

**Oversight of the Interagency Agreement Has  
Improved, but Additional Actions Are Needed  
to Ensure Timely, Accurate, and Complete  
Form 5500 Return Information**

**September 2004**

**Reference Number: 2004-10-178**

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



DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20220

INSPECTOR GENERAL  
for TAX  
ADMINISTRATION

September 23, 2004

MEMORANDUM FOR COMMISSIONER, TAX EXEMPT AND GOVERNMENT  
ENTITIES DIVISION

*Gordon C. Milbourn III*

FROM: Gordon C. Milbourn III  
Acting Deputy Inspector General for Audit

SUBJECT: Final Audit Report - Oversight of the Interagency Agreement Has  
Improved, but Additional Actions Are Needed to Ensure Timely,  
Accurate, and Complete Form 5500 Return Information  
(Audit # 200410007)

This report presents the results of our review of the Tax Exempt and Government Entities (TE/GE) Division's oversight of the interagency agreement<sup>1</sup> between the Internal Revenue Service (IRS) and the Department of Labor (DOL) to process the Annual Return/Report of Employee Benefit Plan (Form 5500) return information. The TE/GE Division's Employee Plans Examination program uses this information to ensure employee benefit plans are in compliance with applicable provisions of the Internal Revenue Code. The overall objectives of this review were to determine whether the terms of the interagency agreement provided reasonable assurance that the TE/GE Division received timely, accurate, and complete Form 5500 return information, and whether the TE/GE Division provided adequate oversight to ensure the terms of the interagency agreement were met.

The Employee Retirement Income Security Act of 1974 (ERISA)<sup>2</sup> requires plan administrators and sponsors of employee benefit plans to submit a Form 5500. On September 28, 1998, the DOL entered into a contract with a private contractor to process Form 5500 returns through the ERISA Filing Acceptance System (EFAST) and to provide four Federal Government agencies<sup>3</sup> with the Form 5500 return information.

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<sup>1</sup> A written agreement entered into between two Federal Government agencies, which specifies the goods to be furnished or tasks to be accomplished by one agency in support of the other agency.

<sup>2</sup> Pub. L. No. 93-406, 88 Stat. 829 (codified as amended in scattered sections of 5 U.S.C., 18 U.S.C., 26 U.S.C., 29 U.S.C., and 42 U.S.C.).

<sup>3</sup> The four Federal Government agencies are the Department of Labor, the Internal Revenue Service, the Social Security Administration, and the Pension Benefit Guaranty Corporation.

Under the terms of the DOL EFAST contract, the DOL has the overall responsibility of providing administrative oversight for the processing of Form 5500 returns. On June 15, 2000, the IRS and the DOL established an interagency agreement that provided guidelines for both the DOL and the IRS on the basic operation, support, and sharing of costs for the receipt and processing of Form 5500 returns through the EFAST.

Under the terms of the interagency agreement and the DOL EFAST contract, the IRS is considered to be an end user of the EFAST and is limited to receiving information from the processed Form 5500 returns. However, the TE/GE Division is still responsible for ensuring its programs receive timely, accurate, and complete Form 5500 return information.

In summary, TE/GE Division management has taken several actions to improve its oversight of the interagency agreement. This improved oversight has enabled the TE/GE Division to more closely monitor the processing of Form 5500 return information and to establish open lines of communication to discuss concerns, both within the TE/GE Division and with the DOL. However, additional improvements are needed to provide the TE/GE Division reasonable assurance that timely, accurate, and complete Form 5500 return information is received.

The TE/GE Division does not perform verifications and independent reports are not provided by the DOL to determine if the DOL contractor is meeting timeliness standards. In addition, the TE/GE Division does not perform verifications and independent confirmation is not provided by the DOL to determine whether the Form 5500 return information received from the DOL contractor is meeting accuracy and completeness standards. Oversight processes are also incomplete since the TE/GE Division performs only a limited review and incomplete reports are received from the DOL for monitoring the funding and costs allocated to the IRS under the interagency agreement and the DOL EFAST contract. Effective oversight currently cannot be provided because either there is no provision requiring the information to be provided to the TE/GE Division in the interagency agreement and the DOL EFAST contract, or the provisions exist but the TE/GE Division is not following up on the provisions.

We recommended the Director, Business Systems Planning, finalize the report format to verify the timeliness of Form 5500 returns processed and implement oversight controls to ensure records are maintained and the allocated EFAST costs are commensurate with the services provided for the Form 5500 return processing. We also recommended the Director, Employee Plans, and the Director, Business Systems Planning, work together to complete the effort of reviewing the terms of the current interagency agreement to identify opportunities to improve the TE/GE Division's oversight, determine whether additional controls or tools are needed to effectively monitor the processing of returns and to verify costs, and determine what terms need to be included in the future interagency agreement and the DOL EFAST contract.

