liability associated with providing information about current and former employees. However, providing reference information need not be avoided—it can be done within the bounds of legality. There are three main legal issues that must be considered by reference providers. They are liabilities arising from: (1) defamation claims; (2) claims for injuries caused by employees who were hired on the basis of negligent referrals; and (3) claims that non-selection of an applicant was based on misuse of performance records. Reference providers must act appropriately to avoid charges of defaming applicants or giving "negligent referrals" to prospective employers. Federal employees also must exercise care when they consult official performance records during reference checking discussions.

**Misconceptions.** A common misconception among those asked to provide reference information is that discussing performance or job-related behavior of an employee is not legal.<sup>68</sup> This misconception has caused many reference providers to follow a minimalist policy of providing only basic facts, such as dates of employment and job titles. This practice is intuitively appealing because it seems to protect both the applicant and former employer. It is also consistent with everyday sensibilities about avoiding discussion of sensitive topics with strangers who call on the phone. Sharing only "name, rank, and serial number" information is also less expensive—it can be provided quickly by anyone with access to company records.

Contrary to popular myth, former employers can, in fact, provide detailed information about applicants without substantial risk of incurring legal liability. Federal employees who serve as reference providers, as well as those in the role of reference checkers, enjoy qualified immunity from suit as long as they are acting

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<sup>68</sup> Barada, *op. cit.*, p. 108.

within reason and not violating any clearly established rights of the applicant. A reference provider may discuss an applicant's performance and workplace behavior with prospective employers because doing so satisfies a legitimate business need and is presumably within the scope of the reference provider's official duties.

In addition, Federal reference providers and reference checkers enjoy certain protections under the Federal Tort Claims Act (FTCA). As noted earlier, the Federal Government is often protected against legal actions because it has sovereign immunity against such legal attacks. Although Congress waived some of the Government's sovereign immunity protections when it passed the FTCA, it did not waive sovereign immunity entirely. Several types of claims against the United States are exempt from the FTCA's waiver of sovereign immunity including claims "arising out of ... libel, slander, misrepresentation ...."<sup>69</sup> This provision has been expanded to include claims of defamation against the Government. This does not mean that reference providers should deliberately engage in these practices. But the FTCA does provide some legal protection for Federal agencies and their representatives when an applicant accuses a former employer of intentionally harming the applicant's employment chances by providing a prospective employer with an unfavorable description of past behavior and performance.

Some employers require departing employees to make an explicit choice about how future reference inquiries will be handled. The employee signs an agreement that states either that no reference information will be provided beyond basic facts or that the former employer is authorized to candidly discuss performance and other work-related issues. This practice gives the employee a clear choice, while protecting the reference providers and allowing them to provide appropriate information without undue constraint.

These protections do not, however, give former employers free rein to talk about former employees in any way they please. Qualified immunity can be lost if the reference provider behaves inappropriately.

**Defamation of Applicants.** Defamation is "the act of harming the reputation of another by making a false statement to a third person."<sup>70</sup> This can happen in reference checking if reference providers discuss aspects of an applicant's personal life that are not job-related, if they maliciously and knowingly provide false information, or if they share employment information with someone who does not have a legitimate business need to know. Any of these activities can lead to a defamation claim by an applicant.

The U.S. Supreme Court and several U.S. Courts of Appeals and District Courts have specifically held that the U.S. Government is immune from defamation suits.<sup>71</sup> Nevertheless, the mere fact of sovereign immunity may not deter an aggrieved

<sup>69</sup> See 28 USC 1346, 1371–80 and 28 USC 2680 (h).

<sup>70</sup> Bryan A. Garner, ed., *Black's Law Dictionary* (7th Ed.), St. Paul, MN: West Publishing Co., 1999, p. 429.

