TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION

IRS Employees Continue to Meet Select Telework Requirements, but Additional Actions Can Further Improve the Level of Compliance

March 24, 2022

Report Number: 2022-IE-R001

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HIGHLIGHTS: IRS Employees Continue to Meet Select Telework Requirements, but Additional Actions Can Further Improve the Level of Compliance

Final Evaluation Report issued on March 24, 2022 **Report Number 2022-IE-R001**

Why TIGTA Did This Study

In July 2016, TIGTA reported that IRS policies are consistent with the Telework Enhancement Act of 2010 and that most employees had completed required training and were not involved in misconduct that impacted their eligibility to telework. However, TIGTA determined that the IRS could improve some telework processes to ensure compliance with the law. The IRS agreed to implement processes to ensure that teleworkers have completed telework training and have a valid telework agreement. The IRS also agreed to clarify rules associated with misconduct by clearly defining issues that warrant suspension or discontinuance of telework privileges and to develop procedures to identify teleworkers who have been disciplined for conduct that negatively impacts the Telework Program.

TIGTA conducted this follow-up review to determine whether IRS teleworkers generally meet select requirements for teleworking and routinely report to an IRS office in accordance with Federal regulations and IRS policies.

Impact on Tax Administration

IRS records show that over 37,000 employees teleworked during Fiscal Year (FY) 2019. Ensuring that requirements are met is essential to upholding the integrity of the program and maintaining public trust in tax administration.

What TIGTA Found

In most instances, IRS employees included in our analysis met select requirements to telework and routinely reported to an IRS office in accordance with IRS policies. TIGTA reviewed a random sample of 206 IRS employees who recorded time to telework during FY 2019 and found that all employees in the sample had completed telework training as required by the Telework Enhancement Act of 2010. In addition, according to telework documentation, all employees in the sample had telework locations that were within 150 miles (125 miles for Chief Counsel employees) from their post of duty as required by IRS policies. However, seven (3 percent) of the 206 employees did not have an approved telework agreement in place prior to charging time to telework in FY 2019.

Our review of IRS time and attendance system records for all teleworkers showed that 388 IRS employees (1 percent) did not report to the office at least twice per pay period, as required by Federal and IRS policies, for over half of the fiscal year. The IRS provided adequate documentation to support the explanations for 181 employees. However, the IRS did not provide adequate supporting documentation for 207 (53 percent) of the 388 employees who did not report to the office twice per pay period for over half of FY 2019.

Our review of IRS disciplinary records for all employees who charged time to telework during FY 2019 revealed that five employees were disciplined for being Absent Without Leave (AWOL) for five or more days and should not have participated in the Telework Program. The IRS also allowed 138 employees to continue to telework while the employees were placed on a Performance Improvement Plan or after the employees received a performance evaluation that was less than fully successful.

The IRS Telework Program Office monitors telework activity to ensure that employees who telework comply with telework eligibility requirements. Several exceptions identified by TIGTA were also identified by the Telework Program Office, which worked with the business operating divisions to remove telework privileges for employees who were not eligible for the Telework Program.

What TIGTA Recommended

TIGTA made six recommendations, which included issuing reminders to IRS management of their responsibilities prior to approving a telework agreement and maintaining adequate documentation to justify why an employee is not reporting to their post of duty in accordance with Federal regulations. The IRS agreed with all the recommendations in this report.

TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

U.S. DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20220

March 24, 2022

MEMORANDUM FOR: HUMAN CAPITAL OFFICER and CHIEF COUNSEL

FROM: Heather M. Hill Heather Hill
Deputy Inspector General for Inspections and Evaluations

SUBJECT: Final Evaluation Report – IRS Employees Continue to Meet Select Telework Requirements, but Additional Actions Can Further Improve the Level of Compliance (IE-20-007)

This report presents the results of our review to determine whether Internal Revenue Service's (IRS) processes provide reasonable assurance that employees meet select requirements for teleworking and routinely report to an IRS office in accordance with Federal regulations and IRS policies. This review was part of our Fiscal Year 2021 Program Plan and addresses the major management and performance challenge of *Achieving Operational Efficiencies.*

Our recommendation will provide the following measurable benefit on tax administration: Protection of Resources – we found there are potentially 1,227 employees (906 employees overseen by the Telework Program Office and 321 by Chief Counsel) who did not have an approved telework agreement prior to beginning participation in the Telework Program. Appendix II of this report provides a detailed description of this benefit, which will be included in our Semiannual Report to Congress.

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

Copies of this report are also being sent to the IRS managers affected by the report recommendations. If you have any questions, please contact me or James A. Douglas, Director, Office of Inspections and Evaluations.

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Background

The Telework Enhancement Act of 2010 (Telework Act)[1] defines telework as a work flexibility arrangement under which employees perform their duties and responsibilities from an approved worksite other than their post of duty (POD). Telework may provide a number of benefits, including improved employee job satisfaction, reduced traffic congestion, improved recruitment and retention, real estate cost savings, and support for emergency preparedness and continuity of operations. In Fiscal Year (FY)[2] 2019, Internal Revenue Service (IRS) records show that over 37,000 employees participated in the IRS Telework Program.

