

TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION



Steps Were Taken to Protect Employee Health and Safety, but Additional Efforts Are Needed to Ensure Compliance With Federal Guidelines During Pandemics

September 16, 2021

Report Number: 2021-16-073

HIGHLIGHTS: Steps Were Taken to Protect Employee Health and Safety, but Additional Efforts Are Needed to Ensure Compliance With Federal Guidelines During Pandemics

Final Audit Report issued on September 16, 2021

Report Number 2021-16-073

Why TIGTA Did This Audit

This audit was initiated to evaluate the actions the IRS has taken to execute its Pandemic Incident Management Plan and protect the health and safety of its employees during the Coronavirus Disease 2019 (COVID-19) pandemic. TIGTA is also providing updated information on the IRS's general COVID-19 response as well as on the IRS's pandemic planning efforts since issuance of TIGTA's interim report on this topic in March 2021.

Impact on Taxpayers

The COVID-19 pandemic continues to affect the IRS's ability to perform its responsibilities of processing tax returns. The pandemic also threatens the health and safety of IRS employees. As such, the IRS has had to continue to balance the completion of its mission with the health and safety of its employees.

What TIGTA Found

Overall, the IRS completed necessary actions related to the requirements outlined in its Pandemic Incident Management Plan and continues to take steps to ensure the health and safety of its employees. In addition, the IRS leveraged data related to employee infection and transmission rates, employee telework eligibility and status, and facility status to allow for informed decision-making during the pandemic.

During unannounced site visits to the IRS's eight campuses, TIGTA confirmed that the IRS provided employees with personal protective equipment such as disposable masks, hand sanitizer, and disinfectant wipes. While adequate signage pertaining to health and safety guidelines was found, TIGTA observed instances where signage was missing, damaged, or unofficial signage was used. Following discussions with IRS officials, signage was updated and replaced. Additionally, the IRS generally continues to ensure that its COVID-19 guidance aligns with Federal policies. However, during the unannounced site visits, TIGTA observed instances of noncompliance with Federal mask requirements and social distancing guidelines.

The IRS designated direct supervisors as responsible for addressing noncompliance issues. However, there are a number of circumstances under which direct supervisors cannot or may not feel comfortable addressing an employee's failure to adhere to COVID-19 guidance. Noncompliance with Federally mandated guidance can jeopardize the health and safety of all employees in the workplace. Further, COVID-19 infections in IRS facilities can result in the temporary closure of IRS workspaces and the inability of employees to work, thereby impacting the IRS's ability to fulfill its mission.

TIGTA also noted that IRS officials had varying degrees of understanding of the types of paid leave available to employees who had COVID-19-related needs. While the IRS had internal guidance, in some instances, IRS guidance had been superseded by newly enacted Federal laws, and had yet to be updated while the IRS awaited additional direction from the Office of Personnel Management and the Department of the Treasury. As a result, COVID-19 leave options were not clearly understood by the IRS workforce.

What TIGTA Recommended

TIGTA recommended that the Commissioner's Chief of Staff update the Pandemic Incident Management Plan to encourage leaders to help ensure that employees are following policies and guidance issued in response to emergency conditions. In their response, IRS management agreed with the recommendation. In addition, as a result of TIGTA's finding and unannounced site visits, the IRS updated existing guidance clarifying the leave options, reminded employees of the current mask wearing requirements, and updated (or replaced) signage where needed.



TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

U.S. DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20220

September 16, 2021

MEMORANDUM FOR: COMMISSIONER OF INTERNAL REVENUE

FROM: Michael E. McKenney
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Steps Were Taken to Protect Employee Health and Safety, but Additional Efforts Are Needed to Ensure Compliance With Federal Guidelines During Pandemics (Audit # 202110611)

This report presents the results of our review of the actions the Internal Revenue Service took to execute its Pandemic Incident Management Plan and to protect the health and safety of its employees during the Coronavirus Disease 2019 (COVID-19) pandemic. This review is part of our Fiscal Year 2021 Annual Audit Plan and addresses the major management and performance challenge of *Responding to the COVID-19 Pandemic*.

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

Copies of this report are also being provided to the Internal Revenue Service managers affected by the report recommendation. 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

On January 21, 2020, the Centers for Disease Control and Prevention (CDC) reported the first case of the Coronavirus Disease 2019 (COVID-19) in the United States. COVID-19 is a disease caused by a virus with symptoms including fever, cough, fatigue, and shortness of breath. However, COVID-19 can cause more severe symptoms and death, particularly among elderly individuals and individuals with underlying medical conditions. On March 11, 2020, the World Health Organization officially declared COVID-19 a pandemic. On December 11, 2020, the U.S. Food and Drug Administration issued the first emergency use authorization for a vaccine for the prevention of COVID-19. According to Johns Hopkins University, as of July 22, 2021, there have been more than 4.1 million COVID-19 deaths worldwide, and more than 3.7 billion vaccine doses have been administered, 338 million of which were administered in the United States.¹

The Internal Revenue Service (IRS) continues to contend with unprecedented challenges because of the COVID-19 pandemic. As such, the IRS must maintain a balance between the fulfillment of its mission and the health and safety of its employees, 42 of whom have died because of the virus as of June 2021. For example, the IRS had a significant backlog of tax returns at the end of Calendar Year 2020 – more than 8.3 million individual tax returns and transactions received in Calendar Year 2020 still needed to be processed. This represents more than a 1,200 percent increase in the paper-filed returns carryover inventory to the 2021 Filing Season when compared to a normal processing year.² As of May 2021, this backlog is moving through processing, and the IRS is no longer reporting a backlog of tax returns received in Calendar Year 2020.

In addition, the IRS delayed the start of the 2021 Filing Season until February 12, 2021, two weeks later than the prior filing season. According to IRS management, the later start allowed the IRS to update its processing systems. The programming required to update these systems for the filing season was delayed because the IRS focused its efforts on issuing the second Economic Impact Payment as a result of the *Consolidated Appropriations Act, 2021*.³ On March 17, 2021, the Department of the Treasury (Treasury Department) and the IRS announced the 2021 Filing Season deadline would be extended to May 17, 2021, to help taxpayers navigate the unusual circumstances related to the pandemic.

This audit is one in a series being conducted by the Treasury Inspector General for Tax Administration (TIGTA) as part of our oversight role of the IRS's response to the COVID-19 pandemic. This report includes updates to information initially provided in our previously issued interim report and other information on the IRS's pandemic planning efforts.⁴

¹ Johns Hopkins University of Medicine Coronavirus Resource Center, <https://coronavirus.jhu.edu/map.html> (last visited June 15, 2021).

² Treasury Inspector General for Tax Administration, Report No. 2021-40-038, *Interim Results of the 2021 Filing Season* p. 5 (May 2021). The filing season is the period from January through mid-April when most individual income tax returns are filed.

³ Pub. L. No. 116-260, 134 Stat. 1182 (2020).

⁴ TIGTA, Report No. 2021-16-020, *Interim Report – IRS COVID-19 Response Timeline and Policies to Protect Employee Health and Safety* (Mar. 2021).

