

*TREASURY INSPECTOR GENERAL FOR TAX  
ADMINISTRATION*



**Management Oversight of the Acceptance  
Agent Program Is Needed to Assure that  
Individual Taxpayer Identification Numbers  
Are Properly Issued**

**November 2002**

**Reference Number: 2003-30-020**

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

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*Phone Number* | 202-622-6500

*Email Address* | [TIGTACommunications@tigta.treas.gov](mailto:TIGTACommunications@tigta.treas.gov)

*Web Site* | <http://www.tigta.gov>



DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20220

INSPECTOR GENERAL  
for TAX  
ADMINISTRATION

November 6, 2002

MEMORANDUM FOR COMMISSIONER, LARGE AND MID-SIZE BUSINESS  
DIVISION

*Gordon C. Milbourn III*

FROM: Gordon C. Milbourn III  
Acting Deputy Inspector General for Audit

SUBJECT: Final Audit Report - Management Oversight of the Acceptance Agent Program Is Needed to Assure that Individual Taxpayer Identification Numbers Are Properly Issued (Audit #200230026)

This report presents the results of our review to determine whether the Internal Revenue Service (IRS) ensures that acceptance agents<sup>1</sup> are complying with provisions of the Memorandum of Understanding (MOU) with the IRS for certifying the IRS' Individual Taxpayer Identification Number (ITIN) applications.

Foreign individuals are required to furnish either a Social Security Number (SSN) or an ITIN on tax returns filed after December 31, 1996. To carry out its ITIN-related responsibilities, the IRS established the Acceptance Agent Program (AAP). The IRS allows ITIN applicants to use approved acceptance agents to assist in completing the applications and reviewing the necessary documentation. An acceptance agent can be a United States or foreign individual/entity. An effectively administered AAP takes on increased importance with the national security risks now present in the United States. Because of these risks, the IRS has formed a task force to study the overall ITIN process.

In summary, the IRS has not provided an organizational commitment to the AAP to reasonably assure that expectations are established and achieved. In fact, the IRS has not determined the operating division that will be responsible for the overall ITIN process. Currently, the Large and Mid-Size Business Division has functional responsibility for managing the AAP. However, the Small Business/Self-Employed Division oversees the ITIN process, while the Wage and Investment Division processes the ITIN applications.

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<sup>1</sup> Internal Revenue Procedure 96-52 (November 1996) provides for acceptance agents and certifying acceptance agents. Currently, the IRS uses only certifying acceptance agents.

The IRS needs to improve management controls and information to effectively manage the AAP. Since the inception of the AAP, the IRS has not performed any objective compliance reviews of the documentation maintained by the acceptance agents. IRS officials advised that they had neither sufficient management information on the number of applications certified by each agent, nor the necessary resources to properly assess the acceptance agent's compliance with documentation requirements.

Further, the IRS does not have sufficient management information concerning the characteristics of the ITIN documents submitted by acceptance agents. Consequently, the IRS has not determined whether the AAP is functioning as intended.

We recommended that the IRS ensure that the ITIN task force suggests the organizational placement of the AAP as part of its evaluation of the overall ITIN process. This evaluation should also include a requirement that the IRS function in which the AAP is eventually located establish goals, objectives, critical success factors, performance measures, and managerial accountability. To improve controls, we recommended that the acceptance agents submit copies of the applicants' supporting documents. This recommendation would: minimize the expenditure of resources since onsite visits to acceptance agents would be reduced or eliminated, provide for an objective evaluation of quality, and reduce the burden on acceptance agents by eliminating the need to maintain IRS records.

To improve program oversight, we recommended that the IRS use computer applications for management information and develop procedures for analyzing the ITIN database; require acceptance agents to certify compliance with their tax responsibilities and attest to criminal violations or professional misconduct; and require acceptance agents to reapply to the AAP on a periodic basis. We also recommended that the IRS terminate the MOU for any acceptance agent who has not certified a pre-determined number of Applications for IRS Individual Taxpayer Identification Number (Form W-7).

Management's Response: Management did not agree with our finding that the IRS has not made an organizational commitment to the AAP. In their response, management provided a historical overview of the AAP to demonstrate their commitment to and oversight of the Program.

The IRS agreed with our audit recommendations, except for Recommendation 2 that would require acceptance agents to submit to the IRS copies of the supporting documents that they reviewed. IRS management indicated it will not implement this recommendation because they believed this requirement would place an unnecessary burden on the IRS and on acceptance agents. The IRS' complete response to the draft report is included in Appendix IV.

Office of Audit Comment: Management's historical overview does not address the requirements of the General Accounting Office's (GAO) *Standards for Internal Control in the Federal Government*. These standards cite that a factor affecting the control

environment is the agency's organizational structure that provides management's framework for planning, directing, and controlling operations to achieve agency objectives. A good internal control environment requires that the agency's organizational structure clearly define key areas of authority and responsibility and establish appropriate lines of reporting. The AAP received initial management attention during implementation, but remains a program without an infrastructure that includes goals, objectives, critical success factors, performance measures, and adequate managerial oversight. With the increased concern about national security, the risks presented by the AAP are greater now than the program design ever envisioned.

