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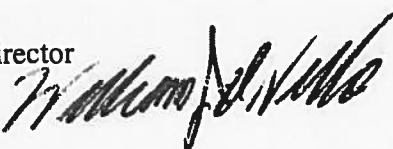
**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Office of the Chief Financial Officer**



Office of Integrity and Oversight

**MEMORANDUM**

**TO:** Stephen M. Cordi, Deputy Chief Financial Officer  
Office of Tax and Revenue

**FROM:** William J. DiVello, Executive Director  
Office of Integrity and Oversight 

**DATE:** July 13, 2011

**SUBJECT:** FINAL REPORT: Audit of the OTR Collection Division's Administration of the  
Offers in Compromise Program (**Report Number: OIO-11-1-05-OTR**)

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This final report summarizes the results of the Office of Integrity and Oversight's (OIO's) audit of the OTR Collection Division's Administration of the Offers in Compromise (OIC) Program. This audit was part of OIO's fiscal year 2011 audit plan for the Office of Tax and Revenue (OTR).

This report identifies three reportable conditions that impact the internal controls and operations of the OIC program. These reportable conditions include: (1) current policies and procedures do not consistently agree with the information provided to the taxpayers, do not provide complete coverage of the OIC program, and may create conditions where potential or actual conflicts of interest arise; (2) deficiencies were found in the documentation of the review of OIC applications; and (3) data provided to the taxpayer on the OTR webpage and in the *Instructions for Submitting Offers in Compromise* may not have allowed the taxpayer to determine whether they could benefit from the OIC program.

OIO provided ten recommendations to address the conditions included in the report. These recommendations when implemented should improve the controls, the processes used, and the documentation of the review for OIC applications. The Deputy Chief Financial Officer, in responding to a draft version of this report, stated that he agreed with all of the recommendations and that the planned implementation of the recommendations would extend from September 1, 2011 to October 31, 2011.

We appreciate the assistance and cooperation that you and your staff provided during the audit. Should you have any questions on this report or need additional information, please contact me at (202) 442-6433, or your staff may contact Mohamad K. Yusuff, Director, Internal Audit at (202) 442-8240 or Tisha N. Edwards, Senior Audit Manager, at (202) 442-6446.

**Attachment**

cc: Natwar M. Gandhi, Chief Financial Officer, Government of the District of Columbia  
Angell Jacobs, Chief of Staff, Office of the Chief Financial Officer  
Kathy Crader, Chief Risk Officer, Office of the Chief Financial Officer  
Glen Groff, Director of Operations, Office of Tax and Revenue  
Bedell Terry, Director, Compliance Administration, Office of Tax and Revenue

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
OFFICE OF THE CHIEF FINANCIAL OFFICER**

**AUDIT OF THE OTR COLLECTION  
DIVISION'S ADMINISTRATION OF THE  
OFFERS IN COMPROMISE PROGRAM**

**OFFICE OF INTEGRITY AND OVERSIGHT**



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## Audit of the OTR Collection Division's Administration of the Offers in Compromise Program

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## Audit of the OTR Collection Division's Administration of the Offers in Compromise Program

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### ACRONYMS

CD	Collection Division
CIS	Collection Information Statement
DATC	Doubt as to Collectability
DATL	Doubt as to Liability
DCFO, TR	Deputy Chief Financial Officer, Tax and Revenue
DC ST	District of Columbia Code
GAO	Government Accountability Office
OCFO	Office of the Chief Financial Officer
OIC	Offer in Compromise
OIO	Office of Integrity and Oversight
OTR	Office of Tax and Revenue
<i>OTR-10</i>	<i>Instructions for Submitting Offers in Compromise</i>
RCP	Reasonable Collection Potential
RO	Revenue Officer

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## Executive Summary

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### OVERVIEW

As part of its mission, the Office of Tax and Revenue's (OTR's) Collection Division (CD) is responsible for the prompt and cost efficient collection of tax revenues from the District Government's taxpayers who have not fully paid their business or individual tax liabilities in full. In order to effect these collections, the CD Revenue Officers (ROs) are provided with a number of collection tools. These tools include use of short term periodic payments, for example, payments over a three month period to liquidate a tax liability; installment payments that may occur over an extended period of time; and the Offer in Compromise (OIC) program in which OTR compromises part of the taxpayer's liability in order to collect the balance of the amount due within 90 time period.

The purpose of the OIC program is three fold: (1) collect what can be fairly and reasonably collected from taxpayers who cannot pay delinquent tax liabilities; (2) collect the tax liability<sup>1</sup> in a timely and efficient manner; and (3) provide the taxpayer with a fresh start toward compliance with future tax type filing and payment requirements. In many cases, the OIC is the taxpayer's last resort before the CD files tax levies or begins the process to seize a taxpayer's assets.

The OIC program has several restrictions that the taxpayer must meet before they can participate in the program. These restrictions include: (1) the taxpayer must be current with both the requirement to file tax return(s) and must be current with their outstanding tax liabilities after the periods covered by the OIC; (2) meet the requirements for an offer to be filed under the basis for "Doubt as to Collection" (DATC) or "Doubt as to Liability" (DATL); and (3) undergo a field investigation and financial analysis by a RO that supports the award of an OIC.

