



*The Office of Disclosure Can Improve  
Compliance With the  
Freedom of Information Act Requirements*

**August 31, 2007**

**Reference Number: 2007-10-133**

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.

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TREASURY INSPECTOR GENERAL  
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20220

August 31, 2007

**MEMORANDUM FOR** COMMISSIONER, SMALL BUSINESS/SELF-EMPLOYED  
DIVISION

*Michael R. Phillips*

**FROM:**

Michael R. Phillips  
Deputy Inspector General for Audit

**SUBJECT:**

Final Audit Report – The Office of Disclosure Can Improve  
Compliance With the Freedom of Information Act Requirements  
(Audit # 200710012)

This report presents the results of our review for denials of taxpayer requests for information. The overall objective of this review was to determine whether the Internal Revenue Service (IRS) improperly withheld information requested by taxpayers in writing, based on Freedom of Information Act (FOIA)<sup>1</sup> exemption (b)(3), in conjunction with Internal Revenue Code (I.R.C.) Section (§) 6103,<sup>2</sup> and/or FOIA exemption (b)(7), or by replying the requested records were not available.

The Treasury Inspector General for Tax Administration is required to conduct periodic audits to determine if the IRS properly denied taxpayers' written requests for tax account information. We are also required to include the results of this audit in one of our Semiannual Reports to Congress. This is our eighth review of denials of FOIA, Privacy Act of 1974,<sup>3</sup> and I.R.C. § 6103 requests.

*Impact on the Taxpayer*

The FOIA, the Privacy Act, and I.R.C. § 6103 govern the release of Federal Government records to the public. The IRS has made significant improvement in the timeliness of responses to FOIA and Privacy Act requests; however, in 4.6 percent of FOIA and Privacy Act requests, and in 14.5 percent of I.R.C. § 6103 cases sampled, the IRS improperly

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<sup>1</sup> 5 U.S.C.A. Section (§) 552 (West Supp. 2003).

<sup>2</sup> I.R.C. § 6103 (2004).

<sup>3</sup> 5 U.S.C. § 552a (2000).



## *The Office of Disclosure Can Improve Compliance With the Freedom of Information Act Requirements*

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withheld information from taxpayers. We estimate taxpayers were improperly denied information for 344 requests made under the FOIA and Privacy Act and for 815 requests made under I.R.C § 6103 that were closed during Fiscal Year 2006. This is a potential violation of taxpayer rights because tax account information was available and was not provided to taxpayers.

### *Synopsis*

In 4 (4.6 percent) of the 88 FOIA and Privacy Act cases we sampled, the IRS improperly withheld information from requestors. This represents a small improvement from the results in our Fiscal Year 2006 audit report<sup>4</sup> (6.1 percent). However, in 12 (14.5 percent) of the 83 I.R.C. § 6103 cases we sampled, the IRS improperly withheld information from requestors. This represents a significant increase over the 2.3 percent error rate for I.R.C. § 6103 cases we reported last year. We estimate 815 I.R.C. § 6103 cases were improperly denied for Fiscal Year 2006. We believe errors occurred mainly because of inadequate research or simple oversight by the Disclosure office caseworkers.

Since Fiscal Year 2000, the IRS has made significant improvement in responding timely to FOIA and Privacy Act requests. For example, responses to only 2 (2.3 percent) of the 88 cases in our sample were untimely. In our opinion, the delays in these 2 cases were not significant because the responses were untimely by just 1 day or 2 days. In our audits over the previous 7 years, the percentages of untimely responses ranged from 7.3 percent to 43.5 percent. The increase in responsiveness may, in part, be due to a significant decrease in the numbers of FOIA and Privacy Act cases received during Fiscal Year 2006 compared to Fiscal Year 2005.

### *Response*

We made no specific recommendations during this audit because recommendations made in our previous audit reports are still valid for the issues reported. However, IRS management reviewed this report prior to issuance and agreed with the facts, findings, and outcome measures presented.

Copies of this report are also being sent to the IRS managers affected by the report findings. Please contact me at (202) 622-6510 if you have questions or Nancy A. Nakamura, Assistant Inspector General for Audit (Headquarters Operations and Exempt Organizations Programs), at (202) 622-8500.

