



*Additional Actions Are Needed to Protect
Taxpayers' Rights During the Lien Due
Process*

June 16, 2009

Reference Number: 2009-30-089

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.

Redaction Legend:

1 = Tax Return/Return Information

3(d) = Identifying Information - Other Identifying Information of an Individual or Individuals



TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

June 16, 2009

MEMORANDUM FOR COMMISSIONER, SMALL BUSINESS/SELF-EMPLOYED
DIVISION

Michael R. Phillips

FROM:

Michael R. Phillips
Deputy Inspector General for Audit

SUBJECT:

Final Audit Report – Additional Actions Are Needed to Protect
Taxpayers' Rights During the Lien Due Process (Audit # 200930001)

This report presents the results of our review to determine whether liens issued by the Internal Revenue Service (IRS) comply with legal guidelines set forth in Internal Revenue Code (I.R.C.) Section (§) 6320 (a)¹ and related guidance in the Federal Tax Lien Handbook. The Treasury Inspector General for Tax Administration is required by law to determine annually whether lien notices sent by the IRS comply with the legal guidelines in I.R.C. § 6320.² This is our eleventh annual audit to determine the IRS' compliance with the law and with its own related internal guidelines when sending lien notices.

Impact on the Taxpayer

After filing Notices of Federal Tax Lien, the IRS must notify the affected taxpayers in writing, at their last known address,³ within 5 business days of the lien filings. However, as noted in previous audits, the IRS has not always complied with this statutory requirement and did not always follow its own internal guidelines for notifying taxpayer representatives of the filing of lien notices. Therefore, some taxpayers' rights to appeal the lien filings may have been jeopardized, and others may have had their rights violated when the IRS did not notify their representatives of lien filings.

¹ I.R.C. § 6320 (Supp. V 1999).

² I.R.C. § 7803(d)(1)(A)(iii) (Supp. V 1999).

³ The last known address is that one shown on the most recently filed and properly processed tax return, unless the IRS received notification of a different address.



Additional Actions Are Needed to Protect Taxpayers' Rights During the Lien Due Process

Synopsis

The IRS attempts to collect Federal taxes due from taxpayers by sending letters, making telephone calls, and meeting face to face with taxpayers. The IRS has the authority to attach a claim to the taxpayer's assets for the amount of unpaid tax when the taxpayer neglects or refuses to pay.⁴ This claim is referred to as a Federal Tax Lien, which notifies interested parties that a lien exists.

Our review of a statistically valid sample of 125 Federal Tax Lien cases determined that in all 125 cases the IRS mailed lien notices in a timely manner, as required by I.R.C. § 6320 and internal procedures. However, the IRS did not always follow its own regulations and internal guidelines for notifying taxpayers' representatives of the filing of lien notices. For 8 (30 percent) of the 27 cases in which the taxpayer had an authorized representative at the time of the lien actions, the IRS did not notify the taxpayer's representative of the lien filing. The IRS did not have an automated process that updated taxpayer representative information directly with the system that generates the lien notices.

When an initial lien notice is returned because it could not be delivered and a different address is available for the taxpayer, the IRS does not always meet its statutory requirement to send the lien notice to the taxpayer's last known address. For 234 (83 percent) of 283 cases, employees did not research IRS computer systems for different addresses. We also identified 17 cases for which a new lien notice should have been sent to the taxpayer at the updated address because the IRS systems listed the address prior to the lien filing. The 17 cases could involve legal violations because the IRS did not meet its statutory requirement of sending lien notices to the taxpayer's last known address.

In August 2007, the IRS decentralized the processing of undelivered lien notices by returning them to the employees or functions requesting the lien instead of returning them to a single location. This was done because employees were not always researching undelivered notices timely and the IRS believes that the originating employee is in the best position to address undelivered lien notices. However, instead of improving the process, the number of undelivered notices that were not timely researched increased from 33 percent in Fiscal Year 2008 to nearly 83 percent in Fiscal Year 2009. This occurred, in part, because management oversight was not adequate to ensure undelivered mail was worked timely. In addition, management did not have the information necessary to monitor the processing of undelivered lien notices, which are now being returned to over 450 locations throughout the country instead of 1 centralized site.

To provide a method of monitoring and reviewing undelivered lien notices, the IRS established procedures to enable employees and managers to determine the mail status of lien notices

⁴ I.R.C. § 6321 (1994).



Additional Actions Are Needed to Protect Taxpayers' Rights During the Lien Due Process

without Automated Lien System (ALS)⁵ research. These procedures require employees processing undelivered lien notices to input a specific transaction code with an appropriate action code to the Integrated Data Retrieval System⁶ to indicate the reason the lien notice was returned (e.g., undelivered, unclaimed, or refused). This would allow management to monitor and track the status of undelivered lien notices. Our test of undelivered lien notices determined that the IRS is not complying with this procedure. The transaction code and associated action code were not input to the Integrated Data Retrieval System for any of the 283 undelivered lien notices that we sampled. Management recognized this problem prior to our review and began corrective action by revising the Internal Revenue Manual to require employees to enter the undeliverable lien information into the Integrated Data Retrieval System. Because the corrective action occurred after the period of our sample cases, we are not making a recommendation to address this problem. We will assess the effectiveness of the corrective action in next year's review.

Recommendations

To ensure taxpayers' representatives receive lien notices, we recommended that the Director, Collection, Small Business/Self-Employed Division, establish an automated process that would systemically upload taxpayer representative information directly from the Centralized Authorization File⁷ to the ALS. In addition, the Director, Collection, Small Business/Self-Employed Division, should determine why lien notices were not sent to taxpayers' representatives in the cases where the lien was initiated after the upload of Centralized Authorization File information to the Automated Collection System was automated and take actions to correct the problem. Also, to ensure accurate notification of lien filings, we recommended that the Director, Collection Policy, Small Business/Self-Employed Division, establish an automated check of a taxpayer's last known address in the ALS prior to printing a lien notice.

Response

IRS management agreed with all of our recommendations and is taking corrective actions. The Director, Collection, Small Business/Self-Employed Division, will determine the feasibility of establishing an automated process that would systemically upload taxpayer representative information directly from the Centralized Authorization File to the ALS and, if feasible, request and implement programming enhancements. The Director, Collection, also reviewed the cases

⁵ See Appendix VI for descriptions of IRS computer systems used in the filing of Notices of Federal Tax Lien.