Results of Review

Steps to Protect Employees Have Been Taken; However, Additional Efforts Are Needed to Ensure Compliance With Federal Guidelines During Pandemics

The IRS completed necessary actions to execute the requirements outlined in the Pandemic Incident Management Plan ("Pandemic Plan" or "Plan") in response to the COVID-19 pandemic and continues to update its policies to protect employee health and safety, generally in keeping with Federal guidance. In addition, the IRS leveraged data related to employee infection and transmission rates, employee telework eligibility and telework status, and facility status to allow for informed leadership decision-making during the pandemic. Although the IRS continues to update policies to protect employee health and safety, we noted an inconsistent understanding of available pandemic-related leave options for employees. According to IRS management, after legislation is enacted resulting in additional leave flexibilities, the IRS must wait for the Office of Management and Budget (OMB), the Office of Personnel Management, and the Treasury Department to issue guidance before it can issue its own internal guidance and make the appropriate updates to its systems to accommodate these new flexibilities. Frequent guidance changes can make it difficult for managers to stay abreast of current guidance. However, the IRS has since clarified the options available to employees. While the IRS has made significant efforts to protect the health and safety of its workforce, we also observed instances of noncompliance with Federal mask requirements and social distancing guidelines that were in effect at the time of our review.

Actions were taken to adequately implement key areas of the IRS's Pandemic Plan

IRS policy mandates that a comprehensive and effective program must be in place to ensure the continuity of its essential functions under all circumstances.⁵ As part of the program, the IRS created the Pandemic Plan, which defines procedures to address any serious outbreak of a contagious illness, such as pandemic influenza, that causes significant employee absenteeism. The Plan includes measures designed to minimize the health, social, and economic impacts of a pandemic by protecting personnel health and safety at work. According to the IRS, the Plan is designed to ensure the IRS's ability to continue essential functions and operations from primary facilities with little disruption to its customers and stakeholders. On March 4, 2020, the Deputy IRS Human Capital Officer (HCO) activated the Plan and officially commenced the IRS's COVID-19 response.

The Plan consists of four overall sections: the IRS pandemic continuity of operations, planning elements, scenario comparisons, and Delegation Orders. The sections cover numerous topics, including the IRS's guiding principles while implementing its response to a pandemic, plans and procedures, mission-essential functions and other business priorities, and communications during a pandemic. Given that the Plan contemplates a number of different scenarios that may occur, not all sections of the Plan were applicable during the COVID-19 pandemic. As such, we identified the most critical sections of the Plan that were relevant to the IRS's COVID-19

⁵ Internal Revenue Manual 10.6.1 (Mar. 11, 2020).

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response and determined that the IRS adequately executed and generally adhered to the Plan.⁶ Appendix II provides greater detail about the Plan and its execution.

Guiding principles

Guiding principles are the managing philosophies the IRS used as the basis for implementing the Plan. For example, one of the guiding principles is that senior management meet regularly to determine what resources would be needed and how existing resources could be used to fulfill those needs. Based on our review of the IRS's meeting minutes, we determined that the IRS's Executive Steering Committee, which consisted of senior management officials, began meeting in March 2020 three or more times per week. As the pandemic continued, the Committee still met regularly, at least once per week. The Committee met to discuss topics such as updates to Federal guidance, mission-essential needs within the organization, and the continuance of telework.

Another guiding principle is that IRS functions and operations will be telework ready in the event of a pandemic. In an effort to begin to address this requirement, the IRS issued an evacuation order, effective March 30, 2020, for all employees, including those who were currently not teleworking but whose work is portable and can be adapted to work from home.⁷ The evacuation order was extended twice and is currently in effect until September 23, 2021. As of June 17, 2021, employees with portable work continue to perform their duties at home, while recalled employees with nonportable work continue to report to the office. See Appendix III for more detailed information on employees reporting to an IRS facility.

IRS pandemic continuity of operations

IRS pandemic continuity of operations are the activities the IRS and its business units use to ensure that the IRS has the capability to continue its essential functions and operations during a pandemic. This section of the Plan instructs the IRS to identify personnel who have the authority to activate and deactivate the IRS's continuity plans, which include those related to the pandemic. The IRS has stated the following executives have the authority to activate and deactivate those plans – the Commissioner; the Deputy Commissioner for Services and Enforcement; the Deputy Commissioner for Operations Support; the Deputy HCO; and the Senior Commissioner Representative – Continuity Operations, Continuity Operations Program Manager. The Deputy HCO activated the Plan on March 4, 2020.

Plans and procedures

The plans and procedures are the policies and preparations that ensure the continuation of the IRS's essential functions and operations and the services that support them. For example, the Plan instructs the IRS to identify the individual(s) responsible for coordinating the IRS's pandemic planning. We verified this individual to be the Program Manager, Senior Commissioner's Representative – Continuity Operations. The Plan also instructs the IRS to support the Federal response to a pandemic as well as the responses by State, local, and tribal entities. Based on our review of documentation and discussions with IRS leadership, the IRS

⁶ In May 2021, the IRS issued a revised pandemic plan, which was not reviewed as part of this audit.

⁷ For more information on the IRS's efforts to increase telework, see TIGTA, Report No. 2021-IE-R002, *Interim Report – The IRS Leveraged Its Telework Program to Continue Operations During the COVID-19 Pandemic* (Mar. 2021).

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kept abreast of Federal, State, and local requirements, such as stay-at-home orders, and aligned IRS operations accordingly.

Mission-essential functions and other business priorities

Mission-essential functions and other business priorities are the limited set of agency-level functions that must be continued throughout or resumed as soon as possible after a disruption of normal activities as well as those functions and processes that support the mission-essential functions. As part of the Plan, the IRS determined the following functions must remain in a constant state of readiness and play a key role in responding to an incident such as a pandemic:⁸

- Physical Security.
- Situational Awareness and Management Center.
- Executive Transportation and Security.
- Incident Management (within HCO).

The IRS leveraged data to allow for informed leadership decision-making related to COVID-19

