



*Improved Oversight Is Needed to
Effectively Process Whistleblower Claims*

April 30, 2012

Reference Number: 2012-30-045

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

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HIGHLIGHTS

IMPROVED OVERSIGHT IS NEEDED TO EFFECTIVELY PROCESS WHISTLEBLOWER CLAIMS

Highlights

Final Report issued on April 30, 2012

Highlights of Reference Number: 2012-30-045 to the Internal Revenue Service Director, Whistleblower Office.

IMPACT ON TAXPAYERS

The IRS has authority to pay awards to whistleblowers for credible information relating to violations of Internal Revenue laws that result in the Federal Government's recovery of taxes, penalties, interest, and additional amounts collected. Without adequate oversight of whistleblower claims, the IRS is not as effective as it could be in responding timely to tax noncompliance issues. Also, the IRS's effort to improve compliance is important in reducing the Tax Gap and maintaining the integrity of the voluntary tax compliance system.

WHY TIGTA DID THE AUDIT

In August 2009, TIGTA issued a report citing deficiencies in the IRS's internal controls and timely resolution of whistleblower claims. The objective of this review was to follow up on the adequacy of the corrective actions the IRS agreed to take on the Fiscal Year 2009 reported internal control weaknesses.

WHAT TIGTA FOUND

The IRS did not fully and adequately address the prior reported internal control weaknesses on the processing of whistleblower claims. In our prior report, TIGTA found that information captured on three inventory systems was inaccurate. In this review, TIGTA determined that employees manually transferred claim information from the three systems into a single inventory control system, Entellitrak. However, IRS officials did not ensure steps were taken to reconcile and correct the inaccurate information that was reported in our Fiscal Year 2009 review.

TIGTA also determined that Whistleblower Program officials did implement a quality review process to ensure claims are accurately controlled in the Entellitrak system. However, guidance to employees did not specify that employees review the received date of a claim, which is critical when reporting business results to internal and external stakeholders. During this review, TIGTA determined that additional reports could be generated to evaluate the effectiveness of the Whistleblower Program. Also, timeliness standards for processing claims have not been fully established, and the existing monitoring process was not fully developed to improve efficiencies with processing whistleblower claims in the IRS operating divisions.

In August 2011, the Government Accountability Office issued a report on the IRS's Whistleblower Program that included eight recommendations. These recommendations focused on the IRS collecting more information in its claim tracking system and case processing activities, and incorporating more data when reporting on the effectiveness of the Whistleblower Program.

WHAT TIGTA RECOMMENDED

TIGTA made no recommendations in this report because the IRS Whistleblower Office is addressing the Government Accountability Office's August 2011 report recommendations. The IRS plans to fully implement its corrective actions to the Government Accountability Office report by October 15, 2012.

While TIGTA did not make any recommendations in this report, the Whistleblower Office provided comments indicating that "direct access to the information system was not provided after discussions and agreement between the Whistleblower Office and TIGTA management." Additionally, the Whistleblower Office commented that "it is important to note that no instances of errors in the received data have been identified." TIGTA's response to the IRS's comments is included in the transmittal memorandum.



TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

April 30, 2012

MEMORANDUM FOR DIRECTOR, WHISTLEBLOWER OFFICE

Michael R. Phillips

FROM:

Michael R. Phillips
Deputy Inspector General for Audit

SUBJECT:

Final Audit Report – Improved Oversight Is Needed to Effectively
Process Whistleblower Claims (Audit # 201130033)

This report presents the results of our review to determine whether the Internal Revenue Service (IRS) has taken effective corrective actions to address previously identified weaknesses in processing claims from whistleblowers. In August 2009, we issued a report and made several recommendations to address internal control weaknesses identified during the review.¹ The current audit was a part of our Fiscal Year 2011 Annual Audit Plan and addresses the major management challenge of Tax Compliance Initiatives.

In August 2011, the Government Accountability Office issued a report² on the IRS's Whistleblower Program that included eight recommendations. These recommendations focused on the IRS collecting more information in its claim tracking system and case processing activities and incorporating more data when reporting on the effectiveness of the Whistleblower Program. We made no recommendations in this report because the Whistleblower Office is addressing the Government Accountability Office's August 2011 report recommendations, and the IRS plans to implement corrective actions by October 15, 2012.

While we did not make any recommendations in this report, the Whistleblower Office provided comments indicating that "direct access to the information system was not provided after discussions and agreement between the Whistleblower Office and Treasury Inspector General for Tax Administration (TIGTA) management." The Whistleblower Office and TIGTA management actually agreed to an alternative method to obtain audit work from the case management system as a substitute for direct access so that the TIGTA could continue the audit.

