











Audit Report



OIG-14-032

The Department of the Treasury Was Not in Compliance With the Improper Payments Elimination and Recovery Act for Fiscal Year 2013

April 15, 2014





Department of the Treasury



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Abbreviations

AFR	Agency Financial Report
DO	Departmental Offices
EITC	Earned Income Tax Credit
FY	Fiscal Year
IPERA	Improper Payments Elimination and Recovery Act of 2010
IPIA	Improper Payments Information Act of 2002
IRS	Internal Revenue Service
OIG	Office of Inspector General
OMB	Office of Management and Budget
RCG	Risk and Control Group
TIGTA	Treasury Inspector General for Tax Administration

OIG

Audit Report

The Department of the Treasury Office of Inspector General

April 15, 2014

Nani A. Coloretti Assistant Secretary for Management

This report presents the results of our audit of the Department of the Treasury's (Treasury) compliance with the Improper Payments Elimination and Recovery Act of 2010 (IPERA)¹ for fiscal year (FY) 2013. IPERA was enacted to help Federal agencies strengthen the framework for reducing and reporting improper payments. The objective of our audit was to assess and report on Treasury's compliance with improper payment requirements set forth in IPERA. Appendix 1 provides more detail of the objective, scope, and methodology of our audit.

This report also incorporates the results of the Treasury Inspector General for Tax Administration's (TIGTA) assessment of the Internal Revenue Service's (IRS) compliance with IPERA. TIGTA issued its report on March 31, 2014, which is included as appendix 2 of this report. The results of our audit, insofar as they relate to IRS, are based solely on TIGTA's report.

Results in Brief

We determined that Treasury was not in compliance with IPERA for FY 2013 due to IRS's Earned Income Tax Credit (EITC) deficiencies reported by TIGTA. Specifically, IRS did not publish annual EITC improper payment reduction targets and has not reported an improper payment rate of less than 10 percent.

TIGTA also reported that (1) improper payment risk assessments may not provide a reliable assessment of the risk of improper payments in tax administration, and (2) Federal courts have ruled that IRS does not have regulation authority over paid tax return

¹ Pub. L. No. 111-204, 124 Stat. (July 22, 2010)

preparers, which was previously cited as IRS's most promising initiative to reduce EITC improper payments.

This is the third consecutive year we have determined that Treasury is not in compliance with IPERA due to EITC deficiencies.

In this report, we are reaffirming our prior year recommendation that the Assistant Secretary for Management ensure that Treasury submit a comprehensive plan to Congress that includes a description of the corrective actions Treasury will take to remediate non-compliance with IPERA due to IRS's EITC deficiencies. We are also recommending that the Secretary of the Treasury or designee, in no later than 30 days, submit to Congress either reauthorization proposals or proposed statutory changes necessary to bring the EITC program into compliance with IPERA.

In a written response, management agreed with our recommendation to ensure that a comprehensive plan is submitted to Congress which includes a description of the corrective actions Treasury will take to remediate its IPERA non-compliance. The response noted that management has been working with the Office of Management and Budget (OMB) with respect to developing supplemental measures to address the EITC deficiencies. Management also expressed agreement with our second recommendation regarding the submission to Congress either reauthorization proposals or proposed statutory changes to bring the EITC program into compliance with IPERA but noted that IRS will not be ready to submit a complete corrective action plan within the required 30 days. Management provided an implementation date of May 15, 2015, to address this recommendation which exceeds IPERA's 30-day statutory deadline. We have summarized and evaluated management's response in the recommendations section of this report. Management's complete response is provided in appendix 3.

Background

Improper Payments Elimination and Recovery Act of 2010

Under the Improper Payments Information Act of 2002 (IPIA),² Federal agencies were required to review and identify programs and activities susceptible to improper payments on an annual basis and report estimates of improper payments to Congress along with actions to reduce estimated improper payments that exceeded \$10 million. IPERA amended IPIA by strengthening agencies' program reviews and reporting requirements. IPERA expands the types of payments that should be reviewed and establishes the requirement for agencies to conduct recovery audits if cost-effective.

IPERA also requires the Inspectors General to report on respective agencies' compliance with IPERA each fiscal year.

OMB's "Requirements for Effective Measurement and Remediation of Improper Payments," of OMB Circular No. A-123, *Management's Responsibility for Internal Control,* (OMB Circular No. A-123, Appendix C) was revised to provide agencies guidance on implementing the requirements of IPERA.³ This guidance provides for (1) identifying and reporting on improper payments and (2) performing and reporting on payment recapture audits.

To determine compliance with IPERA and OMB guidance, we are required to review the Agency Financial Report (AFR) and any accompanying information to assess whether Treasury has:

- published an AFR for the most recent fiscal year and posted that report and any accompanying materials required by OMB on Treasury's website;
- conducted a program specific risk assessment for each program or activity that conforms with 31 U.S.C. §3321,² if required;

² Pub. L. No. 107-300, 116 Stat. (Nov. 26, 2002)

³ OMB M-11-16, *Issuance of Revised Parts I and II to Appendix C of OMB Circular A-123*, (April 14, 2011)

- published improper payment estimates for all programs and activities identified as susceptible to significant improper payments under its risk assessment, if required;
- published programmatic corrective action plans in the AFR, if required;
- published, and met, annual reduction targets for each program assessed to be at risk and measured for improper payments;
- reported a gross improper payment rate of less than 10 percent for each program and activity for which an improper payment estimate was obtained and published in the AFR; and
- reported information on its efforts to recapture improper payments.

Treasury's Improper Payment Risk Assessment

Treasury's Risk and Control Group (RCG), under the Deputy Chief Financial Officer, issued Treasury-Wide Guidance for the FY 2013 Implementation of Circular A-123, Appendix C, Requirements for the Effective Measurement and Remediation of Improper Payments (Treasury's IPERA Guidance) to all Treasury bureaus and Departmental Offices (DO) subcomponents (hereafter we refer to bureaus and DO subcomponents collectively as "components"). RCG identified the programs for which components were required to assess the risk of improper payment. Treasury components used the "Improper Payments Elimination and Recovery Risk Assessment Questionnaire for FY 2013" developed by RCG to assess the level of risk for each program identified. Each component was to provide the results and documentation for all risk assessments to RCG. For any program identified as having a high risk for improper payment, the responsible component was also required to provide the following information for inclusion in the AFR:

- The rate and amount of improper payment;
- The root causes of improper payments;
- Actions taken to address the root causes;
- Annual improper payment reduction targets; and
- A discussion of any limitations to the component's ability to reduce improper payments.

For FY 2013, Treasury identified the EITC as its only high risk program. IRS estimated that 22 to 26 percent of EITC payments were issued improperly and estimated the value of these improper payments to be between \$13.3 and \$15.6 billion.

Payment Recapture Audits

IPERA requires agencies to conduct recovery audits (also referred to as payment recapture audits) for each program and activity that expends \$1 million or more annually, if conducting such audits would be cost-effective. A payment recapture audit is a review and analysis of an agency's or program's accounting and financial records, supporting documentation, and other pertinent information supporting its payments, that is specifically designed to identify overpayments. Agencies are required to have a cost-effective program of internal control to prevent, detect, and recover overpayments.

Treasury's IPERA Guidance requires each component to complete a worksheet providing a consistent reporting format that includes information on the component's payment recapture audits. The worksheets are to be submitted to RCG for review and the results are then consolidated and reported in the AFR.

