

**Supporting Statement
Internal Revenue Service
Tax Exempt and Government Entities
Generic Clearance for Compliance Check Questionnaires**

The Internal Revenue Service, Tax Exempt and Government Entities Operating Division, hereby requests generic clearance to conduct compliance checks of tax-exempt and governmental entities using tailored compliance questionnaires. These compliance questionnaires are a critical component of TE/GE's comprehensive enforcement program. TE/GE uses these questionnaires to gain a better understanding of the compliance behavior of individual segments of the tax-exempt community and to identify and resolve specific instances of non-compliance with the laws and regulations governing tax-exempt organizations, employee pension plans, tax-exempt bonds and governmental entities. Compliance questionnaires are an invaluable tool for obtaining supplemental information to determine the compliance of specific entities without the burden for the taxpayer or cost to the IRS of a traditional, full-scale audit. The information collected is used to improve the quality of data available for monitoring compliance, to correct identified instances of non-compliance and to determine where additional guidance, education or enforcement resources are most needed to prevent future non-compliance. Given the sensitive nature of IRS compliance efforts, OMB will not approve individual compliance questionnaires prior to their use by IRS. Instead, this generic clearance will grant IRS the authority to conduct these surveys as described in this Supporting Statement, and submit completed compliance questionnaires to OMB after their use by IRS. In subsequent requests for extension of OMB's approval of this generic clearance, IRS will summarize the results of previously used compliance questionnaires.

Part A. Justification

(1) Circumstances necessitating collection of information

Federal tax law provides substantial tax benefits to tax-exempt and governmental entities. However, the law governing these entities is complex, giving rise to inadvertent non-compliance. Furthermore, because of the favorable tax treatment of these entities, they may become attractive targets for abuse or misuse by third parties. Therefore, it is essential that the Internal Revenue Service maintain a broad and visible enforcement presence in these communities to promote voluntary compliance and identify instances of non-compliance. Because IRS's ability to conduct widespread, full-scale audits of these entities is limited by resource constraints and burden considerations, compliance questionnaires were conceived as a less costly and less burdensome means to gather critical information about compliance behaviors of specific groups within this taxpayer segment. The specialized information gathered through these compliance questionnaires supplements the limited information reported on annual information returns to support the identification and resolution of non-compliance within these regulated communities.

The collection of this information by IRS is authorized by the following provisions:

- (a) Section 7601 of the Internal Revenue Code, which provides broad authority for the Secretary or officers and employees of the Department of the Treasury to

inquire about the potential liability of all persons who may be liable to pay *any* internal revenue tax (including employment and excise taxes to which tax-exempt and governmental entities are subject);

- (b) Section 6033 of the Internal Revenue Code, which generally requires exempt organizations and qualified plans to file annual information returns;
- (c) Treasury Regulation §1.6001-1(c), which requires organizations exempt from tax under IRC 501(a) to keep books and records required to substantiate the information required IRC 6033;
- (d) Treasury Regulation §1.6033-2(i)(2), which provides that every organization exempt from tax, regardless of whether it is required to file an annual return, “shall submit such additional information as may be required by the IRS for the purpose of inquiring into its exempt status.”

(2) **Use of information**

Compliance questionnaires are used to gather supplemental information from selected segments of the regulated community that is not currently available or accessible through existing information returns and databases. TE/GE uses this information to further compliance within its regulated community and to improve its overall effectiveness in several ways:

- (a) To ensure that specific entities are classified appropriately and fully understand the requirements to maintain their particular status.
- (b) To correct specific instances of non-compliance identified through the questionnaire or to develop them for subsequent enforcement action (e.g., examination, sanction or revocation).
- (c) To identify common compliance challenges within a given segment of the regulated community that might be addressed through education or enforcement.
- (d) To inform management decisions about allocating resources and setting compliance priorities.

Longstanding methods of data collection (i.e., filing of annual information returns) are not adequate to support these goals. The data collected capture only high-level information generally relevant to the broader regulatory community. Moreover, the availability of even this limited data for evaluation and analysis is constrained by processing costs and systems limitations. Through compliance questionnaires, IRS can gather specific information pertinent only to a targeted set of taxpayers, without imposing additional filing requirements and burden on the broader population.

(3) **Information technology**

The collection of this information does not involve the use of automated, electronic, mechanical or other technological collection techniques. Questionnaires are sent out and returned to the IRS in a paper format. Electronic filing, which is a valuable tool for reducing the burden of recurring IRS filing requirements, is not suitable to this specialized information collection effort. Questionnaires are unique to each project, reach only a limited number of respondents and may have a substantial narrative component. Therefore, the underlying costs of designing and using electronic data collection tools would exceed any potential burden savings. In the future, we may consider using facsimile or e-mail to reduce burden for some questionnaires, but only once current security and privacy concerns can be resolved.