Management's response to Recommendation 2 stated that the IRS reviewed documentation maintained by 25 acceptance agents during on-site visits and by correspondence. However, the IRS did not provide any documentation of any compliance checks. Moreover, the review of 25 acceptance agents over a 5-year period, from among the hundreds of acceptance agents registered with the IRS, does not provide an objective evaluation of quality. The IRS advised that additional quality reviews were not performed because they did not have sufficient management information on the number of applications certified by each agent or the necessary resources to properly assess the acceptance agents' compliance with documentation requirements. Management stated that they could not justify expending resources on acceptance agents' quality of work while they were receiving criticism for the decrease in the overall number of examinations of tax returns.

The ITIN Task Force recommendation of performing compliance-check visits for at least 20 percent of the acceptance agents will necessitate resource expenditures to perform compliance checks for over 180 of the 905 approved acceptance agents each year. We believe requiring acceptance agents to submit to the IRS copies of the supporting documents that they reviewed would reduce the use of IRS resources and better ensure that compliance resources could be focused where there is a greater risk of improprieties.

Finally, management's response stated that they analyzed the list of 276 acceptance agents that did not certify any ITINs during Calendar Year 2001. Our analysis was based on the IRS' database of acceptance agents. We provided our analysis of the data to the IRS because management had not developed any information on the characteristics of the acceptance agents. In fact, the IRS performed their analysis subsequent to the issuance of the draft report.

While we still believe that our second recommendation is worthwhile, we do not intend to elevate our disagreement concerning this matter to the Department of Treasury for resolution.

The Treasury Inspector General for Tax Administration (TIGTA) has designated this report as Limited Official Use (LOU) pursuant to Treasury Directive TD P-71-10, Chapter III, Section 2, "Limited Official Use Information and Other Legends" of the

Department of Treasury Security Manual. Because this document has been designated LOU, it may only be made available to those officials who have a need to know the information contained within this report in the performance of their official duties. This report must be safeguarded and protected from unauthorized disclosure; therefore, all requests for disclosure of this report must be referred to the Disclosure Unit within the TIGTA's Office of Chief Counsel.

Please contact me at (202) 622-3837 if you have questions or Parker F. Pearson, Acting Assistant Inspector General for Audit (Small Business and Corporate Programs) at (410) 962-9637.

**Management Oversight of the Acceptance Agent Program Is Needed to Assure that Individual Taxpayer Identification Numbers Are Properly Issued**

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**Background**

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An Internal Revenue Procedure allows an acceptance agent<sup>1</sup> to assist an alien or foreign individual in obtaining an Internal Revenue Service (IRS) Individual Taxpayer Identification Number (ITIN). An acceptance agent is a person or an entity who, pursuant to a written Memorandum of Understanding (MOU) with the IRS, is authorized to assist aliens and foreign individuals in obtaining ITINs. An acceptance agent can be a United States (U.S.) or foreign individual/entity. The ITIN process was implemented to facilitate return filing and improve compliance on tax returns and other documents filed by foreign individuals and aliens.

Effective for tax returns filed after December 31, 1996, foreign individuals are required to furnish either a Social Security Number (SSN) or an ITIN. Any alien, whether non-resident or resident, who is required to file or can be claimed as an exemption or dependent on a tax return, and who does not qualify for an SSN, must have an ITIN.

Foreign individuals, aliens, and their spouses and dependents apply for the ITIN using the Application for IRS Individual Taxpayer Identification Number (Form W-7). The IRS began processing Forms W-7 during July 1996.

The Form W-7 supporting documents and the ITIN constitute confidential taxpayer information. The ITIN is intended for tax purposes only and affects neither the immigration status of a foreign person nor his or her right to be legally employed in the U.S. However, while the ITIN may be used to file a tax return, it is not to be used for work purposes.

The Form W-7 and the original supporting documents<sup>2</sup> can be submitted by mail or presented directly to the IRS or to an acceptance agent. The acceptance agent submits the Form W-7 to the IRS on behalf of an applicant, without having to furnish the supporting documentary evidence. The

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<sup>1</sup> Internal Revenue Procedure 96-52 (November 1996) provides for acceptance agents and certifying acceptance agents. Currently, the IRS uses only certifying acceptance agents.

<sup>2</sup> For example, birth records, driver's license, marriage record, etc.

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acceptance agent certifies to the IRS that the appropriate documentary evidence was reviewed and that a record of such documentation is being maintained.

We performed this audit at the Headquarters Office of the Large and Mid-Size Business (LMSB) Division in Washington, DC, and the IRS' Campus in Philadelphia, Pennsylvania. The audit was performed between May and July 2002 in accordance with *Government Auditing Standards*.

Details of our audit objective, scope, and methodology are presented in Appendix I. Major contributors to this report are listed in Appendix II.

