## 4.5 ACCOUNTABILITY

### a. OVERSIGHT

ISSUE: HOW SHOULD EFFECTIVE OVERSIGHT OF TAS BE CONDUCTED?

SUMMARY

For any large computerized personal information system like TAS, given the opportunities which complicated technological processes offer for misuse of data and programs, there should be some mechanism by which an executive agency must report on what processes it went through to assure against misuse of data by those having access to it. The TAS proposal does not contain such a provision.

QUESTIONS

1. What new oversight needs might be created by the changes to be effected under the TAS for IRS, for the Treasury Department, for the President, and for Congress?
2. What kind of report should Congress receive about the TAS?
3. What new statutory or regulatory requirements might be established concerning any reports to be provided to Congress?
4. How might any weaknesses in the operation of TAS be identified so that any lack of fidelity to rules governing policy can be corrected and prevented in the future?
5. What actual and potential oversight is there now of operation of the system in order to monitor its effects on due process, privacy, and other rights of taxpayers? What new oversight techniques and processes might need to be instituted?

BACKGROUND

There are a number of decision points within the Executive Branch and Congress for conducting oversight of the TAS to determine the efficiency and economy with which its procurement, installation, and operation are conducted. There are also a number of agencies and Congressional

committees concerned with oversight and monitoring of the IRS administration of requirements and prohibitions relating to dissemination of IRS information.

It is not clear from available documents and reports on TAS where and how oversight will be conducted or implemented on those aspects of the new TAS which may bear on its fidelity to any rules established to govern information policy and to prevent misuse of data by those having authorized access to the system.

A major area of concern in such a system as TAS is that of possible intentional changes in processes in the system which would escape the notice of those in charge. According to computer experts, this is one of the principal ways to misuse a system and does not depend on such techniques as employee identification and devices for physical security. It may be very easy in TAS for instance, to keep the system doing exactly what it is supposed to do and yet make a change in process so it did link together information in a way that was not intended and to feed that out to people who had obtained authorized access in a way that was purposely not intended. In this connection, consideration might be given to whether or not IRS political managers and Congressional committees ought to be able to receive reports stating that the agency had undertaken action to assure that there was no way the processes in the system could be changed without notice or without a way of detecting the change, such as documenting in real time the programs involved.

Thought might be given as to whether or not the requirements of reports on TAS should be set up as a specific program, with a legislative mandate, funding, and assigned responsibilities for its monitoring. Should the Internal Revenue Service be asked, for instance, to state in such a report what techniques it used to test the integrity and effectiveness in application of safeguards? Should they be able to state, for example, that they established certain parameters or limits for inquiries and built into the software a way of showing when and how they were breached? Should such reports contain a showing of deliberate periodic efforts by an internal group to breach the system unsuccessfully? In addition, should IRS managers describe the particular fears and threats for which they were monitoring, auditing, and testing the system, and how they went about achieving any balance in weighing threats against risks? Attention addressed to efforts to define any such report requirements would help Congress and the IRS find ways to determine flaws in TAS, in planning, in ability to manage it or in ability to state constitutional rights in the operation of the system.

## b. CITIZEN PARTICIPATION

ISSUE: TO WHAT EXTENT HAS THE PUBLIC BEEN INVOLVED IN PLANNING TAS? SHOULD THERE BE A NEW' SPECIAL PROCESS FOR INVITING PUBLIC INPUT DURING ITS FORMULATION STAGE?

SUMMARY

There is a need to clarify the extent, if any, of public Participation in TAS plans, and on the need for any future citizen involvement. Present machinery may not be sufficient for meaningful participation. In view of the possible wide-ranging interrelationships among government information systems which may need addressing if their potential impact and oversight problems are to be identified, it may be desirable to install a special process for involving all of the affected 'groups' who may have some interest in the new Tax Administration System.

QUESTIONS

1. Has there been any citizen participation so far in the formulation of TAS? Under what circumstances? What citizen participation is planned for the future?
2. Are existing forums and statutory mechanisms sufficient to encourage or elicit informed public comment about the possible implications of TAS?
3. Is there a need for a new special process for inviting public input during the formulation stage of TAS? If so, what should this process include? Special notices of hearings? News releases of specified number and frequency? Mailed notices? How much time would be required to carry out adequately such an effort?