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<sup>4</sup> *Compliance With Freedom of Information Act Requirements Has Increased* (Reference Number 2006-10-129, dated August 31, 2006).



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*The Office of Disclosure Can Improve Compliance With the  
Freedom of Information Act Requirements*

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## *Table of Contents*

<b>Background</b> .....	Page 1
<b>Results of Review</b> .....	Page 4
The Percentage of Improperly Denied Internal Revenue Code Section 6103 Requests for Information Has Increased.....	Page 4
Disclosure Offices Improved the Timeliness of Responding to Requests for Information .....	Page 6
<b>Appendices</b>	
Appendix I – Detailed Objective, Scope, and Methodology .....	Page 8
Appendix II – Major Contributors to This Report .....	Page 11
Appendix III – Report Distribution List .....	Page 12
Appendix IV – Outcome Measures.....	Page 13



*The Office of Disclosure Can Improve Compliance With the  
Freedom of Information Act Requirements*

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## *Abbreviations*

FOIA	Freedom of Information Act
I.R.C.	Internal Revenue Code
IRS	Internal Revenue Service



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*The Office of Disclosure Can Improve Compliance With the  
Freedom of Information Act Requirements*

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## *Background*

### **Statutory requirements**

The Internal Revenue Service (IRS) Restructuring and Reform Act of 1998<sup>1</sup> requires the Treasury Inspector General for Tax Administration to:

*. . . conduct periodic audits of a statistically valid sample of the total number of determinations made by the Internal Revenue Service to deny written requests to disclose information to taxpayers on the basis of section 6103<sup>2</sup> of this title<sup>3</sup> or section 552(b)(7) of title 5, United States Code.<sup>4</sup>*

The three primary laws that govern the types of requests for information reviewed in this audit include the following:

**The Freedom of Information Act (FOIA)** requires Federal Government agencies to make records available to the public upon request unless specifically exempted.

Information that is “specifically exempted from disclosure by statute” is one of the exemptions. Internal Revenue Code (I.R.C.) Section (§) 6103 is an example of such a statute; it protects the confidentiality of tax returns and return information. Records or information compiled for law enforcement purposes are also exempt from disclosure under the FOIA.

***The FOIA requires agencies to make records of the Federal Government available to the public upon request unless specifically exempt.***

**The Privacy Act of 1974<sup>5</sup>** prohibits Federal Government agencies from relying on any exemption in the Privacy Act to withhold records that are otherwise available to an individual under the FOIA.

**I.R.C. § 6103**, while protecting the confidentiality of taxpayers’ returns and return information, does allow a taxpayer, or a person designated by the taxpayer, to request and receive the taxpayer’s specific documents and information.

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<sup>1</sup> Pub. L. No. 105-206, 112 Stat. 685 (codified as amended in scattered sections of 2 U.S.C., 5 U.S.C. app., 16 U.S.C., 19 U.S.C., 22 U.S.C., 23 U.S.C., 26 U.S.C., 31 U.S.C., 38 U.S.C., and 49 U.S.C.). The requirement for this audit is in Section (§) 1102 (d)(3)(A) of the statute.

<sup>2</sup> Internal Revenue Code § 6103 (2001).

<sup>3</sup> 26 U.S.C.

<sup>4</sup> Freedom of Information Act, 5 U.S.C.A. § 552 (West Supp. 2003).

<sup>5</sup> 5 U.S.C. § 552a (2000).



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*The Office of Disclosure Can Improve Compliance With the  
Freedom of Information Act Requirements*

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### **IRS processing and reporting of FOIA cases**

Within the IRS, the Small Business/Self-Employed Division Office of Communications, Liaison, and Disclosure (through its Governmental Liaison and Disclosure Branch) is responsible for ensuring compliance with the FOIA, the Privacy Act, and I.R.C. § 6103 is timely. The Office of Disclosure within the Governmental Liaison and Disclosure Branch sets policy and issues instructions, guidelines, and procedures to ensure compliance with the disclosure statutes.

