

TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION



Additional Actions Are Needed to Improve Data Collection and Analysis of Whistleblower Claims and Ensure Full Compliance With the Taxpayer First Act

June 8, 2023

Report Number: 2023-35-031

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.

HIGHLIGHTS: Additional Actions Are Needed to Improve Data Collection and Analysis of Whistleblower Claims and Ensure Full Compliance With the Taxpayer First Act

Final Audit Report issued on June 8, 2023

Report Number 2023-35-031

Why TIGTA Did This Audit

This audit was initiated to determine the effectiveness of the Whistleblower Program. The Taxpayer First Act of 2019 provided for increased communication between whistleblowers and the IRS while also establishing legal protection against employer retaliation when whistleblowers report tax abuse to the IRS.

Impact on Tax Administration

Internal Revenue Code § 7623 authorizes the IRS to pay monetary awards to whistleblowers for information leading to the detection and collection of proceeds from the underpayments of tax or trial and conviction of persons guilty of violating tax laws. The Whistleblower Program plays an important role in tax administration by providing an avenue for reporting tax noncompliance. However, whistleblowers have expressed concerns about the lack of communication with the Whistleblower Office pertaining to their claims.

What TIGTA Found

From Fiscal Years 2017 through 2021, the IRS paid over \$589 million in awards to whistleblowers based on nearly \$3 billion in proceeds collected due to whistleblowers' information. However, TIGTA found that the Whistleblower Office does not capture all of the data that could be used to determine whether the whistleblower claims with the most potential to be productive are being referred for enforcement. Additionally, the Whistleblower Office should expand the electronic case management system's data recording capabilities on whistleblower allegations. For example, in Fiscal Year 2019, results of all examinations related to whistleblower claims closed by an IRS division on the Audit Information Management System totaled \$2.6 billion in refunds paid to the taxpayers about who the whistleblower complaint was made. However, given the limitations of the data compiled by the Whistleblower Office, it is unknown whether the examinations resulting in large refunds were initiated because of the whistleblower claim or to what extent the whistleblower information factored into the examination results.

The Taxpayer First Act was signed into law in July 2019 and one provision was aimed at improving the Whistleblower Program by increasing communication with whistleblowers. The Taxpayer First Act amended Internal Revenue Code § 6103 to authorize disclosure under the following three new avenues of contact between the whistleblower and the IRS: audit referral notifications, payment notifications, and status and stage requests/responses. TIGTA found that the Whistleblower Office is not fully compliant with these provisions of the Taxpayer First Act. Specifically, the Whistleblower Office did not always notify whistleblowers when their claim had been referred for examination or timely notify whistleblowers of a tax payment related to the information they provided. For example, in January 2022, the Whistleblower Office was late in mailing 64 of 195 payment notifications to whistleblowers. TIGTA determined that the Whistleblower Office's monitoring of compliance with Taxpayer First Act requirements is limited to quality assurance reviews. As a result, the Whistleblower Office is unable to assess its performance against the statutory requirements of the Taxpayer First Act.

What TIGTA Recommended

TIGTA made several recommendations, including that the IRS compile the data necessary to ensure the most productive work is referred for enforcement and ensure compliance with the Taxpayer First Act. IRS management agreed with all of the recommendations and plans to take appropriate corrective actions. For example, the Whistleblower Office will: 1) identify and track claim factors and the issues identified that generally result in productive administrative and/or judicial actions; and 2) make modifications to its electronic case management system, or its replacement, to track and analyze the impact the claim factors (and the issues identified) had on the administrative and/or judicial actions.



TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

U.S. DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20024

June 8, 2023

MEMORANDUM FOR: COMMISSIONER OF INTERNAL REVENUE

Heather Hill

FROM: Heather M. Hill
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Additional Actions Are Needed to Improve Data Collection and Analysis of Whistleblower Claims and Ensure Full Compliance With the Taxpayer First Act (Audit #202130031)

This report presents the results of our review to determine the effectiveness of the Whistleblower Program. This review is part of our Fiscal Year 2023 Annual Audit Plan and addresses the major management and performance challenge of *Increasing Domestic and International Tax Compliance and Enforcement*.

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

Copies of this report are also being sent to the Internal Revenue Service managers affected by the report recommendations. If you have any questions, please contact me or Matthew A. Weir, Assistant Inspector General for Audit (Compliance and Enforcement Operations).

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Background

Internal Revenue Code (I.R.C.) Section (§) 7623 authorizes the Internal Revenue Service (IRS) to pay monetary awards to whistleblowers for information leading to the detection and collection of tax underpayments or the trial and punishment of persons violating tax laws. Whistleblower awards are based on the proceeds collected by the IRS. The President signed the Tax Relief and Health Care Act of 2006 into law on December 20, 2006.¹ The law included amendments to I.R.C. § 7623 that made substantial changes to the award program and established the IRS Whistleblower Office.² In addition, the law requires the Whistleblower Office to submit an annual Congressional report and make the report available to the public.³

The Bipartisan Budget Act of 2018 added subsection (c) to I.R.C. § 7623. This new subsection defined the word “proceeds” to include penalties, interest, additions to tax, and additional amounts provided under the Internal Revenue laws as well as any proceeds arising from laws for which the IRS is authorized to administer, enforce, or investigate. This includes criminal fines, civil forfeitures, and violations of reporting requirements.⁴

Most recently, the Taxpayer First Act of 2019 (TFA) was enacted on July 1, 2019.⁵ The TFA consisted of 45 provisions, one of which specifically authorized the IRS to make certain disclosures to whistleblowers and their appointed representatives under I.R.C. § 6103.⁶ This law aimed to modernize the IRS by enhancing the services provided to taxpayers and improving taxpayer protections. Due to whistleblower complaints about the lack of communication, the TFA included a disclosure provision that amended I.R.C. § 6103 to authorize three new avenues of contact: audit referral notifications, payment notifications, and status and stage requests/responses.⁷ Prior to this amendment, such notifications were not permitted. The groundwork for the whistleblower provision in the TFA was set in a 2017 bipartisan bill titled “The IRS Whistleblower Improvements Act.” Although this act never passed, it aimed to improve IRS communication with whistleblowers and provide protection against retaliation.

Whistleblower claims under I.R.C. § 7623(a) and (b)

Whistleblower claims are categorized under I.R.C. § 7623(a) or (b).⁸ The Whistleblower Office will consider a claim under I.R.C. § 7623(b) (hereinafter referred to as Section 7623(b)) when it meets the following requirements:

- New information provided to the IRS on or after December 20, 2006.

¹ Pub. L. No. 109-432, 120 Stat. 2922 (2006).

² Pub. L. No. 109-432, § 406(b) established the Whistleblower Office.

³ Pub. L. No. 109-432, § 406(c) established the annual report requirement on the use of I.R.C. § 7623.

⁴ Bipartisan Budget Act of 2018, 132 Stat. 64 (2018).

⁵ Pub. L. No. 116-25, 133 Stat. 981 (2019).

⁶ Pub. L. No. 116-25, 133 Stat. 981 (2019).

⁷ The TFA provided exceptions to I.R.C. § 6103 permitting the IRS to disclose additional information and be more transparent with the whistleblower.

⁸ I.R.C. § 7623(a) awards remain as a discretionary program, while awards under I.R.C. § 7623(b) are statutorily provided if certain criteria are met.

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- The tax, penalties, interest, additions to tax, and additional proceeds in dispute from the action(s) exceed \$2,000,000.
- If the subject of a claim is an individual, the individual taxpayer's gross income also exceeds \$200,000 for any taxable year subject to administrative or judicial action.
- The claim is signed under penalty of perjury.

Awards paid under Section 7623(b) are generally 15 to 30 percent of the proceeds collected as a result of the action or from any settlement in response to the action if the IRS determines the information provided by the whistleblower substantially contributed to an administrative or judicial action.

I.R.C. § 7623(a) applies to information submitted prior to December 20, 2006, or material submitted afterwards that did not meet the dollar threshold requirements of Section 7623(b). If a claim is governed by Section 7623(a), the IRS is authorized, but not required, to pay for information resulting in the collection of proceeds.

The Budget Control Act of 2011, as amended by the American Tax Relief Act of 2012, makes whistleblower award payments under Section 7623 subject to sequestration.⁹ Accordingly, every award payment made to a whistleblower under Section 7623 is reduced by the respective fiscal year (FY) sequestration rate for the year of the payment (5.7 percent for FY 2022) regardless of when the IRS received the whistleblower's claim.¹⁰

Structure of the Whistleblower Office

The vision of the Whistleblower Office is to provide fair treatment for whistleblowers and taxpayers and support to IRS efforts in applying tax laws with integrity and fairness.¹¹ As part of their duties, the Whistleblower Office personnel:

- Monitor claims from receipt through investigation, examination, appeals, collection, award determination, and award issuance.
- Ensure specific, timely, and credible whistleblower claims are considered by IRS compliance functions.
- Evaluate claims for awards based on whistleblowers' information and collected proceeds.
- Provide litigation support, payment monitoring, and notifications to whistleblowers regarding their claim submission.
- Provide technical guidance, conduct quality assurance reviews and data validation of various aspects of the Whistleblower Program, and prepare the Annual Report to Congress.

Currently, the three primary components making up the Whistleblower Office are Executive Level, Claims Administration, and Strategic Planning and Program Operations. The Executive Level (Director's Office) consists of the Whistleblower Office leadership: Director; Associate

⁹ Sequestration refers to automatic spending cuts that occur through the withdrawal of funding for certain (but not all) Government programs. The Budget Control Act of 2011, Pub. L. No. 112-25, 125 Stat. 240 (2011); American Tax Relief Act of 2012, Pub. L. No. 112-240, 126 Stat. 2313 (2013).

¹⁰ The Office of Management and Budget decides the required reduction percentage annually.

¹¹ The Whistleblower Office is presently working on a new mission and visions statement that were not completed at the time of this report.

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Director (Strategic Planning and Program Operation); Associate Director (Claim Administration); and the Technical Advisor.

Claim Administration oversees case examination, investigation, assessments, collection of proceeds, and awards to whistleblowers. It is responsible for the following teams:

- The Case Development and Oversight team is responsible for reviewing and developing information submitted by whistleblowers, coordinating with the business units, and recommending award percentages based on feedback from the operating divisions.

This team evaluates the validity of the whistleblower submissions. It also refers cases to the appropriate business units and coordinates with the operating divisions to ensure that they evaluate whistleblower submissions in a timely manner and in accordance with established policies and procedures. In addition, its personnel monitors the cases through examination, investigation, assessment, and collection of proceeds. During the award process, this team reviews operating divisions' examination results to evaluate the whistleblower's contribution. Based on this evaluation, it performs complex award calculations to recommend an award percentage and amount, which will be submitted to the Whistleblower Office Director.¹²

- The Awards Recommendation and Coordination team reviews business unit examination results to evaluate the whistleblower's contribution, recommends an award percentage and amount for noncomplex Section 7623(a) claims, and finalizes award calculations. This team prepares and issues award determination letters. It also completes tasks that support compliance with the TFA.
- The Litigation, Monitoring, and Notifications team provides litigation support, payment monitoring, and required TFA notifications. In fulfilling its role, this team coordinates with Counsel on all matters related to petitioned award determinations and assists in complex award calculations. It also monitors target taxpayers for proceeds related to whistleblower claims and issues the TFA notifications.

