



441 G St. N.W.
Washington, DC 20548

July 28, 2014

Congressional Requesters

Security Clearances: Tax Debts Owed by DOD Employees and Contractors

The Office of the Director of National Intelligence (ODNI) reported that, as of October 2013, over 5.1 million federal employees (civilian and military) and contractors held—or were individuals eligible to hold—a security clearance due to a favorable adjudication.¹ The number of personnel determined eligible for clearance or who currently hold a security clearance underscores the importance of security-clearance adjudicators conducting thorough vulnerability assessments of security-clearance applicants as these clearances may allow government personnel to gain access to classified information that, through unauthorized disclosure, can in some cases cause exceptionally grave damage to U.S. national security. Federal regulations state that these assessments should include a review of a host of factors, including an applicant’s financial position and relevant tax-debt information, in addition to other available, reliable information about the person, past and present, favorable and unfavorable.² Federal law does not expressly prohibit an individual with unpaid federal taxes from being granted a security clearance; however, delinquent tax debt does pose a potential vulnerability that is to be considered in making a broader determination of whether an applicant should be granted a security clearance. Specifically, federal regulations state that an individual who is financially overextended is at risk of having to engage in illegal acts to generate funds, and that adjudicating officials must weigh an individual’s inability or unwillingness to satisfy debts, such as federal tax debts, as they relate to an individual’s financial and personal conduct when making the security-clearance determination.

The DNI is the Security Executive Agent for the federal government. In this role, the DNI is responsible for developing uniform and consistent policies related to the security-clearance process. The security-clearance process begins with a determination by executive agencies regarding which of their civilian and contractor positions require access to classified information. The individuals identified must then be sponsored by their agency for a security clearance and undergo an investigation. The Office of Personnel Management (OPM) and its contractors conduct background investigations of security-clearance applicants for most executive agencies, including the Department of Defense (DOD). Following the investigation, federal agencies are to determine whether an applicant is eligible for a personnel security-clearance on the basis, in part, of the results of the background investigation. Individuals approved to hold secret security clearances must undergo a reinvestigation every 10 years, and those approved for top-secret clearances must undergo a reinvestigation every 5 years.³ We have issued several reports and testimonies on the U.S. government security-clearance process over the last several years, and highlighted progress being made to improve the timeliness of the

¹Office of the Director of National Intelligence, *2013 Report on Security Clearance Determinations* (April 2014).

²32 C.F.R. Part 147, *Adjudicative Guidelines for Determining Eligibility for Access to Classified Information* (2011).

³OPM officials noted that under the new standards issued in December 2012, it is a 5-year cycle for both types of investigations, with reinvestigations conducted of a random sample of clearance holders. However, these standards have not yet been implemented.

clearance process, but also noted that executive-branch agencies do not consistently assess quality throughout the process.⁴

We reported in September 2013 that additional mechanisms that provide large-scale detection of federal tax debt could improve federal agencies' ability to detect tax debts owed by security-clearance applicants and security-clearance holders, but statutory privacy protections limit access to this information.⁵ Specifically, access to the federal tax information needed to obtain the tax-payment status of applicants is restricted under section 6103 of the Internal Revenue Code, which generally prohibits disclosure of taxpayer data to federal agencies and others, including disclosures to help validate an applicant's certifications about the nature and extent of his or her tax debt.⁶ Federal agencies may obtain information on federal tax debts directly from the Internal Revenue Service (IRS) if the applicant provides consent, but as we reported in September 2013, OPM officials told us that this manual process is not conducive to the large-scale detection of unpaid federal taxes owed by security-clearance applicants. Further, this manual process provides limited visibility into an applicant's overall tax-debt status. We also reported in September 2013 that ODNI formed a working group in 2012, in collaboration with OPM and other federal agencies to, among other things, explore whether an automated process for reviewing federal tax compliance could be established.

In September 2013, we reported that the Treasury Offset Program (TOP), or a similar mechanism, may provide an opportunity for federal agencies to perform an automated check of both security-clearance applicants and current clearance holders to determine whether they have unpaid federal debts that would include tax debts, while not violating restrictions set in section 6013 of the Internal Revenue Code.⁷ TOP is an automated process administered by the Department of the Treasury in which certain federal payments, such as contractor and federal salary payments, are reduced to collect certain delinquent tax and nontax debts owed to federal agencies, including the IRS.⁸ In September 2013, we recommended that, as part of its working group, the DNI, as the Security Executive Agent, in consultation with OPM and the Department of the Treasury, evaluate the feasibility of federal agencies routinely obtaining federal debt information from the Department of the Treasury's TOP system, or a similar automated mechanism that includes federal taxes, for the purposes of investigating and adjudicating

⁴For example, see GAO, *Security Clearances: Agencies Need Clearly Defined Policy for Determining Civilian Position Requirements*, [GAO-12-800](#) (Washington, D.C.: July 12, 2012); *Personnel Security Clearances: Continuing Leadership and Attention Can Enhance Momentum Gained from Reform Effort*, [GAO-12-815T](#) (Washington, D.C.: June 21, 2012); and *Personnel Security Clearances: Actions Needed to Ensure Quality of Background Investigations and Resulting Decisions*, [GAO-14-138T](#) (Washington, D.C.: Feb. 11, 2014).

⁵GAO, *Security Clearances: Additional Mechanisms May Aid Federal Tax-Debt Detection*, [GAO-13-733](#) (Washington, D.C.: Sept. 10, 2013).

⁶26 U.S.C. § 6103.

⁷[GAO-13-733](#). The Federal Payment Levy Program (FPLP) is the continuous levy program that uses TOP to levy federal payments against federal tax debts. In 2011, the IRS reported that it collected over \$600 million through FPLP.

