Testimony

of

Colleen M. Kelley

before the

IRS Oversight Board

February 8, 2006

1750 H Street, N.W. • Washington, D.C. 20006 • (202) 572-5500

Chairman Wagner, Members of the Board, and other distinguished guests, my name is Colleen Kelley and I am the National President of the National Treasury Employees Union (NTEU). As you know, NTEU represents l50,000 federal employees in 30 federal agencies and departments, including the men and women who work at the Internal Revenue Service. I appreciate you giving me the opportunity today to present recommendations with regard to IRS customer service and performance measures.

<u>Budget</u>*

The IRS budget forms the foundation for what the IRS can provide to taxpayers in terms of customer service. Without an adequate budget the IRS cannot expect continued in IRS customer service performance ratings. NTEU supported the Board's fiscal year (FY) 2006 budget recommendation which called for a 9% increase over the President's budget request and a 13% increase over the fiscal year 2005 appropriation. Congress met the President's budget recommendation in H.R. 3058, the Transportation-Treasury Appropriations bill and funded the IRS at $10.7 billion for FY '06—$900 million below the Board's recommendation. I commend the Administration for acknowledging in its FY '06 Budget in Brief that the "IRS yields more than four dollars in direct revenue from its enforcement efforts for every dollar invested in its total budget." However, I must criticize the Administration for failing to request a budget that is commensurate with the needs of the Agency to meet its customer service, as well as enforcement challenges. The President's FY '06 IRS budget recommendation to Congress was woefully inadequate to provide the resources necessary for the IRS to meet its enforcement and customer service goals.

Neither the President, nor Congress, took into account the 3.1% federal pay increase for federal employees. The cost of the federal pay raise was easy to anticipate as Congress has passed pay raises that exceed the President's request for the past five years. Federal pay raises, and inflationary increases in rent and other expenses must be accounted for when the President makes his IRS budget request and then when Congress considers funding it. The IRS is an agency that generates revenue for the federal government and taxpayers can expect a healthy return on their investment in the IRS workforce. Congress must scrutinize the President's IRS budget request in FY '07 and provide the IRS with a budget than enables it to generate the revenue needed to run the government, avoid decreases to customer service and close the $300 billion tax gap.

<u>Span of Control</u>

I realize that Congress does not operate in a vacuum and it must consider all federal government budget needs. In its FY 2006 IRS Budget/Special Report, the IRS Oversight Board stated that it "agrees that investing in enforcement does pay for itself many times over, not only in increased revenues but by reinforcing the belief that all taxpayers are paying their fair share." Although it's widely recognized that additional funding for enforcement may provide a great return on the investment, the Administration seems reluctant to request an adequate budget for the IRS. Thus, the agency must look toward other cost-cutting measures within its budget framework.

I recommend the IRS look at the management to bargaining unit employee ratio to find much needed resources for additional collection work. Although the number of frontline employees who do the work at the IRS has decreased by 5.1 percent since 2000, the number of managers who supervise these employees has *increased* by 1 percent over this same period. If the IRS decreased the number of managers and management officials at the same rate as it has decreased its rank and file employees, the Agency could put the savings toward bolstering Collections work, and avoid cuts to customer service.

Customer Service

Congress must continue to reject IRS' plans to implement draconian cuts to customer service. I was pleased that Congress decided to halt IRS' plans to move forward with cuts to customer service at the end of last year with language in H.R. 3058 (Section 205), the Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriations Act, 2006. H.R. 3058, Section 205, uses broad language that prohibits any of the appropriated funds to "be used to reduce taxpayer services as proposed in fiscal year 2006 until the Treasury Inspector General for Tax Administration completes a study detailing the impact of such proposed reductions on taxpayer compliance and taxpayer services…" The IRS decided to move forward with cuts to the toll-free service by reducing hours of service and closing call sites, despite the language Congress imposed in H.R. 3058. In response, Congress followed-up with additional language to clarify its intent in the FY '06 Transportation-Treasury Appropriations bill. Congress passed H.R. 2863, Section 5021 (the FY '06 Defense Appropriations bill) further explaining that "reduced taxpayer services" in the Transportation-Treasury Appropriations bill included—but was not limited to—any reductions in telephone service.

Despite these two explicit directives from Congress not to make any taxpayer customer service cuts, the IRS continues with its plans to close the Chicago and Houston telephone call sites. It is my understanding that employees at those sites have been notified that they will be off the rolls by March 3, 2006. I have written to Commissioner Everson urging him to abide by the language and intent of the law and cease the closing of these two call sites. I urge the Oversight Board to join me in this request.

