



*Progress Has Been Made but Further
Improvements Are Needed in the
Administration of the Low Income
Taxpayer Clinic Grant Program*

September 2005

Reference Number: 2005-10-129

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TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20220

September 21, 2005

MEMORANDUM FOR NATIONAL TAXPAYER ADVOCATE

Pamela J. Gardiner

FROM: Pamela J. Gardiner
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Progress Has Been Made but Further
Improvements Are Needed in the Administration of the Low Income
Taxpayer Clinic Grant Program (Audit # 200510009)

This report presents the results of our review of the Low Income Taxpayer Clinic (LITC) grant program. The overall objective was to determine whether the LITC grant program is effective and is in compliance with legal requirements. We also evaluated corrective actions taken by the Internal Revenue Service (IRS) in response to a prior report we issued in May 2003.¹

Synopsis

Since taking over responsibility for the LITC program in May 2003, the Taxpayer Advocate Service (TAS) has focused on the quality of the clinics by establishing standards of operation and communicating these requirements in the *Low Income Taxpayer Clinic Grant Application Package and Guidelines* (Publication 3319). The TAS also provides training on these standards to clinics during site visits and at its annual LITC program conference.

In response to a recommendation in our prior report on the LITC program, the IRS stated it would establish performance measures to determine the success of the LITC program. However, it does not appear the IRS followed through to implement this recommendation. The TAS' focus is to have at least one clinic in every State that represents taxpayers in tax controversies with the IRS and one to educate those taxpayers for whom English is a second language. However, the TAS has not developed or communicated the overall program goals and performance measures that would enable it to better measure the success of the LITC program. Measures such as

¹ *Improvements Are Needed in the Oversight and Administration of the Low-Income Taxpayer Clinic Program* (Reference Number 2003-40-125, dated May 2003).



*Progress Has Been Made but Further Improvements Are Needed in
the Administration of the Low Income Taxpayer Clinic Grant
Program*

customer satisfaction, quality of service, timeliness of service, number of taxpayers assisted, and type of service provided are areas which could be evaluated against goals so Congress and other stakeholders can evaluate the benefits provided by the program in comparison to the money spent.

The number of taxpayers assisted, as reported by the clinics, is not reliable. Some clinics did not submit the required interim and final reports or did not submit the reports timely. For the reports that were submitted, the information contained in the reports was not validated by the TAS. Moreover, the methods used by the clinics to report their results were inconsistent. These inconsistencies prevented us from determining the accuracy of the numbers reported. Reports were generally in narrative format. Some were very detailed in providing the number of taxpayers assisted and the type of assistance provided, while others were brief and vague. To improve the consistency of the reports, the TAS developed new forms for clinics to use for the 2006 grant period.

In 2004, the TAS performed 77 site visits to the clinics and attended 17 outreach sessions provided by the clinics. However, these site reviews were not comprehensive or timely. During the site reviews, the TAS did not validate information contained in the clinics' interim and final yearend reports or review the information needed to determine whether the clinics were in compliance with legal requirements. Furthermore, the TAS did not visit new clinics until after the grant funds were awarded.

Some clinics were not in compliance with their Federal tax obligations. During the application period for the 2004 grants, 5 of the 134 clinics were awarded grant funds of \$154,300 and were not in compliance with their Federal tax filing and/or payment requirements. These 5 clinics subsequently received \$127,500 in grant funds for 2005. The TAS revised the 2005 Publication 3319 to emphasize that clinics must be in compliance with their Federal tax responsibilities. However, during the application period for the 2005 grants, nine clinics were not in compliance with their Federal tax requirements. These 9 clinics owed approximately \$850,000 in taxes and had not filed 9 tax returns. The TAS awarded the 9 clinics \$513,500 in grant funds for 2005. While the TAS indicated it would conduct compliance checks on organizations applying for a 2005 grant, no one within the LITC program office had access to the computer system needed to verify tax compliance until April 2005. Moreover, the TAS does not have procedures in place to ensure the verification of tax compliance is comprehensive and timely.

Recommendations

We recommended the National Taxpayer Advocate (NTA) establish goals and performance measures for the LITC program to assist Congress and the IRS in evaluating the success of the program. The NTA should suspend or terminate grant funds for clinics that are not in compliance with reporting requirements, provide guidance to indicate whether a clinic may



*Progress Has Been Made but Further Improvements Are Needed in
the Administration of the Low Income Taxpayer Clinic Grant
Program*

receive funding solely for making referrals to other clinics, and provide guidance as to the types of media broadcasts and articles that will qualify under the LITC program. We also recommended the NTA establish a policy to visit potential new clinics before awarding grant funds. During indepth site visits, TAS representatives should verify information reported by the clinics and that clinics are following all LITC program requirements. Moreover, the NTA should develop a sampling methodology to prioritize site visits to clinics based on indications that clinics are preparing tax returns or charging fees. Finally, we recommended the NTA establish procedures to check for tax compliance before awarding LITC program grant funds and freeze funding for clinics that fail to become compliant with their tax responsibilities.

Response

The NTA generally agreed with our results and recommendations. The TAS will identify possible goals and performance measures for the LITC program. Once finalized, the goals and performance measures will be included in Publication 3319. The TAS will include language in Publication 3319 to clarify that a controversy LITC solely making referrals to another LITC will not be funded. Publication 3319 will also indicate that indirect outreach must include substantive information and that clinics should strive to include face-to-face contact as a primary method for educating taxpayers. The TAS will develop a weighted criteria list to determine which clinics should be visited each year and will visit new clinics prior to making funding decisions to the extent that time and staffing limitations allow. The TAS contacted all of the clinics we identified as not compliant with Federal tax requirements and informed them their grants will be terminated if the noncompliance is not resolved within a reasonable time period. Furthermore, the TAS will verify that all 2006 grantees are compliant with all Federal tax responsibilities prior to awarding grant funds.

The NTA agrees the problem of untimely reporting must continue to be addressed; however, the NTA believes that, in most cases, suspending funds may not be effective. The TAS will continue to use untimely reporting by the clinics as a factor in its funding decisions of future grant periods and in selecting clinics for site visits. The TAS will review and strengthen procedures for following up on late reports and for taking the necessary corrective actions. Reporting requirements will also be discussed at the 2005 LITC Annual Conference.

The TAS will consult with other Federal Government grant-making agencies to determine how these agencies verify grantee information while still maintaining client confidentiality. However, the NTA noted that the LITC grant program is unlike any other Federal Government agency program in that the IRS, the grantor, is the opposing party in any tax controversy handled by the clinics, which could raise concerns about protection of attorney-client data and information. Additionally, the NTA indicated that the recommendation to develop a method to verify the accuracy of information provided by clinics in their interim and final reports has



*Progress Has Been Made but Further Improvements Are Needed in
the Administration of the Low Income Taxpayer Clinic Grant
Program*

already been adequately addressed by the TAS' three-tier site assistance visit process. Management's complete response to the draft report is included as Appendix VI.

Office of Audit Comment

Publication 3319 states that clinics not timely reporting may have their grant funds suspended or terminated. As such, the TAS should have a consistent process for following up with the clinics that have not filed timely to advise them that the grant funds will be suspended or terminated and follow through with these actions if clinics do not comply by the deadline set. If the NTA is unable to determine an adequate method of verifying compliance with grant requirements, we believe the NTA should elevate this concern to Congress for a potential legislative remedy. Although the site visit assistance checklists require that information provided by clinics in their interim and final reports are to be reviewed, the site assistance visit process does not contain a method to verify the accuracy of information provided by clinics in their interim and final reports. As such, we do not believe the related TAS response addresses our recommendation.

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



*Progress Has Been Made but Further Improvements Are Needed in
the Administration of the Low Income Taxpayer Clinic Grant
Program*

Table of Contents

Background	Page 1
Results of Review	Page 4
Standards of Operation for the Low Income Taxpayer Clinic Program Have Been Established.....	Page 4
Program Goals and Performance Measures Are Needed to Evaluate the Success of the Program.....	Page 5
<u>Recommendation 1:</u>	Page 6
The Reported Number of Taxpayers Assisted by Clinics Is Not Reliable	Page 6
<u>Recommendation 2:</u>	Page 9
<u>Recommendations 3 and 4:</u>	Page 10
Site Reviews Were Not Comprehensive or Timely	Page 10
<u>Recommendations 5 and 6:</u>	Page 14
<u>Recommendations 7 and 8:</u>	Page 15
Some Clinics Are Not in Compliance With Their Federal Tax Responsibilities	Page 15
<u>Recommendations 9 and 10:</u>	Page 17
Appendices	
Appendix I – Detailed Objective, Scope, and Methodology	Page 18
Appendix II – Major Contributors to This Report.....	Page 19
Appendix III – Report Distribution List	Page 20
Appendix IV – Outcome Measures.....	Page 21
Appendix V – Low Income Taxpayer Clinics per State or Territory	Page 22
Appendix VI – Management’s Response to the Draft Report	Page 24



*Progress Has Been Made but Further Improvements Are Needed in
the Administration of the Low Income Taxpayer Clinic Grant
Program*

Background

The Low Income Taxpayer Clinic (LITC) grant program was initiated by a provision of the Internal Revenue Service (IRS) Restructuring and Reform Act of 1998.¹ Congress wanted the LITC program to offer assistance to provide low income taxpayers, who are involved in controversies with the IRS, with free or nominal cost legal assistance. Another goal of the LITC program is to provide education of tax rights and responsibilities to taxpayers for whom English is a second language. The LITC program is not intended to help taxpayers prepare their tax returns. Clinics are only allowed to prepare tax returns if it is ancillary to the education of a taxpayer for whom English is a second language and/or when it is necessary to resolve a taxpayer's controversy with the IRS.

Since the inception of the program, the total funding for LITC program grants has increased significantly, from \$1.5 million in 1999 to \$8 million in 2005. The numbers of clinics and the States represented have also increased.² Table 1 shows the funding level, number of clinics, and States represented each year since the inception of the program.

Table 1: LITC Program Grant Funding, Clinics, and States Represented (1999 – 2005)

Year	Grant Funding	Number of Clinics	States/Territories Represented
1999	\$1.5 million	34	19
2000	\$4.4 million	70	33
2001	\$6 million	102	39
2002	\$7 million	127	43
2003	\$7 million	138	49
2004	\$7.5 million	134	51
2005	\$8 million	145	51

Source: Internal Revenue Bulletins and News Releases.

¹ 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.).

² States include the District of Columbia and Puerto Rico.



