



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

1.5.5

JUNE 12, 2024

EFFECTIVE DATE

(06-12-2024)

PURPOSE

- (1) This transmits revised IRM 1.5.5, Managing Statistics in a Balanced Measurement System - Section 1204 / Regulation 801 Guidance for Criminal Investigation (CI).

MATERIAL CHANGES

- (1) Added required Internal Controls to comply with IRM 1.11.2.2.4, Address Management and Internal Controls and IRM 1.4.2, Resource Guide for Managers Monitoring and Improving Internal Controls.

EFFECT ON OTHER DOCUMENTS

This transmittal supersedes IRM 1.5.5 dated April 13, 2020.

AUDIENCE

Criminal Investigation

Guy A.Ficco
Chief, Criminal Investigation

1.5.5

Section 1204/Regulation 801 Guidance for Criminal Investigation (CI)

Table of Contents

- 1.5.5.1 Program Scope and Objectives
 - 1.5.5.1.1 Background
 - 1.5.5.1.2 Authority
 - 1.5.5.1.3 Roles and Responsibilities
 - 1.5.5.1.4 Program Management and Review
 - 1.5.5.1.5 Program Controls
 - 1.5.5.1.6 Acronyms
 - 1.5.5.1.7 Related Resources
- 1.5.5.2 Application of the Manual
- 1.5.5.3 Use of Records of Tax Enforcement Results in Evaluations
- 1.5.5.4 Other Measures and Statistics
- 1.5.5.5 Use of Statistics for Monitoring Programs
- 1.5.5.6 Use of Statistics in Operational Reviews
- 1.5.5.7 Certification and Independent Review Process

1.5.5.1
(06-12-2024)
Program Scope and Objectives

- (1) Purpose: This section provides specific guidance on the use of statistics within Criminal Investigation (CI). The guidance is shown in the form of examples of acceptable/non-acceptable language (see subsection 1.5.5.3).

Note: Please note, this section was not intended to be used as the sole reference source for CI on managing statistics. Please refer to IRM 1.5.1 and IRM 1.5.2 for overall agency policy, guidance, definitions, and examples concerning the proper use of statistics.

- (2) Audience: All CI employees.
- (3) Policy Owner: Director, Assurance & Advisory (A&A).
- (4) Program Owner: Director, A&A.
- (5) Primary Stakeholders: All CI employees.
- (6) Contact Information: To make changes to this IRM section email CIHQIRM@ci.irs.gov.

1.5.5.1.1
(06-12-2024)
Background

- (1) The mission of A&A is to independently review, evaluate and report on CI field operations, program areas and headquarter sections in a fair and objective manner to identify risks, emerging issues and best practices that affect CI, assess CI's leadership effectiveness and ability to manage and mitigate risk, evaluate CI operations to ensure investigative alignment with the Compliance Strategy, and to ensure compliance with established policies, prior TIGTA, GAO and A&A recommendations.

1.5.5.1.2
(04-13-2020)
Authority

- (1) See IRM 1.5.5.1 for references to authorities relating to IRM 1.5.5, Managing Statistics in a Balanced Measurement System - Section 1204/Regulation 801 Guidance for Criminal Investigation (CI).

1.5.5.1.3
(06-12-2024)
Roles and Responsibilities

- (1) The Director, A&A is responsible for overseeing this IRM and ensuring compliance with current policies and procedures.

1.5.5.1.4
(06-12-2024)
Program Management and Review

- (1) Program owners and the Director, A&A will:
- Review the IRM annually.
 - Update the IRM when content is no longer accurate and reliable.
 - Incorporate all permanent interim content into the next revision of the IRM section prior to the expiration date.

1.5.5.1.5
(06-12-2024)
Program Controls

- (1) The Director, A&A and program owners will review instructions and guidelines related to special agent reports and other IRS documents for procedural, operational, and editorial changes.

