



*The Human Capital Office Administered  
the Drug Testing of Employees in Testing  
Designated Positions in Accordance  
With Established Guidelines*

**October 18, 2018**

**Reference Number: 2019-10-003**

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

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3 = Personal Privacy Information.

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## HIGHLIGHTS

### THE HUMAN CAPITAL OFFICE ADMINISTERED THE DRUG TESTING OF EMPLOYEES IN TESTING DESIGNATED POSITIONS IN ACCORDANCE WITH ESTABLISHED GUIDELINES

## Highlights

### Final Report issued on October 18, 2018

Highlights of Reference Number: 2019-10-003  
to the Commissioner of Internal Revenue.

#### IMPACT ON TAXPAYERS

Executive Order 12564 established the goal of a drug-free Federal workplace and made it a condition of employment for all Federal employees to refrain from using illegal drugs on and off duty. The Executive Order also required Federal agencies to establish a program to test for the use of illegal drugs by employees in sensitive positions (hereafter referred to as Testing Designated Positions). It is important that the IRS achieve a drug-free workplace to maintain public confidence in its employees.

#### WHY TIGTA DID THE AUDIT

This audit was initiated to assess the effectiveness of IRS actions to notify and randomly drug test employees in Testing Designated Positions.

#### WHAT TIGTA FOUND

The IRS has implemented a Drug-Free Workplace Plan to randomly drug test employees in Testing Designated Positions, e.g., employees who carry firearms and those with Secret or above security clearances. Specifically, the IRS 1) notifies employees when entering Testing Designated Positions of the random drug testing requirement, 2) selects and randomly tests a minimum of 10 percent of employees in Testing Designated Positions annually, and 3) appropriately addresses any employees who test positive for drug use.

TIGTA selected a random sample from the more than 2,000 employees in Testing Designated Positions during Fiscal Year 2017 and confirmed that 36 of 50 employees were notified of the

drug testing requirement. Four of the sampled employees were in Testing Designated Positions but were not notified because the IRS and the union have not completed negotiations to include a small group of bargaining unit employees in random drug testing. The IRS could not provide documentation for the remaining 10 sampled employees, mainly because the notices are issued when an employee enters a Testing Designated Position but are purged from the employee's personnel file after 20 years even if the employee is still in a Testing Designated Position.

During Fiscal Year 2017, the IRS selected a random sample of 1 percent of employees in Testing Designated Positions monthly for drug tests. TIGTA determined that, when annualized, this equates to more than the minimum requirement of testing 10 percent of employees in Testing Designated Positions. TIGTA also reviewed monthly lists of employees subject to random drug tests in Fiscal Year 2017 and determined that the IRS accurately identified all applicable employees with the exception of one month. During this month, 52 employees were not subject to random testing but should have been. This issue did not recur in the subsequent months.

Lastly, the IRS followed procedures and took appropriate disciplinary action when addressing substantiated positive drug tests during Fiscal Years 2013 through 2017.

#### WHAT TIGTA RECOMMENDED

TIGTA recommended that the IRS Human Capital Officer ensure that documentation is retained in a central location showing that all employees in Testing Designated Positions are notified that they are subject to random drug testing and that the IRS Human Capital Officer and Chief Counsel complete union negotiations to have bargaining unit employees in Testing Designated Positions randomly tested for illegal drug use.

In their response, IRS management agreed with our recommendations.



TREASURY INSPECTOR GENERAL  
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20220

October 18, 2018

**MEMORANDUM FOR COMMISSIONER OF INTERNAL REVENUE**

**FROM:** Michael E. McKenney  
Deputy Inspector General for Audit

**SUBJECT:** Final Audit Report – The Human Capital Office Administered the Drug Testing of Employees in Testing Designated Positions in Accordance With Established Guidelines (Audit # 201810016)

This report presents the result of our review to assess the effectiveness of Internal Revenue Service actions to notify and randomly drug test employees in Testing Designated Positions. This review was included in our Fiscal Year 2018 Annual Audit Plan and addresses the major management challenge of Achieving Program Efficiencies and Cost Savings.

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

Copies of this report are also being sent to the Internal Revenue Service managers affected by the report recommendations. If you have any questions, please contact me or Troy Paterson, Acting Assistant Inspector General for Audit (Management Services and Exempt Organizations).