The Internal Revenue Manual (IRM)[3] specifies that the IRS Telework Program Office, in partnership with business operating division (BOD) Telework Leads, has the responsibility of overall program management and compliance.[4] In addition, the IRS uses several electronic systems to manage the Telework Program. The IRS maintains the telework agreements on a portal, provides mandatory online telework training, and uploads reports from several systems on a Telework Dashboard to assist the Telework Program Office and BOD Telework Leads in their monitoring efforts. IRS Office of Chief Counsel (CC), whose employees work for the Department of the Treasury and not the IRS, conducts its Telework Program separate from the IRS-wide program. Article 48 of the 2018 Agreement between the IRS, Office of CC, and National Treasury Employees Union[5] governs the CC Telework Program.

Under the Telework Act, employees participating in telework must complete training prior to engaging in telework and secure a written agreement between the employee and their manager. The Telework Act also specifies that employees are ineligible to telework if they have been officially disciplined for 1) being absent without permission for more than five days in any calendar year or 2) viewing, downloading, or exchanging pornography on a Federal Government computer or while performing official Federal Government duties. Federal regulations also generally require that employees are scheduled to physically report to the official duty station for the employee's position of record at least twice a pay period on a regular and recurring basis. Additional requirements for IRS and CC employees to participate in the Telework Program include:

- Employees must have a fully successful performance appraisal and not be on a Performance Improvement Plan (PIP).
- An employee's telework location and POD must be within the limits established by management: a 150-mile radius for IRS employees and 125 miles for CC employees.

Under some circumstances, an employee's manager can waive some of these requirements; however, the waiver must be in writing.

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[1] Pub. L. No. 111-292, 124 Stat. 3165 (2010).

[2] A fiscal year is any yearly accounting period, regardless of its relationship to a calendar year. The Federal Government's fiscal year begins October 1 and ends September 30.

[3] The IRM is the primary, official source of IRS instructions to staff related to the organization, administration, and operation of the IRS.

[4] IRM 6.800.2, *Employee Benefits, IRS Telework Program* (February 7, 2018).

[5] IRS*, 2018 Agreement Between IRS, Office of CC & National Treasury Employees Union* (January 31, 2018).

In July 2016, the Treasury Inspector General for Tax Administration (TIGTA) reported that IRS telework policies were consistent with the Telework Act and most employees had completed required training and were not involved in misconduct that impacted their eligibility to telework. However, some telework processes could be improved to ensure compliance with the law.[6] TIGTA recommended and the IRS agreed to: 1) finalize processes to reasonably ensure that teleworking employees have completed telework training and have a valid telework agreement on file prior to beginning telework; 2) clarify the rules associated with misconduct by clearly defining issues that warrant suspension or discontinuance of telework privileges; and 3) develop procedures for identifying teleworking employees who have been disciplined for conduct that negatively impacts the IRS Telework Program.

TIGTA conducted this follow-up review to determine whether IRS teleworkers generally meet select requirements for teleworking and routinely report to an IRS office in accordance with Federal regulations and IRS policies.

Results of Review

IRS Policies Comply With the Telework Act, and Most Teleworkers Met Select IRS Telework Requirements

The IRS implemented policies that are consistent with provisions of the Telework Act. Further, most of the employees included in our statistical sample had an approved telework agreement prior to charging time to telework and all of the employees had completed telework training.[7] In addition, all of the alternate work locations listed on the telework agreements in our sample were within 150 miles (125 miles for the CC) of the employee's POD.

The primary purpose of the telework agreement is to specify the terms and conditions of the telework arrangement between participating employees and their managers. IRS policy requires managers to review telework agreements at least annually and update them if information on the agreements has changed. The BOD Telework Leads and the Telework Program Office conduct compliance reviews to ensure that teleworkers have a telework agreement uploaded to the Telework Agreement Library. However, IRS CC officials indicated that they internally monitor employee telework violations, which includes whether its employees have an approved telework agreement on file.

We determined that seven (3 percent) of our sample of 206 employees charged time to telework in FY 2019 prior to having an approved telework agreement, signed by both the employee and the manager, on file.[8] Based on our sample results, we estimate that 1,227 employees (906 IRS employees overseen by the Telework Program Office and 321 by CC) charged telework time in

[6] TIGTA, Report No. 2016-10-039, *Telework Qualification Requirements Are Generally Being Met, but Program Improvements Are Needed* (July 2016).

[7] See Appendix I for our sampling methodology.

[8] Our sample of 206 employees consists of 196 IRS employees overseen by the Telework Program Office and 10 CC employees. We found that five (3 percent) of 196 IRS employees overseen by the Telework Program Office, and two (20 percent) of 10 CC employees did not have an approved telework agreement on file before teleworking.

FY 2019 prior to having an approved agreement in place.[9] An employee is not eligible to participate in the Telework Program without an approved telework agreement. However, managers approved employees' time charged to telework before a signed telework agreement was in place. Allowing employees to telework prior to having an approved telework agreement violates the provisions of the Telework Act.

During our review, we also identified some concerns with management approval of the telework agreements. The IRM requires that managers review and approve or deny the agreement submitted by the employee within 20 business days. We found that 24 (12 percent) of the 206 sample employees had a telework agreement that was not timely signed by the manager.[10] For example, an employee's manager signed one telework agreement almost nine months late. We also found six (3 percent) employees with agreements that were signed by the manager, but the manager did not annotate "approve" or "disapprove" on the agreement. The IRM requires the BOD Telework Leads to check all new telework agreements for accuracy prior to uploading them into the Telework Agreement Library.

