



*The Taxpayer Advocate Service Should
Reevaluate the Roles of Its Staff
and Improve the Administration of the
Taxpayer Advocacy Panel*

September 29, 2009

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TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20220

September 29, 2009

MEMORANDUM FOR NATIONAL TAXPAYER ADVOCATE

Michael R. Phillips

FROM:

Michael R. Phillips
Deputy Inspector General for Audit

SUBJECT:

Final Audit Report – The Taxpayer Advocate Service Should
Reevaluate the Roles of Its Staff and Improve the Administration of the
Taxpayer Advocacy Panel (Audit # 200910001)

This report presents our review of the Taxpayer Advocate Service's (TAS) administration of the Taxpayer Advocacy Panel (hereafter referred to as the Panel). The overall objective of this review was to determine whether the Panel is operating in accordance with its charter and whether the Panel and the TAS are utilizing resources efficiently to promote improvements in Internal Revenue Service (IRS) customer service. This audit is part of our Fiscal Year 2009 Annual Audit Plan under the major management challenge of Providing Quality Taxpayer Service Operations.

Impact on the Taxpayer

The Panel was established in Calendar Year 2002 to listen to taxpayers, identify "grass roots" issues, and make recommendations for improving the customer service provided by the IRS.¹ The Panel provides a valuable service to the IRS and to taxpayers in this role. However, the TAS needs to ensure a better use of its resources by providing a better balance between the costs of administration and staff (\$2.7 million and 25 TAS employees) used to support the Panel, the large size of the Panel, and the Panel's ability to help improve service to taxpayers. In this current economic environment where there is greater emphasis on accountability for Federal programs, it is important for the National Taxpayer Advocate (NTA) to ensure that TAS resources are being effectively and efficiently spent and that the Panel is at an optimal size.

¹ TAS management advised us the Panel structural alignment was the result of a cross-functional team that included representatives from various IRS operating divisions.



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Synopsis

Advisory committees play an important role in shaping the programs and policies of the Federal Government by providing input and advice to key decision makers. However, the costs associated with supporting and maintaining these committees should be balanced with the benefits received to ensure the best use of Government resources.

The number of members serving on the Panel (approximately 100)² could be significantly reduced, thereby requiring fewer TAS resources for oversight. In addition, recruiting for Panel members is an extensive process and involves a high cost. Panel members serve staggered 3-year terms, which means approximately one-third are completing their terms each year. Consequently, the TAS can spend up to 7 months each year recruiting and selecting new Panel members to replace those whose terms have expired.

The TAS also needs to clarify its role in assisting the Panel to ensure its independence. While some of the duties performed by TAS staff are vital for the Panel to operate effectively (e.g., arranging meetings, scheduling travel), many appear to go beyond administrative-type activities and could unintentionally influence the work that the Panel performs or give the impression that the Panel did not develop the issues and recommendations independently.

Further, the Panel's charter does not account for a significant amount of the work completed by its membership. A large portion of the recommendations, 245 (58 percent) of 426,³ made by the Panel since its inception are IRS-driven issues (e.g., the IRS requesting the Panel to provide the taxpayer's perspective on issues the IRS is working on). However, the charter, which is a public document, contains language that mainly focuses on "grass roots"⁴ issues and does not include this important, additional role that Panel members perform.

In addition, a significant number of inaccurate entries in the Panel database led to overstatements in the performance measures reported to the General Services Administration by the TAS. For example, 46 recommendations were incorrectly identified as agreed to by the IRS when, in fact, the IRS disagreed with all or a part of the Panel's recommendations. Since Congress and the General Services Administration rely on this information to evaluate the performance and the need for the continued existence of advisory committees, it is important that the information reported to them is accurate. The TAS can also strengthen its processes for performing tax compliance checks on Panel members to ensure that noncompliance is addressed timely.

² There are also 100 alternates; however, the alternates do not serve on the Panel or participate in meetings.

³ Subsequent to our review, TAS management informed us that the correct number of recommendations was 429 and that 264 (62 percent) were IRS-driven issues.

⁴ Grass roots issues are identified by the general public or Panel committee members, not the IRS.



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Recommendations

The NTA should take the following actions: 1) revise its time tracking system and require TAS staff to track hours by activity to assist in determining if TAS resources are being used efficiently; 2) reevaluate the Panel's structure and size to ensure an appropriate balance between TAS staff and budgetary resources used to support the Panel; 3) reevaluate the roles of the staff assigned to assist the Panel and establish guidance to ensure that the Panel functions independently; 4) revise the charter to accurately reflect the liaison role that TAS employees provide Panel members and accurately reflect the dual roles of Panel members; 5) establish and implement a process to validate data in the Panel database and correct the 46 erroneous database entries we identified during our review; 6) establish a process to follow up with the IRS on the recommendations under consideration for future implementation and request that the IRS provide the anticipated date of implementation; 7) establish formal guidance for conducting tax compliance checks of Panel members; and 8) develop procedures to verify that licensed tax practitioners serving on the Panel are in good standing with the IRS.

Response

The NTA agreed with seven recommendations and partially agreed with one recommendation. Management agreed to revise its time tracking system to require TAS staff to track hours by activity. The TAS also agreed to study whether centralization of support services will provide improved service to the Panel, as well as review the recruitment and selection process of Panel members for potential costs savings. In addition, the TAS agreed to provide further guidance on the liaison role of the TAS staff assigned to the Panel. The TAS also agreed to revise the Panel's charter to more accurately reflect the roles of the TAS staff and Panel members. Further, the TAS agreed to implement procedures to ensure the validity of the Panel database, review the 46 potentially invalid entries we identified, and correct any erroneous entries in the Panel database. TAS management also agreed to establish a process to follow up on and track the implementation of recommendations accepted by the IRS. Also, the TAS agreed to establish formal guidance for conducting tax compliance checks and agreed to conduct limited annual compliance checks on continuing members. Finally, the TAS agreed to establish procedures to verify the good standing of the licensed practitioners serving on the Panel.

The NTA did not fully agree with the recommendation to reevaluate the Panel's size to determine the optimal structure of the Panel's membership, indicating there was no compelling data that the current structure is flawed, and that it would not be cost effective to make such changes. In addition, the NTA noted that any changes to the Panel require approval by the Secretary of the Treasury and the IRS Commissioner. Management's complete response to the draft report is included as Appendix VIII.

Office of Audit Comment



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We acknowledge the Panel can provide a fresh perspective on grass roots issues based on the input of the volunteer members serving on the Panel. However, since the Panel was established in 2002 and no studies have been performed of it, we believe that our recommendation to reevaluate the structure and size of the Panel and the TAS staff supporting the Panel is valid. This type of evaluation will determine whether the level of resources for both the Panel and TAS support is still appropriate in the current environment or whether the level could be reduced while still meeting the intended goals of the Panel. In the current environment of increased accountability in Government, we believe this evaluation is important to identify any potential changes that could reduce costs and improve efficiency. We also believe the NTA can initiate any recommended improvements to the Panel, if warranted, for approval by the Secretary of the Treasury and the IRS Commissioner.

Copies of this report are also being sent to the IRS managers affected by the report recommendations. Please contact me at (202) 622-6510 if you have questions or Nancy A. Nakamura, Assistant Inspector General for Audit (Management Services and Exempt Organizations), at (202) 622-8500.



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Abbreviations

FACA	Federal Advisory Committee Act
GSA	General Services Administration
IRS	Internal Revenue Service
NTA	National Taxpayer Advocate
OPR	Office of Professional Responsibility
TAS	Taxpayer Advocate Service
TIGTA	Treasury Inspector General for Tax Administration



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Background

The Taxpayer Advocacy Panel (hereafter referred to as the Panel) was established in Calendar Year 2002 to listen to taxpayers, identify “grass roots” issues,¹ and make recommendations for improving the customer service provided by the Internal Revenue Service (IRS).² The Taxpayer Advocate Service (TAS) oversees the Panel by providing technical, administrative, and clerical support. The TAS also assists the Panel by tracking the Panel’s recommendations and recording the IRS’ responses to the recommendations in a database.

The Panel consists of volunteer members from around the Country who are appointed by the Secretary of the Treasury to represent each State, the District of Columbia, and Puerto Rico. There are approximately 100 Panel members and 100 alternate members. Members are expected to volunteer at least 300 to 500 hours each year (about 6 to 10 hours per week), and each member is expected to serve on two committees – an Area Committee and an Issue Committee.

