Existing Practices Allowed IRS Contractors to Receive Payments While Owing Delinquent Taxes

February 4, 2011

Reference Number: 2011-30-013

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1 = Tax return/Return Information

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HIGHLIGHTS

EXISTING PRACTICES ALLOWED IRS CONTRACTORS TO RECEIVE PAYMENTS WHILE OWING DELINQUENT TAXES

Highlights

Final Report issued on February 4, 2011

Highlights of Reference Number: 2011-30-013 to the Internal Revenue Service Deputy Commissioner for Operations Support and Commissioner, Small Business/Self-Employed Division.

IMPACT ON TAXPAYERS

The Internal Revenue Service's (IRS) mission is to provide American taxpayers with top quality service by helping them understand and meet their tax responsibilities and by applying the tax law with integrity and fairness. TIGTA believes contractors that contract with the IRS should be held to a higher compliance standard than other contractors that conduct business with the Federal Government because of the IRS's mission to enforce tax laws and ensure everyone meets their obligation to pay Federal taxes.

WHY TIGTA DID THE AUDIT

President Obama directed the Department of the Treasury and the Office of Management and Budget to evaluate agencies' contract award processes and make recommendations to ensure that contractors with serious tax delinquencies do not receive new work from Federal agencies. Our overall objective was to determine why IRS contractors, owing millions of dollars in delinquent taxes and previously selected for the Federal Payment Levy Program, have accounts blocked from levy.

WHAT TIGTA FOUND

The IRS blocked 11 contractors with delinquent tax liabilities totaling approximately $4.3 million from inclusion in the Federal Payment Levy Program. These contractors received more than $356 million in payments from the IRS and approximately $3.7 billion in payments from other Federal agencies. For 8 of these contractors, the amount of delinquent taxes that could have been collected if the tax accounts had not been blocked from inclusion in the Federal Payment Levy Program totaled $3.8 million.

Although delinquent taxes may indicate serious issues that could jeopardize contract performance, it alone rarely precludes a contractor from obtaining a contract. Three of these contractors owed $3.7 million in delinquent taxes at the time their contracts were awarded. Furthermore, 7 of the 11 contractors did not properly follow Federal guidelines to notify the General Services Administration when they had a tax delinquency.

WHAT TIGTA RECOMMENDED

TIGTA recommended that the IRS review its current process to identify opportunities to expedite levying Federal contractor cases in a blocked status and ensure timely enforcement of those in a suspended collection status.

The IRS agreed with our recommendations, but did not agree with our reported outcome measure of $3.8 million. The IRS stated that the calculation TIGTA used to determine the revenue considers cases in a suspended collection status as available for levy through the Federal Payment Levy Program. The IRS stated it has a responsibility to investigate the merit of a taxpayer's claim before initiating enforced collection activity.

TIGTA agrees the IRS should investigate the merit of a taxpayer's claim before initiating enforced collection activity. However, our results showed that the contractors were in a suspended collection status for an average of 8 months while the IRS evaluated whether the information the contractor provided would resolve the tax liability. TIGTA believes the IRS could improve the timeliness of these cases by taking a more active enforcement approach to suspend payments to contractors if they are not making attempts to resolve their tax liability within a reasonable time period.

TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

February 4, 2011

MEMORANDUM FOR DEPUTY COMMISSIONER FOR OPERATIONS SUPPORT
COMMISSIONER, SMALL BUSINESS/SELF-EMPLOYED DIVISION

Michael R. Phillips

FROM: Michael R. Phillips
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Existing Practices Allowed IRS Contractors to Receive Payments While Owing Delinquent Taxes (Audit # 201030029)

This report presents the results of our review to determine why Internal Revenue Service (IRS) contractors, owing millions of dollars in delinquent taxes and previously selected for the Federal Payment Levy Program, have accounts blocked from levy. This condition potentially eliminates the IRS from easily attaching guaranteed disbursements that can be used to offset the outstanding debt and potentially reduce the tax gap.[1] This audit was conducted as part of our Fiscal Year 2010 Annual Audit Plan and addresses the major management challenge of Tax Compliance Initiatives.

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.

[1] See Appendix VI for a glossary of terms.

Table of Contents

Abbreviations

ACS	Automated Collection System
FAR	Federal Acquisition Regulation
FPLP	Federal Payment Levy Program
FMS	Financial Management Service
IRS	Internal Revenue Service
TIN	Taxpayer Identification Number

Background

During Fiscal Year 2009, Internal Revenue Service (IRS) contractors represented less than 1 percent of the Federal contract community[1] and received approximately $1.6 billion of the approximately $536 billion spent for all Federal contracts. In 1997, Congress amended the tax code[2] and authorized the IRS to levy specified Federal Government payments through the Federal Payment Levy Program (FPLP). The FPLP is an automated process that issues tax levies to collect delinquent Federal taxes through the Financial Management Service (FMS) from Social Security, Federal agency salaries, retirement, and contract awards. The IRS implemented the FPLP in Fiscal Year 2000; however, between 2000 and 2007, it was not effectively used as an enforcement tool to levy payments the Federal Government made to contractors. This situation occurred because the name and the Taxpayer Identification Number (TIN) that the contractors provided to the hiring Federal agencies did not match the information in the IRS Master File.

In a July 2001 report, the Government Accountability Office reported that the IRS could increase annual collections if contractors' payments were included in the continuous levy program.[3] In April 2007, the Government Accountability Office reported[4] it estimated that approximately 60,000 Federal contractors owed approximately $7 billion in delinquent Federal taxes. The recommendations from the 2007 report included requiring contractors doing business with the Federal Government to provide Federal agencies with the same name and TIN they use for filing their Federal tax returns with the IRS. An Interagency Agreement between the IRS and FMS allows the FMS to systemically levy certain payments it disburses or administers through its centralized payment disbursement and debt collection programs. Both centralized programs use the TIN and name to match outstanding Federal obligations against potential payments that can be used to reduce the tax debts. When matches are located, the FMS notifies the IRS of the identified payments, but will not levy payments until an authorization is received from the IRS.[5]

Continuous levies are generally limited to 15 percent of each payment issued to the taxpayer. However, under Section 6331(h)(3) of the Tax Code,[6] a continuous levy for 100 percent of each