BACKGROUND

It is not clear from testimony and public documents on TAS to what extent, if any, the public has been involved in planning TAS. Since planning has occurred incrementally over a number of years, it is hard to tell at what stage such participation might have been appropriate, or might be in

the future. Existing machinery may not be sufficient to encourage or elicit informed public comment. Congress recognized in the Privacy Act of 1974 the need for mechanisms for alerting Congress and the public to creation of a new personal information system and to plans for new uses of old systems. That Act requires agencies to publish in the Federal Register notice of any new use or intended use of personal information in the System and provide an opportunity for interested persons to submit written data, views, or arguments to the agency. In addition, each agency is required to provide adequate notice to Congress and the Office of Management and Budget of any proposal to establish or alter any system of records "in order to permit evaluation of the probable or potential effect of such proposal on privacy and other personal or property rights of individuals or the disclosure of information relating to such individuals, and its effect on the preservation of the constitutional principles of federalism and separation of powers. "

There is, however, no formal mechanism for requiring or for soliciting informed public comments on the implications of proposals for significant new systems.

The IRS published in the Federal Register of August 26 and September 9, 1975, the indices and notices of its systems of records. Final regulations and exemptions were published in the Register on October 2, 1975. The Service reported in 1975 that "since the redesigned TAS will not be implemented prior to 1977 and will be installed in thee phases spread over several years thereafter, the IRS will revise existing published notices and regulations and procedures *at the appropriate time* (emphasis supplied) prior to implementation of the changes for each phase of the redesigned Tax Administration System. "

Although this plan may seem to meet the letter of the law, the question arises whether or not this is indeed the "appropriate" stage to inform the public after the formulation of TAS has taken place.

In view of the complex technological issues involved in new data systems and the possible wide-ranging impact on public policy of some new systems, public interest groups and constituencies of agencies may find it difficult to grasp the issues in a timely and relevant way in order to exert an effective privacy or due process claim and to protect themselves from potentials for abuse. Similarly, the fragmented committee jurisdictions in Congress may make it difficult to review the issues relevant to a proposed new data system.

Therefore, when a data system as large, as filled with sensitive data, and as likely to stir public concerns about privacy, confidentiality and due process as TAS, is being devebped, this may well

call for the institution of a general public-notice proceeding beyond the customary reviews of Congressional committees and Executive Branch. This might, for instance, take the form of a notice by some forum that public hearings on the TAS proposal will be held over a certain period of time (30 days, 60 days, etc.); a full and accurate description of the TAS system could be issued; written submissions could be invited from bar associations, public-interest groups, Civil liberties groups, and others. Hearings might be organized at which the issues raised by such advance submissions are fully explored. The idea could be to have a hearing freed from some of the institutional constraints that apply to intra-Executive Branch review or subject-matter-jurisdiction Congressional committees.

There is an illustration of this idea at work in the actions of the Federal power Commission. In 1972, the FPC issued a public notice that it proposed to develop a "Fully Automated Computer Regulatory Information System. " The system plan was described in detail, and interested parties were informed of procedures for written and oral submissions. Detailed submissions were received from various groups subject to FPC jurisdiction, such as power companies, oil firms, etc., as well as State public-service commissions.[28]

28. See FPC Docket No. R-438, "Development of a Fully Automated Computer Regulatory System — Revisions in Title 18, Code of Federal Regulations, Notice of a Proposed Rulemaking and Request for Comments, " April 13, 1972; Docket Entries for No. R-428 through April 16, 1973.

## c. TAS, ADVANCING AND EMERGING TECHNOLOGIES

ISSUE: ARE CONTROLS NEEDED TO REGULATE TAS'S INTERFACE WITH ADVANCING AND EMERGING TECHNOLOGIES WHICH MIGHT ALTER ITS VULNERABILITY TO POLITICAL MANIPULATION OR TO USE AS AN INSTRUMENT FOR SURVEILLANCE OR HARASSMENT?