Strategic Planning and Program Operations develops and issues procedural guidance and technical analysis for administering the whistleblower award program. It oversees the development of data collection requirements, performance of data analysis to measure program results, and quality assurance reviews to ensure adherence to established procedure, policy, and regulatory requirements.

Quality Assurance and Data Reporting falls under the purview of Strategic Planning and Program Operations. It reviews data collection requirements and performs data analysis and quality assurance reviews of the Whistleblower Program's work products to ensure adherence to established procedures, policies, and regulatory requirements. It identifies procedural deficiencies and recommends training needs based on quality assurance review results. In addition, it develops data collection requirements and performs data analysis to measure program results.

Although it is not a part of the Whistleblower Office currently, the Initial Claim Evaluation (ICE) unit is the primary receipt and control function performing whistleblower claim intake,

¹² During the award process, Case Development and Oversight focuses on claims initially assigned as Section 7623(b) or complex Section 7623(a) claims.

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monitoring, and award processing. It also responds to correspondence and telephone inquiries from internal and external stakeholders.

The IRS realigned the ICE unit to the Small Business/Self-Employed (SB/SE) Division in July 2016. The Whistleblower Office has strategy, policy, administration, oversight, review, and reporting responsibility for the Whistleblower Program; therefore, it still retains procedural and policy oversight of the ICE unit. The SB/SE Division has operational responsibility for the ICE unit and is required to ensure that it has the staff levels to deliver the Whistleblower Program's expectations and that it uses resources efficiently and effectively.

Whistleblower claims process

The whistleblower claims process, from submission to final award payment, can vary greatly across all claim submissions. The time from submission to payment averages nine and eleven years on Section 7623(a) and Section 7623(b) claims, respectively. A common contributing factor to increased claim processing timeframes occurs when a taxpayer appeals or litigates a case. See Appendix II for a flow chart providing an overview of the whistleblower claims process.

Intake and initial review of whistleblower claims

A whistleblower files a claim with the ICE unit by submitting Form 211, *Application for Award for Original Information*. Upon receipt, the ICE unit will determine if the claim is new or related to a previous claim. If associated with a previously filed claim, the unit will review the new submission to determine if it is a different issue or supplements a previous claim.

When the ICE unit builds a submission as a new claim, it will input the claim information, including scanned copies of the Form 211 and all supporting documentation submitted with it, into the whistleblower claims management system (e-Trak). We discuss e-Trak further in this section of the report. The ICE unit will notify the whistleblower and/or the whistleblower's representative of receipt of the claim and provide a claim number. Figure 1 shows that, for the five-year period ending FY 2022, the Whistleblower Office received 22,400 Forms 211 and built 59,400 whistleblower claims.¹³

Figure 1: Whistleblower Programs Form 211 and Claims Built in FYs 2018 Through 2022

	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	Total
Submissions Received	4,600	4,400	3,200	5,100	5,100	22,400
Claims Built	12,300	11,400	9,100	14,000	12,600	59,400

Source: FYs 2018 through 2021 Annual Whistleblower Reports. The source for FY 2022 was e-Trak data for claims built in FY 2022, since the FY 2022 Annual Whistleblower Report has not been issued. The numbers are rounded to the closest hundred.

The ICE unit also determines if the Form 211 is complete. To file a complete claim, the whistleblower must identify a taxpayer, submit the claim on a signed Form 211, include their identifying information, and reference specific allegations. If the claim submission is missing some required information (*e.g.*, taxpayer name or references to unattached allegations), the

¹³ More than one claim may be built from a submitted Form 211.

Whistleblower Office may reach out to the whistleblower for the missing information with a letter requesting a response within 60 days.

Classification of whistleblower claims

The ICE unit forwards completed claims to the SB/SE Division Campus Classification unit (hereinafter Campus Classification) at the Ogden, Utah, Campus. Campus Classification determines which business unit is best equipped to handle the claim. It reviews the claim documentation and conducts research to determine whether it falls under the purview of SB/SE General Program Examination. If so, it will also assess the claim's quality and credibility to make a decision about examination potential. Based on its research, if the claim falls under the purview of the SB/SE Division, then Campus Classification will decide whether or not the claim should be selected for examination. If the claim falls under the purview of another operating division, then Campus Classification will recommend transferring the claim to the appropriate operating division. All decisions made by Campus Classification must be appropriately justified and documented in e-Trak.

Campus Classification sends selected claims to SB/SE General Program Examination with a selection sheet detailing why it selected the claim and routing instructions. Since Campus Classification does not classify claims unrelated to the SB/SE General Program Examination, it will route such cases through the ICE unit to the appropriate business unit to be classified.¹⁴ Campus Classification may also return submissions that lack viable statutes or fall below tax tolerances to the ICE unit, allowing it to issue denial of award letters. The tax tolerances of the business units we reviewed for this audit are shown in Figure 2.

¹⁴ ICE mails a copy of the physical whistleblower claim file to SB/SE General Program Examination and Criminal Investigation. For other business units, the Subject Matter Expert (SME) function accesses the whistleblower claim file on e-Trak and forwards the downloaded claim file to the field in accordance to the business unit's processes/procedures for sending information to the field.

Figure 2: *****2*****

[REDACTED]	[REDACTED]

Source: Classification Desk Guides of the individual business units.

If a decision is made to select a claim for examination, the Subject Matter Expert (SME) function uses employees who are SMEs to serve as an additional level of review on some cases in the operating division. All potential Section 7623(b) claims and some Section 7623(a) claims are routed to the SME function for a review prior to further investigation. Campus Classification generally only routes Section 7623(a) claims to the SME function if it believes the claim may benefit from a debriefing, the whistleblower claim may include improperly obtained information, or the claim has other potential issues that could compromise the tax case. All claims assigned to a SME are subject to the debriefing requirement in which the SME must document either a debriefing or the reason no debriefing was performed. SMEs are the only employees in the operating division who may debrief a whistleblower.¹⁵ Ultimately, the SME will decide to refer the claim to the field or recommend denial.

The SME will evaluate the Form 211 and accompanying information to determine whether it may materially contribute to the identification, development, or resolution of taxpayer liabilities or collection issues. If information is identified during the SME's review that cannot be used, the information deemed to be tainted should be returned to the Whistleblower Office analyst assigned to the claim along with any analysis received from the Office of Chief Counsel regarding the use of such information. The integrity of the tax case is preserved by withholding

¹⁵ A debriefing may yield additional information that the whistleblower did not recognize as relevant to the taxpayer's matters, information about the credibility of the whistleblower, and information relevant to legal issues that can affect the use of documents. A debriefing can also lead to other sources of information. For example, it may aid in understanding complex issues or hidden relationships or may identify connections between the taxpayer and others who may be involved in the alleged noncompliance.

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the tainted information from the auditor or investigator and ensuring the SME is not involved in the examination.

Campus Classification transfers claims outside the jurisdiction of SB/SE Division’s General Program Examination to specific business units based on the subject and nature of the submission. As such, the claims may also be referred to one of the following: LB&I Division, Employment Tax, Estate and Gift, Excise Tax, TE/GE Division, or Criminal Investigation.

Claims involving domestic and foreign businesses with assets exceeding \$10 million as well as all individual returns involving international issues are under the jurisdiction of the LB&I Division, while matters involving businesses and individuals that do not meet that threshold are generally assigned to the SB/SE Division.¹⁶ Claims involving pension plans, exempt organizations, or governmental entities are referred to the TE/GE Division. The Whistleblower Office also makes direct referrals to Criminal Investigation when the allegations relate to illegal sources of income.

The business units have their own classifiers who determine if the submission merits an examination. If they decide to pursue a claim, the business unit will start the claim as a new examination or include it in an ongoing field examination. Similar to Campus Classification, these classification units make decisions about whether to select a claim for an administrative action, forward the claim to an SME, or not take action (and return the claim to the Whistleblower Office for a rejection or denial decision/determination).¹⁷

Figure 3 shows the total whistleblower claim submissions and administrative action referrals by business unit for FYs 2018 through 2021. The majority of whistleblower claims involve SB/SE Division taxpayers, and approximately 8 percent of those claims were examination referrals.

Figure 3: Whistleblower Claims Submitted and Referred to an Operating Division for Potential Administrative Action – FYs 2018 Through 2021

Business Unit	Claims	Referred	Percentage Referred
SB/SE	36,756	2,773	8%
LB&I	6,191	415	7%
TE/GE	2,256	111	5%
Criminal Investigation	1,546	852	55%
Other	53	1	2%
Total	46,802	4,152	9%

Source: Whistleblower Office Annual Reports for FYs 2018 through 2021. The FY 2022 Annual Whistleblower Report has not been issued.

Overall, in the four fiscal years ending FY 2021, 9 percent of the claims were referred to business units for examinations. Figure 4 provides the breakdown of the submitted and referred claims in Figure 3 by Section 7623(a) and (b). As shown, far more Section 7623(a) claims are received

¹⁶ Claims that involve the SB/SE or TE/GE Divisions are also sent to the LB&I Division if they are related to an LB&I Division taxpayer.

¹⁷ All potential Section 7623(b) claims and some Section 7623(a) claims are routed to the SME function for a review prior to further investigation. In these situations, the SME function will make the decision to refer the claim to the field or recommend denial of the claim. Whistleblowers whose submissions are rejected or denied as a Section 7623(b) claim can request internal IRS administrative proceedings and may be eligible to petition the tax court.

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than Section 7623(b) claims, but 15 percent more Section 7623(b) claims are referred for examination.

Figure 4: Total Whistleblower Claims Submitted and Referred to an Operating Division for Potential Administrative Action – FYs 2018 Through 2021

Business Unit	Section 7623(a) Claims			Section 7623(b) Claims		
	Claims	Referred Claims	Percentage Referred	Claims	Referred Claims	Percentage Referred
SB/SE	33,697	2,381	7%	3,059	392	13%
LB&I	4,781	147	3%	1,410	268	19%
TE/GE	1,828	76	4%	428	35	8%
Criminal Investigation	714	304	43%	832	548	66%
Other	49	1	2%	4	0	0%
Total	41,069	2,909	7%	5,733	1,243	22%

Source: Whistleblower Office Annual Reports for FYs 2018 through 2021. The FY 2022 Annual Whistleblower Report has not been issued.

Examination of whistleblower claims

When a claim is examined (administrative action), the examination generally lasts one to three years. If an examination results in the assessment of additional tax, the taxpayer who is the subject of the whistleblower claim may exercise the right to administrative and judicial appeals; the whole appeals process can take multiple years.