The BOD Telework Leads and employees' managers are responsible for ensuring that all teleworkers have completed required training. Per IRS policy, the employees' manager should have proof of training completion certificates prior to approving any telework agreements. Based on our review of IRS training records, we determined that 205 of 206 employees included in our statistical sample completed telework training prior to teleworking in FY 2019. The training records for one employee were not available for review because the employee separated from the IRS, and the IRS is not required to keep employee training records for more than one year after the employee leaves the agency, per the General Records Schedule.[11]

The IRM requires an employee's approved telework location be within a 150-mile radius of the employee's POD. Employees are required to use a Global Positioning System mileage calculator or the mileage calculator within the non–bargaining unit employees' telework agreement to determine the 150-mile radius. The 2018 Agreement between the IRS, Office of CC, and National Treasury Employees Union requires that certain CC employee's regular telework location be within 125 miles of their POD. All 206 employees in our sample had an approved telework location that was within the IRS limits. Specifically, the employees in our sample had an approved telework location that ranged from one mile to 13 miles from their POD.[12]

[9]Our sample was selected using a 95 percent confidence interval, 50 percent error rate, and ±7 percent precision factor. The point estimate projection are is based on two-sided 95 percent confidence intervals. When projecting our results, we are 95 percent confident that the point estimate is between 298 and 2,074 (where the 298 and 2,074 represent the lower and upper range, respectively). The point estimate projection for CC employees is based on a two-sided 95 percent confidence interval. When projecting our results, we are 95 percent confident that the point estimate is between 41 and 892 (where the 41 and 892 represent the lower and upper range, respectively).

[10] One of these employees is also included in the seven employees who charged time to telework prior to having an approved agreement on file.

[11] We did not consider this an exception because we requested the training records in November 2020 and the employee left the IRS in May 2019.

[12] We did not evaluate whether employees were working from the location stated on the telework agreement submitted.

The Human Capital Officer and the CC should:

Recommendation 1: Remind managers to ensure that there is a signed telework agreement in place prior to approving any telework time for an employee.

> **Management's Response:** The IRS agreed with this recommendation. The IRS will issue biannual reminders to managers of the Telework Act requirement of having a signed and approved telework agreement in place prior to approving employee telework.
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> **IRS Chief Counsel's Response:** The CC agreed with this recommendation and will address this issue in connection with the new telework rules negotiated between CC and the National Treasury Employees Union (December 2021 Telework Bridge Pilot Memorandum of Understanding). The CC will also issue semiannual reminders to managers about having a signed and approved telework agreement in place prior to approving any employee to telework.

The Vast Majority of Teleworkers Did Not Have Misconduct Issues That Would Prohibit Them From Participating in the Telework Program

We determined that only five of the 37,109 IRS employees who teleworked in FY 2019 had a documented misconduct issue that would prohibit them from participating in the Telework Program. The Telework Act excludes employees from participating in telework if the employee has been officially disciplined for 1) being Absent Without Leave (AWOL) for more than five days in any calendar year or 2) viewing, downloading, or exchanging pornography on a Federal Government computer or while performing official Federal Government duties.

We reviewed the IRS system used to track labor and employee relations disciplinary actions and determined that no employees who teleworked in FY 2019 were disciplined for viewing, downloading, or exchanging pornography. However, we found that five employees who teleworked were disciplined for being AWOL for five or more days in a calendar year and, therefore, were not eligible to telework in FY 2019. These five employees teleworked between one and eight pay periods. The Telework Program Office identified all five employees and took action to remove them from telework.

These employees may have teleworked while they were not eligible because the employees may not have disclosed that they were previously disciplined for an AWOL violation or the employee may not have been aware that their past AWOL violation was a prohibition for teleworking. In addition, first-line managers did not appear to verify the eligibility status of employees requesting telework as required by IRS policies.

Allowing employees who were disciplined for being AWOL for five or more days to telework causes the IRS to operate its Telework Program outside of the requirements established in the Telework Enhancement Act of 2010.

Allowing employees who were disciplined for being AWOL for five or more days to telework causes the IRS to operate its Telework Program outside of the requirements established in the Telework Act, which may reduce public trust in tax administration. The IRS could reduce the risk of employees violating the requirements of the Telework Act by requiring employees to affirm they have not been disciplined for AWOL or pornography violations prior to teleworking.

The Human Capital Officer should:

Recommendation 2: Consider revising the Employee Certification sections of Form 11386, *IRS Telework Agreement for Bargaining Unit (BU)*, and Form 11386-B, *IRS Telework Agreement for Non–Bargaining Unit (NBU),* to add statements affirming the following:

- The employee has not been officially disciplined for being AWOL for more than five days in any calendar year.
- The employee has not been officially disciplined for viewing, downloading, or exchanging pornography, including child pornography, on a Federal Government computer or while performing official Federal Government duties.

> **Management's Response:** The IRS agreed to consider this recommendation. However, the IRS has chosen not to revise the telework agreement form and noted that changing the form would require negotiations with the National Treasury Employees Union. The IRS plans to utilize corrective action related to Recommendation 3 to ensure that managers verify their employees do not have these types of disciplinary actions.

Recommendation 3: Remind IRS managers of their responsibilities concerning the Telework Program described in its policies, with special emphasis on assessing eligibility criteria and researching disciplinary actions.

