

# TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION



## **The Indian Tribal Government Function Needs to Strengthen Internal Controls and Performance Measures**

May 27, 2021

Report Number: 2021-10-040

# HIGHLIGHTS: The Indian Tribal Government Function Needs to Strengthen Internal Controls and Performance Measures

Final Audit Report issued on May 27, 2021

Report Number 2021-10-040

## Why TIGTA Did This Audit

TIGTA previously reported that the Indian Tribal Government (ITG) function's Abuse Detection and Prevention Team did not have specific performance objectives and measures. IRS management agreed to implement performance measures. In addition, the ITG function has undergone two major reorganizations in recent years.

The overall objective of this review was to determine whether the ITG function's compliance activities are effective at helping Indian tribal governments understand and comply with applicable tax laws.

## Impact on Taxpayers

The ITG function has compliance responsibility for 574 Federally recognized Indian tribes and over 3,500 tribal entities. Tribes are involved in a wide range of economic activities, including tourism, gaming, energy, agriculture, forestry, manufacturing, Federal contracting, and telecommunications, collectively generating billions of dollars of revenue annually. The ITG function's compliance work frequently pertains to Indian gaming, for which revenues were nearly \$34 billion in Fiscal Year 2018. Without effective communication and oversight, taxpayers may not have sufficient information to comply with their Federal tax responsibilities.

## What TIGTA Found

TIGTA identified a need to improve the internal controls for the ITG function's activities, including better separation of duties for ITG specialists, better documentation and separation of duties for potential fraud submissions, and improved oversight and accountability of outreach and education activities. These improvements could enhance the independence and objectivity of IRS employees and front-line managers and improve oversight and monitoring of outreach activities.

For example, our analysis showed that 237 Federally recognized tribes had the same ITG specialist perform all or most of their casework for Fiscal Years 2015 through 2019. ITG specialists also provide routine outreach and education and may then perform examinations of the same tribe, including the assessment of penalties. Such situations could reduce the specialists' independence and objectivity.

In addition, the ITG function does not formally obtain taxpayer satisfaction feedback as required in a balanced performance measurement system. Although outreach, education, and taxpayer assistance activities accounted for 30 percent of ITG compliance work, the IRS does not include this information in ITG performance measures. The IRS could use this information to help the ITG function focus its priorities and base management decisions on data and evidence. TIGTA also identified a significant decline in ITG employee engagement related to recommendations for new compliance strategies.

Finally, the IRS should conduct benefit analyses for ITG activities. Benefit analyses can help organizations identify specific areas for improvement, align efforts with outputs, and optimize resource use.

## What TIGTA Recommended

TIGTA made seven recommendations, including that the Commissioner, Tax Exempt and Government Entities Division, should ensure adequate separation of ITG specialists' duties; improve documentation of all potential fraud submissions and separate responsibilities for receiving and considering external potential fraud submissions; and increase oversight and accountability for outreach and education activities. TIGTA also recommended that the IRS obtain and use taxpayer feedback to improve its program performance and conduct benefit analyses. IRS management agreed with all of the recommendations and plans to take corrective actions.



TREASURY INSPECTOR GENERAL  
FOR TAX ADMINISTRATION

**U.S. DEPARTMENT OF THE TREASURY**

**WASHINGTON, D.C. 20220**

May 27, 2021

**MEMORANDUM FOR:** COMMISSIONER OF INTERNAL REVENUE

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

**SUBJECT:** Final Audit Report – The Indian Tribal Government Function Needs to Strengthen Internal Controls and Performance Measures  
(Audit # 202010013)

This report presents the results of our review to determine whether the Indian Tribal Government function's compliance activities are effective at helping Indian tribal governments understand and comply with applicable tax laws. This is a follow-up to a prior Treasury Inspector General for Tax Administration audit.<sup>1</sup> This review is part of our Fiscal Year 2021 Annual Audit Plan and addresses the major management and performance challenge of *Improving Tax Reporting and Payment Compliance*.

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

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

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<sup>1</sup> Treasury Inspector General for Tax Administration, Ref. No. 2013-10-018, *Fraud and Abuse Are Addressed in the Indian Tribal Sector, but Performance Objectives and Measures Are Needed to Assess Program Effectiveness* (Jan. 2013).

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## **Background**

The Internal Revenue Service (IRS) established the Indian Tribal Government (ITG) function within the Tax Exempt and Government Entities (TE/GE) Division to assist the 574 Federally recognized Indian tribes and 3,500 tribal entities in addressing their Federal tax obligations. The ITG function provides a single point of contact for assistance and tax help.<sup>1</sup>

Federally recognized tribes are involved in a wide range of economic activities, including tourism, gaming, energy, agriculture, forestry, manufacturing, Federal contracting, and telecommunications, collectively generating billions of dollars of revenue annually. While the tribes are not subject to income tax, they are subject to employment taxes, information reporting requirements, and excise taxes in the same manner as all other government entities. The Supreme Court ruled that members of Indian tribes are subject to taxes upon income as any other citizen of the United States.<sup>2</sup>

Therefore, income that a tribal member receives is taxable under Internal Revenue Code (I.R.C.) Section (§) 61 unless specifically excluded by treaty or law.<sup>3</sup>

**Federally recognized tribes  
are subject to Federal tax  
reporting, and tribe members  
are subject to taxes just as  
any other citizen.**

The ITG function's compliance work frequently pertains to Indian gaming, for which revenues were nearly \$34 billion in Fiscal Year (FY) 2018. For example, the ITG function may conduct examinations of returns from Indian tribes or their entities, including casinos, for tip reporting, gaming revenue distributions, employment tax and withholding, wagering excise taxes, and potential fraud and abuse.

Since Calendar Year 2000, the ITG function has had Federal tax compliance responsibility for each Federally recognized Indian tribe. As part of this, the ITG function conducts audits to determine Federal tax liabilities and filing requirements. Many of the basic techniques for examining returns of Indian tribal entities are similar to those used by the IRS's Small Business/Self-Employed and Large Business and International Divisions.

The ITG function should accomplish its responsibilities by working with the TE/GE Division Compliance, Planning, and Classification (CP&C) function through the compliance platform.<sup>4</sup> The CP&C function then builds the ITG function annual work plan, classifies and selects ITG examination workload, and evaluates ITG examination quality via its Tax Exempt Quality Measurement System (TEQMS). The TE/GE Division should consider the most appropriate,

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<sup>1</sup> Internal Revenue Manual 4.86.1.1.1(2), *Indian Tribal Governments Administration and Policy* (June 16, 2020).

<sup>2</sup> *Squire v. Capoeman*, 351 U.S. 1, 76 S. Ct. 611 (1956).

<sup>3</sup> I.R.C. § 61 (2011) and Internal Revenue Manual 4.88.1.3(1), *Indian Tribal Governments Examination Issues and Procedures, Examination Issues Pertaining to ITG Cases* (Mar. 7, 2019).

<sup>4</sup> The TE/GE Division compliance platform consists of six compliance portfolio programs: compliance strategies; data-driven approaches; referrals, claims, and other casework; compliance contacts; determinations; and voluntary compliance and other technical programs.

## The Indian Tribal Government Function Needs to Strengthen Internal Controls and Performance Measures

cost-effective, and least intrusive compliance treatments, including educational efforts, soft letter compliance reviews, compliance checks, and correspondence or field examinations.<sup>5</sup>

The ITG function combines its compliance and enforcement initiatives with outreach and educational activities to work towards accomplishing its compliance strategies, *i.e.*, performance goals.<sup>6</sup> The ITG function's work consists of enforcement activities, such as examinations; compliance checks, such as Bank Secrecy Act (Title 31); outreach and education (O&E); and taxpayer assistance (before and after filing).<sup>7</sup> These pieces should fit together and support a balanced approach to improve compliance and accomplish ITG's mission.



## Results of Review

### The Indian Tribal Government Function's Internal Controls Can Be Improved

Internal controls are an integral part of managing an organization. They include the plans, methods, and procedures used to accomplish an organization's mission, goals, and objectives through effective leveraging of limited resources.<sup>8</sup> Internal controls should help protect assets, detect errors, and prevent fraud.