⁶ IRS computer system capable of retrieving or updating stored information; it works in conjunction with a taxpayer's account records.

⁷ The Centralized Authorization File contains information regarding the types of authorization that taxpayers have given representatives for various tax periods within their accounts.



Additional Actions Are Needed to Protect Taxpayers' Rights During the Lien Due Process

we identified in this report and has taken appropriate corrective actions. In addition, the Director, Collection, will review current programming of the systems interfacing with the ALS to ensure that taxpayer representative notifications are sent to the ALS for each lien when multiple liens are requested and, if required, prepare and issue memorandums to system owners requiring programming corrections be initiated to ensure that a separate taxpayer representative notification is issued with each lien request. Further, the Director, Collection Policy, will determine if the ALS can accommodate Integrated Data Retrieval System real-time data exchange and, if feasible, initiate programming work requests. Management's complete response to the draft report is included as Appendix VII.

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 Margaret E. Begg, Assistant Inspector General for Audit (Compliance and Enforcement Operations), at (202) 622-8510.



*Additional Actions Are Needed to Protect Taxpayers' Rights
During the Lien Due Process*

Table of Contents

BackgroundPage 1

Results of ReviewPage 4

 Lien Notices Were Mailed TimelyPage 4

 The Internal Revenue Service Did Not Comply With Regulations
 for Notifying Taxpayer RepresentativesPage 4

Recommendation 1:Page 6

Recommendation 2:Page 7

 Ineffective Working of Undelivered Lien Notices Resulted in Potential
 Violations of Taxpayers' RightsPage 7

Recommendation 3:Page 10

Appendices

 Appendix I – Detailed Objective, Scope, and MethodologyPage 11

 Appendix II – Major Contributors to This ReportPage 14

 Appendix III – Report Distribution ListPage 15

 Appendix IV – Outcome MeasuresPage 16

 Appendix V – Synopsis of the Internal Revenue Service Collection
 and Lien Filing ProcessesPage 17

 Appendix VI – Internal Revenue Service Computer Systems Used
 in the Filing of Notices of Federal Tax LienPage 19

 Appendix VII – Management's Response to the Draft ReportPage 20



*Additional Actions Are Needed to Protect Taxpayers' Rights
During the Lien Due Process*

Abbreviations

ACS	Automated Collection System
ALS	Automated Lien System
CAF	Centralized Authorization File
ICS	Integrated Collection System
IDRS	Integrated Data Retrieval System
I.R.C.	Internal Revenue Code
IRS	Internal Revenue Service
SB/SE	Small Business/Self-Employed



*Additional Actions Are Needed to Protect Taxpayers' Rights
During the Lien Due Process*

Background

The Internal Revenue Service (IRS) attempts to collect Federal taxes due from taxpayers by sending letters, making telephone calls, and meeting face to face with taxpayers. The IRS has the authority to attach a claim to the taxpayer's assets for the amount of unpaid tax when the taxpayer neglects or refuses to pay.¹ This claim is referred to as a Federal Tax Lien. The IRS files in appropriate local government offices a Notice of Federal Tax Lien² (lien notice), which notifies interested parties that a lien exists.

Since January 19, 1999, Internal Revenue Code Section (I.R.C. §) 6320³ has required the IRS to notify taxpayers in writing within 5 business days of the filing of a Notice of Federal Tax Lien. The IRS is required to notify taxpayers the first time a Notice of Federal Tax Lien is filed for each tax period. The lien notice, Notice of Federal Tax Lien Filing and Your Right to a Hearing Under IRC 6320⁴ (Letter 3172), is used for this purpose and advises taxpayers that they have 30 calendar days, after that 5-day period, to request a hearing with the IRS Appeals office. The lien notice indicates the date on which this 30-day period expires.

The IRS must notify taxpayers in writing of the filing of a Federal Tax Lien within 5 business days of the filing.

The law also requires that the lien notice explain, in simple terms, the amount of unpaid tax, administrative appeals available to the taxpayer, and provisions of the law and procedures relating to the release of liens on property. The lien notice must be given in person, left at the taxpayer's home or business, or sent by certified or registered mail to the taxpayer's last known address.⁵

Most lien notices are mailed to taxpayers by certified or registered mail rather than being delivered in person. The IRS Automated Lien System (ALS) generates a certified mail list which identifies each notice that is to be mailed. The notices and a copy of the certified mail list are delivered to the United States Postal Service. A Postal Service employee ensures that all notices are accounted for and date stamps the list and returns a copy to the IRS. The stamped certified mail list is the only documentation the IRS has that certifies the date on which the

¹ Internal Revenue Code Section 6321 (1994).

² Notice of Federal Tax Lien (Form 668(Y) (c); (Rev. 10-1999)), Cat. No. 60025X.

³ I.R.C. § 6320 (Supp. V 1999).

⁴ Notice of Federal Tax Lien Filing and Your Right to a Hearing Under IRC 6320 (Letter 3172 (Rev. 9-2006)), Cat. No. 26767L.

⁵ The last known address is that one shown on the most recently filed and properly processed tax return, unless the IRS received notification of a different address.



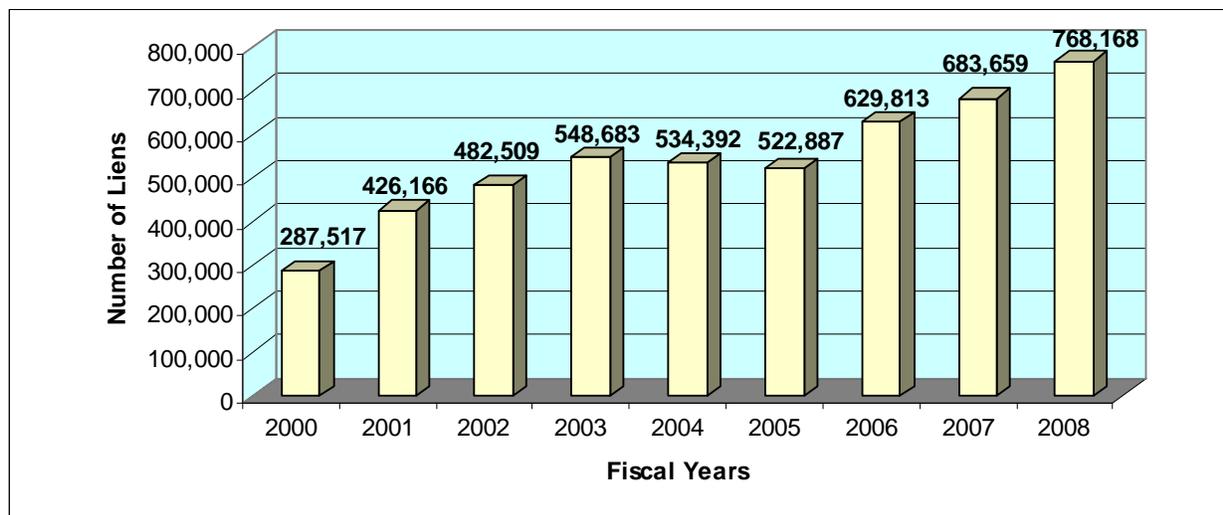
Additional Actions Are Needed to Protect Taxpayers' Rights During the Lien Due Process

