



COMMISSIONER

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

October 8, 2019

The Honorable Elizabeth Warren  
United States Senate  
Washington, DC 20510

Dear Senator Warren:

In a letter dated May 2, you expressed concerns about whether Free File Alliance (FFA) companies are complying with the Memorandum of Understanding (MOU) between the FFA and the IRS. You also asked to receive updates on the IRS's review of the Free File program. As an update to my May 23 response, I am writing to share the following developments.

The IRS shares your interest in ensuring the Free File Program fulfills its purpose. This summer the IRS commissioned The MITRE Corporation (MITRE) to conduct an independent assessment of the Free File Program. The purpose of the assessment was to conduct an unbiased third-party review of the program in its current state and to develop recommendations to enhance the program. In light of your previously expressed interest in receiving updates on this issue, I am enclosing with this letter a copy of the report produced by MITRE to the IRS.

The IRS chose MITRE to help with this process because they are particularly well positioned to act with impartiality and without conflict of interest, which is critical to providing an unbiased assessment of Free File's relationship between the vendors, government and taxpayers.

Under the terms of the MOU, in order to protect against disclosure of proprietary information, the IRS shared a copy of the report with counsel for the FFA. Although FFA counsel did not identify any proprietary information in the report, they did raise concerns regarding a factual inaccuracy, possible unintended legal implications and the presentation of information in the report that could allow identification of individual FFA providers, contrary to the intended anonymized presentation. These concerns were relayed to MITRE for MITRE's consideration. In response, and in their sole discretion, MITRE has made some changes to the report and has issued a revised report to the IRS.

The IRS will move forward with several recommendations contained in the report, including the recommendations on ways to enhance communications with the public and to highlight Free File's presence on IRS.gov. There are many reasons eligible

taxpayers may not take advantage of the program. We are exploring what research will inform our understanding of taxpayer behaviors and how we can improve the customer awareness of and satisfaction with the program.

We also are identifying short-term and long-term negotiation items that we will take to the Free File Inc., the organization that represents the Free File providers in our public-private partnership. These negotiation items will include recommendations from this report as well as from the other stakeholders.

We appreciate Congress's work to help us better serve all taxpayers, especially those taxpayers eligible for the IRS Free File Program.

I hope this information is helpful. I am sending a similar response to your colleagues. We would be happy to brief your staffs on this report. If you have any additional questions, please free to contact me, or a member of your staff may contact Leonard Oursler, Director, Legislative Affairs, at 202-317-6985.

Sincerely,

A handwritten signature in black ink, appearing to read "Chuck Rettig", with a stylized flourish at the end.

Charles P. Rettig

Enclosure



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McLean, VA

## Internal Revenue Service (IRS) Wage & Investment (W&I)

### IRS Free File Program

## Independent Assessment of the Free File Program

### Free File Program Assessment Report Executive Summary

October 3, 2019

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## Executive Summary

In January 2019, the Internal Revenue Service (IRS) Free File program (“Free File” or “the program”) opened for its 17<sup>th</sup> filing season. Established in 2002, the IRS Free File program makes free online tax preparation and electronic filing available to 70 percent of the taxpaying population; for Filing Season (FS) 2019, this equated to taxpayers with an adjusted gross income (AGI) of \$66,000 or less. The program is made possible through a partnership between the IRS and the tax software industry. The partnership is governed through a mutually negotiated Memorandum of Understanding (MOU) between the IRS and the Free File Alliance (FFA)<sup>1</sup>—a coalition of individual private-sector tax preparation companies<sup>2</sup>—that has evolved over the program’s lifespan to address issues as they have arisen.

While cumulatively the program has resulted in more than 53 million free returns e-filed and an estimated \$1.6 billion in savings to taxpayers<sup>3</sup>, the Free File program has also faced criticism in recent years as questions have been raised by Congress and the press about low annual participation rates and assertions of inadequate oversight, deceptive business practices, and misaligned roles for government and industry. This year’s launch came amid criticisms of the program and speculation that industry partners were not acting in the best interest of taxpayers. In response to these assertions as well as recent oversight activities and congressional inquiries, IRS leadership determined that an independent assessment was necessary to ensure the continued operations and integrity of the IRS Free File program. Because the MITRE Corporation operates the Service’s federally funded research and development center (FFRDC), the IRS engaged MITRE to conduct an independent and objective assessment of the IRS Free File program in its current state, providing recommendations for improvements to the program, and by extension to the MOU that governs the program.

## Methods

Beginning in June 2019, MITRE established several workstreams for addressing each of the targeted assessment areas reflected in Figure ES-1. Taken together, these workstreams produced findings and recommendations related to Free File member compliance with the MOU and potential enhancements to the program. Highlights of the assessment approach include:

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<sup>1</sup> In 2014, the Free File Alliance officially changed the name of the organization to Free File, Inc. (FFI) doing business as the Free File Alliance. While FFI is the listed name on all agreements and MOUs beginning in 2014, the two names are used interchangeably. The IRS references the Alliance on IRS.gov “Free File: About the Free File Alliance,” and the organization has not changed the name of its own website: <https://freefilealliance.org/>. This document will use the term Free File Alliance, the Alliance, or FFA except when FFI is used in a specific context or quote.

<sup>2</sup> Industry participation in the Free File program is voluntary. As stipulated in the MOU, there is a process for applying for membership to the Free File Alliance and companies may leave the program at their discretion. Also outlined in the MOU, IRS and FFA leadership can remove members from the program if there are certain MOU violations. Through FS 2019, the Free File Alliance included 12 member companies; currently there are only 11 participating members of the program. As of July 2019, Drake [1040.com] chose to withdraw from the program and will not be a part of it going forward. Since they were a part of the program for FS 2019, they are still included in this assessment. The decision to leave came from the member itself and to MITRE’s knowledge were *not* related to any MOU infractions.

<sup>3</sup> Internal Revenue Service, “IRS, Free File Alliance announce changes to improve program; Improved taxpayer options available for 2019 Free File program,” Internal Revenue Service, 2 November 2018. [Online]. Available: <https://www.irs.gov/newsroom/irs-free-file-alliance-announce-changes-to-improve-program-improved-taxpayer-options-available-for-2019-free-file-program>. [Accessed 2 July 2019].

