



*A Budget and Additional Business Measures
Would Help the Criminal Investigation
Division Better Administer Its
Counterterrorism Efforts*

November 21, 2008

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FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

November 21, 2008

MEMORANDUM FOR DEPUTY COMMISSIONER FOR SERVICES AND
ENFORCEMENT

Michael R. Phillips

FROM:

Michael R. Phillips
Deputy Inspector General for Audit

SUBJECT:

Final Audit Report – A Budget and Additional Business Measures
Would Help the Criminal Investigation Division Better Administer Its
Counterterrorism Efforts (Audit # 200710027)

This report presents the results of our review of the Criminal Investigation (CI) Division's¹ efforts involving terrorist-related financing activities. The overall objective of this review was to evaluate the CI Division's efforts to assist in the identification and investigation of terrorist-related financing activities. Although the CI Division supports the Federal Bureau of Investigation on counterterrorism investigations, it also works with the Departments of the Treasury and Justice and other law enforcement partners to enforce tax laws and other criminal statutes. This allows the Federal Government to consider potential tax or other financial-related charges in an effort to disrupt and dismantle the financial capabilities of terrorist organizations. This audit was conducted as part of the Treasury Inspector General for Tax Administration Fiscal Year 2008 Annual Audit Plan.

Impact on the Taxpayer

Investigating terrorism and terrorist-related financing activities is necessary to protect the United States, its citizens, and its allies. While this audit did not evaluate the CI Division's investigation activities, we determined that the CI Division can improve the monitoring and management of its counterterrorism activities by accurately identifying and tracking additional business measures, establishing a budget, and tracking expenditures. These improvements will enable the Division to better assess its contributions and ensure that appropriate resources are applied to counterterrorism efforts. In addition, if feasible, use of a more comprehensive

¹ See Appendix V for a glossary of terms.



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watch list² when screening Individual Taxpayer Identification Number (ITIN) applications might improve the Internal Revenue Service's (IRS) ability to identify individuals potentially involved with terrorist-related financing.

Synopsis

Through our interviews, we determined that the CI Division is coordinating well with key stakeholders, including the Federal Bureau of Investigation, the Departments of the Treasury and Justice, and the IRS Tax Exempt and Government Entities Division and Wage and Investment Division, on counterterrorism leads and investigations. However, the CI Division can do more administratively to improve its ability to oversee its counterterrorism efforts. First, it can improve the ability to assess the effectiveness of the IRS Counterterrorism Lead Development Center by accurately identifying and tracking additional business measures. Second, it can ensure that sufficient resources are allocated to its counterterrorism program by more fully tracking expenditures and developing a budget for internal use. Finally, the IRS might be missing an opportunity to identify additional individuals potentially involved with terrorist-related activities by not using a more comprehensive terrorist watch list when screening ITIN applications.

Recommendations

We recommended that the Director, Narcotics and Counterterrorism, CI Division, 1) establish additional business measures to assess the value of the Counterterrorism Lead Development Center's contributions to the counterterrorism program, 2) improve the type of closed case information captured to more accurately measure cycle time, and 3) more fully track expenditures involving counterterrorism activities to assist in the development of a budget for internal use. We recommended that the Chief, ITIN Program, Wage and Investment Division, coordinate with applicable stakeholders to evaluate the feasibility of using Terrorist Screening Center information when screening ITIN applications to improve the identification of individuals potentially involved with terrorist-related activities.

Response

IRS management agreed with all of our recommendations. The CI Division will establish additional business measures to better show the impact of its counterterrorism work and develop a strategy to improve the type of closed case information that the Lead Development Center captures to more accurately measure cycle time. Also, the CI Division will explore the

² See Appendix IV for details.



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possibility of establishing a system to track expenditures related to counterterrorism activities that should provide management with the ability to make informed decisions relating to the development of a budget for internal use. In addition, the Chief, ITIN Program, Wage and Investment Division, will determine and then coordinate with the appropriate internal and external stakeholders to evaluate the feasibility of vetting ITIN application information against different terrorist watch lists to improve the identification of individuals potentially involved with terrorist-related activities. Management's complete response to the draft report is included as Appendix VI.

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



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Abbreviations

CI	Criminal Investigation
FBI	Federal Bureau of Investigation
IRS	Internal Revenue Service
ITIN	Individual Taxpayer Identification Number
LDC	Lead Development Center
TE/GE	Tax Exempt and Government Entities
TSC	Terrorist Screening Center
W&I	Wage and Investment



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Background

In the aftermath of the terrorist attacks of September 11, 2001, Federal Government law enforcement agencies were mobilized to fight terrorism. Although the Federal Bureau of Investigation (FBI) has been designated as the lead agency, the Department of the Treasury, the Internal Revenue Service (IRS), and the IRS Criminal Investigation (CI) Division¹ provide vital support to the Federal Government’s counterterrorism efforts. Investigating terrorism and terrorist-related financing activities is necessary to protect the United States, its citizens, and its allies. Table 1 shows the relationship among the goals of the Department of the Treasury, the IRS, and the CI Division in this area.

Table 1: Relationship Among Counterterrorism Goals

DEPARTMENT OF THE TREASURY GOAL	IRS STRATEGIC PLAN	CI DIVISION ANNUAL PLAN
<p><u>Preserve the Integrity of Financial Systems</u></p> <p><i>Disrupt and dismantle financial infrastructure of terrorists, drug traffickers, and other financial-related crimes.</i></p>	<p><u>Enhance Enforcement of Tax Laws</u></p> <p><i>Swiftly detect and deter appropriate targets in areas of corporate fraud, high-income individuals’ participation in abusive schemes, malicious non-filers, international tax avoidance schemes, and terrorism-related financial crimes.</i></p>	<p><u>Operational Priority: Counterterrorism</u></p> <p><i>Give immediate attention to counterterrorism leads and continue to contribute financial investigative expertise and resources to the FBI Joint Terrorism Task Forces and the United States Attorney’s Offices Anti-Terrorism Task Forces. The CI Division will also work closely with the appropriate Department of the Treasury offices to investigate and freeze accounts controlled by individuals, hawalas,² or “charitable” organizations suspected of raising or facilitating the movement of funds to support international and domestic terrorism.</i></p>

Source: Department of the Treasury Fiscal Year 2003-2008 Strategic Plan, IRS Fiscal Year 2005-2009 Strategic Plan, and CI Division Fiscal Year 2008 Annual Business Plan.