¹ Treasury Inspector General for Tax Administration, Ref. No. 2009-30-114, *Deficiencies Exist in the Control and Timely Resolution of Whistleblower Claims* (Aug. 2009).

² Government Accountability Office, GAO-11-683, *Tax Whistleblowers – Incomplete Data Hinders IRS's Ability to Manage Claim Processing Time and Enhance External Communication* (Aug. 2011).



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However, the alternative method was not effective, and the TIGTA did not receive direct access to the case management system. Therefore, the TIGTA was unable to independently determine whether the system data were reliable.

Additionally, the Whistleblower Office commented that “it is important to note that no instances of errors in the received data have been identified.” As cited in the audit report, the TIGTA was unable to validate the accuracy of the received data because independent and direct access to the case management system was denied. Also, Whistleblower Office quality review procedures do not specifically instruct employees to review the received data of a claim, which is critical when reporting business results to internal and external stakeholders.

Management’s complete response to the draft report is included in Appendix VI.

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



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Abbreviations

E-TRAK	Entellitrak
FY	Fiscal Year
GAO	Government Accountability Office
ICE	Informant Claims Examination
I.R.C.	Internal Revenue Code
IRM	Internal Revenue Manual
IRS	Internal Revenue Service
SME	Subject Matter Expert
TIGTA	Treasury Inspector General for Tax Administration



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Background

Internal Revenue Code (I.R.C.) Section (§) 7623¹ authorizes the Internal Revenue Service (IRS) to pay awards to individuals for information that leads to the detection and punishment of persons guilty of violating or conspiring to violate Internal Revenue laws. The IRS has had the authority to pay awards to whistleblowers for many years. What is now § 7623(a) of the I.R.C. has its origins in legislation Congress enacted in 1867. The original law provided the Secretary with the authority “to pay such sums as he deems necessary for detecting and bringing to trial and punishment persons guilty of violating the internal revenue laws or conniving at the same.” In 1996, the purposes for which the IRS may pay awards were expanded, adding “detecting underpayments of tax” as a basis for making an award.

On December 20, 2006, Congress passed the Tax Relief and Health Care Act of 2006² (hereafter referred to as the Act of 2006). The Act of 2006 created § 7623(b) of the I.R.C. This section sets forth a new framework for the consideration of whistleblower claims submitted. The 2006 amendments retained the prior law’s discretionary authority to pay awards (now § 7623(a)) and added a new “shall pay” provision (§ 7623(b)) with statutory award percentages. To qualify for a whistleblower award under § 7623(b), the information must relate to a:

- Tax noncompliance matter in which the tax, penalties, interest, additions to tax, and additional amounts in dispute exceed \$2,000,000; and
- Taxpayer (and for individual taxpayers only, one whose gross income exceeds \$200,000 for at least one of the tax years in question).

If the submission does not meet the criteria for §7623(b) consideration, the IRS may consider it for an award under the pre-Act discretionary authority (§7623(a)).

Before the 2006 amendments to § 7623, awards to whistleblowers were discretionary and IRS policy limited the maximum award to \$10 million. The 2006 amendments set limits on awards as a percentage of collected proceeds and removed the exclusion of interest in computing awards; however, they set no limit on the maximum award payable. The opportunity to receive an award that is limited only as a percentage of collected proceeds resulted in an immediate increase in high-dollar claims submitted to the IRS, some alleging hundreds of millions in tax noncompliance.

¹ 26 U.S.C. § 7623 (2004).

² Pub. L No. 109-432, 120 Stat. 2958 (2006).



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To comply with the Act of 2006, in early 2007 the IRS created the Whistleblower Program Office, whose primary responsibility is to manage and track whistleblower claims³ from initial receipt to final closure, either through a rejection letter or an award payment. In June and July 2010, Whistleblower Program officials issued procedures⁴ describing the Whistleblower Program structure and responsibilities. Duties include:

The Whistleblower Program is responsible for managing and tracking whistleblower claims from initial IRS receipt to final whistleblower claim closure, either through a rejection letter or an award payment.

- Reviewing and evaluating initial claim information filed for awards by whistleblowers.
- Monitoring claims throughout the investigation, examination, appeals, and collection processes.
- Determining the appropriate percentage for an award.
- Facilitating communication with whistleblowers and external and internal stakeholders.
- Processing whistleblowers' claims for awards and calculating award amounts.

The process for filing a claim requires a whistleblower to submit a Form 211, *Application for Award for Original Information*. Once received, the processing of a claim is determined by the type of claim filed.

