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THE STATUS OF INTERNAL REVENUE SERVICE'S REVIEW OF TAXPAYER TARGETING PRACTICES

HEARING

BEFORE THE

COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRTEENTH CONGRESS

FIRST SESSION

JUNE 27, 2013

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THE STATUS OF INTERNAL REVENUE SERVICE'S REVIEW OF TAXPAYER TARGETING PRACTICES

THURSDAY, JUNE 27, 2013

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC.

The Committee met, pursuant to call, at 10:01 a.m., in Room 1100, Longworth House Office Building, Hon. Dave Camp [Chairman of the Committee] presiding.

[The advisory announcing the hearing follows:]

ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

FOR IMMEDIATE RELEASE
Thursday, June 20, 2013
No. FC–10

CONTACT: (202) 225–3625

Chairman Camp Announces Hearing on the Status of Internal Revenue Service's Review of Taxpayer Targeting Practices

Congressman Dave Camp (R–MI), Chairman of the Committee on Ways and Means, today announced that the Committee will hold a hearing on the Internal Revenue Service ("IRS") and the agency's 30-day review of the practice of discriminating against applicants for tax-exempt status based on their personal beliefs. **The hearing will take place on Thursday, June 27, 2013, in Room 1100 of the Longworth House Office Building, beginning at 10:00 a.m.**

The Principal Deputy Commissioner of the Internal Revenue Service, Mr. Daniel Werfel, will be the only witness at the hearing. However, any individual or organization not scheduled for an oral appearance may submit a written statement for consideration by the Committee and for inclusion in the printed record of the hearing.

BACKGROUND:

Since June 2011, the Committee on Ways and Means has been investigating whether the IRS discriminated against taxpayers based on their personal beliefs. On May 10, 2013, IRS acknowledged that the agency had been targeting conservative-leaning political organizations. Appointed by President Obama on May 16, 2013, Mr. Werfel serves as the Principal Deputy Commissioner of the IRS and the Deputy Commissioner for Services and Enforcement. The day after his appointment, Treasury Secretary Jack Lew stated Mr. Werfel would "within 30 days . . . report to me and we will report to the President on actions taken." The Committee will receive testimony from Mr. Werfel regarding the Agency's internal review of inappropriate practices, as well as any remedial and disciplinary actions that have been implemented by the IRS.

In announcing the hearing, Chairman Camp said, **"At the close of the Committee's first hearing into the IRS's targeting of conservatives, I said this phase of the investigation was just beginning. While the Committee continues a methodical investigation that includes interviewing IRS officials, reviewing internal IRS documents, and talking to those who were targeted, it is also important that we hear from IRS leadership about what immediate steps the agency has undertaken to address these actions. The hearing will ensure that we have the IRS's perspective as Congress considers additional actions that are necessary to address both this broken agency and the broken Tax Code the agency used as a means to target and intimidate Americans based on their political beliefs."**

FOCUS OF THE HEARING:

The hearing will focus on the Internal Revenue Service's 30-day report on the practice of discriminating against applicants for tax-exempt status based on their personal beliefs.

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Please Note: Any person(s) and/or organization(s) wishing to submit written comments for the hearing record must follow the appropriate link on the hearing page of the Committee website and complete the informational forms. From the Com-

mittee homepage, *https://waysandmeans.house.gov* (*https://waysandmeans.house.gov*), select "Hearings." Select the hearing for which you would like to submit, and click on the link entitled, "Click here to provide a submission for the record." Once you have followed the online instructions, submit all requested information. ATTACH your submission as a Word document, in compliance with the formatting requirements listed below, **by the close of business on Thursday, July 11, 2013**. Finally, please note that due to the change in House mail policy, the U.S. Capitol Police will refuse sealed-package deliveries to all House Office Buildings. For questions, or if you encounter technical problems, please call (202) 225–3625 or (202) 225–5522.

FORMATTING REQUIREMENTS:

The Committee relies on electronic submissions for printing the official hearing record. As always, submissions will be included in the record according to the discretion of the Committee. The Committee will not alter the content of your submission, but we reserve the right to format it according to our guidelines. Any submission provided to the Committee by a witness, any supplementary materials submitted for the printed record, and any written comments in response to a request for written comments must conform to the guidelines listed below. Any submission or supplementary item not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All submissions and supplementary materials must be provided in Word format and MUST NOT exceed a total of 10 pages, including attachments. Witnesses and submitters are advised that the Committee relies on electronic submissions for printing the official hearing record.

2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3. All submissions must include a list of all clients, persons and/or organizations on whose behalf the witness appears. A supplemental sheet must accompany each submission listing the name, company, address, telephone, and fax numbers of each witness.

The Committee seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202–225–1721 or 202–226–3411 TDD/TTY in advance of the event (four business days notice is requested). Questions with regard to special accommodation needs in general (including availability of Committee materials in alternative formats) may be directed to the Committee as noted above.

Note: All Committee advisories and news releases are available on the World Wide Web at:
http://www.waysandmeans.house.gov/ (*http://www.waysandmeans.house.gov/*).

Chairman CAMP. The Committee will come to order.

Good morning.

It has been 6 weeks since the IRS first revealed it was purposefully targeting conservative-leaning organizations, and this week additional IRS documents revealed that the term "progressive," along with others, were also included on the "Be on the Lookout" list, or the BOLO.

And I want to make one thing clear. No taxpayer, regardless of political affiliation, should be unfairly targeted. It is wrong, and this Committee is working to ensure that it will never happen again.

The Committee has welcomed all groups that feel they have been targeted for extra scrutiny to come forward, and I urge them to do so. So far, the evidence only shows conservatives being systematically targeted by the IRS, not just flagged through the BOLO, but actually targeted. These Americans consistently had their applications delayed for nearly 3 years, were asked intrusive and inappropriate questions, had their donor information leaked, and were even threatened by the IRS with additional taxes.

But, as I have long said, we are in the early stages of this investigation, and, as we gather the facts, we will follow those facts wherever they lead. Again, if there are any additional groups of any political affiliation, we urge them to come forward.

From what we have already learned, it is clear that the IRS is a broken agency that needs to answer to the American people.

Mr. Werfel, in the interest of accountability and at the discretion of Treasury Secretary Lew, you spearheaded a 30-day review of the practice of discriminating against conservative groups.

Unfortunately, while I am aware this is an initial report, it fails to deliver the accountability the American people deserve. This report doesn't answer even the most basic significant questions: Who started this practice? Why has it been allowed to continue for so long? How widespread was it? In fact, this report suggests that you haven't even asked anyone those questions.

Additionally, the report fails to address some of the most egregious offenses by the IRS. I am specifically talking about the intentional leaking of confidential taxpayer information and the IRS threatening conservative donors with additional taxes.

The review notes that it is important that the Inspector General continues to identify inappropriate actions, but where is the internal oversight? Where are the checks to prevent this behavior in the first place? How will the IRS learn from these inexcusable actions and provide the American taxpayer with real proof and evidence that it will not happen again?

It will be necessary to provide concrete reforms and assurances to begin rebuilding the trust this agency has lost with the American people.

A glaring recommendation in this report is that Congress fulfill the agency's budget request of an additional billion dollars. And, frankly, it is insulting to taxpayers that the IRS would ask for an additional billion dollars right after we find out that the IRS was targeting taxpayers for their beliefs, after they spent millions of taxpayer dollars on frivolous conferences, produced completely useless videos, and put expensive dinners and alcohol on IRS credit cards.

And, Mr. Werfel, let me be clear, until the IRS proves that it can responsibly manage its current funds, the IRS will not see one more dime in taxpayer funding.

We need real reforms, and they must be implemented so the American people can have a restored faith that they have a government that works for them, not against them. That begins with instituting long-term and meaningful changes—changes to both how the agency operates and to the Tax Code that the agency is trying to enforce.

And, as I have stated before, I often hear from constituents in Michigan about their fear of being audited by the IRS. That fear used to stem from the fact that the Tax Code was so complicated, nobody really knew what was in it or if they had filed their taxes correctly. Even when people paid someone else to do their taxes, they would sign their return not really knowing what was in it and hoping the preparer got it right. And that is something this Committee must and will fix.

However, today, Americans fear an audit not just because the Tax Code is too complex but because we have an agency that is out of control. We have managers in Washington sitting on cases for years, directing intrusive and inappropriate questions to be asked.

And after a month-long internal review, what you tell this Committee is that a few people have been removed from their old jobs, but you cannot even assure us that they have been removed from the agency. It is my understanding that they either continue to be paid or are receiving full retirement benefits. And, on top of those salaries and benefits, those employees have received over a quarter of a million dollars in bonuses over the last few years. And you have not identified any structural changes within the IRS that would prevent these abuses of power from happening again.

If there is anything this report shows, it is just how much more work must be done. Congress will continue the investigation into the IRS's actions and get to the bottom of this so we can ensure that no American is targeted again.

And, with that, I yield to Mr. Levin for the purposes of his opening statement.

Mr. LEVIN. Thank you, Mr. Werfel.

I will go over my opening statement in just a moment. I want to urge you—you have heard the opening statement of the Chairman. I know you mostly have been kind of a technician all your years in both the Bush Administration and in this Administration. I hope, though, that you will, if I might suggest, respond very vigorously when statements are made. I hope you will actively report on what you have done during your first 30 days.

Where mistakes have been made by the Internal Revenue Service, we on the Democratic side have been very, very clear: When inappropriate criteria were used, we were among the first to say that those who were in charge in the IRS should be relieved of their duties.

So I hope you will respond very actively and vigorously to all the questions. I think we need to get the facts and not innuendos. We are here today to learn about the corrective action that the IRS has taken to address mismanagement and processing of tax-exempt applications.

So, Mr. Werfel, welcome to the Ways and Means Committee. I am not sure how warm it is, but welcome.

I am glad to see in your 30-day report that you have instituted management changes that span the entire IRS management chain. It is needed. I see from your report that these changes reach into the Exempt Organization Division—which, indeed, is necessary—and the team responsible for determinations on applications for tax-exempt status.

We are also interested in your recommendations for obtaining greater effectiveness within the IRS with respect to better early warning systems and risk management. We look forward to hearing your testimony on your new enterprise risk management program, which I understand will improve IRS accountability and responsiveness to stakeholders, including this Congress.

As your report makes clear, there was clear mismanagement on the part of the IRS Exempt Organizations Division in processing these tax-exemption applications. The additional assessment and

plan of action appear to be a solid roadmap to addressing the problems. And we encourage you, as I said at the beginning, to actively, to vigorously, to completely pursue this plan.

But for our Committee, which launched this investigation on a bipartisan basis, the backdrop for today's hearing is the troubling new information that has come to light about the report issued by the Treasury Inspector General of Tax Administration.

This week, we learned for the first time the three key items: One, the screening list used by the IRS included the term "progressives"; two, progressive groups were among the 298 applications that TIGTA reviewed in their audit and that received heightened scrutiny; and, three, the Inspector General did not research how the term "progressives" was added to the screening lists or how those cases were handled by a different group of specialists in the IRS.

The failure of the I.G.'s audit to acknowledge these facts is a fundamental flaw in the foundation of the investigation and the public's perception of this issue. I wrote to the I.G. and asked him to explain these omissions.

And all Committee Democrats have asked you, Mr. Chairman, today that you ask Mr. George to return to the Committee to provide the appropriate context for his report and answer questions under oath regarding all of these matters. Our Committee, in its oversight role, has an obligation to fully understand the manner in which the I.G. conducted his audit and at what direction.

Deeply troubling is that, when asked about the new information that has come to light, the Treasury I.G. Office initially said in media reports that "our audit report answered questions it was asked to address," and that the House Oversight Committee Chairman, Darrell Issa, had specifically requested that investigators "narrowly focus on Tea Party organizations." We asked TIGTA about this in the letter, and it responded that "many of the press reports are not accurate."

If these or some of the reports were accurate, TIGTA's initial explanation of the scope of the audit is inconsistent with the description of the I.G.'s audit work in the 2013 audit plan and the stated objective on the first page of the May 14th, 2013, audit report. The stated objective was "to determine whether allegations were founded that the IRS, one, targeted specific groups applying for tax-exempt status; two, delayed processing of targeted groups' applications; and, three, requested unnecessary information from targeted groups."

The I.G.'s failure to be forthcoming in the audit and at congressional hearings, even when asked directly if there was a screening list for "progressive" and whether progressive groups were included among the 298 applications reviewed by TIGTA, has contributed to the distortion of the entire investigation, including use of innuendo and totally unsubstantiated assertions of White House involvement.

Democrats have condemned the singling out of "Tea Party" by name. I hope our colleagues on the Republican side of the aisle will now join us in condemning the use of the term "progressives" on the screening lists and the failure of the I.G. to be forthcoming with this and other congressional committees.

We have also been supportive of letting the facts lead where they may. None of us, including the Acting IRS Commissioner, can describe how an application was processed once it was screened. I caution my colleagues from jumping to conclusions until we know all the facts. Searching for the facts is the only way we are going to get back on the course that I hope is our mutual goal: The fixing of the problems, all of the problems, at the IRS and restoring the trust of the American people.

Thank you, Mr. Chairman.

Chairman CAMP. Thank you, Mr. Levin.

Now I would like to introduce our witness, Mr. Daniel Werfel, Principal Deputy Commissioner and Deputy Commissioner for Services and Enforcement of the Internal Revenue Service.

Thank you, Mr. Werfel, for being with us today. The Committee has received your report, and it will be made part of the formal hearing record. You will have 5 minutes for your oral remarks.

You are now recognized.

STATEMENT OF DANIEL WERFEL, PRINCIPAL DEPUTY COMMISSIONER AND DEPUTY COMMISSIONER FOR SERVICES AND ENFORCEMENT, INTERNAL REVENUE SERVICE

Mr. WERFEL. Chairman Camp, Ranking Member Levin, and Members of the Committee, thank you for the opportunity to appear before you today to discuss the progress we have made thus far in charting a path forward for the IRS and what we hope to accomplish in the future.

The report we released on Monday describes a number of important findings, aggressive actions, and next steps for the IRS. The problems with the 501(c)(4) application process that were uncovered by the Treasury Inspector General for Tax Administration have created significant concerns for taxpayers, and it is incumbent upon us to take swift action to ensure accountability, fix the problems that occurred, and thoroughly examine other aspects of IRS operations.

Over the past month, an ongoing review of the events described in the TIGTA report has shed further light on the management failures that occurred within the IRS and the causes of those failures. There was insufficient action by IRS leaders to identify, prevent, address, and disclose the problems that emerged with the review of applications for tax-exempt status. Our report outlines management deficiencies and the steps that must be taken to correct them.

Importantly, the report does not provide a complete and final set of answers. Instead, it offers an initial set of conclusions and action steps, along with an explanation of the additional reviews and investigations under way.

While fact-gathering is still ongoing, we have not found evidence of intentional wrongdoing by anyone at the IRS or involvement in these matters by anyone outside of the IRS. Furthermore, there is no current evidence of the use of inappropriate screeners or other types of criteria in other IRS operations beyond those discussed in the I.G. report.

We recognize, however, that there is public concern regarding the criteria used for applications for tax-exempt status, and more needs

to be done to evaluate our screening criteria and procedures. We will therefore establish a review process by which screening criteria and procedures across the IRS will be periodically assessed to safeguard against any risks of inappropriate criteria.

In addition to this important review, I also want to briefly mention some of the actions that we have taken and will take to address the problems we have found.

First, we have installed new leadership at all five levels of the IRS senior executive managerial chain that had responsibility over the activities identified in the I.G. report. In addition, we have empaneled an Accountability Review Board to provide recommendations within 60 days, and later if needed, on additional personnel actions that should be taken.

Next, immediately upon learning that "Be on the Lookout," or BOLO, lists with inappropriate criteria were still in use, we suspended the use of any such lists in the application process for tax-exempt status.

Next, we have established a new voluntary process for certain taxpayers who have been in our backlog for more than 120 days to gain expedited approval to operate as a 501(c)(4) tax-exempt entity. This is a self-certification process which allows them a streamlined path to tax-exempt status if they agree they will operate within defined limits and thresholds of political and social welfare activities.

Next, we will establish an enterprise risk management program across the IRS to provide a common framework for capturing, reporting, and addressing risk. This is intended to ensure that such information is brought to the attention of the IRS Commissioner and other IRS leaders and external stakeholders in a timelier manner.

Next, we will initiate additional internal and external education and outreach about the role of the national taxpayer advocate in assisting taxpayers in resolving problems with the IRS.

I also want to point out that our pursuit of broad-based reforms in the IRS does not mean that we believe the specific challenges and concerns identified in the I.G. report on 501(c)(4)s are necessarily present in other parts of the organization. In fact, I believe that any comprehensive review of IRS operations must recognize the many critical successes that the IRS has had in carrying out its mission over the last several years.

The IRS is committed to correcting its mistakes, holding individuals accountable as appropriate, and establishing control elements that will help us mitigate the risks we face. The employees of the IRS are committed to our mission and to operating with integrity and fairness to all.

The IRS serves a vital purpose for this country, and we need to earn and maintain the trust of the American people in order to accomplish our mission. We are firmly moving in that direction. And we will continue to report on our progress on a regular basis as we fulfill our commitments.

Mr. Chairman, Ranking Member Levin, that concludes my statement. I would be happy to answer your questions.

[The prepared statement of Mr. Werfel follows:]

Charting a Path Forward at the IRS:
Initial Assessment and Plan of Action

Daniel Werfel, IRS

June 24, 2013

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Charting a Path Forward at the IRS
Initial Assessment and Plan of Action

Introduction

> *The IRS used inappropriate criteria that identified for review Tea Party and other organizations applying for tax-exempt status based upon their names or policy positions instead of indications of potential political campaign intervention. Ineffective management: 1) allowed inappropriate criteria to be developed and stay in place for more than 18 months, 2) resulted in substantial delays in processing certain applications, and 3) allowed unnecessary information requests to be issued.*[1]

These findings by the Treasury Inspector General for Tax Administration (TIGTA) were the result of both organizational and individual failures within the Internal Revenue Service (IRS). In response, the President and the Secretary of the Treasury installed new leadership at the IRS in late May 2013, and directed that a thorough review of the matters identified in the TIGTA report occur, individuals responsible for mismanagement or wrongdoing be held to account, comprehensive corrective actions be taken to address the problems with IRS review of tax exempt applications, and a forward-looking assessment take place to identify ways to improve IRS operations broadly. This Report is the response to the request by the Secretary of the Treasury for a "30 day" update on our progress in carrying out the above directives.

The IRS Mission Statement states:

> To provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities and enforce the law *with integrity and fairness to all*.

The inappropriate criteria used to screen applications for tax exempt status within the Exempt Organizations (EO) unit of the IRS were inconsistent with the standards set out in this Mission Statement. Over the past 30 days, an ongoing review of these events has shed further light on the management failures that occurred within the IRS and the causes of those failures. Several key leaders, including some in the Commissioner's Office, failed in multiple capacities to meet their managerial responsibilities at various points during the course of these events. Most notably, there was insufficient action by these leaders to identify, prevent, address, and disclose the problematic situation that materialized with the review of applications for tax exempt status. The full extent of these management failures and any further inappropriate actions that may have taken place are the subject of various ongoing reviews and investigatory efforts that are being

[1] *Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review*, Treasury Inspector General for Tax Administration. Reference Number 2013-10-053. May 14, 2013.

conducted by IRS, TIGTA, the Department of Justice, and the United States Congress, but that are not yet complete.

The IRS is actively pursuing and supporting these fact gathering efforts. Reinforcing the importance of such efforts, we have heard from concerned taxpayers and citizens around the country. Specifically, members of the public seek answers to the following questions:

- What caused the events described in the TIGTA report?
- How are IRS employees who failed in their responsibilities being held to account?
- What fixes are being put in place in the IRS's EO unit to permanently address the problems TIGTA identified with the application process for tax exempt status?
- Do the risks and failures identified by the TIGTA report extend to other areas within the IRS?
- Is the IRS properly positioned to effectively execute its broader operations?

While the IRS is committed to timely and comprehensively addressing each of these questions, this Report does not purport to provide a complete and final set of answers at this time. Instead, this Report provides an initial set of conclusions and action steps, along with an explanation of the additional review and investigatory activities underway. In developing the Report, we closely reviewed the TIGTA audit and underlying materials furnished by TIGTA, reviewed thousands of pages of materials relevant to both the review of applications for tax exempt status and broader IRS operations and risks, established an integrated leadership group from various business units around the IRS to assist in our evaluation, brought in new leadership with expertise in public sector management to provide perspectives from outside the IRS, and engaged in an ongoing dialogue with TIGTA and Congress to synthesize their ongoing review and investigation of these matters with our own. As specifically requested by TIGTA and the Department of Justice, and in order to avoid disruption with their ongoing investigations, we are relying on the professional investigators from these entities to interview employees regarding root causes of the identified problems in the review of the applications for tax exempt status.

This Report has three sections:

In Section 1, *Accountability*, we describe the process undertaken to determine the causes of the events described in the TIGTA report and the manner in which we are ensuring accountability for mismanagement or, to the extent identified, other forms of wrongdoing.

In Section 2, *Fixing the Problems with the Review of Applications for Tax Exempt Status*, we detail the numerous process improvements underway to meet and go beyond the recommendations from TIGTA, in order to ensure that appropriate screening criteria are in place and that taxpayers receive effective customer service in the review of applications for tax exempt status.

In Section 3, *Broad Review of IRS Operations and Risks,* we identify a series of actions that will improve performance and accountability in the leadership ranks of the IRS by ensuring that critical program or operational risks are identified early, raised to the right decision-makers in the organization, and are timely shared with external stakeholders, such as Congress, TIGTA, and the IRS Oversight Board.

Each section of the Report contains an upfront summary, highlighting both conclusions reached and discrete actions taken. By way of an overall summary, significant findings and actions in the Report are as follows:

Findings:

- Significant management and judgment failures occurred, as outlined in the TIGTA report, that contributed to the inappropriate treatment of certain taxpayers applying for tax exempt status.
- At this time, while fact gathering is still underway, we have not found evidence of intentional wrongdoing by IRS personnel, or involvement in these matters by anyone outside of the IRS.
- We concur with the nine TIGTA recommendations for improving the review of applications for tax exempt status. Further, we believe there are additional steps, beyond the TIGTA recommendations, that will help to ensure the problems identified by TIGTA are permanently corrected.
- The IRS Commissioner's Office and other leaders across the organization do not always have sufficient knowledge of emerging operational risks among the various IRS business units. This fact limits the ability of senior IRS leaders and managers to identify and help manage organizational risks, and stifles the timely flow of such information to external stakeholders.
- There is no current evidence of the use of inappropriate criteria in other IRS business unit operations. However, we recognize there is public concern in this regard, and therefore additional mechanisms to evaluate such criteria should be initiated.
- The IRS has mechanisms, such as the Taxpayer Advocate Service, to assist taxpayers who are having difficulty in resolving matters with the IRS. However these mechanisms are not well understood by taxpayers and therefore are not being sufficiently leveraged.

Actions:

- New leadership has been installed at all five levels of the senior executive managerial chain that had responsibility over the activities identified in the TIGTA report.
- We have empaneled an Accountability Review Board to provide recommendations within 60 days (and thereafter as needed) as to any additional personnel actions that should be taken to ensure there is appropriate accountability for the events described in the TIGTA report.

- We have suspended the use of "be-on-the-lookout," or BOLO, lists in the application process for tax exempt status.
- We have established a new voluntary process for certain taxpayers who have been in our priority backlog for more than 120 days to gain expedited approval to operate as a 501(c)(4) tax exempt entity through self-certifying to certain thresholds and limits to political and social welfare activities.
- We will establish a review process by which criteria and screening procedures across the IRS will be periodically assessed for any risks of criteria that would be inconsistent with our Mission Statement.
- We will establish an Enterprise Risk Management Program to provide a common framework for capturing, reporting, and addressing risk areas across IRS. This is intended to improve the timeliness by which such information is brought to the attention of the Commissioner and other IRS leaders, as well as external stakeholders.
- We will initiate additional internal and external education and outreach about the role of the National Taxpayer Advocate in assisting taxpayers in resolving problems with the IRS.

The actions described above, as well as many others detailed further in this Report, are guided by commitments to increased transparency of IRS operations, new checks and balances where objective assessments can ensure that appropriate screening criteria are in place and that taxpayers receive effective customer service, and an environment where IRS leaders, beginning with the Commissioner's Office, have active and timely knowledge of emerging operational risks and take responsibility for driving swift and effective solutions.

Our pursuit of broad-based reform in the IRS does not mean we believe that the specific challenges and concerns identified in the TIGTA report are present in other parts of the organization. In contrast to the management challenges raised by TIGTA, there are many instances across the IRS where effective management is leading to positive organizational performance. Section 3 of this Report elaborates on this issue, recognizing that both strengths and weaknesses should be considered when assessing management reforms. In this way, our agency-wide reforms build on a foundation of successful results within many of the IRS business units, while closing more significant performance and management gaps in others.

Lastly, although there is a desire for immediate answers regarding the circumstances that led to the inappropriate treatment of taxpayers identified in the TIGTA Report, such expediency must be carefully balanced with the need to engage in thorough and fair fact-finding. Working in concert with the leadership of the Department of the Treasury, Congress, TIGTA, the Department of Justice, and other key stakeholders, we have initiated both a candid vetting of issues that impact IRS effectiveness and a robust action plan to gather additional evidence and address needed improvements in a fair, yet expedient, manner. In this way, the process of restoring and sustaining the public's trust in the IRS is underway.

1. Accountability

Section Summary

In determining the proper level of accountability for those individuals responsible for the various failures identified in the TIGTA report, our approach is two-fold:

1. We are identifying the individuals within the IRS who are responsible for the mismanagement outlined in the TIGTA report, evaluating the extent to which their actions (or failure to act) contributed to the problems identified, and determining the appropriate consequences for each individual.

2. We are digging deeper into the evidence to determine if there are instances of wrongdoing or inappropriate conduct beyond the mismanagement identified in the original TIGTA report. By extending our review beyond the scope of the original audit, we are ensuring a more comprehensive understanding of the circumstances that led to these events.

The first component of our plan to ensure accountability relies principally on the employee interviews and underlying documents that supported the original TIGTA audit. In addition, investigatory materials beyond the original audit work are emerging through interviews of relevant IRS employees being conducted by TIGTA and Congress. We are also reviewing thousands of pages of materials compiled from various sources, including employee emails and other work papers and documents relevant to the application process for tax exempt status.

Although these additional efforts are not complete and will take some time in order to be conducted properly, we have already made a number of key personnel changes in the leadership ranks of the IRS based on available information. In several cases, there is already evidence of mismanagement that warrants the removal of personnel from the positions they held at the time the TIGTA report was issued. As a result, there is now new leadership in place at five different levels of the IRS senior executive and management chain involved in these matters.

As the investigation moves forward and we gather further evidence, new information will support our ongoing efforts to determine ultimate accountability for management failures. As of the publication of this Report, there is no evidence of intentional wrongdoing or misconduct on the part of IRS personnel beyond the conclusions reached in the TIGTA report. Moreover, we have found no evidence of involvement in these matters by any individuals outside of the IRS. However, investigatory efforts have yet to be completed, and we will make additional accountability determinations as appropriate.

Actions Taken to Date

Numerous reviews and investigations have been launched to examine the review of applications of certain groups for tax exempt status.[2] The TIGTA audit is just one of these reviews. Several Congressional committees and the Department of Justice are engaged in investigations, TIGTA has an additional investigation underway, and the IRS Commissioner's office is examining the specifics of the matter.

Though these investigations are still ongoing, enough evidence is available to enable us to draw conclusions about the significant breakdowns in management and process that led to the development and utilization of inappropriate criteria. Based on these conclusions, we have already begun the process of holding individuals accountable for their actions.

As a guiding principle in determining our actions, we recognize that our staff at the IRS, and particularly those in positions of leadership and decision-making, must be worthy of the public's trust and must behave consistent with our Mission Statement of operating with "integrity and fairness for all." The vast majority of IRS management and staff live up to this high standard. However, those who neglect this duty and cannot demonstrate the ability to hold the public's trust must be held accountable for their actions. Our other guiding principles include commitments to thoroughness, fairness, and expediency. Embedded in these principles is an inherent tension, but one that must be appropriately balanced. While we want to move quickly, we must be thorough in our fact finding and fair in our decisions.

For this initial review, we have relied extensively on the data in the TIGTA audit report, additional underlying data supporting the audit, further fact gathering and analysis by IRS management through review of e-mails and other documents gathered to date, and evidence uncovered through the ongoing employee interviews conducted by TIGTA and Congress. Based on the information we have reviewed to date, we can draw the following conclusions within the two broad categories depicted below:

- Process and execution failures affected a particular subset of applicants for tax exempt status beginning in 2010:
    - Personnel in the Exempt Organizations (EO) unit applied inappropriate screening criteria to applicants for tax exempt status, creating BOLO listings that resulted in the improper targeting of a number of applicants for additional scrutiny.
    - Even after management in the EO unit identified this activity and put in place steps to correct the behavior, the inappropriate scrutiny was allowed to return.

[2] Documents produced by the IRS during our 30-day review (and provided to Congress in response to their requests) revealed the use of political and other inappropriate labels in BOLO lists used by the EO unit, beyond those inappropriate labels identified in the TIGTA report. The Principal Deputy Commissioner directed the suspension of the use of all BOLO lists in the EO unit effective June 12, 2013.

- Some applicants were subjected to overly burdensome and intrusive questionnaires and data requests that went beyond an acceptable level of fact finding.
- Applications for tax exempt status remained unresolved well beyond the 120 days that the IRS has set as the standard for making determinations due, at least in part, to internal misunderstandings, poor communication, ineffective collaboration, and a lack of clarity on the proper standards for adjudicating the applications.

- IRS management failures:

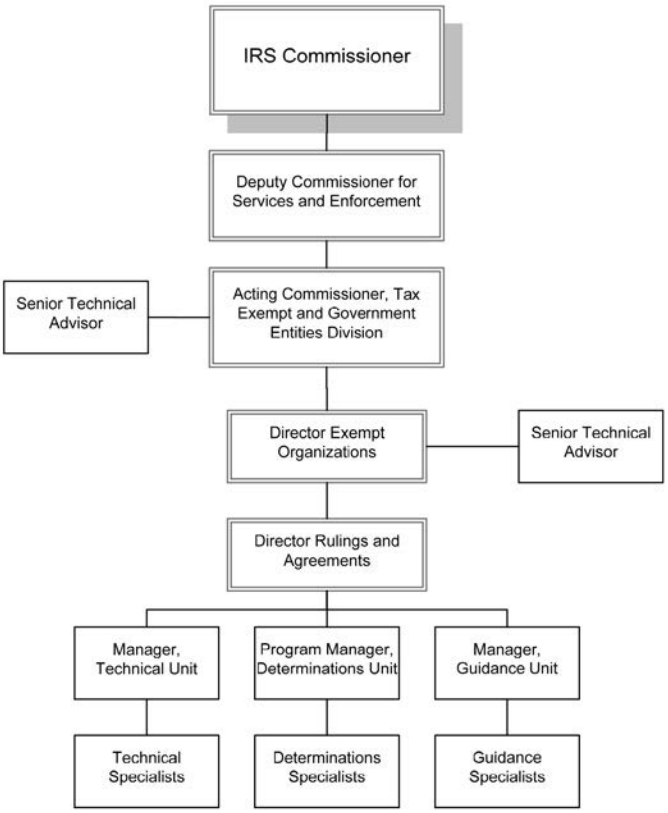
  - EO Management failed to identify the inappropriate activities in a timely fashion (it took 16 months from the time this activity began before the first briefing was provided to the EO Director on the topic, according to the timeline in the TIGTA report).
  - EO management failed to properly and expediently escalate these issues to the highest levels of senior leadership in the IRS.
  - Senior IRS leadership did not effectively oversee activities within EO, failing to take appropriate, proactive steps to identify and help address significant emerging operational risks.
  - Even after senior IRS leadership was informed of the inappropriate activities in question, it failed both to effectively put an end to the activity and to inform the proper committees in Congress in a timely fashion, despite requests from Congress on this topic.

This summary, based largely on the findings and supporting evidence associated with the TIGTA report, represents a list of significant failures by the IRS, including failures of transaction processing, customer service, effective collaboration, management, and overall leadership. Moreover, our own review to date of the evidence and communications associated with these activities indicates significant miscommunication between and among the various parts of the EO unit, along with a lack of critical thinking and judgment on behalf of key executives within and beyond this unit. These leaders did not adequately identify emerging problems (such as a growing backlog of applications for tax exempt status), effectively manage their organizations while this backlog continued to grow unabated, or elevate risks and issues to higher levels of authority. As a result, we have taken actions to hold IRS personnel accountable, impacting multiple levels of the IRS organization.

The Privacy Act of 1974 limits our ability to identify individual names and individual disciplinary actions in this Report. However, we can state that, by way of various personnel actions as a result of the activities covered in TIGTA report, a total of five executives are no longer in the positions they held at the time that the TIGTA report was published. As can be seen in Figure 1, the entire leadership chain, from the top of the organization to the front-line executives in the mission area

where these activities occurred, has been replaced since the TIGTA report was published (these changes are highlighted in red double-lined boxes). (Figure 1 is an adaptation of the portion of the IRS organization chart that was depicted in Appendix V in the TIGTA report, focusing on the chain of command that was relevant for the topics covered in that report.)

Figure 1: High-Level Organizational Chart of Offices Referenced in the TIGTA Report



The management changes highlighted are consistent with our guiding principles of thorough, fair, and expedient action, and represent conclusions we have drawn to date. We also recognize that accountability determinations will continue to be evaluated until all investigatory activity is complete.

Additional Actions Still to be Determined

At this time, there are ongoing reviews and investigations being conducted by IRS leadership, TIGTA, the Department of Justice, and Congressional committees. As specifically requested by TIGTA and the Department of Justice, and in order to avoid disruption with their ongoing investigations, we are relying on the professional investigators from these entities to interview employees about root causes of the identified problems. Concurrent with TIGTA's work, IRS management is continuing to review relevant documentary evidence to ensure all aspects of the investigation are carefully considered. All of the various fact-finding efforts underway will have a direct bearing on decisions we will make about additional accountability measures. Consistent with our approach to date, if there is sufficient evidence to conclude that an individual can no longer hold a position of public trust within the IRS, we will take appropriate personnel action.

To support these accountability determinations, we have convened an Accountability Review Board to assist in sorting through the record and helping identify appropriate personnel actions. This Board, consisting of senior executives and human resource professionals from across the IRS and representation from the Office of Personnel Management, will initially assist in determining any appropriate disciplinary action for executives who thus far have been placed on administrative leave. It is important to reach closure on those personnel actions in a timely fashion. The Board will also assist in any further personnel actions that may be appropriate for other individuals who participated in these activities. A one-size-fits-all approach to accountability is too broad for actions that may contain greater nuances for each of the individuals involved. Accordingly, we expect this Board to help sort through the evidence and yield recommendations for action on a case-by-case basis. Among other criteria, we expect that the Board will take into consideration the so-called "Douglas Factors," which are based on a landmark decision by the Merit Systems Protection Board (MSPB) and establish criteria that supervisors must consider in determining an appropriate penalty to impose for an act of employee misconduct (see Appendix A for a listing of the 12 "Douglas Factors"[3]). The Board, which was officially formed on June 17, 2013, is expected to provide recommendations for any disciplinary action on an ongoing basis over the next 60 days (and thereafter as needed). Any further action will be taken at that time.[4]

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[3] The MSPB case was Curtis Douglas v. Veterans Administration, 5 MSPB 313, 332 (1981).

[4] The IRS will ensure that any such action will be in compliance with all statutory and regulatory requirements governing personnel actions for Federal employees, including appropriate due process, consultation with employees' exclusive representatives, and other applicable requirements. In many cases, such compliance may require additional time and create constraints on the actions the IRS is able to take or publicly disclose.

It is important to note that, at this point in time, we have not uncovered any evidence that we believe changes the conclusions in the TIGTA report that this inappropriate behavior resulted from significant mismanagement and poor judgment. We have not found evidence of intentional wrongdoing on behalf of IRS personnel. Further, we have found no evidence to date that anyone outside the IRS had any role in initiating or encouraging this activity. However, we also recognize that TIGTA, the Department of Justice, and Congress, are gathering additional evidence, as are we, and we will evaluate all new information on an ongoing and frequent basis. We are committed to a full vetting of the evidence and will work with TIGTA, the Department of Justice, and Congress to make such evidence and conclusions public, to the extent allowable under the law.

2. Fixing the Problems with the Review of Applications for Tax Exempt Status

Section Summary

A critical component of our action plan is to implement necessary controls to permanently address the problems with the tax exempt application process, as identified in the TIGTA report. As noted in Section 1, installing new leadership is the first in a series of corrective actions. In this section, we will highlight the additional steps that we are taking to reform our business practices in the review of applications for tax exempt status, using the nine recommendations stated in the TIGTA report as the organizing framework for this discussion. We have accepted all nine recommendations in full, are making effective progress in implementing them, and have identified additional solutions beyond the TIGTA recommendations.

Specifically, the IRS has:

- Suspended the use of BOLO lists in the application process for tax exempt status;
- Initiated an end-to-end overhaul of the business processes by which applications for tax exempt status are fulfilled;
- Begun to develop new guidance materials to allow IRS staff to operate without BOLO lists and under the reformed, more efficient process flows;
- Added technical and programmatic experts to assist the EO staff with the review of applications for tax exempt status;
- Initiated a new process whereby certain taxpayers whose applications for 501(c)(4) tax exempt status had been identified for potentially inappropriate campaign intervention and have been in our backlog for more than 120 days have the option of obtaining an approval if they self-certify that no more than 40% of their expenditures and voluntary person-hours will go toward political campaign intervention activities and that at least 60% of their expenditures and voluntary person-hours will go toward promoting social welfare;
- Created a new "Advocacy Application Review Committee" to provide expertise from other parts of the IRS to review screening and determination decisions;
- Begun the process to create a new check and balance mechanism, where IRS criteria and screening procedures will be reviewed on a systemic basis and any material risks of the use of inappropriate criteria found will be

reported to the IRS Commissioner, the IRS Oversight Board, and the relevant tax committees of Congress;

- Engaged with the Department of the Treasury regarding the need for greater clarity for certain terms that are relevant for 501(c)(4) tax exempt organizations, with a commitment for inclusion in the next Treasury Priority Guidance Plan.

We expect these various improvements and mechanisms to result in a rapid elimination of the existing backlog of applications for tax exempt status, with an initial focus on the backlog of potential political applications for tax exemption under Internal Revenue Code Section 501(c)(4). The new procedures will also help to ensure that the high standards of the IRS Mission Statement for appropriate and effective customer service will be adhered to in the application process for tax exempt status going forward.

Management Changes

While many of the actions that will be discussed in this section revolve around the nine recommendations made in the TIGTA report, there are other important steps we are taking that go beyond those specific recommendations. For example, as discussed in the prior section, we have brought in new leadership for a number of critical positions, with clear direction on what is expected from these individuals in their roles as leaders and managers of our day-to-day operations. These new leaders span the entire IRS management chain and reach into the EO unit and the team responsible for determinations on applications for tax exempt status. In identifying the right individuals to install in new leadership positions, we have worked closely with the IRS senior executive team to identify individuals from across the organization who hold the highest levels of integrity and have demonstrated a strong track record of effective management. We have sought leaders who have the ability to get things done and to focus on the combination of proper adherence to our tax laws and regulations as well as in providing high levels of service to our taxpayers.