*Progress Has Been Made but Further Improvements Are Needed in
the Administration of the Low Income Taxpayer Clinic Grant
Program*

Low Income Taxpayer Clinic Grant Application Package and Guidelines (Publication 3319) explains the LITC program requirements and award process. To qualify for a grant, an organization must be an accredited law, business, or accounting school or a nonprofit organization. Clinics must submit interim and yearend financial statements along with a description of their goals, strategy, and program results to the IRS. Failure to provide this required information can result in the loss of grant funding. Clinics with an approved program plan can receive grant funding for up to a 3-year period.

Clinics that receive grant funding to represent taxpayers in controversies must ensure the amount in controversy does not exceed \$50,000 per case.³ In addition, these clinics must ensure at least 90 percent of the taxpayers they represent have incomes which do not exceed 250 percent of the poverty level. The poverty level is based on the size of the family unit and is published annually by the Department of Health and Human Services. Table 2 shows the 2004 poverty levels and maximum taxpayer income amounts for the LITC program.

Table 2: The 2004 Poverty Levels and Maximum Taxpayer Income for the LITC Program

Size of Family Unit	Poverty Level⁴	Maximum Taxpayer Income for LITC Program
1	\$9,310	\$23,275
2	\$12,490	\$31,225
3	\$15,670	\$39,175
4	\$18,850	\$47,125
For each additional person, add	\$3,180	\$7,950

Source: The 2004 Health and Human Services Guidelines.

Congress designated the IRS to provide administrative oversight and guidance for the LITC program. From the program's inception in 1999 through April 2003, the Wage and Investment Division had this responsibility within the IRS. In May 2003, the IRS Commissioner transferred this responsibility to the Taxpayer Advocate Service (TAS).

³ Internal Revenue Code Sections 7463 and 7526.

⁴ The poverty levels for Alaska and Hawaii are higher than the 48 contiguous states and Washington, D.C.



*Progress Has Been Made but Further Improvements Are Needed in
the Administration of the Low Income Taxpayer Clinic Grant
Program*

This review was performed at the TAS offices in Washington, D.C., and Atlanta, Georgia, during the period February through June 2005. This 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.



*Progress Has Been Made but Further Improvements Are Needed in
the Administration of the Low Income Taxpayer Clinic Grant
Program*

Results of Review

Standards of Operation for the Low Income Taxpayer Clinic Program Have Been Established

In May 2003, we reported on a number of problems with the administration of the LITC program. One action the IRS planned to take to remedy these problems was to establish standards of operation for the clinics and provide training on these standards.⁵ Since taking over responsibility for the LITC program, the TAS has focused on the quality of the clinics by establishing standards of operation and communicating these requirements in Publication 3319. The TAS also provides training on these standards to clinics during site visits and at its annual LITC program conference. These standards of operation include:

- Qualified tax expert on staff.
- Qualified business administrator on staff.
- Internal controls to safeguard assets and determine allowable costs.
- Effective publicity and marketing.
- Mentoring programs for clinic staff and volunteers.
- Networking with other community-based organizations.
- Tax library.
- Continuing professional education.
- Qualified volunteers.
- Referral service to assist taxpayers in controversies.

In addition to the standards of operation listed above, the TAS encourages clinics to participate in a work group to share information and identify best practices. The work groups focus on topics including IRS notices, financial literacy, multilingual initiatives, offers in compromise, and the Earned Income Tax Credit.

⁵ *Improvements Are Needed in the Oversight and Administration of the Low-Income Taxpayer Clinic Program* (Reference Number 2003-40-125, dated May 2003).



*Progress Has Been Made but Further Improvements Are Needed in
the Administration of the Low Income Taxpayer Clinic Grant
Program*

***Program Goals and Performance Measures Are Needed to Evaluate
the Success of the Program***

In response to a recommendation in our May 2003 report on the LITC program,⁶ the IRS stated it would establish performance measures to determine the success of the LITC program. However, it does not appear the IRS followed through to implement this recommendation.

We asked TAS officials about the implementation of performance measures for the LITC program. TAS officials responded stating they are focusing their efforts on the National Taxpayer Advocate's overall goal to have at least one clinic in every State that represents taxpayers in controversies with the IRS and one to educate those taxpayers for whom English is a second language. The TAS has made significant progress in this area and has almost accomplished its goal (see Appendix V for coverage of the LITC program by State in 2004 and 2005). The TAS is also taking steps to identify organizations that may be interested in becoming an LITC in under-represented States and cities with large populations.

Other than this goal to expand the areas covered, the TAS could not identify any other goals or the performance measures it would use to gauge its progress meeting the goals. The TAS requires, as stated in Publication 3319, that clinics develop their own individual goals and report on the progress of those goals; however, the TAS does not have similar overall goals for the LITC program. Measures such as customer satisfaction, quality of service, timeliness of service, number of taxpayers assisted, and type of service provided are areas which could be evaluated against goals so Congress and other stakeholders can evaluate the benefits provided by the program in comparison to the money spent.

Moreover, communicating the goals and performance measures for this program would help current and future clinics to better understand their role in meeting the expectations of the LITC program. The current Publication 3319 does not communicate to prospective clinics the program goals, challenges, or expectations for the success of the LITC program.

The National Taxpayer Advocate indicated specific concerns related to the performance of the clinics in the LITC program. These concerns included the following:

- Some clinics engage in routine tax preparation.
- Some clinics run by academic institutions are not working enough cases.
- Some legal aid societies that run clinics lack tax expertise.

⁶ *Improvements Are Needed in the Oversight and Administration of the Low-Income Taxpayer Clinic Program* (Reference Number 2003-40-125, dated May 2003).



*Progress Has Been Made but Further Improvements Are Needed in
the Administration of the Low Income Taxpayer Clinic Grant
Program*

To help address these issues, the TAS should establish and communicate the goals and performance measures so it can set expectations for the clinics; otherwise, it will be difficult to maintain accountability and ensure the program produces benefits commensurate with the costs.

Recommendation

Recommendation 1: The National Taxpayer Advocate should establish goals and performance measures for the LITC program to assist Congress and the IRS in evaluating the success of the program. In addition, the National Taxpayer Advocate should communicate general expectations derived from these measures to prospective clinics during the application process and reinforce these measures to grant recipients during the annual LITC program conference and site visits to clinics.

Management's Response: The TAS will assemble a team of TAS personnel and LITC representatives to identify possible goals and performance measures for the LITC program. In addition, the TAS will observe how other similar grant programs measure success. Once finalized, the goals and performance measures will be included in Publication 3319.

The Reported Number of Taxpayers Assisted by Clinics Is Not Reliable

To establish program goals and measures for the LITC program and to evaluate the performance of the clinics, the TAS will need to take steps to ensure the information reported by the clinics is accurate and classified properly. We reviewed summary information provided by the TAS and all interim and final reports submitted by clinics for the 2004 grant period, but we could not determine the number of taxpayers assisted because of missing reports and inconsistencies.

Clinics are required to submit two reports for each grant year describing their accomplishments, including the number of taxpayers assisted. The interim report is due July 31 during the grant year with the final report due March 31 after the year end. The TAS has developed a database to track the number of taxpayers assisted by each clinic based on these reports.

Some clinics are not submitting reports timely

Clinics are submitting interim and final yearend reports late or not at all. For the 2004 grant period, of the 134 clinics in the program, 17 clinics were more than 2 weeks late in submitting their interim reports; 7 of these 17 clinics were over 10 weeks late. One clinic did not submit an interim report at all. As of April 15, 2005, the TAS had received 39 final reports late and had yet



*Progress Has Been Made but Further Improvements Are Needed in
the Administration of the Low Income Taxpayer Clinic Grant
Program*

to receive final reports for 16 clinics; 7 of these 16 clinics had been more than 2 weeks late with their previous interim report. These 16 clinics were awarded grants of \$626,850, of which 10 were also awarded grants totaling \$400,000 for the 2005 grant period. Table 3 shows the 2004 clinics' compliance with the requirements for submitting reports.

Table 3: Status of Interim and Final Reports for 2004

Status of Report	Interim Report	Final Report As of 4/15/2005
Timely	105	79
Fewer than 2 weeks late	11	39
More than 2 weeks late	17	N/A
Not Received	1	16
TOTAL	134	134

Source: The Treasury Inspector General for Tax Administration's (TIGTA) review of the 2004 LITC program files.

The total number of taxpayers assisted by clinics cannot be determined without these missing reports. Publication 3319 warns clinics their funding may be suspended or terminated if they do not submit interim and final yearend reports. For the clinics receiving funding in 2004, the TAS had not suspended or terminated funding for delinquent interim reporting or final reporting as of April 15, 2005, when we reviewed the reports. To ensure it receives the information needed, the TAS should suspend or terminate grant funds for clinics not in compliance with reporting requirements.

Reporting inconsistencies prevent an accurate assessment of the number of taxpayers assisted

The interim and final yearend reports for the 2004 grant period did not consistently report the number of taxpayers assisted and the types of assistance provided. These inconsistencies prevented us from determining the accuracy of the numbers reported. Reports were generally in narrative format. Some were very detailed in providing the number of taxpayers assisted and the type of assistance provided, while others were brief and vague.

Most of the clinics that assist taxpayers with tax controversies did not report their results using an inventory method, so the TAS could not determine how many cases were received, how many



*Progress Has Been Made but Further Improvements Are Needed in
the Administration of the Low Income Taxpayer Clinic Grant
Program*

were in process, and how many were closed in any given period. Because of this, it is not possible to determine whether taxpayers counted in one report were also counted in the previous report and will continue to be counted until the case is resolved. This could result in significantly overstating the number of taxpayers assisted. The 119 clinics funded to work controversy cases reported assisting 11,296 taxpayers; however, we were unable to determine the number of taxpayers the clinics received prior to 2004 that could have been included in previous reports to the IRS.

Some clinics did not provide the number of taxpayers they assisted in tax controversy cases even though the grants were awarded for that activity. For example, six clinics specifically funded in 2004 to assist both taxpayers with tax controversies and taxpayers for whom English is a second language reported no tax controversy cases, and three of the six did not report the number of taxpayers assisted for whom English is a second language. Either they are being funded for activities they are not performing or they failed to report the information to the IRS.

There is a wide variance in the number of taxpayers assisted with tax controversies as reported by each clinic. In 2004, the number ranged from no taxpayers assisted to, in 1 instance, 1,303 taxpayers assisted. For the 119 clinics funded to work tax controversy cases, 60 percent of the clinics assisted 92 percent of the taxpayers. The remaining 40 percent of the clinics, which were funded approximately \$2 million, assisted only 8 percent of the taxpayers with tax controversies. Based on the information in the reports, we could not determine the cause for the differences. It could be a reporting error, or, in some instances, it could be due to the complexity of the cases. However, it is also possible that some clinics are just not helping very many taxpayers.