Customer service is one half of the compliance equation. The IRS' plan to close 68 Taxpayer Assistance Centers (TACs), reduce call site hours and close call site centers across the country is counterproductive to the mission of the IRS. This plan will exacerbate—not shrink—the tax gap. IRS Taxpayer Assistance Centers are taxpayers' frontline source for personal, face-to-face tax help. Taxpayers who have complex issues, need to resolve a tax problem, or are more comfortable talking with someone in person can visit a local Taxpayer Assistance Center. IRS representatives in these offices can help with inquiries or adjustments to tax accounts, payment plans for those who owe tax and cannot pay the full amount, questions about IRS letters and notices, and levies on wages or bank accounts.

Seniors, who rely on face-to-face contact more than younger taxpayers, will be forced to travel farther distances in order to get the tax assistance they need if the IRS follows through with its cuts to customer service. This also means that minorities and low-income taxpayers, who rely on the Centers to help with language barriers, the earned-income tax credit and general tax preparation, will also see the tax services they rely on cut.

As Janet Spragens, law professor and director of American University College of Law's Federal Tax Clinic, notes in her testimony before the IRS Oversight Board (February 1, 2005):

> *"…these taxpayers, many of whom have limited or no proficiency in English, are generally not part of the information age. They are not Internet connected…They tend to be helped better through local walk-in offices and opportunities for face-to-face meetings than with an organizational structure based on specialization of function, remote offices, mailed documents, telephone trees with automated selections and electronic transfers."*

Earlier this year, the Treasury Inspector General for Tax Administration Russell George stated before the Senate Transportation, Treasury, HUD Appropriations Subcommittee (April 7, 2005), "TIGTA believes this information is insufficient to draw conclusions on the capability and likelihood that taxpayers who have used these centers in the past will be willing to use alternative methods of seeking help, such as the internet or telephone. I strongly recommend that the IRS further research these issues before closing TACs."

The 2004 IRS Oversight Board Tax Compliance Study found that "the most heavily relied upon source of tax information and advice are IRS representatives" (82 percent see them as very/somewhat valuable). The study further shows that more than 90 percent of those surveyed said that IRS customer service is either very or somewhat important to them.

The statements from these reliable sources point to one conclusion: maintain customer service options for taxpayers. Both chambers of Congress have also come to the same conclusion with the language passed in H.R. 3058 and H.R. 2863. Customer service is a critical part of the compliance equation and the IRS must not be allowed to slash customer service this year, or next year, for the sake of bolstering enforcement.

<u>Private Tax Collection</u>

NTEU strongly opposes the Administration's plan to privatize IRS debt collection, as authorized by Congress in 2004 in H.R. 4520, the American Jobs Creation Act of 2004. Under the statute, the IRS is permitted to hire private sector debt collectors and pay them a bounty of up to 25 percent of the money they collect. NTEU opposes this short-sighted proposal, anticipates its complete failure as witnessed in a similar 1996 pilot program and will continue to work towards its repeal.

This proposal risks exposing up to 2.6 million taxpayers' private information, will subject taxpayers to the abusive tactics of private debt collectors, and will cost U.S. citizens much more money than if IRS employees did the job. Representatives Rob Simmons (R-CT) and Chris Van Hollen (D-MD) introduced H.R. 1621, The Taxpayer Protection Act of 2005. The legislation would repeal the IRS' recently enacted authority to hire private debt collectors to collect tax debt. The bill currently has sixty-five bipartisan cosponsors and the strong support of NTEU.

While NTEU continues to promote passage of this legislation, we realize that the IRS will soon let its first contracts and the first cases will be handed over to contractors this summer. With this reality before us, I would respectfully urge the IRS Oversight Board, National Taxpayer Advocate, Treasury Inspector General for Tax Administration, and other stakeholders to scrutinize implementation of the private debt collection initiative, performance by the contractors and the IRS's oversight of the private collection agencies (PCAs).

The IRS has said that it has learned from the 1996 project and is better equipped to address the problems raised. However, a revealing report by the Treasury Inspector General for Tax Administration (TIGTA Audit #200320010) provides evidence to the contrary. It shows how IRS contractors, revamping IRS computers, put taxpayers' data at risk.