Specifically, in addition to the appointment of new leadership in the Commissioner's Office, the following new leaders are in place within the IRS:

- Office of the Deputy Commissioner, Services and Enforcement (Heather Maloy)
- Office of the Commissioner, Tax Exempt and Government Entities (Michael Julianelle)
- Director, Exempt Organizations (Ken Corbin)
- Director, Rulings and Agreements, Exempt Organizations (Karen Schiller)

These new leaders have already begun to not only execute on their new responsibilities, but also to collaborate with the many other experienced and high-caliber leaders already in place across the IRS. Collectively, we are moving forward with the necessary actions to address the

deficiencies highlighted in the TIGTA report. Specifically, we reaffirm IRS's full agreement with all nine of the recommendations made in the TIGTA report and our firm commitment to the implementation of each of those recommendations. In some cases, we are implementing solutions that go beyond what was in the TIGTA recommendations, but those recommendations are our starting point. TIGTA has provided a roadmap for how to correct the problems that TIGTA identified, and we will be following that roadmap, including expanding upon it where there is even greater opportunity for improvement.

It is also imperative that we implement our corrective steps in a rapid and transparent manner, with an immediate focus on resolving the applications that have been sitting in the backlog for an extended period of time, which we refer to as our "priority backlog" (see the response to Recommendation 7 for more information on our new processes associated with managing this backlog and where we are in that process). As announced in Congressional testimony earlier this month, we will be maintaining and updating the status of each of these recommendations on the IRS web site, www.irs.gov, until such time as all of them have been implemented. Michael Julianelle, our new Acting Commissioner of Tax Exempt and Government Entities (TE/GE), and Ken Corbin, our new Acting Director of EO, are responsible for overseeing the implementation of these recommendations and providing frequent updates as to their status on our web site.

The following provides the current status, actions taken to date, pending actions, and estimated completion date for each of the nine TIGTA recommendations.

Status of the TIGTA Recommendations

TIGTA Finding No. 1

The Determinations Unit Used Inappropriate Criteria to Identify Potential Political Cases

TIGTA Recommendation 1: Ensure that the memorandum requiring the Director, Rulings and Agreements, to approve all original entries and changes to criteria included on the BOLO listing prior to implementation be formalized in the appropriate Internal Revenue Manual.

a. **Status**: Complete (additional action beyond recommendation still ongoing)
b. **Actions Taken to Date**:
    i. The memorandum was put into effect on May 17, 2012 (see Appendix B). Because, as discussed below, the use of BOLO lists has been suspended, this memo regarding their use will not need to be incorporated into the IRM at this time.
    ii. The Principal Deputy Commissioner directed the suspension of the use of BOLO lists within the EO function on June 12, 2013. This action was

formalized via a memorandum from the Acting Director, Rulings and Agreements on June 20, 2013 (see memo in Appendix C). This memorandum will be further formalized in Interim Guidance issued by June 28, 2013.

1. In the absence of BOLO lists, the Determinations Unit will continue to screen for information affecting the determination of applications for tax exempt status, including activity tied to political campaign intervention, but it will be done without regard to specific labels of any kind.

c. **Pending Actions**:
   i. Provide training to staff on how to apply the appropriate screening criteria in the absence of BOLO lists (part of which will be based on actions outlined in Recommendations 2 and 3).
d. **Estimated Completion Date**: June 28, 2013 for the original TIGTA recommendation; September 30, 2013 for the follow-on activity

TIGTA Recommendation 2: Develop procedures to better document the reason(s) applications are chosen for review by the team of specialists (e.g., evidence of specific political campaign intervention in the application file or specific reasons the EO function may have for choosing to review the application further based on past experience).

a. **Status**: Ongoing
b. **Actions Taken to Date**:
   i. The Acting Director, EO is satisfying this recommendation in two steps.
      1. Improving the documentation of the reasons applications are chosen for review by the team of specialists.
         a. The Acting Director, EO has organized a team to review, update, and formalize the documentation. The team consists of representatives from various IRS divisions, including Small Business / Self-Employed, Wage and Investment, Chief Counsel, and Exempt Organizations.
         b. The team formed and began its work the week of June 17, 2013.
      2. Reviewing the process associated with the selection of applications for tax exempt status for further review.
         a. This same team will partner with members of an IRS internal team of highly trained process improvement experts, which will also include employees from the office of Privacy, Governmental Liaison, and Disclosure, to evaluate the business process associated with the initial evaluation of the application through the steps associated with the selection for review.

b. The expected outcome is a more efficient business process, to be coupled with enhanced documentation.
c. This process review began the week of June 17, 2013.

c. **Pending Actions**:
   i. Complete assessments of the documentation and the current business process.
   ii. Implement the use of the new documentation and updated business process.
d. **Estimated Completion Date**: September 30, 2013

TIGTA Recommendation 3: Develop training or workshops to be held before each election cycle including, but not limited to, the proper ways to identify applications that require review of political campaign intervention activities.

a. **Status**: Ongoing
b. **Actions Taken to Date**:
   i. Implementing this recommendation will be a four-step process, the first of which has already been completed:
   Step 1: Review current content of the training program and materials
      a. The Acting Director, EO established a team to review the training materials currently in use regarding proper identification of applications that require review of political campaign intervention activities.
      b. These materials had been initiated in previous workshops, but had not been aggregated and consolidated into formal training materials.
c. **Pending Actions**:
   i. Three steps remain in the implementation of the four-step process:
   Step 2: Update the content of training materials based on new information derived from Recommendation 2
      a. This same team will monitor the progress of the implementation of Recommendation 2, and update the training materials accordingly.
   Step 3: Migrate the training to IRS's Electronic Learning Management System, which is the Service's core repository for enterprise-wide training
   Step 4: Deliver the training
      b. As recommended by TIGTA, training related to political campaign intervention will be delivered close in time to election cycles. We estimate that this broad delivery of training will begin on or around January 2014, in order to train personnel in advance of the 2014 election cycle.

c. Training will be repeated for all relevant EO employees on an annual basis.

d. **Estimated Completion Date**: June 30, 2013 for initial training material to be reviewed; January 2014 for delivery of new training

TIGTA Finding No. 2

Potential Political Cases Experienced Significant Processing Delays

TIGTA Recommendation 4: Develop a process for the Determinations Unit to formally request assistance from the Technical Unit and the Guidance Unit. The process should include actions to initiate, track, and monitor requests for assistance to ensure that requests are responded to timely.

a. **Status**: Complete (with additional activity ongoing to enhance the technical solution that is supporting the new process)

b. **Actions Taken to Date**:

i. Implementing this recommendation will be a two-step process:

1. Define the process and implement with a short-term technology solution

a. Close and transparent coordination between the Determinations Unit and the Technical and Guidance Units is critical to effectively managing the applications that are in the process of being reviewed.

b. These organizations formalized the process of coordination on June 21, 2013, under the direction of the Acting Commissioner, TE/GE and the Acting Director, EO.

c. The new process is documented in written procedures, and was enabled using a spreadsheet-based tracking tool that monitors more than 20 different data elements associated with a particular case, including a number of dates associated with key steps in the processing of the case.

d. The spreadsheet model, which went into operation on June 21, 2013 and satisfies the TIGTA recommendation, was utilized because it could be deployed quickly and provides a basic structure for effective collaboration.

2. Evolve to a more robust technology solution that can ultimately supplant the spreadsheet model (see below for pending actions)

c. **Pending Actions**:

i. Evolve to a more robust technology solution

1. While the spreadsheet model is an acceptable short-term solution for this collaboration, we believe a more robust technology would be appropriate for a longer-term solution.
2. The Acting Commissioner, TE/GE and Acting Director, EO will review existing technical solutions that perform a similar coordination and tracking function within the IRS, and look to repurpose one or more of those solutions to fulfill this requirement.
3. The final step will be to convert the coordination process from the spreadsheet-based model to this more robust technology solution.

d. **Estimated Completion Date**: Step 1 (spreadsheet based solution) went into effect on June 21, 2013. Step 2 evaluation is underway, with an estimated implementation date of September 30, 2013.

TIGTA Recommendation 5: Develop guidance for specialists on how to process requests for tax exempt status involving potentially significant political campaign intervention. This guidance should also be posted to the Internet to provide transparency to organizations on the application process.

a. **Status**: Ongoing
b. **Actions Taken to Date**:
   i. One of the significant challenges with the 501(c)(4) review process has been the lack of a clear and concise definition of "political campaign intervention". For example, it is often difficult to determine whether or not a particular paid advertisement is taking a position on a public policy issue or constitutes an attempt to influence an election, and, in turn, how that decision might factor into the overall evaluation of whether an organization is primarily engaged in promoting social welfare. Such complicated determinations currently rely on lengthy revenue rulings and judicial opinions with examples that serve to assist an evaluation based on all facts and circumstances.
   ii. Given the complexity of the issues involved and the immediate need to alleviate the existing backlog of 501(c)(4) applications that have some indication of potential or actual political campaign intervention, IRS Chief Counsel has assigned six additional attorneys to support the specialists in the EO Technical team on the most complex cases related to political campaign intervention. The IRS Chief Counsel team began to provide this additional support and expertise on June 11, 2013. Also, an expedited process (explained in the response to Recommendation 7) relying on applicant certifications for cases in the backlog was developed and is being implemented.

iii. The applicable revenue rulings can be found in Appendix D of this Report, and are being posted to the Internet.

c. **Pending Actions**:
   i. In addition to the primary revenue rulings, the specialists, who reside in the EO Technical division, will receive further guidance in these areas from IRS Chief Counsel.
   ii. The IRS will determine how to process all other 501(c)(4) applications involving potentially significant political campaign intervention activity after reviewing the experience of the use of expedited procedures for the priority backlog (as described in the response to Recommendation 7) that is the initial focus for these efforts.
   iii. Any subsequently-created guidance or other materials affecting the determinations process, including the guidance discussed in the response to Recommendation 8, will be posted to the Internet.

d. **Estimated Completion Date**: June 27, 2013 for the process for the priority backlog; January 31, 2014 for processing of other 501(c)(4) applications

TIGTA Recommendation 6: Develop training or workshops to be held before each election cycle including, but not limited to: a) what constitutes political campaign intervention versus issue advocacy (including case examples) and b) the ability to refer for follow-up those organizations that may conduct activities in a future year which may cause them to lose their tax exempt status.

a. **Status**: Ongoing
b. **Actions Taken to Date**:
   i. The Acting Director, EO engaged the EO Determination Manager to initiate development of training material and to establish the delivery timeline.
   ii. The material for part (a) will be based on the revenue rulings found in Appendix D, as well as the additional guidance referenced in the response to Recommendation 5.
   iii. The material for part (b) will be influenced by the business process analysis described in the response to Recommendation 2.
c. **Pending Actions**:
   i. IRS Chief Counsel will review additional training materials that are produced.
   ii. Training will be delivered on an as-needed basis, with a particular focus on the timeframe leading up to the future election cycles.
d. **Estimated Completion Date**: January 31, 2014

TIGTA Recommendation 7: Provide oversight to ensure that potential political cases, some of which have been in process for three years, are approved or denied expeditiously.

a. **Status**: Ongoing
b. **Actions Taken to Date**:
    i. Appropriately resolving the cases that have been in the queue for action and resolution for unacceptable periods of time is a top priority for the IRS, and we have already taken a number of steps to not only begin to clear that backlog, but also to dramatically improve both the oversight and the throughput within the evaluation process.
    ii. For the purposes of this discussion, we have defined the "priority backlog" for our *initial* focus to be 501(c)(4) applications that have been previously identified as "potential political cases" – i.e., the focus of the TIGTA audit – and that were submitted to the IRS for initial review more than 120 days prior to May 28, 2013 (the first week of new leadership at the IRS). There were 132 cases that fell into this category at that time.
    iii. Specifically, we are following two primary paths that will help us to clear this backlog. Of note, Path 2 is available specifically for those applicants in the priority backlog, and is not available to other applicants at this time.

    iv. Path 1: Strategic Utilization of Additional Resources and Process Refinement
        1. In recognizing the challenge in evaluating some of these applications (in particular trying to determine whether the applicant is primarily engaged in social welfare activities), we have taken steps to dedicate additional resources from other segments of the IRS to support the determinations that are pending in this backlog (as mentioned in the response to Recommendation 5). We recognize that many of these determinations are "close calls" based on the current laws and regulations and the specific facts and circumstances of each individual submission. There is a detailed body of fact-based guidance that informs these determinations, thereby often requiring a sophisticated legal and complex factual review to evaluate the application. Path 1 to implementing this Recommendation focuses on providing additional staff to support specific elements of this complex evaluation process, as well as refinements to the review and approval process:
            a. Additional clerical staff members have been provided from the Wage and Investment Division to assist in managing

the logistics associated with the current backlog, to ensure that packages are moving quickly from one stage in the process to the next.

b. Front-line EO Determinations Unit staff members have received instructions to escalate applications to the EO Technical Unit where there is evidence of a non-insubstantial degree of potential political campaign intervention in the applications.

c. The EO Technical Unit has received additional instructions on how to evaluate these cases.

d. The EO Technical Unit now has the ability to engage additional attorneys assigned by IRS Chief Counsel to assist in these complicated determinations. The additional attorneys began to provide this support on June 11, 2013.

e. We have created a three-member "Advocacy Application Review Committee," consisting of executive counsel and the new executive leadership in TE/GE that will review the file, apply the law to the facts presented, and evaluate whether the applicant has satisfied the requirements for exemption under Section 501(c)(4). This Review Committee will render the final determination for any cases for which additional review has been requested and for any case for which a denial has been proposed.

f. The Review Committee will also be responsible for frequent updates (at least weekly) to the Office of the Deputy Commissioner, Services and Enforcement, on the status of resolving all cases in the priority backlog, providing expanded oversight to ensure the milestones put forth in this Report remain on track to be met.

2. Thus far, we have made determinations on 34 cases in the original backlog (26%). Those determinations include 17 approvals, 4 applications withdrawn by the applicants, and 13 cases closed for "failure to establish" (i.e., failure to provide necessary information). None of the cases in this backlog have been disapproved to date.

3. Importantly, due to the fact that some of these determinations represent difficult and complex judgments, some may still take longer to resolve than others.

v. Path 2: Streamlined Approval Process for the Priority Backlog

1. The primary challenge associated with making a determination for the cases in this backlog relates to the significance of potential or actual political campaign intervention activity associated with the applicant. The current regulatory standard allows for some political campaign intervention or other activity, but the organization must be "primarily" engaged in activities that promote social welfare.
2. Within certain parameters, it is appropriate for applicants in the priority backlog to have the opportunity to self-certify the degree to which political campaign intervention may be part of their organization's scope of activity. With this new option, applicants who self-certify that their level of political campaign intervention activity is below a defined threshold, and that their level of social welfare activity is above a defined threshold, will be approved on an expedited basis, which is expected to be two weeks or less (see below for threshold levels).
3. Specifically, we have crafted the following statements for certification by applicants in the priority backlog:
   1) During each past tax year of the organization, during the current tax year, and during each future tax year in which the organization intends to rely on a determination letter issued under the optional expedited process, the organization has spent and anticipates that it will spend 60% or more of both the organization's total expenditures and its total time (measured by employee and volunteer hours) on activities that promote the social welfare (within the meaning of Section 501(c)(4) and the regulations thereunder).
   2) During each past tax year of the organization, during the current tax year, and during each future tax year in which the organization intends to rely on a determination letter issued under the optional expedited process, the organization has spent and anticipates that it will spend less than 40% of both the organization's total expenditures and its total time (measured by employee and volunteer hours) on direct or indirect participation or intervention in any political campaign on behalf of (or in opposition to) any candidate for public office (within the meaning of the regulations under Section 501(c)(4)).

4. Appendix E contains a sample letter providing the option for Path 2 to an applicant that is currently part of the priority backlog. This letter also contains a brief set of additional instructions and safe harbors for counting activities. In order to use Path 2, the organization must use the specific safe harbors and must include the following activities when counting the amount of political campaign intervention it is engaged in:
    a. Public communication identifying a candidate within 60 days prior to a general election or 30 days prior to a primary;
    b. Events at which only one candidate, or candidates of only one party, are invited to speak; and
    c. Grants to other 501(c) organizations that engage in political campaign intervention.
5. We chose the thresholds described here (below 40% for political campaign intervention activity and above 60% for social welfare activity) and provided special instructions for measuring activities in order to provide a basis for determining what is meant by "primarily" engaged in social welfare activities (with the understanding that no precise definition exists in relevant revenue rulings, cases, or regulations for "primarily" in this specific context and that the statute does not provide clear guidance on how the determination should be made). Organizations that wish to be evaluated under all the facts and circumstances rather than to conduct their own measurements retain that option via Path 1.
6. Any entity in the priority backlog that determines that its political campaign intervention activity represents less than 40% of its total activity using the safe harbor rules established in the instructions should be able to confidently respond to this assertion in the affirmative. If the estimate is above 40% or cannot be made because of the safe harbor counting rules, the case involves a "closer call" that would be more appropriate to go through the review process outlined in Path 1 above. Similarly, if the estimate for social welfare activity is below 60%, also representing a "closer call," then we believe it would be more appropriate to go through the review process outlined in Path 1.
7. Applicants will have 45 days to return the optional representations to the IRS, and no denial determinations will be made in that 45-day timeframe.

8. Path 2 is completely optional for the applicant and no inference will be drawn from an applicant's choice about whether or not to participate.
9. If the applicant declines to pursue Path 2, the application will continue to be worked through Path 1 for its determination.
10. In either case, the applicant may still be subject to an examination by the IRS at a later date.

vi. Concurrent with the publication of this Report, and while continuing to process applications via Path 1, we are sending Path 2 representation letters this week to those applicants that remain in our priority backlog at the time of this Report.

c. **Pending Actions**:
   i. Continue processing the priority backlog items via the Path 1 option, while pursuing the Path 2 option in parallel.
   ii. Applications that are determined to be approved via Path 1 will receive their determination notice immediately upon decision.
   iii. Applications that are supported by the certifications associated with Path 2 will cease to be reviewed in the determinations process, and will receive their approval notice within two weeks of IRS's receipt of the certifications.
d. **Estimated Completion Date**: September 30, 2013.

TIGTA Recommendation 8: Recommend to IRS Chief Counsel and the Department of the Treasury that guidance on how to measure the "primary activity" of I.R.C. § 501(c)(4) social welfare organizations be included for consideration in the Department of the Treasury Priority Guidance Plan.

a. **Status**: Complete
b. **Actions Taken to Date**:
   i. IRS initiated discussion with the Department of the Treasury in May 2013 to discuss possible changes to the guidance on how to measure "primary activity" with respect to social welfare for 501(c)(4) applications. These discussions included the consideration of how to clarify the definition of "political campaign intervention."
   ii. The Department of the Treasury agreed to include these items in the next Priority Guidance Plan, consistent with the TIGTA recommendation.
   iii. See section below, Additional Considerations, for additional discussion.
c. **Pending Actions**:
   i. None remaining
d. **Estimated Completion Date**: May 2013

TIGTA Finding No. 3

The Determinations Unit Requested Unnecessary Information for Many Potential Political Cases

TIGTA Recommendation 9: Develop training or workshops to be held before each election cycle including, but not limited to, how to word questions in additional information request letters and what additional information should be requested.

a. **Status**: Ongoing
b. **Actions Taken to Date**:
    i. The Acting Director, EO has updated the business process associated with creating letters which request additional information from 501(c)(4) applicants, particularly with respect to potential political campaign intervention activity.
    ii. In particular, the Office of Taxpayer Correspondence, which resides in the Return Integrity and Correspondence Services unit within the Wage and Investment Division, has been engaged to begin to assist in this process in both an advisory role and an oversight role.
        1. The Office of Taxpayer Correspondence is the IRS hub for comprehensive correspondence services, ranging from design and development to effectiveness and downstream impact. This office helps the IRS business units provide consistency, quality, and plain language for notices and letters, with the goal of helping taxpayers take the appropriate action to resolve their tax issues.
c. **Pending Actions**:
    i. Under the oversight of EO management, the Office of Taxpayer Correspondence will create guidance on the appropriate content and wording of questions for use by the case workers who actually prepare the letters that request this additional information.
    ii. The Office of Taxpayer Correspondence will also assist EO Management in further enhancing the business process of letter preparation, providing a review of the content of these letters and the consistency in the application of the standards prior to dissemination to applicants.
d. **Estimated Completion Date**: The process changes and initiation of advisory services by the Officer of Taxpayer Correspondence went into effect on June 4, 2013. The pending actions will continue to develop, including the formal delivery of training, until January 2014 (or longer, if the support is still required).

Additional Consideration

It is important to make clear that the IRS does not write the country's laws (the Constitution places that responsibility in the hands of Congress), nor is the IRS responsible for the development of tax policy (the Department of the Treasury maintains that responsibility on behalf of the Administration). The IRS is responsible for *administering* the nation's tax laws and regulations. However, we would be remiss in any analysis of the problems associated with 501(c)(4) applications not to highlight the significant challenges that exist within the current construct of laws and regulations that govern this set of applications.

It has been a common refrain from Congress and the public that the rules that are applicable for 501(c)(4) eligibility are ambiguous and confusing, both for the taxpayer and for the staff within the IRS whose responsibility it is to administer those laws and regulations. Section 501(c)(4) provides exemption for organizations that, among other things, are "operated exclusively for the promotion of social welfare." Under regulations promulgated in 1959, an organization is deemed to meet this test if it is "primarily engaged in promoting in some way the common good and general welfare of the people of the community." The same regulations expressly exclude political campaign intervention from the definition of social welfare. The distinction between campaign intervention and social welfare activity, and the measurement of an organization's social welfare activities relative to its total activities, have created considerable confusion for both the public and the IRS in making appropriate 501(c)(4) determinations.

Both the taxpayer and the IRS would benefit greatly from clear definitions of these concepts. The lack of clarity did not cause the inappropriate screening and poor managerial oversight noted in the TIGTA report, nor does it excuse them. But we do believe that it played a role in the lengthy delays in at least some of the determinations associated with these cases.

3. Broad Review of IRS Operations and Challenges

Section Summary

In addition to fixing the problems identified in the TIGTA report, it is important that we respond to emerging questions from taxpayers on the extent to which similar issues may exist in other parts of the organization. To address these questions, we have initiated:

- A thorough review and vetting of the organizational failures that resulted in the problems identified in the TIGTA report;
- An assessment of whether similar issues exist in other IRS business units;
- A series of reforms to address each finding.

The table below summarizes our current conclusions resulting from this review.

Problem Area from TIGTA Report	Broader Applicability	Planned Reform
Use of inappropriate criteria to select taxpayers for increased compliance scrutiny. Criteria used to select taxpayers for increased compliance scrutiny in the 501(c)(4) application process violated the IRS Mission Statement.	There is no current evidence of the use of inappropriate criteria in other IRS business units or processes; however we recognize there is public concern in this regard and therefore additional mechanisms to evaluate appropriateness of criteria should be initiated.	Validate that screening and selection criteria are fully documented across all IRS business units and make them subject to routine objective review to address the concern that has been expressed.
Deficiencies in taxpayer service. Taxpayers confronting undue burden and delays with respect to the review of 501(c)(4) applications did not appear to have an effective mechanism to resolve matters through the IRS.	The IRS has mechanisms, such as the Taxpayer Advocate Service, to assist taxpayers who are having difficulty resolving matters with the IRS. However these mechanisms are not well understood by taxpayers and therefore are not being sufficiently leveraged.	Raise taxpayer awareness of their rights and tools, such as the Taxpayer Advocate Service, and further elevate the transparency of, and accountability for, taxpayer issues being routinely raised by the National Taxpayer Advocate.
Leadership awareness and accountability. Substantial delay occurred with IRS leaders responsible for overseeing the EO unit in identifying and addressing emerging risks.	The IRS Commissioner and other leaders across the organization have not always had sufficient knowledge of emerging operational risks within the various IRS business units.	Structural enhancements to improve the systematic and timely flow of information on emerging operational risks to the attention of the IRS Commissioner and other key IRS leaders, including the establishment of a new Enterprise Risk Management Program.

Disclosure of critical information to external stakeholders. Information on emerging risks within the EO unit shared with Congress was insufficient, despite specific inquiries into the matter.	Overall lack of information by IRS leaders on emerging risks stifles the timely flow of such information to external stakeholders, such as Congress and the IRS Oversight Board.	Establish routine reporting on IRS operational risks with Congress and the IRS Oversight Board (in cases where disclosure would involve taxpayer sensitive information, disclosure would occur on a confidential basis to the relevant Congressional tax committees).

Our broader review of the IRS also evaluated other challenges and opportunities that may exist. All organizations face challenges and risks, and it is our intent to raise awareness of these elements of our business in order to proactively mitigate them before they manifest themselves as true operational issues that could impact our ability to effectively fulfill our core mission. We will explore some of our challenges with respect to budget, cost management, human capital, and the overall complexity of our mission responsibilities.

Finally, any comprehensive review of IRS operations must recognize the many critical successes of the IRS in carrying out its mission. These successes not only positively impact the lives of many citizens, but also serve as a foundation for greater improvements in IRS operations in the future. They also remind us of the talented and dedicated employees of the IRS who are passionate about their mission to effectively serve the taxpayer and who stand ready to make the necessary changes to sustain a more effective IRS in the future.

Taxpayer Concerns – Issue Areas and Solutions

A thorough response to the TIGTA report requires an assessment of whether the risks and failures identified therein extend to other areas within the IRS. Our review has provided an opportunity to develop an initial set of conclusions regarding the IRS as a whole, beyond the inappropriate activities that occurred with respect to applications for tax exempt status. Our framework for thinking about this broader review has been grounded in the concerns and questions we are hearing from the public. We have summarized these issue areas as follows:

- Improved processes for IRS to validate the appropriateness of our compliance and enforcement efforts, and their consistency with the IRS Mission Statement;
- Enhanced mechanisms for taxpayers to address situations where they feel IRS actions are causing undue burden or delays; and

- Broader opportunities to drive greater accountability, transparency, and effectiveness in the IRS execution of its core mission.

The remainder of this Report provides a description of these issues and planned actions steps.

Improved Processes for Assessment of IRS Compliance / Enforcement Efforts

It is critically important to the effective working of our tax system that the public believes it is receiving appropriate treatment from the IRS that is consistent with principles of our mission statement. This was not the case for certain organizations applying for tax exempt status. The first two sections of this Report have highlighted how we are addressing those problems. In this section, we begin to assess such challenges in the context of other parts of the organization.

From what we have learned, the selection processes followed by the Determinations Group in the EO Unit are fundamentally different from the rest of the IRS in a number of ways. First, unlike most other parts of the laws that the IRS enforces, the 501(c)(3) and 501(c)(4) determinations processes involve the review of an applicant's political activity because whether the applicant is engaged in political campaign intervention is a factor in determining tax exempt status. Second, as previously discussed, the definitions and criteria associated with the laws and regulations for determining 501(c)(4) tax exempt status suffer from ambiguity that contributed in part, along with poor management and judgment, to the development of inappropriate selection criteria and subsequent delays encountered by taxpayers. All current indications are that this sort of political activity analysis, ambiguity, and subjective utilization of criteria does not occur elsewhere in the IRS. Whether in the divisions of Wage and Investment, Small Business / Self-Employed, or Large Business and International (our other major business units), there is no current evidence that our selection criteria is applied inappropriately. The selection criteria are constantly reviewed and adjusted based on extensive data collection and analysis, with the intent to yield the highest return on our enforcement dollars.

Despite these conclusions, the nature of the problems identified in the tax exempt application process, coupled with the concerns raised by taxpayers, warrants a review of certain process controls within the IRS. To this end, the new Chief Risk Officer at the IRS will establish a plan within 60 days that will initiate a comprehensive, agency-wide review of our compliance selection criteria, encompassing all business units across the IRS. To prepare for this review and assessment, we are working with the leadership of the major business units to conduct a thorough evaluation of all relevant documentation, and to prepare updates as warranted. This step will be followed by an analysis of these documented criteria and an objective assessment of the appropriateness of such criteria. We will then share the details of this assessment with the leadership of the Department of the Treasury, the IRS Oversight Board, and the Chairpersons of

the House Ways and Means Committee and the Senate Finance Committee.[5] After the initial agency-wide assessment is complete, we will pursue similar reviews of these processes and selection criteria for at least one of our major business units on an annual basis, and share those results in a similar fashion. Our expectation in carrying out these new procedures is that, with respect to the appropriateness and effectiveness of our compliance or enforcement selection criteria, we maintain consistent and robust standards across the IRS for:

- Documentation;
- Frequency of updates;
- Benchmarking across IRS business units;
- Objective testing and assessments; and
- Routine collaboration with appropriate external stakeholders on the results of all the aforementioned activities.

Enhanced Mechanisms for Taxpayer Recourse

As detailed in the TIGTA report, many of the applicants for tax exempt status faced long delays and unnecessary information requests, compromising their ability to reach an effective, timely, and appropriate resolution of their matter with the IRS. As detailed throughout this Report, breakdowns in managerial effectiveness at various levels within the IRS contributed to these unacceptable results. In addition to management missteps, our system also failed in this instance because more steps could have been taken to make these applicants aware of the avenues they can pursue to resolve open issues with the IRS.

The primary option for taxpayers that have difficulty resolving their IRS problems through normal channels is the Taxpayer Advocate Service (TAS). TAS was established as part of the IRS Restructuring and Reform Act of 1998, and has four primary functions:

i. Assist taxpayers in resolving problems with the Internal Revenue Service;
ii. Identify areas in which taxpayers have problems in dealing with the Internal Revenue Service;
iii. To the extent possible, propose changes in the administrative practices of the Internal Revenue Service to mitigate problems identified under clause (ii); and
iv. Identify potential legislative changes which may be appropriate to mitigate such problems.[6]

The Taxpayer Advocate has the authority to determine significant hardship and issue Taxpayer Assistance Orders that, among other things, can require the IRS "to cease any action, take any

[5] These entities are identified because they are allowed to review taxpayer information, pursuant to Internal Revenue Code Section 6103. To the extent legally allowable, this information will further be shared with the Ranking Members of these Committees along with other interested Committees within Congress.
[6] Internal Revenue Code § 7803(c)(2)(A)

action as permitted by law, or refrain from taking any action with respect to the taxpayer as permitted under the law."[7] According to the Taxpayer Advocate Service website (http://www.taxpayeradvocate.irs.gov/About-TAS/Who-We-Are):

> The Taxpayer Advocate Service (TAS) is *Your Voice at the IRS*. Our job is to ensure that every taxpayer is treated fairly, and that you know and understand your rights. We offer free help to guide you through the often-confusing process of resolving your tax problems that you haven't been able to solve on your own. **Remember, the worst thing you can do is nothing at all!**

According to this same web site, TAS received nearly 220,000 new cases in Fiscal Year (FY) 2012, and was able to provide full or partial relief to the taxpayers in nearly 77% of the cases it closed. Moreover, both IRS employees and taxpayers can identify and elevate systemic problems to TAS through its Systemic Advocacy Management System (SAMS) at http://www.irs.gov/uac/Systemic-Advocacy-Management-System-(SAMS).

Thus, there is an avenue for taxpayers when they believe they are being treated inappropriately, are searching for recourse in resolving matters before the IRS, or need help because they have hardship circumstances that merit immediate attention. But, in this case, TAS was not involved in virtually any of the cases associated with the inappropriate treatment outlined in the TIGTA report with regard to 501(c)(4) applications. In fact, only 19 such cases were referred to TAS over the three-year period beginning at the start of 2010, the majority of which were referred by Members of Congress and not the taxpayer or IRS personnel. These results warrant specific improvements to the overall effectiveness of our TAS framework.

One of the primary sources of cases being referred to TAS is the IRS workforce. The workforce has an obligation to refer cases to TAS when they are unable to resolve a taxpayer's problem. Historically, this has rarely occurred within the EO unit and, as noted, did not occur for the concerned 501(c)(4) applicants in the matters described in the TIGTA report. It was the responsibility of IRS personnel in the EO unit to refer these cases to TAS, but that did not occur. As an important first step in addressing this shortcoming, the Acting Commissioner of the TE/GE division and the Acting Director, EO will work with the National Taxpayer Advocate to put a training program in place for all EO personnel on their responsibilities with respect to referring cases to TAS.

Of note, these processes often work as intended across most of the IRS. Personnel are properly trained and frequently do refer cases to TAS as required, although there are steps we can take to further emphasize these responsibilities on an ongoing basis. Moreover, there are other mandatory protections in place that are routinely administered in the proper fashion. For example, whenever any taxpayer has been identified for audit, among the first acts performed by the IRS is to send the taxpayer a copy of "Publication 1," *Your Rights as a Taxpayer* (see

[7] Internal Revenue Code § 7811

Appendix F for a copy of "Publication 1"). This document provides a clear listing of some of the most important rights provided to all taxpayers, including the following categories:

I. Protection of Your Rights
II. Privacy and Confidentiality
III. Professional and Courteous Service
IV. Representation
V. Payment of Only the Correct Amount of Tax
VI. Help with Unresolved Tax Problems (including contact information for the Taxpayer Advocate Service)
VII. Appeals and Judicial Review
VIII. Relief from Certain Penalties and Interest

Your Rights as a Taxpayer also explains the basic processes and rights associated with examinations, appeals, collections, and refunds. However, since the applicants for 501(c)(4) tax exempt status were not selected for audit, they did not receive "Publication 1." We are currently reviewing areas across the IRS where we believe the distribution of "Publication 1" may be appropriate even when audit selection is not occurring. We expect to complete this analysis and implement any changes in our current processes before the end of the current fiscal year.

Thus, processes are in place to inform taxpayers of their rights and to refer cases to the Taxpayer Advocate Service. However, the nature of the problems identified in the TIGTA report warrant additional steps to ensure these processes are fully leveraged across the IRS. We need to be sure that all IRS employees are aware of their responsibilities with respect to ensuring taxpayers know their rights, and, in particular, how to engage TAS when they feel they are being treated inappropriately or are encountering excessive bureaucratic obstacles. Therefore, beyond the additional training we will pursue specifically for the EO unit as highlighted above, the Acting Deputy Commissioner for Services and Enforcement will work with the National Taxpayer Advocate to evaluate the training provided to all of IRS employees in this regard, and modify it, as appropriate, to make necessary improvements to fill whatever gaps may exist in the current processes or actual behavior. These IRS officials will deliver an action plan to the Commissioner's Office within 60 days with any recommendations that will help mitigate the IRS's risks in this area. Finally, the National Taxpayer Advocate will provide the Commissioner's Office with any additional suggestions that should be considered for expanding national awareness of the TAS program. We recognize that budgetary constraints may limit our efforts in this regard, but we would like the opportunity to evaluate suggestions on how we can improve awareness of this important element of ensuring appropriate and consistent treatment of all taxpayers when dealing with the IRS.

Opportunities and Challenges in Driving Greater Effectiveness in IRS Operations

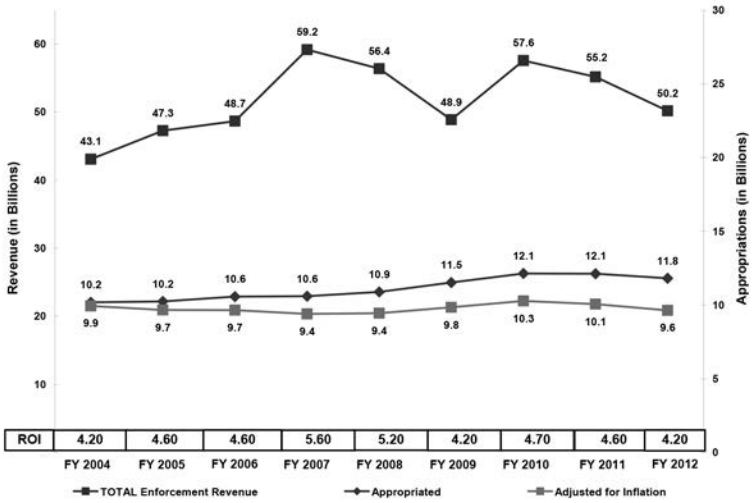
The IRS has an essential responsibility on behalf of the United States Government and the public. The IRS collects 92% of the Government's receipts, representing $2.524 trillion in gross tax receipts before tax refunds in FY 2012. At the same time, the IRS is challenged by many of the same concerns affecting other large organizations, both public and private sector, including budgetary concerns, human capital concerns, and overall programmatic execution concerns. In this section of this Report, we reflect on where we perceive challenges exist for the IRS at this point in time, as well as some concrete actions we are taking and ideas we have under consideration that will continue to position the IRS to successfully execute its mission. The specific topics for discussion include:

- Positive Results and Trends
- Budgetary Concerns
- Human Capital Challenges
- Mission Complexity
- Better Early Warning Systems Needed
- Transparency with Critical Oversight Organizations

Positive Results and Trends

Our first observation is that the IRS has been highly successful in mission execution across its broad portfolio for many years. From an investment standpoint, enforcement actions alone generate revenue of nearly $52 billion per year over the last decade, yielding an average Return on Investment (ROI) of $4.65 for every dollar invested in the IRS during that time (see Figure 2).

Figure 2: IRS: Positive Return on Investment



In terms of the most recent fiscal year, the following are just some of the key accomplishments that were delivered by the IRS in FY 2012:

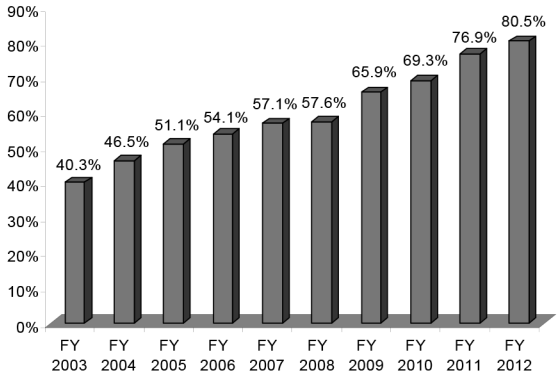
- The IRS enhanced international compliance efforts by implementing new legislation and programs such as the Offshore Voluntary Disclosure Program (OVDP). In January 2012, the IRS reopened the OVDP indefinitely with tightened eligibility requirements in response to strong interest from taxpayers and tax practitioners. From the establishment of the program in 2009 through the end of FY 2012, the OVDP has resulted in more than 38,000 disclosures of underpaid or unpaid taxes and the collection of more than $5 billion in back taxes, interest, and penalties.
- The IRS is working closely with businesses and foreign governments to implement the Foreign Account Tax Compliance Act (FATCA). This legislation strengthens offshore compliance efforts by creating new information reporting requirements on foreign financial institutions with respect to U.S. accounts and establishing new withholding, documentation, and reporting requirements for payments made to certain foreign entities.
- The IRS continues to implement its Return Preparer Program initiative, which began in FY 2011. The foundation of this program is mandatory registration for all paid tax return preparers. Through September 2012, more than 860,000 preparers have requested Preparer Tax Identification Numbers (PTINs) using the online application system. This

PTIN requirement provides an important and improved view of the return preparer community from which the IRS can leverage information to improve communications, analyze trends, spot anomalies, and detect potential fraud, including the refund fraud associated with the Earned Income Tax Credit (EITC) and identity theft. As a result of these efforts, the IRS initiated several hundred criminal investigations into return preparers and achieved a 97.3% conviction rate. The IRS also leveraged real-time data during the 2012 filing season to improve the compliance of more than 1,400 preparers with high numbers of EITC errors.