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## *Abbreviations*

FY	Fiscal Year
IRS	Internal Revenue Service
SAMHSA	Substance Abuse and Mental Health Services Administration
TDP	Testing Designated Position
TIMIS	Treasury Integrated Management Information System



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## *Background*

In 1986, Executive Order 12564 established the goal of a drug-free Federal workplace and made it a condition of employment for all Federal employees to refrain from using illegal drugs on and off duty.<sup>1</sup> The Executive Order also required Federal agencies to establish a program to test for the use of illegal drugs by employees in sensitive positions (hereafter referred to as Testing Designated Positions (TDP)). The following year, Congress passed legislation<sup>2</sup> designed to establish, among other things, uniformity among Federal agencies' drug testing plans and reliable and accurate drug testing. More recently, the Consolidated Appropriations Act of 2018<sup>3</sup> reiterated the requirement to administer, in good faith, a written policy designed to ensure that all Federal workplaces are free from the illegal use, possession, or distribution of controlled substances.

In accordance with Federal mandates, the Internal Revenue Service (IRS) implemented a Drug-Free Workplace Program with a National Drug Program Manager (hereafter referred to as the program manager) who coordinates the implementation of all aspects of the program. The Department of Health and Human Services' Substance Abuse and Mental Health Services Administration (SAMHSA) certified the IRS's initial Drug-Free Workplace Plan (hereafter referred to as the Plan) in 1988.

***The IRS implemented a  
Drug-Free Workplace Plan  
in 1988.***

Federal guidance provides criteria for determining which positions should be included in random drug testing as TDPs. These positions include 1) employees who carry firearms, 2) employees authorized to carry firearms, 3) Presidential appointees requiring Senate confirmation, and 4) employees with Secret or higher security clearances. Other criteria do not apply to the IRS.<sup>4</sup> Figure 1 shows the number of employees identified in TDPs for random drug testing during the last five fiscal years<sup>5</sup> ending September 30, 2017.

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<sup>1</sup> Exec. Order No. 12564, *Drug-Free Federal Workplace* (1986).

<sup>2</sup> The Supplemental Appropriations Act of 1987, Pub. L. 100-71, Stat. 391, 468-471, codified at 5 U.S.C. 7301 note (1987).

<sup>3</sup> Pub. L. 115-141 (2018).

<sup>4</sup> Other criteria include motor vehicle operators carrying passengers, aviation flight crew members and air traffic controllers, and railroad operating crews.

<sup>5</sup> Any yearly accounting period, regardless of its relationship to a calendar year. The Federal Government's fiscal year begins on October 1 and ends on September 30.



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**Figure 1: Number of Employees  
in TDP Universe by Fiscal Year**

<b>Fiscal Year (FY)</b>	<b>Number of Employees in TDP Universe</b>
2013	3,893
2014	2,723
2015	2,737
2016	2,494
2017	2,443

*Source: IRS Annual Survey Reports and the program manager.*

Drug testing can take place under six situations in the IRS's Plan: 1) random testing, 2) applicant testing,<sup>6</sup> 3) reasonable suspicion testing, 4) accident or unsafe practice testing, 5) voluntary testing, and 6) follow-up to counseling or rehabilitation for illegal drug use testing. This audit only covered random testing.

This review was performed with information obtained from Human Capital Office locations in Walnut Creek, California; New Carrollton, Maryland; and Chesterfield, Missouri, during the period September 2017 through June 2018. In addition, we interviewed a Department of Health and Human Services official in Rockville, Maryland, to obtain an understanding of the Federal Drug-Free Workplace Program and the IRS's Plan. We also interviewed a National Background Investigations Bureau official on the reporting process for IRS employees with Secret or higher security clearances. 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. Detailed information on our audit objective, scope, and methodology is presented in Appendix I. Major contributors to the report are listed in Appendix II.

<sup>6</sup> Applicants tentatively selected for TDPs are required to submit to urinalysis to screen for illegal drug use prior to appointment.