¹ See Appendix V for a glossary of terms.

² A hawala is an alternative remittance system that exists outside of normal banking channels. What sets it apart from other remittance systems is that it is exclusively based on trust and the use of connections (e.g., family relationships or regional affiliations). In addition, hawalas make minimal use of negotiable instruments.



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As of December 31, 2006, funds totaling \$16,413,733 had been blocked due to sanctions imposed by the Department of the Treasury Office of Foreign Assets Control. These sanctions stopped the flow of funds to terrorist organizations such as Al-Qaida, Hamas, and Hezbollah. The Department of the Treasury implements targeted financial measures and other forms of sanctions against terrorists and their support networks, with the goal of stopping the flow of money to terrorist groups, State sponsors of terrorism, proliferators of weapons of mass destruction, drug traffickers, money launderers, and regimes that constitute a threat to the United States. To coordinate these efforts, the Department of the Treasury established the Office of Terrorism and Financial Intelligence in 2004. This Office develops and implements strategies for combating terrorist financing—both domestically and internationally—and oversees the following Department of the Treasury component offices and bureaus:

- Office of Intelligence and Analysis (provides intelligence support).
- Office of Terrorist Financing and Financial Crimes.
- Office of Foreign Assets Control (imposes sanctions against terrorists).
- Financial Crimes Enforcement Network (uses financial data to enforce the Bank Secrecy Act³).
- Treasury Executive Office for Asset Forfeiture (administers the receipt account for the deposit of non-tax forfeitures).

As the Federal Government agency responsible for tax administration, the IRS must assure that Federal tax laws are not violated, including determining whether charitable and non-profit organizations are potentially being used to divert charitable funds to support terrorist activities. The IRS supports the Department of the Treasury's counterterrorism efforts with the goal of swiftly detecting and deterring appropriate targets of terrorism-related financial crimes through work performed primarily by the Tax Exempt and Government Entities (TE/GE), the Wage and Investment (W&I), and the CI Divisions. Terrorists and their supporters have raised funds through a variety of conventional criminal activities such as dealing in stolen property, insurance fraud, smuggling, money laundering, and narcotics trafficking. They have also raised funds through the abuse of charitable and non-profit organizations involved with humanitarian relief or religious activities.

The CI Division works with the Departments of the Treasury and Justice and other law enforcement partners to enforce tax laws and other criminal statutes. To support the IRS' counterterrorism goal, the CI Division investigates counterterrorism leads and contributes financial investigative expertise and resources to the FBI-led Joint Terrorism Task Forces. The

³ Pub. L. No. 91-508, 84 Stat. 1114 to 1124 (1970) (codified as amended in scattered sections of 12 U.S.C., 15 U.S.C., and 31 U.S.C.). Regulations for the Bank Secrecy Act, and other related statutes, are 31 C.F.R. Sections 103.11-103.77 (2007).



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CI Division also participates in the Non-Governmental Organizations initiative established by the Department of Justice to identify charitable entities suspected of raising funds to support terrorist organizations. In addition, the CI Division works with the Department of the Treasury Office of Terrorism and Financial Intelligence, Office of Foreign Assets Control, and Financial Crime Enforcement Network to investigate individuals, charitable organizations, or underground banking systems suspected of raising or facilitating the movement of funds to support international and domestic terrorism. Tables 2 and 3 present CI Division enforcement data relating to terrorism-related investigations for the last 6 fiscal years.

Table 2: Terrorism Investigations

	FISCAL YEAR					
	2002	2003	2004	2005	2006	2007
Subject Investigations Initiated	157	151	123	128	51	83
Subject Investigations Completed	36	145	124	130	119	80
Prosecutions Recommended	20	91	75	86	52	45
Subjects Sentenced	5	21	11	29	34	48

Source: Criminal Investigation Management Information System Report INV002 (Summary by Program Area).

Table 3: Terrorism Investigations Involving Charities

	FISCAL YEAR					
	2002	2003	2004	2005	2006	2007
Subject Investigations Initiated	12	20	11	23	9	10
Subject Investigations Completed	2	8	10	21	18	24
Prosecutions Recommended	1	4	8	18	5	17
Subjects Sentenced	0	1	0	2	2	2

Source: Criminal Investigation Management Information System Report INV002 (Summary by Program Area).

As would be expected, the CI Division resources dedicated to combating terrorist-related activities increased after September 11, 2001. The number of CI Division special agents committed to the Joint Terrorism Task Forces more than doubled from its pre-September 11, 2001, level. In addition, in November 2003, the purpose of one of the CI Division Lead Development Centers (LDC) was modified to focus exclusively on developing leads and supporting field operations on cases involving counterterrorism. The LDC's initial



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customer base was limited to three field offices. In September 2005, the LDC's customer base was expanded to supporting counterterrorism investigations nationwide.

During Fiscal Year 2002 (the fiscal year immediately following September 11, 2001), the CI Division expended 6.5 percent of its direct investigative time on cases involving terrorist-related activities, which included participating in a special task force organized to disrupt groups or organizations that carry out fundraising for or in support of terrorism. In addition, CI Division special agents participated in the United States Marshals Service air marshal program and provided security for the 2002 Winter Olympics. The CI Division's direct investigative time for terrorist-related investigations in Fiscal Year 2007 was 2.6 percent. The Division no longer participates in the special task force or the air marshal program, thus the decrease in direct investigative time from Fiscal Year 2002 to Fiscal Year 2007. In addition, the Division has not initiated as many investigations in the last several years. The CI Division initiated 157 cases in Fiscal Year 2002 and 83 cases in Fiscal Year 2007.