⁸Payment agencies prepare and certify payment vouchers to the Department of the Treasury's Bureau of the Fiscal Service (Fiscal Service) and to disbursing officials at other federal agencies for payments that are non-Department of the Treasury disbursed, who then disburse payments. The payment vouchers contain information about the payment, including the name and Tax Identification Number (TIN) of the recipient. Before an eligible federal payment is disbursed to a payee, disbursing officials compare the payment information with debtor information, which has been supplied by the creditor agency, in the Fiscal Service delinquent-debtor database. If the payee's name and TIN match the name and TIN of a debtor, the disbursing official offsets the payment, in whole or in part, to satisfy the debt, to the extent legally allowed. The TOP also has state debts that payments may offset. These state debts include certain child-support debts, tax debts, and unemployment-insurance compensation debts.

clearance applicants, as well as for ongoing monitoring of current clearance holders' tax-debt status.⁹ ODNI and OPM concurred with this recommendation and ODNI stated that it would recommend that the working group consider routine access of TOP for the purposes of investigating, adjudicating, and monitoring security-clearance holders and applicants. The status of this recommendation is discussed later in this report.

This is the second of two reports that respond to your request that we review the security-clearance process and mechanisms used to identify unpaid federal tax-debt information of applicants, employees, and contractors. Our first report focused on civilian employees and contractors in the executive branch, excluding DOD employees and contractors as well as known employees of intelligence agencies.¹⁰ For this review, we focused on DOD military and civilian employees and contractors in the department's Joint Personnel Adjudication System (JPAS), which is DOD's system of record for security clearances.¹¹ This report (1) identifies the number of individuals with unpaid federal taxes, if any, who are in DOD's JPAS security-clearance database and the magnitude of any unpaid federal tax debt; and (2) provides an update on our September 2013 recommendation. On July 15, 2014, we briefed you (see enc. 1) on our overall findings, which are also reflected in this report.

To determine the number of individuals with unpaid taxes in DOD's JPAS security-clearance database, as well as determine the magnitude of unpaid federal tax debt, we obtained and analyzed JPAS data on individuals eligible for a secret, top-secret, or sensitive compartmented information (SCI)¹² security clearance due to a favorable adjudication, either during an initial investigation or a reinvestigation, from January 1, 2006, to December 31, 2011,¹³ to help provide a government-wide perspective of clearance holders with unpaid federal taxes.¹⁴ We electronically matched federal tax-debt data from the IRS Unpaid Assessment database to these individuals using Social Security numbers (SSN). The DOD JPAS database does not maintain information on the denial of security clearances on the basis of an individual's nonpayment of federal taxes. Thus, we were not able to determine the number of individuals who were denied security clearances for this reason. We included only those individuals with legally enforceable tax debts of \$100 or more, which are the same criteria for inclusion we used

⁹[GAO-13-733](#).

¹⁰[GAO-13-733](#).

¹¹Security-clearance information from non-DOD civilian agencies is maintained in OPM's Central Verification System (CVS), which we used in our prior work. Security-clearance information from DOD employees and contractors is maintained in the Joint Personnel Adjudication System (JPAS), which we used for this review. Security-clearance information from the intelligence community is maintained in the Scattered Castles database.

¹²Sensitive Compartmented Information relates to positions that require access to unique or uniquely productive intelligence sources or methods vital to the U.S. security.

¹³Our review includes individuals with a favorable adjudication for a secret, top-secret, SCI, or corresponding interim clearance within our time frame. To maintain parallelism with our prior report on non-DOD civilian employees of executive-branch agencies ([GAO-13-733](#)), this review does not include favorable adjudications for other eligibilities, such as confidential clearance holders or public-trust positions.

¹⁴We selected data from a similar period for our September 2013 work on non-DOD civilian employees and contractors in the executive branch ([GAO-13-733](#)). Specifically, for our review of non-DOD civilian employees and contractors in the executive branch, we analyzed data from the OPM CVS database on clearance eligibilities from April 1, 2006, to December 31, 2011. We used that time frame for the OPM CVS data because prior to April 1, 2006, the provision of the date a clearance was granted was not required and was therefore not consistently available for analysis. As mentioned, we used data from January 1, 2006, to December 31, 2011, during this work to maintain a similar time frame with our prior work.

in our prior report on non-DOD civilian employees and contractors in the executive branch.¹⁵ All individuals in the IRS tax-debt data had unpaid federal taxes as of June 30, 2012, which was the most-recent unpaid-assessment information at the time we began our analysis. As part of this work, we assessed the reliability of key fields in the DOD JPAS data and IRS unpaid assessment data by performing electronic data testing, interviewing DOD and IRS officials regarding the quality and accuracy of the data, and reviewing documentation related to the data's reliability. We determined that both the DOD JPAS and IRS data were sufficiently reliable to identify the individuals eligible for clearances with unpaid federal tax debt and to identify an overall amount of tax debt owed by these individuals. Our final estimate of tax debt includes some debt that is covered under an active IRS installment plan or beyond normal statutory time limits for debt collection. Our analysis determined the magnitude of known unpaid federal taxes owed by individuals in the DOD JPAS database and cannot be generalized to individuals who were granted eligibility for security clearances and were non-DOD employees of the executive branch, employees of the legislative branch, or employees of the intelligence community.

To provide an update on our September 2013 recommendation, we held meetings with officials from DOD, ODNI, the IRS, OPM, and the Department of the Treasury's Bureau of the Fiscal Service (Fiscal Service). We also reviewed and analyzed applicable laws, regulations, and guidance regarding the investigation and adjudication of security clearances.