[1] According to USA Spending.gov, there were 263,782 Federal contractors in Fiscal Year 2009.
[2] Taxpayer Relief Act of 1997, Pub. L. No. 105-34, 111 Stat. 788 (codified as amended in scattered sections of 5 U.S.C., 19 U.S.C., 26 U.S.C., 29 U.S.C., 31 U.S.C., 42 U.S.C., and 46 U.S.C. app.). Also, see Appendix VI for a glossary of terms.
[3] *Tax Administration: Millions of Dollars Could Be Collected If IRS Levied More Federal Payments* (GAO-01-711, dated July 2001).
[4] *Tax Compliance: Thousands of Federal Contractors Abuse the Federal Tax System* (GAO-07-742T, dated April 2007).
[5] Prior to authorizing the levy, the IRS has to ensure the taxpayer has been issued a Collection Due Process Notice.
[6] 26 U.S.C. § 6331(h).

payment to a vendor for goods or services sold or leased to the Federal Government can apply. From Fiscal Years 2000 to 2009, the FMS levied nearly $2.4 billion on behalf of the IRS. Approximately $430 million, or 18 percent, were for levies imposed on delinquent Federal contractors.

Based on a July 2008 Government Accountability Office report,[7] Congress expressed concern that employers, including contractors, that owe delinquent payroll taxes were not taking proactive steps to resolve the outstanding tax balances. In the Fiscal Year 2010 budget, the Department of the Treasury proposed 2 changes to debt collection procedures that would increase the amount of delinquent taxes collected from Federal contractors by an estimated $2 billion over 10 years. Specifically, the changes propose to:

- Modify administrative requirements so the Department of the Treasury can levy a payment much earlier in the debt collection process. The current requirements to issue the Collection Due Process Notice prior to the levy can delay the process by up to 6 weeks. Effective September 27, 2010, the proposed change became law[8] and allows the IRS to issue levies prior to the Collection Due Process hearing for Federal contractors that owe Federal employment tax liabilities identified by the FPLP. When a levy is issued prior to a hearing, the taxpayer is allowed an opportunity to have the hearing within a reasonable time after the levy.

- Increase the amount of tax debt the Department of the Treasury can levy from each payment to the Federal contractor. The change would increase the amount available to levy from 15 percent to 100 percent of a payment to any Federal contractor. This proposal did not become law; however, in Fiscal Year 2011, the Department of the Treasury proposed a change to continuous levies for 100 percent of payments to Federal contractors who not only provide goods and services, but also the sale or lease of real estate and other types of property.

This review was performed at the Wage and Investment Division Automated Levy Program located in Atlanta, Georgia; the Small Business/Self-Employed Division Office of Collection Policy in Washington, D.C.; and the Agency-Wide Shared Services Office of Procurement Policy in Oxon Hill, Maryland, during the period November 2009 through August 2010. 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

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[7] *Tax Compliance: Businesses Owe Billions in Federal Payroll Taxes* (GAO-08-617, dated July 2008).
[8] Creating Small Business Jobs Act of 2010, Public Law 111-240, § 2104(a).

objective, scope, and methodology is presented in Appendix I. Major contributors to the report are listed in Appendix II.

Results of Review

Guidelines in the Collection Process Delay the Issuance of Levies to IRS Contractors That Owe Delinquent Tax Liabilities

From the IRS Procurement Request Transaction System database as of September 30, 2009, we identified 535 contractors that had an existing contract with the IRS. Our review showed 61 (11.4 percent) of these contractors had 106 delinquent Federal tax accounts[9] totaling approximately $10.6 million.

When a taxpayer has a balance on his or her tax account, the IRS sends a series of notices to remind the taxpayer to either pay the balance in full or take steps to establish an installment agreement. If either of these actions is taken, the IRS will not take enforcement actions. We determined that 49 (80 percent) of the 61 contractors were receiving reminder notices, in litigation, or working with the IRS to resolve the delinquency with a payment solution. However, if the taxpayer does not respond to the notices, the tax account is considered delinquent and is subsequently referred to the Automated Collection System (ACS) where employees can take enforcement actions.

For 11 (18 percent) of the 61 contractors, the IRS blocked their inclusion in the FPLP. These contractors had delinquent tax liabilities totaling approximately $4.3 million as of March 4, 2010. Existing guidelines require some new ACS accounts to be blocked from inclusion in the FPLP until an IRS employee determines how to work the case. This process requires employees to contact taxpayers to pursue full payment or establish an installment agreement and complete research to identify other levy sources. If unsuccessful, the employees release the block and the tax account is included in the FPLP. The IRS does not have a process to inform ACS employees that the taxpayer with whom they are corresponding is an IRS contractor.

The IRS blocked 11 IRS contractors with delinquent tax liabilities totaling approximately $4.3 million from inclusion in the FPLP.

The IRS has guidelines requiring ACS employees to immediately resolve their cases during case evaluation and provide procedures to conduct research that include specific time periods, such as 30 to 35 days, for those cases that cannot be immediately resolved. The amount of time ACS employees expended to determine how to work the contractors' cases averaged 6 months,

[9] The contractors had multiple delinquent tax accounts that included payroll taxes for different tax periods.

ranging from 1 week to 22 months.[10] During these time periods, none of the contractors took steps to enter into an installment agreement to resolve the tax delinquency. A case remains blocked while ACS employees determine how to work it; therefore, the FMS is unable to conduct its systemic match that identifies payments issued to a contractor. As a result, the IRS is not immediately informed that there are payments being made to the contractor that are available for levy. For example, as of March 4, 2010, the IRS made payments totaling $356 million to 8 of 11 contractors while their tax accounts were blocked from inclusion in the FPLP.

Contractors with delinquent tax liabilities received payments from other Federal agencies

For Tax Year 2009, we identified that 10 of the 11 contractors owing delinquent taxes also received payments totaling approximately $3.7 billion from other Federal agencies. To identify the Federal agencies and the payments made, we researched the contractors' tax accounts. These agencies included the Defense Finance and Accounting Service, Department of Homeland Security, Department of Agriculture, General Services Administration, Department of the Interior, and Department of Veterans Affairs. Data were not available for us to determine if these payments were made while the contractors were blocked from inclusion in the FPLP.