Within the organizational structure, internal controls should provide reasonable assurance that the organization achieves effectiveness and efficiency of operations, reliability of financial reporting, and compliance with applicable laws and regulations. However, we identified several key internal controls within the ITG function that need improvement. The ITG function should better separate duties where resources allow or incorporate alternative practices, document and separate responsibility for receipt of all incoming potential fraud submissions, and increase oversight of O&E activities.

### Separation of ITG specialists' duties

The *Standards for Internal Control in the Federal Government* requires organizations to design control activities that achieve objectives and respond to risks. One key attribute of this design is the separation of duties related to authority, custody, and accounting of operations. ITG specialists perform the roles of examiner, relationship builder, and instructor. Because they may perform these activities simultaneously, it is critical that their duties do not create possible conflicts of interest or give the appearance of reduced independence and objectivity.<sup>9</sup> An

<sup>5</sup> Internal Revenue Manual 4.70.5.2(3), *TE/GE Examinations, Issue Identification and Research* (Sept. 24, 2018).

<sup>6</sup> Compliance strategies are issues approved by the TE/GE Division's Compliance Governance Board to identify, prioritize, and allocate resources within the TE/GE Division's filing population.

<sup>7</sup> The Bank Secrecy Act (Title 31) was passed in 1970 as the first laws to fight money laundering in the United States. Indian tribal casinos were subject to the regulations as of August 1996.

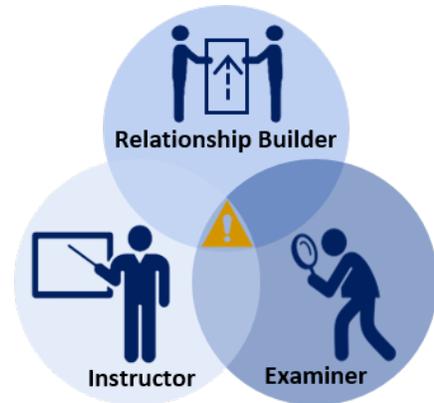
<sup>8</sup> Government Accountability Office, GAO-14-704G, *Standards for Internal Control in the Federal Government* (Sept. 2014).

<sup>9</sup> Basic Obligation of Public Service, 5 C.F.R. § 2635.101(b)(14) (2005).

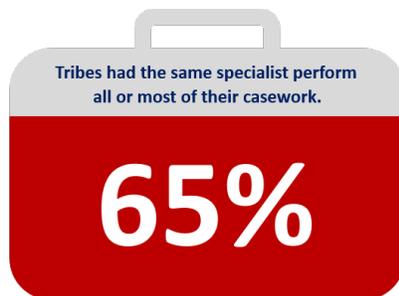
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important difference between the ITG function and other IRS functions is that the IRS trains ITG specialists to address issues and provide guidance unique to Indian tribal governments.<sup>10</sup> For example, training topics include laws, tribal governance, gaming, and education. *ITG Protocol Training* also prepares ITG specialists to perform critical job elements not required of other IRS revenue agents. ITG specialists receive performance evaluations on their negotiation skills, ability to provide quality outreach presentations to their assigned tribes, and adherence to procedures that are specific to Indian tribal governments.<sup>11</sup>

Once trained in proper procedures, the IRS assigns a specialist to each tribe, and the specialist must be available to help the tribe with any questions.<sup>12</sup> ITG specialists conduct compliance checks, enforcement, outreach, education, and assistance for their assigned tribes. They have also provided guidance to their tribes on setting up accounting systems, which includes operating internal controls, bookkeeping, and tax compliance (form completion, tax deposits, accounting software usage, *etc.*). The same ITG specialist may then perform examinations of the same tribe, determine whether to assess penalties, and complete substitute for return filings.<sup>13</sup>



We analyzed ITG casework (compliance checks, examinations, taxpayer assistance, *etc.*) for FYs 2015 through 2019 and determined that 1,696 (61 percent) of 2,763 cases were completed by the ITG specialist assigned to the tribe. In addition, we determined that regardless of



geographic assignment, ITG specialists routinely completed casework for the same tribes. Analysis showed that 237 (65 percent) of 365 Federally recognized tribes with multiple cases had the same ITG specialist perform all or most of their casework.<sup>14</sup> Service-wide policy notes that, with respect to examinations, permanent assignments for program responsibilities or repetitive engagements with the same taxpayer should be avoided. This is due to concerns over

independence.<sup>15</sup> The restrictions are designed to help mitigate the risk of reduced independence and objectivity by IRS employees and front-line managers while ensuring

<sup>10</sup> IRS Enterprise Learning Management System Course Number 11261, *Indian Tribal Governments Protocol Training* (May 2015) and Internal Revenue Manual 4.88.1.1.1(3), *Indian Tribal Governments Examination Issues and Procedures, Examination Issues Pertaining to ITG Cases* (Mar. 7, 2019).

<sup>11</sup> IRS, Document 11793, *Performance Plan for Internal Revenue Agent (Federal/State/Local Government or Indian Tribe Government Specialist) GS-0512* (Feb. 2002).

<sup>12</sup> Internal Revenue Manual 4.88.1.1.1(3), *Indian Tribal Governments Examination Issues and Procedures, Examination Issues Pertaining to ITG Cases* (Mar. 7, 2019).

<sup>13</sup> ITG specialists should generally use substitute for return procedures during examinations and when addressing and assessing nonfiled tax returns.

<sup>14</sup> Of the 574 Federally recognized tribes, during FYs 2015 through 2019, we did not identify casework for six tribes, and 203 tribes had only one case, leaving 365 tribes with multiple cases for our analysis. We defined "all" as 100 percent of a tribe's casework and "most" as between 51 and 99 percent.

<sup>15</sup> Internal Revenue Manual 1.2.1.5.3(1)-(2), *Service-wide Policies and Authorities, Service-wide Policy Statements* (Dec. 17, 2019).

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equitable processes and fairness to all taxpayers. However, unlike other IRS functions, the ITG function assigned most casework, including non-examination work, to permanently assigned specialists. Because of this, we have concerns about the independence of specialists who may be responsible for performing all of the casework for a particular tribe.

Insufficient separation of duties and a lack of alternative controls, such as rotating taxpayer (tribe) assignments, could expose the IRS to risks and give the appearance of preferential treatment.<sup>16</sup> At the time of our review, the IRS's public website resource "*How To Contact Your Assigned Tribal Government Specialist*" helped tribes identify and contact their assigned ITG specialist based on their geographic area.<sup>17</sup> However, during this review, the IRS removed the ITG specialist assignment web page, and IRS management stated they would no longer permanently assign ITG specialists to a tribe.

The IRS did not provide any additional details about its plans to discontinue this practice. The ITG and CP&C functions should consider a collaborative and strategic approach to identify alternatives such as developing ITG case assignment criteria for field managers. The criteria should include steps to avoid permanent or repetitive engagements with the same taxpayer.<sup>18</sup>

**Recommendation 1:** The Commissioner, TE/GE Division, should develop guidelines to provide adequate separation of ITG specialists' duties where resources allow or develop alternative control activities that effectively leverage limited resources to address potential risks.

**Management's Response:** The IRS agreed with this recommendation and, using benefit analyses pursuant to Recommendation #6, it plans to consider developing alternative control activities that effectively leverage available resources to address potential risks.

### Potential fraud submission separation of duties and documentation

At the time of our review, the ITG function routed all external potential fraud submissions to one person designated as the ITG fraud subject matter expert. ITG procedures do not require documentation of all potential fraud submissions that originate from external sources, such as anonymous informants or employees of tribal casinos. As previously mentioned, a key principle of internal control is that incompatible duties should be separated. However, if separation of duties is not practical within an operational process because of limited personnel or other factors, management should design alternative control activities to address the risk of fraud, waste, or abuse in the operational process. In addition, documentation of transactions and significant events is a necessary part of an effective internal control system.<sup>19</sup>

However, ITG management had not implemented alternative controls, such as requiring documentation of all potential fraud submissions received from external sources or assigning an independent third party to receive them. Potential fraud submissions from external sources are important because they can be the foundation for cases involving egregious behavior that the

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<sup>16</sup> *Standards for Internal Control in the Federal Government* and Internal Revenue Manual 1.1.16.3.5.2.1(3)b, *Organization and Staffing, Small Business/Self-Employed Division* (June 1, 2016).