- **Current Environmental Scan.** MITRE conducted an environmental scan to better understand the Free File program in terms of historical context, taxpayer participation, the role of IRS and industry in its public-private partnership (PPP), the economics of “free” as it pertains to Free File, and recent interest in the program.
- **Free File Program Analysis.** MITRE conducted stakeholder interviews—including IRS leadership—and performed document reviews to assess the IRS Free File program’s alignment to objectives, performance, and the IRS management and oversight functions.
- **FFA Member Organization Interviews (“site visits”).** MITRE conducted interviews with representatives from each Free File member organization to collect information on their interactions and agreements with the IRS regarding the Free File program and applicable business processes, practices, and techniques for how each Free File member determines if a taxpayer qualifies for Free File. Each of the interviews followed a similar approach: standard interview protocols, targeted questions (both related to the IRS Free File program as well as the MOU Article 4, Standards of Practice) and in-person or phone interviews with participants from each Free File member organizations (selected by the member company’s leadership).
- **Web Forensics Analyses.** MITRE performed an analysis to determine if any coding within the member’s website influences search engine routing. In addition, MITRE analyzed web search query traffic metrics for internet searches that signaled an intent to find free tax filing services, based on a representative sample of organic (unpaid) search keywords for free tax filing. This included a click-through analysis of IRS.gov site usage metrics to investigate where taxpayers went from the IRS Free File web portal. This analysis was also used to determine how often taxpayers searched for free tax filing services (especially during tax filing season) using two primary search engines, Google and Bing; to what site(s) these users went following their searches; and the differences in search engine results.
- **Taxpayer Journey.** MITRE conducted an expert review of the IRS Free File portal as well as each individual Free File member offer. This review was twofold in its objective: first, MITRE evaluated the 12 member sites for compliance with MOU requirements (including an initial landing page analysis); second, MITRE evaluated the 12 member sites and the Free File-related pages on IRS.gov against recognized software user interface usability principles (called heuristics) in order to identify potential usability problem areas. For both parts, MITRE set-up user accounts and ran scenarios to test the sites in a systematic, exhaustive fashion. MITRE’s usability assessment used both industry-recognized criteria (heuristics) as well as MITRE’s interpretation of how MOU requirements translate into usability criteria and whether sites are optimized for mobile devices.
- **Taxpayer Usability Testing.** MITRE conducted a study to test the usability of the IRS Free File portal and assess taxpayers’ actual experience in filing tax returns using three randomly selected Free File software offerings. MITRE conducted in-person usability testing sessions with 29 taxpayers who filed their taxes electronically using Free File software in prior year filings. During the testing, taxpayers were observed as they completed fictitious tax scenarios using the IRS Free File portal and Free File software. In



addition to data on the usability of the Free File services, MITRE collected and analyzed data on the frequency of errors committed, taxpayer satisfaction, and experience (via a brief questionnaire), and taxpayers' perceptions of the Free File program.

- **Legal Analysis.** MITRE's General Counsel, in coordination with outside counsel, conducted a review of the MOU's terms and conditions to determine recommended revisions to the MOU to more clearly define the parties' responsibilities to enhance and promote the IRS Free File program, address any shortcomings in the MOU language as it relates to the prohibition against unfair methods of competition, and provide enforcement capability via liability clauses if the MOU's terms and conditions are breached by a Free File member organization.
- **Recommendations.** Based on the data gathered from the workstreams, MITRE developed recommendations for overall improvements to the Free File program, potential enhancements to the MOU, and improvements to usability of IRS.gov and some aspects of member offerings.

Figure ES-1 shows how each of these workstreams collectively contributed to addressing targeted assessment areas (assessment objectives) including: documenting the current Free File program environment, assessing Free File program management and oversight, assessing FFA member compliance with the MOU, assessing taxpayer experience with respect to the program, and ultimately drafting recommendations for the program and MOU. Outputs from some workstreams contributed to more than one assessment area.

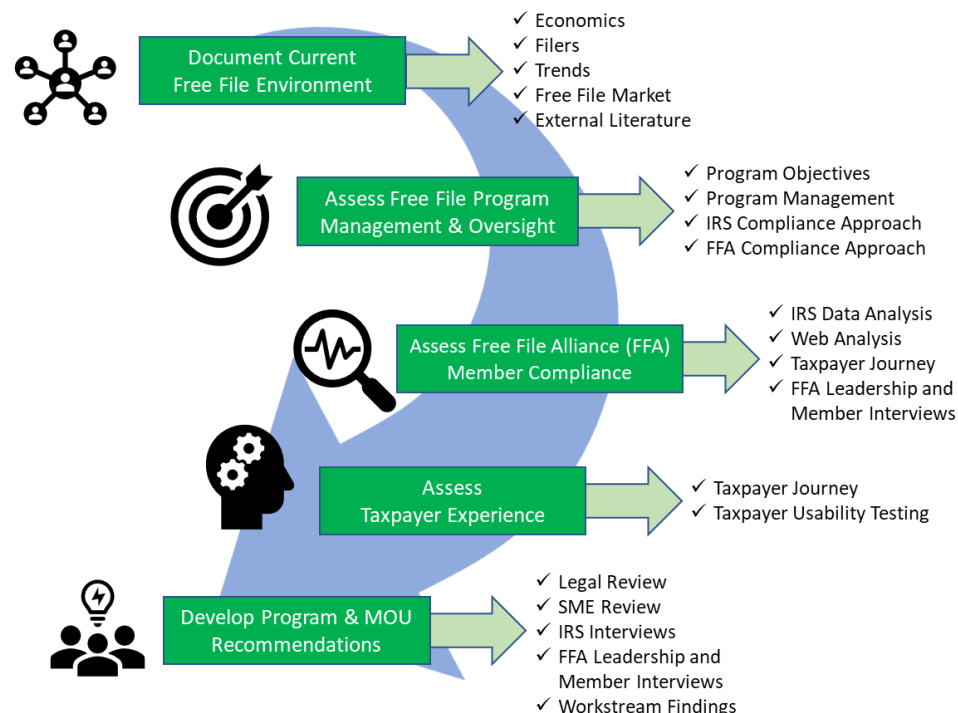


Figure ES-1. High-Level Approach to Free File Program Assessment (Aligned to Assessment Objectives).