We performed further research of the contractors' tax accounts to determine the specific types of taxes that were outstanding. As a result, we determined that the types and percentage of outstanding taxes and penalties owed included civil penalties (23 percent), unemployment and corporate taxes (25 percent), and trust fund taxes (52 percent). Three of the 11 contractors owed approximately $2.2 million for payroll taxes, often referred to as trust fund taxes. An outstanding balance of payroll taxes is generally an indication that the employer withheld the tax from the employee's salary or wages but did not remit the payments to the IRS. Guidelines allow the IRS to impose a trust fund penalty equal to 100 percent of the unpaid taxes that are withheld. The penalty is typically pursued against a "responsible officer" of the employer once the employer itself fails to pay the taxes. However, the IRS did not assess a trust fund recovery penalty for any of the contractors and, as of March 4, 2010, *****************1**********************. We discussed this issue with IRS management and were advised of the following reasons why the penalty could not be assessed:

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[10] See Appendix V for the activity of the 11 IRS contractors' tax accounts blocked from enrollment in the FPLP as of March 4, 2010.

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In July 2008, the Government Accountability Office reported that, "The IRS's overall approach of focusing primarily on voluntary compliance, even for egregious payroll tax offenders, generally results in minimal tax collected from those offenders. Additionally, the IRS has not always taken timely action to hold responsible parties personally liable for unpaid payroll taxes." On March 17, 2009, IRS management issued an internal memorandum referring to the Government Accountability Office statement and added that those responsible parties consistently not paying employment taxes have serious consequences to its voluntary compliance system. The memorandum stated that two IRS teams were developing short- and long-term recommendations for actions to resolve the issues and address barriers that impede the effective use of collection tools.

Our review found that the IRS can improve its efforts to reduce the tax gap by adopting a more thorough practice of identifying sources of payments awarded to contractors with delinquent tax liabilities. For example, despite receiving millions of dollars from the Federal Government, 8 contractors still have delinquent tax liabilities as of March 4, 2010, totaling approximately $4.2 million.[11] The amount of delinquent taxes that could have been collected if the tax accounts for the 8 contractors (that received payments from the IRS) had not been blocked from inclusion in the FPLP totaled almost $3.8 million.[12] The remaining three contractors had subsequently paid their delinquent taxes.[13]

Both Congress and the Administration agree that a sharper focus on tax evasion is a way to reduce the tax gap. When existing procedures hamper the IRS's ability to collect taxes, contractors will continue to receive revenue from the Federal Government without fulfilling their tax obligations.

Contractors with delinquent tax liabilities received payments while efforts to collect delinquent taxes were suspended

We identified 5 contractors with delinquent taxes totaling approximately $4.2 million[14] that were blocked from inclusion in the FPLP because their delinquent tax accounts had a suspended collection status. For tax accounts in this status, an indicator is placed on the tax account which suppresses all enforcement actions.

[11] See Appendix V for the eight contractors with delinquent tax liabilities as of March 4, 2010.
[12] See Appendix IV for the delinquent tax owed by the eight IRS contractors as of March 4, 2010.
[13] See Appendix V for the activity of the 11 IRS contractors' tax accounts blocked from the FPLP as of March 4, 2010.
[14] See Appendix V for the five contractors and the delinquent tax owed as of March 4, 2010.

IRS guidelines state three reasons which allow a taxpayer's account to be suspended from collection. Specifically:

- Hardship: The taxpayer may be in compliance with current filing and payment requirements, but is unable to pay the back taxes. Collection is deferred until the taxpayer's ability to pay the back taxes improves.
- Liquidation: The taxpayer may have gone out of business or cannot be located and there never will be any collection potential. Also, the taxpayer may have undergone a bankruptcy action.
- Questionable tax assessment: The taxpayer has contacted the IRS and indicated disagreement with the assessment. For these cases, the taxpayer agrees to provide information to support and corroborate the claim.

All five contractors questioned the tax assessments and provided the IRS with information to substantiate why they believed they did not owe the tax. Our research showed that it took the IRS an average of 8 months to review and determine if the information provided was sufficient to adjust the outstanding balance. While the IRS was reviewing the contractors' accounts, the tax accounts remained in a suspended collection status and the contractors received payments totaling approximately $356 million from the IRS and approximately $3.6 billion from other Federal agencies.

The IRS does not have guidelines requiring employees to respond to taxpayers' questions about their delinquent tax liabilities within a specific time period or how long the indicator will remain on a tax account. The lack of guidelines impacts the IRS's ability to efficiently collect taxes even when sources of payments are available to levy. As of March 4, 2010, the tax accounts for the five contractors had not been resolved and they had not been included in the FPLP. We discussed all of these cases with IRS management and were advised that it is at the discretion of IRS employees to determine the length of time needed to resolve the tax disputes.

The IRS mission is to provide American taxpayers with top quality service by helping them understand and meet their tax responsibilities and by applying the tax law with integrity and fairness. We believe contractors that contract with the IRS should be held to a higher compliance standard than other contractors that conduct business with the Federal Government because of the IRS's mission and its goals to enforce the tax law to ensure everyone meets their obligation to pay Federal taxes.

Recommendations

The Commissioner, Small Business/Self-Employed Division, should:

Recommendation 1: Review its current process to identify opportunities to expedite levying Federal contractor cases, including IRS contractors that are in a blocked status. In addition, the

Commissioner, Small Business/Self-Employed Division, should work with the other IRS business units to ensure that timely enforcement actions are occurring on suspended Federal contractor cases.

Management's Response: IRS management agreed with this recommendation. They will review the IRS's current process, collaborate with other IRS Business units, and update the appropriate operational guidelines, if necessary.

Office of Audit Comment: The IRS agreed with our recommendation, but did not agree with our reported outcome measure. Specifically, the IRS stated that the calculation we used to determine the revenue considers cases in a suspended collection (adjustment pending) status as available for levy through the FPLP. In these instances, taxpayers have submitted evidence that raise legitimate concerns about the accuracy of an underlying tax assessment. The IRS has a responsibility to investigate the merit of a taxpayer's claim before initiating enforced collection activity. If the IRS determines that the underlying tax assessment is inaccurate, the taxpayer's account is adjusted to the correct amount. If the IRS denies the taxpayer's claim, the account is returned to the Collection function for appropriate action.

