



*Fiscal Year 2018 Statutory Review of Denials
of Freedom of Information Act and Internal
Revenue Code Section 6103 Requests*

September 18, 2018

Reference Number: 2018-10-058

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

Redaction Legend:

1 = Tax Return/Return Information

Phone Number / 202-622-6500

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Website / <http://www.treasury.gov/tigta>



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HIGHLIGHTS

FISCAL YEAR 2018 STATUTORY REVIEW OF DENIALS OF FREEDOM OF INFORMATION ACT AND INTERNAL REVENUE CODE SECTION 6103 REQUESTS

Highlights

**Final Report issued on
September 18, 2018**

Highlights of Reference Number: 2018-10-058 to the Commissioner of Internal Revenue.

IMPACT ON TAXPAYERS

Taxpayers may request information from the IRS through the Freedom of Information Act (FOIA). However, a section of the FOIA, 5 United States Code (U.S.C.) Section (§) 552(b)(7), allows certain records or information compiled for law enforcement purposes to be withheld. Taxpayers may also request information from the IRS through Internal Revenue Code (I.R.C.) § 6103 (c) and (e). While § 6103 protects the confidentiality of taxpayer returns and return information, it does allow the taxpayer, or a person designated by the taxpayer, to request and receive tax information. If the IRS does not process requests under these statutes correctly, taxpayers do not receive the information to which they are entitled.

WHY TIGTA DID THE AUDIT

The overall objective of this audit was to determine whether the IRS improperly withheld information requested by taxpayers in writing based on 5 U.S.C. § 552(b)(7) or I.R.C. § 6103. TIGTA is required to conduct periodic audits in this area and report the results to Congress.

WHAT TIGTA FOUND

TIGTA reviewed a statistical sample of 75 of the 3,745 FOIA requests for Fiscal Year 2017 for which the IRS denied the requested information, either partially or fully based on the (b)(7) exemption, replied that no responsive records were available, or closed the request as imperfect. In addition, TIGTA reviewed all

39 Fiscal Year 2017 § 6103 (c) and (e) requests documented in the Automated FOIA system, for which the IRS withheld information from the requestor. While TIGTA determined that information was properly withheld in most cases, TIGTA identified instances in which information was improperly withheld. In addition, status reports were not always provided timely for § 6103 requests. Lastly, while reviewing cases for which the IRS withheld information from the requestor, TIGTA identified two requests for which the IRS improperly provided information to requestors that should have been withheld.

TIGTA identified one (1 percent) of 75 sampled FOIA information requests and one (3 percent) of 39 § 6103 (c) and (e) information requests for which taxpayers did not receive the information to which they were entitled because the IRS improperly withheld information from the requestors.

Additionally, all 75 sampled FOIA requests were responded to timely within the 20-business-day statutory requirement. However, for four (10 percent) of 39 § 6103(c) and (e) information requests, the IRS did not provide a status report to the requestor when requests were not completed within 30 business days as required by IRS internal procedures.

Lastly, while reviewing responses to information requests for improperly withheld information, TIGTA found that two disclosure caseworkers disclosed sensitive taxpayer information that should not have been provided to requestors. After TIGTA informed IRS management, these disclosures were reported to the IRS's Incident Management Office.

WHAT TIGTA RECOMMENDED

TIGTA recommended that the Chief Privacy Officer remind employees to provide status reports to requestors when responses to information requests made under I.R.C. § 6103 cannot be provided within 30 business days.

In their response, IRS management agreed with our recommendation.



TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

September 18, 2018

MEMORANDUM FOR COMMISSIONER OF INTERNAL REVENUE

FROM: Michael E. McKenney
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Fiscal Year 2018 Statutory Review of Denials
of Freedom of Information Act and Internal Revenue Code
Section 6103 Requests (Audit # 201810017)

This report presents the results of our review to determine whether the Internal Revenue Service (IRS) improperly withheld information requested by taxpayers in writing based on 5 United States Code Section (§) 552(b)(7) or Internal Revenue Code § 6103. This review is included in our Fiscal Year 2018 Annual Audit Plan and addresses the major management challenge of Protecting Taxpayer Rights.

