TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION

Staff Reductions in Support Operations Did Not Result in Significant Increases in Mission Critical Positions

September 28, 2006

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TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20220

September 28, 2006

MEMORANDUM FOR DEPUTY COMMISSIONER FOR OPERATIONS SUPPORT

FROM: Michael R. Phillips
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Staff Reductions in Support Operations Did Not Result in Significant Increases in Mission Critical Positions (Audit # 200510036)

This report presents the results of our review of whether positions identified in the Resource Optimization Study had been reallocated to front-line positions and whether the Internal Revenue Service (IRS) complied with the requirements of the Voluntary Early Retirement Authority (early retirements)[1] and the Voluntary Separation Incentive Payment authority (buyouts)[2] used to release the identified positions.

Impact on the Taxpayer

In 2002, the IRS Commissioner directed senior executives to reduce the number of human resource positions and to consolidate support operations as part of the effort to provide more front-line service and enforcement positions. The IRS reduced its support positions as planned; however, it did not consistently follow the rules and procedures associated with early retirements and buyouts for the support positions. As a result, the IRS may be at risk of not receiving future buyout authority, which could limit its ability to restructure its workforce to meet future priorities of Congress and taxpayers.

[1] 5 U.S.C. Sections (§§) 8336(d)(2) and 8414(b)(1)(B) (2004) and 5 C.F.R. §§ 831.114 and 842.213 (2006).
[2] 5 U.S.C. §§ 3521 through 3525 (2004) and 5 C.F.R. § 576 (2006).

Synopsis

In 2002, the IRS decided to reduce the number of its human resource positions and to consolidate some of its support operations. The IRS determined that 741 Full-Time Equivalents (FTE)[3] could be eliminated from its Headquarters and field offices. Most of this reduction would come from the personnel functions within the newly created Human Capital Office, the Office of Agency-Wide Shared Services, and the Small Business/Self-Employed Division. In 2003, the IRS submitted its plan to implement the Resource Optimization Study recommendations to the Office of Personnel Management (OPM), to obtain approval to offer early retirements and buyouts to employees as an incentive to voluntarily retire or resign. This was just one part of a series of initiatives the IRS intended to use to realign approximately 12,000 positions to front-line tax professional positions over the following 2 years. The OPM approved the IRS' plan, allowing it to offer early retirements and buyouts through 2005. A subsequent request extended the authorities through December 2006.

Through the use of early retirements, buyouts, normal attrition, placements elsewhere, and involuntary separations,[4] the IRS was able to meet its desired reduction of human resource positions. However, the IRS does not track vacated and reassigned individual positions.

In addition, while we did not review the other IRS initiatives involved in the effort to reassign 12,000 positions to the front-line, we determined the number of employees in mission critical positions[5] increased by only 1,216 (from Fiscal Years 2003 to 2005), far short of the goal the IRS documented in its request to the OPM. We did not determine why the IRS did not achieve its goal.

In its plan submitted to the OPM, the IRS cited specific benefits that would be realized if it received authorization to offer early retirements and buyouts. The plan indicated the IRS would save an average of $2,746 per employee. However, the Human Capital Office did not prepare any analysis to determine the total costs of, or any savings associated with, offering the early retirements and buyouts.

After the IRS was granted the early retirement and buyout authorities, it did not formally assign responsibility for overseeing the reorganization to any single office or individual. As a result, no one was responsible for monitoring the Resource Optimization Study to ensure the benefits outlined in the plan to the OPM, such as the realignment of staff to mission critical positions and cost savings, were actually achieved.

[3] A measure of labor hours in which 1 FTE is equal to 8 hours multiplied by the number of compensable days in a particular fiscal year. For FY 2005, 1 FTE was equal to 2,088 hours. For purposes of this report, we are using the terms FTEs, employees, and positions synonymously.
[4] An involuntary separation is any separation against the will and without the consent of the employee, other than for misconduct or delinquency. The most common cause for an involuntary separation is a reduction in force.
[5] The IRS uses the term mission critical occupations to define occupations deemed critical to front-line operations as well as those occupations that provide direct support to front-line operations. Mission critical positions are specific positions within those occupations.

When a Federal Government agency is given the authority to use early retirements and buyouts, certain laws and regulations must be followed. The IRS was not consistent in following those requirements. As a result, buyouts were given to some employees whose positions were not included in the plan approved by the OPM; some additional early retirement and buyout offers were made after employees had already received notices of a final offer; some employees were separated from the IRS after the established off-rolls deadlines; and, while not in conflict with any laws or regulations, buyouts were given for positions in some continuing locations[6] which led to the IRS having to hire new employees to fill those positions.

Recommendations

We recommended the Deputy Commissioner for Operations Support require that the Chief Human Capital Officer monitor and report on the progress of any IRS reorganization initiative, including how effective the IRS has been in achieving any proposed reductions or staffing realignments. In addition, the Chief Human Capital Officer should work with the Chief Financial Officer as well as the affected business and functional units to identify and track all costs incurred and any savings realized. Finally, the Chief Human Capital Officer should establish controls to ensure the business and functional units follow all early retirement and buyout rules and regulations.