notices were mailed. A synopsis of the IRS collection and lien filing processes is included in Appendix V.

Depending on employee access, lien requests can be generated using one of three IRS systems: 1) the Integrated Collection System (ICS), 2) the Automated Collection System (ACS), or 3) the ALS. A description of IRS computer systems used in the filing of lien notices is included in Appendix VI.

The IRS has increased the number of Federal Tax Liens it has filed to protect the Federal Government's interest. As shown in Figure 1, the number of Federal Tax Liens increased sharply in Fiscal Year 2001, decreased slightly in Fiscal Years 2004 and 2005, and has increased each year since then.

Figure 1: Number of Liens Filed From Fiscal Years 2000 - 2008



Source: IRS Data Books published in Fiscal Years 2003, 2007 and 2008.⁶

The Treasury Inspector General for Tax Administration is required to determine annually whether, when filing lien notices, the IRS complied with the law regarding the notifications of affected taxpayers and their representatives.⁷ This is our eleventh annual audit to determine whether the IRS complied with the legal requirements of I.R.C. § 6320 and its own related internal guidelines for filing lien notices. In prior years, we reported that the IRS had not yet achieved full compliance with the law and its own internal guidelines. This year, our statistically valid sample did not identify any lien notices that were not mailed in a timely manner. However, we identified potential violations of taxpayer rights because the IRS did not notify the taxpayer's

⁶ The IRS Data Book is published annually by the IRS and contains statistical tables and organizational information on a fiscal year basis.

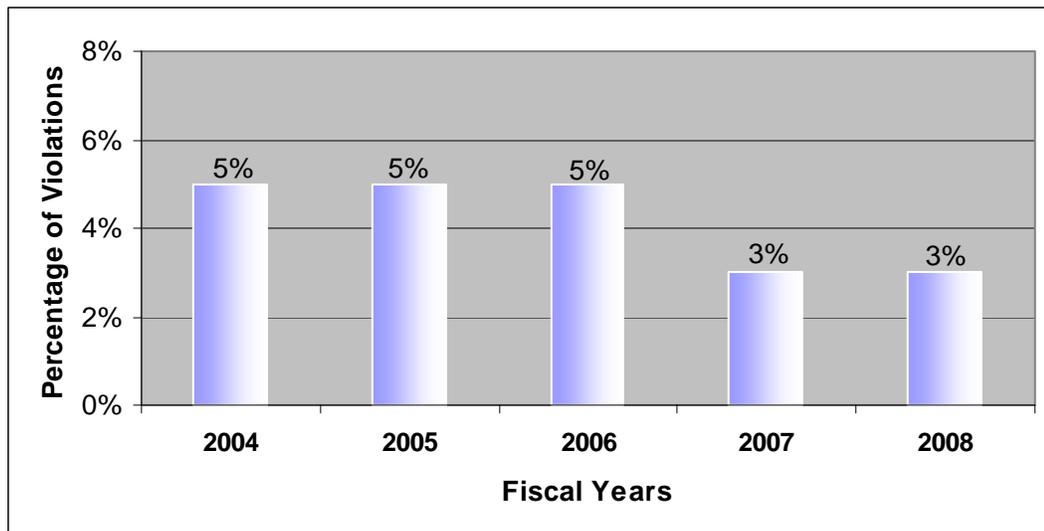
⁷ I.R.C. § 7803(d)(1)(A)(iii) (Supp. V 1999).



Additional Actions Are Needed to Protect Taxpayers' Rights During the Lien Due Process

representative. Our review of a judgmental sample of undelivered lien notices found potential violations of taxpayer rights when the IRS did not use the taxpayer's last known address. Figure 2 shows the percentages of potential violations of taxpayer rights we identified during our prior annual audits.

Figure 2: Potential Violations of Taxpayer Rights Based on Timely Notification



Source: Treasury Inspector General for Tax Administration mandatory lien reports issued during Fiscal Years 2003 - 2008.

We performed our audit work in the Small Business/Self-Employed (SB/SE) Division Office of Collection Policy in Washington, D.C., and the Centralized Lien Unit in Covington, Kentucky, during the period August 2008 through January 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.



*Additional Actions Are Needed to Protect Taxpayers' Rights
During the Lien Due Process*

Results of Review

Lien Notices Were Mailed Timely

Our review of a statistically valid sample of 125 lien notices from the ALS did not identify any legal violations with I.R.C. § 6320. I.R.C. § 6320 requires the IRS to notify taxpayers in writing, at their last known address, within 5 business days of the filing of a Notice of Federal Tax Lien.

The majority of lien notices are sent to the taxpayers via certified mail. In order to support the timely notification of taxpayers, IRS procedures require retention of the date-stamped copy of the certified mail lists for 10 years after the end of the processing year. This year, the IRS was able to provide proof for the timely mailing of all 125 lien notices in our statistical sample. This is an improvement over our last year's audit, in which the IRS could not provide proof of mailing for 3 percent of sampled lien notices.

The Internal Revenue Service Did Not Comply With Regulations for Notifying Taxpayer Representatives

Taxpayer representative information is contained on the Centralized Authorization File (CAF)⁸ that is located on the Integrated Data Retrieval System (IDRS).⁹ Using the IDRS, employees can research the CAF to identify the types of authorization given to taxpayer representatives.