Area Committees are geographically based and members solicit grass roots issues from taxpayers in their communities. The Panel identifies issues through member outreach events and public meetings, develops some of these issues into recommendations, and submits them to the IRS for consideration. In addition, the Panel has a toll-free telephone line and a web site where taxpayers can communicate concerns about the IRS.

The TAS established eight Issue Committees³ that work closely with the IRS to provide “pre-decisional” feedback⁴ to IRS management representatives (called program owners) on specific issues and initiatives affecting taxpayers. The IRS program owners have responsibility for various functions within the Small Business/Self-Employed and the Wage and Investment Divisions. The IRS utilizes the Panel Issue Committees to obtain public input on a variety of issues impacting tax administration.

The Panel is one of more than 900 Federal advisory committees currently in existence throughout the Federal Government that fall under the purview of the Federal Advisory Committee Act (FACA) of 1972.⁵ The FACA was enacted to control the growth and operation of advisory committees and to ensure accountability to the public. In doing so, the FACA

¹ Grass roots issues are identified by the general public or Panel committee members, not the Internal Revenue Service.

² Taxpayer Advocate Service management advised us the Panel structural alignment was the result of a cross-functional team that included representatives from various IRS operating divisions.

³ See Appendix V for a description of the Issue Committees.

⁴ This includes survey results, focus group input, or other advice that IRS management may seek as part of a decision-making process.

⁵ Public Law 92-463.



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ensures that the advice rendered by advisory committees is both objective and accessible to the public. In addition, the General Services Administration (GSA) monitors and reports on each advisory committee's compliance with the FACA. In this role, the GSA collects and compiles data from the individual committees and conducts an annual comprehensive review of the activities and responsibilities of each advisory committee.

The Panel's charter requires the yearly submission of a report to the Secretary of the Treasury, the IRS Commissioner, and the National Taxpayer Advocate (NTA). This annual report provides a self-assessment of the work completed by the Panel, including outreach activities and recommendations made to improve service to taxpayers. Since its inception in Calendar Year 2002 through December 31, 2008, the Panel has issued 5 annual reports and has made 426⁶ recommendations to improve the IRS' service to taxpayers.

This review was performed at the IRS National Headquarters in Washington, D.C., and the TAS offices in Plantation, Florida; Brooklyn, New York; and Milwaukee, Wisconsin, during the period September 2008 through June 2009. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. Detailed information on our audit objective, scope, and methodology is presented in Appendix I. Major contributors to the report are listed in Appendix II.

⁶ Subsequent to our review, TAS management informed us that the correct number of recommendations was 429.



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Results of Review

The Panel provides a valuable service to the IRS and taxpayers by recommending ways to improve customer service and overall tax administration. Some of the Panel's recommendations which have benefitted taxpayers include:

- The IRS now provides paper copies of any current year IRS forms (other than scannable forms) and instructions at all walk-in Taxpayer Assistance Centers⁷ to help taxpayers prepare their tax returns.
- Taxpayers living in Federal disaster areas may now receive a free copy of their most recent tax return, regardless of the underlying reason. The IRS normally charges taxpayers a fee of \$57 for a copy of a filed tax return.
- The IRS eliminated the requirement to file a second extension form to receive an additional 2 months to file individual income tax returns. Now, taxpayers only have to file one extension form to receive an automatic 6-month extension.

While the Panel can provide a fresh perspective on grass roots issues, we identified several ways the TAS can improve its oversight and administration of the Panel to ensure a better use of resources.

The TAS should reevaluate the size of the Panel. The number of members serving on the Panel (approximately 100)⁸ could be significantly reduced, thereby requiring fewer TAS resources for oversight. In addition, recruiting for Panel members is an extensive process and involves a high cost. Panel members serve staggered 3-year terms, which means that approximately one-third are completing their terms each year. Consequently, the TAS can spend up to 7 months each year recruiting and selecting⁹ new Panel members to replace those whose terms have expired. If the size of the Panel were reduced, the TAS' recruiting efforts could be significantly lessened.

The TAS also needs to clarify its role in assisting the Panel to ensure the Panel's independence. While some of the duties performed by the TAS staff are vital for the Panel to operate effectively (e.g., arranging meetings, scheduling travel), many appear to go beyond administrative-type activities and could unintentionally influence the work that the Panel performs or give the impression that the Panel did not develop the issues and recommendations independently. In

⁷ An IRS organization with employees who answer questions, provide assistance, and resolve account-related issues for taxpayers face to face.

⁸ There are also 100 alternates; however, the alternates do not actively serve on the Panel.

⁹ The recruitment process generally begins in March. Candidates are ranked and interviewed and after tentative selections are made, Federal Bureau of Investigation background and tax compliance checks are generally completed by September. Final confirmation is generally made by October or November.



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contrast to the other IRS advisory committees we contacted, the TAS staff was much more involved in the Panel's daily operations and took on more technical roles such as identifying issues to work, educating the Panel on tax law and procedural issues, and interacting with the IRS operating divisions on behalf of the Panel. The NTA advised us that one reason for the increased involvement by the TAS staff is the nature of the Panel members, many of whom are not tax experts and do not understand how the IRS operates.

Further, the Panel's charter does not account for a significant amount of work completed by the Panel membership. A large portion of the recommendations, 245 (58 percent) of 426,¹⁰ made since the Panel's inception pertain to IRS-driven issues (e.g., the IRS requesting the Panel to provide the taxpayer's perspective on issues the IRS is working on). However, the charter, which is a public document, contains language that mainly focuses on "grass roots" issues and does not include this important, additional role that Panel members perform. It is important for the NTA to revise the language in the charter to provide transparency to the public by clearly defining the roles and responsibilities of the Panel.

The TAS also needs to ensure a better balance between the costs of administration and staff (\$2.7 million and 25 TAS employees) used to support the Panel, the size of the Panel, and the Panel's ability to help improve service to taxpayers. The TAS established a separate function within its organization to support the Panel with field offices in the following locations: Plantation, Florida; Brooklyn, New York; Seattle, Washington; and Milwaukee, Wisconsin. However, because of the Panel's large membership and the TAS' decentralized structure, the TAS devotes a significant amount of resources to support the Panel. In this current economic environment where there is greater emphasis on accountability for Federal programs, it is important for the NTA to reevaluate the TAS' structure and role regarding the Panel as well as the size of the Panel and determine the optimal staffing.

In addition, we identified a significant number of inaccurate entries in the Panel database that led to overstatements in the performance measures reported to the GSA by the TAS. For example, 46 recommendations were incorrectly identified as agreed to by the IRS when, in fact, the IRS disagreed with all or a part of the Panel's recommendations. Since Congress and the GSA rely on this information to evaluate the performance and the need for the continued existence of advisory committees, it is important that the information reported to them is accurate. The TAS can also strengthen its processes for performing tax compliance checks on Panel members to ensure that noncompliance is addressed timely.

¹⁰ Subsequent to our review, TAS management informed us that the correct number of recommendations was 429 and that 264 (62 percent) were IRS-driven issues.

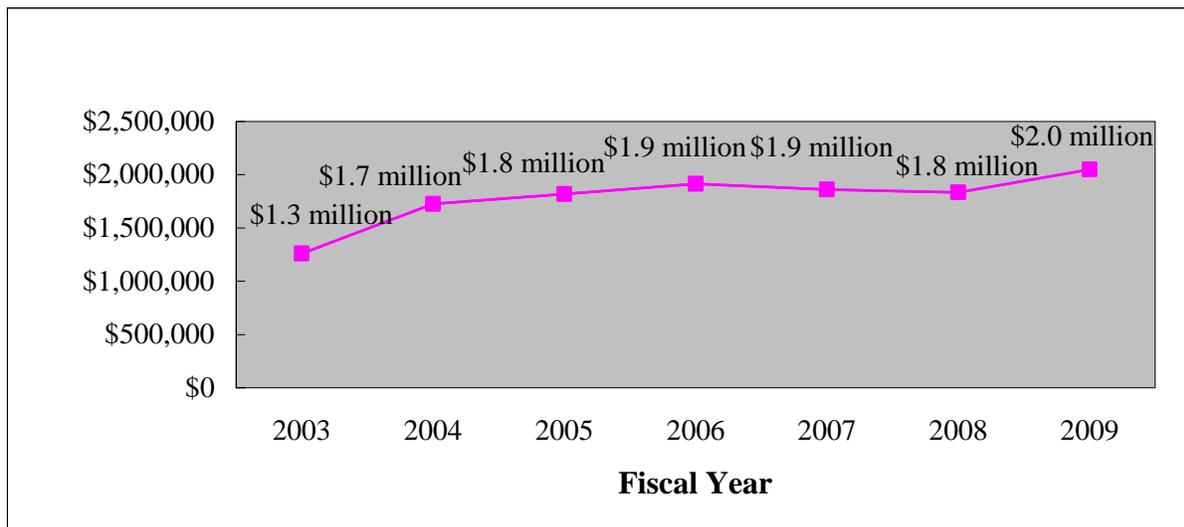


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**The Taxpayer Advocate Service Staffing and Size of the Panel May
Not Be Optimal or an Efficient Use of Resources**