The objective of the TIGTA audit was "to determine whether the Internal Revenue Service (IRS) has adequately protected Federal Government equipment and data from misuse by contractors." The review found: "The involvement of non-IRS employees in critical IRS functions increases the risk of misuse or unauthorized disclosure of taxpayer data, and could lead to loss of equipment or sensitive taxpayer data through theft or sabotage." The TIGTA audit found that the "lack of oversight of contractors resulted in serious security vulnerabilities." The report, found that, "contractors blatantly circumvented IRS policies and procedures even when security personnel identified inappropriate practices."

Clearly, the IRS does not have sufficient oversight of the current contractors it employs. Combine this fact with a 25% bounty incentive paid to the contractors and you have a recipe for disaster, resulting in overly aggressive and abusive tactics on the part of the private debt collectors.

While the IRS is currently liable for damages caused by an IRS employee's misuse of sensitive taxpayer information, taxpayers would not have proper redress with the federal government for misuse of their confidential information by contractors. Instead, taxpayers would be left to seek damages against the private collection agency while the reputation of the IRS and the federal government is tarnished.

Furthermore, the debt collectors won't be given the same training that is given to IRS Collections employees. Even the National Taxpayer Advocate in her 2005 Annual Report to Congress recognizes the problems with implementation of the private debt collection initiative:

> *"However, the current plan shortchanges taxpayers by exempting private collectors from the type of training required of IRS employees in similar functions…Yet, the private collectors will not receive even a small fractions of the training that is given to the IRS employees in similarly situated positions. Moreover, the private collectors themselves will administer the PDC training."(Volume 1, page 78).*

Not only will the private debt collectors not be given the same training as IRS employees, but the contractors will be administering the training. IRS collection professionals have a wealth of tax knowledge that they have at their disposal in every case where they deal directly with the taxpayer. The private debt collectors on the other hand, will only be given a fraction of the training and not have that same level of expertise as the IRS employee.

I recently brought to the IRS's attention the issue of access to political information, including party affiliation, in the tax collection process. While the IRS has since stated its intent to block this information from databases used by IRS employees, I am concerned that private collection agencies will not be restricted from accessing this same information. Commissioner Everson has stated repeatedly in Congressional testimony that tax collection contract employees will be subject to the same rules and standards as IRS employees. Though I believe penalties that apply to IRS employees for inappropriate actions involving taxpayers will have little deterrent effect on the typically transient collection agency workforce, I would urge the IRS to ensure that the same rules are in place for contract workers. I would urge the Agency not to enter into contracts with private collection agencies unless there is a binding and legally enforceable agreement that they will not access inappropriate taxpayer information, including, but not limited to, voter information, such as political party affiliation, in the course of their tax collection efforts. Anything less could tarnish the integrity of the IRS and put into question its unbiased, customer-responsive approach to Collections work.

One of the most often heard arguments in favor of the use of private collection agencies is that if they are paid out of the proceeds of what they collect, IRS' enforcement capabilities increase without having to increase appropriations. Numerous Congressional supporters said they would prefer to have tax collection done by federal employees, but would go along with the use of private collection agencies solely because it avoids the difficult issue of getting Congress to approve additional appropriations for the IRS.

The statute that gives the IRS the authority to use PCAs allows 25 percent of collected revenue to be returned to the collection companies as payment and 25 percent to be retained by the IRS for enforcement efforts, thereby circumventing the appropriations process altogether.

There is nothing magical about revenues collected by private collection companies. If those revenues could be dedicated directly to contract payments and IRS enforcement efforts, there is no reason some small portion of other revenues collected by IRS employees couldn't be dedicated to IRS enforcement efforts. This would allow for increased enforcement by IRS employees, which most people indicate is the preferable route and eliminate large payments (up to 25% of collections) to private collection companies, significantly increasing net revenue to the General Treasury. While legislation would be required to allow for this kind of dedication of revenue, I believe the precedent has now been set with the private collection agency funding provisions. Congress should consider supporting this approach as a common sense way to make real progress in closing the tax gap, lowering our deficits and making more funding available for our Nation's critical needs.

It is a plain and simple fact: This plan to privatize tax collection at the IRS will hurt U.S. taxpayers, will hurt IRS workers and will erode the great gains the IRS has made with improved customer satisfaction ratings. Again, I urge the Board to scrutinize the IRS's accountability of its contractors and hold the private collection agencies to the same standards as IRS employees.

Contracting In

The Administration's emphasis on privatizing federal work throughout the federal government, without fair competition and adequate oversight is reducing the effectiveness of the

IRS. I believe I have recounted to the Board the problem of over a billion dollars worth of tax payments lost or destroyed by Mellon Bank, which held an IRS contract to receive and deposit taxpayers' checks. I have also referred in this testimony to a TIGTA report finding that technology contractors had not followed IRS rules on protecting confidential information.