<sup>71</sup> See, e.g., *Siegert v. Gilley*, 500 U.S. 226 (1991); *Operation Rescue National v. United States*, 147 F.3d 68 (1st Cir. 1998).

employee from filing a lawsuit against a reference provider. A motivated applicant may even creatively reframe the issue as an equal employment opportunity (EEO) complaint. By exercising due care in providing a reference, a former employer will likely increase the chances of withstanding a creative legal attack brought by an angry applicant. In addition, responsible conduct in providing a reference minimizes the chances that the applicant will be provoked to bring a civil action against a former employer as a result of careless remarks made by a reference provider.

Reference providers act responsibly by ensuring that they provide accurate information. It is acceptable to give opinions about an employee's performance and competence, so long as they are honestly held opinions. It is best to keep opinions "close to the facts" by offering an example from personal experience to support evaluative statements. ("Brian had poor organizational skills. His desk was an unstructured and unsightly mound of reports, memos, borrowed reference books and miscellaneous paperwork. He often lost important documents.") All descriptions of performance and conduct should be based on work behavior.

Reference providers should never make snide observations or malicious comments, even if it seems that such description will improve a potential employer's understanding of the applicant. Specialists recommend that reference providers confine their comments very closely to the questions they are asked. Extensive volunteering of negative information can be misinterpreted as maliciousness.<sup>72</sup>

Such precautions seem to be effective. SHRM's research found that fewer than 2 percent of organizations they surveyed about reference checking practices have ever been targeted by applicant defamation claims.<sup>73</sup> Nonetheless, the threat of defamation looms large in the imaginations of reference providers. SHRM also reports that about half of reference providers have refused to provide information about an applicant because they feared legal consequences.<sup>74</sup>

**Negligent Referral.** Negligent referral, sometimes called "negligent misrepresentation" or "negligent reference," is similar to negligent hiring, but applies to reference providers. Under the theory of negligent misrepresentation, injured parties may hold a former employer liable for damages when, despite the reasonable efforts of a hiring official to investigate an applicant's prior work behavior, the "former employer [fails] to disclose information about a former employee...[and this failure] leads to the injury of an innocent third party."<sup>75</sup>

Because agency officials providing a reference enjoy enhanced legal protection over their private sector counterparts as a result of sovereign immunity, former employers should feel reasonably comfortable in providing thorough and responsive references.<sup>76</sup> As a brief note of caution, however, immunity is continually being

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<sup>72</sup> Andler, *op. cit.*, p. 66.

<sup>73</sup> SHRM 1998 reported 1 percent, with an increase to 2 percent reported by SHRM 2004.

<sup>74</sup> SHRM 1998 reported 45 percent, increasing to 53 percent in SHRM 2004.

<sup>75</sup> Barada, *op. cit.*, p. 136.

<sup>76</sup> In the public sector, the seminal case addressing negligent misrepresentation is *United States v. Neustadt*, 366 U.S. 696 (1961). In *Neustadt*, the Supreme Court held that the retention of sovereign immunity under the FTCA covers both claims of negligent misrepresentation and claims of fraudulent misrepresentation.

challenged in the courts; therefore, it should not be cavalierly presumed that immunity will be found under every conceivable fact pattern. In any event, a feeling of immunity from legal attack should not be an excuse for acting irresponsibly. Indeed, former employers need to be responsive to appropriate reference checking inquiries to protect themselves, in addition to “doing the right thing” to maintain general workplace safety and quality standards.<sup>77</sup>

**Misuse of Performance Records.** Reference checking specialists advise reference providers to check their files for past performance appraisals and other documentation associated with an applicant. A review of these records can help the reference provider offer accurate judgments and specific, documented examples of workplace behavior.

However, such records must be used with care. Supervisors in Federal agencies must ensure that any use of official work-related documents is permitted by statute. Once completed, work-related forms and other documents often become part of an agency’s formal system of records. The Privacy Act<sup>78</sup> constrains how these records may be used. As a general rule, the Privacy Act precludes the disclosure of readily identifiable information that is maintained in a system of records and is typically retrievable by the name of the individual concerned. As an exception to the Privacy Act, an agency may release such information if doing so is a “routine use” of such information by the agency. Each agency is responsible for establishing its own “routine use” policy that specifies the permissible uses of the information in the records. This “routine use” policy must be published for comment in the Federal Register.

