

**The Identification and Reporting of Potential
Fair Debt Collection Practices Act Violations
Can Be Improved**

August 2000

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DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

INSPECTOR GENERAL
for TAX
ADMINISTRATION

August 8, 2000

MEMORANDUM FOR COMMISSIONER ROSSOTTI

A handwritten signature in cursive script that reads "Pamela J. Gardiner".

FROM: Pamela J. Gardiner
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – The Identification and Reporting of Potential Fair Debt Collection Practices Act Violations Can Be Improved

This report presents the results of our review of the identification and reporting of potential Fair Debt Collection Practices Act (FDCPA)¹ violations and whether violations were minimized.

In summary, the process used to identify and report potential fair debt violations can be improved. For example, Collection Division management is not always effectively identifying employee actions as potential violations of the FDCPA when reporting these cases to the Labor Relations function for tracking on the Automated Labor and Employee Relations Tracking System (ALERTS). As a result, data captured on the ALERTS related to potential FDCPA violations might not always be complete and accurate.

We recommended that National Office Collection management provide increased awareness of the FDCPA to better ensure violations can be properly identified and reported. Also, the Labor Relations function should review cases open on the ALERTS to ensure potential FDCPA cases are accurately coded.

¹ 15 U.S.C. §§ 1601 & 1692 (1996).

National Collection and Labor Relations management agreed to our recommendations. Management's comments have been incorporated into the report where appropriate, and the full text of their comments is included as an appendix.

Copies of this report are also being sent to the Internal Revenue Service 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 Fair Debt Collection Practices Act (FDCPA)¹ includes provisions that restrict various collection abuses and harassment in the private sector. These provisions did not apply to the United States (U.S.) Government when the FDCPA was enacted. However, the Internal Revenue Service (IRS) Restructuring and Reform Act of 1998 (RRA 98)² now requires the IRS to comply with certain provisions of the FDCPA and to be at least as considerate to taxpayers as private creditors are required to be with their customers. In addition, taxpayers who believe their FDCPA rights have been violated by the IRS can file a civil action under Civil Damages for Certain Unauthorized Collection Actions³ for damages against the U.S. Government. A Fiscal Year 2000 IRS Collection report shows that over 2.4 million taxpayers were in active collection status as of March 2000. All of these taxpayers have the potential to have their FDCPA rights violated if IRS employees do not comply with the regulations.

The overall objectives of this review were to determine whether potential violations of the FDCPA were effectively identified and reported by IRS personnel and whether violations were minimized. Additionally, we performed this review to provide an assessment of whether the Treasury Inspector General for Tax Administration (TIGTA) can rely upon IRS information systems when providing the Congress with information required by the RRA 98 on any administrative or civil actions due to FDCPA violations.

Results

The process used to identify and report potential FDCPA violations can be improved. Collection Division management is not always identifying employee actions as potential violations of the FDCPA when reporting these cases to the Labor Relations function for tracking on the Automated Labor and Employee Relations Tracking System (ALERTS). As a result, data related to potential FDCPA violations captured on the ALERTS may not always be complete and accurate.

In contrast, we determined that civil action information with a FDCPA code on the Counsel Automated System Environment (CASE) is accurate. There was one suit open on the CASE coded with the new FDCPA code, and we determined that the suit was correctly coded as a potential violation of the FDCPA.

¹ 15 U.S.C. §§ 1601 & 1692 (1996).

² Pub. L. No. 105-206, 112 Stat. 685.

³ 26 U.S.C. § 7433 (1986).

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The Process Used to Identify and Report Potential Fair Debt Violations Can Be Improved

Our interviews with Collection Division managers and employees in three districts indicated that they were aware that certain restricted practices in the FDCPA are prohibited practices for the IRS, but did not always realize that most of these actions were violations of the FDCPA.

To determine whether Labor Relations' ALERTS database contained complete and accurate information related to potential and actual FDCPA violations, we selected Collection and Customer Service Divisions' employee cases opened on the ALERTS after July 22, 1998, and resolved during the period March 19 through September 30, 1999, that had a high probability of containing potential FDCPA violations. Our review of all 249 cases that met our criteria identified 26 potential violations of the FDCPA not coded as FDCPA violations. Instead, the cases were categorized using other violation codes available on the ALERTS. National Office Collection management agreed that these cases involved potential FDCPA violations. None of the 26 cases resulted in administrative actions against IRS employees.

After the RRA 98 became effective, the IRS did not provide specific guidance to Collection Division or Labor Relations employees on the applicable FDCPA regulations or the process for reporting violations. The IRS provided extensive training on the new RRA 98 § 1203 provisions; however, only limited guidance was provided on the FDCPA regulations included in the RRA 98.

On February 23, 2000, National Office Collection management issued procedures requiring Collection Division managers to identify potential violations of the FDCPA and report these allegations to the Labor Relations function by the close of the next business day. These procedures require Collection Division managers to categorize the complaints using the ALERTS FDCPA Issue Codes.