> **Management's Response:** The IRS agreed with this recommendation. The IRS will issue biannual reminders to managers reminding them of their responsibilities concerning the Telework Program, with special emphasis on assessing employees on the eligibility criteria and researching for disciplinary actions.

IRS Managers Did Not Timely Remove Employees With Less Than Fully Successful Work Performance From Telework

The population of employees who teleworked during FY 2019 included 226 employees who received either a less than fully successful rating or were placed on a PIP.[13] We determined that 138 (61 percent) of these 226 employees continued to telework in FY 2019 while on a PIP or after receiving a less than fully successful performance rating.[14] We found that 135 employees recorded time to telework during FY 2019 within one year of their performance rating end date when they received a rating of less than fully successful. We also found that three employees charged time to telework in FY 2019 while on a PIP.[15]

[13] Only 226 of the 37,109 employees who teleworked during FY 2019 received either a less than fully successful rating or were placed on a PIP.

[14] The remaining 88 employees (39 percent) did not telework in FY 2019 while on a PIP or after receiving a less than fully successful rating.

[15] The figure does not include four employees who had a less than fully successful rating and were on a PIP while teleworking in FY 2019.

The IRM states that an employee is eligible to telework if he or she has a fully successful performance appraisal and is not on a PIP. Further, if an employee has worked for more than 12 months and has not received a performance appraisal, the employee is assumed to be fully successful and, therefore, eligible to telework. An employee with a less than fully successful performance rating or on a PIP should be suspended from telework until they meet eligibility criteria. The IRS Telework Program Office, in partnership with the BOD Telework Leads, has the responsibility of overall program management and ensuring that employees are in compliance with the requirements to participate in the Telework Program. In addition, IRS managers and employees share responsibility for ensuring a successful telework arrangement.

For 113 (82 percent) of the 138 employees, the Telework Program Office notified the BOD Telework Lead one or more times to have the employees with a less than fully successful rating removed from telework. In some instances, employees were allowed to telework for almost the entire year after they were ineligible. In addition, the Telework Program Office informed us it did not know about the employees on a PIP and, therefore, could not monitor them because the Telework Program Office is not notified when an employee is placed on a PIP. Not timely removing employees with performance issues from telework could damage the integrity of the Telework Program and, in some cases, result in disparate treatment of employees.

The Human Capital Officer should:

Recommendation 4: Remind IRS managers to timely remove an employee from participating in telework after the employee receives a less than fully successful performance rating or is placed on a PIP.

> **Management's Response:** The IRS agreed with this recommendation. The IRS will issue biannual reminders to managers to remind them to timely suspend participating employees from telework after receiving a less than fully successful performance rating or if the employees is placed on a PIP.

Recommendation 5: Update the IRS's processes so that the Telework Program Office will receive a quarterly upload of open PIP cases from the Automated Labor and Employees Relations Tracking System[16] so it can monitor employees placed on a PIP.

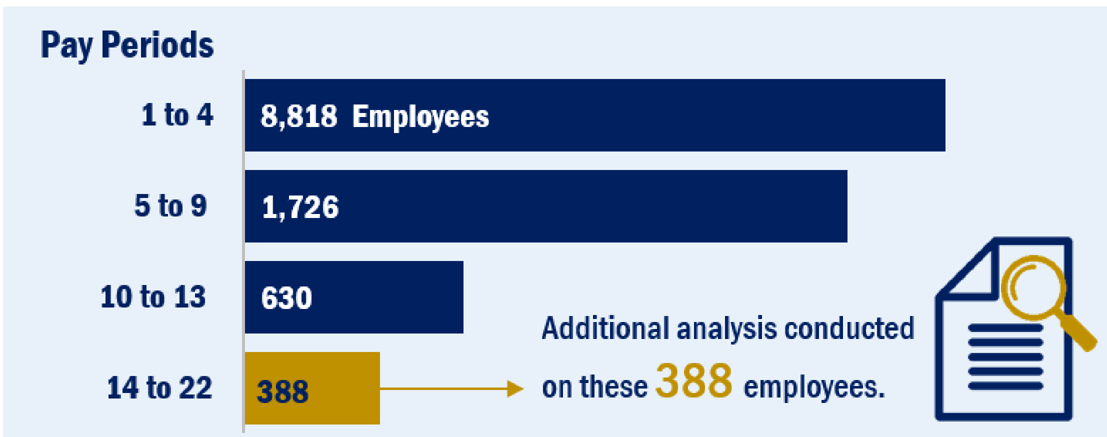
> **Management's Response:** The IRS agreed with this recommendation. The Telework Program Office will begin requesting quarterly Automated Labor and Employees Relations Tracking System reports from Field Labor Relations for open PIP cases to ensure that identified employees are suspended from telework.

[16] The Automated Labor and Employee Relations Tracking System is a system of records that tracks labor/employee relations case data. Case types include administrative (performance and other administrative), employee tax compliance, grievances, inspections, negotiations, special projects, third party or arbitration, unfair labor practices, benefits, debt (garnishments), and conduct cases.

Most Teleworkers Routinely Reported to Their POD at Least Twice per Pay Period

We analyzed the time and attendance records for 36,819 full-time employees[17] who teleworked during FY 2019 and determined that most teleworkers reported to their POD[18] at least twice per pay period as required by the IRS and Federal policies. Specifically, 25,257 employees (69 percent) reported to the office at least twice in all applicable pay periods of FY 2019. The remaining 11,562 (31 percent) employees did not report to the office twice per pay period for one or more pay periods.[19] Figure 1 identifies the number of employees who did not report to their POD at least twice per pay period and the number of pay periods they did not report to the office.