Management's complete response to the draft report is included as Appendix VI. Although the IRS agreed with our recommendation and outcome measures, we have concerns that the error rate that the IRS quoted in the transmittal page of its response may be misleading. Our projection was made based on the number of responses to Freedom of Information Act information requests for which information may have been improperly withheld, and cannot be projected to the number of pages containing errors.

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



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Abbreviations

AFOIA	Automated Freedom of Information Act
FOIA	Freedom of Information Act
FY	Fiscal Year
I.R.C.	Internal Revenue Code
IRS	Internal Revenue Service
TIGTA	Treasury Inspector General for Tax Administration
U.S.C.	United States Code



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Background

Taxpayers may request information from the Internal Revenue Service (IRS) through the Freedom of Information Act (FOIA)¹ and Internal Revenue Code (I.R.C.) Section (§) 6103.

The FOIA

The FOIA requires Federal Government agencies to make records available to the public upon request unless specifically exempted. For example, United States Code (U.S.C.) § 552(b)(7)² allows certain records or information compiled for law enforcement purposes to be withheld, but only to the extent that the production of such law enforcement records or information:

- Could reasonably be expected to interfere with enforcement proceedings.
- Would deprive a person of a right to a fair trial or an impartial adjudication.
- Could reasonably be expected to constitute an unwarranted invasion of personal privacy.
- Could reasonably be expected to disclose the identity of a confidential source or information furnished by a confidential source.
- Would disclose techniques, procedures, or guidelines for law enforcement investigations or prosecutions, if such disclosure could reasonably be expected to risk circumvention of the law.
- Could reasonably be expected to endanger the life or physical safety of any individual.

For Fiscal Year (FY)³ 2017, the IRS's Automated Freedom of Information Act (AFOIA) system shows that the IRS Disclosure Office⁴ coded 8,749 information requests as FOIA requests.

I.R.C. § 6103

I.R.C. § 6103 protects the confidentiality of taxpayer returns and return information. However, it does allow the taxpayer, or a person designated by the taxpayer, to request and receive the taxpayer's tax return and return information. The IRS's AFOIA system shows that the IRS Disclosure Office processed 317 I.R.C. § 6103 requests in FY 2017. However, the IRS does not track I.R.C. § 6103 information requests received and processed by IRS offices other

¹ 5 United States Code (U.S.C.) § 552.

² 5 U.S.C. § 552(b)(7).

³ A fiscal year is any yearly accounting period, regardless of its relationship to a calendar year. The Federal Government's fiscal year begins on October 1 and ends on September 30.

⁴ The IRS Disclosure Office is part of the IRS's Office of Privacy, Governmental Liaison, and Disclosure organization, which is responsible for timely compliance with the FOIA and I.R.C. § 6103.



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than the IRS Disclosure Office. Therefore, the complete population of I.R.C. § 6103 requests processed by the IRS in FY 2017 is unknown.

Processing FOIA and I.R.C. § 6103 information requests

The IRS Disclosure Office accepts FOIA information requests via FAX or mail. Requestors can also send I.R.C. § 6103 information requests to the IRS Disclosure Office. When a request is received, IRS personnel scan the request into the AFOIA system and a disclosure manager assigns the request to a disclosure caseworker. If the request includes all necessary information, the disclosure caseworker will conduct a search for responsive records. If there are no records that are responsive to the request, the IRS will send a letter notifying the requestor. If responsive records are located, the disclosure caseworker will review to determine if any information should be withheld. The IRS then responds to the requestor via letter providing all requested information or providing partial information and explaining why certain parts of the requested documentation have been redacted.

Although the IRS Disclosure Office is tasked with responding to written requests for IRS information, other IRS offices having custody of taxpayer records may also process written requests for information made under I.R.C. § 6103. The IRS does not track I.R.C. § 6103 information requests received and processed by other offices.