Audit work was performed at the CI Division Counterterrorism LDC in New York and the CI Division Office of Narcotics and Counterterrorism; the TE/GE Division; the Department of the Treasury; and the Department of Justice in Washington, D.C., during the period November 2007 through June 2008. In addition, we contacted personnel within the W&I Division Individual Taxpayer Identification Number (ITIN) Program Office. We conducted this performance audit in accordance with generally accepted government auditing standards, except for the Fieldwork Standard for performance audits governing sufficient, relevant, and competent evidence. Most of the documents and information pertaining to the CI Division's involvement with counterterrorism are restricted because of their sensitive nature. Documents such as service level agreements, memoranda of understanding, and manuals were available by request through the CI Division.

In our opinion, during the course of the audit, the CI Division delayed our receiving requested documents and information, stating that the delay was due to the internal vetting process required prior to releasing documents. Although we eventually received most of the information and documents requested, the CI Division did not provide us with some material because it indicated that these documents contained some information considered sensitive by other agencies. Because we are unsure whether we requested all applicable documents, the results presented in this report are based on interviews and documents received. In addition, we did not review any terrorist-related financing investigative case files to evaluate how well the CI Division supports the FBI, other Federal Government agencies, and other IRS divisions through its research and financial analysis pertaining to counterterrorism investigations. However, we interviewed representatives from the FBI, the Department of Justice, the Department of the Treasury, and the IRS TE/GE and W&I Divisions to obtain their opinions regarding the coordination on terrorist-related financing cases. Detailed information on our audit objective, scope, and methodology is presented in Appendix I. Major contributors to the report are listed in Appendix II.



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Results of Review

Because the CI Division is not the lead organization on counterterrorism investigations, its involvement requires effective coordination with the FBI, other Federal Government agencies, and other IRS divisions. Through our interviews, we determined that the CI Division is coordinating well with key stakeholders, including the Department of the Treasury, the Department of Justice, the FBI, and the IRS TE/GE and W&I Divisions, on counterterrorism leads and investigations.

However, the CI Division can do more administratively to improve the ability to oversee its counterterrorism efforts. First, it can improve the ability to assess the effectiveness of the Counterterrorism LDC by accurately identifying and tracking additional business measures, including the dollar value of assets seized and the numbers of individuals indicted and ultimately convicted. Second, establishing a budget and tracking expenditures will give the CI Division the ability to ensure that sufficient resources are allocated to its counterterrorism program to analyze leads and conduct investigations in support of the FBI.

The IRS as an organization might be missing an opportunity to identify additional individuals potentially involved with terrorist-related activities. The Terrorist Screening Center (TSC) watch list⁴ might be a good additional source of information for screening ITIN applications, and the IRS should consider its usefulness.

2(f), 2(g)



The Criminal Investigation Division Effectively Coordinates With Stakeholders

Although the FBI has been designated as the lead agency investigating counterterrorism, many other Federal, State, and local government agencies are involved. Coordination of these efforts is especially important to ensure effective use of resources and to prevent duplication of work. This can be accomplished by conducting regular and frequent meetings and establishing liaisons to ensure that critical information is shared in a timely manner. For example, the CI Division has a national Joint Terrorism Task Forces coordinator who spends a majority of time at an FBI building. Along with attending meetings, the national Joint Terrorism Task Forces coordinator

⁴ See Appendix IV for details.



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liaises with special agents assigned to the Joint Terrorism Task Forces in CI Division field offices.

The CI Division actively participates in both the FBI-led Joint Terrorism Task Forces and the Department of Justice Non-Governmental Organizations initiative. The FBI created the Joint Terrorism Task Forces to strengthen efforts to combat terrorism by enhancing cooperation among Federal, State, and local government law enforcement agencies throughout the country. The Department of Justice created the Non-Governmental Organizations initiative to investigate terrorist-related financing involving charitable organizations. The objective of this initiative is to identify trends and patterns of charitable organizations through research of financial data and other terrorist-related databases. The CI Division plays a crucial role because it is the only law enforcement agency with access to tax return and tax return-related information, and its special agents are considered experts at analyzing financial data. In addition, involving the CI Division in terrorist-related financing cases allows the Federal Government to consider potential tax or other financial-related charges in an effort to disrupt and dismantle the financial capabilities of terrorist organizations.

Within the IRS, the TE/GE and W&I Divisions also have procedures to identify individuals and entities potentially involved in terrorist-related financing activities. The TE/GE Division compares information found on Return of Organization Exempt From Income Tax (Form 990) and Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code (Form 1023) against a terrorist watch list maintained by the Department of the Treasury Office of Foreign Assets Control⁵ to identify instances in which charitable and other non-profit organizations might be linked to terrorist activities. The W&I Division also uses the Office of Foreign Assets Control watch list to screen individuals requesting an ITIN using an Application for IRS Individual Taxpayer Identification Number (Form W-7). When the TE/GE and W&I Divisions identify a potential match to the Office of Foreign Assets Control watch list, they refer the information to the CI Division Counterterrorism LDC for further research. Analysts at the LDC review and research the referrals and, if appropriate, initiate an investigation.

We interviewed representatives from the FBI, the Department of Justice, the Department of the Treasury, and the IRS TE/GE and W&I Divisions to obtain their opinions regarding the coordination of terrorist-related financing cases. All affected parties we interviewed stated that they have a good relationship with the CI Division and expressed no areas of concern related to coordination issues.

⁵ See Appendix IV for details.



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***The Criminal Investigation Division Can Improve Its Ability to Assess
the Results of the Counterterrorism Lead Development Center***

As of January 15, 2008, the Counterterrorism LDC employed 23 people: 1 Supervisory Special Agent, 2 special agents, 2 senior investigative analysts, and 18 investigative analysts. The Counterterrorism LDC focuses on terrorist financing, with an emphasis on financing through charitable organizations. As stated in the Counterterrorism LDC manual, the Center's purpose is to provide effective and efficient support to ongoing counterterrorism investigations assigned to the CI special agents in the field; identify emerging issues, trends, and patterns; act as a deconfliction center;⁶ identify and forward leads through proactive research; and liaise with the FBI Joint Terrorism Task Forces.