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**An Organizational Commitment Is Needed to Provide Reasonable Assurance that Goals Are Established and Achieved**

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The IRS has not made an organizational commitment to the Acceptance Agent Program (AAP) because, subsequent to the IRS' reorganization in Calendar Year (CY) 2000, the operating division responsible for the overall ITIN process has not been determined. Currently, the LMSB Division has functional responsibility for managing the AAP. However, the Small Business/Self-Employed (SB/SE) Division oversees the ITIN process, while the Wage and Investment (W&I) Division processes the ITIN applications.

The General Accounting Office's (GAO) *Standards for Internal Control in the Federal Government* state that a factor affecting the control environment is the agency's organizational structure that provides management's framework for planning, directing, and controlling operations to achieve agency objectives. A good internal control environment requires that the agency's organizational structure clearly define key areas of authority and responsibility and establish appropriate lines of reporting.

Without an organizational commitment with management accountability and improved management and internal controls, the AAP cannot be effectively managed. The absence of this organizational commitment has left the AAP without an infrastructure that includes goals, objectives, critical success factors, performance measures, and adequate managerial oversight.



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Based on national security risks, the ITIN process is an area of vulnerability and concern. According to an article in Tax Notes Today, July 8, 2002, entitled, “National Security May Require Rethinking the ITIN,” by George Guttman, the ITINs were created for a specific purpose but are being used for unintended purposes. For example, the Federal Deposit Insurance Corporation has indicated that banks may accept the ITIN to open a bank account. By opening a bank account, an individual may be able to obtain a credit card. In addition, a number of states are willing to accept an ITIN to issue a driver’s license. With an accepted form of government-issued identification like an ITIN, it is easier for terrorists and their sympathizers to operate in an open society while planning hostile actions. Because of concerns about this possibility, the IRS has formed a task force to study the overall ITIN process.

**Recommendation**

1. The Director, International, LMSB Division, should ensure that the IRS’ ITIN task force decides on the organizational placement of the AAP as part of its evaluation of the overall ITIN process. This evaluation should also include a requirement that the IRS function in which the AAP is eventually located should establish goals, objectives, critical success factors, performance measures, and managerial accountability for the Program.

Management’s Response: The IRS did not agree with our finding that the IRS has not made an organizational commitment to the AAP. In their response, management provided a historical overview of the AAP to demonstrate their commitment to and oversight of the Program.

However, the IRS is implementing our recommendation. Full ownership of the ITIN process and AAP will be transferred to the W&I Division. A team of representatives from the W&I, LMSB, and SB/SE Divisions will be formed to develop an action plan to implement changes, including program goals, objectives, critical success factors, performance measures, and

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managerial accountability for the international processing programs.

Office of Audit Comment: Management's response to this report disputed our conclusion concerning the IRS' organizational commitment to the AAP. The IRS' historical overview does not address the requirements of the GAO's *Standards for Internal Control in the Federal Government*. These standards cite that a factor affecting the control environment is the agency's organizational structure that provides management's framework for planning, directing, and controlling operations to achieve agency objectives. A good internal control environment requires that the agency's organizational structure clearly define key areas of authority and responsibility and establish appropriate lines of reporting. The AAP received initial management attention during implementation, but remains a program without an infrastructure that includes goals, objectives, critical success factors, performance measures, and adequate managerial oversight. With the increased concern about national security, the risks presented by the AAP now are greater than the program design ever envisioned.

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**Oversight of Acceptance Agents Is Inadequate**

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The MOU agreed to by the IRS and each of the 905<sup>3</sup> acceptance agents includes a requirement that the IRS is entitled to review the copies of the original documents submitted by applicants to secure their ITINs. However, the IRS does not, in effect, exercise its right under the MOU to perform this review.

During CY 2001, acceptance agents certified 72,785 (6.7 percent) of the 1.08 million ITIN applications. These agents are required to send the original Form W-7 and a verification statement to the IRS, and then maintain copies of the original supporting documentation for 3 years. Since the inception of the AAP, the IRS has not performed any objective compliance reviews of the documentation maintained by the

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<sup>3</sup> As of May 28, 2002, according to IRS records, there were 908 acceptance agents (905 active and 3 terminated).

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acceptance agents. The IRS reviewed documentation maintained by 25 acceptance agents by requesting that they each submit a sample of the certified applications; the acceptance agents themselves selected the sampled items. The IRS acknowledged that this methodology does not provide an objective evaluation.

The GAO's *Standards for Internal Control in the Federal Government* state that all transactions need to be clearly documented and the documentation should be readily available for examination. All documentation and records should be properly managed and maintained.

IRS officials advised that they had neither sufficient management information on the number of applications certified by each agent, nor the necessary resources to properly assess the acceptance agents' compliance with documentation requirements. As a result, the IRS cannot provide reasonable assurance that acceptance agents are complying with the requirements of the MOU.