Response

The Chief Human Capital Officer agreed with our recommendations and proposed corrective actions to address the problems identified in the report. These actions include the establishment of the Organizational Change Program Office to monitor all reorganization initiatives. The Office will collect data on all IRS initiatives and use the information collected to report on the effectiveness of IRS reorganizations. In addition, the Chief Human Capital Officer will partner with the Chief Financial Officer to monitor FTEs using a financial report created by the Chief Financial Officer and completed by the business unit(s). Lastly, the Chief Human Capital Officer will issue procedures to remind organizations and support functions that employees may separate with a buyout only if they are officially assigned to one of the positions identified on the OPM-approved buyout list and will issue guidance on buyout solicitations with fixed off-rolls dates in accordance with OPM guidance. Management's complete response to the draft report is included as Appendix V.

Copies of this report are also being sent to the IRS managers affected by the report recommendations. Please contact me at (202) 622-6510 if you have questions or Nancy A. Nakamura, Acting Assistant Inspector General for Audit (Headquarters Operations and Exempt Organizations Programs), at (202) 622-8500.

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[6] These are locations not targeted for elimination as part of the Resource Optimization Study.

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Abbreviations

AWSS	Agency-Wide Shared Services
FTE	Full-Time Equivalent
FY	Fiscal Year
GS	General Schedule
IRS	Internal Revenue Service
OPM	Office of Personnel Management
RIF	Reduction in Force
TIMIS	Treasury Integrated Management Information System
VERA	Voluntary Early Retirement Authority
VSIP	Voluntary Separation Incentive Payment

Background

In 2002, the Internal Revenue Service (IRS) Commissioner directed senior executives to reduce the number of human resource positions and to consolidate support operations. The IRS conducted a Resource Optimization Study of human resources support and determined 741 Full-Time Equivalents (FTE)[1] could be eliminated from its Headquarters and field offices. Most of this reduction (698 positions) would come from personnel functions within the newly created Human Capital Office (330 positions), the Office of Agency-Wide Shared Services (AWSS) (313 positions), and the Small Business/Self-Employed Division (55 positions).[2] The restructuring of all the affected offices was scheduled to be completed by October 2005.

In November 2003, the IRS submitted its plan to implement the Resource Optimization Study recommendations to the Office of Personnel Management (OPM). Reductions resulting from implementation of this Study were just one of a series of initiatives[3] the IRS intended to use to realign approximately 12,000 positions to front-line tax professional positions over the following 2 years. In this audit, we reviewed only the Resource Optimization Study initiative. The initial plan allowed the IRS to offer early retirements (Voluntary Early Retirement Authority [VERA][4]) and buyouts (Voluntary Separation Incentive Payments [VSIP][5]) through December 2005. A subsequent request to extend those authorities through December 2006 was also approved.

This review was performed at the IRS National Headquarters in Washington, D.C., in the office of the Chief Human Capital Officer, the Office of AWSS, and the Small Business/Self-Employed Division during the period October 2005 through July 2006. The audit was conducted in accordance with *Government Auditing Standards*. Detailed information on our audit objectives, scope, and methodology is presented in Appendix I. Major contributors to the report are listed in Appendix II.

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[1] A measure of labor hours in which 1 FTE is equal to 8 hours multiplied by the number of compensable days in a particular fiscal year. For Fiscal Year 2005, 1 FTE was equal to 2,088 hours. For purposes of this report, we are using the terms FTEs, employees, and positions synonymously.
[2] The remaining 43 (5.8 percent) of 741 positions were to come from 7 other operational units.
[3] Other major projects for which the IRS had or was requesting Voluntary Early Retirement Authority and Voluntary Separation Incentive Payment authority involved (1) competitive sourcing, (2) submission processing consolidation, (3) reengineering, (4) area distribution centers, and (5) mailrooms.
[4] To retire early under the VERA, an employee must be at least age 50 with 20 years of creditable service or any age with 25 years of creditable service. 5 U.S.C. Sections (§§) 8336(d)(2) and 8414(b)(1)(B) (2004) and 5 C.F.R. §§ 831.114 and 842.213 (2006).
[5] Payments made under the VSIP authority are limited to the lesser of the employee's calculated severance or an amount determined by the agency head not to exceed $25,000. 5 U.S.C. §§ 3521 through 3525 (2004) and 5 C.F.R. § 576 (2006).

Results of Review

Support Positions Were Reduced, but the Human Capital Office Could Not Determine If They Were Realigned As Planned or Anticipated Cost Savings Were Achieved

Staff reductions were achieved

The IRS met its objective of reducing human resource positions as part of the Resource Optimization Study. By the end of October 2005, the Human Capital Office and the affected divisions within the Office of AWSS had reduced their total staffs from 2,424 to 1,727 employees (a decrease of 697) through the use of early retirements, buyouts, normal attrition, placements elsewhere in the IRS, and involuntary separations.[6] The Small Business/Self-Employed Division Communications and Liaison function[7] decreased by 55 positions, bringing the total reductions for these 3 organizations to 752.

As a result of the Resource Optimization Study, personnel activities performed in various units were to be consolidated. In December 2003, the Strategic Human Resources Division was a relatively small organization, with just 270 employees primarily responsible for policy matters. The Office of AWSS, however, had over 4,700 employees and covered many diverse areas such as personnel issues, hiring, procurement, and real estate and facilities management. In February 2004, the Human Capital Office officially replaced the Strategic Human Resources Division and took over some of the personnel activities previously performed by the Office of AWSS. New divisions within the Human Capital Office were established and reporting lines changed. As some of the functions within the Office of AWSS moved to the Human Capital Office, other remaining functions, such as payroll and equal employment opportunity operations, were reduced.

Figure 1 shows the Strategic Human Resources Division and the personnel sections of the Office of AWSS that were to be reduced or consolidated into the new Human Capital Office as of December 2003.

