



*Fiscal Year 2012 Statutory Review
of Compliance With the
Freedom of Information Act*

August 22, 2012

Reference Number: 2012-30-098

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.



HIGHLIGHTS

FISCAL YEAR 2012 STATUTORY REVIEW OF COMPLIANCE WITH THE FREEDOM OF INFORMATION ACT

Highlights

Final Report issued on August 22, 2012

Highlights of Reference Number: 2012-30-098 to the Internal Revenue Service Director, Privacy, Governmental Liaison and Disclosure.

IMPACT ON TAXPAYERS

The IRS must ensure that the provisions of the Freedom of Information Act (FOIA), the Privacy Act of 1974 (Privacy Act), and Internal Revenue Code (I.R.C.) Section (§) 6103 are followed, particularly because errors can violate taxpayer rights and result in improper disclosures of tax information.

WHY TIGTA DID THE AUDIT

TIGTA is required to conduct periodic audits to determine if the IRS properly denied taxpayers' written requests for tax account information. TIGTA is also required to include the results in one of its Semiannual Reports to Congress. This is TIGTA's thirteenth review of denials of FOIA, Privacy Act, and I.R.C. § 6103 requests.

The overall objective of this review was to determine whether the IRS improperly withheld information requested by taxpayers in writing based on FOIA exemption (b)(3), in conjunction with I.R.C. § 6103, and/or FOIA exemption (b)(7) or by replying that responsive records were not available.

WHAT TIGTA FOUND

TIGTA reviewed a statistically valid sample of 60 FOIA/Privacy Act cases and found two cases (3.3 percent) in which taxpayer rights may have been violated because the IRS improperly withheld information from requestors. TIGTA also found that the IRS properly adhered to the legal requirements under I.R.C. § 6103 in the sample of 60 requests reviewed.

In addition, the results of TIGTA's last three audits in Fiscal Years 2010 through 2012 found

that the IRS has remained relatively consistent in providing responses to requestors within the statutory time periods. TIGTA found only one (1.7 percent) of the 60 FOIA/Privacy Act cases sampled where the IRS did not respond within the statutory time period.

WHAT TIGTA RECOMMENDED

TIGTA did not make any recommendations in this report because the number of errors was relatively small and the recommendations made in previous audit reports are still valid for the issues reported. Although TIGTA made no recommendations in this report, IRS officials were provided with an opportunity to review the draft report. IRS management did not provide any report comments.



TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

August 22, 2012

MEMORANDUM FOR DIRECTOR, PRIVACY, GOVERNMENTAL LIASION AND
DISCLOSURE

FROM:

Michael E. McKenney
Acting Deputy Inspector General for Audit

SUBJECT:

Final Audit Report – Fiscal Year 2012 Statutory Review of
Compliance With the Freedom of Information Act (Audit #201230006)

This report presents the results of our review to determine whether the Internal Revenue Service (IRS) improperly withheld information requested by taxpayers in writing based on the Freedom of Information Act (FOIA)¹ exemption (b)(3), in conjunction with Internal Revenue Code (I.R.C.) Section (§) 6103,² and/or FOIA exemption (b)(7) or by replying that responsive records were not available. This audit is statutorily required each fiscal year. This review is part of our Fiscal Year 2012 Annual Audit Plan and addresses the major management challenge of Taxpayer Protection and Rights.

We did not make any recommendations in this report because the number of errors was relatively small and the recommendations made in our previous audit reports are still valid for the issues reported. Although we made no recommendations in this report, we did provide IRS officials with an opportunity to review the draft report. IRS management did not provide us with any report comments.

Copies of this report are also being sent to the IRS managers affected by the report.

Please contact me at (202) 622-6510 if you have questions or Frank Dunleavy, Acting Assistant Inspector General for Audit (Compliance and Enforcement Operations), at (213) 894-4470 (Ext. 128).

¹ 5 U.S.C.A. § 552 (2010).

² I.R.C. § 6103 (2009).



*Fiscal Year 2012 Statutory Review of
Compliance With the Freedom of Information Act*

Table of Contents

BackgroundPage 1

Results of ReviewPage 4

 The Internal Revenue Service Needs to Continue Its Efforts
 to Reduce Its Freedom of Information Act Backlog.....Page 4

 Managerial Controls Need to Ensure That Disclosure Employees
 Properly Respond to Freedom of Information Act, Privacy Act,
 and Internal Revenue Code Section 6103 Requests for Information.....Page 5

 Freedom of Information Act and Privacy Act Requests Were
 Responded to Timely by the Internal Revenue Service.....Page 7

Appendices

 Appendix I – Detailed Objective, Scope, and MethodologyPage 9

 Appendix II – Major Contributors to This ReportPage 12

 Appendix III – Report Distribution ListPage 13

 Appendix IV – Outcome Measures.....Page 14

 Appendix V – Prior Treasury Inspector General for Tax
 Administration Freedom of Information Act ReportsPage 16



*Fiscal Year 2012 Statutory Review of
Compliance With the Freedom of Information Act*

