



EP Rulings and Agreements

Internal Revenue Service

Determination Letter Process –
Current Status and Future Ideas



Mission Statement

- ✓ The mission of the Tax Exempt and Government Entities Operating Division is to provide our customers top quality service by helping them understand and comply with applicable tax laws and to protect the public interest by applying the tax law with integrity and fairness to all.



FY 1990 EP/EO Organization

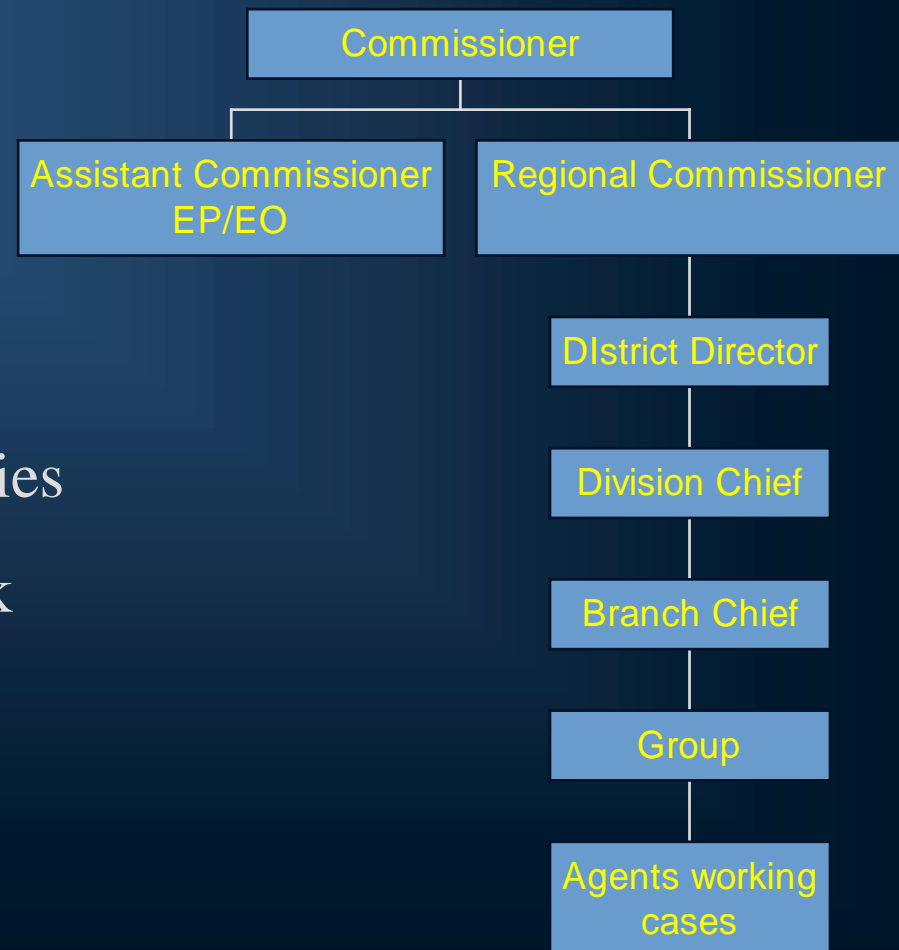
- 7 Key Districts
- Report to National Office through Districts & Regions
- Multi-functional down through Branch level
- Each District processed and worked applications separately