We conducted this performance audit from October 2013 to July 2014 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

In summary, we found that about 83,000 DOD employees and contractors who held or were determined eligible for secret, top secret, or SCI clearances, or related interim clearances, had unpaid federal tax debt totaling more than \$730 million as of June 30, 2012.¹⁶ DOD reported to GAO that about 3.2 million civilian and military employees and contractors held or were approved for similar clearances from January 1, 2006, to December 31, 2011, which was the time frame for our analysis.¹⁷ Our analysis includes both initial investigations when an individual is applying for a clearance and reinvestigations when an individual is upgrading to a higher clearance level or renewing an existing clearance. The median debt amount owed was about

¹⁵[GAO-13-733](#). Our analysis includes tax debts from taxes receivable, which have been self-reported by the taxpayer or court-ordered; and write-offs, which are determined by the IRS to have little or no chance of collection. In addition, the IRS database does not reflect amounts owed by businesses and individuals that have not filed tax returns and for which the IRS has not assessed tax amounts due. Our analysis did not attempt to account for businesses or individuals that underreported taxes. We identified \$100 as a minimum amount because the IRS defines this threshold for some purposes as a de minimis amount, below which any amount is so small as to make accounting for it unreasonable or impractical.

¹⁶Some of these 83,000 individuals may be included in the population of 8,400 non-DOD clearance holders with tax debt identified in our prior work ([GAO-13-733](#)) if they held clearances for both DOD and non-DOD positions during our 5-year time frame.

¹⁷GAO's ongoing work regarding the revocation of security clearances, which will be issued later this year, addresses whether DOD's JPAS database is sufficiently reliable for determining the total number of individuals eligible for access to classified information. Our review includes individuals with a favorable adjudication for a secret, top secret, SCI, or corresponding interim clearance within our time frame. To maintain parallelism with our prior report on non-DOD civilian employees of executive branch agencies ([GAO-13-733](#)), this review does not include favorable adjudications for other eligibilities, such as confidential clearance holders or public-trust positions.

\$2,700, and tax debts ranged from a minimum of about \$100 to millions of dollars. We also found the following:

- **About 40 percent of the individuals are in a repayment plan with the IRS.**¹⁸ According to IRS data, about 34,000 of these 83,000 individuals with tax debt had a repayment plan with the IRS to pay back their debt as of June 30, 2012. The tax debt owed by those on a repayment plan was approximately \$262 million.
- **About half of individuals with tax debt were federal employees.** About 44,500 of the approximately 83,000 individuals with tax debt were federal employees, while the remainder were employees of federal contractors or had an “other” designation used to identify other categories of individuals. Federal employees owed approximately \$363 million of the \$730 million (about 50 percent) of delinquent taxes owed by DOD clearance holders.
- **About 25 percent of the individuals with tax debt were eligible for a top-secret or SCI clearance.** About 20,400 of these 83,000 individuals were favorably adjudicated as eligible for a top-secret or SCI clearance during our time frame (Jan. 1, 2006, to Dec. 31, 2011), while the others were favorably adjudicated as eligible for a secret clearance. DOD employees with top secret or SCI-level clearances owed over \$249 million in tax debt.

As previously mentioned, the DOD JPAS database does not maintain information on the denial of security clearances on the basis of an individual’s nonpayment of federal taxes. Thus, we were not able to determine the number of individuals who were denied security clearances for this reason.

Because DOD’s JPAS security-clearance database distinguishes between clearance “eligibility” and “access,” we also identified individuals with unpaid tax debts who had access to classified information. According to DOD officials, access first requires eligibility for a clearance, but also requires a “need-to-know,”¹⁹ and involves the ability or opportunity to gain physical proximity to property, assets, or knowledge of controlled or national security information. As such, DOD officials stated that individuals having access to classified information pose a greater risk because they have more opportunity to actually compromise classified information than a person who is only eligible to access classified information. We found that about 26,000 of the 83,000 DOD employees and contractors with eligibilities who owed taxes (about 31 percent) had access to classified information at the same time that they owed federal taxes, and they owed about \$229 million as of June 2012. We also found that about 6,200 of these 26,000 individuals (about 24 percent) had top-secret or SCI access during this period. About 2,900 (about 47 percent) of the approximately 6,200 individuals who had tax debt at the same time they had top-secret or SCI access were contractors or other nonfederal employees. These contractors and other nonfederal employees with top-secret or SCI access owed about \$52 million in delinquent federal taxes at the same time they had top-secret or SCI access. Additional information on DOD clearance holders with unpaid taxes is available in enclosure I.

¹⁸According to ODNI officials, if an individual has a repayment plan with the IRS and is honoring the plan, this is a mitigating factor and, in the absence of other adjudicative concerns, may result in a determination to grant initial or continued eligibility for access.

¹⁹According to Executive Order 12968 (Aug. 2, 1995), “ ‘Need-to-Know’ means a determination made by an authorized holder of classified information that a prospective recipient requires access to specific classified information in order to perform or assist in a lawful and authorized governmental function.”

In June 2014, ODNI, OPM, and IRS officials stated that the interagency working group had studied the feasibility of federal agencies routinely obtaining federal tax-debt information from the Department of the Treasury's TOP system and determined that, due to legal and logistical challenges, obtaining taxpayer information from the TOP system was not feasible for the purpose of investigating and adjudicating clearance applicants, as well as for ongoing monitoring of current clearance holders' tax-debt status. Specifically, the IRS informed the working group that Fiscal Service cannot provide investigators and adjudicators the specific federal taxpayer information they require without violating restrictions set in section 6013 of the Internal Revenue Code. Further, the interagency working group determined that taxpayer information contained in TOP would not provide sufficient detail to meet investigators' and adjudicators' needs and that additional sources of taxpayer information, such as information on tax filing as well as tax debt status, may be more valuable to investigators and adjudicators. As such, in June 2014, officials from the interagency working group stated that they are exploring technologies that would contribute to an automated process for providing investigators and adjudicators more detailed information on tax payment and tax filing than the information currently contained in TOP. In addition, ODNI officials stated that in January 2014 the IRS assigned a program manager to oversee the development or modification of IRS systems to accomplish automated tax compliance checks. Officials from the interagency working group stated that they are also exploring whether an exception to section 6103 would be advisable to facilitate the sharing of taxpayer information for the purpose of making security-clearance determinations. The officials stated their goal was to establish an automated federal tax-compliance check by 2017, but the officials also noted that an automated system to perform a federal tax-compliance check was still in the initial planning stages. Additional information on the interagency working group's plans to establish an automated federal tax-compliance check is contained in enclosure I.