There were some clinics that referred tax controversy cases to other clinics for resolution. When two clinics are involved with one controversy case, it is possible that each reported assisting that taxpayer, which results in double counting and inefficient use of grant funds. For example, 1 clinic received a grant of \$10,150 to assist taxpayers with tax controversy cases and stated it assisted 17 taxpayers. Nonetheless, this clinic referred 16 of the 17 cases to another clinic. The remaining case was referred to a pro bono legal group. Internal Revenue Code (I.R.C.) Section (§) 7526 states a clinic may represent taxpayers or refer taxpayers to qualified representatives; however, it is unlikely the intent of the law is to provide funding to a clinic solely for making referrals to other clinics. TAS officials stated they were aware of this situation and that they advised this particular clinic that referrals to other clinics were not appropriate; clinics should develop their own pro bono panels. While the issue of referrals is addressed in Publication 3319, we believe the guidance needs to be clarified to adequately cover this type of situation.

Methods used by clinics to educate taxpayers for whom English is a second language varied significantly. These methods included direct consultations; outreach sessions which included face-to-face contact; booths at community functions; and various media such as radio, television, and newspapers. Based on the specific examples of activities in clinic reports involving mass



*Progress Has Been Made but Further Improvements Are Needed in
the Administration of the Low Income Taxpayer Clinic Grant
Program*

media, some of the activities appeared to have been more of an effort to publicize the clinic than an effort to educate taxpayers as to their tax rights and responsibilities.

Information provided over the radio, television, or in print media would likely be less helpful to individuals than face-to-face outreach sessions or direct contact where taxpayers are present and can ask questions about their specific issue. Without more information as to the format or information provided in media broadcasts, it is difficult to determine whether such broadcasts could be classified as an activity that is intended under the LITC program. Assisting a taxpayer in person may take a significant amount of time and effort but is counted as assistance to only one taxpayer. A media broadcast may take the same amount of time and be counted as assistance to thousands of taxpayers even though the broadcast only provided general information and did not respond to taxpayer questions. One clinic stated it provided a radio broadcast to a listening audience of approximately 160,000, of which an estimated 80 percent were taxpayers for whom English is a second language. The TAS documented that this clinic educated 160,000 taxpayers for whom English is a second language. We believe further guidance should be provided by the IRS as to the types of activities that qualify as clinical activities.

The TAS has acknowledged many of these reporting inconsistencies and developed new forms for clinics to use when reporting their results. These new forms are part of Publication 3319 to be used for grant year 2006. The new forms are more specific as to the information requested and where on the form it should be recorded. For example, the forms request specific information as to the number of cases open prior to the start of the reporting period, cases opened during the period, and those closed during the period as well as the type of assistance provided. The forms also request clinics to provide information specifically related to the number of direct contacts or consultations with taxpayers for whom English is a second language and to separately provide the number of radio or television advertisements/appearances or newspaper articles. The new reporting format should make the reported information more consistent and easier for the TAS to reconcile and interpret.

Recommendations

To increase the reliability of the total number of taxpayers assisted by clinics, the National Taxpayer Advocate should:

Recommendation 2: Suspend or terminate grant funds for clinics not in compliance with reporting requirements as stated in Publication 3319.

Management's Response: The TAS agrees it must continue to address the problem of untimely reporting; however, the TAS believes that, in most cases, suspending funds may not be effective. The TAS will continue its current practice of using timeliness of reports as a factor on which it bases its funding decisions for future grant periods. In addition, the TAS will use untimely reporting as a factor in determining which clinics



*Progress Has Been Made but Further Improvements Are Needed in
the Administration of the Low Income Taxpayer Clinic Grant
Program*

receive site visits. Reporting requirements will also be discussed at the 2005 LITC Annual Conference. The TAS will review and strengthen its procedures for following up on late reports and for taking the necessary corrective actions.

Office of Audit Comment: Publication 3319 states that clinics not timely reporting may have their grant funds suspended or terminated. As such, the TAS should have a consistent process for following up with the clinics that have not filed timely to advise them that the grant funds will be suspended or terminated and follow through with these actions if clinics do not come into compliance by the deadline set.

Recommendation 3: Provide guidance in Publication 3319 to indicate whether a clinic may receive funding solely for making referrals to other clinics.

Management's Response: The TAS will continue, during site visits, to determine whether clinics have pro bono panels to which they can refer cases. In addition, the TAS will revise Publication 3319 for the 2007 grant cycle to clarify that a controversy LITC solely making referrals to another LITC will not be funded. The TAS stresses this issue during its annual training of TAS employees who are responsible for ranking clinic applications.

Recommendation 4: Provide guidance in Publication 3319 as to the types of media broadcasts and articles that will qualify under the LITC program.

Management's Response: The TAS plans to emphasize the value and importance of direct contact with taxpayers to clinics at the next annual LITC conference. The TAS also plans to revise Publication 3319 to indicate that, while advertising is an acceptable activity, indirect outreach must include substantive information and clinics should strive to include face-to-face contact as a primary method for educating taxpayers.

Site Reviews Were Not Comprehensive or Timely

To ensure the quality of service and compliance with grant funding requirements, we previously recommended the IRS conduct site reviews of clinics prior to and subsequent to acceptance into the LITC program.⁷ The TAS has established procedures for a three-tier site visit process. Initial site visits are designed to give TAS management basic information about the clinic's operation. This includes evaluating office hours, publicity efforts, the clinic facilities, and security of records. There are two types of indepth site visits that are less frequent and are intended to address whether the clinics are in compliance with the standards of operation and financial

⁷ *Improvements Are Needed in the Oversight and Administration of the Low-Income Taxpayer Clinic Program* (Reference Number 2003-40-125, dated May 2003).



*Progress Has Been Made but Further Improvements Are Needed in
the Administration of the Low Income Taxpayer Clinic Grant
Program*

requirements. TAS management also attended some of the clinics' outreach sessions to educate taxpayers for whom English is a second language.

In 2004, the TAS performed 77 site visits and attended 17 outreach sessions.⁸ Table 4 shows the reviews of clinics performed by the TAS in 2004.

Table 4: Reviews Performed During 2004

Tier	Type of Site Visit Review	Number of Reviews
1	Initial basic information	54
2	Indepth standards of operation	23
3	Indepth standards of operation and financial requirements	0
*	Attended outreach session	17
Total Reviews		94

Source: TIGTA's review of the 2004 LITC program files.

While this is an improvement over prior years, all of the site reviews of new clinics were performed after the TAS awarded the grant funds to the clinics. In addition, the indepth site visits do not ensure all program requirements are met and do not verify the reliability of information reported to the TAS. Furthermore, the site visits are not prioritized to ensure clinics that do not appear to be following program requirements are visited.

New clinics are not reviewed before awarding grants

The TAS visited 10 of the 12 new clinics which were awarded grants in 2004. However, the TAS did not visit these clinics until after the grant funds were awarded. We believe, before granting the funds, the TAS should perform site visits to ensure the new clinics are familiar with the program requirements and are qualified to assist taxpayers.

We found one example of a problem that could have been prevented by a timely visit. An initial site visit by the TAS in March 2005 found a returning clinic which had been awarded funds in 2003 and 2004 did not have office space and was operating out of an apartment. The initial funding for this clinic in 2003 occurred before the TAS assumed responsibility for the LITC

⁸ These site visits covered 72 of the 134 clinics.



*Progress Has Been Made but Further Improvements Are Needed in
the Administration of the Low Income Taxpayer Clinic Grant
Program*

program. The TAS had already funded \$50,000 to the clinic for 2004 but, after the site visit, cut off funding of \$30,000 for 2005. If this clinic had been visited before grant funds were initially approved, the fact that it was not equipped to assist taxpayers would have been identified before money was disbursed.

TAS officials stated they plan to continue visiting each new clinic within the first 6 months of operation. For the 2005 grant period, TAS representatives will visit 21 new clinics by the end of June 2005, and returning clinics will also be selected for reviews as appropriate. TAS officials stated they do not have the necessary resources to visit sites prior to awarding grants to new organizations. However, since the TAS was able to visit all but 2 of the new clinics in 2004 and plans to visit all 21 new clinics in 2005, we believe the resources are available. The TAS needs to improve its scheduling so the timing of the visits by TAS representatives coincides with the grant approval process for new clinics.

The TAS does not verify whether clinics meet all program requirements

For indepth site visits, the TAS has developed comprehensive check sheets to determine if the clinics meet the program requirements. Based on the guidance associated with these check sheets, the TAS should be checking files to ensure the clinics are assisting qualified taxpayers. However, we found the indepth reviews only address general information about the clinic and do not answer the specific questions on the check sheet. TAS officials advised us, to respect the attorney-client privilege between the taxpayer and the clinic, reviewers do not obtain or validate specific taxpayer information (e.g., name, Social Security Number, income level, reason for seeking help, controversy amount, and nominal fee amount, including purpose for fee).

Without requesting this information, the TAS cannot validate that the clinics are complying with LITC program requirements, including the following:

- At least 90 percent of the taxpayers represented by the clinic have incomes which do not exceed 250 percent of the poverty level.⁹
- The amount in controversy for any taxable year does not exceed \$50,000.¹⁰

Of the \$7.5 million in grant funds provided to 134 clinics in 2004, approximately \$4.7 million was awarded to 119 clinics to assist taxpayers in tax controversies with the IRS. Since taxpayer income levels and amounts in controversy are not being verified, the TAS cannot ensure the \$4.7 million in grant funds are being used as required.

Based on an opinion from the IRS Office of Chief Counsel, the TAS has concluded that it cannot obtain certain information from clinics because it would interfere with attorney-client privilege.

⁹ I.R.C. § 7526.

¹⁰ I.R.C. §§ 7463 and 7526.



*Progress Has Been Made but Further Improvements Are Needed in
the Administration of the Low Income Taxpayer Clinic Grant
Program*

This conclusion conflicts with the TAS' duties as a grant administrator. Certain information (e.g., the taxpayer's name, Social Security Number, income level, reason for seeking help, controversy amount, and nominal fee information) could be requested and obtained from intake sheets and clinic-created listings to validate program requirements without receiving documented discussions and correspondence between the taxpayer and clinic. The Office of Management and Budget *Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations* (Circular No. A-110) Section 53(e) states the Federal Government awarding agency has the right of timely and unrestricted access to any books, documents, papers, or other records or recipients that are pertinent to the awards, in order to make audits, examinations, excerpts, transcripts, and copies of such documents. As such, we believe the TAS should develop a method to obtain information necessary to determine whether the clinics are meeting program requirements without infringing on attorney-client privilege.