The TAS provides a significant amount of support to the Panel in terms of Full-Time Equivalent¹¹ staffing and both technical and administrative assistance. As of June 2009, the TAS employed 25 Full-Time Equivalents with an anticipated annual expense of approximately \$3 million to oversee Panel members' activities. Notably, the labor expense for Fiscal Year 2008 was approximately \$1.8 million and is expected to increase to more than \$2 million in Fiscal Year 2009. See Figure 1 for the TAS labor costs for overseeing the Panel since Fiscal Year 2003.¹²

Figure 1: TAS Labor Costs



Source: Expense report of straight labor costs as provided by TAS management. The costs have been rounded up for presentation. The labor costs for Fiscal Year 2009 are estimated.¹³

The size of the Panel, with approximately 100 primary members, directly affects the TAS' expenses and staffing requirements. Because of the large size of the Panel membership, the TAS devotes up to 7 months each year for recruiting and selecting new members. During the 2008 open recruitment period, the TAS processed 620 applications and selected 43 new members to serve on the Panel.

¹¹ A measure of labor hours in which 1 Full-Time Equivalent is equal to 8 hours multiplied by the number of compensable days in a particular fiscal year. For Fiscal Year 2009, 1 Full-Time Equivalent is equal to 2,088 staff hours.

¹² See Appendix VI for more information on TAS staffing.

¹³ The TAS reported higher labor costs to the GSA by approximately 3 percent for FYs 2005 through 2008 since additional TAS personnel provide support to the Panel on an as needed basis.



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We also attribute the overall increase in labor costs to the TAS' decentralized structure. The TAS staff is located in six IRS offices¹⁴ throughout the country, with managers and support staff in each office. This structure results in a higher ratio of managers to employees than other program areas under the NTA. For example, the span of control¹⁵ for the Panel is 4:1, whereas, the authorized span of control for the TAS business unit as a whole is 10:1. This means that the TAS dedicates more management staff (on a percentage basis) to the Panel than to other mission critical areas within the TAS.

In recent years, various IRS programs have consolidated operations and centralized functions to reduce costs and improve efficiency. Since the TAS' decentralized structure affects staff and budget resources, consideration should be given to whether this is the most effective structure for supporting the Panel. In our opinion, the size of the Panel should be structured to allow for diverse viewpoints in terms of members' backgrounds and yet manageable in terms of the budget and TAS staffing resources.

Another significant factor in the size of the TAS staff is the role the TAS performs in supporting the Panel. We analyzed the roles of the TAS and found that not only does the TAS provide administrative support (e.g., scheduling meetings and making travel arrangements), but the TAS staff also performs technical-related duties (e.g., gathering data, preparing documents to outline issues). To help guide TAS employees regarding the administration of the Panel, the TAS drafted a separate Internal Revenue Manual section.¹⁶ The TAS also established a support function within its organization for the sole purpose of supporting the Panel. These actions illustrate the TAS' level of involvement with and resource commitment to the Panel.

However, the TAS is not able to determine how its resources are specifically being used to support the Panel. Although the TAS staff does not have other collateral duties and charges all its time to Panel activities, there is no other method for tracking time spent on the various duties undertaken by the TAS to support the Panel. Therefore, neither the TAS nor the NTA can quantify how many hours TAS employees spend on recruiting activities versus hours spent conducting research for an Area or Issue Committee. We believe having this kind of detailed information would be helpful in identifying if TAS resources are being used effectively and efficiently. In addition, if the TAS tracked its time by activity, it could better assess the resources needed to support the Panel.

When the Panel was first assigned to the TAS, the IRS hired an independent consulting agency to establish a baseline staffing model for supporting the Panel. The study was completed in

¹⁴ The six IRS offices are located in Washington, D.C.; Fort Lauderdale, Florida; Atlanta, Georgia; Brooklyn, New York; Seattle, Washington; and Milwaukee, Wisconsin.

¹⁵ Span of control is defined as the number of employees supervised by one manager.

¹⁶ Draft Internal Revenue Manual Section 13.7.1, dated January 2009. In general, the Internal Revenue Manual provides an organization with specific policies and procedures and provides transparency to the public about how the IRS carries out its tax administration duties.



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Calendar Year 2002 and, at that time, the TAS had 18 Full-Time Equivalents dedicated to the Panel. The firm presented the IRS with three staffing models to consider; however, the current staffing configuration does not fit any of these models. Further, the TAS has not reevaluated its staffing model in the 6 years since the Panel's inception. In this current environment of increased accountability and transparency in Government, it is important that the TAS staff track its time and the activities performed to support the Panel, and TAS management reevaluate the structure and size of the program to ensure that TAS and Panel resources are used efficiently.

Recommendations

The NTA should:

Recommendation 1: Revise its time tracking system and require the TAS staff to track hours by activity (e.g., recruiting, researching, handling administrative matters). Doing so will provide the NTA with information to help in completing Recommendation 2.

Management's Response: Management agreed with the recommendation and will begin to track hours by activity.

Recommendation 2: Reevaluate the Panel's structure and size to ensure an appropriate balance between TAS staff and budgetary resources used to support the Panel. This would include:

- Identifying ways to reduce costs by centralizing operations.
- Reducing the costs of the applicant recruitment and selection process.
- Reducing the Panel membership.

Management's Response: Management agreed in part with our recommendation. Management indicated they plan to: 1) review and rewrite the position descriptions for the TAS staff; 2) establish a task group to review whether centralization would provide improved service to the Panel; and 3) establish a task group to review whether staggered 3-year terms are appropriate for Panel membership. Management did not fully agree to reevaluate the Panel's size to determine the optimal structure of the Panel's membership, indicating there was no compelling data that the current structure is flawed and that it would not be cost effective to make such changes. In addition, the NTA noted that any changes to the Panel require approval by the Secretary of the Treasury and the IRS Commissioner.

Office of Audit Comment: We acknowledge the Panel can provide a fresh perspective on grass roots issues based on the input of the volunteer members serving on the Panel. However, because the Panel was established in 2002 and no studies have been performed of it, we believe that our recommendation to reevaluate the structure and size of the Panel and the TAS staff supporting the Panel is valid. This type of evaluation will



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determine whether the level of resources for both the Panel and TAS support is still appropriate in the current environment or whether the level could be reduced while still meeting the intended goals of the Panel. In the current environment of increased accountability in Government, we believe this evaluation is important to identify any potential changes that could reduce costs and improve efficiency. We also believe the NTA can initiate any recommended improvements to the Panel, if warranted, for approval by the Secretary of the Treasury and the IRS Commissioner.

Panel Activities May Be Unintentionally Influenced by Taxpayer Advocate Service Management and Are Not Adequately Identified in the Charter

The TAS' extensive level of involvement with the Panel also raises concerns about the ability of the Panel to provide independent advice to the IRS. According to its annual report, the Panel stated that, "to maintain independence and credibility, the work of the Panel must be directed and largely accomplished by its citizen volunteer members."

We analyzed the roles actually performed by the TAS and compared that to the roles outlined in the Panel's charter, the guiding document for an advisory committee. According to the charter, the TAS provides support services to the Panel. However, the charter does not define the nature and extent of the services the TAS will perform. In general, support includes providing office space, supplies and equipment, administrative staff assistance, and access to key decision makers.¹⁷

As stated earlier, the TAS provides administrative and technical support to the Panel and collaborates with Panel members in developing issues and making recommendations. Since the TAS staff is responsible for obtaining taxpayer input from the Panel's toll-free telephone number and web site, the TAS will generally conduct research on an issue before it is presented to the Panel for consideration. The TAS advised us that this research assists the Panel members in better understanding the issue. In addition, the TAS staff helps Panel members identify issues of current concern by performing outreach events. Many of the Panel members do not have a background in tax administration, so the TAS staff educates them on the applicable tax law and the various processes pertaining to IRS programs. Once the Panel chooses to work on a given issue, the TAS staff continues to be involved in the process. This includes:

- Drafting a plan of action to serve as a guide through the various actions needed and items to be considered.
- Preparing an issue statement which identifies the extent of the problem and the potential impact on various stakeholders.