Before using work-related documents to support the reference checking process, supervisors should research their agency’s routine use policy concerning the types of documents in question. If feasible, the reference provider should seek advice from an agency official knowledgeable in Privacy Act law. If the agency’s routine use policy does not specifically permit the release of such records as part of discussions with potential employers, supervisors are best advised to rely on their own personal records to support reference checking.<sup>79</sup>

Special attention should also be given to documents that are obtained from an employee’s Official Personnel Folder (OPF). OPFs are the property of OPM even though they are customarily maintained by, and physically located at, the agency where an employee works. Because these folders are the property of OPM, the release of information contained in an OPF is governed by OPM’s, not the agency’s, routine use policy. The current version of OPM’s routine use policy appears to permit the release of information contained in an OPF for the purpose of assisting another agency in making a hiring determination.<sup>80</sup>

<sup>77</sup> SHRM 1998 found that 88 percent of organizations surveyed had never been targeted by a negligent referral claim. This increased to 99 percent in SHRM 2004.

<sup>78</sup> Privacy Act (Title 5 U.S. Code §552(a)).

<sup>79</sup> See OMB Guidelines, 40 Fed. Reg. at 28,952, which states, “Uncirculated personal notes, papers and records which are retained or discarded at the author’s discretion and over which the agency exercises no control or dominion (e.g., personal telephone lists) are not considered to be agency records within the meaning of the Privacy Act.”

<sup>80</sup> See [www.opm.gov/feddata/Federalr.pdf](http://www.opm.gov/feddata/Federalr.pdf).



## The Role of the Reference Provider

The reference provider should cooperate with reference checking inquiries while remaining carefully inside the legal boundaries outlined in this report. There are a few additional considerations for reference providers.

**Identify the Caller.** Even with the information provided by caller ID, people often wonder if an incoming telephone call is legitimate. For reference providers, this question may be worth asking. A brief Web search using the phrase “job reference services” yields a short list of organizations that will charge nervous applicants a fee to contact their reference providers and put them through a “simulated” reference checking interview. Many of these services produce a formal report to the applicant summarizing the performance of each reference they have “checked.” This procedure is designed to discover and document anything negative reference providers say about the applicant.

Reference providers are less likely to be fooled by decoys if they follow the best practice guidelines outlined herein. If they provide only appropriate, job-related information, they are operating within the limited privilege afforded to reference providers. The most they risk in this scenario is not being reused as a reference or offending the job applicant. Such false reference checking is unlikely to occur when applicants work closely with their reference providers during a job search. When applicants follow a pattern of informing reference providers about each job for which they are finalists, there is no opportunity for a simulated reference check to intrude. Reference providers can insist that applicants follow this strategy, highlighting its benefits for the applicants as well.<sup>81</sup>

**Avoid Letters of Reference.** Reference letters are a tempting shortcut for reference providers—they seem more convenient than agreeing to a reference checking discussion. But reference providers who genuinely want to help an applicant will not take this easy way out. Hiring officials correctly regard letters of reference as much less credible than reference checking discussions.<sup>82</sup> They are often prepared by the applicant and then read and signed by the reference provider. Such letters contain only information the reference provider (or applicant) wishes to provide. They offer no exploration of any doubts the prospective employer may have about the applicant’s work history and no opportunity to probe for job-related information about specific competencies. Such letters are of little value unless the letter writer is contacted for a thorough reference checking discussion.

**Focus on the Job.** Reference checkers are encouraged to keep the reference checking discussion focused on job-relevant topics. This advice also applies to reference providers. It is important to the reference checker in order to make

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<sup>81</sup> If a reference provider is suspicious of a particular call, it is a simple matter to state that it is not a good time to talk, and obtain the checker’s name and organization as callback information. The provider should then call the main number for the organization and ask, by name, for the person who just called. This process verifies that a legitimate employer is calling for a reference.