We agree that the IRS should investigate the merit of the taxpayer's claim before initiating enforced collection activity. However, the contractors were in suspended collection status an average of 8 months (ranging from 1 to 22 months) while the IRS evaluated if the information provided by the contractor would resolve the tax liability. We continue to believe the IRS could improve the timeliness of these cases by taking a more active enforcement approach to restrict or suspend payments to the contractors if they are not making attempts to resolve their tax liability within a reasonable time period. Furthermore, we believe these efforts will minimize negative public perceptions and help ensure all Federal contractors are held to high standards regarding their compliance with the Nations' tax laws.

Recommendation 2: Review all IRS contractors with delinquent payroll taxes and enforce the trust fund recovery penalty, when appropriate.

Management's Response: IRS management agreed with this recommendation. They will continue to utilize current internal guidelines to enforce the penalty, when appropriate.

Improvements Are Needed to Identify IRS Contractors With Delinquent Tax Liabilities

For 3 (27 percent) of the 11 contractors, our results showed they were blocked from inclusion in the FPLP despite having delinquent tax liabilities totaling $3.7 million at the time the IRS awarded the original contract. Beginning in January 1993, the Agency-Wide Shared Services

Policy and Procedures Memorandum[15] provided standard procedures for IRS contracting officers to apply when determining the financial health of prospective contractors that owe delinquent taxes. Specifically:

- Contracting officers in Procurement are required to request the Director, Revenue Reporting, in the Office of the Chief Financial Officer, to complete a tax check to determine the existence of tax indebtedness. The information is returned to the contracting officer within 2 business days and forwarded to the Director, Procurement Policy, if it indicates a delinquent tax liability.
- The Director, Procurement Policy, conducts a financial capability survey, which includes reviewing Dun and Bradstreet financial reports that include information such as assets, sales, liabilities, and profits.

Contracting officers in Procurement are not consistently notifying the Director, Collection Policy, when contractors with delinquent tax liabilities are awarded IRS contracts.

Although delinquent taxes may indicate serious issues that could jeopardize contract performance, it alone rarely precludes a contractor from obtaining a contract. When a contract is awarded to a contractor that has a delinquent tax liability, the Director, Collection Policy, in the Small Business/Self-Employed Division, is notified by Procurement employees that a contract was issued and the contractor has a Federal tax debt. The Director, Collection Policy, determines whether the information should be referred to a revenue officer to conduct a requested courtesy investigation. The purpose of the investigation is to resolve the outstanding delinquent tax liabilities (i.e., establish an installment agreement to repay the outstanding taxes) and identify sources of income available for the IRS to levy.

For all three cases, revenue officers did not complete a courtesy investigation. We discussed these cases with the Office of Collection Policy and were advised that a compliance check was not completed because the Director, Collection Policy, did not receive the required notification from Procurement. Our results showed that none of the contractors established an installment agreement and, as of Tax Year 2009, the contractors received payments totaling approximately $4.1 billion from the IRS and other Federal agencies. Figure 1 shows the results from our analyses of tax accounts for the three contractors that had delinquent tax liabilities at the time the IRS awarded the contract.

[15] Agency-Wide Shared Services Policy and Procedures Memorandum No. 9.1 provides that IRS employees will complete a tax check on prospective contractors for all IRS solicitations more than $250,000.

Figure 1: Analysis of Tax Accounts of the Three IRS Contractor Cases in Which Delinquent Tax Liabilities Were Owed When the Contracts Were Awarded

Case Number	Date of Latest Tax Check	Amount of Taxes Owed When Tax Check Was Completed	Amount of Taxes Owed When Audit Was Completed As of March 4, 2010	Total Amount IRS Paid on the Contract While Taxes Were Owed	Amount Received From Other Federal Agencies	Amount of Payments Levied by the FPLP
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Source: Our analysis of IRS contracting officer files and the IRS's Integrated Data Retrieval System between November 4, 2009, and March 4, 2010.

Neither the Federal Acquisition Regulation (FAR) nor the IRS has established guidelines that require the IRS to complete an annual tax check or a tax check at the time the decision is made to exercise an option to renew a contract. As a result, courtesy investigations by revenue officers cannot be conducted. Results showed 474 (89 percent) of 535 contractors we reviewed did not have a delinquent tax liability at the time of our review. However, without adhering to procedures requiring annual tax checks, courtesy investigations, and the sharing of information with the Office of Collection Policy, the IRS may not be aware when contractors subsequently become delinquent or that a source of income is available to levy. The Treasury Inspector General for Tax Administration conducted a separate review and made a recommendation to address this issue.[16]

Federal and IRS guidelines are inconsistent and may result in contractors not accurately completing their annual self certifications

Seven (64 percent) of the 11 contractors did not properly follow Federal guidelines requiring the completion of an annual self certification to notify Federal agencies when they have an outstanding tax liability. The FAR[17] policy provides that "…no purchase or award shall be made unless the contracting officer makes an affirmative determination of responsibility." As such, new and existing Federal contractors whose contracts exceed $100,000 and who owe more than $3,000 in taxes are required to annually self certify.[18] The certification requires positive or negative responses to questions regarding suspension, debarment, ineligibility to receive Federal contracts, civil and criminal convictions and judgments, tax evasion, and tax delinquency.

Contractors submit the self certifications to the General Services Administration and are maintained on its Online Representations and Certifications Application System. We reviewed the Online Representations and Certifications Application System and none of the seven IRS

[16] *Federal Guidelines Do Not Prohibit the Awarding of Contracts to Contractors With Delinquent Tax Liabilities* (Reference Number 2010-30-120, dated September 28, 2010).
[17] Federal Acquisition Regulation, 48 C.F.R. ch. 1 (2009). See Subpart 9.103.
[18] Federal Acquisition Regulation, 48 C.F.R. ch. 1 (2009). See § 52-905.

contractors had self certified that they had a tax delinquency. Contractors may not be responding with a positive answer because of an inconsistency in the definition of a tax delinquency between the Federal and IRS guidelines. Specifically, the two definitions provided are:

- For FAR purposes, Federal taxes are considered delinquent when the tax liability is finally determined and when the taxpayer is delinquent in making a payment.
- For IRS purposes, Federal taxes are considered delinquent when there is a tax account balance due, even if payments are being made.