Examination referral results, including “surveys” and “no changes,” are provided to the ICE Unit or Whistleblower Office analysts using Form 11369, *Confidential Evaluation Report on Claim for Award*.¹⁸ Supporting documentation is also included if additional tax was assessed or items were adjusted.

Collection of tax owed and award determination for the whistleblower

Tax owed due to a whistleblower claim is subject to the same collection practices as other taxes. To address an assessment of additional tax, the taxpayer may pay it in full. If unable to pay in full, the taxpayer may also enter a payment plan or submit an offer in compromise to pay the tax.

Once the Whistleblower Office receives a Form 11369, analysts on the Awards Recommendation and Coordination team review Section 7623(a) claims. Analysts in Case Development and Oversight review Section 7623(b) claims, Section 7623(a) claims determined by managers to be complex, bulk submissions containing 20 or more claims, and claims that were assigned to them in the initial review phase. These analysts will use the information supplied in Form 11369 to assess how the whistleblower’s actions contributed to the IRS action and determine whether to recommend an award.

¹⁸ After completing and documenting the initial return screening; in-depth, precontact analysis; and/or evaluation of audit potential, but before examining any books and records, examiners decide whether to initiate an examination. If the examiner concludes that an examination is not warranted, the examiner “surveys” the return. A “no change” audit is when the taxpayer has substantiated all of the items reviewed, resulting in no change to the tax liability.

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The law requires the IRS to pay awards only from proceeds collected due to information provided by the whistleblowers. Therefore, when recommending an award, an analyst calculates the award percentage and uses it to calculate the final award payment out of the proceeds collected. If the taxpayer does not or cannot pay, the Whistleblower Office must wait for the collection statute to expire before making a determination.¹⁹ The collection statute is generally 10 years but may be extended depending on the circumstances of the case.²⁰

If the Whistleblower Office determines that a claim for an award is brought by a whistleblower who planned and initiated the actions, transactions, or events that led to the underpayment of tax, the Whistleblower Office may appropriately reduce the amount of the award percentage. Furthermore, the Whistleblower Office will deny an award if the whistleblower is convicted of conduct arising from their role in planning and initiating the events.²¹ It will also reject an award if the claim was submitted by an ineligible whistleblower; for example, an employee of the Department of the Treasury or someone who obtained the information through official duties as a Federal Government employee.²² Whistleblowers who disagree with the Whistleblower Office's final determination on an award regarding Section 7623(b) claims can petition the U.S. Tax Court.

After the IRS collects proceeds resulting from the action(s) and either one of the following has occurred, the Whistleblower Office can make a final award determination:

- The statutory period for filing a claim for refund has expired. Known as the Refund Statute Expiration Date (RSED), it is generally the latter of three years from the date of the original tax return filing or two years from the date of the tax payment.
- There is an agreement between the taxpayer and the IRS on a final determination of tax for the specific period, and the taxpayer has waived the right to file a claim for a refund.²³

The RSED represents the date the IRS considers collected proceeds finalized, and while the Whistleblower Office may begin the award determination administrative proceeding prior to the RSED, it generally does not pay awards prior to it.²⁴ The Whistleblower Office is prohibited from paying until the proceeds are final. The Whistleblower Office will monitor the collection of proceeds, appeal process, and statutes.

Whistleblower claims management system

As mentioned previously in this report section, the Whistleblower Office uses an electronic case management system, known as e-Trak, to track, monitor, and record actions taken on

¹⁹ The Collection Statute Expiration Date marks the end of the collection period, the time period established by law for the IRS to collect taxes. The Collection Statute Expiration Date is normally 10 years from the date of the assessment.

²⁰ I.R.C. § 6502(a)(2)(b). For example, there is a release of a levy under Section 6343 after such 10-year statute period, prior to the expiration of any period for collection agreed upon in writing by the IRS and the taxpayer before such release.

²¹ Internal Revenue Manual 25.2.2.6.4.4 (May 28, 2020).

²² Treasury Regulation 301.7623-1(b)(2).

²³ I.R.C. § 6511(a)–(c).

²⁴ As noted, the IRS may pay an award prior to the RSED if the taxpayer(s) subject to the action(s) and the IRS have agreed with the finality of the tax (or other liabilities) for the period(s) at issue and the taxpayer has waived the right to file a refund claim.

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whistleblower claims. The Whistleblower Office and the business units use e-Trak to track the progress of claims and access relevant documentation as they move through the review process.

Whistleblower Program award data

From Fiscal Years 2017 to 2021, the IRS paid over \$589 million in awards to whistleblowers based on nearly \$3 billion in proceeds collected due to whistleblowers' information. An award may be associated with more than one claim, so it is possible for the IRS to pay multiple whistleblowers from proceeds collected from one taxpayer. Figure 5 provides the award data for FYs 2017 through 2021.

Figure 5: Whistleblower Program Collection Award Data and Amounts (in millions) From FYs 2017 Through 2021

	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Claims Related to Awards	367	423	510	593	645
Total Number of Awards	242	217	181	169	179
Total Amount of Awards	\$34.0	\$312.2	\$120.3	\$86.6	\$36.1
Proceeds Collected	\$190.6	\$1,441.3	\$616.8	\$472.1	\$245.3
Award Amounts Percentage of Proceeds Collected	18%	22%	20%	18%	15%

Source: IRS Whistleblower Annual Reports for Fiscal Years 2017 through 2021. The FY 2022 Annual Whistleblower Report has not been issued.

Generally, the IRS will pay awards between 15 percent and 30 percent of the proceeds collected. As shown in Figure 5, the award totals have never been less than 15 or more than 22 percent of proceeds during the five preceding years.

Results of Review

Additional Actions Are Needed to Improve Data Collection and Analysis of Whistleblower Claims

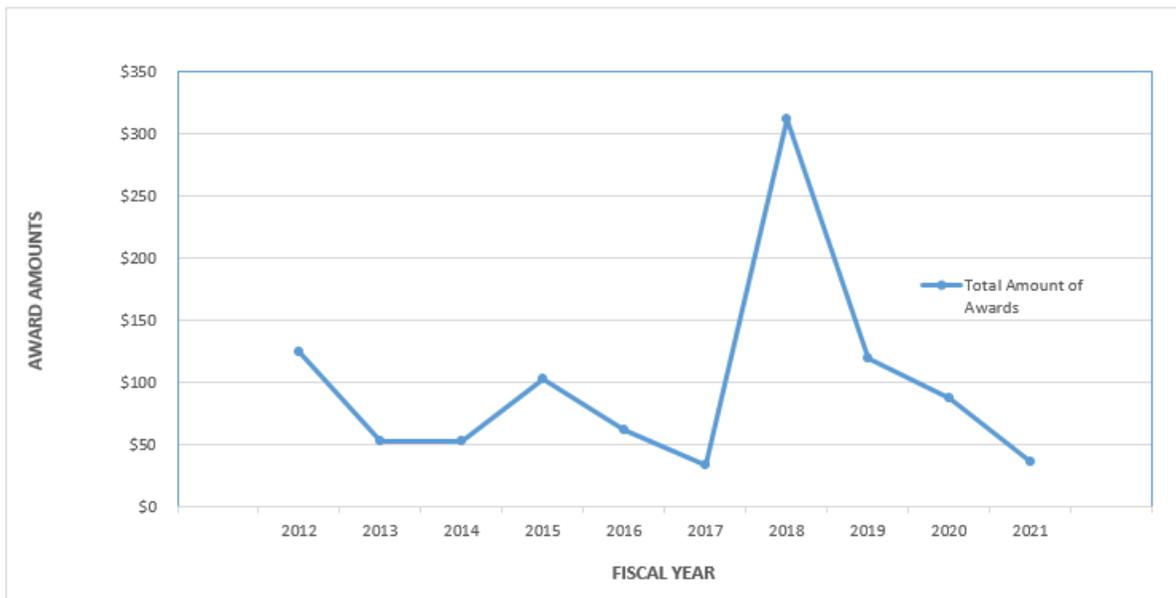
We found that the Whistleblower Office does not compile all of the data necessary to determine whether the whistleblower claims with the most potential to be productive are referred for an administrative action. While the Whistleblower Office does capture information related to the overall productivity of whistleblower claims, the office does not capture the data needed to identify factors that make a whistleblower claim more productive than another potential examination. Data on awards paid to whistleblowers do not provide an overall picture of the performance of the Whistleblower Program since not all whistleblower claims that are referred to an operating division for potential administrative action result in an award. Accordingly, the Whistleblower Office should expand e-Trak's data recording capabilities on whistleblower claims.

Whistleblower data metrics for monitoring the Whistleblower Program’s performance could be improved

Form 11369 is the primary feedback mechanism in place between the operating divisions who conduct the administrative/judicial actions and the Whistleblower Office. At the end of an examination, this form is completed by the revenue agent and sent to the Whistleblower Office. Form 11369 is also completed and sent to the Whistleblower Office if a claim was surveyed before or after assignment. Form 11369 is embedded in the e-Trak record for the closed claim, and Whistleblower Office personnel use information on it to determine whether the whistleblower potentially warrants an award.

The IRS has paid out millions of dollars to whistleblowers whose information was useful in bringing in owed taxes. Figure 6 details total whistleblower award amounts for a 10 year period.

Figure 6: Whistleblower Award Amounts Paid FYs 2012 Through 2021 (in millions)



Source: IRS Whistleblower Annual Reports for Fiscal Years 2012 through 2021. The FY 2022 Annual Whistleblower Report has not been issued.

Total payouts ranged from a low of \$34 million to a high of \$312 million. The \$312 million award total in FY 2018 appears to be an outlier.

We analyzed award data from e-Trak for the period beginning October 1, 2017, through June 30, 2021. During this period, the IRS paid 752 whistleblower awards totaling over \$507 million. Given that Section 7623(b) requires a \$2 million threshold, those awards represented 17 percent of the number of awards but 94 percent of the award total (Figure 7).

Figure 7: Whistleblower Awards Paid by I.R.C. Section, October 1, 2017, to June 30, 2021

I.R.C. Section	Award Number	Percentage	Award Total (in millions)	Percentage
7623(a)	626	83%	\$32.6	6%
7623(b)	126	17%	\$474.9	94%
Totals	752	100%	\$507.5	100%

Source: Award data from the IRS Whistleblower Office e-Trak.

Figure 8 shows the award numbers and amounts by business unit. Further analysis of these award data shows that SB/SE Division worked 72 percent of the 752 awards but that the associated award totals accounted for only 18 percent of the \$507.5 million awarded.

Figure 8: Whistleblower Awards by Division, October 1, 2017, to June 30, 2021

Division	Award Amount (in millions)	Percentage	Award Number	Percentage
Criminal Investigation	\$275.7	54%	65	9%
LB&I	\$134.4	26%	128	17%
SB/SE	\$92.9	18%	539	72%
TE/GE	\$0.43	<0%	16	2%
Other	\$4.1	1%	4	1%
Totals	\$507.53	100%	752	100%

Source: Award data from the IRS Whistleblower Office e-Trak. Percentages are rounded.