Figure 1: Employees Who Did Not Report to the Office Twice Per Pay Period



Source: TIGTA analysis of the Single Entry Time Reporting (SETR) time and attendance records.

Importantly, we based our analysis on time charges the employees reported in SETR.[20] We were not able to determine whether employees misrepresented the amount of telework on their time and attendance reports.

The IRM requires employees who participate in the Telework Program to report to their PODs at least twice per pay period on a regular and recurring basis unless the teleworking employee's manager has permitted a temporary exception or the employee has an approved hardship or a reasonable accommodation. Per the IRM, any short- or long-term temporary adjustments to an employee's telework agreement must be approved by the manager and documented on the

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[17] Full-time employees are employees who recorded that they worked at least 80 hours during at least one pay period in FY 2019.

[18] For purposes of this review, we considered an employee to have reported to their POD if they charged in-office time in the Single Entry Time Reporting system.

[19] This number is based on employees who did not report to their POD for eight hours per day at least twice per pay period.

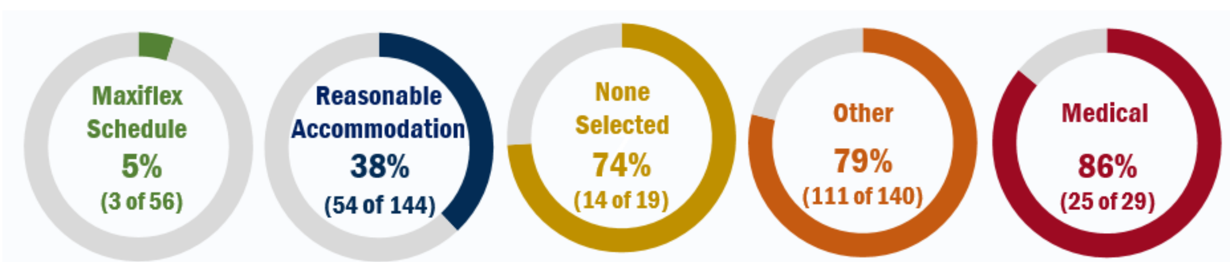
[20] SETR is an online payroll system that enables the timely input of time and attendance data to the U.S. Department of Agriculture's National Finance Center for generation of the employee's paycheck every pay period.

agreement.[21] In addition, the IRS has procedures in place for BOD Telework Leads to monitor, on a quarterly basis, whether employees are reporting to their POD twice per pay period.

The IRS lacked adequate documentation to support justifications for over half of the employees who did not report to their POD for more than half the year

Our analysis found that 388 employees (1 percent) did not report to their assigned POD at least twice per pay period for over half of the fiscal year. Since the IRM does not define regular and recurring with regards to reporting requirements, we only performed detailed analysis and documentation reviews for employees who did not report to the assigned POD twice per pay period for over half of FY 2019 (14 or more pay periods). The IRS explained that the employees did not report to the office because of reasonable accommodations, medical conditions, maxiflex schedules,[22] and various other reasons. In some instances, the IRS did not identify a reason for the deviation. The IRS provided adequate documentation to support these explanations for 181 (47 percent) of 388 employees. However, the IRS did not provide adequate documentation for 207 of the 388 (53 percent) employees who did not report to the office twice per pay period for over half of FY 2019.[23] Figure 2 shows the various reasons employees did not report to the office by category and the percentage with inadequate documentation in each category.

Figure 2: Percentage of Cases with Inadequate Documentation by Reason Type



Source: TIGTA analysis of documentation submitted by the IRS.

We considered documentation inadequate for variety of reasons, such as that the IRS only provided testimonial evidence as supporting documentation or that the documentation provided did not apply to FY 2019 or only covered a short period of time during FY 2019. In two cases, the IRS provided documentation for a reasonable accommodation that did not relate to whether the employee reported to the POD as required.

Maintaining adequate documentation to support waivers and reasonable accommodations helps safeguard the integrity of the Telework Program.

Ensuring that all teleworkers report to the office as required and maintaining adequate documentation

[21] IRM 6.800.2.1.3.2(n) states that occasional short-term deviations of telework hours worked do not require a new telework agreement. However, TIGTA is not referring to occasional short-term deviations but, rather, those that occurred for at least half of the fiscal year.

[22] Maxiflex is a work schedule that allows full-time employees to vary the number of hours scheduled to work on a given workday or the number of hours worked each week to equal 80 hours per pay period. These employees made our potential exception list because their tour of duty for their scheduled day in the office was less than eight hours.

[23] We considered documentation to be adequate if it applied to FY 2019.

to support waivers and reasonable accommodations helps safeguard the integrity of the Telework Program and ensures that the program operates in accordance with its guidelines.

Maximum telework flexibilities are currently in place for Government agencies due to the Coronavirus Disease 2019 pandemic. However, it is important that the IRS maintain documentation when there is a deviation from the reporting requirement.

Recommendation 6: The Human Capital Officer should remind IRS managers to maintain adequate documentation to support any waiver, temporary hardship, or reasonable accommodation to justify when an employee does not report to their POD in accordance with Federal regulations.