## Addressing Public Perceptions

Throughout the assessment, MITRE considered the perspectives of various media, oversight, and advisory organizations: the recent ProPublica articles on the Free File program, the 2018 Internal Revenue Service Advisory Council (IRSAC) Annual Report, and the 2018 National Taxpayer Advocate Annual Report to Congress<sup>4</sup>. Three primary *themes* emerged from these external sources:

1. Member companies use deceptive strategies to steer taxpayers away from using the Free File program services towards fee-based services.
2. The IRS Free File Program Office does not provide adequate oversight.
3. Low usage rates signal that the Free File program is not working.

However, MITRE's findings from this assessment determined that while there may be an element of truth to each of the criticisms, the data indicate the issues are much more nuanced and don't tell the full story.

MITRE conducted the assessment of the Free File program in its current state—the tax software industry providing free tax preparation and filing services under a MOU with the IRS. It was not in the scope of MITRE's effort to address the underlying political issue that is the genesis of much of the controversy surrounding the Free File program—whether the IRS should create its own free tax preparation and filing program or continue to rely on the tax software industry to provide these services. While MITRE recognizes that government services provided to its citizens are continually evolving, and that Congress may determine in the future that the IRS should offer that service (and provide it with the appropriate funding to do so), for the purposes of this study, MITRE assumes that industry will continue to be the entity that provides free tax return preparation and filing offerings to taxpayers. All of MITRE's recommendations in this report are based on that assumption.

## Search Engine Avoidance

The issue that seems to have created the most publicity and was at the center of much of the congressional interest is the practice of coding that caused members' Free File landing pages to be excluded from an organic search through Google or Bing search engines. During FS 2019, five of the 12 FFA members did engage in a practice that excludes their company's Free File landing page in organic searches. When questioned about it, most members contended this keeps them in compliance with the MOU (language in the MOU preamble) and in alignment with IRS marketing that states Free File is “accessible only through IRS.gov.”<sup>5</sup> MITRE did not take a position on the practice—determination of whether this is a deceptive business practice is not within MITRE's legal purview. The perception points to the need for the IRS to take a position on the practice and incorporate new language into the MOU. MITRE also conducted an in-depth analysis of what the results of organic searches provided.

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<sup>4</sup> Internal Revenue Service, "Internal Revenue Service Advisory Council Public Report, Publication 5316, Catalog Number 71824A," Internal Revenue Service, Washington, D.C., 2018.; Taxpayer Advocate Service, "National Taxpayer Advocate Annual Report to Congress," Taxpayer Advocate Service, Washington, D.C., 2018.; Series of ProPublica articles from March 20, 2017 to June 5, 2019, available at <https://www.propublica.org>

<sup>5</sup> Internal Revenue Service, "Changes strengthen program; Free File can also help navigate new tax law provisions," Internal Revenue Service, 11 January 2019. [Online]. Available: <https://www.irs.gov/newsroom/irs-free-file-opens-today-in-advance-of-tax-season>. [Accessed 10 September 2019].



What’s been said ...	What the data show...
<p>Member companies use deceptive strategies to steer taxpayers away from using the Free File program services towards paid commercial services (<i>ProPublica</i>).</p>	<ul style="list-style-type: none"> <li>• Five of the 12 members used a coding device<sup>6</sup> to keep their Free File landing page out of organic searches.</li> <li>• Based on a representative sample of organic (unpaid) search keywords for free tax filing, the highest number of searches went to IRS.gov (&gt;780,000). The top member landing page had 698,000 searches. The next highest was less than 180,000 searches. The total unpaid traffic to the 12 members was 1.8 million.</li> <li>• Paid searches resulted in the highest amount of traffic (using the same representative sample of keywords as above), more than 10 million total to the 12 member sites combined, none to IRS.gov (IRS does not pay for advertising).</li> <li>• IRS.gov Free File landing page received 2.8 million entrances<sup>7</sup> (the landing page was the first page a user saw when arriving on IRS.gov) during FS 2019.</li> <li>• Four of the five members who engaged in the practice had increases in Free Filing in FS 2019, and one remained relatively flat. Five of the seven who did not engage in the practice had increases in Free Filing, and two had decreases.</li> <li>• Number of taxpayers who received free filing outside of Free File through free commercial offerings is not publicly available. However, according to the FFA, the current members provided a total of more than 17 million of these free commercial filings in FS 2019<sup>8</sup>.</li> </ul>

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<sup>6</sup> “<META NAME=“ROBOTS” CONTENT=“NOINDEX”>meta

<sup>7</sup> Because the IRS does not employ any tracking codes once a user leaves the site, there is no way to know how many of these 2.8 million entrances became Free File users.

<sup>8</sup> The actual number of free offerings may be higher. One company who was a member in 2019 did not provide a number.

Table ES-1 depicts the effects of organic versus paid searches for the top 108 non-branded high value keyword search terms that drove traffic to Free File member landing pages. This data was derived from website traffic information downloaded from SEMrush<sup>9</sup>, a digital market software as a service company.