1.5.5.1.6
(04-13-2020)
Acronyms

- (1) The table lists commonly used acronyms and their definitions:

Acronym	Definition
CI	Criminal Investigation
EPF	Employee Performance File
ICs	Internal Controls
KSA	Knowledge, Skills, and Abilities
ROTER	Record of Tax Enforcement Result

1.5.5.1.7
(06-12-2024)
Related Resources

- (1) IRM 1.5.2, Managing Statistics in a Balanced Measurement System, Uses of Section 1204 Statistics.
- (2) IRM 1.5.3, Managing Statistics in a Balanced Measurement System, Manager's Self-Certification and Independent Review Process.

1.5.5.2
(04-13-2020)
Application of the Manual

- (1) The guidelines, restrictions and prohibitions in the use of statistics as outlined in this manual applies to all CI employees who exercise judgment in determining whether or how the IRS should pursue enforcement of the tax laws against a particular individual or entity. The manual provisions are applicable to each employee based upon the specific tasks they perform and not the title of their position or the location where they are performing their tasks.
- (2) For most special agents and their various levels of supervisors, this circumstance of exercising judgment applies to a majority of the tasks they perform. Those special agents who are assigned full/part time to specialty positions may be exempt from the manual provisions if they are not exercising judgment in determining whether or how the IRS should pursue enforcement of the tax laws.
- (3) Generally, support personnel do not execute the type of tasks in which they exercise judgment about enforcement of the tax laws. However, some support personnel (i.e., tax fraud investigative aides; investigative analysts; and interns) may make recommendations to special agents or management officials as to whether or how the IRS should pursue enforcement of the tax laws against specific individuals or entities. When making these types of recommendations, the support personnel come under the guidance of this manual.

1.5.5.3
(04-13-2020)
Use of Records of Tax Enforcement Results in Evaluations

- (1) The ROTERs may not be maintained or used for the purpose of evaluating any individual employee. Examples of ROTERs include, but are not limited to:
- Number of fraud referrals accepted or rejected,
 - Fraud referral acceptance rate,
 - Number of prosecution recommendations,
 - Prosecution referral rate,
 - Number of discontinued investigations,
 - Number of Title 26 seizures,
 - Dollar value of assets seized (Title 26 Only),
 - Number of search warrants,
 - Number of arrests,

- j. Number of Title 26 forfeitures,
- k. Dollar value of assets forfeited (Title 26 Only).

Note: Notwithstanding non-Title 26 exclusion from items (g) and (k); extreme care should be utilized in referring to non-Title 26 seizures and forfeitures to avoid the inference of a quantitative goal as an element of performance measurement.

- (2) An evaluation may include a performance rating, an award recommendation, a progress review, an assessment for or qualification for promotion or a similar type of managerial determination. For more information related to progress and workload reviews see IRM 1.5.2. A recommendation for an award outside the IRS is not subject to ROTER restrictions.

Note: Any outside award recommendation or award resulting from such nominations is not to be considered for performance evaluations, bonus, promotions, or reassignments. In addition, outside award recommendations are NOT to be filed in an employee's performance file (EPF).

- (3) Managers should not use language, such as contained in the following examples, which suggests that ROTERs were used to evaluate the employee. The employee's performance is to be measured against that employee's specific critical job elements and standards. Managers may not cite a ROTER as the basis for an individual employee's performance rating or include a ROTER in any written employee performance evaluation. In addition to the prohibition against using hard numbers on a collective basis, managers are also prohibited from using "soft language or phrases" that are suggestive of ROTERs. Examples of these type of items are:
 - a. Successful prosecution referral of numerous individuals and entities,
 - b. Seizure of numerous luxury automobiles (Title 26 Only),
 - c. Numerous search warrants were executed,
 - d. Multiple currency seizures (Title 26 Only),
 - e. Subjects were charged with various Federal crimes such as...,
 - f. Substantial forfeitures of assets (Title 26 Only),
 - g. Significant amount of assets that were subject to forfeiture and seizure,
 - h. Seizure of an extremely large amount of currency (Title 26 Only).
- (4) In discussions with employees about performance, managers may discuss the particular tax enforcement result achieved in a particular case or cases provided that the discussion is based upon the manager's review of the employee's case file(s) for the specific case(s).
- (5) However, the discussion of the particular tax enforcement result obtained should only be to the extent that it is necessary to fairly and fully determine the employee's exercise of appropriate judgment in arriving at that specific tax enforcement result. The emphasis of the manager's discussion should be directed towards the measurement of the employee's performance against the employee's critical job elements and standards and how the execution of the critical job elements achieved the specific tax enforcement result. It is expected that this type of discussion will occur most frequently in the critical job elements for "court related activities" and "other enforcement activities".