The Disclosure offices within the Small Business/Self-Employed Division processed the FOIA and Privacy Act requests and the I.R.C. § 6103 requests received by the IRS through January 2007. In its FOIA Annual Report for Fiscal Year 2006, the IRS reported that a total of 25,404 FOIA/Privacy Act cases were processed.<sup>6</sup> This represents a decrease of 40 percent from the 42,533 FOIA/Privacy Act cases processed during Fiscal Year 2005. The IRS attributes this decrease to:

- A decrease in the number of frivolous requests.
- An increase in IRS employee awareness of what kinds of documents can be released to taxpayers without formal FOIA/Privacy Act requests.
- Taxpayers being able to receive more information from the IRS web sites without having to make formal requests.

The IRS denied or partially denied information to requestors in 2,489 (9.8 percent) of the 25,404 FOIA/Privacy Act cases processed in Fiscal Year 2006. It advised requestors that there were no records responsive to requests in 5,372 (21.1 percent) of the 25,404 cases. The remaining cases were either granted in full or closed for miscellaneous reasons, such as the request was improper or had been previously granted. We selected our sample of cases for audit review of denials of FOIA/Privacy Act requests from a total population of 7,565 cases closed during Fiscal Year 2006 that either were fully denied, were partially denied, or for which no records were found to be responsive to the requests.<sup>7</sup>

### **Audit limitations and standards**

Individual IRS Disclosure offices or other IRS offices having custody of the records processed written requests for information made under I.R.C. § 6103. While the IRS is not required to track all requests made under I.R.C. § 6103, it has elected to do so for requests received by its Disclosure offices. Disclosure offices used the IRS Electronic-Disclosure Information Management System to track requests made under both the FOIA and the Privacy Act for Fiscal Year 2006. Requests made under I.R.C. § 6103 that were received and processed by IRS offices

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<sup>6</sup> FOIA Annual Report - Internal Revenue Service for Fiscal Year 2006.

<sup>7</sup> The total of 7,565 cases includes the 5,372 nonresponsive closures plus 2,193 of the 2,489 cases denied or partially denied. The full 2,489 were not used due to filters identifying only cases denied for FOIA exemptions (b)(7) or (b)(3) in conjunction with I.R.C. § 6103 (which was our criterion).



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*The Office of Disclosure Can Improve Compliance With the  
Freedom of Information Act Requirements*

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other than Disclosure offices are neither controlled on the Electronic-Disclosure Information Management System nor otherwise inventoried. Consequently, the volume of these requests is not known. As a result, we can statistically sample only the I.R.C. § 6103 requests processed directly by the IRS Disclosure offices and tracked on the Electronic-Disclosure Information Management System.

Beginning in February 2006, the responsibility for processing some requests for I.R.C. § 6103 tax compliance checks and transcripts was transferred from the Small Business/Self-Employed Division Disclosure offices to the Wage and Investment Division Return and Income Verification Services Units.<sup>8</sup> The Small Business/Self-Employed Division continues to process the FOIA and Privacy Act requests for information. The transfer of responsibility for processing of background checks and transcripts to the Return and Income Verification Services Units resulted in an increase in our scope limitation for this and future years' audits because the Wage and Investment Division does not record the I.R.C § 6103 cases on the Electronic-Disclosure Information Management System. We reviewed only those requests processed by the Small Business/Self-Employed Division Disclosure offices that were denied during the period October 1, 2005, through September 30, 2006.

During this 12-month period, IRS Disclosure offices processed approximately 19,000 requests made under I.R.C. § 6103. We estimated that the Disclosure offices denied information, or told requestors that records were not available, for approximately 29 percent of I.R.C. § 6103 requests (approximately 5,640 requests).<sup>9</sup> The remaining requests were granted in full or information on the disposition was not available.

This review was performed at the Governmental Liaison and Disclosure Branch in Washington, D.C., during the period November 2006 through July 2007. The audit was conducted in accordance with *Government Auditing Standards*. Detailed information on our audit objective, scope, and methodology is presented in Appendix I. Major contributors to the report are listed in Appendix II.