<sup>17</sup> IRS, *How To Contact Your Assigned Indian Tribal Government Specialist By Area*, [https://www.irs.gov/pub/irs-tege/itg\\_specialists.pdf](https://www.irs.gov/pub/irs-tege/itg_specialists.pdf) (last visited Aug. 6, 2020).

<sup>18</sup> In comparison, the Small Business/Self-Employed Division's Exam Case Selection provides such guidance on assignment criteria for routing examination work in Internal Revenue Manual 1.1.16.3.5.3 and 1.1.16.3.5.3.1, *Organization and Staffing, Small Business/Self-Employed Division* (June 1, 2016).

<sup>19</sup> *Standards for Internal Control in the Federal Government*.

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IRS would likely never detect. Because the ITG function does not track or document all external potential fraud submissions, we were unable to quantify the number received, and the IRS was unable to provide the number of submissions it received between FYs 2015 and 2019.

Requiring documentation of all incoming potential fraud submissions, along with submissions selected for development by the ITG fraud subject matter expert, would help mitigate risks associated with one person performing all of these actions. Moreover, documenting and tracking all reports of potential tribal-related fraud and abuse could help the IRS identify patterns, trends, and emerging issues for the ITG function.

**Management Action:** During our audit, on December 22, 2020, the ITG function separated duties for their receipts of all external potential fraud submissions by routing them to the CP&C function.

**Recommendation 2:** The Commissioner, TE/GE Division, should establish additional internal controls for documenting, tracking, and reporting of all potential fraud submissions received by the ITG function regardless of referral development.

**Management's Response:** The IRS agreed with this recommendation and plans to review internal controls for documenting, tracking, and reporting fraud submissions and make any necessary adjustments, if applicable.

### Oversight and accountability of O&E activities

ITG employees generally did not obtain required written permission to attend O&E events in advance or adequately document their participation in outreach activities as required by internal policy and procedures. For example, the ITG function requires employees to complete a two-part documentation process to obtain approval for an O&E event and then capture and report the results.<sup>20</sup> In addition, upon completion of this documentation, the TE/GE Division's Communications and Liaison (C&L) function is required to track this information (the C&L function uses a Microsoft SharePoint calendar, referred to as the Outreach Tracker).

The first requirement for O&E documentation occurs when an ITG employee submits event details and formally requests permission to conduct the outreach via Form 14380, *TE/GE Outreach Request*. According to IRS procedures, this request should pass through several levels of oversight and approval that includes the group manager, the field operations manager, the staff assistant for the director, the C&L function, and the organization director.<sup>21</sup>

In addition, once the O&E event receives approval, the C&L function is required to send Form 14380-A, *Reporting Instructions and Feedback for TE/GE Outreach Event*, to the presenter with reporting instructions.<sup>22</sup> When the ITG function employee returns from the outreach event, they are required to submit the completed Form 14380-A to the C&L function within 10 days after the event.<sup>23</sup> O&E documentation requirements enable the TE/GE Division to capture and use facts such as the event location, audience count, staff hours, costs, planned overnights,

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<sup>20</sup> IRS Forms 14380, *TE/GE Outreach Request*, and 14380-A, *Reporting Instructions and Feedback for TE/GE Outreach Event*, and Internal Revenue Manual 22.41.1.5(3), 22.41.1.6(1-6), and 22.41.1.8(1-3), *Indian Tribal Governments, Outreach* (Sept. 21, 2018).

<sup>21</sup> Internal Revenue Manual 22.41.1.6(2)-(4), *Indian Tribal Governments, Outreach* (Sept. 21, 2018).

<sup>22</sup> Internal Revenue Manual 22.41.1.6(4), *Indian Tribal Governments, Outreach* (Sept. 21, 2018).

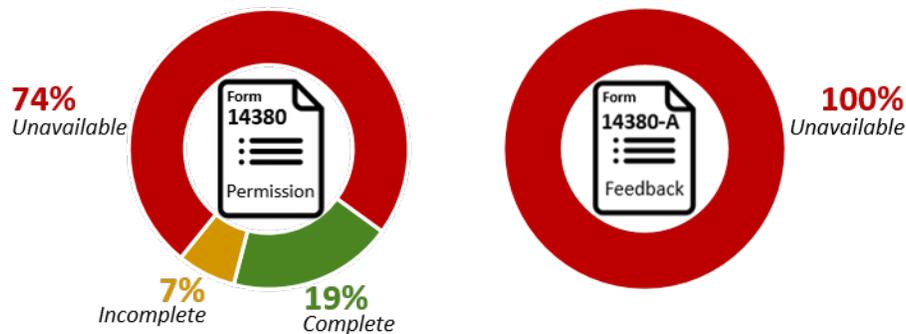
<sup>23</sup> Internal Revenue Manual 22.41.1.10(3)1, *Indian Tribal Governments, Outreach* (Sept. 21, 2018).

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topics covered, *etc.*, which could potentially improve future ITG O&E activities. For example, the TE/GE Division can use the information to provide effective oversight, ensure that O&E efforts treat stakeholders fairly and consistently, leverage human capital and financial resources efficiently, make the best use of travel funds, compliment compliance strategies, and provide evidence to design and schedule future O&E activity.

However, we identified that 109 (74 percent) of 147 O&E events did not have the required Form 14380 approval, and an additional 10 (7 percent) events were incomplete. Only 28 (19 percent) of the 147 events had a complete Form 14380. Additionally, the ITG function was unable to provide any Forms 14380-A, required upon return, for the 147 O&E events during FYs 2015 through 2019. Figure 1 shows the documentation issues we identified for ITG O&E events during FYs 2015 through 2019.

**Figure 1: ITG O&E Required Approvals (FYs 2015 Through 2019)**



*Source: Treasury Inspector General for Tax Administration (TIGTA) analysis of IRS approval documentation for ITG O&E events conducted during FYs 2015 through 2019.*

In FY 2019, the TE/GE Division made Form 14380-A obsolete because there was no information being provided in the feedback section; however, ITG management was unaware of this policy change until TIGTA brought it to their attention. The IRS stated that it planned to provide an alternative method to report O&E data and remove references to Form 14380-A from its guidance.

We requested O&E documentation from various levels in the IRS's approval chain to identify where controls for O&E documentation and oversight could be improved. For example, we requested documentation from three ITG front-line managers (the first level of O&E approval), ITG management, the C&L function, and the ITG specialists that we interviewed; however, they were unable to provide complete documentation.

Because O&E documentation was incomplete, we attempted to identify O&E events by additional means. For example, we performed Internet research for information regarding ITG O&E events and identified additional ITG presentations not among the 147 events recorded in the Outreach Tracker or in O&E documentation for FYs 2015 through 2019. Of the 21 events identified outside of the Outreach Tracker, we confirmed ITG participated in some of them by reviewing employees' travel vouchers.<sup>24</sup> Ultimately, we determined that ITG O&E data and documentation were unreliable and did not account for the actual ITG event totals.

<sup>24</sup> Some events may not have required travel reimbursement, so we could not verify attendance for all of them.

## The Indian Tribal Government Function Needs to Strengthen Internal Controls and Performance Measures

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These conditions suggest IRS management did not adequately oversee or enforce any of the documentation requirements or hold employees accountable for following procedures.

O&E tracking and reporting depend on multiple inventory control systems, including the Reporting Compliance Case Management System (RCCMS), Outreach Tracker, Web-Based Employee Technical Time System (WebETS), and ConcurGov.<sup>25</sup> However, these systems do not interface with each other, which may lead to data reliability problems such as incomplete data, *e.g.*, partial reporting of O&E event data in the RCCMS. While the RCCMS is available for electronic tracking and reporting O&E event data, the IRS does not require its use for O&E event data and documentation. A single inventory control system could track and report O&E activities more efficiently, offer reliable storage for O&E documentation, and reduce the risk of data and documentation issues. For example, the TE/GE Division could offer electronic processing of approvals, electronic storage of approved Forms 14380, and feedback documents and could have all documentation accompany the O&E data record.