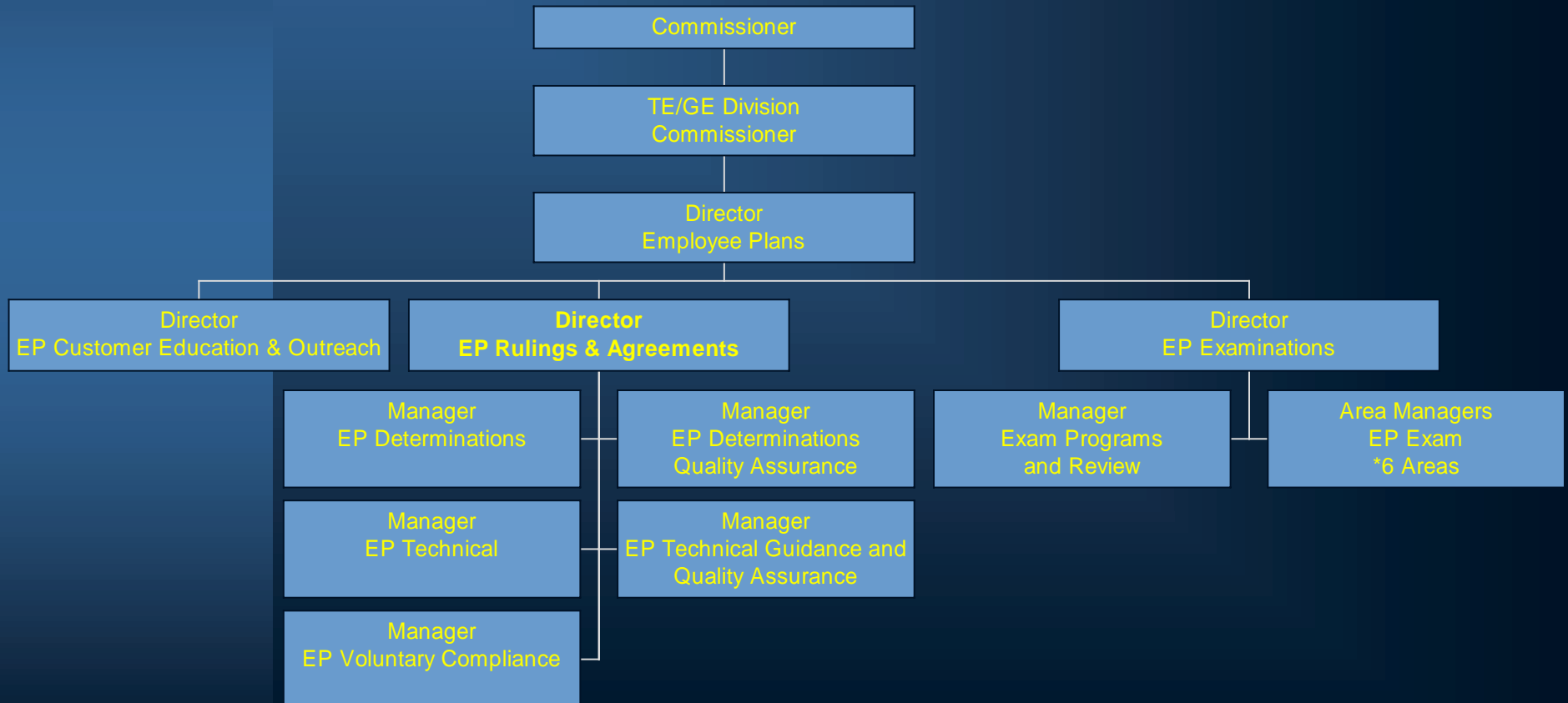
FY 1996 EP/EO Organization

- 4 Key Districts
- Same management structure
- 1 central determination site (Cincinnati)
- Multi-functional responsibilities
- Key districts continue to work separately but processing and screening were centralized in Cincinnati





Tax Exempt /Government Entities





Tax Exempt /Government Entities continued...

- ✓ Regional and district layers eliminated
- ✓ Organized around customer segments
- ✓ Organized by activities (pre-filing, filing and compliance)
- ✓ Centralized determination site in Cincinnati and six EP area managers for the U. S.

LA

Brooklyn

Chicago

Philadelphia

Dallas

Denver

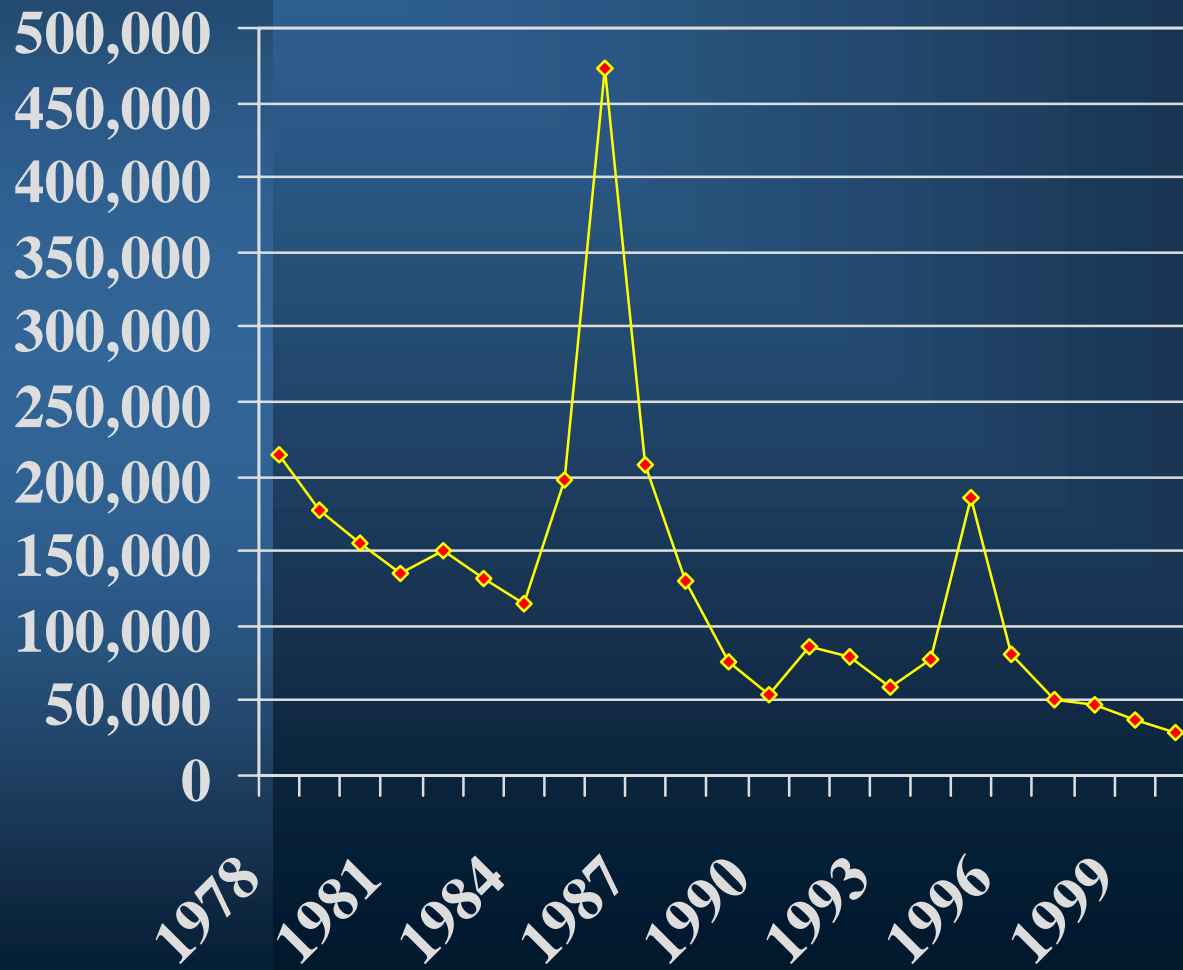


Key Features of Centralized Determinations Today

- ✓ Clerical processing and depositing functions in one place
 - Generates efficiency and cost savings
- ✓ Greater consistency
 - Program direction and implementation nationwide (Cincinnati)
 - Technical and procedural guidance on determinations (Cincinnati)
- ✓ Areas can focus on exams
 - Area agents also work on determinations



