

**HEARING BEFORE THE JOINT CONGRESSIONAL REVIEW OF
THE INTERNAL REVENUE SERVICE**



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WRITTEN STATEMENT OF
TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION
J. RUSSELL GEORGE
BEFORE THE JOINT CONGRESSIONAL REVIEW
OF THE
INTERNAL REVENUE SERVICE
MAY 19, 2005

Mr. Chairman and Members of the Joint Review, thank you for the opportunity to participate in this discussion of the strategic plan and budget request for the Internal Revenue Service (IRS). The IRS strategic plan consists of three primary goals:

- Improve taxpayer service;
- Enhance enforcement of the tax law; and,
- Modernize the IRS through its people, processes, and technology.

Commissioner Everson has indicated that this strategic plan provides a roadmap for IRS operations over the next five years, and that the guiding principle for the IRS, *Service + Enforcement = Compliance*, relates his goal for striking the right balance necessary to achieve compliance and address the tax gap.¹

The IRS deserves credit for its considerable accomplishments in fiscal year (FY) 2004. For example, the IRS processed approximately 224 million tax returns and collected over \$2 trillion in FY 2004. Enforcement revenue collected increased by over 15 percent to more than \$43 billion. The IRS implemented the first release of the Customer Account Data Engine (CADE) modernization project,² which processed over a million tax returns during the 2005 filing season.³ Furthermore, the completion of the initial phases of the National Research Project allowed the IRS to recently release an updated estimate of the tax gap.⁴

However, in the midst of these accomplishments, the IRS faces some significant challenges. The IRS' updated estimates of the tax gap, which is defined as the difference between what taxpayers are supposed to pay and what is actually and timely paid, have risen to between \$312 and \$353 billion annually. These figures are alarmingly high and indicate a significant threat to our nation's tax system.

¹ INTERNAL REVENUE SERVICE, PUB. 3744, IRS STRATEGIC PLAN 2005-2009 (Rev. 2004).

² The CADE project is the foundation for managing taxpayer accounts in the IRS modernization plan.

³ The tax return filing season is the period from January through mid-April when most individual income tax returns are filed.

⁴ The IRS has initiated the National Research Program to measure taxpayers' voluntary compliance, to better approximate the tax gap, and to develop updated formulas to select noncompliant returns for examination. The first phase of this program addresses reporting compliance for individual taxpayers, and data from this phase were used to produce the recently updated estimates of this portion of the tax gap.

Although enforcement revenue has increased, gross accounts receivable grew by two percent in 2004 to an historical high of \$285 billion. Cost increases and schedule delays continue to occur in business systems modernization, even though the number of projects under development has been reduced. Additionally, security vulnerabilities persist in existing IRS systems, and are even present in modernized systems developed by the IRS and the PRIME contractor.⁵

The proposed budget for FY 2006 provides additional resources to IRS enforcement in order to narrow the tax gap. However, the IRS has proposed cuts to customer service to offset a portion of the funding that is being redirected towards enforcement. I have some concerns about these decisions, which I discuss later in this testimony.

One aspect of the budget that the Treasury Inspector General for Tax Administration (TIGTA) is currently evaluating is the IRS' application of user fees to taxpayers who seek special services.⁶ Opportunities may exist to charge a more accurate amount for these services, which would help offset operating costs. In addition, last year Congress authorized the IRS to use private collection agencies to collect taxes. Once the IRS implements this program, more outstanding taxes should be collected. TIGTA will be vigilant in overseeing the IRS' use of these contractors to ensure that abuses do not occur. Past experiences with bank lockbox thefts and insufficient contractor oversight have provided invaluable lessons to help prevent similar issues from plaguing the collection of tax debt.⁷

I will also address the progress the IRS has made and the challenges it faces in the security and modernization of IRS information systems, the tax filing season, customer service, and implementation of the various provisions of the IRS Restructuring and Reform Act of 1998 (RRA 98).⁸ TIGTA has performed extensive work in these areas, and I appreciate the opportunity to highlight our results.

⁵ The PRIME contractor, Computer Sciences Corporation, is the principal contractor responsible for modernizing IRS business systems.

⁶ These special services include processing installment agreement requests; providing Employee Plans/Exempt Organization letter rulings, opinion letters, determination letters, and advisory letters; providing IRS Counsel rulings; processing Offer-In-Compromise applications; and providing copies of tax returns.

⁷ TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION, REF. NO. 2002-30-055, FEDERAL REQUIREMENTS NEED STRENGTHENING AT LOCKBOX BANKS TO BETTER PROTECT TAXPAYER PAYMENTS AND SAFEGUARD TAXPAYER INFORMATION (2002); TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION, REF. NO. 2004-20-0063, INSUFFICIENT CONTRACTOR OVERSIGHT PUT DATA AND EQUIPMENT AT RISK (2004).

⁸ PUB. L. NO. 105-206, 112 STAT. 685 (CODIFIED AS AMENDED IN SCATTERED SECTIONS OF 2 U.S.C., 5 U.S.C. APP. 3, 16 U.S.C., 19 U.S.C., 22 U.S.C., 23 U.S.C., 26 U.S.C., 31 U.S.C., 38 U.S.C., AND 49 U.S.C.).

Information Systems Security

In the area of information systems security, the IRS has developed security policies and procedures but has not implemented them effectively or consistently. As a result, sensitive information remains vulnerable to attack by disgruntled employees and contractors. While recognizing that complete security can never be achieved and that there are necessary trade-offs between security and operational needs, TIGTA continues to identify significant weaknesses in infrastructure and applications security.

Although TIGTA is not aware of a successful intrusion into the IRS network from an external source, such as the Internet, TIGTA investigations have led to two significant prosecutions for computer intrusions. One case involved an IRS contractor who installed on a large database server malicious code that was designed to destroy the information on the system. The second case involved an IRS contractor that illegally accessed and compromised several large servers in an IRS computing center. In both cases, although no taxpayer data was immediately at risk, IRS contractors were responsible, which highlights the fact that the greatest threat to IRS systems is from internal sources such as disgruntled employees or contractors.

The Government Accountability Office (GAO) recently issued a report documenting weaknesses in controls to prevent, limit, or detect unauthorized access to taxpayer and Bank Secrecy Act data from the IRS' internal network.⁹ Recent TIGTA reviews of access controls over taxpayer data in IRS' Criminal Investigation function, Appeals office, and Office of Chief Counsel have noted similar exposures to unauthorized access.¹⁰

I am particularly concerned with weaknesses TIGTA has identified in the systems developed as part of the modernization program. We found that modernized systems had been implemented without protection against common security vulnerabilities. For example, computers were running unnecessary high-risk applications, systems were implemented without disaster recovery capability, and

⁹ GOVERNMENT ACCOUNTABILITY OFFICE, PUB. NO. GAO-05-482, INFORMATION SECURITY: INTERNAL REVENUE SERVICE NEEDS TO REMEDY SERIOUS WEAKNESSES OVER TAXPAYER AND BANK SECRECY ACT DATA (2005).