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<sup>8</sup> Through the IRS campus Return and Income Verification Services Units, the Wage and Investment Division will provide transcript records to requestors including probation offices, law enforcement offices, the gaming industry, and licensing authorities. The Small Business/Self-Employed Division Disclosure offices will continue to provide tax check research for Federal Government agency and White House requests. Campuses are the data processing arm of the IRS. They process paper and electronic submissions, correct errors, and forward data to the Computing Centers for analysis and posting to taxpayer accounts.

<sup>9</sup> We estimated this number based on the ratio of cases in our sample for which requestors were denied information or were told records were not available (see Appendix I).





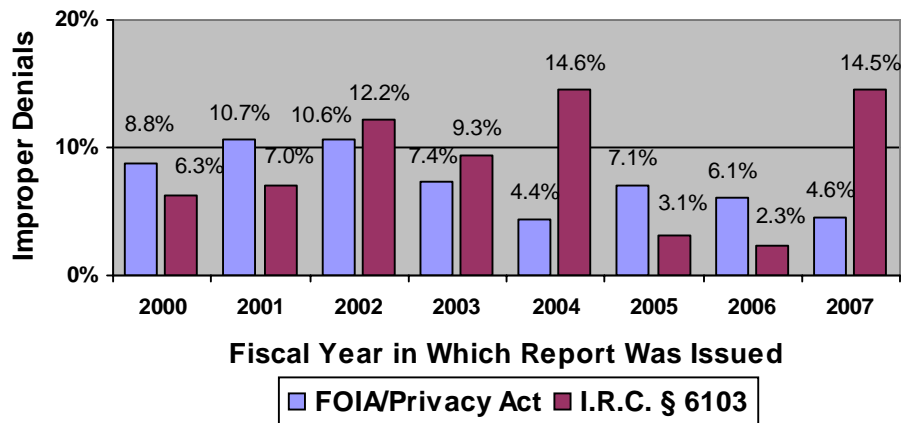
## Results of Review

### The Percentage of Improperly Denied Internal Revenue Code Section 6103 Requests for Information Has Increased

The IRS continued to improve its service to persons who requested information under the FOIA/Privacy Act based on the sample of cases we reviewed. However, the IRS made significantly more errors by improperly denying requests for information under I.R.C. § 6103. The IRS improperly withheld information from requestors in 4 (4.6 percent) of the 88 FOIA/Privacy Act cases and in 12 (14.5 percent) of the 83 I.R.C. § 6103 cases we sampled. As a result, we estimate the Disclosure offices did not provide available tax records for 344 requests made under the FOIA/Privacy Act and for 815 requests made under I.R.C. § 6103.<sup>10</sup>

Figure 1 shows the percentage of improper withholdings for FOIA/Privacy Act and I.R.C. § 6103 requests identified in this and the seven prior audits we have conducted.

**Figure 1: Improper FOIA/Privacy Act and I.R.C. § 6103 Request Withholdings**



Source: Our audit reports issued in Fiscal Years 2000-2007. Percentages were rounded to the closest tenth

We analyzed the 4 FOIA/Privacy Act cases and the 12 I.R.C. § 6103 cases with improper withholdings and determined the types of information improperly withheld have remained relatively consistent with the type of information identified as improperly withheld during the

<sup>10</sup> See Appendix IV for details.



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*The Office of Disclosure Can Improve Compliance With the  
Freedom of Information Act Requirements*

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previous audit periods. The most common types of information withheld were miscellaneous IRS forms and documents associated with tax transcript information.

Errors occurred mainly because of inadequate research or simple oversight by the Disclosure office caseworkers. For two of the FOIA cases, the Disclosure office caseworkers either did not conduct complete research or did not follow up with the Files function when requested information was not received. In the other cases, the Disclosure office caseworkers either addressed only one part of a multiple-part request or stated information was not available when it was readily available.

Because the IRS improperly denied available records, taxpayers' rights could have been violated, taxpayers could have been burdened unnecessarily, and the IRS may have incurred additional costs through the appeals process. For FOIA requests, if the IRS reports that no applicable records exist, or denies any part of the request, the requestor may administratively appeal the IRS' decision. If the IRS denies the administrative appeal, the requestor has the right to appeal the denial in court. Preparing and processing the appeals would place additional burden on the requestor and additional costs on the IRS.