Management's Response: TE/GE Division management agreed with the findings and recommendations in the report. Specifically, TE/GE Division management will submit a request to develop a timeliness report based on TE/GE Division requirements and will

finalize with the DOL a reporting cycle to receive copies of receipts and acceptance records of vendor-provided services and costs pursuant to Section 9, General Provisions, of the interagency agreement. In addition, the TE/GE Division Employee Plans and Business Systems Planning functions will identify opportunities in the current interagency agreement and will identify any additional controls, tools, and processes to monitor returns processing and costs of EFAST operations, under the current interagency framework and any future agreement. Management's complete response to the draft report is included as Appendix IV.

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 Daniel R. Devlin, Assistant Inspector General for Audit (Headquarters Operations and Exempt Organizations Programs), at (202) 622-8500.

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**Background**

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The Employee Retirement Income Security Act of 1974 (ERISA)<sup>1</sup> requires plan administrators and sponsors of employee benefit plans to submit an Annual Return/Report of Employee Benefit Plan (Form 5500). Four Federal Government agencies<sup>2</sup> use this information to carry out the provisions of the ERISA and other statutes applicable to their agencies. The Internal Revenue Service (IRS) Tax Exempt and Government Entities (TE/GE) Division, Employee Plans (EP) Examination program uses the Form 5500 return information as part of its program to ensure employee benefit plans are in compliance with applicable provisions of the Internal Revenue Code (I.R.C.).

On September 28, 1998, the Department of Labor (DOL) entered into a contract with a private contractor to process Form 5500 returns through the ERISA Filing Acceptance System (EFAST)<sup>3</sup> and to provide the four Federal Government agencies with the Form 5500 return information. Under the terms of the DOL EFAST contract, the DOL has the overall responsibility of providing administrative oversight for the processing of Form 5500 returns. The DOL EFAST contract includes a base period and subsequent option periods,<sup>4</sup> which the DOL has sole discretion to exercise. The current DOL EFAST contract is effective through June 30, 2005. However, the DOL and the private contractor are presently negotiating extending the contract 2 additional processing years, which will extend the effective date of the DOL EFAST contract through June 30, 2007.

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<sup>1</sup> Pub. L. No. 93-406, 88 Stat. 829 (codified as amended in scattered sections of 5 U.S.C., 18 U.S.C., 26 U.S.C., 29 U.S.C., and 42 U.S.C.).

<sup>2</sup> The four Federal Government agencies are the Department of Labor, the Internal Revenue Service, the Social Security Administration, and the Pension Benefit Guaranty Corporation.

<sup>3</sup> The EFAST is an automated system used by the DOL contractor to accept, process, and store Form 5500 returns.

<sup>4</sup> Option periods run for 12 months during the period July 1 through June 30, with the exception of Option Period 1, which ran during the period September 16, 1999 (the start of the DOL EFAST contract), through June 30, 2000.

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On June 15, 2000, the IRS and the DOL established an interagency agreement<sup>5</sup> regarding the processing of Form 5500 returns through the EFAST. The interagency agreement establishes guidelines for both the DOL and the IRS on the basic operation, support, and sharing of costs for the receipt and processing of Form 5500 returns through the EFAST. Prior to the establishment of the interagency agreement, the IRS was responsible for processing the Form 5500 returns. Currently, under the terms of the interagency agreement and the DOL EFAST contract, the IRS is considered to be an end user of the EFAST and is limited to receiving information from the processed Form 5500 returns. Nonetheless, the TE/GE Division is still responsible for ensuring its programs receive timely, accurate, and complete Form 5500 return information. The EP Examination program relies on Form 5500 return information to be able to accomplish its program objectives.

In August 2000, the DOL contractor began processing the Form 5500 returns through the EFAST. The output goals of the EFAST are to produce data files similar to those produced in the IRS pipeline processing system, with the additional requirement of delivering complete machine readable data from the Form 5500 returns in a format that is compatible with the IRS' Employee Plans Master File (EPMF).<sup>6</sup> The EPMF contains key information from the Form 5500 returns for all benefit plans filed by plan administrators and sponsors.

The DOL must ensure its contractor:

- Receives the Form 5500 returns.
- Processes the data from the Form 5500 returns into a machine-readable format.
- Conducts specified edit tests and corresponds with filers whose returns fails one or more edit tests.
- Attempts to perfect the return data using filer responses.

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<sup>5</sup> A written agreement entered into between two Federal Government agencies, which specifies the goods to be furnished or tasks to be accomplished by one agency in support of the other agency.

<sup>6</sup> A database that maintains account information for employee plans.

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- Provides the Form 5500 return information to the IRS in a specific data structure.

The TE/GE Division EFAST Project Manager serves as the contact person for all IRS personnel and is responsible for all IRS activities as they relate to the interagency agreement. The primary duties of the EFAST Project Manager include providing technical direction to TE/GE Division personnel, monitoring the processing of Form 5500 returns, and tracking costs outlined in the interagency agreement as they are incurred.