- The IRS provides year-round assistance to millions of taxpayers through many sources, including outreach and education programs, issuance of tax forms and publications, rulings and regulations, toll-free call centers, www.irs.gov, Taxpayer Assistance Centers (TACs), Volunteer Income Tax Assistance (VITA) sites, and Tax Counseling for the Elderly (TCE) sites.
- The IRS's Criminal Investigative unit was the lead agency in the takedown of Liberty Reserve, one of the world's largest and most widely used digital currency companies, and seven of its principals and employees. This investigation, which uncovered an alleged $6 billion money laundering scheme and the operation of an unlicensed money transmitting business, is believed to be the largest money laundering prosecution in history, involving law enforcement actions in 17 countries.
- The IRS continues to identify and stop fraudulent return filings and refunds through our Accounts Management Taxpayer Assurance Program (AMTAP) and Questionable Refund Program (QRP). In FY 2012 alone:
    - AMTAP stopped more than 2.6 million fraudulent returns and more than $19.2 billion in fraudulent refunds; and
    - QRP identified 1,708 schemes comprising more than 2,045,080 individual returns, detecting and preventing $12.3 billion in QRP refunds.

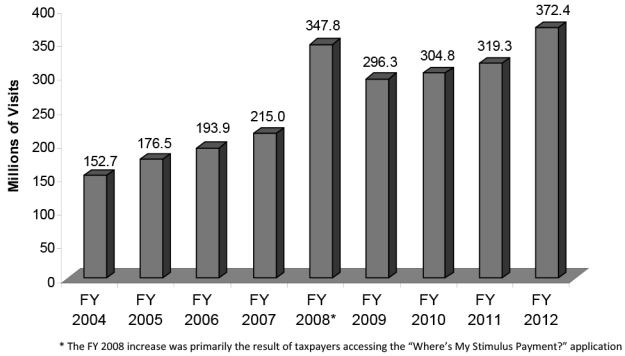
In addition to these positive results in recent years, we have seen a number of positive performance trends. For example, the percentage of individual taxpayers submitting their returns electronically has doubled in the last decade (see Figure 3), with more than 80% of taxpayers now using the e-File process.

Figure 3: Percentage of Individual Taxpayers Filing Electronically



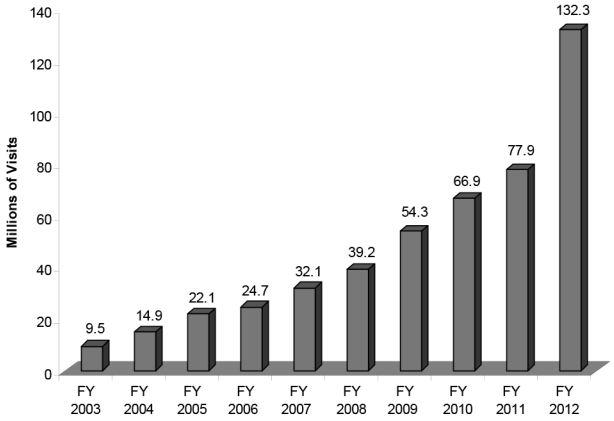
The number of visits to IRS.gov has more than doubled in the last decade (see Figure 4).

Figure 4: Number of Visits to IRS.gov



We have also seen a dramatic increase in the use of the "Where's My Refund?" feature on the IRS website (see Figure 5). This tool, which is updated every 24 hours, has the most up-to-date information on refund status, thereby eliminating the need to contact the IRS by phone.

Figure 5: Use of "Where's My Refund?" On IRS.gov



These are just some of the technology-enabled innovations deployed and adopted in recent years that are driving down cost, driving up quality, and increasing the timeliness of taxpayer service.

Importantly, the Government Accountability Office (GAO) has also recognized the tremendous progress that the IRS has made in this area of information technology-enabled business modernization. In fact, GAO recently removed IRS from its bi-annual High Risk list in the category of Business Systems Modernization, where it had been for the previous 18 years. According to the GAO report:

> The Internal Revenue Service (IRS) made progress in addressing significant weaknesses in information technology and financial management capabilities. IRS delivered the initial phase of its cornerstone tax processing project and began the daily processing and posting of individual taxpayer accounts in January 2012. This enhanced tax administration and improved service by enabling faster refunds for more taxpayers, allowing more timely account updates, and faster issuance of taxpayer notices. In addition, IRS has put in place close to 80% of the practices needed for an effective investment management process, including all of the processes needed for effective project oversight.[8]

These modernizations have been critical to improving both the efficiency and effectiveness of the IRS, thereby decreasing risk to the organization and taxpayers. One of our biggest concerns, however, is our ability to continue to innovate and invest in modernization due to the significant budget challenges facing the agency, which is the subject of the next section of this review.

[8] *High Risk Series: An Update*, Government Accountability Office. GAO-13-283. February 14, 2013.

Budgetary Concerns

Like all Federal agencies, the IRS has been challenged in this period of budgetary constraints and uncertainty. Since FY 2010, the IRS has received reductions to appropriated funding totaling almost $1 billion. In FY 2013 alone, sequestration and a rescission combined to reduce the IRS budget by $618 million. As an example of the effects of these constraints, during the period of time that this Report was being developed, we have experienced two agency-wide furlough days where the entire agency was shut down. The IRS will have another furlough day in early July, with the possibility of up to two additional furlough days before the end of the fiscal year. These furloughs, coupled with another year of an exception-only hiring freeze, are having real impacts, not only on our workforce, but also on our ability to serve the taxpayer.

The IRS's FY 2014 budget request projects the resource needs to solidify our workforce and invest in critical programs that will enable better service to the taxpayer and a better return on the investment in the IRS. We have core program needs that must be addressed, or service and enforcement will undoubtedly be impacted. In addition, we have taken on new legislatively mandated responsibilities, including the implementation of Merchant Card Reporting, the Foreign Account Tax Compliance Act (FATCA), and the tax-related provisions of the Affordable Care Act (ACA), each requiring an investment in resources that, without additional funding, must be absorbed into our declining baseline budget. Moreover, we have clear opportunities to increase tax revenue through enhanced enforcement and prevention of refund fraud activities, and by being more responsive to taxpayers, but we will fall short on these opportunities if sequester-level funding persists into FY 2014. The bottom line is that many of our most innovative and far-reaching programs are at risk for delay or cancellation without adequate funding.

We are acutely aware that simply increasing budgetary resources does not always solve the problem. In fact, very few of the solutions proposed in this Report thus far implicate the need for additional funding. The primary emphasis of this review and the solutions posed herein is on leadership, training, processes, policies, communication, accountability, and risk mitigation as focus areas for enabling solutions that address the challenges we face at the IRS. However, the negative repercussions that will result if our funding is inadequate to meet our mission objectives present real issues for this organization and must be considered in any overarching review of IRS operations and risks. If we do not have funds to invest in our people in terms of recruiting new talent and sufficiently training our existing staff, as well as investing in the technology necessary to continue to build on the modernization efforts delivered over the last several years, there is no question that our service levels will suffer.

Confronted with the current reality of declining budgets, the IRS has already taken numerous steps to reduce our cost of doing business. Beginning more than two years ago, the IRS began putting into place new guidance and controls to create additional efficiencies in routine operations, in order to ensure minimal impact to the delivery of our core mission. Specific

actions that the IRS has taken to achieve greater cost savings and efficiencies fall into several major areas, including the following:

Personnel

- In FY 2011, a hiring policy started that allowed hiring only on an exception basis, requiring approval by the Deputy Commissioners.
- Buyouts were offered to 7,000 employees in FY 2012, with 1,244 employees accepting the offers.
- Full-time staffing at the IRS has declined by more than 8% over the last two years – about 8,000 positions.

Travel and training

- The IRS limited employee travel and training to mission-critical projects beginning in FY 2011. Training travel alone has been reduced by $83 million from FY 2010 to FY 2012.
- The IRS has expanded the use of alternative delivery methods for in-person meetings, training, conferences, and operational travel. The IRS estimates that, by the end of FY 2013, training costs will have been reduced by about 83% and training-related travel costs by 87% when compared to FY 2010 levels.

Space optimization

- In May 2012, the IRS announced a sweeping office space and rent reduction initiative that over two years is projected to close 43 smaller offices and reduce space in many larger facilities. Once complete, the initiative will slash IRS office space by more than 1 million square feet.
- The IRS continues to find innovative ways to do more with existing space, such as developing new workspace standards to decrease individual office size, as well as enhancing telework opportunities for our staff.

Printing and postage

- In FY 2011, the IRS eliminated the practice of mailing tax form packages to taxpayers at the beginning of the filing season. Taxpayers are now directed to IRS.gov for the tax forms they need.
- All non-campus IRS employees have been converted to paperless Earnings and Leave statements.

These have been successful efforts to try to maintain our levels of service while absorbing the budget reductions we have experienced. However, there are risks associated with such dramatic reductions in resources in such a short period of time. For example, as part of our recent workforce attrition, staffing for key enforcement occupations fell by 5,000 during the last two years, and, in the past year, enforcement positions declined by more than 1,300 jobs — a nearly 6% reduction. There are limits to the efficiencies we can absorb without negative ramifications

on our ability to fulfill our mission in the manner expected of us by the public. If we are not allowed to invest in future priorities, such as through strategic hiring, critical training, and targeted innovations in information technology, we will undoubtedly see a degradation in taxpayer service that adds risk to our voluntary compliance program, as well as a reduction in returns in the area of enforcement revenue, thereby further eroding government receipts. We will also lose critical institutional knowledge and compromise overall productivity if we fail to replace departing staff and inhibit our ability to recruit and grow the future leaders of the IRS.

Given the seriousness of our budget situation, and the uncertainty about the prospects for funding increases in the near future, we must be dedicated to investing every dollar entrusted to us by the public in a wise and prudent manner. Simply put, we have no room for unnecessary expense in the IRS. Moreover, we have also begun to revisit policies that may have been considered appropriate in the past but that are no longer fiscally prudent given our current constraints.

In this regard, we benefit from the fact that TIGTA is also on the lookout for inappropriate or unnecessary spending across the IRS that should be eliminated. Two TIGTA reviews, one included in a recently released report on training and conferences and another ongoing review on executive travel, have resulted in further opportunities to assess expenses, identify opportunities for change, and issue new policies where appropriate to further constrain spending. In both of these instances we have initiated policy changes to eliminate the kinds of expenditures that are no longer appropriate for the IRS.

On May 31, 2013, TIGTA issued a report on a conference held for managers in the Small Business / Self-Employed Division in Anaheim, California in 2010.[9] The report highlighted a number of management lapses that led to wasteful spending of taxpayer dollars. Many of these failures reflected a lack of judgment that, unfortunately, was not uncommon across the Federal Government in the years leading up to 2010 when this conference took place. We are pleased to report that, under the leadership and direction of the Department of the Treasury, the IRS has been aggressive in changing its business practices in this area, taking a completely new approach to training and conferences since that time. In fact, through FY 2012, the IRS reduced its annual spending on training and conferences sessions with more than 50 travelers by more than 80% since FY 2010. New procedures and management oversight structures are now in place at the IRS in this area, and we are confident that an event like the one referenced in the TIGTA report would not occur at the IRS today.

Another example in which work by TIGTA is informing our thoughts on management processes at the IRS is an ongoing review on the topic of executive travel. Based on details that have materialized through the course of this audit, we have come to conclusions regarding a long-standing IRS policy on executive travel that we believe is no longer appropriate in our current

[9] *Review of the August 2010 Small Business/Self-Employed Division's Conference in Anaheim, California*, Treasury Inspector General for Tax Administration. Reference Number 2013-10-037. May 31, 2013.

fiscal environment. TIGTA has examined how the IRS defines an individual's Post of Duty (POD) location, and our practice with a number of senior executives who have been permitted to reside in the location of their POD, but travel to another location to conduct their principal work. A few of IRS's senior executives have been operating in this mode for a number of years, receiving reimbursement for air travel, lodging, and per diem costs while traveling to their regular work location. It is important to note that this practice has been within permissible guidelines in the Federal Travel Regulation and with appropriate approvals from IRS senior management. In fact, those executives who have been commuting in this fashion more than six months of the year do so in a Long-Term Taxable Travel status and pay income taxes on a portion of their travel reimbursement. However, in the tight fiscal environment in which we find ourselves, and at a time where the entire IRS population is experiencing furloughs, the practice is no longer an appropriate use of scarce funds, and we have put a new policy into place that will no longer support this practice in the future.

Our immediate challenge in implementing this new policy is that a number of senior and critical members of our executive team are participants in this program, and an immediate halt to the current practice without a reasonable transition period would be unacceptably disruptive to an organization that is already undergoing significant organizational and leadership adjustments. To that end, we will facilitate the transition in a responsible way that does not introduce unnecessary short-term risks to the agency and allows a reasonable, yet limited, transition period to the new policy for the current executives.

Budgetary risks exist throughout the IRS, and it is incumbent on all of our managers and staff to protect every dollar as much as possible. Where we find opportunities to reduce costs, we will take them. We cannot afford any unnecessary expenditures when so much is at risk in terms of our ability to maintain the necessary level of service, our ability to invest in high-return innovations, and our ability to effectively implement our highest priority programs.

Human Capital Challenges

We have made a number of references in this Report to how critical the IRS workforce is in fulfilling our mission, which includes the objective to make improvements across the IRS whenever necessary. In spite of extensive modernization and automation deployed at the IRS over the years, we are still fundamentally a "people organization." Nearly 75% of our budget goes to human resources. People execute and oversee our processes. They are our primary source of mission accomplishment and our first line of defense against inappropriate behavior. Typically they help mitigate risks, but if not adequately trained, they can also create risk on behalf of the IRS.

We have already discussed the importance of effective leadership as a fundamental necessity for successful execution of any organizational mission. When that leadership is ineffective, as it was

in the case of the management associated with the processing of applications for tax exempt status, then changes need to be made. The actions we have taken in this regard further emphasize the importance we put on having effective leaders in place as essential for successful outcomes in performance.

The various business units of the IRS are led by highly experienced and talented leaders, many of whom have spent 20 or more years dedicated to fulfilling the mission of the IRS. In fact, one of our primary risks is that many of our most valuable leaders are eligible for retirement. We also have several talented leaders in place in newly assigned positions, but they are only in Acting status, and thus we require long-term solutions for these positions. Re-establishing stability at all levels of leadership within of the organization is a top priority as we lead the IRS and its workforce beyond the current set of challenges.

We also recognize that these have been difficult times for our overall workforce, more than 99% of whom had nothing to do with the actions related to the processing of applications for tax exempt status. The IRS workforce, which is also undergoing furloughs, has also had to absorb additional work as new legal and regulatory requirements continue to be assigned to the IRS, often without additional resources, and during a period in which a hiring freeze has limited the ability to bring in additional staff to support the additional workload. Our entire leadership team must actively engage with our staffs during these difficult times, providing them the support they need to effectively fulfill their duties.

We also see this point in time as a "back-to-basics" opportunity to remind our employees why we are here and what our fundamental role is, as well as the core elements of our Mission Statement, our values, and our overall responsibilities. To this end, we are preparing to design and deliver universal, mandatory training on many of these core principles. When employees join the IRS, they must go through an on-boarding process that emphasizes the critical responsibilities we have on behalf of the public, and the ethics to which we must adhere each and every day. We also learn upon entry about a number of key elements of internal controls and our collective responsibility to adhere to these systemic and behavioral guidelines that minimize the risk of inappropriate behavior from occurring. We further communicate the basics about what to do when inappropriate behavior is observed and how to address issues before they expand into highly impactful situations. This includes elevating issues to the appropriate levels of management and to the National Taxpayer Advocate when solutions are not forthcoming in a timely fashion. It is these elements that keep us on the right path, especially when confronted with challenging situations for which competing perspectives may make decision-making difficult. Adherence to these values, principles, and behaviors is evident throughout the IRS, embedded in the daily actions of the vast majority of our workforce. However, it is appropriate to be routinely reminded of the core values on which decisions must be made, and the institutional aids and protections that are available to assist when confronted with the issues and concerns we face today.

The training we are preparing will be a combination of these elements, representing a conscious attempt to remind our workforce of these responsibilities and specific guidelines on how best to achieve them on a daily basis. We will begin with instructor-led training for all of our executives and front-line managers, and then transition to online training that will be required for our entire workforce. We have established the following timeline for the creation and delivery of this critical set of training:

- Creation of instructor-led training material: August 31, 2013
- Delivery of instructor-led training (regionally and/or via video) to senior executives and managers: September 30, 2013
- Adaptation of training material for online utilization: September 30, 2013
- Completion of online training by entire IRS workforce: December 31, 2013

For much of the IRS population, this training will primarily represent reminders for behaviors that they already exhibit on a daily basis. Nevertheless, we believe they are important reminders to ensure we remain grounded in these principles and continue to adhere to them on a consistent basis throughout the entire IRS community.

Mission Complexity

As mentioned in Section 2 of this Report, the IRS does not make the nation's tax laws. Rather, we administer and enforce them. However, a review of IRS mission execution must entail some review of IRS mission complexity. A few facts from the *2012 Annual Report to Congress* from the National Taxpayer Advocate[10] are helpful in framing this discussion:

- "A search of the [Internal Revenue] Code conducted using the 'word count' feature in Microsoft Word turned up nearly four million words.
- Individual taxpayers find return preparation so overwhelming that about 59% now pay preparers to do it for them. Among unincorporated business taxpayers, the figure rises to about 71%.
- According to a TAS analysis of IRS data, individuals and businesses spend about 6.1 billion hours a year complying with the filing requirements of the Internal Revenue Code. And that figure does not include the millions of additional hours that taxpayers must spend when they are required to respond to IRS notices or audits.
- Despite the fact that about 90% of individual taxpayers rely on preparers or tax software packages, the IRS received more than 115 million calls in each of the last two fiscal years."

[10] The data in this section can be found in: *National Taxpayer Advocate, 2012 Annual Report to Congress (Volume One)*. December 31, 2012.

The data point that may be the most relevant to this question of the ongoing challenge facing the IRS in terms of its ability to execute its mission is that, according to this same report from December 2012 by the National Taxpayer Advocate, "there have been approximately 4,680 changes to the tax code since 2001, an average of more than one a day." The IRS has a long history of successfully meeting these challenges. For example, substantial tax law changes were enacted as late as January 2, 2013, just before the IRS would normally begin accepting e-filed returns. IRS staff worked quickly and diligently to make the changes to systems and forms necessary to open what turned out to be another successful tax filing season. Similar examples of rapid adjustment to emerging requirements can be found throughout the history of the IRS, and we will continue to always strive to respond to new requirements in an efficient and effective manner. Nevertheless, a review of the overall challenges faced by the IRS with respect to mission execution must recognize that this constant change in the tax code makes its administration more difficult for the IRS and the public. This is especially true for the IRS at a time of dramatically decreased funding, reduced staff, and major new requirements that continue to add to the complexity of our mission.

Better Early Warning Systems Needed

All organizations face challenges. A leadership imperative is to establish the ability to quickly and accurately identify those challenges and put solutions into place long before they turn into operational issues. One of the most critical failures identified in the TIGTA audit is the timeline associated with how long issues were allowed to persist without management engagement to resolve them. It has become clear that part of these inexcusable delays resulted from inadequate mechanisms put in place to alert various levels of senior management to the presence of inappropriate criteria, the growing backlog, and the dissatisfaction by the applicants for tax exempt status. The performance measures in place failed to highlight these emerging risks, and the communication flow up and down the chain of command from staff to senior management failed to effectively convey these circumstances. To address these failures, and enhance protocols that already exist in other units across the IRS, we are initiating a number of actions to establish a risk-based "early warning system" that will focus on many of the potential risks discussed in this section of this Report.

There are three specific elements that will comprise these current efforts:

- Establishing a robust Enterprise Risk Management Program;
- Strengthening the IRS-wide Performance Management System; and
- Enhancing communication flow to all layers of management, up to and including the IRS Commissioner's office.

Establishing a Robust Enterprise Risk Management Program

Large and complex organizations such as the IRS are always under threat of risks – large and small, strategic and tactical – presenting the potential to dramatically affect performance in both mission delivery and operational support. The recent failures that occurred with respect to applications for tax exempt status highlight the need to evaluate how risks are identified, prioritized, evaluated, and mitigated across the IRS enterprise. A robust Enterprise Risk Management (ERM) Program is being established that will:

- Provide clear lines of sight into key risks and related controls;
- Determine what risk areas could negatively affect the IRS's ability to carry out our mission;
- Identify resources, processes, policies, and procedures needed to proactively manage risk;
- Create awareness and leverage any existing risk management infrastructure in the operating units;
- Provide a coordinated and common framework for capturing and reporting risk information; and
- Share risk mitigation practices across the IRS.

We will establish a risk office, governance structure, policies, procedures, tools, and training needed to carry out the ERM program.

Our ERM program will be led by the Chief Risk Officer, a position established in late May 2013 as one of the first acts of the new Principal Deputy Commissioner of the IRS. This new position is strategically placed at the top of the organization to assist the Commissioner and the Deputy Commissioners in identifying and mitigating risks before they evolve into significant issues, as well as providing transparency to these risks to our oversight stakeholders such as the IRS Oversight Board and our authorizing committees in Congress. The Chief Risk Officer will also be a central player in addressing some of the key risks that emerged from the TIGTA report and that have potential implications across the entire IRS. To fill this role, we have appointed David Fisher, who will also serve as a Senior Advisor to the Commissioner. Mr. Fisher formerly served as the Chief Administrative Officer / Chief Financial Officer at the Government Accountability Office, responsible for all internal operations at the nonpartisan Congressional watchdog.

The goal of the ERM program is not to achieve zero risks. Rather, the objective is to have a program in place that can properly identify and assess risks, and provide senior management the information necessary to make sound decisions, with risk being one of the core elements of the decision-making framework. Our new Chief Risk Officer has already begun evaluating many of the elements of risk management currently in place throughout the IRS. He will be synthesizing

that information with best practices utilized at other organizations of similar size and complexity to formally establish a robust Enterprise Risk Management program at the IRS.

Finally, it is important to note that risk management cannot be an isolated function. It requires a seat at the table with the most senior executives in the organization, where enterprise-level risks can be identified, assigned for action, and monitored for success or further mitigation. The IRS Chief Risk Officer will be responsible for implementing such a program, but will do so in collaboration with the business owners in order to yield the kind of results that will bring transparency to critical organizational risks and provide the opportunity to mitigate them long before they have negative impacts on the IRS.

Strengthening the IRS-wide Performance Management System

The foundations for an effective performance management system are establishing the right metrics, at the right time, in the hands of the right people. It is apparent that the IRS maintains a robust set of measures that track performance at many levels of the organization. It is also clear that there is room for improvement. For example, despite all of these metrics, early warning signs were not sufficient to enable IRS management and senior leadership, including the IRS Commissioner's Office, to detect the inappropriate criteria and growing backlog associated with the processing of applications for tax exempt status for an extended period of time.

The fundamental purpose of a performance management system is to provide management with insight into deviations from expected and planned performance. When performance exceeds plan, it is an opportunity to understand and share good practices. When performance is below plan, it should provide alerts for prompt corrective actions *before* unacceptable levels of activity are allowed to persist. In particular, the use of leading indicators that can inform an organization of potential problems before performance is impacted. Moreover, the selection of the right metrics is far more important that the sheer volume of measures that may be tracked. In fact, greater quantity of measures can sometimes overwhelm the system, thereby inhibiting proper risk analysis when buried in too many numbers and graphs.

Some potential metrics that could have been helpful in this particular case, include:

- Comprehensive aging of inventory backlog of applications received yet not resolved
    - The EO unit did track aged inventory, as do most IRS organizations, but not at a level of detail that would provide sufficient insight into the rapidly evolving nature of the growing backlog of 501(c)(4) applications;

- Frequency with which senior managers review work product and criteria established for evaluation purposes, with a particular focus on those work products that represent the greatest risks to the IRS; and
- Number of Congressional inquiries on a particular topic.
    - While this is clearly a lagging indicator, it is another mechanism in which to draw attention to significant risks for senior management.

Getting performance information into the right hands is also critical. The current performance measurement system is designed for the IRS Commissioner to receive formal performance briefings only from the offices that report directly to the Commissioner's Office. This includes offices such as Appeals, the Office of Research, Analysis and Statistics, and the Taxpayer Advocate. By contrast, the key tax administration business units (Wage and Investment, Small Business / Self-Employed, Large Business and International, and Tax Exempt / Government Entities) conduct their performance reviews with the Deputy Commissioner for Services and Enforcement, while the Chief Officers do the same with the Deputy Commissioner for Operations Support. These reviews are currently conducted on a quarterly basis. While the reviews have consistently generated positive outcomes, our current circumstances require adjustments to these practices, with reviews to be performed on a more frequent basis and with more direct involvement by the Commissioner.

To strengthen our performance management system, the new IRS Chief of Staff, in conjunction with the IRS Deputy Commissioners and our new Chief Risk Officer, will perform a comprehensive review of the performance measures in place today at the IRS. This process will be done in two phases. We will immediately begin monthly performance reviews for the IRS Commissioner with the four tax administration units, with a program that streamlines the quarterly process currently in place. For the longer term, we have directed that this review be focused on risk-oriented indicators, and if gaps are found with our current measures in this regard, they are to further evaluate the means by which new measures can be established that will provide more timely and useful insight into these important risk areas. We expect this review to be concluded by the end of the fiscal year, and to include recommendations on how to adjust our performance measurement system under the guise of a risk-based early warning system, thereby providing senior management with the visibility to emerging systemic risks long before they materialize on a widespread basis.

Enhancing Communication Flow to All Layers of Management

As indicated in this Report, the timeline in the TIGTA report indicates extensive delays in processing and inappropriate treatment of taxpayers applying for tax exempt status, apparently with no or limited knowledge by senior management. This lack of awareness was not only a failure to communicate from the bottom-up, but also a failure on behalf of senior management to

remain aware of what was going on in their units of responsibility. Managers are there to manage and solve problems, yet they cannot do so without knowledge of the situation, highlighting an imperative for effective communication that must exist at all levels of the organization. We must understand the nature of impediments to effective communication flow at the IRS, and mitigate the risks that ensue by implementing solutions for improvement in this regard.

Our ability to effectively manage the IRS and maintain the commitments in our Mission Statement will be strongly influenced by our ability to overcome the barriers to effective communication and issue escalation within the management ranks of the IRS. One of the cultural aspects of the IRS, like many large institutions, is that individual business units are motivated to solve their own problems. While this can often lead to positive results, many IRS business units have historically been reluctant to elevate issues, at least in part, out of concerns of being perceived as somehow failing to fulfill their duties. This is a cultural element that needs to change. Front-line staff members and management must be comfortable elevating issues without concern of negative repercussions. Training is needed for both staff and management to overcome this cultural barrier to effective communication. The new IRS Chief of Staff will work with the IRS Senior Executive Team to understand the nature of this challenge and provide recommendations to the IRS Commissioner's Office on how to change this pattern of behavior.

Our risk-based approach to performance measures described above will also play a role in our improved effectiveness in communication throughout the organization. As we select these risk-based measures, they will assist in helping the IRS management team to become more accustomed to the kinds of risks that require escalation and collaboration. Transparency and frequency of results from these strategically identified risk-based measures will provide a platform to engage in mutual recognition of evolving risks for front-line managers, senior executives, and the oversight community with which we will share these results. Effective communication amongst and between these responsible parties must be a part of any solution to improve the IRS's ability to quickly and effectively address issues before they materialize on a grand scale.

Major issues, such as the ones experienced with applications for tax exempt status, cannot be allowed to persist without knowledge of and the opportunity for intervention by senior management. This is a risk area for the IRS that requires immediate attention and long-term solutions, with a clear focus on transparency and a willingness to communicate up and down the management chain.

Transparency with Critical Oversight Organizations

External stakeholder organizations provide the IRS with an invaluable function of guiding us to the right outcomes and approaches in fulfilling our mission. Therefore, our improvement plans

must include greater input and involvement of our oversight organizations, beginning with Congress. One of our failures in relation to the application process for tax exempt status was not only that the IRS did not properly inform Congress about the issues as they were occurring, but that we failed to do so even after Congressional committees specifically began asking questions on the topic. As we develop early warning systems, enhance communication, and establish additional policies and reviews, it will be our commitment to inform our authorizing committees in Congress about our plans and results. We further commit to inform these committees when we identify significant deviations in performance or expectations. Finally, it will be our commitment to collaborate with these committees on solutions to problems, sharing ideas and listening to suggestions, and not trying to problem-solve in isolation but rather embracing a more open exchange of ideas.

Another external entity that can provide similar oversight and insight across this spectrum of challenges is the IRS Oversight Board. The Board was created by the IRS Restructuring and Reform Act of 1998, which was enacted to improve the IRS so that it may better serve the public and meet the needs of taxpayers. The Oversight Board is a nine-member independent body charged with overseeing the IRS in its administration, management, conduct, direction, and supervision of the execution and application of the internal revenue laws and to provide experience, independence, and stability to the IRS so that it may move forward in a cogent, focused direction.

The Board has informed the IRS Commissioner's Office that it recently established a Risk Committee, to focus and enhance the oversight that it provides. The Risk Committee charter is under development, with an emerging expectation that it will focus on monitoring a number of risk categories, such as some of the following:

- Fair and impartial treatment to all taxpayers;
- Timely, accurate, and professional customer service to taxpayers;
- Taxpayer information is safe from inappropriate disclosure;
- The Service manages its costs in a manner that optimizes taxpayer resources;
- Major initiatives are effectively managed and executed to achieve expected results;
- The Service has the appropriate human resources in place to sufficiently meet the needs of fulfilling the IRS mission; and
- The effective enforcement of the U.S. tax laws and regulations.

The establishment of this committee fits with our vision of elevating the management of risks across the IRS through a new Enterprise Risk Management program. Moreover, these risk categories are consistent with many of the findings and needs identified in this Report. We look forward to close collaboration with this committee, and the Oversight Board in general, as we

fulfill our responsibilities to ensure that the IRS is operating in an efficient and effective manner that yields positive results.

To sum up this initial review, it is clear that the IRS is a large, complex, and essential enterprise, responsible for a critically important mission on behalf of the public. But with that scale and complexity comes inherent challenges. Our new leadership team is focusing on these challenges and on aligning our resources to address them with greater openness and transparency, enhanced internal communication, and greater engagement with our external oversight bodies. We anticipate that many of these actions will validate that existing processes are effective and provide confidence for robust mission execution. Where opportunities for improvement are identified, we will have enhanced processes in place to execute those improvements. These actions are designed to sustain the trust with the American people and to allow us to fulfill our critically important mission.

Concluding Thoughts

This Report represents an initial review and action plan. We had a series of failures in the process for review of tax exempt applications, and we are moving quickly to address them. We have made a number of changes already, more are in the works, and more will develop as we learn additional information. We are also moving aggressively to identify any other risks that might exist throughout the IRS, and we are putting procedures into place to bring them to light sooner, with a commitment to transparency to share what we find with all relevant stakeholders, including the oversight community.

Our external outreach efforts will continue as we look to implement the aggressive program that has been put forth in this Report. These are our ideas and plans, but we are now looking for feedback. We have identified specific actions we are taking in this Report, but we also raise questions. Those questions deserve further dialogue amongst key external stakeholders and the public, and we will be listening for input.

The IRS is committed to correcting its mistakes, holding people accountable, and establishing control elements that will help us mitigate the risks we face. The people of the IRS are committed to the principles of our Mission Statement, which calls for us to operate with integrity and fairness to all. We serve a vital purpose for this country, and we need to earn and maintain the trust of the public in order to accomplish that mission. We are firmly moving in that direction, and we will continue to report on our progress on a regular basis as we fulfill our commitments.

Appendix A: The "Douglas Factors"

Appendix A

The "Douglas Factors"

(1) The nature and seriousness of the offense, and its relation to the employee's duties, position, and responsibilities, including whether the offense was intentional or technical or inadvertent, or was committed maliciously or for gain, or was frequently repeated;

(2) The employee's job level and type of employment, including supervisory or fiduciary role, contacts with the public, and prominence of the position;

(3) The employee's past disciplinary record;

(4) The employee's past work record, including length of service, performance on the job, ability to get along with fellow workers, and dependability;

(5) The effect of the offense upon the employee's ability to perform at a satisfactory level and its effect upon supervisors' confidence in the employee's work ability to perform assigned duties;

(6) Consistency of the penalty with those imposed upon other employees for the same or similar offenses;

(7) Consistency of the penalty with any applicable agency table of penalties;

(8) The notoriety of the offense or its impact upon the reputation of the agency;

(9) The clarity with which the employee was on notice of any rules that were violated in committing the offense, or had been warned about the conduct in question;

(10) The potential for the employee's rehabilitation;

(11) Mitigating circumstances surrounding the offense such as unusual job tensions, personality problems, mental impairment, harassment, or bad faith, malice or provocation on the part of others involved in the matter; and

(12) The adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others.

Appendix B: "Be on the Lookout" (BOLO) Process Update Memo (May 17, 2012)

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

May 17, 2012

MEMORANDUM FOR MANAGER, EO DETERMINATIONS

FROM: Holly Paz /s/ *Holly Paz*
Director, EO Rulings and Agreements

SUBJECT: Be On the Look Out (BOLO) Spreadsheet

The purpose of this memorandum is to set forth the procedures to be used with regard to the Be On the Look Out (BOLO) spreadsheet.

Abusive Transactions and Fraud Issues, Emerging Issues, and Coordinated Processing[1] cases will all be tracked on a single combined Be On the Look Out (BOLO) spreadsheet.

(a) The spreadsheet is maintained to enable EO Determinations specialists to be informed about the current status of abusive transactions and fraud issues, emerging issues, coordination, and watch issues, and to process cases in a consistent manner.

(b) Abusive Transactions and Fraud Issues, Emerging Issues, and Coordinated Processing will each occupy a separate tab of the spreadsheet.

(c) A fourth tab, the "Watch List" will list recent developments such as changes in the law, current events, or specific issues that EO Determinations management believes has the potential to impact the filing of applications.

The Emerging Issues coordinator will maintain the combined spreadsheet including:

(a) Creating original entries for new emerging issues and entering them on the appropriate tab of the spreadsheet.

(b) Creating original entries for new coordinated processing cases and entering them on the appropriate tab of the spreadsheet.

(c) Receiving issue updates from the abusive transaction and fraud group and entering them on the appropriate tab of the spreadsheet.

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[1] Coordinated Processing cases are cases that present similar issues and thus are to be handled by a single team or group in order to facilitate consistency.

(d) Receiving "Watch List" updates from senior management and entering them on the appropriate tab of the spreadsheet.

(e) Updating the spreadsheet as necessary.

All original entries and updates to the BOLO must be approved by the group manager of the Emerging Issues Coordinator. The group manager of the Emerging Issues Coordinator must obtain the approval of the Manager, EO Determinations to all original entries and updates to the BOLO. The Manager, EO Determinations must obtain the approval of the Director, EO Rulings & Agreements to all original entries and updates to the BOLO.

Only after the approval of the group manager of the Emerging Issues Coordinator, the Manager, EO Determinations and Director, EO Rulings & Agreements have been obtained will EO Determinations groups be notified of new or updated Watch List items, Potential Abusive Transaction and Fraud Issues, Emerging Issues, and Coordinated Processing cases through single e-mail alerts. The Emerging Issues coordinator is responsible for issuing all e-mail alerts after all of the required approvals have been obtained.

The most recent updated copy of the spreadsheet will be posted on the EO Determinations shared drive folder.

The content of this memorandum will be incorporated in IRM 7.20.4.

Appendix C: Memo Suspending use of BOLO Lists (June 20, 2013)

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

June 20, 2013

Control No: TEGE-07-0613-06

MEMORANDUM FOR MANAGER, EO DETERMINATIONS

FROM: Karen Schiller
Acting Director, EO Rulings and Agreements

SUBJECT: Interim Guidance on the Suspension of BOLO List Usage

Effective immediately, the use of watch lists to identify cases or issues requiring heightened awareness is suspended until further notice, with the exception of categories or cases required to be identified by Criminal Investigations, Appeals, or other functional divisions for the purposes of preventing waste, fraud and abuse. This includes the Be on the Lookout (BOLO) list and the TAG (Touch and Go) monthly alerts as defined in IRM 7.20.6.3.

These lists were used to identify potential issues or cases that required heightened or coordinated efforts. They involved cases with potential terrorist connections, abusive transactions, fraud issues, emerging issues, coordinated processing[1] and watch-out cases to allow for more consistent treatment of similarly situated taxpayers.

EO Rulings and Agreements is undertaking a comprehensive review of screening and identification of critical issues. We intend to develop proper procedures and uses for these types of documents. Until a more formal process for identification, approval and distribution of this type of data is established, Rulings and Agreements will not use this technique to elevate issues. All efforts will be made to provide a balance between ensuring taxpayer privacy and safeguards and ensuring consistent treatment in cases involving complex or sensitive issues.

Specialists should follow the instructions in IRM 7.20.1.4 regarding cases requiring transfer to EO Technical, as well as IRM 7.20.5.4 regarding cases requiring mandatory review prior to closing. All EO Determinations Specialists and Screeners will continue to check the names of organizations and individuals referenced in the case against the Office of Foreign Asset Control (OFAC) list. If the specialist identifies an emerging issue or one that might require special handling, he or she should discuss the case with his or her manager, who in turn will elevate the issue.

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[1] Coordinated processing cases are ones that present similar issues and thus are to be handled by a single team or group in order to facilitate consistency.

Appendix D: Revenue Rulings 2004-06 and 2007-41

BUREAU OF LABOR STATISTICS, DEPARTMENT STORE
INVENTORY PRICE INDEXES BY DEPARTMENT GROUPS
(January 1941 = 100, unless otherwise noted)

	Groups	Nov. 2002	Nov. 2003	Percent Change from Nov. 2002 to Nov. 2003[1]
1.	Piece Goods	473.3	480.5	1.5
2.	Domestics and Draperies	571.3	548.6	-4.0
3.	Women's and Children's Shoes	652.4	649.8	-0.4
4.	Men's Shoes	899.2	845.3	-6.0
5.	Infants' Wear	622.7	598.3	-3.9
6.	Women's Underwear	551.8	514.2	-6.8
7.	Women's Hosiery	345.3	343.3	-0.6
8.	Women's and Girls' Accessories	559.1	555.8	-0.6
9.	Women's Outerwear and Girls' Wear	373.5	375.7	0.6
10.	Men's Clothing	572.1	549.5	-4.0
11.	Men's Furnishings	603.6	598.3	-0.9
12.	Boys' Clothing and Furnishings	461.3	451.0	-2.2
13.	Jewelry	871.7	866.8	-0.6
14.	Notions	793.1	797.2	0.5
15.	Toilet Articles and Drugs	972.5	976.2	0.4
16.	Furniture and Bedding	622.2	612.9	-1.5
17.	Floor Coverings	600.6	594.5	-1.0
18.	Housewares	738.6	712.6	-3.5
19.	Major Appliances	221.6	210.0	-5.2
20.	Radio and Television	47.5	44.3	-6.7
21.	Recreation and Education[2]	84.6	82.2	-2.8
22.	Home Improvements[2]	125.2	124.9	-0.2
23.	Automotive Accessories[2]	111.7	112.0	0.3
	Groups 1–15: Soft Goods	575.9	567.7	-1.4
	Groups 16–20: Durable Goods	404.5	388.9	-3.9
	Groups 21–23: Misc. Goods[2]	95.4	93.9	-1.6
	Store Total[3]	513.0	503.1	-1.9

[1]Absence of a minus sign before the percentage change in this column signifies a price increase.

