

TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION



Controls Over the Internal Revenue Service Contractor Tax Check Process Need to Be Improved

June 11, 2021

Report Number: 2021-10-039

HIGHLIGHTS: Controls Over the Internal Revenue Service Contractor Tax Check Process Need to Be Improved

Final Audit Report issued on June 11, 2021

Report Number 2021-10-039

Why TIGTA Did This Audit

The overall objective of this review was to determine whether the IRS contractor tax check process has adequate controls to ensure that a) tax checks of contractors are completed timely, include all required steps, and are documented adequately, and b) the Treasury Suspension and Debarment official is notified of contractor tax delinquencies, as required.

Impact on Taxpayers

Between October 1, 2018, and March 30, 2020, the IRS made 3,679 new awards to contractors for the purchase of goods and services ranging from computer hardware to expert witnesses.

If required tax checks are not consistently performed, it puts the IRS at risk of awarding contracts to offerors with existing tax liabilities. Additionally, not completing tax checks within the required time frame increases the risk that an offeror's recently incurred tax liability will not be identified during the tax check process. Lastly, untimely or incomplete notification to the Treasury Suspension and Debarment official increases the chances that contractors with a tax deficiency will obtain a contract award with another Federal agency.

What TIGTA Found

TIGTA reviewed 71 randomly selected new awards and found that 47 (66 percent) had one or more deficiencies related to the contractor tax check process. Contractor tax checks were not always completed prior to contract award or, if completed, were not performed within the required time frame. For example, a tax check was not performed for 18 (25 percent) of the 71 contract awards selected. In addition, Tax Check Notice and Consent provisions were not always provided to or signed by the offeror. However, TIGTA independently verified that the 71 contractors did not have any delinquent Federal taxes at the time the contracts were awarded. Based on sample results, TIGTA estimated that 2,435 of the 3,679 new award contracts (awarded between October 1, 2018, and March 30, 2020) have one or more of these errors identified.

Also, information provided to the Treasury Suspension and Debarment official related to contractors with unresolved tax delinquencies was untimely and incomplete. Specifically, during the period between October 1, 2018, and March 30, 2020, IRS procurement tax checks identified 20 contractors with unresolved tax delinquencies totaling more than \$7 million. However, no information was reported to the Treasury Suspension and Debarment official on any of these 20 contractors until June 2020, during the course of our review. In addition, based on the requirements provided by the office of the Treasury Suspension and Debarment official, the information reported was incomplete.

Currently, the IRS is the only Federal agency that can access taxpayer return information to support its determination of an offeror's eligibility to receive a Federal contract award. If the IRS awards contracts to businesses with outstanding tax debt, it erodes public confidence in the tax system.

What TIGTA Recommended

TIGTA recommended that the Chief Procurement Officer complete implementation of the enhancement to the IRS contract writing system, which will allow Contracting Officers direct access to offeror tax status, and require the use of the system's existing contract writing feature that automatically includes a Tax Check Notice and Consent provision. TIGTA also recommended that the Chief Procurement Officer update its process to ensure that required information on contractors identified with unresolved tax delinquencies is timely referred to the Treasury Suspension and Debarment official.

IRS management agreed with the report recommendations and stated that they have implemented partial enhancements to its contract writing system and is evaluating whether the system's feature that automatically includes the mandatory provisions will meet the future needs of the IRS. The IRS will also update its guidance to require that tax check-related notifications are provided to the Treasury Suspension and Debarment official quarterly.



TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

U.S. DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20220

June 11, 2021

MEMORANDUM FOR: COMMISSIONER OF INTERNAL REVENUE

A handwritten signature in blue ink that reads "Michael E. McKenney".

FROM: Michael E. McKenney
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Controls Over the Internal Revenue Service
Contractor Tax Check Process Need to Be Improved (Audit #202010019)

This report presents the results of our review to determine whether the Internal Revenue Service contractor tax check process has adequate controls to ensure that (a) tax checks of contractors are completed timely, include all required steps, and are documented adequately and b) the Treasury Suspension and Debarment official is notified of contractor tax delinquencies, as required. This review is part of our Fiscal Year 2021 Annual Audit Plan and addresses the Fiscal Year 2020 major management challenge of *Achieving Operational Efficiencies*.

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

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 Heather M. Hill, Assistant Inspector General for Audit (Management Services and Exempt Organizations).

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Background

Between October 1, 2018, and March 30, 2020, the Internal Revenue Service (IRS) made 3,679 new awards to contractors for the purchase of goods and services ranging from computer hardware to expert witnesses. Before these contracts are awarded, the assigned IRS Contracting Officer (CO) must examine the prospective contractor's eligibility, including whether the contractor has any outstanding Federal tax indebtedness. In the Consolidated and Further Continuing Appropriations Act of 2015, Congress specified that the Government will not enter into a contract with any corporation that has any unpaid Federal tax liability that has been assessed, unless an agency has considered suspension or debarment of the corporation and made a determination that suspension or debarment is not necessary to protect the interests of the Government.¹ The Treasury Suspension and Debarment Official (SDO)² is responsible for all suspension and debarment actions within the Department of the Treasury.