This audit was conducted in accordance with *Government Auditing Standards* at the IRS National Headquarters Business Systems Planning and Employee Plans Program Offices in Washington, D.C., during the period January through June 2004. 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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**The Tax Exempt and  
Government Entities Division Has  
Improved Its Oversight of the  
Interagency Agreement**

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TE/GE Division management has taken several actions to improve its oversight of the interagency agreement. This improved oversight has enabled the TE/GE Division to more closely monitor the processing of Form 5500 return information and to establish open lines of communication to discuss concerns, both within the TE/GE Division and with the DOL. The current level of oversight is a significant improvement over that reported in a prior Treasury Inspector General for Tax Administration audit,<sup>7</sup> in which it was noted that TE/GE Division management did not take an active role to determine the cause of Form 5500 return processing delays. The actions taken by the TE/GE Division management include:

- Changing the EFAST Project Manager position from a secondary duty to a full-time position and selecting a new project manager to coordinate oversight.

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<sup>7</sup> *Improvements Are Needed to Ensure That Employee Plans Return Information Is Timely Received and That Returns Are Properly Processed and Adequately Safeguarded* (Reference Number 2002-10-098, dated June 2002).



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- Creating and filling an EFAST II Project Manager position to coordinate with the EFAST Project Manager and to start determining the issues associated with the next interagency agreement.

**Establishing a full-time EFAST Project Manager to coordinate oversight of the interagency agreement**

In August 2003, TE/GE Division management informed us they had established the EFAST Project Manager as a full-time position within the TE/GE Division's Business Systems Planning function and filled the position. The prior EFAST Project Manager was a TE/GE Division program manager whose primary responsibility was the management of another IRS program, with oversight of the interagency agreement being a secondary responsibility. As a result, TE/GE Division management believed the prior project manager was not able to devote sufficient time and oversight to the interagency agreement.

Although the new EFAST Project Manager is in the process of learning his responsibilities, he has taken several actions to improve oversight of the interagency agreement and the DOL EFAST contract. These actions include:

- Establishing effective lines of communication with the TE/GE Division programs that use the Form 5500 return information, the DOL, and the DOL contractor.
- Initiating a review of the DOL EFAST contract to evaluate whether contracted administrative services, such as quality assurance reviews, are received.

**Establishing effective lines of communication**

The new EFAST Project Manager conducts monthly meetings with TE/GE Division program personnel to discuss the status of issues relating to the processing of Form 5500 returns and assess whether their needs are being met. Also, TE/GE Division program personnel stated that, if issues or concerns arise before the next meeting, they are forwarded to the new EFAST Project Manager as soon as they are identified and actions needed to resolve them are quickly initiated.

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An open line of communication between personnel in the DOL and the new EFAST Project Manager has been established to ensure issues relating to the processing of Form 5500 returns are surfaced. For example, the TE/GE Processing Center Programs personnel in Ogden, Utah, needed to know what extension forms were processed by the DOL contractor. The new EFAST Project Manager referred the issue and the answer was provided within a week. The new EFAST Project Manager meets monthly with DOL personnel to discuss the status of processing and to surface issues relating to the processing of Form 5500 returns. The EFAST Project Manager also attends a quarterly status meeting with the DOL and its contractor. These meetings provide another opportunity to discuss the status of open issues and to elevate new issues.

### **Reviewing the DOL EFAST contract**

The EFAST Project Manager recently initiated a review of the terms of the DOL EFAST contract. This is an important process that should enable the TE/GE Division to identify opportunities to improve its oversight of the interagency agreement. We also reviewed the interagency agreement and the DOL EFAST contract to determine if we could identify any provisions that would be beneficial for the TE/GE Division's oversight.

While the interagency agreement is the primary means used by the IRS and DOL to define the services provided, we determined the DOL EFAST contract already includes provisions for administrative services<sup>8</sup> that would benefit the IRS and would enable the TE/GE Division to avoid some of the costs for providing oversight. For example, one administrative service included in the terms of the DOL EFAST contract, but not the interagency agreement, is a provision that the DOL must ensure Processing Compliance Reviews are performed quarterly. Since the DOL is not required to provide copies of these Reviews to the IRS, the TE/GE Division is not receiving the benefit of

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<sup>8</sup> For this interagency agreement, administrative services include the information needed to measure the processing of Form 5500 returns against performance standards for timeliness, accuracy, and completeness.

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having independent reports to monitor whether the DOL contractor is processing Form 5500 returns in accordance with the performance standards.<sup>9</sup>

### **Creating a full-time EFAST II Project Manager position to coordinate issues associated with the next interagency agreement**

TE/GE Division management initiated actions to begin developing the requirements and planning for the next interagency agreement. These early actions should enable them to ensure the necessary provisions for providing effective oversight of the Form 5500 returns processing are included in the interagency agreement. Specifically, in October 2003, TE/GE Division management selected an EFAST II Project Manager within the EP function to serve as the contact for the next interagency agreement. The Project Manager is also working on the statement of work<sup>10</sup> to define future EFAST requirements.