[2]Indexes on a January 1986 = 100 base.

[3]The store total index covers all departments, including some not listed separately, except for the following: candy, food, liquor, tobacco and contract departments.

DRAFTING INFORMATION

The principal author of this revenue ruling is Michael Burkom of the Office of Associate Chief Counsel (Income Tax and Accounting). For further information regarding this revenue ruling, contact Mr. Burkom at (202) 622–7924 (not a toll-free call).

Section 527.—Political Organizations

26 CFR 1.527–2: Definitions.
(Also § 501.)

Public advocacy; public policy issues. This ruling concerns certain public advocacy activities conducted by social welfare organizations, unions and trade associations. The guidance clarifies the tax implications of advocacy that meets the definition of political campaign activity.

Rev. Rul. 2004–6

Organizations that are exempt from federal income tax under § 501(a) as organizations described in § 501(c)(4), § 501(c)(5), or § 501(c)(6) may, consistent with their exempt purpose, publicly advocate positions on public policy issues. This advocacy may include lobbying for legislation consistent with these positions. Because public policy advocacy may involve discussion of the positions of public officials who are also candidates for public office, a public policy advocacy communication may constitute an exempt function within the meaning of § 527(e)(2). If so, the organization would be subject to tax under § 527(f).

ISSUE

In each of the six situations described below, has the organization exempt from federal income tax under § 501(a) as an organization described in § 501(c)(4), § 501(c)(5), or § 501(c)(6) that engages in public policy advocacy expended funds for an exempt function as described in § 527(e)(2)?

LAW

Section 501(c)(4) provides exemption from taxation for civic leagues or organizations not organized for profit, but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)–1 of the Income Tax Regulations states an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community.

Section 501(c)(5) provides exemption from taxation for labor, agricultural, or horticultural organizations.

Section 1.501(c)(5)–1 requires that labor, agricultural, or horticultural organizations have as their objects the betterment of the conditions of those engaged in such pursuits, the improvement of the grade of their products, and the development of a higher degree of efficiency in their respective occupations.

Section 501(c)(6) provides exemption from taxation for business leagues, not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(6)–1 provides that a business league is an association of persons having some common business interest, the purpose of which is to promote such common interest and not to engage in a regular business of a kind ordinarily carried on for profit. A business league's activities should be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons.

Section 527 generally provides that political organizations that collect and expend monies for exempt function purposes as described in § 527(e)(2) are exempt from Federal income tax except on their investment income.

Section 527(e)(1) defines a political organization as a party, committee, association, fund or other organization (whether or not incorporated), organized and operated primarily for the purpose of accepting contributions or making expenditures, or both, for an exempt function.

Section 527(e)(2) provides that the term "exempt function" for purposes of § 527 means the function of influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any Federal, State, or local public office or office in a political organization, or the election of Presidential or Vice-Presidential electors, whether or not such individual or electors are selected, nominated, elected, or appointed. By its terms, § 527(e)(2) includes all attempts to influence the selection, nomination, election, or appointment of the described officials.

Section 527(f)(1) provides that an organization described in § 501(c) and exempt from tax under § 501(a) is subject to tax on any amount expended for an exempt function described in § 527(e)(2) at the highest tax rate specified in § 11(b). The tax is imposed on the lesser of the net investment income of the organization for the taxable year or the amount expended on an exempt function during the taxable year. A § 501(c) organization is taxed under § 527(f)(1) only if the expenditure is from its general treasury rather than from a separate segregated fund described in § 527(f)(3).

Section 527(f)(3) provides that if an organization described in § 501(c) and exempt from tax under § 501(a) sets up a separate segregated fund (which segregates monies for § 527(e)(2) exempt function purposes) that fund will be treated as a separate political organization described in § 527 and, therefore, be subject to tax as a political organization under § 527.

Section 527(i) provides that, in order to be tax-exempt, a political organization is required to give notice that it is a political organization described in § 527, unless excepted. An organization described in § 501(c) that does not set up a separate segregated fund, but makes exempt function expenditures subject to tax under § 527(f) is not subject to this requirement. § 527(i)(5)(A).

Section 527(j) provides that, unless excepted, a tax-exempt political organization that has given notice under § 527(i) and does not timely make periodic reports of contributions and expenditures, or that fails to include the information required, must pay an amount calculated by multiplying the amount of contributions and expenditures that are not disclosed by the highest corporate tax rate. An organization described in § 501(c) that does not set up a separate segregated fund, but makes exempt function expenditures subject to tax under § 527(f), is not subject to the reporting requirements under § 527(j).

Section 1.527–2(c)(1) provides that the term "exempt function" includes all activities that are directly related to and support the process of influencing or attempting to influence the selection, nomination, election, or appointment of any individual to public office or office in a political organization. Whether an expenditure is for an exempt function depends on all the facts and circumstances.

Section 1.527–6(f) provides that an organization described in § 501(c) that is exempt under § 501(a) may, if it is consistent with its exempt status, establish and maintain a separate segregated fund to receive contributions and make expenditures in a political campaign.

Rev. Rul. 2003–49, 2003–20 I.R.B. 903 (May 19, 2003), discusses the reporting and disclosure requirements for political organizations in question and answer format. In Q&A–6, the ruling holds that while a § 501(c) organization that makes an expenditure for an exempt function under § 527(e)(2) is not required to file the notice required under § 527(i), if the § 501(c) organization establishes a separate segregated fund under § 527(f)(3), that fund is required to file the notice in order to be tax-exempt unless it meets one of the other exceptions to filing.

Certain broadcast, cable, or satellite communications that meet the definition of "electioneering communications" are regulated by the Bipartisan Campaign Reform Act of 2002 (BCRA), 116 Stat. 81. An exempt organization that violates the regulatory requirements of BCRA may well jeopardize its exemption or be subject to other tax consequences.

ANALYSIS OF FACTUAL SITUATIONS

An organization exempt from federal income tax under § 501(a) as an organization described in § 501(c) that, consistent with its tax-exempt status, wishes to engage in an exempt function within the meaning of § 527(e)(2) may do so with its own funds or by setting up a separate segregated fund under § 527(f)(3). If the organization chooses to establish a separate segregated fund, that fund, unless excepted, must give notice under § 527(i) in order to be tax-exempt. A separate segregated fund that has given notice under § 527(i) is then subject to the reporting requirements under § 527(j). *See* Rev. Rul. 2003–49. If the organization chooses to use its own funds, the organization is not subject to the notice requirements under § 527(i) and the reporting requirements under § 527(j), but is subject to tax under § 527(f)(1) on the lesser of its investment income or the amount of the exempt function expenditure.

All the facts and circumstances must be considered to determine whether an expenditure for an advocacy communication relating to a public policy issue is for an exempt function under § 527(e)(2). When an advocacy communication explicitly advocates the election or defeat of an individual to public office, the expenditure clearly is for an exempt function under § 527(e)(2). However, when an advocacy communication relating to a public policy issue does not explicitly advocate the election or defeat of a candidate, all the facts and circumstances need to be considered to determine whether the expenditure is for an exempt function under § 527(e)(2).

In facts and circumstances such as those described in the six situations, factors that tend to show that an advocacy communication on a public policy issue is for an exempt function under § 527(e)(2) include, but are not limited to, the following:

a) The communication identifies a candidate for public office;

b) The timing of the communication coincides with an electoral campaign;

c) The communication targets voters in a particular election;

d) The communication identifies that candidate's position on the public policy issue that is the subject of the communication;

e) The position of the candidate on the public policy issue has been raised as distinguishing the candidate from others in the campaign, either in the communication itself or in other public communications; and

f) The communication is not part of an ongoing series of substantially similar advocacy communications by the organization on the same issue.

In facts and circumstances such as those described in the six situations, factors that tend to show that an advocacy communication on a public policy issue is not for an exempt function under § 527(e)(2) include, but are not limited to, the following:

a) The absence of any one or more of the factors listed in a) through f) above;

b) The communication identifies specific legislation, or a specific event outside the control of the organization, that the organization hopes to influence;

c) The timing of the communication coincides with a specific event outside the control of the organization that the organization hopes to influence, such as a legislative vote or other major legislative action (for example, a hearing before a legislative committee on the issue that is the subject of the communication);

d) The communication identifies the candidate solely as a government official who is in a position to act on the public policy issue in connection with the specific event (such as a legislator who is eligible to vote on the legislation); and

e) The communication identifies the candidate solely in the list of key or principal sponsors of the legislation that is the subject of the communication.

In all of the situations, the advocacy communication identifies a candidate in an election, appears shortly before that election, and targets the voters in that election. Even though these factors are present, the remaining facts and circumstances must be analyzed in each situation to determine whether the advocacy communication is for an exempt function under § 527(e)(2).

Each of the situations assumes that:

1. All payments for the described activity are from the general treasury of the organization rather than from a separate segregated fund under § 527(f)(3);

2. The organization would continue to be exempt under § 501(a), even if the described activity is not a § 501(c) exempt activity, because the organization's primary activities are described in the appropriate subparagraph of § 501(c); and

3. All advocacy communications described also include a solicitation of contributions to the organization.

Situation 1. *N*, a labor organization recognized as tax exempt under § 501(c)(5), advocates for the betterment of conditions of law enforcement personnel. Senator *A* and Senator *B* represent State *U* in the United States Senate. In year 200x, *N* prepares and finances full-page newspaper advertisements supporting increased spending on law enforcement, which would require a legislative appropriation. These advertisements are published in several large circulation newspapers in State *U* on a regular basis during year 200x. One of these full-page advertisements is published shortly before an election in which Senator *A* (but not Senator *B*) is a candidate for re-election. The advertisement published shortly before the election stresses the importance of increased federal funding of local law enforcement and refers to numerous statistics indicating the high crime rate in State *U*. The advertisement does not mention Senator *A*'s or Senator *B*'s position on law enforcement issues. The advertisement ends with the statement "Call or write Senator *A* and Senator *B* to ask them to support increased federal funding for local law enforcement." Law enforcement has not been raised as an issue distinguishing Senator *A* from any opponent. At the time this advertisement is published, no legislative vote or other major legislative activity is scheduled in the United States Senate on increased federal funding for local law enforcement.

Under the facts and circumstances in *Situation 1*, the advertisement is not for an exempt function under § 527(e)(2). Although *N*'s advertisement identifies Senator *A*, appears shortly before an election in which Senator *A* is a candidate, and targets voters in that election, it is part of an ongoing series of substantially similar advocacy communications by *N* on the same issue during year 200x. The advertisement identifies both Senator *A* and Senator *B*, who is not a candidate for re-election, as the representatives who would vote on this issue. Furthermore, *N*'s advertisement does not identify Senator *A*'s position on the issue, and law enforcement has not been raised as an issue distinguishing Senator *A* from any

opponent. Therefore, there is nothing to indicate that Senator *A*'s candidacy should be supported or opposed based on this issue. Based on these facts and circumstances, the amount expended by *N* on the advertisement is not an exempt function expenditure under § 527(e)(2) and, therefore, is not subject to tax under § 527(f)(1).

Situation 2. *O*, a trade association recognized as tax exempt under § 501(c)(6), advocates for increased international trade. Senator *C* represents State *V* in the United States Senate. *O* prepares and finances a full-page newspaper advertisement that is published in several large circulation newspapers in State *V* shortly before an election in which Senator *C* is a candidate for nomination in a party primary. The advertisement states that increased international trade is important to a major industry in State *V*. The advertisement states that S. 24, a pending bill in the United States Senate, would provide manufacturing subsidies to certain industries to encourage export of their products. The advertisement also states that several manufacturers in State *V* would benefit from the subsidies, but Senator *C* has opposed similar measures supporting increased international trade in the past. The advertisement ends with the statement "Call or write Senator *C* to tell him to vote for S. 24." International trade concerns have not been raised as an issue distinguishing Senator *C* from any opponent. S. 24 is scheduled for a vote in the United States Senate before the election, soon after the date that the advertisement is published in the newspapers.

Under the facts and circumstances in *Situation 2*, the advertisement is not for an exempt function under § 527(e)(2). *O*'s advertisement identifies Senator *C*, appears shortly before an election in which Senator *C* is a candidate, and targets voters in that election. Although international trade issues have not been raised as an issue distinguishing Senator *C* from any opponent, the advertisement identifies Senator *C*'s position on the issue as contrary to *O*'s position. However, the advertisement specifically identifies the legislation *O* is supporting and appears immediately before the United States Senate is scheduled to vote on that particular legislation. The candidate identified, Senator *C*, is a government official who is in a position to take action on the public policy issue in connection with the specific event. Based on these facts and circumstances, the amount expended by *O* on the advertisement is not an exempt function expenditure under § 527(e)(2) and, therefore, is not subject to tax under § 527(f)(1).

Situation 3. *P*, an entity recognized as tax exempt under § 501(c)(4), advocates for better health care. Senator *D* represents State *W* in the United States Senate. *P* prepares and finances a full-page newspaper advertisement that is published repeatedly in several large circulation newspapers in State *W* beginning shortly before an election in which Senator *D* is a candidate for re-election. The advertisement is not part of an ongoing series of substantially similar advocacy communications by *P* on the same issue. The advertisement states that a public hospital is needed in a major city in State *W* but that the public hospital cannot be built without federal assistance. The advertisement further states that Senator *D* has voted in the past year for two bills that would have provided the federal funding necessary for the hospital. The advertisement then ends with the statement "Let Senator *D* know you agree about the need for federal funding for hospitals." Federal funding for hospitals has not been raised as an issue distinguishing Senator *D* from any opponent. At the time the advertisement is published, a bill providing federal funding for hospitals has been introduced in the United States Senate, but no legislative vote or other major legislative activity on that bill is scheduled in the Senate.

Under the facts and circumstances in *Situation 3*, the advertisement is for an exempt function under § 527(e)(2). *P*'s advertisement identifies Senator *D*, appears shortly before an election in which Senator *D* is a candidate, and targets voters in that election. Although federal funding of hospitals has not been raised as an issue distinguishing Senator *D* from any opponent, the advertisement identifies Senator *D*'s position on the hospital funding issue as agreeing with *P*'s position, and is not part of an ongoing series of substantially similar advocacy communications by *P* on the same issue. Moreover, the advertisement does not identify any specific legislation and is not timed to coincide with a legislative vote or other major legislative action on the hospital funding issue. Based on these facts and circumstances, the amount expended by *P* on the advertisement is an exempt function expenditure under § 527(e)(2) and, therefore, is subject to tax under § 527(f)(1).

Situation 4. *R*, an entity recognized as tax exempt under § 501(c)(4), advocates for improved public education. Governor *E* is the governor of State *X*. *R* prepares and finances a radio advertisement urging an increase in state funding for public education in State *X*, which requires a legislative appropriation. The radio advertisement is first broadcast on several radio stations in State *X* beginning shortly before an election in which Governor *E* is a candidate for re-election. The advertisement is not part of an ongoing series of substantially similar advocacy communications by *R* on the same issue. The advertisement cites numerous statistics indicating that public education in State *X* is under-funded. While the advertisement does not say anything about Governor *E*'s position on funding for public education, it ends with "Tell Governor *E* what you think about our under-funded schools." In public appearances and campaign literature, Governor *E*'s opponent has made funding of public education an issue in the campaign by focusing on Governor *E*'s veto of an income tax increase the previous year to increase funding of public education. At the time the advertisement is broadcast, no legislative vote or other major legislative activity is scheduled in the State *X* legislature on state funding of public education.

Under the facts and circumstances in *Situation 4*, the advertisement is for an exempt function under § 527(e)(2). *R*'s advertisement identifies Governor *E*, appears shortly before an election in which Governor *E* is a candidate, and targets voters in that election. Although the advertisement does not explicitly identify Governor *E*'s position on the funding of public schools issue, that issue has been raised as an issue in the campaign by Governor *E*'s opponent. The advertisement does not identify any specific legislation, is not part of an ongoing series of substantially similar advocacy communications by *R* on the same issue, and is not timed to coincide with a legislative vote or other major legislative action on that issue. Based on these facts and circumstances, the amount expended by *R* on the advertisement is an exempt function expenditure under § 527(e)(2) and, therefore, is subject to tax under § 527(f)(1).

Situation 5. *S*, an entity recognized as tax exempt under § 501(c)(4), advocates to abolish the death penalty in State *Y*. Governor *F* is the governor of State *Y*. *S* regularly prepares and finances television advertisements opposing the death penalty. These advertisements appear on several television stations in State *Y* shortly before each scheduled execution in State *Y*. One such advertisement opposing the death penalty appears on State *Y* television stations shortly before the scheduled execution of *G* and shortly before an election in which Governor *F* is a candidate for re-election. The advertisement broadcast shortly before the election provides statistics regarding developed countries that have abolished the death penalty and refers to studies indicating inequities related to the types of persons executed in the United States. Like the advertisements appearing shortly before other scheduled executions in State *Y*, the advertisement notes that Governor *F* has supported the death penalty in the past and ends with the statement "Call or write Governor *F* to demand that he stop the upcoming execution of *G*."

Under the facts and circumstances in *Situation 5*, the advertisement is not for an exempt function under § 527(e)(2). *S*'s advertisement identifies Governor *F*, appears shortly before an election in which Governor *F* is a candidate, targets voters in that election, and identifies Governor *F*'s position as contrary to *S*'s position. However, the advertisement is part of an ongoing series of substantially similar advocacy communications by *S* on the same issue and the advertisement identifies an event outside the control of the organization (the scheduled execution) that the organization hopes to influence. Further, the timing of the advertisement coincides with this specific event that the organization hopes to influence. The candidate identified is a government official who is in a position to take action on the public policy issue in connection with the specific event. Based on these facts and circumstances, the amount expended by *S* on the advertisements is not an exempt function expenditure under § 527(e)(2) and, therefore, is not subject to tax under § 527(f)(1).

Situation 6. *T*, an entity recognized as tax exempt under § 501(c)(4), advocates to abolish the death penalty in State *Z*. Governor *H* is the governor of State *Z*. Beginning shortly before an election in which Governor *H* is a candidate for re-election, *T* prepares and finances a television advertisement broadcast on several television stations in State *Z*. The advertisement is not part of an ongoing series of substantially similar advocacy communications by *T* on the same issue. The advertisement provides statistics regarding developed countries that have abolished the death penalty, and refers to studies indicating inequities related to the types of persons executed in the United States. The advertisement calls for the abolishment of the death penalty. The advertisement notes that Governor *H* has supported the death penalty in the past. The advertisement identifies several individuals previously executed in State *Z*, stating that Governor *H* could have saved their lives by stopping their executions. No executions are scheduled in State *Z* in the near future. The advertisement concludes with the statement "Call or write Governor *H* to demand a moratorium on the death penalty in State *Z*."

Under the facts and circumstances in *Situation 6*, the advertisement is for an exempt function under § 527(e)(2). *T*'s advertisement identifies Governor *H*, appears shortly before an election in which Governor *H* is a candidate, targets the voters in that election, and identifies Governor *H*'s position as contrary to *T*'s position. The advertisement is not part of an ongoing series of substantially similar advocacy communications by *T* on the same issue. In addition, the advertisement does not identify and is not timed to coincide with a specific event outside the control of the organization that it hopes to influence. Based on these facts and circumstances, the amount expended by *T* on the advertisement is an exempt function expenditure under § 527(e)(2) and, therefore, is subject to tax under § 527(f)(1).

HOLDINGS

In Situations 1, 2, and 5, the amounts expended by *N*, *O*, and *S* are not exempt function expenditures under § 527(e)(2) and, therefore, are not subject to tax under § 527(f)(1). In Situations 3, 4, and 6, the amounts expended by *P*, *R* and *T* are exempt function expenditures under § 527(e)(2) and, therefore, are subject to tax under § 527(f)(1).

DRAFTING INFORMATION

The principal author of this revenue ruling is Judith E. Kindell of Exempt Organizations, Tax Exempt and Government Entities Division. For further information regarding this revenue ruling, contact Judith E. Kindell at (202) 283–8964 (not a toll-free call).

not issued to Taxpayer by the same company in the same calendar year. The result in this case would be the same if, instead of individually issued MECs, the Original Contracts and New Contracts were evidenced by certificates that were issued under a group contract or master contract and that were treated as separate contracts for purposes of §§ 817(h), 7702, and 7702A.

HOLDING

If a taxpayer that owns multiple modified endowment contracts (MECs) issued by the same insurance company in the same calendar year exchanges some of those MECs for new MECs issued by a second insurance company, the new contracts are not required to be aggregated with the remaining original contracts under § 72(e)(12).

DRAFTING INFORMATION

The principal author of this revenue ruling is Melissa S. Luxner of the Office of Associate Chief Counsel (Financial Institutions & Products). For further information regarding this revenue ruling, contact Ms. Luxner at (202) 622–3970 (not a toll-free call).

Section 430.—Minimum Funding Standards for Single-Employer Defined Benefit Pension Plans

Procedures with respect to applications for requests for letter rulings on substitute mortality tables under section 430(h)(3)(C) of the Code and section 303(h)(3)(C) of the Employee Retirement Income Security Act of 1974 are set forth. See Rev. Proc. 2007-37, page 1433.

Section 501.—Exemption From Tax on Corporations, Certain Trusts, etc.

26 CFR 1.501(c)(3)–1: Organizations organized and operated for religious, charitable, scientific, testing for public safety, literary or educational purposes, or for the prevention of cruelty to children or animals.

Exempt organizations; political campaigns. This ruling provides 21 examples illustrating the application of the facts and circumstances to be considered to determine whether an organization exempt from income tax under section 501(a) of the Code as an organization described in section 501(c)(3) has participated in, or intervened in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

Rev. Rul. 2007–41

Organizations that are exempt from income tax under section 501(a) of the Internal Revenue Code as organizations described in section 501(c)(3) may not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

ISSUE

In each of the 21 situations described below, has the organization participated or intervened in a political campaign on behalf of (or in opposition to) any candidate for public office within the meaning of section 501(c)(3)?

LAW

Section 501(c)(3) provides for the exemption from federal income tax of organizations organized and operated exclusively for charitable or educational purposes, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation (except as otherwise provided in section 501(h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

Section 1.501(c)(3)–1(c)(3)(i) of the Income Tax Regulations states that an organization is not operated exclusively for one or more exempt purposes if it is an "action" organization.

Section 1.501(c)(3)–1(c)(3)(iii) of the regulations defines an "action" organization as an organization that participates or intervenes, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office. The term "candidate for public office" is defined as an individual who offers himself, or is proposed by others, as a contestant for an elective public office, whether such office be national, State, or local. The regulations further provide that activities that constitute participation or intervention in a political campaign on behalf of or in opposition to a candidate include, but are not limited to, the publication or distribution of written statements or the making of oral statements on behalf of or in opposition to such a candidate.

Whether an organization is participating or intervening, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office depends upon all of the facts and circumstances of each case. For example, certain "voter education" activities, including preparation and distribution of certain voter guides, conducted in a non-partisan manner may not constitute prohibited political activities under section 501(c)(3) of the Code. Other so-called "voter education" activities may be proscribed by the statute. Rev. Rul. 78–248, 1978–1 C.B. 154, contrasts several situations illustrating when an organization that publishes a compilation of candidate positions or voting records has or has not engaged in prohibited political activities based on whether the questionnaire used to solicit candidate positions or the voters guide itself shows a bias or preference in content or structure with respect to the views of a particular candidate. See also Rev. Rul. 80–282, 1980–2 C.B. 178, amplifying Rev. Rul. 78–248 regarding the timing and distribution of voter education materials.

The presentation of public forums or debates is a recognized method of educating the public. See Rev. Rul. 66–256, 1966–2 C.B. 210 (nonprofit organization formed to conduct public forums at which lectures and debates on social, political, and international matters are presented qualifies for exemption from federal income tax under section 501(c)(3)). Providing a forum for candidates is not, in and of itself, prohibited political activity. See Rev. Rul. 74–574, 1974–2 C.B. 160 (organization operating a broadcast station is not participating in political campaigns on behalf of public candidates by providing reasonable amounts of air time equally available to all legally qualified candidates for election to public office in compliance with the reasonable access provisions of the Communications Act of

1934). However, a forum for candidates could be operated in a manner that would show a bias or preference for or against a particular candidate. This could be done, for example, through biased questioning procedures. On the other hand, a forum held for the purpose of educating and informing the voters, which provides fair and impartial treatment of candidates, and which does not promote or advance one candidate over another, would not constitute participation or intervention in any political campaign on behalf of or in opposition to any candidate for public office. See Rev. Rul. 86–95, 1986–2 C.B. 73 (organization that proposes to educate voters by conducting a series of public forums in congressional districts during congressional election campaigns is not participating in a political campaign on behalf of any candidate due to the neutral form and content of its proposed forums).

ANALYSIS OF FACTUAL SITUATIONS

The 21 factual situations appear below under specific subheadings relating to types of activities. In each of the factual situations, all the facts and circumstances are considered in determining whether an organization's activities result in political campaign intervention. Note that each of these situations involves only one type of activity. In the case of an organization that combines one or more types of activity, the interaction among the activities may affect the determination of whether or not the organization is engaged in political campaign intervention.

Voter Education, Voter Registration and Get Out the Vote Drives

Section 501(c)(3) organizations are permitted to conduct certain voter education activities (including the presentation of public forums and the publication of voter education guides) if they are carried out in a non-partisan manner. In addition, section 501(c)(3) organizations may encourage people to participate in the electoral process through voter registration and get-out-the-vote drives, conducted in a non-partisan manner. On the other hand, voter education or registration activities conducted in a biased manner that favors (or opposes) one or more candidates is prohibited.

Situation 1. *B*, a section 501(c)(3) organization that promotes community involvement, sets up a booth at the state fair where citizens can register to vote. The signs and banners in and around the booth give only the name of the organization, the date of the next upcoming statewide election, and notice of the opportunity to register. No reference to any candidate or political party is made by the volunteers staffing the booth or in the materials available at the booth, other than the official voter registration forms which allow registrants to select a party affiliation. *B* is not engaged in political campaign intervention when it operates this voter registration booth.

Situation 2. *C* is a section 501(c)(3) organization that educates the public on environmental issues. Candidate *G* is running for the state legislature and an important element of her platform is challenging the environmental policies of the incumbent. Shortly before the election, *C* sets up a telephone bank to call registered voters in the district in which Candidate *G* is seeking election. In the phone conversations, *C*'s representative tells the voter about the importance of environmental issues and asks questions about the voter's views on these issues. If the voter appears to agree with the incumbent's position, *C*'s representative thanks the voter and ends the call. If the voter appears to agree with Candidate *G*'s position, *C*'s representative reminds the voter about the upcoming election, stresses the importance of voting in the election and offers to provide transportation to the polls. *C* is engaged in political campaign intervention when it conducts this get-out-the-vote drive.

Individual Activity by Organization Leaders

The political campaign intervention prohibition is not intended to restrict free expression on political matters by leaders of organizations speaking for themselves, as individuals. Nor are leaders prohibited from speaking about important issues of public policy. However, for their organizations to remain tax exempt under section 501(c)(3), leaders cannot make partisan comments in official organization publications or at official functions of the organization.

Situation 3. President *A* is the Chief Executive Officer of Hospital *J*, a section 501(c)(3) organization, and is well known in the community. With the permission of five prominent healthcare industry leaders, including President *A*, who have personally endorsed Candidate *T*, Candidate *T* publishes a full page ad in the local newspaper listing the names of the five leaders. President *A* is identified in the ad as the CEO of Hospital *J*. The ad states, "Titles and affiliations of each individual are provided for identification purposes only." The ad is paid for by Candidate *T*'s campaign committee. Because the ad was not paid for by Hospital *J*, the ad is not otherwise in an official publication of Hospital *J*, and the endorsement is made by President *A* in a personal capacity, the ad does not constitute campaign intervention by Hospital *J*.

Situation 4. President *B* is the president of University *K*, a section 501(c)(3) organization. University *K* publishes a monthly alumni newsletter that is distributed to all alumni of the university. In each issue, President *B* has a column titled "My Views." The month before the election, President *B* states in the "My Views" column, "It is my personal opinion that Candidate *U* should be reelected." For that one issue, President *B* pays from his personal funds the portion of the cost of the newsletter attributable to the "My Views" column. Even though he paid part of the cost of the newsletter, the newsletter is an official publication of the university. Because the endorsement appeared in an official publication of University *K*, it constitutes campaign intervention by University *K*.

Situation 5. Minister *C* is the minister of Church *L*, a section 501(c)(3) organization and Minister *C* is well known in the community. Three weeks before the election, he attends a press conference at Candidate *V*'s campaign headquarters and states that Candidate *V* should be reelected. Minister *C* does not say he is speaking on behalf of Church *L*. His endorsement is reported on the front page of the local newspaper and he is identified in the article as the minister of Church *L*. Because Minister *C* did not make the endorsement at an official church function, in an official church publication or otherwise use the church's assets, and did not state that he was speaking as a representative of Church *L*, his actions do not constitute campaign intervention by Church *L*.

Situation 6. Chairman *D* is the chairman of the Board of Directors of *M*, a section 501(c)(3) organization that educates the public on conservation issues. During a regular meeting of *M* shortly before the election, Chairman *D* spoke on a number of issues, including the importance of voting in the upcoming election, and concluded by stating, "It is important that you all do your duty in the election and vote for Candidate *W*." Because Chairman *D*'s remarks indicating support for Candidate *W* were made during an official organization meeting, they constitute political campaign intervention by *M*.

Candidate Appearances

Depending on the facts and circumstances, an organization may invite political candidates to speak at its events without jeopardizing its tax-exempt status. Political candidates may be invited in their capacity as candidates, or in their individual capacity (not as a candidate). Candidates may also appear without an invitation at organization events that are open to the public.

When a candidate is invited to speak at an organization event in his or her capacity as a political candidate, factors in determining whether the organization participated or intervened in a political campaign include the following:

- Whether the organization provides an equal opportunity to participate to political candidates seeking the same office;
- Whether the organization indicates any support for or opposition to the candidate (including candidate introductions and communications concerning the candidate's attendance); and
- Whether any political fundraising occurs.

In determining whether candidates are given an equal opportunity to participate, the nature of the event to which each candidate is invited will be considered, in addition to the manner of presentation. For example, an organization that invites one candidate to speak at its well attended annual banquet, but invites the opposing candidate to speak at a sparsely attended general meeting, will likely have violated the political campaign prohibition, even if the manner of presentation for both speakers is otherwise neutral.

When an organization invites several candidates for the same office to speak at a public forum, factors in determining whether the forum results in political campaign intervention include the following:

- Whether questions for the candidates are prepared and presented by an independent nonpartisan panel,
- Whether the topics discussed by the candidates cover a broad range of issues that the candidates would address if elected to the office sought and are of interest to the public,
- Whether each candidate is given an equal opportunity to present his or her view on each of the issues discussed,
- Whether the candidates are asked to agree or disagree with positions, agendas, platforms or statements of the organization, and
- Whether a moderator comments on the questions or otherwise implies approval or disapproval of the candidates.

Situation 7. President *E* is the president of Society *N*, a historical society that is a section 501(c)(3) organization. In the month prior to the election, President *E* invites the three Congressional candidates for the district in which Society *N* is located to address the members, one each at a regular meeting held on three successive weeks. Each candidate is given an equal opportunity to address and field questions on a wide variety of topics from the members. Society *N*'s publicity announcing the dates for each of the candidate's speeches and President *E*'s introduction of each candidate include no comments on their qualifications or any indication of a preference for any candidate. Society *N*'s actions do not constitute political campaign intervention.

Situation 8. The facts are the same as in *Situation 7* except that there are four candidates in the race rather than three, and one of the candidates declines the invitation to speak. In the publicity announcing the dates for each of the candidate's speeches, Society *N* includes a statement that the order of the speakers was determined at random and the fourth candidate declined the Society's invitation to speak. President *E* makes the same statement in his opening remarks at each of the meetings where one of the candidates is speaking. Society *N*'s actions do not constitute political campaign intervention.

Situation 9. Minister *F* is the minister of Church *O*, a section 501(c)(3) organization. The Sunday before the November election, Minister *F* invites Senate Candidate *X* to preach to her congregation during worship services. During his remarks, Candidate *X* states, "I am asking not only for your votes, but for your enthusiasm and dedication, for your willingness to go the extra mile to get a very large turnout on Tuesday." Minister *F* invites no other candidate to address her congregation during the Senatorial campaign. Because these activities take place during official church services, they are attributed to Church *O*. By selectively providing church facilities to allow Candidate *X* to speak in support of his campaign, Church *O*'s actions constitute political campaign intervention.

Candidate Appearances Where Speaking or Participating as a Non-Candidate

Candidates may also appear or speak at organization events in a non-candidate capacity. For instance, a political candidate may be a public figure who is invited to speak because he or she: (a) currently holds, or formerly held, public office; (b) is considered an expert in a non political field; or (c) is a celebrity or has led a distinguished military, legal, or public service career. A candidate may choose to attend an event that is open to the public, such as a lecture, concert or worship service. The candidate's presence at an organization-sponsored event does not, by itself, cause the organization to be engaged in political campaign intervention. However, if the candidate is publicly recognized by the organization, or if the candidate is invited to speak, factors in determining whether the candidate's appearance results in political campaign intervention include the following:

- Whether the individual is chosen to speak solely for reasons other than candidacy for public office;
- Whether the individual speaks only in a non-candidate capacity;
- Whether either the individual or any representative of the organization

makes any mention of his or her candidacy or the election;

- Whether any campaign activity occurs in connection with the candidate's attendance;
- Whether the organization maintains a nonpartisan atmosphere on the premises or at the event where the candidate is present; and
- Whether the organization clearly indicates the capacity in which the candidate is appearing and does not mention the individual's political candidacy or the upcoming election in the communications announcing the candidate's attendance at the event.

Situation 10. Historical society *P* is a section 501(c)(3) organization. Society *P* is located in the state capital. President *G* is the president of Society *P* and customarily acknowledges the presence of any public officials present during meetings. During the state gubernatorial race, Lieutenant Governor *Y*, a candidate, attends a meeting of the historical society. President *G* acknowledges the Lieutenant Governor's presence in his customary manner, saying, "We are happy to have joining us this evening Lieutenant Governor *Y*." President *G* makes no reference in his welcome to the Lieutenant Governor's candidacy or the election. Society *P* has not engaged in political campaign intervention as a result of President *G*'s actions.

Situation 11. Chairman *H* is the chairman of the Board of Hospital *Q*, a section 501(c)(3) organization. Hospital *Q* is building a new wing. Chairman *H* invites Congressman *Z*, the representative for the district containing Hospital *Q*, to attend the groundbreaking ceremony for the new wing. Congressman *Z* is running for reelection at the time. Chairman *H* makes no reference in her introduction to Congressman *Z*'s candidacy or the election. Congressman *Z* also makes no reference to his candidacy or the election and does not do any political campaign fundraising while at Hospital *Q*. Hospital *Q* has not intervened in a political campaign.

Situation 12. University *X* is a section 501(c)(3) organization. *X* publishes an alumni newsletter on a regular basis. Individual alumni are invited to send in updates about themselves which are printed in each edition of the newsletter. After receiving an update letter from Alumnus *Q*, *X* prints the following: "Alumnus *Q*, class of 'XX is running for mayor of Metropolis." The newsletter does not contain any reference to this election or to Alumnus *Q*'s candidacy other than this statement of fact. University *X* has not intervened in a political campaign.

Situation 13. Mayor *G* attends a concert performed by Symphony *S*, a section 501(c)(3) organization, in City Park. The concert is free and open to the public. Mayor *G* is a candidate for reelection, and the concert takes place after the primary and before the general election. During the concert, the chairman of *S*'s board addresses the crowd and says, "I am pleased to see Mayor *G* here tonight. Without his support, these free concerts in City Park would not be possible. We will need his help if we want these concerts to continue next year so please support Mayor *G* in November as he has supported us." As a result of these remarks, Symphony *S* has engaged in political campaign intervention.

Issue Advocacy vs. Political Campaign Intervention

Section 501(c)(3) organizations may take positions on public policy issues, including issues that divide candidates in an election for public office. However, section 501(c)(3) organizations must avoid any issue advocacy that functions as political campaign intervention. Even if a statement does not expressly tell an audience to vote for or against a specific candidate, an organization delivering the statement is at risk of violating the political campaign intervention prohibition if there is any message favoring or opposing a candidate. A statement can identify a candidate not only by stating the candidate's name but also by other means such as showing a picture of the candidate, referring to political party affiliations, or other distinctive features of a candidate's platform or biography. All the facts and circumstances need to be considered to determine if the advocacy is political campaign intervention.

Key factors in determining whether a communication results in political campaign intervention include the following:

- Whether the statement identifies one or more candidates for a given public office;
- Whether the statement expresses approval or disapproval for one or more candidates' positions and/or actions;
- Whether the statement is delivered close in time to the election;
- Whether the statement makes reference to voting or an election;
- Whether the issue addressed in the communication has been raised as an issue distinguishing candidates for a given office;
- Whether the communication is part of an ongoing series of communications by the organization on the same issue that are made independent of the timing of any election; and
- Whether the timing of the communication and identification of the candidate are related to a non-electoral event such as a scheduled vote on specific legislation by an officeholder who also happens to be a candidate for public office.

A communication is particularly at risk of political campaign intervention when it makes reference to candidates or voting in a specific upcoming election. Nevertheless, the communication must still be considered in context before arriving at any conclusions.

Situation 14. University *O*, a section 501(c)(3) organization, prepares and finances a full page newspaper advertisement that is published in several large circulation newspapers in State *V* shortly before an election in which Senator *C* is a candidate for nomination in a party primary. Senator *C* represents State *V* in the United States Senate. The advertisement states that S. 24, a pending bill in the United States Senate, would provide additional opportunities for State *V* residents to attend college, but Senator *C* has opposed similar measures in the past. The advertisement ends with the statement "Call or write Senator *C* to tell him to vote for S. 24." Educational issues have not been raised as an issue distinguishing Senator *C* from any opponent. S. 24 is scheduled for a vote in the United States Senate before the election, soon after the date that the advertisement is published in the newspapers. Even though the advertisement appears shortly before the election and iden-

tifies Senator *C*'s position on the issue as contrary to *O*'s position, University *O* has not violated the political campaign intervention prohibition because the advertisement does not mention the election or the candidacy of Senator *C*, education issues have not been raised as distinguishing Senator *C* from any opponent, and the timing of the advertisement and the identification of Senator *C* are directly related to the specifically identified legislation University *O* is supporting and appears immediately before the United States Senate is scheduled to vote on that particular legislation. The candidate identified, Senator *C*, is an officeholder who is in a position to vote on the legislation.