¹⁰ TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION, REF. NO. 2004-20-081, KEY SECURITY CONTROLS OF THE CRIMINAL INVESTIGATION MANAGEMENT INFORMATION SYSTEM HAVE NOT BEEN IMPLEMENTED (2004); TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION, REF. NO. 2005-20-069, SECURITY CONTROLS FOR THE APPEALS CENTRALIZED DATABASE SYSTEM COULD BE IMPROVED (2005); TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION, REF. NO. 2005-20-036, SECURITY CONTROLS FOR THE COUNSEL AUTOMATED SYSTEM ENVIRONMENT MANAGEMENT INFORMATION SYSTEM COULD BE IMPROVED (2005).

computer configurations did not meet IRS standards.¹¹ These systems cost hundreds of millions of dollars to develop and implement, yet the security of these systems has not received adequate attention. The IRS will have to correct these security deficiencies after the systems are already running; however, it is much more costly and complex to retrofit systems after-the-fact than to install security features in the design and development of the systems.

For example, the IRS paid the PRIME contractor to develop a system that tracked the activity of users on modernized systems. What is troubling is that the IRS accepted this system in late 2002 despite knowing that the system could not be used for the purpose for which it was designed.¹² Software vulnerabilities and performance issues rendered it basically useless for identifying unauthorized accesses to IRS systems. After more than two years, the IRS still has not completed corrective actions to address these weaknesses and ensure that monitoring of user activity occurs on the modernized systems currently operating.

Additionally, while security roles and responsibilities have been defined, significant security weaknesses exist throughout the IRS because IRS employees with key security responsibilities are not fulfilling their duties. For example, TIGTA has identified vulnerabilities on the network and in sensitive systems across the IRS.¹³ IRS employees have not consistently assessed and accredited the security controls present on their systems. The IRS has initiated actions to improve the training of its key security employees, and we will continue to monitor whether employees receive proper training in this complex area.

Although electronic access controls can help prevent some security breaches, it is also critical to ensure employees are aware of their individual security responsibilities to protect taxpayer data from unauthorized access. When TIGTA auditors posing as IRS Information Technology employees recently called IRS employees and managers, 35 percent of them were willing to provide their user account names and change their passwords as requested.¹⁴ With an employee's user account name and password, a hacker could gain access to IRS systems, though the IRS' strong systemic perimeter controls lessen this risk. Even more significant, a disgruntled employee could use the same social engineering tactics and obtain another employee's username and password. With some knowledge

¹¹ TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION, REF. NO. 2004-20-135 SECURITY WEAKNESSES IN THE MODERNIZATION INFRASTRUCTURE HAVE NOT BEEN ADEQUATELY ADDRESSED (2004); TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION, REF. NO. 2005-20-024, THE DISASTER RECOVERY PROGRAM HAS IMPROVED, BUT IT SHOULD BE REPORTED AS A MATERIAL WEAKNESS DUE TO LIMITED RESOURCES AND CONTROL WEAKNESSES (2005).

¹² TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION, REF. NO. 2004-20-135 THE AUDIT TRAIL SYSTEM FOR DETECTING IMPROPER ACTIVITIES ON MODERNIZED SYSTEMS IS NOT FUNCTIONING (2004).

¹³ These vulnerabilities are discussed in further detail in limited official use audit reports provided to the IRS. See TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION, *supra* note 10.

¹⁴ TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION, REF. NO. 2005-20-042, WHILE PROGRESS HAS BEEN MADE, MANAGERS AND EMPLOYEES ARE STILL SUSCEPTIBLE TO SOCIAL ENGINEERING TECHNIQUES (2005).

of IRS systems and applications, this disgruntled employee could more easily gain unauthorized access to IRS data as well as damage information on IRS systems.

Although many steps have been taken to limit risks, IRS systems and taxpayer information remain susceptible to threats that could impact the confidentiality, integrity, and availability of data and information systems.

Business Systems Modernization

Modernizing the IRS' computer systems has been a persistent challenge for many years and will likely remain a challenge for the foreseeable future. The latest effort to modernize the IRS' systems, the Business Systems Modernization (BSM) program, began in FY 1999.¹⁵ The purpose of the BSM program is to modernize the IRS' technology and related business processes. The BSM program is a complex effort which will involve integrating thousands of hardware and software components. All of this must be done while replacing outdated technology and continuing tax administration.

This effort will be lengthy and costly. It is estimated to last up to 15 years, and the IRS will incur PRIME contract costs over \$8 billion. The program is in its seventh year and has been allocated approximately \$1.9 billion in funding for contractor activities. The IRS has further supported the modernization effort by funding the Business Systems Modernization Office (BSMO) with \$213 million since FY 1999.

Key Projects Have Made Significant Progress During the Past Year

Working with its contractors, the IRS has deployed projects that provide value to taxpayers and has built the infrastructure needed to support these projects. Two BSM projects have been deployed and delivered value to taxpayers in the past year: the Customer Account Data Engine (CADE) and the Modernized e-File (MeF) project. The CADE project is the foundation for managing taxpayer accounts in the IRS modernization plan.¹⁶ Once completed, CADE will consist of

¹⁵ Prior to the BSM program, the IRS initiated the Tax Systems Modernization (TSM) program. The purpose of TSM was the same as the purpose of BSM: to modernize the IRS' technology and related business processes. The TSM program, however, encountered management and technical weaknesses. After spending over \$3 billion on TSM, the program was abandoned and the BSM program was initiated.

¹⁶ In conjunction with other applications, the CADE will eventually allow employees to post transactions and update taxpayer account and return data online from their desks. Updates will be immediately available to any employee who accesses the data and will provide a complete, timely, and accurate account of taxpayer information. In contrast, the current Master File processing system can take up to two weeks to update tax accounts, and IRS employees may need to access several computer systems to gather all relevant information related to tax accounts.

databases and related applications to replace the IRS' existing Master File processing systems.¹⁷ In July 2004, the IRS delivered CADE Release 1.1 which successfully processed refund and even-balance Forms 1040EZ¹⁸ for single taxpayers with no pending tax issues. CADE Release 1.2 incorporated the tax law changes for the 2005 filing season and started processing the same type of tax returns in January 2005. It has processed over 1 million tax returns during the 2005 filing season.

