

**The Internal Revenue Service Needs to  
Improve Its Compliance with Procedures  
When Processing Requests for Information  
Under the Freedom of Information Act**

**March 2000**

**Reference Number: 2000-10-058**

**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.**



DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20220

INSPECTOR GENERAL  
for TAX  
ADMINISTRATION

March 27, 2000

MEMORANDUM FOR COMMISSIONER ROSSOTTI

A handwritten signature in black ink that reads "Pamela J. Gardiner".

FROM: Pamela J. Gardiner  
Deputy Inspector General for Audit

SUBJECT: Final Audit Report - The Internal Revenue Service Needs to Improve Its Compliance with Procedures When Processing Requests for Information Under the Freedom of Information Act

This report presents the results of our review conducted to fulfill the Treasury Inspector General for Tax Administration's requirement under the Internal Revenue Service (IRS) Restructuring and Reform Act of 1998 (RRA 98).<sup>1</sup> Section 1102 (d)(3)(a) of the RRA 98 requires the performance of periodic audits of a statistically valid sample of requests for information that were denied by the IRS on the basis of the Freedom of Information Act (FOIA) (1988)<sup>2</sup> § 552(b)(7) and the Internal Revenue Code<sup>3</sup> § 6103. We broadened our statistical sample to include all denied FOIA requests, and also selected statistical samples of (1) denied Privacy Act of 1974 (PA)<sup>4</sup> requests, which should have been processed under the FOIA, and (2) imperfect requests.

In summary, we found that, for 12.1 percent of the denied or partially denied FOIA requests, the IRS improperly withheld information that should have been provided to the requester. In addition, we found that, for 7.6 percent of the denied or partially denied PA requests, the IRS improperly withheld information. While conducting the

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<sup>1</sup> Pub. L. No. 105-206, 112 Stat. 685

<sup>2</sup> 5 U.S.C. § 552 (1994)

<sup>3</sup> 26 U.S.C.

<sup>4</sup> 5 U.S.C. § 552a (1994)

audit, we also identified instances where the IRS did not comply with its statutory or procedural obligations. As a result, we recommended that the IRS improve its management practices and oversight to ensure that FOIA requests are processed in accordance with the dictates of the statute as well as in accordance with IRS procedures.

In addition, given the IRS' emphasis on providing quality service to taxpayers, we have identified opportunities for the IRS to improve the service it provides to FOIA and PA requesters. While we recognize that our recommendations concerning customer service go beyond the IRS' statutory obligations imposed by the FOIA and the PA, we have included them to assist the IRS in reaching its goal of providing quality service to its customers.

A draft of this report was provided to the IRS for review and comment on February 16, 2000. We requested management's written comments by March 17, 2000. However, although we received a draft version of their comments, we had not received a signed response as of March 24, 2000.

Copies of this report are also being sent to the IRS managers who are affected by the report recommendations. Please contact me at (202) 622-6510 if you have questions, or your staff may call Maurice S. Moody, Associate Inspector General for Audit (Headquarters Operations and Exempt Organizations Programs), at (202) 622-8500.

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## Executive Summary

The Freedom of Information Act (FOIA) (1988)<sup>1</sup> requires with certain enumerated exceptions that federal government records be made available to the public upon written request. Individuals seeking information do not have to show a need for the requested information; instead, the government has to justify its withholding of information. The Internal Revenue Service's (IRS) policy regarding FOIA requests for information complies with the FOIA, and instructs employees to provide copies of government records unless there is an applicable exemption provided by the law. IRS records show that in Fiscal Year 1998, the IRS either completely or partially denied information requested under the FOIA for about 3,700 of the nearly 31,000 requests received.

The Privacy Act of 1974 (PA),<sup>2</sup> among other things, establishes controls over the types of information collected by the federal government about individuals and how the information can be used. Since requests that are made under the PA should also be considered under the FOIA, we included a review of PA requests that were denied to determine if the IRS appropriately considered whether the information could be provided under the FOIA prior to denying the request.

In May 1997, the Attorney General of the United States issued a memorandum to all heads of agencies urging them to adhere to the following principles:

- Apply customer service attitudes toward FOIA requesters.
- Follow the spirit, as well as the letter, of the law when deciding what information to provide.
- Presume that information can be provided whenever it is possible to do so without violating another law.

The IRS Restructuring and Reform Act of 1998 (RRA 98)<sup>3</sup> § 1102 (d)(3)(a) requires the Treasury Inspector General for Tax Administration (TIGTA) to perform periodic audits of a statistically valid sample of requests for information that were denied on the basis of the FOIA § 552(b)(7) and Internal Revenue Code (I.R.C.)<sup>4</sup> § 6103. The objective of the audit was to determine whether the IRS properly applied FOIA exemptions to deny written requests for information. We broadened our statistical sample to include all denied FOIA requests because the IRS' system used to control FOIA requests does not

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<sup>1</sup> 5 U.S.C. § 552 (1994)

<sup>2</sup> 5 U.S.C. § 552a (1994)

<sup>3</sup> Pub. L. No. 105-206, 112 Stat. 685

<sup>4</sup> 26 U.S.C. (1986)

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specifically identify requests denied pursuant to I.R.C. § 6103. We also selected a statistical sample of denied PA requests since the PA requires agencies to consider whether information that is exempt under the PA should be disclosed to the requester under the FOIA. In addition, we selected a statistical sample of FOIA and PA requests that the IRS considered to be imperfect to determine whether the requests should have been processed under the FOIA and the information provided.

During this review, we identified IRS processes for controlling requests for information made under both the FOIA and the PA; however, due to time constraints, we did not verify whether the processes were working effectively. We did not conduct an evaluation of the internal control system over FOIA and PA requests and did not evaluate whether the IRS control system we used to select our sample cases contained complete and accurate information. This will be covered in a future TIGTA Office of Audit review. In addition, we did not review the requested information that was provided to requesters to determine whether the IRS provided only responsive, non-exempt information.

### **Results**

Based on our statistical samples, we found that the IRS improperly withheld information from requesters for 12.1 percent of the denied or partially denied FOIA requests and 7.6 percent of the denied or partially denied PA requests. In each of these instances, the IRS did not correctly apply the FOIA, which requires the IRS to provide the requested information. For the requests that the IRS considered imperfect, we concluded that in the vast majority of them the IRS correctly determined that the requests were imperfect and informed the requester that additional information was needed to perfect the request.

We also found that the IRS did not always follow the FOIA and IRS procedural guidelines in processing FOIA and PA requests. As a result, the IRS did not always provide timely responses on fully or partially denied requests and did not research or transfer cases between IRS offices in a uniform manner.

In addition, the IRS can provide better customer service to requesters by taking additional actions beyond what is required in the law to try to provide information similar to what was requested when the information specifically requested is not available. We identified an additional 2.4 percent of the requests in our sample of FOIA denials and an additional 19.3 percent of the requests in our sample of PA denials in which the IRS could have taken additional steps to better meet the requesters' needs. This improved service could reduce the number of subsequent requests and administrative appeals when requesters are denied information.

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The IRS should consider the following areas for improvement to ensure that it does not improperly withhold information, complies with the FOIA statute and IRS procedures, and improves the customer service provided to requesters.