Situation 15. Organization *R*, a section 501(c)(3) organization that educates the public about the need for improved public education, prepares and finances a radio advertisement urging an increase in state funding for public education in State *X*, which requires a legislative appropriation. Governor *E* is the governor of State *X*. The radio advertisement is first broadcast on several radio stations in State *X* beginning shortly before an election in which Governor *E* is a candidate for re-election. The advertisement is not part of an ongoing series of substantially similar advocacy communications by Organization *R* on the same issue. The advertisement cites numerous statistics indicating that public education in State *X* is under funded. While the advertisement does not say anything about Governor *E*'s position on funding for public education, it ends with "Tell Governor *E* what you think about our under-funded schools." In public appearances and campaign literature, Governor *E*'s opponent has made funding of public education an issue in the campaign by focusing on Governor *E*'s veto of an income tax increase the previous year to increase funding of public education. At the time the advertisement is broadcast, no legislative vote or other major legislative activity is scheduled in the State *X* legislature on state funding of public education. Organization *R* has violated the political campaign prohibition because the advertisement identifies Governor *E*, appears shortly before an election in which Governor *E* is a candidate, is not part of an ongoing series of substantially similar advocacy communications by Organization *R* on the same issue, is not timed to coincide with a non election event such as a legislative vote or other major legislative action on that issue, and takes a position on an issue that the opponent has used to distinguish himself from Governor *E*.

Situation 16. Candidate *A* and Candidate *B* are candidates for the state senate in District *W* of State *X*. The issue of State *X* funding for a new mass transit project in District *W* is a prominent issue in the campaign. Both candidates have spoken out on the issue. Candidate *A* supports funding the new mass transit project. Candidate *B* opposes the project and supports State *X* funding for highway improvements instead. *P* is the executive director of *C*, a section 501(c)(3) organization that promotes community development in District *W*. At *C*'s annual fundraising dinner in District *W*, which takes place in the month before the election in State *X*, *P* gives a lengthy speech about community development issues including the transportation issues. *P* does not mention the name of any candidate or any political party. However, at the conclusion of the speech, *P* makes the following statement, "For those of you who care about quality of life in District *W* and the growing traffic congestion, there is a very important choice coming up next month. We need new mass transit. More highway funding will not make a difference. You have the power to relieve the congestion and improve your quality of life in District *W*. Use that power when you go to the polls and cast your vote in the election for your state senator." *C* has violated the political campaign intervention as a result of *P*'s remarks at *C*'s official function shortly before the election, in which *P* referred to the upcoming election after stating a position on an issue that is a prominent issue in a campaign that distinguishes the candidates.

Business Activity

The question of whether an activity constitutes participation or intervention in a political campaign may also arise in the context of a business activity of the organization, such as selling or renting of mailing lists, the leasing of office space, or the acceptance of paid political advertising. In this context, some of the factors to be considered in determining whether the organization has engaged in political campaign intervention include the following:

- Whether the good, service or facility is available to candidates in the same election on an equal basis,
- Whether the good, service, or facility is available only to candidates and not to the general public,
- Whether the fees charged to candidates are at the organization's customary and usual rates, and
- Whether the activity is an ongoing activity of the organization or whether it is conducted only for a particular candidate.

Situation 17. Museum *K* is a section 501(c)(3) organization. It owns an historic building that has a large hall suitable for hosting dinners and receptions. For several years, Museum *K* has made the hall available for rent to members of the public. Standard fees are set for renting the hall based on the number of people in attendance, and a number of different organizations have rented the hall. Museum *K* rents the hall on a first come, first served basis. Candidate *P* rents Museum *K*'s social hall for a fundraising dinner. Candidate *P*'s campaign pays the standard fee for the dinner. Museum *K* is not involved in political campaign intervention as a result of renting the hall to Candidate *P* for use as the site of a campaign fundraising dinner.

Situation 18. Theater *L* is a section 501(c)(3) organization. It maintains a mailing list of all of its subscribers and contributors. Theater *L* has never rented its mailing list to a third party. Theater *L* is approached by the campaign committee of Candidate *Q*, who supports increased funding for the arts. Candidate *Q*'s campaign committee offers to rent Theater *L*'s mailing list for a fee that is comparable to fees charged by other similar organizations. Theater *L* rents its mailing list to Candidate *Q*'s campaign committee. Theater *L* declines similar requests from campaign committees of other candidates. Theater *L* has intervened in a political campaign.

Web Sites

The Internet has become a widely used communications tool. Section 501(c)(3) organizations use their own web sites to disseminate statements and information.

They also routinely link their web sites to web sites maintained by other organizations as a way of providing additional information that the organizations believe is useful or relevant to the public.

A web site is a form of communication. If an organization posts something on its web site that favors or opposes a candidate for public office, the organization will be treated the same as if it distributed printed material, oral statements or broadcasts that favored or opposed a candidate.

An organization has control over whether it establishes a link to another site. When an organization establishes a link to another web site, the organization is responsible for the consequences of establishing and maintaining that link, even if the organization does not have control over the content of the linked site. Because the linked content may change over time, an organization may reduce the risk of political campaign intervention by monitoring the linked content and adjusting the links accordingly.

Links to candidate-related material, by themselves, do not necessarily constitute political campaign intervention. All the facts and circumstances must be taken into account when assessing whether a link produces that result. The facts and circumstances to be considered include, but are not limited to, the context for the link on the organization's web site, whether all candidates are represented, any exempt purpose served by offering the link, and the directness of the links between the organization's web site and the web page that contains material favoring or opposing a candidate for public office.

Situation 19. *M*, a section 501(c)(3) organization, maintains a web site and posts an unbiased, nonpartisan voter guide that is prepared consistent with the principles discussed in Rev. Rul. 78–248. For each candidate covered in the voter guide, *M* includes a link to that candidate's official campaign web site. The links to the candidate web sites are presented on a consistent neutral basis for each candidate, with text saying "For more information on Candidate *X*, you may consult [URL]." *M* has not intervened in a political campaign because the links are provided for the exempt purpose of educating voters and are presented in a neutral, unbiased manner that includes all candidates for a particular office.

Situation 20. Hospital *N*, a section 501(c)(3) organization, maintains a web site that includes such information as medical staff listings, directions to Hospital *N*, and descriptions of its specialty health programs, major research projects, and other community outreach programs. On one page of the web site, Hospital *N* describes its treatment program for a particular disease. At the end of the page, it includes a section of links to other web sites titled "More Information." These links include links to other hospitals that have treatment programs for this disease, research organizations seeking cures for that disease, and articles about treatment programs. This section includes a link to an article on the web site of *O*, a major national newspaper, praising Hospital *N*'s treatment program for the disease. The page containing the article on *O*'s web site contains no reference to any candidate or election and has no direct links to candidate or election information. Elsewhere on *O*'s web site, there is a page displaying editorials that *O* has published. Several of the editorials endorse candidates in an election that has not yet occurred. Hospital *N* has not intervened in a political campaign by maintaining the link to the article on *O*'s web site because the link is provided for the exempt purpose of educating the public about Hospital *N*'s programs and neither the context for the link, nor the relationship between Hospital *N* and *O* nor the arrangement of the links going from Hospital *N*'s web site to the endorsement on *O*'s web site indicate that Hospital *N* was favoring or opposing any candidate.

Situation 21. Church *P*, a section 501(c)(3) organization, maintains a web site that includes such information as biographies of its ministers, times of services, details of community outreach programs, and activities of members of its congregation. *B*, a member of the congregation of Church *P*, is running for a seat on the town council. Shortly before the election, Church *P* posts the following message on its web site, "Lend your support to *B*, your fellow parishioner, in Tuesday's election for town council." Church *P* has intervened in a political campaign on behalf of B.

HOLDINGS

In situations 2, 4, 6, 9, 13, 15, 16, 18 and 21, the organization intervened in a political campaign within the meaning of section 501(c)(3). In situations 1, 3, 5, 7, 8, 10, 11, 12, 14, 17, 19 and 20, the organization did not intervene in a political campaign within the meaning of section 501(c)(3)

DRAFTING INFORMATION

The principal author of this revenue ruling is Judith Kindell of Exempt Organizations, Tax Exempt and Government Entities Division. For further information regarding this revenue ruling, contact Ms. Kindell at (202) 283–8964 (not a toll-free call).

Section 707.—Transactions Between Partner and Partnership

26 CFR 1.707–1: Transactions between partner and partnership.

Partnership property; transfer. This ruling concludes that a transfer of partnership property to a partner in satisfaction of a guaranteed payment under section 707(c) of the Code is a sale or exchange under section 1001, and not a distribution under section 731.

Rev. Rul. 2007–40

ISSUE

Is a transfer of partnership property to a partner in satisfaction of a guaranteed payment under section 707(c) a sale or exchange under section 1001, or a distribution under section 731?

FACTS

Partnership purchased Blackacre for $500x. *A*, a partner in *Partnership*, is entitled to a guaranteed payment under section 707(c) of $800x. Subsequently, when the fair market value of Blackacre is $800x and *Partnership*'s adjusted basis in Blackacre is $500x, *Partnership* transfers Blackacre to *A* in satisfaction of the guaranteed payment to *A*.

Appendix E: IRS Letter to 501(c)(4) applicants on new business process option for self-certification and determination

Department of the Treasury
Internal Revenue Service
P.O. Box 2508, Room 4106
Cincinnati, OH 45201

Date:

Employer ID number:

Person to contact:

Contact telephone number:

Contact fax number:

Employee ID number:

Dear [Applicant]:

The IRS is instituting an optional expedited process for certain organizations applying for recognition of exemption under Section 501(c)(4) whose applications have been pending with the IRS for more than 120 days as of May 28, 2013. Organizations can make representations to the IRS under penalties of perjury regarding their past, current, and future activities and receive a determination letter based on those representations.

If you choose to apply for this expedited process, complete and return pages 5-7, *Representations and Specific Instructions*. We will send you a favorable determination letter within 2 weeks of receipt of the signed representations.

Determination letters issued under the optional process will be based on the representations of the organization and may not be relied upon if the organization's activities are different from what is represented to the IRS. The representations are subject to verification on audit. Organizations that don't make the representations will have their applications reviewed based on the legal standards applied to all the facts and circumstances.

If you can make the representations required for eligibility under this optional process and want to participate, please follow the instructions set forth at the end of this letter, *Optional Expedited Process for Certain Exemption Applications Under Section 501(c)(4)*. Send the signed representations within 45 days from the date of this letter to the address below:

Internal Revenue Service
P.O. Box 2508, Room 4106
Cincinnati, OH 45201

You can send the information by fax to [ ]. Your fax signature becomes a permanent part of your filing. Do not send an additional copy by mail.

If you have questions, you can contact the person whose name and telephone number are shown in the heading of this letter.

Thank you for your cooperation.

Sincerely,

[Name]
[Title]

Optional Expedited Process for Certain Exemption Applications Under Section 501(c)(4)

In the interest of effective and efficient tax administration and to assist in the transparent and consistent review of applications for tax-exempt status under Section 501(c)(4), the IRS is offering an optional expedited process for certain organizations that have submitted 501(c)(4) applications. This optional expedited process is currently available only to applicants for 501(c)(4) status with applications pending for more than 120 days as of May 28, 2013, that indicate the organization may be involved in political campaign intervention or issue advocacy.

In this optional process, an organization will represent that it satisfies, and will continue to satisfy, set percentages with respect to the level of its social welfare activities and political campaign intervention activities (as defined in the specific instructions on pages 5-7). These percentage representations are not an interpretation of law but are a safe harbor for those organizations that choose to participate in the optional process.

Under this optional expedited process, an applicant will be presumed to be primarily engaged in activities that promote social welfare based on certain additional representations (on pages 5-7) made by the organization regarding its past, present, and future activities. Like the Form 1024 exemption application itself, these representations are signed on behalf of the organization under penalties of perjury. Applicants that provide the representations will receive a favorable determination letter within two weeks of receipt of the representations.

Importantly, this is an optional process. The standards and thresholds reflected in the representations are criteria for eligibility for expedited processing rather than new legal requirements. No inference will be drawn from an organization's choice not to participate. An organization that declines to make the representations will have its application reviewed under the regular process in which the IRS looks to all facts and circumstances to determine whether an organization primarily engages in activities that promote social welfare.

Like all organizations receiving a favorable determination of exempt status, organizations participating in this optional expedited process may be subject to examination by the IRS and the organization's exempt status may be revoked if, and as of the tax year in which, the facts and circumstances indicate exempt status is no longer warranted. An organization that receives a determination letter under this expedited process may rely on its determination letter as long as its activities are consistent with its application for exemption and the representations, and the determination letter will expressly indicate that the letter was based on the representations. An organization may no longer rely on the determination letter issued under this optional

expedited process as of the tax year in which its activities (including the amount of expenditures incurred or time spent on particular activities) cease to be consistent with its application for exemption and any of the representations, if the applicable legal standards change, or if the determination letter is revoked. If the organization determines that it continues to be described in Section 501(c)(4) notwithstanding the fact that its activities are no longer consistent with the representations below, it may continue to take the position that it is described in Section 501(c)(4) and file Form 990, *Return of Organization Exempt From Income Tax*, but it must notify the IRS about such representations ceasing to be correct on Schedule O, *Supplemental Information,* of the Form 990.

Representations and Specific Instructions

1. During each past tax year of the organization, during the current tax year, and during each future tax year in which the organization intends to rely on a determination letter issued under the optional expedited process, the organization has spent and anticipates that it will spend 60% or more of *both* the organization's total expenditures *and* its total time (measured by employee and volunteer hours) on activities that promote the social welfare (within the meaning of Section 501(c)(4) and the regulations thereunder).

2. During each past tax year of the organization, during the current tax year, and during each future tax year in which the organization intends to rely on a determination letter issued under the optional expedited process, the organization has spent and anticipates that it will spend less than 40% of *both* the organization's total expenditures *and* its total time (measured by employee and volunteer hours) on direct or indirect participation or intervention in any political campaign on behalf of (or in opposition to) any candidate for public office (within the meaning of the regulations under Section 501(c)(4)).

Specific instructions

For purposes of these representations, "total expenditures" include administrative, overhead, and other general expenditures. An organization may allocate those expenditures among its activities using any reasonable method.

For purposes of these representations, activities that promote the social welfare do not include any expenditure incurred or time spent by the organization on--

- Any activity that benefits select individuals or organizations rather than the community as a whole;
- Direct or indirect participation or intervention in any political campaign on behalf of (or in opposition to) any candidate for public office;
- Operating a social club for the benefit, pleasure, or recreation of the organization's members; and
- Carrying on a business with the general public in a manner similar to organizations operated for profit.

For purposes of these representations, direct or indirect participation or intervention in any political campaign on behalf of (or in opposition to) any candidate for public office ("candidate") includes any expenditure incurred or time spent by the organization on:

- Any written (printed or electronic) or oral statement supporting (or opposing) the election or nomination of a candidate;
- Financial or other support provided to (or the solicitation of such support on behalf of) any candidate, political party, political committee, or Section 527 organization;
- Conducting a voter registration drive that selects potential voters to assist on the basis of their preference for a particular candidate or party;
- Conducting a "get-out-the-vote" drive that selects potential voters to assist on the basis of their preference for a particular candidate or (in the case of general elections) a particular party;
- Distributing material prepared by a candidate, political party, political committee, or Section 527 organization; and
- Preparing and distributing a voter guide that rates favorably or unfavorably one or more candidates.

In addition, ***solely*** for purposes of determining an organization's eligibility under this optional expedited process, direct or indirect participation or intervention in any political campaign on behalf of (or in opposition to) any candidate includes any expenditure incurred or time spent by the organization on:

- Any public communication within 60 days prior to a general election or 30 days prior to a primary election that identifies a candidate in the election. For this purpose, "public communication" means a communication by means of any broadcast, cable, or satellite communication; newspaper, magazine, or other periodical (excluding any periodical distributed only to the organization's dues paying members); outdoor advertising facility, mass mailing, or telephone bank to the general public; and communications placed for a fee on another person's Internet website;
- Conducting an event at which only one candidate is, or candidates of only one party are, invited to speak; and
- Any grant to an organization described in Section 501(c) if the recipient of the grant engages in political campaign intervention.[1]

[1] An organization may rely on a representation from an authorized officer of the recipient if the organization does not know whether the recipient engages in any political campaign intervention and may assume that a Section 501(c)(3) organization does not engage in political campaign intervention.

Although other activities may constitute direct or indirect participation or intervention in a political campaign (see Revenue Ruling 2007-41 for examples of factors to consider), representations may be based on the specific activities described in these instructions.

Under penalties of perjury, I declare that I am authorized to sign these representations on behalf of the above organization, and that to the best of my knowledge and belief, the facts stated in the representations are true, correct, and complete.

_____ _____

Signature of officer, director, trustee or other authorized official Date

_____

Title and printed name

_____

Organization name and Employer Identification Number

Appendix F: "Publication 1" (*Your Rights as a Taxpayer*)

IRS
Department of the Treasury
Internal Revenue Service
Publication 1
(Rev. September 2012)
Catalog Number 64731W
www.irs.gov

Your Rights as a Taxpayer

The first part of this publication explains some of your most important rights as a taxpayer. The second part explains the examination, appeal, collection, and refund processes. This publication is also available in Spanish.

Declaration of Taxpayer Rights

I. Protection of Your Rights

IRS employees will explain and protect your rights as a taxpayer throughout your contact with us.

II. Privacy and Confidentiality

The IRS will not disclose to anyone the information you give us, except as authorized by law. You have the right to know why we are asking you for information, how we will use it, and what happens if you do not provide requested information.

III. Professional and Courteous Service

If you believe that an IRS employee has not treated you in a professional, fair, and courteous manner, you should tell that employee's supervisor. If the supervisor's response is not satisfactory, you should write to the IRS director for your area or the center where you file your return.

IV. Representation

You may either represent yourself or, with proper written authorization, have someone else represent you in your place. Your representative must be a person allowed to practice before the IRS, such as an attorney, certified public accountant, or enrolled agent. If you are in an interview and ask to consult such a person, then we must stop and reschedule the interview in most cases.

You can have someone accompany you at an interview. You may make sound recordings of any meetings with our examination, appeal, or collection personnel, provided you tell us in writing 10 days before the meeting.

V. Payment of Only the Correct Amount of Tax

You are responsible for paying only the correct amount of tax due under the law—no more, no less. If you cannot pay all of your tax when it is due, you may be able to make monthly installment payments.

VI. Help With Unresolved Tax Problems

The Taxpayer Advocate Service can help you if you have tried unsuccessfully to resolve a problem with the IRS. Your local Taxpayer Advocate can offer you special help if you have a significant hardship as a result of a tax problem. For more information, call toll free 1–877–777–4778 (1–800–829–4059 for TTY/TDD) or write to the Taxpayer Advocate at the IRS office that last contacted you.

VII. Appeals and Judicial Review

If you disagree with us about the amount of your tax liability or certain collection actions, you have the right to ask the Appeals Office to review your case. You may also ask a court to review your case.

VIII. Relief From Certain Penalties and Interest

The IRS will waive penalties when allowed by law if you can show you acted reasonably and in good faith or relied on the incorrect advice of an IRS employee. We will waive interest that is the result of certain errors or delays caused by an IRS employee.

THE IRS MISSION

PROVIDE AMERICA'S TAXPAYERS TOP QUALITY SERVICE BY HELPING THEM UNDERSTAND AND MEET THEIR TAX RESPONSIBILITIES AND BY APPLYING THE TAX LAW WITH INTEGRITY AND FAIRNESS TO ALL.

Examinations, Appeals, Collections, and Refunds

Examinations (Audits)

We accept most taxpayers' returns as filed. If we inquire about your return or select it for examination, it does not suggest that you are dishonest. The inquiry or examination may or may not result in more tax. We may close your case without change; or, you may receive a refund.

The process of selecting a return for examination usually begins in one of two ways. First, we use computer programs to identify returns that may have incorrect amounts. These programs may be based on information returns, such as Forms 1099 and W-2, on studies of past examinations, or on certain issues identified by compliance projects. Second, we use information from outside sources that indicates that a return may have incorrect amounts. These sources may include newspapers, public records, and individuals. If we determine that the information is accurate and reliable, we may use it to select a return for examination.

Publication 556, Examination of Returns, Appeal Rights, and Claims for Refund, explains the rules and procedures that we follow in examinations. The following sections give an overview of how we conduct examinations.

By Mail

We handle many examinations and inquiries by mail. We will send you a letter with either a request for more information or a reason why we believe a change to your return may be needed. You can respond by mail or you can request a personal interview with an examiner. If you mail us the requested information or provide an explanation, we may or may not agree with you, and we will explain the reasons for any changes. Please do not hesitate to write to us about anything you do not understand.

By Interview

If we notify you that we will conduct your examination through a personal interview, or you request such an interview, you have the right to ask that the examination take place at a reasonable time and place that is convenient for both you and the IRS. If our examiner proposes any changes to your return, he or she will explain the reasons for the changes. If you do not agree with these changes, you can meet with the examiner's supervisor.

Repeat Examinations

If we examined your return for the same items in either of the 2 previous years and proposed no change to your tax liability, please contact us as soon as possible so we can see if we should discontinue the examination.

Appeals

If you do not agree with the examiner's proposed changes, you can appeal them to the Appeals Office of IRS. Most differences can be settled without expensive and time-consuming court trials. Your appeal rights are explained in detail in both Publication 5, Your Appeal Rights and How To Prepare a Protest If You Don't Agree, and Publication 556, Examination of Returns, Appeal Rights, and Claims for Refund.

If you do not wish to use the Appeals Office or disagree with its findings, you may be able to take your case to the U.S. Tax Court, U.S. Court of Federal Claims, or the U.S. District Court where you live. If you take your case to court, the IRS will have the burden of proving certain facts if you kept adequate records to show your tax liability, cooperated with the IRS, and meet certain other conditions. If the court agrees with you on most issues in your case and finds that our position was largely unjustified, you may be able to recover some of your administrative and litigation costs. You will not be eligible to recover these costs unless you tried to resolve your case administratively, including going through the appeals system, and you gave us the information necessary to resolve the case.

Collections

Publication 594, The IRS Collection Process, explains your rights and responsibilities regarding payment of federal taxes. It describes:

- What to do when you owe taxes. It describes what to do if you get a tax bill and what to do if you think your bill is wrong. It also covers making installment payments, delaying collection action, and submitting an offer in compromise.
- IRS collection actions. It covers liens, releasing a lien, levies, releasing a levy, seizures and sales, and release of property.

Your collection appeal rights are explained in detail in Publication 1660, Collection Appeal Rights.

Innocent Spouse Relief

Generally, both you and your spouse are each responsible for paying the full amount of tax, interest, and penalties due on your joint return. However, if you qualify for innocent spouse relief, you may be relieved of part or all of the joint liability. To request relief, you must file Form 8857, Request for Innocent Spouse Relief. For more information on innocent spouse relief, see Publication 971, Innocent Spouse Relief, and Form 8857.

Potential Third Party Contacts

Generally, the IRS will deal directly with you or your duly authorized representative. However, we sometimes talk with other persons if we need information that you have been unable to provide, or to verify information we have received. If we do contact other persons, such as a neighbor, bank, employer, or employees, we will generally need to tell them limited information, such as your name. The law prohibits us from disclosing any more information than is necessary to obtain or verify the information we are seeking. Our need to contact other persons may continue as long as there is activity in your case. If we do contact other persons, you have a right to request a list of those contacted.

Refunds

You may file a claim for refund if you think you paid too much tax. You must generally file the claim within 3 years from the date you filed your original return or 2 years from the date you paid the tax, whichever is later. The law generally provides for interest on your refund if it is not paid within 45 days of the date you filed your return or claim for refund. Publication 556, Examination of Returns, Appeal Rights, and Claims for Refund, has more information on refunds.

If you were due a refund but you did not file a return, you generally must file your return within 3 years from the date the return was due (including extensions) to get that refund.

Tax Information

The IRS provides the following sources for forms, publications, and additional information.

- ***Tax Questions:*** 1-800-829-1040 (1-800-829-4059 for TTY/TDD)
- ***Forms and Publications:*** 1-800-829-3676 (1-800-829-4059 for TTY/TDD)
- ***Internet:*** *www.irs.gov*
- ***Small Business Ombudsman:*** A small business entity can participate in the regulatory process and comment on enforcement actions of IRS by calling 1-888-REG-FAIR.
- ***Treasury Inspector General for Tax Administration:*** You can confidentially report misconduct, waste, fraud, or abuse by an IRS employee by calling 1-800-366-4484 (1-800-877-8339 for TTY/TDD). You can remain anonymous.

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Chairman CAMP. Well, thank you very much, Mr. Werfel.

For the purposes of preparing your report, did you speak to former Commissioner Doug Shulman?

Mr. WERFEL. I did not.

Chairman CAMP. Did you speak to former Acting Commissioner Steve Miller?

Mr. WERFEL. I did not.

Chairman CAMP. Did you talk with Joseph Grant, the former Deputy Commissioner for TEGE?

Mr. WERFEL. No, I did not.

Chairman CAMP. Did you talk with Chief Counsel William Wilkins?

Mr. WERFEL. Yes.

Chairman CAMP. What were the basic summaries of those conversations?

Mr. WERFEL. As a first matter, there were three things I set out to do, which are in the report: First, understand where the wrongdoing was so I could hold people accountable; second, understand where the management failures and process mistakes were in the Exempt Organizations Unit so we could fix them; and, third, gain a broader understanding of IRS risks and operations.

And I spoke to many people within the IRS. In fact, my whole senior leadership team engaged in an ongoing series of discussions. And Bill Wilkins is one of the senior leaders within IRS.

Chairman CAMP. Did you talk to Sarah Hall Ingram, the former Deputy Commissioner?

Mr. WERFEL. I have spoken to Sarah Hall Ingram, yes.

Chairman CAMP. As you prepared the report?

Mr. WERFEL. I——

Chairman CAMP. For the purposes of preparing the report, did you speak to her?

Mr. WERFEL. I am not sure how to answer that question. I spoke to her as part of my overall understanding of the situation on the ground with the IRS. So, yes, I guess they all connect.

Chairman CAMP. Okay. And did you speak with Lois Lerner, the former Director of Exempt Organizations?

Mr. WERFEL. I did not.

Chairman CAMP. Well, I would say that your initial conclusion that the IRS found no evidence of intentional wrongdoing by IRS personnel, given the number of key players that you did not talk to, I think is not necessarily an initial conclusion, but an incomplete one. And I really don't see how you were able to reach that.

But we know from our investigation that in the summer of 2011 Lois Lerner directed the Cincinnati office to change the "Tea Party" label to "advocacy groups." Do you think this was an intentional attempt to cover up the targeting?

Mr. WERFEL. I don't know—I don't know the answer to that question. I think more work needs to be done to evaluate the circumstances.

Chairman CAMP. Again, I find it difficult, then, to make the conclusion that no evidence of intentional wrongdoing by IRS personnel was done. But——

Mr. WERFEL. What I am suggesting is there is no evidence in the record to suggest that there was an intentional coverup of any kind.

Chairman CAMP. But you didn't even speak to her, so——

Mr. WERFEL. But each time that I have made the point, each time that I have made——

Chairman CAMP. Mr. Werfel, I control the time. And my question is, after she directed this change, Cincinnati intentionally went back to targeting Tea Party groups. Do you know who was responsible for this?

Mr. WERFEL. Do I know who was—well, I challenge the premise of your question.

Chairman CAMP. After the change was made to "advocacy groups," the Cincinnati office went back to targeting Tea Party groups. Do you know who was responsible for that activity beginning again?

Mr. WERFEL. We are looking into the facts and circumstances that arose. There are a lot of questions to be asked and answered that haven't been asked and answered yet. And I am not going to reach a definitive conclusion before the investigation is complete.

Chairman CAMP. If you don't know, it is fine to say you don't know.

Mr. WERFEL. Yes.

Chairman CAMP. I think the answer is you don't know.

Do you know who in Washington, D.C., directed the lawyers at the Exempt Organizations Technical Office to hold up the Tea Party applications?

Mr. WERFEL. I do not know the answer to that question.

Chairman CAMP. Is the IRS interviewing employees who were directly involved with the Tea Party discrimination at this point?

Mr. WERFEL. Right now, the IRS is relying on the Justice Department and the Inspector General to conduct those interviews. We are working closely with them. But it is critical that, because there is an ongoing criminal investigation, we do not step in front of the Justice Department and the I.G. at this time.

Chairman CAMP. Is the IRS conducting any internal document review outside of complying with the requests that Congress has been sending the agency?

Mr. WERFEL. We are conducting a very thorough document review at this time.

Chairman CAMP. Your report also states that there is no evidence of the use of inappropriate criteria in other IRS business unit operations. And how did you reach that conclusion? Are you interviewing employees in these units and requesting information, or is there——

Mr. WERFEL. Yes, there is—the major divisions that are involved in these types of activities of dealing directly with taxpayer issues are our small business section; our large business section; TEGE, which is the subject of the audit report; and Wage and Investment.

I have met with the leaders of those operating divisions. We have talked about the issues in the I.G. report that dealt with the Exempt Organizations Unit. I have asked them to look internally and do their own assessments of any specific evidence they may have

of similar problems or challenges in their areas. They have determined that there are not—there is some good reason for that.

And, in particular, I think it is important to point out that in this area of tax-exempt review, it is one of the very few areas within the IRS where the nature of political activity is relevant to any determination that we would make on eligibility or review. And so the other areas of the IRS normally don't involve themselves in political activity.

All this said, we understand and mean no—I am, like all of you, very concerned about what is in this I.G. report. It is a very significant concern. We are hearing from taxpayers that they are concerned. And that is why, out of an abundance of caution and because it is important to reassure the taxpayers, we are going to review all of our criteria across the entire IRS and report back to you on our findings.

Chairman CAMP. So I think this leads into the statement in the report that the IRS is digging deeper into the evidence "to determine if there are instances of wrongdoing or inappropriate conduct beyond the mismanagement identified in the report."

Mr. WERFEL. Absolutely.

Chairman CAMP. So that is beyond the Exempt Organizations Division. In that process, are you reviewing documents requested by Congress, or is there some other internal review in addition to that?

Mr. WERFEL. I think there is a lot of overlap, Mr. Chairman. You have asked, this Committee and other committees have asked for an enormous footprint of documents, which is very justifiable. And we are in the process of producing them and have produced a lot of documents for this Committee and others.

We, as part of our efforts to get to the bottom of this, are looking at a very similar footprint of documents in order to make sure that we understand the causes of these circumstances so that we can take the appropriate accountability steps and corrective action.

Chairman CAMP. Well, I would note we are just beginning to get emails. And so it is not as if we have all the documents at our disposal yet that we are going to need to review.

But I have another line of questioning. You acknowledged and your report acknowledges that the IRS inappropriately targeted Tea Party groups. And since then, there have been questions raised about whether the IRS was inappropriately targeting progressive groups.

And I would like to read to you the Treasury Inspector General's answer to this question, which the Minority was kind enough to share with me this morning. "We reviewed all cases that the IRS identified as potential political cases and did not limit our audit to allegations related to the Tea Party." So I would like to repeat that. TIGTA did not limit its audit to just the Tea Party.

And let me just read another excerpt from their answer, their written answer. "From our audit work, we did not find evidence that progressives were used by the IRS to select potential political cases during the 2010 to 2012 timeframe. We found no indication in any materials that 'progressives' was a term used to refer cases for scrutiny for political campaign intervention."

So we have conducted interviews with some of the key Cincinnati IRS employees, and they have confirmed that to be true. Does any part of your 30-day report contradict that recent letter and finding by the Inspector General?

Mr. WERFEL. No, I don't think any part of our report contradicts it. What our report determines is that there is diversity in the types of political organizations that were accounted for in the BOLO list. And that is all that is in our report.

Chairman CAMP. And the BOLO list is a flagging. And only the conservative Tea Party groups were referred for extra scrutiny, isn't that correct, at this point? That is what we know so far?

Mr. WERFEL. I think that is what the evidence points to so far. But, as you have mentioned in your opening remarks, we are in the early stages of this, and there is more investigation that needs to be done to answer that very question.

Chairman CAMP. Yes. And the Inspector General is doing a more thorough investigation. But at least in the recent letter he sent us, he said he found no evidence to date. And your report, as you have responded, doesn't contradict that.

And thank you. I yield to Mr. Levin.

Mr. LEVIN. You know, to try to set the stage for some bipartisanship, just quickly, where did you start your government service?

Mr. WERFEL. I started my government service in the Office of Management and Budget. I was at the Justice Department for some time. But at the time that this Administration came, I was a senior leader in OMB and serving under President Bush.

Mr. LEVIN. Your report states, "We have not found involvement in these matters," talking about the criteria, "by anyone outside of the IRS." Is that correct?

Mr. WERFEL. That is correct.

Mr. LEVIN. And you stand by that?

Mr. WERFEL. Yes, I stand by it. I think the statement in the report is appropriately caveated with the point that there are ongoing reviews and investigations that are necessary. But, at this time, taxpayers and the public have questions, and the answer to the question, have you found any evidence of intentional wrongdoing, our answer is, no, we have not.

Mr. LEVIN. Your report also says—let me just ask you, in terms of the involvement outside of the IRS, have you found any involvement by anybody in the White House?

Mr. WERFEL. No, we have not.

Mr. LEVIN. There has been reference here to the I.G.'s investigation. And I want everybody to understand, in the letter that was sent there was use—there was a BOLO that had the word "progressives" on it. Is that correct?

Mr. WERFEL. Yes, that is correct.

Mr. LEVIN. And you have asked that that BOLO and all others no longer be used?

Mr. WERFEL. That is correct. We suspended the use of all BOLO lists.

Mr. LEVIN. The I.G. letter also indicates—and all of this was indicated for the first time—that there was a number of groups, progressives, involved in the BOLO that were sent to a different group within the IRS, and the I.G. did not talk with anybody regarding

what happened to those. So the notion that the selecting out was only as to "Tea Party" and was not as to "progressives" is simply incorrect.

And when the I.G. was sitting in your chair, he failed to indicate who the others were. And when asked specifically if it included progressive groups in another committee or subcommittee hearing, he wasn't forthright. So I think he should come back and talk to us and answer some questions.

Because, in terms of the selecting-out process, clearly it involved progressive groups as well as Tea Party groups. That was clear from the pie chart in his report, but he never delineated who the others were, even as later asked. And if he had come forth with that information, I think it would have undercut a lot of the wild innuendos, that talk about a White House enemies list, that talk about a culture of cover-up.

So we want him back. I hope, Mr. Chairman, you will have him back.

And I think, Mr. Werfel, we know that you will encourage the digging out of all the facts as fully as possible as you proceed. Do you give us that pledge?

Mr. WERFEL. I do give you that pledge, absolutely.

Mr. LEVIN. Thank you.

Mr. WERFEL. Actually, Mr. Chairman, there is a question that I answered from you that I think warrants further clarification——

Chairman CAMP. Fine.

Mr. WERFEL [continuing]. If that is okay?

Chairman CAMP. Yes.

Mr. WERFEL. And I don't remember your exact question, but I want to make sure that I get out early in this hearing so that we have that basis of information to guide the questions, is that where we are right now in our fact-gathering—and, as you said, it is early—we have evidence, obviously, of diversity of political labels used in the BOLO lists.

Chairman CAMP. Yes.

Mr. WERFEL. We have also—as another example of where we have diversity of political labels, this week we are sending out letters to taxpayers that have been in our backlog for more than 120 days to offer them this option, this fast-track option.

Chairman CAMP. Yes.

Mr. WERFEL. There is diversity of political labels in the groups that are getting this letter.

And, also, it is our understanding, as we review the facts, that there is a diversity of political labels in those organizations that were put in through process for further review.

The challenge that I have in going deeper than that is as follows. To go deeper into those facts could end up with sensitive taxpayer information under 6103. The other challenge is that, in looking at the diversity of groups, it is not always clear where they stand on the political spectrum, and, frankly, I don't want to know where they stand on the political spectrum. I want the IRS to be in the business of just detecting, because we have to under the law and regulation, the extent of political activity, not knowing the type of politics.

But going back to your earlier question, I didn't want to leave the Committee with the impression that we are not seeing diversity of political labels across the spectrum. What I am suggesting is more analysis, significantly more analysis, is needed before we reach more conclusions about what that means in terms of an IRS failure or an IRS issue.

Chairman CAMP. Well, that is why I find it perplexing that you would conclude there is no evidence of intentional wrongdoing by the IRS, when the Inspector General says that he reviewed not only just Tea Party cases but others and, in his letter dated June 26th, says that only Tea Party cases at this point were flagged and sent to another review. There were no progressive cases sent to another review.

Mr. LEVIN. To a different review.

Chairman CAMP. Please don't interrupt me, Mr. Levin.

Mr. LEVIN. To a different review.

Chairman CAMP. And so I think that is an important point. And that is why we need the full Inspector General letter in the record.

And I think that you might have called these "initial conclusions," and I think "initial" probably should be emphasized. I would call them incomplete, given that we still have more information to review.

With that, I will recognize Mr. Johnson.

Mr. JOHNSON. Thank you, Mr. Chairman.

Mr. Werfel, the American people want, need, and deserve to know the truth, and I hope we get it.

Mr. Werfel, back in my district, it appears the Allen Area Patriots have also been a target of the IRS. The bottom line is that the IRS has been used as a political weapon. And that is just outrageous.

Mr. Werfel, instead of targeting Americans because of their belief, why doesn't the IRS target fraud and abuse that is costing hardworking, law-abiding American taxpayers billions of dollars?

Mr. Werfel, I would like to play a short video clip on an issue that I have been working on for some time now. The clip is from a WTHR TV investigative report. And this isn't a single case.

[Video shown.]

Over the years, the I.G. has sounded the alarm about fraud and abuse with the $1,000 refundable Child Tax Credit. Do you agree this is a problem, yes or no?

Mr. WERFEL. Yes, I certainly agree that our——

Mr. JOHNSON. Okay. That is good.

Isn't it true that one of the rules to claim the Child Tax Credit is that the child has to live with the tax filer for more than half of the year, yes or no?

Mr. WERFEL. That is difficult to confirm, that eligibility point, I agree.

Mr. JOHNSON. Why, then, isn't the IRS enforcing this residency rule? Mr. Werfel, I hope you will work with us to address this. I have a bill that would help put a stop to this. In fact, the bill would save taxpayers $24 billion.

I want to also ask you about another scandal, and that is the IRS management of the Individual Taxpayer Identification Number pro-

gram, or ITIN. Again, why doesn't the IRS target fraud and abuse instead of Americans for their beliefs?

Last summer, the I.G. issued a damning report in which it found that IRS management discouraged IRS workers from detecting fraudulent applications. The I.G.'s report led me to call on the then-Commissioner Shulman to resign.

On the screen, I have Figure 6 from the 2012 I.G. report showing most frequently used addresses for ITIN tax refunds. As you can see, nearly 24,000 tax refunds, totaling $46.4 million, were issued to the same address in Atlanta, Georgia. Bottom line, these ITINs are costing taxpayers dearly because they can be used to fraudulently get tax refunds.

And, last month, the I.G. issued another report that makes it clear the IRS could be doing a better job protecting taxpayer dollars. Just look at the figure on the screen. Over 1,000 ITINs were assigned to individuals using the same address in Atlanta, Georgia.

Do you agree there is still a problem or not, yes or no?

Mr. WERFEL. I do agree there is still a problem, yes.

Mr. JOHNSON. Also, the I.G. found the IRS workers handling the ITIN applications remained concerned that management will basically pressure them to rubber-stamp applications instead of ensuring that only qualified individuals receive.

Can you give us assurance that the IRS management won't do this anymore?

Mr. WERFEL. I need to look further into that allegation. But, on its face, it sounds like something that is inappropriate, and I will work with the team. I——

Mr. JOHNSON. Let me just say in closing, your own report acknowledges the Tax Code is nearly impossible to administer because it is so complex. And, based on the billions in improper payments being made with refundable credits, I will just say your agency is proving you right every day. And it is time for the IRS to stop targeting Americans and start targeting fraud.

I yield back.

Chairman CAMP. All right.