Information in the clinics' reports is not verified during site visits

Based on our review of program files and discussions with TAS officials, information reported by the clinics for the 2004 grant period in the interim and final reports was not verified during the site visits. This increases the risk of misreporting and reduces the reliability of information. Because of the number of clinics, it would be difficult to verify all information within the interim and final reports. However, sampling the information for some of the clinics to verify the information reported would help to evaluate and verify the reliability of the information provided.

Site visits are not prioritized to evaluate clinics which appear to be performing routine tax return preparation

Because the IRS has another program, known as the Volunteer Income Tax Assistance Program, to assist taxpayers with tax return preparation, the LITC program is not intended for this purpose. As such, clinics are only allowed to prepare tax returns if it is ancillary to the education of a taxpayer for whom English is a second language and/or when it is necessary to resolve a taxpayer's controversy with the IRS. However, some clinics appear to be doing routine tax return preparation. During 2004, 76 (57 percent) of the 134 clinics reported they prepared a total of 22,819 tax returns. Moreover, 25 of these clinics accounted for 94 percent of the total number of returns prepared. Furthermore, some clinics provided copies of flyers advertising free tax preparation in their interim and final yearend reports to the TAS.

In addition, some clinics were charging fees to prepare tax returns. Clinics are allowed to charge a nominal fee to taxpayers in addition to requesting reimbursement for expenses, such as filing



*Progress Has Been Made but Further Improvements Are Needed in
the Administration of the Low Income Taxpayer Clinic Grant
Program*

fees for Tax Court. In 2004, 4 clinics reported charging a total of \$41,528 in nominal fees. Seven other clinics indicated in their grant applications they may charge a nominal fee but did not report any fees to the TAS. Although clinics can charge a nominal fee, Publication 3319 prohibits clinics from charging fees for preparing tax returns. Nonetheless, we found two clinics that appear to be charging fees to prepare tax returns.

- A clinic received a grant of \$50,000 and charged taxpayers \$18,861 in fees during 2004. This clinic charged taxpayers a fee of one-fourth of 1 percent of their projected gross income to prepare their tax returns. For example, the clinic would charge a taxpayer that earned \$20,000 a fee of \$50 for tax return preparation. This clinic disclosed this information on its application and during its interim and yearend 2004 reports.
- A clinic received a grant of \$50,000 and charged taxpayers \$15,522 in fees during 2004. This clinic stated it solicits donations of \$20 from taxpayers who used its tax preparation services and received refunds. This clinic stated on its application it would not charge fees but did not disclose it solicits donations from taxpayers for tax preparation. Only in its yearend 2004 report did the clinic mention soliciting donations for tax return preparation.

The TAS has emphasized to clinics that tax return preparation must be related to the LITC program requirements, and clinics cannot charge fees for tax return preparation. However, it did not appear that the TAS contacted or visited these two clinics to warn them that their practices appeared to violate program requirements. TAS officials recently told us the LITC program office will complete an indepth site visit to at least 25 percent of the clinics funded in 2006. To ensure grants are used as intended, we believe the TAS should review interim and yearend reports for any indications that clinics are not following the intent of the grant program and prioritize site visits to these clinics to further evaluate the clinics' practices.

Recommendations

The National Taxpayer Advocate should develop:

Recommendation 5: A policy to conduct initial site visits for potential new clinics before the TAS awards grant funds.

Management's Response: The TAS will visit new clinics prior to making funding decisions, to the extent that time and staffing limitations allow.

Recommendation 6: A method to obtain information necessary to verify clinics are following all LITC program requirements, including taxpayer income levels, and controversy limits.

Management's Response: The TAS will consult with other Federal Government grant-making agencies to determine how these agencies verify grantee information while



*Progress Has Been Made but Further Improvements Are Needed in
the Administration of the Low Income Taxpayer Clinic Grant
Program*

still maintaining client confidentiality. In addition, the TAS revised Publication 3319 to include new reporting forms to help in the evaluation of clinics' compliance with LITC program requirements. However, the National Taxpayer Advocate noted that the LITC grant program is unlike other such Federal Government agency programs in that the grant-making agency, the IRS, is the opposing party in any tax controversy handled by clinics. This raises specific concerns about protection of client data and information.

Office of Audit Comment: If the National Taxpayer Advocate is unable to determine an adequate method of verifying compliance with grant requirements, the National Taxpayer Advocate should elevate this concern to Congress for a potential legislative remedy.

Recommendation 7: A method to verify the accuracy of information provided by clinics in their interim and final reports.

Management's Response: The TAS indicated that the corrective action for this recommendation has been completed by a three-tier site assistance visit process which is intended to ensure clinics use grant funds appropriately and effectively and are complying with the terms and conditions of the LITC program.

Office of Audit Comment: Although the site visit assistance checklists require that information provided by clinics in their interim and final reports is to be reviewed, the site assistance visit process does not contain a method to verify the accuracy of information provided by clinics in their interim and final reports. As such, we do not believe the TAS response addresses our recommendation.

Recommendation 8: A sampling methodology that prioritizes clinics based on indicators, including tax return preparation and fees charged, in clinics' applications and in their interim and final reports.

Management's Response: The TAS will develop a weighted criteria list to determine which clinics should be visited each year.

Some Clinics Are Not in Compliance With Their Federal Tax Responsibilities

To receive grants to assist taxpayers with tax controversies and/or to educate taxpayers for whom English is a second language about their tax rights and responsibilities, it is important that clinics be compliant with their own Federal tax responsibilities. However, during the application period for the 2004 grants, 5 of the 134 clinics awarded grant funds totaling \$154,300 were not in compliance with their Federal tax filing and/or payment requirements. These 5 clinics



*Progress Has Been Made but Further Improvements Are Needed in
the Administration of the Low Income Taxpayer Clinic Grant
Program*

subsequently received a total of \$127,500 in grant funds for 2005, with 1 clinic receiving increased funding from 2004 to 2005.

During the application period for the 2005 grants, nine clinics, including three of the five from the 2004 application period, were not in compliance with their Federal tax requirements. These 9 clinics owed approximately \$850,000 in taxes and had not filed 9 tax returns. The TAS awarded the 9 clinics a total of \$513,500 in grant funds for 2005.

- A clinic was awarded a grant of \$85,000 for 2004; however, this clinic did not submit the required final yearend financial report for 2002 and did not operate the clinic in 2003. In addition, this clinic changed its name and Employer Identification Number on its 2004 application. The Department of Health and Human Services, which monitors the payment of grant funds, recommended the TAS not fund the clinic for 2004 until the clinic's identity could be confirmed. The TAS did not visit the clinic and did not freeze its grant funds. If the TAS had checked for tax compliance, it would have found an unpaid tax balance of approximately \$800,000 in 2005. Instead, the clinic was awarded a grant of \$85,000 for 2005.
- We also identified a clinic that was tax compliant during the application period but became noncompliant during the grant year. This clinic was awarded a grant of \$85,000 for 2005 although it was 7 months late in filing the required 2004 interim report to the TAS. In addition, this clinic did not file and pay its employment taxes timely and, by March 2005, owed approximately \$180,000. The TAS did not freeze its grant funds for 2005 or conduct any site visits during this period.

The version of Publication 3319 used for awarding 2004 LITC program grants did not explain that applicants must be in compliance with their Federal tax responsibilities. In May 2004, the TAS recognized this problem and revised Publication 3319 for the 2005 grant period to explain that applicants must be in compliance with their Federal tax responsibilities and the TAS will conduct compliance checks on organizations applying for a 2005 grant. However, no one within the LITC program office had access to the computer system, known as the Integrated Data Retrieval System,¹¹ to verify tax compliance during the remainder of the 2004 grant period for current clinics or during the application and award period for 2005. Although access was finally provided to the LITC program office in April 2005, the TAS did not have procedures in place to ensure the verification of tax compliance was comprehensive and performed timely.

¹¹ IRS computer system capable of retrieving or updating stored information; it works in conjunction with a taxpayer's account records.



*Progress Has Been Made but Further Improvements Are Needed in
the Administration of the Low Income Taxpayer Clinic Grant
Program*

Recommendations

The National Taxpayer Advocate should:

Recommendation 9: Establish procedures to check for tax compliance before awarding LITC program grants and consider periodic tax compliance checks during the grant period.

Management's Response: The TAS will verify that all 2006 grantees are compliant with all Federal tax responsibilities prior to awarding any grants. In addition, the TAS will develop formal procedures to ensure no unauthorized disclosure of return information occurs when it contacts clinics regarding tax noncompliance. In addition, the TAS explained this requirement in the 2005 Publication 3319.

Recommendation 10: Identify and inform current clinics that are not tax compliant to become compliant or their funds will be frozen and they will be removed from the LITC program.

Management's Response: The TAS stated that all of the clinics we indicated were not in compliance with their Federal taxes have been contacted and told their grants will be terminated if they do not rectify their noncompliance within a reasonable time period.

Office of Audit Comment: While the TAS' corrective action appears to be adequate, the TAS further stated that the majority of the tax noncompliance we identified involved account errors on the part of the IRS or penalties for which abatement requests are pending. We did not find evidence of IRS errors on the accounts identified. As such, we will follow up with the TAS to evaluate the documentation used to support this assertion. Furthermore, the TAS expressed concern as to its ability to discuss tax liabilities with clinics or withhold funding if a clinic is part of a larger academic institution or organization. We will also follow up with the TAS to further evaluate its actions in this area.



*Progress Has Been Made but Further Improvements Are Needed in
the Administration of the Low Income Taxpayer Clinic Grant
Program*

Appendix I

Detailed Objective, Scope, and Methodology

The overall objective of this review was to determine whether the Low Income Taxpayer Clinic (LITC) grant program is effective and is in compliance with legal requirements. The scope of our review included organizations that received grants for Calendar Year 2004. To achieve the objective, we:

- I. Determined if the Taxpayer Advocate Service (TAS) completed corrective actions from prior Treasury Inspector General for Tax Administration recommendations.
 - A. Reviewed standards of operation and performance measures developed by the TAS.
 - B. Reviewed LITC program site reviews performed by the TAS.
- II. Reviewed LITC program interim and final yearend reports to determine the number of taxpayers for whom English is a second language that are being educated about their tax rights and responsibilities and the number of taxpayers being assisted in controversies with the Internal Revenue Service.
- III. Determined if the TAS verified whether the clinics met the legal requirements that at least 90 percent of the taxpayers they represent have incomes which do not exceed 250 percent of the poverty level (as defined by the Department of Health and Human Services) and the amount in controversy for any taxable year did not exceed \$50,000.
- IV. Reviewed self-reported data provided by the clinics regarding the preparation of tax returns.
- V. Reviewed the LITC program files to determine if the clinics were charging taxpayers a fee.
- VI. Determined if the 2004 clinics were in compliance with the filing and payment of all required tax returns.
 - A. Determined if the TAS researched the clinics for tax compliance.
 - B. Determined if the clinics were in Federal tax compliance.
 - C. Determined if the clinics that were not in Federal tax compliance also received an LITC program grant for 2005.