### CONCLUSIONS

We identified three areas that should be improved in order to improve the operations of the OIC program.

First, we found that the current OIC policies and procedures do not consistently agree with the information provided to the taxpayer; do not provide complete coverage of the process required to review and approve or reject an OIC application,<sup>2</sup> and the policies and procedures may create conditions where a perceived or actual conflict of interest could arise.

Second, the documentation of the OIC applications needs significant improvement. Our examination of the OIC applications filed from October 1, 2009 through March 31, 2011 found that CD did not consistently include in the application file documents that were required to be

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<sup>1</sup> For the purposes of this report, the term tax liability includes the unpaid taxes, penalties, and interest accumulated to the date of the filing of the OIC application. This liability may include amounts due from the taxpayer across multiple tax types.

<sup>2</sup> OIO in this report uses the terms OIC offer and OIC application synonymously.

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## Executive Summary

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submitted with the OIC application and that the ROs did not consistently obtain other documentation and analysis to support the action taken on the OIC application.

Third, we identified that data contained in on the OIC webpage was limited and may not have provided a taxpayer with sufficient data to evaluate whether they should use the program. We noted in at least one instance where data from the webpage conflicted with data in the *Instructions for Submitting Offers in Compromise (OTR-10)*. Further, we found that the instructions for the OIC application may not be easily understood and could act as a barrier for completing the OIC application. Additionally not all the forms and information necessary to complete the OIC application was included in the *OTR-10*.

### SUMMARY OF RECOMMENDATIONS AND MANAGEMENT ACTIONS

OIO addressed ten recommendations addressed to the Deputy Chief Financial Officer, Tax and Revenue (DCFO, TR). We recommended, in part, that the Chief, CD be directed to:

- Align the information in the *OTR-10* and the policies and procedures to reflect the actual practices followed in the review and evaluation of an OIC application;
- Develop policies and procedures that cover the OIC application process from the point of initial receipt to the final resolution.
- Develop minimum documentation standards for all OIC application files and require evidence that at a minimum the Supervisory RO and Branch Chief have reviewed the application and documentation in the OIC file
- Evaluate the current policies and procedures to ensure that they will lead to adequately documented application files, when followed.
- Evaluate the feasibility of altering the CD and OIC web pages and the *OTR-10* to provide taxpayers with a more user friendly web page and information and instructions on the OIC process and application.

In his response to the draft audit report, the DCFO, OTR agreed with all of the recommendations and provided estimated implementation dates for the recommendations between September 1 and October 31, 2011. A complete copy of the response is included as Appendix B to the report. Individual responses to the recommendations are included following the recommendations in body of the report.



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## Executive Summary

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### BACKGROUND

In order for CD to accomplish a portion of its stated mission of the prompt collection of the proper amount of tax liability<sup>3</sup> from all individuals who have not filed the required tax returns or paid the full tax amount as required by District of Columbia statutes; several payment and collection vehicles are employed to bring taxpayers into compliance and collect the tax liability due to the District Government. One of these programs is the OIC program. The OIC program is often viewed by CD and the taxpayer as the program of last resort for the taxpayer before CD issues tax levies and potentially seizes the taxpayer's assets to satisfy the tax liability.

The OIC program is authorized by section 4404 of title 27 of the District of Columbia Code (DC ST § 47-4404). This section states that, "*If the Mayor believes there is a reasonable doubt as to the liability of the taxpayer or collectability of the tax imposed under this title, the Mayor may compromise the tax.*" OTR established the OIC program with three distinct purposes: (1) collect what can fairly and reasonably be collected from taxpayers who cannot pay their delinquent tax liabilities; (2) collect the tax liability due in a timely and efficient manner; and (3) provide the taxpayer with a fresh start towards compliance with future tax filing and payment requirements. The OIC program, which encompasses all non-real property taxes, allows the taxpayer to compromise their tax liability for an amount that is less than what is owed. It provides CD with the opportunity to collect tax receipts that may not be collected for an extended period of time. The OIC program also eliminates the need for a protracted period of installment payments that may not fully satisfy the taxpayer's total tax liability.

The OIC program is designed to include all of the taxpayer's outstanding non-real property tax liabilities that have been assessed by CD. For some taxpayers this may include both individual and business tax liabilities. The OIC program may also include the outstanding liabilities for trust fund taxes (employee withholding and sales and use taxes). An OIC application to compromise trust fund tax liabilities is processed in the same manner as other OIC applications for business type taxes.

As provided for in DC ST § 47-4404, the taxpayer may make an OIC offer application using one of two bases. The first of these two bases is "doubt as to collectability" (DATC). In this instance, the taxpayer claims that their current assets and current and future income are insufficient to pay the full tax liability, within the balance of the statutory collection period of ten years subsequent to the assessment of the tax amount.