Between October 1, 2018, and March 20, 2020, the IRS made 3,679 new awards to contractors for goods and services ranging from computer hardware to expert witnesses.

The IRS's internal acquisition procedures further require that the COs always request a tax check on the apparently successful offeror prior to making an award of any dollar value. A tax check is an IRS process that accesses and uses taxpayer return information that is available only to the IRS to support the Government's determination of an offeror's eligibility to receive an award. At the time of our review, as shown in Figure 1, the IRS's process to conduct a tax check on a successful offeror was a multistep process.

1. The CO e-mails a designated Procurement Office Point of Contact (POC).
2. The POC searches a database of contractors with delinquent Federal tax liability, provided by the Chief Financial Officer. This database is updated on a weekly basis. If a tax check is completed more than five business days prior to making an award, the CO should conduct a second tax check to ensure that the offeror's tax compliance status is still accurate.
3. If the POC identifies a tax delinquency, the tax check result is validated by contacting the IRS Small Business/Self-Employed (SB/SE) Division Collection function. If the result of the tax check demonstrates the offeror as tax compliant, then the offeror is eligible for the award, assuming all other standards of responsibility have been met, and the CO will include documentation in the contract file that verifies the tax check was conducted.
4. If the SB/SE Division Collection function validates that the offeror has a delinquent Federal tax liability, the CO will notify the offeror of their ineligibility to receive a contract award due to having a Federal tax liability.
5. If the offeror does not provide timely documentation demonstrating the tax status as being paid in full or that an approved payment agreement is in place, the offeror is no

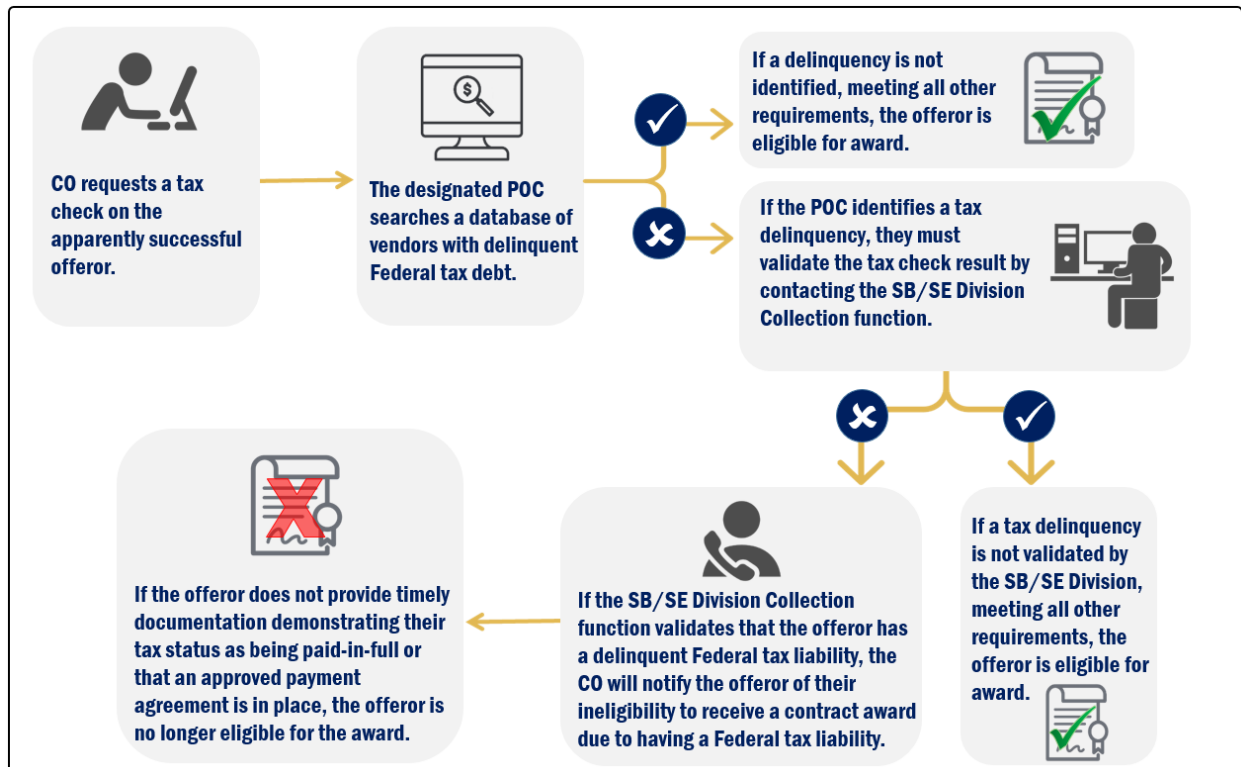
¹ Pub. L. No. 113-235, Dec. 16, 2014.