Treasury Inspector General for Tax Administration (TIGTA) requirements and limitations

Section 1102 (d)(3)(a) of the IRS Restructuring and Reform Act of 1998⁵ requires TIGTA to conduct periodic audits of determinations made by the IRS to deny written requests to disclose information to taxpayers on the basis of I.R.C. § 6103 or FOIA exemption (b)(7).⁶ In accordance with this statutory requirement, the scope of our review addressed closed FOIA requests for which the information requested was either denied in full, or in part, under FOIA exemption (b)(7). In addition to requests denied in full or in part under FOIA exemption (b)(7), we evaluated requests for which no information was provided because the IRS determined that no responsive records existed or the request was imperfect.⁷ For I.R.C. § 6103 requests, we reviewed requests that were tracked on the AFOIA system⁸ and denied under sections (c) or (e), which are requests for tax return information made by either the individual taxpayer or by a designee of the taxpayer.

⁵ Pub. L. No. 105-206, 112 Stat. 685.

⁶ Pub. L. No. 105-206, 112 Stat. 703 § 1102(d)(3)(A); I.R.C. § 6103 (2009); and 5 U.S.C. § 552 (2010).

⁷ An imperfect request is one for which Disclosure Office personnel deem the request not specific enough to process or too broad in scope. Once determined as imperfect, the request must be closed.

⁸ Because the IRS does not track I.R.C. § 6103 information requests processed by other offices, the scope of our audit was limited to only those I.R.C. § 6103 information requests received and processed by the IRS Disclosure Office.



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This review was performed with information obtained from the Office of Privacy, Governmental Liaison, and Disclosure offices in Washington, D.C.; Atlanta, Georgia; and other IRS locations during the period December 2017 through May 2018. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. Detailed information on our audit objective, scope, and methodology is presented in Appendix I. Major contributors to the report are listed in Appendix II.



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Results of Review

We reviewed a statistical sample⁹ of 75 of the 3,745¹⁰ FOIA exemption (b)(7) requests for FY 2017, as well as all 39 FY 2017 I.R.C. § 6103 (c) and (e)¹¹ requests documented in the AFOIA system, for which the IRS withheld information from the requestor. We determined that information was properly withheld in most cases. In addition, most cases were processed timely. However, we identified two requests for which information was improperly withheld, four requests for which the IRS did not timely provide a status report to the requestor, and two requests for which the IRS improperly provided information to requestors that should have been withheld.

Information Was Properly Withheld in Most Cases

We determined that the IRS incorrectly withheld information using FOIA exemption (b)(7) for one (1 percent) of the 75 FOIA information requests we sampled. While FOIA exemption (b)(7) exempts from disclosure information compiled for law enforcement purposes, in this case, the IRS withheld information on IRS examination techniques even though this information should be available to the public. IRS management stated that the information was erroneously withheld due to employee error. We also noted that a manager reviewed the case for accuracy and completeness but did not identify that the information was improperly withheld. Based on our sample results, we estimate that the IRS erroneously applied FOIA exemption (b)(7) on approximately 60 FOIA information requests in FY 2017.¹²

We also determined that the IRS incorrectly withheld information using I.R.C. § 6103 (c) and (e) for one (3 percent) of 39 § 6103 information requests.¹³ In this case, the disclosure caseworker responded to the requestor that *****1*****
*****1***** However, we researched IRS systems and found that *****1*****
*****1***** IRS management stated that the information was erroneously withheld

⁹ See Appendix I for details on our sampling methodology.

¹⁰ There were 8,749 FOIA requests processed in FY 2017; 3,745 requests were denied, either partially or fully, based on the (b)(7) exemption; the IRS replied that no responsive records were available; or the IRS closed the request as imperfect.

¹¹ I.R.C. § 6103 contains two sections related to taxpayer’s Federal returns and return information filed with the IRS, § 6103 (c) and (e).

¹² The point estimate projection is based on a two-sided 90 percent confidence interval. We are 90 percent confident that the point estimate is between one and 158 information requests. See Appendix IV.

¹³ For FY 2017, there were 317 I.R.C. § 6103 information requests tracked in the AFOIA system. We screened all 317 § 6103 requests listed in the AFOIA system and identified a total of 39 § 6103 (c) and (e) information requests for which information was withheld.