Audit Results

Treasury Was Not in Compliance with IPERA for FY 2013

We determined that Treasury was not in compliance with IPERA for FY 2013 due to IRS's EITC deficiencies reported by TIGTA. Specifically, IRS did not publish annual EITC improper payment reduction targets and has not reported an improper payment rate of less than 10 percent. This is the third consecutive year we have determined that Treasury is not in compliance with IPERA due to EITC deficiencies.

As a result of our determination of Treasury's noncompliance with IPERA for FY 2011, Treasury submitted a plan to Congress describing the actions that it intended to take to come into compliance, as required by IPERA and OMB Circular No. A-123,

Appendix C. However, the plan did not address the non-compliance with IPERA due to EITC deficiencies. The plan only addressed deficiencies associated with its reporting on payment recapture audits (which were also identified in the FY 2011 IPERA report⁴). Treasury officials believed that by reporting corrective actions related to EITC deficiencies in the AFR, they satisfied the reporting requirements of IPERA and OMB Circular No. A-123, Appendix C. Based on discussions with OMB staff, we determined that this did not satisfy Treasury's IPERA reporting requirement.

Treasury has not yet submitted to Congress a complete corrective action plan addressing EITC deficiencies. Treasury and IRS management are in discussions with OMB to develop supplemental reporting measures that would be appropriate to gauge the impact of EITC compliance and outreach efforts in lieu of developing error reduction targets.

Since Treasury has not been in compliance with IPERA for 3 consecutive fiscal years for the same program, IPERA requires that, not later than 30 days of the determination of non-compliance, the Secretary of the Treasury must submit to Congress (1) reauthorization proposals for the EITC program; or (2) proposed statutory changes necessary to bring the EITC program into compliance.

Recommendations

 We reaffirm our prior year recommendation that the Assistant Secretary for Management ensure that Treasury submit a comprehensive plan to Congress that includes a description of the corrective actions Treasury will take to remediate non-compliance with IPERA due to IRS's EITC deficiencies.

Management Response

Management agreed with our recommendation and stated that Treasury has been working with OMB with regard to the EITC. Management noted it received OMB's formal letter 1) approving that developing supplemental measures is appropriate to gauge the

⁴ The Department of the Treasury Was Not in Compliance With the Improper Payments Elimination and Recovery Act for Fiscal Year 2011 (OIG-12-044; issued March 15, 2012)

impact of EITC compliance and outreach efforts in lieu of developing error reduction targets, and 2) agreeing on what non-EITC refunds are required under IPERA versus what IRS will continue to report as tax gap reduction efforts. Management pointed out that the OMB letter states that by establishing supplemental measures and reporting them along with the annual reported improper payment estimates, Treasury will fulfill specific requirements found in Executive Order 13520 and the Improper Payments Elimination and Recovery Improvement Act of 2012. According to management, IRS is continuing to develop these measures, and will be meeting with OMB to obtain their concurrence and provide the measures to Treasury, along with the annual EITC error estimates for reporting in the FY 2014 AFR. Beyond these measures, corrective actions are currently in place to reduce the improper payment rate. However, numerous barriers including authentication errors, verification errors, the complexity of the tax law, and the structure of the EITC - continue to provide challenges with respect to the reduction of improper payments. Management's response is provided in appendix 3.

OIG Comment

Management's response meets the intent of our recommendation.

2. We recommend that the Secretary of the Treasury or designee, in no later than 30 days, submit to Congress either reauthorization proposals or proposed statutory changes necessary to bring the EITC program into compliance with IPERA.

Management Response

Management responded that it agreed with the spirit of our recommendation but that IRS will not be ready to submit a complete corrective action plan within 30 days. Management noted that due to the complexity of the EITC and its impact on a significant segment of the taxpaying public, it believes that any proposals put forward must be comprehensive, well thought out, and focused on achieving the dual goals of maximizing participation in the program and reducing, to the greatest extent possible, improper payments associated with the credit. Management indicated an implementation date of May 15, 2015 for its submission of any reauthorization proposals or statutory changes to bring the EITC program into compliance with IPERA.

Management also stated that it has proposed in the General Explanations of the Administration's Fiscal Year 2015 Revenue Proposals correctible error authority. According to management, this authority will permit IRS to correct errors in certain narrow circumstances providing an appropriate balance between using IRS resources efficiently and effectively and maintaining the procedural protections available to taxpayers. Management noted that IRS is exploring new approaches such as the simplification of EITC eligibility criteria and the identification of more efficient means to distinguish valid claims from over claims. Management's response is provided in appendix 3.

OIG Comment

We acknowledge management's agreement with our recommendation. However, the submission of either reauthorization proposals or proposed statutory changes by management's planned corrective action date of May 15, 2015, exceeds IPERA's 30 day statutory deadline. While we recognize and appreciate the challenges involved in this process, we reaffirm our recommendation and will continue to monitor management's actions going forward.

* * * * * *

We appreciate the courtesies and cooperation extended to our staff during this audit. Should you have any questions, you may contact me at (202) 927-5400, or Donna F. Joseph, Deputy Assistant Inspector General for Financial Management and Information Technology Audit at (202) 927-5784. Major contributors to this report are listed in appendix 4.

/s/

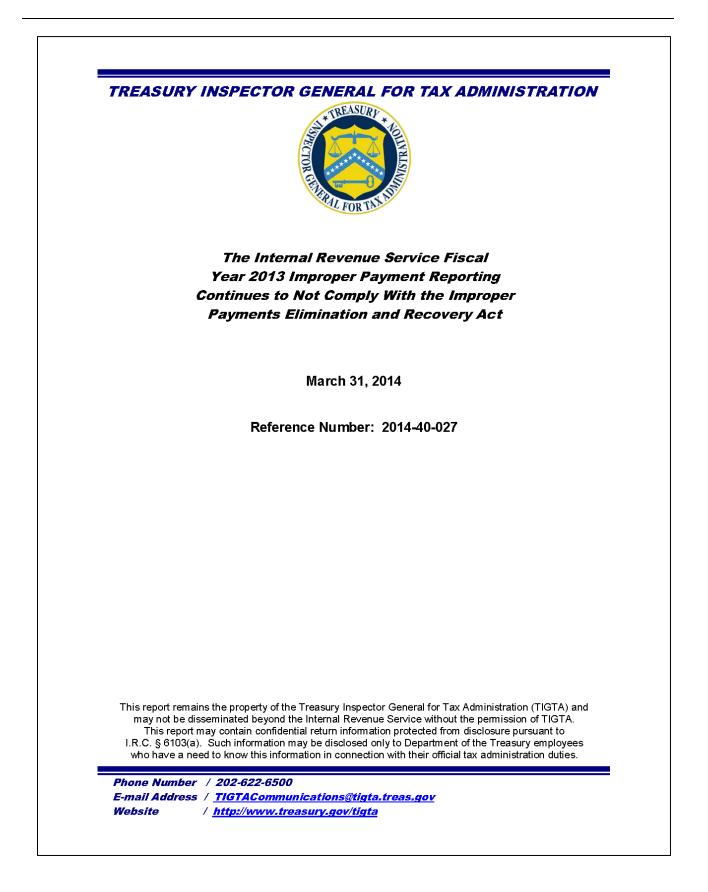
Marla A. Freedman Assistant Inspector General for Audit The Improper Payments Elimination and Recovery Act of 2010 (IPERA) requires that we conduct an audit of the Department of the Treasury's (Treasury) compliance with requirements set forth in IPERA for identifying and reducing improper payments in its programs and activities. The objective of this audit was to determine Treasury's compliance with IPERA for fiscal year 2013. Our audit scope did not include the review of programs and activities administered by the Internal Revenue Service (IRS). The Treasury Inspector General for Tax Administration (TIGTA) is responsible for the audit of IRS's compliance with IPERA. TIGTA's scope included an assessment of the Earned Income Credit (EITC) information that IRS provided for inclusion in Treasury's Agency Financial Report (AFR) and a review of IRS's progress on previous recommendations. EITC was the only program identified by the IRS for improper payment reporting.