> **Management's Response:** The IRS agreed with this recommendation. The IRS will issue biannual reminders to managers reminding them of their responsibilities to maintain adequate documentation to support an employee not reporting to their assigned POD in accordance with Federal regulations.

Appendix I

Detailed Objective, Scope, and Methodology

Our overall objective was to determine whether the IRS's processes provide reasonable assurance that employees meet select requirements for teleworking and routinely report to an IRS office in accordance with Federal regulations and IRS policies. To accomplish our objective, we:

- Identified the population of 37,109 employees participating in and charging hours to telework from October 1, 2018, through September 30, 2019, and obtained a statistical random sample of 206 employees using a 95 percent confidence interval, 50 percent error rate, and ±7 percent precision factor. TIGTA's contract statistician assisted with developing the sampling plan and projections.
  - Determined whether employees obtained an approved telework agreement prior to beginning participation in the Telework Program; obtained and analyzed training reports to determine whether employees completed required training prior to teleworking. We also determined whether the employee's approved telework location is greater than 150 miles (125 miles for CC) from their POD.
- Reviewed the Automated Labor and Employee Relations Tracking System and determined whether employees who charged time to telework in FY 2019 were disciplined for misconduct issues related to pornography or being AWOL from June 15, 2016, through June 30, 2019.
- Determined whether an employee who charged time to telework in FY 2019 received less than fully successful on their last performance evaluation or if the employee was on a PIP during FY 2019. We also determined whether the IRS timely identified and worked to resolve telework compliance issues or suspended telework privileges for the employees based on a review of the IRS's reported results of the appropriate Telework Dashboard monitoring reports and TIGTA's analysis of time and attendance reports.
- Obtained a download of time and attendance FY 2019 SETR records for all IRS employees. We analyzed the SETR extract to determine if full-time IRS employees on a telework schedule are reporting to their POD at least twice in each pay period in accordance with Federal and IRS requirements. We relied on IRS employees' reported data to conduct this analysis because there is no reliable source of information that would permit us to independently verify whether an employee reported to the office on any given day.
- Determined if the IRS conducts monitoring activities to ensure that employees report to their assigned POD twice per pay period. We also determined whether any employees did not report to their assigned POD more than half the year (more than 13 pay periods).
- Identified and summarized the reasons why employees did not report to report to their assigned POD for at least two days per pay period for more than half the year. We also determined whether the employees did not report to the office because they were permanently teleworking as a result of a reasonable accommodation.

Performance of This Review

This review was performed with information obtained from the IRS Human Capital Office and the Office of CC located in Washington, D.C. We conducted this evaluation in accordance with the Council of the Inspectors General for Integrity and Efficiency Quality Standards for Inspection and Evaluation during the period June 2020 through July 2021.

Major contributors to the report were James Douglas, Director; Brandon Crowder, Supervisory Evaluator; Jennifer Earls, Lead Evaluator; Earl Burney, Senior Evaluator; and Michelle Griffin, Senior Auditor.

Validity and Reliability of Data From Computer-Based Systems

We performed tests to assess the reliability of data from the SETR system, the Treasury Integrated Management Information System's[1] Time and Attendance and History modules, and the Automated Labor and Employee Relations Tracking System. We evaluated the three systems by performing electronic testing of key data elements and reviewing existing information about the system that produced them. We also electronically reconciled SETR records to Treasury Integrated Management Information System Time and Attendance records and reconciled the number and type of disciplinary actions in the Automated Labor and Employee Relations Tracking System that took place from FY 2011 to FY 2019 to historical information provided by the IRS. We determined that the data were sufficiently reliable for purposes of this evaluation.

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 IRS's policies and procedures for operating the Telework Program were relevant to our review objective. We evaluated these policies and procedures by interviewing IRS management, reviewing the Telework Dashboard monitoring reports, and analyzing time and attendance records of employees charging hours to telework during FY 2019.

[1] The Treasury Integrated Management Information System is an automated personnel and payroll system for storing and tracking all personnel and payroll data. It is outsourced to the National Finance Center and managed by the Department of the Treasury.

Appendix II

Outcome Measure

This appendix presents detailed information on the measurable impact that our recommended corrective action 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; 906 IRS employees overseen by the Telework Program Office who did not have an approved telework agreement prior to beginning participation in the Telework Program (see Recommendation 1).[1]

Protection of Resources – Potential; 321 CC employees who did not have an approved telework agreement prior to beginning participation in the Telework Program (see Recommendation 1).[2]

Methodology Used to Measure the Reported Benefit:

Using the IRS time and attendance records, we reviewed a statistically valid random sample of employees charging time to telework. We analyzed the sample to identify whether employees participating in the Telework Program met select requirements including having a valid telework agreement on file before they began teleworking. We identified that seven (3 percent) of the 206 employees in our sample charged time to telework in FY 2019 prior to having an approved telework agreement, signed by both the employee and the manager, on file. Based on our sample results, we estimate that 1,227 employees charged telework time in FY 2019 prior to having an approved agreement in place.

- We determined that five (3 percent) of 196 IRS employees overseen by the Telework Program Office did not have a valid telework agreement prior to charging time to telework in FY 2019. Based on our sample error rate of 1.13 percent and a confidence level of 95 percent, we estimate that 906 IRS employees could be teleworking without having a signed telework agreement on file.
- We determined that two (20 percent) of 10 CC employees in our sample did not have a valid telework agreement prior to charging time to telework in FY 2019. Based on our sample error rate of 13.29 percent and a confidence level of 95 percent, we estimate that 321 CC employees could be teleworking without having a signed telework agreement on file.