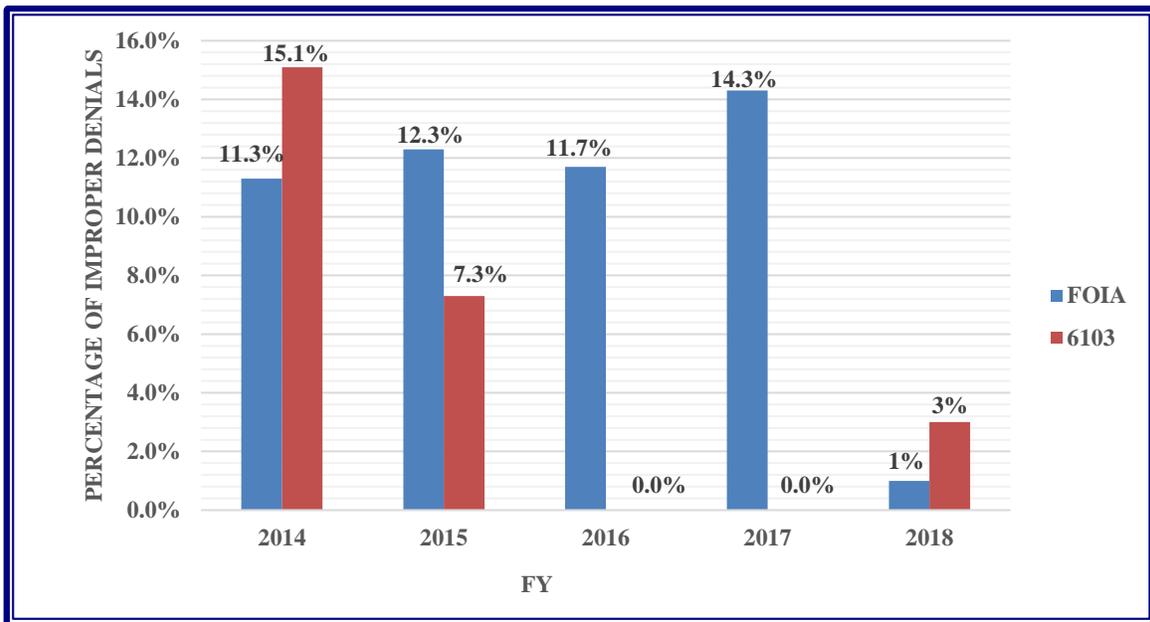


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due to employee error. We also noted that a manager reviewed the information request for accuracy and completeness prior to closing the case. If the IRS does not process requests under these statutes correctly, taxpayers do not receive the information to which they are entitled.

Although the IRS properly releases thousands of pages in response to information requests each year, information was improperly withheld in these two cases. Even so, as shown in Figure 1, our audit results show that the IRS is making fewer mistakes than it has in the past when deciding to withhold information based on FOIA exception (b)(7), and the percentage of I.R.C. § 6103 withholding errors has decreased over time.

Figure 1: Number of Improper FOIA and I.R.C. § 6103 Information Request Withholdings Identified in TIGTA Audits (FYs 2014 Through 2018)



Source: TIGTA audit reports issued in FYs 2014 through 2017 and audit tests conducted during this review. See Appendix V for a list of these audit reports.

Disclosure Caseworkers Did Not Always Provide Status Reports to Requestors When Requests Could Not Be Completed in 30 Business Days

The IRS responded to requestors within the statutory time frame for all 75 FOIA requests we sampled for which the IRS withheld information from the requestor. The FOIA requires the release of requested information within 20 business days of receiving the request or, if the



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20 business days are not sufficient, notification to the requestor of an automatic 10-business-day extension.¹⁴

In contrast to the results of our review of FOIA response timeliness, we determined that the IRS did not always issue a timely status report to I.R.C. § 6103 requests. For four (10 percent) of the 39 I.R.C. § 6103 (c) and (e) requests for which the IRS withheld information from the requestor, the IRS did not provide a status report to the requestor when requests were not completed within 30 business days as required by IRS internal procedures.¹⁵ If it is unable to provide a final response, the IRS Disclosure Office must provide additional status reports for every 30 business days until the issuance of the final response. In the four instances identified, IRS Disclosure Office management cited employee error as the cause. As a result of the disclosure caseworkers neglecting to provide timely status reports, the four requestors did not receive an update until 31 to 44 business days after the IRS received the requests.