**Table ES-1. Comparing Paid Search Traffic to Organic Search Traffic<sup>9</sup>.**

<b>FFI Member Sites</b> (Member names redacted)	<b>Est Traffic to</b> <b>FFI Landing Pages</b>	<b>Est Traffic to</b> <b>Non-FFI Landing Pages</b>	<b>Est Paid Traffic to</b> <b>Non-FFI Landing Pages</b>	<b>Est Cost</b> <b>for Paid Traffic</b>
	0	3,823	246,856	\$416,912
	378	248	0	0
	648	65	0	0
	0	11	54,594	\$91,616
	0	0	0	0
	3,370	0	0	0
	0	697,756	5,400	\$103,270
	3,488	95,688	1,812,769	\$3,060,979
	205	179,161	3,662,118	\$6,213,910
	11,696	562	0	0
	36,310	9,547	3,039,163	\$5,125,896
	0	40,759	1,446,217	\$2,426,933
<b>Total</b>	<b>56,095</b>	<b>1,812,218</b>	<b>10,267,117</b>	<b>\$17,347,900</b>
<b>IRS.gov (for comparison)</b>	<b>700,780</b>	<b>83,819</b>	<b>0</b>	<b>0</b>

The data in Table ES-1 shows that for the organic searches, more traffic went to the IRS.gov Free File landing page than to any one of the individual member sites' non-Free File landing pages. However, the most traffic, as would be expected, went to paid advertising. Seven of the 12 Free File members bought ads for keywords related to free tax filing that directed traffic to the landing pages for their non-Free File free tax filing software offering, resulting in five times more traffic than organic searches. The data used for this analysis (not shown in this table) indicated that no member had paid advertising for their Free File landing pages. This is not unexpected, as the MOU specifically assigns advertising responsibility to the IRS. However, during the FFA member interviews, one member stated that their company does employ advertising practices for the Free File program<sup>10</sup>.

### Program Oversight

The perception that members were undertaking potentially deceptive practices that resulted in vulnerable taxpayers paying for tax services—compounded by the program's low participation rates—led to criticism that the IRS Free File Program Office was not providing adequate oversight of member behavior. What this critique overlooks is the fact that the Free File program operates as a public-private partnership and, as such, program oversight is a mutual, collaborative effort

<sup>9</sup> SEMrush Inc., "All-in-one Marketing Toolkit," SEMrush Inc., 2019. [Online]. Available: <https://www.semrush.com/>. [Accessed week of 27 May 2019].

<sup>10</sup> During MITRE interviews with representatives of FFA member organizations, one member indicated that their company pays for advertising of the Free File program through a number of methods. However, the interview did not include detailed discussion of advertising practices specific to key word search. For this analysis, MITRE looked specifically at ads purchased for key words related to free tax filing. The results of this analysis indicated that no purchased ads directed users to the landing pages of Free File offers.

with the industry, represented by the Free File Alliance. While there is room for improvement, based on assessment findings, MITRE considers the IRS’s current compliance processes adequate and effective to support the integrity of the program. In part, because of this long-standing partnership with FFA and continuous assessment and improvement of the program as it has evolved.

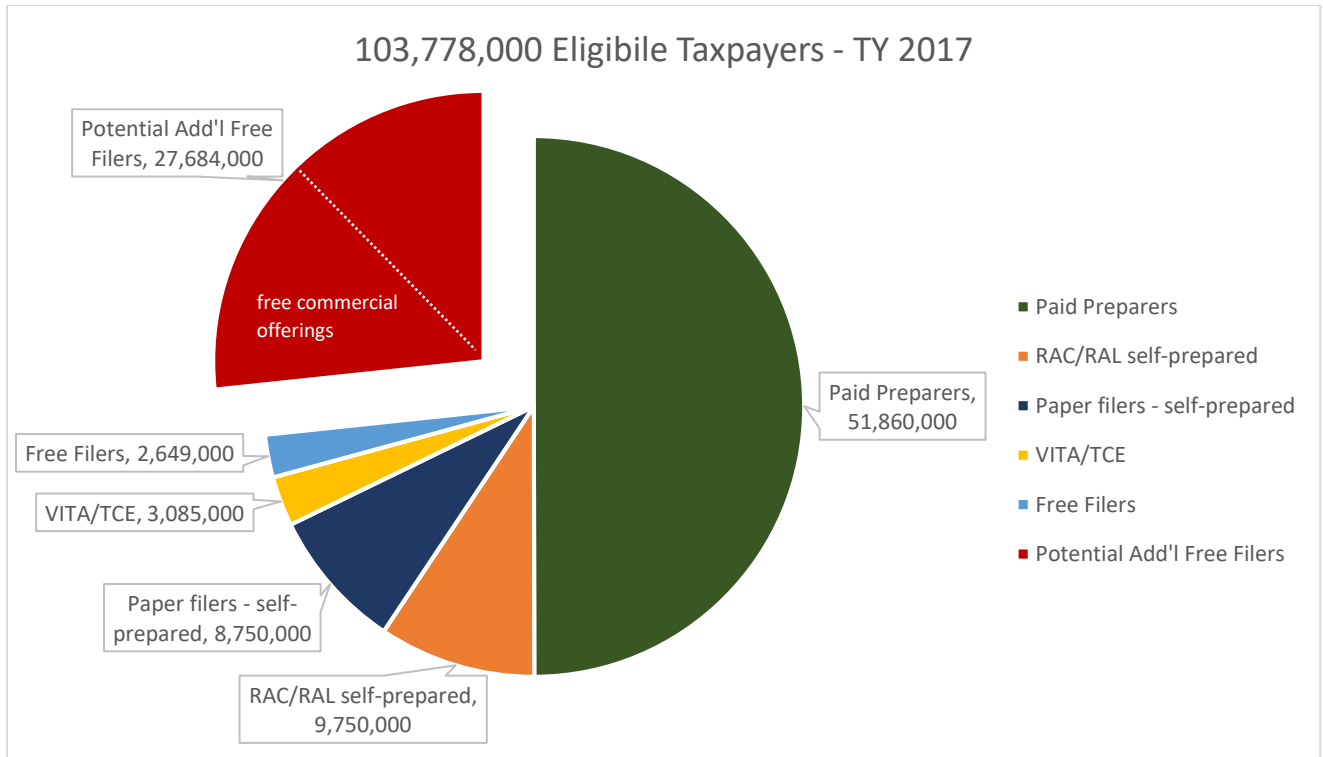
What’s been said ...	What the data show...
<p>The IRS Free File Program Office does not provide adequate oversight (<i>IRSAC, Taxpayer Advocate Service [TAS], members of Congress</i>).</p>	<ul style="list-style-type: none"> <li>• Because the Free File program is a PPP, and not a paid contractual relationship, it must work collaboratively with industry on oversight of the program.</li> <li>• IRS program office conducts member website reviews, evaluates member offer coverage and monitors member acceptance rates, while working closely with FFA to address, document, and resolve any identified or potential compliance breaches.</li> <li>• IRS’s existing agency governance of the Free File program effectively allows the program to fulfill the IRS’s currently articulated program goals.</li> <li>• While the program office does not have updated, measurable objectives for internal agency performance, its shared oversight of member compliance strictly follows the provisions of the MOU and meets joint program objectives.</li> </ul>