In addition to the cases on the ALERTS with a high probability of having potential FDCPA violations, we reviewed all nine cases coded with FDCPA Issue Codes on the ALERTS during our audit period. We determined that seven of these cases were inaccurately coded because they were not potential FDCPA violations. Six of these seven cases were coded as potential FDCPA violations by the TIGTA Office of Investigations and uploaded to the ALERTS from the Investigations Management Information System (IMIS). Labor Relations personnel incorrectly coded the remaining case with a FDCPA Issue Code after receiving it from the TIGTA Office of Investigations. Procedures for the TIGTA Office of Investigations require senior field management to be familiar with the provisions of the FDCPA to ensure cases are properly coded on the IMIS. Office of Investigations management stated that these provisions would be re-emphasized at the next senior management conference to ensure cases are properly coded in the future.

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If management is not sufficiently aware of the applicable FDCPA provisions, taxpayer complaints of fair debt collection violations will not be properly identified and reported to the Labor Relations function for determination of appropriate administrative action. In addition, IRS employees who do not comply with the regulations could continue to potentially violate taxpayers' rights. If this information is not tracked on the ALERTS as required, IRS management will not know the extent of the offenses.

Civil Action Information Classified As Fair Debt Violations on the Counsel Automated System Environment Is Accurate

We obtained CASE information related to the one suit coded with the new FDCPA code during the period June 11 through September 30, 1999, and determined that the suit was correctly coded as a potential violation of the FDCPA. This suit was still open at the time of our review.

To determine if there were other civil actions involving potential FDCPA violations, we reviewed 24 cases opened after July 22, 1998, that were still open at the time of our review, or were closed during the period February 1 through December 31, 1999. The Department of Justice's Tax Division provided the case information. None of the 24 cases involved potential FDCPA violations.

Summary of Recommendations

National Office Collection management should provide increased awareness of the FDCPA to Collection Division employees to ensure violations can be properly identified and reported. Additionally, Labor Relations personnel should review cases open on the ALERTS involving Collection and Customer Service Divisions' employees to identify potential FDCPA violations and ensure these cases are accurately coded.

Management's Response: National Collection management issued a memorandum on July 5, 2000, to re-emphasize Collection compliance with certain sections of the FDCPA. Additionally, field Labor Relations functions will run a case listing of open Collection and Customer Service employee cases from the ALERTS and distribute to local functional management for their identification of any FDCPA issues previously unreported.

Management's complete response to the draft report is included as Appendix IV.

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Objectives and Scope

Our overall objectives were to determine whether potential violations of the FDCPA were effectively identified and reported by IRS personnel and whether violations were minimized.

The overall objectives of this review were to determine whether potential violations of the Fair Debt Collection Practices Act (FDCPA)¹ were effectively identified and reported by Internal Revenue Service (IRS) personnel and whether violations were minimized.

In our Fiscal Year (FY) 1999 audit of the FDCPA,² the Treasury Inspector General for Tax Administration (TIGTA) determined that IRS management may not always be identifying and reporting potential FDCPA violations. Because of the limited scope of that review, the TIGTA was unable to determine the root cause of the condition. To attempt to identify the extent and cause of the condition, we conducted this FY 2000 review to determine whether potential FDCPA violations were being properly identified and reported nationwide. This review will also enable us to determine if the TIGTA can rely upon IRS information systems when providing the Congress with information required by the IRS Restructuring and Reform Act of 1998 (RRA 98)³ on any administrative or civil actions due to FDCPA violations.

Our audit work was performed in the Collection, Labor Relations, Chief Counsel, and Taxpayer Advocate functions in the National Office. We also interviewed personnel at three district offices (Delaware-Maryland, New England, and South Florida). Our review was conducted during the period October 1999 through April 2000 in accordance with *Government Auditing Standards*.

¹ 15 U.S.C. §§ 1601 & 1692 (1996).

² *The Internal Revenue Service Is Now Tracking Potential Fair Debt Collection Practices Act Violations, But May Not Always Be Properly Reporting Violations*, (Reference No. 2000-10-014, dated December 1999).

³ Pub. L. No. 105-206, 112 Stat. 685.

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To identify potential violations of the FDCPA, we reviewed only those cases recorded on IRS information systems.

To identify potential violations of the FDCPA, we reviewed cases recorded on IRS information systems. On February 23, 2000, National Office Collection management issued procedures requiring Collection Division managers to identify potential violations of the FDCPA and report these allegations to the Labor Relations function by the close of the next business day. Labor Relations personnel are responsible for entering these allegations on the Automated Labor and Employee Relations Tracking System (ALERTS). Prior to this date, IRS procedures allowed managers to sometimes resolve taxpayer complaints of potential FDCPA violations without referring them to the Labor Relations function, if the allegations were unsubstantiated or were resolved with a minor disciplinary action that is not considered an administrative action. Therefore, we cannot ensure that cases recorded on IRS systems at the time of our review encompassed all potential FDCPA violations alleged by taxpayers.

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

Background

The TIGTA must provide the Congress with information on administrative and civil actions resulting from FDCPA violations.

The RRA 98 requires the TIGTA to include in one of its semiannual reports to the Congress information regarding any administrative or civil actions related to FDCPA violations. The semiannual report must provide a summary of such taxpayer actions and include any judgments or awards granted.