¹⁷ "Support" is described in 41 CFR Section 102-3.95, Federal Advisory Committee Management; Final Rule, July 1, 2008.



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- Working with Panel members to develop a research plan in order to help identify the best solutions.

Further, the TAS staff may assist the Panel in drafting recommendations, preparing written responses to the IRS, and acting as an intermediary between the IRS and the Panel members. Sometimes this latter role involves the TAS contacting the business units requesting more work for Panel members.

The degree of collaboration between the Panel and the TAS staff is unique in comparison to the other IRS advisory committee staff we interviewed. Typically, the IRS support staff for these committees performed administrative-type duties and were called upon on an as-needed basis. For example, the support staff for all committees makes travel arrangements, processes travel vouchers, and arranges committee meetings. However, the other IRS committee staffs were not typically as involved in the daily workings of their respective committees as the TAS. This is partly because the other IRS committee members were much more likely to be tax professionals or have management or administrative expertise. As such, they likely required much less technical advice from their support staff. We believe this contributes to their ability to act autonomously.

While some of the technical-related duties performed by the TAS may be considered “support” or liaison work, some of it may be seen as unintentionally influencing the Panel to select issues to work and/or determine potential recommendations. The FACA stipulates that advisory committees must be free from inappropriate influence by the appointing authority or special interests. However, the FACA does not outline specific steps that must be taken to ensure that this occurs. Consequently, each agency is responsible for developing specific operating procedures to ensure that its advisory committees can operate independently from the agencies they serve. Therefore, the NTA should revise the charter to clarify the TAS’ support role and establish additional guidance to ensure that the integrity of the Panel’s independence is maintained.

Finally, the Panel’s charter does not account for a significant amount of work completed by the Panel membership. The Panel serves a dual role, providing a venue for raising citizen concerns to the IRS and serving as a focus group that provides input to IRS management on IRS strategic initiatives. A large portion of the recommendations, 245 (58 percent) of 426,¹⁸ made by the Panel since its inception pertain to IRS-driven issues (e.g., the IRS requesting that the Panel provide the taxpayer’s perspective on issues the IRS is working on). However, the charter, which is a public document, contains language that mainly focuses on “grass roots” issues and does not include this important, additional role that Panel members perform. According to FACA guidance, a committee’s charter should include the committee’s specific duties. This includes the committee’s objectives and the scope of its activities. In addition, the GSA

¹⁸ Subsequent to our review, TAS management informed us that the correct number of recommendations was 429 and that 264 (62 percent) were IRS-driven issues.



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Committee Management Secretariat advised us that the charter should specifically reflect the scope of committee activities. Therefore, it is important for the NTA to revise the language in the charter to provide transparency to the public by clearly defining the roles and responsibilities of the Panel and TAS staff assigned to support the Panel.

Recommendations

The NTA should:

Recommendation 3: Reevaluate the roles of the staff assigned to assist the Panel and establish guidance to ensure that the Panel functions independently.

Management's Response: Management agreed with our recommendation. Management indicated they would establish by-laws and include guidance on the liaison role of the TAS staff in the Internal Revenue Manual.

Recommendation 4: Revise the charter to clarify the liaison role that TAS employees provide Panel members and accurately reflect the dual roles of members. Specifically, the charter should be updated in Section B, Objectives and Scope, as well as Section F, Duties and Responsibilities. These changes can be made when the current charter expires in March 2010.

Management's Response: Management agreed with this recommendation and will revise the charter when it expires in March 2010.

Misclassified and Unverified Recommendations Led to an Overstatement of Accomplishments

After the Panel works on an issue, it may make a recommendation to the IRS to improve its service to taxpayers. The TAS records the IRS' responses to the recommendations in the Panel's database for tracking purposes. However, we identified inaccuracies with the way the TAS records the IRS' responses to the Panel's recommendations and, consequently, the performance measures reported to the GSA may be overstated.

According to data maintained in the Panel's database, the Panel made 426 recommendations since its inception in Calendar Year 2002.¹⁹ Of these recommendations, 181 reflected grass roots as their source, and 161 of the 181 were categorized as closed.²⁰ According to the database, almost one-half of the closed recommendations showed a favorable result (e.g., closed as accepted, implemented, or partially accepted). Figure 2 shows the status of the closed recommendations.

¹⁹ The term "recommendation" is broadly defined since it includes pre-decisional feedback and other tasks assigned by IRS program managers during Calendar Years 2003 through 2008.

²⁰ Subsequent to our review, TAS management informed us that the correct number of recommendations was 429 and that 165 (38 percent) were grass-roots issues.



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Figure 2: Status of Closed Recommendations on the Panel's Database

IRS Responses to Panel Recommendations	Number	Percentage
Recommendation Accepted	37	23%
Recommendation Partially Accepted	37	23%
Recommendation Implemented	8	5%
Subtotal	82	51%
Recommendation Rejected	40	25%
All Other Categories ²¹	39	24%
Total	161²²	100%

Source: Treasury Inspector General for Tax Administration (TIGTA) analysis of the Panel database – February 2009.

However, when we analyzed the IRS' responses to the 82 favorably closed recommendations, we determined that the IRS did not always agree with these recommendations as the TAS records indicated. For example, we identified 46 instances (of the 82) in which the TAS entered an incorrect or unsupported closing designation. In many of the responses, the IRS declined the Panel's recommendations, yet the TAS recorded these recommendations as accepted. In addition, for other closings, the IRS agreed to only consider some recommendations when planning for future enhancements (e.g., software and tax form updates), not to actually implement the recommendations. Further, some of the IRS responses indicated that they agreed to only part of the recommendation, but the TAS recorded those recommendations as fully accepted.

As a result, the data captured in the database are not reliable, which is a concern because the database is used to report the Panel's performance measures to the GSA. As shown in Figure 3, we identified 46 recommendations in which the IRS appeared to disagree with all or a part of the Panel's recommendations.

²¹ These were closed for various other reasons and the IRS response, if any, was generally considered to be neutral (neither accepted nor rejected). See Appendix VII for a listing of closed categories used.

²² The 161 closed recommendations are from the issues the TAS identified as being "grass roots."



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Figure 3: TIGTA Analysis of IRS Responses to Panel Recommendations Recorded by the TAS as Accepted or Implemented

TIGTA Assessment of Panel Recommendations	Number of Recommendations
Proposal Rejected	18
IRS Indicated They Would Consider the Recommendation (Impact and Action Unknown)	15
Response Unclear on Whether the IRS Accepted the Recommendation	7
Proposal Partially Accepted	6
Total	46

Source: TIGTA review of cumulative data in the Panel database. Data were compiled in February 2009.

The Panel's performance measures reported to the GSA include the total number of recommendations made (over the life of the committee) and an estimate of the cumulative percentage of fully or partially implemented recommendations made by the committee. The GSA, which provides oversight to all advisory committees, incorporates the Panel's data into the FACA database. This information is then used by the GSA for conducting annual comprehensive reviews of accomplishments, costs, benefits, and other factors to gauge the performance of an advisory committee and whether it should continue in existence.

We raised concerns about the accuracy of the data with TAS management and were advised that since the results have already been published in the Panel's annual reports, it would not be a "judicious use of staff time, or volunteer time" to correct this information. However, TAS management indicated they would take additional steps in the future to validate the data entries by conducting quarterly managerial reviews of the closing entries.

We agree that TAS management should establish a process to regularly validate data in the Panel's database. However, because the GSA report is based on cumulative data, the TAS should correct the inaccurate closed recommendations identified in our report in the Panel's database and advise the GSA of the revised performance results. Doing so will also allow the GSA to update the FACA database with the revised results. This is especially important since the FACA database is utilized by members of Congress, the Government Accountability Office, and other oversight functions to review information pertaining to Federal advisory committees.

Recommendation

Recommendation 5: The NTA should establish and implement a process to validate data in the Panel database on an annual basis, prior to the issuance of the Panel's annual report. In addition, the NTA should correct the 46 erroneous database entries we identified during our



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review. The corrected cumulative results should be provided to the GSA by the due date of the next report.