We believe the inconsistency between these definitions could be causing contractors to certify that they do not have a tax delinquency when in fact they do have a delinquent tax liability. The IRS provided us with the results from a May 2008 ruling by the Civilian Agency Acquisition Council concerning the delinquent tax definition. The Council assists the Administrator of General Services in developing or reviewing all proposed changes to the FAR. The Council considered using the IRS's definition; however, they were concerned that it did not allow the possibility for further dispute of the tax liability, for IRS error, or whether the taxpayer is currently required to pay the liability. As a result, the Council ruled that a different definition was warranted. The IRS did not provide a response to the Council's concerns. Instead, it provided that the FAR has been consistently held by the Federal courts to have "the force and effect of law." We believe the IRS's practice and established structure recognizes taxpayer entitlements and rights of appeals, which impact when a tax account is delinquent. Therefore, we conclude that the ruling needs to be revisited.

President Obama and Congress view increased enforcement on tax evasion as a way to reduce the tax gap. On January 20, 2010, the President issued a Memorandum for the Heads of Executive Departments and Agencies directing the Commissioner of the IRS to conduct a review of the annual self certifications and report on the overall accuracy of the contractors' certifications. The Commissioner was to provide a report within 90 days (April 20, 2010) to the Office of Management and Budget on the overall accuracy of contractors' certifications. The report is being reviewed by the Department of the Treasury. We reviewed a draft copy of the report, which also revealed inaccuracies with how several contractors self certified that they did not owe tax when they did. The IRS did not provide a reason for the inaccuracy, but added that some contractors paid their tax liability in full within the self-certification period. Although the tax liability was paid, we believe the inconsistency between the two definitions may have caused the contractors to inaccurately self certify.

The President also directed the Department of the Treasury and the Office of Management and Budget to evaluate agencies' contract award processes and make recommendations to ensure that contractors with serious tax delinquencies do not receive new work from Federal agencies. The Office of Management and Budget sent out surveys to the Heads of Executive Departments and Agencies and requested responses by March 17, 2010. Auditors did not review any responses to the surveys as part of this review because they were not available. However, the

Treasury Inspector General for Tax Administration has completed a separate review and issued a report that evaluated whether the IRS followed procedures when awarding contracts to contractors with delinquent tax liabilities.[19] Because Federal guidelines prevent IRS contracting officers from precluding the awarding of a contract solely for delinquent tax liabilities, our auditors contacted the procurement offices for all 50 States to determine if contracts were awarded to contractors that have delinquent State tax liabilities. Nine of the States' procurement officers responded, and three stated their guidelines preclude noncompliant contractors from doing business with their State agencies. We are not making a recommendation in this report that the IRS not award contracts to contractors with delinquent taxes because this issue is addressed in the separate Treasury Inspector General for Tax Administration review.

Recommendations

Recommendation 3: The Chief, Agency-Wide Shared Services, should ensure Procurement employees follow procedures to notify the Director, Collection Policy, when a contract is issued to a contractor with a Federal tax debt so the courtesy investigations can be conducted and efforts can be taken to resolve the delinquent tax liabilities.

> ***Management's Response:*** IRS management agreed with this recommendation. The Office of Procurement Policy conducted lessons learned training throughout Procurement this year that included an emphasis on the use of the required contract file checklists, which includes the completion of tax checks. Additionally, two separate lessons learned training sessions were conducted for managers who review contract files to emphasize key areas to review for compliance. Contract file review workshops are planned for the future and will include tax check responsibilities.

Recommendation 4: The Deputy Commissioner for Operations Support should coordinate with the Department of the Treasury and the Civilian Agency Acquisition Council regarding the definition of delinquent taxes in the FAR to ensure consistency with the IRS's definition. This effort will assist in making sure that contractors properly complete the annual certifications when required. Also, procedures should be established to address actions the IRS will take when contractors do not accurately self certify that they do not have a tax delinquency.

> ***Management's Response:*** IRS management agreed with this recommendation and is initiating an internal review. The Director, Procurement, is scheduled to meet with the Office of Management and Budget to gain an understanding of the role contracting officers can and should play in conducting tax checks on contractors doing business with the Federal Government and to discuss the definition of delinquent taxes as defined by the FAR and the IRS.

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[19] *Federal Guidelines Do Not Prohibit the Awarding of Contracts to Contractors With Delinquent Tax Liabilities* (Reference Number 2010-30-120, dated September 28, 2010).

Appendix I

Detailed Objective, Scope, and Methodology

Our overall objective was to determine why IRS contractors, owing millions of dollars in delinquent taxes and previously selected for the FPLP, have accounts blocked from levy.[1] This includes the impact on the IRS's ability to easily identify guaranteed disbursements that can be used to offset the outstanding debt and potentially reduce the tax gap. To accomplish this objective, we:

I. Determined whether the IRS had adequate internal controls to provide oversight of IRS contractors with delinquent Federal taxes.

  A. Researched IRS directives, IRS Memoranda, Internal Revenue Manuals, the FAR, Internal Revenue Code sections, and Executive Orders to identify policy and procedures for evaluating tax compliance for contractors, awarding contracts to contractors with delinquent Federal taxes, and determining contractor's participation in the FPLP.

  B. Identified IRS functional offices with oversight responsibility for identifying contractors with delinquent Federal taxes and sources of payments received from other Federal agencies.

  C. Discussed with IRS personnel their understanding of procedures that allow the awarding of contracts to contractors with potential and existing delinquent Federal taxes.

II. Determined whether employees adhere to Compliance function guidelines when blocking contractors' inclusion in the FPLP.

  A. Obtained the IRS Procurement Request Transaction System database of all active IRS contract awards as of September 30, 2009. We identified 825 contracts awarded to 535 contractors. We conducted a data reliability assessment of certain fields in the database and compared them to entity data on the IRS Master File using the Integrated Data Retrieval System. We verified all data and noted that differences were due to timing between when the data were pulled and validated.

  B. Obtained the TIN to request and review the tax accounts for each contractor. We identified 106 delinquent tax accounts that belonged to 61 contractors.[2] For each contractor, we determined the age of the delinquent tax liability, whether the

[1] See Appendix VI for a glossary of terms.
[2] The contractors had multiple delinquent tax accounts that included payroll taxes for different tax periods.

contractor was blocked from inclusion in the FPLP, whether the account was designated uncollectible, and whether payments were made to the tax account from installment agreements or IRS enforcement actions.

C. Reviewed and stratified cases to determine how many contractors had delinquent tax liabilities greater than or equal to $100.

D. Reviewed tax returns to determine whether sufficient information was available for IRS employees to suppress collection activity, including blocking/releasing inclusion in the FPLP.