**The Internal Revenue Service Needs to Improve Compliance with the Freedom of Information Act Statute and Internal Revenue Service Procedures to Avoid Improperly Withholding Information**

The following table shows the results of our review of statistical samples of FOIA requests and PA requests that were processed and denied (either completely or partially) under the FOIA during the period July 22, 1998 to December 31, 1998.<sup>5</sup>

Type of Request	TIGTA Sample Error Rate	Population of Denied Requests (7/22/98 – 12/31/98)	Estimated Nationwide Error Rate	Projected Number of Incorrectly Denied Requests
FOIA	12.1%	2,932	9.3% - 14.9%	272 – 437
PA	7.6%	308	5.4% - 9.8%	16 – 31

The requested information was improperly withheld primarily for two reasons:

- The IRS did not timely implement the RRA 98 § 6019 (c) changes that increased the information available under the FOIA. For example, the IRS must now provide attorneys who are representing requesters with the names of individuals who, along with the requester, have been assessed a Trust Fund Recovery Penalty. The IRS incorrectly informed attorneys that it could not provide this information.
- The IRS did not comply with procedures outlined in their internal handbook. For example, one request asked the IRS for a copy of a notice and demand for tax. Normally, the IRS does not retain these notices. IRS procedures require that the requester should be informed that the IRS does not routinely maintain hard copies of these notices, but the IRS does provide an accompanying tax account transcript that shows when the notice was issued. The IRS did not provide the highlighted transcript as required, and instead, responded that there were “No responsive records.”

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<sup>5</sup> The projected nationwide error rates and the projected number of improperly denied requests are based on a 90 percent confidence level.

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**The Internal Revenue Service Did Not Consistently Follow the Freedom of Information Act Statute and Internal Revenue Service Procedures When Processing Written Requests for Information**

The IRS did not always ensure that the FOIA and IRS disclosure procedures were appropriately followed or ensure that the procedures were consistently applied throughout the field disclosure offices. The following describes the areas requiring additional attention by IRS management:

**The IRS did not ensure that requesters received timely responses**

The IRS did not always timely respond to FOIA and PA requesters. For example, from our sample of 340 denied or partially denied FOIA requests, we found that 160 (47.1 percent) of the requests were untimely. For each of these requests, the IRS had taken 30 or more calendar days to process the request for information after the cases were controlled on disclosure's inventory control system. These requests took an average of 116 days to process. We further analyzed the untimely cases and determined that there were long periods (at least 30 days) of inactivity during case processing, which contributed to the IRS' untimely responses. There was no explanation in the case files for the periods of inactivity.

**The IRS is inconsistent in the amount of research it performs and does not ensure that consistent responses are provided on similar requests**

The IRS does not research or transfer cases between IRS offices in a uniform manner. We identified many instances where the disclosure office receiving the request should have followed procedures and taken additional actions to locate the requested records and/or transfer the request to the IRS office with jurisdiction. Additionally, some disclosure offices handled requests for the same type of information differently from other disclosure offices. As a result, requesters receive different treatment depending on which IRS office has jurisdiction over the request. The IRS could improve the consistency of its responses by developing minimum standards for processing similar types of requests.

Improving the current disclosure inventory control system could also assist the IRS in providing more consistent responses. The inventory system does not provide disclosure employees with instant access to national information about cases being worked. As a result, IRS employees cannot readily determine whether similar requests from the same individual are being worked in other IRS offices or whether another office sent a different response to the requester. Disclosure management told us that enhancements planned for the current inventory control system will enable them to provide more consistent responses. We did not perform any work to evaluate the planned enhancements during this review.



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**The Internal Revenue Service Can Improve Its Customer Service to Requesters When Processing Freedom of Information Act Requests**

Our limited survey of the processes used in 10 disclosure offices to comply with the FOIA and the PA and the results of our case reviews showed that there are several opportunities for the IRS to improve its customer service to requesters.

**The IRS treats requesters differently**

In our samples of denied or partially denied FOIA or PA requests, we identified some cases where the specific document requested was not available, but the IRS could have provided information from similar files or sources. Disclosure management stated that there could be several reasons for this, including the fact that they have a decentralized operation that could result in different disclosure offices working requests differently. In addition, some disclosure offices have learned over a period of time that certain knowledgeable requesters want only what they ask for in their request, not similar documents. However, when the request is received from a less knowledgeable requester who more broadly describes the information needed, the IRS will interpret the request and provide the documentation it believes is responsive to the request.

For example, one request specifically stated, “send my Individual Masterfile (IMF) Specific” for Tax Years 1981 through 1983. The IMF is a nationwide central database of tax accounts for individuals. In this instance, transcripts for the requested tax years were not available on the IMF because the IRS routinely moves old data from the IMF to a retention register. The IRS did not send the information because the data were on the retention register and not on the IMF, which was the system specified in the FOIA request.

**The IRS’ disclosure organizational structure does not always ensure consistent customer service**

Disclosure management from the various IRS field offices, with minimal direction and oversight from the National Office, are responsible for providing timely, consistent, and high-quality processing of FOIA and PA requests. Disclosure management advised us that this has resulted in different priorities and resources for working FOIA and PA requests. As a result, variations exist in the customer service provided to requesters of FOIA and PA information.

**The Office of Governmental Liaison and Disclosure could have researched additional sources of information when working cases**

We identified several instances where the Office of Governmental Liaison and Disclosure could have taken additional actions to locate the requested records and/or transfer the requests. Instead, it informed the requester that no records were available or the requester would have to submit a request at another disclosure office that could research the IRS’

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taxpayer account system. Disclosure management told us that the National Office does not have access to this information for FOIA requests because they are concerned that the system could be misused by disclosure employees.

## **Summary of Recommendations**

The IRS should ensure that requests for information are processed in accordance with the FOIA and IRS procedures to reduce the number of requests where information is improperly withheld and to ensure cases are appropriately researched and timely processed. In addition, the IRS should consider expanding its efforts beyond its statutory obligations imposed by the FOIA and the PA to respond to FOIA and PA requests to provide better customer service. Also, the IRS should enable the National Office to obtain controlled access to the IRS' tax account information, modify the disclosure organization structure to have more national oversight, and develop minimum standards for documenting case actions.

Management's Response: A draft of this report was provided to the IRS for review and comment on February 16, 2000. We requested management's written comments by March 17, 2000. However, although we received a draft version of their comments, we had not received the official response as of March 24, 2000.

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## Objective and Scope

*The RRA 98 requires TIGTA to audit denied FOIA requests where information was withheld pursuant to 5 U.S.C. § 552(b)(7) (1996) and 26 U.S.C. § 6103 (1998).*

*The audit was conducted to determine whether the IRS properly applied FOIA exemptions to deny written requests for information.*

The Internal Revenue Service (IRS) Restructuring and Reform Act of 1998 (RRA 98)<sup>1</sup> § 1102 (d)(3)(a) required the Treasury Inspector General for Tax Administration (TIGTA) to perform periodic audits of a statistically valid sample of requests for information that were denied on the basis of the Freedom of Information Act (FOIA) (1988)<sup>2</sup> § 552(b)(7) and the Internal Revenue Code (I.R.C.)<sup>3</sup> § 6103.

The primary objective of this initial audit was to determine whether the IRS properly applied FOIA exemptions to deny written requests for information. We did not review I.R.C. § 6103 requests because we could not identify denied requests on the IRS' computer systems. The Fiscal Year 2000 TIGTA review will attempt to review these types of requests. In addition, in this first review, we broadened our statistical sample to include all denied FOIA requests, not just those based upon the FOIA § 552(b)(7).