To obtain knowledge of the EFAST requirements and the interagency agreement, the EFAST II Project Manager works closely with the EFAST Project Manager to identify issues that will need to be addressed during the development of a new interagency agreement. In addition, both the EFAST and the EFAST II Project Managers attend meetings and conferences with the TE/GE Division and the DOL regarding the existing interagency agreement and the DOL EFAST contract. Creating the EFAST II Project Manager position independent of the existing project enables the EFAST II Project Manager to not only concentrate primarily on the next agreement but also to provide additional oversight of the current interagency agreement when needed.

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<sup>9</sup> See report section entitled, “Additional Oversight Improvements Are Needed to Provide Reasonable Assurance of Timely, Accurate, and Complete Form 5500 Return Information” for additional information concerning these Processing Compliance Reviews.

<sup>10</sup> A narrative description of the products or services required to be provided under contract.

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**Additional Oversight  
Improvements Are Needed to  
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Although TE/GE Division management has taken actions to improve oversight of the interagency agreement, additional improvements are needed to provide the TE/GE Division with reasonable assurance that timely, accurate, and complete Form 5500 return information is received. For example, EP Examination program management believes they have received sufficient Form 5500 return information, based on estimates of filing receipts, to enable EP Examination program personnel to perform studies and conduct necessary examinations. However, TE/GE Division management does not know if its programs are receiving accurate and complete Form 5500 return information or whether the DOL contractor is processing the returns within the time periods specified in the DOL EFAST contract. A timely, accurate, and complete universe of pension filings is needed to ensure the TE/GE Division is reviewing representative samples when determining if employee benefit plans are in compliance with the I.R.C. We determined the following oversight controls were not being used:

- The TE/GE Division does not perform verifications and independent reports are not provided by the DOL to determine if the DOL contractor is meeting timeliness standards.
- The TE/GE Division does not perform verifications and independent confirmation is not provided by the DOL to determine whether the Form 5500 return information received from the DOL contractor is meeting accuracy and completeness standards.<sup>11</sup>
- The TE/GE Division performs only a limited review, and incomplete reports are received from the DOL for monitoring the funding and costs allocated to the IRS under the interagency agreement and the DOL EFAST contract.

Effective oversight currently cannot be provided because either there is no provision requiring the information to be provided to the TE/GE Division in the interagency

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<sup>11</sup> Complete Form 5500 return information means information from all required data fields has been captured from the return.

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agreement and the DOL EFAST contract, or the provisions exist but the TE/GE Division is not following up on the provisions. As a result, the TE/GE Division cannot be assured it is receiving timely, accurate, and complete Form 5500 return information needed to monitor the various programs using this return information.

### **No verification to show whether the Form 5500 returns are being timely processed**

The DOL EFAST contract requires all Form 5500 returns to be processed within specific time periods. However, the terms of the interagency agreement and the DOL EFAST contract do not provide for any means to monitor the processing time periods. Moreover, because the IRS is only an end user of the EFAST (it receives the return information but is not involved with processing the returns), it cannot work directly with the DOL contractor to ensure the time standards are met. In addition, the TE/GE Division does not perform verifications and the DOL does not provide independent reports to measure its contractor's compliance with the time standards. The primary report used by TE/GE Division management to monitor Form 5500 return processing is a weekly EFAST Production Report.<sup>12</sup> However, this Report shows only the volume of returns processed each week not the length of time to process the returns.

The TE/GE Division can improve its assurances for timely processing by finalizing the timeliness report format under development. Since November 2003, the EFAST Project Manager has been working with a computer specialist in the Business Systems Planning function to develop a report format that measures the DOL contractor's processing of Form 5500 returns against the EFAST timeliness performance standards. However, the report format has not been finalized because there are several timeliness performance standards, depending on the condition that surrounds the Form 5500 return filing. Table 1 shows the

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<sup>12</sup> The title of the weekly EFAST Production Report is the EFAST Posted "Completed Processing" Original and Amended Returns (Analysis of File 260-35-11).

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different EFAST timeliness performance standards used by the DOL contractor to process Form 5500 returns.

**Table 1: EFAST Timeliness Performance Standards  
Used to Process All Form 5500 Returns**

<b>EFAST Timeliness Performance Standards<sup>13</sup></b>	<b>Peak Processing Period<sup>14</sup></b>	<b>Non-Peak Processing Period<sup>15</sup></b>
No correspondence and no Manual Entity Review Station (MERS) processing. <sup>16</sup>	90 Days	60 Days
No correspondence but subject to MERS processing.	100 Days	70 Days
One round of correspondence but no MERS processing.	150 Days	120 Days
One round of correspondence and subject to MERS processing.	160 Days	130 Days
Two rounds of correspondence but no MERS processing.	210 Days	180 Days
Two rounds of correspondence and subject to MERS processing.	220 Days	190 Days

*Source: Table C.3.a - EFAST Timeliness Performance Standards in the DOL EFAST contract.*

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<sup>13</sup> Within the stated number of calendar days, 99.9 percent of all Form 5500 returns must be processed and the return structured data records posted to the DOL contractor's EFAST Main File.