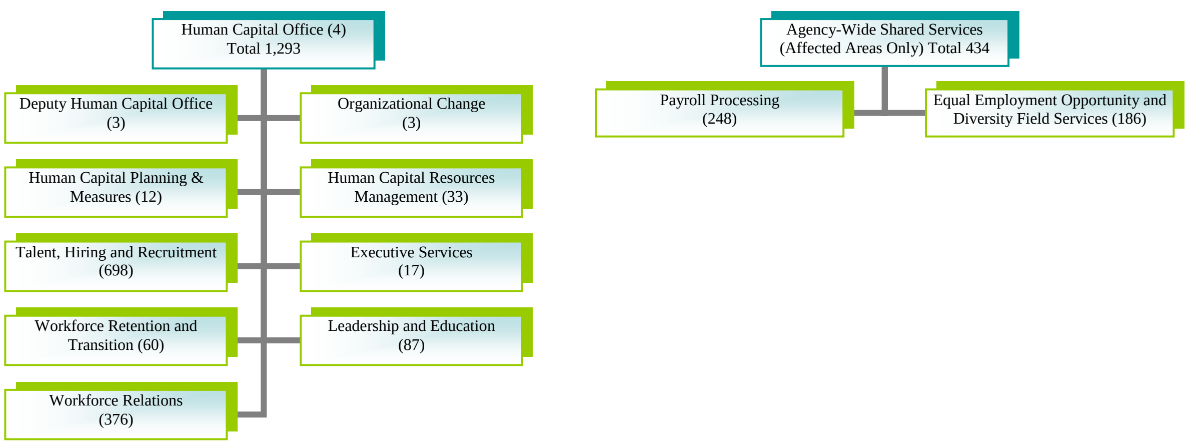
[6] An involuntary separation is any separation against the will and without the consent of the employee, other than for misconduct or delinquency. The most common cause for an involuntary separation is a reduction in force.
[7] This function is now called Communications, Liaison, and Disclosure.

Figure 1: Organizational Structure Before the Resource Optimization Study; Total Staff – 2,424 As of December 2003

Source: IRS Treasury Integrated Management Information System (TIMIS)[8] Reports dated December 27, 2003.

At the end of October 2005, the restructuring based on the Resource Optimization Study had been completed, resulting in the organizational structure shown in Figure 2.

Figure 2: Organizational Structure After Implementation of the Resource Optimization Study; Total Staff – 1,727 As of October 2005



Source: IRS TIMIS Reports dated October 29, 2005.

While the IRS was able to achieve its desired reduction in human resource support positions, it could not tell us how many of those positions had been reinvested into front-line compliance and customer support activities. In addition, it could not tell us what savings were achieved by offering early retirements and buyouts.

[8] The TIMIS is the automated personnel and payroll system for storing and tracking all employee personnel and payroll data.

Actual cost savings of buyouts have not been determined

In its plan to the OPM, the IRS justified its need for early retirement and buyout authorities by citing specific benefits that would be realized. The plan indicated allowing the IRS to use early retirement and buyout authorities would result in an average cost savings of $2,746 per employee, or about $2 million, as it applies to the Resource Optimization Study (741 employees @ $2,746 = $2,034,786). However, the Human Capital Office staff did not prepare any analysis to determine the total costs incurred during the Resource Optimization reorganization process or to determine if the use of the early retirement and buyout authorities resulted in any cost savings.

The Internal Revenue Service-Wide Initiative to Increase Mission Critical Positions by 12,000 Has Not Occurred

While the IRS was able to meet its goal of decreasing human resource positions, the Human Capital Office staff could not demonstrate how much of the savings realized by decreasing support functions were reinvested and resulted in an increase to mission critical positions. After the IRS was granted the early retirement and buyout authorities, it did not formally assign responsibility for overseeing the reorganization to any single office or individual. None of the three units we reviewed tracked the realignment of released positions. While some units tracked expenses, they did not take into account all of the costs associated with offering early retirements and buyouts to employees. As a result, no one had the accountability or responsibility for ensuring the benefits expected from the reorganization, early retirements, and buyout authority were being achieved, and no one was responsible for tracking the reallocation of positions to mission critical positions.

We analyzed IRS records and were able to determine the number of IRS employees in mission critical positions[9] increased by about 2 percent (1,216 employees) between October 2003 and October 2005, while the total number of IRS employees decreased by over 2,000 during the same period. Although the total number of employees in mission critical positions increased overall, staffing actually decreased in some occupations. Figure 3 shows the staff changes that occurred in the affected mission critical positions between October 2003 and October 2005.

[9] The IRS uses the term mission critical occupations to define those occupations it deems critical to front-line operations within the operating divisions as well as those occupations that provide direct support to front-line operations. Mission critical positions are specific positions within those occupations.

Figure 3: Number of IRS Employees in Mission Critical General Schedule (GS) Occupations

Occupation	October 2003	October 2005	Increase/ (Decrease)	Percentage
Economist (GS-110)	174	189	15	8.6%
Revenue Agent (GS-512)	12,206	12,768	562	4.6%
Tax Specialist, Tax Compliance Specialist, Tax Resolution Representative (GS-526/598*)	3,974	3,727	(247)	(6.2%)
Tax Examiner (GS-592)	12,717	12,484	(233)	(1.8%)
Engineer (GS-801, 830, 850, 880, 881, 896)	289	287	(2)	(0.7%)
Appeals Officer (GS-930)	951	853	(98)	(10.3%)
Customer Service Representative (GS-962)	11,439	12,628	1,189	10.4%
Tax Law Specialist (GS-987)	306	281	(25)	(8.2%)
Revenue Officer, Settlement Officer (GS-1169)	5,533	5,654	121	2.2%
Special Agent (GS-1811)	2,797	2,830	33	1.2%
Computer Specialist (GS-2210/334*)	4,970	4,871	(99)	(2%)
Total Mission Critical Occupation Positions	55,356	56,572	1,216	2.2%
Total Number of IRS Employees	94,479	92,341	(2,138)	(2.3%)
Percentage of Mission Critical Positions to Total	59%	61%		

Source: TIMIS reports of employees in pay status as of October 4, 2003, and October 1, 2005, and list of Mission Critical Occupations.