The Privacy Act of 1974 (PA)<sup>4</sup> requires agencies to consider whether information that is exempt under the PA should be disclosed to the requester under the FOIA. For this review, we also reviewed denied PA requests to determine if the IRS appropriately considered whether the information could be provided under the FOIA prior to withholding the information.

We reviewed denied FOIA and PA requests in which the IRS responded in one of the following ways:

- The IRS either completely or partially denied the information requested.

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<sup>1</sup> Pub. L. No. 105-206, 112 Stat. 685

<sup>2</sup> 5 U.S.C. § 552 (1994)

<sup>3</sup> 26 U.S.C. (1986)

<sup>4</sup> 5 U.S.C. § 552a (1994)

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- The IRS advised the taxpayer that no responsive records existed within the IRS.
- The IRS did not process the request because the request was not perfected as prescribed by the Treasury Regulations<sup>5</sup> regarding FOIA requests.

As shown in Table 1 below, we selected and reviewed three separate statistical samples consisting of FOIA and PA requests that were denied in full or in part, as well as requests that were imperfect. In determining the 3 sample sizes, we used a 90 percent confidence level and a 3.0 percent precision level. The cases were selected from the Disclosure Information Management System (DIMS) for the period July 22 to December 31, 1998.

**Table 1  
FOIA, PA, and Imperfect Samples**

<u>Category and Type of Case</u>	<u>Universe of Cases</u>	<u>Sample Size of Cases</u>
FOIA – fully or partially denied and no record cases	2,932	340
PA – fully or partially denied and no record cases	308	171
Imperfect request cases	2,774	337

*Samples of FOIA and PA requests, as well as requests that were imperfect, were selected and reviewed.*

The samples included:

1. A statistical sample of FOIA requests where information was available but was withheld either in full or in part, or where the requester was informed that there were no responsive records. The sample included all types of FOIA denials, not just the cases with the FOIA § 552(b)(7) or I.R.C. § 6103 cited as the basis for withholding information.

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<sup>5</sup> 26 Code of Federal Regulations (C.F.R.) § 601.702 (1998)

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2. A statistical sample of PA requests that were processed under the FOIA where information was available but was withheld either in full or in part, or where the requester was informed that there were no responsive records. The sample included PA requests where either the FOIA § 552(b)(7) or I.R.C. § 6103 was cited as the reason for withholding.
3. A statistical sample of imperfect cases. A request is classified in the DIMS as imperfect when the request does not satisfy 26 C.F.R. § 601.702 (1998), for a valid FOIA request.

Due to the reporting time constraints imposed by the RRA 98 on this first audit, we were unable to perform a thorough evaluation of the internal control system used in processing FOIA and PA requests. This will be performed in a future TIGTA audit.

Although we identified the IRS processes for controlling requests for information made under both the FOIA and the PA, during this review, we did not verify whether the processes were working effectively or whether the IRS control system used to select our sample cases contained complete and accurate information. In addition, we did not review the specific information that was provided to individuals to ensure that the IRS provided only responsive, non-exempt information.

*The audit was performed at disclosure offices in the National Office, regions, districts, and service centers.*

The audit was performed in accordance with *Government Auditing Standards* between February and July 1999. We conducted our audit at the National Office of Governmental Liaison and Disclosure; the Midstates Regional Office disclosure office; the Manhattan, North Texas, Ohio, and Pacific-Northwest District disclosure offices; and the Austin, Brookhaven, Cincinnati, and Fresno Service Center disclosure offices.

Details of our audit objective, scope, and methodology are presented in Appendix I. Major contributors to this report are shown in Appendix II.

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## **Background**

*The burden is now on the government to justify its “need for secrecy.”*

The FOIA requires that federal government records be made accessible to the public unless they fall within an exemption specified in the FOIA. Individuals seeking information are no longer required to show a need for the information; instead, the government has to justify its decision to withhold the information. The IRS’ written procedure is to provide the maximum allowable disclosure of agency records upon request by any individual.

The FOIA § 552(b)(7) regulates the release of records or information compiled for law enforcement purposes.

I.R.C. § 6103 permits taxpayers to make written requests for their own tax returns and return information.

The FOIA provides for administrative appeals of adverse determinations. An individual may file an administrative appeal with the IRS if the IRS determines that the records are exempt from public disclosure or that no responsive records exist. In addition, after exhausting administrative remedies, the requester may file a complaint in a United States (U.S.) district court. In such a court case, the burden is on the IRS to justify withholding the requested records or determining that no responsive records exist.

The PA, among other things, establishes controls over the types of information collected by the federal government about individuals and how it can be used. The Act contains a provision that prevents the IRS from relying on any exemption in the PA to withhold from an individual any record, which is otherwise available to such individual under the FOIA. This allows the requester the greatest access to information. There is no provision for administrative appeal of denials for requests made under the PA.

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*In 1997, the Attorney General urged agencies to apply customer service attitudes toward FOIA requesters.*

In May 1997, the Attorney General of the U.S. urged government agencies to adhere to the following principles:

- Apply customer service attitudes toward FOIA requesters.
- Follow the spirit, as well as the letter, of the law when deciding what information to provide.
- Presume that information can be provided whenever it is possible to do so without violating another law.

In order for the request to be considered a “valid” FOIA request, it must meet the criteria defined in the 26 C.F.R. § 601.702 (1998). The criteria require the requester to, among other mandated items: adequately identify himself or herself, make a firm commitment to pay any applicable fees, and reasonably describe the records being requested. Requests not meeting these criteria are considered imperfect and are not processed by the IRS.

The Office of Governmental Liaison and Disclosure is responsible for the Disclosure program. This office ensures the IRS’ compliance with the FOIA, provides oversight and reporting responsibilities for the IRS, provides guidance on procedural and policy matters, and provides FOIA-related training.

Disclosure offices maintain information concerning FOIA, PA and I.R.C. § 6103 requests on the DIMS. However, unlike FOIA and PA requests, which are solely processed by disclosure offices, written requests for information under I.R.C. § 6103 may be processed by either disclosure offices or the IRS function that has jurisdiction over the requested records. I.R.C. § 6103 requests that are processed by other IRS functions are not controlled on the DIMS.

Under the FOIA, the IRS has 20 workdays from the date the FOIA request is received by a disclosure office to either provide the requested information or request

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additional time to process the request. The IRS closes a request for information in one of the following ways:

- **Granted** - all requested information is provided to the requester.
- **Partially denied** - a portion of the requested information is not provided to the requester.
- **Denied** - the requested information is not provided to the requester because the IRS is asserting one or more of the statutory exemptions provided under the FOIA.
- **Imperfect** - the request does not meet all the criteria set forth in the 26 C.F.R. § 601.702 (1998).
- **No Record** - after an adequate search, the IRS determined that no responsive record exists.

IRS records show that in Fiscal Year 1998, the IRS either completely or partially denied information requested under the FOIA for about 3,700 of the nearly 31,000 requests received.

### Results

*The IRS can do more to ensure that requested information is appropriately provided.*

The IRS, in some instances, improperly withheld information when the information should have been completely or partially provided to the requester under the FOIA. We identified this in 12.1 percent of the denied or partially denied FOIA requests and 7.6 percent of the denied or partially denied PA requests. In each of these instances, the IRS incorrectly cited a FOIA exemption as the basis for withholding the information.