Receipt Trend, A Historical Perspective

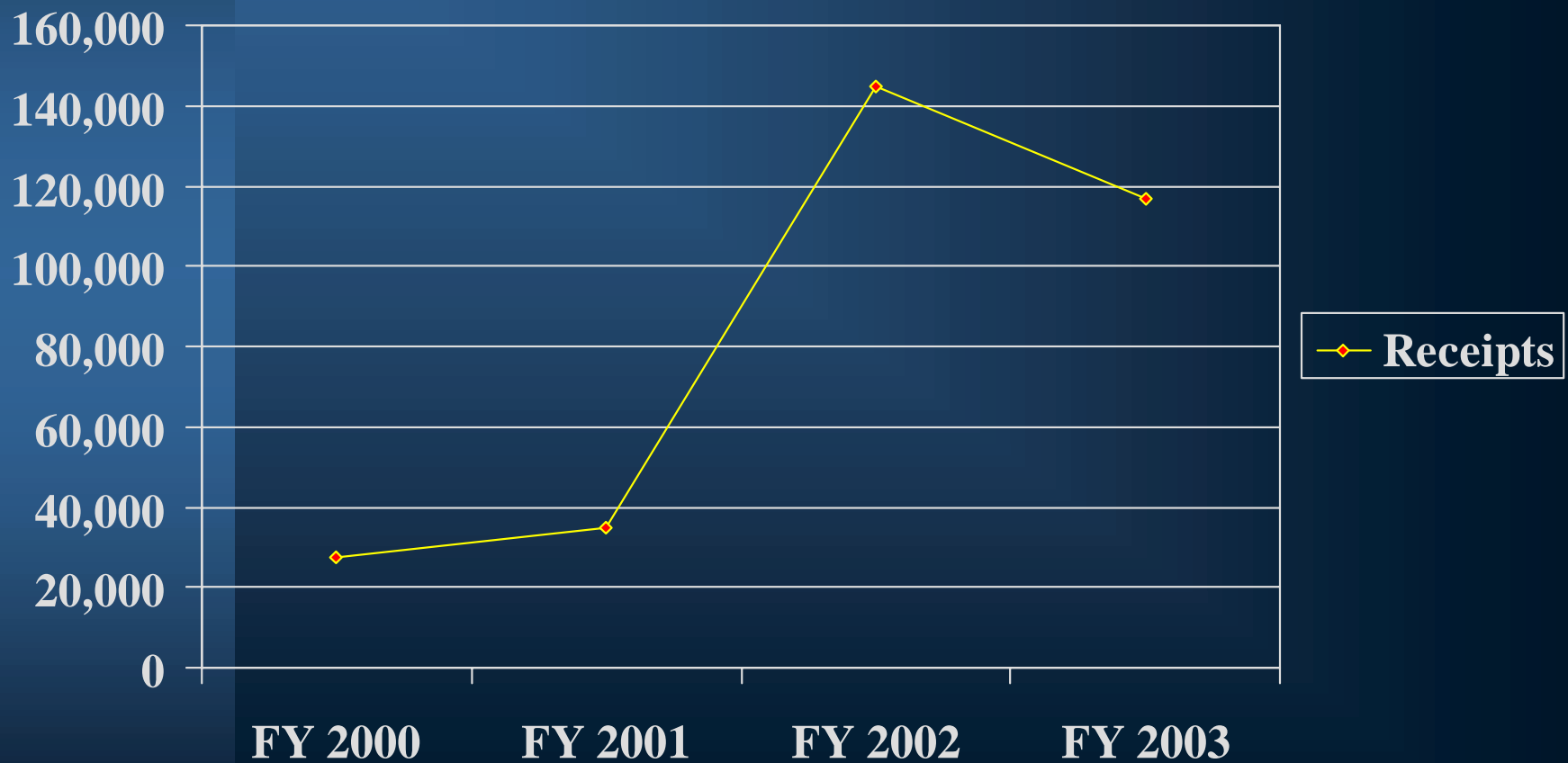


Receipts

- 1978 ERISA Final Regulations
- 1986 TDR
- 1996 TRA '86

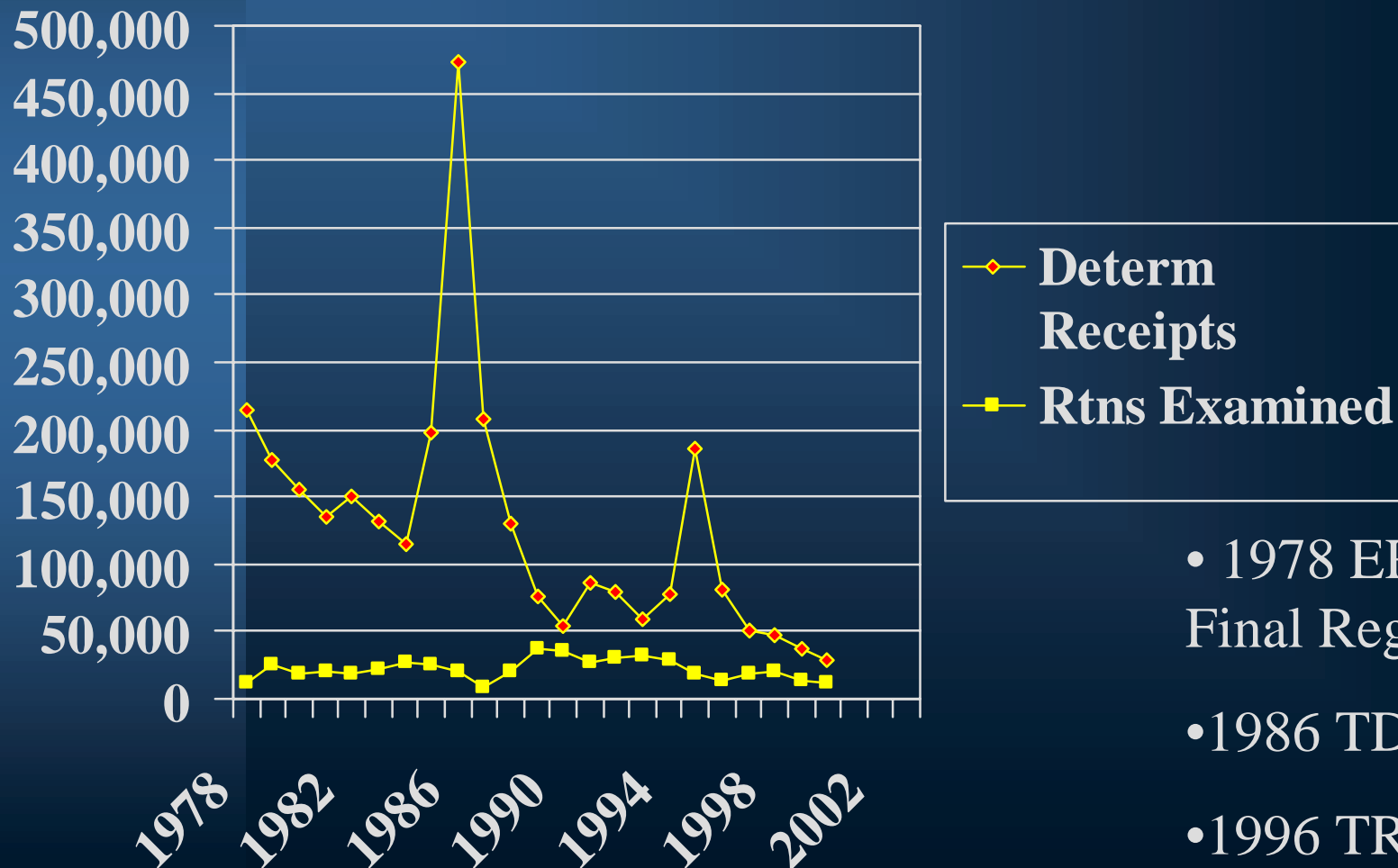


Projected Receipt Volume





Trend, A Historical Perspective on Determination Receipts and Examinations

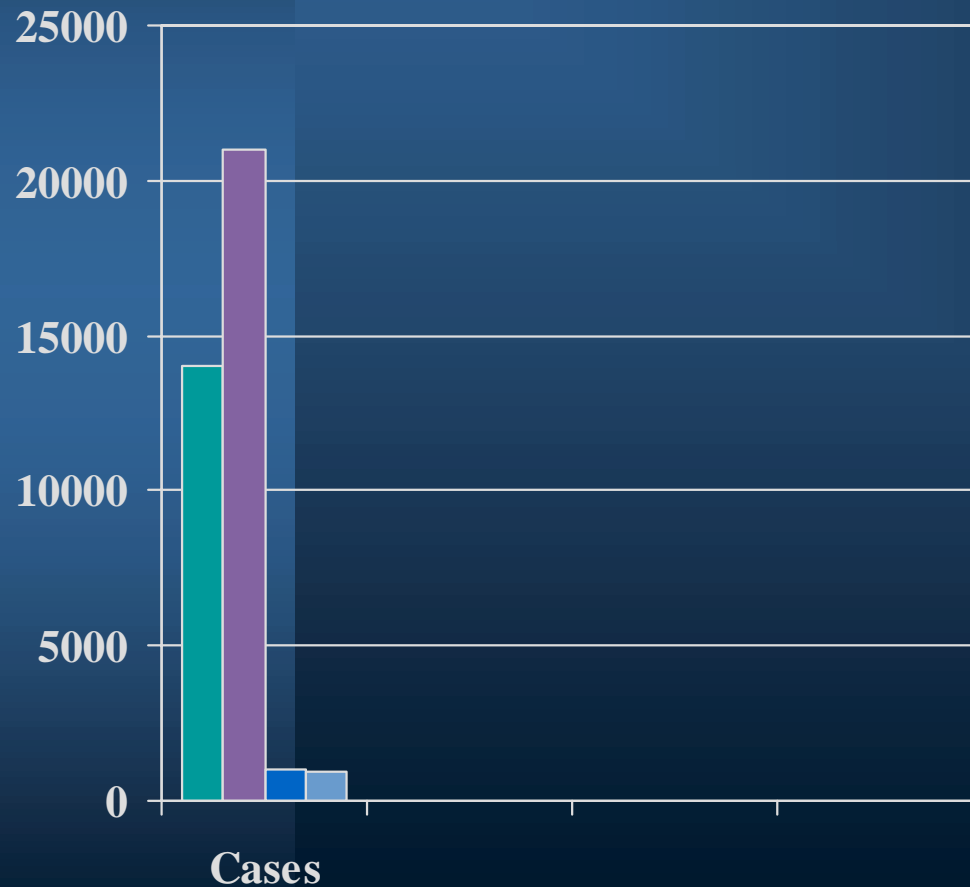


- 1978 ERISA Final Regulations
- 1986 TDR
- 1996 TRA '86