In March 2006, the CI Division performed an operational review of the Counterterrorism LDC and recommended establishing a better system to measure and track its business results. According to the LDC Supervisory Special Agent, the CI Division developed the following quantitative measures for the Counterterrorism LDC. The number of:

- Leads received by the LDC (both internal and external sources).
- Leads assigned to an LDC analyst.
- Leads closed without initiating a case in the field.
- Leads not assigned to an LDC analyst.
- Leads referred to the field for initiation of an investigation.
- Days to complete a lead (cycle time).
- Deconflictions identified.

Additionally, the CI Division created a tool to capture the qualitative measures of LDC work. Specifically, the Counterterrorism LDC sends a questionnaire to the CI Division field offices requesting feedback regarding the quality of the analysts' work product. The LDC also uses an internal form to evaluate the analysts' work.

Although the Division's efforts to measure the work completed by the Counterterrorism LDC will provide management with meaningful information, the Division could expand on these measures to include tracking when the LDC's work supports an investigation for which an indictment, conviction, and/or sentence is obtained. CI Division management recently stated that they are exploring ways to capture these types of information in the LDC database. This would help the CI Division show the impact of its counterterrorism work and its accomplishments in combating the war on terror.

Additionally, LDC management needs to ensure that accurate information is tracked in the LDC database to provide meaningful information on achieving its goals. For example, one of the

⁶ Deconfliction is when two or more agents and/or agencies are actively pursuing the same target or related targets without knowledge of each other's investigation.



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goals developed to measure the Counterterrorism LDC's efficiency is cycle time. According to a document obtained from LDC management, cycle time measures the days taken by the LDC to complete its analysis of a lead and is calculated by dividing total hours expended by eight. We determined that 19 percent of completed leads (14 of 73) reflected no time charges in the LDC database. This will skew the results when calculating and portraying how long it takes the LDC to complete research on a lead or referral. By capturing the additional quantitative measures and ensuring the accuracy of all data in the LDC database, the CI Division will be better able to assess the LDC's results.

Recommendations

The Director, Narcotics and Counterterrorism, CI Division, should:

Recommendation 1: Establish additional business measures to better show the impact of counterterrorism work, including when LDC analysis results in or supports an investigation in the field.

Management's Response: IRS management agreed with the recommendation and will establish additional business measures to better show the impact of counterterrorism work, including when LDC analysis results in or supports an investigation.

Recommendation 2: Improve the type of closed case information captured on the LDC database to more accurately measure cycle time.

Management's Response: IRS management agreed with the recommendation and will develop a strategy to improve the type of closed case information that the LDC captures to more accurately measure cycle time.

Establishing a Budget and Tracking Its Expenditures Would Help the Criminal Investigation Division Ensure That Counterterrorism Activities Are Properly Funded

In December 2003, President Bush approved a one-time additional \$7 million of funding for the CI Division's counterterrorism efforts, and the Division provided to the Department of the Treasury documentation stating how it planned to use the funds to support its terrorist-related efforts. However, the CI Division does not prepare a specific budget for terrorist-related activities on an ongoing basis. In addition, CI Division management indicated that it currently captures only limited expenditures associated with counterterrorism activities. As a result, CI Division management cannot determine whether their efforts are properly funded.

Budgeting provides a forecast of expenditures and enables the actual cost to be measured against the forecast. Resources are limited and must be budgeted and tracked to ensure that they are being used in the most cost-effective manner. Having appropriate and applicable business



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measures, a budget, and methods to track and evaluate costs provides management with the ability to determine whether the resources applied to an organizational priority are too many, adequate, or too few.

While not specifically singling out the CI Division, the Congressional Research Service issued a report on August 3, 2005, entitled *Terrorist Financing: U.S. Agency Efforts and Inter-Agency Coordination*, which stated that it found no evidence that the IRS has developed a formal and publicly accessible method for evaluating the cost-effectiveness of its contributions to the campaign against terrorist financing. The report goes on to state that the lack of such a method makes it difficult to address some key policy issues raised by those contributions. The report then concludes that it is not clear to what extent the agency's involvement complements or duplicates work done by other agencies, yields financial information that results in the elimination or disruption of specific sources of terrorist financing, and can be regarded as a desirable investment of public resources.

As of January 15, 2008, the CI Division had approximately 133 employees—some on a full-time basis—assigned to various positions supporting the war on terror through analysis and investigations of leads and cases in an effort to disrupt and dismantle the financial capabilities of terrorist organizations. However, the number of CI Division employees assigned to counterterrorism has *decreased* by 27 percent since Fiscal Year 2005.⁷ CI Division management stated that although they do not budget specifically for counterterrorism, they would apply whatever funding is needed to support the FBI's counterterrorism efforts. During one of our discussions, FBI management stated their concern that as time goes on, especially if the United States does not experience any further terrorist attacks, law enforcement entities might move resources away from combating terrorism. Therefore, the lack of a counterterrorism budget might increase the risk that CI Division counterterrorism resources could be moved to other program areas because of competing priorities.

CI Division management also stated that they do not want to budget for counterterrorism because doing so might create the impression that they are limiting the resources applied to cases involving terrorist-related financing. Although we are unaware of any instances in which the CI Division has not applied the resources necessary to combat terrorist-related financing activities, we believe that establishing a budget and developing a method to track expenditures will help Division management ensure that these activities are appropriately staffed and funded. Also, budgeting for terrorist-related activity can be viewed as reinforcing the CI Division's commitment and could make it more difficult to move resources away from lead development and investigations involving terrorist-related financing.

⁷ Based on the Congressional Research Service report, the CI Division had 182 employees working on counterterrorism investigations in Fiscal Year 2005.



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Recommendation

Recommendation 3: The Director, Narcotics and Counterterrorism, CI Division, should more fully track Division expenditures involving terrorist-related activities and use the data as a baseline for developing a budget for internal use. This will provide management with the ability to determine whether the Division's efforts to disrupt and dismantle terrorist-related financing activities are properly funded in the future.