Mr. Rangel is recognized.

Mr. RANGEL. Welcome to the Committee.

You have said there is diversity in the BOLO lists, and you admit that conservative groups were on the BOLO lists. Why is it that we don't know whether or not there were progressive groups on the BOLO lists?

Mr. WERFEL. Well, we do know that the word "progressive" did appear on a set of BOLO lists. We do know that.

When I was articulating the point about diversity, I was trying to capture that the types of political organizations that are on these BOLO lists are wide-ranging. But they do include progressives.

Mr. RANGEL. But, you know, we seem to know what a conservative is, but people—how come "progressive" now becomes "diversity" instead of what it is? It is groups that are considered to be liberal as opposed to the Tea Party that is considered to be conservative. Is that correct, fair?

Mr. WERFEL. I think it is fair. I think——

Mr. RANGEL. Okay. As long as it is fair, why are you having a problem with the Chairman? Couldn't you say that, in deter-

mining whether there was abuse of the provisions of the Internal Revenue Code, the staff were looking for signals for organizations, whether they were liberal or whether they were conservative, and the methods they used were not appropriate? Is that a fair statement?

Mr. WERFEL. I don't want to jump to a particular conclusion. I want——

Mr. RANGEL. Well, what part of that statement gives you a problem?

Mr. WERFEL. Because where we are right now in our review is we understand that these political labels of varying types were on the BOLO lists, and we understand——

Mr. RANGEL. Okay. "Tea Party" is a type, right?

Mr. WERFEL. Yes.

Mr. RANGEL. Can you give me a type of name that would describe a progressive, Democratic, liberal organization?

Mr. WERFEL. That is where—I mean, the word—and this is where I reach my conclusion that there is a broad range or diversity in the political groups, because there are some more on the obvious side of the spectrum like the "Tea Party" and then——

Mr. RANGEL. That is good enough for me. You are saying that there are groups that you can say are progressive groups.

Mr. WERFEL. I would put them in three categories. There are ones that are clearly on the conservative end of the spectrum, some that are clearly on the liberal end of the spectrum, and then there is a set of groups where it is difficult to determine on the facts where they would land on that spectrum. And maybe they don't land anywhere on that. Maybe they land right in the middle.

Mr. RANGEL. Well, that just makes so much sense. And, so far, even though you don't like the technique that was used, you don't find that there was any deliberate political attacks made. It was just that they were trying—based on what you know now, they were trying to do their job, and they didn't do it in the right way.

Mr. WERFEL. Yes, my position is that the way in which this should be structured, it should be looking generically at political activity and not using labels that point toward particular political persuasions, because that is inconsistent with the IRS mission statement for how we are supposed to do our work.

Mr. RANGEL. Do you think it is possible that the White House would be supporting a targeting of progressive organizations that supported his candidacy?

Mr. WERFEL. I don't even want to speculate on that. From my short time at the IRS, I have seen no interaction between the White House and the IRS that would extend to that level. I personally have had no contact with the White House other than to brief the President on this report.

Mr. RANGEL. And could you produce to us the type of names that are on the BOLO lists so that we can make determinations as to whether we think they are from the left or the right? Could you help us out with that?

Mr. WERFEL. That has been provided to the Chairman, given the taxpayer-sensitive nature of the information protected by Section 6103 of the Code.

Mr. RANGEL. So you are saying the Chairman has a list of organizations that were considered to be progressive that were targeted.

Mr. WERFEL. What I am saying is the Chairman has been delivered the unredacted version of the BOLO lists.

Mr. RANGEL. And that list that is unredacted includes organizations that are considered to be progressive.

Mr. WERFEL. It includes taxpayer-sensitive information across a broad spectrum of political organizations.

Mr. RANGEL. So the Chairman knows, or should know, that the targeting concerned liberal as well as conservative organizations.

Mr. WERFEL. That is not a question I feel appropriate to answer.

Mr. RANGEL. But that information was delivered to the Chairman.

Mr. WERFEL. We have delivered both the redacted and unredacted version of all the BOLO lists to this Committee.

Mr. RANGEL. And the unredacted includes progressive organizations.

Mr. WERFEL. It does, because it is on both the redacted and the unredacted, yes.

Chairman CAMP. All right.

Mr. RANGEL. Thank you so much, Mr. Chairman.

Chairman CAMP. Time has expired.

And, Mr. Rangel, I do want to note for the record that that information was also provided to the Senate Finance Chairman, Mr. Baucus.

And you should know that I have also delegated 6103 status to Mr. Levin, so any 6103 information I have Mr. Levin also has.

Mr. RANGEL. Are progressive organizations on that?

Chairman CAMP. Yes. So we are working in a bipartisan way in terms of the sharing of 6103 information.

Mr. RANGEL. You don't know how glad I am to hear that, Mr. Chairman. There appeared to be so much confusion before, but at least we know that the abuse was to both types of organizations, conservative as well as so-called progressives. Thank you.

Chairman CAMP. And never wanting to comment too much on the Senate, I believe Mr. Baucus has also shared this information with Mr. Hatch, Senator Hatch.

Mr. RANGEL. Thank you.

Chairman CAMP. So now I will recognize Mr. Brady.

Mr. BRADY. Mr. Werfel, who initiated the targeting of conservative organizations for extra scrutiny based on their political beliefs?

Mr. WERFEL. That question is still subject to further investigation.

Mr. BRADY. Who have you interviewed in the IRS on that matter?

Mr. WERFEL. There are a variety of different employees being interviewed——

Mr. BRADY. No——

Mr. WERFEL [continuing]. By the Inspector General, the Justice Department.

I know you are going to make the point that I have not personally interviewed the——

Mr. BRADY. Or——

Mr. WERFEL [continuing]. Employees. I understand that.

Mr. BRADY. Because you just testified you have not——

Mr. WERFEL. I have not.

Mr. BRADY [continuing]. Interviewed anyone within your agency.

Mr. WERFEL. Right. And if it is helpful to the Committee, I can explain the structure of my review——

Mr. BRADY. Sure.

Mr. WERFEL [continuing]. And how we are——

Mr. BRADY. Let's go to the——

Mr. WERFEL [continuing]. Uncovering every fact——

Mr. BRADY. Let's go to the key questions.

Mr. WERFEL. Please.

Mr. BRADY. You don't know who initiated the—who initiated the targeting of donors to conservative organizations who improperly apply the gift tax to their donations?

Mr. WERFEL. Again, the types of questions that were raised to donors——

Mr. BRADY. Who, I guess is my question?

Mr. WERFEL [continuing]. Are still subject to further investigation. I am just taking issue with the "targeting of donors." I want to make sure that there is no supposition of——

Mr. BRADY. Commissioner, please. At this point, you haven't interviewed them yet, so you can't honestly know, correct?

Mr. WERFEL. We——

Mr. BRADY. That is not a crime.

Mr. WERFEL. No, no, no. It is not a question of that we haven't interviewed.

Mr. BRADY. Okay.

Mr. WERFEL. It is a question of that the investigation is ongoing.

Mr. BRADY. Who leaked private taxpayer information, including donors to the National Organization for Marriage, to the *Huffington Post* and the Human Rights Campaign? Do you know?

Mr. WERFEL. I do not have that information.

Mr. BRADY. Who leaked private taxpayer information for 31 conservative groups to the media, specifically ProPublica? Do you know?

Mr. WERFEL. I don't have that information. I will point out that the I.G. reviewed those circumstances and found those releases of information to be not intentional.

Mr. BRADY. But you don't know who leaked it.

Mr. WERFEL. I don't have that information at my fingertips.

Mr. BRADY. Who leaked private tax information to participants of the President's Economic Recovery Advisory Board?

Mr. WERFEL. Again, I have to learn more about the circumstances of each issue that you are identifying——

Mr. BRADY. Who at the agency in Washington or within the White House was involved in the targeting, delay, and intimidation of applicants on the "Be on the Lookout" list? Do you know?

Mr. WERFEL. I can answer some of the questions. I will say this. I am not aware of anyone at the White House, the Treasury Department, or otherwise that was involved in this. As I have said, all the evidence that we have points to the involvement of individuals within the IRS. And I am happy to talk through——

Mr. BRADY. Right.

Mr. WERFEL [continuing]. That with you.

Mr. BRADY. Let's do—let's talk through this.

Mr. WERFEL. Okay.

Mr. BRADY. In regard to the targeting delays of the King Street Tea Party/True the Vote application, who, at the time IRS shared private taxpayer information to other Federal agencies, such as the FBI, ATF, and OSHA, do you believe was involved?

Mr. WERFEL. I believe, based on the question you have just asked me, it is a question about a specific taxpayer, and I can't answer that question.

Mr. BRADY. Finally, who at the IRS was involved in covering up this pattern of abuse within the agency and concealing it from the public and Congress for the past 2 years?

Mr. WERFEL. Again, I don't know that I would be comfortable with the characterizations in the question. But I am happy to walk through the managerial chain with you and the events as I understand them.

Mr. BRADY. I guess my point is, you are not conducting interviews. You don't know answers to the key questions. Yet, in your report, you declare, "There is no evidence of intentional wrongdoing or misconduct on the part of IRS personnel"—there is no evidence of intentional wrongdoing.

Mr. Werfel, this report is a sham. I would call it a whitewash, but it is too thin and unsubstantial to even meet that description.

And my point to you is that you don't work for the IRS; you work for the American people. Your job isn't to cover up, it is to open up this agency. Because what we are seeing, these patterns of abuse and intimidation, the only goal appears to be to silence the voice of people whose views you don't like. And so getting to the truth is critical.

So my question is, I am told you are a decent person, so are you serious about getting to the truth?

Mr. WERFEL. Absolutely. Absolutely.

Mr. BRADY. Are you serious about——

Mr. WERFEL. And I am serious about——

Mr. BRADY [continuing]. Restoring the integrity of the IRS?

Mr. WERFEL. I am serious about getting to the truth, and I am serious about doing it consistent with the rule of law and procedure. And many of the criticisms that you are levying in your set of questions, in order for me to overcome those criticisms, in many cases I would have to violate that rule of law and procedure.

Mr. BRADY. Let's do this.

Mr. WERFEL. So if——

Mr. BRADY. Let's do this.

Mr. WERFEL. Okay. Go ahead.

Mr. BRADY. Since you are serious, will you commit to returning to the Committee in 30 days with more complete answers to the key questions before us?

Mr. WERFEL. Absolutely. As these answers become available, I am ready to submit them.

But I think it is very important to understand that, in gathering these answers, we have to follow the rule of law and procedure. So the point——

Mr. BRADY. You know, wouldn't it have been great if the IRS——

Mr. LEVIN. Could the witness finish? Point of order.

Mr. BRADY. If I can finish?

Chairman CAMP. Mr. Brady controls the time.

Mr. LEVIN. But let the witness answer the questions.

Chairman CAMP. It is up to Mr. Brady to conduct his questioning as he sees fit.

Mr. BRADY. Wouldn't it have been terrific if the IRS had followed the rule of law and procedure when targeting these conservative groups and donors, leaking their private taxpayer information, concealing it from the public, and then misleading Congress?

You need to understand one thing. The Ways and Means Committee is going to get to the truth, good or bad. We are not going to stop until we learn the whole truth. And we are going to reveal who initiated these abuses, who participated, who encouraged them, and who concealed them. We are going to hold them accountable, including you if you hinder this investigation. And then we are going to make sure the IRS never does this again to average taxpayers.

I yield back.

Chairman CAMP. All right. Time has expired.

Mr. McDermott is recognized.

Mr. MCDERMOTT. Thank you, Mr. Chairman.

Mr. Werfel, thank you for being willing to be the Director of the IRS. After that last set of questions, I think it is important to thank you. You have been at the center of a firestorm, as has the whole agency. And the IRS has made attempts to address the criticisms and meet the challenges that face us.

I said it before in this Committee, but it bears repeating: The IRS has a difficult and almost impossible and thankless job. It is the agency easiest to dislike and easiest to throw under the bus. You go back to the Bible, who do they pick out to talk about? Tax collectors. Remember Zacchaeus? These are the people who are at the bottom of the society. And that is the way we are treating IRS people, and I don't believe it is fair. You are hardworking, dedicated civil servants who do your very best to administer the law.

Now, I am going to stop my—what I was going to say, except to say one thing. I don't think BOLO lists should be thrown out. Every time I get on a United Airlines flight to go home to Seattle, before it leaves the ground the first officer leaves the cockpit and goes down a BOLO list. He is on the lookout for a lot of things on that plane. You use it to organize your thinking.

The American College of Surgeons has just adopted BOLO lists. Before they take somebody into surgery, there is a whole long checklist of things that they look at in anticipation before they put you under anesthesia and do surgery.

We think that is the way you organize your thinking. And it is clear to me that a "Be on the Lookout" list is a good idea. So don't

say you are going to throw them away, because we know that—otherwise, you become the DMV in Seattle, where you go in to get your driver's license, you take a number, and you wait, and you will have a long line of people because they are not organized. They are taking them one at a time. And if you take 292 or 298 one at a time and don't organize your thinking, it doesn't make any sense. So I want you to be careful about how you reorganize.

But I would like you to take the rest of my time to answer the questions that Mr. Brady kept interrupting you on.

Mr. WERFEL. I appreciate that, Congressman.

The point I was trying to make in response to Mr. Brady's questions was that there are certain procedures that need to be followed in getting the answers that this Committee is looking for and the American people are looking for.

As an example, clearly, the employees involved need to be interviewed. And I am helping to make sure that those employees are interviewed. The issue is that I have been asked by the Justice Department and the Inspector General to enable them to do the interviews, to ask all the thorough questions to get to the bottom of this, because that will make sure that if there is a prosecutorial action that needs to be taken, that it will be clean and the evidence chain will be clean. These are very specific instructions coming from the Justice Department and the Inspector General.

So the notion that no witnesses are being interviewed is not accurate. The accurate answer is that witnesses are being interviewed. Whether I am personally sitting across the table or not from interviewing—I would love to be able to. But the reality is I am going to follow the process and the rule of law in getting to the bottom of it. And one of the constraints that I have is that I have to let professional investigators do the interviewing. And that is a constraint that I am willing to live with, because I trust that these professional investigators will be able to get to the bottom of it.

One more point that I want to make is about the rule of law and procedure around accountability. There is going to be a lot of questions and implications that the accountability is not real because people are still at the IRS and they are still getting a paycheck.

The reality is that when you take personnel action for discipline against a civil servant, there are rules of procedure that need to be followed. And if I went off and cut out those rules of procedure and fired people and suspended them without pay, then I personally would be violating those rules of law and procedure.

And they are put in place for a reason. Those due-process protections are put in place so that, in the event that an employee is unfairly selected for discipline, they have an opportunity to defend themselves. There is a good reason for them.

So when we see things that bother us in government, in particular in the IRS, and we want people held accountable, what we need to focus on is making sure that we are following a very diligent and expedient process in holding those individuals accountable. And that is what we are doing right now. We are pursuing the correct set of disciplinary actions, but we are doing it consistent with the laws and regulations that govern our operations.

Chairman CAMP. All right. Thank you.

Time has expired.

Mr. MCDERMOTT. Thank you, Mr. Chairman.

Chairman CAMP. Mr. Ryan is recognized.

Mr. RYAN. Thank you.

Mr. Werfel, Secretary Lew asked you to put this report together to make sure that nothing like this ever happens again. I look at page 35, and I see basically a case made for a budget increase. Your budget asks for over a billion dollars in more spending for your agency, and you are asking us to hire another 4,572 employees.

Let me read to you what we have already learned in just 2 months. In just 2 months, we have a conference in Atlanta which a celebrity chef, Wolfgang Puck, catered, costing $2.4 million; we have a conference in Anaheim, California, $4.1 million; a conference in Philadelphia, $2.9 million; a conference in San Diego, $4.1 million.

At one of these conferences, you spent $135,000 for 15 speakers. That is about $9,000 per speaker. The IRS paid for the Deputy Commissioner to stay 5 nights in the presidential suite at the Hilton hotel during one of these conferences. You paid $17,000 to a speaker to create paintings of Bono, Michael Jordan, Abraham Lincoln, and others.

We hear of a report of crony contracting between an—improper relationship between an IRS contractor and a person whose business had less than $250,000 in income the prior year, getting awarded a $500 million contract.

Between 2010 and 2012, you had 225 conferences, costing $49 million.

Let me see if I can put this in perspective for you. I represent the town of Sturtevant, Wisconsin. A little less than 7,000 people live there. It is a great village. The village of Sturtevant is basically a blue-collar town. People work at the Case tractor factory. They work at the S.C. Johnson factory. It is surrounded by cornfields and bean fields and lots of small businesses.

It took more than 100 percent of the Federal taxes paid by the working families of the Village of Sturtevant, Wisconsin, to pay for the 225 conferences you arranged for at the IRS from 2010 to 2012. That is the way you need to think of this. People are working hard, they are living paycheck to paycheck, they are paying their taxes, and this is what you are spending their taxpayer dollars on?

And now you come here asking us for a billion dollars, about a 10 percent increase. You are asking us to hire another 4,500 people.

I represent Rock County, that is my home. The population of Rock County, all the families of Rock County, their taxes wouldn't even cover the billion-dollar increase that you are asking for.

You are here representing the President. You are asking us for this increase. I know you are new to the IRS, you come from the Office of Management and Budget, and you have a great reputation. So you are a budget cruncher. How on earth do you think you have the moral authority to ask for this? Why would we, representing the taxpayers we represent, give you all this extra money you are asking for if this is what the IRS is doing with hard-earned taxpayer dollars? We are seeing just in 2 months waste, fraud,

abuse, and taxpayer targeting, and you are saying give us another billion dollars. Why should we do that?

Mr. WERFEL. Congressman, you are asking very important questions and I would love the opportunity to address them.

First, I agree that the costs that you are referring to are excessive and in many cases inappropriate and should not have happened. The reports that are coming out that are identifying these are covering events that occurred 2 and 3 years ago. And my concern is great, but my concern would be even greater if I saw that those patterns of spending are continuing through today.

In many cases they are not. We are looking at a 68 percent cut in training travel, we are looking at a 45 percent cut in other travel in the IRS. We have cut our printing by 30 percent, we have cut our professional and technical services by 25 percent. There are deep cuts going on——

Mr. RYAN. Okay.

Mr. WERFEL [continuing]. In a lot of these activities. Now——

Mr. RYAN. Okay. Here is my suggestion. Let's have these cuts take place and then have you come back to us in a year or 2 and let's see if you are running this place well, then we will consider a budget increase. How does that sound?

Mr. WERFEL. I will say that it is a fair point. I will say this, that there are more cuts to be made. And I think in this report, in section three, and in subsequent testimony that I will give to this Committee, I will furnish for you additional cuts so that we can go even deeper so that every penny is watched even more closely——

Mr. RYAN. Great. So it sounds like you don't need a budget increase.

Mr. WERFEL. No, I am not saying that, because I think there is a broader macro point. It goes, I think, back to some of the questions that Congressman Johnson was asking. We still have an indispensable mission to enforce the Tax Code, to go after fraud. The cuts that we are seeing dwarf any kind of conference expenditures that we have. The materiality difference is much different. And we just have to look at this and say, okay, has the IRS done enough to get its shop in order to cut those excessive costs? I will make the case to you that we are going in the right direction. But I will also make the case to you that if we underfund other critical priorities that lead to improved taxpayer service and improved enforcement of the Tax Code then we are leaving dollars on the table for the American people because every dollar spent by the IRS has a positive——

Chairman CAMP. Time has expired.

Mr. RYAN. Just don't forget, you work for the taxpayer, it is not the other way around.

Mr. WERFEL. I understand that.

Chairman CAMP. Time has expired.

Mr. Lewis.

Mr. LEWIS. Thank you very much, Mr. Chairman.

Thank you, Mr. Commissioner, for being here.

Could you tell us how long you have been on the job?

Mr. WERFEL. I started——

Mr. LEWIS. How many days?

Mr. WERFEL. It has been about 34 days.

Mr. LEWIS. So all of this stuff, all of this stuff just evaporated into air? It didn't happen on your watch?

Mr. WERFEL. No, I arrived in late May and am doing my best to identify the problems and fix them.

Mr. LEWIS. Could you tell us something about your background, your last job?

Mr. WERFEL. Yes. I think you know, and I have talked about this before in other hearings, the reason why I was chosen for this job is a couple of different reasons. And I appreciate Congressman Ryan's comment that I have a strong reputation. I served in leadership positions in both the Bush and Obama Administrations. I consider myself to be nonpartisan. The issues that I have worked on across my career have been very nonpartisan. It is all about better government management, reducing fraud, reducing error, reducing improper payments, improving the way the government manages its real estate, just very nuts and bolts.

I think Ranking Member Levin referred to me as a technocrat, and I have developed an expertise in public sector management over a 16-year career as a civil servant. Most recently in my role at OMB I developed a reputation and experience in tackling some of government's toughest challenges. For example, back in 2009, 2010 I was the Administration's lead on implementing the Recovery Act, which was a very large and complex law that involved a lot of different technical complexities that needed to be done, and I was the point guard for it and developed a reputation of doing it effectively.

More recently I have been involved in helping the government prepare for a government shutdown, helping us deal with the sequester. These are tough public sector management challenges, and I was able to distinguish myself to the Administration leadership as someone who can handle a situation like this effectively.

So when you combine those factors I think the bottom line is, and when I was presented with this opportunity I basically said, I will do this. I am going to do it because I am going to have this guiding principle that I am always going to work to find the right answer to every challenge that I am confronted with. I am doing what is in the best interest of the taxpayer, I am doing this in the best interests of the IRS. And I think if I can hold to those guiding principles then I am going to be able to go to sleep every night knowing that it was a smart decision to take this job and take the IRS forward.

Mr. LEWIS. Mr. Commissioner, I want to thank you for your willingness to serve, to put yourself in the way and make a contribution to getting the IRS in order.

How do you feel about the IRS' future in processing tax-exempt organizations' applications?

Mr. WERFEL. When I arrived in late May we had a very broken process, clearly. The IG report points to both management and process failures that were going on in that area. There is new leadership in place, I have a lot of trust in those new leaders. In particular, an individual named Ken Corbin is now running the Exempt Organizations Unit. He is a process expert. He is already inspiring in me a lot of confidence that he is in there working the

issue, reengineering, and redesigning the process, and making the appropriate fixes.

We have agreed to all nine IG recommendations for how to fix the Exempt Organizations Unit. We are making good progress on that and that progress is outlined in this report. We are taking steps above and beyond what the IG recommended, because we think there is even more to be done to make sure that we are extremely robust in our fixes. Those are also outlined in the report and we are making good progress there.

It is a challenging environment. What I have learned is reviewing these applications for tax-exempt status is difficult because you are on a foundation of ambiguous laws and regulations. And as I said, in very few other areas within the IRS is a determination on the nature and extent of political activity a relevant factor to consider. So this part of the IRS has this kind of unique set of requirements. And, clearly, when you combine that unique set of requirements and management weakness and leadership weakness, we had a failure. But I am optimistic that we have the right people in place right now, specifically in the Exempt Organizations Unit, in services and enforcement, to lead us to get this problem corrected.

Mr. LEWIS. Well, thank you very much, and I look forward to working with you.

Chairman CAMP. Thank you.

Mr. Reichert.

Mr. REICHERT. Thank you, Mr. Chairman.

Mr. Werfel, isn't it true that 100 percent of Tea Party applications were flagged for extra scrutiny?

Mr. WERFEL. It is my understanding the way the process worked is if there was Tea Party in the application it was automatically moved into this area of further review, yes.

Mr. REICHERT. Okay. And do you know how many progressive groups were flagged?

Mr. WERFEL. I do not have that number.

Mr. REICHERT. I do.

Mr. WERFEL. Okay.

Mr. REICHERT. Our investigation shows that there were seven flagged. Do you know how many were approved?

Mr. WERFEL. I do not have that number at my fingertips.

Mr. REICHERT. All of those applications were approved.

I want to follow up on some questioning that occurred a little earlier in the hearing regarding intent. I am an old cop, 33 years. Most of that time I was a homicide investigator. So we dealt a lot with criminal intent. And so when you use the word intentional or unintentional it sort of is a flag for me to inquire a little bit further.

So are you talking about criminal intent? Are you finding that there is no criminal intent? Or are you saying that there is no intent to what?

Mr. WERFEL. The questions that are being asked by investigators deal with both criminal intent and other types of intent, which, for example, could mean political bias, but no criminal intent. There is gradations here. I am not a legal expert on them.

But I know that part of the ongoing review is to understand the nature and circumstances of this.

Mr. REICHERT. I also know that there are two investigations that occur, just like there were in the sheriff's office when I was the sheriff in Seattle. You have the criminal investigation that is ongoing and then you have an internal investigation. Sometimes we know the internal investigation is put to the side while the criminal investigation continues on.

Are you in contact with those that are conducting the criminal investigation? Are they making you aware of the information that they are finding as far as any possible criminal allegations with any of the employees within the Internal Revenue Service?

Mr. WERFEL. My main point of contact in this effort is Russell George, the Inspector General, and his team. He is working directly with the Justice Department. They give us periodic updates on their progress.

Mr. REICHERT. Do you have any information that there may be some criminal——

Mr. WERFEL. No such evidence has been shared with me at this time.

Mr. REICHERT. So to get back to the intent part, your report states that some applicants were subjected to overly burdensome, intrusive questions, questionnaires, and data requests that went way beyond the acceptable level of factfinding. Yet at the same time it says that none of the actions taken by the IRS employees were intentional. I don't understand that, how you can ask those questions, provide those questionnaires, asking for certain data, but yet be unintentional in conducting that sort of activity.

Tea Party members had—a donor had been threatened, some donors have been threatened. They had confidential information that had been leaked. They were sent inappropriate and intrusive questions, unintentionally threatening donors. I don't understand unintentional in that light either.

And so I am falling in line with what Mr. Brady said, that the report—I understand your desire to be a public servant, you want to do the right thing, but in order for you to do that, Mr. Werfel, and for the American public to have trust in you and the IRS again, you can't be vague and misleading in your statement that you have given to this Committee. You say that even after senior IRS leadership was informed of the inappropriate activities in question it failed both to effectively put an end to the activity and to inform the proper committees in Congress in a timely fashion despite requests from Congress on this topic.

So I don't understand how your leadership could be found to be unintentional and why they are not reporting to Congress. Mr. Miller sat here and conveniently lost his memory during his questioning. So could you explain to me unintentional?

Mr. WERFEL. I can.

Mr. REICHERT. It makes no sense to me and I am sure it makes no sense to the American public.

Mr. WERFEL. Let me offer my best explanation.

First, I want to go back to the point where we are hearing questions from taxpayers, they want to know if there was intentional wrongdoing here. We are answering that question very carefully

and saying there is more work that needs to be done but right now we don't have evidence.

Mr. REICHERT. But, Mr. Werfel, you really can't say that it was unintentional is my point.

Mr. WERFEL. Let me address that.

Mr. REICHERT. You should not be saying—sir, you should not be saying in your report that you found that this was unintentional, because you don't know. You don't know.

Mr. WERFEL. And that is basically what we are saying, there is no evidence.

Mr. REICHERT. Is that true, you don't know?

Mr. WERFEL. But let me make the point about——

Mr. REICHERT. Why did you say it was unintentional?

Mr. WERFEL. Let me offer——

Mr. REICHERT. No, why did you say it was unintentional when you don't know? You just said you don't know.

Mr. WERFEL. I did not say that it was unintentional.

Chairman CAMP. Time has expired. Mr. Werfel, why don't you answer briefly and then we will go on.

Mr. WERFEL. Okay. First of all let me clarify what I said. I said very clearly in the report that more work needs to be done to review documents, to interview folks, but at this point we don't have any evidence of intentional wrongdoing.

And what we meant by that is that it is a different situation if a manager thinks and an employee thinks this is the right thing to do, this is how I am supposed to conduct my business. And they could be mistaken, and they could be incompetent, and it could be total mismanagement in how they think they are appropriately carrying out their duties, which is different than them saying, I know this is wrong, but I am going to do it anyway because I have a particular agenda in mind. And that is the difference that we are trying to distinguish.

Chairman CAMP. All right, thank you. Time has expired.

Mr. Neal is recognized.

Mr. NEAL. Thank you, Mr. Chairman.

Mr. Werfel, do you need 2 more minutes of my time.

Mr. WERFEL. No—thank you for the offer, though. Thank you.

Mr. NEAL. Mr. Werfel, clarify something. The IG letter states that there are at least two groups of specialists within the IRS that used the BOLOs. The first is the specialists that are dealt with in 298 cases flagged for political campaign intervention. The second, it is the team of specialists in the Touch and Go unit. We know that some of the progressive group applications went to the 298 teams of specialists. The Inspector General did not investigate how the progressives were handled by the Touch and Go unit. Have you looked into this?

Mr. WERFEL. Yes, we are in the process of looking into it. When the report says that we start with the audit report and all the various materials that the Inspector General provided us in support of the audit report we are going deeper than that and broader than that. That is, for example, how we found the BOLO lists with the inappropriate criteria because we were going beyond the Inspector General footprint. And, of course, when we found them we put an

immediate suspension to them because we were very concerned about them.

And when you go deeper and broader into this issue you see other categories. You mentioned Touch and Go. And so we are looking into it and trying to understand, how were these lists used, what were the circumstances that caused these inappropriate political labels to occur? How were they used? What impact did it have on taxpayers?

These were all questions that we are asking in real time, and like everyone on this Committee I want answers to them, but I am going to follow an expedient and fair and thorough process to get those answers. And I will be back here to answer those questions in the future.

Mr. NEAL. You are congratulated by Members on the other side for the vigor with which you have taken up the task of pursuing these different questions and then you are accused of not doing followup. I mean, there is an element of inconsistency to that as you try to figure out how to pursue new information and data as you come across it.

Now, the issue really here for all of us is the following. Citizens United caused the IRS to be flooded with applications from groups seeking 501(c)(4) status, and why was that? In large part it is because Super PACs must disclose their donors while 501(c)(4)s do not. That is really what happened here.

And as we have tried to unearth some of these questions where Members on the Democratic side have been equally vigilant in pursuing what we might deem to be egregious moments with IRS pursuit, it is obvious as well that you haven't finished your work and you need to be given some time and opportunity to pursue these cases.

We all need to be outraged. The American people shouldn't be afraid of the IRS, we have all established that. But I think the simple point is you would argue you need more time. Is that correct?

Mr. WERFEL. Absolutely we need more time. And my hope today, and in this report, and in every communication I have with the public or the Committee, is that there is transparency into the process that we are following. And I want to be clear that the process that we are following has certain legal and process constraints, procedural constraints, but we are moving as expeditiously as we can. We are getting documents to the Committee, witnesses are being interviewed, materials are being furnished to the Congress. A lot of the questions orient around materials that we provided as part of this growing investigation of information that we provided earlier this week.

So absolutely, there are more questions to answer. And I think the track record we are demonstrating here is a diligence to answer them, but also a caution to make sure that we are following the rule of law and procedure in doing so. It is a tough balance because, as I said, I want these answers as quickly as possible. But it is absolutely essential that I follow appropriate due process procedures in running this investigation. I think any investigation across a broad spectrum of organizations and leaders and legal investigations would follow those same principles.

Mr. NEAL. Mr. Chairman, we are all better off if we have an accurate portrayal of precisely what happened as opposed to the accusatory tone that is being suggested. And you can see, incidentally, that the argument has already shifted here. We have moved to the conferences, which is a legitimate criticism, away from the focal point of this hearing, and that is whether or not political groups were targeted by the IRS. So it occurs to me that perhaps some of the argument is weakening on the other side.

Thank you. Thank you, Mr. Chairman.

Chairman CAMP. Thank you.

Dr. Boustany.

Mr. BOUSTANY. Thank you, Mr. Chairman.

Welcome, Mr. Werfel.

Mr. WERFEL. Thank you.

Mr. BOUSTANY. I agree it is going to take time to get to the bottom of this, but one disagreement I have with you at this point in time with the 30-day report, Mr. Werfel, is I don't see a sense of urgency. The big picture here is that you have an obligation on your shoulders to restore the trust in this entity, the IRS, to restore the trust with the American people and with this Congress.

Now, in your report you have a section titled "Transparency with Critical Oversight Organizations" where you talk about the IRS' failure to properly inform Congress about the issues that were occurring, even after congressional committees specifically began asking questions, and we started asking questions years ago on this. But let me get this straight, in Acting Commissioner Miller's June 15th letter to me after we had gone back and forth—and I had meetings with Shulman, meetings with Miller, hearings with both of them, and letters. I have a June 15th letter here and the only response essentially that we received was that EO took steps to coordinate the handling of these cases to ensure consistency.

Now, Mr. Brady asked questions earlier and you told Mr. Brady that you disagreed with the characterization that IRS employees engaged in a coverup. But if you know the truth on this, I mean if you know that there were folks in senior positions at IRS who were misleading, evasive, essentially covering up what was going on with targeting, if you know this and you are not coming forward with this, is that a coverup?

Mr. WERFEL. No. And what I said to the Congressman earlier was that I am not ready to draw a conclusion. He was asking a question in a way that if I answered it, it could imply that I was agreeing with the premise of his questions. Your question is, is there a coverup? I don't know the answer to that question. I think the key is that we make sure that we do the thorough investigation. I think the Justice Department and the IG are doing that.

Mr. BOUSTANY. But we know that Commissioner Shulman and we know that Acting Commissioner Miller were informed of these things and yet they continued to basically evade our questioning, they were misleading with us. This has been determined so far in the investigation, it certainly had been determined by the TIGTA audit. We need you to have a sense of urgency to come clean. You have an obligation to the American taxpayer and to this Congress to follow through with our oversight function and with transparency in front of the American people.

Mr. WERFEL. So the commitments that I am making today are, one, to explore all the facts, including questions about intent or concern that you have with respect to why answers weren't questioned more quickly. I am not going to draw a conclusion now and say we have definitely decided.

But let me make one more point. One of the important things in this report is an important point that I think is going to be very helpful to this Committee. I am suggesting that what the IRS needs to do is more readily share information on emerging risk areas and emerging operational issues within the IRS with this Committee sooner rather than later.

Mr. BOUSTANY. No, I get that, I get that.

Mr. WERFEL. Yes.

Mr. BOUSTANY. I want to shift gears for a moment and talk about the bonuses that have been distributed. It has gotten a lot of press.

Mr. WERFEL. Yes, yes.

Mr. BOUSTANY. And included in these bonuses during the time that targeting was occurring, we know that a quarter of a million dollars were paid out to just four employees at the IRS, all of whom resigned or are on administrative leave at this point due to their involvement in the Tea Party discrimination issue.

One individual, the first to resign, received more than $83,000 in bonuses on top of his salary of $177,000. And we also know that others have received bonuses who were involved in this tax exempt issue targeting Tea Party entities.

Now, in light of all this, are you going to take any steps to put a freeze on this? Is there going to be an attempt to recoup some of that bonus money?

Mr. WERFEL. Let me answer the question in a couple of different ways. First, I agree when you look at the juxtaposition of individual management and judgment failures that went on in this situation and you juxtapose that against the bonuses received, it is very troubling. It is part of my larger conclusion here that the IRS leadership did not have timely enough understanding of what was going on with these particular activities to make informed judgments about compensation through bonuses.

Second, I mentioned earlier to Congressman Ryan about me coming back to this Committee with additional ways in which we can cut costs even further, and I think bonuses is an opportunity.

Mr. BOUSTANY. You can put a freeze on it now. Put a freeze on these bonuses.

Mr. WERFEL. I am glad you asked the question, because there has been some public misunderstanding about where we stand with our bonuses for this year and if I could clarify it.

Mr. BOUSTANY. Yeah, but the trust with the American people has been broken. I understand contracts and union contracts——

Mr. WERFEL. Well, if I can explain it——

Mr. BOUSTANY [continuing]. And those kinds of things.

Mr. WERFEL. If I can explain it, here is the situation with our bonuses. When I was in OMB I signed out a policy that froze bonuses across the government in light of the sequester. It was one of our methods of dealing with the sequester cuts, a bonus freeze. But that guidance also said it was subject to legal constraint. So

if the bonuses had to be legally paid out we had to look into that issue.

What is going on——

Mr. BOUSTANY. But the trust has been broken.

Mr. WERFEL. Right. What is going on at IRS now is that we have a union and we have a bargaining unit and an agreement that we will bargain on the question of bonuses with that union. And my answer on bonuses is that no decision has been made. Going back to my point about following the rules of law and procedure, I have an obligation before I freeze the bonuses for IRS, if that is the decision that is ultimately made. I don't know at this time. The first step is my legal requirement to bargain that issue with the unions, and that takes time. We are going through that process right now.

Mr. BOUSTANY. Mr. Chairman, we need a sense of urgency with this and leadership to put a freeze on these bonuses.

Chairman CAMP. Time has expired.

Mr. Becerra.

Mr. BECERRA. Mr. Werfel, thank you very much for being with us, and I look forward to having you come back. I think you have mentioned that everything you have stated in your reports and everything that the IRS has done so far to investigate this matter is not yet complete. Is that accurate?

Mr. WERFEL. That is correct.

Mr. BECERRA. So when you say at this point you have found no evidence of wrongdoing, it is as of this point.

Mr. WERFEL. If that is the question we are getting raised, then I feel compelled to give the most honest answer I can, which is exactly the point. More analysis is needed, but at this point in time, if you are asking me have we found evidence of intentional wrongdoing, we have not. And I understand the confusion around the word intentional because these actions still happen. I tried to explain it is the difference between whether someone knows they are actually doing something wrong or if it is a question of management incompetence or neglect of duty.

We certainly have evidence of neglect of duty. What we don't have evidence yet of is that someone knowingly did something wrong based on political animus or criminal intent. That evidence just hasn't materialized yet.

Mr. BECERRA. And you use, I think, the operative word, the evidence. So to date there is no evidence of wrongdoing.

Mr. WERFEL. There is no evidence of intentional wrongdoing. There is evidence of managerial wrongdoing.

Mr. BECERRA. And to date there is no evidence linking anything that occurred at the IRS to the White House.

Mr. WERFEL. That is correct.

Mr. BECERRA. Okay. And as of today you are in the process of investigating.

Mr. WERFEL. Yes, there are more people to talk to, and in many cases under oath, and there are more documents to review.

Mr. BECERRA. And, as I think you have tried to make clear but have been interrupted as you tried to provide the answer, the reason you haven't spoken to some of the folks that are principal to

this investigation is because others have the principal responsibility to do the investigation.

Mr. WERFEL. I have two thoughts to this question because it keeps coming up. One is the legal, the rule of law. The legal process prohibits me from talking to these employees. The Justice Department and the Inspector General are the appropriate officials.

Second, even if there was no constraint, we also have professional investigators on the scene that are very skilled in talking to witnesses, and ultimately we might make a decision that those individuals are the ones who should be interviewing the witnesses and providing that information to me.

Mr. BECERRA. Well, we want you to be able to continue with that investigation the right way, and we hope that you are able to come back and answer the questions that you can given the work that you are doing and the jurisdiction you have to provide the answers.

But I would say at this stage what we are hearing from you, in fact I think what we heard from Mr. George, the Inspector General, is that there is an investigation that is ongoing. In fact the Chairman of the Committee in his opening statement said that we are still in the early stages of this investigation, that the Inspector General is doing a more thorough investigation. Mr. Brady, my colleague on the Republican side, said we are not going to stop until we learn the whole truth. So we still need to find out the facts.