<sup>14</sup> Peak processing is during the period July 1 through November 15.

<sup>15</sup> Nonpeak processing is during the period November 16 through June 30.

<sup>16</sup> Form 5500 returns may be subject to MERS processing. The objective of the MERS processing is to avert errors in Form 5500 return structure data caused by slight differences in spelling or abbreviation of the plan and sponsor name fields.

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If 2 rounds of correspondence and MERS processing are required during the peak processing period, the DOL contractor may take over 7 months to process a return and still meet the time standard in the DOL EFAST contract. If some of the returns requiring 2 rounds of correspondence are significantly delayed, it could affect the initiatives of the TE/GE Division programs. For example, the EP Examination program may not have a sufficient population of these returns from which to conduct compliance studies and select returns for examination. To ensure the studies use representative samples, the EP Examination program needs reasonable assurance that Form 5500 return information has been timely received.

**Confirming the receipt of accurate and complete  
Form 5500 return information**

The TE/GE Division does not have sufficient assurances that accurate and complete Form 5500 return information is being received from the DOL contractor. The DOL EFAST contract establishes accuracy and completeness standards for processing Form 5500 returns; however, the interagency agreement does not include provisions that would enable the TE/GE Division to monitor reports or other information to ensure the DOL contractor is complying with this performance standard.

The contract between the DOL and its contractor does include a provision requiring the DOL to ensure a Processing Compliance Review is performed quarterly. The objective of these Reviews is to provide an independent evaluation of whether the DOL contractor's processing of Form 5500 returns is in accordance with all EFAST performance standards. These Reviews would provide TE/GE Division management with some assurance that timely, accurate, and complete return information had been received. However, neither the interagency agreement nor the DOL EFAST contract requires the DOL to provide the TE/GE Division with the results of these Reviews.

In addition, the TE/GE Division has not requested the results of the Processing Compliance Reviews because they did not know of this requirement. Our inquiries found that the last quarterly Processing Compliance Review was issued

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in April 2002, and TE/GE Division management did not know why the Reviews had stopped. TE/GE Division management may have followed up on these Reviews sooner if the terms of the interagency agreement and the DOL EFAST contract required the DOL to provide a copy of the results of these administrative tasks to the TE/GE Division.

The DOL EFAST contract outlines other administrative tasks that may assist the TE/GE Division in providing oversight. For example, the DOL EFAST contract requires the DOL contractor to submit weekly production and monthly progress reports to the DOL. These reports could assist the TE/GE Division in tracking the flow of returns through the DOL contractor's EFAST system and in identifying any significant delays. However, the interagency agreement does not require the DOL to provide these reports to the TE/GE Division. Improving the interagency agreement to include sharing the results of these administrative tasks would provide greater assurance the TE/GE Division is receiving accurate and complete Form 5500 return information.

**Improving processes for monitoring the funding and costs to the IRS under the interagency agreement**

The TE/GE Division needs to improve its oversight process used to monitor the funding and costs allocated to process the Form 5500 returns. Under the terms of the interagency agreement, the DOL should provide the EFAST Project Manager costs and financial reports that detail the costs chargeable to the IRS no later than 45 calendar days after the close of each month. These costs include amounts paid by the DOL to its contractor to process the Form 5500 returns and amounts incurred by the DOL to administer the DOL EFAST contract.

Table 2 shows the TE/GE Division's funding and costs for the processing of Form 5500 returns during Option Periods II through V.<sup>17</sup>

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<sup>17</sup> Option Period V is during the period July 1, 2003, through June 30, 2004.



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**Table 2: TE/GE Division’s Funding and Chargeable  
EFAST Costs – Option Periods II Through V**

<b><u>EFAST Option Periods</u></b>	<b><u>Funding for EFAST Processing</u></b>	<b><u>Chargeable EFAST Costs<sup>18</sup></u></b>
Option Period II	\$7,300,000	\$6,508,488
Option Period III	\$9,323,833	\$9,122,917
Option Period IV	\$7,312,000	\$8,820,147
Option Period V	\$8,300,000	\$9,100,919
Totals	\$32,235,833	\$33,552,471

*Source: IRS Funding Level Requirements.*

The Federal Acquisition Regulation<sup>19</sup> allows agencies that provide services to another agency to request advance payment for all or part of the estimated costs for furnishing the services. In addition, IRS policy and procedures recommend that, given the special nature of interagency agreements, additional oversight and monitoring of the funds is necessary to ensure the receipt of required services.