Management's Response: IRS management agreed with the recommendation and will explore the possibility of establishing a more streamlined system of tracking expenditures related to counterterrorism activities. The tracking of expenditures should provide management with the ability to make informed decisions relating to the development of a budget for internal use to assess overall resource use for counterterrorism activities.

Matching Individual Taxpayer Identification Number Application Information Against the Terrorist Screening Center Watch List Could Be Beneficial

An ITIN is a nine-digit number issued by the IRS to individuals who are required for United States tax purposes to have a Taxpayer Identification Number but who do not have—and are not eligible to obtain—a Social Security Number.



When the W&I Division identifies a potential match of information on an ITIN application with that on the Office of Foreign Assets Control terrorist watch list, it will suspend processing of the application and provide the information to the Counterterrorism LDC, which analyzes the information to determine whether there is cause to initiate an investigation. The W&I Division continues to suspend processing of the ITIN application until it receives communication from the Counterterrorism LDC. During Fiscal Year 2007, the W&I Division referred approximately 3,700 potential ITIN matches to the Counterterrorism LDC.⁸

However, we believe that use of the Department of Justice TSC terrorist watch list, which is more comprehensive than the Office of Foreign Assets Control watch list, might be very beneficial to the IRS in its counterterrorism efforts in the ITIN screening process. The Department of Justice created the TSC terrorist watch list to serve as a consolidated database

⁸ Most of the potential matches identified by the W&I Division were the result of individuals with a name that is very similar to or the same as a name on the Office of Foreign Assets Control watch list.



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of the names and other identifying information for all known or suspected terrorists. As of April 2007, the TSC watch list contained more than 700,000 names. As of June 5, 2008, the Office of Foreign Assets Control watch list contained approximately 3,800 names.

We previously issued a report on the TE/GE Division's efforts to identify and work cases involving tax-exempt organizations and/or related individuals potentially involved in terrorist-related activities.⁹ In that report, we stated that the IRS was possibly missing an opportunity to identify potential terrorist-related financing activity because Form 990 information was being screened only against the Office of Foreign Assets Control terrorist watch list. We recommended that the Director, Exempt Organizations, TE/GE Division, in coordination with key IRS and external stakeholders, evaluate whether more comprehensive terrorist watch lists—including any applicable TSC information—should be used to improve the identification of organizations and/or individuals potentially involved in terrorist-related activities.

During a recent discussion with TE/GE Division management, we asked whether they had taken corrective action on our recommendation of screening the Form 990 and Form 1023 data against the TSC terrorist watch list. Management responded that they had contacted the appropriate parties and determined that they are currently unable to do so. They explained that other information, such as a Social Security Number and date of birth, is needed to ensure that a more definitive match is obtained against the TSC watch list rather than relying solely on the name. Neither Form 990 nor Form 1023 contains Social Security Numbers or dates of birth. Because the ITIN application requires the individual's date of birth, we believe that it would be beneficial for the IRS to determine whether the TSC watch list could be used to screen ITIN applications to identify individuals potentially involved with terrorist-related activities.

Although the CI Division is not involved with the W&I Division's screening of the ITIN information, the CI Division is the recipient of the information to be analyzed and needs to be aware of and take into consideration how the information is being screened. The purpose of screening ITIN application information against the Office of Foreign Assets Control watch list is to identify individuals and entities potentially involved with terrorist-related activities. By not screening the ITIN applications against the TSC watch list, the IRS is not using all information available and established to identify individuals potentially involved with terrorist-related activities. As a result, the W&I Division might not be detecting and referring to the Counterterrorism LDC all individuals applying for ITINs who are associated with terrorist-related financing activities.

⁹ *Screening Tax-Exempt Organizations' Filing Information Provides Minimal Assurance That Potential Terrorist-Related Activities Are Identified* (Reference Number 2007-10-082, dated May 21, 2007).



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Recommendation

Recommendation 4: The Chief, ITIN Program, W&I Division, should coordinate with internal and external stakeholders to evaluate the feasibility of using applicable TSC information in conjunction with the Department of the Treasury Office of Foreign Assets Control watch list during the screening of ITIN applications to improve the identification of individuals potentially involved with terrorist-related activities.

Management's Response: IRS management agreed with the recommendation. They will determine and then coordinate with the appropriate internal and external stakeholders to evaluate the feasibility of vetting ITIN applications against different terrorist watch lists, such as the TSC and Office of Foreign Assets Control lists, to improve the identification of individuals potentially involved with terrorist-related activities.



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Appendix I

Detailed Objective, Scope, and Methodology

The overall objective of this audit was to evaluate the CI Division's¹ efforts to assist in the identification and investigation of terrorist-related financing activities. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on this audit objective. Most of the documents pertaining to counterterrorism are restricted because of their sensitive nature. However, some documents were made available only by request through the CI Division. Therefore, our review was limited because all documents requested from the CI Division were not received (some documents contained information considered sensitive by other agencies), and we are unsure whether we requested all applicable documents. Our inability to secure all documents potentially limits our ability to fully assess the CI Division's efforts to combat terrorist-related financing activities.

To accomplish the audit objective, we:

- I. Determined the roles and responsibilities, including resource commitments, of the Department of the Treasury, the IRS, and the CI Division in combating terrorist-related financing activities.
 - A. Interviewed applicable Department of the Treasury, IRS, and CI Division management and determined their roles and responsibilities in combating terrorist-related financing activities involving organizations and/or individuals.
 - B. Reviewed Department of the Treasury, IRS, and CI Division strategic/annual plans, directives, and policies and determined their goals and objectives.
 - C. Determined CI Division resource commitments (funding and staffing) allocated to combating terrorist-related financing activities.
- II. Evaluated how the CI Division coordinated with other IRS divisions to identify and investigate cases involving terrorist-related financing activities.
 - A. Interviewed applicable management of the TE/GE and the W&I Divisions and determined how they interact with the CI Division on cases involving terrorist-related financing.
 - B. Reviewed the CI Division Counterterrorism LDC's procedures and the Memorandum of Understanding between the CI Division and W&I Division relating to the identification and processing of possible terrorist-related financing cases.