For all 752 awards in this e-Trak extract, the IRS paid awards on average 2,881 calendar days (nearly 7 years, 11 months) from the date it received the respective claims. As Figure 8 shows, there were four awards totaling more than \$4.1 million that did not include the name of the business unit on e-Trak.

Whistleblower e-Trak should capture the data from Forms 211 and 11369 that would allow the Service to identify the most productive claims

E-Trak is the system that Whistleblower Office management uses to provide statistical information on whistleblower claims to internal and external stakeholders. *Standards for Internal Control in the Federal Government* require that quality information be communicated to

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management, and others within the entity who need it, in a form and period of time that enables them to carry out their internal control and other responsibilities.²⁵

The Whistleblower Office has made changes to e-Trak over time to allow for more data capture and reporting to ensure e-Trak accurately controls Section 7623(a) and 7623(b) whistleblower claims. For example, during FY 2021, the Whistleblower Office added a data table to e-Trak with a field for the claim issue and comments. The claim issue record provides a short descriptive phrase identifying the type of potential tax noncompliance, and the associated comments record is intended for additional information describing the issue. In June 2021, the Whistleblower Office started completing the claim issue field to compile data on e-Trak pertaining to the type of allegations submitted on Form 211. The Whistleblower Office reported this data in its FY 2021 Annual Report to Congress. Figure 9 shows the 10 most common allegations submitted on Form 211 for FY 2021.

Figure 9: Ten Most Common Allegations Submitted in FY 2021

Rank	Whistleblower Allegation
1	Unreported Income
2	General Allegations of Fraud, Tax Fraud, Wire Fraud, Insurance Fraud, <i>etc.</i>
3	False Dependent Exemptions
4	Employee Versus Subcontractor
5	Failure to File
6	Wage Underreporter
7	Capital Gains Tax
8	Wages Being Paid in Cash/Under the Table
9	Rental Income
10	False Deductions/Expenses

Source: FY 2021 Whistleblower Office Annual Report to Congress.

While the Whistleblower Office now tracks the volume of allegation types reported on claims, associating the results of the respective administrative action with the corresponding whistleblower allegation would also be beneficial to the Whistleblower Office when used in conjunction with other data captured from the Forms 211 and 11369. With information on these factors that lead to productive work, the Whistleblower Office will improve its ability to identify quality claims and potentially rank priority work assignments. This information would also enable the Whistleblower Office to identify potential improvements to claim processing efficiency.

Data collection limitations do not allow the IRS to track what contributes to the productivity of whistleblower claims

The Whistleblower Office is not collecting the data from Forms 211 and 11369 that would allow the Service to identify what makes one claim more productive than another claim. Whistleblower claims that result in an enforcement action (*i.e.*, an examination) are included with other examination inventory in the Audit Information Management System (AIMS).²⁶ Currently,

²⁵ Government Accountability Office, GAO-14-704G, dated Sept. 2014.

²⁶ Enforcement action refers to an examination by the SB/SE, LB&I, or TE/GE Divisions and investigations conducted by Criminal Investigation.

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AIMS has available data to identify examination results pertaining to whistleblower cases via ICE Indicator Codes and the business unit tracking codes the IRS assigns to cases associated with whistleblower claims. While these cases are assigned such identifiers, the IRS cannot use AIMS to determine how the whistleblower information factored into the examination results. Therefore, we found that the data on AIMS could not be used to determine what closed cases were productive because of the whistleblower cases. AIMS data in Figure 10 below shows some of the data capturing limitations which do not fully allow the IRS to track the productivity of whistleblower claims.

Using the data available on AIMS, we analyzed closed examination case data for FY 2018 through the third quarter of FY 2022. At the time of our analysis, the AIMS data were not updated with the fourth quarter of FY 2022. In addition, data on AIMS do not fully account for partnership examinations, Criminal Investigation cases, and Bank Secrecy Act enforcement actions. We sorted the closed case data by business unit, and for the SB/SE Division, we analyzed its Specialty Tax program separately from the General Program Examination. Figure 10 shows the assessment totals of closed examination cases associated with a whistleblower claim.

Figure 10: Total Assessments (in millions) From AIMS for Closed Whistleblower Examinations for FYs 2018 Through the Third Quarter of FY 2022²⁷

Examination Function	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022 (through 3rd Quarter)
SB/SE General Program	\$123.60	\$85.60	\$48.70	\$119.40	\$122.00
SB/SE Specialty	\$16.60	\$20.60	\$17.60	\$16.50	\$146.90
LB&I Division	\$2,513.00	(\$2,571.00)	(\$690.00)	\$724.80	\$394.90
TE/GE Division	\$0.50	\$0.07	\$0.04	\$0.75	\$0.43
Total	\$2,653.80	(\$2,464.80)	(\$623.30)	\$861.10	\$664.23

Source: AIMS data for fourth quarter of FYs 2018 through 2021 and third quarter of FY 2022.

As stated above, we were not able to determine if the assessment or refund was the direct result of information provided by a whistleblower; we can only state that the examination module was related to a whistleblower claim. The LB&I Division examinations that resulted in significant refunds to taxpayers during FYs 2019 and 2020, \$3.26 billion, were far greater than assessments of tax for the other examination functions combined for in those years. As was described above, if whistleblower-related examinations result in more taxpayer refunds than assessments, the IRS should attempt to analyze the data and the whistleblower issues in an effort to better select cases for examination.

In response to our analysis, the IRS stated that the net refunds reflected in Figure 10 could be due to net operating losses carried back based on changes to the carryback loss provisions of the Coronavirus Aid, Relief, and Economic Security Act of 2020 which, among other things, included:

²⁷ The totals on this table may not reconcile due to rounding.

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- A provision for net operating loss carrybacks including permitting businesses to offset 100 percent of taxable income for net operating losses incurred from 2018 through 2020,
- Allowed individuals to use all of their business losses to offset nonbusiness income for tax years 2019 and 2020,
- Increases the amount of interest businesses may deduct in tax years 2019 and 2020, and
- Accelerated businesses' use of credits for prior year minimum tax liabilities.

Using AIMS data, we calculated dollars assessed per examination hour on closed whistleblower examination case data for FY 2018 through the third quarter of FY 2022. This metric can be used to assess the productivity of an examination case. However, like the assessment data above, it only applies to closed examination cases that were associated with a whistleblower claim; it does not mean that the underlying assessment or refund was related to or stemmed from the whistleblower information. Consequently, it provides incomplete information of whistleblower case productivity in the absence of specific information about examinations associated with a whistleblower claim. Figure 11 compares the dollars per hour performance for examinations of whistleblower cases by the four examination programs.

Figure 11: Dollars Assessed per Hour Worked From AIMS on Closed Whistleblower Examinations for FYs 2018 Through the Third Quarter of FY 2022

Examination Function	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022 (through 3rd Quarter)
SB/SE General Program	\$870	\$749	\$556	\$905	\$1,318
SB/SE Specialty	\$418	\$599	\$856	\$496	\$7,827
LB&I Division	\$6,544	(\$7,907)	(\$2,557)	\$2,257	\$2,363
TE/GE Division	\$30	\$5	\$71	\$11	\$11
Calculation for all Four Functions	\$4,555	(\$5,060)	(\$1,623)	\$1,745	\$2,350

Source: AIMS data for fourth quarter of FYs 2018 through 2021 and third quarter of FY 2022.

Whistleblower case closures by the LB&I Division resulted in more dollars per hour than any of the other examination programs during FYs 2018 and 2021. However, the LB&I Division dollars per hour were significantly reduced with the inclusion of large refunds during FYs 2019 and 2020, indicating unproductive cases. The dollars per hour for the TE/GE Division suggests that its whistleblower cases were lower compared to other functions given that many of its examinations are not focused on the assessment of taxes but rather the operational activities in which the various nonprofit organizations are engaged.

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The no change rate measures the percentage of closed examinations modules that closed with no additional tax assessment. Figure 12 provides the no change rates pertaining to closed whistleblower cases.

Figure 12: No Change Rates From AIMS for Whistleblower Closed Examinations for FYs 2018 Through the Third Quarter of FY 2022

Examination Function	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022 (through 3rd Quarter)
SB/SE General Program	10%	11%	13%	10%	10%
SB/SE Specialty	24%	30%	22%	22%	34%
LB&I Division	16%	16%	31%	13%	7%
TE/GE Division	7%	17%	12%	15%	19%

Source: AIMS data for fourth quarter of FYs 2018 through 2021 and third quarter of FY 2022.

Figure 13 shows the no change rates for all examinations closed by the four examination functions. While the examination programs do not establish a metric for the no change rate, their executives and management may make comparisons between programs to determine whether a program has a high/unacceptable no change rate. The no change rates of whistleblower cases for SB/SE Specialty appear to be high in every year reviewed, and for the LB&I Division, the rate appears to be high in FY 2020. They are higher compared to the overall (all closed cases) no change rates for FYs 2019 through 2021 (Figure 13). However, the no change rates of whistleblower cases for the TE/GE Division are lower for FYs 2018 through 2021 compared to its no change rates for all closed examinations. With the exception of FY 2020, the no change rates of whistleblower cases for the LB&I Division are also lower compared to its no change rates for all closed examinations.

Figure 13: No Change Rates for All Closed Examinations for FYs 2018 Through the Third Quarter of FY 2022

Examination Function	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022 (through 3rd Quarter)
SB/SE General Program	9%	9%	11%	9%	9%
SB/SE Specialty	19%	19%	17%	14%	12%
LB&I Division	20%	19%	24%	22%	24%
TE/GE Division	21%	18%	21%	23%	27%

Source: Various operating division statistics.

The Whistleblower Office management advised us that they report the no change rate for whistleblower claims in their Whistleblower Office Annual Report. Included in the Whistleblower Office Annual Report is a summary of claim closure reasons for claims that closed during that

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fiscal year. These data include the number of closures in which an examination resulted in a no change. However, their no change rate is calculated as a percentage of all claim closures by the Whistleblower Office which is not how we (and IRS Examination functions) calculate the no change rate. The no change rate is the number of examinations that result in a no change as a percentage of all closed examinations. Included in the Whistleblower Office no change rate calculation are claims that were not selected for examination (*i.e.*, rejected due to failure to sign Form 211, or incomplete Form 211, or the allegations on Form 211 were not specific, credible, or were speculative). As a result, the no change rate in the Whistleblower Office Annual Report does not measure the percentage of closed whistleblower examinations that closed with no additional tax assessment.