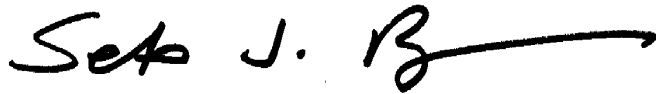
Because ODNI is currently pursuing efforts to evaluate the feasibility of federal agencies, including DOD, routinely obtaining federal tax-compliance information through an automated mechanism for the purposes of investigating and adjudicating clearance applicants, as well as for ongoing monitoring of current clearance holders' tax-debt status, we are not making any new recommendations in this report. We believe these efforts can help to detect the tax debts of DOD employees and contractors who hold or apply for a national security clearance. We will continue to monitor ODNI's efforts in this area.

Agency Comments

We provided a draft of this report to the DNI and Director of OPM, the Secretaries of the Treasury and Defense, and the Commissioner of Internal Revenue for their review and comment. ODNI provided technical comments, which we incorporated as appropriate. The other agencies said that they had no comments.

We are sending copies of this report to ODNI, OPM, the Department of the Treasury's Fiscal Service, DOD, and the IRS; appropriate congressional committees; and other interested parties. In addition, the report is available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff members have any questions concerning this report, please contact me at (202) 512-4749 or bagdoyans@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this letter.

A handwritten signature in black ink that reads "Seto J. Bagdoyan". The signature is written in a cursive style with a long horizontal stroke extending to the right from the end of the name.

Seto J. Bagdoyan
Acting Director, Forensic Audits and Investigative Service

Enclosure—1

List of Requesters

The Honorable Dave Camp
Chairman
Committee on Ways and Means
House of Representatives

The Honorable Tom Coburn, M.D.
Ranking Member
Committee on Homeland Security and Governmental Affairs
United States Senate

The Honorable Susan M. Collins
Ranking Member
Special Committee on Aging
United States Senate

The Honorable Orrin G. Hatch
Ranking Member
Committee on Finance
United States Senate

SECURITY CLEARANCES

Tax Debts Owed by DOD Employees and Contractors

Briefing for Congressional Requesters

July 15, 2014

Introduction: National Security Clearances

- According to the Office of the Director of National Intelligence (ODNI), as of October 2013, about 5.1 million civilian and military employees and contractors held—or were individuals eligible to hold—a security clearance. Because these clearances may allow personnel to access classified information that, through unauthorized disclosure, can in some cases cause exceptionally grave damage to U.S. national security, investigators and adjudicators are to thoroughly assess applicants and their eligibility.
- Federal laws do not prohibit an individual with unpaid federal taxes from holding a security clearance, but tax debt poses a potential vulnerability that is to be considered in making a clearance determination. Specifically, federal adjudicative guidelines for determining access to classified information state that an individual who is financially overextended is at risk of having to engage in illegal acts to generate funds, and require that adjudicating officials weigh an individual's debts, such as federal tax debts, when making the security-clearance determination .¹
- The DNI is the Security Executive Agent for the federal government. In this role, the DNI is now responsible for developing uniform and consistent policies related to the security-clearance process. The Office of Personnel Management (OPM) and its contractors conduct most background investigations of security-clearance applicants, including those for the Department of Defense (DOD). Following the investigation, federal agencies determine whether an applicant is eligible for a security clearance on the basis, in part, of the investigation.

¹32 C.F.R. Part 147.



Introduction: Results of Prior Work on Non-DOD Clearance Holders (GAO-13-733, September 2013)

- In September 2013, we reported that about 8,400 non-DOD, civilian executive-branch employees and contractors who had been adjudicated as eligible for a security clearance from April 2006 to December 2011 owed approximately \$85 million in unpaid federal taxes, as of June 2012, which were the most recent available data when we began our work.²
 - This number represented about 3.4 percent of the civilian executive-branch employees and contractors who were favorably adjudicated during that period.
- Approximately 4,700 of the 8,400 individuals (56 percent) were federal employees, while the remainder were largely federal contractors.³
- About 4,200 of the 8,400 individuals (50 percent) of these individuals had a repayment plan with the Internal Revenue Service (IRS) to pay back their debt.
- The OPM security clearances database does not maintain information on the denial of security clearances on the basis of an individual's nonpayment of federal taxes; thus, we were not able to determine the number of individuals who were denied security clearances for this reason.

²GAO, *Security Clearances: Additional Mechanisms May Aid Federal Tax-Debt Detection*, GAO-13-733 (Washington, D.C.: Sept. 10, 2013).

³The OPM security clearance database we used to perform our work for GAO-13-733 also used an "other" designation used to identify other categories of individuals. According to ODNI, the "other" category consists of individuals who held or were approved for security clearances but could not be categorized as either a federal employee or a contractor. Therefore, all data that could not be categorized by employee type are captured in this category.



Introduction: Results of Prior Work on Non-DOD Clearance Holders (GAO-13-733, September 2013) (cont.)

- In September 2013, we further reported that federal agencies had established mechanisms aimed at identifying unpaid federal tax debt of security-clearance applicants; however, these mechanisms had limitations. To detect federal tax debt for clearance applicants, federal investigators primarily relied on two methods: (1) applicants self-reporting tax debts; and (2) validation techniques, such as the use of credit reports or in-person interviews. Each of these methods has shortcomings in detecting unpaid federal tax debts of clearance applicants.
- Additionally, we reported that federal agencies generally did not routinely review federal tax compliance of clearance holders. No process existed to detect unpaid federal tax debts accrued after an individual has been favorably adjudicated unless it is self-reported, reported by a security manager due to wage garnishment, or discovered during a clearance renewal or upgrade.
- We reported that additional mechanisms that provide large-scale, routine detection of federal tax debt could improve federal agencies' ability to detect tax debts owed by security-clearance applicants and current clearance holders, but statutory privacy protections limit access to this information. Specifically, access to the federal tax information needed to obtain the tax payment status of applicants is restricted under section 6103 of the Internal Revenue Code, which generally prohibits disclosure of taxpayer data to federal agencies and others, including disclosures to help validate an applicant's certifications about the nature and extent of his or her tax debt.⁴ Federal agencies do not have a mechanism, such as one that the Department of the Treasury uses, to collect delinquent federal debts (including tax debts). Such information could help federal agencies perform routine, automated checks of security-clearance applicants to determine whether they have unpaid federal debts, without compromising statutory privacy protections.