Abbreviations

AFOIA	Automated Freedom of Information Act
DQMS	Disclosure Quality Measurement System
E-DIMS	Electronic Disclosure Information Management System
FOIA	Freedom of Information Act
FY	Fiscal Year
I.R.C.	Internal Revenue Code
IRS	Internal Revenue Service
TIGTA	Treasury Inspector General for Tax Administration
U.S.	United States



*Fiscal Year 2012 Statutory Review of
Compliance With the Freedom of Information Act*

Background

Statutory requirements

The Internal Revenue Service (IRS) Restructuring and Reform Act of 1998¹ requires the Treasury Inspector General for Tax Administration (TIGTA) to:

... conduct periodic audits of a statistically valid sample of the total number of determinations made by the Internal Revenue Service to deny written requests to disclose information to taxpayers on the basis of section 6103² of this title³ or section 552(b)(7) of title 5, United States Code.⁴

The three primary laws that govern the types of requests for information reviewed in this audit are:

The Freedom of Information Act (FOIA) requires Federal Government agencies to make records available to the public upon request, unless specifically exempted. Information that is “specifically exempted from disclosure by statute” is one of the exemptions. Internal Revenue Code (I.R.C.) Section (§) 6103 is an example of such a statute; it protects the confidentiality of tax returns and return information. Records or information compiled for law enforcement purposes are also exempt from disclosure under the FOIA.

The FOIA requires agencies to make records of the Federal Government available to the public upon request, unless specifically exempted.

The Privacy Act of 1974 (Privacy Act)⁵ prohibits Federal Government agencies from relying on any exemption in the Privacy Act to withhold records that are otherwise available to an individual under the FOIA.

I.R.C. § 6103, while protecting the confidentiality of taxpayers’ returns and return information, does allow the taxpayer, or a person designated by the taxpayer, to request and receive the taxpayer’s specific documents and information.

¹ Pub. L. No. 105-206, 112 Stat. 685 (codified as amended in scattered sections of 2 U.S.C., 5 U.S.C. app., 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.). The requirements for this audit are in § 1102 (d)(3)(A) of the statute.

² I.R.C. § 6103 (2009).

³ 26 U.S.C. (2009).

⁴ 5 U.S.C.A. § 552 (2010).

⁵ 5 U.S.C. § 552a (2010).



Fiscal Year 2012 Statutory Review of Compliance With the Freedom of Information Act

IRS processing and reporting of FOIA cases

Effective June 2011, the Office of the Deputy Commissioner for Operations Support (through its Office of Privacy, Governmental Liaison and Disclosure) became responsible for ensuring the IRS's timely compliance with the FOIA, the Privacy Act, and I.R.C. § 6103. The Headquarters Disclosure Office within the Office of Privacy, Governmental Liaison and Disclosure, sets IRS policy and issues instructions, guidelines, and procedures to the various IRS functions to ensure compliance with the disclosure statutes.

The Headquarters Disclosure Office processes FOIA/Privacy Act requests and I.R.C. § 6103 requests received by the IRS. In the United States (U.S.) Department of the Treasury FOIA Annual Report to the Attorney General for Fiscal Year (FY) 2011, the IRS reported that a total of 12,028 FOIA/Privacy Act cases were processed. This is consistent with the 12,300 FOIA/Privacy Act cases processed during FY 2010.

The U.S. Department of the Treasury FOIA Annual Report for FY 2011 also reported that the IRS denied or partially denied information to requestors in 2,432 (20.2 percent) of the 12,028 FOIA/Privacy Act cases processed in FY 2011. It advised requestors that there were no records responsive to requests in 1,026 (8.5 percent) of the 12,028 cases. The remaining cases were either granted in full or closed for miscellaneous reasons, such as the request was improper or had been previously granted.

Audit limitations and standards

Individual IRS Disclosure offices or other IRS offices having custody of the records processed written requests for information made under I.R.C. § 6103. While the IRS is not required to track all requests made under I.R.C. § 6103, it has elected to do so for requests received by its Headquarters Disclosure Office. The Headquarters Disclosure Office used the Automated Freedom of Information Act (AFOIA) System⁶ and the Electronic-Disclosure Information Management System (E-DIMS)⁷ to track requests made under the FOIA/Privacy Act for FY 2011. Requests made under I.R.C. § 6103 that were received and processed by IRS offices other than the Headquarters Disclosure Office are not controlled on the AFOIA System or the E-DIMS or otherwise inventoried. Consequently, the volume of these requests is not known. As a result, we can statistically sample only the I.R.C. § 6103 requests processed directly by the IRS Headquarters Disclosure Office and tracked on the AFOIA System and the E-DIMS.

⁶ In February 2010, the IRS began implementing the AFOIA System, which will eventually replace the E-DIMS and become the primary automated information system used by the Headquarters Disclosure Office.

⁷ In FY 2011, the E-DIMS automated information system was still being used by the Headquarters Disclosure Office staff for inventory tracking, work planning, statistical management reports, daily time tracking, *etc.*, as they had not yet completed the full transition to the AFOIA System.