Our review of the requests that the IRS considered imperfect concluded that, for the vast majority of them, the IRS correctly determined that the requests were imperfect and informed the requester that additional information was needed to perfect the request.



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We also found that the IRS did not always follow the FOIA and IRS procedural guidelines in processing FOIA and PA requests. As a result, timely and consistent responses were not always provided on fully or partially denied requests.

In addition, we identified opportunities for the IRS to increase customer service to requesters by taking actions which go beyond the IRS' statutory obligations imposed by the FOIA and the PA. For example, a requester may ask for a specific IRS document that the IRS determines is not available. Although the IRS is not required to continue its efforts, it may be able to locate other records and provide the requester with essentially the same information he or she has requested.

We identified an additional 2.4 percent of the requests in our sample of FOIA denials and an additional 19.3 percent of the requests in our sample of PA denials processed under the FOIA in which the IRS may have been able to take additional steps to better meet the requesters' needs. This improved customer service may reduce the number of subsequent requests and administrative appeals that are filed when requesters are denied information.

The IRS should consider the following areas to increase assurances that it is in compliance with the FOIA statute and IRS procedures and to improve the customer service provided to requesters.

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The IRS was not always in compliance with the FOIA and did not process FOIA and PA requests in accordance with IRS guidelines. The IRS needs to improve its processing of requests to reduce the risk of

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incurring costs associated with administrative appeals and civil litigation that could result if the requester is denied information. Table 2 below shows that based on our samples, the IRS improperly withheld information in 12.1 percent of the denied FOIA requests and 7.6 percent of denied PA requests (denied pursuant to a FOIA exemption).

**Table 2  
Samples Results for  
Denied FOIA and PA Requests**

*Individuals are being denied information they are entitled to receive.*

<u>Category and Type of Case</u>	<u>Sample Size of Cases</u>	<u>Cases with Improper Denials</u>	<u>Percentage Improper Denials</u>
FOIA – denied (full/partial) and no record cases	340	41	12.1%
PA – denied (full/partial) and no record cases	171	13	7.6%

**FOIA Requests**

*Based on our sample results, we estimate that the IRS improperly withheld information on between 272 and 437 denied or partially denied FOIA requests.*

Using the error rate in Table 2, with a 90 percent confidence level, we project that the IRS improperly withheld information on 12.1 percent of the 2,932 denied (full or partial) FOIA requests. This equates to an estimate of between 272 and 437 FOIA requests where the IRS improperly withheld information during the sample period (July 22 through December 31, 1998).

There were several reasons why the IRS improperly withheld information on the 41 FOIA cases identified in our sample.

- In 13 instances, the IRS did not consider changes brought about by RRA 98 § 6019(c). The IRS must provide authorized representatives who are representing requesters with the names of individuals who, along with the requester, are assessed the same Trust Fund Recovery penalty.

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This law was enacted on July 22, 1998; however, National Office disclosure employees responsible for complying with the new law were not trained on the law changes until October 1998. Field disclosure office employees were not trained until April 1999. Eight of the 13 instances occurred prior to October 1, 1998.

- In 11 instances, the IRS did not follow specific disclosure procedures. An example of noncompliance with IRS procedures was a request for a copy of a notice and demand for tax. These notices are computer-generated and the IRS does not normally retain a copy. IRS procedures require that the requester be informed that the IRS does not routinely maintain hard copies of these notices but requires that the highlighted transcript be provided to show the requester when the notice was issued to the taxpayer. The IRS responded that there were “no responsive records” and did not provide the highlighted transcript as required by the IRS procedures.

Another example of the IRS not complying with procedures was a request that was part of an active criminal investigation. IRS procedures require such requests to be coordinated between the Criminal Investigation function and the disclosure function to determine what information should be released to the requester. However, in this instance, proper coordination did not occur.

- In six instances, the IRS misinterpreted the FOIA. An example of this condition was a request for the specific law related to non-resident aliens. The Disclosure Officer did not provide the requested law because research indicated that the requester was not a non-resident alien for income tax purposes.
- In nine instances, the IRS incorrectly asserted I.R.C. § 6103 to withhold information from requesters. One example concerns a shareholder in a small business corporation who was not provided

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copies of a portion of the corporation's income tax return. The law allows any shareholder of a small business corporation to receive a copy of the corporation's income tax return.

- In two instances, the IRS did not conduct a proper search for the requested records. One case concerned a request for tax information for the years 1970 through 1995. The IRS did not search for responsive records for the years 1970 through 1982 and did not provide any records relating to these tax years.

### **PA Requests**

*Based on our sample results, we estimate that the IRS improperly withheld information on between 16 and 31 denied or partially denied PA requests.*

Using the error rate in Table 2, with a 90 percent confidence level, we project that the IRS improperly withheld information on 7.6 percent of the 308 denied (full or partial) requests (using the FOIA criteria). This equates to an estimate of between 16 and 31 PA requests where the IRS improperly withheld information during the sample period.

There were several reasons why the IRS improperly denied the 13 PA cases identified in our sample.

- In five instances, the IRS did not conduct a proper search for responsive records. One of the cases involved a request for an Examination file that was not in the files because it was assigned to another IRS employee. There was no indication in the PA case file that the Examination group was contacted to obtain the requested documents.
- In three instances, the IRS did not follow specific disclosure procedures. Two of these requesters asked the IRS for a copy of a payment notice. Normally, the IRS does not retain these notices. IRS procedures state that the requester should be informed that the IRS does not routinely maintain hard copies of these notices but that the IRS should provide the accompanying tax account transcript that shows when the notice was issued. The IRS did not

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provide the highlighted transcript as required, and instead, responded that there were “no responsive records.”

- In three instances, assessment documents were being improperly withheld because the Disclosure Officer stated these documents were not provided under the PA. The records could have been provided using the PA provision that an agency cannot withhold information under the PA that is available to the individual under the provisions of the FOIA.
- In two instances, third-party contacts were improperly withheld citing I.R.C. § 6103 exemption authority. The IRS informed the requesters that it could not provide the information.

### **Imperfect Requests**

Our analysis of the 337 requests that the IRS considered imperfect (as described in Table 1) identified only 3 cases, or 0.9 percent, where the IRS should have processed the requests and provided the information because the requests were in fact wholly or partially perfected pursuant to the 26 C.F.R. § 601.702 (1998).

### **Recommendation**

We recommend that the Office of Governmental Liaison and Disclosure:

1. Improve its case management practices and oversight to ensure compliance with the provisions of the FOIA, the PA, and the IRS’ own guidelines and policy when reviewing FOIA and PA requests that are denied. The primary focus of these practices should be to reduce the number of requests where information is improperly withheld.

Management’s Response: Management’s formal response to the draft report was not available at the date this report was released.

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**The Internal Revenue Service Did Not  
Consistently Follow the Freedom of Information  
Act Statute and Internal Revenue Service  
Procedures When Processing Written Requests  
for Information**

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The IRS did not always ensure that the FOIA and IRS disclosure procedures were appropriately and consistently followed by disclosure offices. We found that the IRS did not always respond timely to requesters who were being denied information. In addition, the IRS inconsistently researched and responded to requests for similar types of information, which resulted in different responses to requesters depending on which IRS office had jurisdiction over the request.