During Fiscal Year 2006, the IRS processed 289 FOIA/Privacy Act appeals. The Appeals Office completely upheld the Disclosure office's decision to deny records in 257 cases, partially reversed 24 denials, and completely reversed 4 denials; the other 4 appeals were withdrawn. In the four FOIA cases in which the IRS improperly withheld records in our sample, the requestors did not appeal. Had these four taxpayers used the Appeals process, the improper determinations may have been discovered and reversed.

Taxpayers have no provisions to appeal under I.R.C. § 6103 if the IRS fully or partially denies requests for information or if the IRS reports no records are available. Taxpayers could incur additional burden if they decided to request the information again, and the IRS would incur additional costs to process these requests. The 14.5 percent error rate in improper denials of I.R.C. § 6103 requests is a significant increase over the 2.3 percent error rate found in our prior audit of Fiscal Year 2005 requests. As stated earlier, we believe errors occurred mainly because of inadequate research or simple oversight by the Disclosure office caseworkers. The Disclosure office has informed us that training has been provided to address these error cases, and it will continue to address the I.R.C. § 6103 issues. Therefore, we are making no recommendation for additional training in this report.

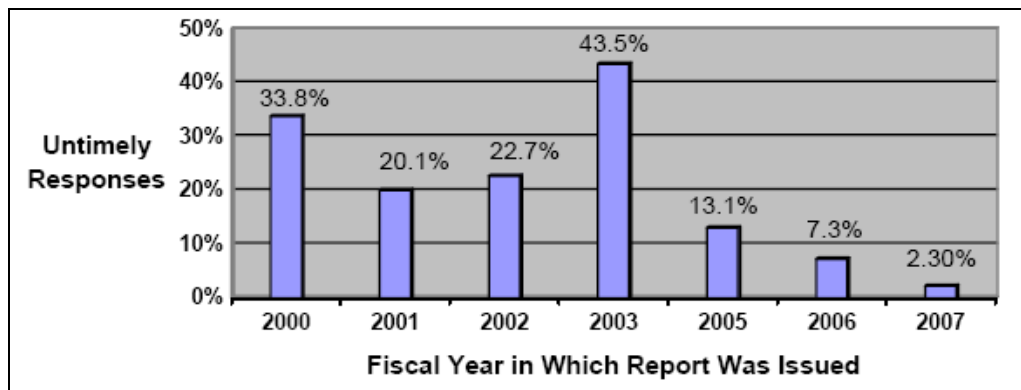


## **Disclosure Offices Improved the Timeliness of Responding to Requests for Information**

The FOIA requires Federal Government agencies to respond within 20 business days<sup>11</sup> of the receipt of a request or, if the 20 days are not sufficient, to notify the requestor of the reason why the request cannot or will not be filled. Federal Government agencies are required to immediately notify the requestor if they are unable to respond to the request within the time limit, the reasons why they are unable to respond, and of the requestor's right to appeal. The due date for a FOIA request is revised when the IRS sends a letter to the requestor exercising its right for an automatic 10-day extension and/or requesting a voluntary extension in excess of the initial statutory 20-day period for FOIA requests.<sup>12</sup> The requestor must agree to the voluntary extension, and the IRS must notify the requestor of its ability to respond by the end of the extension period. A case is untimely when the IRS responds to the requestor after the due date. For Privacy Act cases, the IRS must respond within 30 business days of the taxpayer's request.

Since Fiscal Year 2000, the IRS has made significant improvement in the timeliness of responses to FOIA/Privacy Act requests. Figure 2 shows the percentages of untimely cases we have reported since Fiscal Year 2000.

**Figure 2: Comparison of Untimely FOIA/Privacy Act Responses<sup>13</sup>**



Source: Our audit reports issued in Fiscal Years 2000-2007. Percentages were rounded to the closest tenth.

The Disclosure offices did not respond to the requestors in the time required by law for only 2 (2.3 percent) of the 88 FOIA/Privacy Act cases. In addition, the IRS reported a 95 percent timeliness rate for all FOIA/Privacy Act closures in Fiscal Year 2006. In our opinion, the delays

<sup>11</sup> Excluding Saturdays, Sundays, and legal public holidays.