These sorts of contractor performance problems can now be addressed by recently enacted language in H.R. 3058, Section 842(b) of the FY '06 Transportation, Treasury, HUD Appropriations bill, which allows executive agency heads to conduct public-private competitions to bring contracted work back in-house. I have written to Commissioner Everson, urging him to take full advantage of this opportunity and evaluate IRS contracts eligible to be brought back into the hands of federal employees. I specifically recommend three areas that should be considered: lockbox contracts, MITS and mailroom work.

There are many areas of concern for the IRS with lockbox contractors complying with security measures and questions of the cost-effectiveness of using lockbox contractors instead of IRS employees. In 1997 and 1998, the General Accounting Office stated serious concerns as to whether the lockboxes, on average, process tax payments any faster than the IRS Service Centers and whether it would be cost effective to at least move the tax return processing back to the IRS, while continuing to send tax payments to the lockboxes (see GAO/GGD-98-33 and GAO GGD/99-21). More recently in April 2005, GAO cited several areas of concern with lockbox contractors that "increase the risk that (1) taxpayer receipts and information could be lost, stolen, misused, or destroyed…," (GAO005-247R). Lockbox work is certainly one area where the IRS could return work to federal employees, save taxpayers money and increase protection of taxpayer privacy.

Another area where the IRS should look to bring work back in-house is with the Modernization and Information Technology Services (MITS) organization. According to a February 2005 Information Technology Overview Assessment performed by Gartner Consulting for the IRS, there is reason to believe that the agency is unable to manage its existing contracts and savings could be achieved by bringing contracted MITS work back to IRS employees. The assessment specifically identifies exceptionally high vendor costs in the areas of Wide-Area Data Networks and the Mainframe Data Center.

I also suggest returning the Agency Wide Shared Services (AWSS) Mailroom function to IRS employees. The mailroom work was handed over to a contractor, despite NTEU's vociferous objections, at the end of 2004. Since that time, employees have witnessed abysmal mail service by the contractor. Mail has been misdirected to incorrect PODs, mail is not delivered in a timely fashion, and IRS employees are expected to do the work for which the vendor has a contractual obligation. This is certainly an area where the IRS should further explore the true cost to the U.S. taxpayer in using an outside contractor and consider returning the mailroom work to IRS employees.

These are only three examples of work that has been contracted out where the contractors have failed to perform at the cost and quality expected by the U.S. taxpayers. I'm certain there are other areas at the IRS where contractor failures are costing the agency more than if the work was returned to federal employees. By looking at poor contractor performance, the IRS can accomplish a dual objective of saving money while improving customer service. I'm confident the IRS workforce would be willing and able to perform this work more reliably and at a more affordable cost than any contractor.

RIFs

I commend Congress for acknowledging the IRS' haphazard approach to reorganizing the agency and directing "the IRS to consult with the Committee prior to elimination, consolidation, or reorganization of its workforce, and prohibits the IRS from proceeding with matters relating to such job movement prior to the Committee's action on the IRS budget." (Senate Rept. 109-109-Transportation, Treasury, the Judiciary, Housing and Urban Development and Related Agencies Appropriations Bill, 2006).

Despite the Committee Report language, the IRS moved forward with its planned reductions in force (RIFs) in several different areas. Generally speaking, NTEU believes that the IRS would benefit both in terms of cost savings and human resource satisfaction by placing a greater emphasis on retraining current employees for other positions within the IRS. Unfortunately, this has not been the approach taken by the IRS with regards to RIFs at the agency. A more sensible downsizing model is needed if the IRS wishes to keep the talented workforce it currently has but also in order to attract new talent. A more comprehensive, thoughtful approach to RIFs will also ensure that the improved customer service gains made since 1998 are not lost.

Conclusion

It is indisputable that the IRS workforce is getting mixed signals regarding its value to the mission of the Service and the level of workforce investment the Service is willing to make. Without a doubt, the frontline employees are committed to working with management to increase efficiency and customer satisfaction. NTEU is committed to striking a balance between taxpayer satisfaction, business results and employee satisfaction. I invite IRS management to join us in this endeavor.

I thank you for holding this important hearing today. NTEU supports and is interested in assisting you in your mission to address customer service needs of taxpayers.

* Additional NTEU budget recommendations may be submitted for the Board's Public Forum record after the President's FY '07 budget is released.