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*Results of Review*

**The Human Capital Office Administered Required Random Drug  
Testing in Accordance With Established Guidelines**

Overall, the IRS implemented random drug testing of employees in TDPs according to the IRS's Plan. The program manager obtained SAMHSA approval for all changes to the universe of employees in TDPs. In addition, documentation for employees in TDPs hired in the last 20 years showed that employees had been notified of the possibility of being drug tested, and the minimum number of required employees was randomly drug tested in FY 2017. Finally, drug test deferrals and disciplinary action taken for a positive drug test were appropriate. It is important that the IRS achieve a drug-free workplace to maintain public confidence in its employees.

**Employees were notified that they were subject to random drug testing when  
entering TDPs, but documentation is being purged prematurely**

We selected a random sample of 50 employees included in the FY 2017 TDP universe and determined that those who were subject to testing and had been hired in the last 20 years received a notice informing them of the random drug testing requirement. The IRS provided 36 (72 percent) of the 50 notices requested. Figure 2 shows the reasons why the remaining 14 notices could not be located.

***Figure 2: Reasons That Some Notifications of the Drug Test  
Requirement Issued to Employees in TDPs Could Not Be Located***

<b>Reasons That Notices Could Not Be Located</b>	<b>Number of Notices</b>
Notices purged from the Official Personnel File after 20 years	9
Employees in bargaining unit positions not yet included in random drug testing	4
Notice could not be located	1

*Source: Program manager.*



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The Plan requires an individual notice be distributed to all employees entering into TDPs.<sup>7</sup> The notice informs them of the drug testing requirement and that they will be included in the testing universe no sooner than 30 days following the notice issuance. Employees are to acknowledge the notice by signing it. If an employee refuses to acknowledge the notice, the employee's manager notates on the notice that the employee received it. The notices are filed in the employee's Official Personnel File.

Four of the 50 employees in our random sample were bargaining unit employees with Secret or higher security clearances. These employees did not receive a notice because the IRS has not completed negotiations with the National Treasury Employees Union to allow for a small group of bargaining unit employees to participate in random drug testing. By excluding bargaining unit employees with Secret or higher security clearances from random drug testing, the IRS is not meeting the requirements of Executive Order 12564 or ensuring that certain employees in TDPs are not working while impaired. An impaired employee who has access to sensitive information may pose a risk to national security, public safety, and the effective enforcement of the law.

In addition, the IRS could not provide notices for 10 of the 50 employees in our random sample; nine because the IRS stated that, after 20 years, documentation is purged from Official Personnel Files even if the employee is still in the TDP and one because the notice could not be located. However, Office of Personnel Management guidance states that records related to drug testing should not be kept in Official Personnel Files. The program manager discussed this issue with the Office of Chief Counsel, General Legal Services, which agreed that notices informing employees that they are in TDPs should not be kept in the employees' Official Personnel Files. As a result, IRS management stated that future notices would be kept in Employee Drop Files<sup>8</sup> instead. However, because Employee Drop Files are often transferred from manager to manager throughout an employee's career, documents can be purged or lost over time. If these records are not kept, employees could claim they never received the notice and refuse to take a drug test, and the IRS would have no way to prove the employees were made aware of the drug testing requirement and that refusal to submit to testing would result in disciplinary actions.

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<sup>7</sup> Employees applying for Criminal Investigation special agent positions do not receive an individual notice. Instead, they are required to sign a Conditions of Employment form that includes the requirement for a drug test prior to being offered a position as well as random drug testing while a special agent. If the Criminal Investigation applicant receives an offer of employment, the employee should sign the form a second time as an appointee.

<sup>8</sup> The Employee Drop File is an employee file maintained by managers. It contains employee records that are not performance-related, such as leave counseling and copies of disciplinary actions.



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## **Recommendations**

The IRS Human Capital Officer should:

**Recommendation 1:** Ensure that documentation is retained in a central location showing that all employees in TDPs have been notified that they are subject to random drug testing and that refusal to submit to testing will result in disciplinary action.

**Management's Response:** The IRS agreed with this recommendation. The IRS Human Capital Office will create and maintain an electronic database of employee-signed copies of all Individual Notice Documents received.

The IRS Human Capital Officer and Chief Counsel should:

**Recommendation 2:** Complete union negotiations to have bargaining unit employees in TDPs randomly tested for illegal drug use.