<sup>12</sup> The 10-day extension is "automatic" in that it is solely at the discretion of the Disclosure officer; the voluntary extension requires notification to the requestor, who may then respond and file an appeal. Either or both extensions may be used in a given case.

<sup>13</sup> We did not evaluate the timeliness of responses to FOIA/Privacy Act requests in the Fiscal Year 2004 audit because the IRS was in the process of implementing our recommendations to improve timeliness.



*The Office of Disclosure Can Improve Compliance With the  
Freedom of Information Act Requirements*

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in these 2 cases were not significant because the responses were untimely by just 1 day or 2 days.

We estimate from the population of 7,565 cases closed during the period October 1, 2005, through September 30, 2006, there were 172 FOIA/Privacy Act requests not processed timely.<sup>14</sup> Based on our prior audits, the IRS is now responding more timely. For example, in our previous audit, we estimated there were 469 FOIA/Privacy Act requests not processed timely during the period April 1, 2005, through September 30, 2005.<sup>15</sup> The improved response times in Fiscal Year 2006 may, in part, be due to the significant decrease in the number of FOIA/Privacy Act cases received in Fiscal Year 2005 (41,873) compared to Fiscal Year 2006 (24,523).

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<sup>14</sup> See Appendix IV for details.

<sup>15</sup> *Compliance With Freedom of Information Act Requirements Has Increased* (Reference Number 2006-10-129, dated August 31, 2006).



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*The Office of Disclosure Can Improve Compliance With the  
Freedom of Information Act Requirements*

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## Appendix I

### *Detailed Objective, Scope, and Methodology*

The overall objective of this review was to determine whether the IRS improperly withheld information requested by taxpayers in writing, based on FOIA<sup>1</sup> exemption (b)(3), in conjunction with I.R.C. § 6103,<sup>2</sup> and/or FOIA exemption (b)(7), or by replying the requested records were not available. To accomplish the objective, we:

- I. Determined if the IRS Disclosure offices adhered to statutory FOIA and Privacy Act of 1974<sup>3</sup> requirements and procedural requirements.
  - A. Obtained a national extract from the Electronic-Disclosure Information Management System for the period October 1, 2005, through September 30, 2006, and identified 7,565 FOIA and Privacy Act cases closed as denied or partially denied based on FOIA exemption (b)(3), in conjunction with I.R.C. § 6103, and/or FOIA exemption (b)(7), or for which the IRS replied responsive records did not exist. We validated the extract by performing specialized queries.
  - B. Designed an attribute sample based on a 90 percent confidence level, an expected error rate of 8 percent, and an estimated precision of  $\pm 5$  percent. Based on these parameters, a statistically valid sample size was 79 cases. We increased the attribute sample size from 79 cases to 90 cases to account for the possibility of missing case files. Of the 90 cases requested, we received 88 case files. This sampling methodology was chosen so we could project the number of cases with improper withholdings to the universe of cases that were partially or fully denied based on FOIA exemption (b)(3), in conjunction with I.R.C. § 6103, and/or FOIA exemption (b)(7), or for which requestors were told records were not available.
  - C. Randomly sampled 88 of the 7,565 FOIA and Privacy Act cases that were partially or fully denied based on FOIA exemption (b)(3), in conjunction with I.R.C. § 6103, and/or FOIA exemption (b)(7), or for which requestors were told records were not available.
  - D. Reviewed the 88 sampled cases and determined if the decision to withhold information was appropriate, the record search was adequate, and the determination was made timely.

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<sup>1</sup> 5 U.S.C.A § 552 (West Supp. 2003) .

<sup>2</sup> I.R.C. § 6103 (2004).

<sup>3</sup> 5 U.S.C. § 552a (2000).