² See Appendix IV for a glossary of terms.

Controls Over the Internal Revenue Service Contractor Tax Check Process Need to Be Improved

longer eligible for the award and the CO proceeds to the next offeror in line. However, if the CO determines there is a compelling Government interest with making an award to the ineligible contractor, the CO shall notify the Chief Procurement Officer. Upon approval, the Chief Procurement Officer will notify the SDO for the purpose of requesting a determination of whether a suspension and debarment is appropriate in accordance with the Federal Acquisition Regulation.³ No notifications of this kind were made during our review period of October 1, 2018, through March 30, 2020.

Figure 1: IRS Tax Check Process to Determine Offeror Eligibility



Source: Treasury Inspector General for Tax Administration (TIGTA)–created figure based on IRS procurement guidelines as outlined in Procedures, Guidance, and Information (PGI) 1009.70.

Results of Review

Contractor Tax Checks Were Not Always Performed As Required

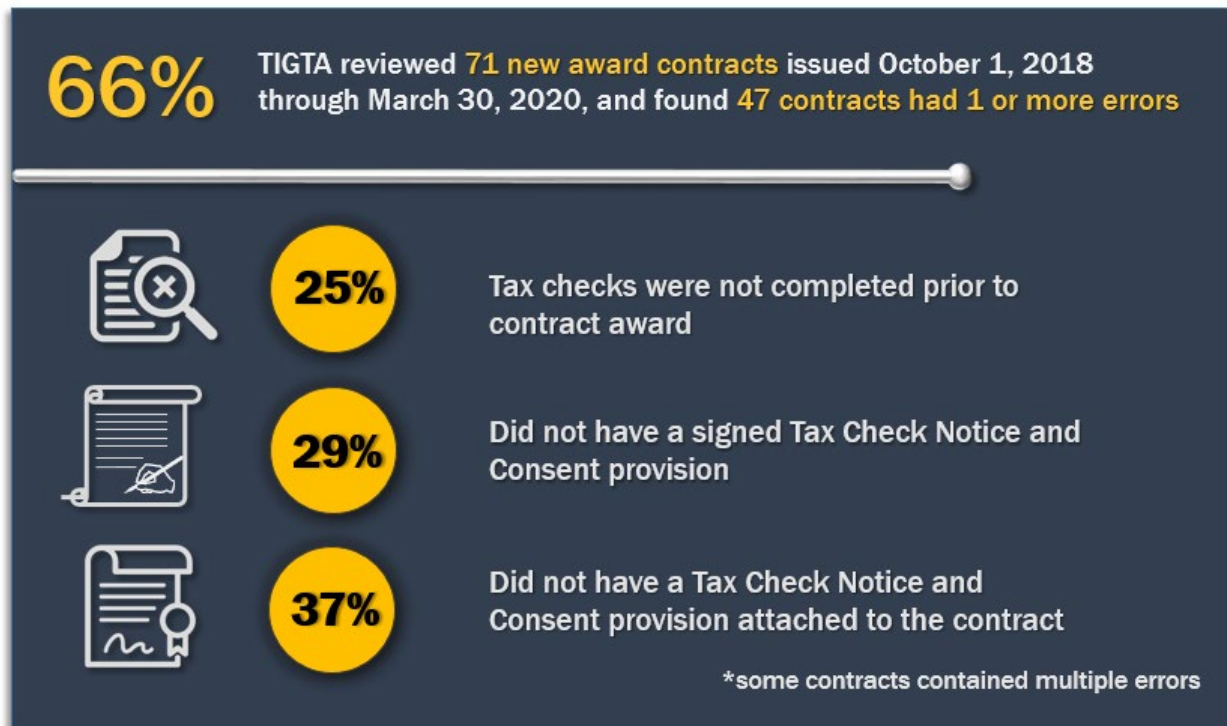
Our review found that contractor tax checks were not always completed prior to contract award or, if completed prior to contract award, were not performed within the required time frame. In addition, required Tax Check Notice and Consent provisions were not always provided to or signed by the offeror.⁴ We reviewed 71 randomly selected new contract awards (awarded

³ The Federal Acquisition Regulation is the primary regulation used by all Federal executive agencies to acquire supplies and services with appropriated funds.

⁴ A Tax Check Notice and Consent provision contains a consent for the IRS to disclose tax return information to an authorized representative as necessary to resolve any matters pertaining to the results of the tax check.

between October 1, 2018, and March 30, 2020) and found that 47 (66 percent) had one or more deficiencies related to the contractor tax check process. However, TIGTA independently verified that these contractors did not have any delinquent Federal taxes at the time the contracts were awarded.⁵ Based on our sample results, we estimate that 2,435 of the 3,679 new award contracts (awarded between October 1, 2018, and March 30, 2020) have one or more deficiencies related to the contractor tax check process.⁶ Figure 2 provides examples of the more frequently occurring errors we identified.