The IRS' definition of administrative action includes disciplinary actions ranging from admonishment through removal. Lesser actions, such as oral or written counseling, are not considered administrative actions.

The FDCPA includes provisions that restrict various collection abuses and harassment in the private sector that did not apply to the United States (U.S.) Government at the time the FDCPA was enacted. The

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Congress believes that it is appropriate to require the IRS to comply with applicable portions of the FDCPA and be at least as considerate to taxpayers as private creditors are required to be with their customers.

To ensure equitable treatment among debt collectors in the public and private sector, the RRA 98 now requires the IRS to comply with certain provisions of the FDCPA. Specifically, the IRS may not communicate with taxpayers in connection with the collection of any unpaid tax:

- At unusual or inconvenient times.
- If the IRS knows that the taxpayer has obtained representation from a person authorized to practice before the IRS, and the IRS knows or can easily obtain the representative's name and address.
- At the taxpayer's place of employment if the IRS knows or has reason to know that such communication is prohibited.

Further, the IRS may not harass, oppress, or abuse any person in connection with any tax collection activity or engage in any activity that would naturally lead to harassment, oppression, or abuse. Such conduct specifically includes (but is not limited to) the use or threat of violence or harm, use of obscene or profane language, causing a telephone to ring continuously with harassing intent, and the placement of telephone calls without meaningful disclosure of the caller's identity.

If taxpayers believe the IRS has violated their FDCPA rights, they may file a civil action for damages against the U.S. Government under Civil Damages for Certain Unauthorized Collection Actions.⁴ Taxpayers may file an administrative claim for damages with the IRS District Director in the district where they reside, or file for civil damages in a federal district court.

Taxpayer complaints about IRS employee conduct can be reported to several IRS functions for tracking on

⁴ 26 U.S.C. § 7433 (1986).

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management information systems. If a taxpayer files a civil action or if IRS management determines that the taxpayer's FDCPA rights were potentially violated, the complaint could be referred and tracked on one or both of the following IRS systems:

- Labor Relations' ALERTS database, which generally tracks employee behavior that may warrant IRS management administrative actions (suspension, removal, etc.).
- Office of the Chief Counsel's Counsel Automated System Environment (CASE), which is an inventory control system that tracks items such as taxpayer civil actions or bankruptcies.

A FY 2000 IRS Collection report shows that over 2.4 million taxpayers were in active collection status as of March 2000. All of these taxpayers have the potential to have their FDCPA rights violated if IRS employees do not comply with the regulations.

Results

Collection Division management is not always identifying employee actions as potential violations of the FDCPA when reporting these actions to the Labor Relations function for tracking on the ALERTS.

The process used to identify and report potential fair debt violations can be improved. Collection Division management is not always identifying employee actions as potential violations of the FDCPA when reporting these actions to the Labor Relations function for tracking on the ALERTS. As a result, data related to potential FDCPA violations captured on the ALERTS may not always be complete and accurate.

The IRS did not provide sufficient training to affected employees to fully explain all applicable provisions of the FDCPA. Although our interviews indicated that Collection Division employees were aware of the FDCPA restrictions, they did not always realize most of these actions were violations of the FDCPA. By increasing the awareness of the FDCPA, management may better ensure that these violations are minimized.

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Information coded with a FDCPA code on the Office of the Chief Counsel's CASE database is accurate.

National Office Collection management issued procedures on February 23, 2000, requiring group managers to report potential FDCPA violations to the Labor Relations function. However, further improvements are needed to ensure that management is sufficiently aware of certain FDCPA provisions to identify employee actions as potential FDCPA violations when referring these cases to the Labor Relations function for tracking.

Civil action information on the CASE that has a FDCPA code is accurate. The Office of the Chief Counsel added a category to the CASE in June 1999 to specifically track FDCPA civil actions. We obtained CASE information related to the one suit coded as FDCPA during the period June 11 through September 30, 1999, and determined that the suit is correctly coded as a potential violation of the FDCPA.

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Managers should understand the applicable provisions of the FDCPA to ensure taxpayer complaints of fair debt collection violations are properly identified and appropriately reported.

IRS managers investigate taxpayer complaints against employees and coordinate with the Labor Relations function to determine the appropriate level of disciplinary action. If the misconduct requires an administrative action, managers refer the complaint to the Labor Relations function, which tracks it on the ALERTS.

Collection Division management is not always identifying employee actions as potential violations of the FDCPA when reporting these actions to the Labor Relations function for tracking on the ALERTS. Managers should understand the applicable provisions of the FDCPA to ensure taxpayer complaints of fair debt collection violations are properly identified and appropriately reported. Our interviews with Collection Division managers and employees in three districts indicated that they were aware that certain provisions of

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We reviewed 249 cases from the ALERTS to determine if the database accurately reflects the occurrences of potential FDCPA violations.

the FDCPA are prohibited, but did not always realize these actions were violations of the FDCPA.