*Progress Has Been Made but Further Improvements Are Needed in
the Administration of the Low Income Taxpayer Clinic Grant
Program*

Appendix II

Major Contributors to This Report

Daniel R. Devlin, Assistant Inspector General for Audit (Headquarters Operations and Exempt Organizations Programs)

Michael E. McKenney, Director

Aaron R. Foote, Audit Manager

Joseph P. Smith, Lead Auditor

Janice M. Pryor, Senior Auditor

David P. Robben, Senior Auditor



*Progress Has Been Made but Further Improvements Are Needed in
the Administration of the Low Income Taxpayer Clinic Grant
Program*

Appendix III

Report Distribution List

Commissioner C
Office of the Commissioner – Attn: Chief of Staff C
Chief Counsel CC
Deputy, National Taxpayer Advocate TA
Director, Office of Legislative Affairs CL:LA
Director, Office of Program Evaluation and Risk Analysis RAS:O
Office of Management Controls OS:CFO:AR:M
Audit Liaison: National Taxpayer Advocate TA



*Progress Has Been Made but Further Improvements Are Needed in
the Administration of the Low Income Taxpayer Clinic Grant
Program*

Appendix IV

Outcome Measures

This appendix presents detailed information on the measurable impact that our recommended corrective actions will have on tax administration. This benefit will be incorporated into our Semiannual Report to the Congress.

Type and Value of Outcome Measure:

- Protection of Resources – Potential; \$667,800 awarded to 11 organizations that received Low Income Tax Clinic (LITC) program grants from the Taxpayer Advocate Service (TAS) in 2004 and 2005 that were not in compliance with their Federal tax filing and/or payment requirements (see page 15).

Methodology Used to Measure the Reported Benefit:

We researched the Integrated Data Retrieval System¹ for all organizations that received LITC program grants in both 2004 and 2005. The TAS awarded grants to 134 organizations in 2004 and 124 of these organizations also received a grant in 2005.

We identified clinics that had not filed required tax returns and/or had balances owed during the period the TAS would have reviewed the grant applications. Five organizations that owed Federal taxes received grants totaling \$154,300 for the 2004 grant period. Nine organizations, 3 of which also owed tax during the 2004 grant period, received grants totaling \$513,500 for the 2005 grant period. Organizations that are not in compliance with their Federal taxes may be unsuitable grant recipients to assist taxpayers.

¹ Internal Revenue Service computer system capable of retrieving or updating stored information; it works in conjunction with a taxpayer's account records.



*Progress Has Been Made but Further Improvements Are Needed in
the Administration of the Low Income Taxpayer Clinic Grant
Program*

Appendix V

Low Income Taxpayer Clinics per State or Territory

States and Territories	Type of Clinic								Funding per State or Territory	
	English As a Second Language		Controversy		Both Services		Total per State			
	2004	2005	2004	2005	2004	2005	2004	2005	2004	2005
Alabama	1	1		1			1	2	\$60,000	\$70,000
Alaska	1					2	1	2	50,000	80,000
Arizona					2	1	2	1	117,399	85,000
Arkansas			1	1		1	1	2	80,000	110,000
California		1			11	12	11	13	653,453	615,000
Colorado			1	1			1	1	50,000	50,000
Connecticut		1	2	2			2	3	170,000	195,000
Delaware			1		1	2	2	2	52,000	30,000
District of Columbia	1	1	1	1			2	2	99,415	99,000
Florida			1		5	7	6	7	352,800	358,937
Georgia	1	1	2	2	1	1	4	4	197,000	195,000
Hawaii					2	2	2	2	115,000	82,000
Idaho					1	1	1	1	71,582	80,000
Illinois	1	1	2	2	2	2	5	5	305,250	285,000
Indiana			1	1	2	1	3	2	140,650	131,000
Iowa					1	1	1	1	85,000	85,000
Kansas	2	2			1		3	2	58,000	50,000
Kentucky					2	2	2	2	108,000	78,000
Louisiana			2	2			2	2	100,000	100,000
Maine					1	1	1	1	85,000	93,000
Maryland			1	1			1	1	85,000	60,000
Massachusetts		1			2	2	2	3	125,000	158,000
Michigan					3	3	3	3	122,667	124,000
Minnesota					2	2	2	2	145,000	145,000
Mississippi			1	1			1	1	25,000	25,000
Missouri			1	1	2	2	3	3	199,550	205,000
Montana			1	1			1	1	31,725	31,725
Nebraska					1	1	1	1	33,250	28,289
Nevada					1	1	1	1	50,000	50,000



*Progress Has Been Made but Further Improvements Are Needed in
the Administration of the Low Income Taxpayer Clinic Grant
Program*

States and Territories	Type of Clinic								Funding per State or Territory	
	English As a Second Language		Controversy		Both Services		Total per State			
	2004	2005	2004	2005	2004	2005	2004	2005	2004	2005
New Hampshire	1	1	1	1			2	2	81,359	54,118
New Jersey			1	1	2	1	3	2	180,000	170,000
New Mexico	1					1	1	1	25,000	31,292
New York		1	4	4	12	12	16	17	912,898	928,575
North Carolina		1		1	2	2	2	4	94,695	160,000
North Dakota					1	1	1	1	28,500	28,500
Ohio	1	1	2	2	4	4	7	7	372,148	277,000
Oklahoma			1		2	2	3	2	137,000	115,000
Oregon			1	1	1	2	2	3	128,098	160,000
Pennsylvania		1	3	3	1	1	4	5	316,479	335,000
Puerto Rico	1	1					1	1	40,000	40,000
Rhode Island			1	1	1	1	2	2	150,000	150,000
South Carolina					1	1	1	1	75,000	85,000
South Dakota					1	2	1	2	47,500	97,500
Tennessee		1			1	1	1	2	85,000	123,000
Texas	2	3			4	4	6	7	369,500	356,500
Utah	1						1	0	47,250	0
Vermont					2	2	2	2	76,564	77,000
Virginia	1	1			3	3	4	4	190,000	193,000
Washington			1	1	1	1	2	2	125,136	139,000
West Virginia			1	1	1	1	2	2	70,208	43,000
Wisconsin			1	1	1	1	2	2	159,424	160,000
Wyoming						1	0	1	0	15,000
Totals	15	20	35	34	84	91	134	145	\$7,479,500	\$7,437,436

Source: Low Income Taxpayer Clinic program office.



*Progress Has Been Made but Further Improvements Are Needed in
the Administration of the Low Income Taxpayer Clinic Grant
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Appendix VI

Management's Response to the Draft Report



National Taxpayer Advocate

AUG 26 2005

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AUG 30 2005

MEMORANDUM FOR PAMELA J. GARDINER
DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Nina E. Olson 
National Taxpayer Advocate

SUBJECT: Draft Audit Report – Progress Has Been Made but Further
Improvements Are Needed in the Administration of the
Low Income Taxpayer Clinic Grant Program (Audit
200510009)

Thank you for the opportunity to respond to the above-captioned report on the administration of the Low Income Taxpayer Clinic (LITC) Program. In our response below, I will first address some of the general concerns identified in this audit, and then respond to the audit's specific recommendations, identifying the actions we plan to take in order to implement these recommendations.

BACKGROUND

In the IRS Restructuring and Reform Act of 1998, Congress enacted Internal Revenue Code section 7526, which authorizes Federal matching grants for low income taxpayer clinics that either (1) represent low income taxpayers in controversies with the Internal Revenue Service (IRS) or (2) operate programs to inform individuals for whom English is a second language (ESL taxpayers) about their rights and responsibilities under our tax laws.¹ The IRS created the LITC Program in 1999 to administer this grant program, and from the program's inception through April 2003, the IRS Wage & Investment Operating Division had program oversight responsibility. In May 2003, TIGTA issued a report entitled, *Improvements Are Needed in the Oversight and Administration of the Low-Income Taxpayer Clinic Program*.² Effective that same month, the IRS transferred the responsibility for administering the LITC grant program from the Wage & Investment Operating Division to the Office of the Taxpayer Advocate.

¹ Pub. L. No. 105-106, § 3601(a).

² Treasury Inspector General for Tax Administration, *Improvements Are Needed in the Oversight and Administration of the Low-Income Taxpayer Clinic Program*, Ref. No. 2003-40-125 (May 2003).

The Office of the Taxpayer Advocate operates independently of any other IRS Office and reports directly to Congress through the National Taxpayer Advocate.



*Progress Has Been Made but Further Improvements Are Needed in
the Administration of the Low Income Taxpayer Clinic Grant
Program*

- 2 -

As the founder of the first independent low income taxpayer clinic in the nation and as one who worked hard to help craft the legislative language establishing the LITC Program in 1998, I am committed to seeing the Program fulfill its very important mission. Since taking over responsibility for the Program, my office has worked diligently to make LITC services available to low income taxpayers throughout the United States. The LITC Program now funds at least one clinic in all 50 states, plus the District of Columbia and Puerto Rico.³ In 45 states, the District of Columbia, and Puerto Rico, both controversy and ESL services are available. Since assuming responsibility for the LITC Program, my office has also sought to improve the quality of the clinics by establishing standards of operation and providing training to the clinics on these standards. In addition, we have put significant effort into ensuring that all grant recipients function within established guidelines for the LITC Program. As I discuss below, we are addressing issues involving tax return preparation services, inappropriate charging of fees in excess of a nominal amount, and inadequate reporting requirements.

The present audit covers the 2004 grant cycle (January 1, 2004 through December 31, 2004). I am pleased that your audit team found that we made improvements in 2004 compared with the prior period audited. I believe that we have made significant additional improvements for both the current 2005 and the upcoming 2006 grant cycles and we will continue to work to improve the Program in coming years. I personally found many of the audit report's recommendations very helpful and appreciate the thorough analysis by the audit team. As discussed below, we agree with all of your recommendations in whole or in part and will take action to implement them.