Further, with national security concerns, the AAP could pose much higher risks now than were envisioned when it was implemented. Specifically, an unscrupulous agent could certify documents that conceal the true identity of an applicant. Permitting these individuals/entities to certify IRS documents without adequate managerial oversight is a significant risk.

**Recommendation**

2. The Director, International, LMSB Division, should require that the acceptance agents submit to the IRS copies of the supporting documents that they reviewed, as a means to:
  - Minimize the expenditure of resources while providing for an objective evaluation of quality, since onsite visits to acceptance agents would be reduced or eliminated.

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- Reduce the burden on acceptance agents by eliminating the need for them to maintain IRS records.

Management's Response: The IRS will not implement this recommendation because this requirement would place an unnecessary burden on the IRS and on acceptance agents. If the IRS implemented the recommendation, management would have to develop special procedures to file Forms W-7 submitted by acceptance agents.

In addition, requiring acceptance agents to submit copies of supporting documentation to the IRS would also place an additional burden on them. IRS management believes acceptance agents would undoubtedly make copies, for their own files, of any documents reviewed and submitted to the IRS. If implemented, the recommendation would also require that IRS cancel its process of receiving applications and issuing ITINs in a "paperless" format. The IRS noted that it uses similar procedures for tax preparers, including IRS tax assistants. The IRS no longer requires them to forward Forms W-2 if they file tax returns electronically.

Management's response stated that they should implement the ITIN Task Force recommendation that the IRS conduct annual compliance-check visits to at least 20 percent of the acceptance agents. Annual compliance checks would more accurately measure compliance with the terms of the acceptance agent agreements.

Office of Audit Comment: Management's response stated that the IRS reviewed documentation maintained by 25 acceptance agents during on-site visits and by correspondence. However, the IRS did not provide to us any documentation of compliance checks. Further, the review of 25 acceptance agents over a 5-year period, from among the hundreds of acceptance agents registered with the IRS, does not provide an objective evaluation of quality. The IRS advised that additional quality reviews were not performed because they did not have sufficient management information on the number of applications certified by each agent, nor the

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necessary resources to properly assess the acceptance agents' compliance with documentation requirements. Management stated that they could not justify expending resources on acceptance agents' quality of work while they were receiving criticism for the decrease in the overall number of examinations of tax returns.

The ITIN Task Force recommendation of performing compliance-check visits for at least 20 percent of the acceptance agents will necessitate resource expenditures to perform compliance checks for over 180 of the 905 approved acceptance agents each year. We believe requiring acceptance agents to submit to the IRS copies of the supporting documents that they reviewed would reduce the use of IRS resources and better ensure that compliance resources could be focused where there is a greater risk of improprieties.

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**Management Information Is Needed to Effectively Oversee the Acceptance Agent Program**

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The IRS has not developed detailed management information that is vital in making decisions concerning the oversight of the AAP, due to the previously discussed absence of an organizational commitment to the Program. The GAO's *Standards for Internal Control in the Federal Government* state that relevant, reliable, and timely information is needed to achieve objectives.

**Management information is insufficient to determine the suitability of applicants to the AAP**

The acceptance agents act on behalf of the IRS to provide customer service. Since acceptance agents have a more direct relationship to the IRS than Enrolled agents,<sup>4</sup> we determined whether the acceptance agents had complied with their tax responsibilities, just as Enrolled agents are required to do. The IRS does conduct an initial tax compliance review when an MOU is initiated, but there are no requirements for subsequent tax compliance checks.

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<sup>4</sup>An Enrolled agent is any individual who is enrolled under the provisions of Treasury Department Circular No. 230 to practice before the IRS.

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We randomly selected a judgmental sample of 50 from the 231 acceptance agents who certified 25 or more ITIN applications in CY 2001. The IRS had conducted adequate tax compliance checks for 46 (92 percent) of the 50 agents before the MOU was issued. For the remaining four agents,\*\*\*\*\*  
 \*\*\*\*\*(b)(3):26 U.S.C. 6103(b)(7)(C)\*\*\*\*\*. The IRS granted the four applicants acceptance agent status.

In addition, we then determined the current tax compliance of the same 50 acceptance agents and found that 10 had some form of delinquency \*(b)(3):26 U.S.C. 6103(b)(7)(C)\*  
 \*\*\*\*\* at the time of our review (see Figure 1). These acceptance agents continued to be eligible to assist ITIN applicants by certifying the supporting documentation for the Form W-7 application, even though the agents may not have met their own tax responsibilities.

**Figure 1. Acceptance Agent Tax Compliance**

\*\*\*\*\* (b)(3):26 U.S.C. 6103(b)(7)(C)\*\*\*\*\*

*Source: The IRS' Database of ITINs and Master File.*<sup>5</sup>

Further, the IRS' Enrolled Agent Program requires that applicants must attest to meeting their tax responsibilities and are subject to background checks. In contrast, the IRS requires applicants to the AAP to neither certify compliance with their tax responsibilities nor attest to criminal violations or professional misconduct. Unlike Enrolled agents who represent taxpayers before the IRS, the acceptance agents are involved in the overall processing of ITIN applications and essentially perform work similar to IRS employees.