E. Obtained and reviewed extracts from the IRS Procurement Request Transaction System database that contained detailed procurement receipt and acceptance data for the cases identified in Step II.B., such as the amounts and dates of payments the contractor received from the IRS, the total amount paid to the contractor after the date the tax liability was designated delinquent, and the total amount paid to the contractor after being blocked from the FPLP or the account was designated uncollectible.

F. Evaluated the effectiveness of existing internal controls and processes to block contractors from participating in the FPLP.

III. Determined whether the IRS contractors identified in Step II.B. had contracts with other Federal agencies and received payments that could have been levied.

A. Researched the Information Return Master File portion of the Integrated Data Retrieval System for the most recent income data available for the contractor tax accounts to determine the amounts and sources of income awarded to the contractor from the following:

1. Information Return for Federal Contracts (Form 8596) that contains the agency name, the date the award was issued, the length of the award, and the amount of the award.

2. Miscellaneous Income (Form 1099-MISC) that reports the amounts of the award the agency has already paid to the contractor.

Internal controls methodology

Internal controls relate to management's plans, methods, and procedures used to meet their mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing and controlling program operations. They include the systems for measuring, reporting, and monitoring program performance. We determined the following internal controls were relevant to our audit objective: the IRS's policies and procedures that govern awarding contracts and enforce collection activities and payment solutions for delinquent taxes, memorandums issued by the President, and the FAR for Federal agencies regarding awarding contracts and annual self certifications. We evaluated these controls by research and comparisons, interviewing management, and analyzing data in the IRS and General Services Administration computer systems.

Appendix II

Major Contributors to This Report

Margaret E. Begg, Assistant Inspector General for Audit, (Compliance and Enforcement Operations)
Frank Jones, Director
Marybeth Schumann, Director
Deborah Smallwood, Audit Manager
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Appendix III

Report Distribution List

Commissioner C
Office of the Commissioner – Attn: Chief of Staff C
Deputy Commissioner for Services and Enforcement SE
Chief, Agency-Wide Shared Services OS:A
Chief Financial Officer OS:CFO
Deputy Commissioner, Small Business/Self-Employed Division SE:S
Director, Collection SE:S:C
Director, Procurement OS:A:P
Deputy Director, Procurement OS:A:P
Director, Collection Policy 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 Liaisons:

- Deputy Commissioner for Operations Support OS
- Deputy Commissioner for Services and Enforcement SE
- Chief, Agency-Wide Shared Services OS:A
- Chief Financial Officer OS:CFO
- Commissioner, Small Business/Self-Employed Division SE:S

Appendix IV

Outcome Measure

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

Type and Value of Outcome Measure:

- Increased Revenue – Actual; $3,766,609 is the amount of delinquent taxes that could have been collected if the tax accounts for the eight contractors that received payments from the IRS had not been blocked from inclusion in the FPLP (see page 3).

Methodology Used to Measure the Reported Benefit:

We requested the list of all active contracts in the IRS Procurement Request Transaction System database as of September 30, 2009. Specifically:

- The database contained records for 535 contractors that were awarded 825 IRS contracts.
- We matched the 535 contractor TINs against the IRS's Business Master File[1] data and identified 17,169 tax accounts.[2]
- We analyzed the data and identified 106 tax accounts with a delinquent tax balance equal to or greater than $100. These tax accounts represented 61 unique contractors.
- We researched the contractors' tax accounts and determined 8 contractors with delinquent taxes, as of March 4, 2010, that totaled $4,258,111 were blocked from inclusion in the FPLP. From the date the contracts were awarded through the latest available payment data, these contractors received approximately $356 million from the IRS that could have been levied. See the table that follows for the amounts that could have been levied.

[1] See Appendix VI for a glossary of terms.
[2] The contractors had multiple delinquent tax accounts that included payroll taxes for different tax periods.

Case #	Delinquent Tax Owed	Amount the IRS Paid While Blocked From the FPLP	15 Percent of Amount Paid, if Included in FPLP
	*****1*****		
Total	**$ 4,258,111**	**$ 356,492,010**	**$ 3,766,609**

Source: Our analysis of the IRS's Integrated Data Retrieval System between November 4, 2009, and March 4, 2010.

* FPLP levies are generally limited to 15 percent of each payment issued to the contractor. For these cases, 15 percent of the amount paid if they had been included in FPLP is limited to the amount of delinquent taxes owed.

Appendix V

Activity of Eleven IRS Contractors' Tax Accounts Blocked From the Federal Payment Levy Program As of March 4, 2010

Case #	Number of Months Blocked From FPLP[1]	Delinquent Tax Owed	Total Payments Received From the IRS From the Date the Tax/Penalty Was Assessed Through March 4, 2010	Total Payments Received From All Federal Agencies in Tax Year 2009	Amount Paid by Contractor or Levied by the FPLP as of March 4, 2010
			*******1**********		
Total		**$ 4,269,163**	**$ 467,422,979**	**$3,676,962,939**	**$ 58,723**

Source: Our analysis of IRS's Integrated Data Retrieval System between November 4, 2009, and March 4, 2010.

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[1] Indicates the number of months the account was blocked as of March 4, 2010, the last day of our fieldwork.

Appendix VI

Glossary of Terms

Automated Collection System (ACS) – A telephone contact system through which telephone assistors, with access to computerized inventory systems that maintain balance due accounts and return delinquency investigations, collect unpaid taxes and secure tax returns from delinquent taxpayers who have not complied with previous notices.

Business Master File – The IRS database that consists of Federal tax-related transactions and accounts for businesses. These include employment taxes, income taxes on businesses, and excise taxes.

Centralized Debt Collection Program – This program is also known as the Treasury Offset Program. It offsets Federal payments to satisfy a person's overdue Federal debt, child support obligation, or State income tax debt. The FPLP, a derivative of the Treasury Offset Program, specifically levies payments to satisfy outstanding Federal tax debts owed to the IRS.

Centralized Payment Disbursement Program – This program is used to issue Federal payments to varied recipients including contractors. The FMS is the primary disburser of payments to individuals and businesses on behalf of Federal agencies (e.g., benefit payments paid by the Social Security Administration or the Department of Veterans Affairs, Federal income tax refund payments, payments to contractors doing business with the Federal Government). The majority of the payments are disbursed through electronic funds transfers.