⁴26 U.S.C. § 6103.

Introduction: Results of Prior Work on Non-DOD Clearance Holders (GAO-13-733, September 2013) (cont.)

- In our prior work, ODNI officials told us that they formed a working group in 2012, in collaboration with OPM and other federal agencies to, among other things, explore whether an automated process for reviewing federal tax compliance can be established.
- We recommended that, as part of its working group, the Director of National Intelligence, as the Security Executive Agent, in consultation with OPM and the Department of the Treasury, evaluate the feasibility of federal agencies routinely obtaining federal debt information from the Department of the Treasury's Treasury Offset Program (TOP) system, or a similar automated mechanism that includes federal taxes, for the purposes of investigating and adjudicating clearance applicants, as well as for ongoing monitoring of current clearance holders' tax-debt status.
 - TOP is a centralized offset program, administered by the Treasury, to collect delinquent debts owed to federal agencies and states (including past-due child support, collection of debts owed to federal agencies, and reduction of tax refund by amount of the debts).
- If this is found to be impractical, we further recommended that ODNI consider whether an exception to section 6103 is advisable and, if so, develop a legislative proposal, in consultation with Congress, to authorize access to tax-debt information.
- ODNI agreed with our recommendation and said it would recommend that the working group consider routine access of TOP for the purposes of investigating, adjudicating, and monitoring security-clearance holders and applicants. The status of this recommendation is discussed later in these slides.

Objectives for This Work

- We were asked to examine issues surrounding the investigation and adjudication of security clearances for DOD employees and contractors with delinquent federal tax debt. For this review, we focused on DOD civilian and military employees and contractors in DOD's Joint Personnel Adjudication System (JPAS), which is DOD's system of record for security clearances.⁵
- This report
 - (1) identifies the number of individuals with unpaid federal taxes, if any, who are in DOD's JPAS security-clearance database, and the magnitude of any unpaid federal tax debt; and
 - (2) provides an update on our September 2013 recommendation to the Director of National Intelligence.

⁵Security-clearance information from non-DOD civilian agencies is maintained in OPM's Central Verification System (CVS), which we used in our prior work. Security-clearance information from DOD employees and contractors is maintained in the Joint Personnel Adjudication System (JPAS), which we used for this review. Security-clearance information from the intelligence community is maintained in the Scattered Castles database.

Scope and Methodology

- To determine the number of DOD employees and contractors with unpaid federal taxes who were approved for security clearances, and the magnitude of delinquent federal debt, we did the following:
 - Obtained information from DOD's JPAS database on current and historical clearance eligibilities. We focused on individuals who were adjudicated as eligible for a security clearance from January 1, 2006 to December 31, 2011 to help provide a government-wide perspective of clearance holders with unpaid federal taxes.⁶
 - Compared the JPAS database with the IRS database of tax debts as of June 2012, the most-recent available data when we began our work, to identify clearance holders who owe federal taxes.
 - Performed in-depth analysis to determine the total magnitude of unpaid federal tax by individuals who are determined eligible for a security clearance, as well as categorical analysis to understand the collective details of these debts, such as the existence of repayment agreements, debts for security-clearance levels, and whether debt was accrued before or after clearance.
- Our analysis determined the magnitude of known unpaid federal taxes owed by individuals in the DOD JPAS database and cannot be generalized to individuals that were granted eligibility for security clearances by non-DOD employees of the executive branch, employees of the legislative branch, or employees of the intelligence community.

⁶We selected data from a similar time period for our September 2013 work on non-DOD civilian employees and contractors in the executive branch. GAO-13-733.

Scope and Methodology (cont.)

- DOD's JPAS database did not maintain information on the denial of security clearances on the basis of an individual's nonpayment of federal taxes; thus, we were not able to determine the number of individuals who were denied security clearances for this reason.
- As part of this work, we assessed the reliability of key fields in the JPAS and IRS data by performing electronic data testing, interviewing knowledgeable agency officials, and reviewing related documentation. We determined that both the DOD JPAS and IRS data were sufficiently reliable to identify the individuals eligible for clearances with unpaid federal tax debt and to identify an overall amount of tax debt owed by these individuals.
- To provide an update on our September 2013 recommendation, we did the following:
 - Interviewed knowledgeable officials from DOD, ODNI, IRS, OPM, and the Treasury's Bureau of the Fiscal Service.
 - Reviewed and analyzed applicable laws, regulations, and guidance regarding the investigation and adjudication of security clearances.

Scope and Methodology (cont.)

- We conducted this performance audit from October 2013 to July 2014 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.
- We provided a draft of this report to the Director of National Intelligence and the Office of Personnel Management, the Secretaries of the Treasury and Defense, and the Commissioner of Internal Revenue for their review and comment. ODNI provided technical comments, which we incorporated as appropriate. The other agencies said that they had no comments.