¹ See Appendix V for a glossary of terms.



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- III. Evaluated how the CI Division assisted and coordinated with other government agencies to identify and investigate cases involving terrorist-related financing activities.
- A. Interviewed applicable CI Division management and determined their roles and responsibilities for the identification and investigation of terrorist-related financing cases received from the various task forces and obtained management's opinion as to the effectiveness of these task forces.
 - B. Interviewed CI Division and external personnel involved with the Joint Terrorism Task Forces, Non-Governmental Organizations initiative, Office of Foreign Assets Control, Financial Crimes Enforcement Network, and Office of Terrorist Financing and Financial Crimes and obtained their feedback on the effectiveness of CI Division involvement.
 - C. Determined the procedures developed and the processes followed by the CI Division to identify and work terrorist-related financing cases in coordination with external agencies when addressing terrorist-related financing cases.
 - D. Determined how the CI Division obtained its terrorism-related financing cases when they are identified as part of the Joint Terrorism Task Forces or the Non-Governmental Organizations initiative.
 - E. Determined how the CI Division evaluates the effectiveness of the Counterterrorism LDC to analyze and develop leads.
- IV. Obtained statistical reports from the CI Division regarding its efforts on cases involving terrorist-related financing activities for the period October 1, 2001, through September 30, 2007. We also obtained an extract of the Counterterrorism LDC database that contained case information for the period September 7, 2006, through December 28, 2007.
- A. Identified how information involving terrorist-related financing activities is tracked by the CI Division.
 - B. Secured the statistical information for terrorist-related cases for Subject Investigations Initiated, Subject Investigations Completed, Prosecutions Recommended, and Subjects Sentenced.
 - C. Determined the CI Division's business measures and financial outcomes regarding terrorist-related financing activities.
 - D. Obtained a copy of the Counterterrorism LDC database for the period September 7, 2006, through December 28, 2007. We used these data to identify the population of leads developed and support provided to the field. We considered the reliability of the data contained in the Counterterrorism LDC database to be undetermined in terms of completeness and accuracy because we did not have the



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source documents available to make that determination. However, in our opinion, using the data for informational purposes did not weaken our analysis or lead to an incorrect or unintentional message.



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Appendix II

Major Contributors to This Report

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Appendix III

Report Distribution List

Commissioner C
Office of the Commissioner – Attn: Chief of Staff C
Commissioner, Tax Exempt and Government Entities Division SE:T
Commissioner, Wage and Investment Division SE:W
Chief, Criminal Investigation SE:CI
Director, Customer Account Services, Wage and Investment Division SE:W:CAS
Director, Exempt Organizations, Tax Exempt and Government Entities Division SE:T:EO
Director, Operations Policy and Support, Criminal Investigation SE:CI:OPS
Deputy Director, Operations Policy and Support, Criminal Investigation SE:CI:OPS
Director, Narcotics and Counterterrorism, Criminal Investigation SE:CI:OPS:NC
Deputy Director, Narcotics and Counterterrorism, Criminal Investigation SE:CI:OPS:NC
Chief Counsel CC
National Taxpayer Advocate TA
Director, Office of Legislative Affairs CL:LA
Director, Office of Program Evaluation and Risk Analysis RAS:O
Office of Internal Control OS:CFO:CPIC:IC
Audit Liaisons:
 Director, Communications and Liaison, Tax Exempt and Government Entities Division
 SE:T:CL
 Director, Planning and Strategy, Criminal Investigation SE:CI:S:PS
 Senior Operations Advisor, Wage and Investment Division SE:W:S:W



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Appendix IV

Terrorist Screening Center and Office of Foreign Assets Control Watch List Information

Terrorist Screening Center Watch List

On September 16, 2003, Homeland Security Presidential Directive-6 was signed, directing that a center be established to consolidate the Federal Government's approach to terrorism screening and to provide for the appropriate and lawful use of terrorist information in screening processes. As a result, the Attorney General, the Director of the Central Intelligence Agency, and the Secretaries of the Departments of State and Homeland Security signed a Memorandum of Understanding creating the TSC and placed it within the FBI in the Department of Justice. The TSC began operations on December 1, 2003, and is charged with consolidating and maintaining the United States Government's terrorist watch list.¹ The Secretaries of the Departments of Defense and the Treasury signed an addendum to the Memorandum to join the partnership supporting the TSC in August 2004. The TSC terrorist watch list currently contains the names of more than 700,000 individuals suspected of being involved in terrorist activities.

The TSC watch list contains the names and other identifying information for all known or suspected terrorists. A known or suspected terrorist is an individual known or appropriately suspected to be or have been engaged in conduct constituting, in preparation for, in aid of, or related to terrorism. The TSC watch list contains information on known or suspected terrorists only. It does not contain information on persons who have no nexus to terrorism. The TSC watch list was created to be a single, comprehensive database of known or appropriately suspected terrorists.

¹ The TSC was assigned responsibility for consolidating terrorist screening information to be used by Federal, State, local, territorial, tribal, and foreign governments and private sector organizations across the country and around the world. The TSC terrorist watch list is a consolidated database that contains all information permitted by law on the identities of individuals known or appropriately suspected to be involved in terrorist activities obtained from these entities.



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Office of Foreign Assets Control Terrorist Watch List

The Department of the Treasury Office of Foreign Assets Control terrorist watch list, which is a document available for public viewing, lists individuals or groups known to be terrorists and designated by the Department of the Treasury Office of Foreign Assets Control pursuant to Executive Orders 12947,² 13099,³ and 13224⁴ or as a Foreign Terrorist Organization.⁵ Persons of the United States are prohibited from conducting unauthorized transactions or having other dealings with or providing services to the designated individuals or entities. Any property or property interest of a designated person that comes within the control of a United States person is blocked by that individual and must be reported to the Office of Foreign Assets Control.

