

United States Senate

WASHINGTON, DC 20510

October 6, 2010

Via Electronic Transmission

The Honorable Douglas H. Shulman
Commissioner
Internal Revenue Service
U.S. Department of the Treasury
1111 Constitution Avenue, NW, Room 3241
Washington, DC 20224

Dear Commissioner Schulman:

As Ranking Members of the Senate Committee on Finance, and the Senate Committee on Homeland Security and Governmental Affairs, Permanent Subcommittee on Investigations, we sent a letter on April 8, 2010, to 69 Inspectors General, asking among other things, about any agency interference or resistance to the OIG's oversight work.

The OIGs replied, indicating varying degrees of cooperation with their agencies. We were disappointed to learn that Department of the Treasury is among those that have not fully cooperated with the OIG. A copy of TIGTA's letter is attached for your reference. TIGTA outlined the following examples of being denied unrestricted and unfettered access to information from the Internal Revenue Service (IRS):

- TIGTA requested a six-month period of e-mail messages for 167 IRS employees to evaluate whether employees are complying with secure e-mail policies and procedures. The IRS struggled to provide TIGTA with the required information claiming resource concerns. To expedite the process, TIGTA agreed to reduce the scope of the request to a three-month period. Still after a four month wait, only 65% of the requested for employee e-mails have been provided.
- TIGTA requested the coordination of scanning activities on a sample of 20 databases within the IRS's architecture. It took 116 days to complete the project, longer than TIGTA believes it should have taken had the necessary emphasis been placed on the project. TIGTA also requested that the scan results be shared with respective database administrators so a coordinated review could be conducted. The sharing of the results took an additional 42 days.

- TIGTA requested numerous funding, approval, and management oversight documents that the IRS delayed providing. Two examples are (1) the 2010 Business Systems Modernization Expenditure Plan, which was delayed three months and (2) Integrated Financial System reports,, which took two months to obtain.
- The IRS’s GovTrip Document Management and Records Control Plan contain an improper provision stating, “GovTrip shall provide a capability for IRS to limit access by TIGTA auditors to specific vouchers or authorizations.”

Furthermore we learned that TIGTA has experienced several instances where documents requested were required to be reviewed and cleared by various levels of managers prior to releasing information to TIGTA representatives. Additionally, when TIGTA makes contacts with IRS employees directly, employees have informed TIGTA representatives that they have been instructed by their managers to not speak with TIGTA representatives without managers and/or liaisons present.

TIGTA should not be experiencing such lengthy delays in obtaining requested information. By placing due dates on requests, TIGTA can plan their schedule accordingly, and in turn provide timely reports to Congress. Moreover, it is unacceptable that TIGTA is not allowed unfettered access to documents and employees. Management pre-screening of documents is not consistent with the Inspector General Act. As you may know, that very issue was highlighted for Congress following the removal of the Amtrak Inspector General last year and Congress took swift action through the appropriations process to ensure that the practice ceased. In light of these problems, we have the following questions:

1. Prior to this letter, were you aware of these examples of interference with the OIG’s oversight function?
2. If so, when and how did you become aware of these issues and what steps have you taken to correct the problems?
3. If not, what steps do you intend to take to correct the problems?

Thank you for your cooperation and attention to this important matter. Please provide the request set forth in this letter no later than October 20, 2010. Should there be any questions, please contact Jason Foster on Senator Grassley's staff at (202) 224-4515, or Keith Ashdown on Senator Coburn's staff at (202) 224-3721.. All formal correspondence should be sent electronically in PDF format to Brian_Downey@finance-rep.senate.gov or via facsimile to (202) 228-2131.

Sincerely,



Charles E. Grassley
Ranking Member
Committee on Finance



Tom Coburn
Ranking Member
Permanent Subcommittee on Investigations
Homeland Security and Governmental Affairs Committee

Attachment



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20005

INSPECTOR GENERAL
FOR TAX
ADMINISTRATION

June 25, 2010

The Honorable Charles E. Grassley
Ranking Member
Committee on Finance
United States Senate
219 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Tom Coburn
Ranking Member
Homeland Security and Governmental
Affairs Committee
Permanent Subcommittee on Investigations
United States Senate
199 Russell Senate Office Building
Washington, D.C. 20510

Dear Senators Grassley and Coburn:

This letter responds to your April 8, 2010 request for information related to certain Treasury Inspector General for Tax Administration (TIGTA) investigations, evaluations and audits.

The second paragraph of your April 8, 2010 letter requests me to "list and describe any instances when the Department/Agency resisted and/or objected to oversight activities and/or restricted [TIGTA's] access to information." You asked that TIGTA include "descriptions of instances where information was ultimately provided but only after a substantial delay." The time period for which you requested this information is October 1, 2008 to the date of your letter. I have no instances to report in which the Internal Revenue Service (IRS) directly resisted and/or objected to TIGTA's oversight activities, or in which the IRS directly restricted TIGTA's access to information.