*Fiscal Year 2012 Statutory Review of
Compliance With the Freedom of Information Act*

Beginning in February 2006, the responsibility for processing some requests for I.R.C. § 6103 tax compliance checks and transcripts was transferred from the Small Business/Self-Employed Division Office of Disclosure to the Wage and Investment Division Return and Income Verification Services Units. The transfer of responsibility for processing tax compliance checks and transcripts to the Return and Income Verification Services Units continues to increase our scope limitation for this and future years' audits because the Wage and Investment Division does not record the I.R.C § 6103 cases on the AFOIA System or the E-DIMS. We reviewed only those requests processed by the Headquarters Disclosure Office that were denied during the period October 1, 2010, through September 30, 2011.

This review was performed at the Headquarters Disclosure Office within the Office of Privacy, Governmental Liaison and Disclosure, in Washington, D.C., during the period January through June 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. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. Detailed information on our audit objective, scope, and methodology is presented in Appendix I. Major contributors to the report are listed in Appendix II.



*Fiscal Year 2012 Statutory Review of
Compliance With the Freedom of Information Act*

Results of Review

Overall, the IRS needs to continue its efforts to reduce its FOIA inventory backlog and could improve its service to persons who requested information under the FOIA/Privacy Act based on the sample of cases we reviewed. The IRS improperly withheld information from requestors in two (3.3 percent) and did not respond timely in one (1.7 percent) of the 60 FOIA/Privacy Act cases reviewed. However, the IRS adhered to legal requirements under I.R.C. § 6103 in the statistically valid random sample of 60 cases we reviewed.

The Internal Revenue Service Needs to Continue Its Efforts to Reduce Its Freedom of Information Act Backlog

Ultimately, the IRS relies on its disclosure personnel to ensure requests under the FOIA are handled timely and in accordance with laws and regulations. At the top of the agency, a broad policy statement and the Internal Revenue Manual provide guidance nationwide to disclosure personnel. The policy statement, among other things, affirms the IRS's commitment to full compliance with the FOIA and administering it in a manner consistent with "the fundamental values held by our society, including public accountability, safeguarding national security, enhancing the effectiveness of law enforcement agencies and the decision-making processes, protecting sensitive business information, and protecting personal privacy."

Besides providing assurances that FOIA requests are handled timely and in accordance with laws and regulations, the IRS needs to continue in its efforts in carrying out its responsibilities to reduce inventory backlog under the Government-wide "*Improving Agency Disclosure of Information*" initiative. The IRS has taken steps to manage its FOIA backlog. For example, the Headquarters Disclosure Office has weekly overage reports and monthly inventory monitoring reports, both of which include FOIA/Privacy Act and I.R.C. § 6103 inventory and backlog information in order to manage their case inventories.

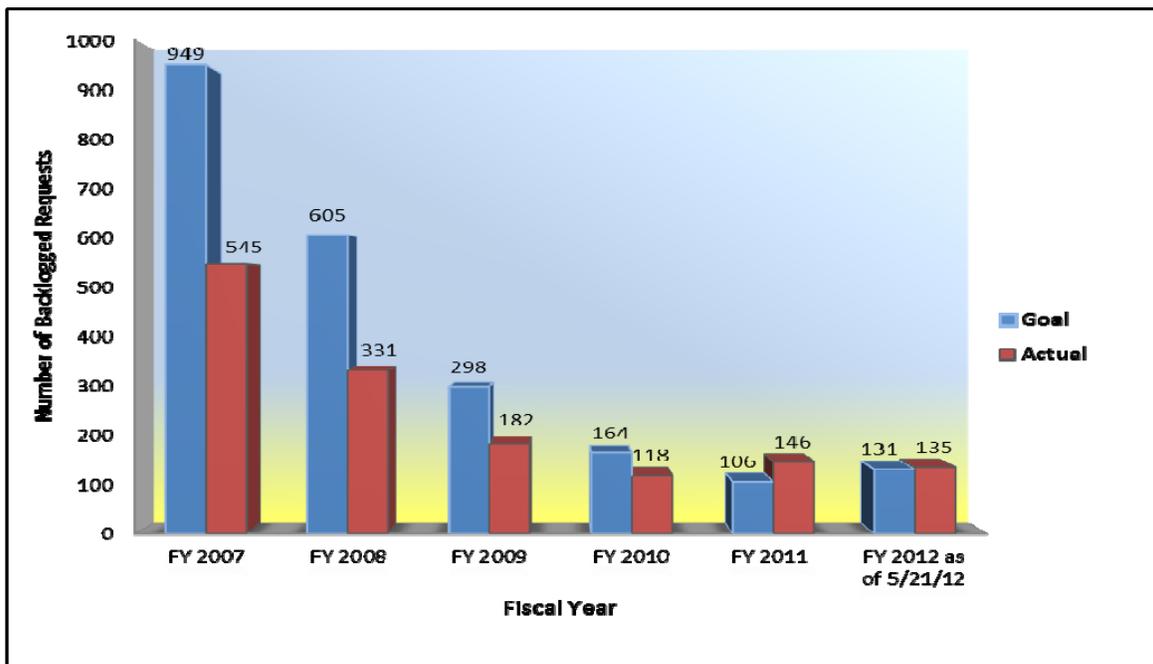
As shown in Figure 1, statistics provided by the Headquarters Disclosure Office show that the IRS has continued to reduce the backlog of FOIA requests in FYs 2007 through 2010. In FY 2011, the IRS was unable to fill 32 case processing vacancies in the Headquarters Disclosure Office, or approximately 20 percent of its authorized staff. In addition, training and implementation issues related to the AFOIA System further affected the IRS's ability to reduce its backlog. As a result, there was a 23.7 percent increase in the number of cases that were backlogged at the end of FY 2011 (146 cases) compared to the number backlogged at the end of FY 2010 (118 cases). Reducing the number of backlogged cases is particularly important because it addresses the primary reason response time periods are not being met under the FOIA.