**Management's Response:** The IRS agreed with this recommendation. The IRS Human Capital Officer will complete the ongoing negotiations with the National Treasury Employees Union to include bargaining unit employees in the TDP random testing pool. The Human Capital Office will then add bargaining unit employees to the random testing pool in accordance with the dates and other terms contained in the negotiated agreement.

In addition, the Chief Counsel will take appropriate steps to address the National Treasury Employees Union issues associated with the small number of TDP employees in the Counsel bargaining unit. Once Counsel has addressed those National Treasury Employees Union issues, the Human Capital Office will add the Counsel bargaining unit employees to the TDP random testing pool within the dates and other terms contained in the negotiated agreement.

### **The Human Capital Office included the majority of employees in TDPs in the selection process for random drug testing**

During FY 2017, the IRS identified all applicable employees for inclusion in the TDP universe for sample selection each month except for October 2016, when 52 employees were not included. We identified 47 criminal investigators on the Treasury Integrated Management Information System (TIMIS)<sup>9</sup> who were not included in the TDP universe for possible selection. IRS personnel could not determine why these employees were excluded from possible drug testing. However, all 47 employees were included in the subsequent month's TDP universe for possible drug testing selection. We also identified five employees in TDPs who had Secret or higher security clearances but were not included in the universe of TDPs for sample selection in

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<sup>9</sup> The TIMIS supports payroll and personnel processing and reporting requirements for the IRS.



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October 2016. IRS management could not determine why these employees were not included in the TDP universe.

Per Federal guidance, employees in TDPs are subject to mandatory random drug testing. The IRS identified criminal investigator and police officer positions as TDPs as well as Presidential appointees confirmed by the Senate—specifically, the IRS Commissioner and Chief Counsel. It also identified all employees with a Secret or higher security clearance for inclusion in the TDP universe.

Each month, a Payroll and Personnel Systems specialist identifies all employees in criminal investigator and police officer positions using the TIMIS. In addition, a Personnel Security specialist identifies all employees having Secret or higher security clearances from the Automated Background Information System<sup>10</sup> and forwards their Social Security Numbers to the Payroll and Personnel Systems specialist. The Social Security Numbers are matched against the TIMIS by the Payroll and Personnel Systems specialist to ensure that they are current IRS employees. Those not identified on the TIMIS as active IRS employees are excluded from the TDP universe.<sup>11</sup> The two lists of employees are combined and the IRS Commissioner is added.<sup>12</sup> All bargaining unit employees not in police officer positions are removed from the TDP universe due to ongoing negotiations with the National Treasury Employees Union. The Payroll and Personnel Systems specialist then selects a 1 percent random sample of employees from the resulting TDP universe to be drug tested.

We also identified an additional five employees not in TDPs with Secret or higher security clearances that were incorrectly included in the TDP universe for October 2016, but again, the IRS could not determine why they were part of the TDP universe. None of the five employees incorrectly included in the TDP universe were selected for random drug testing in October 2016. IRS management has decided to perform additional validations of the TDP universe to help ensure that all appropriate employees in TDPs are included for random selection.

Using an inaccurate TDP universe to select employees for random drug testing could result in an impaired employee who carries a firearm or has access to sensitive information not being identified, posing a risk to national security, public safety, and the effective enforcement of the law. Because these anomalies did not occur during the rest of FY 2017 and the IRS is taking actions to validate the employees subject to drug testing, we are not making any recommendations regarding this issue.

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<sup>10</sup> The Automated Background Information System is used by the IRS to track background investigations and those employees with security clearances.

<sup>11</sup> For example, contractors are removed from the TDP universe because they are not IRS employees.

<sup>12</sup> The Office of Chief Counsel is included in the list of employees with Secret or higher security clearances, therefore it does not need to be added to the TDP universe.



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**The Human Capital Office randomly drug tested the required minimum number of employees**

The IRS randomly drug tested more than 10 percent of employees in TDPs during FY 2017, as required per the Plan. In FY 2017, the IRS selected 311 employees in TDPs for random drug testing. However, only 292 employees were actually tested because 19 employees were excluded from testing for various reasons. Figure 3 shows why 19 sampled employees were excluded from random drug testing.