The MeF project involves developing a modernized, web-based platform for electronically filing approximately 330 different IRS forms. The MeF deployed three releases from February 2004 to January 2005, which allow for the electronic filing of over 100 different tax forms, including forms filed by corporations and exempt organizations.

In addition, the IRS and its contractors issued the first release of the Integrated Financial System (IFS), which provides new capabilities for internal use. The IFS was developed to address administrative financial management weaknesses in IRS accounting systems. The first release of the IFS became fully operational in January 2005, and included accounts payable, accounts receivable, general ledger, budget execution, cost management, and financial reporting activities. A future IFS release was planned to include property, performance, and procurement management, but work was suspended in early 2005 due to budget constraints. Without this future release, the IRS will be unable to fully address a material weakness in its accounting systems.

Budget Reductions Have Resulted In Decreased Development Activities

During FY 2004, the IRS scaled back development activities because of reduced appropriations. The available budget caused the IRS to limit its development activity to focus primarily on the CADE, MeF, and the Filing and Payment Compliance (F&PC)¹⁹ projects. For example, the schedule for the CADE project has been revised several times to accommodate development delays and uncertainty in program direction. The refocus of the CADE project impacts related modernization activity such as the Customer Account Management (CAM) project.²⁰ The CAM project is intended to improve customer service by

¹⁷ 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.

¹⁸ Form 1040EZ is the income tax return used by some single and joint filers with no dependents. The initial release of the CADE does not process Forms 1040EZ for joint filers.

¹⁹ The F&PC project was intended to provide support for detecting, scoring, and working nonfiler cases (filing compliance) and delinquency cases (payment compliance). The first release of the F&PC project is called the Private Debt Collection project. The IRS completed the planning phases for the Filing and Payment Compliance project in 2002, but suspended the project due to concerns with costs. In FY 2004, the portion of this project designed to support private debt collection was restarted.

²⁰ The CAM project is intended to provide improved technology and business processes to provide account and tax law assistance, manage case workflow, and support other modernization efforts by providing access to comprehensive, timely, and accurate taxpayer account information.

providing more accurate and timely account maintenance and analysis. The uncertainty of CADE's development, along with reductions in available funding, affect when CAM can be developed. Without an application such as CAM, CADE can only act as a system to process tax returns that require no account adjustments.

In addition, the budget reduction prompted the IRS to suspend further development of the IFS project and cancel the Custodial Accounting Project (CAP). Canceling CAP made the initial releases unusable for its intended purpose of performing accounting work. The IRS has indicated it will leverage the work products and knowledge gained from CAP in other modernization initiatives. While leveraging may produce some residual benefits, a significant portion of the \$135 million spent on CAP will result in unrecoverable costs.²¹

Weaknesses Remain in Certain Areas of BSM Program Management

TIGTA has also identified weaknesses in the BSMO, which is responsible for the overall management of the BSM program. These weaknesses are in the following areas: requirements management, contract management, software testing, and security controls. To address issues in requirements management, the IRS established a Requirements Management Office in January 2005. The Office is responsible for developing processes and procedures to effectively create and manage project requirements. Weaknesses in contract management have resulted from the BSMO failing to consistently use contract provisions and negotiations that would protect the best interest of the Federal Government.²² In the area of software testing, the BSMO needs to clearly define testing procedures,²³ improve testing practices,²⁴ and ensure that software is tested prior to system deployment.²⁵ Finally, the BSMO needs to place additional emphasis on security controls in the design of information systems.²⁶

²¹ The IRS reported that the data models developed for CAP can be used on the CADE project, and the CAP analysis and requirements can be used as the basis for a new system.

²² For example, contract award justifications did not always provide adequate detail for not using firm fixed-price contract provisions. Contracting provisions that could balance risk between the IRS and the contractor were used inconsistently. Additionally, consistent application of best practices could further improve the contract negotiations process. TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION, DRAFT, AUDIT NO. 200420002, WHILE MANY IMPROVEMENTS HAVE BEEN MADE, CONTINUED FOCUS IS NEEDED TO IMPROVE CONTRACT NEGOTIATIONS AND FULLY REALIZE THE POTENTIAL OF PERFORMANCE-BASED CONTRACTING (2005).

²³ TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION, REF. NO. 2004-20-157, THE OFFICE OF RELEASE MANAGEMENT CAN IMPROVE CONTROLS FOR MODERNIZATION PROGRAM COORDINATION (2004).

²⁴ TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION, REF. NO. 2004-20-147, THE INTEGRATED FINANCIAL SYSTEM PROJECT TEAM NEEDS TO RESOLVE TRANSITION PLANNING AND TESTING ISSUES TO INCREASE THE CHANCES OF A SUCCESSFUL DEPLOYMENT (2004).

²⁵ TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION, REF. NO. 2005-20-019, SYSTEM REQUIREMENTS WERE NOT ADEQUATELY MANAGED DURING THE TESTING OF THE CUSTODIAL ACCOUNTING PROJECT (2004).

²⁶ Draft audit report has not yet been issued.

Cost Increases and Schedule Delays Continue

Since the start of the modernization effort, the BSM program has experienced cost overruns and schedule delays in its project development and deployment. In early 2005, the IRS reported project deliveries were within budget and schedule estimates for projects delivered since August 2004. This assessment was based on cost and schedule estimates that the IRS revised in May 2004.

Our analysis of the re-baselined project deliveries confirms the IRS' assessment that project releases were generally within budget and on schedule. However, our comparison of the May 2004 and February 2005 IRS BSM expenditure plan estimates shows significant project cost and schedule increases for several ongoing projects, such as MeF and F&PC.

The Division of Responsibilities Between the IRS and the PRIME Contractor

In February 2004, Commissioner Everson testified that the IRS would carefully assess the PRIME contractor's performance on current projects. The Commissioner would consider the results of the PRIME contractor's overall program management and integration efforts before awarding additional work.

In January 2005, the IRS began assuming the role of systems integrator from the PRIME contractor due to reductions in funding and concerns about the adequacy of the PRIME contractor's performance. In the IRS' new operating model as the systems integrator, the IRS will now be responsible for program-level activities such as:

- Systems integration;
- Business requirements management and validation;
- Procurement administration;
- Engineering; and,
- Architecture.

Skills needed to perform these responsibilities have been an issue of concern. Specialized skill positions, such as systems architects and engineers, have been difficult to fill. The assumption of the integrator role by the IRS is recognized in the BSM program as part of its highest priority needs.