FY 2001

Types of Projected Cases

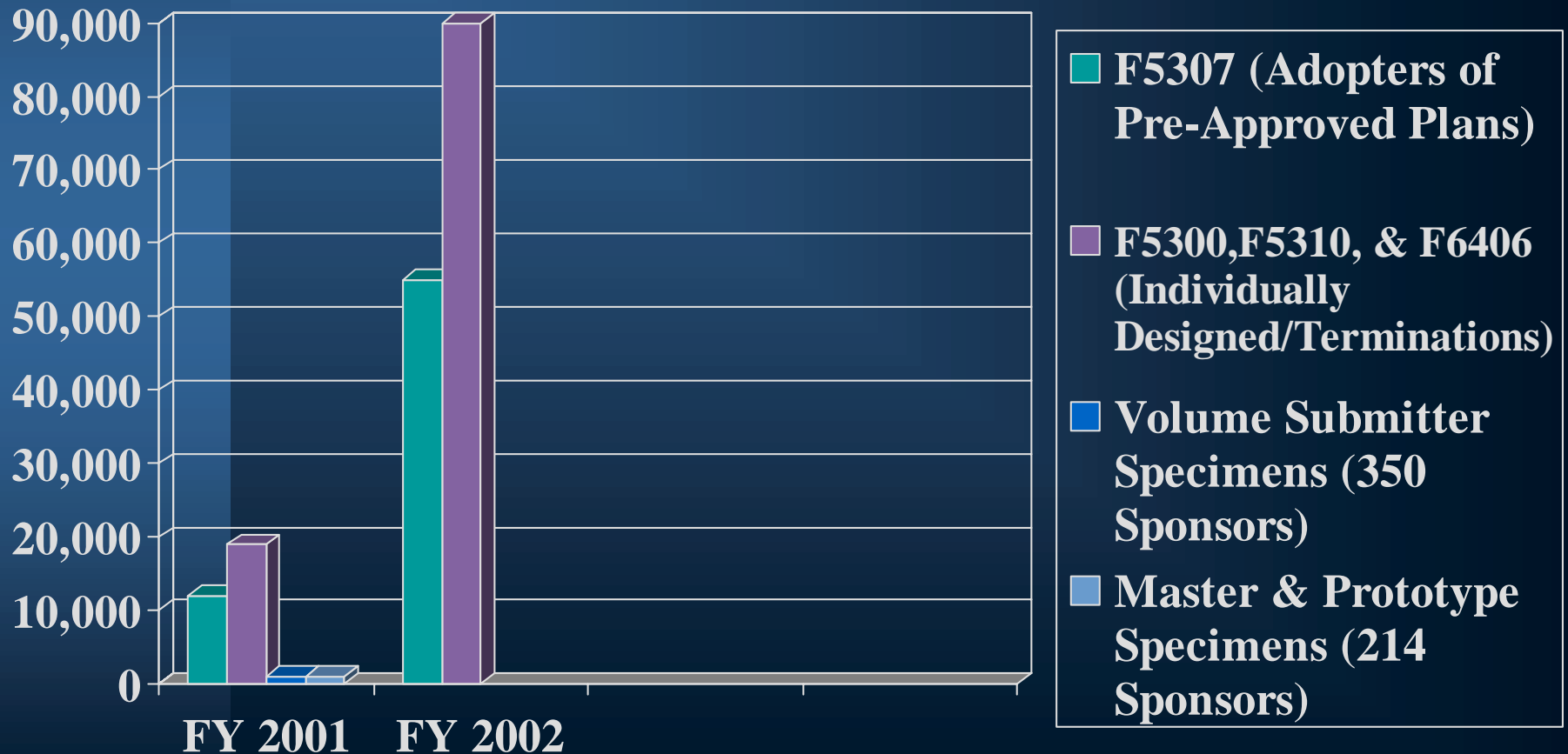


- **F5307 (Adopters of Pre-Approved Plans)**
- **F5300, F5310, & F6406 (Individually Designed/Terminations)**
- **Volume Submitter Specimens (350 Sponsors)**
- **Master & Prototype Specimens (214 Sponsors)**



FY 2002

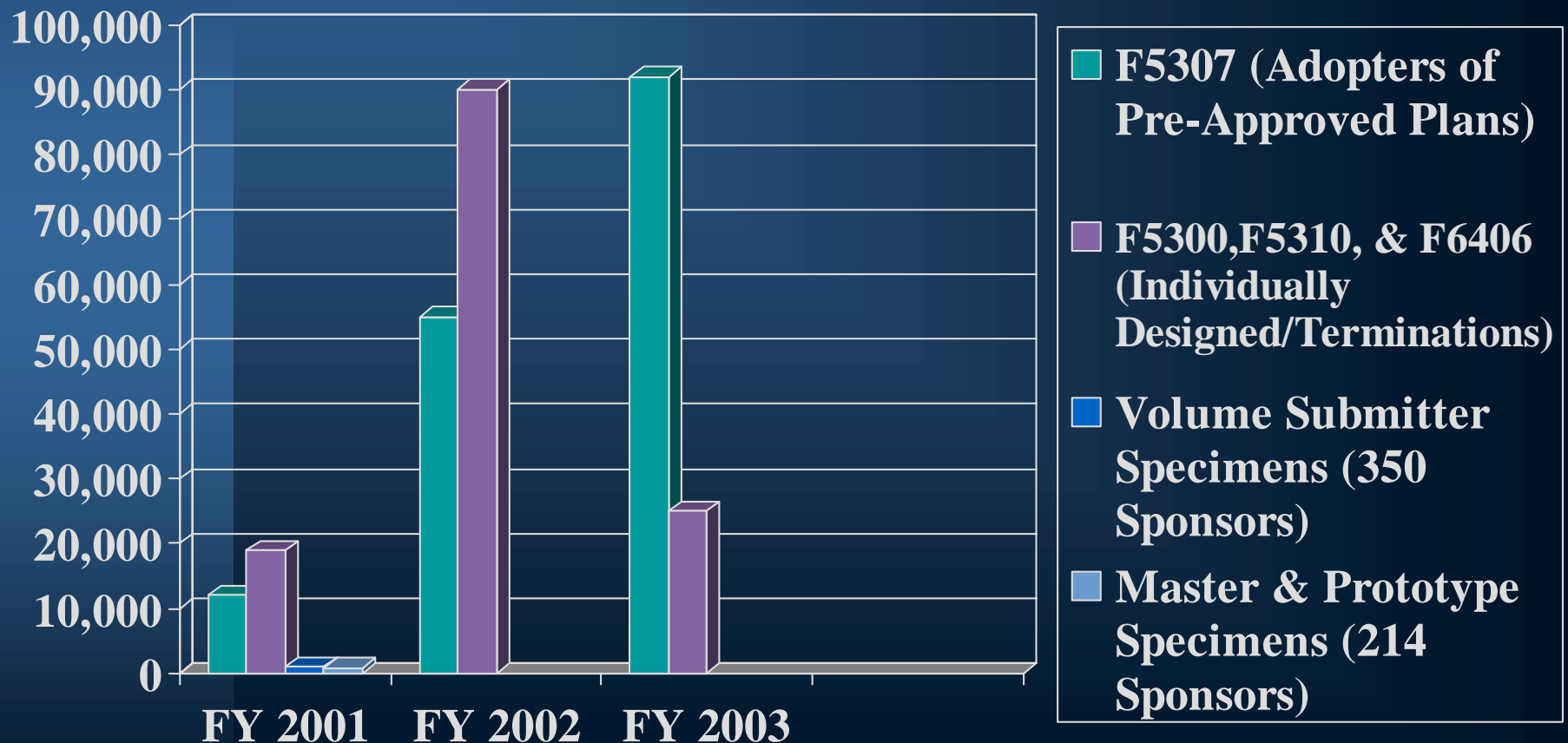
Projected Increase in Cases





FY 2003

Projected Increase in Cases





Master & Prototype Specimens

- ✓ 955 plans since the beginning of the GUST Program
- ✓ 214 sponsors
- ✓ Received by 12/31/00
- ✓ Reviewed in Washington D. C.
- ✓ Projected adopting employers 30,000



Volume Submitter Specimens

- ✓ 1,000 plans received
- ✓ 350 sponsors
- ✓ Received thru 12/31/2000
- ✓ Reviewed in Cincinnati and the areas
- ✓ Projected adopting employers 145,000