- For I.R.C. § 7623(a) claims, Informant Claims Examination⁵ (ICE) and Classification Unit employees in the Small Business/Self-Employed Division at the Ogden Campus in Ogden, Utah, conduct reviews of a whistleblower claim prior to the claim being forwarded to the IRS operating divisions for additional review by appropriate personnel.
- For I.R.C. § 7623(b) claims, Whistleblower Program analysts review a claim for indications of fraud to determine whether the claim warrants forwarding to the respective operating division's subject matter experts (SME) for additional review. The operating divisions involved in whistleblower claims consist of the Small Business/Self-Employed Division, the Large Business and International Division, and the Tax Exempt and Government Entities Division.

If the initial review of a claim identifies indications of fraud, both types of whistleblower claims are forwarded to the IRS's Criminal Investigation for evaluation. Once a fraud assessment has been completed, the respective claim is returned to the Whistleblower Office, and the claim

³ See Appendix V for a glossary of terms.

⁴ Internal Revenue Manual 1.1.26 (June 8, 2010) and 25.2.2 (July 2, 2010).

⁵ Effective January 1, 2012, the ICE Unit, part of Campus Compliance in Ogden, Utah, was combined with the Whistleblower Office, and the combined office is now the Whistleblower Office – Ogden.



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process continues. Whistleblowers will receive awards based solely on what is collected subsequent to the completion of the examination in the operating divisions and Criminal Investigation. Because taxpayers may exercise their judicial appeal rights or enter into alternative payment arrangements, the completion of this process can take years. See Appendix IV for a chart of the general steps for processing a whistleblower claim.

The objective of this review was to follow up on the Treasury Inspector General for Tax Administration's (TIGTA) Fiscal Year (FY) 2009 report⁶ in which we made four recommendations⁷ to improve the Whistleblower Program's internal controls to ensure the timely processing of I.R.C. § 7623(b) claims. This review was performed at the Whistleblower Office in Washington, D.C., and the Small Business/Self-Employed Division ICE Unit in Ogden, Utah, during the period September 2010 through August 2011.

During our audit period, the Government Accountability Office (GAO) also conducted a review of the IRS's Whistleblower Program. The GAO review focused on the I.R.C. § 7623(b) expanded program for whistleblower claims established by the Act of 2006. The GAO also reviewed the IRS's use of I.R.C. § 6103 and compared the Whistleblower Program to other Federal and State whistleblower programs. In August 2011, the GAO issued a report⁸ on the Whistleblower Program that included eight recommendations. These recommendations focused on the IRS collecting more information in its claim tracking system and case processing activities and incorporating more data when reporting on the effectiveness of the Whistleblower Program. We are making no recommendations in this report because the Whistleblower Office is addressing the GAO's August 2011 report recommendations, and the IRS plans to implement corrective actions by October 15, 2012.

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. During this review, Whistleblower Program officials declined our request for direct access to their management information system, citing concerns on their commitment to protect the identities of whistleblowers and taxpayers and their view that direct access to the system was not consistent with "need to know" principles. The Inspector General Act of 1978 sets forth the TIGTA's authority to access all records, reports, audits, reviews, documents, papers, recommendations, or other material available relevant to a matter within our jurisdiction. The IRS's decision to decline our request for direct and independent access to its tracking and reporting system of whistleblower claims resulted in an inappropriate scope

⁶ TIGTA, Ref. No. 2009-30-114, *Deficiencies Exist in the Control and Timely Resolution of Whistleblower Claims* (Aug. 2009).

⁷ The original report contained five recommendations; however, the recommendation to ensure whistleblowers were protected against retaliation was addressed to Congress and outside of the IRS's jurisdiction.

⁸ Government Accountability Office, GAO-11-683, *Tax Whistleblowers – Incomplete Data Hinders IRS's Ability to Manage Claim Processing Time and Enhance External Communication* (Aug. 2011).



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limitation. As a result, the TIGTA was unable to complete planned tests to independently evaluate the overall reliability of the Whistleblower Program's management information system. However, we believe that the evidence obtained during this review provides a reasonable basis for our findings and conclusions based on our audit objective. Detailed information on our audit objective, scope, and methodology are presented in Appendix I. Major contributors to the report are listed in Appendix II.



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Results of Review

Implementation of Prior Treasury Inspector General for Tax Administration Recommendations Was Not Adequate

As a result of our August 2009 audit report, the Whistleblower Office agreed to implement actions to improve the overall effectiveness of the Whistleblower Program. During this review, we followed up to assess the effectiveness of these corrective actions and found that the IRS did not fully and adequately address the prior cited internal control weaknesses. Most corrective actions taken have not been sufficient to appropriately accomplish the mission of the Whistleblower Program. Specifically:

- Information captured from multiple systems and input into the single inventory control system was potentially inaccurate, and the quality review process was not sufficient for controlling the accuracy of claims.
- Information reports to evaluate the success of the Whistleblower Program and measure its impact on tax administration have not been fully instituted.
- Timeliness standards for processing claims are not sufficient and consistent.
- The established monitoring process did not incorporate steps to coordinate with the operating divisions to emphasize processing whistleblower claims timely.