ALERTS cases with a high probability of containing a FDCPA violation

To determine whether the Labor Relations' ALERTS database contained complete and accurate FDCPA violation information, we selected Collection and Customer Service Divisions' employee cases from the ALERTS. These cases were opened after July 22, 1998, and resolved during the period March 19 through September 30, 1999, with Issue Codes having a high probability of containing potential FDCPA violations. We reviewed cases in the following categories:

- Unacceptable Performance.
- Misuse of Position or Authority-Not RRA 98 § 1203.
- Fighting, Assaults, and Threats.
- Taxpayer Charge or Complaint-Not RRA 98 § 1203.
- Unprofessional Conduct.
- Sexual Harassment.
- Rude or Discourteous Conduct.
- RRA 98 § 1203 Violation-Retaliatio n or Harassment.

Our review of all 249 cases that met our criteria identified 26 (10 percent) potential violations of the FDCPA not coded with a FDCPA Issue Code. Instead, the cases were categorized using other violation codes available on the ALERTS. We identified an internal procedure restricting use of the FDCPA codes until September 28, 1999, which may have been the reason that 23 of the 26 cases were not properly coded as potential FDCPA violations. National Office Collection management agreed that these cases involved potential FDCPA violations. However, none of the 26 cases resulted in administrative actions against IRS employees.

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The IRS did not provide detailed guidance on the provisions of the FDCPA.

The internal procedure restricted the use of the FDCPA Issue Codes to only some of the cases requiring administrative action. These codes were added on March 3, 1999, during our FY 1999 audit of the FDCPA.⁵ The FDCPA Issue Codes originally could be used only for cases referred to the Labor Relations function by the TIGTA Office of Investigations. The Issue Codes could not be used for any other case categories. On September 28, 1999, an ALERTS Incident Report was implemented, allowing the use of the FDCPA Issue Codes for any cases involving potential FDCPA violations. We verified with the ALERTS computer specialist that this new category has been used to code potential FDCPA violation cases input to the ALERTS after September 28, 1999.

In addition to the restrictive internal procedure, we determined that while the IRS provided extensive training on the RRA 98 § 1203 provisions, it provided only limited guidance on the applicable FDCPA regulations and reporting process for violations. Of the 26 cases not accurately coded as potential FDCPA violations, 22 were recorded on the ALERTS as potential RRA 98 § 1203 harassment violations. These cases could also have been coded as potential FDCPA harassment violations because the conduct occurred during the collection of taxes.

Our interviews in three districts indicated that local management referred taxpayer complaints requiring administrative actions to the Labor Relations function through a memorandum from their Division management, but they did not categorize complaints as FDCPA violations. Labor Relations personnel had to determine the appropriate Issue Code(s) for tracking on the ALERTS based upon their interpretation of the information provided by IRS management.

⁵ *The Internal Revenue Service Is Now Tracking Potential Fair Debt Collection Practices Act Violations, But May Not Always Be Properly Reporting Violations*, (Reference No. 2000-10-014, dated December 1999).

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National Office Collection management issued procedures for identifying and reporting FDCPA violations on February 23, 2000.

In response to our FY 1999 audit report on the FDCPA, National Office Collection management issued procedures on February 23, 2000, requiring Collection Division managers to identify potential violations of the FDCPA and report these allegations to the Labor Relations function by the close of the next business day. These procedures require managers to categorize the complaint using the FDCPA Issue Codes from the ALERTS. However, these procedures do not provide a detailed explanation of the applicable FDCPA provisions.

ALERTS cases coded as FDCPA violations

We also reviewed all 9 cases coded with FDCPA Issue Codes on the ALERTS during our audit period and determined that 7 (78 percent) of these cases were inaccurately coded as potential FDCPA violations. Six of these seven cases were coded as potential FDCPA violations by the TIGTA Office of Investigations and uploaded to the ALERTS from the Investigations Management Information System (IMIS). Labor Relations personnel incorrectly coded the remaining case with a FDCPA Issue Code after receiving it from the TIGTA Office of Investigations. The TIGTA determined that three of these cases involved potential violations of RRA 98 § 1203.

Procedures for the TIGTA Office of Investigations require senior field management to be familiar with certain provisions of the FDCPA to ensure cases are properly coded on the IMIS. Office of Investigations management stated that these provisions would be re-emphasized at the next senior management conference to ensure cases are properly coded in the future.

Analysis of Customer Feedback System cases

Taxpayer complaints can also be tracked on the Customer Feedback System (CFS) in the Office of the National Taxpayer Advocate. Taxpayer feedback (both compliments and complaints) is documented by IRS management on a Customer Feedback Record

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(Form 10004) and forwarded to the local Taxpayer Advocate's office for input to the CFS. Although the feedback is coded by type of employee action (such as Excessive Aggressiveness or Unprofessional Language), there is no specific code for potential FDCPA violations on the CFS. If the complaint requires an administrative action, the originating manager should also refer the case to the Labor Relations function for input to the ALERTS.

We identified 10 cases as potential FDCPA violations from our review of CFS cases.