Management's Response: Management agreed with our recommendation and stated they will implement procedures to ensure the validity of data in the Panel database. Management indicated they will review with the Panel the 46 issues we identified as having incorrect closing statuses and modify any entries that have been determined to be incorrect. In addition, management agreed to develop additional guidance and training regarding the classification of issues.

The TAS does not have a process to ensure that recommendations accepted by the IRS are implemented

In general, the TAS does not require the IRS to provide time periods for implementing Panel recommendations that it agrees to. Since the TAS does not have a system to follow up on accepted recommendations, it cannot ensure that the IRS takes the action as promised. Further, because Panel members devote a considerable amount of time developing recommendations that could benefit taxpayers, the TAS should verify that the accepted recommendations are implemented as agreed to.

We reviewed several recommendations to improve service within the Small Business/Self-Employed and Wage and Investment Divisions that the IRS accepted more than a year ago²³ and determined that they still have not been implemented. For example, in January 2006, the Panel recommended changes to the Application for IRS Individual Taxpayer Identification Number (Form W-7). The IRS agreed to revise the Form, and the TAS closed the issue in May 2006. However, the IRS has not yet revised the Form W-7 as previously agreed (the most current revision of the Form W-7, dated March 2009, does not reflect the change).

TAS management advised us that they cannot follow up to ensure that the IRS takes action since some recommendations may take years to implement. They also indicated that they do not have the authority to require the IRS to implement any recommendations. While we agree that TAS management does not have this level of authority, we believe that if the IRS agrees to a recommendation, then the TAS should follow up to ensure that it gets implemented. If the IRS later determines that it cannot implement the recommendation as previously agreed, the Panel database should be updated to reflect this. Consequently, we believe that the IRS should take a more proactive role to ensure that the Panel's recommendations are implemented and that the information in the Panel database is accurate.

²³ We identified nine recommendations that were accepted by the IRS but were not implemented as of May 2009. These nine recommendations were submitted to the IRS at various times during Calendar Years 2003 through 2008.



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Recommendation

Recommendation 6: The NTA should establish a process to follow up with the IRS on the Panel's recommendations under consideration for future implementation. For all recommendations accepted by the IRS, the IRS should be asked to provide the anticipated date of implementation. The TAS should work with the IRS business units to clarify the expectations when responding to recommendations made by the Panel such as providing a date of implementation. Further, the TAS should record and track the implementation dates in its database.

Management's Response: Management agreed with the recommendation and plans to track the implementation of recommendations which are accepted by the IRS.

Tax Compliance Reviews for Current and Prospective Members Occur Infrequently and Are Incomplete

Prospective Panel members are required to certify that they are in compliance with their tax responsibilities before serving their 3-year term. The TAS staff should research the prospective Panel member's tax history to confirm compliance before that person is seated on the Panel. However, our review disclosed that the TAS tax compliance checks are incomplete, not done frequently enough, and do not address whether licensed practitioners are in good standing with the IRS.

The TAS does not conduct regular reviews for tax account compliance and the reviews are incomplete

The TAS was unable to provide documentation for 34 of the 101 Panel members seated in Calendar Year 2009 to confirm that they were compliant with their tax obligations. In addition, the TAS had not completed the tax account compliance checks to verify that five individuals filed their 2007 tax returns before they were seated on the 2009 Panel. The verification was completed after we asked for the documentation and 2 months after the members had begun serving their terms.

Some Panel members are self-employed; however, the TAS does not collect the related Employer Identification Numbers²⁴ nor does it conduct a tax account compliance check of the applicant's business. Our review also found that the TAS does not complete annual tax compliance checks for members currently serving their 3-year term. As a consequence, we found three instances in which the Panel members were noncompliant either during the course of their terms or in the calendar year immediately preceding their term.

²⁴ A unique nine-digit number used to identify a taxpayer's business account.



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The TAS policy is to perform a one-time review of the applicant's tax accounts²⁵ for the three tax periods preceding his or her selection. In addition, because the review is done only once, Panel members could become noncompliant while serving their 3-year term. TAS management advised us that they follow the guidance in Treasury Directive 21-03;²⁶ however, this document provides no specific guidelines regarding the frequency of the tax compliance checks. It only establishes the requirement to conduct the tax compliance checks when the Panel member is appointed.

The Treasury Directive does specify that the tax compliance checks should be conducted by the agency's Human Resources Division or Office of Security. However, we noted that the TAS does not follow this portion of the policy. Rather, the TAS performs its own compliance checks to ensure timely completion prior to appointment to the Panel. In our opinion, if the TAS continues to conduct these reviews internally, management should establish formal guidance to assist employees in identifying potentially noncompliant situations and procedures for addressing these situations. Formal guidance will help ensure consistent and equal treatment for potential and current Panel members. Formal procedures should also ensure that the tax compliance checks are comprehensive enough to identify the three types of noncompliance – failure to file, failure to pay, and failure to fully report all income.

Recommendation

Recommendation 7: The NTA should establish and follow formal guidance for conducting tax compliance checks, to include using the Integrated Data Retrieval System²⁷ as a tool for accomplishing this. The reviews should be comprehensive enough to ensure that selected applicants have filed all required tax returns, paid all applicable tax due, and fully reported all taxable income for the previous 3 years. The guidance should also address:

- The type of tax forms and periods that must be reviewed to verify that applicants meet the criteria for tax compliance.
- Annual compliance checks for all continuing members. The checks should include researching the members' Social Security Number as well as the Employer Identification Number when applicable.
- Identification of the office that should perform the compliance checks.
- The specific location of the office where all related documentation shall be maintained.

²⁵ Tax accounts are individual modules with a record of all transactions for a given tax period.

²⁶ Establishment and Management of Treasury Advisory Committees, dated July 30, 2007.

²⁷ IRS computer system capable of retrieving or updating stored information; it works in conjunction with a taxpayer's account records.



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The TAS should also amend the application form to include the business name and Employer Identification Number for self-employed applicants.

Management's Response: TAS management agreed to establish formal guidance for conducting tax compliance checks. They also agreed to amend the tax check waiver form to include the business name and Employer Identification Number for self-employed applicants and agreed to conduct limited annual compliance checks for continuing members. TAS management also agreed to establish guidance to identify the office that will perform the compliance check and where all related documentation will be maintained.

The TAS does not have procedures to verify that Panel members who are licensed tax practitioners are in good standing with the IRS

Protecting the public from disreputable tax practitioners has long been a concern for the IRS. Practitioner misconduct can erode the public's confidence in our tax system and create unfortunate consequences for taxpayers relying on unscrupulous tax practitioners. We determined that approximately one-third of the Panel membership is comprised of tax practitioners based on our discussions with TAS personnel and our review of documentation maintained by the TAS. However, no procedures are in place to require the TAS to verify whether these individuals are allowed to practice before the IRS or whether they are in good standing. Therefore, we believe the TAS should coordinate with the Office of Professional Responsibility (OPR) as part of the compliance check for licensed tax practitioners.

The OPR is responsible for regulating licensed tax practitioners who represent taxpayers before the IRS by setting and enforcing standards of competency, integrity, and conduct. The IRS publishes the names of practitioners that have been reprimanded on its web site, as well as providing a searchable database that the TAS can use to research practitioners. The IRS also regularly publishes the names of practitioners that have been sanctioned in the Internal Revenue Bulletin, which is issued periodically.

If a licensed tax practitioner engages in disreputable conduct, the OPR may impose disciplinary actions. Sanctions for disreputable conduct result from such things as the practitioner's failure to file several Federal tax returns, making false declarations in bankruptcy proceedings, or failure to exercise due diligence. In our opinion, this information is readily available and accessible to the TAS for researching whether a potential Panel member, who is also a practitioner, is reputable. Although we recognize that the OPR data may not always be complete, they provide some assurance that potential Panel members are acceptable to serve on the Panel.

Recommendation

Recommendation 8: The NTA should develop procedures for verifying the good standing of licensed practitioners serving on the Panel. These procedures should address:



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- Revising the Panel application form to ask if the applicant is a tax practitioner.
- Confirming, during the interview process, if applicants are tax practitioners.
- Accessing the IRS OPR web site and/or contacting the OPR to determine if applicants that are licensed tax practitioners have been subject to disciplinary actions.

Management's Response: Management agreed with the recommendation and will develop procedures for verifying the good standing of licensed practitioners serving on the Panel.