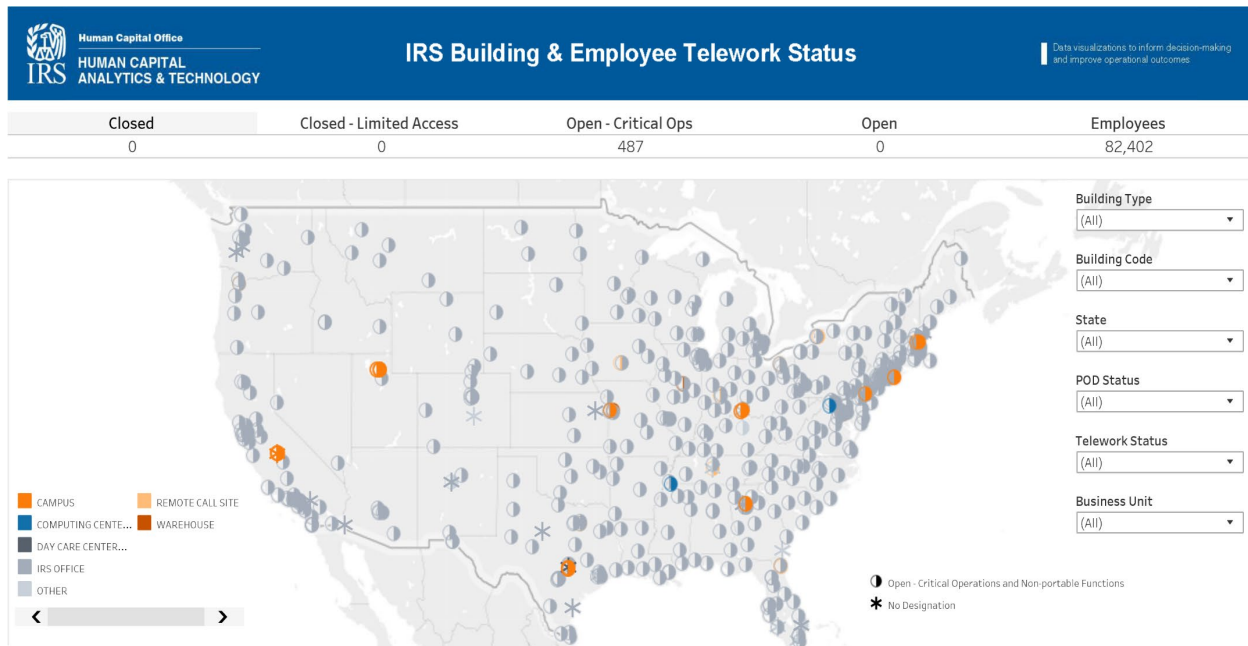
The IRS has a variety of data sources that provide useful information to IRS executives making challenging decisions as the pandemic continues. In order to streamline the dissemination of this information in a way that is easily useable by IRS leadership, the IRS used data visualization software to create COVID-19 dashboards for senior leadership. These dashboards collect and present up-to-date information on the status of a number of key metrics related to COVID-19.

For example, the IRS created a dashboard on the effects of COVID-19 at the IRS, which is presented as a nationwide map that includes every IRS facility. This dashboard presents the status of each IRS facility (closed, open for essential operations, or other), the number of employees reporting to each facility, and the number of recent cases of COVID-19 among employees, including those who were in the office within 14 days of receiving a positive test (thereby posing a transmission risk to those who were around them). Figure 1 provides an example of the dashboard illustrating the status of each IRS facility for IRS leadership.

⁸ According to the IRS, a constant state of readiness is a function's capability to resume operations with minimum downtime as defined by the business process owners.

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Figure 1: Example of COVID-19 Dashboard



Source: IRS data visualization software.

The IRS also created dashboards showing the number of IRS employees teleworking, on leave, or working in the office by facility at a given time as well as the number of employees who are eligible to telework at a given IRS facility in conjunction with its operating status. We believe these types of dashboards have allowed IRS leadership to more timely receive information needed, allowing for better-informed decision-making.

The IRS continues to update policies to protect employee health and safety

As the COVID-19 pandemic progresses, Federal, State, and local guidance continues to evolve and change. As a result, the IRS continues to update its internal guidance to align with Federal COVID-19 guidance. The IRS also continues to share updates on current COVID-19 guidance through continuous communications with its employees and managers, such as through frequent e-mails and the IRS's internal website.

On January 20, 2021, the President signed Executive Order 13991, which states, in part, that all individuals "on Federal lands should all wear masks, maintain physical distance, and adhere to other public health measures as provided in CDC guidelines."⁹ The Executive Order also instructed departments and agencies to require compliance with CDC guidelines with respect to wearing masks, social distancing, and other public health measures and established the Safer Federal Workforce Task Force (Task Force).¹⁰ Subsequent to the Executive Order, additional guidance from the Task Force, the OMB, the Occupational Safety and Health Administration, and the Treasury Department was disseminated, enforcing the need for employees to wear masks in common areas and shared workspaces and practice social distancing. In response to these requirements, on February 24, 2021, the IRS issued updated guidance stating that face masks

⁹ Exec. Order 13991, *Protecting the Federal Workforce and Requiring Mask-Wearing*, 86 FR 7045 (2021).

¹⁰ The Safer Federal Workforce Task Force issues updated guidance and recommendations primarily through the Office of Personnel Management, the OMB, and the CDC to assist Government agencies operating during the pandemic with maintaining employee health and safety.

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must be consistently worn in common areas, shared workspaces, and outdoor shared space when social distancing cannot be maintained.

On April 5, 2021, the CDC updated its guidance on cleaning and disinfecting facilities for someone who has been sick or has tested positive for COVID-19. The new guidance states, in part, “if more than three days have passed since the person who is sick or diagnosed with COVID-19 has been in the space, no additional cleaning (beyond regular cleaning practices) is needed.” In response to this, on April 15, 2021, the IRS issued updated guidance reducing the requirement for recommended cleaning and disinfection for work areas from seven days or less to three days or less after the work area was occupied by an employee who tested positive for COVID-19. Further, the IRS will no longer conduct special cleanings of workspaces that have remained vacant for more than three days.

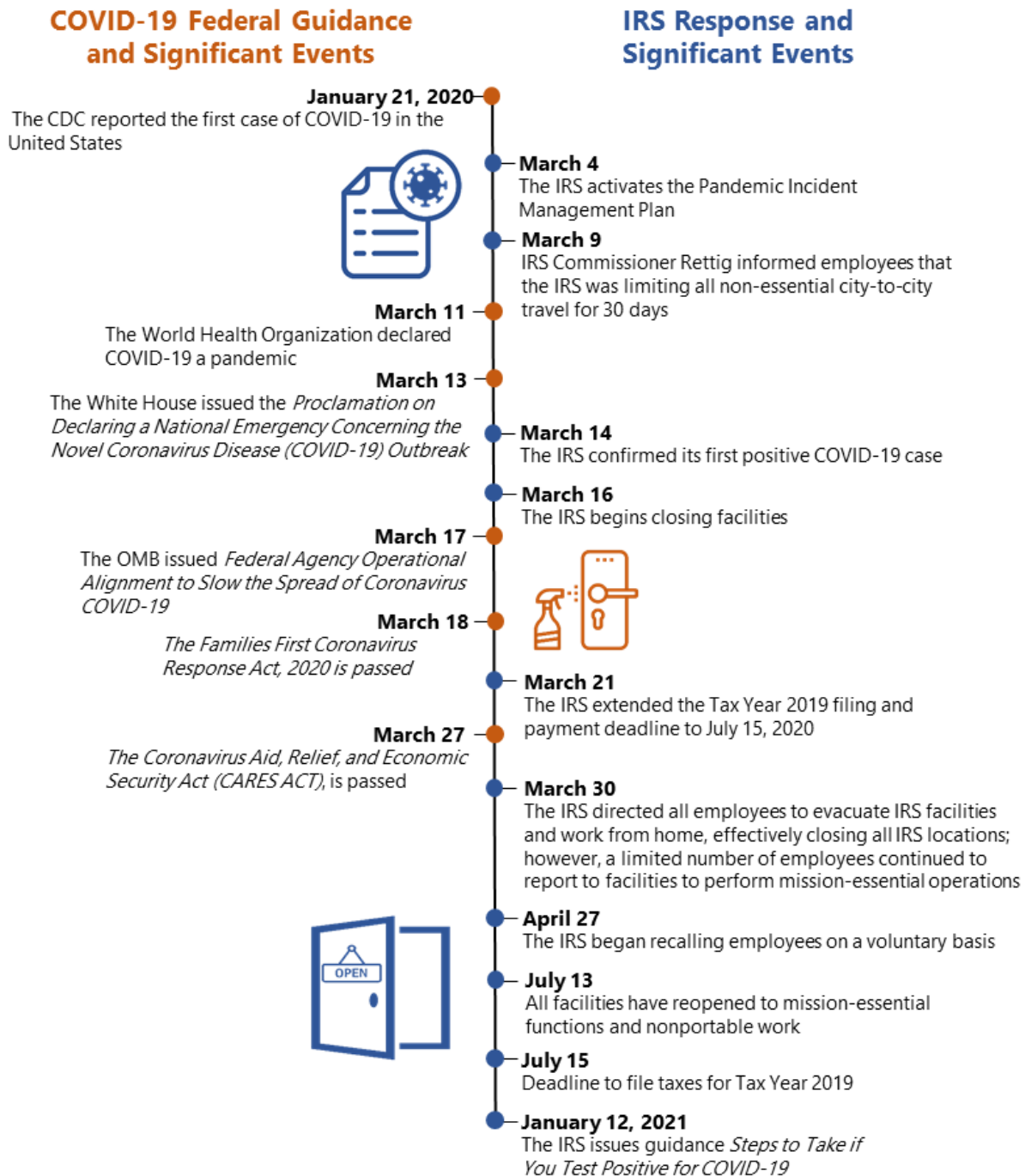
On May 13, 2021, the CDC updated existing guidance, stating fully vaccinated individuals do not have to wear masks or socially distance in any setting except where required by Federal, State, local, tribal, or territorial laws, rules, and regulations, including local business and workplace guidance.¹¹ Shortly after the CDC updated its guidance, the OMB informed Federal departments that the May 13 CDC guidance should be followed and that fully vaccinated individuals no longer needed to wear a mask in Federal buildings. In response, on May 18, 2021, the HCO issued internal guidance that fully vaccinated Federal employees, on-site contractors, and visitors to IRS facilities no longer needed to wear a mask. However, those who are fully vaccinated may choose to continue to wear a mask in IRS facilities. The IRS further states that employees, contractors, and visitors who are not fully vaccinated should continue to wear a mask.