**The IRS did not ensure that denied requesters  
received timely responses**

*Untimely responses often  
contained periods of case  
inactivity.*

Our analysis of cases from the three statistical samples showed that a substantial number of the requests were not processed timely. By statute, FOIA requests should be processed within 20 workdays and PA requests should be processed within 30 workdays from the date received by the disclosure office working the request. Accordingly, the IRS should respond on imperfect cases within the 20 workdays or 30 workdays, depending on whether the request is a FOIA or PA request.

Table 3 shows the results of our three samples regarding untimely cases. We used the appropriate timeliness standard for our sample of imperfect requests, depending on whether the request was made under the FOIA or the PA.

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**Table 3  
Untimely Cases**

*Untimely responses ranged from 31 percent to 47 percent of the cases included in our 3 samples.*

<u>Case Type</u>	<u>Sample Size</u>	<u>Untimely Cases</u>	<u>Percent Untimely</u>	<u>Average Days Untimely</u>
FOIA	340	160	47.1%	115.7
PA	171	53	31.0%	165.2
Imperfect	337	110	32.6%	133.5

In the event that a FOIA request cannot be processed within the required time frames, IRS procedures require caseworkers to send a letter to the requester to request a voluntary extension of time. For complex requests, the IRS should provide requesters with an opportunity to either revise their requests or arrange alternative time frames for processing the requests. Our analysis of the FOIA cases that were untimely showed the following:

- In 48 cases, an extension of time to respond to the request was not obtained at all. It took an average of 95 days to respond to these requests for information.
- In 24 cases, an extension of time to respond to the request was not obtained timely.

In 88 cases, an extension letter was sent to the requester, but the letter did not provide the requester with an opportunity to either limit the scope of the request or arrange an alternative time frame for processing the request.

We further analyzed the untimely cases and determined that there were long periods of inactivity during case processing, which contributed to the IRS' untimely responses. Table 4 shows the number of cases in each of our three samples where there was at least one 30-day period where no case activity took place. The percent of cases with inactivity ranged from about 22 percent to 29 percent for the 3 samples. In addition, there was no explanation in the case files for the periods of inactivity.

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**Table 4  
Periods of Inactivity**

<u>Case Type</u>	<u>Cases with Inactivity</u>	<u>Percent of Cases with Inactivity</u>	<u>Inactive Periods ≥30 Days</u>	<u>Average Length of Inactivity</u>
FOIA	80	23.5%	109	89
PA	37	21.6%	51	115
Imperfect	97	28.8%	108	124

**The IRS is inconsistent in the amount of research it performs and does not ensure that consistent responses are provided on similar requests**

The Treasury Regulations regarding FOIA require individuals to submit requests for information to the disclosure office maintaining those records. The requester has the responsibility to determine which IRS office would have the information sought by the requester. This is required because the IRS processes FOIA requests at the offices that have jurisdiction over the requested records, which is not necessarily the office where the request was received. If the IRS receives a FOIA request in a district disclosure office and determines through research that the records are maintained in another IRS office, IRS procedures state that the request should be transferred to the disclosure office that has jurisdiction over the records.

For purposes of the PA, the IRS provides the public with a general description of its system of records and the IRS offices that maintain these records. IRS procedures do not allow for the transfer of PA requests. Instead, PA requesters are notified that they will have to submit their requests to the office that has jurisdiction over the records. This process of determining the proper office to submit a request or transferring requests after they are received could result in increased taxpayer burden.



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*Consistent handling of disclosure cases can improve customer service and possibly reduce the IRS' workload.*

Disclosure offices are not uniform in researching available information prior to transferring the request to another disclosure office. Our review of FOIA and PA requests identified many examples where the receiving disclosure office could have taken additional actions to locate the requested records and transfer the requests. Under IRS procedures, the Disclosure office receiving the request determines whether the requester has sent the request to the correct office (the one that maintains the records). We observed the following processing methods that were used by the disclosure offices we visited:

- Some disclosure offices process all requests, regardless of the location of the records.
- Some disclosure offices transfer the request to the office that should have the requested records.
- Some disclosure offices respond to requesters stating that their office cannot process the request because they “do not maintain centralized records” and advise the requester to submit the request to another IRS office or they simply state that there are no responsive records.

In addition to the inconsistencies that exist in the processing of requests, the IRS does not have standardized responses to identical or similar requests for information made under the FOIA and the PA. The establishment of standard responses to requests for various types of information should improve the accuracy and consistency of the IRS responses.

*Two requesters representing numerous individuals accounted for 65.5 percent of the PA requests in our sample.*

We determined that 65.5 percent (112 of 171 requests) of the PA requests in our sample were from 2 requesters who represented numerous individuals. The requesters used pattern letters with similar wording to request information for the various situations that these individuals encountered with the IRS.

*Special coordination is needed to avoid inconsistent responses to requesters.*

Our analysis of the handling of these cases identified instances where identical requests or nearly identical requests were submitted to several IRS offices but were

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closed or handled differently by each of the disclosure offices.

For example, in one situation involving five form letters requesting the same list of records for different individuals, two Disclosure Officers stated that the requests should be sent to another IRS office that had jurisdiction over the records, but two other Disclosure Officers provided additional customer service and transferred the requests to the appropriate IRS offices. Of the three disclosure offices that worked the requests, one stated that one item on the request was too broad and needed to be better described, but two others provided portions of the case file in response to that same item. On another item in the request, one Disclosure Officer did not address the item, but two others granted the requested item.

In another example involving 16 form letters requesting the same type of Examination records for different individuals, 3 Disclosure Officers obtained some of the responsive records but did not provide them; instead, they stated that the requests needed to be sent to other offices who had jurisdiction over the cases or they did not comment about the related documents obtained. Also, although the request listed the Examination Administrative File as one of the systems of records to be searched, in two of the requests, the Disclosure Officer provided the case file, while in five others the case file was not provided. The remaining cases were handled consistently.

Inconsistent responses to requesters of information put the IRS at risk of increased administrative appeals, civil litigation, and the unnecessary costs related to these activities.

IRS procedures state that individual offices receiving identical requests for information from the same individual should coordinate their responses. However, the ability to identify similar requests from the same individual is limited because the current disclosure inventory control system, the DIMS, does not have the

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*Disclosure employees do not have nationwide access to the DIMS, which inhibits their ability to determine whether similar requests from the same requester are being worked in another IRS office.*

capability to identify and coordinate responses to duplicate cases on a nationwide basis.

Although the DIMS is a national inventory of disclosure cases, the system operates largely as a series of local (i.e., district and regional offices) systems. Requests for information that are received in a district or regional disclosure office are entered onto the DIMS system for that district or region. However, disclosure employees cannot research the requests for information received by another district or regional office because they do not have access to the DIMS for other district or regional offices.

As a result, a disclosure employee may not know that the requester has submitted identical or similar requests to other disclosure offices. This limits coordination on open cases between disclosure offices and does not ensure that consistent or consolidated responses are sent to the requester.

Disclosure management indicated that enhancements planned for the current inventory control system will provide more consistent responses. However, due to time constraints, we did not perform any evaluation of the planned enhancements.

### **Recommendations**

We recommend that the Office of Governmental Liaison and Disclosure:

2. Establish controls to minimize extended periods of inactivity while processing requests for information.
3. Modify procedures to allow the transfer of PA cases to the office that has jurisdiction over the requested records.
4. Improve controls to ensure appropriate research is performed to determine whether the requested records can be provided by the office receiving the request or transferred to the office maintaining the records.