IRS regulations¹⁰ require that once a taxpayer representative has been recognized as such, he or she must be given copies of all correspondence issued to the taxpayer. This applies to all computer or manually generated notices or other written communications. Employees responsible for making lien filing determinations are to ensure that all appropriate persons, such as those with a taxpayer's power of attorney, receive a notice of the lien filing and the taxpayer's appeal rights. Specifically, IRS procedures require that a copy of the notice be sent to the taxpayer's representative no later than 5 business days after the notice is sent to the taxpayer when a Notice of Federal Tax Lien is filed.

The ACS and the ICS interface with the ALS. In January 2008, the ACS implemented a process that provides CAF information to the ALS during the upload of the lien notice information. When a lien request is initiated on the ICS or the ACS, the taxpayer representative information

⁸ The CAF contains information about the type of authorizations taxpayers have given their representatives for their tax returns.

⁹ IRS computer system capable of retrieving or updating stored information; it works in conjunction with a taxpayer's account records.

¹⁰ 26 Code of Federal Regulations § 601.506.



Additional Actions Are Needed to Protect Taxpayers' Rights During the Lien Due Process

on these systems is sent to the ALS as part of the lien request, which then generates the lien notice and any taxpayer representative copies. For this upload to be effective, the taxpayer representative data must be current and be on the CAF as well as the ACS or the ICS. For example, if a taxpayer submits a Power of Attorney and Declaration of Representative (Form 2848) to a revenue officer, the revenue officer must forward the Form 2848 to the Centralized Authorization Unit to ensure the representative information is input to the CAF. There is no interface between the ALS and the CAF, so representative information must be manually input to the ALS when a lien request is initiated on the ALS.

Our review of the statistically valid sample of 125 liens determined that 27 cases involved taxpayers with representatives authorized to receive notifications at the time the liens were filed. In 8 (30 percent) of the 27 cases, ALS records did not indicate that the IRS had sent copies of the lien notices to the representatives. Specifically:

1,3(d)

- Four of the eight liens were initiated in the ACS. [REDACTED]

[REDACTED]

The other three liens were initiated after the IRS automated the upload of CAF information to the ACS. IRS management indicated that a lien notice may not have been sent to taxpayer representatives because systemic problems may exist with the automated upload established in January 2008.

1

- [REDACTED] of the eight liens were initiated in the ICS. [REDACTED]

[REDACTED]

1,3(d)

1

- [REDACTED] of the eight liens were initiated in the ALS. [REDACTED]

[REDACTED]

1,3(d)

Taxpayers might be adversely affected if the IRS does not follow requirements to notify both the taxpayers and their representatives of the taxpayers' rights related to liens. We projected that 45,554 taxpayer representatives may not have been provided lien notices, resulting in potential violations of the taxpayers' right to have their representative notified of the filing of a lien notice.

In addition to this year's results, Figure 3 shows the error rates reported on the notification of taxpayer representatives in our last three reports. While the error rate has been reduced from 76 percent in Fiscal Year 2006 to 30 percent in Fiscal Year 2009, the potential for violations still exist in nearly one third of all cases requiring taxpayer representative notification.



*Additional Actions Are Needed to Protect Taxpayers' Rights
During the Lien Due Process*

Figure 3: Error Rates Reported on Notification of Taxpayer Representatives

<u>Fiscal Year</u>	<u>Sampled Lien Cases Requiring Representative Notification</u>	<u>Sampled Lien Cases Not Receiving Representative Notification</u>	<u>Error Rate</u>
2006	45	34	76%
2007	25	15	60%
2008	30	12	40%
2009	27	8	30%

Source: Prior and current year results of Treasury Inspector General for Tax Administration tests of taxpayer representative notification.

In last year's report,¹¹ we recommended that the Director, Collection, SB/SE Division, provide better oversight to ensure that employees notify taxpayer representatives of lien filings and computer enhancements are uploading power-of-attorney information as intended. Management agreed to establish taxpayer representative verification procedures for employees initiating liens. They also agreed to determine if the ACS and the CAF could include programming to match lien notice data with taxpayer representative data prior to sending lien requests to the ALS to ensure the Notice of Federal Tax Lien and the CAF had at least one matching tax period. This would ensure there was no potential for unauthorized disclosure. Management also agreed to identify any computer program enhancements to the lien process. These corrective actions were implemented before our sample selection. However, we did not identify any plans to enhance the automated processes, which would help reduce the number of taxpayer representatives who are not notified of lien filings.

Recommendations

The Director, Collection, SB/SE Division, should:

Recommendation 1: Establish an automated process that would systemically upload taxpayer representative information directly from the CAF to the ALS.

Management's Response: IRS management agreed with this recommendation and will 1) determine the feasibility of establishing an automated process that would systemically upload taxpayer representative information directly from the CAF to the ALS and 2) if feasible, request and implement programming enhancements.

¹¹ *Fiscal Year 2008 Statutory Review of Compliance With Lien Due Process Procedures* (Reference Number 2008-30-082, dated March 27, 2008).



*Additional Actions Are Needed to Protect Taxpayers' Rights
During the Lien Due Process*

Recommendation 2: Determine why lien notices were not sent to taxpayers' representatives in the cases where the lien was initiated after the implementation of the automated CAF process and take appropriate corrective actions to resolve the problem.

Management's Response: IRS management agreed with this recommendation and has already taken corrective action by reviewing the cases we identified and taking appropriate corrective actions. They will also 1) review current programming of systems interfacing with the ALS with systems owners to ensure taxpayer representative notifications are sent to the ALS for each lien when multiple liens are requested and 2) if required, prepare and issue memorandums to system owners requiring programming corrections be initiated to ensure that a separate taxpayer representative notification is issued with each lien request.

Ineffective Working of Undelivered Lien Notices Resulted in Potential Violations of Taxpayers' Rights

IRS procedures require that employees send another lien notice to a new address if 1) the originally mailed notice is returned as undelivered mail, 2) research confirms the original lien notice was not sent to the last known address, 3) a different address is available for the taxpayer, and 4) the address was effective prior to the lien notice filing. Employees are responsible for certain actions when notices are returned as undeliverable. For example, they should research the IRS computer system within 5 business days to ensure that the address on the original lien notice is correct. If the employee cannot find a new address on the computer system, the undelivered lien notice will be destroyed and a new notice is not issued.