Program Goals and Performance Measures

- *TAS has not developed and communicated the overall goals of the LITC Program and performance measures needed to measure the success of the Program.*

I agree that program goals and performance measures are an important part of ensuring that the LITC Program provides quality services to taxpayers throughout the United States. Since the transfer of the Program in 2003 from the Wage & Investment Division to the Taxpayer Advocate Service (TAS), my office has focused on ensuring that all clinics are meeting the operating and ethical

³ The total number of funded clinics for the 2005 grant cycle is 153 clinics in 52 states or territories. This coverage statistic differs from the figure of 145 clinics in 51 states or territories reported by TIGTA because the LITC Program funded an additional eight clinics during the 2005 supplemental grant cycle which runs from June 1, 2005 through December 31, 2005. The supplemental grant cycle was made possible by a \$500,000 increase in Congressional funding for the LITC Program in 2005. See Pub. L. No. 108-447.



*Progress Has Been Made but Further Improvements Are Needed in
the Administration of the Low Income Taxpayer Clinic Grant
Program*

- 3 -

standards of operation set forth in Publication 3319 (the LITC Grant Application Package and Guidelines). Now that a basic level of operation has been established, we will turn our attention to developing specific program goals and performance measures for the LITC Program. We plan to investigate what other Federal grant-making organizations, such as the Legal Services Corporation⁴, do to measure the success of their programs. We will also be working with the Volunteer Income Tax Assistance (VITA) Program⁵ to understand how it measures customer satisfaction for VITA sites. Additionally, we must determine how to assess the quality of the contact between clinics and taxpayers.

In an effort to ensure that LITC Program goals and performance measures accurately capture crucial services provided by the Program, I am establishing a team consisting of LITC Program Office staff, Local Taxpayer Advocates, TAS Program Planning and Quality staff, and LITCs to identify possible goals and performance measures for the LITC Program. Once this team provides its recommendations and I establish appropriate goals and measures, my office will implement the goals and provide training to the clinics.

Reporting Requirements

- *Clinics are not timely meeting their reporting requirements, and even when they are, they are not consistently reporting the numbers of cases worked and taxpayers served throughout the year.*

I share TIGTA's concerns that the LITC Program has previously lacked standardization in the type of information collected from clinics in their interim and annual reports. Although Publication 3319, Low Income Taxpayer Clinic Grant Application Package and Guidelines, lays out the type of information clinics are required to submit, the publication itself can certainly be formatted and written more clearly and concisely. Moreover, there are significant differences in the way clinics count their inventory, outreach, and publicity efforts. For this reason, we have found it difficult to obtain an accurate record of the work being performed by each clinic.

In an effort to further improve the standards of operation of the clinics, my office developed a number of new reporting forms for the 2006 Publication 3319. We incorporated several helpful suggestions made by TIGTA during informal discussions about the forms. The clinics will also receive extensive training on

⁴ As defined by the Legal Services Corporation Act, LSC's mission is to promote equal access to the system of justice and improve opportunities for low-income people throughout the United States by making grants for the provision of high-quality civil legal assistance to those who would be otherwise unable to afford legal counsel. See <http://www.lsc.gov>.

⁵ The VITA Program is sponsored by the IRS and offers free tax return preparation for low-to-moderate income (under \$36,000) individuals. See <http://www.irs.gov>.



*Progress Has Been Made but Further Improvements Are Needed in
the Administration of the Low Income Taxpayer Clinic Grant
Program*

- 4 -

the new forms at the annual LITC conference in December 2005. These forms are designed to standardize the information reported by clinics and will help TAS obtain a complete picture of the type of work clinics are performing. The information collected in these forms will create a baseline of information for measuring clinic performance. We requested that clinics begin using these forms immediately in 2005 so that we could test the forms' ability to simplify the reporting process. We have already received a number of comments from clinics indicating they are pleased to have standardized forms on which to report their activities. Although only 20 percent of all clinics have submitted the forms with their 2005 interim reports, these forms are a mandatory part of the reporting process for all interim and annual reports due in 2006.

We have also experienced problems with clinics failing to submit their reports in a timely manner. TAS maintains records of those clinics that do not submit timely reports. When the LITC Program Office reviews applications prior to the awarding of funds, the timeliness of reports is a factor that can affect the grant making decision. For the 2005 grant cycle (January 1 – December 31, 2005), TAS reduced the dollar amount of a number of grant awards because the clinics had a history of submitting late reports. I consider this to be an effective method of dealing with clinics that submit late reports. An alternative approach – freezing funds for a few weeks or months – will likely not affect most clinics because they can simply wait to draw down the funds once they submit their late report and the funds are unfrozen. I believe that the knowledge that a clinic's award amount may be reduced in a later year is a stronger incentive for filing timely reports.

Site Assistance Visits

- *Site assistance visits are not comprehensive or timely.*

I agree that site assistance visits are the most effective means to uncover and address problems in specific clinics. Since the LITC Program came to TAS in 2003, my office has significantly improved both the quality and the quantity of the site assistance visits. I believe these visits are critical to helping all clinics meet the LITC guidelines and ensuring that the clinics maintain an ongoing dialogue with TAS and the LITC Program Office.

Beginning in 2005, my office committed to visiting all new clinics as soon as possible, preferably within the first six months of the grant cycle. These early visits are critical to ensure that new clinics understand and will be able to meet the LITC Program guidelines. I agree with the audit report that it would be beneficial to visit new clinics in advance of grant funds being awarded. However, given the timing of the grant cycle and TAS's current budget and LITC staffing, such visits are not always possible.



*Progress Has Been Made but Further Improvements Are Needed in
the Administration of the Low Income Taxpayer Clinic Grant
Program*

- 5 -

Additionally, TAS cannot notify clinics of their award amounts until Congress appropriates the funds, which frequently occurs very late in the year (or on occasion, after the grant cycle has already begun). As a result, even if TAS has made its selection of grantees and award amounts, those decisions regarding award amounts are subject to change, pending the amount of funds appropriated by Congress.

Moreover, many new applicants have already received some type of contact from TAS during the recruitment period preceding the grant application period. Because the LITC Program strives to ensure adequate clinic coverage for all taxpayers, TAS is actively involved in recruiting organizations to apply for an LITC grant in geographic areas that are underserved by existing clinics. The result is that the vast majority of new clinic applications under consideration for funding have already received a visit or have had multiple phone contacts with a TAS employee – usually, someone from the LITC Program Office or the Local Taxpayer Advocate for that geographic location. For those new clinics that have not had contact with a TAS employee, we attempt to visit them prior to the start of the new grant cycle, depending on time, staffing, and budget constraints.

TIGTA raises a concern that we are not taking steps to ensure that a clinic meets all program requirements when conducting site assistance visits. Specifically, TIGTA is concerned with the requirements that at least 90 percent of taxpayers represented have incomes which do not exceed 250 percent of the Federal poverty guidelines⁶ and that the amount in controversy for any taxable year does not exceed \$50,000.⁷ I understand the concern that there is currently no method to verify that clinics are meeting these program requirements. My office is committed to reviewing how other Federal grant-making agencies determine how to verify grantee information while still maintaining client confidentiality. Based on a review of other agencies' procedures, my office will develop procedures to verify that clinics are meeting the program guidelines. It is important to note, however, that the Internal Revenue Code provides that the amount in controversy for any taxable year *generally* does not exceed \$50,000. The \$50,000 amount is a guideline and leaves room for clinics to occasionally take a case in which the amount in controversy for a taxable year is over \$50,000. As part of the application process, clinics must describe their plans for ensuring that the amount in controversy generally does not exceed \$50,000. We will revise Publication 3319 to make it clear that when clinics submit their interim and annual reports, they must provide an explanation of the reason(s) they accepted any case above the \$50,000 guideline.

⁶ IRC § 7526(b)(1)(B)(i). The Department of Health and Human Services publishes the Federal poverty guidelines each year. See <http://aspe.hhs.gov/poverty>.

⁷ IRC § 7526(b)(1)(B)(ii) and IRC § 7463.



*Progress Has Been Made but Further Improvements Are Needed in
the Administration of the Low Income Taxpayer Clinic Grant
Program*

- 6 -

Tax Return Preparation

- *Some clinics may be doing routine tax return preparation rather than limiting their tax return preparation to situations that are directly related to a controversy with the IRS or an ancillary part of an LITC Program for ESL taxpayers.*

The Internal Revenue Code provides that a clinic may qualify under the LITC grant program only if it either “represents low-income taxpayers in controversies with the Internal Revenue Service; or operates programs to inform individuals for whom English is a second language about their rights and responsibilities” under the Internal Revenue Code.⁸ The legislative history of the provision shows that Congress considered making LITC grant funds available for tax return preparation but rejected the idea.⁹

In the early years of the LITC Program, the IRS interpreted the notion of “program activity” very broadly. That is, the IRS, after consulting with the Office of Chief Counsel, maintained that outreach to ESL taxpayers – informing them about their tax rights and responsibilities – could include tax return preparation assistance. Controversy-related tax return preparation was also considered covered under the statute. The IRS thus made grants to clinics offering services to taxpayers that consisted primarily of tax return preparation. Indeed, the FY 2004 Senate Appropriations Committee report advocated this result. It stated:

The Committee is concerned about recently proposed Treasury regulations that state that the Treasury Department and the Internal Revenue Service do not believe that qualified LITC’s are authorized to provide tax preparation services unless it is in conjunction with a controversy or with an English as a Second Language program. Need-based tax preparation assistance through LITC and other programs such as VITA are imperative for many of our Nation’s

⁸ IRC § 7526(b)(1)(A)(ii).

⁹ Initially, the House of Representatives passed H.R. 2676, the Internal Revenue Service Restructuring and Reform Act of 1997, with language limiting qualified activities to controversy and ESL services. H.R. 2676, 105th Cong. § 361(a) (1997) (version passed by the House of Representatives). The Senate later passed a version of the bill that also allowed LITC grant funds to be used to “provide [] tax preparation assistance and tax counseling assistance to low income taxpayers, such as volunteer income tax assistance programs.” H.R. 2676, 105th Cong. § 3601(a) (1998) (version passed by the Senate). Ultimately, the conference committee agreed on a compromise bill that deleted the Senate language. Internal Revenue Restructuring and Reform Act of 1998, Pub. L. No. 105-206, § 3601, 112 Stat. 685, 775 (1998); (Codified at IRC § 7526(b)(1)(A)(ii)). The conference report expressly states that the Senate amended the House bill to provide that “[g]rants can also be made to volunteer income tax assistance programs,” but points out that, with two unrelated exceptions, the conference agreement followed the House bill. H.R. Conf. Rep. No. 105-599, at 303 (1998).