To accomplish our objective, we reviewed applicable laws, guidance issued by the Office of Management and Budget, and Treasury-wide guidance related to IPERA; reviewed the fiscal year 2013 AFR to determine if Treasury complied with the reporting requirements of IPERA; interviewed key Departmental Offices and component entities' personnel; and performed testing of Treasury's risk assessment and payment recapture audit program.

To review Treasury's risk assessment process, we randomly selected a sample of 21 of 40 non-IRS programs identified by Treasury for risk assessment. To determine the reasonableness and accuracy of the information reported and compliance with the applicable guidance for the sample, we reviewed the program risk assessments and conducted interviews of personnel involved in their preparation and review.

To review the payment recapture audit program, we randomly selected a sample of 11 of 14 non-IRS components. To determine the reasonableness and accuracy of the information reported, and compliance with the applicable guidance for the sample, we reviewed the components' submissions and conducted interviews with component personnel, as well as reviewed supporting documentation. We conducted our fieldwork in Washington, DC, from September 2013 to March 2014.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.



HIGHLIGHTS



THE INTERNAL REVENUE SERVICE FISCAL YEAR 2013 IMPROPER PAYMENT REPORTING CONTINUES TO NOT COMPLY WITH THE IMPROPER PAYMENTS ELIMINATION AND RECOVERY ACT

Highlights

Final Report issued on March 31, 2014

Highlights of Reference Number: 2014-40-027 to the Internal Revenue Service Chief Financial Officer.

IMPACT ON TAXPAYERS

The Improper Payments Elimination and Recovery Act (IPERA) of 2010 strengthened agency reporting requirements and redefined "significant improper payments" in Federal programs. The Office of Management and Budget has declared the Earned Income Tax Credit (EITC) Program a high-risk program that is subject to reporting in the *Department of the Treasury Agency Financial Report*. The IRS estimates that 22 to 26 percent of EITC payments were issued improperly in Fiscal Year 2013. The dollar value of these improper payments was estimated to be between \$13.3 billion and \$15.6 billion.

WHY TIGTA DID THE AUDIT

This audit was initiated because the IPERA requires TIGTA to assess the IRS's compliance with improper payment requirements. The objective of this review was to assess the IRS's compliance with the IPERA. The scope of this review included an assessment of EITC information the IRS provided for inclusion in the Department of the Treasury Agency Financial Report Fiscal Year 2013 and a review of the IRS's progress on previous recommendations.

WHAT TIGTA FOUND

The IRS continues to not provide all required IPERA information to the Department of the Treasury for inclusion in the *Department of the Treasury Agency Financial Report Fiscal Year 2013.* For the third consecutive year, the IRS did not publish annual reduction targets or report an improper payment rate of less than 10 percent for the EITC.

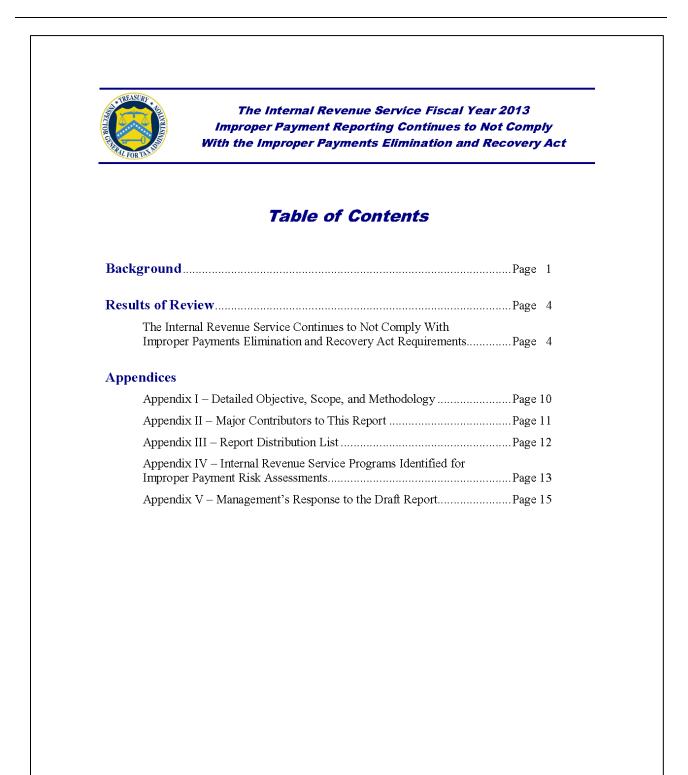
IRS management has indicated that the IRS and the Department of the Treasury are in continued discussions with the Office of Management and Budget to obtain its approval to develop supplemental measures that are appropriate to gauge the impact of EITC compliance and outreach efforts in lieu of developing error reduction targets.

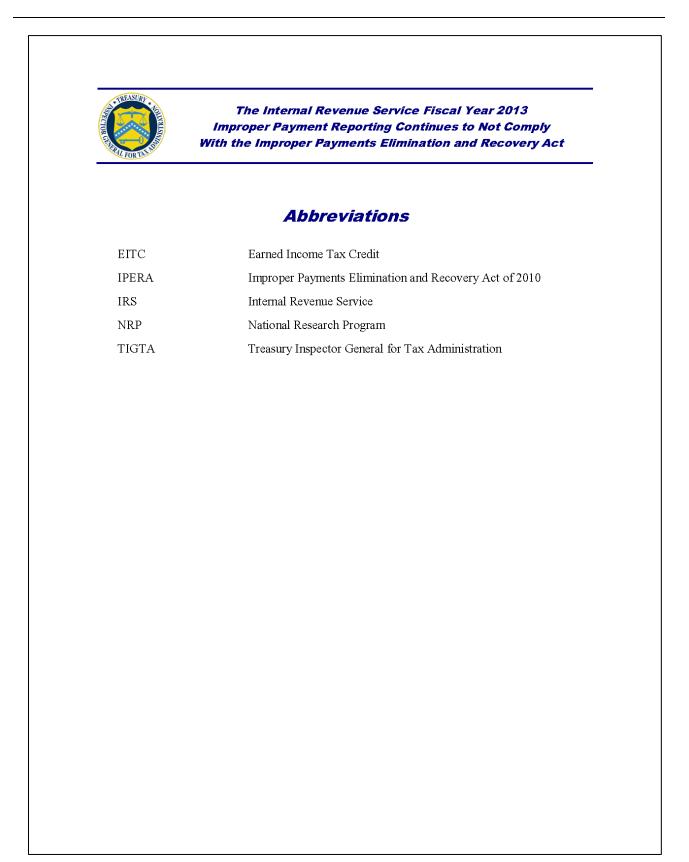
Finally, although risk assessments were performed for each of the programs that the Department of the Treasury required the IRS to assess, the risk assessment process still may not provide a valid assessment of improper payments in tax administration. As such, the EITC remains the only revenue program fund to be considered at high risk for improper payments.