Civil Penalties – Penalties that are generally assessed because of discrepancies with the names and Social Security Numbers the employer uses on payroll-related documents such as Wage and Tax Statements (Form W-2) or Miscellaneous Income (Form1099-MISC).

Collection Due Process Notice – A notice of intent to levy and notice of a right to a Collection Due Process hearing generally must be issued to the taxpayer prior to a levy when there is a balance due on an account and the taxpayer has been asked previously to pay. For levies issued after September 27, 2010, the IRS can issue a levy against a Federal contractor who owes Federal employment tax liabilities without providing notice and the right to a prior hearing. However, the contractor would be entitled to a hearing within a reasonable time after issuance of the levy.

Contracting Officer – A contracting officer is an agent of the Federal Government empowered to execute contracts and obligate Government funds.

Dun and Bradstreet Financial Reports – Statistical reports that provide accurate and complete information such as assets, sales, liabilities, and profits. These data are used as indicators to evaluate how well contractors pay their bills and help assess their risk and eligibility to be awarded a contract.

Federal Acquisition Regulation (FAR) – A regulation established to codify uniform policies for acquisition of supplies and services by executive agencies.

Financial Management Service (FMS) – A bureau of the Department of the Treasury charged with providing Government-wide accounting and reporting services and managing the collection of delinquent debt.

Information Return Master File – The portion of the IRS Master File where individual and business taxpayer information documents are compiled. The documents contain data often used for filing, verifying, and validating income and expenses.

Integrated Data Retrieval System – The IRS computer system capable of retrieving or updating stored information; it works in conjunction with a taxpayer's account records.

Interagency Agreement – A written agreement entered into between two Federal agencies that specifies the goods, services, or tasks to be accomplished.

Levy – Generically refers to seizure of property to collect a debt. For tax debts, it is the legal process by which the IRS orders a third party to turn over property in its possession (e.g., the Federal Government payment) that belongs to the tax debtor.

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

Online Representations and Certifications Application System – An e-Government initiative that was designed to replace the paper-based Representations and Certifications process vendors are required to complete regarding responsibility matters.

Payroll Taxes – Amounts employers withhold from employee's wages for Federal income taxes, Social Security, and Medicare, as well as the employer's mandatory matching contributions for Social Security and Medicare taxes.

Responsible Officer – An individual the IRS determines to be responsible for collecting, accounting for, and paying payroll taxes to the appropriate government entities.

Revenue Officer – IRS employees who attempt to contact taxpayers and resolve collection matters that have not been resolved through notices sent by the IRS campuses or the ACS.

Tax Check – A method for contracting officers to obtain and use information concerning the Federal tax delinquencies of prospective contractors and subcontractors to be considered when determining financial responsibility.

Tax Code – A complex law, also known as the Internal Revenue Code, enacted by Congress in Title 26 of the United States Code to provide revenue for the Federal Government and to achieve social, economic and political goals.

Tax Gap – The difference between the annual Federal tax obligation and the amount of tax the taxpayer pays voluntarily and timely. The tax gap consists of those who do not file their returns, do not make their payments on time, and file returns but underreport their income or over report their expenses.

Taxpayer Identification Number (TIN) – A nine-digit number assigned to taxpayers for identification purposes. Depending upon the nature of the taxpayer, the TIN is an Employer Identification Number, a Social Security Number, or an Individual TIN.

Trust Fund Recovery Penalty – A penalty applied against 100 percent of the trust fund taxes owed after 60 days of notifying the taxpayer/employer for one of the following conditions: (1) the employer willfully failed to withhold the tax; (2) the employer willfully failed to account for and remit the tax; and (3) the employer willfully attempted to evade or defeat payment of the tax.

Trust Fund Taxes – The employer withholds, accounts for, and remits taxes held in trust for other taxpayers which are employees. The taxes are accounted for on the employees' annual FormW-2.

Unemployment Taxes – Unemployment taxes are reported on the Employer's Federal Unemployment Tax (Form 940). Together with State unemployment tax, the Federal unemployment tax provides funds for paying unemployment compensation to workers who have lost their jobs.

Voluntary Compliance – A system of compliance that relies on individual citizens to report their income freely and voluntarily, calculate their tax liability correctly, and file a tax return on time.

Appendix VII

Management's Response to the Draft Report

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

COMMISSIONER
SMALL BUSINESS / SELF-EMPLOYED DIVISION

RECEIVED
JAN 5 2011

January 5, 2011

MEMORANDUM FOR MICHAEL R. PHILLIPS
DEPUTY INSPECTOR GENERAL FOR AUDIT

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

SUBJECT: Draft Audit Report – Existing Practices Allowed IRS Contractors to Receive Payments While Owing Delinquent Taxes (Audit # 201030029)

Thank you for the opportunity to review your draft report titled: "Existing Practices Allowed IRS Contractors to Receive Payments While Owing Delinquent Taxes (Audit # 201030029)." The IRS believes that all Federal contractors should be held to high standards in matters concerning Federal tax responsibility and agrees with TIGTA that improvement opportunities exist to further increase Federal tax compliance within the Federal contractor community.

Since 2004, the IRS has collaborated with other Federal agencies through the Federal Contractor Tax Compliance Task Force (FCTC) to ensure that Federal contractors pay their taxes and that appropriate enforcement actions are taken to collect delinquent tax accounts. Over the past two years, the FCTC has accomplished a number of actions designed to address contractor compliance. These include:

- In 2008, the Federal Acquisition Regulations were revised to better address tax delinquency. Revised Section 52.209-5 requires all businesses seeking a contract with the Federal government to self-certify they do not currently owe more than $3,000 in unpaid taxes.
- In 2009, Financial Management Services began providing a Federal debt indicator ("flag") on the Federal government's Central Contractor Registration (CCR) records. The "flag" alerts the registrant and the contracting office of an outstanding Federal debt, and that the commercial purchase card cannot be used as a method of payment to the registrant.

The Federal Payment Levy Program (FPLP) continues to be an effective tool to collect delinquent unpaid taxes from Federal contractors. Collections from contractors through the FPLP showed significant growth, rising from $21 million in FY 2004 to $116 million in FY 2010. Through November 2010, FPLP collections from Federal contractors total $27 million.