At this stage we have an investigation ongoing. It is a half-baked investigation. And to reach any conclusions would mean we have reached half-baked conclusions. And so whether it is your conclusion or my Republican colleagues' conclusion, for anyone to make accusations at this stage it is with only part of the information.

Mr. WERFEL. And there comes the distinction. To answer "this is exactly how it happened" is not a question that we can answer yet. But I think we can answer, is there any evidence that any of this has materialized, that is a question we can answer because we are in the process. And I can comment——

Mr. BECERRA. Good point.

Mr. WERFEL [continuing]. On whether the evidence has materialized in any way.

Mr. BECERRA. Good point. So far what the evidence tells you is what you are responding to and we appreciate that.

I would say I, too, would like to have you back. I hope every one of my colleagues on this panel would agree that we have to have Inspector General George back because he has, as Ricky Ricardo would tell Lucille Ball, he has some 'splaining to do. There is a lot that he has not yet answered. In fact, there are some things that he answered that may not have been forthcoming.

I would like to finish with one last point. Now, this whole investigation centers around the issue of 501(c)(4) organizations. Now, as you know, 501(c)(4) organizations are social welfare organizations. Under the law 501(c)(4) applies to organizations that are not organized for profit, but operated exclusively for the promotion of social welfare.

I am not sure if you are aware, Mr. Werfel, but those same 501(c)(4) social welfare organizations spent $256 million on political expenditures in 2012. Did you know that that is more money spent

by these social welfare organizations, nonprofits, than the two political parties combined, which spent $255 million?

So that is the crux of the problem here, is that we have so-called social welfare organizations that spend more money than the two political parties combined. And so when IRS is concerned that there may be some organizations that are trying to game the system at taxpayer expense, that is why we have to have these investigations. So we hope to have you back.

I yield back the balance of my time.

Chairman CAMP. Mr. Roskam.

Mr. ROSKAM. Thank you.

Mr. Werfel, my constituents are afraid of guys like you. They look at this hearing, they listen to you—and I accept at face value that you have a good reputation from the past—but they look at you and they are afraid. They are afraid of the power that you have, they are afraid of your clinical and somewhat dispassionate approach on this. And I want to walk you through this to recognize the fear that they have because of the power that you have.

And my prediction is that our country is at a tipping point right now, and the tipping point is there is an awakening amongst the governed about authority that they have delegated to Congress and that Congress has delegated in this place to the IRS, and that authority has been abused.

You used language earlier, things like, I am serious, I cling to the rule of law, you know what I mean, those types of things. And, frankly, I would expect you to say things like that and I would be discouraged not to hear you say things like that. But you are familiar with the Taxpayer Bill of Rights of 1998, I assume, as a general document, it is a statute. And in the Taxpayer Bill of Rights it is very clear that the Internal Revenue Service is prohibited under the law from willful misuse of provisions of section 6103 for the purpose of concealing information from a congressional inquiry. You are familiar with that, aren't you?

Mr. WERFEL. Yes.

Mr. ROSKAM. This is a congressional inquiry, clearly. There has been a request by this Committee of documents to be forthcoming from the Internal Revenue Service. And here is an example of two of them. They have been redacted to the point of absurdity.

Now, we have knowledge that there is information in these two documents that is not subject to 6103 protection, and so the entire section 6103 question should be set aside. And what I am suggesting is the fear that animates the hearts of my constituents when they look at you is they say, we are not getting the straight answer, we are seeing bureaucratic doubletalk, we are seeing a bunch of nonsense, how can we possibly pierce through this?

And so the level of anxiety and the concern that you hear from Committee Members is the recognition of an abuse of power, but it is a gratuitous abuse of power. Now even when the investigation comes up, the Committee, based on lawful requests, is not getting the type of answers it requires.

So can you assure us that this type of nonsense, where I know beyond a shadow of a doubt that there is information in these documents that should not be subject to 6103—that the IRS is claiming to an absurd, Kafkaesque level, that somehow this needs to be pro-

tected—can you assure us, based on your 30 days on the job, that this nonsense will stop?

Mr. WERFEL. Let me give you several assurances that you can give to your constituents to clarify. The first assurance I would give is that the information that you are holding in your hand is not being held just by the IRS. We have submitted all the information, minus all those black lines and those redactions, to the Chairman of this Committee. So the notion and the implication that that information is being held just by the IRS is incorrect.

Mr. ROSKAM. But, Mr. Werfel, you know the law, you know that when it is cloaked in 6103 we are prohibited under the law from revealing that. So you have to release this information so that it can be publicly discussed. That is exactly what the statute speaks to.

Mr. WERFEL. Let me get to my second point, because I want to address each of those points. I just wanted to make sure that the public understood that that information resides with this Committee and the Senate Finance Committee. The second reassurance is that there is a tension here. We have a——

Mr. ROSKAM. But you didn't answer the question as it relates to the cloaking of 6103.

Mr. WERFEL. I will answer the question.

Mr. ROSKAM. You are not releasing the information pursuant to 6103.

Mr. WERFEL. I can answer these questions if you enable me.

Mr. ROSKAM. Go ahead.

Mr. WERFEL. I want to make sure that people understand, your constituents understand the tension that exists, that we also have a solemn responsibility to protect the confidentiality of their taxpayer information. And these procedures are set up so that we redact this information, although we sent all of it to the chairmen of the Ways and Means and Senate Finance Committee so it is outside the IRS. And to the extent that there is a notion and a concern that there is over-redaction, that is something that we need——

Mr. ROSKAM. This is junk. This is junk. This has no meaning.

Mr. WERFEL. It might be junk, but it might be sensitive taxpayer information.

Mr. ROSKAM. It is not, we know it isn't. And you are hiding behind it. And I am telling you, I am putting you on notice, this Committee intends to uphold the 1998 Act and we are going to follow through on it to make sure that the IRS is forthcoming and not creating a bunch of nonsense hiding behind bureaucratic doubletalk.

Mr. WERFEL. If there is a particular instance——

Chairman CAMP. Time has expired.

Mr. WERFEL. Okay.

Chairman CAMP. I know at the staff level, Mr. Werfel, we have raised the issue of over-redaction. What it does is limits the ability of the Committee to use it. And so I do think this is an issue that is appropriate that Mr. Roskam has raised, and it is something that we probably need to pursue further.

Mr. WERFEL. I think so. And I think one thing that should be clarified given Congressman Roskam's comments, it is my understanding, you can correct me if I am wrong, it is my understanding

that as the Chairman of the Ways and Means Committee you can release information if you think that it is not 6103 sensitive.

Chairman CAMP. I cannot unless it is to the full House. And clearly this is an area where we really have to have the experts involved.

Mr. WERFEL. Yes, I agree with that.

Chairman CAMP. In the context of the final report, which clearly we are not there yet, I can release the information ultimately to the full House, but I can't be the single arbiter of what is 6103 sensitive and what isn't, because obviously Senator Baucus and Senator Hatch received this as well. But we do have concerns that at a staff level there is an over-redaction that limits the ability of the Committee to use the information. So we have been trying to work through that.

Mr. WERFEL. As I have always said, if there are concerns we want to work with you to explore that. But I just wanted to clarify that this information is not just residing within the IRS. That was my main point.

Chairman CAMP. No, it isn't. And we do receive the unredacted versions. But, again, those aren't shared other than with Mr. Levin at this level.

The next person is Mr. Kind—no, Mr. Pascrell. Oh, Mr. Kind is here, I am sorry.

Mr. KIND. I am sorry, Mr. Chairman, I was being blocked by my esteemed colleague here from Connecticut.

Mr. Werfel, thank you so much, and thank you for your willingness to assume this very tough duty. I mean, you are, obviously from today's hearing, stepping into the lion's den. And I really appreciate that. You have a much larger duty of restoring faith and trust and confidence in the IRS than just the spending that went on with conferences or bonus payments or even the issue before us today, the exempt organizations.

Let me steer back to a troubling issue that I have been wrestling with. Obviously, you have many organizations, especially after the Citizens United case, that are applying for (c)(4) tax-exempt status. The Inspector General looked into it and recommended to the IRS certain steps and procedures in how to review that and how to filter it out, and you probably have some additional ideas.

But the point here is that these groups aren't automatically entitled to tax-exempt status, they have to meet certain qualifications, certain criteria in order to qualify for it. And every time there is an organization out there that does qualify for tax-exempt status that increases the relative tax burden on organizations that don't or individuals throughout our country that don't need it.

And in applying for (c)(4), the rule has been they have to be principally engaged in social welfare. We have gotten away from the more definitive definition of exclusively engaged in social welfare. But how do we move forward now, today, of doing a proper review of these organizations to ensure that they are qualifying under the (c)(4) definition of social welfare status, without being accused of them being picked on or that political selection is taking place?

In other words, how do you institute a generically neutral screening process now that is going to pass muster on both sides of the aisle, yet still do the tough job of screening out those organizations

that really ought not be qualifying for tax-exempt status because they are principally engaged in political activity? And we know that is going on. I think anyone here who is fooling themselves into thinking that a lot of these (c)(4) applications are social welfare hasn't seen what has happened over the last couple of years in the American political system.

Mr. WERFEL. We have an approach that begins to answer that question, but I think there needs to be a dialogue between us, the IRS, this Committee, and others, and in particular the Treasury Department I think plays an important role here, because there is a policy question to be answered.

But in the report we outline the self-attestation or certification program, and what we essentially take is our high priority backlog, those advocacy cases that have been in our backlog for more than 120 days, and we are offering them a more objective review.

Essentially, if they attest that not more than 40 percent of their expenditures or their voluntary person hours will go to political campaign intervention, and at the same time they also attest that more than 60 percent of their expenditures and voluntary person hours will go to a social welfare purpose, then they would receive an approval from the IRS and they would go forward, with a responsibility to update us if the nature of those activities change and an understanding, like every other (c)(4) or (c)(3) organization, that they are potentially subject to audit or examination at some point in time in the future.

Mr. KIND. Well, I just hope we are not going on the road of the IRS being subjected to this type of scrutiny every time tough questions have to be asked in regards to how these organizations are spending their money and what activities they are ultimately engaged in. Because you understand you are going to be set up for accusations from here on forth from any group that is receiving more scrutiny or perhaps a denial. And that is one of the more amazing things, is that perhaps there hasn't been more denials of organizations applying for (c)(4) status who are clearly engaged in political activity and that is their main purpose for being.

So is the taxpayer advocate's office, do they have a role——

Mr. WERFEL. Absolutely. And that is a big theme in the report, is that we want to involve the taxpayer advocate more clearly in all of these elements. In particular, one of the main concerns that I have is that when you look at the situation where we had taxpayers that were frustrated by the length of time that they were not getting an answer from the IRS, they were frustrated by the types of overly burdensome questions they were getting from the IRS, they did have an avenue. And in most cases they didn't exercise that avenue to go to the National Taxpayer Advocate, to raise greater awareness about the issue. The National Taxpayer Advocate has a track record of helping the public resolve matters before the IRS that the individual taxpayers are having trouble doing on their own. We didn't see that connectivity here, and one of the important recommendations in this report is to raise awareness and effectiveness of this framework of the National Taxpayer Advocate so we can solve those problems.

Mr. KIND. Mr. Werfel, you have a tough job as you go forward and obviously we are going to be looking forward to working with

you very closely in your candid investigation and the recommendations before this Committee. We, too, have a role to play as far as clearing up, I think, a lack of a clear definition as far as (c)(4) applications. I think the IRS would be helped if there were brighter line rules for people to institute and more objective criteria used. And we will look forward to hearing your recommendations as we move forward on that front.

Mr. WERFEL. Thank you.

Chairman CAMP. All right. Thank you.

And we will now be moving two to one, so Mr. Gerlach and then Dr. Price.

Mr. GERLACH. Thank you, Mr. Chairman.

Thank you, Mr. Werfel, for being here today. My first question is, would you agree that IRS officials disclosing taxpayer information to outside groups or individuals is improper and in fact illegal?

Mr. WERFEL. It is under section 6103, yes.

Mr. GERLACH. Okay. What is the process if there is an allegation that an IRS official did in fact leak taxpayer information to an outside group or individual, what is the internal process, if you can summarize it very quickly, for handling the investigation of that?

Mr. WERFEL. Yes. We refer the information or the allegation immediately to the Inspector General. The Inspector General makes one of two conclusions: One, it was intentional, or two, it was not. If it was not then the next step is to figure out what process breakdown or control breakdown led to the unintentional release. We have those situations emerge and we make those process improvements. If the finding is that it was intentional, then it is referred for further investigation, which could be criminal or some other type of disciplinary action.

Mr. GERLACH. Okay. Now, Mr. Brady raised the issue of the National Organization for Marriage and the fact that its Form 990 information from 2008 was disclosed and passed on to the Human Rights Campaign. Based upon the testimony that was given at our last hearing here on the Committee by the representative from the National Organization for Marriage, what do you know about at this point the IRS passing that allegation to the Inspector General's office and what is the status of that investigation to the best of your knowledge?

Mr. WERFEL. I have two responses. One, I am not aware specifically of that issue and I don't have that information at my fingertips so that I can give you the exact process. Two, I would be concerned, since you are mentioning a specific taxpayer, that it may be more appropriate for me not to comment in this setting given it is the implication——

Mr. GERLACH. Has in fact the IRS passed or referred the matter to the Inspector General's office?

Mr. WERFEL. Again, I don't want to comment specifically on this because I just don't have familiarity with that particular issue at my fingertips.

Mr. GERLACH. So to the best of your knowledge you don't know at this point whether it has or hasn't.

Mr. WERFEL. I just don't know. I will say that at any given point in time there is a series of issues in this area that have been passed on to the Inspector General which are either in process for

disciplinary action or in process where it was inadvertent and we are doing process improvements. Where this particular situation fits in, I don't know, but I can get that information for you.

Mr. GERLACH. Okay, if you would respond as soon as you are able to, that would be appreciated.

Mr. WERFEL. Absolutely, I will.

Mr. GERLACH. I would also like to ask you, as a follow-up to Mr. Johnson's questions with regard to the amount of money, $46 million of child care tax credit checks that were sent just to the one address in Texas. And in your comment you mentioned that on the issue of why checks are being sent for this credit, how do you verify the children in fact resided at that place of residence for at least 6 months, which is one of the requirements for that. You said it was hard to confirm that a child in fact is there for at least 6 months.

Mr. WERFEL. Yes, there is no national childhood residency database, so it is one of the difficult aspects of enforcing that particular eligibility criteria.

Mr. GERLACH. So if that is one of the eligibility criteria and you cannot confirm that the child has lived there for at least 6 months, why are you sending out a check?

Mr. WERFEL. Well, I didn't say it is impossible to confirm, it is just challenging, and therefore we have a higher degree of errors associated with that eligibility criteria.

Mr. GERLACH. So you acknowledge then the IRS has sent checks to individuals that don't meet the eligibility criteria.

Mr. WERFEL. That happens, unfortunately. It is called an improper payment. We have way too many of them in the IRS and we need to work on that issue.

Mr. GERLACH. And so what disciplinary action have you taken as an agency against the individuals that have continued that practice?

Mr. WERFEL. I have not taken any—well, first of all, again, I arrived in late May. I personally have not taken any disciplinary actions. I am not sure disciplinary action would be appropriate in all circumstances in that situation.

Mr. GERLACH. In other words, individuals within the IRS that have the responsibility over the money that is released by the IRS back to a taxpayer, who is sending checks out, in this case $46 million just to one address, not making sure the criteria for the eligibility for that check is confirmed and still sending the money out, no disciplinary action has been taken against that individual or individuals responsible for that?

Mr. WERFEL. Well, we would have to look further into the issue to see if a disciplinary action is warranted.

Look, we make——

Mr. GERLACH. Does any disciplinary action get taken in the IRS for anything that is done wrong?

Mr. WERFEL. Absolutely. And unfortunately——

Mr. GERLACH. Can you share the number of disciplinary actions taken against IRS officials and employees over the past year for improper conduct?

Mr. WERFEL. In an aggregate way, yes. In a personal specific way that is covered by the Privacy Act and I would have to do that

in another setting, but I can share that information with you, just not with the public.

Mr. GERLACH. Okay. Well, if you can share that with the Committee I am sure the Committee Members would be interested to see when in fact a disciplinary action is taken and under what circumstance.

Mr. WERFEL. And I would point out that although I have only been at the IRS for a short time, I have already taken a number of disciplinary actions within the IRS. So I know for a fact they do go on and I have personally been involved in several of them.

Mr. GERLACH. Thank you, Mr. Werfel, I appreciate it.

Yield back.

Chairman CAMP. Thank you.

Dr. Price.

Mr. PRICE. Thank you, Mr. Chairman.

Mr. Werfel, this far down the panel it is hard to say welcome, but welcome.

Mr. WERFEL. Thank you.

Mr. PRICE. You are 34 days into your challenge, and we appreciate that. I think all this Committee is asking and all the American people are asking is that you be honest and forthcoming.

Mr. WERFEL. Always.

Mr. PRICE. In that light I would suspect you agree that the IRS process has been broken, would you not?

Mr. WERFEL. I would agree with that.

Mr. PRICE. Would you agree that the trust with the American people in the IRS has been violated?

Mr. WERFEL. I would agree with that.

Mr. PRICE. Mr. Werfel, the IRS has targeted groups, it has leaked information on donors of groups, and then targeted those donors for auditing. This is chilling stuff. As Mr. Roskam said, this is the kind of thing that frightens his constituents. It concerns and frightens my constituents as well.

The Chairman asked you if you had spoken to a number of people in the process of your investigation. Former IRS Commissioner Shulman, you said no. Former Acting IRS Commissioner Mr. Miller, you said no. And then Sarah Hall Ingram, you said yes. Who is she?

Mr. WERFEL. Sarah Hall Ingram runs the Affordable Care Act operations within the IRS and I speak to her on an ongoing basis as part of my responsibility to engage with my senior leadership team on the ongoing operations of the IRS.

Mr. PRICE. What was her role during this period of time, during the period of time in the Tax Exempt——

Mr. WERFEL. It is a good question and that is one that we are looking at, and I will do my best to explain it right now. Ms. Ingram was the Commissioner of the Tax Exempt/Government Entities organization leading into when these events occurred. So the IG report starts to surface issues in and around early, let's say, March 2010, when this fact pattern begins on the IG timeline.

It is my understanding that Ms. Ingram served as the Commissioner of the Tax Exempt/Government Entities organization, which is a level above the Exempt Organizations unit, and that organiza-

tional chart is in my report. And she served in that capacity until somewhere around the spring or summer of 2010.

Mr. PRICE. So there was an overlap.

Mr. WERFEL. There is an overlap. At that time she moved over and was detailed to begin her work in running the Affordable Care Act.

Mr. PRICE. Let me ask, why should the American people believe that the trust that is required between the Internal Revenue Service and the American people on the implementation and enforcement of the Affordable Care Act by an individual who was involved in the tax-exempt status entity of the IRS during this time in question, why should they trust that individual?

Mr. WERFEL. Well, what I would ask the American people to do is to trust in the process that we are going through to make sure we are getting to the bottom of this. And with respect to——

Mr. PRICE. Mr. Werfel, you understand that the process that the IRS has gone through has violated that trust with the American people already. And, candidly, my constituents and I believe the vast majority of the American people want every individual who was involved in this process to answer the questions prior to being able to have any further trusting situation in their capacity in the Internal Revenue Service. Is that too much to ask?

Mr. WERFEL. I think it is valuable input. I would like to share what we are doing, which is analyzing for any employee—and Ms. Ingram is no different—we are analyzing what their footprint of responsibility was. And with respect to this individual there is some complexity in doing that evaluation because she did move over to the Affordable Care Act early on. But at the same time, just in the interest of full candor, while she did move over to the Affordable Care Act within only a few months after this fact pattern begins, her title didn't change and there is some lack of clarity in terms of her ongoing role within TEGE.

Mr. PRICE. And hence the concern that many of us have.

To that point——

Mr. WERFEL. We are looking into that question——

Mr. PRICE. To that point, the IRS is the enforcement arm for the ACA. Have guidelines been promulgated for the enforcement of the employer mandate in the IRS?

Mr. WERFEL. Not at this time. I think the schedule for the proposed rules is this summer, if I understand your question correctly.

Mr. PRICE. And employers have to comply with this beginning this fall and January 1. Have rules been promulgated?

Mr. WERFEL. Well, the proposals will outline the timing for employer responsibilities.

Mr. PRICE. Have rules been promulgated on part-time, full-time employee distinction?

Mr. WERFEL. I don't know that I——

Mr. PRICE. Have rules been promulgated on the difference between seasonal workers and part-time workers?

Mr. WERFEL. I will give you the full schedule of our ACA rules footprint. I don't have it at my fingertips.

Mr. PRICE. Mr. Werfel, there is a huge lack of trust in the IRS, and to have the IRS now the enforcement arm over the Affordable Care Act is extremely concerning for those of us on this panel and

our constituents. I would urge you—urge you—to get this information to individuals who will have to comply to all of the rules that you promulgate and make certain that they are true to the letter of your rules as soon as possible.

Mr. WERFEL. I understand.

Mr. PRICE. Yield back.

Chairman CAMP. Thank you.

Mr. Pascrell.

Mr. PASCRELL. Mr. Chairman, thank you.

Mr. Werfel, it appears after the time that you have been here this morning that we are not past the point where Members of Congress would be speculating about enemies lists, cultures of corruption, and Nixonian conspiracy theories. I mean, if you took the last set of questions to you—first of all, I wonder why in God's name you took this job in the first place at this point in your life. You have a distinguished past, a very distinguished past.

But if I took the last series of questions, if you want to talk about a conspiracy theory, the person, that young lady, is not even in front of us to ask direct questions to. Now, everything is open, ask questions about anything, I understand that, and both sides of the aisle seem to be against, appear to be against singling out any particular groups because of their political thinking. This is what we are opposed to.

Mr. WERFEL. Yes.

Mr. PASCRELL. This is what we are opposed to. So I commend you for standing up, standing tall, and I wish you success in your job. I think you are trying your best.

In your report you announce that in order to deal with the backlog of applications for 501(c)(4) status the IRS will allow the option for groups to get preliminary approval if they self-certify—self-certify—that they devote more than 60 percent of their spending and time on things related to social welfare, to go with no more than 40 percent on political activities. Is there any reason that this is not the existing standard for all 501(c)(4) organizations?

Mr. WERFEL. It potentially could be. What we thought would be appropriate was we have a situation with an overdue backlog. We have a situation in which we clearly have had struggles to effectively implement the current regulation of primary. We came up with this self-attestation program because we thought that it would be less burdensome on the taxpayer and still effective in meeting the underlying regulation of primary. But we haven't broadly applied it across all 501(c)(4)——

Mr. PASCRELL. How did you arrive at the 40 percent in the first place?

Mr. WERFEL. Keep in mind that the IRS' role here is to implement the laws and regulations as clearly and as effectively as possible. We have this word "primary," and so we sat down with it and we said, what is the most plain language understanding of primary that we can defend? And we came up with the conclusion that if you are north of 50 percent——

Mr. PASCRELL. Who came up with that?

Mr. WERFEL. The IRS. We sat down and we talked it through, and we briefed committees and others on this before we issued it in final, that if your activities are greater than 50 percent you are

clearly not primary, okay, if your political intervention is greater than 50 percent.

If you are less than 40 percent we would think that you are in a comfortable safe zone of not being in that primary range. Between 40 and 50 percent it gets tougher, and therefore if you are a taxpayer and you believe that your expenditures are somewhere between 40 and 50 percent you wouldn't attest, you would go through the traditional review and we would take a close look to make sure——

Mr. PASCRELL. And that is why people apply to you, in order to obtain this status.

Mr. WERFEL. Yes.

Mr. PASCRELL. And you determine from what they give you, the information they give you as to whether or not they are more than 40 percent involved in whatever political culture there exists.

Mr. WERFEL. Essentially we are trying to figure out what this primary means and what we are offering with the self-attestation is some inherent structure as to how we can think about——

Mr. PASCRELL. Now, once that organization receives approval, will they be able to increase their political activities beyond the 40 percent of their spending and time? Is that part of the application?

Mr. WERFEL. If they do that then they are no longer operating under an approval and they have to alert the IRS that they have changed the nature and extent of their activities.

Mr. PASCRELL. But they are allowed to continue?

Mr. WERFEL. They are allowed to continue. And the reason why they are allowed to continue is because one of the key points here is that you can operate as a 501(c)(4) today without an application. There are two different types of entities that are operating as a 501(c)(4), those who have an application approved and those that never applied but just file the appropriate forms and operate as 501(c)(4).

If you exceed your 40 percent after attesting, you just move yourself into that second category where you are operating without an approved application and you are joining many other 501(c)(4) taxpayers that are doing that today.

Mr. PASCRELL. So the exemption is very important in terms of revenue. The exemption is more important to decide whether it is more than 40 percent or less than 40 percent. And if you go over 40 percent, you simply have to file a form with the IRS.

So there are, I can assume then in conclusion, other organizations out there that are performing more than 40 percent or maybe more than 50 percent in the political area and are being exempt from taxes.

Mr. WERFEL. I think——

Chairman CAMP. Time has expired.

Mr. WERFEL. Okay.

Chairman CAMP. So just answer briefly.

Mr. WERFEL. I would say if they are performing more than 50 percent, then my hope would be that we would have an effective exam and audit process that would identify that and work with the taxpayer to correct it.

Chairman CAMP. Okay. Thank you.

Mr. Buchanan.

Mr. BUCHANAN. Thank you, Mr. Chairman.

And I also want to thank Mr. Werfel for being here today. I want to recognize that you have been 34 days on the job and it appears you have had a great background.

Let me ask you, because I think you were cut off, you were going to mention, looking at your resume they put up here, you manage an agency of 90,000 employees. Your budget is about $11 billion a year. And I think you are asking for additional dollars. And part of the reason you wanted the additional money from the taxpayers is you said a dollar invested in enforcement gives you back such a return. What were the numbers you were going to tell us about? Why do you need the additional money?

Mr. WERFEL. We have asked for an increase on our enforcement budget of $412 million that would yield more than $1.6 billion in annual enforcement revenue, which is a return on investment of $6 for every $1 invested. And I understand the concern about our excessive expenditures that occurred back in 2010 and 2011, and to the extent——

Mr. BUCHANAN. Let me go back, because we only get 5 minutes each. For every dollar invested, you can get $6 back, is that what you are saying, from the taxpayers?

Mr. WERFEL. Yes, that is what I am saying.

Mr. BUCHANAN. Now, you have heard the saying a power to tax is a power to destroy. And I can tell you that there seems to be a culture, at least from what I have heard, I have been here a little over 6 years, in the IRS there is a lot more money being put in enforcement. And you can destroy people's lives. I think you have to understand that, the power, the leverage, the magnitude of the IRS, 90,000 employees, $11 billion in budget. It is not even a level playing field for individuals. And I look at a lot with small businesses.

What I am hearing from my constituents, when you want more money to go after more Americans, they are very, very concerned because it seems like that has been ramped up in this environment. I am just telling you what I hear every day.

Mr. WERFEL. Yes.

Mr. BUCHANAN. In this environment of trillion-dollar deficits, people are feeling like the IRS is a lot more aggressive about coming after organizations, especially small businesses and individuals, because at the end of the day you can win every time. You can say, we will go to court. Well, these small businesses and individuals need more CPAs and more lawyers. They run out of money. You never run out of money or resources.

Go ahead. Answer that, if you would.

Mr. WERFEL. Well, you are raising an important question. And I will go back to the report, if I could. You know, it is a question about taxpayer concerns. And we have heard those taxpayer concerns. I think it is notable that in this report we are candid about organizational and individual failures within the IRS. We are not claiming that nothing went wrong here, we are recognizing that there were significant problems. And we are also recognizing that this represents an opportunity to learn from that.

Mr. BUCHANAN. Let me go back, just because of our limited time, I want to get another question out.

Mr. WERFEL. Yes, I understand.

Mr. BUCHANAN. Let me ask you, in terms of yourself, it says you manage 90,000 employees. Is that a correct statement?

Mr. WERFEL. I lead an organization that has roughly 90,000 employees.

Mr. BUCHANAN. Who is responsible for the attitudes and the culture and the environment at that organization?

Mr. WERFEL. It is a shared responsibility of the leadership team at the IRS and the staff, but I place a lot of importance on the leadership driving——

Mr. BUCHANAN. You are one of the leaders, right?

Mr. WERFEL. I am one of the leaders.

Mr. BUCHANAN. I am just saying, with 34 days, I recognize that, I want to make sure that you have a balanced approach going forward, that you don't create an attitude or a climate in the IRS about going after Americans. I am very concerned that it is more of a balanced approach.

There is a sense out there that that has been heightened, not just in the last 3 months, but in the last 5 or 6 years. And there is a sense that we have to make sure that if you are looking for more money to go after more Americans, because you get a 6-to-1 return, I will tell you, you are going to win at every turn. They can't begin to compete with the IRS with the leverage and the power that you have.

And that is why it is so important as a leader going forward, and your team of leadership, to have something that makes some sense, that we are not killing small businesses and as a result killing jobs.

Mr. WERFEL. Let me make one final point. In this report there is a direct commitment to address that question by doing a review across all IRS of the appropriateness of our criteria and our filters and our activities. Hold us accountable for the thoroughness and objectivity of that review, and in the report we are going to share the results of that with you and with the American people so that we can answer the question.

Mr. BUCHANAN. But you understand it is not a level playing field, right? You realize if you want to win at the end of the day, you are going to win. They run out of money. They would like to get their day in court or they would like to resolve it, but they can't afford what it costs to get their day in court. So I am just telling you as someone that has seen that environment, and what I hear every day, you have to be very careful on how you move forward in terms of going after Americans.

Chairman CAMP. All right. Thank you.

Mr. Smith.

Mr. SMITH. Thank you, Mr. Chairman.

And thank you to the Commissioner today.

How long have 501(c)(4)s been around?

Mr. WERFEL. I am not exactly sure, but it is decades.

Mr. SMITH. So they have been around a while.

How long do you think an application should reasonably take for approval?

Mr. WERFEL. We have a standard of 120 days.

Mr. SMITH. And, obviously, many of these cases exceed 120——

Mr. WERFEL. Yes, absolutely. And that was unfortunate and needs to be fixed.

Mr. SMITH. And you have indicated that no intentional wrongdoing has taken place to your knowledge?

Mr. WERFEL. Again, the evidence hasn't surfaced yet. But I would caution that more analysis, review, and investigation is needed.

Mr. SMITH. So that would be an inconclusive finding in terms of the——

Mr. WERFEL. Right. In other words, if the taxpayer is going to ask us has there been any evidence yet, we are going to say, no, not yet, but more needs to be done. So that could be termed inconclusive. I am not going to argue with that characterization.

Mr. SMITH. And sifting through the many documents that we have had over the last few weeks, we know that there have been very exhaustive lists of questions asked of applicants. Is that correct?

Mr. WERFEL. That is correct.

Mr. SMITH. And we are talking about requesting lists of books read and reports associated, and requesting membership lists, volunteer lists, whether or not an applicant intended to run for office or a family member of theirs would run for office. Would you agree that it took a vast number of resources to even come up with those questions?

Mr. WERFEL. I don't know how many resources it took. But I would agree that we needed to stop asking a great number of questions that we were asking and revisit and change how we approach our outreach to taxpayers.

Mr. SMITH. Okay. And I appreciate that. It just strikes me as difficult to sort through all of this when, you know, we are being asked for more resources for the IRS when it would seem to me that there were some existing resources, perhaps, that were misappropriated, certainly misapplied as it relates to the overreach in terms of asking applicants the questions.

And so moving forward I would hope that we can accomplish our objective of reducing the complexity of our Tax Code that I think leads to this very situation in terms of the complexity leading to the misapplication of resources.

Thank you, Mr. Chairman. I yield back.

Chairman CAMP. Thank you.

Mr. Crowley.

Mr. CROWLEY. Thank you, Mr. Chairman.

And thank you, Mr. Werfel, for being here today.

After the first hearing on the IRS which we had on this Committee, the Chair highlighted "a culture of intimidation." A culture of intimidation. At the time, I think he was referring or hinting that this culture was coming from the White House, a claim that I believe was made without merit or evidence.

As the weeks have gone on, we have seen that there is a culture of intimidation, not from the White House, but rather from my Republican colleagues. We know for a fact that there has been targeting of both Tea Party and progressive groups by the IRS. But this was not divulged by the Treasury IG in his audit of the IRS. The IG didn't even give us a hint that progressive groups were tar-

geted until committee Democrats dug further and deeper into this investigation.

My fear is the IG, an appointee of George W. Bush, and a former committee staffer of the Oversight Committee chaired by Darrell Issa, drafted a report that suited Chairman Issa's personal ideology and not the facts of the case.

We then saw Members of the Majority party make baseless claims about a so-called White House enemies list and ideological election year targeting. Again, all false. In fact, we know Congressman Issa knew about the targeting investigation in the summer of 2012, well before the national elections occurred.

Does anyone think for a moment that if there was a White House targeting of conservative groups before the 2012 elections that Chairman Issa wouldn't have said anything about that, that he would have sat back and said nothing about that?

Then, as we see, progressive groups were targeted side by side with their Tea Party counterpart groups. The Chairman of this Committee excused that, in my opinion, both in public releases as well as again here today in his opening statement. There has been no outcry by the Chairman or my Republican colleagues when progressive groups were also targeted over the past 3 years.

I will point out in this May 21 testimony of Holly Paz, who was interviewed by the Committee, both this Committee and the Oversight Committee, when she was asked the question concerning the Tea Party investigation and their being investigated: And did it raise any questions with you? Her answer was, "No. In the office, you know, it is not uncommon for people to have a shorthand reference to cases by name. And I was aware of, you know, other cases at that time that were working their way through the D.C. office that involved proposed denials of exemption to liberal organizations that supported the Democratic Party. So I had no indication that we were not being balanced in what we were doing."

Our Committee knew that testimony was given and yet there was no outrage, just as there was no Republican outrage when the Bush Administration targeted Christian churches and the environmental groups and the NAACP between the years of 2002 and 2004 when they were being investigated by the IRS.

So, yes, I agree that there is a culture of intimidation going on, but it is not by the White House, it is by my Republican colleagues. That is why we demand that the IG be summoned back to this Committee to answer questions once again under oath. We also demand that the Republican culture of intimidation stop so progressive groups will feel comfortable testifying before us here. But right now they are not comfortable coming before this Committee. And the Chairman's continued silence or excusing of the abuse of progressive groups makes it harder for these groups to come before us.

We need to be a committee of facts and not a witch hunt if we plan to get to the bottom of the investigation and hopefully be able to tackle other legislative issues that we have coming before this Committee of great importance to the country. So I demand that this Republican culture of intimidation against progressive groups be stopped and that they be as outraged as we were outraged, Democrats were outraged, and we expressed our outrage when groups that we don't agree with politically or ideologically were

being attacked or being intimidated or being investigated by the IRS. I would like to see a modicum of a similar outrage by my Republican colleagues for what we held when folks testified before this Committee——

Chairman CAMP. The gentleman's time has expired.

Mr. CROWLEY [continuing]. That we didn't politically agree with, but we stood by them and said, as Americans, they should not be investigated.

Chairman CAMP. The gentleman's time has expired. And I would just refer the gentleman to my opening statement where I mentioned that progressives were on the Be On the Lookout list, or the BOLO list.

Mr. CROWLEY. Will the Chairman yield?

Chairman CAMP. No, I will not yield.

Mr. CROWLEY. Where is the outrage, Mr. Chairman?

Chairman CAMP. I will not yield.

Mr. CROWLEY. Where is the outrage?

Chairman CAMP. I thought you were talking about the modicum of this Committee, and yet the gentleman continues to interrupt the Chair. You have had your 5 minutes. You referred to me by name as the Chairman, and I am going to respond. And I would refer the gentleman to my opening statement, where I mentioned that progressives were on the Be On the Lookout list. And I made one thing clear, that no taxpayer, regardless of political affiliation, should be unfairly targeted.

With that, I will yield to Mr. Schock of Illinois.

Mr. CROWLEY. That is more like it.

Mr. SCHOCK. Thank you, Mr. Chairman. Before I begin my questioning, I think I would just say that I think the Chairman has been more than accommodating, more than outreaching to the other side. In fact, if the Chair would indulge, when we had our first hearing where we invited witnesses who were victims of targeting, the Chair asked for witnesses from the Minority, and would the Chair remind us how many Minority witnesses were submitted?

Chairman CAMP. There were none.

Mr. SCHOCK. Thank you.

Mr. Werfel, welcome.

Mr. WERFEL. Thank you.

Mr. SCHOCK. On page 14 of your report that you have submitted to this Committee you outline a proposal to eliminate the backlog of certain 501(c)(4) applicants that are currently before the IRS. You specifically suggest that to eliminate this backlog you ask for these 501(c)(4) applicants to certify under penalty of perjury to the IRS that no more than 40 percent of their expenditures and volunteer hours will go toward political campaign activity and that the remaining 60 percent would go to the promotion of social welfare. If that is certified by the 501(c)(4) applicant, it is your policy, then, that the applicant would be approved in the next 2 weeks.

Mr. WERFEL. That is correct.

Mr. SCHOCK. I would like to bring your attention to a specific case and ask for how that would fall under this category. Specifically, the 60/40 rule that you are proposing.

Mr. WERFEL. Is this a hypothetical case?

Mr. SCHOCK. No. This is a real live, 48-hour-ago case.

Mr. WERFEL. Well, I might have difficulty in answering it if it is about a specific——

Mr. SCHOCK. Well, let's try. On Tuesday, the President unveiled his plan to cut greenhouse gas emissions. Within hours, millions of emails were sent to his reelection campaign supporters through *BarackObama.com*, the URL owned by Organizing for Action, a 527 organization. Within the email, it asks all its volunteers to "call out via Twitter, email, letters, Facebook, and so on, Members of Congress who are so-called 'climate change deniers.'" The action item doesn't just suggest they should educate, but rather that they should call them out. It then links to 85-plus Members of Congress that they would like to be targeted, all of whom are Republican, many of whom are on this Committee.

Under that circumstance, I am wondering whether or not that activity, those hours and that money, would be classified under the political campaign activity or under the promoting social welfare category.

Mr. WERFEL. It is a good question. You are getting into a territory where I am not the legal expert. But I will do my best to provide some clarity as far as I understand this and the rule of law here.

It is my understanding that the political campaign intervention has to do with—and I am answering these questions as a broad matter because I don't want to get into 6103 issues or the specific taxpayer. So I just want to qualify that my answer is in the broad context of how we think about political campaign intervention. And the key issue is, is the entity seeking (c)(4) status attempting to influence the outcome of an election by either supporting a particular candidate or opposing a particular candidate. And the Federal Election Commission has provided guidance to help us on that.

And when you have a situation in which, for example, an ad mentions a candidate within 30 days of an election, they say, well, there you go, at that point in time you have political campaign intervention. But if they mention that candidate 120 days before an election, it is not as clear and more work needs to be done.

So, to get to your question, I think as a broad matter one of the first questions I would have in analyzing it, and I think the lawyers who are experts in that would have as well, was is there a candidate involved and is the activity intended to influence the outcome of an election.

Mr. SCHOCK. Well, there were 85 Members of Congress specifically targeted.

Mr. WERFEL. Again, now you are getting into—I don't want to get too specific.

Mr. SCHOCK. Well, I understand you don't want to get too specific. But the point I am attempting to make is that the rule you are proposing requires the applicant to make a determination.

Mr. WERFEL. Correct.