<sup>82</sup> MSPB’s Merit Principles Survey in 2000 asked hiring managers to judge the usefulness of several types of assessments in making quality hires.

reference checking valid and defensible as an assessment process. It is also important to the reference provider to help high-quality applicants and to defend against possible claims of negligent reference. Appropriate topics include performance, achievements, general work habits, abilities, and on-the-job conduct. Avoid inappropriate topics, even—or perhaps, especially—if introduced by the reference checker.

**Support With Details.** Be specific and provide details. A good reference checker should ask open-ended questions and probe the reference provider for details. However, not all reference checkers will take this approach. It is still important for reference providers to anchor each evaluation in specifics of applicant behavior. The most important specifics are the things an applicant has done in the workplace or produced as part of his or her job responsibilities.

Reference providers need to play their role to support the accurate exchange of information in reference checking discussions. They should support hiring officials' legitimate need for information while protecting themselves from legal difficulties. They also need to be fair to well-qualified applicants, who will find it more difficult to be hired if reference providers hold back their praise and just offer “name, rank, and serial number.”



# The Other Side of the Table: Advice for Applicants

While the primary audience for this report is Federal agency personnel who will either check references or provide reference information, it is appropriate to offer some advice to applicants as well. Dishonest or unqualified applicants will feel intimidated or deterred by the process of reference checking. This is appropriate, but there is no reason for the majority of honest and well-qualified applicants to feel this way. Reference checking is one more opportunity for applicants to demonstrate their value to hiring officials. Here are some ways that applicants can make the reference checking process work well for potential employers, reference providers, and themselves.

**Choose Good Reference Providers.** The reference checking practices recommended in this report require an effective reference provider to meet several criteria. Good reference providers are:

1. Familiar with the applicant's recent job performance
2. Willing to be reference providers
3. Easy to contact
4. Experienced in describing and evaluating employee performance
5. Effective communicators
6. Careful to offer only accurate information and honestly held opinions

Reference providers who meet these criteria will represent applicants well in the reference checking process outlined here. However, deficiencies in any of these areas may reduce the potential reference provider's impact, ultimately decreasing the chance that a deserving applicant is offered a job. A "good friend" who promises to say "nice things" about an applicant may not produce the intended result when questioned about specifics of job performance by a determined reference checker.

**Treat Them Well.** Treating reference providers well goes beyond simple politeness—applicants should support them in the reference provider role. At a minimum, this includes obtaining their agreement to provide reference information and permission to share their contact information with prospective employers. It should also include providing them with copies of resumes and job announcements and informing them when specific employers are planning to call. It may include educating them about the reference checking process so they understand how to play their role effectively. Applicants should be prepared for active involvement if a prospective employer asks for help in scheduling reference checking discussions.

**Be Cooperative—and Cautious.** Applicants can demonstrate many of the qualities of a good employee by helping the reference checking process run smoothly. They should be responsive to requests to provide contact information and information about employment history. They should sign appropriate waivers authorizing reference checking, recognizing when it is in their interests to allow this modest invasion of privacy. Applicants should not sign such an agreement unless they clearly understand the terms of the waiver. Such a waiver should outline the potential employer's general procedures for reference checking, including assurances that questions will be job-related. Applicants should not sign away all rights to privacy as part of this waiver.

**Be Candid.** Nothing in this report will dissuade all dishonest applicants from attempting to deceive prospective employers. This advice is for applicants who may be tempted to exaggerate elements of their work history, or conceal an unflattering episode in their workplace behavior. Of course, a deceptive strategy might be successful despite employers' measures to expose it. On the other hand, being caught in a deception may cost the applicant a job that might otherwise be offered. Even worse, the applicant may be hired for a job where failure is likely because he or she lacks the necessary competencies for success.

Consider the alternative—applicants can be candid with potential employers about an unflattering issue. If it is a skill deficiency, then it is best to acknowledge it and outline a plan for developing it into a strength. If it is an incident of inappropriate behavior, applicants can stress steps taken to change behavior and learn new interpersonal skills. A less-than-friendly relationship with a former supervisor can also be problematic. This, too, can be acknowledged and firmly described as an issue of the past. Employers may still decide not to hire an applicant who makes this kind of disclosure. However, the applicant's chances are better than they would be if an attempt to deceive a potential employer is discovered through checking references.