Although the IRS performs initial tax compliance checks, it does not perform any background checks for applicants to the AAP. We were unable to make suitability determinations since we are prohibited from researching law enforcement

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<sup>5</sup> The Master File is the IRS' main computer system that stores various types of taxpayer account information. It includes individual, business, and employee plans and exempt organizations data.

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databases to obtain a criminal history without having information of potential misconduct concerning a specific individual.

**Management information is inadequate for decision-making**

The IRS does not have sufficient management information to effectively provide oversight to the AAP by trending the characteristics of the ITIN documents submitted by acceptance agents. However, the available information is sufficient to determine certain basic characteristics and trends that could assist in targeting oversight efforts.

Using information maintained by the IRS, we obtained a copy of the ITIN database and used computer applications to analyze the ITINs that were issued during CY 2001. In addition, the IRS provided us with a database of approved agents that is used by the LMSB Division for the AAP.

Our analysis of the LMSB Division's database found that it contained three acceptance agents that were terminated. Instead of the 908 acceptance agents that the LMSB Division reported, there were only 905 acceptance agents. We determined that during CY 2001:

- 1,087,436 ITINs were issued by the IRS.
- 72,785 (6.7 percent) ITIN applications were certified by 514 acceptance agents.
- 276 of the authorized acceptance agents did not certify any ITINs.
- 3 of the 16 acceptance agents that certified the most Forms W-7 are foreign entities that now maintain IRS records at their respective locations.
- 101 acceptance agents certified 87 percent of the applications.

See Table 1 for additional information.

**Table 1. Form W-7 Applications Verified by Acceptance Agents**

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Range of Forms W-7	Number of Agents	Percent of Agents	Number of Forms W-7	Percent of Forms W-7
1,000-4,999	16	2.03%	40,222	55.26%
500-999	9	1.14%	6,455	8.87%
100-499	76	9.62%	16,945	23.28%
25-99	130	16.46%	6,823	9.37%
1-24	283	35.82%	2,340	3.21%
0	276	34.94%	0	0.00%
Total	790	100.00%	72,785	100.00%

Source: The IRS' Database of ITINs for CY 2001 (Percents rounded).

Management information could assist in trending the lack of activity by acceptance agents. Further, the IRS could reduce the resources devoted to managerial oversight by terminating the MOUs of unproductive agents. For example, a 35 percent reduction in the number of acceptance agents (those who did not certify any applications during Fiscal Year 2001) would reduce the amount of resources needed for AAP oversight.

Without sufficient management information, the IRS cannot determine if the Program is functioning as intended, and is unable to identify and manage the risks associated with the AAP. With the increased attention on national security, it is important for the IRS to use available information to identify potential security risks.

### Recommendations

The Director, International, LMSB Division, should:

3. Require acceptance agents to certify compliance with their tax responsibilities and attest to criminal violations or professional misconduct.



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Management's Response: Management's review of the list of 276 acceptance agents shows the IRS did not enroll 85 of them as acceptance agents until 2002. Also, included in the list of 276 acceptance agents that did not certify any ITINs during 2001 were 37 universities and 3 branches of the Armed Services. These entities do not frequently submit ITIN applications.

Notwithstanding these facts, management will develop a form, similar to the forms completed by the Electronic Return Originator (ERO) and Enrolled agent applicants, for acceptance agent applicants to certify compliance with tax filing responsibilities.

Office of Audit Comment: Management's response stated that they analyzed the list of 276 acceptance agents that did not certify any ITINs during CY 2001. Our analysis was based on the IRS' database of acceptance agents. We provided our analysis of the data to the IRS because management had not developed any information on the characteristics of the acceptance agents. The IRS performed its analysis subsequent to the issuance of the draft report.

4. Develop procedures for determining acceptance agents' compliance with their tax responsibilities, conducting criminal background checks and evaluating professional misconduct issues.

Management's Response: The IRS will develop procedures, similar to those used for ERO and Enrolled agent applicants, to conduct criminal background checks and evaluate misconduct by tax professionals. The IRS will develop different background checks for acceptance agents other than tax preparers.

5. Require acceptance agents to reapply to the AAP on a periodic basis and perform complete suitability checks upon application.

Management's Response: The IRS will develop procedures for acceptance agents to periodically reapply to the AAP.

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6. Use computer applications for management information and develop procedures for analyzing the ITIN database.

Management's Response: The IRS will use the ITIN database to develop programs to measure compliance with the terms of acceptance agents' agreements.

7. Terminate the MOUs for acceptance agents who have not certified a pre-determined number of Forms W-7 during a specific time period.

Management's Response: The IRS will develop a process for terminating acceptance agent agreements when acceptance agents do not regularly submit ITIN applications.