Figure 2: Examples of Frequently Occurring Errors Identified



Source: TIGTA-created figure based on evaluation of sample of 71 new awards. The error percentage for not having a signed Tax Check Notice and Consent provision is calculated based on the 45 new awards with provisions that were included in the contract file.

Tax checks were not always completed prior to contract award

The IRS's contractor tax check process is outlined in the IRS Acquisition Policy and Procedures Guidance and Information (IRSAP PGI). The IRSAP PGI requires that the CO always request a tax check on the apparently successful offeror prior to making an award. However, IRS COs could not provide documentation that a tax check was performed prior to awarding the contract for 18 (25 percent) of the 71 contract awards sampled. The 18 contracts were valued at more

⁵ Federal taxes are considered delinquent if both of the following criteria apply: 1) The tax liability is finally determined. The liability is finally determined if it has been assessed and all administrative and judicial appeal rights have been exhausted. 2) The taxpayer is delinquent in making payment. A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded, such as when the taxpayer is currently making timely payments through an installment agreement accepted by the IRS.

⁶ Our sample was selected using a 90 percent confidence interval, 60 percent error rate, and ± 10 percent precision factor. When projecting the results of our statistical sample, we are 90 percent confident that the point estimate is between 2,059 awards and 2,773 awards and that the true exception rate is between 56 percent and 75 percent.

than \$385,000, and there was no documentation in the contract file indicating a tax check was completed before the award. TIGTA independently verified that these contractors did not have any delinquent Federal taxes at the time the contracts were awarded. The IRS believes the missing tax checks we identified may have been performed but were not documented in the contract file due to difficulties sometimes experienced by the COs in adding documents, such as tax check results, to the IRS system used to document and track contract files. The contractor tax check procedure used at the time of our review was a mostly manual and time-intensive process requiring that the COs contact designated POCs about the tax status of prospective offerors and document the results of the tax check in the contract file. Our review indicated that one or more of the steps in this process were not always completed as required. When the COs do not consistently perform required tax checks, it puts the IRS at a risk of awarding contracts to offerors with existing tax liabilities. Currently, the IRS is the only Federal agency that can access taxpayer return information to support its determination of an offeror's eligibility to receive a Federal contract award. If the IRS awards contracts to businesses with outstanding tax debt, it erodes public confidence in the tax system.

In September 2020, the IRS began implementing an enhancement to its system used to track and document IRS contract files, the Procurement for Public Sector (PPS) system. The enhancements are designed to 1) allow the COs direct access to offeror tax status information and 2) systemically prohibit the awarding of contracts to an offeror with an unresolved tax liability. This enhancement, if operating as described, should significantly improve the efficiency of the tax check process and help address the issues we identified related to tax checks not always being performed.

Completed tax checks were not always performed timely

The IRS's acquisition guidelines require that the CO complete a tax check within five business days prior to making an award and include documentation related to the tax check in the contract file. Of the 53 contracts with tax checks completed prior to award, seven (13 percent) were not performed within the IRS acquisition timeliness standards. Specifically, the seven tax checks were completed more than five business days before the award was signed, between one and 23 business days over the required time frame. However, TIGTA independently verified that these contractors did not have any delinquent Federal taxes at the time the contracts were awarded.

As part of the multistep process of the contractor tax check, after the Procurement Division's designated POC receives the tax check request from the CO, the POC searches a database of prospective contractors that have a record of delinquent Federal tax liability. This database is updated on a weekly basis. If a tax check is completed more than five business days prior to making an award, the CO should conduct a second tax check to ensure that the offeror's tax compliance status is still accurate.

Although TIGTA did not identify delinquent Federal taxes, not completing tax checks within the required time frame increases the risk that an offeror's recently incurred tax liability will not be identified during the tax check process. As previously stated, the IRS began implementing enhancements to its PPS system, and if operating as described, the enhancements should also help address the issues we identified related to untimely tax checks.

Tax Check Notice and Consent provisions were not always provided or signed by the offeror

The COs are required to insert a Tax Check Notice and Consent provision in all IRS solicitations regardless of dollar value. The purpose of this provision is to notify offerors that the IRS will perform a tax check. This provision is signed by the offeror and contains a consent to disclose tax return information to an authorized representative if the disclosure is necessary to resolve any matters pertaining to the results of the tax check. Of our sample of 71 awards reviewed, 26 (37 percent) awards did not have a Tax Check Notice and Consent provision included in the contract file. For the remaining 45 provisions that were included in the contract file, 13 (29 percent) were not signed by the offeror as required. The IRS stated that the PPS system includes a contract writing feature that automatically includes the Tax Check Notice and Consent provision as one of the required forms; however, use of this functionality in preparing contracts is not mandatory. The lack of a signed Tax Check Notice and Consent provision impedes the IRS's ability to readily contact an offeror with an identified delinquency and further obtain information about the tax debt if necessary. Additionally, ensuring that offerors on all IRS solicitations are notified about tax checks as required is critical to maintaining the perception of transparency and fairness of the process.