The second basis is defined as "doubt as to liability" (DATL). A taxpayer making an OIC offer using this basis disputes that the amount of the tax liability assessed by OTR is correct and the resulting tax liability is correct. An OIC application using DATL is not reviewed by CD, but is reviewed and either approved or rejected by the Audit Division. The Audit Division controls the

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<sup>3</sup> The tax liability referred to in this report does not include any outstanding real property tax liabilities. Real property tax liabilities are addressed through other collection methods. The OIC program is not open to taxpayers for the collection of real property taxes.



## Executive Summary

review process and generally does not report the review results of the taxpayer's offer to CD. For the purposes of this audit, we did not include a review of the Audit Division's processing of DATL applications.

OTR as part of the Electronic Taxpayer Service Center<sup>4</sup> provides data on the OIC program and links to the required forms and instructions necessary for the taxpayer to file and OIC offer. The taxpayers who are considering filing an OIC offer with CD are encouraged to discuss the offer with the RO who has been assigned to their collection case. This is the same RO who will review the OIC offer and make the initial determination as to whether the offer should be accepted based on the documentation provided with the offer and any subsequent field investigations. This recommendation is subsequently reviewed by the Supervisory RO, the CD Branch Chief responsible for the OIC program, and the Chief, CD before the taxpayer is notified of the approval or rejection of the offer.

Taxpayers utilized the OIC program very infrequently during the period October 1, 2009 through March 31, 2011. During this timeframe 29 OIC offers were filed with CD, which represented offers from 26 taxpayers. Table 1 provides additional details on the 29 offers that were filed.

**Table 1**  
**OIC Offers Received from October 1, 2009 through March 31, 2011**

	Number
Applications received during the period October 1, 2009 through September 30, 2010	13
Applications received during the period October 1, 2010 through March 31, 2011	16
<b>Total applications received during the audit period</b>	<b>29</b>
Less: Application withdrawn and reconsidered under the Amnesty Program	1
Less: Multiple OIC applications/offers from the same taxpayer during the audit period	2
<b>Net applications received and reviewed by CD during the audit period</b>	<b>26</b>

Source: OIC application logs maintained by the Collection Division and interviews with CD staff.

Of the 26 OIC applications/offers filed during the period CD approved 17 (65.38 percent) of the 26 applications. The approved applications resulted in the potential collection<sup>5</sup> of \$1,361,909, representing 59.43 percent of the total tax liability for the accepted applications. The accepted offers represent 36.5 percent of the total tax liabilities for all the offers made during the audit period.

<sup>4</sup> A limited description of the OIC program and the eligibility requirements for a successful OIC offer are found at <http://otr.cfo.dc.gov/otr/cwp/view.A,1329,Q,637283.asp>

<sup>5</sup> OIO is using the term potential collection to account for installment payments that will be made by the taxpayers over time to satisfy the total amount of offer agreed to by taxpayers and CD.

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## Executive Summary

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### OBJECTIVES, SCOPE, AND METHODOLOGY

The overall objective of this audit was to determine whether the OIC program efficiently and effectively collected tax liabilities that might remain uncollected as the taxpayer does not have the ability to pay the outstanding liabilities. The audit's specific objectives included:

- Determining whether CD's system of internal control for the OIC program provides a reasonable assurance of the program's integrity and protection of the District Government's outstanding tax liabilities.
- Verify the taxpayer documentation maintained by CD supports the acceptance or rejection of the OIC offer by the RO and subsequent reviewers.
- Verify that CD has systems in place to manage the inventory of unprocessed OIC applications and repeat applications from taxpayers.
- Determine the time involved in the review and the approval or rejection of the taxpayer's original OIC application and any repeat offers.

Our audit included the OIC applications that were on hand and received during the period October 1, 2009 through March 31, 2011. To accomplish the audit's objectives OIO:

- Interviewed a judgmental sample of CD management and staff assigned to the OIC program to obtain an understanding of the OIC process and the how taxpayer applications are processed and reviewed.
- Obtained from CD the number of applications received, withdrawn by the taxpayer, returned to the taxpayer, rejected or approved, and the number of applications that were outstanding at the beginning and close of the audit period.
- Reviewed the documentation supporting the application and the documentation included by the RO to support the investigation and review of the OIC application and its subsequent approval or rejection.
- Reviewed the calculation of the reasonable collection potential (RCP) for each OIC application using DATC as a basis for the offer.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain a sufficient and appropriate evidence to provide a reasonable basis for our findings, conclusions, and recommendations based on the audit's objectives. We believe that the evidence obtained provides a reasonable basis to comply with those standards.

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## Findings and Recommendations

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### FINDING 1: POLICIES AND PROCEDURES

#### SYNOPSIS

CD did maintain written policies and procedures for the OIC program. However, OIO found inconsistencies between the policies and procedures and the information provided to the taxpayers through the *Instructions for Submitting Offer in Compromise (OTR-10)* booklet and the OTR public webpage that discusses the OIC program. Additionally, the policies and procedures did not appear to be complete “cradle-to-grave” document that covered all aspects of the OIC program. As a result, (1) the ROs may have received information on a basis for submission of an OIC application and expedited processing that was not available to the District Government taxpayers; (2) the ROs may not have been fully aware of the documentation and processing requirements and requirements for the review of specific data necessary to support the OIC application; and (3) OIC applications may have been inappropriately approved or rejected based on the RO’s flawed understanding of the policies and procedures.