And that less-than-perfect applicant may still be the best choice for the job. Even though hiring officials understand the value of *behavioral consistency* in predicting future performance from the past, they also spend much of their time developing their employees. They recognize and appreciate self-development and know that people can and do change.

# Future Developments

Changes do occur, not only in individual employees, but in the larger employment arena. The advice in this report is based on current employment practice. Although change is likely, it is not possible to predict with certainty what specific changes will occur. Reference providers, prospective employers, and job applicants are well advised to watch for such changes.

This section suggests some general trends that may influence reference checking practice and several sources of information readers can monitor for information about changes in employment practice.

## Some Possible Changes

**Changes in Business Communication.** Use of e-mail is increasingly replacing paper letters and telephone conversations, especially for communications that are considered routine. SHRM has found an increased role of fax and e-mail exchanges in reference checking.<sup>83</sup> When these approaches are relied on exclusively, they are noninteractive and have the same weaknesses as letters of recommendation. Increased reliance on noninteractive fax and e-mail will likely reduce the value of information obtained through reference checking.

There will likely be pressure from reference providers to allow the reference checking “conversation” to migrate to e-mail. (They will likely consider such discussions more routine than reference checkers will.) Reference checkers should resist this trend. They would lose the interactive benefits of probing and much of the opportunity to “read” the response of the reference provider.

Skilled questioning and probing are not as easily accomplished in interactions using fax and e-mail. Greater promise is found in the potential use of videoconferencing because reference checkers can observe nonverbal cues as they conduct reference checks. But there is no evidence that videoconferencing is playing a significant role in reference checking.

**Changes in Average Length of Employment.** If terms of employment decrease and contracting and project-by-project employment increase, it will likely become more difficult to obtain a clear picture of an applicant from a small number of reference providers. Each reference provider will have observed a smaller segment of an applicant’s work history and will be less able to provide a long-term perspective. Under such circumstances reference providers may be more mobile

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<sup>83</sup> SHRM 2004 found that reference checkers “always” use fax (53 percent) and the Internet (36 percent) as part of reference checking. It is not possible to determine the degree to which these responses represent use of these technologies as supplements to interactive discussion, or as substitutes.

as well, making it more difficult to identify and locate good reference providers. This situation may require changes in strategies for selecting and contacting reference providers.

**Changes in the Length of Probationary Periods.** Most entry-level Federal employees go through a 1-year probationary period. During this time they can be easily separated from service if they do not meet the agency's expectations. Recent personnel changes have lengthened probationary periods for some employees. This change gives agencies such as the Department of Homeland Security the opportunity to observe employee development over a longer period before finalizing their commitment to long-term employment. Such changes can reduce the consequences of making a poor hiring decision and may reduce the urgency hiring officials feel to use all available hiring tools before making a job offer. Some reference checking may be replaced by the promise of direct post-hire observation of on-the-job performance. This will only be effective, however, if employers use the probationary period as it was designed—as the last hurdle in the hiring process.<sup>84</sup>

**Changes in Assessment Practice.** It is becoming more common for employers to invite initial applicants to take unsupervised Web-based tests from their homes or offices, then confirm these preliminary results later in the hiring process with securely administered assessments given to a smaller applicant pool. Some employers are beginning to use enhanced training and experience assessments that ask applicants to describe some of their accomplishments in greater depth. These and other assessment innovations require different kinds of verification from applicants and from reference providers. Changes in the assessment strategies used by employers are likely to create changes in the information expected from reference providers and in the techniques that reference checkers should use to obtain it.