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**Appendix I**

**Detailed Objective, Scope, and Methodology**

The objective of this review was to determine whether the Internal Revenue Service (IRS) ensures that acceptance agents are complying with provisions of the Memorandum of Understanding with the IRS for certifying the IRS' Individual Taxpayer Identification Number (ITIN) applications. We performed the following tests to accomplish this objective:

- I. Reviewed laws, regulations, and memoranda of understanding involving the procedures that must be followed in order to properly issue an ITIN through an acceptance agent.
- II. Obtained a copy of the IRS' ITIN database containing the ITIN applications that were processed during Calendar Year (CY) 2001 and a copy of the acceptance agents database. Analyzed this information to determine the number of Applications for IRS Individual Taxpayer Identification Number (Form W-7) that were approved by acceptance agents and developed ad hoc management information.
- III. Performed a "walk through" of the ITIN Processing Unit at the IRS' Philadelphia Campus to discuss the processes and procedures that were used to assure that applications are properly reviewed and approved for the issuance of an ITIN.
- IV. Reviewed the effectiveness of the oversight provided by the Large and Mid-Size Business Division Headquarters Office in Washington, DC.
- V. Contacted the Treasury Inspector General for Tax Administration's Office of Investigations to determine the feasibility of conducting criminal background checks of acceptance agents.
- VI. Reviewed a randomly selected judgmental sample of 50 from a universe of 231 acceptance agents who certified more than 25 ITIN applications to determine their compliance with tax responsibilities starting in CY 2001. We used a judgmental sample to conserve resources by limiting the sample size, and because statistical projections were unnecessary. The sample size is still significant (over 21 percent of the population).
- VII. Determined whether the IRS performed any suitability checks for acceptance agents.

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**Appendix II**

**Major Contributors to This Report**

Gordon C. Milbourn III, Assistant Inspector General for Audit (Small Business and Corporate Programs)

Philip Shropshire, Director

Edmond G. Watt, Audit Manager

Richard J. Turner, Senior Auditor

Robert Weiss, Senior Auditor

Timothy Greiner, Auditor

Benjamin Hawkins, Auditor

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**Appendix III**

**Report Distribution List**

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Commissioner, Wage and Investment Division W

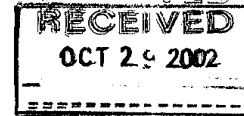
Management Oversight of the Acceptance Agent Program Is Needed to Assure that Individual Taxpayer Identification Numbers Are Properly Issued

Appendix IV

Management's Response to the Draft Report



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



October 24, 2002

MEMORANDUM FOR DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: *for* Larry R. Langdon *John M. Nolan*  
Commissioner, Large and Mid-Size Business Division  
*John M. Dalrymple*  
John M. Dalrymple  
Commissioner, Wage and Investment Division

SUBJECT: Draft Audit Report - Management Oversight of the Acceptance Agent Program (AAP) Is Needed to Assure that Individual Taxpayer Identification Numbers (ITIN) Are Properly Issued (Audit # 2002-30-026)

We have reviewed your audit report and agree with your audit recommendations, except for Recommendation 2, as explained in the Identity of Findings and Recommendations section below. Further, we do not agree with your findings, in particular that the IRS has not made an organizational commitment to the AAP. The following historical overview of the AAP demonstrates our commitment and oversight of the Program.

In May 1996, we amended the income tax regulations to allow certain entities to act as acceptance agents upon entering into an agreement with the IRS. Under the agreement, we authorized acceptance agents to act on behalf of taxpayers seeking to obtain IRS ITINs. We originally gave management responsibility for the AAP to the Foreign Payments Division of the Office of the Assistant Commissioner, International. The Foreign Payments staff worked with representatives of the Chief Counsel's office the Philadelphia Service Center, the Director of Practice, and the Assistant Commissioner, Criminal Investigation, to develop processes and procedures for the new AAP. This effort included developing forms, publications, and guidelines for tax compliance checks of acceptance agents and conducting compliance reviews of documents the acceptance agents maintained.

We also worked with tax practitioners, representatives of the Armed Services, financial institutions, and universities in drafting acceptance agent agreements addressing their particular business practices. More recently, we have worked with the Department of the Treasury and the Chief Counsel's office to issue a regulation that allows acceptance agents, in certain circumstances, to obtain ITINs on an expedited basis. We also worked with the Philadelphia Service Center staff in developing procedures for acceptance agents to apply for and receive ITINs in a "paperless" format.

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During the IRS reorganization process in calendar year 2000, a number of modernization design teams studied certain program areas under the Assistant Commissioner, International, to determine the proper placement of the programs within the new organization. The majority of acceptance agents fall within the taxpayer base covered by the Small Business/Self-Employed (SB/SE) Division; however, the reorganization transferred Foreign Payments to the Large and Mid-Size Business (LMSB) Division. To most efficiently meet the needs of these agents, the LMSB Division suggested we transfer program ownership of the AAP to SB/SE. In June 2001, the SB/SE Area 15 Taxpayer Education and Communication International Design Team issued a report to SB/SE upper management recommending we transfer the AAP to SB/SE. Of course, Foreign Payments continued to manage the AAP until IRS officials made a final decision on the placement of the program in the new organization.