For the TE/GE Division, the EFAST Project Manager is responsible for monitoring the funding of and EFAST costs incurred for the processing of Form 5500 returns. IRS procedures require that records showing the receipt and acceptance of services be maintained to effectively monitor funds and that the allocated EFAST costs be verified as appropriate and consistent with the services received.

The funding arrangements in the interagency agreement include the IRS transferring its share of estimated costs for processing the Form 5500 return information before the

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<sup>18</sup> The chargeable EFAST costs in Option Periods II through IV are actual costs, and the chargeable EFAST costs in Option Period V include actual and projected costs. All EFAST costs in Option Period I were borne solely by the DOL.

<sup>19</sup> Federal Acquisition Regulation, 48 C.F.R. pt 1-53 (2002).

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returns are processed in each option period.<sup>20</sup> However, the EFAST Project Manager has not been receiving the monthly costs and financial reports. In addition, the DOL provides the TE/GE Division a nonitemized quarterly invoice for only a small fraction of the total costs. This nonitemized quarterly invoice shows the EFAST cost for one undefined unit, which TE/GE Division management refers to as a “block of service.” This is insufficient detail from which to determine what the service includes and whether the charges are appropriate. For example, the approximately \$52,000 in nonitemized quarterly invoiced costs for a “block of service” is a small fraction of the \$9.1 million in total EFAST costs for the entire Option Period V.

As a result of the appropriated funds and EFAST costs not being sufficiently monitored, the TE/GE Division does not have reasonable assurance that the nearly \$33.6 million in the total EFAST costs incurred under the terms of the interagency agreement through June 30, 2004, are commensurate with the services received. In addition, as the future EFAST costs increase, it is essential for the TE/GE Division to more closely monitor the funds and EFAST costs. For example, in the next option period (Option Period VI),<sup>21</sup> the IRS’ projected EFAST costs are nearly \$10.8 million, which is a significant increase over the \$6.5 million incurred during Option Period II.

### **Recommendations**

1. The Director, Business Systems Planning, should ensure the necessary report format is finalized to verify the timeliness of Form 5500 returns processed against the EFAST performance standards.

Management’s Response: The Business Systems Planning function will submit a Request for Information Services to the Modernization and Information Technology Services

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<sup>20</sup> For example, the IRS transferred all but approximately \$150,000 of the \$8,300,000 in Option Period V funding to the DOL before the returns were processed.

<sup>21</sup> Option Period VI runs during the period July 1, 2004, through June 30, 2005.

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organization to develop the timeliness report based on TE/GE Division requirements.

2. The Director, Employee Plans, and the Director, Business Systems Planning, should work together on the following actions:

- Complete the effort of reviewing the terms of the current interagency agreement to identify opportunities to improve the TE/GE Division's oversight of the interagency agreement (for both returns processing and cost verification). The Director, Business Systems Planning, should follow up with the DOL on any opportunities identified so the IRS can receive the information or service for the remainder of the current interagency agreement.
- Determine whether additional controls or tools not specified in the current interagency agreement or the DOL EFAST contract are needed that will enable the TE/GE Division to effectively monitor the processing of Form 5500 returns against the performance standards for timeliness, accuracy, and completeness and to verify costs.
- Based on the above analysis, determine what terms need to be included in the future interagency agreement and the DOL EFAST contract. For example, the next interagency agreement should specify which monitoring reports and how frequently (e.g., weekly, monthly) the DOL will provide to the IRS regarding the number of returns processed and the timeliness of returns processing. Also, the next interagency agreement should specify what type of quality review information the DOL will provide to the IRS regarding the accuracy and completeness of returns processed. Finally, the next interagency agreement should require the EFAST II Project Manager to be notified when the DOL does not complete any administrative task specified in the interagency agreement.

Management's Response: The Employee Plans and Business Systems Planning functions will identify

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opportunities in the current interagency agreement and will identify any additional controls, tools, and processes to monitor returns processing and costs of EFAST operations, under the current interagency framework and any future agreement. Based on this review, the Director, Employee Plans, and the Director, Business Systems Planning, will determine what processes are feasible and supportable with available EFAST funding.

3. The Director, Business Systems Planning, should implement oversight controls to ensure records are maintained to show the receipt and acceptance of services and the allocated EFAST costs are verified to ensure they are commensurate with the services provided for the Form 5500 returns processing.

Management's Response: The Business Systems Planning function will finalize with the DOL a reporting cycle to receive copies of DOL receipt and acceptance records of vendor-provided services and costs (pursuant to Section 9, General Provisions, of the interagency agreement, taking into consideration available data and reports and oversight resources available from the IRS).