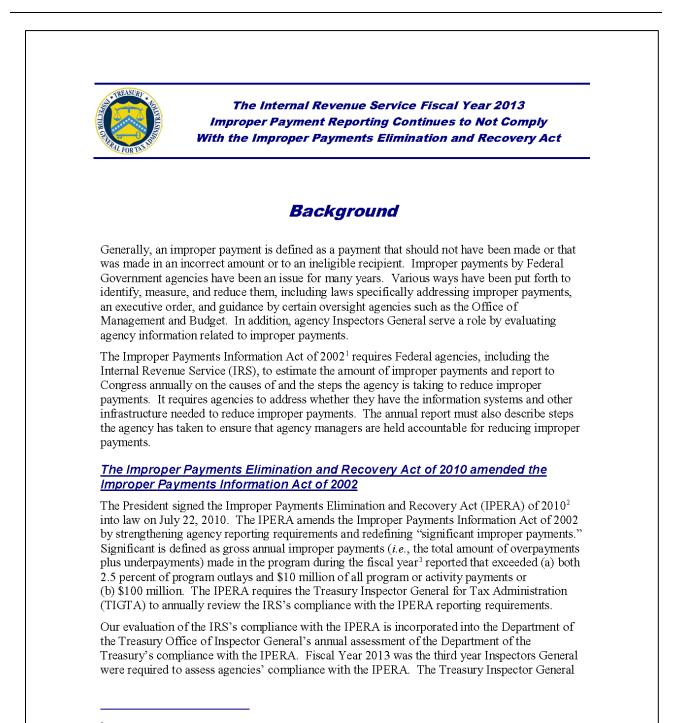
WHAT TIGTA RECOMMENDED

TIGTA made no recommendations in this report.

	DEPARTMENT OF THE TREASURY
FORTH	WASHINGTON, D.C. 20220
REASURY INSPECT OR GENERA FOR TAX ADMINISTRATION	
	March 31, 2014
MEMORANDUM	FOR CHIEF FINANCIAL OFFICER
	Mile 5 Making
FROM:	Michael E. McKenney Acting Deputy Inspector General for Audit
SUBJECT:	Final Audit Report – The Internal Revenue Service Fiscal Year 2013 Improper Payment Reporting Continues to Not Comply With the Improper Payments Elimination and Recovery Act (Audit # 201440018)
compliance with th (IPERA) of 2010 ¹ Tax Administration This audit is includ	s the results of our annual review of the Internal Revenue Service's (IRS) e requirements of the Improper Payments Elimination and Recovery Act for Fiscal Year 2013. The IPERA requires the Treasury Inspector General for a (TIGTA) to review annually the IRS's compliance with these requirements. ed in our Fiscal Year 2014 Annual Audit Plan and addresses the major enge of Fraudulent Claims and Improper Payments.
our audit testing, th Management and E evaluating the incre in the IRS manager As such, the guidar reporting requirem	mplete response to the draft report is included as Appendix V. Subsequent to be IRS received and provided to TIGTA official guidance from the Office of Budget approving the establishment of supplemental measures for use in emental reduction in Earned Income Tax Credit improper payments. As noted ment response, the development of these supplemental measures is ongoing. Ince does not affect the IRS's compliance with Fiscal Year 2013 IPERA ents. We plan to evaluate the establishment and use of these supplemental quent annual reviews of improper payments.
If you have any qu	rt are also being sent to the IRS managers affected by the report information. estions, please contact me or Russell P. Martin, Acting Assistant Inspector Returns Processing and Account Services).
¹ Pub. L. No. 111-204, 124 Stat. 2224	







¹ Pub. L. No. 107-300, 116 Stat. 2350.

² Pub. L. No. 111-204, 124 Stat. 2224.

³ A 12-consecutive-month period ending on the last day of any month. The Federal Government's fiscal year begins on October 1 and ends on September 30.



The Internal Revenue Service Fiscal Year 2013 Improper Payment Reporting Continues to Not Comply With the Improper Payments Elimination and Recovery Act

is required to issue a report on the annual assessment of the Department of the Treasury's compliance with the IPERA by April 15, 2014.

In addition, Executive Order 13520, *Reducing Improper Payments and Eliminating Waste in Federal Programs*, signed by the President on November 20, 2009, further increases Federal agencies' accountability for reducing improper payments while continuing to ensure that Federal programs serve and provide access to their intended beneficiaries. It requires Federal agencies to provide their agency Inspector General with detailed information on efforts to identify and reduce the number of improper payments in Federal programs with the highest dollar value of improper payments. TIGTA's evaluation of this information is published in a separate report, the most recent being in Calendar Year 2013.⁴

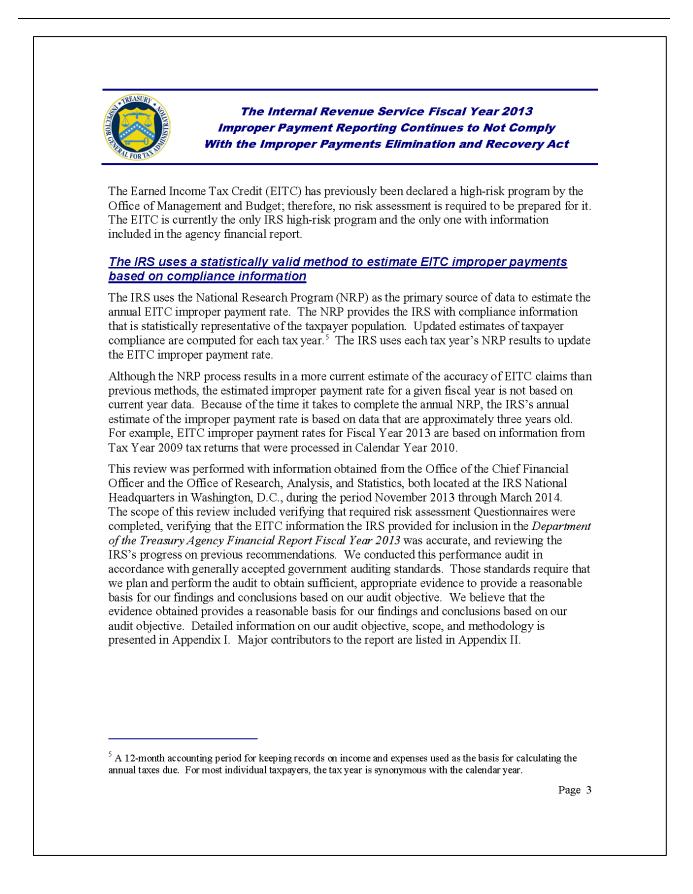
IPERA process to identify IRS programs for improper payment risk assessment

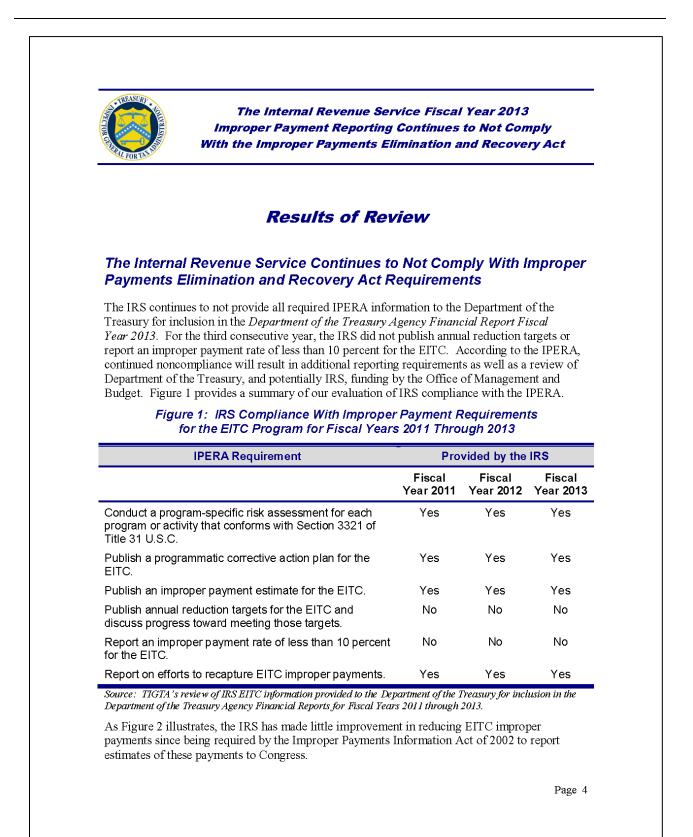
The Department of the Treasury identifies the programs that the IRS must assess for the risk of improper payments. The IRS used the Improper Payments Elimination and Recovery Risk Assessment Questionnaire for Fiscal Year 2013 (the Questionnaire) and related guidance provided by the Department of the Treasury to assess the level of risk for each identified program. The Questionnaire computes a risk score for each program based on the IRS's response to the questions contained in the Questionnaire. The risk score determines whether there is a low, medium, or high risk of improper payments in a program. The Department of the Treasury establishes the level of risk for a program's improper payments based on the risk score ranges and considers programs with a risk score of 0 to 11 as low risk, 12 to 28 as medium risk, and 29 and greater as high risk.