If the address on the notice is not the last known address and a different address was in effect prior to issuance of the original lien notice, employees should issue a new notice to the better address. A new notice may be created by using an option in the ALS.

We selected a judgmental sample of 283 undelivered lien notices returned to the Cincinnati, Ohio, Service Center for the period November 18 through November 25, 2008. The sample included only returned mail identified as undelivered and did not include returned mail identified as refused or unclaimed. For these 283 notices, we reviewed computer system audit trails to determine whether IRS employees performed timely research to determine whether the addresses were correct on the originally mailed notices. Our results showed that employees are not timely researching IRS computer systems.

In 234 (83 percent) of 283 notices, employees did not perform required research of the IRS computer system for a different address within 5 business days of receipt of the returned notice. This is significantly higher than last year's review in which employees did not timely perform the research in 33 percent of lien notices. Employees performed the required research within 5 days of receipt of the returned notice for the remaining 49 notices (17 percent).



Additional Actions Are Needed to Protect Taxpayers' Rights During the Lien Due Process

Our test of undelivered lien notices identified 26 notices where the address on the IRS computer system and the original lien notice did not agree. For 9 (35 percent) of the 26 notices, the address on the IRS computer system was updated after the original lien notice was sent to the taxpayer. Per IRS procedures, no additional action was required. However, for 17 notices (65 percent), the address was updated prior to the issuance of the original lien notice and, according to IRS procedures, a new lien notice should have been sent to the taxpayer at the updated address. These cases could involve potential violations of taxpayer rights because the IRS did not meet its statutory requirement of sending each lien notice to the taxpayer's last known address.

Lien notices are not sent to the most current addresses on the IDRS because, in part, the user guides and applicable procedures pertaining to the systems that generate lien requests are inconsistent in regards to verifying the current address of the taxpayer prior to preparing a lien. In addition, employees are not always following established procedures for verifying the current address of the taxpayer prior to preparing a lien request. Specifically, ACS procedures do not require the user to verify the taxpayer's name and address prior to preparing a lien. In addition, the ALS does not perform an automated verification of the taxpayer's last known address prior to printing the lien notice. Further, management oversight was not adequate to ensure that undelivered mail is worked appropriately. Management also indicated that the routing of the returned mail could have contributed to the cause of the untimely research of the undelivered mail (i.e., not within the required 5 business days of receipt).

In last year's report, we identified similar conditions and recommended that the IRS provide better oversight to ensure that employees are properly controlling and processing returned mail as undelivered, researching computer systems for correct addresses, and resending lien notices. The IRS agreed to establish proper control and processing of undelivered lien notices and, in August 2007, revised its requirements to return undelivered lien notices to the employee or function requesting the lien. This corrective action was implemented before our sample selection. However, instead of correcting the problem, the number of undeliverable lien notices that were not timely researched by employees increased from 33 percent to nearly 83 percent. This may have occurred because employees were not following procedures designed to establish accountability and visibility in the decentralized environment.

Employees are not following new procedures designed to monitor undeliverable lien notices

In August 2007, the Director, Collection Policy, SB/SE Division, revised procedures for handling undelivered lien notices. The new procedures decentralized the processing of undelivered lien notices by returning them to the employee or function requesting the lien notice instead of returning them to a single location. To provide a method of reviewing undelivered lien notices, the Director, Collection, SB/SE Division, also established procedures to enable employees to determine the mail status of lien notices without ALS research. Specifically, employees handling undelivered lien notices are now required to input a specific IDRS



*Additional Actions Are Needed to Protect Taxpayers' Rights
During the Lien Due Process*

transaction code with an appropriate action code. The transaction code and appropriate action code indicate the reason the lien notice was returned (i.e., undelivered, unclaimed, or refused). These codes are required to be entered into the IDRS after appropriate research of the returned lien notice is performed.

Our test of undelivered lien notices determined that employees are not complying with this procedure. None of the 283 undelivered lien notices that we sampled had the transaction code and associated action code input to the IDRS. Management believes that the requirements to enter these codes were not being enforced because, initially, procedures were not consistent. For example, ACS procedures for processing undelivered lien notices did not include any reference to the requirement. Management also indicated that the procedures may not have been clear.

Compliance with these procedures is important because it allows management to review the handling of undelivered lien notices. Undelivered lien notices are being sent back to over 450 Collection function groups throughout the country where the employees or functions that requested the liens are located. The combination of decentralizing the handling of undelivered lien notices and the failure of employees to update taxpayers' data in the IDRS resulted in management's inability to ensure and enforce the timely resolution of undelivered lien notices. This contributed to the number of undelivered lien notices that were not researched timely increasing from 33 percent in Fiscal Year 2008 to nearly 83 percent in Fiscal Year 2009.

Further, because employees are not following the procedures to enter the information into the IDRS, information about undelivered mail is limited to the employees working the undelivered mail. IRS management, including Accounts Management organization¹² employees and even Centralized Lien Unit employees, who have access to the ALS, do not have access to information on undelivered lien notices. As a result, Taxpayer Assistance Center¹³ employees would not be able to answer taxpayer questions about their Federal Tax Liens.

Management was aware of this condition and issued a memorandum in May 2008 to remind Collection function employees of this requirement. However, an internal review in July 2008 found that transaction and action codes were not entered in all 63 cases the IRS sampled in its review. As a result, in January 2009, management revised Internal Revenue Manual sections specifying the requirement to enter information about undeliverable mail into the IDRS. This corrective action was taken after our sample selection and will be evaluated in next year's review.

¹² The Accounts Management organization is responsible for providing taxpayers with information on the status of their returns, refunds, and for resolving the majority of issues and questions to settle their accounts.

¹³ IRS offices with employees who answer questions, provide assistance, and resolve account-related issues for taxpayers face to face.



*Additional Actions Are Needed to Protect Taxpayers' Rights
During the Lien Due Process*

Recommendation

Recommendation 3: To ensure accurate notification of lien filings, the Director, Collection Policy, SB/SE Division, should establish an automated check of a taxpayer's last known address within the ALS immediately prior to printing a lien notice. This automated check should include an increase in the frequency of updates of IDRS information to reach the ALS to provide more timely updates of taxpayer information.