### Taxpayer Participation in Free File Program

Finally, what has led many to question the overall effectiveness of the Free File program is the participation numbers themselves. In 2018, fewer than 3 million filers used the Free File program to file their tax year 2017 returns out of nearly 104 million taxpayers that meet the eligibility requirements for the program. However, these numbers don’t tell the entire story and take the issues of taxpayer choice and taxpayer behavior out of the equation. The Free File program will generally appeal to those taxpayers that prefer a “do-it-yourself” (DIY) method of tax preparation and filing. Looking retrospectively at the eligible population from FS 2018 and how those taxpayers chose to file can help the IRS better understand their target population for Free File.

What’s been said...	What the data show...
<p>Low usage rates signal that the Free File program is not working (<i>TAS, ProPublica, members of Congress</i>).</p>	<ul style="list-style-type: none"> <li>• While 103.8 million taxpayers were technically eligible to use Free File in FS2018, half of those used a paid preparer, taking them out of the do-it-yourself (DIY) tax preparation pool in that year.</li> <li>• Another 9.8 million taxpayers in the DIY pool received refund anticipation checks (RACs) or refund anticipation loans (RALs), taking them out of the eligible pool.</li> <li>• Though paper filers are a potential target population for Free File, the 8.8 million DIY taxpayers who filed on paper removed themselves from the 2018 candidate pool.</li> <li>• Three million taxpayers went to Volunteer Income Tax Assistance (VITA) sites, removing them from the candidate pool.</li> <li>• The actual number of filers using DIY software and eligible to use Free File in FS 2018 was about 30 million (see Figure ES-2). Of those, about 9 percent used Free File.</li> <li>• Of those 30 million, a significant percentage (17.7 million for FS 2019 according to FFA) received free commercial filing from the current members.</li> <li>• The VITA program (the bricks and mortar assisted free equivalent of Free File) had approximately 3 million taxpayers use their service VITA has thousands of volunteer preparers, and more than 2,000 partner organizations who conduct outreach for their 11,000 sites nationwide.</li> </ul>

As shown in Figure ES-2, once the number of taxpayers that choose to file via a different method—e.g., with a paid preparer or through a Volunteer Income Tax Assistance (VITA)—or elects to receive their tax refund immediately through a refund anticipation loan (RAL) or a refund anticipation check (RAC)—are removed due to their preferences, the actual pool of candidates for the Free File program from 2018 is about 30 million taxpayers. A significant percentage of those receive free filing outside the Free File program. Though the numbers for free commercial filings are unknown for tax year (TY) 2017, a study by the FFA in 2015 showed it to be 19 million for that year from the 14 members, and the FFA attested to 17.7 million for TY 2018 from 11 current members.



**Figure ES-2. Break-down of 103,778,000 Taxpayer Eligible for Free File (TY2017).**

It is outside the scope of this assessment for MITRE to determine what the proper percentage of Free File taxpayers should or could be. Without further analysis and research into taxpayer behavior it is impractical to make that type of determination. Presumably if awareness was at peak saturation, participation would be greater than it is now. However, there are many competing free offers in the market that even taxpayers who are aware of Free File may gravitate to. The IRS's ability to affect the Free File members' behavior in terms of their commercial offerings, or taxpayers' behavior in terms of how they choose to file their return, is limited. What the IRS does have control over is what and how much they do to ensure program awareness.

### Free File Member Assessment Results – MOU Compliance

Recent attention and criticisms notwithstanding, the Free File program has operated for 17 years under the governance of an MOU—an agreement that all members must abide by or be removed from the program. The IRS asked MITRE to conduct a fact-finding review of each member to determine whether members were in compliance with the most recent version of the MOU at the time of the assessment.

To assess MOU compliance, MITRE drew findings from IRS interviews and document reviews, interviews with Alliance leadership and an Alliance-contracted reviewer, and fact-finding interviews with representatives from each of the Free File member organizations. In addition, MITRE incorporated the results of the hands-on taxpayer journey reviews of member Free File landing pages and websites, as well as results from the web forensics analyses where applicable.

Overall, based on the various assessment workstreams, all Free File members were compliant with the MOU, in particular with Article 4, Standards of Practice.

Article 4 outlines level of service, software and website functionality, security, and disclosure of forms and schedules. In addition, it includes taxpayer service options and other requirements such as innovation. MITRE found two instances of MOU non-compliance and an inconclusive finding for nine requirements for some or all members. There were also two requirements that were not applicable at the time of review for several members.

The two non-compliance instances were:

- **One member was non-compliant with a sentence in MOU 4.15.4.** The MOU states that “Members must clearly list their free customer options ... on the Member’s Free File Landing Page (or such page must have a clear and prominent link to such disclosures directly from this page).” Based on MITRE’s landing page analysis, the link was not “clear and prominent” on their landing page<sup>11</sup>.
- **One member was non-compliant with MOU 4.32.4.** The MOU requires members to “communicate not less than once annually via email with their taxpayer customers who used Free File services and completed their returns through Free File in the immediately preceding tax year.” The representative from the member acknowledged they were supposed to initiate an email to their prior tax season Free File taxpayers and self-attested that they did not provide the required email prior to the tax season.

While MITRE deems these to be non-compliant issues, none rise to the level of severity or concern regarding the integrity of the Free File program.

## Taxpayer Experience Analysis

In addition to assessing compliance with MOU requirements, MITRE also conducted research activities to understand the taxpayer experience using the Free File program. These research activities were designed to represent the perspective of the end user of the Free File system—the taxpayer. As such, MITRE identified pain points and areas for improvement to make the experience easier, clearer, and more accurate for taxpayers. This included an expert review of IRS.gov and the 12 member sites for potential usability issues, and usability testing interviews with actual taxpayers.