* The second series is currently obsolete but is listed for historical purposes.

The total increase was significantly less than the 12,000 positions that were documented as part of the IRS' justification for requesting early retirement and buyout authorities. The IRS Commissioner had hoped the savings realized from the reduction of support functions, as well as the savings from the other initiatives, would be reinvested in front-line tax professional positions and increase the number of mission critical employees by 12,000.

While we did not determine the reason the IRS did not achieve its goal, senior IRS officials informed us that Congressionally mandated pay raises, along with recent budget constraints, had limited the IRS' ability to hire more personnel. While we did not substantiate or validate that information, the IRS Oversight Board[10] stated in a Fiscal Year (FY) 2005 report,[11] "The IRS needs a realistic budget that recognizes and provides for the anticipated expenses it will incur, such as congressionally-mandated[sic] pay raises, inflation and rent increases. By not fully funding these costs, the IRS will be challenged yet again to make other cuts to pay for them." The Board was concerned the FY 2005 appropriations and the amount of funding that the Administration was requesting for FY 2006 were forcing the IRS to consider cuts in customer

[10] The IRS Oversight Board is a nine-member independent body charged with providing the IRS with long-term guidance and direction.
[11] IRS Oversight Board's March 2005 Special Report: *FY 2006 IRS Budget*.

services such as closing some Taxpayer Assistance Centers[12] and reducing hours assistors are available on the IRS toll-free telephone lines.

For the past 13 years, Congress has mandated pay raises that have exceeded the amounts proposed by the Administration. The IRS' unfunded pay raises alone totaled over $100 million in both FYs 2004 and 2005. In light of these facts, the IRS should be prepared for the possibility of future unfunded mandates. With limited ability to move funds,[13] tight budgets, and unfunded mandates, the IRS' expectation to realign 12,000 positions may have been unrealistic.

Much like any other project, oversight of a major reorganization should be structured and disciplined. The Office of Management and Budget Circular A-123, *Management's Responsibility for Internal Control*, stresses the importance of being able to communicate information to relevant personnel at all levels within an organization and that the information should be relevant, reliable, and timely. We believe the Chief Human Capital Officer should monitor and report on whether a reorganization meets the costs/benefits projected as well as whether goals are met for any reduction in or reallocation of positions. The Chief Human Capital Officer will need to work cooperatively with the Chief Financial Officer and the business and functional units involved but should ultimately be responsible for advising the IRS Commissioner of the overall success or failure of the initiative. In the case of any failure(s), the Chief Human Capital Officer should determine the reasons for any problems encountered and propose reasonable solutions to be employed in any future reorganization.

Recommendation

Recommendation 1: The Deputy Commissioner for Operations Support should require the Chief Human Capital Officer to monitor and report on the progress of any IRS reorganization initiative. The Chief Human Capital Officer should work with the Chief Financial Officer and the affected business and functional units to identify and track all costs incurred and any savings realized. The Chief Human Capital Officer also should report on how effective the IRS has been in achieving any proposed reductions or staffing realignments.

> ***Management's Response:*** IRS management agreed with this recommendation. The Chief Human Capital Officer has established the Organizational Change Program Office to monitor all reorganization initiatives. The Office will collect data on all IRS initiatives and use the information collected to report on the effectiveness of IRS reorganizations. In addition, the Chief Human Capital Officer will partner with the Chief Financial Officer to create a financial report that the business unit(s) will complete. The report will include

[12] Taxpayer Assistance Centers provide face-to-face assistance for taxpayers when they have complex tax issues, need to resolve tax problems relating to their tax accounts, have questions about how the tax law applies to their individual income tax returns, or feel more comfortable talking with someone in person.

[13] The Public Laws that contain the IRS appropriation have, for the last few years, limited the amount of money that can be transferred from one appropriation to another to 3 percent or 5 percent, and any transfer requires advance approval of the Congressional Committees on Appropriations.

initial cost projections, actual costs incurred throughout the initiative, and FTE considerations.

Early Retirement and Buyout Rules and Procedures Were Not Followed Consistently

The plan the IRS submitted to the OPM included most of the information required by the Homeland Security Act of 2002[14] for use of the early retirement and buyout authorities, including the purpose and intent for the use of the authorities. Additionally, the IRS notified the OPM of subsequent plan changes and provided interim reports as required for the initiative. However, we identified some practices that were not compliant with the plan or the laws and regulations governing use of the early retirement and buyout authorities. These deviations put the IRS at risk of having the OPM modify or terminate its current authorities or, at a minimum, being subject to stronger scrutiny on any additional requests for early retirement and buyout authorities. Specifically:

- Forty-two buyouts were given to employees whose positions were not included in the plan approved by the OPM.
- Some additional early retirement and buyout offers were made after employees had already received notices of a final offer.
- Thirty-one employees were separated from the IRS after established off-rolls deadlines.