FY 2001 Staffing

- ✓ 150 Agents
- ✓ 50+ Agents in Cincinnati
- ✓ 100+ Agents working determinations in their respective geographic locations





FY 2002 Staffing Plans

- ✓ 405_± Agents
- ✓ 60_± Agents in Cincinnati
- ✓ 345_± Agents working determinations in their respective geographic locations
- ✓ 125_± Agents technical screening (35_± in Cincinnati; 90_± in the areas)





Service Center Processing

- ✓ Centrally located for EP at the Covington Service Center
 - Receive and open mail
 - Sort and batch
 - Separate user fee and deposit checks
 - Enter data in inventory control system
 - Box and ship to centralized site in Cincinnati
 - Staffing at 30 people on average; 50 at peak times





Clerical Processing Steps

✓ Centrally located for EP in Cincinnati

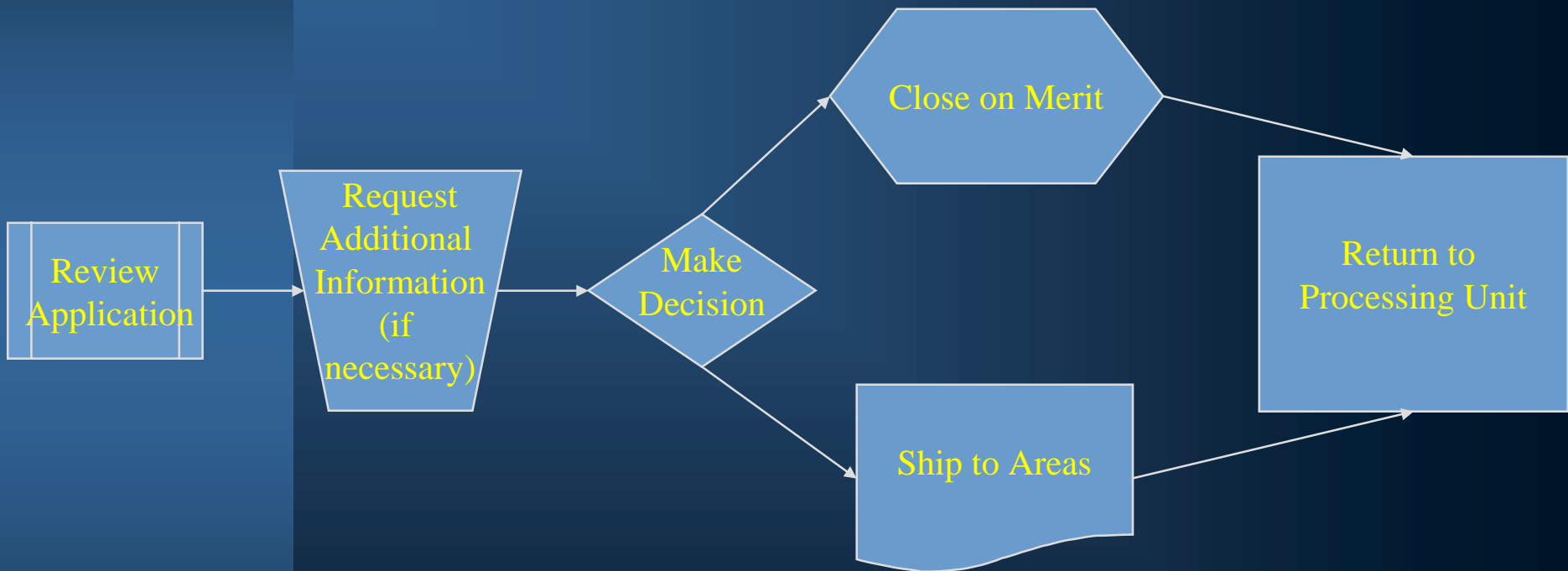
- Receive and unpack cases
- Update inventory controls
- Resolve discrepancies
- Shelf in date order
- Technical screening
- Merit closures held for 60 days (update inventory status)
- Non-merit cases placed on shelf (update status)
- Box and ship non-merit cases to Areas (update inventory status)
- Resolve discrepancies in case shipments





EP Rulings and Agreements

Technical Screening Process





Work Process in Area Offices

- ✔ Receive and unpack cases from Cincinnati
 - update inventory status
- ✔ Centralized receipt unit in the area office distributes cases to agents
 - update inventory status
- ✔ Agents review cases
- ✔ Request amendments or additional information
- ✔ Prepare and mail determination letter
- ✔ Cases closed/status updated/cases selected for sample review
- ✔ Box and return cases to centralized processing site
 - update inventory status





Process for Case Closings

✓ Work performed in Cincinnati

- Receive cases from area offices
 - update status
- Pull merit closed quality assurance sample
- Mail necessary letters
- Update inventory status
- Ship to federal records center
- Resolve errors in data posted to master file





Process for the Quality Assurance Function

- ✓ Receive sampled cases
- ✓ Update inventory status
- ✓ Assign to reviewer
- ✓ Ship back to original agent, if error found
- ✓ Update status as necessary
- ✓ Close case - mail letter
- ✓ Feedback provided
- ✓ Data input to Quality Assurance Tracking System





Near-Term Future Focus

- ✓ Large number of receipts
- ✓ Technical screening
- ✓ Training
- ✓ Quality assurance
- ✓ Issuing guidance
- ✓ Liaison with customers





