

representative payee (if licensing is available in the State). The minimum amount of bonding or insurance coverage must equal the average monthly amount of supplemental security income payments received by the organization plus the amount of the beneficiaries' conserved funds (i.e., beneficiaries' saved supplemental security income payments) plus interest on hand. For example, an organization that has conserved funds of \$5,000 and receives an average of \$12,000 a month in supplemental security income payments must be bonded/insured for a minimum of \$17,000. The license must be appropriate under the laws of the State for the type of services the organization provides. An example of an appropriately licensed organization is a community mental health center holding a State license to provide community mental health services.

\* \* \* \* \*

(g) \* \* \*

(6) Fees for services may not be taken from beneficiary benefits for the months for which the Commissioner or a court of competent jurisdiction determines that the representative payee misused benefits. Any fees collected for such months will be treated as a part of the beneficiary's misused benefits.

\* \* \* \* \*

15. Amend § 416.641 by adding a new paragraph (f) to read as follows:

**§ 416.641 Who is liable if your representative payee misuses your benefits?**

\* \* \* \* \*

(f) Any amounts that the representative payee misuses and does not refund will be treated as an overpayment to that representative payee. See subpart E of part 416.

16. Amend § 416.665 by revising the introductory text to read as follows:

**§ 416.665 How does your representative payee account for the use of benefits?**

Your representative payee must account for the use of your benefits. We require written reports from your representative payee at least once a year (except for certain State institutions that participate in a separate onsite review program). We may verify how your representative payee used your benefits. Your representative payee should keep records of how benefits were used in order to make accounting reports and must make those records available upon our request. If your representative payee fails to provide an annual accounting of benefits or other required reports, we may require your payee to receive your benefits in person at the local Social Security field office or a United States

Government facility designated by the Social Security Administration serving the area in which you reside. The decision to have your representative payee receive your benefits in person may be based on a variety of reasons. Some of these reasons may include the payee's history of past performance or SSA's past difficulty in contacting the payee. We may ask your representative payee to give us the following information:

\* \* \* \* \*

**Subpart M—[Amended]**

17. The authority citation for subpart M of part 416 continues to read as follows:

**Authority:** Secs. 702(a)(5), 1129A, 1611–1614, 1619, and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1320a–8a, 1382–1382c, 1382h, and 1383).

18. Amend § 416.1340 by revising the heading and paragraphs (a) and (e) to read as follows:

**§ 416.1340 Penalty for making false or misleading statements or withholding information.**

(a) *When may SSA penalize me?* You will be subject to a penalty if:

(1) You make, or cause to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to, or the amount of, monthly insurance benefits under title II or benefits or payments under title XVI, that you know or should know is false or misleading, or

(2) You make a statement or representation of a material fact for use as described in paragraph (a)(1) of this section with knowing disregard for the truth, or

(3) You omit from a statement or representation made for use as described in paragraph (a)(1) of this section, or otherwise withhold disclosure (for example, fail to come forward to notify SSA) of, a fact which you know or should know is material to the determination of any initial or continuing right to, or the amount of, monthly insurance benefits under title II or benefits or payments under title XVI, if you know, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading.

\* \* \* \* \*

(e) *How will SSA make its decision to penalize me?* In order to impose a penalty on you, we must find that you knowingly (knew or should have known or acted with knowing disregard for the truth) made a false or misleading statement or omitted or failed to report

a material fact if you knew, or should have known, that the omission or failure to disclose was misleading. We will base our decision to penalize you on the evidence and the reasonable inferences that can be drawn from that evidence, not on speculation or suspicion. Our decision to penalize you will be documented with the basis and rationale for that decision. In determining whether you knowingly made a false or misleading statement or omitted or failure to report a material fact so as to justify imposition of the penalty, we will consider all evidence in the record, including any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) which you may have had at the time. In determining whether you acted knowingly, we will also consider the significance of the false or misleading statement or omission or failure to disclose in terms of its likely impact on your benefits.

\* \* \* \* \*

[FR Doc. 05–20697 Filed 10–14–05; 8:45 am]

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**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Part 801**

[REG–114444–05]

RIN 1545–BE45

**Balanced System for Measuring Organizational and Employee Performance Within the Internal Revenue Service**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of proposed rulemaking by cross-reference to temporary regulations.

**SUMMARY:** In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations designed to modify 26 CFR part 801, the regulations governing the IRS Balanced System for Measuring Organizational and Employee Performance, to clarify when quantity measures, which are not tax enforcement results, may be used in measuring organizational and employee performance. The temporary regulations affect internal operations of the IRS and the systems it employs to evaluate the performance of organizations within the IRS. The text of the temporary regulations also serves as the text of these proposed regulations.