It is important to note that the IRS will continue to support legislative actions that will filter out or identify non-compliant Federal contractors. We are currently working to implement the September 2010 post-levy Collection Due Process (CDP) legislation for certain Federal contractors. This legislation allows the IRS to collect taxes against delinquent Federal contractors prior to issuing the CDP notice. Once implemented, this legislation will allow the IRS to place delinquent tax accounts owed by Federal contractors into the FPLP program earlier than current procedures allow.

We do not concur with the outcome measure in the report as the monetary benefits are overstated. The calculation used to determine the revenue considers cases in a suspended collection (adjustment-pending) status as available for levy through the FPLP. Approximately $3.756 million or ninety-nine (99) percent of the outcome revenue identified in this report involves adjustment-pending cases. In these instances, taxpayers have submitted evidence that raise legitimate concerns about the accuracy of an underlying tax assessment. The IRS has a responsibility to investigate the merit of a taxpayer's claim before initiating enforced collection activity. If the IRS determines that the underlying tax assessment is inaccurate the taxpayer's account is adjusted to the correct amount. If the IRS denies the taxpayer's claim the account is returned to the collection stream for appropriate action.

Attached is a detailed response outlining our corrective actions. If you have any questions, please contact me, or a member of your staff may contact Frederick W. Schindler, Director, Collection Policy, Small Business/Self-Employed Division, at (202) 283-7650 or Frederick W. Martin, Director, Procurement, Agency-Wide Shared Services at (202) 283-1200.

Attachment

RECOMMENDATION 1

The Commissioner, Small Business/Self-Employed should review its current process to identify opportunities to expedite levying Federal contractor cases including IRS contractors that are in a blocked status. In addition, the Commissioner, Small Business/Self-Employed Division should work with the other IRS business units to ensure that timely enforcement actions are occurring on suspended Federal contractor cases.

CORRECTIVE ACTION

We agree with this recommendation. SB/SE will:

1. Review its current process to identify business opportunities to expedite levying Federal contractor cases.
2. Collaborate with other IRS Business units to review IRM guidance for processing Federal contractor cases to ensure timely enforcement actions can occur.
3. Update the operational IRM's and revise the Federal payment levy programs IRM's, 5.11.7 and 5.19.9, if necessary.

IMPLEMENTATION DATE

1. March 15, 2011
2. August 15, 2011
3. October 15, 2011

RESPONSIBLE OFFICIAL(S)

1. Director, Campus Compliance Services, Small Business/Self-Employed
2. Director, Collection Policy, Small Business/Self-Employed
3. Director, Campus Compliance Services, Small Business/Self-Employed
   Director, Collection Policy, Small Business/Self-Employed

CORRECTIVE ACTION MONITORING PLAN

The IRS will monitor this corrective action as part of our internal management system of controls. The Director, Collection Policy, will notify the Director, Collection, of any delays in implementing this corrective action.

RECOMMENDATION 2

The Commissioner, Small Business/Self-Employed should review all IRS contractors with delinquent payroll taxes and enforce the trust fund recovery penalty, when appropriate.

2

CORRECTIVE ACTION

We agree that the Trust Fund Recovery Penalty is an effective collection tool to address certain types of delinquent tax liabilities. To that end, Revenue Officers are required to make TFRP determinations in all delinquent tax account investigations meeting TFRP criteria.

We agree with this recommendation and will continue to utilize current IRM procedures and requirements to enforce the Trust Fund Recovery Penalty when appropriate.

IMPLEMENTATION DATE
N/A

RESPONSIBLE OFFICIAL(S)
N/A

CORRECTIVE ACTION MONITORING PLAN
N/A

RECOMMENDATION 3

The Chief, Agency-Wide Shared Services, should ensure Procurement employees follow procedures to notify the Director, Collection Policy, when a contract is issued to a contractor with a Federal tax debt so the courtesy investigations can be conducted and efforts can be taken to resolve the delinquent tax liabilities.

CORRECTIVE ACTION

We agree with this recommendation. Policy and Procedures (P&P) 9.1, "Tax Checks on Prospective Contractors" establishes procedures for Contracting Officers to obtain and use information concerning the Federal tax indebtedness of prospective contractors and subcontractors in a responsibility determination, in accordance with FAR 9.103, in all IRS solicitations over $250,000. One tool that helps to ensure that the required documentation is included in all contract files is the mandatory use of the applicable contract file checklists, in accordance with P&P 4.1, "File Content Checklists." "Completion of Tax Check" is Item No. 19.d of Section III of the Pre-Award Documents checklist. The tax check report is just one item considered when the Contracting Officer makes a responsibility determination prior to contract award, in accordance with FAR 9.1.

The P&Ps referenced within the recommendation are current and effective January 1, 2010. P&P's are revised and updated yearly for the Office of Procurement. The Office of Procurement Policy has conducted "Lessons Learned" training throughout Procurement this year based on quality assurance review findings and internal contract file auditing efforts, which included an emphasis on the use of the required contract file checklists. Additionally, two separate lessons learned training sessions were also conducted for managers who review contract files to emphasize key areas to review for compliance. Future contract file review workshops will include tax check responsibilities.

IMPLEMENTATION DATE

Implemented

RESPONSIBLE OFFICIAL(S)

Director, Office of Procurement Policy, Office of Procurement, OS:A:P:P

CORRECTIVE ACTION MONITORING PLAN

The IRS will monitor this corrective action as part of our internal management system of controls.

RECOMMENDATION 4

The Deputy Commissioner for Operations Support should coordinate with the Department of the Treasury and the Civilian Agency Acquisition Council regarding the definition of delinquent taxes in the FAR to ensure consistency with the IRS's definition. This effort will assist in making sure that contractors properly complete the annual certifications when required. Also, procedures should be established to address actions the IRS will take when contractors do not accurately self certify that they do not have a tax delinquency.

CORRECTIVE ACTION

We agree with this recommendation, and are initiating an internal review. The Director, Procurement, is scheduled to meet with the Office of Federal Procurement Policy within the Office of Management and Budget (OMB) to gain an understanding of the role Contracting Officers can and should play in conducting tax checks on contractors doing business with the Federal Government, and to discuss the definition of delinquent, as defined by the FAR and the IRS.

IMPLEMENTATION DATE

March 31, 2011

RESPONSIBLE OFFICIAL(S)

Director, Procurement, OS:A:P

4

CORRECTIVE ACTION MONITORING PLAN

The IRS will monitor this corrective action as part of our internal management system of controls.