**Figure 3: Reasons for Employees Being Excluded  
From Random Drug Testing During FY 2017**

Reasons for Excluding Employees From Random Drug Testing in FY 2017	Number of Employees
Excluded because they were recently drug tested	7
Selected during their 30-day notice period	4
Deferred tests <sup>13</sup>	5
Impending retirements	2
*****3*****	1

*Source: IRS sample documentation.*

Fourteen of the 292 employees tested were randomly selected and tested twice during FY 2017. We removed the employees' duplicate test occurrence, resulting in 278 unique employees randomly drug tested in FY 2017. Using this total, we calculated that the IRS randomly drug tested more than the required 10 percent minimum number of employees in TDPs during FY 2017. In addition, we verified that selected employees took the drug tests as required.

Beginning in FY 2018, the IRS will no longer exclude employees from random drug testing because they were recently tested. If employees are selected more than once in a short period of time, they will be required to take the test again. We believe this will improve the deterrence element of random drug testing. Employees will not assume that once they are tested, they will not be retested for some time.

<sup>13</sup> One employee was on an international assignment, two employees were on extended leave, one employee was still on a previously approved deferral, and one employee was incorrectly given prior notice of the test. The next section of this report provides information on drug test deferral requests.



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**The Human Capital Office handled random drug test deferral requests and positive test results appropriately**

The IRS properly processed random drug test deferral requests during FY 2017. It also followed procedures when \*\*\*\*\*3\*\*\*\*\* tested positive for drug use as a result of a random drug test.

**Drug test deferrals**

Employees selected for random drug testing may obtain a deferral of testing if two levels of management concur that a deferral is necessary due to the employees being in 1) leave status (sick, annual, military, administrative, or leave without pay) or 2) official travel status away from the test site or about to leave on official travel scheduled prior to testing notification. The request for the deferral must be made in writing to the program manager. Employees whose random drug tests are deferred are subject to subsequent unannounced tests.

During FY 2017, four sampled employees<sup>14</sup> received deferrals for their drug tests. Three had reasons that met the guidelines and the requests were made in writing to the program manager, who, as required, scheduled a drug test at a later date. The fourth employee was told of the test prematurely due to an administrative error, so the test was deferred to a later date. All four employees tested negative for drug use in later tests.

**Positive test results**

Employees who test positive for illegal drug use should be referred to the Employee Assistance Program<sup>15</sup> for counseling, and appropriate disciplinary actions should be taken. Disciplinary actions can range from written reprimand to dismissal.

During FYs 2013 through 2017, \*\*\*\*\*3\*\*\*\*\* had a substantiated positive drug test. \*\*\*\*\*3\*\*\*\*\* referred to the Employee Assistance Program as required and received appropriate discipline based on guidance. However, \*\*\*\*\*3\*\*\*\*\* was not included in the FY 2014 annual report to the SAMHSA by the former program manager. The current program manager stated that she contacted SAMHSA personnel and informed them of the oversight.

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<sup>14</sup> One employee was selected twice for drug testing during FY 2017, the second time while already on a deferment.

<sup>15</sup> A worksite-based program designed to assist in the identification and resolution of work-related and non-work-related issues associated with employees impaired by personal concerns including, but not limited to, health, marital, family, financial, alcohol, drug, legal, emotional, or other personal concerns that may adversely affect employee job performance.



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## **Appendix I**

### *Detailed Objective, Scope, and Methodology*

Our overall objective was to assess the effectiveness of IRS actions to notify and randomly drug test employees in TDPs. To accomplish our objective, we:

- I. Determined whether the Department of Health and Human Services certified the IRS's Drug-Free Workplace Plan (the Plan), including the requirements for random testing of employees in TDPs.
  - A. Interviewed Department of Health and Human Services personnel to obtain additional information about the IRS's Plan certifications and requirements for recertifications.
  - B. Obtained and reviewed the Department of Health and Human Services certification of the IRS's Drug-Free Workplace Plan.
- II. Determined whether employees in TDPs during FY<sup>1</sup> 2017 received a notice about random drug testing and whether appropriate documentation was maintained.
  - A. Selected a random sample of 50 employees from a universe of more than 2,000 employees in TDPs in FY 2017. We selected a random sample to ensure that each employee had an equal chance of being selected.
  - B. Obtained and reviewed copies of notices from the sampled employees' Official Personnel Files.
- III. Determined if required random drug testing was completed during FY 2017.
  - A. Interviewed personnel to determine how random drug testing is administered.
  - B. Determined if all employees in TDPs were included in the universe of employees used to select employees for random drug testing.
    1. Interviewed IRS and Department of Health and Human Services personnel to determine what positions should be included in TDPs.