Our review of 128 Collection Division CFS cases, from 4 districts and all 111 Automated Collection System function CFS cases nationally that were opened during the period July 22, 1998, through September 30, 1999, identified 10 cases as potential FDCPA violations. National Office Collection management agreed that these cases involved potential FDCPA violations. However, because none of these 10 cases resulted in an administrative action, Collection Division management was not required to refer the complaints to the Labor Relations function. Two of the 10 cases also involved potential RRA 98 § 1203 violations and were properly referred to the TIGTA Office of Investigations. The Office of Investigations closed these cases with no referral to IRS management for further action.

Analysis of IMIS cases

The TIGTA Office of Investigations enters some complaints into the IMIS with violation codes that provide a brief description of the alleged inappropriate employee behavior. After enactment of the RRA 98, the TIGTA Office of Investigations created new fair debt collection violation codes on the IMIS. When TIGTA closes a conduct case, those conduct cases which may result in administrative action by IRS management are extracted weekly from the IMIS to Labor Relations for input to the ALERTS.

We reviewed all 21 cases coded with a fair debt violation code on the IMIS that were closed during our review period and that met the criteria for extraction to the ALERTS. Three of the 21 cases (14 percent) were not extracted from the IMIS to the ALERTS due to a

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timing issue. This could cause incomplete information on the ALERTS if these cases are not subsequently identified by Labor Relations personnel and manually input to the system. The TIGTA Office of Investigations recently made programming changes to include these types of cases in future extracts.

We also followed up on the seven FDCPA cases identified during our FY 1999 audit that were still open on the IMIS. Because these cases were still open, the TIGTA could not determine if they should have been input to the ALERTS.

The TIGTA Office of Investigations had closed six of the seven cases as of November 1, 1999. Of these six cases, four were referred to IRS management for further action. The four cases were input to the ALERTS for tracking. The remaining two cases were closed by the TIGTA Office of Investigations without a referral being made to management. As a result, these two cases did not require the Labor Relations function to input them to the ALERTS.

Need for improved awareness of the FDCPA

By increasing awareness of the FDCPA, management may better ensure violations of the applicable FDCPA provisions are minimized. If management is not sufficiently aware of applicable FDCPA provisions, taxpayer complaints of fair debt collection violations will not be properly identified and reported to the Labor Relations function for determination of appropriate action. In addition, IRS employees who do not comply with the regulations could continue to violate taxpayers' rights. If this information is not tracked on the ALERTS as required, IRS management will not know the extent of the offenses. Further, information on administrative actions resulting from FDCPA violations reported to the Congress might not always be complete and accurate.

Recommendations

1. National Office Collection management should supplement the procedures issued on

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February 23, 2000, by providing an explanation of the applicable provisions of the FDCPA. This will better enable managers to accurately categorize potential FDCPA violations when reporting these complaints to the Labor Relations function and better ensure violations are minimized.

Management's Response: On July 5, 2000, the Acting Director of Collection Field Operations issued a memorandum to re-emphasize Collection compliance with certain sections of the FDCPA. The memorandum referred to the relevant Internal Revenue Manual sections for revenue officers and group managers. It listed what the violations are and the consequences to employees who are found to have violated a taxpayer's FDCPA rights.

2. Labor Relations management should review open Collection and Customer Service Divisions' employee cases entered on the ALERTS after July 22, 1998, to identify potential FDCPA violations and ensure these cases are accurately coded.

Management's Response: Field Labor Relations functions will run a case listing for open Collection and Customer Service employee cases for the period July 22, 1998, to the present. The open case listing will be forwarded to local functional management for their identification of any FDCPA issues previously unreported. Upon return of the case listing to Labor Relations, any new or revised FDCPA Issue Codes will be entered into the ALERTS.

Civil Action Information Classified As Fair Debt Violations on the Counsel Automated System Environment Is Accurate

Civil actions filed by taxpayers against the IRS are input to the CASE by the cognizant District Counsel, who is responsible for coding the suit with the appropriate

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category code. District Counsel personnel input these suits to a national CASE database.

In response to our FY 1999 audit of the FDCPA, the Office of the Chief Counsel added a category to the CASE for tracking FDCPA civil actions. National Chief Counsel management informed the four Assistant Regional Counsels of this FDCPA code, and they were responsible for notifying their respective District Counsels.

The one complaint coded with the new FDCPA code on the CASE was accurate.

We obtained CASE information related to the one suit coded with the new FDCPA code during the period June 11 through September 30, 1999, and determined that the suit was correctly coded as a potential violation of the FDCPA. This suit was still open at the time of our review.

To determine if there were other civil actions involving a potential FDCPA violation, we reviewed 24 cases initiated on or after July 22, 1998, and that were either still open or were closed during the period February 1 through December 31, 1999. The Department of Justice's (DOJ) Tax Division provided the case information. None of the 24 cases involved potential FDCPA violations. Because the DOJ does not track FDCPA violations separately, we reviewed the cases filed under Civil Damages for Certain Unauthorized Collection Actions, which allows taxpayers to sue the IRS for violations of the Internal Revenue Code related to collection actions.

Conclusion

The process used to identify and report potential fair debt violations can be improved. Collection Division management is not always identifying employee actions as potential violations of the FDCPA when reporting these cases to the Labor Relations function for tracking on the ALERTS. As a result, data captured on the ALERTS related to potential FDCPA violations may not always be complete and accurate.