- (6) Annual performance plans for managers will be prepared and agreed upon without ROTERs being cited in the written plan. Evaluations for all levels of management will be based upon the individual manager's actions taken in accordance with that manager's annual agreed upon performance plan.
- (7) **Performance measures (i.e., Customer Satisfaction; Employee Satisfaction; Business Results of Quality, Quantity and Outreach) may only be used as an analytical input tool in preparing managerial evaluations. Managers may use performance measures in determining whether the actions taken by the subordinate manager being evaluated achieved the desired performance result as specified in the annual performance plan.**
- (8) Performance measures may not be used as a stand-alone measure to determine the individual manager's evaluation rating when comparing his/her achievements to their annual performance plan. As with all non-supervisory employee evaluations, managerial evaluations must not cite any ROTERs.
- (9) **Managers are free to discuss tax enforcement results with the subordinate manager being evaluated, but the manager's evaluation is required to emphasize the subordinate manager's performance against his/her annual agreed upon performance plan.**
- (10) Self- assessment information prepared by employees or managers must not contain ROTERs. For employees, this includes knowledge, skills, and abilities (KSA) statements prepared and submitted as part of the promotion ranking package. It is important that supervisors review all KSA statements before they are submitted to the host personnel site. The manager should review the KSA statements for ROTERs, as well as the accuracy of the statements made by the employee. If an employee or manager submits self-assessment information containing a ROTER, the management official receiving the information must return the information to the employee or manager and the management official must retain any copies of the information.
- (11) The manager will ask the employee to submit a new self-assessment without the ROTER. The manager may not consider or use the submitted ROTER in an evaluation of the employee. The manager is also required to inform the employee that the information received contained a ROTER and the manager will identify the ROTER for the employee.
- (12) The manager will counsel the employee so that the employee understands the proper use of statistics within the IRS and the IRS' policy on the use of statistics.

1.5.5.4
(12-21-2010)
**Other Measures and
Statistics**

- (1) Balance Measures and diagnostic tools were developed to assist all managers to better utilize their resources. They provide insight into organizational processes and performance. Managers are expected to use these measures and tools to help them achieve an appropriate mix of Customer Satisfaction, Employee Satisfaction, and Business results.
- (2) Statistics that do not relate directly to cases are not considered to be ROTERs. Included in these type of statistics are:
 - a. Items that are related to case closures,
 - b. Time applied per case,
 - c. Cycle time,
 - d. Inventory information,

- e. Overage items,
- f. Administrative actions and resources expended.