**Changes in Information Access.** There is an increased availability of employment history information in online databases that can be quickly accessed by reference checkers. Some trend-watchers believe this is a positive trend that will increase the frequency of reference checks and the reliability of information obtained.<sup>85</sup> MSPB is more cautious. It is true that availability of online databases will make fact checking more efficient. This is no guarantee, however, of the accuracy or quality of the information that such databases contain. There is no reason to assume that information supplied via technology is somehow automatically of higher quality. Nor is the ease of fact checking a replacement for more disciplined, interactive reference checking that, although it takes longer, can yield more complex and valuable information. Reference checks should not be allowed to become mere records checks just because this is the easier path.

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<sup>84</sup> See 5 C.F.R. Part 315 for regulations governing Federal probationary periods. For an extended treatment of the role of the probationary period in Federal hiring, see *The Probationary Period*, op. cit.

<sup>85</sup> Jennifer Schramm, "A Look Ahead: A Future View of Reference and Background Checking," Alexandria, VA: Society for Human Resource Management, 2004. This article is included as an appendix in SHRM 2004, op. cit.

## Sources of Information

OPM is the primary source of information about changes in Federal employment practices. Not only does OPM disseminate information about changes, it initiates and guides implementation of many changes in hiring procedures. OPM may issue further guidance about reference checking as a component of the OPM 45-Day Hiring Model in the future.

Professional associations are a second source of valuable information. They frequently issue bulletins and offer training to help their membership understand the implications of changes in employment regulations, technology, and practice. Four organizations are particularly important sources of information:

1. The International Public Management Association for Human Resources (*IPMA-HR*, [www.ipma-hr.org](http://www.ipma-hr.org)) plays a key role for Federal employers. Two of its component organizations, the IPMA Assessment Council (IPMAAC) and the IPMA Federal section, focus on personnel selection and Federal HR.
2. The Society for Industrial and Organizational Psychology (SIOP, [www.siop.org](http://www.siop.org)) is the primary membership organization for psychologists who specialize in personnel selection. SIOP is a good source of information about the most recent research on the validity of measurement techniques.
3. The Society for Human Resource Management (SHRM, [www.shrm.org](http://www.shrm.org)) is the membership organization for private sector human resources specialists. SHRM is a key source of information about trends in hiring practices outside the public sector.
4. The National Association of Professional Background Screeners (NAPBS, [www.napbs.org](http://www.napbs.org)) is a membership organization for companies offering reference checking and related services. It is a source of information about standards, training, and best practices related to reference checking.

Change comes from many directions. Local professional groups and commercial vendors of human resources services can also provide useful information that is adapted to the needs of the current employment arena.

Reference checkers and reference providers should periodically observe general trends in hiring practices by employers and job searching by applicants and consider how reference checking may need to change as a result. Doing so will allow them to use a continually updated version of the reference checking best practices outlined in this report to improve the Federal hiring process.





# Recommendations

Below are important legal issues and best practices that should be followed by both reference checkers and reference providers. The discussion closes with specific recommendations for several key stakeholders in Federal hiring.

1. *Hiring officials should conduct reference checks for each hiring decision.*

This recommendation echoes OPM's recommendation in the 45-Day Hiring Model. Research has shown that reference checking can be done appropriately, effectively, and with protection for all parties. It remains for agencies to implement and strengthen this practice in their hiring processes. While resource constraints, number of applicants, or other factors may make reference checking impractical for some hiring decisions, any decisions not to check references should be made carefully and infrequently.

2. *Hiring officials should develop and follow a thoughtful reference checking strategy that is an integral part of the hiring process.*

There is no one template for checking references. The reference checking process in each hiring decision should be guided by the information needed. This begins with an understanding of which competencies are needed for the job, and how information about the applicant's abilities will be gathered using different assessments. Reference checking can play a role in verifying information from other assessments and gathering information about competencies not otherwise assessed, or some combination of the two. The questions asked of reference providers will differ depending on the role reference checking plays in the overall hiring process.

3. *Hiring officials should use a consistent reference checking process that treats all applicants fairly, obtains valid and useful information, and follows legal guidelines.*

Agency practice in the use of reference checking varies considerably. Agencies should ensure that there is standardization within each hiring decision. Standardization across hiring actions and across occupations is less important. This report identifies recommended practices to help agencies check references legally and productively.