While Form 11369 contains information on how the whistleblower information factored into the results of the examination, it only exists inside an embedded document in e-Trak, and some of the useful information is not transcribed or aggregated. Given the limitations of data on whistleblower claims found on AIMS, we used Forms 11369 to perform further analysis, reviewing a judgmental sample of 22 whistleblower claims connected to the taxpayers with the largest refunds in the closed whistleblower examination modules we reviewed.²⁸



We found a mix of assessment modules and refund modules closed by the SB/SE General Program Examination and Specialty Program that were opened based on a whistleblower claim, but according to the respective Forms 11369, the information from the whistleblower did not always factor into the assessments. We concluded that, even when an examination resulted in an additional assessment of tax, the information from the whistleblower was not a factor.

It is clear there is additional critical information reported on Form 11369 but not entered to e-Trak. This information would assist the Whistleblower Office in evaluating the productivity of whistleblower claims. For example, if the answer is "yes" to any of the following items on Form 11369, the IRS compliance employee will also include an explanation:

- Before you received the whistleblower information, had the taxpayer already been identified as a possible subject of an audit or investigation but not yet selected for audit or investigation?
- If an audit or investigation of the taxpayer was planned but not yet started when you received the whistleblower information, was the issue(s) identified by the whistleblower within the planned scope of the audit or investigation? If "Yes," provide documents reflecting the audit plan prior to receipt of the whistleblower information.
- Was the taxpayer already under audit or investigation when you received the whistleblower information? If "Yes," provide the date the audit or investigation began in the narrative.

²⁸ A judgmental sample is a nonprobability sample, the results of which cannot be used to project to the population.

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- Did the identification, audit, and/or investigation of the issues identified in the whistleblower information begin before you received the whistleblower information? If "Yes," attach all documentation, such as audit plans, activity records, Information Document Requests, classification sheets, *etc.* that establishes the first date that the issue was identified and/or examined.²⁹

Form 11369 also provides information pertaining to the whistleblower's contribution to the closed examination. For example, if the answer is "Yes" to any of the following items, the IRS compliance employee will also include an explanation as to whether the:

- Whistleblower identified specific area(s) of noncompliance or potential issues.
- Information provided by the whistleblower led to modifications in the audit or investigation plan, such as expanding the scope of the audit or investigation.
- Whistleblower identified issue(s) not common to this type of taxpayer.
- Service used the information provided by the whistleblower to develop specific Information Document Requests, leads, or other inquiries.

Given that not all of this information is entered into e-Trak, Whistleblower Office management does not have the ability to generate management information reports to evaluate productive claims. Entering this information from Form 11369 will provide the IRS with the information linking the examination results with the whistleblower information submitted on Form 211. Whereas, AIMS shows the overall results of examinations pertaining to cases coded as being related to whistleblower claims, e-Trak would be able to show the specific impact of the whistleblower information on the examination and what factors contribute to the productivity of whistleblower claims.

Further, the Whistleblower Office does not use the data it collects to calculate the substantiation rate pertaining to claims that are referred for enforcement action. If it did so, the Whistleblower Office would be able to compare substantiated versus unsubstantiated cases in aggregate. Understanding what percentage of whistleblower claims lead to a substantiated enforcement action can be very insightful as to the overall effectiveness of the IRS Whistleblower program.

Having more complete data available to Whistleblower Office management would be consistent with key internal control standards for maintaining relevant and reliable information to help agencies achieve their objectives and improve the efficiency and effectiveness of operations.³⁰ Further, with complete data on the claim disposition, the Whistleblower Office may be able to evaluate the effectiveness of the classification process and identify ways classification could be improved. In addition to tracking the volume of allegation types reported on claims (Figure 9), the Whistleblower Office should also begin associating the examination results with the related whistleblower allegation. This would allow it to identify what types of whistleblower claims pertain to the highest tax compliance risks and identify emerging issues. Lastly, examination program management could also use this information to compare the productivity of whistleblower cases with that of non-whistleblower cases.

²⁹ The Information Document Request is a structured process used during an examination to gather information from a taxpayer.

³⁰ Government Accountability Office, GAO-01-1008G, *Internal Control Standards: Internal Control Management and Evaluation Tool* (Aug. 2001).

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We asked Whistleblower Office management if this type of data would be useful. They agreed that it would be beneficial to have additional data to allow them to better track the issues raised by whistleblowers, productivity of those issues, and the factors from the Form 211 that contributed to the productivity of the action. However, they did not agree that the Form 11369 should be the sole basis for the additional tracking.

Also, Whistleblower Office management was not sure that e-Trak would be the best vehicle for this tracking as it is currently slated for decommissioning. Whether through upgrades to e-Trak or through a replacement system, the Whistleblower Office needs to compile and analyze this information to truly assess the efficiency and effectiveness of the Whistleblower Program.

The Director, Whistleblower Office, should:

Recommendation 1: Capture and analyze the issues identified in whistleblower claims (for instance, by using relevant SAIN/UII) and confirm whether the issues were substantiated in an examination using Forms 211 and 11369 and other relevant documentation, whether through modifications to e-Trak or through the replacement for e-Trak.

Management's Response: IRS management agreed with this recommendation and the Whistleblower Office will: 1) revise Forms 211 and 11369 to allow for identification and tracking of claim factors, including the issues identified that generally result in productive administrative and/or judicial actions; and, 2) make modifications to e-Trak, or its replacement, to track and analyze the impact the claim factors (and the issues identified) had on the administrative and/or judicial actions.

The Whistleblower Program Is Not Fully Compliant With Provisions of the Taxpayer First Act

The TFA whistleblower provisions provided for increased communication between whistleblowers and the IRS while also establishing legal protection against employer retaliation when whistleblowers report tax abuse to the IRS. Prior to the passage of the TFA, it was difficult for whistleblowers to obtain information about their claim after submission to the IRS due to the limitations of I.R.C. § 6103, which restrict the disclosure of returns and return information, including information about a taxpayer's examination.³¹ The TFA requires the IRS to issue letters as a means of keeping whistleblowers apprised of their claim.³² Specifically, the Whistleblower Office is required to send the following:

- **Notification of Referral for Audit or Examination** – This letter notifies the whistleblower that the Whistleblower Office referred their claim for examination. The Whistleblower Office is required to mail this letter within 60 days of the date the claim is referred. (Hereinafter, we refer to this letter as "audit referral notification.")
- **Notification of Payment** – This letter notifies the whistleblower that the subject (taxpayer) of the whistleblower claim has made a tax payment related to the information

³¹ "Return information" includes, but is not limited to, a taxpayer identity; amount of income, payments, deductions, or tax liability; the examination and/or investigation status of a return; or any data with respect to a return or the determination of the existence, or possible existence, of a liability.

³² I.R.C. § 6103(k)(13)(B).

provided by the whistleblower. The Whistleblower Office is required to mail the letter within 60 days of a tax payment made on a finalized liability. (Hereinafter, we refer to this letter as “payment notification letter.”)

- **Status and Stage Letter** – This letter informs the whistleblower if the claim is open or closed (status) and its current phase (stage) in the claims process, subject to the requirements and conditions prescribed by the Whistleblower Office. Whistleblowers must send a written request for status and stage letters following the IRS guidance in Publication 5251, *The Whistleblower Claim Process and Timeline*, to the Whistleblower Office. The TFA did not establish a timeliness standard for responding to status and stage requests. However, the aforementioned publication states that the Whistleblower Office will only respond to one request per claim number per calendar year.

We reviewed the processes and controls that the Whistleblower Office established in response to these TFA requirements and determined that the office is not fully compliant. Specifically, we determined the following:

- The Whistleblower Office is not always notifying whistleblowers when their claim has been referred for examination.
- The Whistleblower Office is not always timely notifying whistleblowers of a tax payment related to the information provided by the whistleblower.
- The Whistleblower Office should make improvements to the status and stage request process.

The Whistleblower Office is not always notifying whistleblowers when their claims have been referred for examination

To evaluate the Whistleblower Office’s compliance with TFA requirements concerning audit referral notifications, we reviewed a random sample of 147 claims associated with examinations opened on AIMS after TFA was enacted. For each of the 147 claims, we used e-Trak to verify that there was:

- A copy of the audit referral notification.
- A note documenting the issuance of the audit referral notification.
- An appropriate justification when the Whistleblower Office did not send audit referral notifications.

We determined that the IRS did not comply with the audit referral notification provisions of the TFA in 51 (35 percent) of the 147 sampled claim cases.

The Whistleblower Office did not always send audit referral notifications

For all 147 claims in our random sample, we reviewed the claim information in e-Trak and found that the Whistleblower Office failed to issue an audit referral notification as required in 46 cases. In six of these cases, there was no claim action note or audit referral notification in the claim’s e-Trak record despite being referred for examination post-TFA. The IRS could not provide a reason as to why it did not send letters in these cases.

The same was true for the other 40 of the 46 cases. These cases were initially referred to examination prior to the TFA and then the examinations were expanded after TFA enactment.

Because the examination expansion of an earlier claim included a taxpayer listed on the initial Form 211 submission, we believe the Whistleblower Office should have sent the whistleblower an audit referral notification.³³ The Whistleblower Office stated that it was not required to send the notices.

However, while the Internal Revenue Manual (IRM) refers to the statutory requirement of sending an audit referral notification but is silent on making a determination of what constitutes a “claim referral decision” and what date that decision reflects, specifics on how to comply with this provision are included in the SB/SE Division’s ICE desk guide for the Whistleblower Program.³⁴ This desk guide specifically instructs ICE intake personnel to prepare an audit referral notification if case expansion requests come from classification or the field and if the expansion includes a taxpayer on the original Form 211.

We believe the limited guidance addressing the audit referral notification process resulted in the Whistleblower Office’s failure to issue the required notifications in 25 of the 40 aforementioned cases. The IRM should have adequate detail to explain the steps necessary to complete daily operations.³⁵ For the remaining 15 cases, the Whistleblower Office erroneously applied “do not disclose” instructions to the claim number. Do not disclose instructions should only be applied to a claim number when an audit is expanded to a taxpayer who was not named on the original Form 211. However, in these 15 cases, the taxpayers were included in the original Form 211. Therefore, the erroneous application of the do not disclose instructions prevented the notification from being sent to the whistleblower as required.

The Whistleblower Office did not timely send audit referral notifications

In another five cases, the Whistleblower Office issued an audit referral notification after the 60-day timeline had already passed. We reviewed the e-Trak system to determine when the classification team made an exam referral decision. We also compared this date against the “audit referral notification issuance” date to ensure compliance with the 60-day criteria.

While the classification desk guide procedures do not reference the 60-day timeliness standard required by the TFA, the IRM does reference the standard. The IRM states, “The letter is mailed automatically within 60 days of the date the claim is referred.” The IRS should ensure that the classification desk guide is in line with the guidance provided in the IRM. Doing so will help ensure that all provisions and timelines set forth in the TFA are met.