TIGTA has found that the BSM program has begun to assign the role of systems integrator to parties other than the PRIME contractor. For example, the BSMO acted as the integrator for the MeF project, and the Northrop Grumman Corporation served as the integrator for CAP before it was cancelled. The PRIME contractor's new primary function is to deliver projects and to provide support services to the IRS. On new projects, the PRIME contractor will compete for the contracts with other contractors. The effective management of contractor

performance and accountability will become even more important and difficult for the IRS as it now functions as the systems integrator for all contractors.

Previously Reported Challenges Still Exist

During the past three fiscal years, our annual BSM program assessments²⁷ have cited four primary challenges the IRS and its contractors must meet to achieve program success:

- 1) Implement planned improvements in key management processes and commit necessary resources to enable success;
- 2) Manage the increasing complexity and risks of the BSM program;
- 3) Maintain the continuity of strategic direction with experienced leadership; and,
- 4) Ensure contractor performance and accountability are effectively managed.

While the IRS has taken steps to address these areas, continued attention by management will be required for the IRS to succeed with its modernization activities. The GAO has also recognized the need for continued management attention and has included the modernization program as a high-risk area in its 2005 High-Risk Report,²⁸ as it has since 1995.²⁹

Commissioner Everson testified in April 2005 that the IRS substantially met its 2004 plans for the BSM program based on the delivery of the planned CADE, MeF, e-Services,³⁰ and IFS project releases. Although these releases were operational on or close to *revised* cost estimates and delivery dates, they exceeded *original* cost estimates and delivery dates and did not provide all intended systems capabilities. We remain cautious about declaring success based on results achieved in 2004 due to our historical perspective of the modernization effort and our familiarity with the persistent modernization challenges facing the IRS.

²⁷ The annual BSM program assessments are required by RRA 98.

²⁸ GOVERNMENT ACCOUNTABILITY OFFICE, PUB. NO. GAO-05-207, HIGH-RISK SERIES (2005).

²⁹ It is worth noting that GAO also identified the Tax Systems Modernization program, which preceded the BSM program, as a high-risk area.

³⁰ The e-Services project focuses on changing the way taxpayers transact and communicate with the IRS. This web-based project expands the existing third-party tools and data collection processes.

Customer Service

To assist taxpayers in complying with the complex tax code, the IRS offers assistance through its toll-free telephone system, walk-in services, and written and electronic communications, including the IRS Web site: www.IRS.gov. The effectiveness of each of these services influences a taxpayer's ability and desire to comply voluntarily with tax laws.

RRA 98 mandated that the IRS be more responsive to customer needs. Since the passage of RRA 98, the IRS' focus on customer service has led to many improvements. Individual taxpayer satisfaction rates with the IRS have increased since the law's passage, rising from 51 to 64 percent between 1999 and 2004.³¹ The ability of taxpayers to contact the IRS via telephone has improved, and customer service at the Taxpayer Assistance Centers (TACs) has shown progress.³²

The IRS internet site, www.IRS.gov, is an excellent source for forms, publications, and other guidance, and taxpayers visited the site over 139 million times last year. The site also received an award for being the nation's most reliable government internet site.³³ Electronic filing of tax returns is continuing to grow, and the ability to check the status of tax refunds online has been a successful IRS project that is helpful to taxpayers.³⁴

The following chart shows the customer service goals established by the IRS and the actual results in each area as measured by the IRS and TIGTA.

³¹ AMERICAN CUSTOMER SATISFACTION INDEX, "ACSI OVERALL FEDERAL GOVERNMENT SCORES WITH HISTORIC SCORES OF AGENCIES MEASURED 1999- 2004," DECEMBER 14, 2004.

³² Taxpayer Assistance Centers are walk-in sites where taxpayers can get answers to both account and tax law questions and receive assistance with return preparation. We audited the accuracy of tax law answers given to taxpayers at these Centers and determined that the accuracy rate had increased from 54 to 67 percent from January 2002 to April 2004. TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION, REF. NO. 2004-30-038, ACCESS TO THE TOLL-FREE TELEPHONE SYSTEM WAS SIGNIFICANTLY IMPROVED IN 2003, BUT ADDITIONAL ENHANCEMENTS ARE NEEDED (2004); TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION, REF. NO. 2005-40-021, CUSTOMER SERVICE AT THE TAXPAYER ASSISTANCE CENTERS IS IMPROVING BUT IS STILL NOT MEETING EXPECTATIONS (2004).

³³ INTERNAL REVENUE SERVICE, IRS.GOV CITED AS MOST RELIABLE GOVERNMENT WEB SITE, IR-2004-131, AVAILABLE AT <http://www.irs.gov/newsroom/article/0,,id=130492,00.html> (LAST VISITED MAY 10, 2005).

³⁴ INTERNAL REVENUE SERVICE, FREE FILE TOPS LAST YEAR'S TOTAL, IR-2005-36, AVAILABLE AT <http://www.irs.gov/newsroom/article/0,,id=137055,00.html> (LAST VISITED MAY 10, 2005).

IRS Customer Service Results (Compiled by TIGTA)

	IRS-Reported Customers Served or Services - Fiscal Year 2004	IRS-Reported Customers Served or Services - Filing Season 2004	IRS-Reported Accuracy- Fiscal Year 2004	IRS-Reported Accuracy- Filing Season 2004	IRS Goals Fiscal Year 2004	TIGTA-Reported Accuracy	TIGTA Results ³⁵
Taxpayer Assistance Centers	7.7 million taxpayers; 1.6 million for tax law	3.8 million taxpayers; 790,000 for tax law	75%	75%	80%	67%	TIGTA made 125 visits and asked 250 questions in the 2004 Filing Season ³⁶
Referral-Mail³⁷	381,561	339,105	64%	64%	Unknown	74%	TIGTA placed 70 calls during the 2003 Filing Season ³⁸
Toll-Free Accounts³⁹	31,667,354	14,779,747	89%	89%	90%	86%	TIGTA monitored 264 calls during the 2004 Filing Season ⁴⁰
Toll-Free Tax Law⁴¹	5,730,632	3,907,260	80%	79%	85%	62%	TIGTA monitored 322 calls during the 2004 Filing Season ⁴²
Internet-Based⁴³	111,203	65,737	65%	60%	78%	83%	TIGTA sampled 76 responses during the 2002 Filing Season ⁴⁴

³⁵ TIGTA's results are based on testing in the IRS' Wage and Investment Division.