The IRS has implemented system enhancements to its contractor tax check process

TIGTA previously reported in July 2016⁷ that the IRS tax check process was not effective in identifying tax delinquent contractors and found that 21 of the 73 contract awards reviewed with award amounts of \$250,000 or more did not contain documentation in the contract files that a tax check had been performed on the winning offeror prior to the award. Additionally, some COs relied on contractor tax checks conducted on a previous contract award without obtaining updated tax check results for the current award. TIGTA recommended that the Chief Financial Officer ensure that information provided to the COs in tax check results contains information necessary to determine whether the contractor is prohibited from receiving contract awards under Federal appropriations law. TIGTA also made several recommendations to the Chief Procurement Officer to improve the policies and processes that support CO actions related to tax checks. In response to TIGTA's recommendations, IRS management agreed to develop a database that automatically identifies tax indebtedness status for CO use in determining contractor eligibility for awards. In August 2016, the IRS implemented tax check procedures that rely on a designated POC to search a database of contractors with a delinquent Federal tax liability to determine contractor tax status.

One feature of the enhancements that the IRS began implementing in September 2020 eliminated the need to send an e-mail to the designated POC, which will reduce this manual and time-intensive process. These enhancements should help address the issues we identified related to untimely tax checks and tax checks not always being performed and should also improve the IRS's ability to track and maintain contractor and contract files. The enhancements are designed to 1) allow the COs direct access to offeror tax status and 2) prohibit the awarding of contracts to an offeror with an unresolved tax liability. Because the enhancements to the PPS

⁷ TIGTA, Report No. 2016-10-049, *Significant Improvements Are Needed in the Contractor Tax Check Process* (July 2016).

**Controls Over the Internal Revenue Service
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system were not operational at the time of our fieldwork, we were unable to evaluate their effectiveness.

The Chief Procurement Officer should:

Recommendation 1: Complete implementation of the PPS system enhancement, which will 1) allow for the CO's direct access to offeror tax status and 2) prohibit the processing of contract awards in which the offeror has an unresolved tax liability. As part of the implementation, the IRSAP PGI should be updated to reflect the automated tax check process.

Management's Response: IRS management agreed with this recommendation and indicated that enhancement to the PPS that allows CO's direct access to offeror tax status was completed on September 10, 2020. This enhancement prohibits the processing of contract awards if the offeror has an unresolved tax liability. The IRSAP PGI was updated on November 30, 2020, to reflect this process.

Recommendation 2: Require use of the PPS system contract writing feature that automatically includes a Tax Check Notice and Consent provision.

Management's Response: IRS management agreed with this recommendation in principle. The Chief Procurement Officer is evaluating the PPS contract writing feature, including gathering user feedback on its functionality, to identify enhancements to improve its operational efficiency for consideration following the next product application upgrade. Based on this information, the Chief Procurement Officer will determine to what extent the PPS contract writing feature will be used.

Office of Audit Comment: Until the IRS completes its evaluation and enhancement of the PPS contract writing feature, the IRS will remain at risk of not consistently providing required Tax Check Notice and Consent provisions to offerors.

Information Provided to the Treasury Suspension and Debarment Official on Contractors With Unresolved Delinquent Tax Liabilities Was Untimely and Incomplete

During the period October 1, 2018, through March 30, 2020, IRS procurement tax checks identified 20 contractors with unresolved delinquent tax liabilities, totaling more than \$7 million. However, no information was reported to the Treasury SDO on any of these 20 contractors until June 2020 during the course of our review. Additionally, the information reported was incomplete based on the requirements provided by the office of the Treasury SDO. Specifically, the IRS only provided the names of the 20 offerors and their total aggregate delinquent tax liability but did not provide other identifying information needed by the Treasury SDO for review. The IRS advised us that it plans to provide these reports on a quarterly basis.

In October 2020, the office of the Treasury SDO notified the IRS that additional information is needed on the contractors it reports having unresolved delinquent tax liabilities. Specifically, the Treasury SDO needs the contractors' unique entity identifier and certifications⁸ made by the

⁸ A certification is a written guarantee provided by a contractor for meeting certain standards.

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contractors in the System for Award Management⁹ regarding their Federal tax delinquency status. Information on certifications made by the contractors regarding their tax status would allow the Treasury SDO to assess whether any inaccurate information was provided. In accordance with the Federal Acquisition Regulation, a contractor can be considered for suspension or debarment actions for a variety of reasons, including making false statements or having a delinquent Federal tax liability.

The IRSAP PGI does not specify a required time frame for providing information to the Treasury SDO on contractors identified with delinquent tax liabilities or include a sample reporting format to help ensure that all required information is included. Untimely or incomplete information on contractors with unresolved tax delinquencies makes it impossible for the SDO to determine whether a suspension or debarment is appropriate and thereby increases the chances the contractor will obtain a contract award with another Federal agency.