It is important for IRS management to provide effective oversight and accountability of O&E documentation and procedures to ensure that O&E maximizes cost-effectiveness, adheres to budget parameters, achieves goals, and addresses customer needs.

**Recommendation 3:** The Commissioner, TE/GE Division, should ensure that O&E management oversees and complies with reporting and approval requirements for O&E events, ensure that O&E activity data are complete and reliable by developing a single inventory control system to electronically track and report O&E event data and documentation, and reinstitute reporting and documenting feedback from completed O&E events, *e.g.*, Form 14380-A, to capture facts that support and inform future O&E decisions.

**Management's Response:** The IRS agreed with this recommendation and plans to ensure that the ITG function complies with reporting and approval requirements for its O&E events. The TE/GE Division will establish procedures to ensure that O&E activity data are complete and reliable. It will also consider options to gather feedback from completed O&E events that inform future O&E decisions, as appropriate.

## The Tax Exempt and Government Entities Division Performance Measurement System for the Indian Tribal Government Function Program Is Incomplete

Various statutory and regulatory provisions require the IRS to set performance goals for organizational units and to measure the results achieved by those units. To fulfill these requirements, the IRS has established a balanced performance measurement system composed of three elements: customer satisfaction (via feedback forms, surveys, *etc.*), employee engagement, and business results.<sup>26</sup> Measuring performance also involves regular monitoring and reporting of program effectiveness and progression toward achieving established goals and

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<sup>25</sup> The RCCMS is an information system providing a single electronic case and inventory management system for all TE/GE Division functions. ConcurGov is a travel booking and reimbursement system used by the IRS for business travel. The WebETS is a web-based software application that provides TE/GE Division employees a web-based application to establish cases, maintain their inventory, and report their time as it is applied.

<sup>26</sup> Balanced Performance Measurement System; In General, 26 C.F.R. § 801.1(a)(2) (2008).

objectives. The ITG function reports the performance of its program work in the TE/GE Division Business Performance Reviews (BPR).

In FY 2019, the TE/GE Division began using the TEQMS to measure the quality of ITG compliance activities. The TEQMS identifies areas for quality improvement and finds possible employee training needs. In FY 2019, the TEQMS identified the following problem areas needing improvement in the ITG function:

- Timely and adequate managerial oversight and involvement in examinations.
- Missing pre-examination documentation.
- Workpapers and files did not adequately document steps taken, techniques, and conclusions.

In addition, the IRS generates a variety of trend data regarding the ITG function's program to gauge business results. The IRS could use this information to help the ITG function focus its priorities and base management decisions on data and evidence.<sup>27</sup>

### **The ITG function should use customer satisfaction measures to improve its program**

Customer satisfaction is a key component of a balanced performance measurement system. The IRS gathers information to measure customer satisfaction from taxpayers who received service from a particular organizational unit or who have recently interacted with an IRS program.<sup>28</sup>

**Since FY 2013, the ITG  
function has  
not surveyed O&E  
taxpayer satisfaction.**

Since its inception, the ITG function has only documented one survey of O&E participants, which occurred in FY 2013. Furthermore, ITG management did not use the FY 2013 survey information or other tools to measure impact. No other O&E customer satisfaction surveys have been documented. Because ITG customers do not have an opportunity to give formal feedback, ITG organizational performance is not being measured using the three-pronged approach (*i.e.*, customer satisfaction, employee engagement, and business results) envisioned by a balanced performance measurement system.<sup>29</sup>

The intent of the customer satisfaction component of the balanced performance measurement system is to ensure that the IRS considers and addresses customer satisfaction issues and needs in organizational planning, budgeting, and review activities. The TE/GE Division should support the IRS-wide strategic goals by routinely obtaining, reviewing, and using ITG participant feedback from either electronic surveys, traditional surveys, or other means to measure and improve taxpayer satisfaction, employee engagement, and business results, which include O&E events and taxpayer assistance efforts.<sup>30</sup>

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<sup>27</sup> Performance.gov, *Performance Framework*, [https://www.performance.gov/about/framework\\_about.html](https://www.performance.gov/about/framework_about.html) (last visited Oct. 15, 2020).

<sup>28</sup> Internal Revenue Manual 1.5.1.3.3(1), *Managing Statistics in a Balanced Measurement System, The IRS Balanced Performance Measurement System* (May 20, 2019).

<sup>29</sup> Customer Satisfaction Measures, 26 C.F.R. § 801.4 (2008).

<sup>30</sup> In comparison, the Federal, State, and Local Governments function requires reviewing and using participant feedback as an outreach standard in Internal Revenue Manual 22.40.1.4(1), *Federal, State, and Local Governments, Outreach* (Dec. 17, 2019).

## The Indian Tribal Government Function Needs to Strengthen Internal Controls and Performance Measures

In addition to the TEQMS results, the TE/GE Division could use taxpayer feedback to inform improvement strategies, enhance data used to measure performance, help identify systemic issues, and promote compliance through strategic O&E and assistance efforts.

**Recommendation 4:** The Commissioner, TE/GE Division, should routinely obtain ITG taxpayer feedback and use the results to measure and improve the program.

**Management's Response:** The IRS agreed with this recommendation and plans to review permitted options to obtain ITG taxpayer feedback and use the results to measure and improve its program, as warranted.

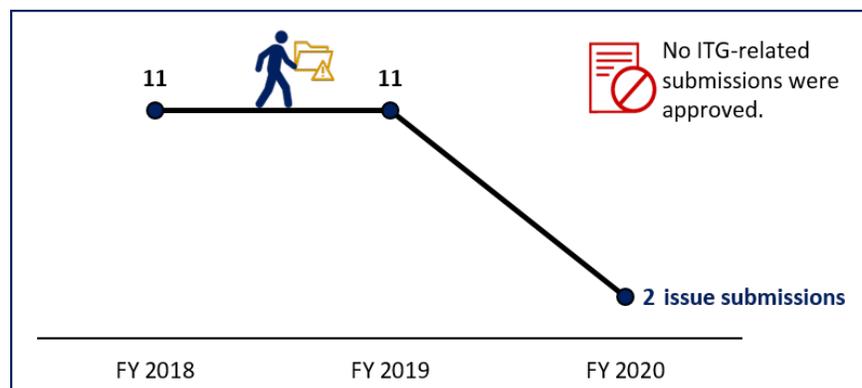
### ITG employee engagement with the compliance strategy process needs improvement

According to the IRS, one element of employee engagement is an environment in which leaders listen to employees and implement their solutions where possible. In FY 2017, the TE/GE Division began using the Compliance Issue Submission Portal to obtain ideas from employees for compliance strategies. IRS guidance explains that employees who submit issues to the Portal are the TE/GE Division's best resource to develop compliance actions. To be effective, this tool requires proactive engagement from employees who submit quality ideas.

Portal submissions do not automatically go into the TE/GE Division Workplan. They must go through the compliance strategy process for approval and are voted on by the TE/GE Division Compliance Governance Board.<sup>31</sup> The Governance Board determines the most appropriate, cost-effective, and least intrusive compliance treatments (including educational efforts).

Since the Portal opened, there have been 24 ITG-related compliance issues submitted. None of the submissions passed the Board vote, and there are currently no ITG-specific compliance strategies in place. Figure 2 shows a significant decrease in FY 2020 of ITG-related submissions to the Portal.

**Figure 2: Decline in ITG-Related Submissions and Zero Approvals**



Source: TIGTA analysis of ITG-related noncompliance issues to the Portal.

TIGTA recently reported that Exempt Organizations employees who make submissions through the Portal do not receive any kind of feedback or updates on them. This lack of feedback may discourage employees from submitting ideas, potentially resulting in missed opportunities to

<sup>31</sup> The Compliance Governance Board is comprised of six voting members representing all TE/GE Division functions and Division Counsel. It serves as the governing body over the identification, selection, assignment, and allocation of resources for all TE/GE Division compliance and enforcement activities and ensures that all compliance strategy proposals are reviewed and discussed prior to any case selection.