**DATES:** Written or electronic comments and requests for a public hearing must be received by December 16, 2005.

**ADDRESSES:** Send submissions to: CC:PA:LPD:PR (REG-114444-05), Room 5203, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (REG-114444-05), Courier's Desk, 1111 Constitution Avenue, NW., Washington, DC 20224 or sent electronically via the IRS Internet site at <http://www.irs.gov/regs> or via the Federal eRulemaking Portal at <http://www.regulations.gov> (IRS REG-114444-05).

**FOR FURTHER INFORMATION CONTACT:** Concerning the proposed regulations, Neil Worden, (202) 283-7900; concerning submissions of comments Robin Jones, Publications and Regulations Branch, (202) 622-3521 (not toll-free numbers).

**SUPPLEMENTARY INFORMATION:**

**Background**

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend 26 CFR part 801. The temporary regulations amend part 801 to clarify when quantity measures, which are not tax enforcement results, may be used in measuring organizational and employee performance. The text of those regulations also serves as the text of these regulations. The "Explanation of Provisions" section of the temporary regulations explains the temporary regulations and these proposed regulations.

**Special Analyses**

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulation does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

**Comments and Requests for Public Hearing**

Before these proposed regulations are adopted as final regulations,

consideration will be given to any written or electronic comments that are timely submitted to the IRS. The IRS and the Treasury Department specifically request comments on the clarity of the proposed regulations and how they can be made easier to understand. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested by any person who timely submits comments. If a public hearing is scheduled, notice of the date, time and place for the hearing will be published in the **Federal Register**.

**Drafting Information**

The principal author of these regulations is Karen F. Keller, Office of Associate Chief Counsel (General Legal Services). However, other personnel from the IRS participated in their development.

**List of Subjects in 26 CFR Part 801**

Government employees, Organization and functions (Government agencies).

**Proposed Amendments to the Regulations**

Accordingly, 26 CFR part 801 is proposed to be amended as follows:

**PART 801—BALANCED SYSTEM FOR MEASURING ORGANIZATIONAL AND INDIVIDUAL PERFORMANCE WITHIN THE INTERNAL REVENUE SERVICE**

**Paragraph 1.** The authority citation for Part 801 continues to read in part as follows:

**Authority:** 5 U.S.C. 9501 \* \* \*.

**Par. 2.** Section 801.1T is redesignated as § 801.1 and amended by revising the section heading to read as follows:

**§ 801.1 Balanced performance measurement system; in general.**

[The text of proposed § 801.1 is the same as the text of § 801.1T published elsewhere in this issue of the **Federal Register**.]

**Par. 3.** Section 801.2T is redesignated as § 801.2 and amended by revising the section heading to read as follows:

**§ 801.2 Measuring organizational performance.**

[The text of proposed § 801.2 is the same as the text of § 801.2T published elsewhere in this issue of the **Federal Register**.]

**Par. 4.** Section 801.3T is redesignated as § 801.3 and amended by revising the section heading to read as follows:

**§ 801.3 Measuring employee performance.**

[The text of proposed § 801.3 is the same as the text of § 801.3T published

elsewhere in this issue of the **Federal Register**.]

**Par. 5.** Section 801.4T is redesignated as § 801.4 and amended by revising the section heading to read as follows:

**§ 801.4 Customer satisfaction measures.**

[The text of proposed § 801.4 is the same as the text of § 801.4T published elsewhere in this issue of the **Federal Register**.]

**Par. 6.** Section 801.5T is redesignated as § 801.5 and amended by revising the section heading to read as follows:

**§ 801.5 Employee satisfaction measures.**

[The text of proposed § 801.5 is the same as the text of § 801.5T published elsewhere in this issue of the **Federal Register**.]

**Par. 7.** Section 801.6T is redesignated as § 801.6 and amended by revising the section heading to read as follows:

**§ 801.6 Business results measures.**

[The text of proposed § 801.6 is the same as the text of § 801.6T published elsewhere in this issue of the **Federal Register**.]

**Par. 8.** Section 801.7T is redesignated as § 801.7 and amended by revising the section heading to read as follows:

**§ 801.7 Examples.**

[The text of the proposed § 801.7 is the same as the text of § 801.7T published elsewhere in this issue of the **Federal Register**.]

**Par. 9.** Section 801.8T is redesignated as § 801.8 and amended by revising the section heading to read as follows:

**§ 801.8 Effective dates.**

[The text of proposed § 801.8 is the same as the text of § 801.8T published elsewhere in this issue of the **Federal Register**.]

**Mark E. Matthews,**

*Deputy Commissioner for Services and Enforcement.*

[FR Doc. 05-20438 Filed 10-14-05; 8:45 am]

BILLING CODE 4830-01-P

**CORPORATION FOR NATIONAL AND COMMUNITY SERVICE**

**45 CFR Chapter XXV**

**AmeriCorps State and National, Senior Corps, and Learn and Serve**

**AGENCY:** Corporation for National and Community Service.

**ACTION:** Notice inviting preliminary informal public input in advance of rulemaking on criminal background checks for AmeriCorps State/National, Senior Corps, and Learn and Serve America grant programs.