Recommendation 3: The Chief Procurement Officer should coordinate with the Treasury SDO to identify a required time frame and sample format for what information should be included in the reports the IRS provides on contractors with Federal tax delinquencies. The Chief Procurement Officer should also revise the IRSAP PGI to specify a required time frame for the reporting to the SDO and include a sample reporting format to help ensure that all required information is included.

Management's Response: IRS management agreed with this recommendation. Based on coordination with the Department of the Treasury's Office of the Procurement Executive, the IRSAP PGI will be updated to identify a sample format and reflect tax check-related notifications to the suspension and debarment official be provided quarterly.

⁹ The System for Award Management is the official U.S. Government website for those who make, receive, or manage Federal awards.

Appendix I

Detailed Objective, Scope, and Methodology

The overall objective of this review was to determine whether the IRS contractor tax check process has adequate controls to ensure that a) tax checks of contractors are completed timely, include all required steps, and are documented adequately and b) the Treasury SDO is notified of contractor tax delinquencies, as required. To accomplish our objective, we:

- Obtained an understanding of the policies and procedures applicable to the contractor tax check process and reviewed Federal laws and regulations as well as Department of the Treasury and IRS policies and procedures.
- Ascertained whether tax checks were performed for new awards by reviewing a statistical sample of 71 new awards from 3,679 new contract awards issued between October 1, 2018, through March 30, 2020. Our sample was selected using a 90 percent confidence interval, 60 percent error rate, and ± 10 percent precision factor. A contract statistician assisted with developing the sampling plan and reviewing the projections.
- Determined if a Tax Check Notice and Consent provision was provided to the prospective contractors in the 71 new awards sampled.
- Determined whether the Treasury SDO was notified of contractor tax delinquencies, as required.

Performance of This Review

This review was performed with information obtained from the office of the Chief Procurement Officer located in Washington, D.C., during the period January 2020 through January 2021. 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.

Major contributors to the report were Heather Hill, Assistant Inspector General for Audit (Management Services and Exempt Organizations); LaToya Penn, Director; Anthony Choma, Audit Manager; Angela Garner, Lead Auditor; and Carolyn deGuzman, Auditor.

Validity and Reliability of Data From Computer-Based Systems

We performed tests to assess the reliability of data from the PPS system. We evaluated the data by 1) performing electronic testing of key data elements, 2) reviewing existing information about the data and the system that produced them, and 3) interviewing agency officials knowledgeable about the data. We also traced a random sample of 25 extracted records to source information including the original contract for selected fields. We determined that the data were sufficiently reliable for purposes of this report.

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: the IRS's policies and procedures for performing and documenting contractor tax checks and notifying, as applicable, the Treasury SDO of contractor tax check delinquencies. We evaluated these controls by interviewing IRS management, reviewing contract file documentation supporting the performance of tax checks, and analyzing referrals made to the Treasury SDO as a result of tax checks.

Outcome Measure

This appendix presents detailed information on the measurable impact that our recommended corrective actions will have on tax administration. This benefit will be incorporated into our Semiannual Report to Congress.

Type and Value of Outcome Measure:

- Protection of Resources – Potential; 2,435 IRS contract awards made during the period October 1, 2018, and March 30, 2020, had one or more tax check–related deficiencies (see Recommendation 1).

Methodology Used to Measure the Reported Benefit:

We reviewed a statistically valid sample of 71 new contract awards from a population of 3,679 new contracts that were awarded between October 1, 2018, and March 30, 2020. Our review found that contractor tax checks were not always completed prior to contract award or, if completed prior to contract award, were not performed within the required time frame. In addition, Tax Check Notice and Consent provisions were not always provided to the offeror or, if provided, were not always signed by the offeror.

We estimate that 2,435 (66 percent) of the 3,679 new contract awards that were awarded between October 1, 2018, and March 30, 2020, have one or more deficiencies related to the contractor tax check process. We worked with TIGTA's statistician to calculate this error rate projection. We are 90 percent confident that the point estimate is between 2,059 awards and 2,773 awards and that the true exception rate is between 56 percent and 75 percent.¹

Management's Response: In its response to our draft report, IRS management expressed concern with how the Outcome Measure is currently presented, stating that it overstates the scale of the problem regarding tax check–related deficiencies and may cause possible confusion among stakeholders. IRS management suggested that reporting separate outcome measures for errors related to (1) tax check completion and (2) Tax Check Notice and Consent provision notification may be useful to stakeholders.

Office of Audit Comment: TIGTA considers all of the errors identified as having an impact on the tax check process. To address the IRS's concern, we are providing separate information for the errors we identified related to (1) tax check completion and (2) provided or signed notice and consent provisions. All error rate projections were calculated based on rate of occurrence in our sample of 71 new contract awards.