#### DISCUSSION

In the publication *Internal Control Standards for the Federal Government* the Government Accountability Office (GAO) writes that the policies and procedures should be tailored to meet the needs of the agency, managerial judgment, and the sensitivity and value of the data.<sup>6</sup> Tailoring the policies and procedures to the program is critical to ensure that the program is aware of and meets management’s goals and requirements. The tailored policies and procedures may act as a training aid to individuals who have not previously reviewed an OIC application and as a refresher for the more experienced staff.

a. Differences between the OIC Policies and Procedures and OTR-10.

OIO found differences between the OIC policies and procedures, and the *OTR-10*. For example, the policies and procedures discuss a third option that the taxpayer may use as a basis for an OIC, Effective Tax Administration. However, the *OTR-10* does not provide this option to the taxpayer. The taxpayer is limited to the two bases discussed in the *OTR-10*, DATC or DATL.

The policies and procedures also include a section that outlines the procedures to be followed for a taxpayer who requests expedited/emergency processing of the OIC application. These procedures are applicable based on a taxpayer’s specific request and marking of the application with the legend “Emergency Processing Requested”. The expedited/emergency processing must be approved by the Supervisory RO and appears to be limited to instances where the taxpayer (1)

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<sup>6</sup> U.S. Government Accountability Office, formerly the U.S. General Accounting Office; *Standards for Internal Control in the Federal Government*, Report Number: GAO/AIMD-00-21.3.1; November 1999; pages 15-16.

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## Findings and Recommendations

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has a contract that as a specific condition of the contract requires the taxpayer to resolve the tax issue by a specific date; (2) availability of funds to fund the offer is limited to a specific time; or (3) a terminal illness may impact the taxpayer's ability to complete the payment terms. However, the *OTR-10* does not include this information in the instructions.

### b. *Complete Cycle of Procedures*

The policies and procedures document appeared to focus on determining whether the taxpayer had met the standard of DATC and the steps that the RO should take if the taxpayer declared bankruptcy that would impact the OIC. However, the policies and procedures did not appear complete as documentation standards for all OIC application files were not included in the document. For example the policies and procedures lacked:

- Steps that the RO would take to have the document reviewed by their Supervisory RO and others within CD before the OIC were approved.
- Documentation standards for the OIC application files maintained by the ROs and requirements of evidence of supervisory level reviews of the application files.
- Steps necessary to process the adjusting entries by the RO when an OIC application is accepted and the forms and documentation supporting the entry.
- Steps to be followed when a taxpayer has submitted a tax payment with the OIC application and the application is rejected.

Policies and procedures should be designed to provide the reader with complete overview of the full OIC application and review process. A complete description of the process and the steps that that the RO must take to successfully complete a review of an OIC application, and a description of the complete process allows a CD staff member who has not fully processed an OIC application to (1) follow the document flow and (2) ensure that they have completed the required steps prior to submitting the application for review by the Supervisory RO. A complete policy and procedure manual provides the supervisors with a benchmark to measure the RO's file against when reviewing the application.

### c. *Potential Conflict of Interest in Reviewing the Applications*

The OIC policies and procedures state that the RO assigned to the case<sup>7</sup> is responsible for assisting the taxpayer with the preparation of the forms necessary to file the OIC. The RO will review the forms and supporting documentation for the offer before making a recommendation to accept or reject the OIC application. Any subsequent OIC submissions by the taxpayer will be reviewed by the same RO.

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<sup>7</sup> The RO is initially assigned to a taxpayer's case when the delinquent payment amount is assigned for collection. This individual will remain with the case until it is resolved, the collection statute expires, or the RO leaves or is reassigned from CD.

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## Findings and Recommendations

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OIO does understand that all of the documentation submitted to support the OIC application is the responsibility of the taxpayer. The advice or assistance provided by the RO could be unduly weighted by the taxpayer in preparing the application or providing data. This practice can allow the RO to develop a greater awareness of the taxpayer's financial situation. At the same time it creates the potential for a perceived or actual conflict of interest. The RO has the potential to review the same documentation and forms that he may have assisted the taxpayer in compiling. This can allow for conditions to exist where the RO may inappropriately approve or deny an OIC application based on reviews of their own work.

### RECOMMENDATIONS

The Deputy Chief Financial Officer, Tax and Revenue should take the following corrective actions:

1. Align the policies and procedures and the *OTR-10* to reflect the actual basis and practices to be followed by the ROs and others involved in the recommendation and approval of OIC application acceptance or rejection.
2. Redesign the OIC policies and procedures to include all of the required actions to be followed by the RO and others for OIC applications. The ideal set of policies and procedures would track the OIC application from its original receipt by CD to final resolution. Require that all ROs receive a copy of the policies and procedures and any periodic revisions to them.
3. Reconsider the policy that requires ROs to assist taxpayers in development of the OIC application. Should a taxpayer require assistance, it should be provided by an individual who is independent of the RO reviewing the application.