Figures 2 and 3 provide a timeline of significant events related to the COVID-19 pandemic during the period of January 2020 through May 2021. These events include policy changes and health and safety incidents.

¹¹ CDC, *Interim Public Health Recommendations for Fully Vaccinated People* (May 13, 2021).

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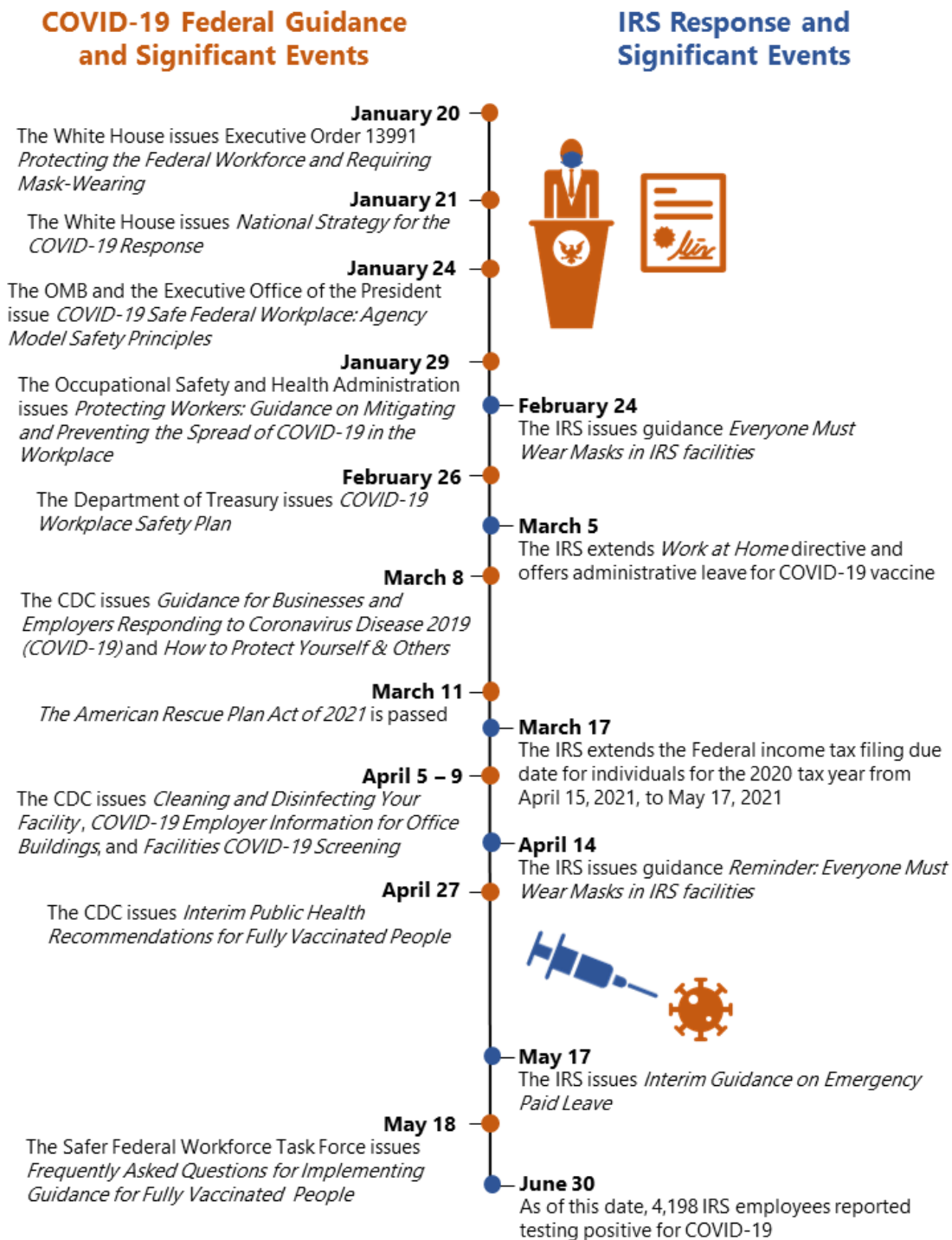
Figure 2: Timeline of COVID-19 Events (January 2020 to January 2021)



Source: TIGTA-generated chart based on Federal and IRS guidance, IRS data concerning employees testing positive for COVID-19, and significant COVID-19-related events.

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Figure 3: Timeline of COVID-19 Events (January through June 2021)



Source: TIGTA-generated chart based on Federal and IRS guidance, IRS data concerning employees testing positive for COVID-19, and significant pandemic-related events.

COVID-19-related leave options were not consistently understood by the IRS workforce

During our review, we determined that IRS officials had varying degrees of understanding of the types of paid leave available to employees who had COVID-19-related needs. While the IRS had internal guidance on this matter, in some instances, IRS guidance had been superseded by newly enacted Federal laws and had yet to be updated. IRS management indicated that it could not immediately update guidance until they received implementing guidance from the Office of Personnel Management, the OMB, and the Treasury Department. As a result, the IRS workforce had varying degrees of understanding about the COVID-19-related leave options available to them.