[1] The point estimate projection is based on a two-sided 95 percent confidence interval, a ± 2.5 percent precision rate, and a 1.13 percent error rate. We are 95 percent confident that the point estimate is between 298 and 2,074.

[2] The point estimate projection is based on a two-sided 95 percent confidence interval, a ± 26.5 percent precision rate, and a 13.29 percent error rate. We are 95 percent confident that the point estimate is between 41 and 892.

Appendix III

Management's Response to the Draft Report

HUMAN CAPITAL OFFICE

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

MEMORANDUM FOR HEATHER M. HILL
DEPUTY INSPECTOR GENERAL FOR INSPECTIONS AND EVALUATIONS

FROM: Kevin Q. McIver
IRS Human Capital Officer

SUBJECT: Draft Evaluation Report – IRS Employees Continue to Meet Select Telework Requirements, but Additional Actions Can Further Improve the Level of Compliance (IE-20-007)

Thank you for the opportunity to review the "IRS Employees Continue to Meet Select Telework Requirements, but Additional Actions Can Further Improve the Level of Compliance" draft report (IE-20-007), which evaluated whether Internal Revenue Service (IRS) processes provide reasonable assurance that employees meet select requirements for teleworking and routinely report to an IRS office in accordance with Federal regulations and IRS policies. We are committed to taking the necessary steps to strengthen the IRS Telework Program and continue to ensure employees meet telework eligibility requirements and report to an IRS office as required.

We are pleased TIGTA did not identify any substantive issues with the IRS Telework Program. During this evaluation, TIGTA reviewed a random sample of 206 IRS employees who recorded time to telework during FY 2019. TIGTA determined that 100% of the sample population completed telework training as required by the Telework Enhancement Act (TEA); had approved telework agreements as required by the TEA (albeit 3% were not approved timely); and had telework locations that were within program requirements. We are extremely proud of the hard work and dedication of our IRS employees who effectively administer the IRS Telework Program.

Notwithstanding these successful findings of the IRS Telework Program, TIGTA identified areas we can continue to improve. In response to these findings, the IRS agrees with recommendations 1, 3, 4, 5 and 6 identified in the report and agrees with the stated outcome measures. IRS Chief Counsel will provide a separate response to the TIGTA Draft Report.

With regard to recommendation 2, which was to consider revising the Employee Certification section of Form 11386, IRS Telework Agreement for Bargaining Unit (BU), and Form 11386-B, IRS Telework Agreement for Non-Bargaining Unit, the IRS considered this recommendation. However, we have chosen not to revise the

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agreement forms at this time because changes to the BU form would require negotiations with the National Treasury Employees Union. When employees sign the form, they agree to abide by the TEA and IRS Telework Policy. Including these statements in the employee certification section would require employees to self-certify they have no prior disciplinary actions, and falsely certifying on the form could lead to disciplinary actions. If employees self-certify, managers are responsible for ensuring their employees have no disciplinary actions prior to approving telework agreements. The IRS will utilize other corrective actions to ensure managers verify their employees do not have these types of disciplinary actions.

Attached is a detailed response outlining the corrective actions the Human Capital Office will take to address TIGTA's recommendations. Please note that the IRS has been under an evacuation order since March 30, 2020, and does not plan to send notifications until normal working conditions resume. Communications will be sent within 60 days after returning to normal working conditions. As noted above, IRS Chief Counsel will provide their response separate from the IRS. If you have any questions, please contact me at 202-317-3174, or a member of your staff may contact Scott C. Delaney, Director, Policy and Audits, at 202-317-5520.

Attachment:

Attachment

RECOMMENDATION 1:
The Human Capital Officer should remind managers to ensure that there is a signed telework agreement in place prior to approving any telework time for an employee.

CORRECTIVE ACTIONS:
The IRS agrees with this recommendation. We will issue bi-annual reminders to managers of the TEA requirement of having a signed and approved telework agreement in place prior to approving employee telework.

IMPLEMENTATION DATE:
June 15, 2022.

RESPONSIBLE OFFICIAL(S):
Director, Policy and Audits

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

RECOMMENDATION 2:
The Human Capital Officer should consider revising the Employee Certification section of Form 11386, IRS Telework Agreement for Bargaining Unit (BU), and Form 11386-B, IRS Telework Agreement for Non-Bargaining Unit (NBU) to add statements affirming the following:

- The employee has not been officially disciplined for being AWOL for more than five days in a calendar year.
- The employee has not been officially disciplined for viewing, downloading, or exchanging pornography, including child pornography, on a Federal Government computer or while performing official Federal Government duties.

CORRECTIVE ACTIONS:
We considered the recommendation, and the IRS has chosen not to revise the agreement forms. The requirement is clearly stated in the TEA and IRS Telework Policy. When signing the forms, employees agree to abide by the IRS Telework Policy. Including these statements in the employee certification section would require employees to self-certify they have no prior disciplinary actions. Falsification of the form could potentially lead to disciplinary action. To change the BU form requires negotiations with the National Treasury Employees Union (NTEU). If employees self-certify, managers are responsible for ensuring their employees have no disciplinary actions prior to approving their telework agreements. Recommendation 3 will be utilized

to ensure managers verify their employees do not have these types of disciplinary actions.