## Taxpayer Journey Analysis

MITRE conducted a taxpayer journey analysis to evaluate *potential* usability issues with the Free File member systems and Free File-related web pages. The taxpayer journey analysis also evaluated member landing pages for compliance with the MOU, as described above. The rest of the analysis was focused on the taxpayer experience from a usability perspective and should *not* be interpreted as evidence for or against member compliance with the MOU.

The taxpayer journey analysis used both established industry criteria and MOU requirements related to system usability and user expectations for system functionality as anchor points for the analysis. Specifically, MITRE used the following sets of criteria to conduct the review of the 12 member sites and IRS.gov’s Free File-related web pages:

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<sup>11</sup> As of the date of this report, the member has updated their Free File landing page.



- **Nielsen’s 10 usability heuristics**<sup>12</sup>. These 10 criteria, called “heuristics,” are widely recognized measures of system usability. Taken together, the 10 heuristics construct a measure of user experience and include factors such as “match between system and the real world,” “error prevention,” “flexibility and ease of use,” and “consistency and standards.”
- **MOU requirements, from a usability perspective (user experience [UX] MOU Adherence)**. MITRE examined MOU requirements pertaining to the user experience and constructed usability criteria from these MOU requirements. These criteria assess user interface elements closely associated with MOU requirements and included factors such as “understands offerings available” and “transparency around ineligibility.” MITRE’s assessment against these criteria are **not** included in the evaluation of MOU compliance presented in Section 4.0.
- **Mobile experience**. MITRE evaluated the extent to which the examined sites were optimized for mobile device use.

For all three of these groups of criteria, the objective of the evaluation was to identify potential usability issues and prioritize them via a 1-5 (1 = worst, 5 = best) severity score.

MITRE’s analysis found that, while the Free File members adhere to many UX best practices as measured by Nielsen’s usability heuristics, they could improve the most in “error prevention” and “match between system and real world” heuristics. With respect to examining the sites in terms of a usability interpretation of MOU requirements, the area where members have the most need for improvement was “transparency around ineligibility.”

All of the scores from the review are rolled up into a dashboard that shows a quick view of the summary scores for user experience, UX MOU adherence, and mobile experience, with a more detailed breakout of the scores from the heuristic review by each heuristic and grouping of MOU requirements (see Section 5.1). Figure ES-3 shows the summary dashboard from the taxpayer journey heuristic analysis, and aggregates Nielsen’s 10 heuristics under “user experience” issues related to the usability in the MOU under “UX MOU adherence,” and whether or not the site is mobile-optimized under “mobile experience.” The 12 member sites are shown in the columns by number and the heuristic dimensions are displayed down the rows.

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<sup>12</sup> Nielsen’s 10 Usability Heuristics: Nielsen, Jakob. (1994). Heuristic evaluation. In Nielsen, J., and Mack, R.L. (Eds.), Usability Inspection Methods, John Wiley & Sons, New York, NY

Dimension	1	2	3	4	5	6	7	8	9	10	11	12
User Experience	↑	↑	↑	→	↓	↑	→	↑	→	↑	→	↑
UX MOU Adherence	→	↑	→	↑	→	→	→	↓	→	↑	→	↑
Mobile Experience	↑	↑	→	→	→	↑	↓	→	↓	↑	↑	↓

<b>SUMMARY</b> At a glance, the Free File providers adhere to many UX best practices. Overall, they could improve the most in “Error Prevention” and “Match Between System & Real World” heuristics. The most significant UX MOU improvement to make across the board is “Transparency around ineligibility.”	Score range
	↑ 85% to 100%. Area of strength.
	→ 70% to 84%. Room for improvement.
	↓ 0% to 69%. Area of weakness.

Figure ES-3. Heuristic Evaluation Dashboard Summary.

The top two highest-rated members both had exceptional user experience, intuitive mobile experiences, and followed the MOU’s guidance related to taxpayer experience and usability. Other members might consider mirroring the transparency Member 10 has around Free File eligibility, which lets the user know quickly whether or not they are eligible to proceed through the Free File process.

Two members received the lowest ratings for the usability of their user interfaces. Three members did not have mobile-optimized sites, which would make it very difficult for users to file their taxes from a mobile device.

### Taxpayer Usability Analysis

MITRE conducted the taxpayer usability study via in-person interviews with 29 taxpayers who previously used Free File from selected zip codes in Chicago. To select an interview location, MITRE reviewed the density of TY 2018 Free Filers in multiple clusters of zip codes in U.S. metropolitan areas; Chicago had a relatively high volume of Free Filers, which allowed MITRE to send invitation letters to potential participants and elicit a sufficient interview sample. MITRE randomly selected a subset of Chicago Free Filers to receive invitation letters to participate.

The objectives of these interviews were to understand how taxpayers locate the Free File program options; understand how taxpayers select a software provider; capture usability issues with IRS websites related to the Free File program; capture usability issues with specific vendor platforms; and understand taxpayers’ previous experiences with the Free File program. During the sessions, participants completed fictitious scenarios to evaluate the experiences of completing three tasks: 1) locating the Free File program online; 2) selecting a Free File software offer, including with the software lookup tool; and 3) completing a tax return. MITRE randomly selected three Free File member software offers to test with taxpayers. Each participant filed a

fictitious return with one of the three selected offers. Taxpayers used mocked-up information (e.g., fictitious Form W-2s and other documentation) to complete the tasks.

MITRE identified and reported all usability issues observed by the research team with each of the three Free File usability tasks and provided suggested solutions for addressing each of these issues individually. Drawing on the data collected from the usability tasks, analysis of qualitative data gathered during debriefing and with semi-structured interview questions, the satisfaction and user experience questionnaires, and metrics on taxpayer behaviors and selections during the tasks, MITRE identified the several high-level findings. When it comes to navigating to the Free File program and selecting a member offer, taxpayers:

- Lacked understanding of what the Free File program is and its relationship to the IRS
- Struggled to find the Free File landing page, including through IRS.gov
- Experienced difficulties and confusion with selecting a software offering, particularly when evaluating Earned Income Tax Credit (EITC) eligibility
- Expressed that they were overwhelmed with choices and information
- Used strategies beyond eligibility criteria to select software offers

With respect to using member-specific Free File program tax preparation software, common usability issues included trouble finding where to report adjustments to income, difficulty choosing between filing statuses, and trouble navigating different systems’ “flow.”