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The IRS did not provide sufficient training to affected employees to fully explain all applicable provisions of the FDCPA. Although our interviews indicated that Collection Division managers and employees were aware of the FDCPA restrictions, they did not always realize most of these actions were violations of the FDCPA. By increasing the awareness of the FDCPA, management may better ensure that these violations are minimized.

Civil action information on the CASE that has an FDCPA code is accurate. We obtained CASE information related to the one suit coded with the new FDCPA code during the period June 11 through September 30, 1999, and determined that the suit was correctly coded as a potential violation of the FDCPA.

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Appendix I

Detailed Objectives, Scope, and Methodology

The overall objectives of this review were to determine whether potential violations of the Fair Debt Collection Practices Act (FDCPA)¹ were effectively identified and reported by Internal Revenue Service (IRS) personnel and whether violations were minimized. Specifically, we: 1) determined whether data related to potential and actual FDCPA violations maintained on the Automated Labor and Employee Relations Tracking System (ALERTS) database were complete and accurate, 2) determined whether the Counsel Automated System Environment (CASE) database contained complete and accurate information related to civil actions filed by taxpayers and any money paid to taxpayers as a result of FDCPA violations by IRS employees, 3) assessed the effectiveness of the IRS' process to identify and report potential FDCPA violations, and 4) determined the actions planned or taken by the IRS to prevent violations of the FDCPA. To accomplish these objectives, we conducted the following audit tests:

- I. Assessed the reliability of the data maintained by the IRS related to potential and actual violations of the FDCPA.
 - A. Determined whether the Labor Relations' ALERTS database contained complete and accurate information related to potential and actual FDCPA violations.
 1. Obtained a computer extract from the ALERTS on 9 cases representing 100 percent of the cases coded as FDCPA violations that were opened after July 22, 1998, and resolved during the period March 19 through September 30, 1999.²
 - a) Traced these nine cases back to source documents to determine whether these cases were FDCPA violations.

¹ 15 U.S.C. §§ 1601 & 1692 (1996).

² Pub. L. No. 105-206, 112 Stat. 685 (RRA 98) was signed into law on July 22, 1998. The application of the fair debt collection procedures to the IRS was effective on that date. The Treasury Inspector General for Tax Administration (TIGTA) audit report entitled, *The Internal Revenue Service Is Now Tracking Potential Fair Debt Collection Practices Act Violations, But May Not Always Be Properly Reporting Violations* (Reference No. 2000-10-014, dated December 1999) recommended that FDCPA codes be added to the ALERTS. Labor Relations management added these codes during our review on March 3, 1999, and issued guidance concerning these additional issue codes to all ALERTS Coordinators on March 15, 1999.

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- b) Determined whether any of the nine cases involving FDCPA violations also involved violations of RRA 98 § 1203(b)(6) and were referred to the TIGTA Office of Investigations.
 2. Obtained a computer extract from the ALERTS for Collection and Customer Service Divisions' employees on 249 cases representing 100 percent of the cases opened after July 22, 1998, and resolved during the period March 19 through September 30, 1999, with a high probability of FDCPA violations. We selected the following categories as having a high probability of containing FDCPA violations:
 - Unacceptable Performance.
 - Misuse of Position or Authority-Not RRA 98 § 1203.
 - Fighting, Assaults, and Threats.
 - Taxpayer Charge or Complaint-Not RRA 98 § 1203.
 - Unprofessional Conduct.
 - Sexual Harassment.
 - Rude or Discourteous Conduct.
 - RRA 98 § 1203 Violation-Retaliatio n or Harassment.
 - a) Traced the 249 cases back to source documents to determine whether they involved violations of the FDCPA and whether the cases were properly coded on the ALERTS.
 - b) Determined whether any of the cases involving FDCPA violations also involved violations of RRA 98 § 1203(b)(6) and were referred to the TIGTA Office of Investigations.
3. Obtained computer extracts from the Customer Feedback System (CFS) maintained by the Office of the National Taxpayer Advocate for a) 129 cases representing 100 percent of the complaints against Collection Division employees in 4 districts (Delaware-Maryland, New England, South Florida, and Southwest) [We analyzed 128 complaints against Collection Division employees in these districts because case documentation related to 1 case needed to determine whether the complaint was a potential FDCPA violation could not be located.], and b) 111 cases representing 100 percent of the complaints against Automated Collection System function employees nationwide. The CFS cases that met our criteria were opened during the period July 22, 1998, through September 30, 1999.