- 4. Agencies should require applicants to provide appropriate professional references and make applicants responsible for ensuring that they can be contacted.***

There are a number of benefits when job applicants participate actively in facilitating discussions between reference checkers and reference providers. These benefits include discouraging misrepresentation of experience by applicants, reducing legal challenges, and reducing the time and resources required for reference checking. Agencies should improve the hiring process by requiring applicants to take an active role in reference checking.

Agencies should state in their job announcements and other communications with applicants that references will be checked as part of the assessment process. Agencies should clearly communicate their expectations about “minimum qualifications” of acceptable reference providers—they should have experience observing the applicant’s performance on the job. Applicants should provide current contact information that allows reference checking to proceed efficiently without introducing delays into an already time-challenged Federal hiring process.

- 5. Agencies should review and possibly revise their formal systems of records so that supervisors may review past performance information when providing references.***

Performance appraisals are valuable products of the expertise and experience that supervisors bring to bear in the evaluation of employee performance. The quality of information supplied in the reference checking process can be enhanced when supervisors review their records to help them accurately remember the performance of former employees. Each agency’s policy for routine use of performance evaluation information should permit this.

- 6. Agency human resources personnel should require job applicants to complete the Declaration for Federal Employment (OF-306) form early in the application process.***

When applicants sign this form, they provide the public sector equivalent of a waiver that confirms the right of hiring officials to contact references and discuss prior work behavior. This encourages hiring officials, reference providers, and job applicants to take reference checking and the entire hiring process more seriously. This single change that uses existing procedures has perhaps the greatest potential to increase the use of reference checking in Federal hiring.

- 7. Agencies should increase standardization of and training in effective reference checking techniques.***

This report has reviewed evidence of a shortfall in standardization and training in effective reference checking that exists in both private and public sectors. This shortfall is partially responsible for variation in reference checking practice and for variation in employer satisfaction with the information obtained from reference checking. Standardization and training in the public sector will have two important effects. First, the overall quality

of information obtained from reference checking will increase. Second, hiring professionals will become more attuned to the distinction between well-designed reference checks and casual, informally conducted reference checks. This will foster more useful discussion of the strengths and limitations of reference checking as an assessment. Weaknesses due to poorly conducted reference checks will be less often assumed to be inherent limitations of reference checking in general.

**8. *OPM should develop guidelines to help agency personnel follow appropriate procedures for checking and providing references.***

OPM has made a good beginning by emphasizing reference checking in the 45-Day Hiring Model. OPM should provide agencies with more detailed guidance through the Delegated Examining Operations Manual and in other communications with agencies. By doing so, OPM can assist agencies in increasing standardization and training in reference checking.

**9. *Supervisors and other employees should provide candid and appropriate reference information.***

Best practices for reference checkers and reference providers have been outlined in an attempt to increase the effectiveness of Federal hiring. These recommendations to OPM and agencies are an attempt to bring about some of these improvements through formal policy and guidance. There is no comparable action to improve practice among reference providers. Instead, it is hoped that this report has convinced reference providers that it is their responsibility to provide accurate reference information, and that they can do so legally, appropriately, and in good conscience.

Reference checking has an important role to play in the Federal hiring process. It can be more than a formality conducted by administrative staff. It can be more than a casual, unstructured phone conversation between supervisors. It should certainly not be an illegal and inappropriate exchange of gossip about unsuspecting applicants. Reference checking can improve the quality of the Federal workforce by reducing the number of unqualified, unscrupulous, and otherwise unsuitable applicants whose liabilities escaped detection during the earlier phases of the hiring process. If reference checking is to reach this potential, it will require cooperation among Federal hiring officials, applicants for Federal employment, and reference providers. The MSPB recommends that agency policy makers, human resources professionals, hiring officials, job applicants, and former supervisors of these applicants all play their roles to make reference checking work.

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Reference Checking *in* Federal Hiring:  
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