## The Indian Tribal Government Function Needs to Strengthen Internal Controls and Performance Measures

identify potential noncompliance.<sup>32</sup> The IRS agreed to take corrective actions by providing feedback to examiners who make submissions to the Portal, without violating internal control separation of duties for examination selection. Therefore, we are not making another recommendation for this issue.

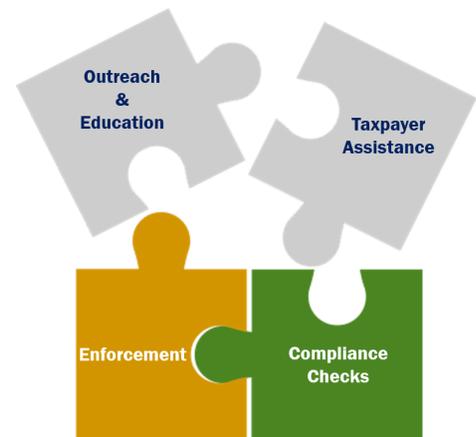
### ITG business results should include all pieces of its program

The IRS measures business results through a mix of quantitative and qualitative measures that allow the agency to determine how an organizational unit performs relative to its past performance and to identify areas for improvement. Although the TE/GE Division currently reports ITG business results within the Government Entities category in the BPR, the BPR does not include complete quantitative performance measures or comparative results for O&E and taxpayer assistance.<sup>33</sup> The TE/GE Division previously reported ITG O&E business results in its BPR; however, TE/GE Division management streamlined the BPR format by eliminating some measures, including O&E results.<sup>34</sup>

Measuring and reporting ITG O&E performance would be a valuable tool that stakeholders could use to stay informed of program progress and to help the TE/GE Division determine if improvement strategies are needed. Furthermore, the TE/GE Division should include information from ITG O&E and taxpayer assistance activities in strategic decision-making and planning to uphold the ITG function's mission, as they are critical pieces of the ITG function's program and would better represent its balanced approach to tax administration. O&E activities are supposed to increase taxpayer voluntary compliance by helping ITG customers understand how they can accurately and timely file returns; therefore, it is important that the ITG function obtain customer feedback to help reduce taxpayer noncompliance and the need for subsequent ITG assistance.<sup>35</sup>

In addition, during FYs 2015 through 2019, IRS management did not optimize the use of ITG trend data to set, measure, and report on performance as prescribed by the *Government Performance and Results Act of 1993* and the *Government Performance and Results Modernization Act of 2010*.<sup>36</sup>

For example, for FYs 2015 through 2019, TIGTA determined that nearly 30 percent of ITG program work hours went to O&E and taxpayer assistance work.<sup>37</sup> ITG O&E efforts reached an estimated 20,000 taxpayers alone, and taxpayer assistance represented more than 16 percent of ITG RCCMS casework.<sup>38</sup> However, the TE/GE Division did not compare



<sup>32</sup> There may have been additional causes for the decline in FY 2020 submissions, such as the COVID-19 pandemic.

<sup>33</sup> *TE/GE Business Performance Review*, FY 2020: Second Quarter.

<sup>34</sup> *TE/GE Business Performance Review*, FY 2014: Fourth Quarter contained projected O&E planned performance goals for FY 2015; however, they were not specific to noncompliance issues.

<sup>35</sup> Internal Revenue Manual 4.86.1.4.2(1-3), *Indian Tribal Governments (ITG) Procedures, Indian Tribal Governments Administration and Policy* (June 16, 2020).

<sup>36</sup> Pub. L. No. 103-62, 107 Stat. 285 (Aug. 3, 1993), and Pub. L. No. 111-352, 124 Stat. 3866 (Jan. 4, 2011).

<sup>37</sup> Per TIGTA's analysis of ITG WebETS data, FYs 2015 through 2019.

<sup>38</sup> Per TIGTA's analyses of ITG RCCMS and ITG O&E data, FYs 2015 through 2019.

## The Indian Tribal Government Function Needs to Strengthen Internal Controls and Performance Measures

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actual O&E performance with prior O&E established goals or measure the impact of ITG O&E and taxpayer assistance efforts. Similarly, ITG management did not use the business results from O&E or taxpayer assistance to establish compliance benchmarks or inform decisions about future compliance strategies.<sup>39</sup>

Because the TE/GE Division does not assess ITG program activity more comprehensively or report on both quantity- and quality-related issues, we analyzed available ITG data for O&E, taxpayer assistance, examinations (enforcement), and compliance checks (FYs 2015 through 2019) to determine if there were any measurable correlations that could be used to inform program decisions.

For example, we determined ITG stakeholders sometimes request O&E presentations for specific compliance topics. If ITG documented and analyzed these requests for trends, *e.g.*, the same compliance issue requested by multiple stakeholders, it could help identify weaknesses in O&E deliveries or in the ITG function communities' understanding of applicable tax laws. TE/GE Division management could take steps to assess compliance of a tribal entity before and after ITG O&E events to determine the effectiveness of O&E training. This information could help the ITG function improve O&E design and implementation. In addition, ITG management could use this same information to identify focus areas for their compliance strategies.

TIGTA also identified trends within taxpayer assistance cases that reveal specific needs within Indian tribal governments that the ITG function could address in its O&E. For example, the ITG function provides 97 percent of all taxpayer assistance after taxpayers file their returns, and 90 percent of these post-filing assistance cases relate to filing requirements. The TE/GE Division could use data to isolate the common filing requirement issues and then design and deliver specific O&E events to educate its customers. Such efforts would empower Indian tribal governments to better understand their filing requirements and reduce their reliance on the ITG function for post-filing assistance. In addition, this practice could allow ITG management to leverage their limited resources for other compliance strategy priorities.

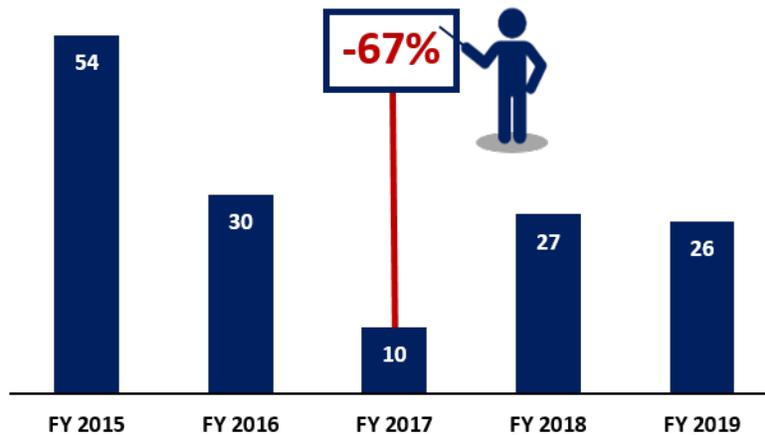
Our analysis showed the ITG function performs live O&E presentations that sometimes consist of both virtual and face-to-face components. Using virtual presentation options could expand the number of customers reached while making the best use of limited resources. Figure 3 shows the frequency of ITG O&E events for FYs 2015 through 2019 and that ITG O&E presentations dropped by 67 percent in FY 2017.<sup>40</sup>

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<sup>39</sup> Internal Revenue Manual 4.86.1.1.2(1), *Indian Tribal Governments (ITG) Procedures*, *Indian Tribal Governments Administration and Policy* (June 16, 2020); Internal Revenue Manual 1.5.1.2(1)e, *Managing Statistics in a Balanced Measurement System*, *The IRS Balanced Performance Measurement System* (May 20, 2019); and Internal Revenue Manual 22.41.1.8(3), *Indian Tribal Governments, Outreach* (Sept. 21, 2018).

<sup>40</sup> In May 2017 (FY 2017), the TE/GE Division combined the ITG and Tax Exempt Bonds functions into a single organization.

Figure 3: Frequency of ITG O&E Events



Source: TIGTA analysis of FYs 2015 through 2019 C&L Outreach Tracker data.

Although ITG O&E event frequency rebounded after the low of 10 events in FY 2017, O&E events in FY 2019 were still 52 percent lower than in FY 2015. This decline may be attributed to a combination of factors including the lack of documenting for O&E events, reorganizations, and a 58 percent reduction in ITG resources. In FYs 2018 and 2019, ITG also conducted more virtual O&E events. Moving forward, the ITG function should consider continuing or even increasing those virtual techniques to ensure that it reaches its stakeholders, especially when face-to-face presentations are not feasible.