³⁶ TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION, REF. NO. 2004-40-152 TAXPAYER EXPERIENCE AT THE TAXPAYER ASSISTANCE CENTERS COULD BE IMPROVED (2004).

³⁷ Taxpayers that call the Tax Help Line (1-800-829-1040) and ask more complex questions are transferred to the IRS' Referral Mail (R-Mail) Program. The R-Mail Program is designed to answer complex tax law questions via telephone, e-mail, or correspondence within three workdays. The IRS did not have a 2004 goal for R-mail accuracy. We are not conducting an audit of R-mail this filing season.

³⁸ TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION, REF. NO. 2004-40-029, IMPROVEMENT IS NEEDED IN E-MAIL RESPONSES TO COMPLEX TAX QUESTIONS SUBMITTED THROUGH TOLL-FREE TELEPHONE HELP LINES (2003).

³⁹ This category includes taxpayers that call the Tax Help Line and ask questions about their accounts, including information on the status of their returns/refunds, corrections of errors found during processing, and corrections resulting from adjustments or examination assessments. The Toll-Free Program counts services provided, not taxpayers served.

⁴⁰ TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION, REF. NO. 2005-40-018, TOLL-FREE ACCOUNT ASSISTANCE TO TAXPAYERS IS PROFESSIONAL AND TIMELY, AND THE QUALITY OF INFORMATION PROVIDED HAS IMPROVED (2004).

⁴¹ This category includes taxpayers that call the Tax Help Line and ask about tax law issues including filing status and exemptions, pensions, retirement accounts, the Earned Income Tax Credit, and the Child Tax Credit. This program counts services provided, not taxpayers served.

⁴² TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION, REF. NO. 2004-40-150, ADDITIONAL EFFORT ANSWERING TAX LAW QUESTIONS WOULD IMPROVE CUSTOMER SERVICE (2004).

⁴³ The Electronic Tax Law Assistance (ETLA) Program offers taxpayers the ability to submit tax law questions 24 hours a day, 7 days a week. The IRS is limiting taxpayer access by locating the link to ETLA in a section of its website that is difficult to find. We are conducting an ETLA audit this filing season.

⁴⁴ TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION, REF. NO. 2003-40-014, RESPONSE ACCURACY IS HIGHER FOR THE INTERNET PROGRAM THAN FOR OTHER OPTIONS AVAILABLE TO TAXPAYERS NEEDING ASSISTANCE WITH TAX LAW QUESTIONS (2002).

Although the IRS is striving to reach its goals in the customer service area, I am concerned about plans to reduce customer service in order to provide more funding for enforcement initiatives. The IRS recently announced plans to close a significant percentage of the TACs, which are the sites that provide face-to-face services to taxpayers. As part of a planned audit, we will review the methodology used by the IRS to determine which TACs to close. At this point, I am skeptical that the IRS has adequate data to assess the impact that closing these centers will have on customer service. I am also concerned that the IRS has insufficient data to draw conclusions on the likelihood that taxpayers, who have used these centers in the past, will be able to use other methods of seeking help, such as the internet or telephone. I strongly recommend that the IRS further research these issues before closing selected TACs.

Additionally, the IRS has decided to cancel the Telefile project. In 2003, TIGTA recommended that the IRS explore other opportunities to expand – not cancel – the Telefile program.⁴⁵ We continue to believe the Telefile program provides services to millions of taxpayers and is worth pursuing. However, the IRS has decided to discontinue the Telefile program after the 2005 filing season citing as reasons high costs, low demand, and the increased availability of e-filing options. If the IRS follows through with its decision to discontinue the Telefile program, it should at least develop a strategy to accommodate Telefilers who are unable to e-file.

Filing Season

In addition to providing customer service to American taxpayers, the IRS must coordinate tax law changes, programs, activities, and resources to effectively plan and manage each filing season. The tax return filing season impacts every American taxpayer and its success affects the entire Federal Government.

I am pleased to report that the 2005 Filing Season has gone well, and TIGTA has identified no major problems. As of April 29, 2005, the IRS had received approximately 121.1 million individual income tax returns with over 66 million filed electronically, an increase of nearly 11 percent compared to the same period last year. Additionally, 88 million refunds had been issued, averaging \$2,127 per return. Of the total refunds, 50 million were issued using the direct deposit option.

Our audit work for the 2005 filing season is currently in progress, but preliminary results indicate that most tax forms and publications were accurately updated to

⁴⁵ TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION, REF. NO. 2003-40-092, OPPORTUNITIES EXIST TO EXPAND THE TELEFILE PROGRAM (2003).

reflect tax law changes. TIGTA found some errors, however, in publications regarding the calculation of the child tax credit for certain military personnel.⁴⁶

The IRS, though, continues to struggle to ensure certain tax law provisions have been accurately implemented.⁴⁷ For example, during the 2004 filing season, the IRS did not recover \$21 million in overpayments of advanced child tax credits. Additionally, approximately \$152 million in advanced child tax credits remained unclaimed by taxpayers. Taxpayers also continued to receive erroneous deductions for student loan interest and were inappropriately allowed both education credits and deductions for tuition and fees. As a result, over \$3.3 million in taxes was not paid. These same issues continued in the 2005 filing season.

Another issue that the IRS has not effectively addressed is ensuring the appropriate handling of accounts of taxpayers with combat zone indicators.⁴⁸ Over 58 percent of the taxpayers with an active combat zone indicator were incorrectly coded (i.e., the taxpayers were no longer serving in a combat zone). This allows taxpayers to receive special tax treatment to which they are no longer entitled, such as the ability to file late, not be audited, and have collection action suspended.

The IRS was also not identifying and correcting errors that were created when attempting to update the tax accounts of military service members who had entered or exited a Combat Zone. These errors could occur for various reasons, such as missing information or mismatches between names or Social Security Numbers. As a result, taxpayers who are serving in a Combat Zone may not have indicators on their accounts and would be at risk of not getting the Combat Zone benefits they deserve. The IRS did not keep records of errors resulting from mismatches or missing information, which prevented TIGTA from determining the extent of this condition. TIGTA has reported these findings to the IRS and will continue to monitor whether this and other filing season recommendations have been implemented.

⁴⁶ TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION, DRAFT, AUDIT NO. 200440047, FORMS, PUBLICATIONS, AND COMPUTER PROGRAMMING REQUESTS WERE ADEQUATELY ADDRESSED AND UPDATED IN MOST INSTANCES FOR THE 2005 FILING SEASON (2005).