In addition, we determined some positions for which buyouts were provided were then filled with new employees hired from outside the IRS. While current laws and regulations do not prohibit this type of action, hiring a new employee to fill a position an experienced employee has been paid to vacate is not a sound business practice.

Buyouts were given to employees not identified in the plan submitted to the OPM

Between January 14, 2004, and October 31, 2005, the IRS provided 408 buyouts to IRS employees affected by the Resource Optimization Study. Forty-two (10 percent) of the 408 buyouts, totaling over $1 million, were given to employees in positions that were not identified in the IRS' approved plan.[15] In some cases, buyouts were given to employees occupying job series not identified in the plan; in other cases, buyouts were given to employees who were not in the location(s) and/or the grade(s) specified in the plan. For example, the IRS

[14] Congress expanded the ability of agencies to use the VSIP authority through passage of the Chief Human Capital Officers Act of 2002, which constitutes Title 13 of the Homeland Security Act of 2002 (Pub. L. No. 107-296, § 1313, 116 Stat. 2135, 2291-96 (2002) (codified as amended at 5 U.S.C. §§ 3521-25 [2000])). Title 13 of the Homeland Security Act of 2002 may also be cited as the Chief Human Capital Officers Act of 2002, Pub. L. No. 107-296, tit. 13, 116 Stat. 2135, 2287 (2002).
[15] See Appendix IV.

was trying to decrease the number of employees in its Transactional Processing Centers.[16] The plan to the OPM identified at least six positions found in those Centers, such as Human Resources Specialists (GS-0201), Human Resources Assistants (GS-0203), and Mail and File Clerks (GS-0305). However, buyouts also were provided to seven Civilian Pay Technicians (GS-0544) who worked in the Centers. No Civilian Pay Technician positions were identified in the original plan the IRS submitted to the OPM. An agency may offer only those buyouts consistent with the plan approved by the OPM, and the OPM must be notified of any significant changes to the plan.

The Human Capital Office suggested that the employees not identified in the plan may have been employees in safe positions who had "job swapped"[17] with employees whose positions were to be eliminated. However, the OPM has stated that an agency's plan also must identify safe positions if the employees in those positions may agree to a job swap and be offered buyouts.

Announcements for early retirements and buyouts were issued after the final offer dates

In August 2004, the Office of AWSS sent a notice to its employees that September 3, 2004, was their last opportunity to accept an early retirement and/or buyout. The notice stated, "This will be the only VERA/VSIP [authority] opportunity that will be offered to you so please make your decision with that in mind." However, to achieve the necessary reduction in positions, the Office of AWSS made additional offers in April 2005 and August 2005.

Similarly, the Human Capital Office sent a notice to its employees in January 2005 stating, "This is the last early out/buy out opportunity for you as an HCO [Human Capital Office] employee directly impacted by the Resource Optimization Study. If you are not permanently placed or volunteer for retirement, you will be subject to the RIF [Reduction in Force] separation entitlements, e.g., severance pay. VERA/VSIP [authority] will not be available to you beyond this offering." The employees had until February 1, 2005, to accept the offer. However, in August 2005, the Human Capital Office offered the same employees an additional opportunity to accept early retirement and/or buyouts. This was done to give employees who were previously thought to be in secure positions a final opportunity before they were involuntarily separated from their jobs.

While multiple rounds of early retirement and buyout offers may be needed to achieve desired staffing reductions (and they are permitted by regulation), OPM guidance states that agencies should ". . . ensure that any employee who is potentially interested in separation by VSIP [authority] and/or VERA has the complete and accurate information to make an informed decision."

[16] The Transactional Processing Centers handled processing of employee personnel actions. The function is now called the Payroll Center.

[17] Job swapping allows an employee in a position not identified for elimination the opportunity to leave the IRS and, if eligible, qualify for an early retirement and/or buyout by swapping jobs with an employee in a position that has been identified for elimination.

Based on the notices issued, employees were asked to make major life and career decisions in relatively short time periods. Issuing another offer 7 months to 8 months after the reported final offer gives the appearance that employees were not treated equitably. The employees who took an early retirement or buyout based on the earlier notice may have made substantially different decisions had they had an additional 7 months to 8 months to consider their options, seek other employment, or possibly meet retirement eligibility criteria.

At the time the first "final" offers were made, there were still between 11 months and 16 months remaining before expiration of the IRS' early retirement and buyout authorities. The Human Capital Office and Office of AWSS should have taken into account the possible need to make additional offers to employees, before issuing offers indicating they were final.

In addition, the Human Capital Office incurred additional expenses by offering the last round of buyouts. Employees had already received RIF notices, and, because most of the fiscal year had passed (11 months of the 12 months in FY 2005), there was no apparent compelling need to offer the last round of buyouts. The August 2005 last "final" offer cost the IRS over $328,000 when 14 employees left the IRS.[18]

Some employees separated after the off-rolls deadlines had passed

The memoranda sent to employees extending the early retirement and buyout offers included dates within which employees had to apply for the offers, as well as dates by which the employees had to be off the rolls and separated from the IRS. However, the Human Capital Office and Office of AWSS allowed 24 employees and 7 employees, respectively, to separate after the designated off-rolls dates.

The Human Capital Office and Office of AWSS staffs stated that it was acceptable to retain an employee past a designated separation date if the action was taken on a case-by-case basis and there was a business reason to do so. However, the OPM, responsible for implementing regulations on early retirements and buyouts, has stated that an agency may not retain employees past the designated separation date. Federal Government regulations[19] require that, if an agency establishes a new or revised early retirement period, the agency must announce the new period to the same group of employees as included in the original announcement. The OPM has interpreted the regulations for buyouts to be the same as those for early retirements.