Overall, taxpayer ratings of ease and satisfaction varied by task, vendor, and taxpayer demographic characteristics.

## **Findings and Recommendations**

Building upon the analysis from the various workstreams in this assessment, MITRE provides the following findings and recommendations for improvements to the Free File program and to the Free File MOU that governs the program. The findings and recommendations are grouped by key themes that emerged through the execution of the MITRE assessment. The recommendations include actions that the IRS may take to improve the integrity and effectiveness of the Free File program.

Where appropriate, MITRE provides workstream-specific recommendations the body of this assessment.

<b>1. Objectives of the Free File program have not been updated since the program’s inception.</b>	
<b>Findings</b>	<b>Recommendations</b>
<p>The IRS and FFA have not revisited the objectives of the program since its inception. The objectives (reflected in the MOU) are outdated and don’t reflect leadership’s current view of program success.</p> <p>The program objective of providing the venue for free tax filing for 70 percent of the population has been met. The e-filing objective has been met. No other metrics currently exist by which the program office can measure its performance.</p>	<p>MITRE recommends that IRS leadership, in collaboration with the FFA, define new program objectives and create metrics to determine the Program Office’s performance against those objectives. Recognizing that the IRS and FFA will need to negotiate any formal changes to joint program objectives, MITRE recommends that IRS develop internal objectives and metrics that reflect its own priorities. While agreement between the IRS and FFA would be the ideal, translating priorities into objectives and metrics should not be contingent on that agreement.</p> <p>For example, according to IRS leadership, its focus for free file is less about target number of participants, and more about maximizing awareness to ensure people recognize it is a choice.</p> <p>Potential metrics could include:</p> <ul style="list-style-type: none"> <li>• Number of companies participating, potentially targeting a specific market share</li> <li>• Actual number of Free File taxpayer candidate pool/participants (e.g., xx% of the DIY community minus RALs/RACs)</li> <li>• Metrics associated with compliance (e.g., offering parameters, etc.)</li> <li>• Awareness numbers (see additional recommendations)</li> <li>• Web analysis metrics (e.g., number of clicks on the Free File link on the IRS.gov home page, percentage of select keyword searches that bring taxpayers to the IRS.gov landing page, etc.)</li> </ul>

<b>2. If Free File objectives are revised to focus on taxpayer awareness, more needs to be known about the target population and taxpayer behavior.</b>	
<b>Findings</b>	<b>Recommendations</b>
The IRS has collected demographics data on users of Free File and migration data of those users, but they do not have demographics data of the potential pool of Free File users. This data would be helpful in targeting outreach. (see Section 3.3)	MITRE recommends the IRS conduct data analysis of the demographics of the population who are prime candidates for Free File but not using it.
The total population pool of 103 million taxpayers who are eligible may not represent an accurate picture of the pool of taxpayers who are candidates for Free File. Taxpayers make choices that take them out of the candidate pool. About 9 percent of taxpayers who have not taken themselves out of the candidate pool by (for example) using a paid preparer or choosing a RAC or RAL, use Free File (not taking into consideration those who choose free commercial offerings) There is no consensus on what would be an acceptable number.	MITRE recommends the IRS conduct a taxpayer behavior study to better understand the factors involved in a taxpayer's choice of filing methods. Understanding taxpayer motivation and choices could help determine what would be an acceptable Free File number, if a number is needed at all. This aligns with the IRS-related priorities of the internal MITRE research program and will be proposed for a future research project.
While each individual member receives customer feedback in various ways for their own Free File product, the IRS has not conducted a customer survey since 2009.	MITRE recommends the IRS conduct a customer survey of Free File users specifically to the IRS experience of Free File (not the software they filed their return through) to use as a baseline and create an online survey for users to capture continuous feedback.
The IRS has no access to data that would indicate whether a DIY filer paid for a return or received a free commercial offering. As the issue is whether a low-income taxpayer has to pay for filing, knowing how many taxpayers receive free filings either through Free File or a commercial product would give the IRS a better understanding of their target markets.	MITRE recommends, that in the spirit of transparency, the IRS propose the industry to use an indicator on free commercial filings  Or MITRE recommends the IRS request that FFA provide them the aggregate number of taxpayers who file their taxes using free commercial products each year. When developing metrics, this could help with understanding a more

	accurate picture of the population of the Free File candidate pool.
Leadership acknowledged that the number of returns submitted through Free File have not increased in the same way that e-file numbers have and articulated a goal of increased awareness. The last awareness study was conducted in 2011.	<p>MITRE recommends the IRS commission an awareness study to baseline taxpayer awareness of Free File, specifically of targeted demographics determined in the prior recommendation.</p> <p>MITRE further recommends, based on the results of this study—and other recommended research—the IRS conduct a targeted awareness campaign to the desired Free File demographics, and include other IRS-sponsored venues such as low-income tax clinics (LITCs) and VITA sites, including IRS’ own website.</p>
Paid advertising yields results. In MITRE’s web analysis of those searching for free tax filing, an estimated 85 percent of the traffic followed a paid search result to member sites, while the other 15 percent of visits to member sites came from an organic search result. Searchers were more than five times likely to click on a paid search result.	MITRE recommends the IRS conduct a cost-benefit analysis to determine whether to purchase paid advertising to reach taxpayers searching for free tax filing. We recognize the IRS may have to seek statutory authority and budget-specific funding for such advertising if it was deemed beneficial.