The Whistleblower Office is not always timely notifying whistleblowers of a tax payment related to the information provided by the whistleblower

The Whistleblower Office provided us a list of all 228 claims in RSED monitoring status as of June 30, 2021. The RSED provides an expiration date for the period during which a taxpayer can file a claim for a refund. For these cases, the Whistleblower Office usually monitors the case for two years from the date the taxpayer paid the taxes until the RSED expires. Once this time has passed, the taxpayer cannot claim a refund. Notifying the whistleblower that the subject

³³ IRS, *SB/SE Initial Claims Evaluation – ICE, Procedural Guide for Whistleblower Program*, §§ 5.10 and 5.11 (Rev. June 21, 2021).

³⁴ IRM 25.2.2.8.5, *Taxpayer First Act Letters* (May 28, 2020) and IRS, *SB/SE Initial Claims Evaluation – ICE, Procedural Guide for Whistleblower Program*, § 5.11(2)(b) (Rev. June 21, 2021).

³⁵ According to IRM 1.11.6.3(4), one purpose of the IRM is to provide “step by step instructions to carry out laws enacted by Congress per the Internal Revenue Code, Treasury Regulations, and Revenue Rulings.”

(taxpayer) of the whistleblower claim has made a tax payment related to the information provided by the whistleblower improves IRS communication with whistleblowers. To determine Whistleblower Office compliance with TFA payment notification requirements, we judgmentally sampled 40 claims from the listing provided. Given that these claims were in RSED monitoring status, the Whistleblower Office should have monitored them for payment.

The Whistleblower Office did not comply with the TFA when it failed to timely send payment notification letters within the 60-day requirement. Our review found that seven of the 40 claims in our sample did not result in additional tax assessments and were placed in the RSED monitoring status due to their association with related claims which had tax assessments. Since no payments were required on these claims, there was no need to monitor them for payment. Another 11 claims reviewed had assessments that were fully paid by the taxpayer prior to the enactment of the TFA. Accordingly, no payment notification letter was required. After adjusting for these 18 claims that did not require payment notifications, we determined that the Whistleblower Office did not timely send payment notification letters in seven of the remaining 22 claims as required by the TFA.

The Whistleblower Office is not effectively monitoring taxpayer payments

After Congress enacted the TFA, the Whistleblower Office established a monthly process extracting Master File payment information using whistleblower case data from e-Trak.³⁶ The Whistleblower Office developed this process specifically to its compliance with the TFA provisions requiring them to timely send whistleblowers a payment notification letter.

Throughout the life a whistleblower claim, e-Trak captures the dates the claims move through the various statuses. The Whistleblower Office will use this information to identify claims that are new to e-Trak's collection monitoring status and run reports in the data retrieval program to identify potential tax payments. The Whistleblower Office performs two runs every month:

- Run 1 identifies payments made for claims updated to the status of "Claim Suspended: Collection Action" in prior months. The IRS suggests that this run may also include tax payments not previously included on a Run 1 or Run 2 report.
- Run 2 identifies payments as of July 1, 2019, the effective date of the TFA, through the end of the prior month for claims updated to the status of "Claims Suspended: Collection Action" during the prior month.

In the following month, the Whistleblower Office merges the previous month's Run 2 claims with the claims in Run 1. This cycle continues each month, producing a new Run 1 and a new Run 2.

The data retrieved monthly from the Master File include codes that signify receipt of payment. The data do not differentiate between payments related to a whistleblower claim and those not related to a whistleblower claim. Further, the data do not show whether the transaction is a payment of tax, interest, or penalties. Therefore, the Whistleblower Office personnel manually researches the extracted list of claims and associated payments from both runs to determine which ones represent only tax payments on assessments related to whistleblower claims. After it identifies such payments, payment notification letters are prepared and mailed to the whistleblower.

³⁶ The Master File is the IRS database that stores various types of taxpayer account information. This database includes individual, business, and employee plans and exempt organizations data.

April 2021 Run 2 late payment notifications: We tested the April 2021 Run 2 report, which would identify all claims added to collection monitoring status in April 2021 as well as the pertinent taxpayer payments from TFA enactment through April 2021. Because this run includes new payments made in the April 2021 period as well as previously uncaptured payments in prior months, we were able to identify payment notifications that were late.

There were 36 claims on the April 2021 Run 2 report. There were 180 payments associated with the 36 claims that required payment notification letters. We determined that the Whistleblower Office failed to timely send the required payment notification letters to whistleblowers for 137 of the 180 payments associated with 24 claims. Although there were 137 tax payments associated with late notifications, for our analysis, in each claim we only counted one exception per month if multiple tax payments were made in the same month by the taxpayer. We noted 105 total late notifications as follows:

- 19 letters were sent 1 to 60 days (two months) late.
- 17 letters were sent 61 to 120 days (two to four months) late.
- 35 letters were sent 121 to 365 days (four months to one year) late.
- 34 letters were sent between one and two years late.

These late payment notification letters represented just over \$900,000 in total payments.

January 2022 Run 2 late payment notifications: We also reviewed the January 2022 Run 2 report and while improvements were made from the April 2021 report to the January 2022 report, we found late payment notifications. We reviewed all 47 claims provided in this report. There were 195 payments associated with these claims that required payment notification letters. We determined that the Whistleblower Office failed to timely send required payment notification letters to whistleblowers for 137 payments associated with 24 claims. Although there were 137 tax payments associated with late notifications, for our analysis, in each claim we only counted one exception per month if multiple tax payments were made in the same month by the taxpayer. We noted 64 total exceptions as follows:

- 18 letters were sent 1 to 60 days (two months) late.
- 5 letters were sent 61 to 120 days (two to four months) late.
- 15 letters were sent 121 to 365 days (four months to one year) late.
- 26 letters were sent over one year late.

These late payment notification letters represented a total of \$1.4 million in total payments. In response to the results, the Whistleblower Office stated that the Run 2 report contains claims that are entering the TFA Payment Monitoring process for the first time so they expect that many of the notices will be considered late. This is the first opportunity for the Awards Recommendation and Coordination and the Litigation, Monitoring and Notification teams to complete detailed research on the payments received (dating back to the implementation of TFA in July 2019). After the initial TFA Payment Notice is sent, the claims will show up on the Run 1 reports (if additional payments are received). In addition, the Whistleblower Office noted that notification letters were issued late due to one or more of the following reasons:

- The responsible business units posted the payment to the Master File late.
- The Whistleblower Office was late in transferring the claim into monitoring status.

Additional Actions Are Needed to Improve Data Collection and Analysis of Whistleblower Claims and Ensure Full Compliance With the Taxpayer First Act

- The Whistleblower Office incorrectly removed the module associated with the claim from monitoring status.
- The responsible business unit did not timely submit the claim closure paperwork to the Whistleblower Office.

Improvements can be made to the status and stage request process

To test the Whistleblower Office's compliance with the TFA provisions pertaining to Status and Stage letters, we obtained a list of whistleblower status and stage requests submitted to the Whistleblower Office between the date of TFA enactment and June 30, 2021. The Whistleblower Office provided a list containing 1,337 unique claim numbers with one or more documented requests and included request and response dates. We reviewed all 1,337 claims to determine if the requests had corresponding responses dated after the associated request. For cases with no corresponding response date, we reviewed the claim in e-Trak to determine if there was an acceptable reason why a response was not sent. When reviewing the claim in e-Trak, we did not consider the following scenarios to be exceptions:

- The Whistleblower Office issued a preliminary denial letter after it received the request(s).
- The whistleblower sent duplicate requests to the Whistleblower Office.
- The whistleblower made multiple requests on the same claim in a calendar year.
- The whistleblower submitted a request other than a status and stage request.

We identified 50 status and stage request exception cases. Specifically, we found 43 claims in which the Whistleblower Office had not yet responded to the whistleblower status and stage request and seven claims that did not contain adequate documentation that the status and stage request had a response. The Whistleblower Office agreed with 32 and did not agree with 18 exceptions.

- For seven of these 18 cases, the Whistleblower Office stated the letter was included in the e-Trak data pertaining to the master claim. However, we determined that the master claim e-Trak data for these seven cases did not document responses for the respective related claims.
- For the remaining 11 cases, we determined that the Whistleblower Office had not responded to the status and stage request in question, as of the date of our review. The Whistleblower Office stated the response was related to other claims.

As stated, the TFA did not establish a time frame requirement for the Whistleblower Office to respond to whistleblower status and stage requests. Without a timeliness standard to respond to status and stage requests, the Whistleblower Office may not be able to ensure that it responds in a timely manner. While the Whistleblower Office has the ability to establish its own timeliness standard for the issuance of these responses, they have not established one.

Compliance with TFA requirements is not monitored by the Whistleblower Office

Despite the significant and labor intensive impact of the TFA on its processes, the Whistleblower Office has made improvements in implementing the legislative requirements. The Whistleblower Office has since incorporated TFA processes in its quality assurance review

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beginning in FY 2019. These reviews check for actions performed against established procedures, provide corrective actions, and identify training needs.

Management Actions: The Whistleblower Office has taken the following steps to improve the Payment Monitoring Process:

- Reviewed claims that have remained in Form 11369 review status for over 60 days and transferred them into the collection monitoring status accordingly (reviews of payment monitoring reports *etc.*).
- Created the Litigation, Monitoring, and Notification team to focus on the statutory requirements of the TFA.
- Standardized the narratives for claims to ensure reporting consistency and payment verification requirements of the TFA.
- Developed standard operating procedures for the monthly payment monitoring process.

Figure 14 shows the disclosures made by the Whistleblower Office, as reported in the FY 2021 Whistleblower Office Annual Report to Congress, under the TFA for FY 2021.

Figure 14: Disclosures Made Under the TFA in FY 2021

Disclosure Purpose	Number of Disclosures
Audit Referral Notification	1,038
Payment Notice Letter	1,787
Status and Stage Letter	1,983
Totals	4,808

Source: Whistleblower Office FY 2021 Annual Report to Congress.

However, these disclosure figures do not reflect the percentage of disclosures that were not timely (for the two TFA notifications with time frame requirements - audit referral notifications and payment notification letters). The Whistleblower Office established timeliness standards for several points in the ICE and SB/SE Classification claim process to measure and track the compliance levels. For example, the desk guides include several deadlines:

- 30 calendar days for the ICE unit to build a claim.
- 7 calendar days to issue rejection/denial letters to whistleblowers.
- 14 calendar days to review the Form 11369 information for completeness.
- 25 calendar days to complete classification determination.

The ICE unit uses a dashboard report maintained by the Ogden Planning and Analysis unit to track progress in meeting these standards. The source of the dashboard is e-Trak along with workload reports from the ICE Unit and ICE Classification manager. Measuring the compliance levels of these timeliness standards enables the Whistleblower Office to evaluate its timeliness for processing claims. The Whistleblower Office established the timeliness requirements listed above as a control to ensure the ICE unit quickly completes specific tasks. For example, the Whistleblower Office set the following goals:

- To build 95 percent of claims within 30 days. In FY 2022, the ICE unit timely built claims for over 96 percent of the 13,657 Forms 211 it received.

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- To issue 95 percent of rejection and denial letters within 7 days. In FY 2022, the ICE unit was timely in 91 percent of the 10,399 rejection and denial letters it issued.