The *Standards for Internal Control in the Federal Government* requires that monitoring should assess the quality of performance over time and ensure that the findings of audits are promptly resolved. By not fully implementing effective corrective actions, Whistleblower Program officials are unable to adequately assess their program management practices and their support of IRS priorities, as reflected in the IRS mission and strategic plan.

Information captured from multiple systems and input into the single inventory control system was potentially inaccurate, and the quality review process was not sufficient for controlling the accuracy of claims

In our FY 2009 report, we recommended that the Whistleblower Office ensure: 1) information captured from the existing three systems and input into the newly implemented single inventory control system is accurate and 2) claims are accurately controlled in the new inventory control system. When following up on the adequacy of actions taken to address our prior report findings, we found that Whistleblower Program employees manually transferred claim information from the three existing systems into the Entellitrak (hereafter referred to as the E-TRAK). The process used to input data into the E-TRAK showed that Whistleblower Program



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officials did not ensure steps were taken to reconcile and correct the inaccurate information that we reported in our FY 2009 review. For example, employees compared information on a list of claims to the paper files in their possession. However, these steps were completed after claims were transferred to the E-TRAK and did not include specific instructions to verify the received and referral dates.

IRS management advised us that they did not agree to ensure the information captured from the three existing systems and input into the new system was corrected. Instead, they stated they only agreed to ensure the data in the E-TRAK were accurate. Because of our inability to have direct and independent access to the E-TRAK during this review, we were unable to conclusively determine how many of the 1,973 claims identified during our FY 2009 review (that were manually transferred into the E-TRAK) still contain inaccurate dates. Whistleblower Program officials advised that they do not plan to take any additional actions to correct the transferred data in the E-TRAK.

The IRS also responded that, based on its statistical sample, it established a quality control process to ensure claims were accurate. During this review, we determined that Whistleblower Program officials did implement a quality review process to ensure that claims were accurately controlled in the E-TRAK. However, instructions to employees did not specify that employees review the received date of a claim, which is critical when reporting business results to internal and external stakeholders. The Whistleblower Office has one single performance goal—to process claims within 60 calendar days from initial receipt to the date they are referred to the operating division for examination. If the received date is incorrect, the Whistleblower Office could be using unreliable data and, therefore, be reporting inaccurate business results.

The GAO's August 2011 report also cited that the data in the E-TRAK were unreliable. As part of its response to the GAO report, the Whistleblower Office stated it is conducting a comprehensive analysis of case processing procedures with a realignment of duties, including data collection, reporting, and information system changes. The IRS plans to implement its corrective actions by March 15, 2012.⁹

Information reports to evaluate the success of the Whistleblower Program and measure its impact on tax administration have not been fully instituted

In our FY 2009 review, we recommended that Whistleblower Program officials ensure reporting capabilities were included in the E-TRAK to assist in program management and evaluation activities. The IRS responded that it identified the need for the reporting capabilities, which it indicated were completed by June 30, 2009. In this review, we determined that five

⁹ On February 22, 2012, the IRS requested an extension until September 15, 2012, to finalize the GAO's recommendation to complete a comprehensive review of case processing procedures and implement data collection and reporting corrective actions. The IRS cited two studies that have been commissioned to implement the changes. As of the date of this report, the GAO had not responded to this corrective action extension request.



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administrative reports and 23 detailed reports for monitoring and tracking the status of claims are generated by the E-TRAK. These reports provide information on employees' system access, the age of the claims, the length of time a claim is with a Whistleblower Program analyst, and the number of days a claim is in the possession of an operating division SME. However, we believe the E-TRAK should generate additional reports to assist Whistleblower Program officials in evaluating the effectiveness of the Program.

During this review, we learned that the Whistleblower Office generates reports for the I.R.C. § 7623(b) claims in order to compute the age a claim has been with an operating division SME. Whistleblower Program officials advised us that all whistleblower claims are tracked in their management information system. As presented in Appendix IV of this report, the operating divisions' SMEs decide the merit of both types of claims and, therefore, determine whether a claim will be recommended for examination. The generation of reports that focus on measuring program results and process management issues will enable Whistleblower Program officials to report on the overall effectiveness of the Whistleblower Program and its value to the Nation's tax administration system.