⁴⁷ TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION, REF. NO. 2005-40-016, THE 2004 FILING SEASON WAS COMPLETED TIMELY AND ACCURATELY, BUT SOME TAX LAW CHANGES HAVE NOT BEEN EFFECTIVELY IMPLEMENTED (2004).

⁴⁸ TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION, REF. NO. 2005-40-077, TAXPAYERS IDENTIFIED AS SERVING IN COMBAT ZONES WERE PROPERLY AFFORDED TAX BENEFITS, BUT ACCOUNT IDENTIFICATION AND MAINTENANCE PROCESSES NEED IMPROVEMENT (2005).

The IRS Restructuring and Reform Act of 1998

RRA 98 included significant structural changes in management and oversight of the IRS, as well as provisions to strengthen and enhance the rights of taxpayers. Since the enactment of RRA 98, TIGTA has performed a series of audits to determine the IRS' progress in implementing and ensuring compliance with these provisions. The law requires TIGTA to review 10 taxpayer rights provisions, as well as two other taxpayer rights provisions from prior legislation. TIGTA is currently assessing the IRS' compliance with these provisions for the seventh consecutive year. Our most recent audit results on these taxpayer rights provisions are as follows:

- *Notice of levy* – RRA 98 requires the IRS to notify taxpayers at least 30 days before initiating any levy action to give taxpayers an opportunity to formally appeal the proposed levy. Prior TIGTA reports have recognized that the IRS has implemented tighter controls over the issuance of systemically generated levies. Our testing of these controls indicates that they continue to function effectively.

However, revenue officers sometimes issue to taxpayers levies that are not systemically generated. In 5 of 40 cases reviewed, we determined that revenue officers seized taxpayer assets using manual levies without notifying taxpayers of their appeal rights. Without notification of their appeal rights, taxpayers may not be aware that they are entitled to a hearing or other due process safeguards. Not offering appeal rights to taxpayers prior to issuing levies is a potential section 1203 violation of RRA 98 and could result in the revenue officer being terminated for misconduct.⁴⁹ We recommended that the IRS require managers to review and approve all manual levies prepared by revenue officers in order to ensure taxpayers are properly advised of their appeal rights.⁵⁰

- *Restrictions on the use of enforcement statistics to evaluate employees* – Section 1204(a) of RRA 98 prohibits the IRS from using tax enforcement results to evaluate employees or to impose or suggest production quotas or goals. Section 1204(b) requires employees to be evaluated using the fair and equitable treatment of taxpayers as a performance standard. Section 1204(c) requires supervisors to certify quarterly whether tax enforcement results were used in a prohibited manner. TIGTA is required to evaluate annually the IRS' compliance with section 1204.⁵¹

⁴⁹ TIGTA's Office of Investigations is evaluating these cases.

⁵⁰ TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION, REF. NO. 2004-30-094, ADDITIONAL EFFORTS ARE NEEDED TO ENSURE TAXPAYER RIGHTS ARE PROTECTED WHEN MANUAL LEVIES ARE ISSUED (2004).

⁵¹ See 26 U.S.C. § 7803(d)(1) (2005).

Our review of performance and supervisory documentation for 75 enforcement employees found the IRS in compliance with sections 1204(a) and (b). In addition, a review of a statistical sample of 43 supervisors' certifications indicated that the IRS was in compliance with section 1204(c).⁵²

- *Notice of lien* – The IRS attempts to collect Federal taxes from taxpayers by sending letters, making telephone calls, and meeting face-to-face with taxpayers. When initial contacts by the IRS do not result in the successful collection of unpaid taxes, the IRS has the authority to attach a claim to the taxpayer's assets for the amount of unpaid tax liabilities.⁵³ The IRS files a Notice of Federal Tax Lien (NFTL), which notifies the public that a lien exists. Since January 19, 1999, section 6320 of the Internal Revenue Code has required the IRS to notify taxpayers in writing within five business days of filing an NFTL.

We determined the IRS did not completely comply with the law. A statistically valid sample of 150 NFTLs identified 7 NFTLs (4.7 percent) for which the IRS did not mail lien notices within five business days. In addition, we could not determine if the IRS complied with the law for 35 NFTLs (23.3 percent) because it could not provide proof of timely mailing. Finally, in 11 of the 150 NFTLs reviewed (7.3 percent), the IRS did not follow its own internal guidelines when issuing lien notices, including the guidelines for notifying taxpayer representatives and resending notices when they are returned as undeliverable.⁵⁴

- *Seizures* – To ensure taxpayers' rights are protected, RRA 98 amended the property seizure provisions in sections 6330 through 6344 of the Internal Revenue Code. Our review of a random sample of 50 of 375 seizures conducted between July 1, 2003, and June 30, 2004, determined that the IRS did not comply with all legal and internal guidelines when conducting seizures. We identified 17 instances in 12 seizures in which the IRS did not fully comply with the law. For example, in seven instances all required forms relating to the sales of seized property were not provided to taxpayers, and in two instances proceeds resulting from seizures were not properly applied to taxpayer accounts. Although the instances we identified were technical in nature and did not adversely affect the taxpayers involved, not following legal and internal guidelines could result in abuses of taxpayer rights.⁵⁵

⁵² TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION, REF. NO. 2004-40-066, FISCAL YEAR 2004 STATUTORY AUDIT OF COMPLIANCE WITH LEGAL GUIDELINES RESTRICTING THE USE OF RECORDS OF TAX ENFORCEMENT RESULTS (2004).

⁵³ See 26 U.S.C. § 6321 (2005).

⁵⁴ TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION, DRAFT, AUDIT NO. 200430026, FISCAL YEAR 2005 STATUTORY REVIEW OF COMPLIANCE WITH LIEN DUE PROCESS PROCEDURES (2005).

⁵⁵ TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION, DRAFT, AUDIT NO. 200430025, FY 2005 REVIEW OF COMPLIANCE WITH LEGAL GUIDELINES WHEN CONDUCTING SEIZURES OF TAXPAYERS' PROPERTY (2005).