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<sup>1</sup> Any yearly accounting period, regardless of its relationship to a calendar year. The Federal Government's fiscal year begins on October 1 and ends on September 30.



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2. Queried the TIMIS<sup>2</sup> database at the Data Center Warehouse<sup>3</sup> and identified all employees in Job Series 0083 (police officers) and Job Series 1811 (criminal investigators) during FY 2017.
  3. Obtained lists of employees with Secret or higher security clearances from the Automated Background Investigation System during FY 2017.
  4. Obtained lists of the employees the IRS used to select monthly random samples for drug testing during FY 2017.
  5. Compared the employees identified using TIMIS and Automated Background Investigation System data to the lists of actual employees included in the IRS's random testing to ensure that all applicable employees were included for potential testing.
- C. Determined if at least a 10 percent sample of employees were randomly selected for drug testing in FY 2017 and tests were completed.
1. Obtained and reviewed documentation for the selection of the random samples of employees for drug testing for FY 2017.
  2. Compared the samples to the universe of employees in TDPs to ensure that at least 10 percent of the employees were tested in FY 2017.
  3. Verified that selected employees completed testing and the program manager accurately reported test results.
- D. Determined if any drug testing deferrals during FY 2017 were appropriate and documented.
- E. Determined what actions were taken when random drug tests showed positive results.
1. Determined if employees with positive drug test results were referred to the Employee Assistance Program for counseling as required.
  2. Determined if disciplinary actions were consistent with the IRS Table of Penalties.

**Validity and reliability of data from computer-based systems**

We performed tests to assess the reliability of data from the following systems: the TIMIS and the Automated Background Investigation System.

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<sup>2</sup> The TIMIS supports payroll and personnel processing and reporting requirements for the IRS.

<sup>3</sup> The Data Center Warehouse is a collection of IRS databases containing various types of taxpayer account information that is maintained by the Treasury Inspector General for Tax Administration for the purpose of analyzing data for ongoing audits.



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The TIMIS – We determined that the data were reliable for our purposes by conducting electronic or manual data testing for missing data, outliers, or obvious errors.

Automated Background Investigation System – We determined that the data were reliable for our purposes by reviewing related documentation; tracing data to the source; and conducting electronic or manual data testing for missing data, outliers, or obvious errors.

**Internal controls methodology**

Internal controls relate to management’s plans, methods, and procedures used to meet their mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations. They include the systems for measuring, reporting, and monitoring program performance. We determined that the following internal controls were relevant to our audit objective: procedures for identifying employees in TDPs, selecting random samples of employees for drug testing, and disciplinary actions taken for those employees who test positive. We evaluated these controls by interviewing Human Capital Office personnel and a Department of Health and Human Services employee and by reviewing the TDP universes used to select samples of employees to determine if they met the criteria for the random drug testing program.



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**Appendix II**

*Major Contributors to This Report*

Gregory Kutz, Assistant Inspector General for Audit (Management Services and Exempt Organizations)

Troy Paterson, Director

Tom Seidell, Audit Manager

Cheryl Medina, Senior Auditor

Donald Martineau, Auditor



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**Appendix III**

*Report Distribution List*

Deputy Commissioner for Operations Support  
Chief Counsel  
Director, Employment, Talent, and Security  
Director, Work-Life Benefits and Performance  
Director, Office of Audit Coordination



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**Appendix IV**

*Management's Response to the Draft Report*



HUMAN CAPITAL OFFICE

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

JUL 18 2018

MEMORANDUM FOR MICHAEL E. MCKENNEY  
DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Katherine M. Coffman *K. M. Coffman*  
IRS Human Capital Officer

SUBJECT: Draft Audit Report – The Human Capital Office Administered the  
Drug Testing of Employees in Testing Designated Positions in  
Accordance with Established Guidelines, Audit #201810016

Thank you for the opportunity to review the Treasury Inspector General for Tax Administration's (TIGTA) draft audit report entitled The Human Capital Office Administered the Drug Testing of Employees in Testing Designated Positions in Accordance with Established Guidelines, Audit #201810016, issued on June 21, 2018. The IRS is committed to ensuring employees are notified of our drug testing policies when entering a Testing Designated Position (TDP), pursuant to which we randomly test a minimum of 10 percent of TDP employees and appropriately address any employees who test positive for illegal drug use. The IRS concurs with your findings that during Fiscal Years (FY) 2013 through 2017, only one randomly tested employee had a substantiated positive drug test, and the employee was referred to the Employee Assistance Program as required and received appropriate discipline based on IRS policies and guidance.