Fiscal Year 2012 Statutory Review of Compliance With the Freedom of Information Act

The IRS's FY 2012 backlog goal⁸ is to reduce its September 30, 2011, backlog of 146 cases by 10 percent to 131 cases. As of May 21, 2012, there were 135 backlogged cases. This represents a 7.5 percent decrease in backlogged cases since the beginning of FY 2012. The IRS expects to meet its reduction in backlog goal this year. Figure 1 shows the inventory of backlogged FOIA requests from FY 2007 through FY 2012, as of May 21, 2012.

Figure 1: Inventory of Backlogged FOIA Requests



Source: Unaudited data provided by the IRS Headquarters Disclosure Office, U.S. Department of the Treasury Freedom of Information Act Annual Report to the Attorney General, Fiscal Year 2011, and TIGTA audit reports issued in FYs 2007–2012.⁹

Managerial Controls Need to Ensure That Disclosure Employees Properly Respond to Freedom of Information Act, Privacy Act, and Internal Revenue Code Section 6103 Requests for Information

The IRS was not consistent in its service to persons who requested information under the FOIA/Privacy Act based on the statistically valid random sample of cases we reviewed. Specifically, we found that disclosure personnel improperly withheld information on two (3.3 percent) of the 60 FOIA/Privacy Act requests reviewed. When the sample results are

⁸ The Government-wide backlog goal for the IRS is determined by the Department of Justice target of a 10 percent reduction in the past fiscal year's backlog.

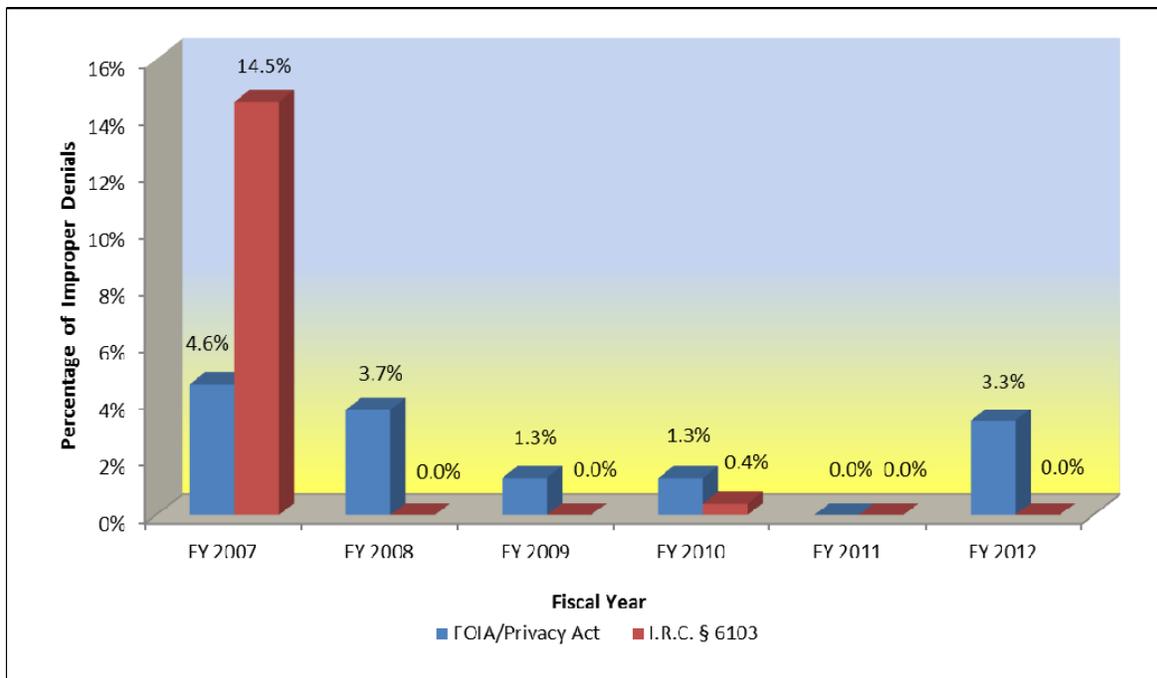
⁹ The fiscal years in all charts pertain to the year the TIGTA report was published.