The IRS also advised us it had an agreement with the National Treasury Employees Union to extend the established off-rolls date on a case-by-case basis. However, the provisions of this agreement are contrary to the OPM's interpretation of the regulations, which are considered to be Federal Government-wide regulations. The courts have ruled that when an agency administers a program created by Congress, such as the OPM does for the early retirement and buyout authorities, it can interpret the rules and create the policy of that program.[20]

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[18] See Appendix IV.
[19] 5 C.F.R. §§ 831.114(i) and 842.213(i) (2006).
[20] Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837 (1984).

There is no authority for an agency, on an ad hoc basis, to keep an employee on the rolls beyond the separation date contained in the agency's official communications offering the early retirement and/or buyout options. To do so would allow select employees to separate under different terms than those available to other employees and would result in inequitable treatment. Allowing select employees to remain after the separation date could also provide benefits to those employees, such as additional unused annual leave for which separating employees are paid that might not be available to employees separating within the designated separation period.

Some early retirements and buyouts led to additional hiring

During the restructuring of the Human Capital Office and Office of AWSS, new positions were created, reporting lines changed, responsibilities shifted from one location to another, and work units moved from one organization to another. Because of these changes, we were unable to determine whether any new positions were created inappropriately.

However, for the period January 1, 2004, through September 30, 2005, we reviewed a list of the 508 newly hired employees, promotions, position changes, changes to a lower grade, and reassignments for the areas in the Human Capital Office, Office of AWSS, and Small Business/Self-Employed Division affected by the Resource Optimization Study. Newly hired employees accounted for 44 of those personnel actions; the remaining actions affected existing employees. We compared the 508 position changes to the positions identified for elimination as part of the Resource Optimization Study and determined none of the positions identified for elimination had been inappropriately filled as of September 30, 2005.

Most of the IRS buyouts resulted in positions being eliminated or vacated for another IRS employee to occupy. However, while none of the positions identified for elimination were filled with newly hired employees, we identified five instances in which the IRS' use of buyouts in continuing locations[21] resulted in the need to hire new employees to fill those positions. The cost to buy out the 5 employees was $125,000; the new employees were hired for the same locations, in the same series, at the same grades, and with the same position descriptions as those employees who took a buyout.[22] Paying a current employee up to $25,000 to leave a position that is subsequently filled by a newly hired employee is not a sound business practice.

The IRS offered widespread early retirements and buyouts to enable employees who occupied positions that were not being eliminated under the Resource Optimization Study to take advantage of the incentives, which would allow potentially displaced employees to move into those positions instead of being involuntarily separated. The OPM handbook on offering buyouts[23] states, "Besides providing an incentive for employees in surplus positions to voluntarily retire or resign to avoid potential reduction in force actions, the agency may also

[21] These are locations not targeted for elimination as part of the Resource Optimization Study.
[22] See Appendix IV.
[23] *Restructuring Information Handbook*, Module 10 - Voluntary Separation Incentive Payments, Unit B, Guidance (October 2004 version).

offer VSIP to employees in safe positions that could then be placement opportunities for employees holding surplus positions."

Human Capital Office management informed us the Office had identified two of the five instances mentioned above. As a result, in April 2004, the Human Capital Office instituted a Vacancy Management process that required the Division Director and the Deputy Chief Human Capital Officer to approve any hiring commitment. This process, however, ensured only that there was adequate justification for and a business need to hire new employees. It did not ensure buyouts were given only to those employees in positions (1) that were being eliminated or (2) in which current employees who would otherwise be separated from the IRS could be placed.

Recommendation

Recommendation 2: The Chief Human Capital Officer should establish controls to ensure the business and functional units consistently follow all early retirement and buyout rules and regulations.

> ***Management's Response:*** IRS management agreed with this recommendation. The Chief Human Capital Officer will issue Standard Operating Procedures to remind organizations and support functions that employees may separate with a buyout only if they are officially assigned to one of the positions on the OPM-approved list at the time of separation. In addition, the Chief Human Capital Officer will issue guidance on buyout solicitations with fixed off-rolls dates in accordance with OPM guidance.

Appendix I

Detailed Objectives, Scope, and Methodology

Our overall objectives were to determine whether positions identified in the Resource Optimization Study had been reallocated to front-line positions and whether the IRS complied with the requirements of the VERA and the VSIP authority used to release the identified positions. For some of the steps below, we obtained data generated from the TIMIS.[1] Because of time constraints and because the TIMIS is recognized as a Department of the Treasury system of record, we did not conduct any data validation tests. To accomplish our objectives, we:

I. Determined whether the support positions that were to be eliminated through use of the VERA and VSIP authority were reallocated to front-line service and compliance positions.

   A. Obtained a list of the positions in the Resource Optimization Study that were identified and planned for transfer to front-line service and compliance positions.

   B. Contacted the offices of the Chief Human Capital Officer and the Chief Financial Officer to determine what methods were used to track the transfer or conversion of FTEs[2] to front-line service and compliance positions. We determined whether the positions were transferred.

II. Determined whether the IRS complied with the VERA and VSIP authority approved by the OPM.

   A. Contacted and obtained from the OPM the IRS' authorized agency plan for its intended use of the VERA and VSIP authority and determined whether the plan included all of the information required in the Homeland Security Act of 2002[3] for both authorities.