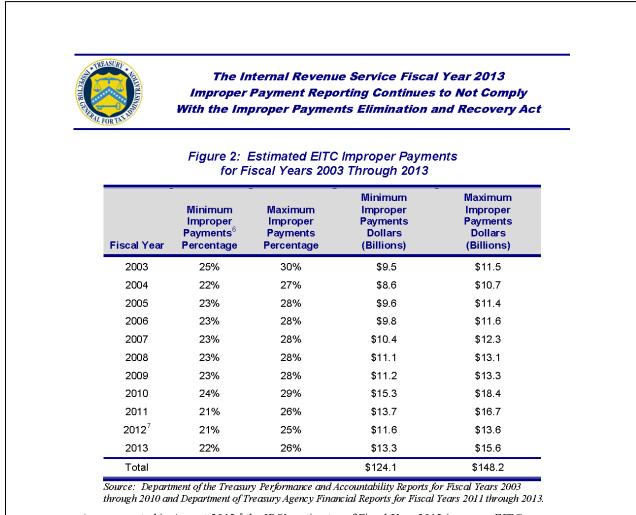
The IRS is required to forward the results and documentation for all risk assessments to the Department of the Treasury. Appendix IV provides a list of the IRS programs the Department of the Treasury identified for an improper payment risk assessment for Fiscal Year 2013. For any program identified as having a high risk for improper payments, the IRS must provide the following information to the Department of the Treasury for inclusion in the Department's annual agency financial report:

- The rate and amount of improper payments.
- The root causes of the improper payments.
- Actions taken to address the root causes.
- Annual improper payment reduction targets.
- A discussion of any limitations to the IRS's ability to reduce improper payments.

⁴ TIGTA, Ref. No. 2013-40-084, *The Internal Revenue Service Is Not in Compliance With Executive Order 13520 to Reduce Improper Payments* (Aug. 2013).







As we reported in August 2013,⁸ the IRS's estimates of Fiscal Year 2012 improper EITC payments were understated. They were based on the assumption that a provision in the American Recovery and Reinvestment Act of 2009 (Recovery Act)⁹ that increased the EITC for certain taxpayers would expire at the end of 2010. However, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010¹⁰ extended the provision through December 2012. It was later extended through December 2017 by the American Taxpayer

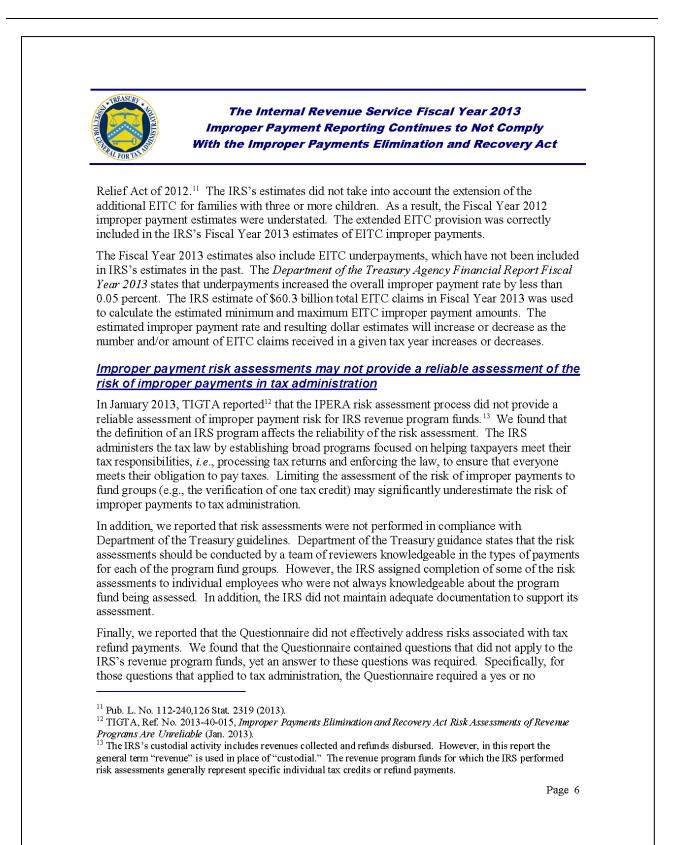
⁶ For Fiscal Year 2005 through Fiscal Year 2009, the IRS computed the minimum and maximum improper payment rates (referred to as the upper and lower bounds) using different sets of assumptions concerning the compliance of EITC claimants who fail to show up for the NRP audit.

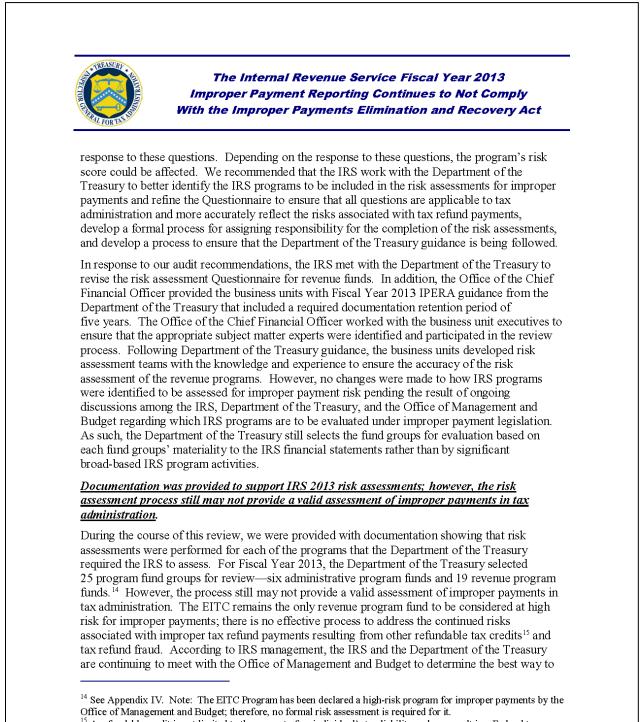
⁷ The Fiscal Year 2012 improper payment estimates were understated. The estimates do not reflect the extension of the additional EITC for families with three or more children.

⁸ TIGTA, Ref. No. 2013-40-084, *The Internal Revenue Service Is Not in Compliance With Executive Order 13520 to Reduce Improper Payments* (Aug. 2013).