For example, during discussions with IRS officials, they were unable to provide a unified response as to what leave options were available to an employee awaiting a COVID-19 test result. Some employees awaiting test results may have been authorized the use of weather and safety leave while others did not have it available to them, resulting in the use of an employee's sick leave. This is particularly concerning for instances in which an employee may have already exhausted their sick leave and was not authorized to use weather and safety leave. In these cases, the IRS risks an employee returning to work while awaiting a COVID-19 test in lieu of taking unpaid leave.

On March 11, 2021, the American Rescue Plan Act of 2021 was signed into law, establishing a new category of paid leave for certain types of Federal employees with qualifying COVID-19-related circumstances beginning March 11, 2021, through September 30, 2021.¹² This law provides available paid leave options to Federal employees who are unable to come into the office due to COVID-19-related issues and are unable to telework.

Management Action: After meeting with the IRS regarding available COVID-19-related leave options for employees, the IRS updated existing guidance clarifying these leave options employees could request in certain COVID-19-related situations, including new options established as part of the American Rescue Plan Act of 2021.¹³ The guidance also stated that the request could be used retroactively to March 11, 2021.

Improvements are needed to ensure that current health and safety guidance is being adhered to in the IRS workplace

In March 2021, TIGTA's Office of Audit and Office of Inspections and Evaluations completed unannounced site visits to eight campuses to determine whether the IRS implemented its own COVID-19 guidance and whether employees were adhering to related requirements.¹⁴ Overall, TIGTA found that the IRS implemented its COVID-19 guidance; however, we observed instances of noncompliance with health and safety guidance at all eight facilities, including guidance pertaining to mask and social distancing requirements.

¹² Pub. L. No. 117-2, 135 Stat. 4.

¹³ Leave options related to COVID-19 situations were previously provided in the Families First Coronavirus Response Act [Pub. L. No. 116-127, 134 Stat. 178 (2020)] and the Consolidated Appropriations Act, 2021, but have since expired. The American Rescue Plan Act of 2021 replaced both of these laws.

¹⁴ The unannounced site visits were conducted at the following locations: Fresno, California; Atlanta, Georgia; Andover, Massachusetts; Kansas City, Missouri; Philadelphia, Pennsylvania; Memphis, Tennessee; Austin, Texas; and Ogden, Utah.

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While most employees were wearing masks, we observed instances in which masks were not being properly worn by employees, such as employees not wearing a mask at all or wearing it in such a way that it did not fully cover their nose or mouth. We also observed employees working in cubicles without wearing a mask. Additionally, TIGTA observed instances in which employees were not social distancing, such as when walking in groups through hallways or in cafeterias where employees rearranged tables and chairs in order to sit together during breaks.

At the time of our unannounced site visits, the Executive Order required all individuals to wear masks and maintain social distancing while on Federal property. The Executive Order also instructed those individuals to comply with ongoing CDC guidelines related to COVID-19.¹⁵ Although a reasonable accommodation may be granted waiving the mask requirement under certain circumstances, IRS officials stated that very few reasonable accommodations were approved.

During discussions with IRS officials, we were provided with conflicting information regarding whether a mask should be worn in a cubicle, which varied from facility to facility. The Executive Order stated that face masks must be worn on all Federal property and did not indicate exceptions for cubicles or offices. On January 24, 2021, the OMB similarly issued guidance stating masks should be worn in all Federal facilities. The Treasury Department's COVID-19 Workplace Safety Plan more explicitly states that masks must be worn in any common areas or shared workspaces (including open floorplan office space, cubicle embankments, and conference rooms).¹⁶ The IRS updated its internal guidance on February 24, 2021, stating that masks needed to be worn in all common areas, including cubicles. However, prior IRS internal guidance stated masks were not required to be worn in cubicles or in a private office. We did not approach IRS employees to determine why masks were not being worn properly. However, we believe changes to mask-wearing policies may not have been communicated effectively to all IRS employees.

Management Action: After meeting with IRS management regarding the issues identified during our site visits, the IRS issued e-mails to all IRS employees indicating that masks needed to be worn at all times in common areas and shared workspaces (including open floorplan office space, cubicle embankments, and conference rooms). On May 13, 2021, the CDC issued interim guidance stating fully vaccinated people were no longer required to wear masks or to be physically distant in any setting unless required by law, rule, or regulation. In response, the IRS issued guidance stating that fully vaccinated employees, contractors, or visitors no longer needed to wear masks or be physically distant while in an IRS facility. In addition, following our discussions with IRS management, the IRS updated and replaced signage where needed.

In addition, TIGTA observed that the IRS had provided employees with personal protective equipment such as disposable masks, hand sanitizer, disinfectant wipes, and in some instances, disposable gloves. These supplies were made available to employees upon their return to work and continue to be available for use as needed. TIGTA also generally found adequate signage communicating health and safety guidelines to employees, although there were instances in which signage was missing, damaged, or unofficial signage was used.

¹⁵ IRS internal guidance on masks has changed several times during the pandemic. Between April 2020 and February 24, 2021, masks were not required in private offices or cubicles with barriers between other cubicles.

¹⁶ U.S. Department of the Treasury, *COVID-19 Workplace Safety Plan* (Feb. 26, 2021).

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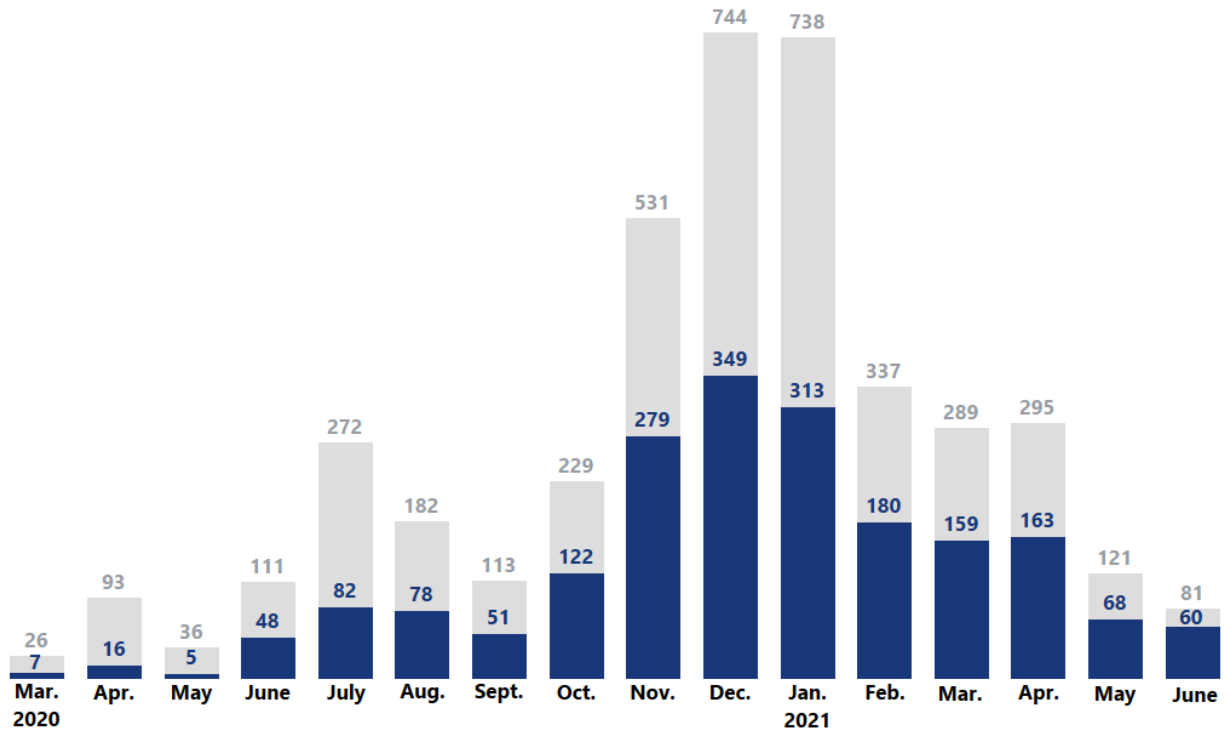
When asked about the enforcement of COVID-19 guidelines, IRS officials stated that there is not a specific group or team designated to enforce health and safety guidance. Instead, direct supervisors are responsible for addressing noncompliance issues, such as an employee improperly wearing a mask or failing to socially distance. Supervisors are also responsible for approaching any individual at an IRS facility to ask them to adhere to COVID-19 guidance if they see an instance of noncompliance.