Summary of Findings

- Our analysis indicates that about 83,000 DOD military and civilian employees and contractors who held or were approved for secret, top secret, or sensitive compartmented information (SCI) clearances,⁷ or related interim clearances, had unpaid federal tax debt totaling more than \$730 million as of June 30, 2012. Some of these 83,000 individuals may be included in the population of 8,400 non-DOD clearance holders with tax debt identified in our prior work (GAO-13-733) if they held clearances for both DOD and non-DOD positions during our 5-year time frame.
- In June 2014, officials from ODNI's interagency working group stated that, due to the legal and logistical challenges of obtaining sufficient federal tax-compliance information from the Treasury's TOP system, the working group began exploring additional sources of information to provide automated federal tax-compliance checks for the purposes of investigating and adjudicating clearance applicants, as well as for ongoing monitoring of current clearance holders' tax-debt status. In addition, ODNI officials stated that in January 2014, the IRS assigned a program manager to oversee the development or modification of IRS systems to accomplish automated tax compliance checks. Officials from the interagency working group stated their goal was to establish an automated federal tax-compliance check by 2017, which is the currently planned time frame for full implementation of the revised investigative standards.⁸ However, the officials also noted that efforts to develop an automated system to perform a federal tax-compliance check were still in the initial planning stages.

⁷Sensitive Compartmented Information relates to positions that require access to unique or uniquely productive intelligence sources or methods vital to the U.S. security.

⁸In December 2012, the Security and Suitability Executive Agents (the DNI and the Director of OPM) jointly issued revised Federal Investigative Standards for background investigations. Full implementation of the revised standards is currently planned for 2017.

Background: Delinquent Federal Tax Debt

- As of September 30, 2013, the tax debt of individuals and businesses that owed the U.S. government was about \$374 billion, according to the IRS.⁹
 - Federal taxes that are owed become tax debts when the tax is assessed but not paid. IRS expends substantial resources trying to collect these debts.
- IRS issues an annual report on the Federal Employee/Retiree Delinquency Initiative (FERDI) to promote federal tax compliance among current and retired federal employees. The most-recent report states that about 3 percent of federal employees (approximately 310,000 individuals) owed delinquent federal taxes in 2012.
- Given the many challenges that the IRS faces in the enforcement of U.S. tax laws, this area continues to be on our high-risk list. Additionally, we included collection of unpaid federal taxes in our 2014 annual report on opportunities to reduce fragmentation, overlap, and duplication and achieve other financial benefits in the federal government.¹⁰

⁹The tax debt inventory contains known unpaid taxes, penalties, and interest, see *GAO, Federal Tax Debts: Factors for Considering a Proposal to Report Tax Debts to Credit Bureaus*, GAO-12-939 (Washington, D.C.: Sept. 10, 2012). This figure includes all U.S. taxpayers, including federal employees and federal contractors.

¹⁰*GAO, 2014 Annual Report: Additional Opportunities to Reduce Fragmentation, Overlap, and Duplication and Achieve Other Financial Benefits*, GAO-14-343SP (Washington, D.C.: Apr. 8, 2014).

Background: Laws and Regulations Governing the Security-Clearance Process

- Intelligence Reform and Terrorism Prevention Act (IRTPA) of 2004 mandates the President to identify a single entity responsible for directing the day-to-day oversight of investigations and adjudications for security clearances for federal personnel. Agencies may not conduct a new investigation where a current investigation or adjudicative determination of equal level exists.
 - Executive Order 13467 (June 30, 2008) contains three significant provisions:
 - The DNI is designated as the Security Executive Agent and has responsibility for developing policies and procedures to ensure the effective, efficient, and timely completion of investigations and adjudications for security clearance determinations.
 - Director of OPM is designated as the Suitability Executive Agent responsible for developing and implementing policies and procedures for investigations and adjudications related to determinations of suitability for federal employment, as well as electronic and physical access to secure facilities.
 - Continuous evaluation is authorized for individuals who are determined to be eligible or currently have access to classified information. Continuous evaluation means reviewing the background of an individual who is eligible for access to classified information (including additional or new checks of commercial databases, government databases, and other information lawfully available to security officials) at any time during the period of eligibility to assess continued compliance.
-

Background: Laws and Regulations Governing the Security-Clearance Process (cont.)

- Executive Order 12968 (Aug. 2, 1995) authorized establishment of uniform security policies and procedures, including the Federal Investigative Standards used by security-clearance investigators. In December 2012, the Security and Suitability Executive Agents (the DNI and the Director of OPM) jointly issued revised Federal Investigative Standards for background investigations. Full implementation of the revised standards is currently planned for 2017.
- DOD 5200.2-R, DOD Personnel Security Program (Jan. 1, 1987) contains expanded procedures for granting DOD military, civilian, consultant, and contractor personnel access to classified information or assignment to sensitive positions. DOD issued a revised manual in March 2014.
 - DOD 5200.2-R mandates that the rationale underlying unfavorable personnel-security determinations, to include the appeal process, and each favorable determination where the investigation or adjudication included significant derogatory information, shall be maintained in written or electronic form for a minimum of 5 years from the date of determination.

Background: Security Clearance Process

As shown in figure 1, to ensure the trustworthiness and reliability of personnel in positions with access to classified information, government agencies rely on a personnel security clearance process that includes multiple phases: the initial application, investigation, adjudication, and reinvestigation (where applicable, for renewal or upgrade of an existing clearance).

Figure 1: Security Clearance Process



Source: GAO analysis based on Office of the Director of National Intelligence (ODNI), Office of Personnel Management (OPM), and selected agencies (data). Art Explosion (images). | GAO-14-868R

Objective 1: Results of Analysis for DOD Employees and Contractors Granted Clearance Eligibility

- **Our analysis indicates that about 83,000 DOD employees and contractors who held or were approved for secret, top secret, or SCI clearances, or related interim clearances, had unpaid federal tax debt totaling more than \$730 million as of June 30, 2012.** DOD reported to GAO that about 3.2 million civilian and military employees and contractors held or were approved for similar clearances from January 1, 2006, to December 31, 2011, which was the time frame for our analysis.¹¹ Our analysis includes both initial investigations when an individual is applying for a clearance and reinvestigations when an individual is upgrading to a higher clearance level or renewing an existing clearance. The median debt amount owed was about \$2,700, and tax debts ranged from a minimum of about \$100 to millions of dollars.
- **About 40 percent of the individuals are in a repayment plan with the IRS.**¹² According to IRS data, about 34,000 of these 83,000 individuals with tax debt had a repayment plan with the IRS to pay back their debt as of June 30, 2012. The tax debt owed by those on a repayment plan was approximately \$262 million. Debts that are not in repayment agreements may be subject to other IRS collections actions, such as liens, which are described later in this presentation. Additionally, the IRS may categorize some debts that are not in repayment agreements as not collectible for various reasons, such as when the statutory period for collection has expired.