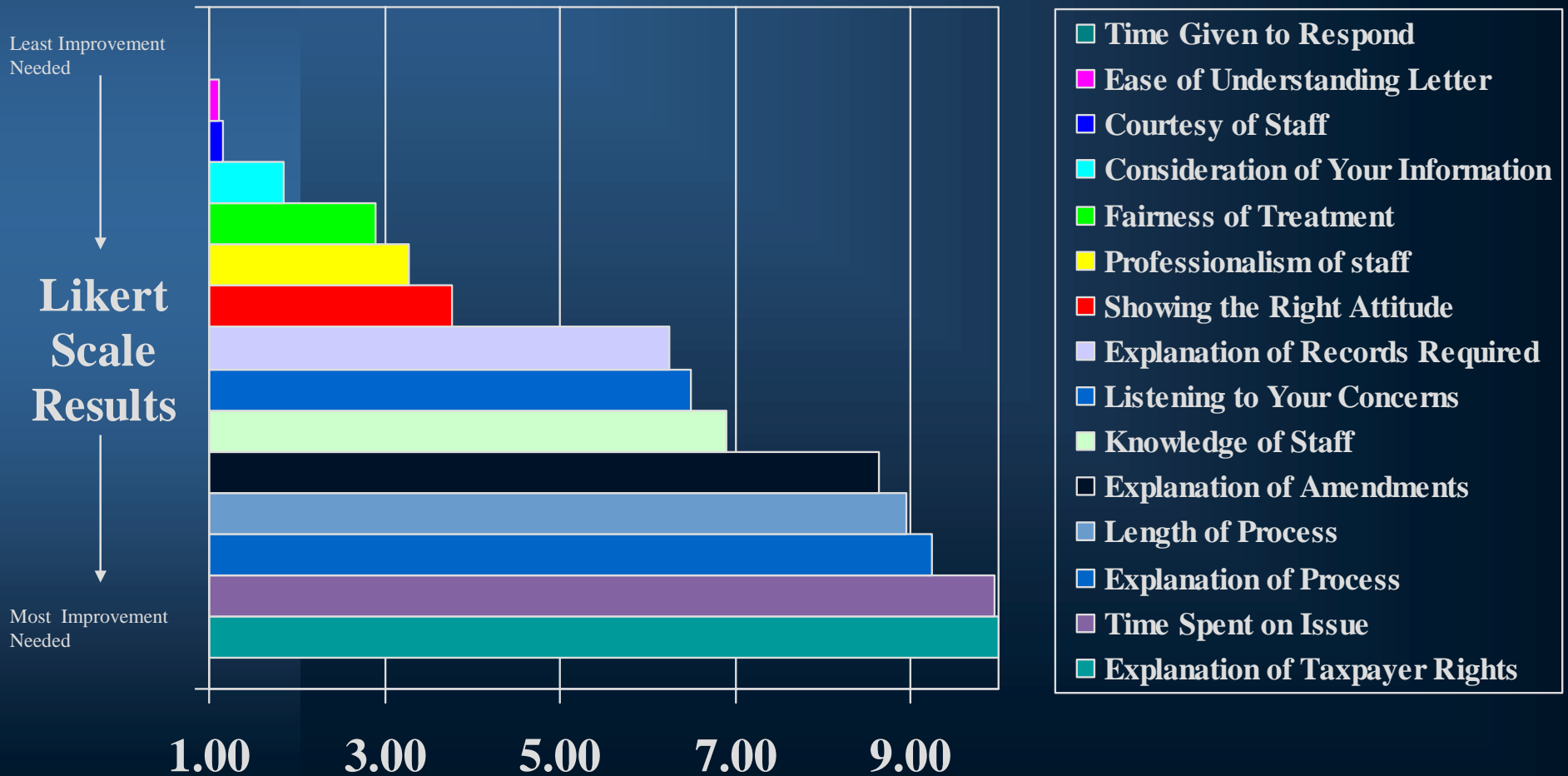
Customer Relationship Management Approach

- ✓ Via Customer Education & Outreach Activities
 - Newsletter
 - Benefit conferences
 - Meetings with associations and practitioner groups
 - Web Site at www.irs.gov/ep
 - Liaison group for determinations
 - E-mail distribution list





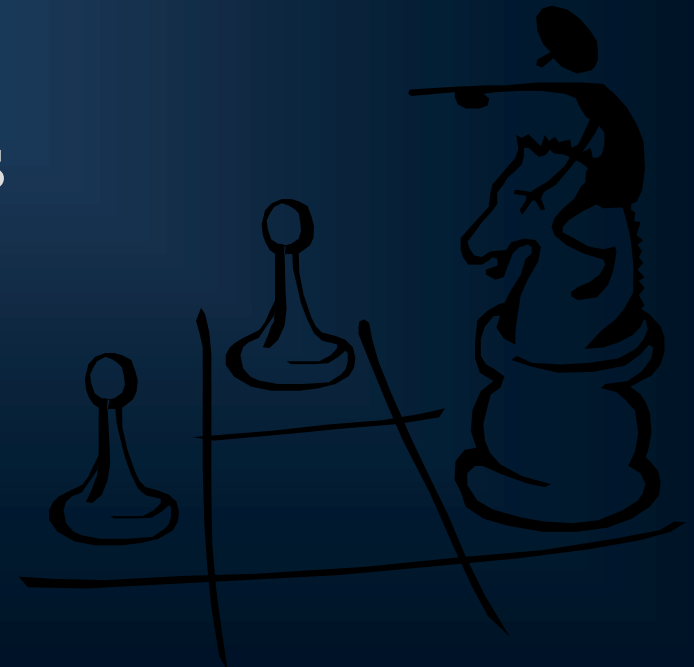
Customer Survey Feedback (Areas for Improvement)





How to Help Processing

- ✔ Include all attachments, schedules, and demonstrations with application
- ✔ Copy of last determination letter or prior plan document
- ✔ Highlight language changes
- ✔ Group “like” cases





Current Recurring Issues

- ✓ Plans are failing to provide the correct form adjustments when a benefit is subject to 417(e)(3). In addition, incorrect effective dates are being used.
- ✓ IRC 415(c) - Defined contribution plans are not making the required amendments or do not provide for the correct effective date
- ✓ Plans which include the Top Paid Group Election or the Calendar Year Election, are failing to specify if they intend to use it. IRC 414(q) and Notice 97-45
- ✓ Plans are failing to remove the requirements of family aggregation for purposes of the definition of Highly Compensated Employee and for purposes of limiting compensation
- ✓ Plans are failing to eliminate the requirements of IRC 415(e) effective for limitation years beginning after December 31, 1999
- ✓ Plans are failing to designate the method of correcting the Multiple Use Test



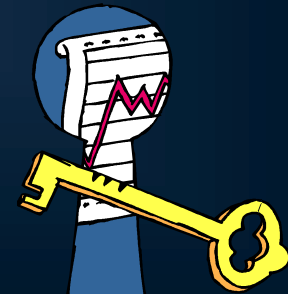
Current Recurring Issues continued...