### MANAGEMENT RESPONSE AND OIO COMMENTS

#### Management Response (Recommendation 1)

The DCFO, OTR agreed with the recommendation. Expected completion date for the alignment of the policies and procedures and the *OTR-10* with the practices followed by the Revenue Officers and those involved in the application review process is September 30, 2011.

#### OIO Comment

OTR's planned actions are responsive to the recommendation.

#### Management Response (Recommendation 2)

The DCFO, OTR agreed with the recommendation. The planned completion date for the redesign is September 30, 2011.

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## Findings and Recommendations

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### **OIO Comment**

OTR's planned actions are responsive to the recommendation.

### **Management Response (Recommendation 3)**

The DCFO, OTR agreed with the recommendation. Implementation of the change to require an independent Revenue Officer provide assistance to the taxpayer in the development of the OIC application will be completed by September 30, 2011.

### **OIO Comment**

The planned corrective action is responsive to the recommendation.



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## Findings and Recommendations

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### FINDING 2: DOCUMENTATION OF OIC APPLICATIONS

#### SYNOPSIS

Our review of 24 of the 26 OIC applications filed during the audit period found significant weaknesses in the documentation used to support the OIC applications. These weaknesses included:

- Missing or incomplete OIC application forms;
- Missing Federal tax returns for the taxpayer;
- Missing bank statements for a minimum of the prior three months or in some files evidence that the account(s) had been closed;
- Evidence of review of the Collection Information Statements (CIS');;
- Evidence that a financial analysis or field investigation had been conducted by the RO to support the evidence obtained.
- Documentation to support that the RO had reviewed the evidence obtained with the taxpayer and had followed up on all information that had been requested.

As a result CD cannot provide a reasonable assurance that all of the approved OIC applications were (1) adequately supported by taxpayer and RO supplied data and documentation, and (2) were appropriately approved or rejected by the RO and subsequent reviewers.

#### DISCUSSION

In addition to complying with CD's policies and procedures for processing an OIC application, a measure of whether the documentation supports the approval or rejection of the offer is to have an experienced RO who is not aware of the OIC application, review the application and the supporting documentation and reach the same conclusion as the RO who processed the application based on the documentation.<sup>8</sup>

Table 2 provides the results of our review of the 26<sup>9</sup> OIC application files received during the audit period.

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<sup>8</sup> Comptroller General of the United States, Government Accountability Office, *Government Auditing Standards – 2007 Revision*, Report Number: GAO-07-731G; July 2007; section 7.77, pages 156 -157.

<sup>9</sup> The original number of applications received during the period – 29; one application was withdrawn by the taxpayer and placed in the 2010 Tax Amnesty Program; CD was unable to locate 2 files.



## Findings and Recommendations

**Table 2**  
**Available Required Documentation in the OIC Application Folder**

Test Performed on File	Documentation Available			Percent Compliant
	Yes	No	Other	
Completed OIC Application in File	23	2	1	88.46
Signed OIC Application in File	23	3	-0-	88.46
Federal Tax Return	14	12	-0-	53.85
Collection Information Statement in File	24	2	-0-	92.31
Bank Account Statement for last three months	3	23	-0-	11.54
Other Documentation	8	18	-0-	30.77
Evidence of Investigation	8	15	3	30.77
Reasonable Collection Potential	-0-	26	-0-	0.00
Evidence of Financial Analysis	5	20	1	19.23

Source: OIC Application Files for period October 1, 2009 through March 31, 2011.

The ROs are required by the OIC procedures to include the following documents in each OIC application file: the OIC application, CIS with attached substantiation, current power of attorney, and information gathered by the RO during their field investigation to support or refute the amounts claimed on the CIS and submitted with the offer.<sup>10</sup>

OIO selected several items of required documentation to include in the tests. For example the Federal tax return and the CIS are required as part of the taxpayer's submission of the OIC application form. The bank account statements are required by the policies and procedures as part of the supplemental information that is to be submitted by the taxpayer.

We reviewed the file for evidence that the RO had performed a review/investigation of the amounts included on the CIS and had calculated the amount representing the reasonable collection potential based on the taxpayer's verified CIS. The calculation of a reasonable collection potential is the basis to evaluate the reasonableness of the taxpayer's offer when the OIC application is filed using the DATC basis. Our review include the required financial analysis and evidence to support that the RO had identified and eliminated any payment amounts for items such as credit cards, tuition payments, and other expenses that are not allowable as part of the OIC determination.

In our interviews with the ROs and the Branch Chief responsible for the OIC program, we found that because the RO was aware of the taxpayer's financial condition and may have assisted in preparing the OIC that not all of the data required by the policies and procedures and the *OTR-10* may have been secured. Similarly, notes to the file were not included that could have explained the absence of the documentation or the taxpayer's inability to provide it. The notes to the file

<sup>10</sup> Office of Tax and Revenue, Collection Division, *Operations Procedure Manual*, Offer In Compromise Policy and Procedure, page 3.

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## Findings and Recommendations

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could have provided an adequate basis to support the acceptance or rejection of the OIC application.