However, the designation of direct supervisors as the primary enforcement mechanism for health and safety measures has several limitations. First, IRS supervisors are not always physically with an employee during their workday. For example, an employee may take breaks where the supervisor is no longer present to observe issues with noncompliance. Second, supervisors are not always on-site with employees and may be unable to directly observe and correct any issues. Third, supervisors may not feel comfortable approaching employees who are not their own when they see instances of noncompliance in an IRS facility.

As of July 13, 2020, the IRS reported that all of its facilities were open to mission-essential functions and nonportable work, resulting in a greater number of employees present at IRS facilities. As of May 31, 2021, 4,117 IRS employees had reported testing positive for COVID-19. However, not all employees who test positive for COVID-19 are a risk for transmitting the disease to other employees. IRS employees who have reported to an IRS facility within 14 days of a positive test result for COVID-19 are considered to be at risk of exposing other employees. As of June 30, 2021, 1,980 (47 percent) of the 4,198 IRS employees who reported testing positive for COVID-19 were determined to pose a transmission risk to other IRS employees.

Figure 4 illustrates the monthly number of IRS employees reporting as testing positive for COVID-19 and, of those, the number who posed a transmission risk to other IRS employees.

Figure 4: IRS Employees With COVID-19 and Those Who Presented a Transmission Risk by Month



Source: IRS Senior Commissioner Representative's Office.¹⁷

Noncompliance with Federally mandated guidance has the potential to jeopardize the health and safety of all employees in the workplace. Further, COVID-19 infections in IRS facilities can result in the temporary closure of IRS workspaces and the inability of employees to work, thereby impacting the IRS's ability to fulfill its mission.

Recommendation 1: The Commissioner's Chief of Staff should update the Plan to encourage leaders to implement measures, such as spot checks, to help ensure that employees are following the policies and guidance issued by the Federal Government and the IRS in response to emergency conditions.

Management's Response: The IRS agreed with our recommendation and will update the Plan accordingly.

¹⁷ We did not validate these data and provided this information for perspective on the overall transmission risk.

Appendix I

Detailed Objective, Scope, and Methodology

Our overall objective was to evaluate the actions the IRS took to execute its Pandemic Plan and protect the health and safety of its employees during the COVID-19 pandemic. To accomplish our objective, we:

- Identified Federal guidelines and best practices for developing pandemic plans and protecting employees during pandemics.
- Evaluated the IRS's execution of its Pandemic Plan.
- Determined whether the IRS followed guidelines and best practices for protecting its employees during the pandemic.
- Examined how IRS leadership obtained information to help support decisions.

Performance of This Review

This review was performed with information obtained from the Facilities Management and Security Services and the HCO offices located in Washington, D.C.; Atlanta, Georgia; Indianapolis, Indiana; Traverse City, Michigan; and Richmond, Virginia, during the period August 2020 through May 2021, and through site visit observations conducted at campuses in Fresno, California; Atlanta, Georgia; Andover, Massachusetts; Kansas City, Missouri; Philadelphia, Pennsylvania; Memphis, Tennessee; Austin, Texas; and Ogden, Utah. 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); Troy Paterson, Director; Debra Kisler, Acting Director; Lindsay Steward, Audit Manager; Trisa Brewer, Lead Auditor; Meghann Noon-Miller, Senior Auditor; Frank Rivers, Auditor; Eleina Monroe, Senior Evaluator; and John Elder, Information Technology Specialist (Data Analytics).

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: IRS policies and procedures related to the protection of the health and safety of its employees during the COVID-19 pandemic and the IRS's execution of its Pandemic Plan. We evaluated these controls by comparing the IRS's guidance with Federal guidelines and best practices for the prevention of the spread of COVID-19 and reviewing the actions and responses made by the IRS and tracing them back to the policies and procedures outlined in its Pandemic Plan.

Appendix II

Sections of the IRS Pandemic Incident Management Plan Reviewed by TIGTA

Section	Description
1.4 Guiding Principles	During an incident, senior management, or their successors, will meet regularly to identify resource needs and to fill those needs with existing resources.
	Critical positions have been identified, and roles and responsibilities incumbent to those positions have been documented.
	IRS functions and operations will be telework ready. Work from home, where possible, will be permitted and encouraged. As many employees as possible will have telework capability, <i>i.e.</i> , employees have current telework agreements, connectivity, and equipment commensurate with their work needs, and frequent opportunities to telework so that systems are tested and known to be functional. ¹
	Social distancing interventions will be put into place, including telework, performing work at alternative locations, having personnel work different shifts with a disinfection of workspaces between shifts, and alternative work procedures, including meetings via teleconference or computer hook-up rather than in person.
	A liberal (unscheduled) leave policy may be implemented to minimize contagion and to allow personnel to address family needs.
	Flexible and compressed work schedules may be permitted to allow personnel to attend to family needs and facilitate social distancing.
	Work schedules may need to be adjusted to maintain operations.
	Temporary help, if available, will be hired to fill positions needed.
	It is not anticipated that there will be a need for widespread use of excused absence (administrative leave), which should be regarded as a tool of last resort in dealing with a pandemic health crisis. The IRS's determination to provide excused absence will be consistent with the Office of Personnel Management and Treasury Department policy.
2.2 Activation/Deactivation of the IRS Continuity Plans	Lists the executives who have the authority to active and deactivate the IRS continuity plans.

¹ This topic was reviewed by TIGTA's Office of Inspections and Evaluations; therefore, we did not review the IRS's efforts to have as many employees as possible ready to telework. For more information on the IRS's efforts to increase telework, see TIGTA, Report No. 2021-IE-R002, *Interim Report – The IRS Leveraged Its Telework Program to Continue Operations During the COVID-19 Pandemic* (Mar. 2021).