- ✓ Plans are failing to provide
 - the correct effective date for the change to IRC 414(n)
 - the reason(s) for excess annual additions
 - the correct definition of Required Aggregation Group as required by IRC 416(g)
 - the correct effective dates for changes made by GUST law
 - Both the ratio leveling and dollar leveling for disposing of excess deferrals and/or excess aggregate contributions
 - the proper effective date for IRC 414(u) as December 12, 1994.



Streamlining Current Program

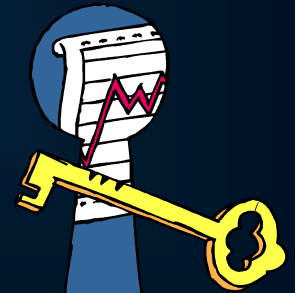
- ✓ Schedule Q optional
- ✓ Ask for highlight changes in restated plans
- ✓ Adopters of M&P and specimen plans –
F5307 filing optional





Streamlining Current Program continued...

- ✔ Employers maintaining multiple employer plan - separate F5300 filing optional
- ✔ Application forms revised
- ✔ F5303 eliminated
- ✔ Use of old forms permitted thru 12/31/01
- ✔ Coverage / nondiscrimination caveats discontinued
- ✔ Determination of 12 month rule GUST amendment deadline for M&P and specimen plan adopters simplified





Streamlining Current Program continued...

Technology improvements to DL program:

- Staged delivery starting next year, continuing to following year
- Permits electronic filing, fees and correspondence
- Images entire submission, including plan, application and supporting docs
- Moves cases electronically
- Retains and retrieves up-to-date information
- Provides customer self-service options: online access, complete forms, check status, obtain copies of letters, etc.



Shoeing-In Additional Amendments

- ✓ New final cross-testing Regs – specimens can amend now, plans starting August 22
- ✓ IRC 415/417(e) LRMs revised – all three “Old-law Benefits” methods allowed
- ✓ IRC 132(f) model amendments - inclusion in compensation of elective transportation fringe benefits
- ✓ IRC 401(a)(9) model amendment - minimum distribution proposed regulation
 - OK for adoption by M&P or specimen plan sponsors or by adopters



Shoeing-In Additional Amendments continued...

✓ EGTRRA

- Timely adoption of “Good Faith” amendments required
- IRS sample “Good Faith” amendments to be published by end of August
- No extension of GUST IRC 401(b) period, but separate 401(b) period for EGTRRA
- 12 month GUST 401(b) rule for M&P and specimen plan adopters extended to 12/31/02
- No rule for now, but IDPs can include EGTRRA amendments in GUST submissions



Test Your Knowledge

- ✔ All applications for determination will be worked in Cincinnati?
 - True or False
- ✔ The Area Manager directs the determination letter program in his/her area?
 - True or False
- ✔ How many steps to process an application for determination?





Future of Determination Letter Program

Is there a better way?

- ✓ Cumbersome process
- ✓ Resource intensive
- ✓ Time consuming for all parties
- ✓ Is there another, better model?





Process Used

- ✓ IRS brainstorming – no idea rejected
- ✓ No targeted solution
- ✓ Assume any legislative changes needed
- ✓ IF consensus for further examination, then further brainstorming with all stakeholders (*i.e.*, Treasury, Counsel, Hill Staff, ABA, ASPA, Trade Associations, Participant Groups)
- ✓ Long-term time frame, *e.g.*, 5-10 years (NO impact on current DL program!)



Options Considered



- ✓ Eliminate DLs for all plans — reliance issue
- ✓ Eliminate DLs for individually designed plans (continue letters for adopters of M & Ps, VS's) — alternatives:
 - Continue letters but no DLs for adopters
 - Continue letters and do DLs for adopters



Options Considered continued...



- ✓ Continue DLs but only through certified reviewers (law firms, accounting firms, consultants, etc.) – IRS would:
 - License
 - Train
 - Guide
 - Police



Options Considered continued...

- ✓ Self-certification
- ✓ Annual registration (Schedule to 5500?)
- ✓ Determination letters issued only at initial adoption and termination
 - Register in interim years
- ✓ Staggered expiration of the 401(b) period
 - Plan amends when law changes. Conform to guidance by end of their period.





Options Considered continued...

- ✓ Plans amended when law changes and again when guidance is issued
 - Immediate amendment when law changes and cyclical for guidance changes

Note: Consider mixing and matching concepts





Key Issues and Suggestions

- ✓ Reliance key to employers – value of 7805(b) relief
- ✓ Large complex plans want DLs
- ✓ Impact of DL on operating compliance





Key Issues and Suggestions continued...

- ✓ Cookie cutter plans
- ✓ Model provisions
- ✓ Model plans



Spin-off Projects

- ✔ Small employer compliance
- ✔ Third-party administrator responsibilities
- ✔ Streamlining of current program



Partner with Us

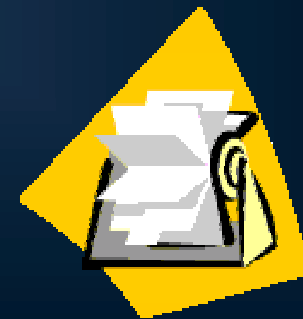
- ✓ You are our partners
- ✓ This is your issue
- ✓ We will hold discussions with all stakeholders
- ✓ See if consensus emerges



Contact Information

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- ✓ Share your views with us, please contact us
- ✓ E-mails are the preferred choice





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Near-term Guidance Plans



Pre-EGTRRA Still-Current Projects

- ✓ White paper on future of the determination letter program
- ✓ Final 401(a)(9) Regs
- ✓ Reproposed 401(k) and 401(m) Regs
- ✓ Final notice to interested parties (7476) regs
- ✓ Extension of church plan nondiscrimination compliance deadline



Pre-EGTRRA Still-Current Projects continued...

- ✓ Cash balance plan guidance
- ✓ HCE guidance



EGTTRA Projects

- ✔ Plan amendments and determination letter program - Notice 2001-42
- ✔ Sample “Good Faith” amendments
- ✔ Age 50 Catch-Up (EGTRRA 631)
- ✔ Faster vesting of matches (633)
- ✔ DB 415/417 Issues (611)
- ✔ Excise tax on failure to provide notice of significant reduction of benefit accrual (659)
- ✔ Same desk rule (646)