*Fiscal Year 2012 Statutory Review of
Compliance With the Freedom of Information Act*

projected to our estimated population of 2,861 cases closed during the period October 1, 2010, through September 30, 2011, the results indicate that approximately 95 FOIA/Privacy Act requests may have been erroneously denied or partially denied information. The projection is based on a 95 percent confidence level. We expect the number of requests that had information improperly withheld to range from 12 to 330 cases. The IRS did, however, continue to properly adhere to the legal requirements under I.R.C. § 6103 in all 60 requests reviewed. Figure 2 shows the audit results for FYs 2007 through 2012.

Figure 2: Improper FOIA/Privacy Act and I.R.C. § 6103 Request Withholdings



Source: TIGTA audit reports issued in FYs 2007–2012. Percentages were rounded to the closest tenth.

As previously discussed, the IRS relies on its disclosure personnel to ensure that requests under the FOIA are handled in accordance with laws and regulations. The Internal Revenue Manual provides guidance to disclosure personnel nationwide. Throughout the Internal Revenue Manual, personnel are instructed to properly document in case files all aspects of their work during the receipt, control, research, response, and closing phases of requests. This documentation is important because it provides the principal evidence that procedures were followed, as well as the foundation for other control processes such as management reviews.



Fiscal Year 2012 Statutory Review of Compliance With the Freedom of Information Act

Prior to September 2008, the Office of Disclosure¹⁰ used a Balanced Measures Review Process to identify and correct potential problems with responses to FOIA/Privacy Act requests. In January 2008, the final Balanced Measures Review Team report was issued. The Balanced Measures Review Team examined a sample of FOIA/Privacy Act cases twice a year to 1) assess how well personnel were meeting the standards for accuracy, completeness, and timeliness; 2) communicate areas of concern to top management; 3) identify potential training needs; and 4) improve work processes.

During FY 2009, the Office of Disclosure implemented a Disclosure Quality Management System (DQMS), which was designed to institutionalize a real-time national process for monitoring the quality of all Office of Disclosure work. The DQMS process reviewed all types of Office of Disclosure work throughout the year, whereas the former Disclosure Balanced Measures Review Team reviewed only FOIA/Privacy Act cases biannually. Disclosure managers, who are responsible for the quality of work done locally by the personnel they manage, conducted these reviews using the DQMS. By reviewing ongoing work, managers attempted to identify and correct potential problems before they had an adverse effect on taxpayers.

According to IRS management, the DQMS was staffed by temporarily promoting Senior Disclosure Specialists into the review positions on a rotational basis. During FYs 2010 and 2011, the implementation of the AFOIA System took a significant investment of staff time for training and related administrative support. This resulted in sporadic operation of the DQMS program, and an insufficient number of reviews to provide a valid analysis of statistical information. The decision was made to temporarily discontinue the DQMS as a quality review for casework. Though a managerial review of selected casework is still required, we do not believe this is a sufficient substitute for the DQMS.

Freedom of Information Act and Privacy Act Requests Were Responded to Timely by the Internal Revenue Service

The FOIA requires Federal Government agencies to respond within 20 business days of the receipt of a request or, if the 20 days are not sufficient, to notify the requestor of the reason why the request cannot or will not be filled. If they are unable to respond to a request within the time limit, Federal Government agencies are required to immediately notify the requestor of this fact, of the reasons why they are unable to respond, and of the requestor's right to appeal.

The due date for a FOIA request is revised when the IRS sends a letter to the requestor exercising its right for an automatic 10-day extension and/or requesting a voluntary extension in excess of the initial statutory 20-day period for FOIA requests. The requestor must agree to the

¹⁰ Prior to June 2011, the Office of Disclosure in the Small Business/Self-Employed Division was responsible for processing FOIA/Privacy Act requests.