In its August 2011 report, the GAO addressed this issue and recommended that the Whistleblower Program provide additional summary statistics in the annual reports to Congress. The IRS responded to the GAO that, by October 15, 2012, it will include additional statistical information in its FY 2012 annual report. As previously stated, the IRS Whistleblower Office is conducting a comprehensive analysis of case processing procedures with a realignment of duties, including data collection, reporting, and information system changes. The data collection and reporting changes will provide additional statistical information for external reporting purposes. The IRS plans to implement its corrective actions by March 15, 2012.¹⁰

Timeliness standards for processing claims are not sufficient and consistent

In our FY 2009 review, we recommended that Whistleblower Program officials establish written procedures that include timeliness standards for processing I.R.C. § 7623(b) claims. The IRS's response indicated that it identified the need for standardized, written procedures for the Whistleblower Program. As such, a procedural guide was developed that includes timeliness standards and written procedures for processing claims. Our review of the procedural guide, which supplements the Internal Revenue Manual (IRM),¹¹ illustrates three timeliness standards were established for the I.R.C. § 7623(a) claims. However, only one timeliness standard was established for processing I.R.C. § 7623(b) claims. Our review of the existing timeliness

¹⁰ On February 22, 2012, the IRS requested an extension until September 15, 2012, to finalize the GAO's recommendation to complete a comprehensive review of case processing procedures and implement data collection and reporting corrective actions. The IRS cited two studies that have been commissioned to implement the changes. As of the date of this report, the GAO had not responded to this corrective action extension request.

¹¹ IRM 25.2.2 (July 2, 2010).



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standards identified a lack of uniform guidance in the processing of I.R.C. §§ 7623(a) and 7623(b) claims. Figure 1 reflects our analysis of the timeliness standards.

Figure 1: Analysis of the Timeliness Standards

Steps in the Claims Process	Standards for I.R.C. § 7623(a) Claims	Standards for I.R.C. § 7623(b) Claims
Issuance of letters acknowledging receipt of the claim.	To be issued within 30 calendar days of receipt of the claim.	No standard.
Referral of the claim to the IRS operating divisions for examination.	To be referred within 90 calendar days of receipt of the claim.	To be referred within 60 calendar days of receipt of the claim. ¹²
Issuance of rejection letters to whistleblowers.	To be issued within five calendar days of receipt of the examination results from the operating divisions.	No standard.

Source: The TIGTA's comparison of standards established in the Whistleblower Program Procedural Guide dated November 20, 2009.

When asked why only one timeliness standard was established for the I.R.C. § 7623 (b) claims, the IRS responded that the work is performed routinely. Compounded by the fact that there are limited monitoring reports generated by the E-TRAK, this perspective does not provide reasonable assurance that the Whistleblower Office is achieving its objectives and providing effective customer service. As part of the GAO's recommendation to provide additional summary statistics in future annual reports to Congress, the GAO also suggested that the IRS provide additional data on the length of time claims remain at each step of the review process and the reasons for claim rejections. In its response to the August 2011 GAO report, the Whistleblower Office responded that it is working to improve the process to ensure that all operating divisions timely review the period that claims are under SME initial review. A comprehensive analysis of case processing procedures, including a separate recommendation that the operating division Commissioners be directed to set targets for completing SME review, will be completed.

¹² There are a few exceptions for holding a claim in the Whistleblower Office beyond 60 calendar days, which include the whistleblower providing supplemental information and Criminal Investigation conducting an extended fraud review.



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The targeted date for implementation of the corrective action is April 15, 2012.¹³ Additionally, the IRS is working with the operating divisions to jointly develop target dates on review and follow-up processes with a corrective action implementation date of October 15, 2012.

The established monitoring process did not incorporate steps to coordinate with the operating divisions to emphasize processing whistleblower claims timely

In the FY 2009 review, we recommended that Whistleblower Program officials develop a process to monitor the timely processing of whistleblower claims. The IRS responded that it identified the need for monitoring cases, including processing time, and that monitoring had been established by June 30, 2009. In this review, we determined that the Whistleblower Program's monitoring process includes a review (every 120 calendar days) of the Audit Information Management System to determine the status of claims. This monitoring includes tracking the number of calendar days a claim takes to complete various steps in the process, such as the number of days claims are with an operating division SME. However, Whistleblower Program officials have not used this information and coordinated with the operating divisions to reduce the amount of time it takes to process claims.