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Actions Are Needed to Ensure Timely, Accurate, and Complete  
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**Appendix I**

**Detailed Objectives, Scope, and Methodology**

The overall objectives of this review were to determine whether the terms of the interagency agreement<sup>1</sup> between the Internal Revenue Service (IRS) and the Department of Labor (DOL) provided reasonable assurance that the Tax Exempt and Government Entities (TE/GE) Division received timely, accurate, and complete Annual Return/Report of Employee Benefit Plan (Form 5500) return<sup>2</sup> information, and whether the TE/GE Division provided adequate oversight to ensure the terms of the interagency agreement were being met.

To achieve our objectives, we:

- I. Determined whether the terms of the interagency agreement were clearly defined and provided TE/GE Division management reasonable assurance that timely, accurate, and complete Form 5500 returns will be received.
  - A. Reviewed the terms of the interagency agreement and related DOL ERISA<sup>3</sup> Filing Acceptance System (EFAST) contract to determine whether:
    1. The terms of the interagency agreement and the related DOL EFAST contract clearly defined the deliverables and the timetable for when they are to be received.
    2. The provisions provided an avenue for the IRS to address any deficiencies in the deliverables.
  - B. Evaluated TE/GE Division and other agency reports used to monitor the processing of Form 5500 returns to determine whether the DOL contractor complied with timeliness, accuracy, and completeness performance standards.
  - C. Interviewed TE/GE Division program personnel to determine the Form 5500 return information needed by each program and whether untimely, inaccurate, and incomplete Form 5500 return information had adversely affected its ability to execute program initiatives.

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<sup>1</sup> A written agreement entered into between two Federal Government agencies, which specifies the goods to be furnished or tasks to be accomplished by one agency in support of the other agency.

<sup>2</sup> Plan administrators and sponsors of employee benefit plans are required to submit a Form 5500.

<sup>3</sup> The ERISA is the Employee Retirement Security Income Act of 1974, Pub. L. No. 93-406, 88 Stat. 829 (codified as amended in scattered sections of 5 U.S.C., 18 U.S.C., 26 U.S.C., 29 U.S.C., and 42 U.S.C.).

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- D. Determined whether the terms of the interagency agreement were sufficient to provide the TE/GE Division with timely, accurate, and complete Form 5500 return information needed to meet its program initiatives.
- II. Determined whether TE/GE Division controls used to monitor the interagency agreement were adequate to ensure the terms of the agreement were being met, problems were surfaced and elevated when the terms were not met, and reimbursements reflected the services received.
- A. Interviewed the TE/GE Division Computer Specialist responsible for processing the weekly EFAST transactional tapes<sup>4</sup> and determined whether the controls were adequate to ensure Form 5500 return information was properly processed for posting to the Employee Plans Master File.<sup>5</sup>
  - B. Determined whether systemic reports used by the TE/GE Division adequately measure the timeliness, accuracy, and completeness of Form 5500 return information received each week.
  - C. Interviewed TE/GE Division personnel responsible for oversight to determine whether controls were adequate to ensure problems were properly surfaced and elevated when the terms of the interagency agreement were not met.
  - D. Reviewed TE/GE Division and IRS procedures to determine whether controls used to monitor the funding and reimbursements under this interagency agreement were adequate to ensure submitted documentation supports all charges, the compensation was commensurate with the services received, and needed adjustments were properly and timely resolved.

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<sup>4</sup> The DOL contractor provides the IRS EFAST transactional tapes that contain data from the Form 5500 series returns processed for that week.

<sup>5</sup> The Employee Plans Master File is a database that maintains account information for employee plans.

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**Appendix II**

**Major Contributors to This Report**

Daniel R. Devlin, Assistant Inspector General for Audit (Headquarters Operations and Exempt Organizations Programs)

Nancy A. Nakamura, Director

James V. Westcott, Audit Manager

John W. Baxter, Lead Auditor

Karen J. Stafford, Senior Auditor

Carol A. Rowland, Auditor

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**Appendix III**

**Report Distribution List**

Commissioner C  
Office of the Commissioner – Attn: Chief of Staff C  
Deputy Commissioner for Services and Enforcement SE  
Deputy Commissioner, Tax Exempt and Government Entities Division SE:T  
Director, Business Systems Planning, Tax Exempt and Government Entities Division SE:T:BSP  
Director, Employee Plans, Tax Exempt and Government Entities Division SE:T:EP  
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Appendix IV

Management's Response to the Draft Report



Tax Exempt and Government Entities

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

September 9, 2004

MEMORANDUM FOR ACTING DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Steven T. Miller *STM / Sarah Hall from*  
Commissioner, Tax Exempt and Government Entities

SUBJECT: Oversight of the Interagency Agreement Has Improved,  
But Additional Actions Are Needed to Ensure Timely,  
Accurate, and Complete Form 5500 Return Information  
(Audit # 200410007)

Thank you for the opportunity to respond to your draft report regarding the oversight of the IRS – Department of Labor (DOL) Interagency Agreement for the processing of Form 5500 Annual Return/Report of Employee Benefit Plans. I agree with the recommendations and will take steps within the scope of our available resources to act on them.