Management's Response: IRS management agreed with this recommendation and will 1) determine if the ALS can accommodate IDRS real-time data exchange and 2) if feasible, initiate programming work requests.



*Additional Actions Are Needed to Protect Taxpayers' Rights
During the Lien Due Process*

Appendix I

Detailed Objective, Scope, and Methodology

Our overall objective was to determine whether liens issued by the IRS comply with legal guidelines set forth in I.R.C. § 6320 (a)¹ and related guidance in the Federal Tax Lien Handbook. To accomplish the objective, we:

- I. Determined whether taxpayer lien notices related to 125 Federal Tax Liens filed by the IRS complied with legal requirements set forth in I.R.C. § 6320 (a) and related internal guidelines.
 - A. Selected a statistically valid sample of 125 Federal Tax Lien cases from the ALS² extract of the 711,780 liens filed by the IRS nationwide between July 1, 2007, and June 30, 2008. We used a statistical sample because we wanted to project the number of cases with errors. We used attribute sampling to calculate the minimum sample size (n),³ which we rounded to 125:
$$n = (Z^2 p(1-p))/(A^2)$$

Z = Confidence Level: 90 percent (expressed as 1.65 standard deviation)
p = Expected Rate of Occurrence: 4 percent (prior reports 5% - 3%)
A = Precision Rate: ±3 percent
 - B. Validated the ALS extract by comparing the sampled records to online data from the ALS and by reviewing management system evaluations that covered reliability, completeness, and accuracy.
 - C. Determined whether the sampled liens adhered to legal guidelines regarding timely notifications of lien filings to the taxpayer, the taxpayer's spouse, or business partners by reviewing data from the ALS, ICS, ACS, IDRS, and the certified mail list.
 - D. Evaluated the controls and procedures established for transferring, storing, and safeguarding certified mail lists at the Centralized Case Processing function.
 - E. Determined whether taxpayers' representatives were provided a copy of the lien due process notice by reviewing data from the ALS, IDRS, ICS, and ACS.

¹ I.R.C. § 6320 (Supp. V 1999).

² See Appendix VI for descriptions of IRS computer systems used in the filing of Notices of Federal Tax Lien.

³ The formula $n = (Z^2 p(1-p))/(A^2)$ is from *Sawyer's Internal Auditing - The Practice of Modern Internal Auditing*, 4th Edition, pp. 462-464.



*Additional Actions Are Needed to Protect Taxpayers' Rights
During the Lien Due Process*

1. Reviewed IDRS screens for CAF indicators (Transaction Code 960) for all sampled cases.
 2. Reviewed ALS history screens for accounts with CAF indicators to see if lien notices were mailed to taxpayers' representatives within 5 business days of mailing the taxpayer's notice.
- F. Validated data from the ACS and the ICS by relying on the Treasury Inspector General for Tax Administration Data Center Warehouse⁴ site procedures that ensure that data received from the IRS are valid. The Data Center Warehouse performs various procedures to ensure that it receives all the records in the ACS, ICS, and IRS databases. In addition, we scanned the data for reasonableness and are satisfied that the data are sufficient, complete, and relevant to the review. All the liens identified are in the appropriate period, and the data appear to be logical.
- G. Provided all exception cases to Office of Collection Policy, SB/SE Division, for agreement to potential violations and corrective actions if appropriate.
- II. Evaluated the procedures for processing lien notices⁵ that are returned as undelivered.
- A. Selected a judgmental sample of unprocessed mail containing undelivered lien notices received during the period November 18 through November 25, 2008, and recorded the taxpayer's name, address, Social Security Number, and serial lien identification number. The judgmental sample included only returned mail identified as undelivered. The population of returned mail identified as undelivered is unknown because the IRS does not record the receipt of undelivered mail. A judgmental sample was used for this reason and the test was conducted to show weaknesses for which management needed to take corrective action.
 - B. Researched the IDRS using command code INOLES and determined whether the address on the Master File⁶ matched the address on the undelivered lien notice for each sampled case.
 - C. Reviewed IDRS audit trails and determined whether IRS employees timely performed the required IDRS research for resolution of undelivered status for each sampled case.
 - D. Reviewed the IDRS and verified whether the Transaction Code 971 and corresponding action codes were entered into the IDRS for each sampled case.

⁴ A centralized storage and administration of files that provide data and data access services to IRS data.

⁵ Notice of Federal Tax Lien Filing and Your Right to a Hearing Under IRC 6320 (Letter 3172 (Rev. 9-2006)), Cat. No. 26767I.

⁶ The IRS database that stores various types of taxpayer account information. This database includes individual, business, and employee plans and exempt organizations data.



*Additional Actions Are Needed to Protect Taxpayers' Rights
During the Lien Due Process*

- III. Determined whether internal guidelines had been implemented or modified since our last review by discussing procedures and controls with appropriate IRS personnel in the National Headquarters.
- IV. Determined the status of ICS and ACS system enhancements and any problems encountered.



*Additional Actions Are Needed to Protect Taxpayers' Rights
During the Lien Due Process*

Appendix II

Major Contributors to This Report

Margaret E. Begg, Assistant Inspector General for Audit (Compliance and Enforcement Operations)
Carl Aley, Director
Timothy Greiner, Audit Manager
Meaghan Shannon, Lead Auditor
Janis Zuika, Senior Auditor
Stephen Elix, Auditor
Curtis Kirschner, Auditor
Jeffrey Williams, Information Technology Specialist



*Additional Actions Are Needed to Protect Taxpayers' Rights
During the Lien Due Process*

Appendix III

Report Distribution List

Commissioner C
Office of the Commissioner – Attn: Chief of Staff C
Deputy Commissioner for Services and Enforcement SE
Deputy Commissioner, Small Business/Self Employed Division SE:S
Director, Collection, Small Business/Self-Employed Division SE:S:C
Director, Collection Policy, Small Business/Self-Employed Division SE:S:C:CP
Chief Counsel CC
National Taxpayer Advocate 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: Commissioner, Small Business/Self-Employed Division SE:S



*Additional Actions Are Needed to Protect Taxpayers' Rights
During the Lien Due Process*

Appendix IV

Outcome Measures

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

Type and Value of Outcome Measure:

- Taxpayer Rights and Entitlements – Potential; 45,554 taxpayer representatives may not have been provided Notices of Federal Tax Lien and Your Right to a Hearing Under I.R.C. § 6320 (Letter 3172),¹ resulting in potential violations of taxpayers' rights (see page 4).