We discussed this matter with Whistleblower Program officials and were advised that once the claim is referred to the operating divisions, the Whistleblower Office has no authority to direct the priority or time required to process and/or examine claims. IRS operating division personnel advised us they do not rely on the Whistleblower Office to oversee their timely processing of whistleblower claims. Claims are assessed as efficiently as possible for further examination, and the process can be lengthy due to the complexity of a whistleblower claim. Ultimately, the goal is to improve tax compliance and, when substantiated, recognize individuals for information that leads to the detection and punishment of persons guilty of violating, or conspiring to violate, IRS laws. The IRS's effort to improve compliance is important in reducing the Tax Gap and maintaining the integrity of the voluntary tax compliance system.

In its August 2011 report, the GAO stated that the Whistleblower Office does not have a monitoring process to reduce the amount of time I.R.C. § 7623 (b) claims are with the SME in two IRS operating divisions. The GAO results included a focus on improved accountability of SME resources when processing claims. While additional resources are always beneficial for product delivery, Whistleblower Program officials, in coordination with the operating division officials, can better monitor the amount of time the operating division SMEs and examiners expend to make their assessment on I.R.C. §§ 7623(a) and 7623(b) claims. The IRS responded to the GAO that it is working to ensure all operating divisions timely review the period that

¹³ On February 22, 2012, the IRS requested an extension until September 15, 2012, to finalize the GAO's recommendation to complete a comprehensive review of case processing procedures and implement data collection and reporting corrective actions. The IRS cited two studies that have been commissioned to implement the changes. As of the date of this report, the GAO had not responded to this corrective action extension request.



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claims are under SME initial review. IRS officials stated that, by April 15, 2012,¹⁴ a comprehensive analysis of case processing procedures, including a separate recommendation that the operating division Commissioners be directed to set targets for completing SME reviews, will be completed. For the remainder of FY 2012, the IRS will continue to work with the operating divisions to define the follow-up process for SME review completions.

¹⁴ On February 22, 2012, the IRS requested an extension until September 15, 2012, to finalize the GAO's recommendation to complete a comprehensive review of case processing procedures and implement data collection and reporting corrective actions. The IRS cited two studies that have been commissioned to implement the changes. As of the date of this report, the GAO had not responded to this corrective action request.



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Appendix I

Detailed Objective, Scope, and Methodology

The overall objective of this review was to determine whether the IRS has taken effective corrective actions to address previously identified weaknesses in processing claims from whistleblowers. To accomplish this objective, we:

- I. Determined whether corrective actions to address recommendations from our prior report¹ were implemented and are effective.
 - A. Determined whether the Whistleblower Program performed a physical reconciliation to ensure information transferred from the prior systems to the new system was accurate. In addition, we evaluated the quality review process developed to ensure claims are accurately controlled.
 - B. Determined whether the E-TRAK² generated management information reports useful for tracking the processing of claims and evaluating whether the Whistleblower Program is meeting its goals and objectives.
 - C. Determined whether the Whistleblower Program established written procedures that included timeliness standards for processing claims.
 - D. Determined whether the Whistleblower Program developed a process to monitor the timely processing of claims.
- II. Determined whether the Whistleblower Program established internal controls to ensure claims are processed in accordance with new IRM procedures.
 - A. Determined whether the Whistleblower Program procedures were the same for I.R.C. §§ 7623(a) and 7623(b)³ claims.
 - B. Analyzed the Tax Relief and Health Care Act of 2006⁴ and IRM procedures for I.R.C. §§ 7623(a) and 7623(b) claims to identify any differences.

Scope Limitation

During this review, we requested and were denied direct and independent access to the E-TRAK. As a result, we were precluded from independently assessing the reliability of data in the

¹ TIGTA, Ref. No. 2009-30-114, *Deficiencies Exist in the Control and Timely Resolution of Whistleblower Claims* (Aug. 2009).

² See Appendix V for a glossary of terms.

³ I.R.C. §§ 7623(a) and 7623(b) (2006).

⁴ Pub. L No. 109-432, 120 Stat. 2958 (2006).



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E-TRAK. We were advised by Whistleblower Program officials that we could not have access to the E-TRAK because they had a commitment to protect the identity of whistleblowers and taxpayers. In addition, access was on a “need to know” basis, and officials believed the reasons we provided were not sufficient despite that our reasons included the authority granted us in the Inspector General Act of 1978⁵ to access all records, reports, audits, reviews, documents, papers, recommendations, or other material available relevant to a matter within our jurisdiction. Although we encountered this limitation, we believe that the evidence obtained provides a reasonable basis for our findings and conclusions that the data in the E-TRAK are unreliable.

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: Whistleblower Program procedures for timely and effectively routing, handling, and closing claims. We evaluated these controls through discussions with Whistleblower Program and ICE Unit officials and by reviewing procedures and processes used to route, handle, and close claims.