   B. Contacted the OPM to determine whether the IRS provided notification of any subsequent plan changes and whether it provided the OPM with interim reports.

   C. Obtained a TIMIS list of the 408 employees that accepted a VERA payment and/or a VSIP under the Resource Optimization Study between January 14, 2004, and

[1] The TIMIS is the automated personnel and payroll system for storing and tracking all employee personnel and payroll data.

[2] A measure of labor hours in which 1 FTE is equal to 8 hours multiplied by the number of compensable days in a particular fiscal year. For Fiscal Year 2005, 1 FTE was equal to 2,088 hours. For purposes of this report, we are using the terms FTEs, employees, and positions synonymously.

[3] Congress expanded agencies' ability to use the VSIP authority through passage of the Chief Human Capital Officers Act of 2002, which constitutes Title 13 of the Homeland Security Act of 2002 (Pub. L. No. 107-296, § 1313, 116 Stat. 2135, 2291-96 (2002) (codified as amended at 5 U.S.C. §§ 3521-25 [2000])). Title 13 of the Homeland Security Act of 2002 may also be cited as the Chief Human Capital Officers Act of 2002, Pub. L. No. 107-296, tit. 13, 116 Stat. 2135, 2287 (2002).

October 31, 2005, to determine whether they met the general requirements and were in positions identified in the plan the IRS submitted to the OPM.

D. Determined whether making additional VERA and/or VSIP authority offers after final notices had been given resulted in disparate treatment of employees or unnecessary costs.

III. Determined whether the Human Capital Office, Office of AWSS, or Small Business/ Self-Employed Division inappropriately created new positions, hired to fill vacated positions, or provided employment to outside candidates in functions where the VERA and VSIP authority were offered.

A. Obtained lists from the Human Capital Office, the Office of AWSS, and the Small Business/Self-Employed Division of the actual positions identified for transfer to front-line service and compliance positions and determined the current status of those positions.

B. Determined whether any of the positions that had been identified for elimination were filled by reviewing the 508 new hires, promotions, and position changes for human resource-type positions in the Human Capital Office, Office of AWSS, and Small Business\Self-Employed Division from January 1, 2004, through September 30, 2005.

C. Interviewed management to determine the rationale for filling vacated positions or for creating any new positions in identified areas.

IV. Determined whether the IRS calculated the actual cost savings through use of the VERA and VSIP authority under the Resource Optimization Study.

V. Determined the extent to which the IRS as a whole accomplished the IRS Commissioner's stated goal of increasing front-line tax professional positions by 12,000 during FYs 2004 and 2005.

Appendix II

Major Contributors to This Report

Daniel R. Devlin, Assistant Inspector General for Audit (Headquarters Operations and Exempt Organizations Programs)
Nancy A. Nakamura, Acting Assistant Inspector General for Audit (Headquarters Operations and Exempt Organizations Programs)
Carl L. Aley, Director
Kevin P. Riley, Audit Manager
Susan A. Price, Lead Auditor
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Stephanie K. Foster, Auditor

Appendix III

Report Distribution List

Commissioner C
Office of the Commissioner – Attn: Chief of Staff C
Chief, Agency-Wide Shared Services OS:A
Chief Financial Officer OS:CFO
Chief Human Capital Officer OS:HC
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 Liaisons:

- Chief, Agency-Wide Shared Services OS:A:F
- Chief Financial Officer OS:CFO
- Chief Human Capital Officer OS:HC

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 Congress.

Type and Value of Outcome Measure:

- Reliability of Information – Potential; buyouts were given to 42 employees in positions that were not identified in the IRS' request to the OPM for buyout authority. Those buyouts totaled $1,007,590. The information IRS management provides to the OPM must be accurate so the OPM can make informed decisions when approving buyout authority (see page 7).

36 employees x $25,000	$900,000
6 employees x various amounts under $25,000	$107,590
Total = 42 employees	$1,007,590

Methodology Used to Measure the Reported Benefit:

We obtained from the TIMIS[1] a list of employees who had received buyouts during the time period for which the IRS had intended to use buyout authority as part of the Resource Optimization Study (January 14, 2004, through October 31, 2005). We selected the employees who were in positions covered by the Study and compared those employees by series, grades, and locations to the plan submitted by the IRS to the OPM for buyout authority. A total of 408 employees received buyouts during that period, 42 of which were not specifically identified in the plan.

Type and Value of Outcome Measure:

- Funds Put to Better Use – Potential; buyouts were given to 14 employees who had previously been given an opportunity to take a buyout. At the time of the previous offer, the employees had been informed no additional buyout opportunities would be given. The employees had already received RIF notices and, because most of the fiscal year had passed (11 months of the 12 months in FY 2005), there was no apparent compelling need to offer the last buyouts. The August 2005 last "final" offer cost the IRS $328,559 (see page 7).

14 employees x $25,000 or less = $328,559

[1] The TIMIS is the automated personnel and payroll system for storing and tracking all employee personnel and payroll data.

Methodology Used to Measure the Reported Benefit:

We obtained a TIMIS list of Human Capital Office employees who had taken buyouts during the last 30 days of FY 2005. We compared that with a list provided by the Human Capital Office of employees who had received RIF notices and identified 14 employees who were on both lists.

Type and Value of Outcome Measure:

- Funds Put to Better Use – Potential; 5 employees were given buyouts at a cost to the IRS of $125,000. Then, new employees were hired for the same locations, in the same series, at the same grades, and with the same position descriptions (see page 7).