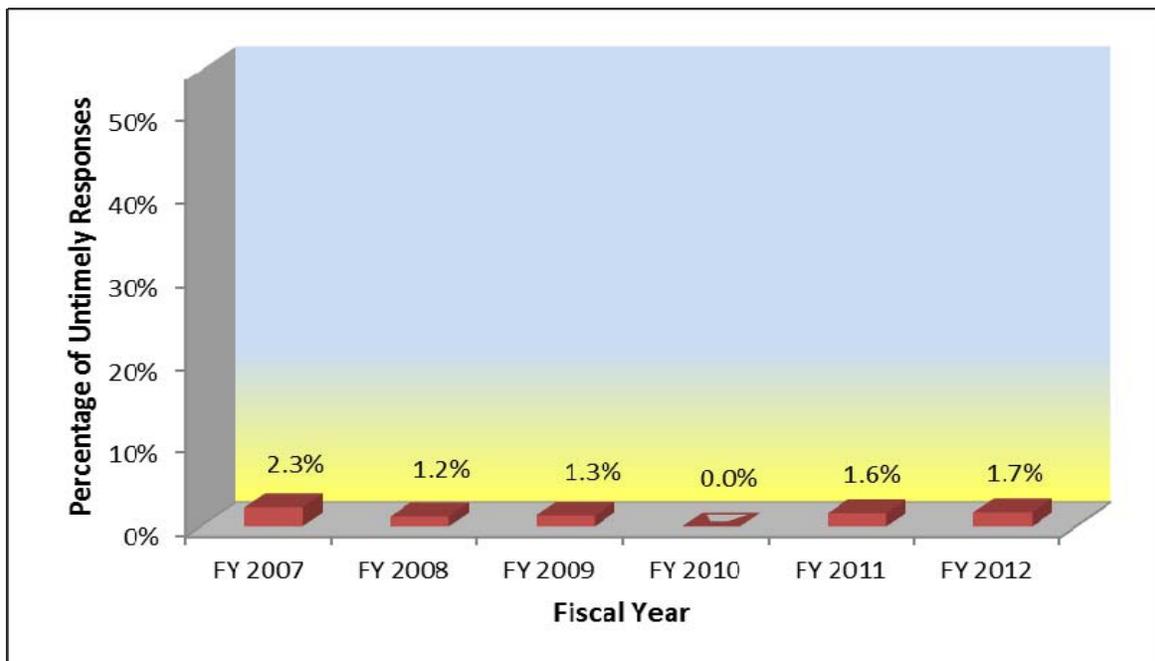


Fiscal Year 2012 Statutory Review of Compliance With the Freedom of Information Act

voluntary extension, and the IRS must notify the requestor of its ability to respond by the end of the extension period. A case is untimely when the IRS responds to the requestor after the due date. For Privacy Act cases, the IRS must respond within 30 business days of the taxpayer's request.

Since FY 2000, the IRS has made significant improvement in the timeliness of responses to FOIA/Privacy Act requests. Our audits, including this review, indicate that the percentages of untimely responses ranged from zero percent to 43.5 percent. Figure 3 shows the percentages of untimely cases we have reported since FY 2007.

Figure 3: Comparison of Untimely FOIA/Privacy Act Responses



Source: TIGTA audit reports issued in FYs 2007–2012. Percentages were rounded to the closest tenth.

The results of our last three audits (reports issued FYs 2010, 2011, and 2012) found that the IRS has remained relatively consistent in providing responses to requestors within the statutory time periods. During our review of the FY 2011 FOIA/Privacy Act requests, only one (1.7 percent) of the 60 FOIA/Privacy Act cases was found to have an untimely response. When the sample results are projected to our estimated population of 2,861 cases closed during the period October 1, 2010, through September 30, 2011, the results indicate that approximately 48 FOIA/Privacy Act requests were not processed timely. The projection is based on a 95 percent confidence level. We expect the number of requestors who may have received untimely responses to range from one to 256 cases.



*Fiscal Year 2012 Statutory Review of
Compliance With the Freedom of Information Act*

Appendix I

Detailed Objective, Scope, and Methodology

The overall objective of this review was to determine whether the IRS improperly withheld information requested by taxpayers in writing based on the FOIA¹ exemption (b)(3), in conjunction with I.R.C. § 6103,² and/or FOIA exemption (b)(7) or by replying that responsive records were not available. To accomplish this objective, we:

- I. Identified any changes to the policies, operating procedures, systems, documents/files, risks, laws, and regulations related to the receipt, disposition, and resolution or denials of requests for information under the FOIA that have occurred since last year's review.
- II. Identified the management controls that are in place to ensure the timely and proper receipt, disposition, and resolution or denials of requests for information under the FOIA.
- III. Determined whether the IRS properly adhered to statutory FOIA and Privacy Act of 1974 (Privacy Act)³ requirements, as well as procedural requirements.
 - A. Obtained an extract from the AFOIA System and the E-DIMS for the period October 1, 2010, through September 30, 2011, and identified an estimated 2,861 FOIA/Privacy Act cases closed as denied or partially denied based on FOIA exemption (b)(3), in conjunction with I.R.C. § 6103, or on FOIA exemption (b)(7), or where the IRS replied responsive records did not exist. We validated the data extract by performing specialized queries.
 - B. Designed an attribute sample based on a confidence level of 90 percent, an expected error rate of 5.5 percent for FOIA/Privacy Act cases, and 5.89 percent for I.R.C. § 6103 cases with an estimated precision of ± 5 percent. Based on these parameters, a statistically valid sample size was 60 cases. This sampling methodology was chosen so we could project the number of cases with improper withholdings to the universe of cases that were partially or fully denied based on FOIA exemption (b)(3), in conjunction with I.R.C. § 6103, and/or FOIA exemption (b)(7), or for which requestors were told records were not available. We increased the attribute sample size from 60 cases to 176 cases to account for the possibility that some case files would be unavailable or might not meet our objective criteria.