In addition, although the ITG function does not conduct Bank Secrecy Act (Title 31) examinations, analysis showed that the ITG function delivered more Bank Secrecy Act (Title 31) O&E presentations than it did for employment tax issues. This occurred even though there was a higher frequency of employment tax issues submitted to the Portal by ITG employees and ITG employment tax examinations resulted in a higher percentage of changes to the tax returns.

These examples demonstrate the importance of including available data when measuring and reporting business results so an organization can align and optimize its program efforts. TE/GE Division management should use complete data to identify compliance issues, develop a multifaceted approach to setting goals, measure taxpayer satisfaction and improve employee engagement, resume tracking O&E efforts, and measure business results for all program work.

**Recommendation 5:** The Commissioner, TE/GE Division, should revise and report ITG performance measures to include the business results for O&E and taxpayer assistance efforts and establish an objective methodology to assess the effectiveness of O&E events.

**Management's Response:** The IRS agreed with this recommendation and plans to propose a framework to inform outreach and education activities. IRS management will explore the extent to which performance metrics could capture the effectiveness of O&E events.

## **Benefit Analyses for the Indian Tribal Government Function's Program Are Needed**

Benefit analyses help organizations focus and identify specific areas for improvement, align efforts with outputs, and quantify their outputs to optimize resource use.<sup>41</sup> However, the IRS was unable to demonstrate that it conducts benefit-related analyses that focus on any piece of the ITG function's program.

The ITG function's program contains measures that would be useful in benefit-related analyses. For example, management has relevant information available including:

- Inputs – various operating costs.
- Outputs – the number and topics of O&E events, number of taxpayers assisted, examination adjustment amounts, and compliance issues in case closures.
- Efficiencies – average cost per casework hour.
- Quality – TEQMS results.
- Outcomes – including but not limited to no-change rates, post-filing taxpayer assistance demand, and voluntary compliance rates.

Factored together, these measures would aid the TE/GE Division's decision-making regarding the ITG function's program by revealing measureable correlations between the O&E, taxpayer assistance, enforcement work, and compliance checks. Leveraging this information would also align with the IRS's strategic goal of informed decision-making and improved operational outcomes.

Currently, to evaluate the success of their compliance activities, ITG management stated that they use a mix of managerial observation (for the O&E—by observing fewer errors) and CP&C closure rate reports. However, the CP&C function's output measures for the ITG function are limited to comparing planned versus actual case closures. This practice excludes critical ITG program efforts such as O&E and taxpayer assistance cases. The IRS's current mix of managerial observation and limited closure rate analyses may lead to actions contrary to the ITG function's mission such as:

- Examining compliant taxpayers.
- Conducting ineffective O&E that does not help Indian tribal governments understand and comply with applicable tax laws to mitigate the need for enforcement.
- Assisting taxpayers with a high number of potentially preventable post-filing problems, which strains limited resources.

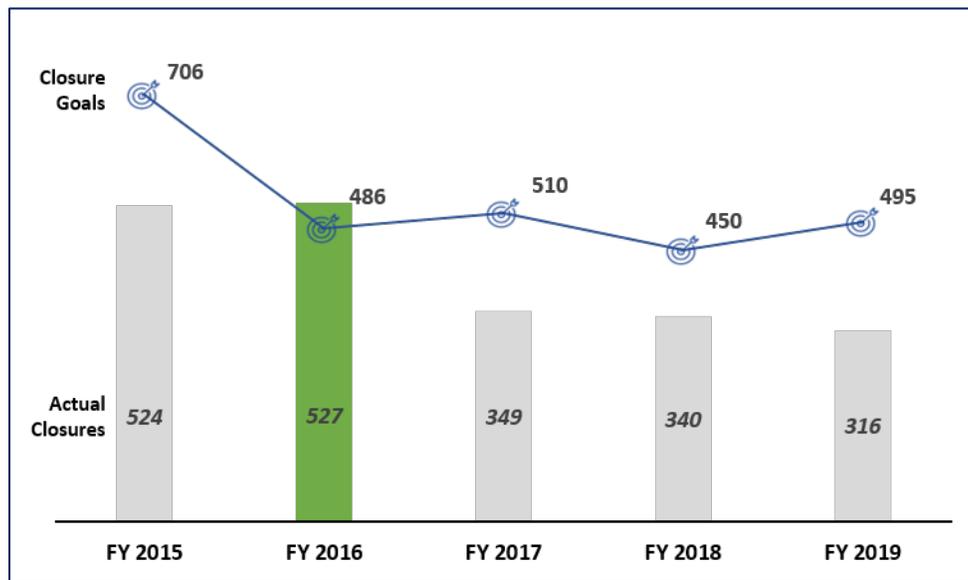
Our analysis showed that, since FY 2015, although ITG resources dropped by 58 percent, its planned closure goals decreased by only 30 percent. Figure 4 shows that not adjusting goals to

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<sup>41</sup> Office of Management and Budget, Circular No. A-94, *Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs*, (Oct. 29, 1992) and Internal Revenue Manual 1.35.16, *Financial Accounting, Managerial Cost Accounting* (July 18, 2019).

align with resources may have contributed to the ITG function's inability to meet closure goals over the past five fiscal years.<sup>42</sup>

**Figure 4: ITG Planned Closures Were Not Always Attainable**



*Source: TIGTA analysis of CP&C compliance work data.*

The TE/GE Division should consider performing its own benefit analyses to identify information that would guide program decisions and help make proportionate adjustments to the ITG function's planned closures. Management could also identify important qualitative correlations, such as recurring noncompliance issues, within program work to determine the best use of their limited resources.

### **ITG program decisions need the support of benefit analyses**

Benefit analyses provide decision-makers with a clear indication of the most efficient alternatives. Analyses should include an evaluation of the benefits and costs (quantitative and qualitative) and the main alternatives identified. The results of these analyses provide evidentiary support for IRS management's decisions to either proceed with, or opt out of, program changes.<sup>43</sup>

The TE/GE Division organizes and characterizes closure outputs by projects, activities, and principle issues identified. Each of these have names and numeric coding to track trends such as adjustments, penalties, disposal types, and compliance issues.<sup>44</sup> TIGTA analyzed ITG output data and determined that one project, the Abuse Detection and Prevention Team (ADAPT), represented 43 percent of all ITG examination adjustments between FYs 2015 and 2019. ADAPT compliance work involves tax schemes or abuses that affect multiple ITG areas of responsibility or involve law enforcement functions.

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<sup>42</sup> In FY 2019, the 35-day Government shutdown showed some correlation to the ITG function not meeting its planned goal.

<sup>43</sup> Office of Management and Budget, Circular No. A-4, *Regulatory Analysis* (Sept. 17, 2003).

<sup>44</sup> The TE/GE Division overhauled its examination process in FY 2020 and eliminated principle issue codes. These were replaced with the Issue Code Data Grid.

## **The Indian Tribal Government Function Needs to Strengthen Internal Controls and Performance Measures**

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Although ADAPT cases account for only 6 percent of all ITG closures (half of which were no-change cases), they tend to result in higher average dollar adjustments. While management decisions should not be based solely on dollars, they should be a factor in the decision-making process. For example, FYs 2015 through 2019 show an average adjustment of nearly \$900,000 per ADAPT closure, compared to approximately \$77,615 for all other closures. Pursuant to the recent restructuring, TE/GE Division management disbanded the ADAPT and dispersed the cases among all ITG specialists because they believe all field agents will gain knowledge and experience in working fraud cases.

Decisions that affect the ITG function's program must be well informed, supported by accurate analyses, and carefully implemented. However, TE/GE Division management was unable to demonstrate that they conducted benefit-related analyses before making this program change. Such a decision should be supported by data and analyses that provide evidentiary support that it is the most efficient and effective alternative identified.

**Recommendation 6:** The Commissioner, TE/GE Division, should ensure that the TE/GE Division performs benefit-related analyses that focus on the ITG function's entire program to optimize decision-making and provide evidentiary support for program choices.