(4) **Non-duplication**

TE/GE will attempt to eliminate duplication wherever possible; however, it cannot rely solely on existing data sources. Internal data sources are inadequate due to the limited nature of data provided on information returns, incomplete data transcription due to cost constraints on data processing and logistical burdens associated with obtaining original returns from multiple recordkeeping locations. Furthermore, because requested information may be of a confidential nature, it is not available from third-party data sources.

IRS will have a process in place to identify potential duplication of data gathering efforts on proposed questionnaires; duplicative efforts will be combined or eliminated. Questionnaires will be compared to annual tax and information returns filed with the IRS (e.g., Forms 941, 990, 5500, etc.) to identify and minimize duplicative information requests. In some instances, however, a questionnaire may request *similar* information because the filing information is not accessible to TE/GE personnel (for the reasons noted above) and should be readily available to the respondent with minimal burden. Furthermore, because the purpose of these questionnaires is to verify compliance behavior, TE/GE may, where appropriate, request certain similar information to determine consistency with information reported on past returns.

(5) **Small entities**

Small entities may be asked to respond to compliance questionnaires. Our experience has shown that smaller entities can be particularly susceptible to misuse by third parties. Compliance questionnaires provide a mechanism to monitor this compliance risk with less burden to the respondent than would be the case under a traditional audit. Nevertheless, all efforts will be made to minimize the burden on smaller entities in the event they are subject to a compliance questionnaire. Current public information and filing records will be reviewed for any available information pertaining to the compliance issue prior to mailing of the questionnaires.

(6) **Consequences of non-collection**

The inability to collect this information will significantly reduce TE/GE's visible enforcement presence and hinder its ability to deliver an effective and comprehensive compliance program. Over the past several years, there has been a growing awareness of increased compliance risks in the tax-exempt sectors of the economy. These risks may range from inadvertent non-compliance due to the complexity of the tax law to the misuse of tax-exempt entities by third parties for tax evasion.

Compliance questionnaires provide a flexible mechanism both for responding to identified compliance risks and for detecting emergent risks. Compliance questionnaires provide a lower-cost and less intrusive means to interact with specific segments of the population in response to identified compliance risks. Because they can be quickly tailored to emerging issues and efficiently distributed to the target population, compliance questionnaires provide a "rapid response" tool to address new compliance risks that could not be accomplished through traditional examinations. Moreover, besides identifying specific instances of non-compliance for resolution, the findings from compliance questionnaires can, in some instances, help identify emerging compliance

trends that may warrant additional attention. Without this tool, TE/GE's ability to detect and understand these risks will be constrained. As a result, resources may not be allocated where they are most needed, and the development and delivery of effective educational and enforcement responses will be hindered.

Most projects will occur only once; thus, it is unlikely that the same entity will receive multiple compliance questionnaires. Subsequent versions of a project, if any, will be refined based on past experience and focus on different members of the targeted segment. In all cases, the IRS will make clear to respondents whether they are required to respond to the questionnaires, and how the IRS will use the responses.

(7) **Special circumstances**

Not applicable.

(8) **Consultations**

Not applicable. Because compliance questionnaires are an enforcement tool used to assess the compliance behaviors of individual entities and particular populations, it is not appropriate to publicize compliance questionnaires prior to execution of a project.

(9) **Payments to respondents**

Not applicable.

(10) **Confidentiality**

All personnel are responsible for maintaining the confidentiality of all data collected. Tax returns and tax return information generally are confidential as required by 26 USC 6103, and notice to this effect will be included on each questionnaire. All data collection will conform to IRS disclosure regulations.

(11) **Sensitive information**

Not applicable. The information requested pertains only to the financing and operations of tax-exempt and governmental entities. No information on *personal* issues of a sensitive nature will be requested or considered.

(12) **Estimated hour burden**

The total respondent burden during this three year approval period is estimated not to exceed 37,530 hours. The exact number of different questionnaires, the length of each questionnaire, and the number of respondents per questionnaire are unknown at this time. This estimate combines our experience with the OMB-approved Hospital Questionnaire sent out last year and all compliance questionnaires planned for this year. The estimates cover the time that each respondent is expected to spend completing the questionnaires, including gathering relevant records, filling out responses, returning the questionnaire to IRS and maintaining a file copy. There are no additional recordkeeping burdens imposed by this questionnaire, since responses should rely on materials that are already maintained as a "customary and usual" business practice. The frequency of data collection is only once per respondent.