It is important to note one fact related to the duration of the Department of Labor (DOL) EFAST contract. The contract was awarded in 1998 with a base year and six option years. The DOL has exercised its final option, so the current DOL EFAST contract is effective only through June 30, 2005. However, negotiations are presently underway between DOL and the vendor that would, if concluded successfully, create two additional processing years extending the contract until June 30, 2007. It is important to understand these dates as they relate to the EFAST life cycle, because additional resources may be required since current equipment, personnel commitments and other resources are due to be exhausted at the end of the contract, in June 2005.

In addition, planning for the next generation system for Form 5500 return processing (EFAST2) is underway. We understand that DOL's Exhibit 300 (Capital Asset Plan and Business Case) for development funding is to be submitted shortly to OMB for FY 2006 funding consideration. TE/GE has worked closely with DOL to refine this proposed investment proposal. If the investment funding is forthcoming, EFAST2 is scheduled to begin processing Form 5500 returns on January 1, 2009.

I look forward to your continued interest in ensuring that Form 5500 is processed in the most effective and efficient manner possible. If you have any questions, your staff may contact Ted Ballard, Director, Business Systems Planning at (202) 283-9967 or Carol Gold, Director, Employee Plans at (202) 283-9515.

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### **RECOMMENDATION 1:**

The Director, Business Systems Planning function should ensure the necessary report format is finalized to verify the timeliness of Form 5500 returns processed to the EFAST performance standards.

### **CORRECTIVE ACTION 1:**

The Business Systems Planning function will submit a Request for Information Services (RIS) for Modernization and Information Technology Services (MITS) to develop the timeliness report based on TEGE's requirements. (Implementation is dependent upon MITS action on the RIS).

### **PROPOSED CORRECTIVE ACTION COMPLETION DATE:**

July 1, 2005

### **RESPONSIBLE OFFICIAL:**

Director, Business Systems Planning (BSP)

### **CORRECTIVE ACTION MONITORING PLAN:**

We will monitor this corrective action through the Business Review Process of the Commissioner of Internal Revenue (BPR), and the Inventory Tracking and Closure system of the Treasury Department (ITC).

### **RECOMMENDATION 2:**

The Director, Employee Plans function, and the Director, Business Systems Planning function, should work together on the following actions:

- Complete the effort of reviewing the terms of the current interagency agreement to identify opportunities to improve the TE/GE Division's oversight of the interagency agreement (for both returns processing and cost verification). The Director, Business Systems Planning should follow up with the DOL on any opportunities identified so the IRS can receive the information or service for the remainder of the current interagency agreement.
- Determine whether additional controls or tools are needed, that are not specified in the current interagency agreement or DOL contract, that will enable the TE/GE Division to effectively monitor the processing of Form 5500 returns against the performance standards for timeliness, accuracy and completeness and to verify costs.
- Based on the above analysis, determine what terms need to be included in the future interagency agreement and DOL EFAST contract. The next interagency agreement should specify what type of quality review information the DOL will provide to the IRS regarding the accuracy and completeness of returns processed. Finally, the next interagency agreement should require the EFAST II

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Project Manager to be notified when the DOL does not complete any administrative task specified in the interagency agreement.

**CORRECTIVE ACTION 2:**

Employee Plans and Business Systems Planning functions will identify opportunities in the current Interagency Agreement, and will identify any additional controls, tools, and processes to monitor returns processing and costs of EFAST operations, under the current interagency framework and any future agreement. Based on this review, the Director, Employee Plans, and the Director, BSP, will determine what processes are feasible and supportable with available EFAST funding.

**PROPOSED CORRECTIVE ACTION COMPLETION DATE:**

July 1, 2005

**RESPONSIBLE OFFICIAL:**

The Director, Employee Plans and the Director, BSP

**CORRECTIVE ACTION MONITORING PLAN:**

We will monitor this corrective action through the BPR process and the ITC system.

**RECOMMENDATION 3:**

The Director, Business Systems Planning function should implement oversight controls to ensure that records are maintained to show the receipt and acceptance of services and the allocated EFAST costs are verified to ensure they are commensurate with the services provided for the Form 5500 return processing.

**CORRECTIVE ACTION 3:**

The Business Systems Planning function will finalize with DOL a reporting cycle to receive copies of DOL receipt and acceptance records of vendor-provided services and costs (pursuit to Section 9, General Provisions, of the Interagency Agreement taking into consideration available data and reports, and oversight resources available from IRS).

**PROPOSED CORRECTIVE ACTION COMPLETION DATE:**

July 1, 2005

**RESPONSIBLE OFFICIAL:**

The Director, BSP

**CORRECTIVE ACTION MONITORING PLAN:** We will monitor this corrective action through the BPR process and the ITC system.