Methodology Used to Measure the Reported Benefit:

From a statistically valid sample of 125 Federal Tax Lien cases, we identified 8 (30 percent) of 27 cases for which IRS employees did not provide notice to taxpayer representatives, resulting in potential violations of taxpayers' rights. In the eight cases, the ALS record did not indicate that the IRS had sent copies of the lien notices to the representatives. The sample was selected based on a confidence level of 90 percent, a precision rate of ± 3 percent, and an expected rate of occurrence of 4 percent. We projected the findings to the total population provided by the IRS of 711,780 Notices of Federal Tax Lien generated by the ALS between July 1, 2007, and June 30, 2008.

Type and Value of Outcome Measure:

- Taxpayer Rights and Entitlements – Actual; 17 taxpayers were not provided Letters 3172, resulting in potential legal violations of taxpayers' rights (see page 7).

Methodology Used to Measure the Reported Benefit:

In a judgmental sample of 283 undelivered lien notices, we determined that the IRS did not send notices to the updated addresses of 17 taxpayers. Taxpayer rights could be affected because a taxpayer not receiving a notice or receiving a late notice might be unaware of the right to appeal or might receive less than the 30-calendar day period allowed by the law to request a hearing. In addition, taxpayer rights could be further affected when the taxpayer appeals the filing of the lien and the IRS denies the request for the appeal.

¹ Notice of Federal Tax Lien Filing and Your Right to a Hearing Under I.R.C. 6320 (Letter 3172 (Rev. 9-2006)), Cat. No. 26767I.



*Additional Actions Are Needed to Protect Taxpayers' Rights
During the Lien Due Process*

Appendix V

Synopsis of the Internal Revenue Service Collection and Lien Filing Processes

The collection of unpaid tax begins with a series of letters (notices) sent to the taxpayer advising of the debt and asking for payment of the delinquent tax. IRS computer systems are programmed to mail these notices when certain criteria are met. If the taxpayer does not respond to these notices, the account is transferred for either personal or telephone contact.

- IRS employees who make personal (face-to-face) contact with taxpayers are called revenue officers and work in various locations. The ICS¹ is used in most of these locations to track collection actions taken on taxpayer accounts.
- IRS employees who make only telephone contact with taxpayers work in call sites in Customer Service offices. The ACS is used in the call sites to track collection actions taken on taxpayer accounts.

When these efforts have been taken and the taxpayer has not paid the tax liability, designated IRS employees are authorized to file a lien by sending a Notice of Federal Tax Lien² to appropriate local government offices. Liens protect the Federal Government's interest by attaching a claim to the taxpayer's assets for the amount of unpaid tax. The right to file a Notice of Federal Tax Lien is created by I.R.C. § 6321 (1994) when:

- The IRS has made an assessment and given the taxpayer notice of the assessment, stating the amount of the tax liability and demanding payment.
- The taxpayer has neglected or refused to pay the amount within 10 calendar days after the notice and demand for payment.

When designated employees request the filing of a Notice of Federal Tax Lien using either the ICS or the ACS, the ALS processes the lien filing requests from both Systems. In an expedited situation, employees can manually prepare the Notice of Federal Tax Lien. Even for manually prepared liens, the ALS controls and tracks the liens and initiates subsequent lien notices³ to notify responsible parties of the lien filings and of their appeal rights. The ALS maintains an

¹ See Appendix VI for detailed descriptions of IRS computer systems used in the filing of Notices of Federal Tax Lien.

² Notice of Federal Tax Lien (Form 668(Y) (c); (Rev. 10-1999)), Cat. No. 60025X.

³ Notice of Federal Tax Lien Filing and Your Right to a Hearing Under IRC 6320 (Letter 3172 (Rev. 9-2006)), Cat. No. 26767I.



*Additional Actions Are Needed to Protect Taxpayers' Rights
During the Lien Due Process*

electronic database of all open Notices of Federal Tax Lien and updates the IRS' primary computer records to indicate that a Notice of Federal Tax Lien has been filed.

Most lien notices are mailed to taxpayers by certified or registered mail, rather than delivered in person. To maintain a record of the notices, the IRS prepares a certified mail list (United States Postal Service Form 3877), which identifies each notice that is to be mailed. The notices and a copy of the certified mail list are delivered to the United States Postal Service. A United States Postal Service employee ensures that all notices are accounted for, date stamps the list, and returns a copy to the IRS. The stamped certified mail list is the only documentation the IRS has that certifies the date on which the notices were mailed. IRS guidelines require that the stamped certified mail list be retained for 10 years after the end of the processing year.



*Additional Actions Are Needed to Protect Taxpayers' Rights
During the Lien Due Process*

Appendix VI

Internal Revenue Service Computer Systems Used in the Filing of Notices of Federal Tax Lien

The Automated Collection System (ACS) is a computerized call site inventory system that maintains balance-due accounts and return delinquency investigations. ACS function employees enter all of their case file information (online) on the ACS. Lien notices requested using the ACS are uploaded to the ALS, which generates the Notices of Federal Tax Lien¹ and related lien notices and updates the IRS' primary computer files to indicate that Notices of Federal Tax Lien have been filed.

The Automated Lien System (ALS) is a comprehensive database that prints Notices of Federal Tax Lien and lien notices, stores taxpayer information, and documents all lien activity. Lien activities on both ACS and ICS cases are controlled on the ALS by Technical Support or Case Processing functions at the Cincinnati, Ohio, Campus.² Employees at the Cincinnati Campus process Notices of Federal Tax Lien and lien notices and respond to taxpayer inquiries using the ALS.

The Integrated Collection System (ICS) is an IRS computer system with applications designed around each of the main collection tasks such as opening a case, assigning a case, building a case, performing collection activity, and closing a case. The ICS is designed to provide management information, create and maintain case histories, generate documents, and allow online approval of case actions. Lien requests made using the ICS are uploaded to the ALS. The ALS generates the Notices of Federal Tax Lien and related lien notices and updates the IRS' primary computer files to indicate Notices of Federal Tax Lien have been filed.