⁵ 5 U.S.C. app. §3 (amended 2008).



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Appendix II

Major Contributors to This Report

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Chanda Stratton, Auditor



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Appendix III

Report Distribution List

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Deputy Commissioner for Services and Enforcement SE
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Commissioner, Wage and Investment Division SE:W
Director, Whistleblower Office SE:WO



*Improved Oversight Is Needed to
Effectively Process Whistleblower Claims*

Appendix IV

General Steps for Processing a Whistleblower Claim¹

Process Steps for I.R.C. Section 7623(a)² Claims	Process Steps for I.R.C. Section 7623(b)³ Claims
Step 1: The whistleblower submits claim on a Form 211, <i>Application for Award for Original Application</i> , to the Whistleblower Office in Washington, D.C.	
Step 2: The Whistleblower Office sends the claim to the ICE Unit in Ogden, Utah, for general research.	Step 2: The Whistleblower Office forwards the claim to a Whistleblower Program analyst for review, which includes research and identification of fraud indicators.
<p>Step 3: The ICE Unit forwards the claim to the Classification Unit in Ogden for a decision on whether to accept or reject the claim.</p> <p>If accepted and fraud indicators are identified, the claim is returned to the ICE Unit to forward to Criminal Investigation. If accepted and there are no fraud indicators, the claim is returned to the ICE Unit to be forwarded to the operating division SME for review.</p> <p>If rejected, the whistleblower is sent a rejection letter and no additional work is done on the claim.</p>	Step 3: If fraud indicators are identified, the claim is forwarded to Criminal Investigation for a fraud evaluation. In addition, the claim is forwarded to Criminal Investigation if the whistleblower contacted another Federal/State enforcement agency, such as the Securities and Exchange Commission, Department of Justice, and Drug Enforcement Administration, and if there are allegations of terrorist activity.
Step 4: For a claim with fraud indicators, Criminal Investigation completes its fraud evaluation and returns the claim to the ICE Unit to forward to the operating division SME.	Step 4: Once the fraud evaluation is completed, Criminal Investigation returns the claim to the Whistleblower Program analyst to forward to the operating division SME.

¹ See Appendix V for a glossary of terms.

² I.R.C. § 7623(a) (2006).

³ I.R.C. § 7623(b) (2006).



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Process Steps for I.R.C. Section 7623(a) Claims	Process Steps for I.R.C. Section 7623(b) Claims
<p>Step 5: The operating division SME decides whether there is merit for forwarding the claim to the operating division to conduct an examination of the alleged tax noncompliance identified on filed tax returns.</p> <p>If the operating division SME decides there is no merit for an examination, the claim is returned to the ICE Unit to send a rejection letter to the whistleblower.</p>	<p>Step 5: The operating division SME decides whether there is merit for forwarding the claim for an examination of the alleged tax noncompliance identified on filed tax returns. According to the IRS, the SME’s determination process on whether an examination is warranted is extensive. Generally, 7623 (b) claims are more complicated than 7623 (a) claims and, therefore, are more labor-intensive, requiring more effort to obtain additional information, conduct appropriate interviews, and determine the legal complexities between the IRS and the taxpayer.</p> <p>If the operating division SME decides there is no merit for an examination, the claim is rejected and returned to the Whistleblower Program analyst to forward to the Whistleblower Program Director for agreement and to send a rejection letter to the whistleblower.</p>
<p>Step 6: The operating division completes its examination and returns its results to the ICE Unit.</p>	<p>Step 6: If the claim has merit, the operating division completes its examination and returns its results to the Whistleblower Program analyst.</p>
<p>Step 7: The ICE Unit monitors the IRS’s collection of the amount owed and/or the appeal process for the assessed tax.</p>	<p>Step 7: The Whistleblower Program analyst monitors the IRS’s collection of the amount owed and/or the appeal process for the assessed tax.</p>
<p>Step 8: The ICE Unit forwards the claim package to the Whistleblower Program Director for final approval of the award.</p>	<p>Step 8: The Whistleblower Program analyst forwards the claim with a suggested award percentage to the Whistleblower Program Director for approval of the award.</p>

Source: TIGTA analysis of the Whistleblower Program’s IRM procedures.



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Appendix V

Glossary of Terms

Audit Information Management System – An IRS computer system that provides inventory and activity control of active examinations.

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

Classification Unit – The unit that receives I.R.C § 7623(a)¹ claims to determine whether submitted information is sufficient for forwarding to the operating divisions for examination.

Collected Proceeds – Monies the IRS obtains directly from taxpayers that are based upon the information whistleblowers provided.