	Annual Respondents	Hours per Respondent	Annual Burden Hours	3-Yr Burden
Short questionnaires (2-3 pages)	2,500	3	7,500	22,500
Long questionnaires (8-10 pages)	500	10	5,000	15,000
Total	3,000	4.17 (avg)	12,510	37,530

(13) Estimated annual cost burden

There will be no capital or start-up costs associated with responding to the compliance questionnaire. Costs of operation, maintenance, and purchases of services to provide information are not available at this time. The agency expects that these costs will be minimal, since the information requested is information that should be maintained by and readily available to each respondent. Furthermore, the information collection will occur only once, so there will be no associated recurrent, annual costs.

(14) Annualized cost to the Federal government

Not applicable. Information collection will be conducted by existing staff who are already engaged in other correspondence interactions with TE/GE entities. Costs for personnel and operational expenses are already in place and are not contingent on this data collection effort. Therefore, there are no additional expenses associated with this data collection that would not have been incurred without this collection of information.

(15) Program changes

We are increasing the total number of respondents from 3,000 to 9,000. This will be a better reflection of the true 3-year estimate. This increase will result in a total burden increase of 30 hours from the previously approved amount.

(16) Plans for tabulation and publication

Some data collections may culminate in the publication of project reports that summarize the findings of the project and communicate conclusions about compliance issues in the affected sector. These reports may include summary data compiled based on the compliance questionnaire; however, this is not their primary intent. The reports will further summarize categories of issues identified through the compliance questionnaire and subsequent IRS activity to address those issues. Activities may include outreach to alert members of the sector and stakeholders to potential pitfalls, publication of guidance to clarify complicated tax issues that may be contributing to inadvertent compliance failures, changes to forms to enhance transparency with regard to identified issues and, if appropriate, examinations.

The development and publication of project reports is contingent upon the schedule for a given compliance project. In general, project reports will be published one year after a questionnaire is first issued. To ensure that no entity-specific identifying information is published, the IRS will have a process in place whereby, prior to publication, all reports

based on information obtained via questionnaires will be thoroughly reviewed and approved by both the Director of the appropriate function and his or her designee.

(17) Approval not to display expiration date

Displaying the expiration date may cause problems with data collections that overlap the three-year approval period or are implemented close to the expiration date. Would-be respondents might be inclined to refuse to participate if the questionnaire displays a date that is expired or soon to expire.

(18) Exceptions to the certification statement

Not applicable. The following paragraph applies to all of the collections of information in this submission:

An agency may not conduct or sponsor data gathering efforts, and a person is not required to respond to a collection of information, unless the collection of information displays a valid OMB Control Number. Books or records relating to a collection of information must be retained as long as the contents may become material in the administration of any Internal Revenue law. Generally, tax returns and tax return information are confidential, as required by 26 USC 6103.

(19) Basis for Emergency Submission

Compliance questionnaires are a valuable tool for IRS to investigate, identify and resolve compliance failures. Publication of compliance questionnaires and circulation for public comment prior to their issuance to the identified population will undermine their utility, impairing the Service's compliance efforts with regard to tax-exempt and governmental entities.

Part B. Collection of information employing statistical methods

Statistical methods will not be necessary for the administration of all compliance questionnaires, but will be employed when appropriate. In cases where a compliance risk is already known, questionnaires will be sent to individual taxpayers because the available data indicate that they are at risk for that specific compliance failure. Sampling would be inappropriate in this case, because respondents already have indicators on their returns of potential non-compliance and the purpose is to correct specific problems, not to gauge compliance risks in a broader population.

In cases where compliance questionnaires are being used to assess compliance risks in a segment or determine workload priorities, the IRS will either contact the entire population or use statistical sampling. Many of these populations are quite small (fewer than 2,000 entities), so statistical sampling in those cases would offer few benefits in terms of reduced burden or cost. If statistical sampling is used, standard statistical methodologies will be employed. IRS will first determine the size of the sample required to achieve the desired confidence level. We will then randomly select a *larger* number of entities from the IRS dataset that match the profile required by the study (e.g., type of organization [community foundation, 509(a)(3) supporting organization]; size [assets or revenues] or other characteristics). The randomly generated list will be reviewed to remove any misclassified entities and the first *n* entities that are properly classified will

be selected to receive the compliance questionnaire. This will ensure that the sample remains random, but includes only valid entities so that results can be extrapolated to the larger population and no entities are inappropriately burdened by receiving questionnaires intended for a class of entities to which they do not belong.

For both the latter cases (a census or a random sample), non-response bias is a potential concern. However, our past experience with compliance questionnaires has demonstrated a very high response level, well over 90%. Therefore, response bias is not expected to be a significant concern in future compliance projects. If non-response becomes a concern in later projects, IRS will evaluate the use of follow-up contacts (e.g., duplicate letters or telephone contact) to improve responsiveness.