However, TFA timeliness requirements for audit referral notifications and payment notification letters are not measured or tracked. As a result, the Whistleblower Office is unable to assess its performance against the statutory requirements of the TFA. Given that the Whistleblower Office does not track these requirements, it does not know its own level of compliance, nor does it know how many of the audit referral notifications and payment notification letters reported in Figure 14 were timely sent. This is a significant issue with respect to our results that pertain to the total payments associated with and number of payment notification letters that were sent late. As we reported, hundreds of taxpayer payments were collected on claims for which no payment notification letter was sent by the Whistleblower Office as required by the TFA.

The Director, Whistleblower Office, should:

Recommendation 2: Improve the controls over the payment notification Run 1 and Run 2 processes and establish a time standard to respond to whistleblower status and stage requests.

Management's Response: IRS management agreed with this recommendation and the Whistleblower Office will: 1) partner with IRS Information Technology to create a TFA tab in e-Trak where all TFA actions and correspondence can be recorded; 2) implement more frequent formal quality reviews by its Quality Assurance and Data Reporting team on the payment monitoring process; and 3) establish a timeliness standard to respond to status and stage requests.

Recommendation 3: Clarify IRM and desk guide procedures, along with ensuring that they provide consistent guidance, to provide timeliness standard requirements pertaining to audit referral notifications, payment notification letters, and status and stage request responses.

Management's Response: IRS management agreed with this recommendation. The Whistleblower Office will update IRMs 25.2.1 and 25.2.2, along with its own procedural guides to ensure consistent guidance and timeliness standards pertaining to audit referral notifications, payment notifications, and status and stage request responses.

Recommendation 4: Track and monitor compliance with timeliness standards for the audit referral notifications, payment notification letters, and status and stage request responses and report this on the annual whistleblower report. Establish timeliness targets and track actual performance against the targets.

Management's Response: IRS management agreed with this recommendation and the Whistleblower Office will: 1) create reports to monitor compliance with the timeliness standard for audit referral notifications, payment notifications, and status and stage request responses; and 2) add performance metrics for compliance with the timeliness standard for notifications and responses sent to the Whistleblower Office's Annual Report to Congress.

Whistleblower Annual Reports to Congress Issuance Dates Continue to Be Inconsistent

The IRS Whistleblower Annual Report is a key communication tool that the Secretary of the Treasury and the IRS use to inform Congress and the public about the Whistleblower Program. The Tax Relief and Health Care Act of 2006 requires the IRS to issue this report to Congress.³⁷ The Whistleblower Office Annual Report to Congress also helps fulfill the directives of the TFA by providing customer service to the whistleblower. It details Whistleblower Program activities for each fiscal year and provides the IRS with an opportunity to discuss these programs' operations, outcomes, and statistics.

The Whistleblower Office issued the FY 2013 annual report more than six months after FY 2013 ended. For FY 2014, the Whistleblower Office issued the report more than eight months after the fiscal year ended. Further, the IRS did not release it to the public, via www.IRS.gov, until July 6, 2015.

While there is no statutory requirement providing when the report should be issued, the timing of the annual reports' issuance has raised some concern. In October 2015, the Government Accountability Office issued a report on the Whistleblower Program and discussed the timeliness of the report.³⁸ Its report stated:

"The [Whistleblower Office's] communication with stakeholders, including whistleblowers, is limited due to delayed annual reports to Congress, incomplete data, and limited program information for whistleblowers. Delays in issuing the annual reports have resulted in last minute revisions that introduced discrepancies and inconsistent reporting periods that preclude year-over-year comparisons."

To ensure timely and consistent information to Congress and the public, the Government Accountability Office recommended the Secretary of the Treasury issue its Whistleblower Office Annual Report to Congress no later than January 31 each year, covering the prior fiscal year.

However, the Whistleblower Office did not issue the Whistleblower Office Annual Report for Fiscal Year 2021 until June 10, 2022. When we asked the Whistleblower Office about its delayed issuance, Whistleblower Office officials said that the FY 2021 report began the clearance process, which lasted several months, in early 2022. In addition, the Director of the Whistleblower Office left the IRS while the report was still under clearance review. The transition to a new director caused additional delays because the Whistleblower Office had to wait until the onboarding process was complete to update the "Message from the Director" section. The FY 2022 Whistleblower Office Annual Report has not been issued.

³⁷ Pub. L. No. 109-432, 120 Stat. 2922 (2006).

³⁸ Government Accountability Office, GAO-16-20, *IRS Whistleblower Program: Billions Collected, but Timeliness and Communication Concerns May Discourage Whistleblowers* (Oct. 2015).

Appendix I

Detailed Objective, Scope, and Methodology

The overall objective of this audit was to determine the effectiveness of the Whistleblower Program. To accomplish our objective, we:

- Determined the organizational structure of the IRS Whistleblower Office and the whistleblower claims process, and gained an understanding of e-Trak.
- Interviewed Whistleblower Office personnel and personnel in the SB/SE Division's ICE Unit. We also interviewed whistleblower claim classifiers and SMEs in each business unit, along with whistleblower coordinators. Additionally, we held discussions with Planning and Special Programs and examination personnel who have handled cases associated with whistleblower claims.
- Reviewed and analyzed data, using e-Trak Whistleblower reports, for claims for which whistleblowers were awarded money that were closed between October 1, 2017, and June 30, 2021.
- Extracted and analyzed 18,820 examination modules associated with whistleblower claims closed from October 1, 2017, to June 30, 2022, to calculate and compare no change rates and evaluate assessments generated across the SB/SE, LB&I, and TE/GE Divisions.
- Evaluated the Whistleblower Office's compliance with its requirements under the TFA.
- Determined if the Whistleblower Office is effectively monitoring taxpayer payments. We tested the April 2021 and January 2022 Run 2 reports, which would identify all claims added to collection monitoring status in the respective month as well as the pertinent taxpayer payments from TFA enactment to the current month. We reviewed all 73 claims from the two reports to determine if payment notification letters were timely issued.
- We obtained a list of 228 claims in RSED status as of June 30, 2021, as an e-Trak Whistleblower extract from the Whistleblower Office. Due to the small number of claims in the population, we judgmentally sampled 40 claims from this listing and tested them to ensure that the Whistleblower Office appropriately notified the whistleblowers of any payments made on these claims.¹
- Determined if the Whistleblower Office is in compliance with providing taxpayers Status and Stage letters when requested. The Whistleblower Office provided a list containing 1,337 unique claim numbers with one or more documented requests and included the request and response dates. We reviewed all 1,337 claims.
- We extracted a population of 3,381 cases for examinations opened on or after TFA enactment, July 1, 2019, through June 30, 2021. Due to the large number of unique Taxpayer Identification Numbers, 3,381, we randomly sampled 147 cases to ensure an audit referral notification was issued in accordance with the whistleblower guidance under the TFA.

¹ A judgmental sample is a nonprobability sample, the results of which cannot be used to project to the population.

Performance of This Review

This review was performed with information obtained from and discussions with personnel in the IRS Whistleblower Office and the LB&I, SB/SE, and TE/GE Divisions during the period February 2021 through December 2022. Interviews with the SB/SE ICE Unit were conducted in Ogden, Utah, in November 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 Matthew A. Weir, Assistant Inspector General for Audit (Compliance and Enforcement Operations); Christina Dreyer, Director; Tim Greiner, Director; Eugenia Smoak, Audit Manager; Meaghan Tocco, Acting Audit Manager; and Shalin Basnayake, Lead Auditor.

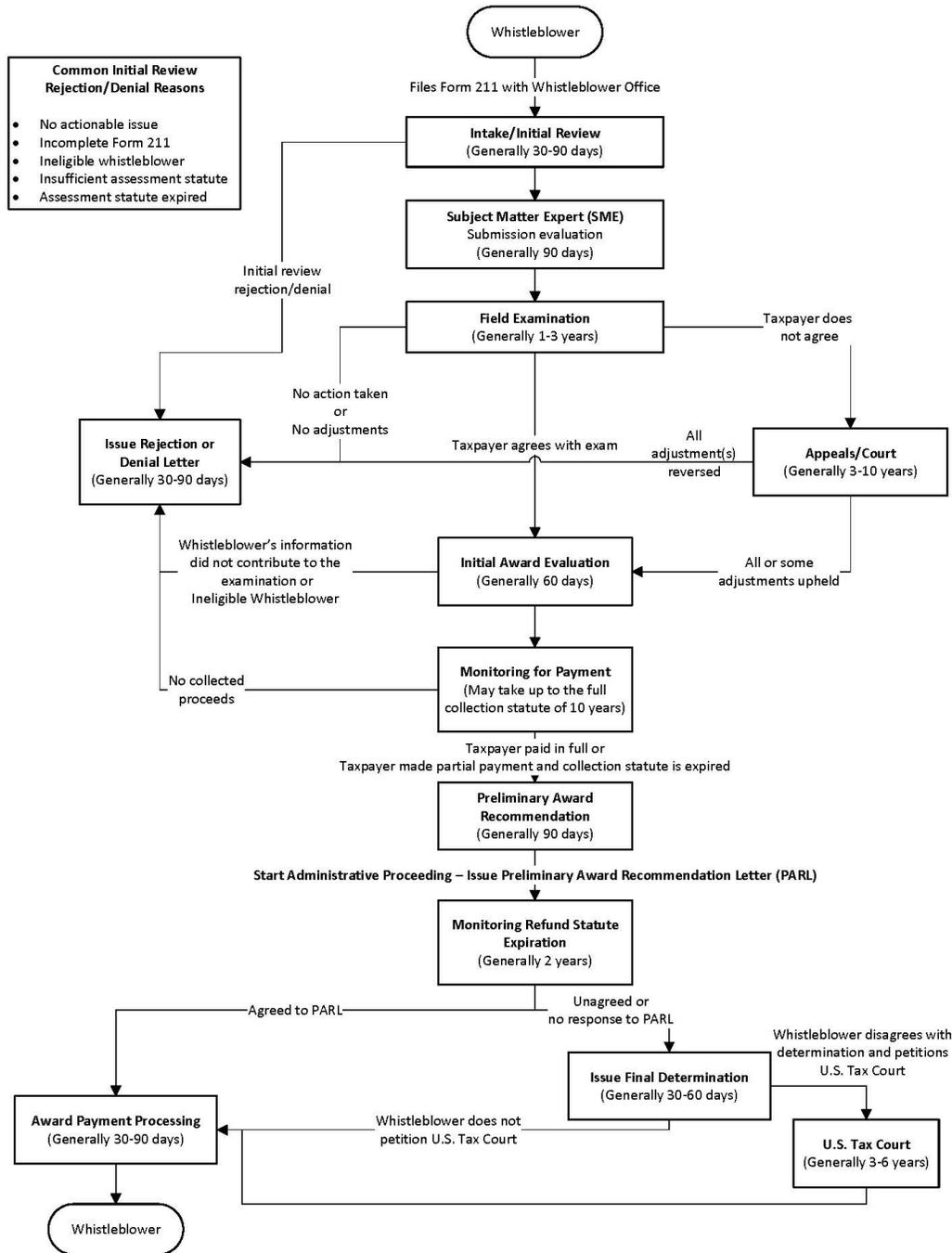
Validity and Reliability of Data From Computer-Based Systems

We performed tests to assess the reliability of data from e-Trak Whistleblower and AIMS from the Treasury Inspector General for Tax Administration's Data Center Warehouse. We tested the reliability of the data extracted from AIMS on LB&I, SB/SE, and TE/GE Divisions' closed and nonexamined cases by determining if all data fields were provided and the range of the data was correct. We tested the RSED data obtained from the Whistleblower Office by judgmentally sampling 10 claims and comparing them to the claims records in e-Trak. We tested status and stage request data obtained from the Whistleblower office by judgmentally sampling 15 claims and comparing them to the claims identifier in e-Trak. We also evaluated the data by interviewing agency officials knowledgeable about the data. 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: quality reviews of various whistleblower processes, administrative access to e-Trak, and the extensive claim review during the award process. We tested these controls by reviewing internal Whistleblower Office quality control reviews and assessing the corrective actions in the processes that pertain to our audit. We tested claims from e-Trak generated reports and examination modules to ensure the claim's existence in e-Trak. We also reviewed closing documentation associated with claims and analyzed selected award data.