The Identification and Reporting of Potential Fair Debt Collection Practices Act Violations Can Be Improved

- a) Obtained and analyzed Customer Feedback Records (Forms 10004) for the 239 cases to identify any potential FDCPA violations.
 - b) Traced cases involving the FDCPA to the ALERTS to determine whether they were appropriately reported to the Labor Relations function.
 - c) Determined whether any cases involving potential FDCPA violations and also involving potential violations of RRA 98 § 1203(b)(6) were referred to the TIGTA Office of Investigations.
 - d) Discussed with National Office Collection management cases involving potential FDCPA violations.
- B. Determined whether cases involving potential FDCPA violations recorded on the TIGTA Investigations Management Information System (IMIS) were input to the ALERTS as required.
1. Interviewed TIGTA Office of Investigations management to determine the process for reporting potential FDCPA violations to the Labor Relations function.
 2. Obtained a computer extract from the IMIS showing 32 cases with FDCPA codes representing 100 percent of the cases that were closed during the period March 19 through September 30, 1999.
 - a) Traced the 21 cases meeting the criteria for referral to the Labor Relations function to a computer extract from the ALERTS to determine whether they were input to the ALERTS as required.
 3. Queried the IMIS extract obtained from the TIGTA Office of Investigations to determine whether the seven cases identified in our Fiscal Year (FY) 1999 audit³ were closed during the period August 31, 1998, through November 1, 1999.
 - a) Determined if any of these cases had been closed as FDCPA violations.
 - b) Determined whether the cases were input to the ALERTS.

³The FY 1999 audit (Reference No. 2000-10-014, dated December 1999) sampled and analyzed cases from the IMIS that were opened during the period July 22, 1998, through March 18, 1999. It identified seven cases that were still open on the IMIS and, therefore, not yet referred to Labor Relations for input to the ALERTS, if appropriate.

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- C. Determined whether the CASE database contained complete and accurate information related to civil actions filed by taxpayers and any money paid to taxpayers as a result of FDCPA violations by IRS employees.
 - 1. Interviewed National Office Chief Counsel management to determine the process used to track FDCPA violations resulting in civil actions and any monies paid to taxpayers.
 - 2. Obtained a computer extract from the CASE showing 1 case representing 100 percent of the cases with sub-category 511, established to track FDCPA violations, for the period June 11 through September 30, 1999.
 - a) Traced the case to source documentation to determine whether the information shown on the CASE was accurate.
 - b) Traced the case to the ALERTS to determine whether it was also properly captured on the Labor Relations' database.
 - 3. Contacted the Department of Justice's (DOJ) Tax Division to determine whether all civil actions filed by taxpayers and any monies paid to taxpayers from the DOJ Judgement Fund Branch were recorded on the CASE.
 - a) Obtained 24 Internal Revenue Code § 7433 (1999) civil cases from the DOJ that were initiated on or after July 22, 1998, and were either still open or were closed between February 1 and December 31, 1999.
 - b) Analyzed these cases for potential violations of the FDCPA.
 - 4. Assessed the process used to update the national CASE database to ensure that all information related to civil actions, where money was paid to taxpayers as a result of FDCPA violations by IRS employees, was captured on the national database for the TIGTA reporting requirements under the RRA 98.
- D. Determined whether the TIGTA can rely upon IRS information systems when providing the Congress with information required by the RRA 98 on any administrative or civil actions due to FDCPA violations. Reviewed the results of Objectives I.A., B., and C. to determine whether errors or omissions are significant enough to cause the systems to be unreliable.

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- II. Assessed the effectiveness of the IRS' process to identify and report potential FDCPA violations to the Labor Relations function.
 - A. Determined the process used to identify and report potential FDCPA violations to the Labor Relations function.
 - 1. Interviewed National Office management in the Collection and Taxpayer Advocate functions to determine the process and guidelines issued, if any, for identifying and reporting potential FDCPA violations to the Labor Relations function.
 - 2. Interviewed local management in the Collection and Taxpayer Advocate functions in three districts (Delaware-Maryland, New England, and South Florida) to determine the process followed to identify and report to the Labor Relations function potential FDCPA violations. The interviews with Collection Division personnel in the 3 districts included 6 branch chiefs, 12 group managers, and 12 revenue officers.
 - 3. Obtained and analyzed any national or local guidelines related to the identification and reporting of FDCPA violations.
 - B. Determined the process used by the Labor Relations function to receive and record reported potential FDCPA violations.
 - 1. Interviewed National Office Labor Relations personnel to determine the process for receiving and recording reported potential FDCPA violations on the ALERTS.
 - 2. Interviewed local Labor Relations management in three districts (Delaware-Maryland, New England, and South Florida) to determine the process followed for receiving and recording potential FDCPA violations on the ALERTS.
 - 3. Assessed the process used to update the national ALERTS database to ensure all cases involving FDCPA violations were captured on the national database for the TIGTA reporting requirements under the RRA 98.
- III. Assessed the actions planned or taken by the IRS to prevent violations of the FDCPA.
 - A. Interviewed National Office Collection personnel to determine what guidance it plans to issue, or has already issued, to prevent FDCPA violations.
 - B. Obtained and analyzed any national guidance issued to help prevent FDCPA violations.

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1. Obtained any national training manuals or Continuing Professional Education (CPE) materials that include the topic of the FDCPA.
 2. Obtained any national procedures (e.g., Internal Revenue Manuals) that cover the FDCPA.
- C. Determined if Collection field personnel received adequate training to enable them to prevent FDCPA violations.
1. Interviewed Collection field personnel (including 6 branch chiefs, 12 group managers, and 12 revenue officers) in 3 districts (Delaware-Maryland, New England, and South Florida) to determine what national guidance they have received regarding the FDCPA and if they were aware of the criteria for FDCPA violations.
 2. Obtained copies of any guidance received from the National Office Collection function containing FDCPA information.
 3. Obtained copies of any local guidance issued in three districts (Delaware-Maryland, New England, and South Florida) that dealt with preventing FDCPA violations.
 - a) Reviewed any local CPE agendas or other training material provided to local field personnel.
 - b) Reviewed division, branch, and group meeting minutes since July 22, 1998, to determine if preventing FDCPA violations was discussed.