Mr. SCHOCK. So as the Commissioner of the IRS who is proposing the rule, under not a hypothetical but a real case situation, if you can't make a determination how can we then ask a non-attorney, non-IRS Commissioner, non-IRS employee to make that same determination under penalty of perjury to classify their activ-

ity as either advocating for promoting social welfare or political campaign activity if we are going to limit it under a 60/40 rule?

Mr. WERFEL. Right. I was talking at a very general level. There is specific guidance that we can provide in our application and in the self-attestation that we ask the taxpayer to look at and determine whether they are meeting the criteria. You know, right now, me articulating it to the taxpayer is actually done in much more specificity in the materials that the taxpayer receives in terms of exactly how to answer those questions.

The key issue is, are they attempting to influence the outcome of an election. Now, you take it from there and do your further analytics, and then the taxpayer can help determine whether they believe their expenditures will go higher than 40 percent for those types of activities.

Mr. SCHOCK. I realize my time has expired. I would just like, if I can, followup from the IRS on exactly how this new rule would then be enforced, whether it be additional auditing, whether it would require additional personnel to enforce, and all that would be helpful.

Mr. WERFEL. And I can provide for the record the more specific guidance that we give the taxpayer. It was just handed to me. But it might not be in the best interest to read it out loud.

Chairman CAMP. No. I think you can submit it to the Committee and we will make it available.

Mr. Paulsen is recognized.

Mr. PAULSEN. Thank you, Mr. Chairman.

Mr. Werfel, you opened your report with TIGTA's findings that the IRS used inappropriate criteria that identified for review Tea Party and other organizations applying for tax-exempt status based on their names or policy positions.

I am going to ask you this question: Were some of the organizations that were targeted for their personal beliefs, were they asked for their donor lists?

Mr. WERFEL. It is my understanding that roughly 27 entities were asked for their donor lists, yes.

Mr. PAULSEN. Do you know if these donor lists were used to target individual donors in the IRS for audits?

Mr. WERFEL. I don't have precise information on exactly how that information was used. I think that is part of the ongoing review.

Mr. PAULSEN. Well, the reason I am asking this is because part of the report, on page 31 of the enforcement section of the report, it states that, "All current indications are that this sort of political activity analysis, ambiguity, and subjective utilization of criteria does not occur elsewhere in the IRS." It seems pretty definitive. I mean, how can you be sure that is the case?

Mr. WERFEL. What I was referring to was, there are four main operating divisions within the IRS that deal with tax administration. The one that is the subject of this audit report is the Tax Exempt/Government Entities organization. The conclusion that is reached in the report is right now in areas, for example, in our Wage and Investment Division, which deals with individual taxpayers, small business and large business, those areas, where we don't have current evidence that the criteria in the screening cri-

teria are inappropriate. We have asked our leaders to look at it. We are going to run a thorough review. And, as I said, one of the main reasons why we can be more reassured in that conclusion is that it is very rare, outside of this part of IRS, that political activity is relevant to any determination.

Mr. PAULSEN. Well, I would assume that many of these issues should be considered rare to occur in the first place. I know that there is a publication, the *Declaration of Taxpayer Rights*, which was also part of the report you submitted, that states right up front, "Protection of your rights. IRS employees will explain and protect your rights as a taxpayer throughout your contact with us. The IRS will not disclose to anyone the information you give us except as authorized by law." We know that that has already been violated and that information has been leaked publicly.

"You have the right to know why we are asking you for the information and how we will use it." We know that that also has not been followed through because these organizations testified before this Committee that they asked the IRS why certain information was being asked for and there was no response for followup.

And I will just tell you that I also have constituents, many Minnesotans that are in my district, who are also very fearful, who have come forward to me concerned that they also have become targets because in recent years—of audits that have been stepped up by their accountants, their finance planners. They are concerned that it is happening because of their political activity. This has all occurred over the last couple of years. And other Members of Congress on this Committee and in the entire body have expressed the same concern.

Several have told me these personal stories of their accountants telling them, we have never, ever in the history of our experience—we keep the receipts, we keep the books clean, we monitor your activities—we have never had this type of systematic auditing on an individual at this level before.

And so we now know that information on individual donors has been collected, we know that information has been leaked, and we know that these audits have intensified on individuals. And I think, from my perspective, the report before us has some glaring omissions. There is going to have to be a followup report coming down the road. And in the end what assurance can you give the American people, can you give this Committee, to making sure that individual taxpayer rights are being protected and there is a plan in place to make sure that that will happen?

Mr. WERFEL. I have two reactions. One, to the extent—I probably should have said this earlier to this Committee and to the Chairman—to the extent there are particular areas in the report and questions that aren't answered, me, along with the IRS would be very interested to have that feedback and would commit to exploring those questions with this Committee and figuring out the best way to get answers.

Our goal with this report was several things. First, to recognize for the taxpayers, part of our reassurance and our path forward is to recognize our failures upfront, to recognize that we made fundamental mistakes. There are more questions to be asked about the

nature of how those mistakes occurred, but we recognize those mistakes exist.

We want to show the American people in this report that we recognize them and we are putting together and actively implementing corrective actions to move forward. We have brought in experts of public sector management to help lead the IRS going forward on these new activities. And some of those activities involve reviewing our current operations to ask the very questions you are answering.

Mr. PAULSEN. So, Mr. Werfel, let me just ask you this, as my time runs out. There are several employees, and you have described how you have to go through appropriate procedures, but are you seeking the removal right now of Ms. Lerner or any other individuals? And does Congress need to have legislative changes that would allow you to hold these employees accountable so that we can make sure that the trust is restored for the American people?

Chairman CAMP. And if you could just answer briefly.

Mr. WERFEL. Yes, I will answer in two ways. One, with respect to a specific employee, I can inform you of our current actions, I just have to do it in a nonpublic setting to protect that employee's privacy rights.

Second, you know, as I said earlier, there are due process procedures in place that are put in place for Federal employees with respect to how their discipline or potential removal are handled. I am not going to comment on whether they are good or bad. I am saying right now that I am following the rule of law and moving as aggressively as we can.

Chairman CAMP. Thank you.

Ms. Sanchez is recognized.

Ms. SANCHEZ. Thank you, Mr. Chairman.

Mr. Werfel, I want to state my appreciation for you being here and answering these questions. I know you have been on the job roughly a month. And I am sorry, but some of my colleagues seem to be confusing you with the main decisionmaker at the IRS. So just to clarify a little bit, you are not personally responsible for things like tax refund abuses or conference spending abuses or bonus abuses, that is not your position, is it?

Mr. WERFEL. No. And I want to stand by my IRS colleagues. I am here to make sure that any actions that occurred before I got there that need correcting are getting corrected. That is my role.

Ms. SANCHEZ. Thank you. Because I just think you are an easy target. Nobody really likes the IRS, and so it is easy to throw a lot of different issues at you when we are specifically here to talk about the tax-exempt applications and the process that went on there.

Now, you are still investigating that matter, right? Your initial 30-day report is not a final report. Is that correct?

Mr. WERFEL. Right. And there are several entities that have ongoing investigations, yes. They are still underway.

Ms. SANCHEZ. Including potential criminal investigations, is that not correct?

Mr. WERFEL. The Justice Department is actively looking at that right now.

Ms. SANCHEZ. And I think you have stated numerous times, and people have said that you have seemed a little dispassionate, but there are rules that you need to follow as you investigate these allegations, is that correct?

Mr. WERFEL. I don't feel dispassionate. I feel very concerned. And I think the report has some important language about failures of leadership and management that are very critical.

But, yes, that concern and that sense of urgency which I certainly feel has to be balanced against these procedures that need to take place because they are legally required. And I can't reinforce mistakes that the IRS has made in the past with new mistakes of not following appropriate procedures that are required by law and regulation.

Ms. SANCHEZ. I appreciate that, because I have a legal background. And maybe others on the Committee don't appreciate that, but I would just like to point out that, you know, Wild West vigilante justice was often swift, but it was not always correct, nor was it always fair. I think that probably compounding some of the potential failures at the IRS would be mistakes in how the investigation is handled, and if it were to be done hastily and not thoroughly I don't think that that serves the American public.

Mr. WERFEL. I would be right back here before this Committee answering tough questions of how we didn't handle the investigation fairly. So we are going to do things by the rule of law.

Ms. SANCHEZ. I appreciate that very much.

Now, your initial assessment in the preliminary report is that perhaps some inappropriate criteria was used by a group of IRS officials in selecting certain applications for further review. Is that a fair statement?

Mr. WERFEL. Yeah. That is our finding, that there were inappropriate criteria used. It is similar to what the IG found.

Ms. SANCHEZ. And if during the course of your continued investigation that assessment were to change, that would be in an updated report, I am assuming.

Mr. WERFEL. Yes. My hope is that the type of information we garner helps us understand better the nature and circumstances that led to these inappropriate criteria being used.

Ms. SANCHEZ. Thank you. And I very much appreciate in your initial report the identification of certain areas of failures at the IRS and also certain suggestions moving forward and ways that you can make the process a fairer and sort of more transparent one.

One of the things that I wanted to ask you about, because it is something that perhaps is little known, your report suggests that the Taxpayer Advocate's office could have helped exempt organizations that were struggling to have their applications processed by the IRS. Is that correct?

Mr. WERFEL. That is correct. The National Taxpayer Advocate can play a very critical role helping a taxpayer who is having trouble resolving their matter before the IRS. They do a very effective job in many situations. I think, in looking at this situation in particular, we noted a very small or de minimis amount of contact between the taxpayers, the 501(c)(4) applicants who were receiving unfair or burdensome requests and all of the things they went

through, and the National Taxpayer Advocate. There is a lack of connectivity between the taxpayers and the National Taxpayer Advocate. And that is a lesson learned for us, and we want to try to educate taxpayers better on the avenues they have for help when they are having trouble resolving a matter with the IRS.

Ms. SANCHEZ. And do you think that a broad education project to make people aware of the fact that there even is a Taxpayer Advocate would be beneficial?

Mr. WERFEL. That is one of our recommendations in our report. We are committed to it.

Ms. SANCHEZ. And now much has been made about the funding and how the funding is spent at the IRS, and there has been a request for additional funding for enforcement. But one thing that I am hearing from my colleagues on the other side of the aisle is, on the one hand, they want you to enforce these people who are cheating on refunds, and they want you to, you know, come down hard on people who are abusing the Tax Code, but, by the same token, they don't want to pay for that. And then, on the other hand, too much enforcement pits the little guy against the IRS——

Chairman CAMP. A quick answer, please.

Mr. WERFEL. A very brief answer. What I want an opportunity to do before this Committee and others, is demonstrate two things. One, that the IRS is making real progress in eliminating unnecessary expenses and cutting our budget in areas like travel, conferences and others. And two, that if we can increase our funding in other critical areas related to enforcement and taxpayer service, that we are going to position the IRS for success in the future.

Ms. SANCHEZ. Thank you.

And thank you, Mr. Chairman.

Chairman CAMP. Thank you.

Mr. Marchant.

Mr. MARCHANT. Thank you, Mr. Chairman.

Mr. Werfel, on one of your first days on the job I wrote a letter addressed to you requesting that you find out the status of a group in my district, the North East Tarrant County Tea Party. Is it your representation that over the next week or 2 weeks that this organization will receive its determination?

Mr. WERFEL. Let me answer that question very carefully, since you have named a particular taxpayer and I have to be very cautious. I will lift up your question and say that all taxpayers that are in our priority backlog who are in this advocacy group that are in the backlog for more than 120 days will receive a letter from the IRS this week explaining their option to self-certify and get an expedited approval if they are willing to self-certify.

Mr. MARCHANT. This particular group joined in a lawsuit with the ACLJ. Will that lawsuit have any effect whatsoever on the determination of that group or any group that is inside of that——

Mr. WERFEL. Two responses. One, I definitively don't want to comment on the lawsuit. Second, I will just repeat my earlier point: If they are in the backlog, they are getting the letter.

Mr. MARCHANT. So there will be no retribution for a group that joined in that lawsuit?

Mr. WERFEL. It would certainly be the policy of the IRS to not have any type of retribution in those situations. If there is an

entity that is in the backlog, it is our intention to send them this letter. And if they don't receive the letter, for whatever reason, then they should immediately—and they can reach out to you or this Committee or reach out to the National Taxpayer Advocate, and we will look into it. But, again, our intention is to try to get every entity within that backlog, to the extent appropriate, a letter.

Mr. MARCHANT. On February the 11th, a subcommittee that I serve on, chaired by Mr. Boustany, wrote the Acting Commissioner a request to produce a "Star Trek" parity video that contained no training content and was produced at taxpayer expense. The subcommittee also asked for the cost of the "Star Trek" video and any other video produced with IRS resources. Two months later, and three letters later, we had the "Star Trek" video and the cost estimate in hand. Turned out that that video was produced as entertainment for the famous IRS convention that is mentioned.

Imagine the Committee's surprise when late on Friday, May 31, I believe after you had taken over, in an effort to get ahead of the TIGTA report expected the following week, about the IRS' lavish spending at this conference, it turned out that this video, depicting line dancing of IRS employees, was also produced at the 2010 conference.

It was wrong for the IRS not to undertake a good faith search in February for other responsive material, but that was not on your watch. When was the second video brought to your attention?

Mr. WERFEL. Very early in my term. I arrived on May 22, May 23. It was one of the earlier issues that was raised to me. It was my understanding that this Committee had a request for our videos and we were delivering that.

Mr. MARCHANT. Did you produce it immediately to the Committee?

Mr. WERFEL. It is my recollection that once I became aware of it and we had it in hand and it was requested by the Committee we provided it. I think there may have been a need to redact some of the names on it to protect personal privacy. But, yes, I think we turned that video over to you very quickly.

Mr. MARCHANT. And did you or others at the IRS directly consult with the Treasury on how to produce that video to Congress?

Mr. WERFEL. How to produce it? I am not aware of us consulting with the Treasury Department on how to produce it. But I don't necessarily understand your question.

Mr. MARCHANT. Well, let me follow up. The lack of transparency pertains to just a silly video—and, being from Texas, very bad line dancing.

Now, for something really more consequential, Chairman Boustany wrote then Acting Commissioner Steven Miller on May 10 to ask about all documents containing the word "Tea Party" and a list of IRS employees involved in the targeting. You wrote back on June 7. Did you consult with the Treasury Department on any of the correspondence that you had with the Committee before you responded?

Mr. WERFEL. I talked generally to the Treasury Department about our correspondence with the Committee to make sure I am giving them an update on the various requests we are receiving

and how we are producing information. I don't have a particular recollection that we talked about this letter.

Chairman CAMP. All right.

Mr. WERFEL. But generally we do talk about discovery requests that we get from Congress.

Chairman CAMP. All right. Thank you.

Mr. MARCHANT. Thank you.

Chairman CAMP. Ms. Black is recognized.

Ms. BLACK. Thank you, Mr. Chairman.

And thank you, Mr. Werfel, for being here and helping us to work through this situation.

I want to start out by saying that the very basis of any relationship is trust. And we certainly see here that the trust has been broken. There is no doubt about that. I think prior to all of this being revealed over the last several months here, if you had asked someone, what kind of reaction do you have if you get a letter from the IRS, they would have already said, I have fear, they are so powerful that even if I haven't done something intentionally, they are going to come down on me, it is not an organization that helps you work through something if you haven't done it properly. A lot of uncertainty. I can call one day, get one answer, the next day and get another answer.

So there was already this image of the IRS with people prior to this. And I think that this has all just confirmed what their feelings were, that there was a distrust and a fear. And restoring this trust is going to be very difficult. And I just wanted to go back and chronicle a couple of things that have been said here, and I am going to add one to it.

Obviously, we are here for the targeting issue; that is what this hearing was called for. But also we heard Chairman Johnson talk about, and I was on that committee and heard Mr. Miller, I believe it was Mr. Miller that was here the day that we talked about the abuse of the earned income tax credit that results in billions of dollars improperly being sent to people. And there wasn't a concern that we could even work together to fix this. We actually had to bring legislative action to fix it.

Chairman Ryan talked about the misuse or the inappropriate use of funds on these activities, over $100 million, which is a significant amount of money, obviously. Chairman Boustany also talked about the bonuses that are being given out to people that perhaps were even involved in this. And we can't be assured that those bonuses are really bonuses that they deserve.

I also want to lift up a TIGTA report that showed that 1.7 million recipients received over $2.6 billion of improper payment where we couldn't confirm that they even attended the school that they were asking for the tax credit for on the American Opportunity Tax refund.

And so we see over and over again this is not just about what has happened here in targeting that is a very serious issue, but it is a culture. There is a prevailing culture within this organization that leads people to think when they turn on their television night after night and they continue to see one thing after another after another that there is a reason to distrust this organization that has so much power over them.

So my question for you is, in your report you do report here that there were three things that you are looking at, accountability, fixing the problem with the tax-exempt status, and then the third area is a broad review of the IRS operations and risk. Are those three things only related to what is happening now with this tax-exempt status or is this something you are going to look at overall?

Mr. WERFEL. It is broader. In Section 3 of the report, what we attempt to do is we draw four general conclusions coming out of this issue with respect to the IG report, and we ask questions about the broader applicability of those four areas into the rest of the IRS, and we analyze each question and come up with a series of actions intended to deal with the issue. For example, and I think an important one, are the taxpayers not getting the appropriate customer service or treatment by being in a backlog too long and getting inappropriate questions——

Ms. BLACK. Okay. So I am going to interrupt you because I am going to be limited on my time here and I want to go on to another question.

Mr. WERFEL. Please. I understand.

Ms. BLACK. But what I would like to know, I would like to know your plan. And I know you can't give me your whole plan today. But given what we are seeing here, there has to be a plan to show the American taxpayer they can have confidence, that they can trust the IRS with their most personal information.

Mr. WERFEL. An initial blueprint of that plan is here and is in Section 3 of this report, and I would love feedback on it. And certainly there are places we can fill out and do more. And I think this report is about starting that dialogue.

Ms. BLACK. I am going to run out of time here, but I do have one more question. Your report states that you have found no evidence to date that anyone outside of the IRS had any role in initiating or encouraging the Tea Party targeting.

The question I have for you is, did you come to this conclusion by asking the White House or the Treasury officials whether they were aware of the activity?

Mr. WERFEL. We came to this conclusion by looking at the evidence that we had, which was a variety of documents, emails, employee interviews, a lot of it conducted by the IG in their audit report.

Ms. BLACK. So reclaiming any time——

Mr. WERFEL. So essentially we have looked at the evidence that we have, but we have also said there is more evidence that needs to be looked at.

Ms. BLACK. Okay. So I hope, then, that you will have a conversation with those in the White House, all the way up to the President, and that will be a part of your report that comes back as well. Thank you.

Yield back.

Chairman CAMP. Thank you.

Mr. Davis.

Mr. DAVIS. Thank you very much, Mr. Chairman.

And, Commissioner, how are you? Thank you for being here.

You know, like a number of other people who have expressed interest in the fact that you would take this position and even asked

why, I think I have come to the conclusion of why. I think you know it is a very difficult situation, that you are going to have a tough job restoring trust in the agency by the American people. But I operate from the premise that if there is righteousness in the heart, there is beauty in the character.

And listening to you all of this time this morning, I get the impression that that is really where you are and that is what you really want to do and that is how you are going to manage this agency, in a balanced kind of way, adhering to the policies and practices, procedures and points of law that have already been established legislatively, that this is what you are supposed to do.

I have been tremendously impressed with the report that you have issued, and there are some things that jump out at me. One is the fact that you are ready to make some rectification for those groups and individuals who feel that they have been harmed with unusual delays of the processing of their applications, even to the point of self-certification. How would that work? How do you propose to have that work?

Mr. WERFEL. This week, the taxpayers that are in our priority backlog for more than 120 days will receive a letter that will explain this new program that we have that will enable them to get a fast-track approval if they are willing to certify to these particular facts and realities. As I have said, it has to do with their expenditures and their voluntary person hours, and not to exceed certain thresholds.

So if they feel comfortable that they can attest to that being the way they are going to carry out their operations with respect to political and social welfare activity, they will sign the document, just like they sign their application today, submit it to the IRS, and we will give them an approval. And if their activities change, they will be required to let us know. And it is possible, like with any taxpayer, that they could be reviewed on audit or exam at some later point, and if we find compliance, we will move forward, if we find noncompliance, we will deal with it at that time.

Mr. DAVIS. I know that much of our conversation has been about transgressions and activity that was outside the realm of what one would expect. And I also know that history is history and that it is very difficult to change what has already happened, but it is not impossible to make sure that it does not happen again.

You mention in your report that there are certain risks and information relative to operations of the entire agency that the Commissioner's office may not have had enough information about.

Mr. WERFEL. Yes.

Mr. DAVIS. And that you would want to seriously analyze that. And how do you change that information gap that may exist?

Mr. WERFEL. When I came to the IRS, I recognized that across the organization I do not believe today there is enough work being done to both identify, categorize, understand emerging risks and operational challenges within the organization and bring it together on a portfolio basis across the IRS so that the senior leadership of the IRS can understand those issues and deal with them. Not just deal with them, by having transparency into them it automatically triggers accountability for them to deal with it, it creates an environment in which the leadership and the division itself are

working together toward a solution. And, very importantly, it enables the leadership to then push that information out earlier in the process to the IRS Oversight Board, to the IG as necessary, to this Committee as necessary.

We have an architecture that we are now putting together, an enterprise-wide risk-management program that will redefine the way in which we capture this information and report it up. It seems very textbook within this report, but it is actually very important. And it is potentially, I believe, transformational to getting at some of the root of the very issues that this Committee is raising. How can we——

Chairman CAMP. Thank you.

Mr. WERFEL. Okay.

Chairman CAMP. Thank you.

Mr. DAVIS. Thank you, Mr. Chairman.

Chairman CAMP. Mr. Young is recognized.

Mr. YOUNG. Thank you, Mr. Chairman.

And thank you, Commissioner, for being here today. You are certainly entering this organization at a difficult time.

Your organization, like all others, is only as effective, only as good as the people that populate it, and by extension the extent to which we hold people accountable. We have many good, public-spirited, conscientious public servants working at the IRS and other agencies, and we must ensure that we don't put forward any baseless sort of disciplinary actions with respect to these individuals. I know you agree with that.

My preference would be to hold these individuals, however, to the same standards that other workers around the country outside of the Federal Government must pertain to. You have said time and again during this hearing that we need to discover the facts, or some variant of this, first discover the facts, wait on those facts to emerge, and then take corrective action. Entirely, imminently reasonable, and I agree with that.

This would presumably apply to personnel actions as well, where you have taken some bold actions over at the IRS with respect to management failures within your agency, replacing four individuals, five positions. This is prominently displayed in your plan of action here.

Mr. WERFEL. Yes.

Mr. YOUNG. And so what I want to know is what specific facts have you collected which justify the replacement of Steve Miller? We will begin with Mr. Miller.

Mr. WERFEL. Okay. As I mentioned earlier, at that level of the organization we perceived in our review a deficiency in leadership in not understanding earlier in the process the emerging challenges that were happening within the Exempt Organization unit, the emerging concerns that were being registered by taxpayers. A lot of the activities that were going on in the IG report should have surfaced to the leadership before the IG brought to it their attention.

Mr. YOUNG. What did he fail to do? Were there signals that existed that he failed to identify? Did he fail to put in place quality control mechanisms that should have existed?

This ought to be documented. I know that throughout our Federal Government union protections for your rank and file workers are typically also applied at the higher echelons of management. So you had to overcome a pretty high threshold of evidence before the decision was made to replace Steve Miller or any of these other individuals. So I want to know with particularity, why was Steve Miller replaced, Commissioner?

Mr. WERFEL. Well, let me first state that I was not at the IRS when this situation happened. That was a decision I think that was determined between Mr. Miller, the Secretary of Treasury, and the President on terms of whether the confidence had been lost due to this current situation.

Mr. YOUNG. Has it been documented? Have the reasons for that decision to replace Mr. Miller been documented? Or could they be articulated by the new Commissioner, yourself, though you go by a slightly different title?

Mr. WERFEL. Yes. This report is in part an attempt to provide a review of what we found in the organization at multiple levels. And I think we talk very explicitly about particular—I think we identify them as failures within the Commissioner's office to—and I think these are the exact words that we use—to identify, prevent, correct, and disclose the information that was——

Mr. YOUNG. All right. You know, to my constituents, that sounds like a lot of Washington speak. A lot of words. You are taking up my time here. I have 5 minutes. I appreciate an answer. But maybe I need to ask the question in a different way. So I will move to a different individual.

How about Joseph Grant. Can you tell me with specificity why Joseph Grant was removed from his position as Acting Commissioner, Tax Exempt and Government Entities Division?

Mr. WERFEL. Again, let me take a step back and make sure that I don't violate anyone's rights of privacy. Let me also step back and make sure that I don't impugn any particular individual, because these are organizational layers, these failures were both individual and organizational, and I don't want to necessarily place the holistic blame for the situation on a given individual. There was a collective organizational failure. There were particular individual failures. And I don't think in 25 seconds I can articulate——

Mr. YOUNG. Well, I don't need it here, because you have used the clock down to the end. And I do appreciate the answers that have been forthcoming.

I would like to know, I would like you to report to this Committee what disciplinary action beyond replacement of these individuals has been taken.

Mr. WERFEL. And we can provide that to you in a different setting.

Mr. YOUNG. Right. And perhaps you will think of or acquire through other means the reasoning behind these separations and communicate those to Congress as well. Thank you.

Chairman CAMP. Thank you.

Mr. Kelly.

Mr. KELLY. Thank you, Mr. Chairman.

Mr. Werfel, I was thinking along the same lines as Mr. Young, coming out of the private sector. And I did notice you do have a

great deal of concern for the folks that we are asking you to take a look at right now, saying you want to make sure we don't violate any of their rights or privacy. And I think that is very noble. And I think that is your desire.

But when I am back home in western Pennsylvania people ask me about, you know, why are they able to do this and why are they able to continue doing these things and nothing happens? Because what I would like to say is, you know, our role as Congress is to be here for the people that we represent, that voted us into office.

I guess then my question would be, we are so concerned about these individuals' rights and privacy, but for these folks that were targeted, we don't have the same amount of concern. And for all of this idea about my rights, my privacy, all those things seem to be secondhand to an agency that you are running right now. There are over 90,000 people there. Is that correct?

Mr. WERFEL. Yes.

Mr. KELLY. And an $11 billion budget. My goodness, is there any doubt that anything this big and this expensive could possibly be reined in? I don't understand how you are going to do it. I think it is a noble idea, but I don't know that it can be done.

And again, moving forward, tell me, the people that were let go, what can you do to assure the American people that—they really haven't been let go, have they?

Mr. WERFEL. There is a combination of personnel actions that have been taken.

Mr. KELLY. But nobody has been let go.

Mr. WERFEL. Again, there has been——

Mr. KELLY. Either they were let go——

Mr. WERFEL. Has anyone been fired yet as a procedural matter? No. But all of these options are being proceeded with——

Mr. KELLY. Yeah. Because the way government works, they usually get redeployed. I haven't seen anybody get let go for anything. And I know you don't have a lot of tools in your toolbox when people go on a leave of absence that is always paid. And I think for the American taxpayers that like to think, you know what, shouldn't somebody be watching our dollars, the answer is that you don't have the——

Mr. WERFEL. People do get fired from the Federal Government, but it follows a process.

Mr. KELLY. I understand that. Yeah, well, I understand all that. But as of my 2½ years here, for any wrongdoing, nobody has ever been let go. They have been redeployed, they have been repositioned, they have been placed on administrative leave with pay, all different types of things. Both Ms. Lerner, and I think it was Mr. Roseman yesterday, people pleading the Fifth when they come before the people's house to answer questions about something that they could be involved in.

Now, I know there is a rule of law. I can appreciate that. But that adds then to the public's distrust and loss of faith in the government. So I know you have a large job on your hands.

As we go forward, though, you said to start off, and maybe I didn't understand you, but more investigation needs to be done. How long do you foresee this going on?

Mr. WERFEL. That is a good question. And I don't want to lock into a particular timeframe because I want to make sure that we follow the facts wherever they take us. But I would anticipate that over the next 2 months there will be a material amount of interviews and document review that would enable us to revisit the issues and see where we are. I think that is probably the right complement of time.

Will I say it is over at that point? No. But I think that seems to me a good milestone to check in and figure out, have we learned a material amount of information.

Mr. KELLY. So, what I have seen in your comments so far is that there has been a lot of wrongdoing or somehow things weren't handled the right way, but nothing that you could say was intentional.

Mr. WERFEL. At this time, we haven't seen anything, but we are open to the fact that it may have occurred. We just want to make sure that we are doing all the right due diligence to answer those questions.

Mr. KELLY. I understand that. I understand that. Just to switch real quick to Cincinnati.

Mr. WERFEL. Yes.

Mr. KELLY. Did it originate in Cincinnati and only happen in Cincinnati? Does it go any deeper? Can you tell that yet?

Mr. WERFEL. What I think is important to understand here is that there were——

Mr. KELLY. I am sorry, I am running out of time. Did you——

Mr. WERFEL. Here is the point. I need to make this point. The individual that supervised the Cincinnati office sat in Washington, D.C. And if I——

Mr. KELLY. No, I understand. I understand. But the answer is, no, you don't know yet whether it is just in Cincinnati?

Mr. WERFEL. I could offer more than that, but we don't know the answer. If you wanted me to expound, I could. But——

Mr. KELLY. I don't have the time. I would love to have a longer conversation.

Mr. WERFEL. Okay. I don't know the definitive answer to that question.

Mr. KELLY. Okay. Is there any doubt in your mind that it doesn't lead back farther?

Mr. WERFEL. I don't understand that question.

Mr. KELLY. Well, is it just Cincinnati? Or does it come back? Does it come toward Washington? How high does it go?

Mr. WERFEL. I was about to say that there are people in Washington, D.C., in particular, for example, the position of Director of Rulings and Agreement, which is in my report.

Mr. KELLY. Okay. So it could go much deeper.

Mr. WERFEL. That person sits in Washington, D.C. Now, there are five levels beneath the Commissioner's office.

Mr. KELLY. Okay.

Mr. WERFEL. But they are involved in these activities and their office is in Washington, D.C.

Mr. KELLY. Well, I appreciate it. I just want to tell you that the people that I represent back in northwest Pennsylvania do not for any—they don't believe right now that there is going to be a seri-

ous inquiry into this, and they don't think that the IRS is going to come out on its own and do it or the Administration is going to do it on its own. It is going to be up to us in Congress to continue to look for what the answers are.

So I wish you luck on your job, but I also would say this is critical to the faith and trust that the people have in this government. Right now their tank is running on empty because we haven't seen anything yet that makes sense to the American people that is fair and just to them.

Chairman CAMP. All right.

Mr. Renacci, and then Mr. Griffin.

Mr. RENACCI. Thank you, Mr. Chairman.

Thank you, Mr. Werfel, for being here. You know, I was watching all of this questioning. It reminded me of the days in my private sector life when I was hired to go into bad situations and turn them around. And that is exactly what you have had to do. And I had to report to a court every week in bankruptcy, in those situations, as a trustee's representative.

So one of the things that people always wanted to know in those situations was, what are you going to do to change things? How are you going to fix things? And I think that is along the line of questions that American people want to hear; they want to hear the answers.

I have a lot of questions, so I am going to ask you just for yes or no answers, and if you want to go back to them, we can.

Did you talk to the Treasury about your testimony and discovery today?

Mr. WERFEL. Yes, I consulted with Treasury about this hearing.

Mr. RENACCI. Did you supply them your testimony or submit your testimony before——

Mr. WERFEL. My testimony today was the report. So they had the report, of course.

Mr. RENACCI. Did Treasury make any corrections, revisions, or make any suggestions on what you would say or not say or submit today? Yes or no.

Mr. WERFEL. I wouldn't say corrections. I mean, I was keeping them informed of how the report was developing.

Mr. RENACCI. Did they make any——

Mr. WERFEL. I briefed them and, you know, they offered I would say high-level suggestions. But as an important point, I don't think we got a single line edit from them. It was more general guidance.

Mr. RENACCI. Okay. Right. So you did discuss it. Okay.

You know, Ranking Member Levin said in his opening statement that individuals at the IRS that targeted groups should be relieved of their duties. I made a quote of that, "relieved of their duties." I agree with Mr. Levin. Do you agree with Mr. Levin?

Mr. WERFEL. I believe that if there is——

Mr. RENACCI. If they targeted——

Mr. WERFEL [continuing]. If there is management neglect or inappropriate conduct, and it depends on the nature and extent of the management neglect.

Mr. RENACCI. If they targeted groups——

Mr. WERFEL. Intentionally, yes, I would agree.

Mr. RENACCI. Okay. You have testified several times today that there was no intentional wrongdoing. Was there wrongdoing?

Mr. WERFEL. I said there is not evidence yet of intentional wrongdoing. But, yes, I would articulate there was wrongdoing, there were——

Mr. RENACCI. Okay. You testified—as I said, I have a lot of questions. And I——

Mr. WERFEL. Keep going, keep going.

Mr. RENACCI. You testified that there was neglect of duty. You said that earlier. Do you believe there was neglect of duty?

Mr. WERFEL. I do.

Mr. RENACCI. So there was wrongdoing and there was the neglect of duty, but there was no intentional wrongdoing. Would you agree with that?

Mr. WERFEL. There is no evidence yet of intentional wrongdoing. But I am not going to reach a definitive conclusion until all the evidence is obtained.

Mr. RENACCI. Okay. Do you believe targeting of individuals or organizations for political purposes is illegal?

Mr. WERFEL. To target with political bias? Yes, I think there is potential illegality there. It is certainly inconsistent with the IRS mission statement.

Mr. RENACCI. Do you believe there is wrongdoing?

Mr. WERFEL. Yes.

Mr. RENACCI. Do you believe there is neglect of duty?

Mr. WERFEL. Yes.

Mr. RENACCI. Did the IRS seek removal of Mrs. Lerner?

Mr. WERFEL. I can't answer that question in this setting. But I can answer that question in a different setting to you directly.

Mr. RENACCI. So you can't answer whether she was asked to resign or be fired?

Mr. WERFEL. Not in this setting, but in a separate setting, I can.

Mr. RENACCI. What is Mrs. Lerner doing right now?

Mr. WERFEL. I can't answer that question in this setting.

Mr. RENACCI. Do you believe the IRS—again, I am going to go back—do you believe the IRS employees who were deemed to have targeted someone for political purposes should be fired?

Mr. WERFEL. If it was based on political animus or that type of intent, yes. If the seriousness of the management neglect was to the appropriate level of seriousness, then, yes.

Mr. RENACCI. Are you aware of Section 1203 of the IRS Restructuring and Reform Act of 1998?

Mr. WERFEL. I am aware of the Act, but you would have to tell me exactly which section you are referring to.

Mr. RENACCI. The section of the Act that creates a list of 10 deadly sins——

Mr. WERFEL. Yes.

Mr. RENACCI [continuing]. That the IRS employees can be terminated for.

Mr. WERFEL. Yes.

Mr. RENACCI. Are you aware that political targeting is on it or not on it?

Mr. WERFEL. I don't have the list memorized, but I can look into it. I think it is implied through other, more general criteria, is my recollection.

Mr. RENACCI. It is specifically not mentioned. Can you think of any reason why we should not add the targeting of an individual for political purposes by the IRS agent to that list?

Mr. WERFEL. Given these events, I think it is a reasonable suggestion.

Mr. RENACCI. Okay. Well, I agree. So you know I will be introducing language to do that, and I hope your agency will support that.

Mr. Chairman, I yield back.

Chairman CAMP. Thank you.

Mr. Griffin is recognized.

Mr. GRIFFIN. Thank you, Mr. Chairman.

Thank you, Mr. Werfel, for being here. I also have heard great things about your reputation, and I hope that you will get to the bottom of this. I want to raise some specific questions, though.

This report, "*Charting a Path Forward at the IRS*," is a public report. And in this town, as you know, you have been here a while, and I have spent some time in this town, a public report, whether it is intentioned to be or not, is a political report. People are going to seize upon what is in that report. Statements like the one that you made where you have not found evidence of intentional wrongdoing on behalf of IRS personnel, they are going to seize on statements like that and they are going to hold that up and say, aha, see there, no evidence. I was a staff investigator here in the House. I have been a prosecutor.

Did you not know that by putting that in the statement you were communicating to the world, even though this is simply an update, you were communicating to the world from a political perspective that there is no evidence of wrongdoing? I understand factually what you mean. But the reason this has gotten so much attention is because what a responsible investigator would say is either nothing where that line exists or the investigation continues.

The idea that you would say there is no evidence of intentional wrongdoing at this point is—I worked at the White House in political affairs. You have worked to the White House. I worked up here. That is a political statement. Whether you intended it to be or not, that is a political statement that, whether you mean it to or not, gives cover to people politically at a time when Lois Lerner pled the Fifth Amendment, where anybody who has gone to YouTube and seen the testimony of high-level IRS officials in front of this Committee, based on what we know now, it is clear that they were not being forthright in telling the whole truth with this Committee.

Now, whether that constitutes what you would call evidence or not, if I knew that one of my top lieutenants had just pled the Fifth and my other lieutenants had given less than the whole truth to this Committee, and I saw a staff person write that sentence, if they did, I would take it out.

So my first question is, did you write that sentence or did a staff member write that sentence?

Mr. WERFEL. There was a group of people. I was one of the authors. We coauthored it amongst a group of people. I will take ownership of every sentence in this document. If you allow me the opportunity, I can respond to some of your points, but I don't want to use your time. It is up to you.

Mr. GRIFFIN. Okay. I know. I would love to have a lot more time than I do. And maybe because I am last, I can keep going. Maybe not.

But did the White House at any time—I know the White House, as I used to say, and probably you say, is not a person—did anyone at the White House review this statement?

Mr. WERFEL. No.

Mr. GRIFFIN. No one?

Mr. WERFEL. Not that I am aware of.

Mr. GRIFFIN. Okay. Anyone at Treasury?

Mr. WERFEL. Yes.

Mr. GRIFFIN. Yes. Well, I——

Mr. WERFEL. Let me just say, I did brief the President a few hours before the report went out on the morning the report was issued on Monday, and I did mention this conclusion. I just want to make sure that was clear.

Mr. GRIFFIN. I appreciate you pointing that out.

I think the bottom line here is we have an ongoing investigation in this Committee. We have an ongoing investigation in the Senate. We have an ongoing investigation at another committee. We have a criminal investigation. We have a top lieutenant who has pled the Fifth Amendment. We have, in my view, we have video of high-level officials giving less than the whole truth to this Committee, which is potentially a criminal act. I just think that, whether you believe that statement or not, putting it in here with your background in Washington is irresponsible.

And let me go on to the next point here. These individuals that you personally did not interview, Joe Grant, Steven Miller, Doug Shulman, Lois Lerner, can you tell me who is interviewing—first of all, is someone interviewing them?

Mr. WERFEL. The Inspector General and the Justice Department are putting together a witness list or have put together a witness list. I assume it is evolving based on the facts that they are gathering. And the professional investigators of both the Inspector General and the Justice Department are conducting those interviews and at the appropriate time will share those results with me, and I assume you, in order to make sure that we have a collective understanding of the facts.

Chairman CAMP. All right. Thank you. Time has expired.

Thank you, Mr. Werfel, for your testimony this morning.

And with that, this hearing is now adjourned.

[Whereupon, at 1:07 p.m., the Committee was adjourned.]

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