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Appendix I

Detailed Objective, Scope, and Methodology

The overall objective of this review was to determine whether the Panel is operating in accordance with its charter and whether the Panel and the TAS are utilizing resources efficiently to promote improvements in IRS customer service. To accomplish this objective, we:

- I. Determined whether the Panel is operating under the terms identified in the Panel's charter and within the guidelines established under the FACA.
 - A. Identified whether members participated on at least one subcommittee and that those subcommittee meetings were publicized and held at least quarterly.
 - B. Reviewed the Panel's 2007 annual report and exhibits (with cumulative results) and evaluated whether the results accurately represented work completed by the Panel.
 - C. Determined whether the Fiscal Year 2008 data provided to the GSA are accurate, complete, and timely.
- II. Evaluated the process used to recruit, select, and manage Panel members.
 - A. Interviewed TAS management to determine the process used to recruit and select Panel members.
 - B. Determined whether applicants selected for the Panel are in compliance with their Federal tax obligations.
- III. Evaluated the Panel's process for identifying issues and making recommendations to improve customer service.
 - A. Interviewed TAS personnel to determine how issues are identified for the Panel's review.
 - B. Obtained any available guidance for processing citizen input and responding to IRS requests for assistance.
 - C. Determined what systems are in place for tracking issues and recommendations and evaluated selected fields in the databases used to record issues received and recommendations made. We validated the information in the databases through sorting the applicable fields and conducting a review for reasonableness. The results established that the data were valid for our purposes.
 - D. Determined how many grass roots recommendations had been submitted to the IRS during Calendar Years 2003 through 2008 and assessed the accuracy of the closing



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category used on the 82 recommendations that were classified as being accepted, partially accepted, or implemented.

- IV. Determined the amount of TAS and Panel resources and how these resources were used.
 - A. Determined the TAS staffing levels, budget, and Panel membership levels for each year since the inception of the Panel.
 - B. Identified the roles and responsibilities of each TAS employee assigned to the Panel.
 - C. Determined whether the current ratio of management to employees is consistent with Department of the Treasury/IRS standards.
 - D. Determined whether TAS employees are dedicated solely to the Panel or if they have other duties and assignments.



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Appendix II

Major Contributors to This Report

Nancy A. Nakamura, Assistant Inspector General for Audit (Management Services and Exempt Organizations)
Jeffrey M. Jones, Director
Diana M. Tengesdal, Acting Director
Janice M. Pryor, Audit Manager
Mary F. Herberger, Lead Auditor
Mark A. Judson, Senior Auditor
James S. Mills Jr., Senior Auditor
Yasmin B. Ryan, Senior Auditor
Ahmed M. Tobaa, Senior Auditor
Michele N. Strong, Auditor



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Appendix III

Report Distribution List

Commissioner C
Office of the Commissioner – Attn: Chief of Staff C
Deputy Commissioner for Services and Enforcement SE
Chief Counsel CC
Deputy National Taxpayer Advocate TA
Director, Taxpayer Advocacy Panel TA
Director, Office of Legislative Affairs CL:LA
Director, Office of Program Evaluation and Risk Analysis RAS:O
Office of Internal Control OS:CFO:CPIC:IC
Audit Liaison: National Taxpayer Advocate TA



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Appendix IV

Outcome Measure

This appendix presents detailed information on the measurable impact that our recommended corrective action will have on tax administration. This benefit will be incorporated into our Semiannual Report to Congress.

Type and Value of Outcome Measure:

- Reliability of Information – Actual; status of 46 closed recommendations on the Panel database that were incorrectly recorded by the TAS (see page 10).

Methodology Used to Measure the Reported Benefit:

We identified a population of 82 Panel recommendations that were submitted to the IRS during Calendar Years 2003 through 2008 that the TAS recorded as being accepted or implemented by the IRS. Forty-six of the 82 recommendations were inaccurately recorded by the TAS as having been accepted or implemented by the IRS when, in fact, they were either only partially accepted, not accepted, or unclear whether they were accepted. This results in stakeholders, such as the Department of the Treasury, the GSA, and the public potentially relying on incorrect and inaccurate information, and basing decisions on the accomplishments and benefits of the Panel on this erroneous data.



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Appendix V

Taxpayer Advocacy Panel Issue Committees - Fiscal Year 2009

Earned Income Tax Credit Issue Committee - recommends ways to enhance Earned Income Tax Credit marketing and educational products to ensure that Earned Income Tax Credit information is available to all low-income workers.

Notice Improvement Issue Committee - works with the Wage and Investment and Small Business/Self-Employed Divisions to advise the IRS about clarity and tone of letters sent to taxpayers. Panel members review the proposed language, tone, and usability of new or modified documents.

Small Business/Self-Employed Division Issue Committee - explores ways to increase the number of employment tax returns that are filed electronically and improve the quality and accessibility of guidance on mortgage foreclosures.

Taxpayer Assistance Centers¹ Issue Committee - supports the IRS Wage and Investment Division which manages all IRS Taxpayer Assistance Centers. The Committee will analyze the payment receipt and processing systems and look for ways to improve the process.

Volunteer Income Tax Assistance Issue Committee - assists the IRS in assessing the accuracy of returns prepared at Volunteer Income Tax Assistance and Tax Counseling for the Elderly locations.

Multi-Lingual Initiatives Issue Committee - aims to expand products and services for limited-English-proficient taxpayers (Spanish, Korean, Chinese, Vietnamese, and Russian). The committee will also provide feedback on non-English products.

Tax Forms and Publications/Language Services Issue Committee - provides timely feedback on 2009 Filing Season products, such as the First Time Home Buyers Credit, provides specific comments on how to improve Tax Forms and Publications, and provides a centralized focus on all Panel recommendations for IRS tax products.

Communications Committee - develops communications strategies and products to be used by Taxpayer Advocacy Panel for internal Taxpayer Advocacy Panel business and for interacting with the taxpaying public.

Source: Taxpayer Advocacy Panel web site, ImproveIRS.org, accessed on March 19, 2009, and TAS management.

¹ IRS “walk-in” offices with employees who answer questions, provide assistance, and resolve account-related issues for taxpayers in a face-to-face setting.



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Appendix VI

Taxpayer Advocate Service Staff

Figure 1: TAS Staffing Dedicated to the Panel

Position Title	Number of Positions
Director	1
Field Manager	4
Analyst	15
Secretary	5
Total¹	25

Source: TIGTA review of the TAS staff assigned to the Panel as of April 2009.

Figure 2: Comparison of the Panel to Other IRS Advisory Committees Reviewed²

IRS Advisory Committees	Fiscal Year 2008 Staff Costs	Percentage of Total Staff Costs	Fiscal Year 2008 Full-Time Equivalents ³	Number of Panel Members
Taxpayer Advocacy Panel	\$1,882,842	70%	18.9	111 ⁴
IRS Advisory Council	\$360,000	13%	5	26
Information Reporting Program Advisory Committee	\$355,500	13%	3	33
Electronic Tax Administration Advisory Committee	\$70,000	3%	.7	14
Tax Exempt and Governmental Entities Division Advisory Committee	\$25,000	1%	.5	21
Total Fiscal Year 2008 Staff Costs	\$2,693,342	100%	----	----

Source: FACA database.

¹ Other IRS employees also support the Panel on an as-needed basis.

² Data were obtained from the FACA database for Fiscal Year 2008.

³ A measure of labor hours in which 1 Full-Time Equivalent is equal to 8 hours multiplied by the number of compensable days in a particular fiscal year. For Fiscal Year 2008, 1 Full-Time Equivalent was equal to 2,096 staff hours.

⁴ This includes members who resigned before their term was completed and does not include the alternates selected.



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Appendix VII

Definition of Recommendations

Figure 1: Closed Categories for Panel Recommendations

Closed, Proposal Accepted
The IRS indicates the proposal is fully accepted. The proposal may or may not be implemented, but the IRS has agreed to the recommendation.
Closed, Proposal Partially Accepted
The IRS indicates the proposal is partially accepted. The proposal may or may not be implemented, but the IRS has agreed to the recommendation in part. The partial acceptance should be explained in the Response Notes.
Closed, Proposal Rejected
The IRS has indicated that the proposal is rejected. The reasons for the rejection should be explained in the Response Notes.
Closed, Proposal Implemented
The IRS has fully or partially implemented the proposal. A partial implementation should be explained in the Response Notes.