**Management's Response:** The IRS agreed with this recommendation and plans to use benefit-related analysis when developing program changes.

## **The Indian Tribal Government Function Needs to Update Memoranda of Understanding**

Government liaisons provide national oversight and coordination of the development of Memorandums of Understanding (MOU). Government liaisons are the primary point of contact for managing IRS relationships. Furthermore, they have the primary responsibility for the development and coordination of the MOUs. The ITG function's assigned government liaison is responsible for MOU-related activities, such as assisting with efforts to develop MOU drafts, coordinating MOU signings, and consulting with assigned business unit(s) to ensure that new initiatives and projects are covered by the MOUs.

The IRS requires that all of its employees contact the local area ITG specialist before making any contact on Indian tribal government cases.<sup>45</sup> In addition, ITG specialists may act as consultants and liaisons by working with examiners in other IRS functions to help them interface with the Indian tribal governments. While these IRS functions are responsible for their compliance work, the ITG function plays an important role by assisting them through previously developed relationships. This places the ITG function and its specialists at the frontlines of all communication between the IRS and the Indian tribal communities. As a result, the ITG function has MOUs with other IRS business units, including:

- *Office of Indian Tribal Governments and Office of Excise Taxes.*
- *Office of Indian Tribal Governments and Small Business/Self-Employed.*

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<sup>45</sup> Internal Revenue Manual 4.86.1.1.1(2), *Indian Tribal Governments (ITG) Procedures, Indian Tribal Governments Administration and Policy* (June 16, 2020).

## The Indian Tribal Government Function Needs to Strengthen Internal Controls and Performance Measures

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The ITG function also has an MOU with the National Indian Gaming Commission that details how the two agencies share information and knowledge to fulfill their individual responsibilities related to the gaming industry by Indian tribal governments.<sup>46</sup>

We reviewed all ITG function MOUs and determined most needed updates. For example, published versions listed points of contact who were no longer employed with the IRS, multiple versions of the same MOU were published on IRS web pages, and ITG management was unable to determine if all the MOUs were still relevant.

The MOUs that are out of date could mislead stakeholders and may inadvertently cause a breach in required practices when interfacing with Indian tribal governments. This possibility could cause a communication and coordination disruption between the IRS and Indian tribal communities. Therefore, it is important that the MOUs remain updated with relevant information. In response to this audit, ITG management began revising and updating all MOUs.

**Recommendation 7:** The Commissioner, TE/GE Division, should review all current ITG function MOUs and update them accordingly.

**Management's Response:** The IRS agreed with this recommendation and plans to review all current ITG function MOUs and update them accordingly.

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<sup>46</sup> The National Indian Gaming Commission was created with the passage of the Indian Gaming Regulatory Act in 1988. The Commission supports and promotes tribal economic development, self-sufficiency, and strong tribal governments through the operation of gaming on Indian lands. Additionally, the Commission regulates and monitors certain aspects of Indian gaming.

## Appendix I

### Detailed Objective, Scope, and Methodology

Our overall objective was to determine whether the ITG function's compliance activities are effective at helping Indian tribal governments understand and comply with applicable tax laws. To accomplish our objective, we:

- Identified and reviewed relevant Internal Revenue Manual sections, internal resource guidance, internal controls, performance measures, and memoranda the ITG function uses for its compliance activities.
- Identified and reviewed all compliance activity by the ITG function for FY 2015 through FY 2019 and determined their compliance area coverage. We:
  - Completed data reliability assessments for all casework data.
  - Used RCCMS data to identify all ITG closures (examination, enforcement, tip compliance work, *etc.*) between FY 2015 and FY 2019. We analyzed RCCMS data for trends.
- Identified all sources of information (nondigital and digital) that the ITG function distributed for its O&E efforts between FY 2015 and FY 2019.
- Determined whether the ITG function conducts benefit-related analyses.
- Completed data reliability assessment for all resource data.
- Identified expenditures for all ITG compliance activity between FY 2015 and FY 2019 and trends within the activities.
- Assessed how the ITG function evaluates the success of its compliance activities. We:
  - Identified compliance activity goals, interviewed ITG management, and determined whether goals were met.
  - Requested compliance activity goals and determined whether the ITG function uses data-driven methods to select examinations.
  - Analyzed voluntary compliance rates, examination adjustment rates, *etc.*, and determined the effects from the ITG function's examination, enforcement, and O&E efforts.
  - Determined whether the ITG function obtains, tracks, and uses audience feedback.
- Reviewed ITG MOUs and determined whether they are accurate and current.
- Discussed significant trends and issues we identified in ITG compliance activity with applicable IRS management.

### **Performance of This Review**

This review was performed at the TE/GE Division offices in Sacramento, California, and Oklahoma City, Oklahoma, and with information obtained from TE/GE Division Headquarters in Washington, D.C., during the period September 2019 through February 2021. We conducted

this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Major contributors to the report were Heather M. Hill, Assistant Inspector General for Audit (Management Services and Exempt Organizations); Carl L. Aley, Director; Brian G. Foltz, Audit Manager; Catherine R. Sykes, Lead Auditor; and Sylvia Sloan-McPherson, Senior Auditor.

### **Validity and Reliability of Data From Computer-Based Systems**

We assessed the reliability of RCCMS and WebETS data for FYs 2015 through 2019 by performing electronic testing of required data elements, reviewing existing information about the data and the system that produced them, and interviewing agency officials knowledgeable about the data. We reviewed the data and ensured that each file contained the data elements we requested. We determined that the data were sufficiently reliable for purposes of this report.

### **Internal Controls Methodology**

Internal controls relate to management's plans, methods, and procedures used to meet their mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations. They include the systems for measuring, reporting, and monitoring program performance. We determined that the following internal controls were relevant to our audit objective: the IRS's policies, procedures, and practices related to ITG compliance activity. We evaluated these controls by interviewing management, reviewing Internal Revenue Manual guidance, conducting site visits with ITG subject matter experts to walk through their processes, and conducting data analyses.

Management's Response to the Draft Report



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

May 5, 2021

MEMORANDUM FOR MICHAEL E. MCKINNEY  
DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Edward T. Killen *Edward T. Killen*  
Acting Commissioner,  
Tax-Exempt and Government Entities Division (TE/GE)

SUBJECT: Draft Report – The Indian Tribal Government Office Needs to  
Strengthen Internal Controls and Performance Measures  
(Audit # 202010013)

Thank you for the opportunity to review your draft report titled: "The Indian Tribal Government Office Needs to Strengthen Internal Controls and Performance Measures." We appreciate your review of this issue and share the concern with ensuring that internal controls and performance measures are in place so that the Indian Tribal Governments function (ITG) is effective and efficient in its mission to provide Indian tribal governments top quality service and respect while helping them understand and comply with applicable tax laws.

ITG works diligently to ensure there are appropriate internal controls and separation of duties, where feasible with available resources. For instance, as acknowledged in your report, ITG took action to separate the duty to receive external potential fraud referrals by routing them to the TE/GE Compliance Planning & Classification (CP&C) function.

When considering existing ITG controls and measures, it is important to consider the unique relationships that inform ITG's operations. Since its creation in 2000, ITG has made significant efforts to ensure that as part of an agency of the Federal government, it adheres to Executive Order 13175, Consultation and Coordination With Indian Tribal Governments (Nov. 6, 2000). This Order was recently reinforced by the Presidential Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships (Jan. 26, 2021). The memorandum provides in part,

[t]he United States has a unique relationship with Indian Tribal governments, as set forth in the Constitution of the United States, treaties, statutes, Executive Orders, and court decisions. Since the formation of the Union, the United States has recognized Indian tribes as domestic dependent nations under its protection. The Federal Government has enacted numerous statutes and promulgated numerous regulations that establish and define a trust

## **The Indian Tribal Government Function Needs to Strengthen Internal Controls and Performance Measures**

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relationship with Indian tribes. ... The United States continues to work with Indian tribes on a government-to-government basis to address issues concerning Indian tribal self-government, tribal trust resources, and Indian tribal treaty and other rights.