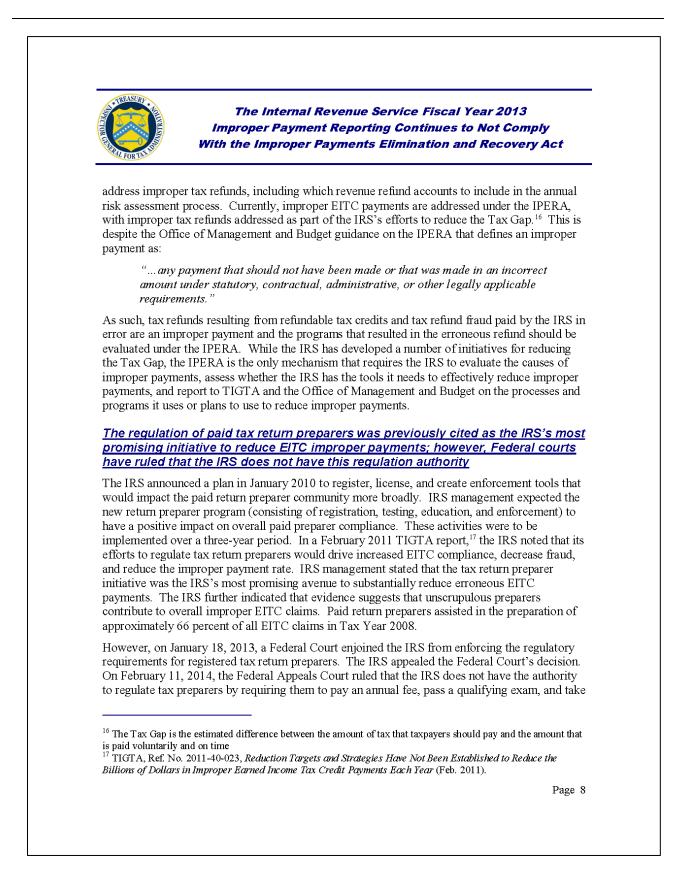
⁹ Pub. L. No. 111-5, 123 Stat. 115 (2009).

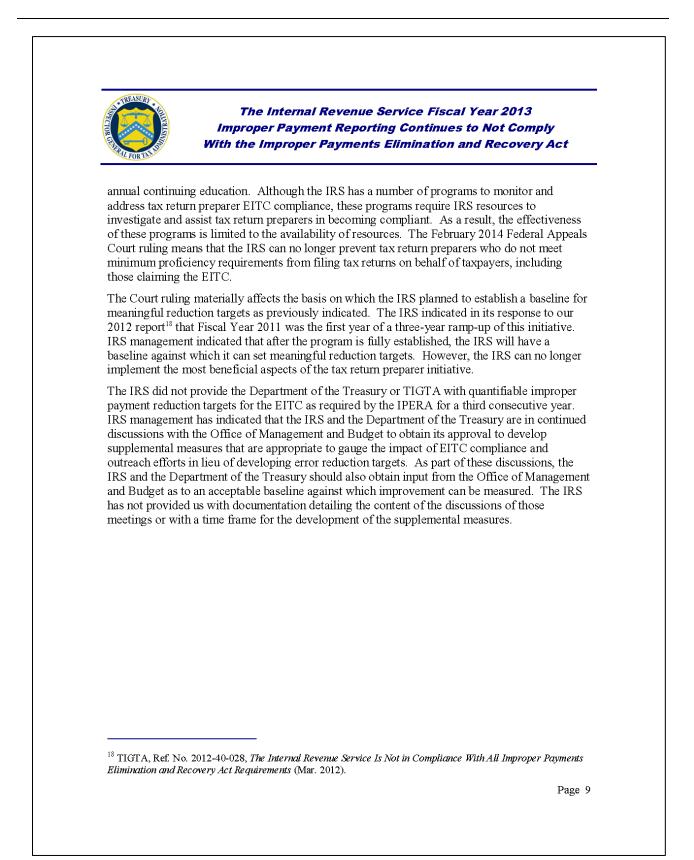
¹⁰ Pub. L. No. 111-312,124 Stat. 3299 (2010).