Source: Draft Internal Revenue Manual Section 13.7.1, dated January 27, 2009.

Figure 2: Other Categories Used for Panel Recommendations

Closed, Project/Assignment Completed
Used for Issue Committee tasks or projects that are completed.
Elevated Directly by Committee
Term previously used by Issue Committees to indicate tasks or projects were completed.
Closed
Used primarily with legislative or regulatory issues or line-by-line issues on forms, publications, and notices when only general acknowledgement is received and no specific feedback is provided.

Source: TIGTA analysis of the Panel database, dated April 2009.



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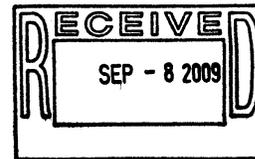
Appendix VIII

Management's Response to the Draft Report



National Taxpayer Advocate

September 8, 2009



MEMORANDUM FOR MICHAEL R. PHILLIPS
DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Nina E. Olson 
National Taxpayer Advocate

SUBJECT: Draft Audit Report – The Taxpayer Advocate Service Should
Reevaluate the Roles of Its Staff and Improve the
Administration of the Taxpayer Advocacy Panel (Audit #
200910001)

Thank you for the opportunity to respond to the above-captioned report regarding the administration of the Taxpayer Advocacy Panel.

As you know, the Taxpayer Advocacy Panel (TAP) was established in October 2002 under the Federal Advisory Committee Act as a vehicle to improve IRS responsiveness to taxpayer needs. TAP members listen to taxpayers, identify "grass roots" issues, and make recommendations for improving customer service provided by the IRS.

The TAP is a shining example of the virtues of representative democracy – the 99-member panel of volunteers consists of residents of all 50 states, the District of Columbia, and Puerto Rico. The TAP provides the IRS with a unique opportunity to obtain the perspective of ordinary citizens regarding ways to improve the U.S. tax administration system. For a total cost of \$2.7 million, the IRS is able to gain the perspective of volunteers who represent approximately 135 million individual taxpayers and 57 million small business/self-employed taxpayers. We believe the program is very effective and very efficient.

In 2008, the TAP developed and submitted 112 recommendations to the IRS to improve taxpayer service. For example, when the Social Security Administration mailed Forms 1099 with incorrect tax information to about 2.7 million taxpayers, the TAP recommended that the IRS alert taxpayers and tax return preparers about the error so they could avoid filing returns with the incorrect information. To expedite awareness of the problem, TAP elevated the issue through TAS's Systemic Advocacy Immediate Intervention program. TAS's Systemic Advocacy program

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quickly responded by establishing a project and contacting appropriate operating division officials. As a result, the IRS issued a SERP Alert to advise employees of the issue and provided instructions for resolving the problem when taxpayers contacted IRS.

The TAP has also held a number of open meetings throughout the year. Each Issue Committee meets 12 times per year, as does each Area Committee. Notices of such meetings are published in the Federal Register and members of the public are welcome to attend (or call in) should they desire to listen in on these discussions. Time is reserved at the end of these meetings for comments from the public. The TAP also teamed with the National Taxpayer Advocate in planning 15 Town Hall meetings across the country, where taxpayers were able to voice their concerns and ideas directly to the National Taxpayer Advocate.

To learn more about taxpayer concerns, TAP members reach out to a wide variety of individual taxpayers and organizations, both large and small. During 2008, TAP members participated in more than 1,700 outreach events and interacted with more than three million members of the taxpaying public. These outreach events are designed to identify taxpayer problems and concerns about the IRS. The key objective is to identify problems that affect large groups of taxpayers and that can be fully or substantially resolved through work-process improvement opportunities or improved IRS forms and documents.

TAP members also participate in Tax Forums sponsored by the IRS and held at locations throughout the country. The Tax Forums represent an opportunity to communicate the TAP mission and interface with tax practitioners. TAP members staff a booth, distribute literature about the TAP, and answer questions from Forum participants. TAP members also conduct focus groups through which tax practitioners can raise problems affecting their clients and themselves.

While we believe the TAP is functioning very well and is providing valuable input to IRS that assists in improving taxpayer service, we recognize that the program can improve, and we welcome your analysis and recommendations. Our response to each recommendation, including planned actions, is described below. In addition, we will discuss this report and its recommendations with the TAP at its upcoming annual meeting in December 2009.

If you have any questions or concerns, please contact me or have a member of your staff contact Shawn Collins, the TAP Director, at (202) 622-1245 or Chris Lee, TAS's GAO/TIGTA liaison, at (202) 622-8391.

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Summary of TIGTA Recommendations and Management Response

Recommendation 1: *Revise its time tracking system and require the TAS staff to track hours by activity (e.g., recruiting, researching, handling administrative matters, etc.). Doing so will provide the NTA with information to help in completing Recommendation 2.*

Comment: We concur with this recommendation.

Corrective Action: The TAP staff will begin to track hours by activity in October 2010.

Completion Date: October 31, 2010.

Responsible Official: Director, Taxpayer Advocacy Panel

Recommendation 2: *Reevaluate the Panel's structure and size to ensure an appropriate balance between TAS staff and budgetary resources used to support the Panel. This would include:*

- *Identifying ways to reduce costs by centralizing operations.*
- *Reducing the costs of the applicant recruitment and selection process.*
- *Reducing the Panel membership.*

Comments: We agree that a periodic review of the TAP and its staffing is desirable, and we already conduct periodic reviews in a variety of ways – e.g., by reviewing and rewriting the position descriptions of the TAP staff, by going through the budget process each year, and by listening to the TAP members (many of whom feel that more analysts are needed to support them).

Absent compelling data that the current TAP structure is flawed, however, we are disinclined to recommend major changes because of the significant amount of work that went into creating the existing structure. In 2002, a cross-functional team (composed of the Commissioner of the Wage & Investment Division, the Commissioner of the Small Business/Self-Employed Division, the National Taxpayer Advocate, the Director of Communications & Liaison, and representatives of the Office of Chief Counsel and the National Treasury Employees Union) reviewed all aspects of the TAP organization. With assistance from an outside consulting firm and after months of analysis, this team made recommendations to the Commissioner regarding the mission, function, membership, size, and staffing of the TAP. In our view, the current structure is working well. Because the TAP program costs less than \$3 million per year and because any significant structural changes would require creation of a new cross-functional team, potentially the use of another consultant, and ultimate approval by the Secretary of the Treasury and the

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Commissioner of Internal Revenue, we are not persuaded that it would be cost effective to make such changes. Most to the point, we are not persuaded that such changes would be desirable.

We do agree to study whether centralization of support services will provide improved service to the TAP. However, we note that centralization has disadvantages as well as advantages. While centralization may achieve certain efficiencies, it often means the loss of a local presence. The TAP staff provides assistance to TAP members from every state and to Area Committees that are geographically based. In the National Taxpayer Advocate's Annual Reports to Congress, we have frequently criticized the IRS for centralizing programs to reduce costs where doing so adversely affects taxpayers.¹ In the case of the TAP, we need to perform further analysis to assess whether the benefits of centralization outweigh its potential downsides.

We also agree to review the recruitment and selection process with an eye toward reducing costs. We recognize that the recruitment and selection process involves a significant investment of time. In 2004, the TAP made the decision to have the members serve staggered three-year terms. Prior to that time, TAP members were appointed for two-year terms. To reduce the impact of a complete turnover in 2004, the TAP proposed and Treasury approved a transition plan with staggered three-year terms. The terms of some original members were extended to three years and the TAP charter was revised to prescribe three-year terms.

At the time, we felt that the benefits of these decisions (such as greater continuity in membership and allowing for experienced leadership) outweighed the costs (such as the need to conduct recruiting activities every year). Now that we have a few years of experience operating under this staggered system, we can evaluate whether the change has brought about the expected benefits.

However, we do not support reducing the size of the TAP, and in any event, we lack the authority to do so unilaterally. Based on the recommendation of the cross-functional team, the Panel was initially established with approximately 100 members. These members represent approximately 135 million individual taxpayers and 57 million small business/self-employed taxpayers. We feel strongly that downsizing the TAP would negatively impact the Panel's ability to perform its mission. Most of the TAP's work is done in its Issue Committees and its Area Committees, and each TAP member serves on one of each type of committee. As a result, each of the TAP's eight Issue Committees consists of about 12 TAP members.

¹ See, e.g., National Taxpayer Advocate 2008 Annual Report to Congress 260-73 (Most Serious Problem: The Impact of IRS Centralization on Tax Administration).

