the IRS's performance planning procedures—

(i) Use such goals and objectives to make performance distinctions among employees or groups of employees; and

(ii) Use performance assessments as a basis for granting employee awards, adjusting an employee's rate of basic pay, and other appropriate personnel actions, in accordance with applicable laws and regulations.

(e) *Limitations.* (1) No employee of the Internal Revenue Service may use records of tax enforcement results (as defined in § 801.6) to evaluate any other employee or to impose or suggest production quotas or goals for any employee.

(i) For purposes of the limitation contained in this paragraph (e), employee has the meaning as defined in 5 U.S.C. 2105(a).

(ii) For purposes of the limitation contained in this paragraph (e), evaluate includes any process used to appraise or measure an employee's performance for purposes of providing the following:

(A) Any required or requested performance rating.

(B) A recommendation for an award covered by Chapter 45 of Title 5; 5 U.S.C. 5384; or section 1201(a) of the Internal Revenue Service Restructuring and Reform Act of 1998, (Public Law 105–206, 112 Stat. 685, 713–716).

(C) An assessment of an employee's qualifications for promotion, reassignment or other change in duties.

(D) An assessment of an employee's eligibility for incentives, allowances or bonuses.

(E) Ranking of employees for release/recall and reductions in force.

(2) Employees who are responsible for exercising judgment with respect to tax enforcement results (as defined in § 801.6) in cases concerning one or more taxpayers may be evaluated with respect to work done on such cases only on the basis of information derived from a review of the work done on the taxpayer cases handled by such employee.

(3) Performance measures based in whole or in part on Quantity Measures (as described in § 801.6) will not be used to evaluate the performance of or to impose or suggest goals for any non-supervisory employee who is responsible for exercising judgment with respect to tax enforcement results (as defined in § 801.6).

§ 801.4 Customer satisfaction measures.

The customer satisfaction goals and accomplishments of operating units within the Internal Revenue Service will be determined on the basis of information gathered via various methods. For example, questionnaires, surveys and other types of information gathering mechanisms may be employed to gather data regarding customer satisfaction. Information to measure customer satisfaction for a particular work unit will be gathered from a statistically valid sample of the customers served by that operating unit and will be used to measure, among other things, whether those customers believe that they received courteous, timely and professional treatment by the Internal Revenue Service personnel with whom they dealt. Customers will be permitted to provide information requested for these purposes under conditions that guarantee them anonymity. For purposes of this section, customers may include individual taxpayers, organizational units or employees within Internal Revenue Service and external groups affected by the services performed by the Internal Revenue Service operating unit.

§ 801.5 Employee satisfaction measures.

The employee satisfaction numerical ratings to be given operating units within the Internal Revenue Service will be determined on the basis of information gathered via various methods. For example, questionnaires, surveys and other information gathering mechanisms may be employed to gather data regarding employee satisfaction. The information gathered will be used to measure, among other factors bearing upon employee satisfaction, the quality of supervision and the adequacy of training and support services. All employees of an operating unit will have an opportunity to provide information regarding employee satisfaction within the operating unit under

conditions that guarantee them anonymity.

§ 801.6 Business results measures.

(a) *In general.* The business results measures will consist of numerical scores determined under the Quality Measures and the Quantity Measures described elsewhere in this section.

(b) *Quality measures.* The quality measure will be determined on the basis of a review by a specially dedicated staff within the Internal Revenue Service of a statistically valid sample of work items handled by certain functions or organizational units determined by the Commissioner or his delegate such as the following:

(1) *Examination and Collection units and Automated Collection System units (ACS).* The quality review of the handling of cases involving particular taxpayers will focus on such factors as whether Internal Revenue Service personnel devoted an appropriate amount of time to a matter, properly analyzed the issues presented, developed the facts regarding those issues, correctly applied the law to the facts, and complied with statutory, regulatory and Internal Revenue Service procedures, including timeliness, adequacy of notifications and required contacts with taxpayers.

(2) *Toll-free telephone sites.* The quality review of telephone services will focus on such factors as whether Internal Revenue Service personnel provided accurate tax law and account information.

(3) *Other workunits.* The quality review of other workunits will be determined according to criteria prescribed by the Commissioner or his delegate.

(c) *Quantity measures.* The quantity measures will consist of outcome-neutral production and resource data, such as the number of cases closed, work items completed, customer education, assistance and outreach efforts undertaken, hours expended and similar inventory, workload and staffing information, that does not contain information regarding the tax enforcement result reached in any case involving particular taxpayers.

(d) *Definitions*—(1) *Tax enforcement result.* A *tax enforcement result* is the outcome produced by an Internal Revenue Service employee's exercise of judgment recommending or determining whether or how the Internal Revenue Service should pursue enforcement of the tax laws.

(i) *Examples of tax enforcement results.* The following are examples of a tax enforcement result: a lien filed; a levy served; a seizure executed; the amount assessed; the amount collected; and a fraud referral.

(ii) *Examples of data that are not tax enforcement results.* The following are examples of data that are not tax enforcement results: case closures; time per case; direct examination time/out of office time; cycle time; number or percentage of overage cases; inventory information; toll-free level of access; talk time; number and type of customer education, assistance and outreach efforts completed; and data derived from a quality review or from a review of an employee's or a work unit's work on a case, such as the number or percentage of cases in which correct examination adjustments were proposed or appropriate lien determinations were made.

(2) *Records of tax enforcement results. Records of tax enforcement results* are data, statistics, compilations of information or other numerical or quantitative recordations of the tax enforcement results reached in one or more cases, but do not include tax enforcement results of individual cases when used to determine whether an employee exercised appropriate judgment in pursuing enforcement of the tax laws based upon a review of the employee's work on that individual case.

(e) *Permitted uses of records of tax enforcement results.* Records of tax enforcement results may be used for purposes such as forecasting, financial planning, resource management, and the formulation of case selection criteria.

(f) *Examples.* The following examples illustrate the rules of this section:

Example 1. In conducting a performance evaluation, a supervisor may take into consideration information showing that the employee had failed to propose an appropriate adjustment to tax liability in one of the cases the employee examined, provided that information is derived from a review of the work done on the case. All information derived from such a review of individual cases