Tax checks were not always completed prior to contract award or performed timely

We estimate that 1,295 (35 percent) of the 3,679 new contract awards that were awarded between October 1, 2018, and March 30, 2020, either did not have a tax check completed prior

¹ Our sample was selected using a 90 percent confidence interval, 60 percent error rate, and ±10 percent precision factor.

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to contract award or had a tax check completed prior to award but the tax check was not performed timely. We worked with TIGTA's statistician to calculate this error rate projection. We are 90 percent confident that the point estimate is between 953 and 1,673 awards and that the true exception rate is between 26 percent and 45 percent.

Tax Check Notice and Consent provisions were not always provided to the offeror or signed

We estimate that 2,021 (55 percent) of the 3,679 new contract awards that were awarded between October 1, 2018, and March 30, 2020, either did not have a Tax Check Notice and Consent provision provided or, if provided, was not signed by the offeror. We worked with TIGTA's statistician to calculate this error rate projection. We are 90 percent confident that the point estimate is between 1,641 and 2,389 awards and that the true exception rate is between 45 percent and 65 percent.

Management's Response to the Draft Report



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

May 03, 2021

MEMORANDUM FOR MICHAEL E. MCKENNEY
DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Shanna R. Webbers Shanna R. Webbers Digitally signed by Shanna R. Webbers
Date: 2021.05.03 14:03:26 -0400
Chief Procurement Officer

SUBJECT: Draft Audit Report – Controls Over the Internal Revenue
Service Contractor Tax Check Process Need to Be Improved
(Audit #202010019)

Thank you for the opportunity to review and comment on the subject draft report and address the observations with the audit team. The IRS appreciates all opportunities to improve internal controls and processes related to the protection of resources.

The IRS is committed to maintaining public confidence and trust in the tax system. The Office of the Chief Procurement Officer (OCPO) takes its role in determining an offeror's eligibility to receive a Federal contract award very seriously. We continue to make improvements to the consistency and reliability of our processes and systems and appreciate Treasury Inspector General for Tax Administration (TIGTA) independent verification in their review that no awards were made to contractors with delinquent Federal taxes. We also appreciate TIGTA's acknowledgment of the enhancements made to the Procurement for Public Sector (PPS) system in September 2020, that are helping address issues identified. We are committed to automating manual processes to ensure the IRS more efficiently and effectively spends taxpayer funds.

The IRS agrees with all recommendations. Our corrective action plan for the recommendations identified in the report is attached.

The IRS values your continued support and the assistance your organization provides. If you have any questions, please contact me or Truline Rodgers, Office of Procurement Policy, Quality Assurance Section Chief.

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Attachment(s) 1

Attachment

RECOMMENDATION 1:

The Chief Procurement Officer should complete implementation of the PPS system enhancement which will 1) allow for the CO's direct access to offeror tax status and 2) prohibit the processing of contract awards in which the offeror has an unresolved tax liability. As part of the implementation, the IRSAP PGI should be updated to reflect the automated tax check process.

CORRECTIVE ACTION:

IRS agrees with this recommendation. Enhancement to the PPS was completed on September 10, 2020, that now allows Contracting Officers (CO) direct access to offeror tax status. This enhancement prohibits the processing of contract awards where the offeror has an unresolved tax liability. In correlation, Procurement's Procedures, Guidance, and Information (PGI) 1009.70—TAX CHECK REQUIREMENTS was updated on November 30, 2020 to reflect the new automated tax check process.

IMPLEMENTATION DATE:

Implemented September 20, 2020 and November 30, 2020

RESPONSIBLE OFFICIAL:

Office of the Chief Procurement Officer

CORRECTIVE ACTION MONITORING PLAN:

The IRS OCPO staff currently follows established procedures and will update the Joint Audit Management Enterprise System to indicate this action is complete.

RECOMMENDATION 2:

The Chief Procurement Officer should require the use of the PPS system contract writing feature that automatically includes a Tax Check Notice and Consent Provision.

CORRECTIVE ACTION:

IRS in principle agrees with this recommendation. However, the Chief Procurement Officer (CPO) is presently evaluating the full functionality of the PPS contract writing feature that automatically includes mandatory provisions that will meet both the current and future needs of the IRS. Currently, user feedback is being gathered on functionality to identify, prioritize and obtain funding for additional enhancements to improve its operational efficiency for consideration following the migration of IRS's Integrated Financial System with the service provider's latest cloud-based platform and next products application upgrades. Based on this information, the CPO will determine to what extent the PPS contract writing feature will be used in its' entirety or in conjunction with other tools.

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IMPLEMENTATION DATE:

January 15, 2022

RESPONSIBLE OFFICIAL:

Office of the Chief Procurement Officer

CORRECTIVE ACTION MONITORING PLAN:

The IRS OCPO staff will enter the corrective action into the Joint Audit Management Enterprise System and provide an update when complete.