Entellitrak (E-TRAK) – The management information system designed for the Whistleblower Program to track claims and information that Congress and the Department of the Treasury seek and require for measuring performance and adherence with the statutory provisions under the Tax Relief and Health Care Act of 2006, hereafter referred to as the Act of 2006.²

Informant Claims Examination (ICE) Unit – The unit that receives I.R.C. § 7623(a) claims from the Whistleblower Office, establishes the claims on the E-TRAK, and routes the claims to and from the operating divisions for review. This unit notifies the whistleblower and representative of the receipt of the claim and the claim number. In addition, it notifies the whistleblower whether the claim has been rejected and when an award is to be paid, if an award is determined to be owed.

Internal Revenue Code Section 6103 – I.R.C. § 6103 provides that tax returns and tax return information shall be confidential, except as authorized. The definition of tax return information includes a taxpayer's identity and the nature, source, or amount of income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, and tax withheld.

Internal Revenue Code Section 7623(a) Claims – Whistleblower claims that were submitted prior to the Act of 2006 and are claims relating to a tax noncompliance matter in dispute of less than \$2 million. For these cases, the IRS has the discretion to pay awards from collected proceeds, including taxes, penalties, additions to tax, and additional related amounts. The awards the Whistleblower Program officials determine for I.R.C. § 7623(a) claims are not subject to Tax Court review.

¹ I.R.C. § 7623(a) (2006).

² Pub. L No. 109-432, 120 Stat. 2958 (2006).



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Internal Revenue Code Section 7623(b)³ Claims – Whistleblower claims for which the amount in dispute is more than \$2 million. In the case of an individual taxpayer, gross income for at least one year in question must exceed \$200,000. The IRS “shall” pay awards from collected proceeds in these cases, and the awards the Whistleblower Program officials determine are subject to Tax Court review.

Operating Division Subject Matter Experts – Employees who have expert knowledge related to specific industries established by the IRS to classify the type of work taxpayers and/or businesses conduct. The SMEs make a determination on whether a claim should be forwarded within the operating divisions for examination.

Tax Gap – The estimated difference between the amount of tax that taxpayers should pay and the amount that is paid voluntarily and on time.

Whistleblower Claim – An assertion by an individual who reports to the IRS alleged tax noncompliance.

³ I.R.C. § 7623(b) (2006).



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Appendix VI

Management's Response to the Draft Report



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



April 18, 2012

MEMORANDUM FOR MICHAEL R. PHILLIPS
DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Stephen A. Whitlock *SA Whitlock*
Director, Whistleblower Office

SUBJECT: Draft Audit Report—Improved Oversight is Needed to Effectively Process Whistleblower Claims (Audit # 201130033)

Thank you for the opportunity to review your draft audit report, "Improved Oversight is Needed to Effectively Process Whistleblower Claims." We recognize that improvements can be made in collection and use of data in our management information system and that more can be done to oversee evaluation of whistleblower claims. We are taking a number of steps in this regard. As our response to similar findings by the Government Accountability Office (GAO) indicated, the Whistleblower Office is in the process of making a number of improvements that were suggested in the GAO audit. These include changes in the data recorded in E-trak so that additional performance related information can be captured and reported, as well as increased focus on monitoring and oversight of the evaluation of whistleblower submissions. As indicated in our prior response to GAO, we have been awaiting for the results of this audit to develop a corrective action plan that implements agreed recommendations on a consistent basis.

While we agreed to take actions to improve program oversight capabilities, we disagree with the assertion that lack of direct access to the Whistleblower Office case management system affected TIGTA's ability to evaluate the reliability of the Whistleblower Office management information system. Direct access to the information system was not provided after discussions and agreement between the Whistleblower Office and TIGTA management. Consistent with that agreement, TIGTA was provided access to all records, electronic and paper, for claims identified as part of the samples used to perform various audit tests.

Regarding case management system issues, as discussed during the previous TIGTA audit, the IRS recognized that the case management system designed for the pre-2006 program would not be adequate for the new program. Two systems were used to supplement the pre-2006 system while a new case management system was developed. In January 2009, the Whistleblower Office began using E-trak as its case management system for new receipts, and over the next several months created new records in E-trak for all claims received prior to that date. The IRS integrated



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multilayered quality controls on the creation of new claim records. While we appreciate the issues identified by TIGTA, it is important to note that no instances of errors in the received data have been identified. The Whistleblower Office is implementing further improvements to the capabilities of E-trak including expanding the user base and additional management reports. Work on these improvements was suspended during the recent audits, but is now in progress. We will continue to work with TIGTA as we make further program improvements.

If you have questions, please contact me at (202) 622-0351.