- *Illegal Tax Protestor (ITP) designations* – Section 3707 of RRA 98 prohibits the IRS from referring to taxpayers as ITPs or any similar designations. The IRS has not reintroduced past ITP designations on the Master File, and formerly coded ITP taxpayer accounts have not been assigned similar Master File designations. In addition, the IRS does not have any current publications with ITP references and has initiated actions to remove ITP references from the various forms of the Internal Revenue Manual.⁵⁶

However, in 309 isolated instances, IRS employees continued to make references to taxpayers as ITPs and other similar designations in case narratives.⁵⁷ TIGTA raised this issue in our FY 2003 report; however, the IRS disagreed with our determination that compliance with this provision prohibits IRS employees from using such designations in case narratives.⁵⁸

- *Assessment statute of limitations* – The IRS is required to advise taxpayers of their rights when the IRS requests an extension of the statute of limitations on the assessment of additional tax and penalties. TIGTA found that 21 percent of the case files reviewed did not contain any documentation to support that taxpayers had been advised of their rights. In instances in which taxpayers filed a joint tax return, 47 percent of the case files did not contain any documentation that each taxpayer listed on the tax return was separately informed of his or her rights (i.e., dual notification). In addition, when a taxpayer made a declaration of representation, 40 percent of the case files did not contain any documentation that the IRS provided both the taxpayers and their representatives with the advisement of rights. Also, current consent forms do not provide an explanation of taxpayer rights to limit or refuse to extend the statute of limitations.

Although the IRS has revised its internal procedures over the last few years to help enhance controls, our reviews continue to identify instances in which there is no documentation that taxpayers were advised of their rights. Therefore, TIGTA recommended that the Deputy Commissioner for Services and Enforcement revise the various consent forms to include a statement that taxpayers have been informed of their rights regarding assessment statute extensions and have been provided a copy of *Extending the Tax Assessment Period* (Publication 1035).⁵⁹

⁵⁶ The Internal Revenue Manual is the single official source for IRS policies, directives, guidelines, procedures and delegations of authority in the IRS.

⁵⁷ Draft audit report has not yet been issued.

⁵⁸ TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION, REF. NO. 2003-40-098, FISCAL YEAR 2003 STATUTORY AUDIT OF COMPLIANCE WITH LEGAL GUIDELINES PROHIBITING THE USE OF ILLEGAL TAX PROTESTER AND SIMILAR DESIGNATIONS (2003).

⁵⁹ TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION, REF. NO. 2004-40-108, FISCAL YEAR 2004 STATUTORY AUDIT OF COMPLIANCE WITH NOTIFYING TAXPAYERS OF THEIR RIGHTS WHEN REQUESTED TO EXTEND THE ASSESSMENT STATUTE (2004).

- *Denials of requests for information under the Freedom of Information Act (FOIA)* – Under section 1102(d)(3)(A) of RRA 98, TIGTA is required to conduct periodic audits of IRS denials of taxpayer requests to disclose information on the basis of Internal Revenue Code section 6103 and/or FOIA exemption (b)(7).⁶⁰ In 7.1 percent (6 of 84) of the FOIA and Privacy Act⁶¹ cases sampled, the IRS improperly withheld information from requestors. This represents a higher percentage of improper withholdings than reported in FY 2004, where only 4.4 percent of the requests were improperly handled.⁶²

In addition, the IRS improperly withheld tax return information from requestors in 3.1 percent of the Internal Revenue Code section 6103 cases sampled. This represents a significantly lower percentage of improper withholdings than the 14.6 percent we reported last year. The percentage of untimely responses to FOIA and Privacy Act requestors also decreased significantly to 13.1 percent of the cases, as compared with percentages in previous years' audits ranging from 20 to 43 percent.⁶³

- *Collection due process* – The Appeals Officers and Settlement Officers (hearing officers) substantially complied with the requirements of the law when conducting Collection Due Process hearings. The hearing officers verified that the IRS followed applicable laws or administrative procedures during the lien and levy process. They determined if the proposed collection actions properly balanced the need for efficient collection of taxes with any legitimate taxpayer concerns. In addition, the hearing officers followed appeals procedures by including information, such as the court in which taxpayers must file requests for judicial review, any relief given to taxpayers, and any subsequent actions to be taken by the IRS and the taxpayer.⁶⁴
- *Section 1203 allegations* – Section 1203 of RRA 98 provides the IRS Commissioner with the authority to terminate the employment of IRS employees for committing certain violations in connection with the performance of their official duties. The IRS Commissioner also has the sole authority to determine whether mitigating factors exist that weigh against termination.

TIGTA's Office of Investigations is responsible for the initial investigation of most section 1203 allegations. These include allegations related to employee false statements under oath, harassment, falsification or destruction of

⁶⁰ 5 U.S.C. § 552(b)(7) (2005).

⁶¹ 5 U.S.C. § 552a (2005).

⁶² TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION, REF. NO. 2004-40-064, IMPROVEMENTS ARE NEEDED TO ENSURE COMPLIANCE WITH THE FREEDOM OF INFORMATION ACT (2004).

⁶³ TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION, DRAFT, AUDIT NO. 200410032, SOME IMPROVEMENTS HAVE BEEN MADE TO BETTER COMPLY WITH FREEDOM OF INFORMATION ACT REQUIREMENTS (2004).

⁶⁴ TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION, REF. NO. 2004-40-067, APPEALS COMPLIED WITH THE PROVISIONS OF THE LAW FOR THE COLLECTION DUE PROCESS (2004).

documents, assault or battery of a taxpayer, or threat of examination of a taxpayer for personal gain.

The IRS' process for handling section 1203 allegations ensured that they were referred for action and management responses were accounted for and addressed. The IRS properly controlled referred allegations and reports of investigation. In addition, the IRS and the section 1203 Review Board adequately controlled 141 cases forwarded to the Board for final determination during the 15-month period ending March 31, 2004.

While reviewing case processing, we identified 198 cases as of March 31, 2004, that were open for over 180 calendar days without resolution. The IRS Labor Relations Office performed informal monthly reviews of cases over 180 calendar days old, but did not document their follow-up activities or reasons for the delay in the case histories. We identified some cases where no activity was noted or explanation given for the delay in resolving cases that were over 180 days old. In such cases, management oversight is needed to ensure more timely resolution of section 1203 cases to eliminate unnecessary stress to employees when cases are needlessly delayed.⁶⁵

Neither TIGTA nor the IRS could consistently or accurately evaluate the IRS' compliance with the following three provisions since IRS information systems are inadequate to track such cases:

- Restrictions on directly contacting taxpayers and their authorized representatives;⁶⁶
- Requirements for the disclosure of collection activity with respect to joint returns;⁶⁷ and,
- Fair Debt Collection Practices Act (FDCPA) violations.⁶⁸

⁶⁵ TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION, REF. NO. 2004-40-176, RESTRUCTURING AND REFORM ACT OF 1998 SECTION 1203 ALLEGATIONS WERE PROPERLY CONTROLLED (2004).

⁶⁶ TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION, REF. NO. 2005-40-040, FISCAL YEAR 2005 STATUTORY REVIEW OF RESTRICTIONS ON DIRECTLY CONTACTING TAXPAYERS (2005).