¹ 5 U.S.C.A. § 552 (2010).

² I.R.C. § 6103 (2009).

³ 5 U.S.C. § 552a (2010).



*Fiscal Year 2012 Statutory Review of
Compliance With the Freedom of Information Act*

- C. Reviewed the 60 sampled cases and determined whether the decision to withhold information was appropriate, the record search was adequate, and the determination was made in a timely manner.
 - D. Projected the number of cases where information was withheld from the requester in the range of 12 to 330 (0.41 percent to 11.53 percent) for FOIA/Privacy Act cases that were partially or fully denied based on FOIA exemption (b)(3), in conjunction with I.R.C. § 6103, and/or FOIA exemption (b)(7), or for which requestors were told records were not available. The projection was made using the Exact Binomial method for attribute sampling, with a 95 percent confidence level and an actual error rate of 3.33 percent. The accuracy of our projection was reviewed and confirmed by our contracted statistician.
 - E. Projected the number of untimely determinations in the range of one to 256 (0.04 percent to 8.94 percent) for FOIA/Privacy Act cases that were partially or fully denied based on FOIA exemption (b)(3), in conjunction with I.R.C. § 6103, and/or FOIA exemption (b)(7), or for which requestors were told records were not available. The projection was made using the Exact Binomial method for attribute sampling, with a 95 percent confidence level and an actual error rate of 1.67 percent. The accuracy of our projection was reviewed and confirmed by our contracted statistician.
 - F. Discussed all exception cases with disclosure personnel.
 - G. Reviewed the U.S. Department of the Treasury FOIA Annual Report to the Attorney General for FY 2011 showing various statistics for FOIA/Privacy Act cases, including appeals and closures. This information was not independently verified because the accuracy of these statistics did not affect the accomplishment of our audit objective.
- IV. Determined whether the IRS Headquarters Disclosure Office is adhering to legal requirements when denying written requests received from taxpayers under I.R.C. § 6103.
- A. From the national extract obtained for Step III.A., identified 2,232 I.R.C. §§ 6103 (c) and (e) requests that were denied, partially denied, or had no disposition code.
 - B. Designed an attribute sample based on a confidence level of 90 percent, an expected error rate of 5.89 percent, and an estimated precision of ± 5 percent. Based on these parameters, the size of the statistically valid sample was 60 cases. This sampling methodology was chosen because it would allow us to project the number of cases with improper withholdings to the universe of closed I.R.C. §§ 6103 (c) and (e) requests for which information was partially or fully denied or for which the IRS replied that responsive records did not exist.



*Fiscal Year 2012 Statutory Review of
Compliance With the Freedom of Information Act*

- C. Selected a random sample of 400 of the 2,232 I.R.C. §§ 6103 (c) and (e) closed cases. We selected a larger sample size to account for the possibility that some case files would be unavailable and/or the cases requested from IRS would not meet our objective criteria. We reviewed the cases received to identify the necessary 60 cases for our sample that included instances in which information was partially or fully denied or in which the IRS replied that responsive records did not exist.
- D. Reviewed the 60 cases identified and determined whether the decision to withhold the information based on I.R.C. § 6103 was appropriate.

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: IRS policies, operating procedures, systems, laws, and regulations related to the receipt, disposition, and resolution or denials of requests for information under the FOIA to evaluate whether the IRS improperly withheld information requested by taxpayers in writing. We evaluated these controls by reviewing source materials, interviewing management, and reviewing a sample of closed FOIA/Privacy Act and I.R.C. § 6103 cases.



*Fiscal Year 2012 Statutory Review of
Compliance With the Freedom of Information Act*

Appendix II

Major Contributors to This Report

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Margaret F. Filippelli, Senior Auditor
Carol C. Gerkens, Senior Auditor
Gail C. Schuljan, Senior Auditor
Joseph L. Katz, Ph.D., Contractor, Statistical Sampling Consultant



*Fiscal Year 2012 Statutory Review of
Compliance With the Freedom of Information Act*

Appendix III

Report Distribution List

Commissioner C
Office of the Commissioner – Attn: Chief of Staff C
Deputy Commissioner for Operations Support OS
Director, Governmental Liaison and Disclosure, Privacy, Governmental Liaison and Disclosure
OS:P:GL
Director, Headquarters Disclosure, Privacy, Governmental Liaison and Disclosure OS:P:GL:D
Chief Counsel CC
National Taxpayer Advocate TA
Director, Office of Legislative Affairs CL:LA
Director, Office of Program Evaluation and Risk Analysis RAS:O
Office of Internal Control OS:CFO:CPIC:IC
Audit Liaison: Deputy Commissioner, Operations Support OS



*Fiscal Year 2012 Statutory Review of
Compliance With the Freedom of Information Act*

Appendix IV

Outcome Measures

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

Type and Value of Outcome Measure:

- Taxpayer Rights and Entitlements – Potential; 95 responses to FOIA¹/Privacy Act² requests for which information may have been improperly withheld during the 12-month period October 1, 2010, through September 30, 2011 (see page 5).