ITG honors this “trust relationship” and adheres to all protocols ensuring a government-to-government relationship with the 574 Federally recognized Indian tribes and over 3,500 tribal entities, for which ITG has compliance responsibility and which are historically underserved communities in the United States.

It has therefore been imperative that ITG establish a government-to-government relationship built on trust and mutual respect between the Federal Government and Tribal Governments. To accomplish this, when it was created, ITG assigned a single point of contact to each tribe. Our program has further accomplished its mission through a multifaceted approach, which includes examination, encouraging voluntary compliance, and extensive outreach & education efforts throughout Indian Country. This approach successfully cultivated the desired trust and mutual respect necessary between ITG and Indian Country, ultimately allowing ITG to move away from the single point of contact model into a nationwide coverage model that was implemented in fiscal year 2018.

In order to accomplish the unique mission of ITG, specialists continue to undertake many responsibilities. ITG maintains a robust outreach and education program that timely responds to requests from tribal stakeholders to answer tax questions, offer account assistance, and present technical topics relevant to tribes. While it is ITG’s practice to provide assistance to tribes regarding applicable tax laws, we do not, as a policy, provide guidance on setting up accounting systems, software usage, or bookkeeping. As a result of these communications and outreach efforts, ITG has created and maintained a positive relationship with Indian Country that has increased compliance. Nevertheless, ITG continually seeks to improve its operations, and in fiscal year 2021, developed a comprehensive communication plan that incorporates a data-driven approach to ensure compliance and stakeholder engagement.

While TIGTA notes that IRS has a Servicewide policy found in IRM 1.2.1.5.3 “Restrictions on Examiners’ and Specialists’ Consecutive Survey or Examination Responsibilities,” this IRM is specific to examinations and does not pertain to non-examination work, such as compliance checks, taxpayer assistance, and outreach and education activities. Therefore, this Servicewide policy doesn’t apply to these ITG activities. Also, while TIGTA reports that, in fiscal year 2020, ITG disbanded the Abuse Detection and Prevention Team (ADAPT), the report acknowledges those cases continue to be worked in ITG, and TIGTA does not identify any negative impact on ITG’s ability to continue working these cases.

We appreciate the opportunity to review and comment on the draft report. Attached is a detailed response to your recommendations. If you have any questions, you or your

**The Indian Tribal Government Function Needs to  
Strengthen Internal Controls and Performance Measures**

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staff may contact me at (202) 317-8500 or Robert W. Malone, Director, Exempt Organizations and Government Entities at (202) 317-8894.

Attachment

**The Indian Tribal Government Function Needs to  
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Attachment

**Corrective Actions for TIGTA Audit Draft Report –  
The Indian Tribal Government Office Needs to Strengthen Internal Controls and  
Performance Measures (Audit # 202010013)**

The Commissioner, TE/GE Division, should:

**RECOMMENDATION 1:**

Develop guidelines to provide adequate separation of ITG specialists' duties where resources allow or develop alternative control activities that effectively leverage limited resources to address potential risks.

**CORRECTIVE ACTION:**

TE/GE will consider developing alternative control activities that effectively leverage available resources to address potential risks.

**IMPLEMENTATION DATE:**

October 15, 2021

**RESPONSIBLE OFFICIAL(S):**

Director, Exempt Organizations and Government Entities, TE/GE

**CORRECTIVE ACTION MONITORING PLAN:**

IRS will monitor this corrective action as part of our internal management system of controls.

**RECOMMENDATION 2:**

Establish additional internal controls for documenting, tracking, and reporting of all potential fraud submissions received by the ITG function regardless of referral development.

**CORRECTIVE ACTION:**

ITG and CP&C will review TE/GE's internal controls for documenting, tracking and reporting fraud submissions and make any necessary adjustments, if applicable.

**IMPLEMENTATION DATE:**

September 15, 2021

**RESPONSIBLE OFFICIAL(S):**

Director, Exempt Organizations and Government Entities, TE/GE

**CORRECTIVE ACTION MONITORING PLAN:**

IRS will monitor this corrective action as part of our internal management system of controls.

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**RECOMMENDATION 3:**

Ensure that O&E management oversees and complies with reporting and approval requirements for O&E events, ensure that O&E activity data are complete and reliable by developing a single inventory control system to electronically track and report O&E event data and documentation, and reinstitute reporting and documenting feedback from completed O&E events, e.g., Form 14380-A, to capture facts that support and inform future O&E decisions.

**CORRECTIVE ACTION:**

TE/GE will ensure that ITG complies with reporting and approval requirements for its O&E events. TE/GE will establish procedures to ensure that O&E activity data are complete and reliable. TE/GE will also consider options to gather feedback from completed O&E events that inform future O&E decisions, as appropriate.

**IMPLEMENTATION DATE:**

November 15, 2022

**RESPONSIBLE OFFICIAL(S):**

Director, Shared Services, TE/GE

**CORRECTIVE ACTION MONITORING PLAN:**

IRS will monitor this corrective action as part of our internal management system of controls.

**RECOMMENDATION 4:**

Routinely obtain ITG taxpayer feedback and use the results to measure and improve the program.

**CORRECTIVE ACTION:**

TE/GE will review permitted options to obtain ITG taxpayer feedback and use the results to measure and improve its program, as warranted.

**IMPLEMENTATION DATE:**

October 15, 2022

**RESPONSIBLE OFFICIAL(S):**

Director, Exempt Organizations and Government Entities, TE/GE

**CORRECTIVE ACTION MONITORING PLAN:**

IRS will monitor this corrective action as part of our internal management system of controls.

**The Indian Tribal Government Function Needs to  
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**RECOMMENDATION 5:**

Revise and report ITG performance measures to include the business results for O&E and taxpayer assistance efforts and establish an objective methodology to assess the effectiveness of O&E events.

**CORRECTIVE ACTION:**

ITG will propose a framework to inform outreach and education activities. ITG will explore the extent to which performance metrics could capture the effectiveness of O&E events.

**IMPLEMENTATION DATE:**

August 15, 2022

**RESPONSIBLE OFFICIAL(S):**

Director, Exempt Organizations and Government Entities, TE/GE

**CORRECTIVE ACTION MONITORING PLAN:**

IRS will monitor this corrective action as part of our internal management system of controls.

**RECOMMENDATION 6:**

Ensure that the TE/GE Division performs benefit-related analyses that focus on the ITG function's entire program to optimize decision-making and provide evidentiary support for program choices.

**CORRECTIVE ACTION:**

TE/GE will use a benefit-related analysis when developing program changes, as appropriate, for example, when considering the adequate separation of ITG specialists' duties (see PCA 1).

**IMPLEMENTATION DATE:**

February 15, 2022

**RESPONSIBLE OFFICIAL(S):**

Director, Exempt Organizations and Government Entities, TE/GE

**CORRECTIVE ACTION MONITORING PLAN:**

IRS will monitor this corrective action as part of our internal management system of controls.

**The Indian Tribal Government Function Needs to  
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**RECOMMENDATION 7:**

Review all current ITG function MOUs and update them accordingly.

**CORRECTIVE ACTION:**

ITG will review ITG MOUs and update them accordingly.

**IMPLEMENTATION DATE:**

October 15, 2022

**RESPONSIBLE OFFICIAL(S):**

Director, Exempt Organizations and Government Entities, TE/GE

**CORRECTIVE ACTION MONITORING PLAN:**

IRS will monitor this corrective action as part of our internal management system of controls.

Abbreviations

ADAPT	Abuse Detection and Prevention Team
BPR	Business Performance Review
C&L	Communications and Liaison
CP&C	Compliance, Planning and Classification
FY	Fiscal Year
I.R.C.	Internal Revenue Code
IRS	Internal Revenue Service
ITG	Indian Tribal Governments
MOU	Memorandum of Understanding
O&E	Outreach and Education
RCCMS	Reporting Compliance Case Management System
TE/GE	Tax Exempt and Government Entities
TEQMS	Tax Exempt Quality Measurement System
TIGTA	Treasury Inspector General for Tax Administration
WebETS	Web-Based Employee Technical Time System



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

(800) 366-4484

**By Web:**

[www.treasury.gov/tigta/](http://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.