As noted in your report, the management of the AAP is only a part of the overall ITIN Program. The LMSB Division has functional responsibility for managing the AAP, the SB/SE Division oversees the ITIN process, and the Wage and Investment (W&I) Division processes the ITIN applications. Since the introduction of the ITIN in 1996, the program has required more resources than originally envisioned. The volume of ITIN applications processed continues to increase, which has adversely impacted IRS resources. In addition, taxpayers appear to be using the ITIN for non-tax purposes and IRS employees are reporting incidents of identity theft with the use of the ITIN.

To identify alternatives to current ITIN procedures and address the tax and non-tax ITIN related issues, we formed an ITIN Task Force in May 2002 to conduct an in-depth review of all aspects of the ITIN, including the AAP. The ITIN Task Force included representatives from W&I, SB/SE, LMSB, and Criminal Investigation. Representatives from the Taxpayer Advocate Service, Treasury Inspector General for Tax Administration (TIGTA) and the Immigration and Naturalization Service participated in advisory capacities. Because of this effort, we will transfer full ownership of the ITIN and AAPs to W&I.

Except for Recommendation 2, we agree with six of the seven recommendations in your report. The six recommendations we agree with are the same as those found in the draft report of the ITIN Task Force formed to study the overall ITIN process.

The following are our specific comments on the draft report findings and recommendations.

**IDENTITY OF FINDINGS AND RECOMMENDATIONS:**

**FINDING:**

An organizational commitment is needed to provide reasonable assurance that goals are established and achieved.

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**ASSESSMENT OF CAUSE(S):**

Although we can improve management oversight, we believe the historical overview presented above on the actions we have taken to expand and improve the ITIN process and the AAP provides clear evidence of our commitment to assist taxpayers in complying with their tax return filing responsibilities.

**RECOMMENDATION 1:**

The Director, International, LMSB Division should ensure that the IRS' ITIN Task Force includes the organizational placement of the AAP as part of its evaluation of the overall ITIN process. This evaluation should also include a requirement that the IRS function in which the AAP is eventually located should establish goals, objectives, critical success factors, performance measures, and managerial accountability for the program.

**CORRECTIVE ACTIONS:**

We will transfer full ownership of the ITIN and AAPs to W&I. We will form a team of representatives from W&I, LMSB, and SB/SE to develop an action plan to implement changes, including program goals, objectives, critical success factors, performance measures, and managerial accountability for the international processing programs.

**IMPLEMENTATION DATE:**

PROPOSED: October 1, 2003

**RESPONSIBLE OFFICIAL(S):**

Commissioner, W&I Division

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

The implementation team will develop a corrective action monitoring plan.

**FINDING:**

Oversight of the acceptance agents is inadequate.

**ASSESSMENT OF CAUSE(S):**

We do not agree with the finding that since the inception of the AAP, the IRS has not performed any objective compliance reviews of documentation maintained by acceptance agents. The IRS reviewed documentation maintained by 25 acceptance agents during on-site visits and by correspondence. As explained to the TIGTA auditors at the August 29, 2002 closing meeting, we selected the samples of the documents



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reviewed. On a sample basis, we also contacted the Electronic Tax Administration office to ensure that a number of Electronic Return Originators (ERO) who applied for acceptance agent status had passed suitability background checks.

**RECOMMENDATION 2:**

The Director, International, LMSB Division should require that the acceptance agents submit to the IRS copies of the supporting documents that they reviewed.

**CORRECTIVE ACTIONS:**

We will not implement this recommendation because this requirement would place an unnecessary burden on the IRS and on acceptance agents. The IRS currently processes and files the Forms W-7, Application for IRS Individual Taxpayer Identification Number, submitted by acceptance agents in the same manner as the Forms W-7 sent to the Philadelphia Submissions Processing Center or submitted through IRS Taxpayer Assistance Centers. For the Forms W-7 received directly from ITIN applicants, the IRS batches the forms, reviews the documentation, returns the documentation to the applicant, processes the forms, assigns ITINs, assigns document locator numbers to the forms, and files the forms. When we file the processed forms with the records center, we do not segregate them according to who submitted the forms. If we implement the recommendation, we would have to develop special procedures to file Forms W-7 submitted by acceptance agents.

In addition, requiring acceptance agents to submit copies of supporting documentation to the IRS would also place an additional burden on them. We believe acceptance agents would undoubtedly make copies, for their own files, of any documents reviewed and submitted to the IRS. If implemented, the recommendation would also require that we cancel our process of receiving applications and issuing ITINs in a "paperless" format. Please note that we use similar procedures for tax preparers, including IRS tax assistants. We no longer require them to forward Forms W-2 to us if they file tax returns electronically.

We should implement the ITIN Task Force recommendation that we conduct annual compliance check visits to at least 20 percent of the acceptance agents. Annual compliance checks would more accurately measure compliance with the terms of the acceptance agent agreements.