**Steps Were Taken to Protect Employee Health and Safety, but Additional Efforts
Are Needed to Ensure Compliance With Federal Guidelines During Pandemics**

Section	Description
3.1 Plans and Procedures	The Program Manager, Senior Commissioner's Representative – Continuity Operations, HCO, is responsible for coordinating pandemic planning for the IRS.
	<p>It is the policy of the IRS during a pandemic event to:</p> <ul style="list-style-type: none"> • Support the Federal response to a pandemic as well as the responses by State, local, and tribal entities. • Communicate with its stakeholders.
	<p>This Pandemic Incident Management Plan and the modifications made to the IRS continuity plans will:</p> <ul style="list-style-type: none"> • Include measures that are designed to minimize the health, social, and economic impacts of a pandemic by communicating guidance to stakeholders prior to and during a pandemic. • As part of its pandemic planning and preparations, address accounting for the needs of personnel and stakeholders, including individuals with special needs and disabilities. • Address making plans and subsequent communications accessible to and usable by all personnel and stakeholders, including those with special needs and disabilities. • Estimate employee absenteeism level of at least 40 percent to assess the need for additional resources and plan for a significant number of personnel needing remote access to information technology infrastructure due to telework work conditions.
3.2.1 IRS Mission Essential Functions and Other Business Priorities	The following functions must remain in a constant state of readiness: Physical Security – protection of facilities and personnel, Situational Awareness and Management Center, Executive Transportation and Security (Criminal Investigation), and Incident Management (HCO).
3.6 Communications	<p>The IRS has developed and implemented a variety of mechanisms to communicate information to internal and external stakeholders to include:</p> <ul style="list-style-type: none"> • Instructions for disseminating information to personnel and customers on the status of IRS operations and possible changes in working conditions. • Alternative or redundant means of communication in case normal communication is disrupted. • Safety and health information for personnel and families in accordance with the most current information available from internal and external websites. • Creation of links to https://www.cdc.gov for related guidance and information, <i>e.g.</i>, signs and symptoms of influenza, modes of transmission, developing individual and family plans, when to return work and school, from internal and public websites.

**Steps Were Taken to Protect Employee Health and Safety, but Additional Efforts
Are Needed to Ensure Compliance With Federal Guidelines During Pandemics**

Section	Description
3.6 Communications (continued)	<p>The IRS will establish:</p> <ul style="list-style-type: none"> • A toll-free emergency hotline that provides a one-stop location to obtain information on emergency conditions. • An Employee Emergency News page, available through www.IRS.gov, which is updated with information and instructions for IRS personnel in the event of a major emergency that has widespread geographic or business impact. <p>The IRS will ensure that guidance relating to the pandemic is posted.</p>
3.7 Essential Records and Databases	<p>The IRS will ensure access to the essential records needed to sustain operations that may be inaccessible remotely from alternative worksites by protecting the confidentiality of, and limiting the disclosure of, employees' personal and protected health information consistent with the Rehabilitation Act,² the Privacy Act,³ and the Health Insurance Portability and Accountability Act.⁴</p>
3.8.3 Pay and Leave Policy	<p>The IRS policy, guidance, and requirements regarding leave, alternative work schedules, and pay comply with Federal equal employment opportunity laws.</p>
3.8.4 Staffing Policies	<p>For hiring needs requiring Office of Personnel Management approval, the IRS will develop documentation or compile information that can be used to immediately request approval in the event of a pandemic health crisis.</p>
3.8.6 Safety and Health for Employees and Their Families	<p>Based on public health guidance, such as that issued by the CDC, the IRS will:</p> <ul style="list-style-type: none"> • Establish policies in accordance with Office of Personnel Management guidance for restricting work-related travel to geographic areas affected by a pandemic health crisis and monitoring employees returning from affected areas. • Disseminate and post educational and training materials to raise awareness about pandemic and workplace policies, <i>e.g.</i>, stay home if you or a household member is sick, cough etiquette, hand hygiene, and social distancing strategies. • Disseminate to contractors and cleaning crews information on routine cleaning practices and environmental management strategies that can be used during influenza seasons as well as during a pandemic event.

² Rehabilitation Act of 1973, Pub. L. No. 93-112, 87 Stat. 355 (codified as amended in scattered sections of 29 U.S.C. and 31-41c U.S.C.).

³ Privacy Act of 1974, 5 U.S.C. § 552a (2018).

⁴ Health Insurance Portability and Accountability Act of 1996 (HIPPA), Pub. L. No. 104-191, 110 Stat. 1936 (codified as amended in scattered sections of 18, 26, 29, and 42 U.S.C.).

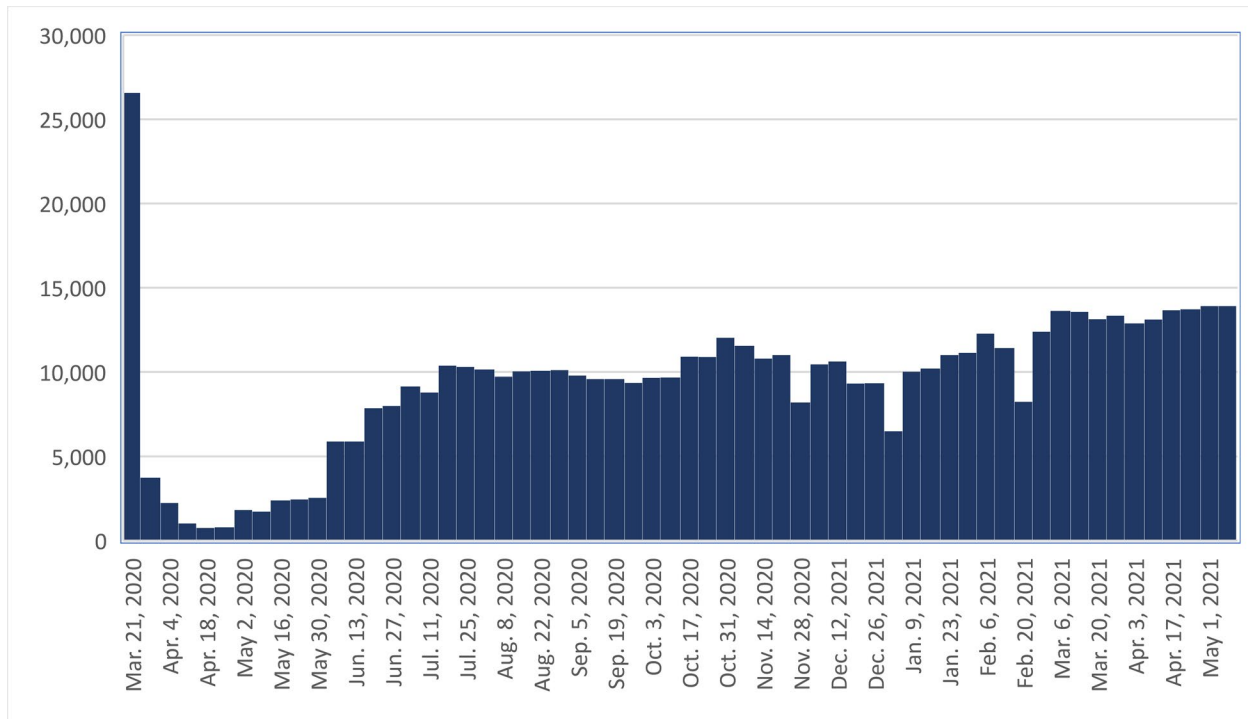
**Steps Were Taken to Protect Employee Health and Safety, but Additional Efforts
Are Needed to Ensure Compliance With Federal Guidelines During Pandemics**