⁶⁷ TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION, REF. NO. 2005-40-041, FISCAL YEAR 2005 STATUTORY REVIEW OF DISCLOSURE OF COLLECTION ACTIVITY WITH RESPECT TO JOINT RETURNS (2005).

⁶⁸ The IRS tracks potential FDCPA violations, but TIGTA cannot be certain that all violations are tracked. TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION, REF. NO. 2005-10-051, THERE WERE NO ADMINISTRATIVE OR CIVIL ACTIONS WITH RESPECT TO VIOLATIONS OF FAIR TAX COLLECTION PRACTICES IN CALENDAR YEAR 2004 (2005).

Recommended Changes to RRA 98

As Inspector General, I have a duty to ensure that TIGTA's resources are effectively allocated to the highest priority, mission-critical work. Along those lines, I would like to take this opportunity to note that Congress should review certain requirements established by RRA 98 with the possibility of updating it to reflect changes in the IRS environment since the law was passed. The following areas in RRA 98 are among those I believe are appropriate for such consideration based on TIGTA's collective experience gathered from the last seven years of performing these audits and investigations.

First, I recommend changing the annual reporting requirement for evaluating the IRS' compliance with various matters to a biennial requirement.⁶⁹ After auditing the same areas for the last seven years, it has become apparent that, due to the frequency of these audits, there is little change in TIGTA's findings from one year to the next. The IRS does not have sufficient time to implement corrective action before the next audit begins. Biennial reporting would provide a more meaningful picture of the IRS' progress in meeting congressional expectations.

Second, RRA 98 requires that TIGTA report on (1) the IRS' compliance with restrictions on directly contacting taxpayers and their authorized representatives;⁷⁰ (2) the IRS' compliance with provisions regarding the disclosure of information to an individual filing a joint return on collection activity involving the other individual filing the return;⁷¹ and, (3) administrative or civil actions with respect to violations of the fair debt collection provisions.⁷² While I recognize the public interest that could be served by these requirements, TIGTA cannot conduct substantive audit work because IRS systems do not capture the appropriate data. In the third category, fair debt collection, our audit work of incomplete data has identified only minor and limited issues. Additionally, RRA 98 created requirements that TIGTA report data on allegations and complaints that are received by TIGTA and the IRS.⁷³ Although TIGTA has attempted to comply with these requirements, we cannot control the IRS' activities and data collection. These mandatory reporting requirements should be eliminated in favor of discretionary reviews.

⁶⁹ TIGTA is currently required to report each year on the IRS' compliance with the law in the following areas: (1) notice of levy; (2) restrictions on the use of enforcement statistics to evaluate employees; (3) notice of lien; (4) seizures; (5) Illegal Tax Protestor designations; (6) extensions of the assessment statute of limitations; (7) denials of requests for information under the Freedom of Information Act; (8) collection due process; (9) section 1203 allegations; (10) restrictions on directly contacting taxpayers instead of authorized representatives; (11) requirements for disclosing collection activity related to joint returns; and, (12) violations of the Fair Debt Collection Practices Act.

⁷⁰ 26 U.S.C. § 7803(d)(1)(A)(ii).

⁷¹ 26 U.S.C. § 7803(d)(1)(B).

⁷² 26 U.S.C. § 7803(d)(1)(G).

⁷³ 26 U.S.C. § 7803(d)(2).

Third, I strongly urge the Congress to consider reinstating the authority of TIGTA to protect IRS employees from individuals who threaten their safety as they work to administer the tax laws. TIGTA's predecessor, the IRS Inspection Service, had primary responsibility for providing armed escorts for IRS employees working in potentially dangerous situations. The Inspector General Act of 1978,⁷⁴ as amended by RRA 98, provides that TIGTA "shall be responsible for protecting the Internal Revenue Service against external attempts to corrupt or threaten employees of the Internal Revenue Service, but shall not be responsible for . . . the providing of physical security."⁷⁵ TIGTA is not seeking to provide routine security of IRS buildings (i.e., guard services) nor is it proposing to take on program operating responsibilities. Instead, TIGTA would provide protection to individual IRS employees who encounter potentially dangerous taxpayers (PDTs) when executing their official duties to enable the IRS to fulfill its tax administration responsibilities. TIGTA's provision of armed escort services falls seamlessly in line with the unique mission that Congress gave TIGTA – to protect IRS employees against external threats.

With the IRS Commissioner's commitment to expand IRS examination and collection activities, TIGTA expects an increased need for armed escorts of IRS personnel who work in potentially dangerous environments. The responsibility for conducting armed escorts currently lies with the IRS Criminal Investigation (CI) function. In preliminary discussions, IRS CI has expressed an interest in having the responsibility for conducting armed escorts that involve PDTs transferred to TIGTA. Thus, it would be efficient and effective to expand TIGTA's statutory protection duties to include the authority to provide armed escorts to IRS employees.

Lastly, subsections 1203(b)(3) and (6) of RRA 98 should be amended to prevent IRS employees from using this law to file baseless or frivolous complaints against other IRS employees. In general, section 1203(b) of RRA 98 delineates the causes for termination of IRS employees who commit one of the offenses described. From our experience, IRS employees are misusing section 1203(b) to assert baseless or retaliatory complaints against IRS managers or fellow IRS employees. TIGTA wants to divert the resources currently allocated to addressing these complaints to more important law enforcement efforts. Outside of section 1203(b), IRS employees with complaints against other IRS employees have various methods of recourse including the equal employment opportunity complaint process and other personnel support resources. This proposal does not include circumscribing the authority of TIGTA to investigate assault or battery allegations between IRS employees contained in section 1203(b)(5).

⁷⁴ 5 U.S.C. app. 3 (2005).

⁷⁵ 5 U.S.C. app. 3 § 8D(k)(1)(C).

TIGTA recommends that subsections 1203(b)(3) and (6) be amended so that IRS employees may no longer invoke them against other IRS employees. Those subsections, however, would still be available to taxpayers and taxpayers' representatives for complaints against IRS employees.

Mr. Chairman and Members of the Joint Review, I appreciate the opportunity to share with you today several significant challenges that confront the IRS. TIGTA will continue its efforts to provide reliable and objective assessments of the IRS' progress in addressing the security and modernization of its systems, balancing enforcement and customer service, handling the workload of the filing season, and addressing the issues raised by RRA 98. Additionally, TIGTA will continue to investigate employee misconduct and external threats that jeopardize the integrity, efficiency, and effectiveness of the nation's tax administration system.