Further, in our interviews with the ROs, who were responsible for the review of approximately 23 percent of the applications received during the audit period, they did not appear to be aware of the policies and procedures provided to OIO. They indicated that much of the procedures that they followed came from a review of the *OTR-10* and oral instructions from their Supervisory RO.

Additionally, the ROs commented that they were unable to recall when they had received training in financial analysis and documentation that appears necessary to evaluate an OIC application. Both indicated that they had received some financial analysis training as part of the initial RO training. However, they did not recall receiving any specific follow-on training or topical training in financial analysis. Financial analysis training should be periodically reviewed as conditions that impact the analysis change and some of the techniques used need to be periodically refreshed with the ROs.

The lack of awareness of the specific OIC policies and procedures and the infrequent financial analysis training may have contributed to the absence of the required and supplemental documentation in the OIC application files.

### RECOMMENDATIONS

The Deputy Chief Financial Officer, Tax and Revenue should direct that the Chief, CD take the following corrective actions:

4. Develop specific minimum documentation standards that all OIC application files are to comply with. When the required documentation is not available or requested the file should contain an explanation as to the reason that the data is not available or was not requested.
5. Require that the Supervisory ROs and the Branch Chief review each OIC file for compliance with the minimum standards and document the review within the file.
6. Evaluate the current policies and procedures to determine whether they are effective for ensuring that all OIC application files are properly documented.

### MANAGEMENT RESPONSE AND OIO COMMENTS

#### Management Response (Recommendation 4)

The DCFO, OTR agreed with the report's recommendation to develop minimum documentation standards that all OIC files are to comply with. OTR expects that the development and implementation of these standards will be completed by September 30, 2011.

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## Findings and Recommendations

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### **OIO Comments**

The DCFO, OTR's planned corrective actions are responsive to the recommendation.

### **Management Response (Recommendation 5)**

The DCFO, OTR stated that OTR agreed with the recommendation that the Supervisory ROs and the Branch Chief review the OIC files for compliance with the minimum standards and document the review of each OIC file. These requirements and procedures are expected to be implemented by September 30, 2011.

### **OIO Comments**

The DCFO, OTR's planned corrective actions are responsive to the recommendation.

### **Management Response (Recommendation 6)**

The DCFO, OTR agreed with the recommendation to evaluate the current policies and procedures to determine whether they are effective for ensuring that all OIC application files are properly documented. This evaluation is expected to be completed by September 30, 2011.

### **OIO Comments**

The planned corrective actions are responsive to the recommendation.

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## Findings and Recommendations

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**FINDING 3: OFFER IN COMPROMISE WEBPAGE AND THE OTR 10**

### SYNOPSIS

The webpage containing data related to the OIC program is limited and may not provide taxpayers with sufficient data to allow them to determine whether they should use to the program to relieve their unpaid tax obligations.

The instructions for OIC application may not be easily understood and potentially act as a barrier to individuals applying for a compromise on their own. We noted at least one inconsistency between the information on the webpage and in the application form on the length of time that the taxpayer must remain in compliance with the filing requirements and payment obligations. Not all of the forms that are necessary to complete for an OIC application are included in the instruction package.

### DISCUSSION

OIO reviewed the "Offer in Compromise webpage" included as part of the OTR taxpayer service center web page<sup>11</sup>. The web page was linked to CD's page which contained links to various collection programs and activities performed by CD. However, there was not a link that would indicate that the program was part of the collection activities that could be under taken to obtain relief from delinquent taxes. For a taxpayer who is not knowledgeable regarding the existence of the program it may not be readily identifiable.

The OIC webpage while providing limited information on the program is not user friendly. It appears that a taxpayer with limited knowledge of the collections process may not understand the OIC program based on the information provided here. Further the web page does not discuss an OIC application filed under the DATL basis allowed in the application.

Additionally we compared the instructions provided by the Internal Revenue Service (IRS) in Form 656-B, *Offer in Compromise Booklet*, the instructions provided by the IRS appear to be easier to follow and followed a logical progression through the Form 656. Additional information was provided to complete the taxpayer's Form 433-A, *Collection Information Statement for Wage Earners and Self-Employed Individuals* and Form 433-B, *Collection Statement for Businesses*. Both of these forms were included in the Form 656-B allowing the taxpayer to obtain only one document where a number of requisite forms were included. The instructions included in *OTR-10*, were very limited.

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<sup>11</sup> Found at <http://otr.cfo.dc.gov/otr/cwp/view,A,1329,Q,637283.asp>.

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## Findings and Recommendations

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OIO noted a difference between the time periods that a taxpayer must comply with the statutory tax reporting requirements and the tax payment requirements. The web page states that the compliance period after acceptance of an offer is three years and the *OTR-10* states that the period is five years. The five year requirement is carried to the Form OTR-10 as part of the agreement that the taxpayer signs in submitting their offer. The difference may have been caused to a change in CD procedures that were not carried to the *OTR-10* and the Form OTR-10.

OIO note other issues in the *OTR-10* and we believe impact its readability and understandability for the taxpayers. For example, we noted in the instructions for completing Forms PA-1 and PA-2, current market value is explained, however the second sentence is incomplete. Similarly, the sentence describing necessary expenses is incomplete. The term unsecured debt is not explained. This term may not be familiar to all taxpayers. However, the PA 1 requests this information as part of the financial analysis section. The second bullet point of Item 7 is incomplete and the address for where to file the form has not been updated to reflect the current location.