Recommendation

Recommendation 1: The Chief Privacy Officer should remind disclosure caseworkers to provide status reports to requestors when responses to I.R.C. § 6103 information requests cannot be provided within 30 business days.

Management's Response: The IRS agreed with this recommendation. The Chief Privacy Officer will issue a memorandum to all Disclosure personnel reminding them of the requirements in the IRS's internal procedures to respond to I.R.C. § 6103 requestors within 30 days.

Disclosure Caseworkers Improperly Disclosed Information in Two Cases

During our review of disclosure caseworker responses to FOIA and I.R.C. § 6103 information requests, we found that two disclosure caseworkers disclosed sensitive taxpayer information, *e.g.*, Personally Identifiable Information, that should not have been provided to requestors.¹⁶ Disclosure caseworkers are responsible for determining the documents that are responsive to each information request and protecting taxpayer information. In these two cases, the disclosure caseworkers provided responsive documents to the requestors that included information that should have been disclosed, along with information about other taxpayers that should not have been disclosed. When taxpayer information is improperly disclosed, the information may be used to commit identity theft or otherwise be used to harm taxpayers or the Federal Government.

¹⁴ U.S.C. § 552(a)(6)(A).

¹⁵ Internal Revenue Manual 11.3.3.1.7(10).

¹⁶ See Appendix IV.



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Disclosure Office management stated that these disclosures were the result of employee errors. Although both cases were reviewed by other disclosure caseworkers, the managers are ultimately responsible for the inadvertent disclosures, as evidenced by the manager's signature on the final response letter to the requestor. After we informed IRS management of the improper disclosures, the two incidents were reported to the IRS's Incident Management Office. The Incident Management Office reviewed the information, conducted a risk assessment, and determined the risk of harm from the disclosures was low because the information disclosed, although outside the scope of the initial requests, was disclosed to a trusted party, and therefore the taxpayers whose information was improperly disclosed did not need to be notified. Because IRS management took action on the two improper disclosures during the audit, we are not making any recommendations on this issue.



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Appendix I

Detailed Objective, Scope, and Methodology

The overall objective of this audit was to determine whether the IRS improperly withheld information requested by taxpayers in writing, based on 5 U.S.C. § 552(b)(7) or I.R.C. § 6103. To accomplish this objective, we:

- I. Determined the applicable policies, procedures, and controls that are in place to provide reasonable assurance that the IRS complies with the FOIA and I.R.C. § 6103 when denying information.
- II. Determined whether IRS disclosure caseworkers are adhering to statutory requirements when denying written requests received from taxpayers under the FOIA.
 - A. Obtained an AFOIA system extract for FY¹ 2017 and identified all FOIA cases closed as denied, partially denied (based on FOIA exemption (b)(7) or exempted in conjunction with I.R.C. § 6103),² or for which the IRS replied that the request was imperfect³ or responsive records did not exist. We determined that the data were reliable for our purposes by validating data fields, comparing AFOIA system extract record counts to data provided by IRS management, and comparing AFOIA system extract data to the live AFOIA system data while on-site with IRS Disclosure Office personnel.
 - B. Selected a statistically valid sample of 75 of the 3,745 FOIA information requests closed in FY 2017 for which the IRS fully or partially withheld information, responded that responsive records did not exist, or closed the request as imperfect. We stratified the FOIA population of 3,745 requests to ensure that each case disposition (denied, partially denied, no responsive records, and imperfect) had an equal chance of being selected. The stratified sample was selected using an estimated error rate of 13.2 percent, a confidence level of 90 percent, and a precision rate of 7.2 percent.⁴
 - C. Reviewed the sample cases from Step II.B. to determine if the decisions to withhold information were appropriate and the determinations were made timely.