¹¹Some of these 83,000 individuals may be included in the population of 8,400 non-DOD clearance holders with tax debt identified in our prior work (GAO-13-733) if they held clearances for both DOD and non-DOD positions during our 5-year time frame.

¹²According to ODNI officials, if an individual has a repayment plan with the IRS and is honoring the plan, this is a mitigating factor and, in the absence of other adjudicative concerns, may result in a determination to grant initial or continued eligibility for access.

Objective 1: Results of Analysis for DOD Employees and Contractors Granted Clearance Eligibility (cont.)

- **About half of individuals with tax debt were federal employees.** About 44,500 of the approximately 83,000 individuals with tax debt were federal employees, while the remainder were employees of federal contractors or had a designation used to identify other categories of individuals. Federal employees owed approximately \$363 million of the \$730 million (about 50 percent) of delinquent taxes owed by DOD clearance holders.
- **About 25 percent of the individuals with tax debt were eligible for a top-secret or SCI clearance.** About 20,400 of these 83,000 individuals were favorably adjudicated as eligible for a top-secret or SCI clearance during our time frame (Jan. 1, 2006, to Dec. 31, 2011), while the others were favorably adjudicated as eligible for a secret clearance. DOD employees and contractors with top secret or SCI-level clearances owed over \$249 million in tax debt.
- **Most individuals accrued tax debt after clearance adjudication.** About 63,000 individuals (about 76 percent) accrued tax debts only after they were determined eligible for a security clearance. About 20,000 individuals (about 24 percent) accrued their tax debt before they were determined eligible for a security clearance.

Objective 1: Results of Analysis for DOD Employees and Contractors Granted Clearance Eligibility (cont.)

- **About 6 percent of the individuals had liens.** According to IRS data, about 4,800 of the 83,000 cleared individuals with tax debt also had tax liens. A federal tax lien is the government's legal claim against an individual's property when that individual neglects or fails to pay a tax debt. The lien protects the government's interest in all the individual's property, including real estate, personal property, and financial assets.¹³
- **More than 200 individuals had a Trust Fund Recovery Penalty (TFRP) indicator.** More than 200 of the approximately 83,000 cleared individuals with tax debt also had a TFRP indicator. According to the IRS, a TFRP is a penalty against any person required to collect, account for, and pay over taxes held in trust who willfully fails to perform any of these activities. This penalty may be imposed for: willful failure to collect tax, willful failure to account for and pay tax, or willful attempt in any manner to evade or defeat tax or the payment thereof. As such, this penalty may indicate an unwillingness to satisfy debts, which adjudicative guidelines indicate as a condition that could raise a security concern and may be disqualifying for a clearance eligibility.¹⁴
- **About 28 percent of the individuals with tax debt were referred to TOP.** About 23,000 of the 83,000 cleared individuals who owed federal taxes also had tax debts that were referred to TOP for collection action at some point in time. IRS policy excludes some debts from collection action through the TOP system, such as debts owed by active-duty military in combat zones.¹⁵

¹³A federal tax lien exists after the IRS: (1) assesses the individual's liability; (2) sends the individual a bill that explains how much the individual owes (Notice and Demand for Payment); and (3) the individual neglects or refuses to fully pay the debt in time. The IRS files a public document, the Notice of Federal Tax Lien, to alert creditors that the government has a legal right to that individual's property.

¹⁴32 C.F.R. § 147.8.

¹⁵Internal Revenue Manual 5.11.7-3.

Objective 1: Access Poses Greater Risk than Eligibility, According to DOD Officials

- DOD's JPAS security-clearance database distinguishes between clearance "eligibility" and "access". According to DOD officials:
 - **Eligibility** for access to classified information is a determination that an individual meets the personnel security standards for such access should the need arise.
 - **Access** first requires eligibility but also requires a "need-to-know," which is defined as “a determination within the Executive Branch in accordance with directives issued pursuant to Executive Order that a prospective recipient requires Access to specific Information to perform or assist in a lawful and authorized governmental function.”
- As such, DOD officials stated that individuals having access to classified information pose a greater risk because they have more opportunity to actually compromise classified information than a person who is only eligible to access classified information.

Objective 1: Results of Analysis for All DOD Employees and Contractors with Access to Classified Information

- **Individuals with access to classified information owe about \$229 million.** Our analysis indicates that from January 2006 to December 2011 about 26,000 DOD employees and contractors with unpaid federal tax debts were granted access to secret, top secret, or SCI information. These 26,000 individuals represent about 31 percent of the 83,000 individuals with eligibility who owed taxes in the same period. These individuals with access owed over \$229 million in delinquent federal taxes. The median debt amount owed was about \$2,800, and tax debts ranged from a minimum of about \$100 to millions of dollars.
- **Individuals with Top Secret or SCI (TS/SCI) access owe about \$83 million.** According to DOD JPAS data, about 6,200 of these 26,000 individuals (about 24 percent) had TS/SCI access during this period. These individuals owed approximately \$83 million in delinquent federal taxes at the same time they had access to TS/SCI information. The median debt amount owed was about \$3,700, and tax debts ranged from a minimum of about \$100 to millions of dollars.
 - About 2,900 (about 47 percent) of the approximately 6,200 individuals with TS/SCI access were contractors or other nonfederal employees. These contractors and other nonfederal employees with TS/SCI access owed about \$52 million in delinquent federal taxes at the same time they had TS/SCI access.
- **Individuals with non-TS/SCI access owe about \$155 million.** About 21,000¹⁶ of the approximately 26,000 individuals (about 81 percent) had non-TS/SCI access and owed about \$155 million.¹⁷ The median debt amount owed was about \$2,600, and tax debts ranged from a minimum of about \$100 to over \$900,000.