TIGTA's Office of Audit has, however, experienced instances where information was ultimately provided, but only after significant delays. Descriptions of such instances follow:

- **Review of Secure e-mail:** From February 18 to 24, 2010, TIGTA requested a six-month period of e-mail messages for 167 IRS employees to evaluate whether employees are complying with secure e-mail policies and procedures. Because of difficulties in the process of obtaining e-mail messages and the perceived lack of resources assigned to our data request, the IRS struggled to provide TIGTA with the requested information. To expedite the process, TIGTA agreed to reduce the scope of the request to a three-month period and the number of backup files for each employee. As of May 21, 2010, TIGTA has received e-mail messages for only 109 employees (65 percent of our sample).
- **Review of Non-Mainframe Database:** During an opening conference on January 5, 2010, TIGTA requested the coordination of scanning activities on a sample of 20 databases within the IRS's architecture. The scans were coordinated and eventually completed in 116 days, almost four months after the request. The scans required coordination among several parties; however, TIGTA believes the IRS did not place enough emphasis on this task to ensure its completion sooner. TIGTA also asked that the scan results be shared with respective database administrators so we could discuss the results at the appropriate levels. The sharing of the results took an additional 42 days.
- **Review of Modernized e-File (MeF):** TIGTA requested numerous funding, approval, and management oversight documents that the IRS delayed in providing. The following are some examples:
 - TIGTA requested the 2010 Business Systems Modernization Expenditure Plan (Plan) on August 12, 2009. The IRS responded that they could not share the draft of this document, but expected the Plan to be approved by September 30, 2009. On October 7, 2009, the IRS advised that the plan was still under review and provided another revised delivery date of November 15, 2009. TIGTA again asked for a draft copy of the Plan, but the IRS denied this request relating that it would only provide an official version. The Plan was finally received on November 9, 2009. The IRS' refusal to provide the draft plan resulted in a delay of three months.
 - On July 31, 2009, TIGTA requested Integrated Financial System reports showing funding levels for Release 6.1, 6.2, 7, and 8. On August 26, 2009, the Applications Development staff advised that the documents would be provided in mid-September. On September 21, 2009, TIGTA received documents responsive to various information requests; however, the Integrated Financial System reports were not included. The IRS liaison said

she would check on the status of the request, and TIGTA eventually received the requested reports on September 29, 2009.

- **GovTrip Access:** There is a provision in the IRS's GovTrip Document Management and Records Control Plan that states, "GovTrip shall provide a capability for IRS to limit access by TIGTA auditors to specific vouchers or authorizations."

In general, TIGTA has experienced several instances where documents requested were required to be reviewed and cleared by various levels of managers prior to releasing information to TIGTA representatives. Additionally, when TIGTA makes contacts with IRS employees directly, employees have informed TIGTA representatives that they have been instructed by their managers to not speak with TIGTA representatives without managers and/or liaisons present.

The third paragraph of your April 8, 2010 letter requests me to provide your staff with "biannual reports on all closed investigations, evaluations, and audits that were not disclosed to the public." You requested that the first biannual report include information for the period of January 1, 2009 through April 30, 2010. I have no responsive audits or evaluations to report. TIGTA's Office of Investigations closed 2,214 investigations during the requested time period. These investigations included 635 cases involving potential violations of Title 26. Federal confidentiality laws prohibit me from providing any additional information regarding these investigations. (26 U.S.C. § 6103.) The remaining investigations were broken down as follows:

- One closed investigation during this period for potential violations of Title 5 provisions.
- 1,045 closed investigations during this period for potential violations of Title 18 provisions.
- 13 closed investigations during this period for potential violations of Title 21 provisions.
- 28 closed investigations during this period for potential violations of Title 31 provisions.
- 36 closed investigations during this period for potential violations of State statutes.
- 449 closed investigations during this period for potential administrative violations.

Due to the volume of closed investigations responsive to your request, and the time-consuming process of manually redacting personally identifiable information (PII) from more than 1,500 descriptions, TIGTA's Office of Chief Counsel contacted Chris Armstrong from Senator Grassley's office on June 8, 2010, for clarification of this request. Mr. Armstrong outlined the three major items of interest to you in a June 8, 2010 e-mail, *i.e.*, closed investigations involving: (1) whistleblower retaliation; (2) a GS-15 or higher graded employee; and/or (3) submission of information to, or contacts with, Congress. On June 14, 2010, TIGTA's Office of Chief Counsel again contacted Mr.

Armstrong and requested an extension of time to provide information related to the three items of interest. Mr. Armstrong granted TIGTA an extension to June 25, 2010.

Enclosed you will find the information responsive to the three items which are of interest to your office. The enclosed documents contain case numbers, descriptions of allegations, and the dispositions of the closed investigations. Pursuant to the Privacy Act of 1974, TIGTA has redacted from the responsive documents information which could reasonably identify the subjects of investigations, as well as third party PII. TIGTA has also redacted return information, as that term is defined in 26 U.S.C. § 6103(b), from these documents. In one instance, TIGTA redacted legal advice provided by TIGTA's Office of Chief Counsel to TIGTA's Office of Investigations.

The fourth paragraph of your April 8, 2010 letter requests me to notify you immediately in the event that "any federal official threatens and/or otherwise attempts to impede [my] office's ability to communicate with Congress." I have no instances to report at this time.

Should your staff have any questions or require further information, please contact Roderick H. Fillinger, Chief Counsel, at (202) 622-3139.

Sincerely,



J. Russell George
Inspector General

Enclosure