We agree with TIGTA's recommendations. In the report, TIGTA recommends that: (1) the IRS Human Capital Officer ensure that documentation is retained in a central location showing that all employees in TDPs have been notified that they are subject to random drug testing, and that refusal to submit to testing will result in disciplinary action; and (2) the IRS Human Capital Officer and Chief Counsel should complete union negotiations to have bargaining unit employees in TDPs randomly tested for illegal drug use.

Attached is a detailed response outlining the corrective actions the Human Capital Office and Chief Counsel will take to address your recommendations. If you have any questions, please contact me at 202-317-7600, or a member of your staff may contact Debra Popoli, Director, Worklife Benefits & Performance, at 202-744-0387.

Attachment



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Attachment

**RECOMMENDATION 1:**

Ensure that documentation is retained in a central location showing that all employees in TDPs have been notified that they are subject to random drug testing and that refusal to submit to testing will result in disciplinary action.

**CORRECTIVE ACTION:**

The IRS Human Capital Office will create and maintain an electronic database of employee-signed copies of all Individual Notice Documents received.

**IMPLEMENTATION DATE:**

PROPOSED: February 15, 2019

**RESPONSIBLE OFFICIAL(S):**

Human Capital Office: Director, Worklife Benefits & Performance

**CORRECTIVE ACTION MONITORING PLAN:**

We will enter accepted Corrective Actions into the Joint Audit Management Enterprise System (JAMES), monitor progress towards completion monthly, and upload supporting documentation into JAMES with Form 13872 Planned Corrective Action (PCA) Status Update for *TIGTA/GAO/MW/SD/TAS/REM*.

**RECOMMENDATION 2:**

The IRS Human Capital Officer and Chief Counsel should complete union negotiations to have bargaining unit employees in TDPs randomly tested for illegal drug use.

**CORRECTIVE ACTION 1:**

The IRS Human Capital Officer (HCO) will complete the on-going negotiations with the National Treasury Employees Union (NTEU) to include bargaining unit (BU) employees in the TDP random testing pool. HCO will then add bargaining unit employees to the random testing pool in accordance with the dates and other terms contained in the negotiated agreement.

**IMPLEMENTATION DATE:**

PROPOSED: February 15, 2020



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*The Human Capital Office Administered the Drug Testing  
of Employees in Testing Designated Positions  
in Accordance With Established Guidelines*

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**RESPONSIBLE OFFICIAL(S):**

Human Capital Office: Director, Worklife Benefits & Performance

**CORRECTIVE ACTION MONITORING PLAN:**

We will enter accepted Corrective Actions into the Joint Audit Management Enterprise System (JAMES), monitor progress towards completion monthly, and upload supporting documentation into JAMES with Form 13872 Planned Corrective Action (PCA) Status Update for TIGTA/GAO/MW/SD/TAS/REM.

**CORRECTIVE ACTION 2:**

Chief Counsel will take appropriate steps to address the NTEU issues associated with the small number of TDP employees in the Counsel bargaining unit. Once Counsel has addressed those NTEU issues, HCO will add the Counsel BU employees to the TDP random testing pool within the dates and other terms contained in the negotiated agreement.

**IMPLEMENTATION DATE:**

PROPOSED: February 15, 2020

**RESPONSIBLE OFFICIAL(S):**

Chief Counsel: Director, Labor & Employee Relations

**CORRECTIVE ACTION MONITORING PLAN:**

We will enter accepted Corrective Actions into the Joint Audit Management Enterprise System (JAMES), monitor progress towards completion monthly, and upload supporting documentation into JAMES with Form 13872 Planned Corrective Action (PCA) Status Update for TIGTA/GAO/MW/SD/TAS/REM.