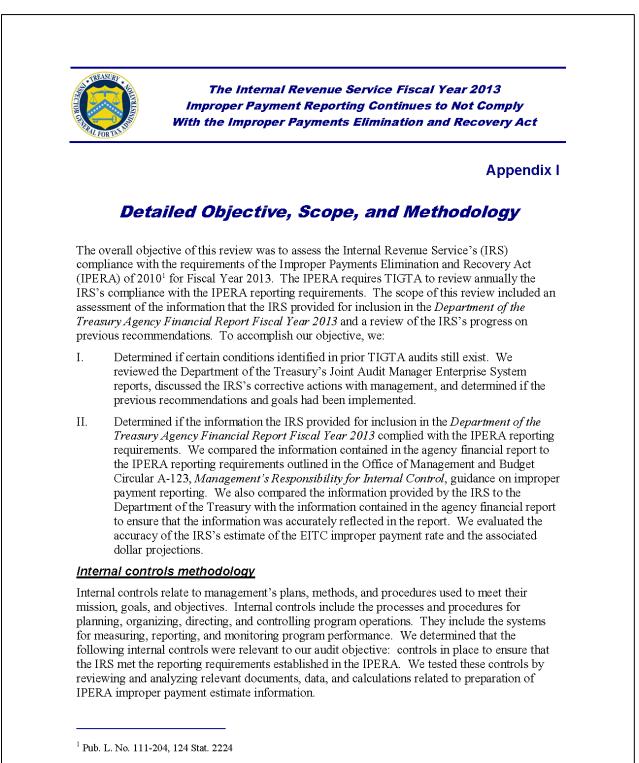


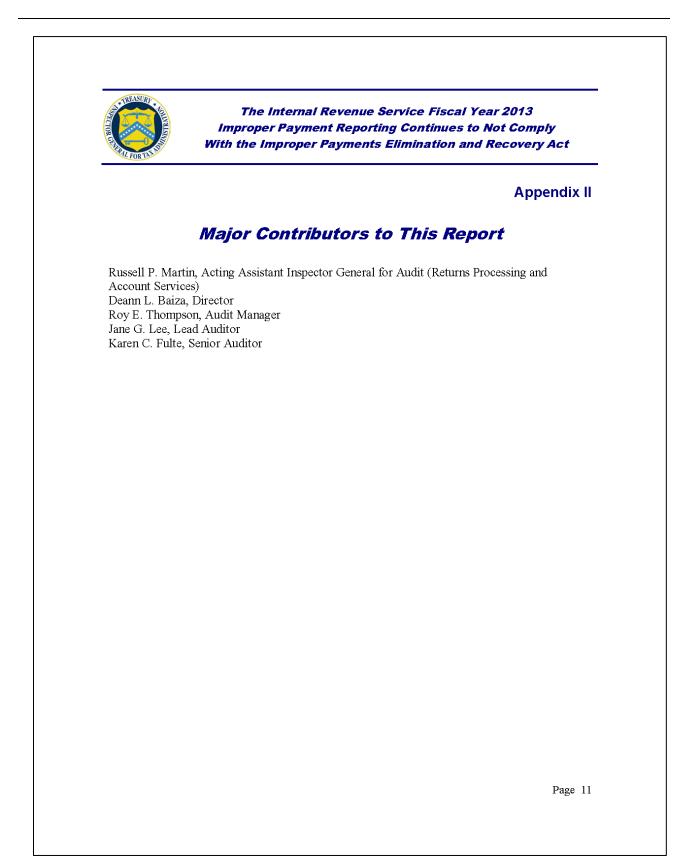


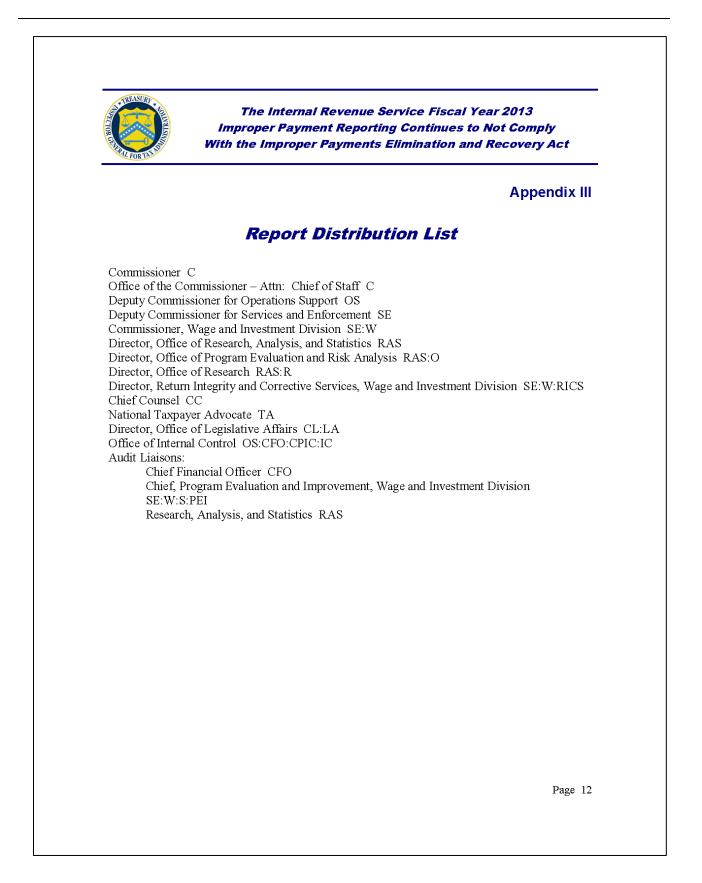
¹⁵ A refundable credit is not limited to the amount of an individual's tax liability and can result in a Federal tax refund that is larger than the amount of a person's Federal income tax withholding for that year.