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

² By law, tax records may not be disclosed to any individual unless authorized by I.R.C. § 6103.

³ An imperfect request is one for which Disclosure Office personnel deem the request not specific enough to process or too broad in scope. Once determined as imperfect, the request must be closed.

⁴ A contract statistician assisted with developing the sampling plans.



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- D. Discussed exception cases with IRS Disclosure Office management.
 - E. Estimated the number of information requests for which the IRS improperly withheld information in the FOIA population based on the sample reviewed in Step II.C. We coordinated with TIGTA's contract statistician to ensure the accuracy of the estimate.
- III. Determined whether IRS disclosure caseworkers are adhering to legal requirements when denying written requests received from taxpayers under I.R.C. § 6103.
- A. Obtained an AFOIA system extract for FY 2017 and identified all closed I.R.C. § 6103 (c) and (e) requests tracked in the AFOIA system. We determined that the data were reliable for our purposes by validating data fields, comparing AFOIA system extract record counts to data provided by IRS management, and comparing AFOIA system extract data to the live AFOIA system data while on-site with IRS Disclosure Office personnel.
 - B. Selected and reviewed all 39 I.R.C. § 6103 (c) and (e) information requests for which information was withheld to determine if the decisions to withhold information were appropriate and if the determinations were made timely.

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, operating procedures, laws, and regulations related to the receipt, disposition, and resolution or denials of requests for information made under the FOIA or I.R.C. § 6103. We evaluated these controls by reviewing source documents, interviewing management, and reviewing I.R.C. § 6103 information requests and a statistically valid sample of closed FOIA information requests.



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Appendix II

Major Contributors to This Report

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

Troy D. Paterson, Director

LaToya R. Penn, Audit Manager

Yolanda D. Brown-Alexander, Lead Auditor

Richard J. Kemble, Auditor



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Appendix III

Report Distribution List

Deputy Commissioner for Operations Support
Chief Privacy Officer
Director, Office of Audit Coordination



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Appendix IV

Outcome Measures

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

Type and Value of Outcome Measure:

- Taxpayer Rights and Entitlement – Potential; 60 responses to FOIA information requests¹ for which information may have been improperly withheld during FY² 2017 (see page 4).

Methodology Used to Measure the Reported Benefit:

We reviewed a statistically valid sample of 75 information requests from a population of 3,745 FOIA requests closed during FY 2017 as either of the following:

- 1) Denied or partially denied with FOIA exemption (b)(7) cited as one of the reasons for withholding information.
- 2) The IRS replied that responsive records did not exist or the request was imperfect.³

We identified one request for which a disclosure caseworker improperly withheld the requested information. As shown in Figure 1, we estimate the number of FOIA requests for which information was improperly denied in FY 2017 to be 60.

¹ The point estimate projection is based on a two-sided 90 percent confidence interval. We are 90 percent confident that the point estimate is between one and 158.

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

³ An imperfect request is one for which Disclosure Office personnel deem the request not specific enough to process or too broad in scope. Once determined as imperfect, the request must be closed.



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**Figure 1: Calculation of Estimated Number of FOIA Requests
for Which Information Was Improperly Withheld**

Strata	Sample Size	Total Population of FOIA Information Requests	Responses for Which the IRS Improperly Withheld Information		
			Total Number in Sample	Percentage in Sample	Estimated Number in Total Population
Denials	10	37	0	0.00%	0
Partial Denials	27	1,618	1	3.70%	60
No Responsive Records	13	830	0	0.00%	0
Imperfect	25	1,260	0	0.00%	0
Totals	75	3,745	1		60

Source: Statistician projections provided based on audit results.

Type and Value of Outcome Measure:

- Taxpayer Rights and Entitlement – Potential; one response to an I.R.C. § 6103 information request for which information was improperly withheld during FY 2017 (see page 4).

Methodology Used to Measure the Reported Benefit:

We reviewed all 39 I.R.C. § 6103 (c) and (e) information requests for which information was withheld. We identified one request for which a disclosure caseworker improperly withheld the requested information.