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5. Ensure the planned enhancements to the DIMS include providing system users with instant access to nationwide disclosure information. This should enable the IRS to identify similar requests from the same taxpayer and to coordinate the responses.

Management's Response: Management's formal response to the draft report was not available at the date this report was released.

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### **The Internal Revenue Service Can Improve Its Customer Service to Requesters When Processing Freedom of Information Act Requests**

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*Some IRS procedures and guidelines inhibit its ability to provide high-quality customer service to requesters of information.*

Our limited survey of the processes used in 10 disclosure offices, in conjunction with our analysis of case actions from our samples of denied FOIA and PA requests, showed that there are several opportunities for the IRS to improve its customer service to requesters of information.

Specifically, the IRS has not established business practices to ensure that the highest quality of customer service is provided to requesters of information. By adopting these customer-oriented practices and taking additional actions beyond what is required by the law or existing IRS procedures, the IRS can improve its public image and reduce the risk of unnecessary appeals and the costs associated with these appeals.

#### **The IRS treats requesters differently**

*The IRS could improve customer service to FOIA and PA requesters by expanding procedures to have disclosure employees provide requested information from similar files or sources.*

In our samples of denied or partially denied FOIA or PA requests, we identified some cases where the specific document requested was not available, but the IRS could have provided information from similar files or sources, which would increase assurances that the information requested is received.

Disclosure management stated that there could be several reasons for this, including the fact that they have

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a decentralized operation that could result in different disclosure offices working requests differently. In addition, some disclosure offices have learned over a period of time that certain knowledgeable requesters want only what they ask for in their request, not similar documents. For example, if a knowledgeable requester, such as an attorney or Certified Public Accountant, specifies information from a specific document or computer file, the IRS may sometimes release only that specific document or computer file with the response.

However, when the request is received from a less knowledgeable requester who more broadly describes the information needed, the IRS will interpret the request and provide the documentation it believes will best respond to the request, including providing information from similar files or documents. This could result in the second type of request receiving more information than the first. The IRS should consider expanding its procedures to communicate with the requester to offer similar information when the source specified in the request either does not exist or is not readily available.

Table 5 below shows that for 2.4 percent of the requests in our sample of the FOIA denials and an additional 19.3 percent of the requests in our sample of the PA denials, the IRS could take additional steps to improve customer service.

**Table 5  
Cases With Potential for Improved Customer Service**

<u>Type of Case</u>	<u>Sample Size</u>	<u>Cases With Potential for Improved Customer Service</u>	<u>Percentage of Cases With Potential for Improved Customer Service</u>
FOIA	340	8	2.4%
PA	171	33	19.3%

*Improved customer service could have provided the requester additional information.*

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**FOIA Requests**

Our review of a statistical sample (with a 90 percent confidence level) of IRS actions on FOIA requests that were denied (full or partial) showed that additional information could have been provided on 2.4 percent of the 2,932 denied requests. As a result, we estimate that between 32 and 109 FOIA requests submitted during the sample period were ones for which the IRS could have provided additional customer service to the requesters.

In the eight sampled FOIA requests where the IRS could have provided additional information, we found the following examples:

- One request specifically stated, “send my Individual Masterfile (IMF) Specific” for Tax Years 1981 through 1983. The IMF is a nationwide central database of tax accounts for individuals. In this instance, transcripts for the requested tax years were not available on the IMF because the IRS routinely moves old data from the IMF to a retention register. The IRS did not send the information because the data were on the retention register and not on the IMF, which was the system specified in the FOIA request. However, this is not consistent with the IRS’ policy of maximizing customer service.
- One request for information on collection activity from a district office. Research from the IRS system that maintains taxpayer account information showed that while no collection activity had taken place in the district, information on service center collection activity was available to the district and could have been provided.
- One request for information on collection activity for specific tax periods. Research from the IRS system that maintains taxpayer account information showed that there was collection activity on the requester’s account and information could have been provided.

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*Although the IRS was not required by law or its own procedures to provide the information, we identified cases where the IRS could have provided additional information by applying customer service principles.*

### PA Requests

Our review of a statistical sample (with a 90 percent confidence level) of IRS actions on PA requests that were denied (full or partial) showed that additional information could have been provided on 19.3 percent of the 308 denied requests if the IRS had taken actions beyond what was required by law or its own procedures. As a result, we estimate that between 49 and 70 PA requests submitted during the sample period were ones for which the IRS could have provided additional customer service to the taxpayers.

In our analysis of the 33 sampled PA requests where the IRS could have provided nearly identical information from sources other than those specified in the request, we found the following characteristics:

- Thirty of the requests were submitted by two preparers who the IRS characterized as "...utilizing the PA as a means of arguing tax determinations for their clients." As such, it asserts the requests submitted by these individuals are in many instances "pseudo-requests." The disclosure procedures describe a "pseudo-request" as generally being correspondence that cannot be processed by locating, analyzing, and releasing existing records, or ones that in reality do not conform to the intended purposes of the FOIA. However, in each of these cases, information that was nearly identical to the requested record existed and could have been provided. These requesters are entitled to the same level of service provided to other requesters.
- Seventeen of these cases concerned requests for taxpayer-signed documents supporting a notice of deficiency. A notice of deficiency is issued to those taxpayers who do not file tax returns and pay taxes. In these cases, the taxpayers did not file the requested signed tax returns and, as a result, IRS personnel identified related documents that supported the subject notice. The related documents

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were not provided and the requesters were informed that no responsive records existed.

- Twelve of these cases involved requests for a variety of information that the IRS could have provided but did not. The IRS did not provide the requested information because the requests included an incorrect reference regarding how the IRS documents were prepared.
- Four of these cases dealt with requests for computer-generated account transcripts where the requesters were informed the document did not exist. However, the IRS could have provided a similar document that contained nearly identical information representing the transaction.

### **The IRS' disclosure organizational structure does not always ensure consistent customer service**

*Organizational structure and control of the disclosure function affects the level of service to requesters.*

Disclosure management from the various IRS field offices, with minimal direction and oversight from the National Office, are responsible for providing timely, consistent, and high-quality responses to FOIA and PA requesters. The local executives determine the type and priority of work to be performed and the staffing devoted to the disclosure program. Disclosure management advised that this has resulted in different priorities and resources for working FOIA and PA requests. As a result, variations exist in the customer service provided to requesters of FOIA and PA information.

### **The Office of Governmental Liaison and Disclosure did not always ensure that all available information was researched when working cases**

We identified several instances where the Office of Governmental Liaison and Disclosure could have taken additional actions to locate requested records and/or transfer the requests. Instead, it informed the requester that no responsive records were available or they would have to submit a request to another disclosure office.



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In most of these instances, the Office of Governmental Liaison and Disclosure could have provided better customer service by performing research on the IRS computer system capable of retrieving or updating stored taxpayer account information. Disclosure management told us that the National Office does not have access to this information for FOIA requests because they are concerned that the system could be misused by disclosure employees.

As a result, when requests requiring tax account research are received in this office, the IRS responds that no responsive records are available, even though the requested information could easily be researched and provided to the requester. Although the potential for misuse of tax account information is present, the risk could be minimized by appropriate system and user controls.