The IRS in Form 656-B provides a worksheet that allows the taxpayer to compute an estimate of the reasonable collection potential amount and the amount of the offer to the IRS. This provides the taxpayer with a method to compute an approximation of what a reasonable offer may be. The current *OTR-10* does not include a worksheet or other method for determining the RCP and a potential offer to the District Government. Using this type of a worksheet could provide the taxpayer with an amount that meets both his and OTR's needs. Further, it may minimize the number of offers in which the taxpayer does not propose a reasonable offer. This type of worksheet could also be used to assist in documenting when a taxpayer is filing an OIC application to delay the collection of the taxes owed.

Finally, we noted in the section titled "How Do I Compute the Amount of My Offer" we found that CD will refund the taxpayer's offer payment if the offer is not accepted. This practice does not appear to be reasonable, as the taxpayer has outstanding tax obligations that the CD is attempting to collect. The IRS' instructions state that IRS will apply the application fee and any payments in support of a rejected offer to the taxpayer's outstanding tax liability. CD staff was unable to provide the genesis for the statement in the *OTR-10*.

### RECOMMENDATIONS

The Deputy Chief Financial Officer, Tax and Revenue should direct the Chief, CD

7. Evaluate the feasibility of altering the CD web pages to improve the description of the OIC program and to outline the range of collection possibilities that the taxpayer and CD may use.
8. Review the current version of the *OTR-10* and the Form OTR-10:
  - adjust the data on the web page and the *OTR-10* and Form OTR-10 so that all are in agreement;



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## Findings and Recommendations

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- revise the “How Do I Compute the Amount of My Offer” to state that the funds submitted with the rejected offers will be retained and applied to the outstanding tax liability;
  - review the *OTR-10* to include checklists similar to IRS Form 656-B and the worksheet to compute the RCP amount and potential offer amount for the taxpayer to use;
  - review and revise the *OTR-10* to eliminate incomplete sentences and phrases and update the mailing instructions.
9. Evaluate the feasibility of including the CIS’, including detailed instructions, in the *OTR-10*.
10. Evaluate the feasibility of utilizing the IRS Form 433-A and 433-B, *Collection Information Statement for Wage Earners and Self-Employed Individuals* and *Collection Statement for Businesses*, respectively as alternative forms. This may ease the burden on the taxpayer as they may also be filing a Federal OIC application simultaneously.

## MANAGEMENT RESPONSE AND OIO COMMENTS

### Management Response (Recommendation 7)

The DCFO, OTR agreed with our recommendation of enhancing the webpages to improve the description of the OIC program and to offer a range of collection possibilities that the taxpayer and CD may use. The expected completion date for the changes and enhancements is October 31, 2011.

### OIO Comments

The DCFO, OTR’s planned corrective actions are responsive to the recommendation.

### Management Response (Recommendation 8)

The DCFO, OTR stated that he agreed with our recommendation for changes to the webpage and the *OTR-10*. These changes are anticipated to be complete by September 1, 2011.

### OIO Comments

The DCFO, OTR’s planned corrective actions are responsive to the recommendation.

### Management Response (Recommendation 9)

The DCFO, OTR in his response to this recommendation stated that the CD will evaluate the viability of including our CIS form and instructions in the *OTR-10*. Additionally, the CD will

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## Findings and Recommendations

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evaluate the potential use of the IRS Forms 443-A and 443-B as replacements for OTR's current CIS. The DCFO, OTR expects that this evaluation will be completed by September 1, 2011.

### **OIO Comments**

The planned corrective actions are responsive to the recommendation.

### **Management Response (Recommendation 10)**

The DCFO, OTR agreed with our recommendation to evaluate the viability of using the IRS Forms 443-A and 443-B as alternative forms for inclusion with the OIC application. The evaluation of the use of these forms is expected to be complete by September 1, 2011.

### **OIO Comments**

The planned corrective actions are responsive to the recommendation.



## Exhibit A Summary of Potential Benefits from Audit

Recommendation	Description of Benefit	Amount and Type of Benefit	Agency Reported Estimated Completion Date	Status <sup>12</sup>
1	Align policies and procedures and the <i>OTR-10</i> to reflect practices followed by the ROs and others involved with the OIC application review process.	Internal Control	September 30, 2011	Open
2	Redesign the OIC policies and procedures to include all of the required actions to be completed by the ROs and others involved in the review and approval of OIC applications.	Internal Control	September 30, 2011	Open
3	Reconsider the policy that requires the ROs to assist taxpayers in the preparation of the OIC application	Internal Control	September 30, 2011	Open
4	Develop minimum documentation standards for all OIC application files.	Internal Control	September 30, 2011	Open
5	Require all OIC application files be reviewed by the Supervisory RO and Branch Chief and those reviews be documented.	Internal Control	September 30, 2011	Open
6	Evaluate the current policies and procedures to ensure that they are effective for insuring all OIC application files are properly documented.	Internal Control	September 30, 2011	Open
7	Evaluate the feasibility of altering the webpage to improve the description of the OIC program.	Effectiveness and Efficiency	October 31, 2011	Open
8	Review the current <i>OTR 10</i> and align with the CD policies and procedures and improve the readability of the document.	Effectiveness and Efficiency	September 1, 2011	Open
9	Evaluate the feasibility of including the CIS forms and adapted checklists from the IRS <i>Publication 656-B</i> as part of the <i>OTR 10</i> .	Effectiveness and Efficiency	September 1, 2011	Open
10	Evaluate the feasibility of using the IRS Collection Information Statements as alternatives to the current CIS.	Effectiveness and Efficiency	September 1, 2011	Open