**IMPLEMENTATION DATE (FOR ALTERNATIVE RECOMMENDATION):**

PROPOSED: October 1, 2003

**RESPONSIBLE OFFICIAL(S):**

Commissioner, W&I Division

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

The implementation team will develop a corrective action monitoring plan.

**FINDING:**

A management information system is needed to effectively oversee the AAP. Management information is:

- Insufficient to determine the suitability of applicants to the AAP
- Inadequate for decision-making

**ASSESSMENT OF CAUSE(S):**

We believe our management information is adequate for decision-making. We noted your finding reflects significant inaccuracies. For example, the report states that acceptance agents act on behalf of the IRS to provide customer service, and that unlike enrolled agents who represent taxpayers before the IRS, acceptance agents are involved in the overall processing of ITIN applications and essentially perform work similar to IRS employees. The definition of an acceptance agent is best summarized in the "Glossary of Terms" in your previous report titled, "The Internal Revenue Service's Taxpayer Identification Number Program Was Not Implemented in Accordance with Internal Revenue Code Regulations" (Reference Number 094505), which defines an acceptance agent as a ". . . person, accepted by the Internal Revenue Service (IRS), authorized to act on behalf of taxpayers seeking to obtain a Taxpayer Identification Number from the IRS."

Your report also states that 276 acceptance agents did not certify any ITINs during calendar year 2001. Our review of the list of 276 acceptance agents shows the IRS did not enroll 85 of them as acceptance agents until 2002. The IRS did not enroll another five until after November 1, 2001. The IRS normally issues ITINs 6 to 8 weeks after acceptance agents submit the applications. Also, included in the list of 276 acceptance agents that did not certify any ITINs during 2001 were 37 universities and 3 branches of the Armed Services. These entities do not frequently submit ITIN applications.

**RECOMMENDATION 3:**

The Director, International, LMSB Division should require acceptance agents to certify compliance with their tax responsibilities and attest to criminal violations or professional misconduct.

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**CORRECTIVE ACTIONS:**

Based on an ITIN Task Force recommendation, we will develop a form, similar to the forms completed by the ERO and Enrolled Agent applicants, for acceptance agent applicants to certify compliance with tax filing responsibilities.

**IMPLEMENTATION DATE:**

PROPOSED: October 1, 2003

**RESPONSIBLE OFFICIAL(S):**

Commissioner, W&I Division

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

The implementation team will develop a corrective action monitoring plan.

**RECOMMENDATION 4:**

The Director, International, LMSB Division should develop procedures for determining acceptance agents' compliance with their tax responsibilities, conducting criminal background checks, and evaluating professional misconduct issues.

**CORRECTIVE ACTIONS:**

We will develop procedures, similar to those used for ERO and Enrolled Agent applicants, to conduct criminal background checks and evaluate misconduct by tax professionals. We will develop different background checks for acceptance agents other than tax preparers.

**IMPLEMENTATION DATE:**

PROPOSED: October 1, 2003

**RESPONSIBLE OFFICIAL(S):**

Commissioner, W&I Division

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

The implementation team will develop a corrective action monitoring plan.

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**RECOMMENDATION 5:**

The Director, International, LMSB Division should require acceptance agents to reapply to the AAP on a periodic basis and perform complete suitability checks upon application.

**CORRECTIVE ACTIONS:**

We will develop procedures for acceptance agents to periodically reapply to the AAP

**IMPLEMENTATION DATE:**

PROPOSED: October 1, 2003

**RESPONSIBLE OFFICIAL(S):**

Commissioner, W&I Division

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

The implementation team will develop a corrective action monitoring plan.

**RECOMMENDATION 6:**

The Director, International, LMSB Division should use computer applications for management information and develop procedures for analyzing the ITIN database.

**CORRECTIVE ACTIONS:**

We will use the ITIN database to develop programs to measure compliance with the terms of acceptance agents' agreements.

**IMPLEMENTATION DATE:**

PROPOSED: October 1, 2003

**RESPONSIBLE OFFICIAL(S):**

Commissioner, W&I Division

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

The implementation team will develop a corrective action monitoring plan.

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**RECOMMENDATION 7:**

The Director, International, LMSB Division should terminate the Memorandums of Understanding (MOU) for acceptance agents who have not certified a pre-determined number of Forms W-7 during a specific time period.

**CORRECTIVE ACTIONS:**

We will develop a process for terminating acceptance agent agreements when acceptance agents do not regularly submit ITIN applications.

**IMPLEMENTATION DATE:**

PROPOSED: October 1, 2003

**RESPONSIBLE OFFICIAL(S):**

Commissioner, W&I Division

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

The implementation team will develop a corrective action monitoring plan.

If you have any questions, please contact Carol Dunahoo, Director, International at (202) 874-1900 or Jerald H. Heschel, Director, Field Assistance, W&I CARE, at (404) 338-7141.