### **The IRS does not have standards for documenting case actions on denied requests**

*Insufficient case documentation can hamper the ability of the IRS to defend its decisions on denying FOIA requests.*

The IRS does not have minimum standards for documenting FOIA and PA case actions taken by disclosure employees. As a result, case files were not always sufficiently documented to show the actions taken on the case. Our review of 340 FOIA cases identified 77 cases where actions taken by disclosure employees could be better documented. For example, 53 of the case files did not contain documentation to indicate that the required Appeal Notice was sent to the requester with the “No Responsive Records” letter. Incomplete documentation can hamper the ability of the IRS to defend its decisions to deny FOIA and PA requests.

### **Recommendations**

The following recommendations will assist the IRS in its effort to provide the highest quality of customer service to requesters of information. We recommend that the

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Office of Governmental Liaison and Disclosure take the following actions:

6. Consider expanding procedures to have disclosure employees provide information from similar files or sources when the information is not available in the exact format specified by the requester. In addition, the procedures should provide for communicating with requesters when a specifically requested record does not exist, or is not available, to determine whether the information will meet their needs.
7. Obtain controlled access to the IRS' tax account information in the National Office of Governmental Liaison and Disclosure to research for the availability of the requested records.
8. Modify the disclosure organization structure to enable the National Office to have more national direction and oversight over disclosure offices.
9. Develop and implement minimum standards for documenting case actions.

Management's Response: Management's formal response to the draft report was not available at the date this report was released.

### **Conclusion**

*The IRS needs to ensure that requesters receive the information requested if it is not exempted by the FOIA.*

The IRS needs to improve its processing of FOIA and PA requests to ensure that statutory and procedural requirements are met and that requesters receive the requested information.

In addition, given the IRS' emphasis on quality service, the IRS needs to go beyond its statutory obligations to provide the highest quality of customer service to FOIA and PA requesters.

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**Appendix I**

**Detailed Objective, Scope, and Methodology**

The Internal Revenue Service (IRS) Restructuring and Reform Act of 1998 (RRA 98)<sup>1</sup> § 1102 (d)(3)(A) required the Treasury Inspector General for Tax Administration (TIGTA) to perform an audit of a statistically valid sample of Freedom of Information Act (FOIA) (1988)<sup>2</sup> requests for information that were denied on the basis of the FOIA § 552(b)(7) and Internal Revenue Code<sup>3</sup> § 6103. Due to time constraints, we were unable to perform a thorough evaluation of the internal control system used to process FOIA and Privacy Act of 1974<sup>4</sup> (PA), as amended, requests.

During this review, we identified IRS processes for controlling requests for information made under both the FOIA and the PA, but did not verify whether the processes were working effectively or whether the IRS control system used to select our sample cases contained complete and accurate information. In addition, we did not review the requested information that was actually provided to individuals to determine whether the IRS provided only responsive, non-exempt information.

The overall objective of the audit was to determine whether the IRS properly applied exemptions to deny written requests for information under the FOIA. We conducted the following tests to accomplish the objective.

- I. Conducted walk-throughs of disclosure offices in one regional office, four district offices, four service centers, and the National Office. The walk-throughs identified policies and procedures for controlling FOIA or PA requests, the organizational placement of the Disclosure Officer, the number and type of employees processing FOIA or PA requests, and how requests for information are processed within the offices selected for review. Specifically, we determined:
  - A. The methodology used to categorize and control FOIA and PA requests.
  - B. The methodology used to ensure taxpayer requests are properly researched and timely responded to by the IRS.
  - C. The methodology used to ensure that FOIA and PA disposition actions are appropriate.

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<sup>1</sup> Pub. L. No. 105-206, 112 Stat. 685

<sup>2</sup> 5 U.S.C. § 552 (1994)

<sup>3</sup> 26 U.S.C. § 6103 (1986)

<sup>4</sup> 5 U.S.C. § 552a (1994)

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- II. Determined if the IRS was properly adhering to legal and procedural FOIA and PA requirements. Specifically, we:
  - A. Obtained a computer extract from the Disclosure Information Management System that identified for the period of July 22 to December 31, 1998:
    - 1. All FOIA cases closed with a disposition of denied, partially denied, or no responsive records.
    - 2. All PA cases closed with a disposition of denied, partially denied, or no responsive records.
    - 3. All FOIA and PA cases closed with a disposition of imperfect.
  - B. Selected three statistical samples from the three databases using a random number generator from Microsoft Excel.
  - C. Reviewed selected cases to determine if the exemptions cited to deny requests for information were appropriate and timely.
  - D. Estimated, for each of the three case reviews performed, the percentage of requests within each population that were inappropriately denied based on the review results.

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**Appendix II**

**Major Contributors to This Report**

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**Appendix III**

**Report Distribution List**

Deputy Commissioner Operations C:DO  
Chief Communications and Liaison CL  
Chief Operations Officer OP  
Assistant Commissioner (Examination) OP:EX  
Director, Office of Program Evaluation and Risk Analysis M:OP  
National Director for Office of Governmental Liaison and Disclosure CP:EX:GLD  
National Director for Legislative Affairs CL:LA  
Office of Management Controls M:CFO:A:M  
Office of the Chief Counsel CC  
Audit Liaison:  
    Senior Adviser, Office of Chief Operations Officer OP

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**Appendix IV**

**Outcome Measures**

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

Recommendation 1 on Page 11: Improve case management practices and oversight to increase compliance with the Freedom of Information Act (FOIA) (1988)<sup>1</sup> and the Privacy Act of 1974 (PA)<sup>2</sup> statutes

We recommend that the Office of Governmental Liaison and Disclosure improve case management practices to increase compliance with the FOIA and the PA statutes, and IRS guidelines and policy when reviewing FOIA and PA requests that are denied or considered imperfect. The primary focus of these practices should be to reduce the number of requests with information that is incorrectly withheld. Our audit identified that the IRS inappropriately denied requested information for 12.1 percent of our sample of 340 denied FOIA requests and 7.6 percent of our sample of 171 denied PA requests. In each of these instances, requesters were entitled to receive either some or all of the information requested.

Type of Outcome Measure:

Taxpayer rights

Value of the Benefit:

This condition is measured by evaluating the percentage of denied FOIA and PA requests that were inappropriately denied. The sample results from this audit estimated that approximately 355 FOIA requests and 23 PA requests had information that was incorrectly withheld. The population included 2,932 denied FOIA requests and 308 denied PA requests that were closed between July 22 and December 31, 1998.

Methodology Used to Measure the Reported Benefit:

The statistical attributes sample was selected from the FOIA and PA requests that were closed on the Disclosure Information Management System (DIMS) as either a no record,

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<sup>1</sup> 5 U.S.C. § 552 (1994)

<sup>2</sup> 5 U.S.C. § 552a (1994)

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full denial or partial denial for the period July 22 to December 31, 1998. The outcome measure values were calculated as follows:

2,932 FOIA Requests X 12.1 percent error rate = 355

308 PA Requests X 7.6 percent error rate = 23

Recommendation 2 on Page 17: Establish controls to minimize extended periods of inactivity while working cases

We recommend that the Office of Governmental Liaison and Disclosure establish controls to minimize extended periods of inactivity while working cases. Our audit identified that 47.1 percent of the sample of 340 denied FOIA requests and 31.0 percent of the sample of 171 denied PA requests were not processed timely. IRS regulations states that FOIA requests should be processed within 20 workdays and the PA states that requests should be processed within 30 workdays from the date received by the IRS.