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Type and Value of Outcome Measure:

Taxpayer Privacy and Security – Actual; two responses with sensitive taxpayer information improperly disclosed in the response to FOIA information requests (see page 6).

Methodology Used to Measure the Reported Benefit:

While conducting our review, we identified that disclosure caseworkers improperly disclosed sensitive taxpayer information in two responses to FOIA information requests.⁴ These disclosures included Personally Identifiable Information.

⁴ The scope of this audit focused on information being withheld not on information that was improperly released to the requestor; therefore, we did not estimate the number of improper disclosures to the universe of FOIA information requests for which the IRS withheld information based on FOIA exemption (b)(7).



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Appendix V

*Previous Audit Reports Related to
This Statutory Review*

TIGTA, Ref. No. 2014-30-064, *Fiscal Year 2014 Statutory Review of Compliance With the Freedom of Information Act* (Sept. 2014).

TIGTA, Ref. No. 2015-30-084, *Fiscal Year 2015 Statutory Review of Compliance With the Freedom of Information Act* (Sept. 2015).

TIGTA, Ref. No. 2016-30-072, *Fiscal Year 2016 Statutory Review of Compliance With the Freedom of Information Act* (Sept. 2016).

TIGTA, Ref. No. 2017-30-075, *Fiscal Year 2017 Statutory Review of Compliance With the Freedom of Information Act* (Sept. 2017).



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Appendix VI

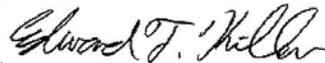
Management's Response to the Draft Report



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

August 27, 2018

MEMORANDUM FOR MICHAEL E. MCKENNEY
DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Edward T. Killen 
Chief Privacy Officer

SUBJECT: Draft Audit Report – Fiscal Year 2018 Statutory Review of
Denials of Freedom of Information Act and Internal Revenue
Code Section 6103 Requests (Audit # 201810017)

Thank you for the opportunity to respond to the above-referenced draft audit report. The IRS remains committed to openness in government to ensure public trust and to support the ideals of transparency, public participation and collaboration. We appreciate your recognition of the positive steps taken by the IRS to operate an effective Freedom of Information Act (FOIA) program.

We agree with the outcome measure cited in the report and generally with the overall recommendation. However, we wish to offer additional perspective with respect to the error rates cited. In the report you concluded:

Taxpayer Rights and Entitlement – Potential; 60 responses to FOIA information requests for which information may have been improperly withheld during FY2017.

Although we do not dispute those findings, it is important to understand the eight exception cases involved the release of 4,254 pages of records. Of those 4,254 pages identified, only 13 of those pages contained errors in under-or over-withholding. Mathematically, that computes to an error rate of only .305 percent.

Disclosure offices process and release hundreds of thousands of pages on an annual basis, using a system that does not have a search and find functionality that would enhance consistency in applying redactions to duplicate pages. However, we will be implementing a new system in FY19 that is equipped with search and find functionality. In addition, our processes are subject to human error and the low error rate on the



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number of pages released reflects a more realistic picture of our effectiveness that should be noted.

Attached is a detailed response outlining our planned corrective actions.

We will continue to ensure that the provisions of the Freedom of Information Act, the Privacy Act and Internal Revenue Code Section 6103 are followed. If you have any questions, please contact me at 202-317-6449, or a member of your staff may contact Maribel De La Rocha, Associate Director, Disclosure, at 213-372-4568.

Attachment



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Attachment
TIGTA Audit 201810017

Recommendation 1: The Chief Privacy Officer should remind employees to provide status reports to requestors when responses to information requests made under I.R.C. § 6103 cannot be provided within 30 business days.

Corrective Action: The IRS agrees with this recommendation. The Chief Privacy Officer will issue a memorandum to all Disclosure personnel reminding them of the requirement in IRMs 11.3.2.3(3) and 11.3.3.1.7(10) to respond to I.R.C. § 6103 requestors within 30 days. Managers will follow standard operational case review procedures to ensure the responses are issued timely.

Implementation Date: November 15, 2018

Responsible Official(s): Chief Privacy Officer (Associate Director, Disclosure)