*Progress Has Been Made but Further Improvements Are Needed in
the Administration of the Low Income Taxpayer Clinic Grant
Program*

- 7 -

taxpayers who cannot afford commercial preparers. Without this assistance, many individuals may either not file a return or will make errors and prepare their returns improperly, ultimately leading to a controversy with the IRS.¹⁰

The regulations to which the Senate Appropriations Committee referred are those in Treasury Regulation § 301.7701-15(a)(7)(v)-(viii). Those regulations exclude from the definition of an income tax return preparer any individual who provides tax assistance as part of a qualified LITC, if that tax assistance is directly related to a controversy or is an ancillary part of a program to inform individuals for whom English is a second language about their tax rights and responsibilities. The Preamble to the final regulations provides "that a qualified LITC may not provide return preparation assistance other than assistance directly related to a controversy with the IRS or assistance that is an ancillary part of an ESL outreach program."¹¹ That is, to qualify as an LITC, a clinic can perform tax preparation only if it is controversy-related or ancillary to ESL outreach.

Given the continuing confusion and problems surrounding tax return preparation, my office included new restrictions in the 2004 Publication 3319, defining when tax preparation is directly related to a controversy or ancillary to an ESL outreach program. In the cover letter that accompanied the 2004 Publication 3319, I highlighted for the applicants that the package contained an explanation of "ancillary" in the tax return preparation context. Additionally, we educated the 2004 and 2005 LITC grantees about this change in policy at the annual clinic training conference for each grant cycle. Nevertheless, we find ourselves continually monitoring and verifying that all funded clinics are engaging in qualified LITC activities and not in routine tax return preparation. For example, our Local Taxpayer Advocates are required to visit each ESL LITC in their locales during filing season to verify that the clinics are not advertising return preparation and are not engaging in more than ancillary return preparation.

My office has made it clear that we will take strong action whenever we discover that a clinic is performing routine tax return preparation. During site visits in 2005, for example, my office froze the funds of a few clinics that continued to engage in routine tax preparation. If we determine that a clinic has misrepresented the nature of its activities, we will refer the clinic to TIGTA for investigation of misappropriation of Federal funds.

¹⁰ Sen. Rep. No. 108-146, at 126.

¹¹ Preamble to T.D. 9026, 2003-5 I.R.B. 366, 367. Thus, although TIGTA raised a concern about TAS's disregard for the FY 2004 Senate Appropriations Committee's recommendation to fund clinics engaging primarily in tax return preparation services, TAS acted in accordance with the position established by the IRS and the Treasury Department.



*Progress Has Been Made but Further Improvements Are Needed in
the Administration of the Low Income Taxpayer Clinic Grant
Program*

- 8 -

I emphasize, however, that many clinics providing extensive tax preparation were admitted to the LITC Program under earlier IRS policy. My office has worked with these clinics to help them expand the range of their services to comply with the current grant requirements. We believe that these clinics have strong relationships with the population that the LITC Program was enacted to serve, and that taxpayers will be harmed if there is no clinic in their community. Thus, we are working with these clinics to bring them into compliance with the requirements of Treasury Regulation § 301.7701-15(a)(7)(v)-(viii).

Nominal Fees

- *Some clinics are charging more than a nominal fee for their services.*

IRC § 7526(b)(1)(A)(i) states that a qualified clinic may not charge "more than a nominal fee for its services (except for reimbursement of actual costs incurred)." In addition, Publication 3319 incorporates the rule set forth in Treasury Regulation § 301.7701-15(a)(7)(viii) that a clinic may not charge any fee for the ancillary preparation of a tax return. While most clinics do not charge fees at all, a few clinics do. This situation requires us to distinguish between a permissible nominal fee and an impermissible fee that is more than nominal.

I have asked the IRS Office of Chief Counsel to provide guidance to help my office and the clinics understand what constitutes a nominal fee. Through its reviews of clinic applications, interim and annual reports, and site assistance visits, my office is actively monitoring clinics that are charging fees. We also discuss this issue annually at the clinic training conference. If a clinic is charging a fee, we remind that clinic of the statutory requirement that any fee charged must not be more than nominal in amount. Also, if we believe that the fee is more than nominal, my office advises the clinic that it believes the fees being charged are excessive and should be reduced. If a clinic refuses to reduce its fees, we will freeze their funds and provide the clinic a reasonable period of time for taking corrective action. If the clinic fails to reduce its fees within that timeframe, we will terminate the grant and consider referring the clinic to TIGTA for investigation.

Tax Compliance Checks

- *Some clinics are not in compliance with their Federal tax responsibilities and TAS does not have procedures in place to verify tax compliance.*

The report states that nine clinics funded during the 2005 grant cycle have either failed to file required returns or owe approximately \$850,000 in taxes. TIGTA recommends that TAS engage in tax compliance checks before awarding grant funds and conduct periodic checks throughout the grant period. Additionally, TIGTA recommends that any current clinics which are not tax compliant should become compliant or have their funds frozen and ultimately be removed from the



*Progress Has Been Made but Further Improvements Are Needed in
the Administration of the Low Income Taxpayer Clinic Grant
Program*

- 9 -

LITC Program. I agree with TIGTA's concerns regarding tax compliance, and my office is actively addressing this issue, as discussed below. Where the Federal government provides funds to a private organization, the government can and should insist that the organization is in full compliance with its Federal tax responsibilities. This is particularly true when the grant-making body is the Internal Revenue Service.

TAS identified tax compliance as an issue shortly after it assumed responsibility for the LITC Program, and in May 2004, TAS revised Publication 3319 for the 2005 grant cycle to explain that applicants must be in compliance with their Federal tax responsibilities and to advise clinics that TAS would conduct compliance checks on organizations applying for a 2005 grant.¹² As the TIGTA report points out, however, the LITC Program Office did not have access to the IRS data system used to verify tax compliance during the application and award period for the 2005 grant cycle, nor were adequate procedures in place for that cycle to ensure comprehensive and timely verification. The LITC Program Office personnel obtained database access in April 2005 and are currently conducting tax compliance checks on 2006 LITC grant applicants.

In response to the specified compliance issues identified by TIGTA, we sought advice from Counsel about a potential disclosure issue identified by the LITC Program Office. Some clinics (particularly the academic ones) are part of a larger organization. In order to freeze funds, TAS must notify a clinic in writing of the reason why payments are being temporarily withheld and provide the clinic a reasonable period for taking corrective action. This requirement presents a problem in the case of a clinic embedded within an academic institution, or even a large nonprofit. Even though both the clinic and the institution may use the same employer identification number, disclosure to the clinic of tax return information of the academic institution would violate IRC § 6103. Moreover, the clinic will not be in a position to address the noncompliance of the academic institution. We are working with Counsel to address this matter in a manner consistent with all laws and requirements, including the disclosure rules.

Since receiving the discussion draft of this report to review, TAS contacted the appropriate individual for each clinic (or institution) that TIGTA indicated was not tax compliant to discuss the issue. TAS ensured that no unauthorized disclosure of tax return information has occurred. Of the nine clinics identified by TIGTA, eight are currently working closely with TAS to come into compliance with the understanding that failure to take corrective action within a reasonable amount of time will result in terminating the grant, closing the account, and deobligating the

¹² We note that TIGTA did not raise tax compliance as a concern in its 2003 audit report, *Improvements Are Needed in the Oversight and Administration of the Low-Income Taxpayer Clinic Program*, Ref. No. 2003-40-125 (May 2003), although the Wage & Investment Operating Division did not conduct tax compliance checks on LITCs at that time.



*Progress Has Been Made but Further Improvements Are Needed in
the Administration of the Low Income Taxpayer Clinic Grant
Program*

- 10 -

funds. The majority of the noncompliance issues with these eight clinics relate to either account errors on the part of the IRS or penalties for which abatement requests are pending. Moreover, many of these clinics had already taken significant and repeated steps to rectify the noncompliance before being contacted by TAS. The LITC Program Office had already frozen funds of the remaining clinic for materially failing to comply with the terms of the grant unrelated to the noncompliance issue. TAS has also informed that clinic that tax noncompliance is yet another issue that it must address or its grant will be terminated.

Thank you for the opportunity to review and comment on this report. I will discuss this report and its recommendations with the clinics at the upcoming annual LITC conference in December 2005. If you have any questions or concerns, please contact me or have a member of your staff contact W. R. Swartz at (212) 298-2401 or Chris Lee at (202) 622-8391.



*Progress Has Been Made but Further Improvements Are Needed in
the Administration of the Low Income Taxpayer Clinic Grant
Program*

- 11 -

Summary of TIGTA Recommendations and Management Response

TIGTA Recommendation 1: The National Taxpayer Advocate should establish goals and performance measures for the LITC Program to assist the Congress and the IRS in evaluating the success of the program. In addition, the National Taxpayer Advocate should communicate general expectations derived from these measures to prospective clinics during the application process and reinforce these measures to grant recipients during the annual LITC Program conference and site visits to clinics.

Corrective Actions:

1. TAS will form a team, consisting of LITC Program Office staff, Local Taxpayer Advocates, TAS Program Planning and Quality (PPQ) staff, and LITC representatives, to identify possible goals and performance measures for the LITC Program.
2. TAS will identify appropriate goals and measures for the LITC Program by determining what other organizations, such as the Legal Services Corporation, do to evaluate the success of their grant programs, how the Volunteer Income Tax Assistance (VITA) Program measures customer satisfaction for its VITA sites, and how the complexity of cases worked by clinics – as opposed to simply the number of cases worked – can be measured. Once finalized, the goals and performance measures will be included in Publication 3319.

Completion Dates:

1. January 31, 2006.
2. April 30, 2007.

TIGTA Recommendation 2: Suspend or terminate grant funds for clinics not in compliance with reporting requirements as stated in Publication 3319.

Comment: TAS agrees that it must continue to address the problem of untimely reporting. However, TAS believes that in most cases freezing funds may not be effective. Freezing a clinic's funds for a few weeks or months will mostly likely not affect a clinic because it can simply wait to draw down the funds once it submits its late report and have its funds unfrozen. Instead, TAS believes that using a clinic's reporting tardiness as a negative factor in determining the clinic's eligibility for or amount of a grant award in a later year demonstrates to a clinic the importance TAS places on timely receipt of reports. Moreover, we believe that this approach is more effective in achieving the desired behavior. However, TAS agrees with TIGTA that late filing in conjunction with other operational problems can lead to the Program Office's freezing of funds.



*Progress Has Been Made but Further Improvements Are Needed in
the Administration of the Low Income Taxpayer Clinic Grant
Program*

- 12 -

Repeated late filing can also lead TAS to not renewing an organization's grant award.