<sup>12</sup> This column provides the status of the recommendation as of the report date. For final reports "Open" means management and OIO are in agreement on the action to be taken, but the action is not complete. "Closed" means that management advised OIO that they took the action needed to correct the condition and that action is complete. If a completion date was not provided the date of management's response was used. "Unresolved" means that management has neither agreed to the recommended action nor proposed a satisfactory alternative action to correct the condition.

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## Exhibit B Office of Tax and Revenue Response

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GOVERNMENT OF THE DISTRICT OF COLUMBIA  
OFFICE OF THE CHIEF FINANCIAL OFFICER  
OFFICE OF TAX AND REVENUE



Stephen M. Cordi  
Deputy Chief Financial Officer

### MEMORANDUM

**TO:** William J. DiVello, Executive Director  
Office of Integrity and Oversight

**FROM:** Stephen M. Cordi

**DATE:** July 7, 2011

**SUBJECT:** Draft Report on the Audit of the Collection Division's Administration of the Offer in Compromise Program (Report Number: OIO-11-1-05-OTR)

Attached are the final responses to the report regarding the Office of Tax and Revenue Collection Division's Offer in Compromise (OIC) program.

Our written responses include suggested actions taken, planned, target dates for completion and proposed alternatives to correct noted deficiencies.

If you have any questions, please contact Bedell Terry, Director, Compliance Administration at 202-442-6863.

Attachment

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## Exhibit B Office of Tax and Revenue Response

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### Collection Division

#### *Audit of the Office of Tax and Revenue Collection Division's Administration of the Offer in Compromise (OIC) Program*

##### List of Recommendations Contained in the Report

1. **Align policies and procedures and the OTR-10 to reflect practices followed by the Revenue Officers and others involved with the OIC application review process.**

We agree with the recommendation.

Estimated completion date September 30, 2011

2. **Redesign the OIC policies and procedures to include all of the required actions to be completed by the Revenue Officers and others involved in the review and approval of OIC applications.**

We agree with the recommendation.

Estimated completion date September 30, 2011

3. **Revise the policy that required the Revenue Officers to assist taxpayers in the preparation of the OIC application.**

We agree with the recommendation.

Estimated completion date September 30, 2011

4. **Develop specific minimum documentation standard for all OIC application files.**

We agree with the recommendation.

Estimated completion date September 30, 2011

5. **Require that the Supervisory Revenue Officers and the Branch Chief review each OIC file for compliance with the minimum standards and document the review within the file.**

We agree with this recommendation.

Estimated completion date September 30, 2011

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## Exhibit B Office of Tax and Revenue Response

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6. Evaluate and update the current policies and procedures to ensure that all OIC application files are properly documented.

We agree with this recommendation.

Estimated completion date – September 30, 2011

7. Enhance the CD webpages to improve the description of the OIC program and to outline the range of collection possibilities that the taxpayer and CD may use.

We agree with the meaning of this recommendation.

Estimated completion date – October 31, 2011

8. Review and update the current version of the OTR-10 and the Form OTR-10 and:
- Adjust the date on the webpage, the OTR-10, and Form OTR-10 so that all are in agreement;
  - Revise the "How Do I Compute the Amount of My Offer" to state that the funds submitted with the rejected offers will be retained and applied to outstanding tax liability;
  - Revise the OTR-10 to include checklists similar to IRS Form 656-D and the worksheet to compute the RCP amount and potential offer amount for the taxpayer to use;
  - Revise the OTR-10 to eliminate incomplete sentences and phrases and update the mailing instructions,

We agree with this recommendation. The CD web site will be updated with recommendations per this report

Estimated completion date – September 1, 2011

9. Determine the viability of including the CIS; including detailed instructions in the OTR-10.

We agree with this recommendation. The CD will evaluate the viability of including our CIS form and detailed instructions to the OTR-10. The OTR forms PA-1 and PA-2 or IRS form 443-A and/or 433-B may provide sufficient data to replace the CIS.

Estimated completion date – September 1, 2011

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## Exhibit B Office of Tax and Revenue Response

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10. Determine the viability of using IRS Form 443-A and 433-B, *Collection Information Statement for Wage Earners and Self-Employer Individuals* and *Collection Statements for Businesses*, respectively as alternative forms. This approach may ease the burden on the taxpayer as they may also be filing a federal OIC application simultaneously.

We agree with this recommendation.

Estimated completion date – September 1, 2011