SUMMARY

For a system of the size and significance of TAS, consideration might be given to how it will be affected by advancing and emerging technologies. Questions could be raised to highlight some considerations which might govern the applications of new technologies to TAS in the future other than traditional concerns of competition, economics, technical feasibility, priorities of vendors, or geographic limitations of services. These might, for instance, include privacy of the individual, effects on social and governmental policies and implications for legislative oversight.

QUESTIONS

1. Is there a need for more detailed information on how TAS might be affected by advances in various new and emerging technologies in ways that might alter patterns of information use and exchange or alter the potential for using the system for improper surveillance of harassment or for political misuse of the files?
2. Who is monitoring the research and technological advances for possible incorporation in TAS at a future date?

BACKGROUND

The in-house cost-benefit analysis for TAS and its technical attachment refer to "demands of the future, both known and uncertain". They make some general references to the growth potential of TAS and new systems, but there is no specific material describing the administrative or legislative

standards which would or ought to govern such growth and expansion as TAS interfaces with new technologies. Yet these may range from development in microminiaturization, mass storage SyS-tems, electronic fund transmission, voice prints, fiber optics, satellite transmission and others not yet identified.

One TAS document states: "Growth of the existing system is limited to specific boundaries determined by the capabilities of the hardware now in Place. Large-scale growth, particularly the ability to support significant expansion, will require computer systems that can offer the advantages of recent developments in this field with respect to hardware~ logic, peripheral versatility, and sheet processor power. " It states: "History suggests that although specific areas of future rapid advance are uncertain, the advance itself is inevitable. If active competition is the best indicator of where change will occur earliest and most dramatically, the most likely areas are peripheral capacity and performance, particularly for large direct access devices; small scale specialize processors; communi-cations technology generally, both as to transmission facilities and computer handling; and software development, particularly in the areas of communications and transactions processing, language offerings, and data management systems. "

The report notes wide variations in hardware architecture between different manufacturers and within some manufacturers' standard product lines, and the widely differing architectural solutions to processing needs. Implementation techniques in multiprogramming and multiprocessing can differ significantly in their effects on overall performance for specific problem mixes. According to IRS, the result of such constraints in the agency procurement environment leads to use, wherever reason-able, of functional specifications and to RFp materials well suited to change and variation, but "requires careful attention during *analysis and design phases to ensure that timely* performan complex system is indeed feasible. "

Technological advances were made even during the TAS desgin period in that direct access storage technology precluded find consideration Of a single completely centralized design and later storage subsystems then made this design feasible. When the IRS reconsidered it, however, it was found "not advantageous. "

Future advances in TAS are said to be accommodated in the specifications "by permitting ven-dors to propose upgrade replacement by presently unannounced systems on the conditions that equivalent performance at proposed prices (or less) is assured by contractor liability provisions and annual benchmark performance revalidation. "

The internal TAS report states that "the private line communications network required for TAS is readily available under the existing tariffs of the Bell system. It is quite likely that Western Union could also meet these requirements. The offerings of several of the new, specialized common carriers are attractive, but it must be recognized that each is geographically limited to its service area. " Although the TAS has been planned as a total terrestrial system, changes in the system are geared to the advantages and practicalities of satellite transmission which are being monitored for appropriate applications in the future, according to this document.

Looking ahead to an efficient Tax Administration System and an era of electronic funds transfer systems with many financial transactions done by computer, it may be logical in the future to undertake to link the systems according to some experts. Salaries and many other items might be transmitted electronically to one's bank. Its computer may pay one's rent, utilities, insurance, and other bills. The terminal in the grocery store, restaurant, airline, or other establishment may also ring up expenses. It might be considered whether the bank each evening could work out what is owed the IRS, with deductions, and forward it along on a link to the district office, the local office in town, or to the service center.

Questions might be raised as to the possible implications for privacy, due process, equity, confidentiality, technical and physical security. Others might relate to the ability of Congressional committees to conduct effective oversight of such transactions.

There is no reason to think that IRS has such a supersystem in mind or that any State legislature or State Internal Revenue Office is now considering such a program, but 20 years, the life of TAS, is a long time. The needs of governments and society change. Electronic data processing is a dynamic technology. Such a scenario is technologically possible, and economic arguments for it could be advanced.