Section	Description
3.8.6 Safety and Health for Employees and Their Families (continued)	The IRS will ensure that its safety and health personnel perform and regularly update risk assessments based on occupational exposures and assess whether the risk can be controlled through engineering, administrative, and work practice measures and, if not, procure appropriate types and quantities of infection control supplies, <i>e.g.</i> , hand sanitizers, surface wipes, cleansers, tissues.
	The IRS will identify qualified safety and health personnel to ensure that infection control measures are identified and implemented based on the Departments of Health and Human Services and Labor guidance.
	The IRS Employee Assistance Program will respond to the psychological and social needs of employees prior to and after a pandemic health crisis, <i>e.g.</i> , survivor assistance programs.
	The IRS will provide employees with information to promote preparedness at home and in the community. Guidance for individuals and families preparing for pandemic is posted at http://www.flu.gov/planning-preparedness/index.html .

Source: TIGTA analysis of the Pandemic Incident Management Plan (May 2020).

Appendix III

Employees Reporting to an IRS Facility for a Full Week¹



Source: IRS-provided data from the Treasury Integrated Management Information System.² All dates refer to the end of each week listed. TIGTA has not independently validated these data.

¹ If a week contains a Federal holiday then a full work week represents 24 hours or more. Otherwise, it represents 30 hours or more.

² The Treasury Integrated Management Information System is an official automated personnel and payroll system for storing and tracking all employee personnel and payroll data. It is outsourced to the U.S. Department of Agriculture National Finance Center and is managed by the Treasury Department.

Appendix IV

Management's Response to the Draft Report



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

September 3, 2021

MEMORANDUM FOR MICHAEL E. MCKENNEY
DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Kevin Q. McIver 
Office of the Commissioner, Chief of Staff

SUBJECT: Steps Were Taken to Protect Employee Health and Safety, but Additional
Efforts Are Needed to Ensure Compliance with Federal Guidelines During
Pandemics
(TIGTA Audit # 202110611)

Thank you for the opportunity to review and comment on the subject draft audit report: Steps Were Taken to Protect Employee Health and Safety, but Additional Efforts Are Needed to Ensure Compliance with Federal Guidelines During Pandemics (TIGTA Audit # 202110611).

We appreciate your recognition that the IRS completed the actions necessary to execute our Pandemic Incident Management Plan (Plan) in response to the COVID-19 pandemic. You noted our continuing efforts during the pandemic to ensure employee and taxpayer safety while continuing to meet our tax administration responsibilities. Moreover, you recognized that the IRS Continuity of Operations program prepared us to meet the unprecedented challenges presented by the COVID-19 pandemic.

The report contains one recommendation for the IRS, i.e., that the IRS Chief of Staff update the Plan to encourage leaders to implement measures, such as spot checks, to help ensure that employees are following the policies and guidance issued by the Federal Government and the IRS in response to emergency conditions. We agree with this recommendation and will update the Plan accordingly.

We also would like to note that the IRS has several teams in place that continue to oversee implementation of, and ensure compliance with, relevant Federal Government and IRS pandemic policies during the COVID-19 pandemic. For example, the IRS Pandemic Executive Steering Committee (ESC) was established in early March 2020 and is comprised of senior leadership who are members of the IRS Continuity of Operations ESC and other subject member experts from throughout the Service. The Pandemic ESC met daily in March 2020, transitioned to every other day in April, and continues to meet every other week since August 2020. These meetings cover all

Steps Were Taken to Protect Employee Health and Safety, but Additional Efforts Are Needed to Ensure Compliance With Federal Guidelines During Pandemics

aspects of our ability to protect IRS employees and taxpayers while meeting our tax administration responsibilities.

Other teams in place to implement and oversee compliance with the Plan and relevant Federal Government and IRS policies include:

- Communications – Responsible for communicating all guidance and policy to IRS employees. Established COVID-19 web communications portal.
- Data Analytics and Delivery Team – Produce COVID-19 facility" hotspot" reports capturing number of COVID-19 cases by IRS Post of Duty.
- Infectious Disease Team – Review track, and monitor all IRS reported COVID-19 cases. This team includes the IRS's resident medical doctor.
- RTW Analysis Team – An engagement effort with leaders to help reinforce employee compliance, we've implemented the Return to Work (RTW) COVID-19 Executive Messages initiative. Messages sent from the IRS COVID-19 Incident Coordinator to IRS Business Operating Division Executives, summarizing COVID-19 incidents where employees report to the workplace knowingly with COVID symptoms.

We have also enlisted all managers throughout the Service to ensure employees comply with established COVID-19 policies, which is a responsibility they have with respect to the oversight of compliance with other Federal Government and IRS policies and guidance.

We appreciate the continued support and assistance provided by your office. If you have any questions, please contact me at 202-317-7500, or a member of your staff may contact Keith Warren, Director, Senior Commissioner's Representative - Continuity of Operations, at 202-302-5103. For matters concerning audit procedural follow-up, please contact Ismael Pagan at 202-317-3372 or Wynn Fitzpatrick at 212-436-1313, both in the IRS Chief of Staff Office, Continuity Operations (SCR-CO:CO).

Attachment

Steps Were Taken to Protect Employee Health and Safety, but Additional Efforts Are Needed to Ensure Compliance With Federal Guidelines During Pandemics

Attachment

RECOMMENDATION 1:

The Commissioner's Chief of Staff should update the Plan to encourage leaders to implement measures, such as spot checks, to help ensure that employees are following the policies and guidance issued by the Federal Government and the IRS in response to emergency conditions.

CORRECTIVE ACTION:

We agree with this Recommendation. The IRS Chief of Staff will update language in the IRS Pandemic Incident Management Plan (Plan) to encourage leaders to implement measures, such as spot checks, to help ensure that employees are following the policies and guidance issued by the Federal Government and the IRS in response to emergency conditions.

IMPLEMENTATION DATE:

November 15, 2021

RESPONSIBLE PARTY:

Director, Senior Commissioner's Representative - Continuity of Operations (SCR-CO), of the IRS Chief of Staff (CoS) office.

CORRECTIVE ACTION MONITORING PLAN:

SCR-CO will enter accepted corrective actions into the Joint Audit Management Enterprise System (JAMES). These corrective actions are monitored on a monthly basis until completion.

Appendix V

Abbreviations

CDC	Centers for Disease Control and Prevention
COVID-19	Coronavirus Disease 2019
HCO	Human Capital Officer
IRS	Internal Revenue Service
OMB	Office of Management and Budget
TIGTA	Treasury Inspector General for Tax Administration



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Ben Franklin Station
Washington, D.C. 20044-0589

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