**The Identification and Reporting of Potential Fair Debt Collection Practices Act
Violations Can Be Improved**

Appendix II

Major Contributors to This Report

Maurice S. Moody, Associate Inspector General for Audit (Headquarters Operations and Exempt Organizations Programs)

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**The Identification and Reporting of Potential Fair Debt Collection Practices Act
Violations Can Be Improved**

Appendix III

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Deputy Commissioner Operations C:DO
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 National Taxpayer Advocate C:TA

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Appendix IV

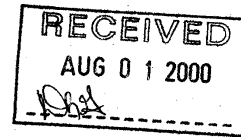
Management's Response to the Draft Report



COMMISSIONER

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

August 1, 2000



MEMORANDUM FOR DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM:

for Charles O. Rossotti *Bohulenzel*
Commissioner of Internal Revenue

SUBJECT:

Draft Audit Report - The Identification and Reporting of Potential
Fair Debt Collection Practices Act Violations Can Be Improved

We appreciate the opportunity to respond to your draft report entitled "The Identification and Reporting of Potential Fair Debt Collection Practices Act Violations Can Be Improved." The report is a review of the process used to identify and report potential violations by employees of taxpayer rights under the Fair Debt Collection Practices Act (FDCPA).

We have continued our efforts to provide all Collection personnel with a clear message regarding collection practices through Continuing Professional Education (CPE) at the executive, division, and frontline manager level. We also developed and delivered further training on the provisions of the Restructuring and Reform Act of 1998 to our frontline employees. This was done to both ensure compliance with the provisions of the FDCPA, as well as, encourage an atmosphere of cooperation and negotiation between our employees and taxpayers. As noted in the report, we have also made improvements to better identify, report, and code FDCPA violations since your prior audit. For example, Labor Relations implemented an Automated Labor and Employee Relations Tracking System (ALERTS) Incident Report, allowing the use of FDCPA Issue Codes for any cases involving potential violations, and Collection has provided further guidance to reemphasize Collection compliance with the FDCPA. We agree with the report's recommendations and will use them to bolster our continuing efforts to ensure these violations are properly identified, reported, and accurately coded.

Our comments on the specific recommendations in this report are as follows:

IDENTITY OF RECOMMENDATION #1

Internal Revenue Service management should provide increased awareness and emphasis of the FDCPA to Collection employees to ensure violations can be properly identified and reported.

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ASSESSMENT OF CAUSE

Collection management needed information to supplement that already issued to ensure they are sufficiently aware of the FDCPA provisions so potential violations could be identified and referred to Labor Relations for tracking. In addition, Collection employees were aware of the FDCPA restrictions, but they did not realize the restrictions were reportable violations of the FDCPA.

CORRECTIVE ACTION

On July 5, 2000, the Acting Director of Collection Field Operations issued a memorandum to reemphasize Collection compliance with certain sections of the FDCPA. The memorandum referred to the relevant Internal Revenue Manual sections for revenue officers and group managers. It listed what the violations are and the consequences to employees who are found to have violated a taxpayer's FDCPA rights.

IMPLEMENTATION DATE:

Completed

RESPONSIBLE OFFICIAL

Assistant Commissioner (Collection)

CORRECTIVE ACTION MONITORING PLAN

N/A

RECOMMENDATION #2

Labor Relations management should review open Collection and Customer Service Divisions' employee cases entered on the ALERTS after July 22, 1998, to identify potential FDCPA violations and ensure these cases are accurately coded.

ASSESSMENT OF CAUSE

Collection and Customer Service management has not always identified employee actions as potential violations of the FDCPA when reporting these actions to the Labor Relations function for tracking on the ALERTS. As a result, data related to potential FDCPA violations captured on the ALERTS may not always be complete and accurate.

CORRECTIVE ACTION

Field Labor Relations functions will run a case listing for open Collection and Customer Service employee cases for the period July 22, 1998, to the present. The open case listing will be forwarded to local functional management for their identification of any FDCPA issues previously unreported. Upon return of the case listing to Labor Relations, any new or revised FDCPA issues codes will be entered into the ALERTS.

IMPLEMENTATION DATE

December 1, 2000

The Identification and Reporting of Potential Fair Debt Collection Practices Act Violations Can Be Improved

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RESPONSIBLE OFFICIAL
Director, Personnel Services

CORRECTIVE ACTION MONITORING PLAN

The Director, Personnel Services, will require that all 23 field personnel offices file a report stating that the project has been completed, and identify the number of cases reviewed, the number already having FDCPA issues, and the number newly determined to have such issues.

If you have any questions, please call Harry T. Manaka, Acting Assistant Commissioner (Collection), at (202) 622-5100.