RECOMMENDATION 3:

The Chief Procurement Officer should coordinate with the Treasury SDO to identify a required time frame and sample format for what information should be included in the reports IRS provides on contractors with Federal tax delinquencies. The Chief Procurement Officer should also revise the IRSAP PGI to specify a required time frame for the reporting to the SDO and include a sample reporting format to help ensure that all required information is included.

CORRECTIVE ACTION:

IRS agrees with this recommendation. The Internal Revenue Service Acquisition Procedures (IRSAP), Procedures, Guidance, and Information (PGIs) are updated on a semi-annual cycle—usually in June and November. Two such updates occurred during the period of time (January 2020 through January 2021) that this review was conducted. After consulting with the Department of the Treasury, Office of the Procurement Executive (OPE), these updates included amendment and clarification to PGI 1009.70—TAX CHECK REQUIREMENTS. Based on coordination with OPE, PGI 1009.70 will be updated to identify a sample format and reflect tax check related notifications to the suspension and debarment official be provided quarterly.

IMPLEMENTATION DATE:

July 15, 2021

RESPONSIBLE OFFICIAL:

Office of the Chief Procurement Officer

CORRECTIVE ACTION MONITORING PLAN:

The IRS OCPO staff will enter the corrective action into the Joint Audit Management Enterprise System and provide an update when complete.

OUTCOME MEASURE:

Protection of Resources – Potential; 2,435 IRS contract awards made during the period October 1, 2018, and March 30, 2020, had one or more tax check-related deficiencies (see Recommendation 1).

**Controls Over the Internal Revenue Service
Contractor Tax Check Process Need to Be Improved**

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IRS RESPONSE:

The Outcome Measure as written may cause possible confusion among stakeholders by overstating the scale of the problem regarding tax check-related deficiencies. The IRS would like to highlight that there were no instances of awards made to vendors with delinquent Federal taxes found during this review, and the IRS believes that reporting on actual tax check errors and signed provision errors separately would provide a more accurate depiction of the issues. Splitting the errors up would show that only 25% (18 of 71) of the population had untimely and/or no tax check performed and that 55% (39 of 71) of the population had unsigned and/or no provision included. Providing two distinct outcome measures may be more informative and may help clear up possible confusion among stakeholders.

Glossary of Terms

Term	Definition
Delinquent Federal Tax Liability	Any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.
Internal Revenue Service Acquisition Policy	The IRSAP is published and maintained by the IRS Office of Procurement Policy, Policy, and Procedures Section. The IRSAP is a companion guide to the Department of the Treasury Acquisition Procedures and the Department of the Treasury Acquisition Regulation. The contents of the IRSAP are intended to provide binding internal, noncodified policy to the IRS, including delegations of authority, assignments of responsibilities, workflow procedures, internal reporting requirements, and all other procurement policies that facilitate the processing of IRS acquisitions.
Offeror	Bidder. Contractor who bids on a Governmental contract.
Procedures, Guidance, and Information	The PGIs provide mandatory (unless otherwise stated) direction, information, or procedures for implementing the IRSAP.
Procurement for Public Sector System	A system used by the IRS to track obligations, create solicitations and awards, maintain contractor files, and generate reports. Tax check results should be documented by the CO in this system.
Suspension and Debarment Official	Individual designated authority to impose procurement and nonprocurement suspensions and debarments pursuant to 48 C.F.R. Part 9 and/or 31 C.F.R. 19. The SDO is responsible for management of the Suspension and Debarment program.
Tax Check	An IRS process that accesses and uses taxpayer return information that is available only to the IRS to support the Government’s determination of an offeror’s eligibility to receive an award.
Tax Check Notice and Consent Provisions	This provision notifies offerors that the IRS will conduct a tax check because the Department of the Treasury has determined that an IRS contractor’s compliance with the tax laws is a tax administration matter and that taxpayer return information is needed to determine an offeror’s eligibility to receive an award. The consent to disclosure authorizes the officers and employees of the Department of the Treasury, including the IRS, to disclose the results of the tax check to the person(s) authorized by the offeror via the signed consent to disclosure.
Unique Entity Identifier	A number or other identifier used to identify a specific commercial, nonprofit, or Government entity.

Abbreviations

CO	Contracting Officer
IRS	Internal Revenue Service
IRSAP	IRS Acquisition Policy
PGI	Procedures, Guidance, and Information
POC	Point of Contact
PPS	Procurement for Public Sector
SB/SE	Small Business/Self-Employed
SDO	Suspension and Debarment Official
TIGTA	Treasury Inspector General for Tax Administration



**To report fraud, waste, or abuse,
call our toll-free hotline at:**

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By Web:

www.treasury.gov/tigta/

Or Write:

Treasury Inspector General for Tax Administration

P.O. Box 589

Ben Franklin Station

Washington, D.C. 20044-0589

Information you provide is confidential, and you may remain anonymous.