Corrective Actions:

1. TAS maintains records of those clinics that do not submit timely reports. The LITC Program Office will continue its current practice of performing a management review of all applications before clinic funds are awarded, and using the timeliness of reports as a factor on which it bases its funding decisions.
2. TAS will review and strengthen its procedures for following up on late reports, and for taking the necessary corrective actions.
3. TAS will continue to use the existence of untimely reports as a factor in selecting LITCs for site assistance visits by the LTAs and the LITC Program Office, which may uncover operational problems that can lead to freezing grant funds.
4. TAS will specifically address timely reporting requirements at the 2005 LITC Annual Conference in December 2005.

Completion Dates:

1. Completed.
2. January 31, 2006.
3. Completed.
4. December 31, 2005.

TIGTA Recommendation 3: Provide guidance in Publication 3319 to indicate whether a clinic may receive funding solely for making referrals to other clinics.

Corrective Actions:

1. Publication 3319 states that clinics must have a *pro bono* panel to which they can refer cases. During site visits, TAS verifies the existence of the *pro bono* panels of all clinics. Clinics are also required to report on the effectiveness of their *pro bono* panels in their reports and applications. Any clinic that requests or receives funding for controversy service but purports to fulfill its *pro bono* panel requirement by referring cases to another LITC, is advised that this approach is not acceptable. TAS works with these clinics to assist them in recruiting additional members for their *pro bono* panels and will not continue to fund controversy clinics that simply refer their cases to other LITCs.¹³
2. The LITC Program Office stresses this issue during the annual training of TAS employees who will be participating in the LITC ranking panel

¹³ LITCs that solely operate as ESL outreach and education programs can meet their *pro bono* panel requirement by referring cases to a controversy LITC. However, the ESL LITC cannot use those referrals as justification for controversy funding.



*Progress Has Been Made but Further Improvements Are Needed in
the Administration of the Low Income Taxpayer Clinic Grant
Program*

- 13 -

process. This training ensures that the individuals reviewing and ranking the clinic applications are aware of the need to have *pro bono* panels and any applicant seeking grant funds for controversy services solely to refer cases to another clinic will be further scrutinized.

3. When TAS revises Publication 3319 for the 2007 grant cycle, TAS will add language to clarify that a controversy LITC solely making referrals to another LITC will not be funded.

Completion Dates:

1. Completed.
2. Completed.
3. April 30, 2006.

TIGTA Recommendation 4: Provide guidance in Publication 3319 as to the types of media broadcasts and articles that will qualify under the LITC Program.

Comment: TIGTA raises concern over the type of activities used by ESL clinics to provide outreach and education. The audit indicates that direct contact is preferable to advertising (such as radio, television, and print media). While it may be desirable that every ESL clinic provide only direct contact to ESL taxpayers who need tax information, we recognize that this level of engagement is not always possible. Indeed, in some cases, a simple advertisement or news article may provide most of the basic information a taxpayer needs and can direct taxpayers to contact the clinic if they need more information. The new report forms contained in the 2006 Publication 3319 are designed to standardize the reporting process and identify the types of outreach individual clinics are performing, so that TAS can better gauge the full extent and variety of each clinic's outreach and education activities.

TIGTA also expressed concern that some clinics were making efforts to publicize their services rather than focusing on educating taxpayers as to their tax rights and responsibilities. The LITC Program adheres to the grant award administrative requirements in various OMB Circulars. Those OMB Circulars provide that publicity¹⁴ costs directly and solely associated with a program are allowable expenses. Thus, TAS has no objection to a clinic publicizing their services in an effort to reach the intended audience. TAS agrees, however, that clinics should provide substantive information in their publicity efforts and strike a balance between advertising to reach taxpayers and providing face-to-face assistance to those taxpayers.

¹⁴ See OMB Circular A-21 and OMB Circular A-122.



*Progress Has Been Made but Further Improvements Are Needed in
the Administration of the Low Income Taxpayer Clinic Grant
Program*

- 14 -

Corrective Actions:

1. At the upcoming annual LITC conference, TAS will emphasize to clinics the value and importance of direct contact with taxpayers.
2. To facilitate a balance between advertising to reach taxpayers and providing face-to-face assistance to those taxpayers, TAS intends to revise Publication 3319 for the 2007 grant cycle to indicate that while advertising is an acceptable activity, indirect outreach must include substantive information, and clinics should strive to include face-to-face contact as a primary method for educating taxpayers.

Completion Dates:

1. December 31, 2005.
2. April 30, 2006.

TIGTA Recommendation 5: The National Taxpayer Advocate should develop a policy to conduct initial site visits for potential new clinics before the TAS awards grant funds.

Comment: Beginning in the 2005 grant cycle, TAS committed to visiting all new clinics as soon as possible, with a strong emphasis on visiting them within the first six months of the grant cycle. In addition, in the 2006 Publication 3319 (revised May 2005), TAS has notified all new clinics that they can expect to receive a site visit within the first six months of the grant cycle.

Corrective Action: TAS is actively involved in recruiting organizations to apply for an LITC grant in geographic areas that are underserved by existing clinics. The result is that the vast majority of new clinics applying for a grant have already received a visit from, or have had contact with, a TAS employee. TAS agrees to visit new clinics that have not had contact with a TAS employee prior to making funding decisions, to the extent that time and staffing limitations permit.

Completion Date: December 31, 2005.

TIGTA Recommendation 6: The National Taxpayer Advocate should develop a method to obtain information necessary to verify clinics are following all LITC Program requirements, including taxpayer income levels, and controversy limits.

Corrective Actions:

1. The IRS Office of Chief Counsel advised TAS that review of individual unredacted client files is not appropriate because such files may contain information protected by the attorney-client privilege and the work-product doctrine. TAS concurs that a review of some redacted material, such as



*Progress Has Been Made but Further Improvements Are Needed in
the Administration of the Low Income Taxpayer Clinic Grant
Program*

- 15 -

routine management intake reports, would help the LITC Program Office determine how well a clinic is functioning and whether the needs of taxpayers are being served. TAS will consult with other Federal grant-making agencies to determine how they verify grantee information while still maintaining client confidentiality. We note, however, that the LITC grant program is unlike other such Federal agency programs, in that the grant-making agency (the IRS) is, by definition, the opposing party in any controversy handled by the clinic. This difference raises very specific concerns about protection of client data and information.

2. The 2006 Publication 3319 includes mandatory new reporting forms to help evaluate whether clinics are complying with the requirements of the LITC Program. In particular, these forms identify the number of cases where the amount in controversy exceeded \$50,000, as compared to the total number of cases handled by the clinic. In addition, these forms identify the number of cases in which the taxpayer's income exceeded 250% of the poverty level, as compared to the total number of cases handled by the clinic.

Completion Dates:

1. April 1, 2006.
2. Completed.

TIGTA Recommendation 7: The National Taxpayer Advocate should develop a method to verify the accuracy of information provided by clinics in their interim and final reports.

Corrective Action: In 2004, TAS implemented a three-tier site assistance visit process to ensure that clinics utilize grant funds appropriately and effectively and are complying with the terms and conditions of the LITC Program. The first level of review is an initial visit conducted by the Local Taxpayer Advocate (or staff) for that locale. The LITC Program Office conducts the second level of review, which consists of a review of the clinic intake procedures, how the clinic tracks information, communication and publicity plans, case statistics, and outreach information. The third tier is an in-depth review of the clinic's operations, including a review of the clinic's personnel policies, procurement requirements, program requirements, standards of operation, and various other issues. The LITC Program Office reserves the third tier review for clinics that have experienced problems in the past and are in need of close monitoring. Both types of review conducted by the LITC Program Office include a review of the standards of clinic operations, clinic spreadsheets, intake forms, promotional materials, and a sample (with appropriate redactions) of the clinic's cases to



*Progress Has Been Made but Further Improvements Are Needed in
the Administration of the Low Income Taxpayer Clinic Grant
Program*

- 16 -

ensure that the clinic is accurately reporting its activities in interim and annual reports.¹⁵

Completion Date: Completed.

TIGTA Recommendation 8: The National Taxpayer Advocate should develop a sampling methodology that prioritizes clinics based on indicators, including tax return preparation and fees charged, in clinics' applications and in their interim and final reports.

Comment: TAS already prioritizes its site assistance visits based on a number of factors, including whether it is a new clinic, whether the clinic has been visited in the past three years, and whether the clinic's reports raise any issues (including timeliness of reports). TAS also factors in reports from Local Taxpayer Advocates, and follow-up items from prior visits.

Corrective Action:

TAS is developing a weighted criteria list to determine which clinics should be visited each year.

Completion Date: January 31, 2006.

TIGTA Recommendation 9: Establish procedures to check for tax compliance before awarding LITC Program grants and consider periodic tax compliance checks during the grant period.

Corrective Actions:

1. In the 2005 Publication 3319, TAS added a requirement that all applicants for an LITC grant must be compliant with Federal tax responsibilities.
2. For the 2006 grant cycle, prior to awarding any grants, TAS will verify that each grantee is compliant with all Federal tax responsibilities.
3. TAS is working closely with Counsel to develop formal procedures so that no unauthorized disclosure of return information occurs if TAS needs to contact a clinic regarding noncompliance of the academic institution with which it is affiliated.

¹⁵ In the past, clinics have had difficulty consistently reporting the numbers of case worked and taxpayers served throughout the grant cycle. However, the new Interim and Annual Report forms, included in the 2006 Publication 3319, are designed to streamline, simplify, and standardize the reporting process. Additionally, these forms will make it easier for the clinics to accurately report their activities.



*Progress Has Been Made but Further Improvements Are Needed in
the Administration of the Low Income Taxpayer Clinic Grant
Program*

- 17 -

4. TAS will perform Federal tax compliance checks during the 2006 grant cycle to ensure all clinics are in compliance.

Completion Dates:

1. Completed.
2. December 31, 2005.
3. December 31, 2005.
4. December 31, 2006.

TIGTA Recommendation 10: Identify and inform current clinics that are not tax compliant to become compliant or their funds will be frozen and they will be removed from the LITC Program.

Corrective Action: TAS has contacted the appropriate individual for each clinic or institution that TIGTA indicated was not tax compliant to discuss the issue and has ensured that no unauthorized disclosure of tax return information has occurred. TAS is working closely with these clinics to rectify the noncompliance. TAS has communicated to each clinic that failure to take corrective action within a reasonable amount of time will result in terminating the grant, closing the account, and deobligating funds.

Completion Date: Completed.