The difference between the TSC watch list and the Office of Foreign Assets Control terrorist watch list is that the TSC watch list contains the names of known and suspected terrorists and the Office of Foreign Assets Control terrorist watch list contains names of organizations, countries, and some individuals whose assets have been frozen because they have committed or pose a significant risk of committing acts of terrorism.

² Executive Order 12947, signed January 13, 1995, prohibits transactions with terrorists who threaten to disrupt the Middle East peace process.

³ Executive Order 13099, signed August 20, 1998, amended Executive Order 12947 to take additional steps with respect to grave acts of violence committed by foreign terrorists who disrupt the Middle East peace process.

⁴ Executive Order 13224, signed September 23, 2001, blocks property and prohibits transactions with persons who commit, threaten to commit, or support terrorism.

⁵ On April 24, 1996, Congress passed the Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. 104-132, 110 Stat. 1247-1258 (the Antiterrorism Act). Section 302 of the Antiterrorism Act (8 U.S.C. Section 1189) authorizes the Secretary of State, in consultation with the Secretary of the Treasury and the Attorney General, to designate organizations meeting stated criteria as foreign terrorist organizations, with prior notification to Congress of the Secretary's intent to designate. Section 303 of the Act (8 U.S.C. Section 2339B) makes it a crime for persons within the United States or subject to United States jurisdiction to knowingly provide material support or resources to a foreign terrorist organization designated under Section 302.



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Appendix V

Glossary of Terms

Congressional Research Service – Serves shared staff to Congressional committees and members of Congress. Congressional Research Service experts assist at every stage of the legislative process—from the early considerations that precede bill drafting, through committee hearings and floor debate, to the oversight of enacted laws and various agency activities.

Counterterrorism Lead Development Center – Provides effective and efficient support to ongoing counterterrorism investigations assigned to the CI Division special agents in the field; identifies emerging issues, trends, and patterns; acts as a deconfliction center; identifies and forwards leads through proactive research; and liaises with the FBI Joint Terrorism Task Forces.

Criminal Investigation Division – Serves the American public by investigating potential criminal violations of the Internal Revenue Code and related financial crimes in a manner that fosters confidence in the tax system and compliance with the law.

Criminal Investigation Management Information System – A database that tracks the status and progress of criminal investigations and the time expended by special agents.

Direct Investigative Time – Time spent by special agents conducting investigations and other law enforcement activities.

Field Offices – Offices within the five CI Division geographical areas throughout the country with boundaries that range from a portion of a single State to inter-State areas. Each field office has a Special Agent in Charge to direct, monitor, and coordinate the criminal investigation activities within that office's area of responsibility. Several post-of-duty cities are located within each field office.

Financial Crimes Enforcement Network – An office of the Department of the Treasury that enhances United States national security, deters and detects criminal activity, and safeguards financial systems from abuse by promoting transparency in the United States and international financial systems.

Individual Taxpayer Identification Number – A nine-digit number issued by the IRS to individuals who are required for United States tax purposes to have a Taxpayer Identification Number but who do not have—and are not eligible to obtain—a Social Security Number.

Investigative Analyst – Collects, develops, and analyzes information and disseminates the information via written reports and oral presentations that substantiate or refute information regarding criminal investigations underway. An investigative analyst identifies and investigates separate issues that might grow from assigned cases (or from proactive efforts).



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Joint Terrorism Task Forces – Small cells of highly trained, locally based, passionately committed investigators, analysts, linguists, and other specialists from dozens of United States law enforcement and intelligence agencies.

Non-Governmental Organizations – Any non-profit, voluntary citizens' group that is organized on a local, national, or international level. Task-oriented and driven by people with a common interest, Non-Governmental Organizations perform a variety of service and humanitarian functions, bring citizen concerns to Governments, advocate and monitor policies, and encourage political participation through provision of information.

Office of Foreign Assets Control – An office of the Department of the Treasury that administers and enforces economic and trade sanctions based on United States foreign policy and national security goals against targeted foreign countries, terrorists, international narcotics traffickers, and those engaged in activities related to the proliferation of weapons of mass destruction.

Office of Intelligence and Analysis – An office of the Department of the Treasury that is responsible for the receipt, analysis, collation, and dissemination of foreign intelligence and foreign counterintelligence information related to the operation and responsibilities of the Department of the Treasury.

Office of Terrorist Financing and Financial Crimes – An office of the Department of the Treasury that works across all elements of the national security community—including the law enforcement, regulatory, policy, diplomatic, and intelligence communities—and with the private sector and foreign governments to identify and address the threats presented by all forms of illicit finance to the international financial system.

Prosecutions Recommended – Subject investigations that resulted in the determination of prosecution potential referred to the Department of Justice or to a United States Attorney's Office.

Service Level Agreement – A formally negotiated agreement between two or more parties within the IRS.

Special Agent – A CI Division law enforcement employee who investigates potential criminal violations of the internal revenue laws and related financial crimes.

Subject Investigations Completed – The number of subject investigations that have been discontinued or recommended for prosecution.

Subject Investigation Initiated – Special agents analyze information to determine if criminal tax fraud or some other financial crime might have occurred. This preliminary process is called a "primary investigation." The special agent's front-line supervisor reviews the preliminary information and makes the determination to approve or decline further development of the



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information. If the supervisor approves further development of an investigation, a subject investigation is initiated.

Subjects Sentenced – The number of individuals sentenced by a judge for committing a tax, tax-related, or other financial-related crime.