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Since TAP members must reflect the perspective of taxpayers with different tax issues (e.g., wage income, capital income, earned income tax credit eligibility, sole proprietorships, farming income, worker classification challenges, payroll taxes, etc.), taxpayers from different regions of the country, taxpayers with varying levels of computer knowledge and access (e.g., some taxpayers can obtain information from IRS.gov, while others need personal assistance), and taxpayers with varying levels of tax knowledge and experience, it is difficult to see how the TAP Issue Committees could fairly represent a broad cross-section of taxpayers if membership were significantly reduced.

We also emphasize that any decision about changing the composition of the TAP is not TAS's to make. The Secretary of the Treasury approved all decisions relating to the establishment of the TAP. Thus, any decisions to change the composition of the TAP would require a decision by the Secretary of the Treasury in consultation with the Commissioner of Internal Revenue and the National Taxpayer Advocate.

Corrective Actions:

1. Review and rewrite the position descriptions of the TAP staff.
2. Establish a task group to review whether centralization of support services will provide improved service to the Panel.
3. Establish a task group to review whether the staggered three-year terms are appropriate for Panel membership.

Completion Dates:

1. Completed.
2. January 31, 2010.
3. January 31, 2010.

Responsible Official: Director, Taxpayer Advocacy Panel

Recommendation 3: *Reevaluate the roles of the staff assigned to assist the Panel and establish guidance to ensure that the Panel functions independently.*

Comments: The audit report states that the TAP staff's involvement with the TAP membership exceeds the involvement that IRS staff has with other IRS advisory committees. While this is true, we reject any implication that TAS or the current structure is unduly influencing or interfering with the TAP's independence.

There are several reasons why the TAP staff has a high level of involvement with the membership. First, each TAP member serves on two committees (plus sub-committees) and devotes between 300 to 500 hours annually to the Panel. This level of commitment on the part of the members generates a considerable amount of work for TAP staff compared with other IRS advisory committees.

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Second, the TAP plays a very different role from the IRS's other advisory committees. For example, the Internal Revenue Service Advisory Committee (IRSAC) and the Information Reporting Program Advisory Committee (IRPAC) rely on experienced tax professionals to share their expertise. The IRSAC is composed of individuals who bring substantial tax experience and the IRPAC seeks "individuals who represent various segments of the tax professional community, from major national professional and trade associations to state tax agencies."

In contrast, the TAP recruits members from all walks of life to represent the diverse U.S. taxpayer population. According to the TAP charter, TAP membership should represent "a cross-section of the taxpaying public." In accordance with this objective, the majority of TAP members have no professional experience in the tax field. For this reason, an important part of the TAP staff's job is to help provide substantive background information to TAP members on grass roots problems submitted to the Panel for consideration and issues the IRS has asked the Panel to consider. The intent is to assist members by providing sufficient background information to get them up to speed on new issues – not to influence members by providing only one perspective.

However, we do agree that the public perception of the TAP's independence would be strengthened by creating by-laws that include a description of the roles of the TAP staff. Therefore, we will develop by-laws and include them in the TAP Member Handbook, which provides guidance and direction for both TAP members and TAP staff. TAP staff will develop the by-laws by the end of FY 2011 in consultation with the TAP membership. The roles of the TAP staff will also be described in the Internal Revenue Manual (IRM).

Corrective Action: Include guidance on the liaison role of the TAP staff in the by-laws and the IRM.

Completion Date: October 31, 2011.

Responsible Official: Director, Taxpayer Advocacy Panel

Recommendation 4: *Revise the charter to clarify the liaison role that TAS employees provide Panel members and accurately reflect the dual roles of members. Specifically, the charter should be updated in Section B, Objectives and Scope, as well as Section F, Duties and Responsibilities. These changes can be made when the current charter expires in March 2010.*

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Comment: We concur with this recommendation and will consider these changes in revising the charter when it expires in March 2010.

Corrective Action: Amend the TAP charter to clarify the liaison role of the TAP staff and to accurately reflect the dual roles of members.

Completion Date: April 30, 2010.

Responsible Official: Director, Taxpayer Advocacy Panel

Recommendation 5: *The NTA should establish and implement a process to validate data in the Panel database on an annual basis, prior to the issuance of the Panel's annual report. In addition, the NTA should correct the 46 erroneous database entries we identified during our review. The corrected cumulative results should be provided to the GSA by the due date of the next report.*

Comment: We concur in part with this recommendation. We will establish and implement improved procedures to validate data entered into the TAP database. We have not yet determined whether we concur with the assertion that there were 46 erroneous database entries. The current classifications were assigned by TAP members after reaching consensus during open committee deliberations. We do not think it would be appropriate for TAP staff to change the entries unilaterally, as that would undermine the TAP's independence. Therefore, we will review the 46 issues identified by TIGTA as having incorrect closing statuses with the TAP membership and seek TAP concurrence to modify any issues determined to have incorrect closing statuses. We will also work with the TAP members to develop additional guidance and training regarding classification of issues. We will report corrected cumulative results to the General Services Administration (GSA).

Corrective Actions:

1. Implement procedures to ensure the validity of data in the TAP database.
2. Review with the TAP membership the 46 issues identified by TIGTA as having incorrect closing statuses and modify any entries that have been determined to be incorrect.
3. Develop additional guidance and training regarding classification of issues.

Completion Dates:

1. Completed.
2. October 31, 2009.
3. September 30, 2010.

Responsible Official: Director, Taxpayer Advocacy Panel

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Recommendation 6: *The NTA should establish a process to follow up with the IRS on the Panel's recommendations under consideration for future implementation. For all recommendations accepted by the IRS, the IRS should be asked to provide the anticipated date of implementation. The TAS should work with the IRS business units to clarify the expectations when responding to recommendations made by the Panel such as providing a date of implementation. Further, the TAS should record and track the implementation dates in its database.*

Comment: We concur with this recommendation.

Corrective Action: Track the implementation of recommendations accepted by the IRS.

Completion Date: December 31, 2010.

Responsible Official: Director, Taxpayer Advocacy Panel

Recommendation 7: *The NTA should establish and follow formal guidance for conducting tax compliance checks, to include using the Integrated Data Retrieval System² as a tool for accomplish this. The reviews should be comprehensive enough to ensure that selected applicants have filed all required tax returns, paid all applicable tax due, and fully reported all taxable income for the previous 3 years.*

The guidance should also address:

- *The type of tax forms and periods that must be reviewed to verify that applicants meet the criteria for tax compliance.*
- *Annual compliance checks for all continuing members. The checks should include researching the members' Social Security Number as well as the Employer Identification Number when applicable.*
- *Identification of the office that should perform the compliance checks.*
- *The specific location of the office where all related documentation shall be maintained.*

The TAS should also amend the application form to include the business name and Employer Identification Number for self-employed applicants.

Comment: We concur with the recommendation that the TAP should establish and follow formal guidance for conducting tax compliance checks. We also agree to conduct a more limited compliance check each year for all continuing members. However, we do not think it is feasible to ensure that selected applicants have fully

² IRS computer system capable of retrieving or updating stored information, it works in conjunction with a taxpayer's account records.



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reported all taxable income on their returns without subjecting them to full-scale audits, which is not practical given our limited resources and time constraints.

Corrective Actions:

1. Establish formal guidance for conducting tax compliance checks, including identification of the office that is to perform the compliance checks and the specific location of the office where all related documentation should be maintained.
2. Amend the tax check waiver form to include the business name and Employer Identification Number of self-employed applicants.
3. Conduct a limited annual compliance check for all continuing members.

Completion Dates:

1. September 30, 2010.
2. September 30, 2010.
3. September 30, 2010.

Responsible Official: Director, Taxpayer Advocacy Panel

Recommendation 8: *The NTA should develop procedures for verifying the good standing of licensed practitioners serving on the Panel. These procedures should address:*

- *Revising the Panel application form to ask if the applicant is a tax practitioner.*
- *Confirming, during the interview process, if applicants are tax practitioners.*
- *Accessing the IRS OPR web site and/or contacting the OPR to determine if applicants that are licensed tax practitioners have been subject to disciplinary actions.*

Comment: We concur with this recommendation.

Corrective Action: Develop procedures for verifying the good standing with the IRS of licensed practitioners serving on the Panel.

Completion Date: December 31, 2010.

Responsible Official: Director, Taxpayer Advocacy Panel

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