Methodology Used to Measure the Reported Benefit:

- We reviewed a statistically valid sample of 60 cases from a population 2,861 FOIA/Privacy Act requests closed nationally during the period October 1, 2010, through September 30, 2011, as either a:
 - 1) Full or partial denial with either FOIA exemption (b)(3), in conjunction with I.R.C. § 6103, and/or FOIA exemption (b)(7) cited as one of the reasons for withholding information.
 - 2) Request for which the IRS replied that responsive records did not exist.
- We identified two cases where IRS Disclosure personnel improperly withheld information requested by the taxpayer.

Based on our sample error rate of 3.33 percent (2/60) and a confidence level of 90 percent, we estimated the number of taxpayers improperly denied information to be 95 [2,861 x 3.33 percent], with a range of 12 to 330. We arrived at the estimate by multiplying the number of requests closed as either condition 1) or 2) listed in the prior paragraph by the percentage of improperly denied responses identified in our sample. The projection was made using the Exact Binomial method for attribute sampling, with a confidence level of 95 percent and an actual error rate of 3.33 percent. As a result, the actual precision factors were 0.41 percent and 11.53 percent.

¹ 5 U.S.C.A. § 552 (2010).

² 5 U.S.C. § 552a (2000).



*Fiscal Year 2012 Statutory Review of
Compliance With the Freedom of Information Act*

Type and Value of Outcome Measure:

- Taxpayer Rights and Entitlements – Potential; 48 responses to FOIA/Privacy Act requests may not have been processed within the required statutory time periods during the 12-month period October 1, 2010, through September 30, 2011 (see page 7).

Methodology Used to Measure the Reported Benefit:

- We reviewed a statistically valid sample of 60 cases from a population 2,861 FOIA/Privacy Act requests closed nationally during the period October 1, 2010, through September 30, 2011, as either a:
 - 1) Full or partial denial with either FOIA exemption (b)(3), in conjunction with I.R.C. § 6103, and/or FOIA exemption (b)(7) cited as one of the reasons for withholding information.
 - 2) Request for which the IRS replied that responsive records did not exist.
- We identified one case where the IRS's response was issued after the statutory due date.

Based on our sample error rate of 1.67 percent (1/60) and a confidence level of 90 percent, we calculated the number of untimely responses to be 48 [2,861 x 1.67 percent], with a range of one to 256. We arrived at the estimate by multiplying the number of requests closed as either condition 1) or 2) listed in the prior paragraph by the percentage of untimely responses identified in our sample. The projection was made using the Exact Binomial method for attribute sampling, with a confidence level of 95 percent and an actual error rate of 1.67 percent. As a result, the actual precision factors were 0.04 percent and 8.94 percent.



*Fiscal Year 2012 Statutory Review of
Compliance With the Freedom of Information Act*

Appendix V

*Prior Treasury Inspector General for Tax
Administration Freedom of Information Act Reports*

TIGTA, Ref. No. 2000-10-116, *Taxpayers Should Be Provided Timely Service When Appealing Denied Requests Under the Freedom of Information Act* (Aug. 2000).

TIGTA, Ref. No. 2001-10-112, *The Internal Revenue Service Should Continue Taking Action to Improve Compliance With the Freedom of Information Act and Related Procedures* (Jul. 2001).

TIGTA, Ref. No. 2002-10-093, *Actions Should Continue to Be Taken to Improve Compliance With the Freedom of Information Act and Related Procedures* (May 2002).

TIGTA, Ref. No. 2003-10-164, *Opportunity for Improvement Exists for Compliance With the Freedom of Information Act and Related Procedures* (Aug. 2003).

TIGTA, Ref. No. 2004-40-064, *Improvements Are Needed to Ensure Compliance With the Freedom of Information Act* (Mar. 2004).

TIGTA, Ref. No. 2005-10-089, *Some Improvements Have Been Made to Better Comply With Freedom of Information Act Requirements* (May 2005).

TIGTA, Ref. No. 2006-10-129, *Compliance With Freedom of Information Act Requirements Has Increased* (Aug. 2006).

TIGTA, Ref. No. 2007-10-133, *The Office of Disclosure Can Improve Compliance With the Freedom of Information Act Requirements* (Aug. 2007).

TIGTA, Ref. No. 2008-30-164, *The Office of Disclosure Continued to Improve Compliance With the Freedom of Information Act Requirements* (Aug. 2008).

TIGTA, Ref. No. 2009-30-115, *The Office of Disclosure Continues to Improve Upon Its Responses to Taxpayers' Requests Under the Freedom of Information Act* (Sept. 2009).

TIGTA, Ref. No. 2010-30-090, *The Office of Disclosure Continues to Improve Compliance With the Freedom of Information Act Requirements* (Aug. 2010).

TIGTA, Ref. No. 2011-30-093, *The Office of Disclosure Continues to Improve Compliance With the Freedom of Information Act Requirements* (Sept. 2011).