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Appendix VI

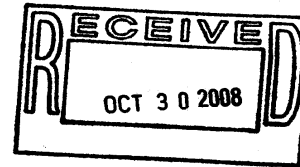
Management's Response to the Draft Report



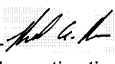

Criminal Investigation

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

October 30, 2008



MEMORANDUM FOR MICHAEL R. PHILLIPS
DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Eileen C. Mayer  
Chief, Criminal Investigation SE:CI

SUBJECT: Response to TIGTA Draft Report "A Budget and Additional
Business Measures Would Help the Criminal Investigation
Division Better Administer Its Counterterrorism Efforts
(Audit # 200710027)

Thank you for the opportunity to review and respond to the subject draft report. The focus of this report from the Treasury Inspector General for Tax Administration (TIGTA) is to evaluate Criminal Investigation's (CI) efforts to assist in the identification and investigation of terrorist-related financing activities. Due to the potentially negative impact on tax law enforcement resulting from the publication of sensitive information contained in this report, CI requested redaction and/or removal of specific information pursuant to Title 5 USC Section 552(b)(7)(E) and (F). As of this writing, we cannot ascertain if our request for redactions and/or removal of this information will prevail. We understand TIGTA will coordinate with its Counsel and provide a response to our request on or before November 7, 2008.

The Internal Revenue Service (IRS) acknowledges the seriousness of the threat posed by terrorism and terrorist financing, as well as the need to ensure the safety and security of our nation and our financial banking system. However, as mentioned, we object to certain explicit statements in the report as to how terrorists and their supporters can use specific IRS information to further their criminal activities. Criminal Investigation will continue to work cooperatively with its law enforcement counterparts to disrupt and dismantle the financial capabilities of terrorist organizations.

Criminal Investigation would like to address comments made in the report on page 4, paragraph 3, in which TIGTA states "In our opinion, during the course of the audit, the CI Division delayed our receiving requested documents and information, stating that the delay was due to the internal vetting process required prior to releasing documents. Although we eventually received most of the information and documents requested, the CI Division did not provide us with some material because it indicated that these documents contained some information considered sensitive by other agencies." During the pre-planning phase of the audit field work, CI met with TIGTA officials and discussed data requests. Criminal Investigation informed TIGTA officials that we would provide TIGTA with information considered "law enforcement sensitive"



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if we could be assured that the information would not become a matter of public record, either in written or oral reports, testimony, or other communications. However, TIGTA indicated that they could not give that assurance prior to reviewing the documents. Therefore, CI advised TIGTA that the "law enforcement sensitive" information would have to be reviewed, redacted, and then approved by CI Senior Management prior to the documents being provided to TIGTA. In addition, some sensitive information was not provided because CI was not the owner of the documents. However, TIGTA was provided an avenue to attempt to obtain the information from its originator.

Our comments and corrective actions for the specific recommendations in the report are as follows:

The Director, Narcotics and Counterterrorism, CI, should:

RECOMMENDATION 1:

Establish additional business measures to better show the impact of counterterrorism work, including when Lead Development Center (LDC) analysis results in or supports an investigation in the field.

CORRECTIVE ACTION(S)

We agree with this recommendation. We will establish additional business measures to better show the impact of counterterrorism work. The Director of the Narcotics and Counterterrorism section has assigned personnel to evaluate our current system and to make recommendations for capturing additional business measures, including when LDC analysis results in or supports an investigation.

IMPLEMENTATION DATE

COMPLETED _____ PROPOSED 09/30/2009

RESPONSIBLE OFFICIAL

Director, Narcotics and Counterterrorism

CORRECTIVE ACTIONS MONITORING PLAN

The Director, Narcotics and Counterterrorism, will ensure these actions are completed in a timely manner.

RECOMMENDATION 2:

Improve the type of closed case information captured on the LDC database to more accurately measure cycle time.



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CORRECTIVE ACTION(S)

We agree with this recommendation. The LDC supports the field on case development initiatives and leads that they may work on and close however this information may never be captured in CIMIS since CIMIS will only capture cases that have an investigation number. Even though the information is not captured in CIMIS, the LDC tracks the information in its counterterrorism database. We will develop a strategy to improve the type of closed case information that the LDC captures to more accurately measure our cycle time.

IMPLEMENTATION DATE

COMPLETED _____ PROPOSED 09/30/2009

RESPONSIBLE OFFICIAL

Director, Narcotics & Counterterrorism

CORRECTIVE ACTIONS MONITORING PLAN

The Director, Narcotics and Counterterrorism, will ensure these actions are completed in a timely manner.

RECOMMENDATION 3:

The Director, Narcotics and Counterterrorism, CI, should more fully track Division expenditures involving terrorist-related activities and use the data as a baseline for developing a budget for internal use. This will provide management with the ability to determine whether the Division's efforts to disrupt and dismantle terrorist-related financing activities are properly funded in the future.

CORRECTIVE ACTION(S)

We agree with this recommendation. We will meet with Criminal Investigation, Finance, to explore the possibility of establishing a more streamlined system of tracking expenditures related to counterterrorism activities, and if possible establish procedures. This system of tracking expenditures should provide management with the ability to make informed decisions relating to the development of a budget for internal use to assess our overall resource utilization.

IMPLEMENTATION DATE

COMPLETED _____ PROPOSED 09/30/2009

RESPONSIBLE OFFICIAL

Director, Narcotics & Counterterrorism



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CORRECTIVE ACTIONS MONITORING PLAN

The Director, Narcotics and Counterterrorism, will ensure these actions are completed in a timely manner.

RECOMMENDATION 4:

The Chief, ITIN Program, W&I Division, should coordinate with internal and external stakeholders to evaluate the feasibility of using applicable TSC information in conjunction with the Department of the Treasury Office of Foreign Assets Control watch list during the screening of ITIN applications to improve the identification of individuals potentially involved with terrorist-related activities.

CORRECTIVE ACTION(S)

We agree with the recommendation. The Chief, ITIN Program Office, W and I Division, will determine and then coordinate with the appropriate internal and external stakeholders to evaluate the feasibility of vetting ITIN applications against different terrorist watch lists, such as the TSC and OFAC lists, in order to improve the identification of individuals potentially involved with terrorist-related activities.

IMPLEMENTATION DATE

COMPLETED _____ PROPOSED 09/30/2009

RESPONSIBLE OFFICIAL

Director, Submission Processing, Wage and Investment Division

CORRECTIVE ACTIONS MONITORING PLAN

The Chief, ITIN Program Office, will monitor this corrective action as part of our internal management control system.