*The Office of Disclosure Can Improve Compliance With the  
Freedom of Information Act Requirements*

- E. Projected the number of improper withholdings in the range of 69 to 619 (.91 percent to 8.18 percent) FOIA and Privacy Act cases that were partially or fully denied based on FOIA exemption (b)(3), in conjunction with I.R.C. § 6103, and/or FOIA exemption (b)(7), or for which requestors were told records were not available. The projection was made using attribute sampling, with a 90 percent confidence level and an actual error rate of 4.55 percent. As a result, the actual precision factor was  $\pm 3.63$  percent.
  - F. Projected the number of untimely determinations in the range of 2 to 368 (0 percent to 4.87 percent) FOIA and Privacy Act cases that were partially or fully denied based on FOIA exemption (b)(3), in conjunction with I.R.C. § 6103, and/or FOIA exemption (b)(7), or for which requestors were told records were not available. The projection was made using attribute sampling, with a 90 percent confidence level and an actual error rate of 2.27 percent. As a result, the actual precision factor was  $\pm 2.6$  percent.
  - G. Discussed all exception cases with the FOIA Senior Tax Law Specialist.
- II. Determined if the IRS Disclosure offices adhered to legal requirements when denying written requests received from taxpayers under I.R.C. § 6103.
- A. From the national extract obtained for Step I. A., identified 19,161 I.R.C. §§ 6103 (c) and (e) requests.
  - B. Designed an attribute sample based on a 90 percent confidence level, an expected error rate of 8 percent, and an estimated precision of  $\pm 5$  percent. Based on these parameters, the size of the statistically valid sample was 79 cases. We selected a larger sample size to account for the possibility of missing case files. This sampling methodology was chosen because it would allow us to project the number of cases with improper withholdings to the universe of closed I.R.C. §§ 6103 (c) and (e) requests for which information was partially or fully denied or for which the IRS replied that responsive records did not exist.
  - C. Selected a random sample of 300 of the 19,161 I.R.C. §§ 6103 (c) and (e) closed cases and requested the 300 cases from the IRS; we received only 282 cases. We determined 83 (29.43 percent) of the 282 randomly sampled and received cases included instances for which information was partially or fully denied or for which the IRS replied that responsive records did not exist.
    - 1. Based on an initial analysis of the 282 randomly sampled cases, we estimated the population of 19,161 closed I.R.C. §§ 6103 (c) and (e) requests contained 5,640 cases for which information was partially or fully denied or for which the IRS replied responsive records did not exist.



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*The Office of Disclosure Can Improve Compliance With the  
Freedom of Information Act Requirements*

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- D. Reviewed the 83 cases for which information was partially or fully denied, or for which the IRS replied that responsive records did not exist, and determined if the decision to withhold the information based on I.R.C. § 6103 was appropriate.
- E. Projected the number of improper withholdings in the range of 439 to 1,191 (7.43 percent to 20.15 percent) for the I.R.C. §§ 6103 (c) and (e) requests for which information was partially or fully denied or for which the IRS replied that responsive records did not exist. The projection was made using attribute sampling, with a 90 percent confidence level and an actual error rate of 14.46 percent. As a result, the actual precision factor was  $\pm 5.7$  percent.
- F. Discussed all exception cases with the FOIA Senior Tax Law Specialist.



*The Office of Disclosure Can Improve Compliance With the  
Freedom of Information Act Requirements*

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**Appendix II**

*Major Contributors to This Report*

Nancy A. Nakamura, Assistant Inspector General for Audit (Headquarters Operations and Exempt Organizations Programs)  
Carl L. Aley, Director  
Janice M. Pryor, Audit Manager  
Daniel M. Quinn, Lead Auditor  
Mark A. Judson, Senior Auditor  
Carol A. Rowland, Auditor





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*The Office of Disclosure Can Improve Compliance With the  
Freedom of Information Act Requirements*

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**Appendix III**

*Report Distribution List*

Acting Commissioner C  
Office of Commissioner – Attn: Acting Chief of Staff C  
Deputy Commissioner for Services and Enforcement SE  
Deputy Commissioner, Small Business/Self Employed Division SE:S  
Director, Communications, Liaison, and Disclosure, Small Business/Self-Employed Division  
SE:S:CLD  
Director, Governmental Liaison and Disclosure, Small Business/Self-Employed Division  
SE:S:CLD:GLD  
Chief, Disclosure Branch, Small Business/Self-Employed Division SE:S:CLD:GLD:D  
Freedom of Information Act Senior Tax Law Specialist, Small Business/Self-Employed Division  
SE:S:CLD:GLD:D  
Chief Counsel CC  
National Taxpayer Advocate TA  
Director, Office of Legislative Affairs CL:LA  
Director, Office of Program Evaluation and Risk Analysis RAS:O  
Office of Internal Control OS:CFO:CPIC:IC  
Audit Liaison: Commissioner, Small Business/Self-Employed Division SE:S



