# Treasury Inspector General for Tax Administration
## Office of Audit

**EXISTING PROCUREMENT PRACTICES ALLOWED CORPORATIONS WITH FEDERAL TAX DEBT TO OBTAIN CONTRACT AWARDS**

**Final Report issued on March 26, 2015**

# Highlights

Highlights of Report Number: 2015-10-011 to the Internal Revenue Service Chief, Agency-Wide Shared Services and Chief Financial Officer.

## IMPACT ON TAXPAYERS

Beginning with Fiscal Year (FY) 2012, Federal law has prohibited the IRS from using appropriated funds to enter into a contract with a corporation that has certain Federal tax debt and/or felony convictions, unless the Department of the Treasury Suspension and Debarment official has considered suspending or debarring the corporation. Awarding contracts to corporations with Federal tax debt conveys a contradictory message in relation to the IRS's mission to ensure compliance with the tax laws.

## WHY TIGTA DID THE AUDIT

This review was conducted to determine whether the IRS had well designed and effective management controls in place over the use of FYs 2012 and 2013 appropriated funds to implement the requirements of the Federal law that prohibits the award of contracts to corporations with certain Federal tax debt and/or felony convictions.

## WHAT TIGTA FOUND

The IRS did not have effective controls in place to prevent the award of contracts to corporations with certain Federal tax debt and/or felony convictions. TIGTA identified 17 corporations that were awarded a total of 57 contracts valued at about $18.8 million during FYs 2012 and 2013, while they had Federal tax debt. The IRS has not established a definition of Federal tax debt for this purpose and does not perform proactive tax checks to comply with this Federal law.

In addition, TIGTA found that the IRS did not follow the Department of the Treasury requirement to insert specific language in solicitations requiring corporations to assert whether or not they have certain Federal tax debt and/or felony convictions. Based on a statistical sample of contracts awarded in FYs 2012 and 2013, TIGTA found that the IRS did not require corporations to self-certify prior to contract award, as required, for any of our 143 sample cases.

Finally, TIGTA identified three contracts worth more than $67,000 awarded to one corporation with a felony conviction within the preceding 24 months prior to award. IRS contracting officers did not include the required Department of the Treasury self-certification language in any of these three contracts.

## WHAT TIGTA RECOMMENDED

TIGTA recommended that the IRS update current IRS procurement policies and procedures to reflect Department of the Treasury requirements and ensure that contractor self-certifications are obtained and reviewed prior to awarding contracts. TIGTA also recommended that the IRS develop procedures to determine what constitutes Federal tax debt, as defined by the Consolidated Appropriations Act of 2012, for the purpose of conducting tax checks to comply with this Federal law.

In their response, IRS management agreed with two of our recommendations and partially agreed with two other recommendations. The IRS plans to conduct training for its contracting officials and monitor contracting actions for compliance with Department of the Treasury policy. However, the IRS asserts that it was appropriate to award nearly $18 million of contract modifications to contractors with Federal tax debt.

TIGTA disagrees with this assertion. The contract modifications were related to contracts awarded before the new requirements of the Federal law became effective. However, all 32 modifications were awarded after the law was enacted and the nearly $18 million to fund the new work related to these modifications was obligated after the new law became effective. Therefore, TIGTA believes the IRS was prohibited from using appropriated funds to make these awards per the Department of the Treasury's implementing guidance.

## READ THE FULL REPORT

To view the report, including the scope, methodology, and full IRS response, go to:

http://www.treas.gov/tigta/auditreports/2015reports/201510011fr.pdf.

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