### **3. IRS Free File program is a long-standing public-private partnership, but there is a lack of public awareness about what that means to the program.**

<b>Findings</b>	<b>Recommendations</b>
<p>Free File program is a partnership between the IRS and industry that requires cooperation to achieve success. This partnership requires a balance that serves the interests of the government and taxpayers, but also creates a value to the for-profit industry that provides the service.</p> <p>The IRS Free File program could benefit from providing clarity and scope around the PPP, both internally and externally. The purpose and scope of PPPs are not common, and awareness is key to success.</p>	<p>MITRE recommends that a health assessment of the PPP become part of the overall metrics for the Free File program, using a generally accepted framework provided by external sources, such as that used by MITRE in this assessment.</p> <p>MITRE further recommends that the IRS Free File Program Office incorporate talking points addressing the unique nature of the PPP in terms of joint governance and the value a PPP provides to all partners as central themes when addressing critics or publicly discussing the program to help address this lack of awareness.</p>



**4. Rules that were put into the MOU to promote fairness among FFA members and promote choices for taxpayers translate into unclear presentation of offers and confusion for taxpayers.**

Findings	Recommendations
<p>The FFA is obligated to provide Free File to eligible taxpayers through individual commercial sites such that, when taken in aggregate these services are offered to the lowest 70 percent of the taxpayer population, calculated using AGI. Moreover, the MOU requires that each company must offer services to at least 10 percent of total eligible taxpayers but to no more than 50 percent of taxpayers (“10/50 rule”)—a requirement set to level the playing field for smaller providers.</p> <p>While the 10/50 rule has been (and may continue to be) beneficial to FFA members to ensure equity, it’s possible that it has outlived its usefulness. MITRE did not have adequate time, nor was it within scope, to do an analysis of how the 10/50 rule impacts Free Filed returns. However, from a taxpayer perspective, the different company offerings create confusion as a taxpayer navigates the various choices.</p>	<p>MITRE recommends the IRS conduct an analysis/study of the 10/50 rule. This could include a confidential market study of the members to help understand the economic incentive to assist in preserving competition amongst the members and promoting taxpayer economic welfare; a small pilot to determine the business impact of removing the rule; a consideration of whether differing rules for the two large companies would benefit or create inequity; and/or an in-depth data analysis of how the different offerings have impacted members’ free file numbers.</p> <p>Even if the rule is not changed, MITRE recommends simplifying the display of members’ offering to reduce taxpayer confusion.</p>

**5. Usability activities—both with taxpayers and by usability experts—provide insight into how taxpayers experience various aspects of the Free File program.**

Findings	Recommendations
<p>MITRE conducted a complete heuristic assessment of the Free File website and members websites, and a usability assessment with Free File users. Both assessments found that improvements</p>	<p>A complete list of recommendations to improve usability and the user experience on IRS.gov is provided in the Taxpayer Experience Results Report (Appendix G) and taxpayer journey supplemental materials (Appendix F). While usability-specific, these recommendations</p>

<p>could be made to enhance the user experience.</p>	<p>complement the program-level recommendations above and as such may be repetitive.</p> <p>MITRE recommends that IRS:</p> <ul style="list-style-type: none"><li>• Standardize how Free File is referenced on IRS platforms and communications</li><li>• Take steps to increase ease of understanding eligibility requirements</li><li>• Ensure that taxpayers understand that determining eligibility for a software offer is ultimately their responsibility</li><li>• Recommend best practices to increase usability of members' tax preparation software systems</li><li>• Conduct research on the usability taxpayer access and use of the Free File system</li><li>• Conduct research on Free File awareness, attending to different demographic groups' awareness</li><li>• Eliminate or change the EITC eligibility question in the lookup tool and on the software offers page<ul style="list-style-type: none"><li>○ If the IRS stated on the Free File site that all taxpayers eligible for EITC are eligible for Free File, the question could be removed from the tool. MITRE recognizes this would be a topic for negotiation between the IRS and FFA because of how that could impact some companies' appearance in the tool.</li><li>○ If the IRS chooses to leave EITC in the lookup, MITRE recommends linking the question to the EITC eligibility tool, but ONLY after conducting usability testing on the EITC eligibility tool and addressing the results.</li></ul></li></ul>
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<b>6. The MOU is an evolving document that is added to with each new negotiation, resulting in a piecemeal agreement that is out of date in some areas.</b>	
<b>Findings</b>	<b>Recommendations</b>
The MOU generally has provisions added with each revision, but few are taken out. Much of the same language is used, not only in the objectives, but also in the technology portion, that has become outdated (e.g., text CAPTCHA).	MITRE recommends that the IRS and the Alliance jointly determine new, measurable objectives for the Free File program, and draft a new MOU, pulling and using provisions from the current MOU that are relevant, discarding provisions that are not, and creating new provisions based on the current environment.
All but two of the members' Free File offerings are the same as their commercial offerings. The security/privacy rules of Free File are the same as e-File, and all Free File members are also members of the Security Summit where the IRS works collaboratively with the industry to improve security.	MITRE recommends simplifying the MOU in its security and privacy provisions by simply requiring members to adhere to the e-File/Security Summit requirements and recommendations.
MITRE's review of the individual members' processes for applying the Free File indicator (without looking at the actual coding) indicated most members used the same process that should place the indicator only on Free Filed returns. However, that is not always the case.  In MITRE's data analysis of returns marked with the Free File indicator, several thousand returns from one vendor indicated the presence of a RAC. The vendor noted that the IRS informed them of this irregularity, and they discovered a coding error had mistakenly placed the indicator on returns that had not been Free Filed, which was subsequently corrected. Another vendor also had several hundred returns with the Free File indicator on returns with AGI of more than \$66,000.	MITRE recommends adding language to the MOU to specify conditions under which the indicator is applied to ensure quality control.  Though not necessarily dependent on the MOU, MITRE also recommends the IRS develop a quality control method that would allow the IRS to validate returns with the Free File indicator were actually Free Filed.

**7. Search exclusion techniques are the latest new issue for consideration when entering into the next round of MOU negotiations.**

Findings	Recommendations
<p>Five of the companies used a NOINDEX code to exclude their company's Free File landing page from organic searches. They reported that their belief was that this kept them compliant with the MOU. However, while the MOU states the IRS will provide links to their site, it does not prohibit taxpayers from accessing their sites directly. IRS press releases state that taxpayers can ONLY access Free File sites through IRS.gov.</p>	<p>MITRE recommends that if the IRS wants taxpayers to go to Free File sites only through IRS.gov, the MOU should reflect that specifically as a provision, as opposed to the current reference in the preamble.</p> <p>MITRE further recommends the IRS determine their position on the use of NOINDEX and add a provision to the MOU addressing that use.</p>