¹⁶Note that individuals with TS/SCI access and non-TS/SCI access do not add to 26,000 total individuals with access because some individuals may have both TS/SCI access and non-TS/SCI access during this period.

¹⁷Tax debts owed by individuals with TS/SCI access and individuals with non-TS/SCI access do not add to \$229 million due to rounding.

Objective 1: Results of Analysis for All DOD Employees and Contractors with Access to Classified Information (cont.)

- **Less than half of individuals with access have repayment agreements.** About 11,000 of these 26,000 individuals (about 42 percent) were in repayment agreements for tax debts totaling over \$84 million.
- **Over half of individuals with access are federal employees.** About 15,000 of these 26,000 individuals (about 58 percent) with access who owed federal taxes were federal employees. Federal employees owed about \$116 million of tax debt.
- **Most individuals accrued tax debt after they were granted access to classified information.**
 - About 19,500 individuals (about 75 percent) accrued tax debts only after they were granted access to classified information.
 - About 6,600 individuals¹⁸ (about 25 percent) accrued their tax debt before they were granted access to classified information.

¹⁸Number of individuals with tax debt before or after access do not add to 26,000 due to rounding.

Objective 1: Results of Analysis for All DOD Employees and Contractors with Access to Classified Information (cont.)

- **About 5 percent of the individuals with access had liens.** According to IRS data, about 1,200 of the 26,000 individuals with access and delinquent tax debt also had tax liens.
- **Less than 1 percent of individuals with access had a TFRP indicator.** About 100 of the approximately 26,000 individuals with access and delinquent tax debt also had a TFRP indicator.
- **About 25 percent of the individuals with access were referred to TOP.** About 6,500 of the 26,000 individuals with access and delinquent federal tax debt also had tax debts that were referred to TOP at some point in time.



Objective 2: Our Prior Work Found Additional Mechanisms May Aid Federal Tax-Debt Detection (GAO-13-733)

- We previously concluded that additional mechanisms that provide large-scale detection of federal tax debt could improve federal agencies' ability to detect tax debts owed by security-clearance applicants and security-clearance holders, but statutory privacy protections limit access to this information. Specifically, access to the federal tax information needed to obtain the tax-payment status of applicants is restricted under section 6103 of the Internal Revenue Code (26 U.S.C. § 6103.), which generally prohibits disclosure of taxpayer data to federal agencies and others, including disclosures to help validate an applicant's certifications about the nature and extent of her or his tax debt.
- In our prior work, ODNI officials told us that they formed a working group in 2012, in collaboration with OPM and other federal agencies to, among other things, explore whether an automated process for reviewing federal tax compliance can be established.
- In September 2013, we previously recommended that, as part of its working group, the Director of National Intelligence, as the Security Executive Agent, in consultation with OPM and the Department of the Treasury, evaluate the feasibility of federal agencies routinely obtaining federal debt information from the Department of the Treasury's TOP system, or a similar automated mechanism that includes federal taxes, for the purposes of investigating and adjudicating clearance applicants, as well as for ongoing monitoring of current clearance holders' tax-debt status.
- Both ODNI and OPM concurred with our recommendation.

Objective 2: Update on Prior Recommendation

- In June 2014, ODNI, OPM, and IRS officials stated that the interagency working group had studied the feasibility of federal agencies routinely obtaining federal tax-debt information from Treasury's TOP system and determined that, due to legal and logistical challenges, obtaining taxpayer information from the TOP system was not feasible for the purpose of investigating and adjudicating clearance applicants, as well as for ongoing monitoring of current clearance holders' tax-debt status.
 - Specifically, the IRS informed the working group that Fiscal Service cannot provide investigators and adjudicators the specific federal taxpayer information they require without violating restrictions set in section 6103 of the Internal Revenue Code. Further, the interagency working group determined that taxpayer information contained in TOP would not provide sufficient detail to meet investigators' and adjudicators' needs and that additional sources of taxpayer information may be more valuable to investigators and adjudicators.
- Because of the legal and logistical challenges in obtaining sufficient federal tax-compliance information from the TOP system, ODNI's interagency working group determined that additional sources of information, such as information on tax filing as well as tax debt status, may be more appropriate for the purpose of providing information on federal tax compliance for clearance applicants and clearance holders.

Objective 2: Update on Prior Recommendation (cont.)

- In June 2014, officials from the interagency working group stated that they are exploring technologies that would contribute to an automated process for providing investigators and adjudicators more detailed information on tax payment and tax filing than the information currently contained in TOP. ODNI officials stated that these actions, which are being directed and overseen by the specially-designated IRS program manager, will inform the working group's continued collaboration with IRS to achieve the automated tax compliance checks. As part of this work, the officials stated that they are also exploring whether an exception to section 6103 would be advisable to facilitate the sharing of taxpayer information for the purpose of making security clearance determinations. These working group officials stated that their goal was to establish an automated federal tax compliance check by 2017, which is the currently planned time frame for full implementation of the revised investigative standards. However, these officials also noted that plans for a more robust federal tax compliance check were in the initial planning stages at the time of this report. As such, the officials noted that project plans were still in development; funding had not yet been established; and technologies were not yet fully developed.
- Because ODNI, in coordination with its interagency working group, is currently pursuing efforts to evaluate the feasibility of federal agencies, including DOD, routinely obtaining federal tax compliance information through an automated mechanism for the purposes of investigating and adjudicating clearance applicants, as well as for ongoing monitoring of current clearance holders' tax-debt status, we are not making any new recommendations in this report. We believe these efforts, if implemented, can help to detect the tax debts of DOD employees and contractors who hold or apply for a national security clearance. We will continue to monitor ODNI's efforts in this area.

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