Type of Outcome Measure:

Taxpayer rights

Value of the Benefit:

This condition is measured by evaluating the percentage of denied FOIA and PA requests that were processed timely. This audit estimated that 1,381 of the denied FOIA requests and 95 of denied PA requests that were not processed timely. The population included 2,932 FOIA requests and 308 PA requests for information that were denied between July 22 and December 31, 1998.

Methodology Used to Measure the Reported Benefit:

The statistical attribute samples were taken from the FOIA and PA requests that were closed on the DIMS as either a no record, full denial or partial denial for the period July 22 to December 31, 1998. The outcome measure values were calculated as follows:

2,932 FOIA Requests X 47.1 percent error rate = 1,381

308 PA Requests X 31 percent error rate = 95

Recommendation 6 on Page 24: Providing information from similar files or sources when information is not available in the exact format specified by the requester

We recommend that the Office of Governmental Liaison and Disclosure consider expanding procedures to have disclosure employees provide information from similar files or sources when the information is not available in the exact format specified by the requester. In addition, the procedures should provide for communicating with the



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requester when a specifically requested record does not exist or is not available to determine whether the information will meet his or her needs. Our audit identified that for 2.4 percent of the 340 sampled denied FOIA requests and for 19.3 percent of the sampled denied PA requests, the IRS could have taken additional steps to better meet the requesters' needs.

Type of Outcome Measure:

Taxpayer burden

Value of the Benefit:

This condition is measured by evaluating the percentage of denied FOIA and PA requests where the IRS could have provided information from sources other than the source specified in the request. The sample results from this audit estimated that the IRS could have improved the service provided for 70 of the denied FOIA requests and for 59 of the denied PA requests by providing similar information from sources other than the source specified in the request. The population included 2,932 FOIA requests and 308 PA requests for information that were denied between July 22 and December 31, 1998.

Methodology Used to Measure the Reported Benefit:

The statistical attributes samples were taken from the FOIA and PA requests that were closed on the DIMS as either a no record, full denial or partial denial for the period July 22 to December 31, 1998. The outcome measure values were calculated as follows:

2,932 FOIA Requests X 2.4 percent error rate = 70

308 PA Requests X 19.3 percent error rate = 59

Recommendation 9 on Page 24: Documenting case actions on denied requests

We recommend that the Office of Governmental Liaison and Disclosure develop and implement minimum standards for documenting case actions. Our review of 340 FOIA cases identified 77 cases where actions taken by disclosure employees could be better documented.

Type of Outcome Measure:

Reliability of Information

Value of the Benefit:

This condition is measured by evaluating the percentage of denied FOIA requests that were not adequately documented to assess the reliability of the case actions taken. The

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outcome measure value for this audit is 664 denied FOIA requests that are not adequately documented.

Methodology Used to Measure the Reported Benefit:

The statistical attribute sample was taken from the FOIA requests that were closed on the DIMS as either a no record, full denial or partial denial for the period July 22 to December 31, 1998. The outcome measure value was calculated as follows:

Sample FOIA Requests Not Documented = 77

Total FOIA Requests Sampled = 340

$77/340 = 22.65$  percent error rate

2,932 FOIA Requests X 22.65 percent error rate = 664

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**Appendix V**

**Statistical Sampling Methodology**

To determine the number of inappropriately denied information requests under the Freedom of Information Act (FOIA)(1988)<sup>1</sup> § 552(b)(7) and Internal Revenue Code (I.R.C.)<sup>2</sup> § 6103 as mandated by the Internal Revenue Service (IRS) Restructuring and Reform Act of 1998 (RRA 98),<sup>3</sup> we took three attribute samples of the requests closed on the Disclosure Inventory Management System (DIMS) between July 22 and December 31, 1998. (July 22, 1998, is the first day of this mandate.) Because the DIMS had not captured the disposition type for the I.R.C. § 6103 cases or specifically identified all of the FOIA § 552(b)(7) cases, the following three attribute random samples were taken:

- The first attribute random sample was taken from the population of 2,932 DIMS FOIA requests that had a fully or partially denied closing code.
- The second attribute random sample was taken from the population of 308 DIMS Privacy Act of 1974 (PA)<sup>4</sup> requests that had a fully or partially denied closing code.
- The third attribute random sample was taken from the population of 2,774 FOIA and PA requests that had an imperfect closing code indicating the request did not meet all of the criteria defined in the Code of Federal Regulations. Imperfect closures represented 20 percent of the requests closed in Fiscal Year 1998 and were sampled to determine the number of inappropriately denied requests closed as imperfect.

Due to time constraints, we did not conduct an evaluation of the internal control system over FOIA or PA requests to ensure the populations were complete. The following table discloses the calculations and results of the three attribute samples. In lieu of a pilot sample, disclosure peer reviews were used to determine our 15 percent expected rate of occurrence. The projected nationwide error rates are based on a 3.0 percent precision level and a 90 percent confidence level, which computes to a 1.645 confidence level factor. The attribute sample size formula is from the *Arkin Handbook of Sampling for Auditing and Accounting*. A spreadsheet random number generator was used to produce the three random samples. We used the following variables:

- n = sample size
- N = population size

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<sup>1</sup> 5 U.S.C. § 552 (1994)

<sup>2</sup> 26 I.R.C. § 6103 (1986)

<sup>3</sup> Pub. L. No. 105-206, 112 Stat. 685

<sup>4</sup> 5 U.S.C. § 552a (1994)

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- SE = desired sample precision
- p = expected rate of occurrence
- t = confidence level factor
- i = number improperly denied in sample,
- SER = sample error rate
- f = n/N is the proportion of the sample size
- LN = low estimated number of improperly denied and
- HN = high estimated number of improperly denied

Formula	FOIA Sample	PA Sample
Attribute Sample Size Formula $n = \frac{p(1-p)}{(\frac{SE}{t})^2 + p(1-p)/N}$	$n = \frac{.15 (1 - .15)}{(\frac{.03}{1.645})^2 + .15(1-.15)/2932}$ equals 339.096 sample size used was 340	$n = \frac{.15 (1 - .15)}{(\frac{.03}{1.645})^2 + .15(1-.15)/308}$ equals 170.6827 sample size used was 171
The number improperly denied in the samples.	41	13
Sample Error Rate Percentage Formula SER = i/n	41/340 = 12.1% error rate	13/171 = 7.6% error rate
The Standard Error Calculation Formula $SE = \sqrt{\frac{p(1-p)(1-f)}{n-1}} * t$	$SE = \sqrt{\frac{.121(1-.121)(1-.116)}{340 - 1}} * 1.65$ SE = .028	$SE = \sqrt{\frac{.076(1-.076)(1-.555)}{171 - 1}} * 1.65$ SE = .022
Using the adjusted precision levels for each of the samples, the low number of the estimate error range Formula LN = (SER - SE)*N	(.121 - .028)*2932 = 272 which is the low number of the estimated range of improperly denied FOIA requests.	(.076 - .022)*308 = 16 which is the low number of the estimated range of improperly denied PA requests.
Using the adjusted precision levels for each of the samples, the high number of the estimate error range Formula HN = (SER + SE)*N	(.121 + .028)*2932 = 437 which is the high number of the estimated range of improperly denied FOIA requests.	(.076 + .022)*308 = 31 which is the high number of the estimated range of improperly denied PA requests.

**Calculation of Sample Size for Imperfect Requests**

$$n = \frac{.15 (1 - .15)}{(\frac{.03}{1.645})^2 + .15(1-.15)/2774}$$

equals 336.412  
sample size used was 337