IMPLEMENTATION DATE:
N/A

RESPONSIBLE OFFICIAL(S):
N/A

CORRECTIVE ACTION(S) MONITORING PLAN:
N/A

RECOMMENDATION 3:
The Human Capital Officer should remind IRS managers of their responsibilities concerning the Telework Program described in its policies, with special emphasis on assessing eligibility criteria and researching disciplinary actions.

CORRECTIVE ACTIONS:
The IRS agrees with this recommendation. We will issue bi-annual reminders to managers reminding them of their responsibilities concerning the Telework Program, with special emphasis on assessing employees on the eligibility criteria and researching for disciplinary actions.

IMPLEMENTATION DATE:
June 15, 2022.

RESPONSIBLE OFFICIAL(S):
Director, Policy and Audits

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

RECOMMENDATION 4:
The Human Capital Officer should remind IRS Managers to timely remove an employee from participating in telework after the employee receives a less than fully successful performance rating or is placed on a PIP.

CORRECTIVE ACTIONS:
The IRS agrees with this recommendation. We will issue bi-annual reminders to managers to remind them to timely suspend participating employees from telework after receiving a less than fully successful performance rating or if the employee is placed on a performance improvement plan (PIP).

IMPLEMENTATION DATE:
June 15, 2022.

RESPONSIBLE OFFICIAL(S):
Director, Policy and Audits

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

RECOMMENDATION 5:
The Human Capital Officer should update the IRS's processes so that the Telework Program Office will receive a quarterly upload of open PIP cases from ALERTS so the Telework Program Office can monitor employees placed on a PIP.

CORRECTIVE ACTIONS:
The IRS agrees with this recommendation. We will have the Telework Program Office begin requesting quarterly ALERT reports from Field Labor Relations for open PIP cases to ensure identified employees are suspended from telework.

IMPLEMENTATION DATE:
June 15, 2022.

RESPONSIBLE OFFICIAL(S):
Director, Policy and Audits

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

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RECOMMENDATION 6:
The Human Capital Officer should remind IRS managers to maintain adequate documentation to support any waiver, temporary hardship, or reasonable accommodation to justify when an employee does not report to their POD in accordance with Federal regulations.

CORRECTIVE ACTIONS:
The IRS agrees with this recommendation. We will issue bi-annual reminders to managers reminding them of their responsibilities to maintain adequate documentation to support an employee not reporting to their assigned Official Post of Duty (POD) in accordance with Federal regulations.

IMPLEMENTATION DATE:
June 15, 2022.

RESPONSIBLE OFFICIAL(S):
Director, Policy and Audits

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

CHIEF COUNSEL

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

MEMORANDUM FOR HEATHER M. HILL
DEPUTY INSPECTOR GENERAL FOR INSPECTIONS AND EVALUATIONS

FROM: Susan Nieser
Director, Labor & Employee Relations
IRS Office of Chief Counsel

SUBJECT: Draft Evaluation Report – IRS Employees Continue to Meet Select Telework Requirements, but Additional Actions Can Further Improve the Level of Compliance (IE-20-007)

Thank you for the opportunity to review and comment on the subject draft evaluation report, which evaluated (in part) whether IRS Office of Chief Counsel met select requirements for telework. As the report indicates, the IRS Office of Chief Counsel conducts its' telework program entirely separate from the IRS-wide program. For that reason, Chief Counsel is providing this separate response to the draft TIGTA report.

The draft report shows that TIGTA reviewed the telework agreements for 10 Chief Counsel employees. The review found, while 80% of the sample were in compliance, two of those employees did not have an approved telework agreement in place prior to charging time to telework in FY 2019. Counsel agrees that there were issues with the telework agreements for those two employees. Chief Counsel also concurs that there is a benefit to tax administration if Chief Counsel has a well-run telework program where employees comply with the statutory telework requirements and other rules.

There were several recommendations made in the report but only one recommendation concerns the Office of Chief Counsel. Counsel agrees with that recommendation and its stated outcome measures. If there are any questions about this response, please contact me at (202) 317-6412. Here is our response about the corrective actions that Chief Counsel will take regarding this matter:

Attachment:

Attachment

RECOMMENDATION 1:
The Human Capital Officer and the CC should remind managers to ensure that there is a signed telework agreement in place prior to approving any telework time for an employee.

CORRECTIVE ACTIONS:
Chief Counsel agrees with this recommendation. Chief Counsel will address this issue in connection with the new telework rules negotiated between Counsel and NTEU (December 2021 Telework Bridge Pilot MOU). Counsel will also issue semi-annual reminders to managers about having a signed and approved telework agreement in place prior to approving any employee to telework.

IMPLEMENTATION DATE:
June 15, 2022.

RESPONSIBLE OFFICIAL(S):
Director, Labor and Employee Relations
IRS Office of Chief Counsel

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

Appendix IV

Abbreviations

AWOL	Absent Without Leave
BOD	Business Operating Division
CC	Chief Counsel
FY	Fiscal Year
IRM	Internal Revenue Manual
IRS	Internal Revenue Service
PIP	Performance Improvement Plan
POD	Post of Duty
SETR	Single Entry Time Reporting
TIGTA	Treasury Inspector General for Tax Administration

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

(800) 366-4484

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.