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*The Office of Disclosure Can Improve Compliance With the  
Freedom of Information Act Requirements*

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## Appendix IV

### *Outcome Measures*

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

#### **Type and Value of Outcome Measure:**

- Taxpayer Rights – Potential; 344 responses to FOIA<sup>1</sup> or Privacy Act of 1974<sup>2</sup> requests for which information was improperly withheld during the 12-month period October 1, 2005, through September 30, 2006 (see page 4).

#### **Methodology Used to Measure the Reported Benefit:**

The attribute sample was randomly selected from the universe of 7,565 FOIA and Privacy Act requests closed nationally during the period October 1, 2005, through September 30, 2006, as 1) a full or partial denial with either FOIA exemption (b)(3), in conjunction with I.R.C. § 6103,<sup>3</sup> and/or FOIA exemption (b)(7) cited as one of the reasons for withholding information or 2) a request for which the IRS replied responsive records did not exist. We arrived at the estimate by:

- Multiplying the number of requests closed as 1) or 2) above by the error rate of cases identified in our sample (7,565 \* 4.55 percent error rate = 344 cases). A case was considered an “error” if a Disclosure office improperly withheld information that was available and could have been released under the FOIA and Privacy Act.

#### **Type and Value of Outcome Measure:**

- Taxpayer Rights – Potential; 815 responses to I.R.C. § 6103 requests for which information was improperly withheld during the 12-month period October 1, 2005, through September 30, 2006 (see page 4).

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<sup>1</sup> 5 U.S.C.A. Section (§) 552 (West Supp. 2003).

<sup>2</sup> 5 U.S.C. § 552a (2000).

<sup>3</sup> I.R.C. § 6103 (2004).



*The Office of Disclosure Can Improve Compliance With the  
Freedom of Information Act Requirements*

**Methodology Used to Measure the Reported Benefit:**

The attribute sample was randomly selected from the universe of I.R.C. §§ 6103 (c) and (e) requests closed nationally during the period October 1, 2005, through September 30, 2006. The Disclosure offices are not required to input a disposition code showing how I.R.C. § 6103 cases are closed (granted, denied, etc.). We arrived at the estimate by:

- Identifying 19,161 closed I.R.C. §§ 6103 (c) and (e) requests.
- Requesting a random sample of 300 cases; we received 282 cases. Reviewed the 282 cases to estimate the universe of denied, partially denied, or no requested record available cases closed during the period October 1, 2005, through September 30, 2006.
- Multiplying the total number of closed requests in the audit universe by the percentage of cases in the sample for which information was partially or fully denied or for which the IRS replied that responsive records did not exist (83 of 282 or 29.43 percent). Therefore,  $19,161 * 29.43 \text{ percent} = 5,640$  cases,
- Multiplying the estimated universe of cases for which information was partially or fully denied, or for which the IRS replied that responsive records did not exist, by the error rate for the cases reviewed ( $5,640 * 14.458 \text{ percent error rate} = 815$  cases). A case was considered an “error” if the Disclosure office improperly withheld information from the requestor.

**Type and Value of Outcome Measure:**

- Taxpayer Rights – Potential; 172 FOIA and Privacy Act requests that were not processed timely during the 12-month period October 1, 2005, through September 30, 2006 (see page 6).

**Methodology Used to Measure the Reported Benefit:**

The attribute sample was randomly selected from the universe of 7,565 FOIA and Privacy Act requests closed nationally during the period October 1, 2005, through September 30, 2006, as 1) a full or partial denial with either FOIA exemption (b)(3), in conjunction with I.R.C. § 6103, and/or FOIA exemption (b)(7) cited as one of the reasons for withholding information or 2) a request for which the IRS replied responsive records did not exist. We arrived at the estimate by:

- Multiplying the number of requests closed as 1) or 2) above by the percentage of untimely responses identified in our sample ( $7,565 * 2.27 \text{ percent error rate} = 172$  cases).