Flowchart of the Whistleblower Process



Source: Publication 5251, The Whistleblower Claim Process

Appendix III

Management's Response to the Draft Report



WHISTLEBLOWER OFFICE

**DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224**

May 16, 2023

MEMORANDUM FOR: Heather M. Hill
Deputy Inspector General for Audit

FROM: John W. Hinman 
Director, Whistleblower Office

SUBJECT: Draft Audit Report – Additional Actions are Needed to Improve Data Collection and Analysis of Whistleblower Claims and Ensure Full Compliance with the Taxpayer First Act (Audit #202130031)

Thank you for the opportunity to comment on the subject draft audit report. The IRS is very interested in improving all aspects of its Whistleblower Program, and we're pleased the Whistleblower Office was able to work collaboratively with TIGTA and reach agreement on recommendations that will help improve the program.

The recommendations in TIGTA's audit report align with plans the Whistleblower Office is developing to improve the program, including obtaining better data to ensure that submissions with high-quality information are prioritized as well as improving communications with whistleblowers to keep them better informed of the status of their claims.

The IRS Whistleblower Program promotes voluntary compliance and is an important component of enforcement efforts. Since 2007, the Whistleblower Office has paid more than 2,500 awards to whistleblowers totaling over \$1.05 billion and has led to the successful collection of \$6.39 billion from non-compliant taxpayers (as of September 30, 2021).

TIGTA's audit report contains an analysis of refunds issued on cases that were associated with a whistleblower claim. The Whistleblower Office disagrees with any implication that whistleblower claims cause refunds to taxpayers. Indeed, while it might be hypothetically possible, the Whistleblower Office is not aware of any situations where a tax refund was attributable to whistleblower information. To the extent that an examination results in a tax refund, the Whistleblower Office notes that IRS personnel are required to apply the tax law in a fair and impartial manner, and if information

favorable to the taxpayer is discovered or received, the IRS properly considers it.

The Whistleblower Office notes that it is inaccurate to attempt to measure the productivity of whistleblower submissions by looking at overall examination results for cases. In addition, as noted in TIGTA's audit report, certain tables in the report exclude the results of enforcement actions related to partnership examinations, criminal investigations, and Bank Secrecy Act enforcement actions. Accordingly, such tables do not provide a complete picture of total assessments made regardless of whether certain assessments were or were not attributable to whistleblower information.

The Whistleblower Office is interested in minimizing whistleblower claims that are assigned for enforcement action that do not result in additional tax, penalties, fines, interest, or other proceeds. TIGTA's analysis showed that for Fiscal Years 2018 through 2021, nine percent of whistleblower claims submitted were referred for potential investigation, examination, or other enforcement action in IRS Business Units. The Whistleblower Office's goal is to ensure that high-value claims with specific, timely, credible, and non-speculative information are referred to IRS Business Units, reviewed by subject matter experts, and prioritized based on available enforcement resources. We believe that the TIGTA recommendations agreed to by the Whistleblower Office, along with other improvements we're developing, will help to do exactly that.

Regarding compliance with Taxpayer First Act (TFA) legislative notice requirements for whistleblower claims, TIGTA's recommendations will help to ensure we improve our processes for such notices. As noted in TIGTA's audit report, the Whistleblower Office had already made improvements to processes related to these notices, and we're interested in continued improvement. Since the enactment of TFA in 2019, the Whistleblower Office has issued thousands of notices each year. In Fiscal Year 2022 alone, the Whistleblower Office issued over 4,000 TFA notices. TFA related notices, however, have proven to be very resource intensive, as some require extracting payment information from data systems at certain intervals and a manual analysis of accounts for tax payments attributable to whistleblower information. The Whistleblower Office is exploring potential ways to simplify this analysis to make the notification processes more efficient.

Although TIGTA did not make a recommendation in its report related to the Whistleblower Program Annual Report to Congress, we agree in principle with the goal to aim for delivery of the report by January 31st of each year. The IRS does not control all factors for the release of that report, but the Whistleblower Office has identified process improvement opportunities for data validation and report preparation which we believe will significantly speed up the report delivery date in future years.

We appreciate TIGTA's review of the Whistleblower Program and the recommendations for improvement. Our detailed response to those recommendations is attached. If you have any questions, please contact me.

Attachment

**TIGTA Recommendations and IRS Responses to TIGTA Report:
Additional Actions Are Needed to Improve Data Collection and Analysis of
Whistleblower Claims and Ensure Full Compliance
with the Taxpayer First Act (Audit #202130031)**

RECOMMENDATION 1: Capture and analyze the issues identified in whistleblower claims (for instance, by using relevant SAIN/UII) and confirm whether the issues were substantiated in an examination using Forms 211 and 11369 and other relevant documentation, whether through modifications to e-Trak or through the replacement for e-Trak.

CORRECTIVE ACTION(S): The Whistleblower Office will take the following corrective actions:

1. Revise Form 211 (Application for Award for Original Information) and Form 11369 (Confidential Evaluation Report on Claim for Award) to allow for identification and tracking of claim factors (including the issues identified) that generally result in productive administrative or judicial actions.
2. Make changes to e-Trak, or the replacement for e-Trak, that allows the Whistleblower Office to track and analyze the impact the claim factors (including the issues identified) had on the administrative and/or judicial actions.

IMPLEMENTATION DATE:

The following outlines the implementation dates for the corrective actions outlined above:

1. Revise Form 211 and Form 11369 by March 31, 2024.
2. Make changes to e-Trak, or the replacement of e-Trak, by September 30, 2025.

RESPONSIBLE OFFICIAL:

Director, Whistleblower Office

CORRECTIVE ACTION MONITORING PLAN

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

RECOMMENDATION 2: Improve the controls over the payment notification Run 1 and Run 2 processes and establish a time standard to respond to whistleblower status and stage requests.

CORRECTIVE ACTION(S): The Whistleblower Office will take the following corrective actions:

1. Partner with IT to create a TFA tab in e-Trak where all TFA actions and correspondence can be recorded.
2. Implement more frequent formal quality reviews by the Whistleblower Office's Quality Assurance and Data Reporting team on the payment monitoring process.

3. Establish a timeliness standard to respond to status and stage requests.

IMPLEMENTATION DATE:

The following outlines the implementation dates for the corrective actions outlined above:

1. The Whistleblower Office will create a TFA tab in e-Trak by June 30, 2024.
2. Develop a plan for more frequent and targeted quality reviews of the payment notification process by September 30, 2023.
3. The Whistleblower Office will establish a standard to respond to status and stage requests by July 31, 2023.

RESPONSIBLE OFFICIAL:

Director, Whistleblower Office

CORRECTIVE ACTION MONITORING PLAN

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

RECOMMENDATION 3: Clarify IRM and desk guide procedures, along with ensuring that they provide consistent guidance, to provide timeliness standard requirements pertaining to audit referral notifications, payment notification letters, and status and stage request responses.

CORRECTIVE ACTION(S): The Whistleblower Office will update IRM 25.2.1, IRM 25.2.2, and Whistleblower Office procedures guides to ensure consistent guidance and timeliness standards pertaining to audit referral notifications, payment notifications, and status and stage request responses.

IMPLEMENTATION DATE:

These corrective actions will be fully implemented by December 31, 2023.

RESPONSIBLE OFFICIAL:

Director, Whistleblower Office

CORRECTIVE ACTION MONITORING PLAN

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

RECOMMENDATION 4: Track and monitor compliance with timeliness standards for the audit referral notifications, payment notification letters, and status and stage request responses and report this on the annual whistleblower report. Establish timeliness targets and track actual performance against the targets.

CORRECTIVE ACTION(S): The following list identifies corrective actions associated with this recommendation:

Additional Actions Are Needed to Improve Data Collection and Analysis of Whistleblower Claims and Ensure Full Compliance With the Taxpayer First Act

5

1. Create a report to monitor compliance with the timeliness standard for audit referral notifications.
2. Create a report to monitor compliance with the timeliness standard for payment notifications.
3. Create a report to monitor compliance with the timeliness standard for status and stage request responses.
4. Add performance metrics for compliance with the timeliness standard for notifications and responses sent to the Whistleblower Office's Annual Report to Congress.

IMPLEMENTATION DATE:

The following outlines the implementation dates for the corrective actions outlined above:

1. The report was created and implemented by the Whistleblower Office.
2. The report was created and implemented by the Whistleblower Office.
3. This report will be created and implemented by the Whistleblower Office by July 31, 2023.
4. The Annual Report to Congress for Fiscal Year 2023 will add performance metrics by June 30, 2024, for compliance with the timeliness standard for notifications and responses sent after the implementation dates for the reports outlined above.

RESPONSIBLE OFFICIAL:

Director, Whistleblower Office

CORRECTIVE ACTION MONITORING PLAN

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

Abbreviations

AIMS	Audit Information Management System
FY	Fiscal Year
ICE	Initial Claim Evaluation
I.R.C.	Internal Revenue Code
IRM	Internal Revenue Manual
IRS	Internal Revenue Service
LB&I	Large Business and International
RSED	Refund Statute Expiration Date
SB/SE	Small Business/Self-Employed
SME	Subject Matter Expert
TE/GE	Tax Exempt and Government Entities
TFA	Taxpayer First Act



**To report fraud, waste, or abuse,
contact our hotline on the web at www.tigta.gov or via e-mail at
oi.govreports@tigta.treas.gov.**

**To make suggestions to improve IRS policies, processes, or systems
affecting taxpayers, contact us at www.tigta.gov/form/suggestions.**

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