5 employees x $25,000 =	$125,000
Total	$125,000

Methodology Used to Measure the Reported Benefit:

For the period January 1, 2004, through September 30, 2005, we obtained from the TIMIS a list of newly hired employees, promotions, position changes, changes to a lower grade, and reassignments for the areas in the Human Capital Office, Office of AWSS, and Small Business/Self-Employed Division affected by the Resource Optimization Study. We identified 44 newly hired employees and compared the positions these employees were hired for with a TIMIS list of positions for which employees had received a buyout. We identified five instances in which positions vacated through the use of buyouts were filled by newly hired employees.

Appendix V

Management's Response to the Draft Report

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

RECEIVED
SEP 2 2 2006

CHIEF
HUMAN CAPITAL OFFICER

September 22, 2006

MEMORANDUM FOR Michael R. Phillips
Deputy Inspector General for Audit

FROM: Beverly Ortega Babers
Chief Human Capital Officer

SUBJECT: TIGTA Draft Audit Report – Staff Reductions in Support Operations Did Not Result in Significant Increases in Mission Critical Positions (Audit #200510036)

I appreciate your recognition of our success in reducing human resource positions as part of the Resource Optimization initiative. We have carefully reviewed the report findings and agree with the recommendations. Since the Resource Optimization Study, I have taken several actions to improve our coordination of reorganization initiatives and guidance and oversight of the use of VERA/VSIP.

In April 2004, the Deputy Commissioners approved my recommendation to establish the Organizational Change Program Office (OCP) to facilitate identification, approval, and monitoring of all reorganization initiatives. In October 2005, the OCP instituted a process to collect data on all IRS reorganization initiatives.

In April 2005, I established the Workforce Restructuring and Operations Branch to consolidate IRS's involuntary separation (RIF) activities with its voluntary separation activities (VERA and VSIP). Part of the rationale for establishing this new Branch was to have a single organization to provide policy guidance on VERA/VSIP processes. In March 2006, we issued a new policy, "Use of Direct Buyouts (Voluntary Separation Incentive Payments – VSIP) and Job Swaps," which provides guidance on the use of buyouts and job swaps. Also, Article 19 of the National Agreement (Rev. 12/2005) between the National Treasury Employee's Union and IRS establishes procedures for a reduction in force (RIF) and mitigation strategies. The detailed instructions within these two documents provide that employees separating with a buyout be officially assigned to a position appearing on a VSIP listing approved by OPM at the time of separation. While these actions have already been implemented, others will take longer to fully implement and are described in the attachment.

If you have any questions, please contact me or Annie Brown, Senior Advisor to the Chief Human Capital Officer, at (202) 283-7307.

Attachment

cc: Carl Froehlich

ATTACHMENT

RECOMMENDATION 1

The Deputy Commissioner for Operations Support should require the Chief Human Capital Officer to monitor and report on the progress of any IRS reorganization initiative. The Chief Human Capital Officer should work with the Chief Financial Officer and the affected business and functional units to identify and track all costs incurred and any savings realized. The Chief Human Capital Officer also should report on how effective the IRS has been in achieving any proposed reductions or staffing realignments.

CORRECTIVE ACTIONS

(1) In April 2004, the Deputy Commissioner for Operations Support and the Deputy Commissioner for Services and Enforcement approved the Chief Human Capital Officer's recommendation to establish the Organizational Change Program Office (OCP). The mission of this Office is to facilitate identification, approval, and monitoring of all initiatives. In October 2005, the OCP instituted a process to collect data on all IRS reorganization initiatives. Starting with the "beginning state" and "organizational end state," each month the following information is collected: number of employees who have taken VERA/VSIP; number of employees moved to front-line positions; number of employees moved to other positions in IRS; number of employees who have left the IRS; and number of employees separated as a result of RIF. The OCP will use the information collected to report on the effectiveness of IRS reorganization initiatives. For Resource Optimization, the OCP was only able to collect information from the HCO and AWSS.

(2) In FY 2007, the Chief Human Capital Officer will partner with the Chief Financial Officer to monitor FTE using a financial report created by the CFO and completed by the Business Unit(s). The financial report details initial cost projections, actual costs incurred throughout the initiative, and FTE considerations.

IMPLEMENTATION DATE

(1) Completed October 2005
(2) September 30, 2007

RESPONSIBLE OFFICIAL

(1) Deb Nelson, Director, Organizational Change Program Office, HCO
(2) Deb Nelson, Director, Organizational Change Program Office, HCO
Dolores Padgett, Director, Budget Execution and Reporting, CFO

RECOMMENDATION 2

The Chief Human Capital Officer should establish controls to ensure the business and functional units consistently follow all early retirement and buyout rules and regulations.

CORRECTIVE ACTIONS

(1) The Chief Human Capital Officer will issue Standard Operating Procedures to ensure that each time the Human Capital Office (HCO) notifies an organization that OPM has approved its VERA/VSIP request, the HCO will include a copy of the organization's OPM-approved VSIP listing. This action will remind organizations and all applicable support functions that employees may separate with a buyout only if they are officially assigned to one of the positions on the buyout listing at the time of separation.

(2) The Chief Human Capital Officer will issue guidance on buyout solicitations with fixed off-rolls dates in accordance with OPM guidance.

IMPLEMENTATION DATE

(1) March 15, 2007
(2) May 15, 2007

RESPONSIBLE OFFICIAL

Bonnie Acoveno, Director, Workforce Retention and Transition Division, Human Capital Office