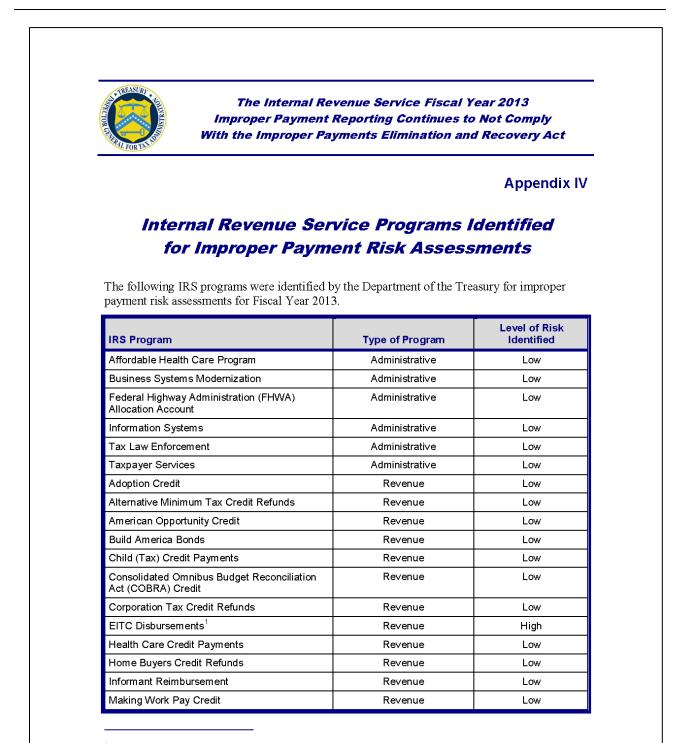




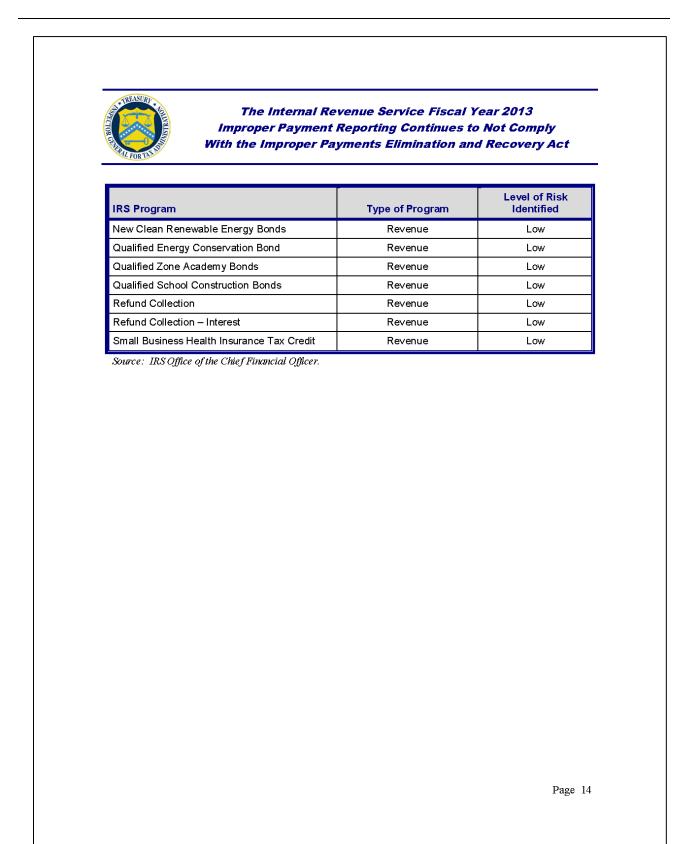


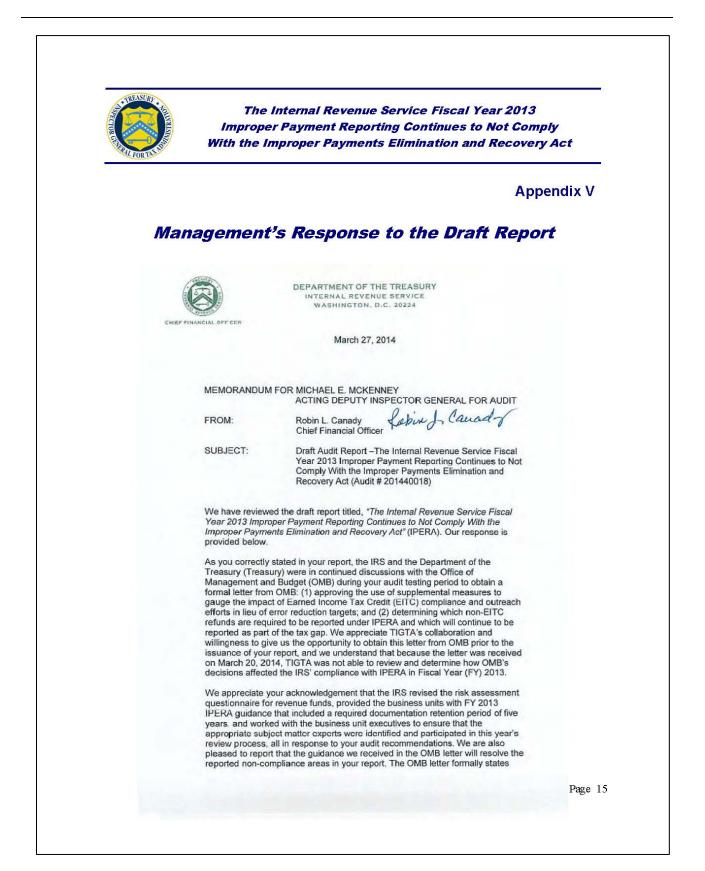


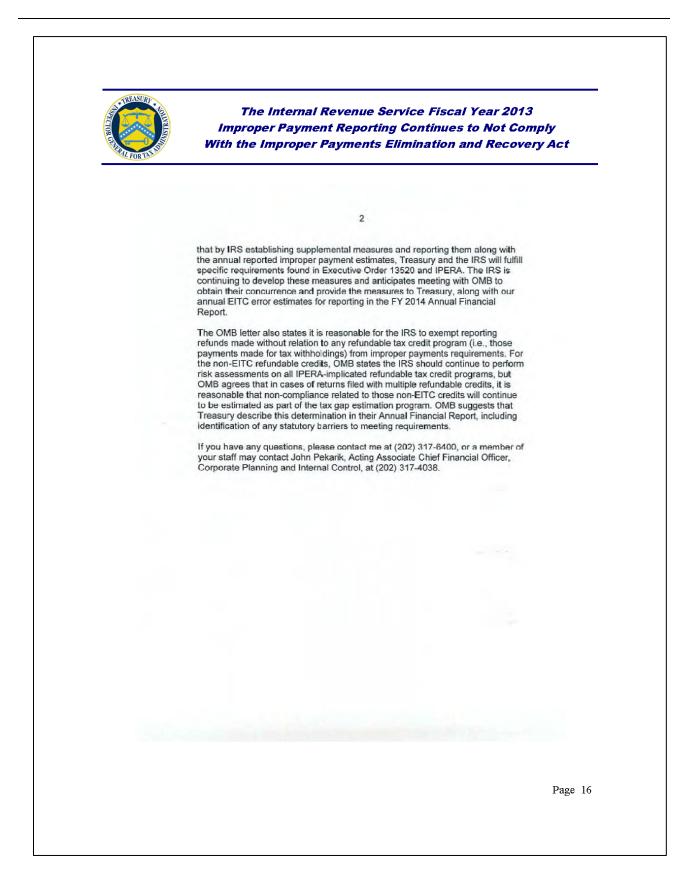




¹ The EITC Program has been declared a high-risk program for improper payments by the Office of Management and Budget; therefore, no formal risk assessment is required for it.







Appendix 3 Management Response

		DEPARTMENT OF THE TREASURY WASHINGTON, D.C. 20020			
×		APR 1 4 2014			
10 11	MEMORANDUM FOR MARLA A. FREEMAN ASSISTANT INSPECTOR GENERAL FOR AUDIT				
28	FROM:	Nani A. Coloretti Shann Ker for NAC Assistant Secretary for Management			
57		Dorrice Roth Doruce C. Roth Deputy Chief Financial Officer			
a	SUBJECT:	Management Response to Draft Report – The Department of the Treasury Was Not in Compliance With the Improper Payments Elimination and Recovery Act (IPERA) for Fiscal Year (FY) 2013			
	recognizes the importa with the government-w Budget (OMB) in Men OMB Circular A-123, Treasury worked dilige recommendations. IRS	subject draft report and appreciate the opportunity to respond. Treasury ince of achieving full compliance with IPERA, which includes complying vide implementing guidance issued by the Office of Management and norandum M-11-16, <i>Issuance of Revised Parts I and II to Appendix C of</i> and OMB Circular A-136, <i>Financial Reporting Requirements</i> . Last year, ently to implement the Office of the Inspector General (OIG) FY 2012 S has corrective actions in place to reduce the improper payment rate, but rriers, including authentication errors, verification errors, the complexity of ucture of the EITC.			
a più kite seriel	EITC compliance and anticipates meeting wit	ping supplemental measures that are appropriate for gauging the impact of outreach efforts in lieu of developing error reduction targets. The IRS th OMB to obtain their concurrence and provide measures to Treasury, ror estimates for reporting in the FY 2014 Agency Financial Report.			
		to ensure that bureaus and offices are submitting the necessary improper that Treasury will then report in the Agency Financial Report (AFR) in requirements.			
	any questions, please le	ed corrective actions in response to your recommendations. If you have et us know, or your staff may contact Harold Barnshaw, Director, Risk CG), at (202) 622-9331.			

Attachment

Recommendation 1:

We reaffirm our prior year recommendation that the Assistant Secretary for Management ensure that Treasury submit a comprehensive plan to Congress that includes a description of the corrective actions Treasury will take to remediate non-compliance with IPERA due to IRS's EITC deficiencies.

Corrective Action 1-1: We agree with this recommendation. Treasury has been working with OMB, with respect to the EITC, and received OMB's formal letter 1) approving that developing supplemental measures is appropriate to gauge the impact of EITC compliance and outreach efforts in lieu of developing error reduction targets, and 2) agreeing on what non-EITC refunds are required under IPERA versus those that IRS will continue to report as part of its efforts to reduce the tax gap. The OMB letter formally states that by establishing supplemental measures and reporting them along with the annual reported improper payment estimates, Treasury will fulfill specific requirements found in Executive Order 13520 and the Improper Payments Elimination and Recovery Improvement Act of 2012 (IPERIA). The IRS is continuing to develop these measures, and will be meeting with OMB to obtain their concurrence and provide the measures to Treasury, along with the annual EITC error estimates, for reporting in the FY 2014 AFR.

Beyond the measures, corrective actions are currently in place to reduce the improper payment rate. However, numerous barriers – including authentication errors, verification errors, the complexity of the tax law, and the structure of the EITC – continue to provide challenges with respect to the reduction of improper payments. Nevertheless Treasury remains committed to developing a well-informed approach to resolving improper payments while ensuring the program continues to serve taxpayers.

Implementation Date: September 30, 2014

Responsible Official: Assistant Secretary for Management

Recommendation 2:

We recommend that the Secretary of the Treasury or designee, in no later than 30 days, submit to Congress either reauthorization proposals or proposed statutory changes necessary to bring the EITC program into compliance with IPERA.

Corrective Action 2-1: While we agree with the spirit of this recommendation, the IRS will not be ready to put forward a complete corrective action plan in 30 days. Due to the complexity of this refundable tax credit program and the impact this program has on a significant segment of the taxpaying public, Treasury believes that any proposals put forward by the Department must be comprehensive, well thought out, and focused on achieving the dual goals of maximizing

Attachment

participation in the program and reducing, to the greatest extent possible, improper payments associated with the credit.

The Department of the Treasury has proposed in the General Explanations of the Administration's Fiscal Year 2015 Revenue Proposals correctible error authority. This change will grant Treasury the regulatory authority to permit the IRS to correct errors in certain narrow circumstances providing an appropriate balance between using IRS resources efficiently and effectively and maintaining the procedural protections available to taxpayers. While this authority is not the complete solution, it is a step in the right direction to ensure taxpayers receive the full benefit of this credit. The IRS has begun re-evaluating past and present efforts to meet these goals, and the IRS is exploring new approaches such as the simplification of EITC eligibility criteria and the identification of more efficient means to distinguish valid claims from over claims. In the future, Treasury will ensure that internal and external stakeholders and subject matter experts work together diligently and closely to identify more potential solutions to the challenge of improper payments. Treasury will continue to work closely with the IRS to accelerate the implementation date of reauthorization proposals or proposed statutory changes to bring the EITC program in compliance with IPERA.

Implementation Date: May 15, 2015

Responsible Official: Assistant Secretary for Management

Appendix 4 Major Contributors to this Report

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