- (3) Examples of these items may include, but are not limited to:
 - Elapsed time on discontinued investigations,
 - Percentage of direct investigative time (DIT) for legal source tax crimes; Illegal Source Financial Crimes; Narcotics Related Financial Crimes; Refund Crimes; Electronic Crimes and all major subprograms,
 - Percentage of overage cases at various level,
 - Elapsed time/applied time on prosecution recommendations,
 - CIMIS input rate.
- (4) Although the items referred to above are not considered ROTERS, managers must exercise caution in using this information. Managers must not use the information in a way that suggests to employees or subordinate managers inappropriate behavior regarding the exercise of judgment in enforcing the tax laws against individuals or entities.
- (5) Criminal Investigation also measures and tracks other data that does relate directly to individual cases. This data may represent the result of enforcement determinations controlled in whole or in part by another government entity and may include information which qualifies as a ROTER. If so, the data should be treated as a ROTER by CI.
- (6) Managers are prohibited from using the data in a manner that may suggest a goal or a quota. Instead, the items referenced in items numbers two (2) and three (3) above, should be used as diagnostic tools by managers to determine the root causes of suspected problem areas.
- (7) This process is further described in subsection 1.5.5.6 regarding the use of statistics in preparing for and conducting operational reviews.
- (8) The regulation also restricts the use of quantity measures. Quantity Measures are considered outcome neutral such as number of cases closed, work items completed etc. The regulation prohibits the evaluation of or the suggestion of a production goal or quota to any non-supervisory employee who is responsible for exercising judgment with respect to tax enforcement results (See Regulation 801.3(3)). Within organizational units quantity measures must be used in conjunction with an evaluation or goals based upon all three elements (Customer Satisfaction; Employee Satisfaction and Business Results) of the Balanced Measurement System. See IRM 1.5.2 (subsection 1.5.2.18, Permitted Use of ROTERS) for more information regarding Quantity Measures.

1.5.5.5
(10-01-2000)
**Use of Statistics for
Monitoring Programs**

- (1) ROTERS may be used at the national, regional, or field office level to monitor, direct and control program accomplishments and direction.
- (2) Management officials participating in the activities of monitoring, directing and controlling program accomplishments and direction must use caution that their use of ROTERS in authorized circumstances does not suggest or impose goals or quotas for subordinate employees or organization units. Further, management officials may not use ROTERS to compare or rank organizational units or to evaluate the managers of those organizational units.

- (3) Some examples of the type of authorized activities in which ROTERS may be used include:
 - a. Long range planning,
 - b. Financial planning,
 - c. Allocation of resources,
 - d. Work planning and control,
 - e. Formulation of case selection criteria,
 - f. Effective functional management and
 - g. Staffing utilization systems and plans.
- (4) Organizational units may share balanced measurers and other non-ROTTER data at the same level.
- (5) Goals for the Balanced Measures System will be set at the National level to satisfy government reporting requirements. Goals will be set no lower than the field office level. They will not be used to directly determine the evaluation of an organizational unit or an individual employee.

1.5.5.6
(10-01-2000)
**Use of Statistics in
Operational Reviews**

- (1) ROTERS may be used to prepare for operational reviews at the national, area, field office, branch and group levels. ROTERS should only be used as indicators to identify variances, whether above or below the norm. The ROTERS will be used to identify areas where further investigation is needed. Specific areas will eventually be selected for further review. The purpose of the additional analysis and review will be to determine the quality of the processes in the area of concern within the organizational unit.
- (2) The review and analysis may be conducted by local management officials or through a field visitation by outside management personnel. The specific review should go beyond the raw statistics and should focus on the process to best determine what might be causing a variance.

1.5.5.7
(12-21-2010)
**Certification and
Independent Review
Process**

- (1) The following information cannot be disclosed pursuant to the certification process:
 - a. Grand jury investigation information,
 - b. Information relating to sensitive items such as ongoing criminal investigations,
 - c. Informant agreements and related documents,
 - d. Information concerning undercover operations.
- (2) The employee performance file and performance appraisal documents, which are the required documents to be reviewed in the certification process, will be the primary documents subject to review in CI by the independent review teams. The independent review team will review one or more additional review items as designated by the appropriate supervisor. Additional review items are outlined in IRM 1.5.3 (see subsection 1.5.3.8.4(4), and must not be in conflict with subsection 1.5.5.7.(1).
- (3) Operational and workload review documents containing any information identified in paragraph (1) above must be excluded from the independent review.