The Integrated Data Retrieval System (IDRS) is an online data retrieval and data entry system that processes transactions entered from terminals located in campuses and other IRS locations. It enables employees to perform such tasks as researching account information, requesting tax returns, entering collection information, and generating collection documents. The IDRS serves as a link from campuses and other IRS locations to the Master File³ for the IRS to maintain accurate records of activity on taxpayers' accounts.

¹ Notice of Federal Tax Lien (Form 668(Y) (c); (Rev. 10-1999)), Cat. No. 60025X.

² A campus is the data processing arm of the IRS. The campuses process paper and electronic submissions, correct errors, and forward data to the Computing Centers for analysis and posting to taxpayer accounts.

³ The Master File is the IRS database that stores various types of taxpayer account information. This database includes individual, business, and employee plans and exempt organizations data.



*Additional Actions Are Needed to Protect Taxpayers' Rights
During the Lien Due Process*

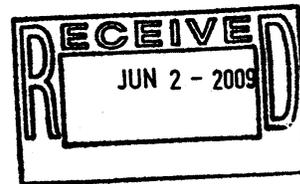
Appendix VII

Management's Response to the Draft Report



COMMISSIONER
SMALL BUSINESS/SELF-EMPLOYED DIVISION

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



June 1, 2009

MEMORANDUM FOR MICHAEL R. PHILLIPS
DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Christopher Wagner
Commissioner, Small Business/Self-Employed Division

SUBJECT: Draft Audit Report – Additional Actions Are Needed to Protect
Taxpayers' Rights During the Lien Due Process (Audit
#200930001)

Thank you for the opportunity to review the draft report titled "Additional Actions Are Needed to Protect Taxpayers' Rights During the Lien Due Process." We appreciate the recognition that in 100 percent of the cases reviewed, the IRS mailed lien notices in a timely manner as required by I.R.C. § 6320 and internal procedures.

Your report identified three areas possibly needing additional actions. The first area is the IRS' compliance with regulations for notifying taxpayer representatives when filing liens. You recommend the Director, Collection, Small Business/Self-Employed Division (SB/SE), establish an automated process to systemically upload taxpayer representative information directly from the Centralized Authorization File (CAF) to the Automated Lien System (ALS). The second area is determining why lien notices were not sent to taxpayers' representatives in the cases where the lien was initiated after the implementation of the automated CAF process and to take corrective actions to resolve the problem. We agree to look at the feasibility of uploading taxpayer representative information directly from the CAF to ALS. We have reviewed and taken appropriate corrective actions on the cases identified in the report. Further, we will review ALS interfacing systems current programming with systems owners to determine if programming corrections are required and will recommend appropriate changes.

The third area involved the IRS' working of undelivered lien notices. You recommend the Director, Collection Policy, SB/SE Division, establish an automated check of the taxpayer's last known address within ALS immediately prior to filing a lien notice. We agree to determine if the ALS can accommodate the Integrated Data Retrieval System real time data exchange, and if feasible, initiate programming work requests to implement this change.



*Additional Actions Are Needed to Protect Taxpayers' Rights
During the Lien Due Process*

2

Finally, we concur with your calculation and presentation methodology of the benefits to tax administration described in Appendix IV of your report.

Attached is a detailed response outlining our corrective actions. If you have questions, please call me at (202) 622-0600 or David Alito, Director, Collection at (202) 283-7660, or Laura Hosteley, Acting Director, Collection Policy at (202) 283-1555.

Attachment



*Additional Actions Are Needed to Protect Taxpayers' Rights
During the Lien Due Process*

Attachment

RECOMMENDATION 1:

The Director, Collection, SB/SE Division should establish an automated process that would systemically upload taxpayer representative information directly from the Centralized Authorization File (CAF) to the Automated Lien System (ALS).

CORRECTIVE ACTIONS:

We agree to (1) determine the feasibility of establishing an automated process that would systemically upload taxpayer representative information directly from the CAF to the ALS during discussions with MITS and Planning and Analysis, and (2) if feasible, request and implement programming enhancements.

IMPLEMENTATION DATE:

August 15, 2010
December 15, 2013

RESPONSIBLE OFFICIAL:

Director, Collection Policy, SB/SE Division

CORRECTIVE ACTION(S) MONITORING PLAN:

The Director, Collection Policy will monitor the status and advise the Director, Collection SB/SE of any delays in implementation.

RECOMMENDATION 2:

The Director, Collection, SB/SE Division should determine why lien notices were not sent to taxpayers' representatives in the cases where the lien was initiated after the implementation of the automated CAF process and take appropriate corrective actions to resolve the problem.

CORRECTIVE ACTIONS:

(1) We have reviewed the cases identified and taken appropriate corrective actions. We will also (2) review current programming of systems interfacing ALS with systems owners to ensure POA notifications are sent to ALS for each lien when multiple liens are requested and (3) if required, prepare and issue memorandums to system owners requiring programming corrections be initiated to ensure a separate POA notification is issued with each lien request.

IMPLEMENTATION DATE:

Corrective action has been completed on all exception cases
January 15, 2010
December 15, 2013

RESPONSIBLE OFFICIAL:

Director, Collection Policy, SB/SE Division



*Additional Actions Are Needed to Protect Taxpayers' Rights
During the Lien Due Process*

2

CORRECTIVE ACTION(S) MONITORING PLAN:

The Director, Collection Policy will monitor the status and advise the Director, Collection SB/SE of any delays in implementation.

RECOMMENDATION 3:

To ensure accurate notification of lien filings, the Director, Collection Policy, SB/SE Division, should establish an automated check of a taxpayer's last known address within the ALS immediately prior to printing a lien notice. This automated check should include an increase in the frequency of updates of Integrated Data Retrieval System information to reach the ALS to provide more timely updates of taxpayer information.

CORRECTIVE ACTIONS:

We will (1) determine if the Automated Lien System can accommodate Integrated Data Retrieval System real time data exchange, and (2) if feasible, initiate programming work requests.

IMPLEMENTATION DATE:

June 15, 2011
December 15, 2011

RESPONSIBLE OFFICIAL:

Director, Collection, SB/SE Division and Director, Collection Policy, SB/SE Division

CORRECTIVE ACTION(S) MONITORING PLAN:

The Director, Collection Policy will monitor the status and advise the Director, Collection SB/SE of any delays in implementation.